


**GUIDELINE 2** Section 20 of the *Aboriginal Heritage Act 1988*

Discovery of sites, objects or remains



**Government  
of South Australia**

Department of the  
Premier and Cabinet



**Section 20 applies to any person who discovers an Aboriginal site, object or remains.**


Certain landforms are more likely to contain evidence of Aboriginal occupation. If your area of planned activity is within such areas, then you are more likely to have some impact on Aboriginal sites, objects or remains.

These areas include:

- Claypans, lakes, rivers and estuaries;
- Areas within 2km of coasts and major waterways;
- Areas within 100m of the banks of all other creeks, rivers, watercourses, lakes, waterholes, rock holes, wells and springs, especially in arid areas;
- Rocky outcrops;
- Dunes, sand hills and sand deposits, especially in the vicinity of water sources, wells, springs, water holes;
- Craters and sinkholes;
- Unusual land features are likely to have mythological significance;
- Areas of bush, forested areas, natural vegetation or intact ground surface such as parklands, reserves, open space and road verges;
- Place names are a direct link of the association of a society with the land. Places bearing Aboriginal names, or place names that are English translations of Aboriginal names or reflections of Aboriginal interaction with the landscape (including words such as “Black” or “Spear”), are very likely to have significance to Aboriginal people.

If you are the owner or occupier of a parcel of land, or an agent of these (staff, contractor, sub-contractor), you must report the discovery of the Aboriginal sites, objects and remains to the Minister. Additionally, any work or other activities in the vicinity that may disturb the ground surface or otherwise affect the Aboriginal sites, objects or remains must be stopped.

The Aboriginal Heritage Branch will record the site and advise on the process to be followed.



**When reporting a discovery, provision of the following information is important:**

- Location of site, object or remains - preferably with a grid reference recorded through the use of a Global Positioning System receiver (GPS) (northings and eastings preferred);
- Approximate area of the site;
- Description of how to get to the site;
- Your name and contact details;
- Name and contact details of the person who discovered the site;
- When the incident or discovery occurred;
- Photos of the site (if available);
- Any other details which may be relevant.

When sites have been located, either incidentally or through cultural heritage surveys, they must be recorded to the highest standard and protected, to ensure compliance with the *Aboriginal Heritage Act 1988*.

The standard for site recording in South Australia is the Aboriginal Heritage Branch site card. These cards are available, with guidelines on how to fill them out, from the Aboriginal Heritage Branch (See Guideline 8). It is expected that professional cultural heritage practitioners will submit site cards for sites located during surveys.



## Section 20 of the *Aboriginal Heritage Act 1988*

20. (1) An owner or occupier of private land, or an employee or agent of such an owner or occupier, who discovers on the land:

(a) an Aboriginal site; or

(b) an Aboriginal object or remains,

must, as soon as practicable, report the discovery to the Minister giving particulars of the nature and location of the site, object or remains.

Penalty: (a) in the case of a body corporate - \$50,000

(b) in any other case - \$10,000 or imprisonment for 6 months.

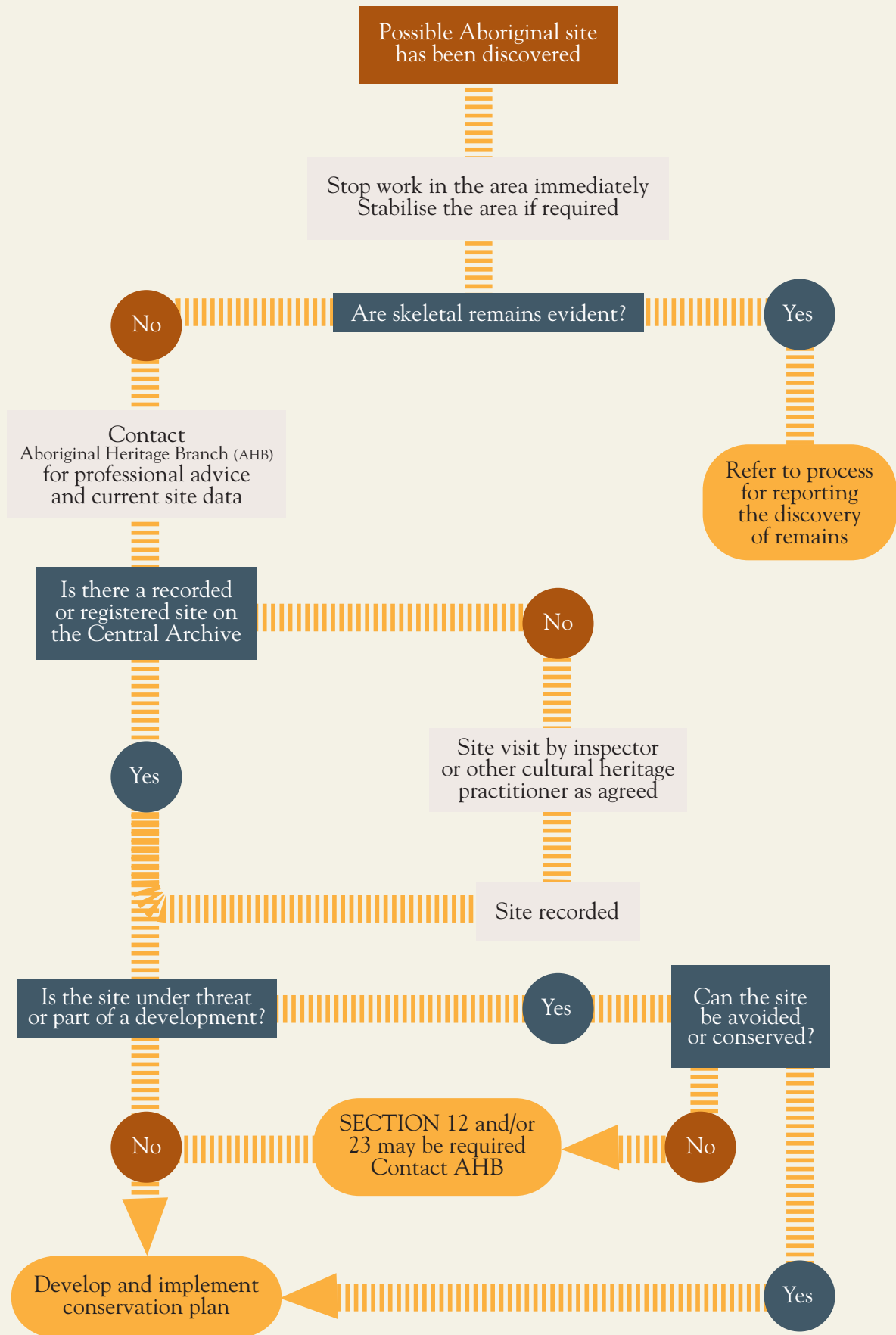
(2) This section does not apply to the traditional owner of the site or object or to an employee or agent of the traditional owner.

(3) The Minister may direct a person making a report to take such immediate action for the protection or preservation of the remains as the Minister considers appropriate.

(4) A person must not, without reasonable excuse, fail to comply with a direction of the Minister under this section.

Penalty: \$2 000 or imprisonment for 3 months.

## Process for the discovery of Aboriginal sites or objects





## Discovery of Aboriginal ancestral remains

“Aboriginal remains” are defined as the whole or part of the skeletal remains of an Aboriginal person but do not include remains that have been buried in accordance with the law of the State.

Aboriginal ancestral remains are found under a variety of circumstances. They can be unearthed by development or uncovered through environmental processes, such as erosion. This is particularly common in soft sands and soils. The preservation of ancestral remains differs according to the degree of exposure. They can be found scattered over a wide area, relatively well preserved or intact.

The discovery of ancestral remains requires a different process to the discovery of other sites, as it must be established that the remains are those of a traditional Aboriginal burial.

When a burial is discovered, the discovery of human remains must be reported to the Police, in compliance with the *Coroners Act 2003*, and to the Aboriginal Heritage Branch.

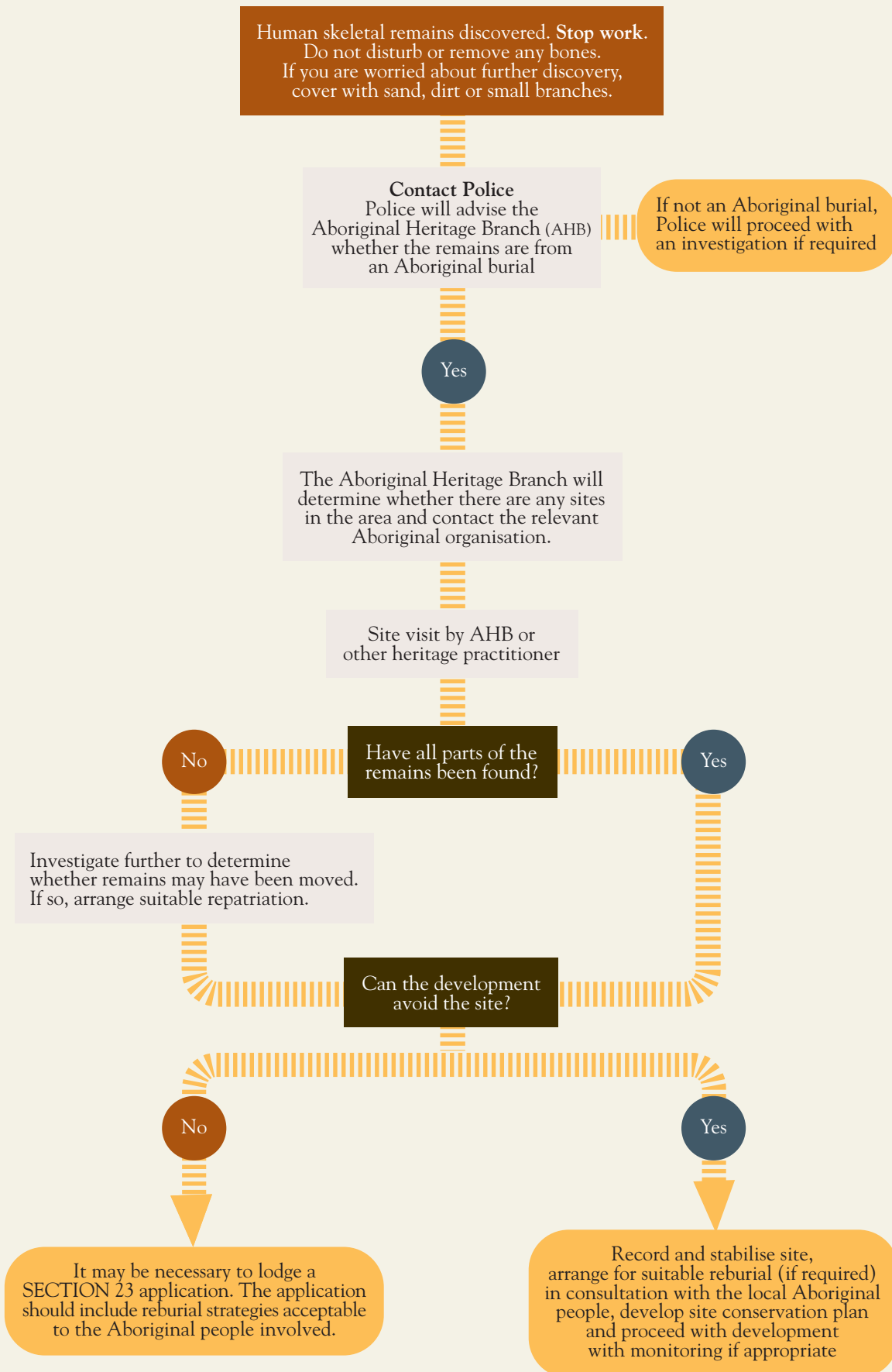
The burial should not be disturbed. Not only is the disturbance of Aboriginal ancestral remains offensive to the Aboriginal community; it is an offence under the *Aboriginal Heritage Act 1988*.

The Police may have to visit the site to determine whether the remains are of a traditional Aboriginal person. If this cannot be determined in situ, the Police may remove part or all of the remains for forensic analysis. In this instance the *Coroners Act 2003* overrides the *Aboriginal Heritage Act 1988* and the site will be disturbed. If the burial is that of a traditional Aboriginal person then the Police will contact the Aboriginal Heritage Branch, and any remains that were removed will be transferred from Forensic Science SA to the Aboriginal Heritage Branch for safekeeping and reburial.

The Aboriginal Heritage Branch will check The Central Archive and Register of Aboriginal Sites and Objects for a record of the burial site to determine whether the site has been recorded previously. The appropriate Aboriginal heritage organisations will be contacted and the site visited, assessed and recorded.

If the area is likely to become further exposed, consideration should be given to moving the burial to a nearby but safer place, or site protection works can be undertaken. These decisions are made in consultation with the Aboriginal heritage organisations and the project manager or landowner. If a decision is made to relocate the burial, advice should be sought from the Aboriginal Heritage Branch to ensure compliance with the Act.

## Process for managing the discovery of Aboriginal ancestral remains



## Who do I contact for further advice?

For assistance or further information regarding these Guidelines please contact:

The Aboriginal Heritage Branch  
Aboriginal Affairs and Reconciliation Division  
Department of the Premier and Cabinet  
PO Box 2343  
ADELAIDE SA 5001  
Phone 08 8226 8900  
Facsimile 08 8226 8999

Cover: Toa - decorated with Mura-mura (Dreaming) designs, collected from northeast South Australia. [Supplied by SA Museum A6075]

Strip: Flakes from a quartz quarry [Supplied by Aboriginal Heritage Branch (DPC-AARD)]

Disclaimer: This document is a guide only and should not be relied upon 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.