


**GUIDELINE 7** Section 24 of the *Aboriginal Heritage Act 1988*

Directions by the Minister restricting access  
to Aboriginal sites, objects or remains



**Government  
of South Australia**

Department of the  
Premier and Cabinet



## **Section 24 facilitates the protection of sites, objects or remains through the restriction of access to land**

Section 24 particularly applies to landowners, land managers and persons intending to visit sites.

There may be occasions where the sensitivity or significance of a particular site (or occasions of damage) requires that restrictions be placed on access to the site, or on activities at, or in the vicinity of a site, in order to protect or preserve the site. In such instances, the Minister has powers under Section 24 to issue directions restricting or prohibiting access/activities at (or in the vicinity of) a site.

Any direction to restrict access to a site needs the approval of the Governor, but restrictions to activities can be applied at the discretion of the Minister.

Directions under Section 24 can be applied to any sites, irrespective of whether or not a determination has been made under section 12. Any restrictions remain in place until the section 12 determination has been made.

The Minister is required by the Act to give not less than 8 weeks notice of any intended direction, except where urgent action is required. In such cases the Minister is still required to give notice as soon as practical after giving the directions.


The Act requires a notice to be forwarded to:

- the owner and occupier of private land; and
- the Aboriginal Heritage Committee; and
- any Aboriginal organisation that has an interest in the matter; and
- a representative of any traditional owners; and
- any other Aboriginal persons who have a particular interest in the matter.

There is no requirement for consultation with the above persons, mere notice is to be given of any intended direction. In addition, as a matter of policy, the Minister will endeavour to contact any other interested parties who may have an interest in the matter or who may be affected by restrictions to access or activities, such as tour operators.

## Directions by Minister restricting access to sites, objects or remains

24. (1) Subject to this section, where the Minister is satisfied that it is necessary for the protection or preservation of:
- (a) an Aboriginal site, object or remains; or
  - (b) a site, object or remains that the Minister has reason to believe may be an Aboriginal site, object or remains, the Minister may give directions prohibiting or restricting:
  - (c) access to the site or an area surrounding the site or to the object or remains;
  - (d) activities on or in relation to the site or an area surrounding the site or in relation to the object or remains.
- (2) The Minister must not give directions under subsection (1)(c) except with the approval of the Governor.
- (3) Directions may be given under this section:
- (a) if limited in their application to a particular person or persons by notice in writing to that person or those persons; or
  - (b) if of general application:
    - (i) by notice published in the Gazette; or
    - (ii) by notice published in a newspaper circulating generally throughout the State; or
    - (iii) by the erection of signs in the vicinity of the site, area, object or remains; or
    - (iv) by a combination of methods referred to in this paragraph, as the Minister considers appropriate in the circumstances.
- (4) Subject to subsection, (5) the Minister must, before giving any directions under this section, take reasonable steps to give not less than eight weeks notice of the proposed directions to:
- (a) the owner and occupier (if any) of private land in relation to which the directions apply; and
  - (b) the Committee; and
  - (c) any Aboriginal organisation that, in the opinion of the Minister, has a particular interest in the matter; and
  - (d) a representative of:
    - (i) any traditional owners; and
    - (ii) any other Aboriginal persons, who, in the opinion of the Minister, have a particular interest in the matter.

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- (5) The Minister may, if satisfied that urgent action is necessary, give directions under this section without the notice required by subsection (4), but must, in that event, take reasonable steps to give the notice as soon as practicable after giving the directions.
- (6) A notice must:
- (a) set out the directions; and
  - (b) give the reasons for the directions; and
  - (c) state that any interested person or body may make representations to the Minister with respect to the directions; and
  - (d) if given under subsection (3)(a), set out the penalty for contravening or failing to comply with a direction.
- (7) Where directions are given under this section in relation to a site or object that is not entered in the Register of Aboriginal Sites and Objects, the Minister must, as soon as practicable:
- (a) determine whether the site or object should be entered in the Register; and
  - (b) if the Minister determines that the site or object should not be entered in the Register revoke the directions.
- (8) Where directions are given under this section in relation to remains not known to be Aboriginal remains, the Minister must, as soon as practicable:
- (a) determine whether the remains are Aboriginal remains; and
  - (b) if the Minister determines that the remains are not Aboriginal remains revoke the directions.
- (9) The Minister must:
- (a) give due consideration to any representations made with respect to the directions; and
  - (b) if satisfied (whether on the basis of such representations or otherwise) that the directions should be revoked or modified, revoke or modify the directions accordingly.
- (10) Within 30 days after the sale of land in relation to which directions under this section apply, the vendor must provide the Minister with the following information in writing:
- (a) the date of the sale; and
  - (b) the name and address of the purchaser
- Penalty: \$2,000.
- (11) This section does not apply to Aboriginal objects or remains that are in a public or private collection.

## 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: Coastal fish trap, South Australia [Supplied by Aboriginal Heritage Branch (DPC-AARD)]

Strip: Scar tree - showing a typical shield or dish scar in the Murraylands [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.