



If you discover Aboriginal remains...

- do not disturb them, or remove anything
- do not publicise their location
- immediately notify South Australian Police (SAPOL) on telephone 131 444.

Because...

- **strong offence** to Aboriginal people can be caused if burial sites are disturbed
- **it is not appropriate** to show footage of a burial or to talk about its location to anyone
- **cultural and archaeological values** can be diminished if a site is disturbed
- **it may be a crime scene.**

What the law says

Two Acts of Parliament govern the protection of Aboriginal ancestral remains:

- ***Coroner's Act 2003*** and ***Aboriginal Heritage Act 1988¹(the Act)***

Aboriginal culture is many thousands of years old. Any land may contain Aboriginal sites. Many groups around the Adelaide plains, Riverland and coastal regions buried their dead in middens or other archaeological sites that are easily uncovered through development or other ground works and through natural erosion.

The discovery of Aboriginal ancestral remains is a matter of importance to many stakeholders, and must be dealt with in a sensitive and culturally appropriate way.

What to do...

1. **Do not disturb the remains.** It is an offence, under the Act, to interfere with Aboriginal remains without approval from the Minister. Even if bones have already been disturbed, the closer they are left to their original location the better. Use local sand, dirt or small branches to cover the site if you think it needs protection.
2. **Do not notify or discuss with any media representative.** It is not appropriate to show footage of an Aboriginal burial or draw attention to its location. If it becomes a crime scene, media coverage may distress victims' families and/or local residents.

When you notify the police...

- Tell them bones have been uncovered (a requirement of the *Coroners Act 2003*).
- SAPOL will attend the scene for assessment and ensure it is secured, then bring the Coroner's Office in (Forensic Science South Australia – Forensic SA) to assess the site, either in person or via photographs.
- If it is not a traditional Aboriginal burial, local CIB and Major Crime will be notified.
- If remains are of a traditional Aboriginal person a report will be sent to the Coroner and the Department of State Development Aboriginal Affairs and Reconciliation (DSD-AAR). This process may take several days.

¹ *Aboriginal ancestral remains* are defined as 'the whole or part of the skeletal remains of an Aboriginal person but does not include remains that have been buried in accordance with the law of the State'.



Talk to your local Aboriginal heritage organisation...

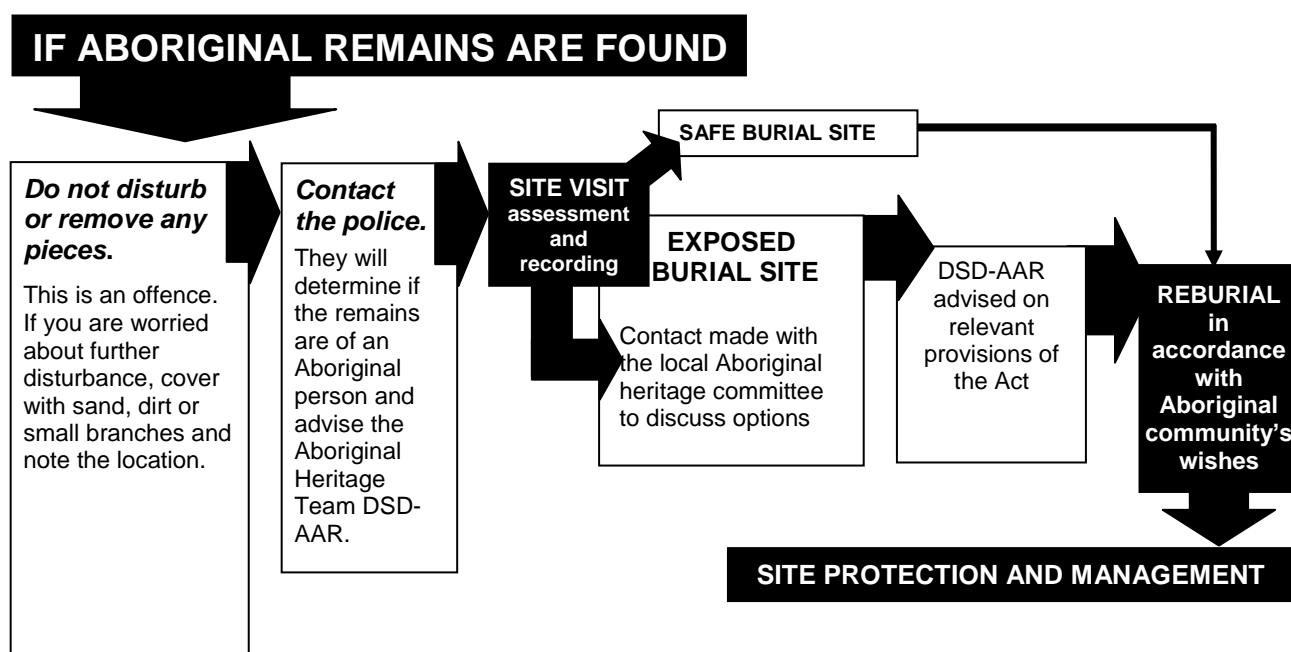
DSD-AAR can provide you with contact details for your local Aboriginal heritage organisation who will know best whether there are Aboriginal sites of significance in the area.

What to do during development earthworks...

1. **Stop work in the area.** There is a possibility that other burials may be present and further ground disturbance may disturb other remains.
 2. **Mark the location and flag or fence off the area to prevent further damage.**
 3. **Notify the project/site manager.**
 4. **Report the findings to SAPOL on 131 444 and DSD-AAR on (08) 8226 8900.**
Nominate a contact person for liaison with SAPOL and DSD-AAR. SAPOL will assess the scene and seek advice from Forensic SA as to whether the bones are ancestral Aboriginal remains or not.
 5. **If remains are identified as an Aboriginal burial...** SAPOL will notify DSD-AAR who will then discuss options for proceeding with your nominated contact officer:
 - the local Aboriginal heritage organisation will be advised and involved in all decision-making
 - an archaeological assessment of the site will be required from a suitably qualified archaeologist
 - the site will need to be recorded and this information provided to DSD-AAR and the local Aboriginal heritage organisation.Discussion about relocation of development work to avoid the remains, or reburial of remains within the development, will then commence between the stakeholders.
 6. **Allow time for appropriate ceremonial activity by the community.**
 7. **Negotiate monitoring agreements.** These are a shared responsibility between the community and the developer, not DSD-AAR.
 8. **Record the site.** If the burial is relocated there must be a site card submitted to DSD-AAR for the original location and for the new location.
 9. **If the burial site can be avoided...** limit disturbance to that area. DSD-AAR prefers development plans to be altered to prevent further excavation at and around the site. Reburial options include:
 - a) in the same location but deeper down
 - b) in an adjacent location
 - c) in a quiet place somewhere on the development not subject to further disturbance.
 10. **If the burial cannot be avoided...** and the community wants to relocate the remains themselves, this meets section 37 of the Act. If not and the continued development of the area is non-negotiable, authorisation is needed from the Minister for Aboriginal Affairs and Reconciliation, under section 23 of the Act to move the remains. During the section 23 process a contingency plan, if other ancestral remains are uncovered, should be discussed.
- NOTE:** Community consultation may take weeks. Work can continue **after** this process is completed.
11. **Develop a conservation plan**
The burial site should have a conservation plan developed so that an agreed conservation process can be documented and retained as a permanent record. See DSD-AAR Guideline 23.



12. **If the remains are outside the development...** do not disturb or remove any items, camouflage the area with branches or twigs found locally, make notes of the location, take photos if possible, and report it to SAPOL.
13. **Find out if there are known Aboriginal sites in your area of activity**
Apply to DSD-AAR to find out if there are any sites in your area. Include a map of the area (in a 1:100k topographic format, if possible). You will then be advised in writing whether there are sites of significance in the nominated area.



The South Australian *Aboriginal Heritage Act 1988* protects Aboriginal ancestral remains from 'damage, disturbance or interference'.

In practice, this means that you cannot do anything to Aboriginal remains that you come across, including removing bones from the location where you found them, without authority from the Minister for Aboriginal Affairs. The discovery of remains must be reported to the Minister through DSD-AAR on (08) 8226 8900.

DISCLAIMER: This document is a guide only and should not be relied on to ensure compliance with the *Aboriginal Heritage Act 1988*. Persons proposing to undertake activities that may damage, disturb or interfere with Aboriginal sites, objects or remains should seek specific advice.

CONTACT DSD-AAR on telephone (08) 8226 8900 or email dsdaarheritagesites1@sa.gov.au



Aboriginal Heritage Act 1988

DEFINITIONS

"**Aboriginal site**" means an area of land—

- (a) that is of significance according to Aboriginal tradition; or
 - (b) that is of significance to Aboriginal archaeology, anthropology or history,
- and includes an area or an area of a class declared by regulation to be an Aboriginal site but does not include an area or an area of a class excluded by regulation from the ambit of this definition;

"**Aboriginal tradition**" means traditions, observances, customs or beliefs of the people who inhabited Australia before European colonisation and includes traditions, observances, customs and beliefs that have evolved or developed from that tradition since European colonisation.

EXTRACTS

10 – Confidentiality of archives

- (1) The confidentiality of information entered in the central or local archives that relates to an Aboriginal site or object must be maintained unless—
 - (a) the traditional owners of the site or object have approved disclosure of the information; or
 - (b) where all reasonable steps have been taken to consult the traditional owners but the Minister or organisation keeping the archives is satisfied that there are no traditional owners or that they cannot be identified or located, the Committee (in the case of the central archives), or the organisation keeping the archives (in the case of local archives), has approved disclosure of the information; or
 - (c) the information is made available by the Minister in response to an application under section 12.
- (2) The confidentiality of information entered in the central or local archives that does not relate to an Aboriginal site or object must be maintained unless the Committee (in the case of the central archives), or the

organisation keeping the archives (in the case of local archives), has approved disclosure of the information.

- (3) The disclosure of information from the central or local archives must be on such conditions (if any) as are stipulated by—
 - (a) the traditional owners; and
 - (b) in the case of information made available from—
 - (i) the central archives, the Committee; and
 - (ii) local archives, the organisation keeping the archives.
- (4) A person must not—
 - (a) disclose information from the central or local archives contrary to this section; or
 - (b) fail to comply with a condition referred to in subsection (3).

Penalty: \$10,000 or imprisonment for 6 months.

35 – Divulging information contrary to Aboriginal tradition

- (1) Except as authorised or required by this Act, a person must not, in contravention of Aboriginal tradition, divulge information relating to—
 - (a) an Aboriginal site, object or remains; or
 - (b) Aboriginal tradition.

Penalty: \$10,000 or imprisonment for 6 months.

- (2) Such information may be divulged with the authority of the Minister.

The South Australian Coroner's Act 2003

requires that any death 'that may be a reportable death' **must** be reported to the State Coroner within a reasonable timeframe.

In practice, this means that you must alert the South Australian Police (SAPOL) if you believe that the remains **may be human**. Potentially this discovery may represent a major crime and must be properly assessed. Even if the likelihood is that the bones are Aboriginal ancestral remains, you should contact SAPOL to confirm their provenance.