

Attachment L

Aboriginal Cultural Heritage Memo

Subject	Melbourne Airport Jet Pipeline Project – Aboriginal Cultural Heritage Memo				
Client	Viva Energy Australia	Project number	521511	Date	2023-04-06
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1 Scope of assessment

Viva Energy Australia (Viva Energy) is proposing to construct and operate a new jet fuel pipeline to support the growing fuel needs at Melbourne Airport, known as the Melbourne Airport Jet Pipeline Project (the Project).

The Project proposes the construction and operation of a new pipeline, approximately 6.7 km in length, to form a direct connection between the jet fuel storage infrastructure at Melbourne Airport and the existing Altona to Somerton pipeline. The pipeline would commence at a section of the Altona to Somerton pipeline located south of the Western Ring Road (M80) (near the Airport Drive exit) and link into the existing Melbourne Airport joint user hydrant installation (JUHI) facility (located at Marker Road, Tullamarine).

Figure 1 below shows the proposed pipeline alignment.



Figure 1 Proposed pipeline location (Source: ESRI)

Aurecon engaged Benchmark Heritage Management to undertake a Cultural Heritage Management Plan (CHMP) for the proposed works which is currently being prepared. Legislative requirements

associated with Aboriginal cultural heritage and findings from the desktop assessment have been summarised below.

2 Regulatory summary

2.1 Legislation

2.1.1 *Aboriginal Heritage Act 2006*

The *Aboriginal Heritage Act 2006* (the Act) is administered by First Peoples-State Relations (FP-SR), Department of Premier and Cabinet. It is the principal piece of legislation dictating Aboriginal cultural heritage management requirements in Victoria.

2.1.2 *Aboriginal Heritage Regulations 2018*

The Aboriginal Heritage Regulations 2018 (the Regulations) are designed to give effect to the Act. Key objectives of the Regulations are to:

- Specify the circumstances in which a CHMP is required for an activity.
- Prescribe standards for the preparation of a CHMP.

A CHMP includes a cultural heritage assessment, consultation with Aboriginal stakeholders, management conditions and contingency plans. A CHMP is designed to manage Aboriginal cultural heritage issues specific to an activity for a specified area, called an 'activity area'. An approved CHMP also acts like a permit and when adhered to, protects the Sponsor of the CHMP against prosecution under the Act.

Regulation 7 of the Regulations prescribes that a CHMP is required for an activity if:

- a) All or part of the activity area is defined as an area of cultural heritage sensitivity (CHS; see regulation 5 for definitions); and
- b) All or part of the activity is a high impact activity (see regulation 5 for definitions).

If only part of a project includes high impact activities and only part of the activity area is within an area of CHS, a CHMP may be required. A CHMP is also required for an activity, regardless of points a) and b) if any part of the activity requires an Environment Effects Statement.

A CHMP is not required for an activity if the entirety of the CHS area within the activity area has been subject to significant ground disturbance. Significant ground disturbance is defined in regulation 5 as disturbance by machinery in the course of grading, excavating, digging, dredging or deep ripping, but does not include ploughing (other than deep ripping) of:

- The topsoil or surface rock layer of the ground, or
- A waterway.

The burden of proving that an area has been subject to significant ground disturbance rests with the Sponsor of a CHMP. The Sponsor must provide evidence to support a claim of significant ground disturbance. Evidence may include common knowledge, publicly available records, further information or expert advice or opinion¹.

¹ First Peoples – State Relations, *Practice Note Significant Ground Disturbance* (2018) 1-5.

2.1.3 Areas of Cultural Heritage Sensitivity

There are two areas of CHS as defined in accordance with Division 3 of the Regulations that intersect with the activity area. They are:

- r 25(1) of the Regulations, the activity area is located within 50 metres of a registered Aboriginal place:
 - There are four Aboriginal places located within the activity area and five Aboriginal places located within 50 metres of the activity area.
- r 26(1) of the Regulations, the activity area is located within 200 metres of a waterway:
 - Steele Creek North and Moonee Ponds Creek.

2.1.4 High impact activities

According to Part 2, Division 5 of the Regulations, the elements of the proposed works that are relevant for assessment high impact activities are:

- (r 46(1)(b)(xxvii)(B)) – the works are a linear project that is the construction of a pipeline with a length exceeding 500 metres.

2.2 Aboriginal Stakeholder Groups

2.2.1 Registered Aboriginal Party (RAP)

The activity area is located within the Wurundjeri Woi-wurrung Cultural Heritage Aboriginal Corporation (WWCHAC) approved RAP area.

2.2.2 RAP Applicants

There are no RAP applications within the activity area.

2.2.3 Traditional Owner Groups

As the activity area does not fall within a non-RAP area, there are no Traditional Owner Groups with vested interests who need to be consulted when preparing the CHMP.

2.2.4 Native Title

There are no current Native Title claims lodged in accordance with the *Native Title Act 1993* within the activity area and no agreements with the State of Victoria under the Traditional Owner Settlement Act 2010 (Vic).

In November 2019 the Department of Energy, Environment and Climate Action (DEECA, formerly known as the Department of Environment, Land, Water and Planning) undertook a Future Act Assessment under the *Native Title Act 1993* for the proposed works extent which traverse Crown land. While the proposed works extent largely traverses freehold land, it does cross Crown land, specifically the following road reserves:

- Western Ring Road
- Airport Drive
- Tullamarine Park Road

- Sharps Road
- Tullamarine Freeway
- Victoria Street
- Western Avenue.

DEECA determined that Native Title was extinguished over all of the road reserves/Crown land within the works extent and that no further reference to Native Title was required.

3 Victorian Aboriginal Heritage Register

A search of the Victorian Aboriginal Heritage Register (VAHR) was completed by Benchmark Heritage Management on 27th July 2019.

In total, there are nine Aboriginal places located within 50 metres of the activity area. These places include four artefact scatters, four Low Density Artefact Distributions (LDADs) and one scarred tree. Multiple components can be assigned to a single Aboriginal place, which is often the case for LDADs, which are recorded to capture low densities of artefacts across a landscape with no assumption of a relationship between the artefacts within a single registration (see Table 1).

There are four Aboriginal places located within the activity area, these include VAHR 7822-3626, VAHR 7822-3627, VAHR 7822-3634 and VHAR 7822-3691, all of which are comprised of LDADs.

Table 1 Summary of aboriginal places and components within 50 metres of activity area

Aboriginal place type	Number of places	Number of components
Artefact Scatter	4	4
Low Density Artefact Distribution (LDAD)	4	20
Scarred Tree	1	1
Total	9	25

4 Previous Cultural Heritage Assessments

A large-scale regional investigation has been carried out within the Western Region and is known as the Western Region Melbourne Metropolitan Area Archaeological Survey (du Cros 1989). As a result of this study, a generalised site prediction model for Indigenous archaeological sites was developed for the whole western volcanic plains region, west of Melbourne. The regional model is summarised below:

- The most common site types found on the volcanic plains landform are surface artefact scatters (including isolated artefacts) and scarred trees
- Sites will be located within 100 metres (m) of major rivers and creeks
- Surface artefact scatters are likely to occur on eruption points and rises (areas providing a vantage point) across the volcanic plains
- Surface artefact scatters (including isolated artefacts) and scarred trees are likely to occur close to large or permanent swamps and lakes on the volcanic plains
- Shell middens are likely to occur along terraces of the major rivers, where no ground disturbance has occurred (including ploughing)
- Stone arrangements are possible in areas where little disturbance has occurred

- Sites with extensive sub-surface deposits are likely in areas where no disturbance has occurred
- Contact sites are likely to occur close to old homesteads or provisioning points.

A number of localised studies within the vicinity of the activity area have focused on the volcanic plains landform and the Maribyrnong River. While these have indicated a general compliance with the regional model, isolated artefact occurrences have occasionally been identified at a distance of up to 1 kilometre (km) from a watercourse.

5 Conclusions

The activity area intersects with two areas of CHS, and the activity is defined as a high impact activity. A mandatory CHMP is therefore required under the *Aboriginal Heritage Act 2006*. Note that a CHMP is currently being prepared, with the complex assessment completed in March 2023.

The activity area is located within the WWCHAC approved RAP area. There are no current Native Title claims lodged in accordance with the *Native Title Act 1993* within the activity area and no agreements with the State of Victoria under the *Traditional Owner Settlement Act 2010 (Vic)*.

In keeping with the general nature of recorded Aboriginal places from previous assessments any Aboriginal cultural material discovered during the assessment is likely to be artefact scatters or LDADs. Aboriginal places are likely to be distributed within proximity to Steele Creek North and Moonee Ponds Creek. Overall, the archaeological sensitivity of the activity area is considered to be moderate for LDADs, and very low for all other Aboriginal cultural heritage place types.