



## Dja Dja Wurrung Clans Aboriginal Corporation FACT SHEET AND GUIDELINES FOR CROWN LAND MANAGEMENT AND ACTIVITIES Current: February 2017

The information presented here relates to **all Crown Land** tenures and activities proposed on Public Land that fall within the appointed Registered Aboriginal Party and Traditional Owner Recognition & Settlement Agreement Area (Country) of the Dja Dja Wurrung Clans Aboriginal Corporation (DDWCAC). The information set out below will assist you in regard to engagement with DDWCAC, compliance with the requirements of the *Aboriginal Heritage Act 2006* (the Act) and *Aboriginal Heritage Regulations 2007* (the Regulations); and notifications under the Dja Dja Wurrung Land Use Activity Agreement (LUAA).

### LUAA

- If you are proposing to undertake an activity on public land (unless specifically excluded<sup>1</sup>), the land manager (e.g. government department, local government, etc) will be required to comply with the applicable procedures under the LUAA.
- Your proposed activity will be categorised as one of the following:
  - A. A Routine Activity
  - B. An Advisory Activity
  - C. A Negotiation Activity (Class A or Class B)
  - D. An Agreement Activity.
- The LUAA can be found here:  
<http://www.justice.vic.gov.au/home/your+rights/native+title/dja+dja+wurrung+land+use+activity+agreement>

A map of the Recognition and Settlement Agreement Area is shown on the last page.

### Aboriginal Cultural Heritage

- It is the responsibility of all persons or bodies proposing to undertake an activity on private or public land to determine the requirements of the *Aboriginal Heritage Act 2006* (the Act) in relation to Aboriginal cultural heritage<sup>2</sup>.
- The Act establishes **cultural heritage management plans, cultural heritage permit** processes and cultural heritage agreements to appropriately manage activities on land that may harm Aboriginal cultural heritage.
- Aboriginal Victoria's website has an **online**<sup>3</sup> Aboriginal Heritage Planning Tool (see: <http://www.vic.gov.au/aboriginalvictoria/heritage/heritage-tools-and-publications/heritage-tools.html>). This tool can assist you to find out how to proceed if activities are planned that may require the mandatory preparation of a **cultural heritage management plan**. A suitably qualified Heritage Advisor can assist you with providing expert advice on determining the requirements of the Act (see page 3).

### The obligations of both the LUAA and the Act. Compliance with one will not constitute compliance with the other.

From the smallest to the largest proposed activity on land, it is vital that harm to Aboriginal cultural heritage is avoided, unless conducted in accordance with an approved Cultural Heritage Management Plan, authorised Cultural Heritage Permit or Aboriginal Cultural Heritage Land Management Agreement.

**Why?** *Our Dja Dja Wurrung cultural heritage is a non-renewable resource, the inherited connection of all Dja Dja Wurrung people to Country; and is recognised, protected and conserved in Victorian legislation. Aboriginal cultural heritage means Aboriginal places, Aboriginal objects and Aboriginal Ancestral remains. Aboriginal cultural heritage is significant to the Aboriginal people of Victoria. Dja Dja Wurrung People are proud of this inheritance and we wish to share our understanding and promote awareness and respect for our culture through appropriately managing and protecting Dja Dja Wurrung cultural heritage.*

<sup>1</sup> Examples of areas to which the LUAA does not apply are: land where infrastructure exists, roads, public recreation facilities that are for organised sporting activities, public buildings, land vested in a municipality under section 16 of the *Crown Land (Reserves) Act 1978*, and Public Land Authorisations (defined in the Traditional Owner Settlement Act 2010) granted before 25 October 2013. See the LUAA for full detail on excluded areas.

<sup>2</sup> Note: This Fact Sheet is complementary to any approval, authority, consent,

acceptance, licence, or conditions provided under any statutory authorisation issued by a responsible person or body empowered under an Act or regulations to grant that authorisation.

<sup>3</sup> If you do not have access to the Internet, you may seek advice from a Heritage Advisor, Aboriginal Victoria, or contact the Dja Dja Wurrung Clans Aboriginal Corporation to assist you with understanding the legislative requirements for a cultural heritage management plan.



While not all activities will require a cultural heritage management plan, it is important that the following steps be taken to ensure that your proposed activity can avoid harm and that you know how to report finding Aboriginal places, objects and human remains. These steps apply regardless of whether the LUAA applies to your activity.

**Why?** *The Act protects all Aboriginal cultural heritage in Victoria including the coastal waters. Cultural heritage is protected regardless of whether it is on private or public land or previously disturbed or harmed.*

## COMPLIANCE STEPS

### 1. What kind of activity is proposed?

- If your activity does not trigger a mandatory **cultural heritage management plan**, you must check if you are proposing to do an activity that involves an impact that will **disturb** or **excavate** any land.

Examples of such impacts include the following activities:

- Conducting works on waterways
- Construction works (including dams, paths, bridges, fords, fencing and associated structures)
- Development activities
- Infrastructure activities (including installation of paths, tracks, roads)
- Sport and recreation activities
- Erosion control activities
- Change of land use (for e.g. grazing or cultivation of Crown Land)
- Removal of native vegetation and trees (including wood utilisation and timber coupe logging, firewood collection, limb removal, thinning, trimming, coppicing, pollarding)
- Pest plant and animal control activities
- Planting, revegetation, tree stump removal, burning land (including fire operations and flood prevention activities or post-Emergency<sup>4</sup> activities)
- Quarrying, mining, search for stone, mineral resource extraction, prospecting, fossicking.

The list is comprehensive and is indicative of the types of impacts and ground disturbing activities that may potentially harm Aboriginal cultural heritage, whether carried out manually or by the use of machinery.

### 2. Will my proposed activity avoid harm to Aboriginal cultural heritage?

The Act requires that an application for a **cultural heritage permit** must be sought to carry out an activity that will, or is likely to, harm Aboriginal cultural heritage.

There are also specified activities in the Act for which a **cultural heritage permit** must be sought.

These include:

- An activity that will disturb or excavate any land for the purpose of uncovering or discovering Aboriginal cultural heritage
- Carrying out research on an Aboriginal place or remove an Aboriginal object from that place for the purpose of that research
- Remove an Aboriginal object from Victoria – other than in accordance with an authorised cultural heritage permit<sup>5</sup>.

We encourage you to then consider:

- Will the proposed activity harm or is it likely to harm Aboriginal cultural heritage?
- Is Aboriginal cultural heritage present in the area where I propose to undertake my activity?

To address how harm can be avoided it is important to check first and find out if: Aboriginal cultural heritage is known or registered on the land where the activity is proposed.

<sup>4</sup> An Emergency is defined by Section 19 of the Regulations as:

(1) The construction or carrying out in an emergency of works reasonably necessary to protect the health or safety of a person, to protect property or to protect the environment is an exempt activity.

(2) In this regulation, *emergency* has the same meaning as in the Emergency Management Act 1986.

<sup>5</sup> Note: A cultural heritage permit authorising a person to sell an Aboriginal object is required under section 36(1)(d) of the Act.



There are two options<sup>6</sup> to check if Aboriginal cultural heritage is known or registered on the land:

1. Apply to search the Victorian Aboriginal Heritage Register (VAHR) through Aboriginal Victoria (see: <http://www.vic.gov.au/aboriginalvictoria/heritage/heritage-tools-and-publications/victorian-aboriginal-heritage-register.html>); or
2. Contact and request Dja Dja Wurrung Clans Aboriginal Corporation to search the VAHR.

If your activity will clearly avoid harm to an Aboriginal place, the activity can proceed.

However, if your activity is in close proximity to an Aboriginal place you may need assistance to understand where the Aboriginal place extends to. You may have questions, for example:

- Will an activity impact the roots of an Aboriginal scarred tree? What if the Aboriginal scarred tree is a dead and fallen tree?
- I know there is a scatter of Aboriginal stone tools marked on the map, but how far does the place extend? How deep below the ground is the place?
- The VAHR search shows that there are Aboriginal earth mounds in the area. How do I know what these look like and what size they are?

Dja Dja Wurrung Clans Aboriginal Corporation can assist with a site inspection to check the location and provide information on avoidance of harm.

You may wish to engage the services of a Heritage Advisor, who can assist with preparing an application for a Cultural Heritage Permit, should you be unable to alter the location of your activity to avoid harm to Aboriginal cultural heritage. A Preliminary Aboriginal Heritage Investigation (sometimes called a 'due diligence assessment') can be useful to help determine the requirements of the Act and/or to avoid harm, and a **Preliminary Aboriginal Heritage Test** is useful to establish whether an approved cultural heritage management plan is mandatory for a proposed activity. (See Aboriginal Victoria's list of Heritage Advisors available at: <http://www.vic.gov.au/aboriginalvictoria/heritage/heritage-tools-and-publications/find-a-heritage-adviser.html>).

### What else should I be aware of?

If you have considered the above steps and are fully satisfied that your proposed activity can proceed without harm to known or registered Aboriginal cultural heritage, before you start, you should know the Aboriginal cultural heritage reporting and compliance requirements and make all people or personnel involved in the activity aware of these requirements.

The following information gives important steps for ensuring that your activity complies with the Act and adheres to reporting and communication requirements.

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<sup>6</sup> Both of these options to search the VAHR require a service fee. Contact Dja Dja Wurrung Clans Aboriginal Corporation on (03) 5444 2888 to ask about this service and the current fee.



## Aboriginal Cultural Heritage Reporting and Compliance on Dja Dja Wurrung Country

*Ensuring that everyone onsite knows what to do if Aboriginal cultural heritage is found*

A cultural heritage induction with Dja Dja Wurrung Clans Aboriginal Corporation that is specific to the location and delivered for all personnel involved in onsite work is an important step to ensuring compliance with the Aboriginal Heritage Act 2006 and can be put into practice effectively when required.

### WHAT TO DO

- Stop work if you discover or uncover suspected Aboriginal place or object
- Report to person in charge or activity organiser
- Leave the Aboriginal cultural heritage in place
- Protect the place from harm or disturbance
- Notify relevant authority and Dja Dja Wurrung Clans Aboriginal Corporation

### REPORTING REQUIREMENTS

The following information outlines a reporting process for the unexpected discovery or uncovering of Aboriginal cultural heritage, and must be followed:

- Any discovery or uncovering of **suspected Aboriginal cultural heritage places or objects** must be reported to the Secretary (Aboriginal Victoria – AV) and to the Dja Dja Wurrung Clans Aboriginal Corporation (phone 5444 2888), as the registered Aboriginal Party, at this office as soon as possible to investigate the discovery.
- Work must stop in the immediate area of the discovered cultural heritage and guidance sought from Dja Dja Wurrung Clans Aboriginal Corporation or Aboriginal Victoria on how to avoid harm and protect the Aboriginal place.
- Do not remove any suspected Aboriginal objects.
- Work can continue at a distance of at least 15 metres away from the Aboriginal cultural heritage, if safe and possible to do so without causing any further harm or disturbance.
- A Heritage Advisor must be engaged to investigate and record any confirmed Aboriginal cultural heritage and submit the appropriate records to the Victorian Aboriginal Heritage Register.
- If further suspected Aboriginal cultural heritage is discovered or uncovered, the same process must be applied.



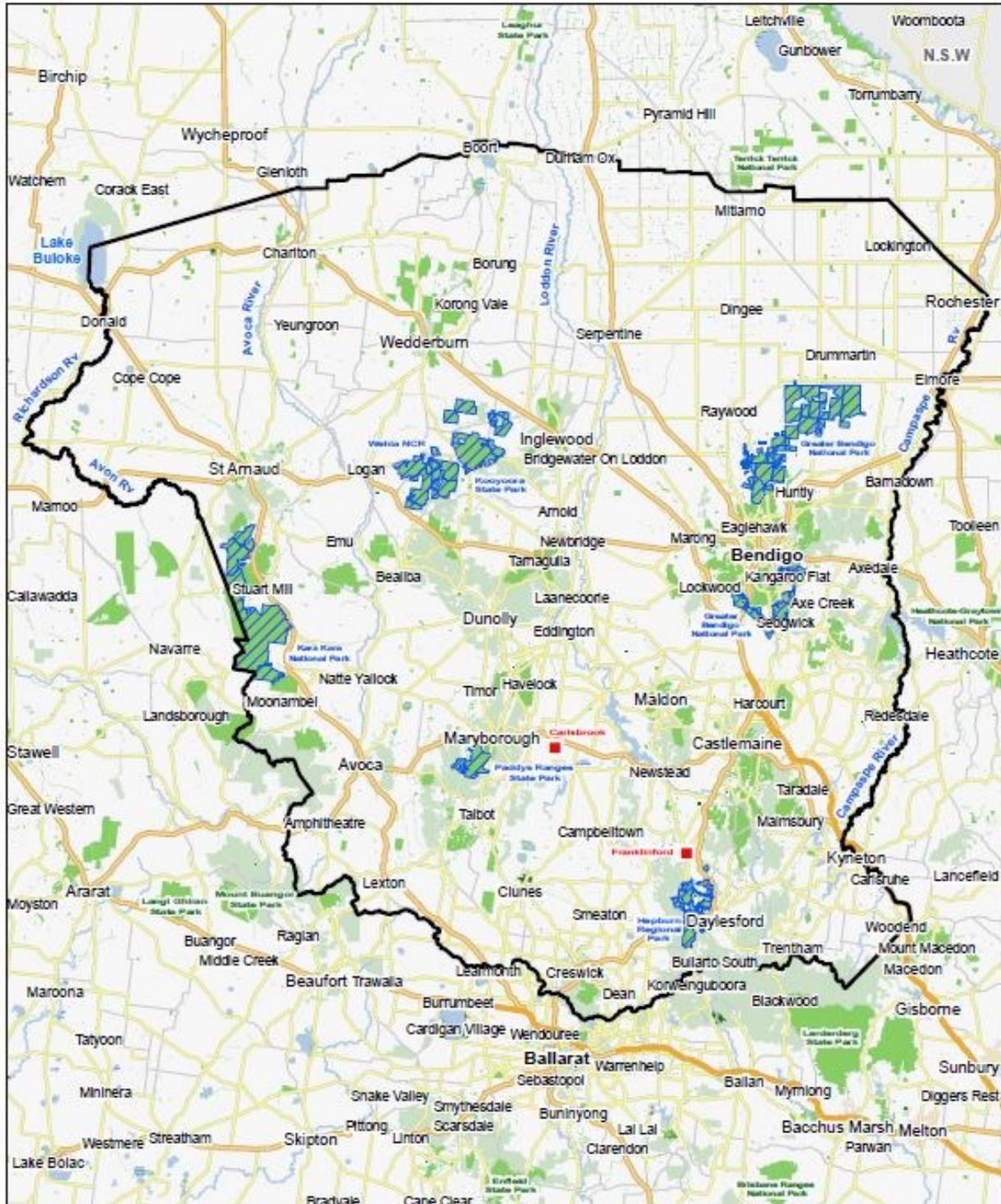
*An axe blank (left) and a grinding stone.*

### Reporting process for suspected human remains

- If **suspected human remains** are discovered or uncovered, you must contact the State Coroner's Office on 1300 309 519 and Victoria Police immediately.
- **All work onsite must stop immediately.**
- Nothing should be touched or removed from the location of the suspected discovery.
- If there are reasonable grounds to believe that the remains are Aboriginal, the Coronial Admissions and Enquiries hotline must be contacted on 1300 888 544.
- All details of the location and the nature of the human remains must be provided to the relevant authorities.



## Dja Djia Wurrung Recognition and Settlement Agreement Area



Map Produced by Information Integration, Information Services Branch, February 2013  
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### Legend

- External boundary of area subject to Recognition and Settlement Agreement under Traditional Owner Settlement Act 2010 (Vic) and Indigenous Land Use Agreement under Native Title Act 1993 (Cth)
- Parks and Reserves managed by Parks Victoria
- Parks and Reserves managed by DSSE/COMO/other
- Other Public Land

- Carabrook and Franklandford freehold transfers
- Areas of Joint Management with Aboriginal Title
  - Greater Bendigo National Park
  - Koroit National Park
  - Paddy's Ranges State Park
  - Hepburn Regional Park
  - Kooyonga State Park
  - Webla Nature Conservation Reserve

