South Australia

Aboriginal Heritage Regulations 2017

under the *Aboriginal Heritage Act 1988*

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Schedule 1—Fees

Legislative history

1—Short title

These regulations may be cited as the *Aboriginal Heritage Regulations 2017*.

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, address and contact details of either—

(i) the public officer of the Recognised Aboriginal Representative Body; or

(ii) a secretary or director of a body corporate from time to time constituting the Recognised Aboriginal Representative Body who will act as the contact person for 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 sufficient particularity to identify 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, or reference to, 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 45 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 be inspected by members of the public (however, the Committee may impose such conditions on the inspection of a particular entry as the Committee thinks fit).

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

(1) 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 views of traditional owners of any area, and any Aboriginal site, object or remains, affected by the proposed local heritage agreement were obtained in relation to the proposed agreement (and, if so, what those views are);

(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.

(2) The Minister may, before deciding whether or not to approve a local heritage agreement, request a specified person or body to provide such additional information as the Minister may require for the purposes of the decision (and may decline to make a decision until the information is provided).

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—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 any relevant Recognised Aboriginal Representative Body;

(iii) the name, address and contact details 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 use its best endeavours to protect, information that is confidential (including, to avoid doubt, information that is commercial-in-confidence or otherwise commercially sensitive).

8—Fees

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

(2) The Minister may, by notice in writing, exempt a specified person or body, or a person or body of a specified class, from the payment of prescribed fee.

Schedule 1—Fees

Application for approval of local heritage agreement under section 19I of Act	$269.00
Application for approval of agreement under section 19M of Act	$269.00
Application for search of Register of Aboriginal Sites and Objects—	
(a) for a basic search	$26.75
(b) for an extended search	$80.50 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)	$269.00
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)	$269.00
Application for authority under section 29 of Act	Nil
Application for authority under section 35 of Act	$269.00

Legislative history

Notes

- Variations of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of these regulations (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or www.legislation.sa.gov.au.

Principal regulations and variations

New entries appear in bold.

Year	No	Reference	Commencement
2017	291	*Gazette 17.10.2017 p4343*	17.10.2017: r 2
2018	94	*Gazette 21.6.2018 p2232*	1.7.2018: r 2
2019	**134**	***Gazette 13.6.2019 p2026***	**1.7.2019: r 2**
2020	89	*Gazette 4.6.2020 p2889*	1.7.2020: r 2

Provisions varied

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
r 2	*omitted under Legislation Revision and Publication Act 2002*	*1.7.2018*
Sch 1	substituted by 94/2018 r 4	1.7.2018
	substituted by 134/2019 r 4	**1.7.2019**

Historical versions

1.7.2018