

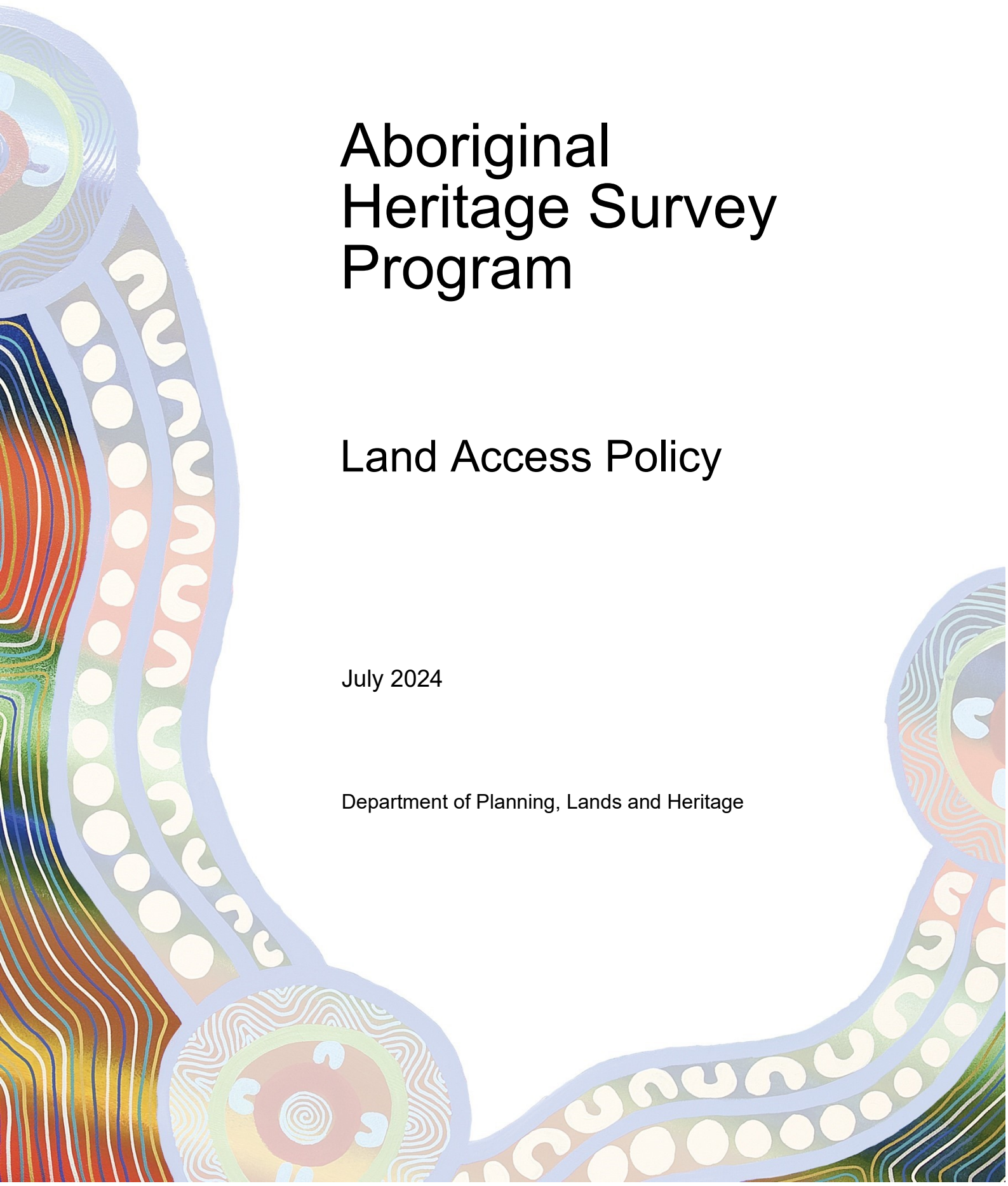


Aboriginal Heritage Survey Program

Land Access Policy

July 2024

Department of Planning, Lands and Heritage



Aboriginal Heritage Survey Program – Land Access Policy

The Department of Planning, Lands and Heritage (Department) will only undertake an Aboriginal heritage survey with the consent of all landowners, including leaseholders.

The Department requires permission from both the **landowner** and, where relevant, any **lessee** to access the land for the purpose of undertaking an Aboriginal heritage survey.

In the case of leased Crown land, the Department only requires permission from the lessee. Permission from the Minister for Lands is not required.

Where there is more than one landowner or lessee, consent is required from all co-landowners and/or co-lessees.

The Department will notify all **interest holders** before undertaking an Aboriginal heritage survey.

Landowner

For the purposes of the Aboriginal heritage survey, **landowner** refers to owners of freehold land and lawful lessees of both Crown land and freehold land.

Being a landowner generally entitles the owner to absolute possession. This means that the landowner can generally exclude anyone and everyone from having access to their land.

Where the land is the subject of a **lease**, the lessee holds the land subject to the terms of the lease. Usually, the lease provides for exclusive possession of the property, subject to the landlord (lessor) and its agents having the right to enter the property for certain purposes.

Access by third parties to the leased property are usually governed by the terms of the lease, and where access is allowed, it is usually with the prior written consent of the lessee.

This is no different where the land in question is Crown land and the lessor is the Minister for Lands on behalf of the State.

Interest holder

An interest holder refers to anyone who holds an interest in land but is not a landowner, such as the holder of a mining tenement which includes, but is not limited, to exploration or prospecting licences.

In addition to requiring the permission of landowners, the Department will notify any other interest holders in the land before conducting an Aboriginal heritage survey. This is to ensure that the Aboriginal heritage survey does not impact an interest holders' activities.

Holders of such interests do not have exclusive possession of land and accordingly do not have the right to exclude others from access to the land by virtue only of their interest.

