

Tom Maidment
Vicurban
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Docklands
VIC 3008

8th March 2009

Dear Tom,

WERRIBEE EMPLOYMENT PRECINCT, WERRIBEE
Aboriginal Heritage Background Review
and Implications for Development

Introduction

The following report presents a desktop audit of known and predicted Aboriginal heritage values for the Werribee Employment Precinct, Sneydes Road, Werribee. The property consists of an extensive rural land holding (total approx. 960 ha.) of triangular configuration currently occupied by the State Research Farm ('the activity area'). The activity area is situated between the Princes Highway, Werribee (north), Hackett Road, Point Cook (east), and existing residential estates adjoining Duncans Road (south west). The land is bisected by the Maltby Bypass / Main Outfall Sewer, Hoppers Lane, Sneydes Road, and encompasses, but *excludes*, land used for the Werribee Mercy Hospital, University of Melbourne and Victoria University campuses, a golf course and Melbourne Water facility.

The study has been commissioned by VicUrban to contribute to the preparation of a Development Strategy for the site. The land is yet to be declared surplus, however, in the recent Melbourne 2030: A Planning Update - Melbourne @ 5 Million policy statement the Government announced the expansion of the vision for the WEP to provide a larger number of jobs across a wider range of industries and sectors coupled with a focus on sustainable urban growth. It is intended that the present study will assist in the preparation of a Precinct Structure Plan (PSP) to guide development. The activity area contains numerous separate titles.

The purpose of this study is four-fold;

- to verify the results of any prior assessment;
- to identify Aboriginal cultural heritage values, assess options for the preservation of significant values and to review its implications for the development of the land, and

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- to provide an outline of further investigations and associated processes for the future resolution of these issues.

The study has included a brief inspection of the subject land for verification purposes only.

The Activity Area

The activity area is located on the Western Plains of Melbourne between 4.5 - 8 km north west of Port Phillip Bay and approximately 25 km south west of the Melbourne CBD. Broadly speaking the landscape consists of a dry, flat or slightly undulating basalt lava plain with occasional low sandy rises.

The activity area is situated within the Newer Volcanic Plains of the Central Lowlands comprising olivine basalt with subordinate alkaline derivatives (Qno1). Post Tertiary Sedimentary Plains of Non-marine Marine origin comprising fluvial and Aeolian deposits (Qd2) surround the southern portion of the lower Werribee River, which occurs close to the western boundary of the activity area. This broader region is also known as the 'Werribee Plains' (LCC 1973, Maps 3 & 4).

The Werribee plains formed during a period of volcanic activity and extensive basaltic lava flows during the Late Pliocene/Pleistocene (LCC 1973, 19). During this period (0 to 2 million years ago) the ground surface of the study area would have been barren, flat and rocky and much lower to sea level than at present. Pleistocene sea level changes resulted in increased erosion of the volcanic plains and along the edges of lava flows, resulting in the forming of streams and creek beds (LCC 1973, 252).

Into this region the Werribee River and Little River, their tributaries and many other small watercourses were channelled. Between these watercourses alluvial material has washed over the area raising the ground surface and forming the current geomorphic face of the Werribee plains that is characterised by gently sloping to flat open plains which, due to depressions in the impenetrable lava flows, resulted in the creation of low lying wet lands and swamps (LCC 1973; Rosengren 1986). There are no natural watercourses of significance on the land, though a depression north of Sneydes Road near the eastern boundary of activity area probably formed a soak, and occasional ephemeral drains may exist elsewhere.

Soils generally consist of red loamy clays with floating boulders characteristic of decomposing basalt. This is highly typical of the western metropolitan plains between Laverton Creek and the Werribee River.

The land can be divided into two zones, representing the area of the State Research Farm campus, which is characterised by a range of buildings and facilities adjacent to Sneydes Road in the western extremity of the land (A), and the outlying farmland to the east (B), which occupies the bulk of landholding.

At the time of the site visit the entirety of the activity area was under grass, and the land has been cleared and cropped in the recent past. The land has been subdivided into paddocks by fences, and is bisected by minor irrigation channels. Historical aerial photographs (c. 1951) clearly indicate that much of the landholding was subject to

intensive irrigated agriculture dating back at least 60 years, and soil disturbance through continuous cropping was probably greater than is evident in the landscape today.

There are no mature native trees of any description on the property, though sugar gum (*E. cladocalyx*) windbreak are located along boundary fences, the alignment of the Maltby Bypass / Main Outfall Sewer easement, and around the farm facilities and occasionally as small stands elsewhere.

Apart from the farm facility (A) there is no built infrastructure on the bulk of the activity area, other than occasional agricultural structures (e.g. sheds), modern fences and dams.

Scope of Prior Assessment

There has been no prior archaeological assessment of the property as a whole, however parts of the eastern section of the land have been surveyed as part of the proposed Point Cook Drainage Scheme (Thomson 2004) and a project within the Werribee Technology Precinct has been subject to a desktop assessment (Fiddian 2006).

In addition, the Federation Trail, which follows the alignment of the Main Outfall Sewer through the centre of the property has also been subject to archaeological assessment (Nicolson *et al.* 2000; Tulloch 2000). Much of the surrounding residential estates in Werribee and Point Cook, as with much of the outer growth belt of western Melbourne, have also been subject to archaeological surveys over the past fifteen years, which provide a comparative context in which to interpret the results.

Existing Heritage Listings

The following register sources were checked for existing Aboriginal heritage listings (both statutory and non-statutory):

- Register of the National Estate – No listings
- Victorian Aboriginal Heritage Register (VAHR) –
 - one registered Aboriginal cultural heritage place
 - 7822-1147 – SC3 - Artefact Scatter
 - E 298766 N 5804857 – flat basalt plain
- Victorian Aboriginal Places Register – No listings

There is an existing constraint to development in one small part of the property, namely land adjacent to the Maltby Bypass Interchange in the north east corner of the activity area.

Predicted Aboriginal Heritage Issues

All previous archaeological work in this region (cf. du Cros 1989; 1991) has demonstrated a pattern of Aboriginal occupation strongly influenced by the drainage pattern, with outlying nodes based on significant landscape features such as elevated rises (cf. eruption points). As such, virtually all Aboriginal sites of high significance

occur adjacent to major drainage features (cf. rivers and creeks), though the landscape as a whole is littered with diffuse scatters or isolated occurrences of stone artefacts, which reflect a collage of short term activities undertaken in the broader landscape over the past 4,000 years away from semi-permanent or recurrent habitation sites.

A 200 m corridor either side of rivers, creeks and major swamps has been identified in the majority of previous studies as being a sensitive area for Aboriginal cultural heritage sites, as they represent resource rich zones in a relatively arid environment (cf. Debney 1998; Thomson & George 2002). This zone contains the majority, and most significant, of artefact scatters and other more specialised site types in the region.

The flat, featureless plain that characterises the activity area is likely to produce similar results to previous field assessments in comparable dry plains areas in the Werribee / Truganina area (cf. Weaver 1992; 1995; Brown 1996; Cekalovic 2000; Cekalovic *et al.* 2000; Muir 2002; 2003; 2004; Murphy & Dugay 2004), where small, diffuse or individual occurrences of artefacts may be distributed broadly across the landscape. In particular, a small depression in the eastern section of the activity area, on the north side of Sneydes Road, may have acted as a foci for past Aboriginal activity. The western and southern sections of the activity area are characterised by a thin sand mantling (Qd2), which has not been fully evaluated for Aboriginal heritage potential in the Werribee region. The same sediments are well known to have archaeological potential to the east of Port Phillip Bay, where they achieve a higher elevation (cf. at Carrum and Cranbourne), particularly in association with water bodies.

Other more specialised site types, such as quarries or stone arrangements may occur in specific locations where particular resources are available, however the prior clearance and cultivation of the land has significantly reduced the possibility that these may occur across this property. Scarred trees will not occur in the activity area given the complete absence of trees.

Aboriginal Stakeholders

It is important to note that 'cultural heritage significance' as defined in the *Aboriginal Heritage Act* 2006 includes '(a) archaeological, anthropological, contemporary, historical, scientific, social or spiritual significance', and (b) significance in accordance with Aboriginal tradition'. All Aboriginal heritage sites are protected equally under this legislation, irrespective of significance, and consultants and development proponents are required to seek the views of Aboriginal heritage stakeholders (or Registered Aboriginal Parties [RAPs], as defined in the Act) regarding whether Aboriginal heritage sites may be disturbed in accordance with that significance.

There is currently (8th March 2009) no RAP for the subject land, though applications for registration as a RAP were lodged on the 6th July 2007 by the Bunurong Land Council, the 24th August 2007 by the Wurundjeri Tribe Land and Compensation Cultural Heritage Council, the 16th January 2008 by the Boon Wurrung Foundation and the 22nd January 2008 by the Wandoon Estate Aboriginal Corporation. An outcome of determination on these applications has not been made as yet, though if registered, these applicants will be responsible for making key decisions about cultural heritage

protection and management under the *Aboriginal Heritage Act* 2006. In addition it is possible that other RAPs may register for the study area, who will also have a role in Aboriginal heritage management processes. Until a decision has been made regarding the RAP status of one or more groups it will be necessary to consult with all stakeholder groups who have a declared interest in the land.

Given these overlapping and conflicting interests, there may be considerable delay in registering a RAP for this area, though in the meantime the relevant RAP applicants must be considered potential stakeholders in any Aboriginal heritage assessments or management decisions, including Cultural Heritage Management Plans (CHMPs) or Cultural Heritage Permits (CHPs).

Implications for Development

There are few existing heritage registrations and listings that could form a significant constraint to development, however, as noted above one Aboriginal cultural heritage place has been identified in proximity to the Maltby Bypass intersection in the north east of the activity area, and should be viewed as a constraint to development at this location.

In addition, the background research and overview survey has identified that there may be Aboriginal cultural heritage issues with a small depression adjacent to Sneydes Road close to the eastern boundary of the activity area, and more broadly associated with small sand rises which may occur throughout the western and southern sections of the activity area (Qpd), although it is likely that past intensive cultivation will have reduced the elevation of such features. This assertion will need to be subject to further research, and it is quite possible that large parts of this zone will prove devoid of Aboriginal heritage, however this should form a starting point for the identification of land for the preservation of a representative quota of Aboriginal heritage places in the precinct.

Note that the *Aboriginal Heritage Act* 2006 allows for the consented disturbance to Aboriginal heritage sites and there is no rationale behind the protection of every single place, however in an activity area and planning process as broad as the current project, the opportunity to identify and protect the most significant expression of Aboriginal cultural heritage in the precinct should not be overlooked. To date, the only cultural heritage place identified (7822-1147) does not meet the scientific significance threshold for a compelling argument of preservation and need not form a constraint to development if similar sites can be protected elsewhere.

The Aboriginal Heritage Regulations 2007 *will* require an approved Cultural Heritage Management Plan (CHMP) or plans, in accordance with Section 26 of the *Aboriginal Heritage Act* 2006, for applications to subdivide the land for residential or industrial purposes, or similar high impact activity associated with urban development (as defined in the regulations). However, not all land in the precinct will be subject to a mandatory requirement for a CHMP, in accordance with Section 26. The reasoning supporting this conclusion is presented below.

All Aboriginal sites in Victoria are protected by the State *Aboriginal Heritage Act* 2007, and the responsibility rests with the proponent of a development to demonstrate that due care and diligence have been taken to identify and avoid impacts to archaeological sites through construction works.

Cultural Heritage Management Plans (CHMPs) are a key component of this Act, which will be required under certain circumstances for high impact activities that require statutory approval. Using the *Aboriginal Heritage Regulations* 2007 it is possible to determine whether development of the land will trigger a CHMP as a pre-requisite for planning approval.

When is a cultural heritage management plan required?

A CHMP is required for an activity if (Regulation 6)-

- (a) all or part of the activity area for the activity is an area of cultural heritage sensitivity; and
- (b) all or part of the activity is a high impact activity.

Is the activity area an area of cultural heritage sensitivity?

Regulation 22 – Registered Cultural Heritage Places

- (1) A registered cultural heritage place is an area of cultural heritage sensitivity.
- (2) Subject to subregulation (3), land within 50 metres of a registered cultural heritage place is an area of cultural heritage sensitivity.

Part of the activity area (NE corner adjacent to Maltby Bypass interchange) occurs within 50 metres of a registered cultural heritage place, AAV 7822-1147 (~0.25 ha.).

- (3) If part of an area of the land within 50 metres of a registered cultural heritage place has been subject to significant ground disturbance, that part is not an area of cultural heritage sensitivity.

Significant ground disturbance means disturbance of -

- a. the top soil or surface rock layer of the ground; or
- b. a waterway –

by machinery in the course of grading, excavating, digging or dredging, but does not include ploughing other than deep ripping;

As far as can be ascertained, the land within 50 metres of AAV 7822-1147 has not been subject to significant ground disturbance.

Although there are demonstrated instances of localised disturbance elsewhere on the property (e.g. livestock burial pits), the general cultivation of the property does not constitute significant ground disturbance, unless it involves laser grading or deep ripping.

Regulation 39 – Sand Sheets

- (1) Subject to subregulation (2), a sand sheet, including the Cranbourne sand sheet is an area of cultural heritage sensitivity.
- (2) If part of a sand sheet has been subject to significant ground disturbance, the part is not an area of cultural heritage sensitivity.
- (3) In this regulation, sand sheet, including the Cranbourne sand means an area identified as "Qpd" in Geological Survey of Victoria 1:250 000 map series sheet SJ55-9 entitled "Queenscliff" (second edition, 1997).

The activity area is partly located on a deposit identified as "Qpd" in Geological Survey of Victoria 1:250 000 map series sheet SJ55-5 entitled "Melbourne" (second edition, May 1997), which does not qualify as an area of cultural heritage sensitivity.¹

As such, a small part of the activity area (~0.25 ha) is considered an area of cultural heritage sensitivity, as defined in the Regulations.

Is the activity a high impact activity?

Rezoning is not listed in the Regulations as a high impact activity.

In relation to the intended future use of the activity area after rezoning, the following may apply:

Regulation 45 – Dwellings

- (1) The construction of three or more dwellings on a lot or allotment is a high impact activity.
- (2) The carrying out of works for three or more dwellings on a lot or allotment is a high impact activity.

The VPP defines a dwelling as 'a building used as a self-contained residence which must include:

- a) a kitchen sink;
- b) food preparation facilities;
- c) a bath or shower; and
- d) a closet pan and wash basin.'

Regulation 46 – Subdivisions

- (1) The subdivision of land into three or more lots is a high impact activity if-
 - (a) the planning scheme that applies to the activity area in which the land to be subdivided is located provides that at least three of the lots may be used for a dwelling subject to the grant of a permit
 - (b) the area of each of at least three of the lots is less than eight hectares.

¹ Note that this area is depicted as an 'area of cultural heritage sensitivity' on both the AAV mapsheet entitled 'Areas of Cultural Heritage Sensitivity in Victoria 1:100,000 Mapsheet Melbourne 7822 AAV July 2007' and the GeoVic website, however the depiction of this area does not match the wording of R39(3).

- (2) The subdivision of land into two or more lots in an industrial zone is a high impact activity.
- (3) In this regulation, ***industrial zone*** has the same meaning as in the VPP.

Other buildings and works for specified uses, such as carparks, child care centres, education centres, hospitals, sports and recreation facilities, retail premises, utility installations and places of assembly, are also defined as high impact activities according to Regulation 43.

The proposed activity of urban development is thus a high impact activity, as defined in Division 5 of the Regulations. According to Regulation 68, the proposed development of the activity area (currently ~960 ha.) would constitute a *large-size activity*, in relation to the prescribed review fees for CHMPs (R69).

However, the extent of the area of cultural heritage sensitivity within the activity area is very limited, and as such it would be possible to structure the development to reduce the implications of this.

Transitional Arrangements and Exemptions

No transitional arrangements or exemptions apply, other than as defined in regulations 8-13 (one or two dwellings on a single, extensions, alterations or ancillary works to buildings, sheds, garden landscaping and other garden facilities (e.g. paths, sheds, garages), services to a dwelling, demolitions and other minor works which involve alterations to existing infrastructure).

Please note that the prior archaeological survey undertaken for the Point Cook Drainage Scheme (Thomson 2004) does not satisfy R77, as this evaluation was not undertaken for the proposed activity (urban development).

Will a cultural heritage management plan be required for development on the subject land?

According to the criteria and definitions listed above, the Aboriginal Heritage Regulations 2007 *will* require an applicant to lodge a CHMP as part of an application for planning approval for residential sub-division (or other high impact activity, as defined in the regulations) for part of the activity area. An application for planning approval for any development defined in the regulations as a high impact activity within an area of cultural heritage sensitivity will act as a trigger for a mandatory CHMP within the activity area.

While the final determination will be undertaken by the City of Wyndham (as 'decision maker' in regard to an application for planning approval), it is clear that the regulations require a *mandatory* CHMP in certain instances, as follows:

- A. A statutory authorisation will be required for the activity in the form of a permit (or permits) issued under the *Planning and Environment Act 1987*.
- B. The activity area contains an area of cultural heritage sensitivity.
- C. The proposed activity is defined as a high impact activity.

These instances relate exclusively to a small section (~0.25 ha.) of the activity area adjacent to the Maltby Bypass intersection in the north eastern section of the activity area.

It is also possible to structure the development to restrict the mandatory requirements for a CHMP to this limited part of the activity area, though it would be prudent to undertake a voluntary CHMP (as per Section 45 of the Act), given the risk of causing harm to Aboriginal cultural heritage places elsewhere in the activity area, in particular association with the depression north of Sneydes Road adjacent to the eastern boundary of the activity area, and potentially low sand rises that may occur more broadly across the southern and western sections of the property. Significantly, this will not be linked to the planning process and need only be completed prior to commencement of the activity.

The decision to prepare a CHMP on a voluntary basis is at the discretion of the sponsor, though the same standards and requirements for approval will apply.

A CHMP may constitute a simple (desktop), standard (survey) or complex (excavation) evaluation. A CHMP must be in a specified form, must be undertaken by a recognised cultural heritage advisor and must be approved prior to the granting of a statutory approval by City of Wyndham.

1. Notification

The sponsor of a CHMP must provide written notification to the Registered Aboriginal Party (RAP) or parties, AAV and any landowner affected, of their intention to prepare a CHMP. If the RAP declines involvement or does not respond within 14 days, AAV will act in lieu.

AAV have advised that if a RAP is successful in registration after the commencement of CHMP, they will not be a party to that CHMP, but will be a party to any subsequent CHMPs that commence after that date.

2. Preparation of the CHMP

The sponsor engages a cultural heritage advisor to complete the CHMP in consultation with the RAP(s).

3. Approval of the CHMP

On submission, the RAP(s) have 30 days to grant or deny approval to a CHMP. If the RAP does not respond, the CHMP is resubmitted to AAV for approval.

If approval is denied, the sponsor may appeal to VCAT for a determination.

It is likely that the CHMP will require a complex assessment, involving test excavation, and potentially mitigation measures to protect any significant deposits, unless ground surface visibility at the time of field survey (standard assessment) was advantageous. The overview field survey has determined that ground surface visibility is not currently advantageous.

The possibility of encountering a burial in this landscape is remote, but must be considered in the CHMP.

As no RAP has been appointed as yet, if CHMP preparation commences at present the plan will be evaluated by the Secretary AAV. It is possible, after commencement, to vary the extent of the activity area, thus providing scope to incorporate additional land as it is acquired. It is also possible to discontinue a voluntary CHMP by following the procedure in Section 67(2), for whatever reason, provided no Aboriginal cultural heritage is at risk from the activity. It is only possible to discontinue a Mandatory CHMP if 'significant ground disturbance' can be demonstrated in accordance with the definition in the Regulations.

Conclusions

This desktop study has determined that one Aboriginal cultural heritage place is located on the activity area, a stone artefact scatter (7822-1147) located in the north east section of the property near the Maltby Bypass intersection. As such, there is only limited constraint to either residential or industrial development of the land (or other high impact activity, as defined in the regulations).

On the basis of comparative research in the Werribee area, the activity area is unlikely to contain significant Aboriginal heritage sites given the absence of any upstanding landforms (e.g. eruption points) and natural water courses or features on the property, and its distance from both Skeleton Waterholes Creek (to the north east) and the Werribee River (to the south west), where Aboriginal heritage sites (e.g. artefact scatters) are more likely to occur. The absence of remnant native vegetation in the area precludes the possibility of an Aboriginal scarred tree being located on the land.

As such, the risk of an Aboriginal archaeological site of significance occurring on the subject land is considered to be *low*. However, there are less pronounced and/or localised landforms that will need to be considered in the management of the development, where Aboriginal cultural heritage places of relatively low scientific significance *may* occur in the activity area and, if present, *may* be impacted by ground disturbing works associated with the development.

The possibility of encountering a burial in this landscape is remote, but must be considered in the CHMP.

The Aboriginal Heritage Regulations 2007 do not specify the need for a mandatory Cultural Heritage Management Plan for part of the activity, as required in Section 46 of the *Aboriginal Heritage Act* 2006, on the basis that there are one small area (~0.25 ha.) of cultural heritage sensitivity, as defined in Section 39 of the Aboriginal Heritage Regulations 2007.

Nevertheless, it may be prudent to prepare a voluntary CHMP if it is considered that the unexpected discovery of stone artefacts or other Aboriginal heritage material during construction form a significant risk to the viability of the development, in terms of construction delay, exposure to penalties and prosecution.

This desktop report does not constitute a CHMP as defined in the Act, and cannot be used for such purposes.

Andrew Long (BA Hons.; M. Litt. Archaeology) is a qualified Aboriginal heritage practitioner of high standing in Victoria with over 21 years professional experience, and recognised as a cultural heritage advisor under the *Aboriginal Heritage Act* 2006.

Aboriginal Affairs Victoria (AAV) generally do not provide written support for such determinations, however are confident in accepting the judgement of recognised cultural heritage advisors. For confirmation, please speak to Liz Kilpatrick (Coordinator, Heritage Assessments, AAV) on 03 9208 3268.

If you have any queries about these matters, please don't hesitate to call me on 0410 650 923.

Yours sincerely,



Andrew Long

Director,

Andrew Long & Associates Pty Ltd

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APPENDIX 1

CURRENT STATUTORY REGULATIONS (as of 8th March, 2009)

Aboriginal Heritage Act 2006 (Victoria)

The *Aboriginal Heritage Act 2006*

It should be noted that new Victorian legislation for Aboriginal heritage protection (the *Aboriginal Heritage Act 2006*) passed through State Parliament on May 9th 2006, and commenced operation on May 28th 2007.

The new act will continue to provide blanket protection for all Aboriginal heritage sites, places or items in Victoria, however the mechanisms by which Aboriginal heritage values are assessed, managed and protected will change.

The main aspects of the new Act in relation to the development process are as follows:

- An *Aboriginal Heritage Council* (AHC) has been appointed by the Minister, Aboriginal Affairs Victoria, made up of 11 Victorian Aboriginal people.
- Aboriginal community groups with traditional interests in cultural heritage are to apply to the AHC for registration as a *Registered Aboriginal Party* (RAP). RAPs will have the role of endorsing *Cultural Heritage Management Plans* (CHMP) within a given area of interest. There may be two or more RAPs for an area, provided it does not hinder the operation of the legislation.
- Under Section 46, a developer ('sponsor') may be required to submit a CHMP before the issue of a statutory authority by local government or other agency ('decision maker'). A CHMP must be registered with the Secretary, Planning and Community Development (AAV), and all relevant RAPs notified in writing. If an RAP does not respond, AAV will act in lieu. A CHMP will contain details of research, field evaluation, consultation and management provisions in regard to the Aboriginal heritage of an area at risk from a development. A *Cultural Heritage Advisor* must be appointed to assist in the preparation of a CHMP. It is the role of an RAP to approve a CHMP if it meets prescribed standards.
- A CHMP will not be considered approved unless it has been approved by all relevant RAPs.

The regulations accompanying the Act specify when a CHMP will be required by law, and prescribe minimum standards for the preparation of a CHMP (Section 53). The approved form for CHMPs specifies the format in which a CHMP should be prepared by a sponsor in order to comply with the Act and the Regulations, and is an approved form under section 190 of the Act. The regulations have not been finalised to date, but their draft content has not been issued to stakeholders.

Other provisions of the Act include *Cultural Heritage Permits* (Section 36), as required for other works affecting Aboriginal heritage sites, *Cultural Heritage Agreements* (Section 68), in respect to land containing an Aboriginal heritage site, *Inspectors* (Part 11) appointed to enforce the Act, *Cultural Heritage Audits* (Section 80) to be ordered by the Secretary in relation to compliance with a CHMP and a VCAT appeals procedure.

The Aboriginal Heritage Regulations 2007 outline the criteria for determining when a CHMP is required (Part 2), standards for the preparation of a CHMP (Part 3) and Cultural Heritage Agreements (Part 4) and fees payable under the Act (Part 5).

APPENDIX 2

SUGGESTED PROCEDURE

IN THE EVENT

AN ABORIGINAL HERITAGE SITE

IS IDENTIFIED

DURING CONSTRUCTION

A. Management of Aboriginal Cultural Heritage Found During Works

If Aboriginal places or objects found during works the following steps must be applied:

- The person who identified the find will immediately notify the person in charge of the activity.
- The person in charge of the activity must then suspend any relevant works at the location of the discovery and within 5 m of the relevant site extent and isolate the find via the installation of safety webbing, or other suitable barrier and the material to remain *in situ*.
- Works may continue outside of the 5 m barrier.
- The person in charge of works must notify the Cultural Heritage Advisor (CHA) and the Secretary (AAV) of the find within 24 hours of the discovery.
- The CHA must notify the RAP(s) or other agreed Aboriginal stakeholder(s) within 24 hours of the discovery and invite RAP(s) or other agreed Aboriginal stakeholder(s) to inspect the find.
- Within 24 hours of notification, a CHA is to attend the site and evaluate the find to determine if it is part of an already known site or should be registered as a new site and to update and/or complete site records as appropriate and advise on possible management strategies.
- Enable RAP(s) or other agreed Aboriginal stakeholder(s) to inspect site within 24 hours of notification and remove/rebury any cultural heritage material found.
- Within a period not exceeding three (3) working days the Sponsor, in consultation with the CHA, RAP or other agreed Aboriginal stakeholder, shall, if necessary, apply for a Cultural Heritage Permit (CHP) in accordance with Section 36 of the *Aboriginal Heritage Act 2006*.
- If a CHP application is lodged, works may only recommence within the area of exclusion following the issue of a CHP and compliance with any conditions.
 - When the appropriate protective measures have been taken;
 - Where the relevant Aboriginal cultural heritage records have been updated and/or completed;

In the case of the discovery of human remains, separate procedures relating to the discovery of human skeletal remains must be adhered to (see below).

B. Custody and Management of Aboriginal Cultural Heritage Recovered

- Any Aboriginal cultural heritage recovered or salvaged from the activity area remains the property of the RAP(s) or other agreed Aboriginal stakeholder(s). Any such recovery or salvage will be agreed to and overseen by a RAP(s) or other agreed Aboriginal stakeholder representative(s). In any such instance it will be the responsibility of the Cultural Heritage Advisor to:
 - Catalogue the Aboriginal cultural heritage;
 - Label and package the Aboriginal cultural heritage with reference to provenance; and
 - With the RAP(s) or other agreed Aboriginal stakeholder(s), arrange storage of the Aboriginal cultural heritage in a secure location together with copies of the catalogue and assessment documentation.

C. The Management of the Discovery of Human Remains

Although this evaluation has determined that there is only a low risk of impacting an Aboriginal burial during the implementation of the activity, given the nature of the landforms and archaeological deposits within the activity area, it is nevertheless an extremely important consideration of any development.

The following steps must be taken if any suspected human remains are found in the activity area:

1. Discovery:

- If suspected human remains are discovered, all activity in the vicinity must *cease immediately* to ensure minimal damage is caused to the remains; and,
- The remains must be left in place, and *protected* from harm or damage.

2. Notification:

- Once suspected human skeletal remains have been found, the Coroners Office and the Victoria Police must be notified immediately;
- If there is reasonable grounds to believe that the remains could be Aboriginal, the DSE Emergency Co-ordination Centre must be immediately notified on 1300 888 544; and
- All details of the location and nature of the human remains must be provided to the relevant authorities.
- If it is confirmed by these authorities that the discovered remains are Aboriginal skeletal remains, the person responsible for the activity must report the existence of the human remains to the Secretary, Department of Victorian Communities in accordance with s.17 of the *Aboriginal Heritage Act* 2006.

3. Impact Mitigation or Salvage:

- The Secretary, after taking reasonable steps to consult with any Aboriginal person or body with an interest in the Aboriginal human remains, will determine the appropriate course of action as required by s.18(2)(b) of the Act.
- An appropriate impact mitigation or salvage strategy as determined by the Secretary must be implemented (this will depend on the circumstances in which the remains were found, the number of burials found and the type of burials and the outcome of consultation with any Aboriginal person or body).
- While opportunities to avoid impacting on a burial that may be discovered during the activity may be limited, it is important to explore opportunities to minimise disturbance to the remains through unnecessary exposure or disinterment.

4. Curation and further analysis:

- The treatment of salvaged Aboriginal human remains must be in accordance with the direction of the Secretary.

5. Reburial:

- Any reburial site(s) must be fully documented by an experienced and qualified archaeologist, clearly marked and all details provided to AAV;
- Appropriate management measures must be implemented to ensure that the remains are not disturbed in the future.