

Origin Energy Enterprise 3D Transitional Zone Seismic Survey

ABORIGINAL AND
HISTORICAL
CULTURAL HERITAGE
DUE DILIGENCE

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Report to Aventus Consulting

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Introduction and Project Brief

This report outlines the results of a cultural heritage due diligence prepared for the proposed location of Origin Energy Resources Ltd's Enterprise 3D Transition Zone Seismic Survey in south west Victoria. The seismic survey project will involve:

undertaking a seismic survey...with seismic pulses to be received by cables laid onshore in public road reserves. A seismic source will also be deployed along the Great Ocean Road (Aventus Consulting brief 10/5/16).

Aventus Consulting has commissioned Ochre Imprints to provide heritage management advice for the proposed seismic survey. In particular the objective of the report is to:

determine the indigenous and non-indigenous cultural heritage sensitivities of the onshore project area, specifically concentrating on roadsides to be used for the survey (Aventus Consulting brief 10/5/16).

The advice contained in this report is based on the assumption that both the method and the impact of the seismic survey will be the same or similar to that described for the Halladale Speculant Seismic Survey undertaken by Origin in recent years in a location to the west of the current study area. At that time information regarding the ground surface impact of the seismic survey given by Origin was as follows:

There are two main components to any seismic survey, 1) a source and 2) a receiver. In simple terms the source inputs sound energy into the earth and the receiver hears the sound signal reflected back from rock layers...

The induced seismic waves are recorded by geophones...A number of geophones are wired together in groups, known as strings and are placed in a pattern around a central point in the ground...If conditions along the line are clear, such as open farming land then the geophones and cables will be dropped along the line by a vehicle. If the line is covered by vegetation... then the geophones and cables will be hand carried to their positions.

Once the geophone strings are at their positions, each geophone is pushed vertically into the ground by hand [note that the metal spikes that hold the geophones in position are 1 inch (2.5cm) long]. The cables are then connected to each string of geophones and connected together to the recording computers.

Once the line has been recorded the geophones and cables are picked up by the line crew and moved to another location.

To generate the energy required to image the subsurface, vehicles called vibroseis are used. These are trucks or buggies that are fitted with a hydraulic piston and a base plate. The base plate is placed on the ground by the hydraulic piston and then vibrated over a range of frequencies.

The vehicle is driven by an experienced operator who carefully drives the vibroseis to each source point position. They are easily steered and can avoid obstacles and sensitive areas. Once at the position the operator lowers the base plate and the vibroseis will vibrate. Once the vibration is complete the base plate will be raised and the vibroseis is then driven carefully to the next source point. There is minimal footprint left by this action (information provided by Origin and quoted in Turnbull 2009: 3-4).

The following information has been reviewed as the basis of this advice:

- Victorian Aboriginal Heritage Register (VAHR) information held at Aboriginal Victoria (AV) and accessed via the Aboriginal Cultural Heritage Register and Information Service (ACHRIS); and
- Information concerning the locations of Victorian Heritage Register, Heritage Inventory and Local Council Heritage Overlay sites available on the Heritage Victoria Hermes website, and the Victorian Heritage database.

Some information concerning the management requirements of Victorian Heritage Register site (H2261) was also sought from Jeremy Smith, Senior Archaeologist at Heritage Victoria.

This report documents the results of the review and outlines:

- legislative requirements relating to management of Aboriginal and historical cultural heritage (provided in Appendix 1);
- known Aboriginal and historical cultural heritage values associated with the study area.

The study area

The study area considered in this report consists of just over 47km of road reserves in the Port Campbell and Peterborough area of southwestern Victoria. It includes a portion of the Great Ocean Road as well as a number of more minor roads to the north and south, including areas around the Port Campbell and Peterborough townships. The location of the study area is shown in Figure 1.



Figure 1: Study area location. Proposed seismic survey locations in red.

Aboriginal heritage in the study area

Aboriginal Cultural Heritage Legislation

The *Aboriginal Heritage Act* 2006 (referred to as 'the Act' hereafter) provides blanket protection for Aboriginal cultural heritage. This means that all Aboriginal cultural heritage (recorded and as yet unrecorded) is protected from harm and it is illegal to carry out an activity that can disturb Aboriginal places without the appropriate authorities under the Act (and its associated *Aboriginal Heritage Regulations* 2007). There are two principal mechanisms under the Act that remove the risk of illegal harm to Aboriginal cultural heritage, namely:

- Cultural Heritage Management Plan (CHMP)
- Cultural Heritage Permit (CHP)

A CHP is relevant only where an Aboriginal place/s is registered in the works area and a CHMP is not a mandatory requirement.

Known Aboriginal heritage in the region

An examination of the VAHR determined that a number of Aboriginal archaeological sites/ Aboriginal places have been registered in the region surrounding the study area. The majority of these are found along the coastline, and predominantly consist of shell middens or stone artefact scatters.

The majority of these places were recorded prior to the AV requirement that spatial data recorded in the field records the extent of cultural material (as opposed to a single point data reading) along with other site information. Indeed many places were recorded prior to Geographic Positioning System (GPS) and Geographic Information System (GIS) technologies being commonly used by or available to archaeologists in the field. As a result the spatial extent of many of the registered sites is not available, and the exact location of the registered material is not certain. In order to correct for this limitation, data has been collected from the VAHR for all places for which the primarily grid coordinate location is situated within 100m of the study area. Figure 2 shows the locations of all Aboriginal places recorded in the region. Those located within 100m of the study area are labelled with their registration number. Detail regarding these places is provided in Table 1.

None of the Aboriginal places currently listed on the VAHR are located within or immediately adjacent to the proposed seismic survey area. Site records suggest that the nearest located VAHR registered place is approximately 90m from the relevant road reserve. The proposed seismic test will not, therefore have an impact on any currently registered Aboriginal place.

This conclusion is tempered by the fact, as noted above, that there remains the possibility that an Aboriginal place registered outside of the study area physically extends into the study area, even if the spatial data for that place does not account for a spatial extent beyond the point registration. The last column in Table 1 provides an analysis of the potential for Aboriginal cultural heritage to extend into the study area through a more detailed examination of the place record for places registered within 100m of the study area as these cards can contain site plans and written descriptions of the extent of cultural heritage recorded at the time.

This analysis concludes that it is unlikely that any of the Aboriginal places recorded on ACHRIS within 100m of the study area extend into the study area.

Implications:

Given that the proposed works will not impact on any registered Aboriginal place, a Cultural Heritage Permit under the *Aboriginal Heritage Act* 2006 will not be required to harm Aboriginal cultural heritage prior to the works commencing.

Is a CHMP required for the proposed work?

A Cultural Heritage Management Plan (CHMP) is a report required in certain circumstances set out in the *Aboriginal Heritage Act* 2006 in order to legally manage known or potential impacts on Aboriginal cultural heritage (see Appendix 1). Under Clause 6 of the Aboriginal Heritage Regulations 2007, a CHMP is a mandatory requirement when:

1. All or part of the activity is a high impact activity;
- and
2. All or part of the activity area is in an area of cultural heritage sensitivity - which has not been subject to prior significant ground disturbance.

Is The Proposed Activity A High Impact Activity?

The proposed activity, however, does not constitute a 'high impact activity' as defined by the Aboriginal Heritage Regulations 2007. Seismic survey is not listed as a 'high impact activity' in Division 5 of the Regulations and AV has previously confirmed that it is not a 'high impact activity' (see Turnbull 2009).

Is The Activity In An Area of Cultural Heritage Sensitivity?

In order to determine whether the study area is situated in an area of cultural heritage sensitivity it is necessary to establish:

- whether the study area is in an area of cultural heritage sensitivity as defined by r.41(2) Aboriginal Heritage Regulations 2007; and if so,
- whether that area has been subject to prior significant ground disturbance which would mean that the area is not an area of cultural heritage sensitivity under r.41(3) of the Aboriginal Heritage Regulations 2007.

These are discussed separately below.

Area of Cultural Heritage Sensitivity

Figure 3 shows the location of the study area in relation to the mapped areas of Aboriginal cultural heritage sensitivity. It shows **that the study area is located in areas of Cultural Heritage Sensitivity** under r.41(2) under Aboriginal Heritage Regulations 2007. These areas of cultural heritage sensitivity relate to the study area being located:

- within 200m of a waterway (r. 23);
- within 200m of the high water mark of the coastal waters of Victoria (r.28);
- within a Park (r.29); and
- in coastal dune deposits (r. 37).

Implications:

As the proposed seismic survey is not a 'high impact activity' under the Regulations of the *Aboriginal Heritage Act* 2006, the preparation of a CHMP is not a mandatory requirement.

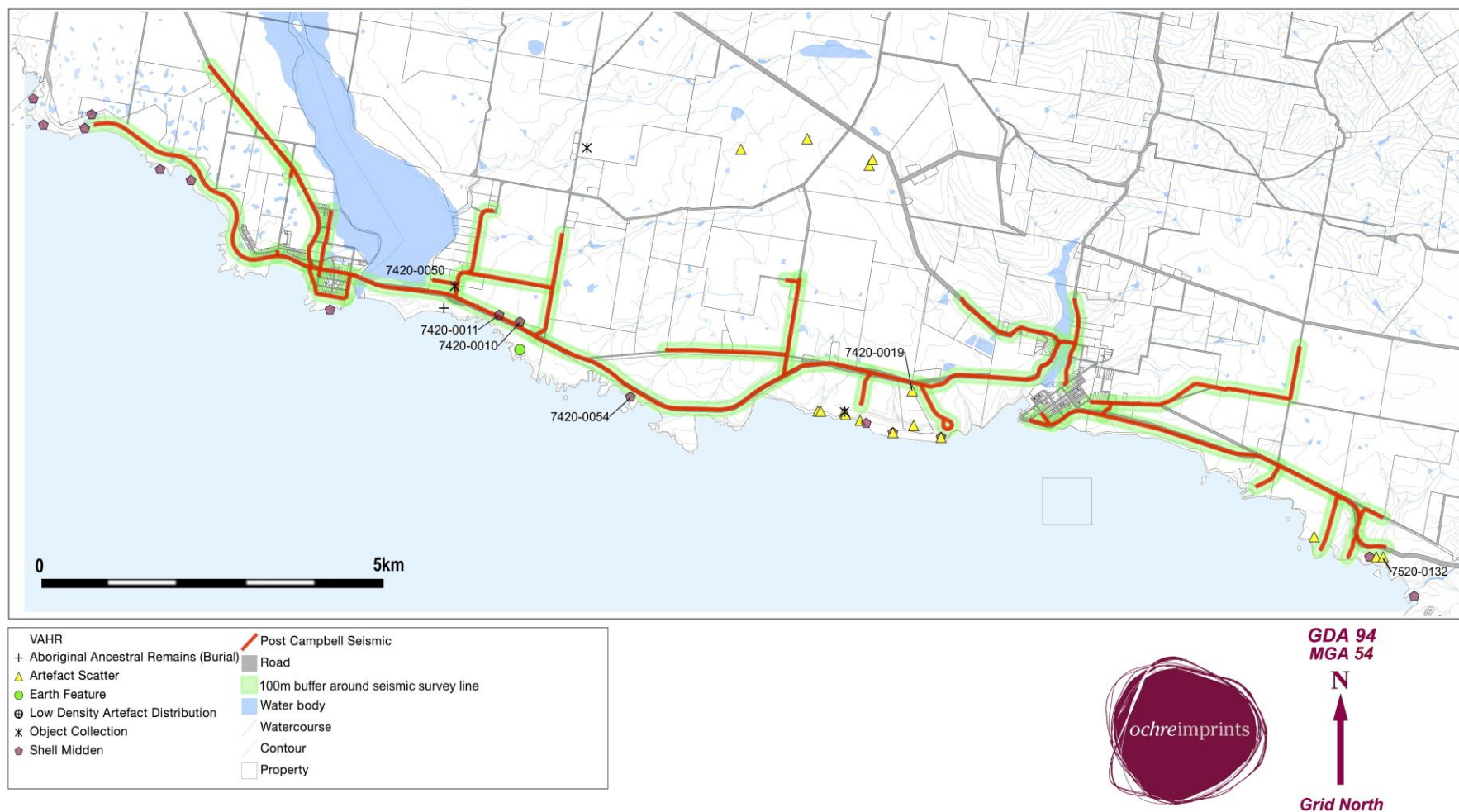


Figure 2: Locations of VAHR registered places in the study area region. Those registered within 100m of the study area are labelled with registration number.

Table 1: Details of VAHR places/ sites located within approximately 100m of the proposed seismic survey.

VAHR number	Site location co-ordinates (GDA 94, MGA 54)	Site type	Description	Comment on likely location in relation to the study area
7420-0050	n/a	Object collection	Collection of artefacts housed in a residence near Peterborough.	This location will not be impacted on by the proposed seismic survey.
7420-0011	54H 665820 5724777	Shell midden	Small midden containing shell (<i>Subninella</i>) and stone artefacts (quartz), located in farmland to the north of the Great Ocean Road 'opposite the 295km post'. The midden was recorded in 1986. Its current condition is unknown.	There is no indication on the site card that the midden extends into or near the road reserve. No clear dimensions of the midden are given on the site card, but it is described as being 'small'. It is noted that the full extent of the site is unknown because it is 'covered by sand and...vegetation', however. It is not considered likely that this site is located within the area of the proposed seismic survey.
7420-0010	54H 666120 5724677	Shell midden	Shell midden and artefact scatter that had partially been disturbed by sand mining when recorded. It is located to the north of the Great Ocean Road and was noted to contain shell (<i>Subninella</i> and <i>Cellana</i>) and stone artefacts (flint). The midden was recorded in 1986. Its current condition is unknown.	There is no indication on the site card that the midden extends into or near the road reserve. No clear dimensions of the midden are given on the site card. It is not considered likely that this site is located within the area of the proposed seismic survey.
7420-0054	54H 667721 5723593	Shell midden	Shell midden containing Turbo sp. shells and charcoal recorded over a 2x3m area.	As this site was recorded recently, spatial data concerning its extent is available. This site is located about 92m south of the Great Ocean Road road reserve and is therefore not likely to be impacted on by the proposed seismic survey.
7420-0019	54H 671800 5723682	Artefact scatter (isolated artefact)	Site consists of fewer than four quartz artefacts.	Site is located adjacent to a track within a rifle range to the south of the Great Ocean Road. Site card description places it about 90m to the south of the Great Ocean Road reserve. It is not considered likely that this site is located within the area of the proposed seismic survey.
7520-0132	54H 678620 5721277	Artefact scatter	Site consists of an artefact scatter measuring approximately 42 x 23m containing quartz and flint artefacts. The scatter was recorded in 1999.	The site card description places the artefact scatter to the east of Rutledge Creek and adjacent to a southwest-running track leading to the creek mouth. A southwest running track is visible on Google Earth images – it is located some 150m to the southeast of the study area in this location. It is not considered likely that this site is located within the area of the proposed seismic survey.

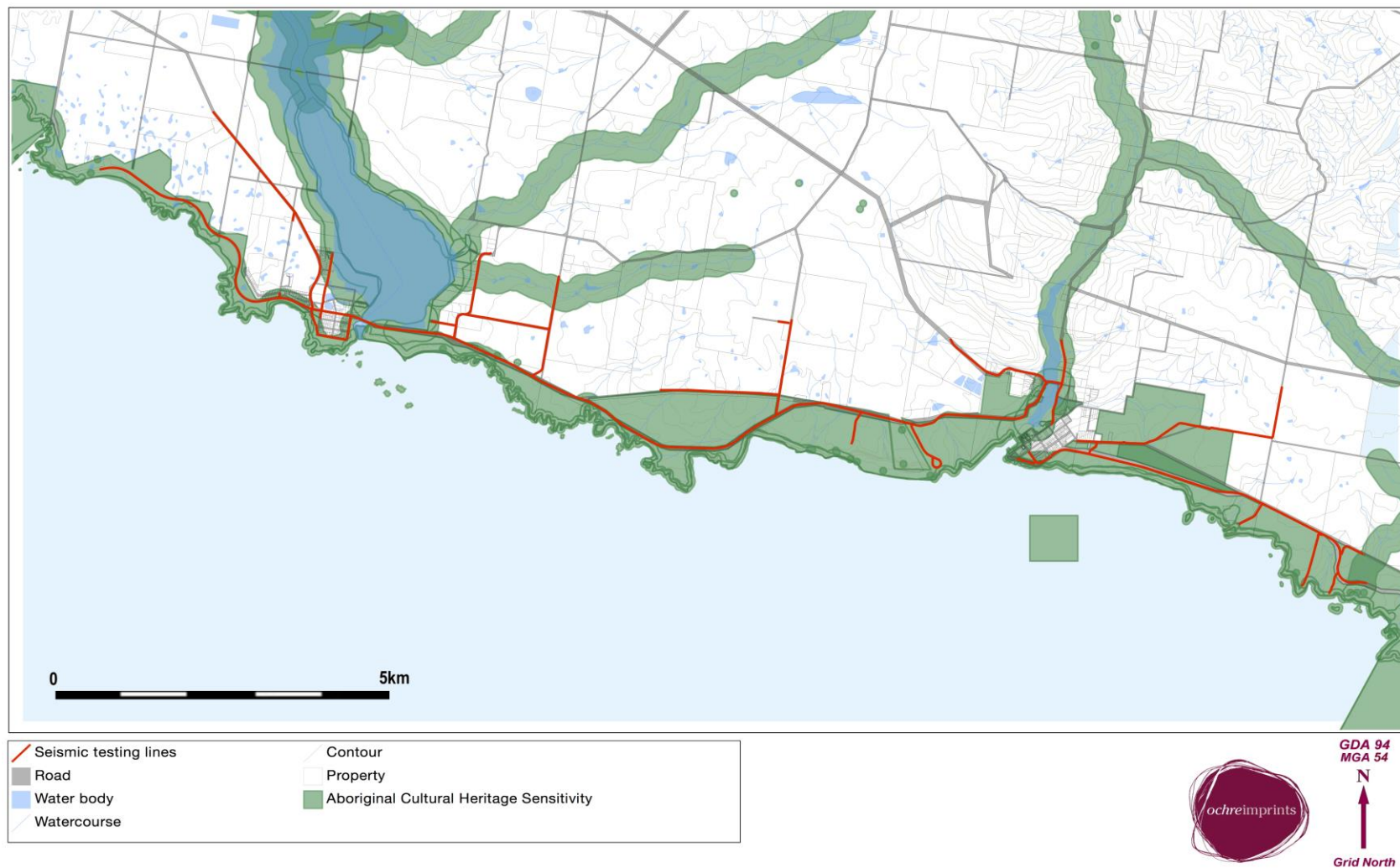


Figure 3: Areas of Aboriginal cultural heritage sensitivity under the *Aboriginal Heritage Act* 2006 in relation to the study area.

Historical (non-Aboriginal) heritage in the study area

Historic Heritage Legislation

The Victorian *Heritage Act* 1995 provides protection to heritage places and objects that are of significance to Victoria (see Appendix 1). Places or sites deemed to be of state significance are listed on the Victorian Heritage Register (VHR). Archaeological sites or deposits that are not deemed to be of state significance are listed on the Victorian Heritage Inventory (VHI). A permit is required from Heritage Victoria in order to harm (impact on the fabric of) a place or object on the VHR or VHI.

Planning and Environment Act 1987 - Heritage Overlay Requirements

Local government planning schemes can include a Heritage Overlay of places and sites within a specific local government area. Places of heritage significance to a local area can be protected on the Heritage Overlay (as well as places included on the Victorian Heritage Register). Works undertaken that will affect sites or places listed need to progress through a planning permit process in consultation with the local government authority.

Environment Protection and Biodiversity Conservation Act 1999 Requirements

The *Environment Protection and Biodiversity Conservation Act* 1999 and the *Environment and Heritage Legislation Amendment Act* (No.1) 2003 provide controls regarding the actions of individuals and the Commonwealth in relation to places on the Register of the National Estate as well as the National Heritage List and the Commonwealth Heritage List. An activity that will have a significant impact on the national heritage values of a national heritage place and/or any other nationally protected place, must be referred to the Australian environment minister in order to obtain permission to undertake the activity.

Known historical (non-Aboriginal) heritage in the region

Figure 4 shows the location of known historical heritage sites in or near the study area. They are listed in Table 2. The proposed seismic survey will pass by a small number of structures on the heritage overlay (HO265, 266 & 267), and past one heritage inventory (archaeological) site (H7420-0006). It will also traverse a significant section of the Great Ocean Road. The Great Ocean Road is listed on the Victorian Heritage Register and is considered to be of historical, archaeological, aesthetic and social significance to the state of Victoria (H2261 site citation). It is also listed on the National Heritage List (ID 105875) for “[The] stories and scenery along the road and coastline [that] help us understand Australia’s history, prehistory and ongoing coastal processes” (National Heritage List Statement of Significance).

Implications:

The proposed seismic survey will pass by a small number of structures that are listed on local government heritage overlays, and to the south of one heritage inventory (historical archaeological) site. A large portion (more than 50%) of the proposed seismic survey activity will take place within the road reserve of the Great Ocean Road (see section 1). As the seismic survey will involve minimal physical disturbance of the ground and is able to avoid impacting heritage fabric such as monuments and milestone markers there will be no impact to the heritage places recorded along the seismic survey route.

Table 2: Details of historical (non-Aboriginal) places/ sites located within approximately 100m of the proposed seismic survey

Reference Number	Site type and description	Comment on likely impact of seismic survey
H2261 (heritage register) HO299 (Corangamite Shire HO) HO075 (Moyne Shire HO). Also listed on the National Heritage List (ID 105875)	Great Ocean Road. This site is listed on the Victorian State Heritage Register and on the heritage overlays of the Corangamite and Moyne Shires as well as the National Heritage List.	While the proposed seismic survey will take place largely within this registered site, it is not considered likely that it will result in physical impact on the fabric of the site.
H7420-0006	Heritage inventory site/ archaeological site Former Peterborough House, 2 Hamilton Street, Peterborough.	The proposed seismic survey will pass close to this site, but it is not considered likely that it will result in physical impact on the fabric of the site.
HO265	Rocket Shed, Lord Street, Port Campbell, on Corangamite Shire heritage overlay.	The proposed seismic survey will pass close to this site, but it is not considered likely that it will result in physical impact on the fabric of the site.
HO266	Former Port Campbell hall and WW1 memorial Horse Trough, 42 Lord Street, Port Campbell, on Corangamite Shire heritage overlay.	The proposed seismic survey will pass close to this site, but it is not considered likely that it will result in physical impact on the fabric of the site.
HO267	Sherbrooke Lodge, 49 Sherbrooke Lodge Road, Port Campbell, on the Corangamite Shire heritage overlay.	The proposed seismic survey will pass close to this site, but it is not considered likely that it will result in physical impact on the fabric of the site.



Figure 4: Location of historical heritage places in the study area.

Recommendations

Aboriginal Cultural Heritage

No registered Aboriginal VAHR places are located within the proposed seismic survey area, and none are located closer than 90m from the proposed survey area. Although large portions of the proposed seismic survey area are located within identified areas of Aboriginal cultural heritage sensitivity, a CHMP is not a mandatory requirement under the *Aboriginal Heritage Act 2006* because the proposed survey does not constitute a 'high impact activity' as defined by the Aboriginal Heritage Regulations 2007.

The currently known distribution of Aboriginal places in the region is not necessarily a reflection of *all* Aboriginal heritage in the region, but is rather the product of past archaeological work in the region. As Figure 3 shows, there are large areas of cultural heritage sensitivity that intersect with the seismic survey investigation area, and it would be safe to conclude that there are as yet unrecorded Aboriginal cultural heritage places that exist within these areas of cultural heritage sensitivity – and by extension, there may be unrecorded Aboriginal places within the seismic investigation area.

Given that the physical impact of the seismic survey will be low, the risk of the survey causing harm to unregistered Aboriginal cultural material is also considered to be low. However it is *possible* that vehicular traffic will impact on particular site types such as middens or burials – both of which are known to exist in the region, and both of which are particularly fragile.

Managing Risk of Harm to Aboriginal Cultural Heritage

Under the *Aboriginal Heritage Act 2006*, it is illegal to harm Aboriginal cultural heritage without a CHMP or CHP in place. This applies to both registered and unregistered Aboriginal cultural heritage.

While the information considered in this report has led to the conclusion that a CHMP is not a mandatory requirement for the proposed activity, a voluntary standard assessment CHMP could be undertaken in order to manage the risk of unintended harm to Aboriginal heritage occurring during the proposed seismic survey.

A standard assessment CHMP would involve a surface survey of the seismic survey investigation area. Should Aboriginal cultural heritage be detected within the path of the seismic survey, management measures could be developed to avoid those areas. The advantage of undertaking a voluntary CHMP would be twofold:

- It would ensure that currently unrecorded surface Aboriginal sites are not impacted by the seismic survey as they would be identified during the archaeological survey and management measures could be developed in order to avoid those locations, where possible, or to mitigate impact to Aboriginal cultural heritage;
- It would minimise time delays that may occur if Aboriginal heritage was to be impacted during the seismic survey. In the event that Aboriginal cultural heritage is impacted outside of the context of an approved CHMP (or CHP), works must stop and AV must be notified of the disturbance. They would likely want to inspect any such impact and decide on a course of action for remediation etc. There are no statutory timeframes attached to this process which means that project timeframes can be significantly affected. There is also the risk of prosecution for illegal harm to Aboriginal cultural heritage. If an approved CHMP was in place for the proposed seismic survey program, the CHMP contingency measures would outline a process

for managing newly discovered Aboriginal cultural heritage and there would be no risk of prosecution.

Historical (non-Aboriginal) heritage

The Great Ocean Road constitutes the only historical (non-Aboriginal) heritage site known to exist within the proposed seismic survey area. It is registered on the:

- Victorian Heritage Register (State) (H2261);
- National Heritage List (Commonwealth) (ID 105875); and
- Moyne Shire Heritage Overlay (HO075) and Corangamite Shire (HO299).

Managing Risk of Harm to Historical Cultural Heritage

Heritage Act 1995 Requirements – VHR H2261

Heritage Victoria has advised that that no permit will be required for the proposed seismic survey program because the anticipated physical impact of the seismic survey is minimal (Jeremy Smith, *pers comm* 1/6/2016). However, it is advisable to seek a Permit Exemption from Heritage Victoria so that this advice is in writing. This would involve preparation of a letter to HV specifying the following information:

- a description of the project;
- a description and plan of the proposed works taking place in proximity to VHR H2261;
- a description and plan of any heritage values associated with VHR H2261 in the vicinity of the works proposed seismic corridor;
- an assessment of the impact the seismic works pose to VHR H2261 (e.g. no ground disturbing activity will be undertaken, that care will be taken to avoid harm or disturbance to any built features along the road, including milestones and monuments); and,
- a request for a permit exemption.

A permit exemption can take up to two weeks to process.

Environment Protection and Biodiversity Conservation Act 1999 Requirements –ID 105875

Under the *EPBC Act* 1999, the environment minister must approve an activity that will have a significant impact on a nationally protected place. As the seismic survey program will not have a physical impact on the Great Ocean Road, there is no requirement to obtain an approval from the minister.

Planning and Environment Act 1987 - Heritage Overlay Requirements (HO75 & HO 299)

Councils are responsible for issuing planning permits for the use and development of heritage places (on the Heritage Overlay) under the *Planning and Environment Act* 1987.

The seismic survey program will not have a physical impact on heritage values associated with the Great Ocean Road. It is therefore likely that a planning permit will not be required from Moyne

Shire or Corangamite Shire in order to conduct the seismic survey within the boundary of the Great Ocean Road Heritage Overlay in each municipality.

Historical Survey

While the information considered in this report has led to the conclusion that there are no significant requirements in terms of managing known historical heritage sites, there is a low risk of unintended harm to previously unrecorded historical heritage occurring during the proposed seismic survey.

A surface survey of the seismic survey investigation area in order to detect the presence of historic heritage would eliminate any risk of inadvertent illegal harm to historical heritage.

REFERENCES

Aventus Consulting 2016. Enterprise 3D transition zone seismic survey cultural heritage work brief.

Turnbull, J. 2009 Halladale speculant seismic survey cultural heritage assessment. Unpublished report by Ochre Imprints to Origin Energy Resources Ltd.

Legislation

Environment Protection and Biodiversity Conservation Act 1999

Heritage Act 1995

Planning and Environment Act 1987

Appendix 1 – Cultural Heritage Legislation

Aboriginal heritage

Commonwealth

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act 1999) provides protection for the following types of heritage places and items:

- World Heritage;
- National Heritage; and
- Commonwealth Heritage.

Any action that is likely to have a significant impact on heritage properties and places must be referred to the Minister for the Environment and undergo an environmental assessment and approval process.

There are provisions for emergency listing of the national heritage values of a place if the Minister believes that those heritage values are under threat. The Minister can list the place before referring it to the Heritage Council and must take reasonable steps to advise any owners or occupiers of the place. Any person may request that a place be included on the National Heritage List under the emergency listing provision, and, if the Minister does not list the place within ten business days after receiving the request, the Minister must:

- Publish notice of that on the internet; and
- Provide to the person who made the nomination and anyone else who requests them, reasons why the Minister has not listed the place.

State

The *Aboriginal Heritage Act 2006* provides blanket protection for Aboriginal cultural heritage in Victoria. This means that Aboriginal cultural heritage is protected from harm and it is illegal to carry out an activity that can disturb Aboriginal places without the appropriate authorities under the Act (and its associated Aboriginal Heritage Regulations 2007).¹ There are two principal mechanisms under the Act that remove the risk of illegal harm to Aboriginal cultural heritage, namely:

- Cultural Heritage Management Plan.
- Cultural Heritage Permit.

These are briefly discussed below.

Cultural Heritage Management Plan

A CHMP is a report recommending measures to be taken to protect Aboriginal cultural heritage affected by a development or use of land. It must include recommendations for measures to be taken before, during and after a relevant activity. The underlying philosophy of the CHMP is to minimise harm to Aboriginal cultural heritage, although it is also the document through which provisions can be made to harm Aboriginal places legally. A CHMP must be approved by the appropriate registered Aboriginal party or where no party exists for the area, the Secretary of the Department of Premier and Cabinet (DPC), before the activity may commence.²

¹ This protection applies irrespective of whether Aboriginal cultural heritage has been registered or not.

² The Department of Premier and Cabinet replaced the Department of Victorian Communities, as referred to in the *Aboriginal Heritage Act 2006*. The Office of Aboriginal Affairs Victoria carries out the day-to-day administrative functions on behalf of the Secretary.

A CHMP usually involves a staged investigation of the risk posed by a proposed activity to Aboriginal cultural heritage. The Act and associated Regulations set out the requirements for different levels of investigation:

- Desktop Assessment.
- Standard Assessment (Field Survey).
- Complex Assessment (Subsurface Testing; Controlled Excavation).

The Sponsor (usually the proponent) of a CHMP must ensure that the plan is prepared in accordance with the prescribed standards outlined in the Act, their associated regulations, and approved forms. The CHMP must consider the following matters:

- a) Whether the activity will be conducted in a way that avoids harm to Aboriginal cultural heritage;
- b) If it does not appear to be possible to conduct the activity in a way that avoids harm to Aboriginal cultural heritage, whether the activity will be conducted in a way that minimises harm to Aboriginal cultural heritage;
- c) Any specific measures required for the management of Aboriginal cultural heritage likely to be affected by the activity, both during and after the activity;
- d) Any contingency plans required in relation to disputes, delays and other obstacles that may affect the conduct of the activity; and,
- e) Requirements relating to the custody and management of Aboriginal cultural heritage during the course of the activity.

Section 46 of the Act specifies the circumstances in which preparation of a CHMP is mandatory:

- When required by the Regulations;
- When the Minister directs a CHMP to be prepared for an activity; or
- When an EES is required for an activity.

Clause 6 of the Regulations states that a CHMP is required when:

- All or part of the activity is a high impact activity; and
- All or part of the activity area is in an area of cultural heritage sensitivity – which has not been subject to significant ground disturbance.

‘High impact activities’ and ‘areas of cultural heritage sensitivity’ are defined in the Regulations. For activities which trigger a CHMP, a statutory authorisation cannot be granted for the activity without an approved CHMP.

A CHMP may be prepared voluntarily even when not required by the Act (s.45).

Cultural Heritage Permit

A Cultural Heritage Permit (CHP) is issued by the Secretary of the Department of Planning and Community Development to “carry out an activity that will, or is likely to, harm Aboriginal cultural heritage”. A CHP application is made to the Secretary of the Department of Planning and Community Development and, where a Registered Aboriginal Party exists for the area, must be supported by that organisation before it can be issued.

A CHP is sought for those instances where there is a known Aboriginal place that will be harmed by an activity. The permit outlines the measures that must be taken in order to disturb

that place lawfully. Archaeological investigations are often required to inform a CHP application.

Other key features of the *Aboriginal Heritage Act 2006* are:

- The creation of the Victorian Aboriginal Heritage Council to provide a state-wide voice for Aboriginal people and to advise the Minister for Aboriginal Affairs on issues relating to the management of Aboriginal cultural heritage;
- A system of Registered Aboriginal Parties – approved by the Victorian Aboriginal Heritage Council – to be involved in cultural heritage decision making processes, and in particular CHMPs;
- Aboriginal Cultural Heritage Agreements to support the development of partnerships around the protection and management of Aboriginal cultural heritage; and,
- Provisions relating to enforcement including: cultural heritage audits, protection declarations and stop orders, inspection arrangements and penalties. Maximum penalties for breaching the Act are more than \$215,000 for an individual or more than \$1.1 million for a company.

Non-Aboriginal (historical) heritage

Commonwealth

Commonwealth Environment Protection and Biodiversity Conservation Act 1999

As discussed in Section A, the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act 1999) provides protection for the following types of heritage places and items:

- World Heritage;
- National Heritage; and
- Commonwealth Heritage.

Refer to Section A for a more complete discussion of this Act.

State

Victorian Heritage Act 1995

The *Heritage Act 1995* provides protection to heritage places and objects that are of significance to Victoria. This includes:

- Historic archaeological sites and artefacts;
- Historic buildings, structures and precincts;
- Gardens, trees and cemeteries;
- Cultural landscapes;
- Shipwrecks and relics; and
- Significant objects (Heritage Victoria 2015).

Places or sites deemed to be of state significance are listed on the Victorian Heritage Register. Archaeological sites or deposits that are not deemed to be of state significance are listed on the Victorian Heritage Inventory. The Inventory lists:

- All places or objects identified as historic archaeological sites, areas or relics on the register under the *Archaeological and Aboriginal Relics Preservation Act 1972* ;
- All known areas where archaeological relics are located;

- All known occurrences of archaeological relics; and
- All persons known to be holding private collections or artefacts or unique specimens that include archaeological relics (Section 121).

Archaeological sites under this Act are considered to consist of non-Aboriginal archaeological deposits or remains older than 50 years (Section 5). They are protected whether or not they are listed by the Victorian Heritage Register, or the Heritage Inventory. Permits are required for most proposed alterations or disturbance to heritage places or archaeological sites.

Planning and Environment Act 1987

The state government and local government authorities prepare and administer land use planning controls in each Victorian local government area. Places and precincts deemed to be of local heritage significance are protected by means of heritage overlay planning controls.

Planning schemes may require the granting of a permit prior to alterations to places or sites listed on a heritage overlay.