



Environment and Heritage Expertise

Technical Guideline

# TG 0875.11 – Aboriginal heritage and Native Title

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**Confidentiality:** OFFICIAL



**Government of  
South Australia**

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## Significant/major changes incorporated in this edition

Not applicable - this is the first edition of the Technical Guideline.


## Document controls

### Version history

Version	Date	Author	Comments
1.0	28 August 2025	Various	Issued for Use

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### Approvers

Approver Name	Approver Role	Signature
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### Reviewers

Name	Role	Version	Review Date
Environment and Heritage Expertise Team	Team review of guidelines.	1.0	28-08-2025

# 1 Introduction

This technical guideline relates to the assessment and management of Aboriginal heritage and Native Title which may be encountered during a project's planning, construction, operations or maintenance activities.

It forms part of the TG 0875 Environment and Heritage Technical Guidelines and is designed to provide insight into regulatory obligations associated with Aboriginal heritage and native title, as well as suggested approaches to manage risk.

Note the guideline is not exhaustive, and additional requirements may be necessary based on project- or site-specific activities, geographical location, or approval conditions.

## 1.1 Environment and Heritage Technical Guidelines Suite

The SAWG-ENV-0875 Environment and Heritage Technical Guidelines suite includes:

- TG 0875.00: General requirements
- **TG 0875.11: Aboriginal heritage and Native Title (this guideline)**
- TG 0875.12: Non-Aboriginal heritage
- TG 0875.21: Vegetation
- TG 0875.22: Fauna
- TG 0875.23: Weed hygiene
- TG 0875.24: Phytophthora
- TG 0875.31: Surface water
- TG 0875.32: Groundwater
- TG 0875.33: Recycled water
- TG 0875.34: Sediment, erosion and stormwater
- TG 0875.35: Dewatering, dredging and earthworks drainage
- TG 0875.41: Site contamination
- TG 0875.42: Acid sulfate soils
- TG 0875.43: Hazardous substances
- TG 0875.51: Dust
- TG 0875.52: Odour
- TG 0875.53: Noise and vibration
- TG 0875.61: Spoil management
- TG 0875.62: Recycling
- TG 0875.63: Waste management

This guideline must be read in conjunction with TG 0875.00: General requirements

## 1.2 General requirements

TG 0875.00: General requirements apply to all aspects of the work:

1. Purpose
2. Application
3. Scope
4. Statutory obligations
5. Strategic alignment
6. Terms and abbreviations

## 2 Aboriginal heritage and Native Title

### 2.1 Overview

MANAGEMENT	
<b>Commitment</b>	Aboriginal heritage sites, objects or remains can be adversely impacted due to activities undertaken through SA Water projects and work, such as excavations, earthworks and maintenance activities. Aboriginal heritage and native title are protected under federal and state legislation.
<b>Strategic objective</b>	<ul style="list-style-type: none"> <li>Environment Corporate Strategy: Our culture creates empowerment, increased accountability for environmental decisions and demonstrates proactive leadership.</li> <li>Asset Management Corporate Strategy: An integrated approach enables the sustainability outcomes our customers, community and owner expect.</li> </ul>
<b>Key Performance Indicator</b>	<ul style="list-style-type: none"> <li><b>KPI 1:</b> Preliminary assessment completed (with subsequent detailed investigations if required) to identify potential impacts to Aboriginal heritage and native title.</li> <li><b>KPI 2:</b> Evidence of actions to avoid impacting Aboriginal heritage and native title is required in all phases of project documentation including design reports, management plans and construction plans.</li> <li><b>KPI 3:</b> Any unexpected discoveries of potential Aboriginal heritage follow the appropriate discovery procedures and are reported accordingly.</li> <li><b>KPI 4:</b> No breaches of regulatory requirements with respect to Aboriginal heritage or native title.</li> </ul>
<b>Legislation</b>	<ul style="list-style-type: none"> <li><a href="#">Aboriginal Heritage Act 1988 (SA)</a></li> <li><a href="#">Aboriginal Lands Trust Act 2013 (SA)</a></li> <li><a href="#">Aboriginal and Torres Strait Islander Act 2005 (Cth)</a></li> <li><a href="#">Native Title (South Australia) Act 1994 (SA)</a></li> <li><a href="#">Native Title Act 1993 (Cth)</a></li> </ul>
<b>Regulatory approvals</b>	<ul style="list-style-type: none"> <li>Agreements under the Aboriginal Heritage Act, and Native Title Act.</li> <li>Authorisations under Aboriginal Heritage Act, that is Section 23.</li> <li>Notification and negotiation in accordance with the Native Title Act.</li> </ul>
<b>Statutory obligations</b>	<p><b>General duties</b></p> <ul style="list-style-type: none"> <li><i>Aboriginal Heritage Act 1988 (SA)</i>, Section 20: An owner or occupier of private land who discovers on the land an Aboriginal site or an Aboriginal object or remains, must as soon as practicable, report the discovery to the Minister</li> <li><i>Aboriginal Heritage Act 1988 (SA)</i>, Section 23: It is an offence to damage, disturb or interfere with any Aboriginal heritage without the authority of the Minister for Aboriginal Affairs</li> <li><i>Native Title Act 1993, (Cth)</i>, Section 62B: Any obligation of the applicant under the NT Act does not relieve the applicant, or detract, from any other duty of the applicant at common law or in equity to persons in the native title claim group or compensation claim group</li> </ul>



MANAGEMENT	
<b>Reference material</b>	<ul style="list-style-type: none"> <li>Attorney-General's Department South Australia <a href="#">A guide to Aboriginal heritage in South Australia</a></li> <li>Department of the Premier and Cabinet South Australia: <a href="#">Guideline 1: Recognised Aboriginal Representative Bodies</a> <a href="#">Guideline 2: Division A2 Agreements</a> <a href="#">Guideline 3: Local Heritage Agreements</a></li> <li>National Native Title Tribunal (Cth) <a href="#">Native Title Vision Tool</a></li> </ul>
<b>Related guidelines</b>	<ul style="list-style-type: none"> <li>TG 0857.12: Non-Aboriginal Heritage Technical Guideline</li> </ul>

## 2.2 Planning and design

MITIGATION MEASURES	STAKEHOLDERS
<p>A Preliminary Assessment (desktop) must be undertaken to identify any potential Aboriginal heritage and native title constraints and risks, including registered Aboriginal heritage sites, native title areas, native title claims and Indigenous Land Use Agreements (ILUAs).</p> <p>The presence of environmental and landscape features which increase the likelihood of Aboriginal heritage should also be considered:</p> <ul style="list-style-type: none"> <li>Watercourses, waterbodies, wells and springs</li> <li>Claypans, rock holes</li> <li>Sand dunes and hills</li> <li>Coastal areas</li> <li>Rocky outcrops</li> <li>Cliffs</li> </ul>	<p>Environmental Officer Asset Planner</p>
<p>Potential Aboriginal heritage and native title impact avoidance options must be identified to influence options selection and decision making.</p>	<p>Environmental Officer Heritage Officer Asset Planner Design Manager</p>
<p>Where there is a risk to impacting Aboriginal heritage that requires further investigation:</p> <ul style="list-style-type: none"> <li>Complete a desktop assessment report by a suitable qualified heritage consultant</li> </ul> <p>And if required:</p> <ul style="list-style-type: none"> <li>Conduct an on-ground Aboriginal heritage survey by a suitably qualified heritage consultant, in consultation with the appropriate Recognised Aboriginal Representative Body (RARB) and/or Traditional Owner(s)</li> </ul>	<p>Environmental Officer Heritage Officer Asset Planner Consultant</p>
<p>Where the detailed assessment recommends development of a Cultural Heritage Management Plan, it should include identifying the potential to impact known and unknown Aboriginal heritage, control measures to avoid impacts, processes for management of Aboriginal heritage and discovery protocols.</p>	<p>Environmental Officer Heritage Officer Project Manager Design Manager</p>

MITIGATION MEASURES	STAKEHOLDERS
Where land that is subject to native title or an ILUA, notification and negotiation must be undertaken in accordance with the NT Act through the Crown Solicitor's Office. Dependent on the outcome of negotiation and notification, there may be request for further: Aboriginal heritage surveys Project planning amendments Compensation	Environmental Officer Heritage Officer Project Manager Consultant
Ensure all project documentation including design reports, data records and management plans, report on actions taken to avoid impacting Aboriginal heritage and native title or ILUAs.	Environmental Officer Project Manager
The level of Aboriginal group engagement on potential Aboriginal heritage presence and impacts should be determined on a project-by-project basis and defined as early as possible after project initiation.	Project Manager Stakeholder Engagement
Where all alternatives to avoid impacts to Aboriginal heritage have been exhausted, a relevant authorisation must be obtained or agreed under the AH Act. This may include: <ul style="list-style-type: none"> <li>• A local heritage agreement with a RARB that has been approved under the AH Act</li> <li>• Another type of agreement with an Aboriginal group under different legislation that is approved under the AH Act (e.g. an ILUA)</li> <li>• Authorisation from the Minister for Aboriginal Affairs in accordance with Section 23 of the AH Act. This is SA Water's least preferred pathway and outcome</li> </ul>	Environmental Officer Project Manager
Ensure that a project-specific discovery protocol is developed, including stop-work procedures, which will be maintained onsite during construction in the case of an unexpected find.	Project Manager Contractor

## 2.3 Construction

MITIGATION MEASURES	STAKEHOLDERS
All staff must be appropriately inducted and trained on their obligations regarding Aboriginal heritage, including the use of the discovery procedure.	Contractor
Ensure that any approved management plan(s) including Cultural Heritage Management Plans (if required) are adhered to and maintained onsite at all times during construction.	Contractor
Any known Aboriginal heritage is to be clearly delineated and communicated, as described within approved management plans.	Contractor
Where works occur in high risk areas or are in close proximity to known Aboriginal heritage, additional care must be taken for works involving excavation, in case of unknown Aboriginal heritage.	Contractor
Where required by a management plan, the presence of Aboriginal heritage monitors must be onsite during the nominated high-risk activities.	Contractor



MITIGATION MEASURES	STAKEHOLDERS
Disturbance to land must be minimised as much as practicable, with all vehicles to remain on designated tracks, and all storages, stockpiles and laydown areas to be clearly defined and delineated.	Contractor
Undertake ongoing consultation with the relevant RARB(s) or Traditional Owner(s) during construction, as required.	Stakeholder Engagement Heritage Officer Environmental Officer Project Manager
In the event of an unexpected Aboriginal heritage discovery, works are to <b>STOP</b> immediately in the area, and measures outlined in the discovery protocol must be followed.	Contractor
Events of unexpected discovery of Aboriginal heritage are considered an incident and must be reported immediately to SA Water in accordance with agreed incident reporting protocols as described in management plans.	Contractor

## 2.4 Monitoring requirements

DESCRIPTION	METRIC	FREQUENCY	ACCOUNTABILITY
Discoveries of unknown Aboriginal heritage	Aboriginal heritage site, object or remains	Upon discovery	Contractor