**Agreement of Cultural Heritage Monitoring Procedures**

between

Esperance Tjaltjraak Native Title Aboriginal Corporation (ETNTAC)

and

Click or tap here to enter text. (hereafter “the Proponent”)

30 January 2024

**Purpose**

The purpose of this document is to outline the procedures and protocols associated with monitoring Aboriginal Cultural Hertiage. This document should be used to guide the conduct of both parties and their contractors, during all of the Proponents activities within ETNTAC’s jurisdiction where Cultural Heritage Monitors (Monitors) are required to be engaged.

**When is Monitoring Required?**

ETNTAC will direct the proponent on when monitoring is required.

**Rights and Responsibilities**

The parties agree:

1. The preservation of Aboriginal Sites, Aboriginal Objects and areas of significance to ETNTAC (Aboriginal Cultural Heritage) is preferable to their excavation, destruction, damage, concealment or alteration and the Proponent shall accordingly always use best endeavours to preserve Aboriginal Cultural Heritage.
2. the Proponent must not undertake ground disturbing works or vegetation clearance (Works) within the ETNTAC Area unless an ETNTAC Monitor is on site during the Works or ETNTAC, in writing, confirms Monitors are not required for the Works.
3. The Proponent must provide, in writing, at least 7 days’ notice to ETNTAC that Works are to be undertaken and the notice must include sufficient information of the Works including location, known Aboriginal Cultural Heritage, proposed duration of Works.
4. ETNTAC may appoint two (2) Monitors to be on site during the Works.
5. the Proponent must provide safety equipment to the Monitors including handheld radios, hard hats and hi viz and such other equipment as may be required for the site and the Works.
6. the Proponent shall be responsible for the costs of the Monitors as per cost estimate attached.
7. All parties are responsible for looking after their own safety and the safety of others. This includes being fit for work. ETNTAC must ensure Monitors are on site at the agreed time and place or a reasonable time thereafter.
8. If the Monitors are not on site within an hour of the agreed time and place, or if the Monitors chose to leave site early, the Proponent must contact ETNTAC Coordinator to advise and the Parties may agree to the Proponent continuing the Works without Monitors present.
9. The Monitors are responsible for protecting Aboriginal Cultural Heritage from being impacted by the Works.
10. Monitors have the right to require machine operators to stop work in accordance with the Stop Work Procedures if they suspect that Aboriginal Cultural Heritage may be impacted or if a detailed heritage investigation is required.
11. The Proponent, its staff, personnel and contractors must adhere to Monitors requests to stop work, if Monitors suspect that Aboriginal Cultural Heritage may be impacted.
12. If Aboriginal Cultural Heritage is located, Monitors and the Proponent may work together to determine if there is a suitable way to protect, or deviate around the Aboriginal Cultural Heritage.
13. If the Parties are unable to reach an agreement in relation to protecting or avoiding the Aboriginal Cultural Heritage, the Parties agree a full survey must be undertaken in accordance with the heritage agreement held between each party, and under law. If no heritage agreement exists, the provisions of Government Standard Heritage Agreement applies. The proponent shall cover the costs of the survey, as per the heritage agreement.
14. Monitors determinations on whether Aboriginal Cultural Heritage is present in the site are final.

**Procedures**

1. The Proponent must provide ETNTAC with at least 7 days notice prior to monitors being required. More notice is desirable.
2. ETNTAC schedule two appropriately qualified monitors for each day of the clearing/earthworks.
3. Monitors arrive on site at agreed time and location. Transport to be arranged between ETNTAC and the Proponent in advance, with the Proponent to provide a hire car for Monitors unless otherwise agreed.
4. Cultural Heritage Monitoring to be discussed with entire works team during morning ‘toolbox meeting’. The purpose of this is to incorporate the plan for monitoring into the daily work plan and to ensure that everyone understands why the monitors are there, what the monitors roles are, and what to do if the monitors find something.
5. If the proponent is operating large machinery, the proponent must provide Monitors with hand-held radios to maintain communications with machine operators.
6. Monitors may scout ahead of the machine where appropriate and where safe to do so. Positive communications with the machine operator needs to be maintained during this process.
7. Monitors may work behind the machine where appropriate to check if anything has been uncovered.
8. If monitors identify a culturally Sensitive Area (CSA) in the work area, the machine is to stop working in that area, while the Monitors investigate.
9. If a suitable deviation around the CSA cannot be agreed upon, a full survey of the area will be necessary to determine suitable cultural heritage management actions. This may take some days to organise and may require a site avoidance survey to occur. If this occurs the earthworks team should find other areas to work, so that progress is not unduly impacted.
10. Monitors may stop work if bones are found, and the Parties must work together to determine whether the bones are animal or human skeletal remains. If the Parties are unable to make a determination, the Proponent must contact ETNTAC to advise and the Proponent must make suitable arrangements for a qualified person to determine whether the bones are animal or human. If the bones are human, the Proponent is responsible for contacting the police.

**Stop Work Procedures**

1. In the event of Aboriginal Cultural Heritage being discovered during Works, the Proponent shall ensure that Works in the immediate area of the Aboriginal Cultural Heritage immediately stop, and the Monitors shall notify ETNTAC.
2. The Parties shall work together for a reasonable period of time to determine if there is a suitable way to protect, or deviate around the Aboriginal Cultural Heritage.
3. If the Parties are unable to reach an agreement in relation to protecting or avoiding the Aboriginal Cultural Heritage, the Parties agree a full survey must be undertaken. Monitors must contact the ETNTAC Coordinator and ETNTAC shall arrange for the survey to be undertaken.