

APPS

LAW

HERITAGE SURVEY CHECKLIST FOR TRADITIONAL OWNERS

Material considered within this checklist:

1. Survey requests
2. Survey arrangements
3. Survey reports
4. Heritage management generally

Heritage surveys are a necessary part of ensuring explorers and miners comply with their obligations under agreements and heritage legislation when conducting activities on country. More importantly, heritage surveys play an important role in ensuring Traditional Owners are consulted and informed about what happens on country. This allows Traditional Owners to assess any risks to heritage during exploration and mining activities and how those risks can be minimised.

Aside from complying with the law and managing risks, heritage surveys also play an important role in establishing an effective relationship between companies and Traditional Owners. Being proactive in conducting heritage surveys ensures that Aboriginal heritage issues form an integral consideration from the initial stages of a project. This also helps to establish lines of communication for Traditional Owners to voice heritage concerns or report issues.

To put Traditional Owners in the best position to assess risks to heritage, establish an effective relationship with companies and explorers and uphold heritage considerations during all stages of activities on country, there are several factors you will need to consider. To this purpose, this checklist has been prepared to set out the necessary steps to review a survey request, organise an appropriate survey team and correctly report survey findings. More generally, this checklist identifies issues Traditional Owners should consider so that heritage can be effectively managed.

MPS Law strongly encourages you to read this document in conjunction with our Heritage Survey Workflow, which is available on our website.

For a complimentary discussion about this checklist and your responses, please email this completed checklist to info@mpslaw.com.au

Your name: _____

Your role: _____

Corporation: _____

Date: _____

Survey Request	
Reviewing requests	
Have you sought legal advice?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you reviewed the terms of any applicable agreements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you checked if an area has already the subject of a survey, and if those findings can be relied on?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Survey arrangements	
Survey team	
Do you have a board or committee with authority to nominate survey participants?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Do you have a heritage survey procedure?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is there an appropriate payment process that complies with applicable laws, including taxation and superannuation requirements?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have survey team members been advised of applicable policies?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have survey team members been advised of health and safety requirements, including PPE?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are there team leaders who are Traditional Owners with appropriate knowledge of the particular area of country to assess any risks to heritage?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you engaged appropriately qualified specialists (e.g. anthropologists, archaeologists etc.) of the appropriate gender?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Company Representative	
Do you have access to a company representative with appropriate authority to address any issues?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Survey Report	
Does the survey report identify: <ul style="list-style-type: none"> • areas where the proposed activity is not cleared; • areas where the proposed activity is cleared; • where an activity is cleared, the conditions to that clearance; and • any stages of the cleared activity where monitors should be present? 	<input type="checkbox"/> Yes <input type="checkbox"/> No
Are survey team leaders given an opportunity to comment on the report?	<input type="checkbox"/> Yes <input type="checkbox"/> No

Are Traditional Owners' intellectual property rights to culturally sensitive information protected in the report?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the confidentiality of culturally sensitive information protected in the report?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Has the report been provided to the project proponent?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is there a process for following up the implementation of the report?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Heritage management generally	
Is the relationship and difference between native title and cultural heritage well understood?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Is the relationship and difference between any RNTBC and Traditional Owners well understood?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you have good governance to support heritage processes?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Have you got a list of approved reputable heritage consultants with the necessary skills and experience?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you have a process to monitor the status of applicable agreements and projects, including mapping?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you have a process to keep Traditional Owners informed of heritage surveys and projects?	<input type="checkbox"/> Yes <input type="checkbox"/> No
Do you have benchmark and standard agreements that set out: <ul style="list-style-type: none"> • when surveys are required; • how surveys are resourced; • survey procedures; • survey requirements; 	<input type="checkbox"/> Yes <input type="checkbox"/> No

<ul style="list-style-type: none"> • time frames; • survey team numbers; and • survey rates? 	<input type="checkbox"/> Yes <input type="checkbox"/> No
<p>Do you have a tailored workflow to manage your cultural heritage?</p>	<input type="checkbox"/> Yes <input type="checkbox"/> No

Note: This document is intended as a guide only to assist with the preparation and conduct of a heritage survey. This does not constitute legal advice. The issues and questions set out are of a general nature and may not reflect your specific circumstances. There may be additional and important considerations that should be taken into account in your specific circumstances, depending on the parties' contractual requirements and any internal survey procedures. If you or your organisation has a legal issue you should obtain professional advice from a legal practitioner.

How can we help?

Let's talk about your needs

MPS Law – Heritage Survey Checklist v 2.0 –
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