



CARING FOR COUNTRY

A GUIDE TO ENVIRONMENTAL LAW FOR ABORIGINAL COMMUNITIES



Cover artwork- 'Unity' by Alison Buchanan

Junnoy Murriwan (English name- Alison Buchanan)

kindly donated the cover artwork to the EDO.

Alison was born in the Nambucca Valley on the NSW mid-north coast where she was lucky enough to maintain a strong connection with the life and culture of the Gumbaynggirr people.

Alison's artworks reveal a love and respect for nature, reflecting the coastal colours and surroundings that she grew up with.

Alison has established an Aboriginal art print company, Indigetec Pty Ltd where she sells her prints.

We encourage you to have a look at her work by visiting www.indigetec.com.au. You can also contact Alison at alison@indigetec.com.au

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TABLE OF CONTENTS

INTRODUCTION	2
PART A- ACCESSING COUNTRY	4
1. Access to particular types of land	4
2. Access to waterways	9
PART B- DEVELOPMENT	14
PART C- PROTECTING ABORIGINAL CULTURAL HERITAGE	18
1. National Protection	18
2. State Protection	20
3. State and Local Government Protection	21
PART D- MANAGING COUNTRY	26
1. Contaminated Lands	26
2. Dumping Rubbish	27
3. Water Pollution	28
4. Noise Pollution	28
5. Bushfire Mitigation	28
6. Managing Mining	29
7. Managing Environmental Conservation	31
8. Voluntary Conservation	32
CONTACTS & INFORMATION	35

CARING FOR COUNTRY

A GUIDE TO ENVIRONMENTAL LAW FOR ABORIGINAL COMMUNITIES

Introduction

The purpose of this guide is to assist Aboriginal people to understand their legal rights and obligations under environmental and natural resource management law.

This guide is written specifically for Aboriginal communities living in NSW, recognising that environmental issues don't affect everyone in the same way. The guide may be useful for people from other states but many of the laws referred to in this guide are NSW laws and the law may differ in other states.

It is hoped that this guide will help you to better understand the many complicated laws relating to country, culture and heritage so that you will be in a better position to protect your rights and the environment.

What is culture?

"Culture is ways of understanding our world and ways of living, dying and remembering our world – it is expressions such as songs, music, dances, art, poetry, stories; it is knowledge systems such as ways of relating to the environment, ways of using medicine, ways of learning and scientific knowledge; it is religion and ways of understanding the spiritual world; it is the way we behave within and organise our families, communities, and society through social rules, customs, lore and laws; it is also language. Cultures are what make one group of people different to another. Cultures change and evolve just like animals and plants do – culture is a living thing."

Genevieve Thompson, DECC 2007, Adapted from UN Draft Declaration of Indigenous Rights & Australian-UNESCO Memory of the World Committee

What is heritage?

"Heritage is the environment, objects and places, both tangible and intangible, that we inherit from the cultures of the past and present. Heritage is what we collectively pass on to future generations to use, learn from and be inspired by. Heritage is strongly linked to culture because it is culture that frames our understanding of the past and our decisions about what is worth keeping for the future and what isn't worth keeping. Our concept of 'what is worth keeping' changes over time and the ways we use, learn from and are inspired by heritage also change over time – so heritage is also a living thing."

Genevieve Thompson, DECC 2007, Adapted from UN Draft Declaration of Indigenous Rights & Australian-UNESCO Memory of the World Committee

About the Environmental Defender's Office

The EDO is a community legal centre that specialises in environmental law. We are a non-profit organisation and we are independent from government. We have two offices, one in Sydney and a Northern Rivers branch office in Lismore. The Lismore office services the Northern Rivers region which covers the area from just south of Port Macquarie north to the Queensland border and west to Armidale. The Sydney office covers the rest of the State.

In 2006 the EDO established an Indigenous Engagement Program with initial funding from the Law and Justice Foundation, and employs a part-time Aboriginal Liaison Officer. This guide has been developed as part of that program.

For free legal advice on environmental law matters contact the *EDO Environmental Law Advice Line* on:

Sydney- 02 9262 6989 or 1800 626 239 (free call)
2.30pm to 5.30pm Tuesday, Wednesday and Thursday

Northern Rivers- 1300 369 791
9.00am to 5.00pm Monday-Friday

The EDO website has many useful resources such as factsheets www.edo.org.au/edonsw

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This guide was prepared in consultation with an Aboriginal Advisory Committee. The Advisory Committee has provided guidance, feedback and expert advice throughout the length of the project and the EDO is extremely grateful for their ongoing assistance.

We hope you find this guide useful. If you have any comments or thoughts, please visit our website and complete our online evaluation form www.edo.org.au/edonsw

Neva Collings,
Aboriginal Liaison Officer, Environmental Defender's Office (NSW)

Disclaimer

The information contained in this guide is intended to provide general information about the law. While all care has been taken in the preparation of this guide, it is not a substitute for legal advice in individual cases.

Currency

The information in this guide is current as of 25 September 2007



PART A: ACCESSING COUNTRY

Why does access to country matter?

Aboriginal people need to be able to access lands and waters to continue their traditions. In particular, "access is needed for fishing, hunting, gathering foods, camping, gathering firewood, visiting places with cultural significance, caring for country, caring for burial and other sites, practising culture, teaching young people, and to address social problems."¹

Some land has been returned to Aboriginal people under land rights or native title legislation.² However, access will always be needed beyond such land because Aboriginal people have rights and responsibilities to all their traditional lands.

Aboriginal people can always attempt to negotiate access, but the landowner does not always have to agree. The legal rights of Aboriginal people depend on the legal status of the land or waterway. This is discussed in detail below. It can get complicated, so if you have questions you should contact the EDO.

I. ACCESS TO PARTICULAR TYPES OF LAND

General

A Local Aboriginal Land Council (LALC) can negotiate an agreement with *any* land owner to permit any group of Aborigines or individual Aborigine *'to have access to the land for the purpose of hunting, fishing or gathering on the land'*.³

If an agreement cannot be reached, the LALC can request that the Land and Environment Court issue a permit to access the land, or a right of way across land, for hunting, fishing or gathering.⁴ It is an offence to stop anyone from accessing land in accordance with a permit to hunt, gather or fish.⁵ However, the permit does not reduce the owner's rights to manage the land.

The Native Title Act 1993 (NTA) also allows for access agreements to be negotiated. However, this can be a long, complicated and expensive process, and may not apply to most land in NSW because native title has been extinguished by past land grants.

Native title holders (traditional owners) and registered native title claimants have various native title rights to access country to live on, develop, fish, hunt and or gather traditional resources. Such access can be exclusive or it can sit alongside other people's rights of access. Native title rights of access vary substantially from group to group.

You can contact NSW Native Title Services for assistance with gaining native title access.



Private Land (Freehold)

With regard to privately-owned land, the only legal option available is the rights given to LALCs under the *Aboriginal Land Rights Act 1983*.⁶ The other option is to rely on the goodwill of the landowner for access. Native title will have been extinguished by the granting of freehold title.

Hunting and gathering

Hunting is allowed on private land with the permission of the owner. The hunter must hold a NSW Game Hunting General Licence (G-Licence).⁷ As an Aboriginal person, you are exempt from holding a G-Licence if you are hunting a game animal pursuant to a native title right or interest. The right or interest must be the subject of an approved determination⁸ of native title or of a registered native title claim. You are also exempt if you are a member, or in the company of a member, of a LALC and are undertaking traditional cultural hunting within the area of the Council.⁹

Land reserved under the *National Parks and Wildlife Act 1974 (NSW) (NPW Act)*

Land can be reserved in a number of ways: as a national park, a historic site, a state conservation area, a regional park, a karst conservation reserve, a nature reserve or as an Aboriginal area. For simplicity, in this section we refer to them all as 'parks'.

The National Parks and Wildlife Service (NPWS) sets rules and charges fees so that the environmental and cultural values of parks can be protected.¹⁰ There are penalties for disobeying park rules.

Areas within parks can be designated as 'Aboriginal places'. The NPWS is responsible for the protection of all Aboriginal objects and Aboriginal places.¹¹ It is an offence to knowingly destroy, deface or damage an Aboriginal object or place,¹² unless it is done with the written consent of a NPWS officer.

The best way to ensure easy access to Aboriginal places, areas and objects in a park is to include access requirements in the Plan of Management. Plans of Management must be prepared for all parks.¹³ They can also be prepared for any Aboriginal area, wildlife refuge or wildlife management area.

Public submissions can be made during the development or review of Management Plans. This is an opportunity to point out the importance of access to Aboriginal sites and places for the Aboriginal community.¹⁴ Management plans can be changed so it is possible to ask the NPWS to include access to Aboriginal places, areas or sites even if the plan is already operational.¹⁵

Any group-use of a park, including tours or education groups, must be consistent with the Plan of Management.¹⁶ Aboriginal groups should contact NPWS staff to arrange access and support for Aboriginal education activities or education groups. A licence or permit is required to run a commercial activity including tours in a park.¹⁷

An Aboriginal area is to be managed to allow the use of the 'area by Aboriginal people for cultural purposes'.¹⁸ There are 15 Aboriginal areas in NSW. Most Aboriginal areas have unrestricted access, although some sites have been fenced.¹⁹ Contact your local NPWS Office if access to a fenced Aboriginal area is required.

Hunting and gathering

Usually, animals and plants within a park are protected. Aboriginal people and their dependents (whether Aboriginal or not) may hunt and gather otherwise protected plants and animals for *domestic* purposes in parks, but may not hunt in national parks without a licence²⁰ or conduct any kind of gathering in a nature reserve²¹ or karst conservation area.

A licence is also required to hunt parrots, raptors or threatened species, endangered species or species occurring in endangered ecological communities.²³

There are general restrictions on the carrying, licence and use of firearms and these apply to Aboriginal people when hunting.²⁴ However, Aboriginal people are exempt from the penalties attached to carrying an animal, firearm, net, trap or hunting device when they are for domestic purposes.²⁵

Gathering protected native plants for domestic use must not interfere unreasonably with the plant's ability to reproduce. With regard to woody species it must not significantly harm the plant, and with regard to herbaceous species it must not significantly deplete the local population.²⁶

Aboriginal owned parks

Any park can become owned by Aboriginal people through a LALC. These parks must be leased back to the NSW Government.²⁷

The key difference in Aboriginal owned parks is that there must be a board of management with a majority of Aboriginal owners.²⁸ The board is responsible for the care, control and management of the park and the preparation of plans of management.²⁹ The board considers proposals for the carrying out of cultural activities (including hunting and gathering) by Aboriginal people within the park.³⁰ The board is subject to the direction and control of the NSW Minister for the Environment.³¹

NSW State Forests

Access to state forests is managed by Forests NSW.³² Access to all state forests is free and there are minimal restrictions on camping, walking or 4WDing. Dogs are allowed in state forests with their owners.³³

Can I access a state forest for cultural reasons?

Forests NSW, along with NPWS, are responsible for the management of Aboriginal places and sites occurring in state forests. There are very few restrictions on accessing an Aboriginal place or site in a state forest although access roads can be closed when there is a logging operation running.³⁴

Forests NSW has produced Ecologically Sustainable Forest Management Plans (ESFM Plans) that outline the management strategies for access to Aboriginal places and sites in state forests.³⁵

Regional Forest Agreements may also provide for access agreements so that Aboriginal people can access places, sites and forest materials for cultural purposes.³⁶

Commercial use of forest resources by Aboriginal people is also possible where consistent with the objectives of the ESFM Plan.³⁷

Agreement-making on access in state forests

Forests NSW can make a broad range of agreements for access to state forests for Aboriginal cultural purposes including MOUs, Partnership Agreements and agreements made under the Regional Forest Agreement process.

Contact your local Forests NSW office to discuss possible agreements for access to state forests.

Can I conduct tours or education groups at an Aboriginal site or place in a state forest?

All ESFM Plans commit to fostering Aboriginal run commercial tours to Aboriginal sites and places in NSW state forests. State forests that are subject to an existing agreement with a LALC or local Aboriginal community may already have a commercial tour operating. Check with your local Forests NSW office.

Whilst no permission is needed to conduct education groups in a state forest, the use and care of the site must be consistent with the objectives of the relevant ESFM Plan and/or Regional Forest Agreement. It is an offence to harm or damage an Aboriginal site or place in a state forest.³⁸ Large groups staying in or using a state forest area must talk with the local Forests NSW office for camping and access arrangements.³⁹

Hunting and gathering

Aboriginal people and dependents (whether Aboriginal or not) may hunt and gather otherwise protected plants and animals for *domestic* purposes in state forests. The same restrictions apply as are outlined in the section on *hunting and gathering* in 'Land reserved under the *National Parks and Wildlife Act 1974* (NSW) (NPW Act)', above.

Commonwealth reserves

In NSW, Commonwealth reserves include Booderee National Park and Solitary Islands Marine Reserve. Access to Commonwealth reserves under federal law⁴⁰ is subject to management principles that state that the needs and aspirations of Indigenous people should be taken into account.⁴¹

The activities that can occur in a reserve depend upon the type of reserve and whether a management plan is in place.

If there is no management plan in place then it is illegal (with some exceptions) to kill, injure, or take native species or damage heritage. It is also illegal (with limited exceptions) to undertake a range of activities without a permit, including scientific research, littering, taking animals, plants or firearms into reserves, camping, fishing or using vehicles.

If the reserve is classified as a *wilderness area*, additional restrictions apply, such as restrictions on development generally, creation of tracks, extraction of water and extraction of minerals.

If a management plan is in place then a much wider range of activities may be undertaken if provided for in the management plan.

World Heritage Areas

In NSW, World Heritage Areas include the Greater Blue Mountains Area, Gondwana Rainforests and the Willandra Lakes Region.

World Heritage listing can occur for both Commonwealth and State land, and private or public land. Management plans are prepared⁴² for World Heritage Areas to protect the World Heritage values of the land. Management plans must be agreed by the landholder, be it private or public.

Aboriginal access to sites in World Heritage Areas is controlled by the management plan together with the existing access regulations of the land, which will generally be NPWS access policies.

Crown Land

Crown land is controlled by the NSW Department of Lands⁴³ and includes nearly half of all land in NSW.⁴⁴

Unoccupied Crown Land

LALCs can claim unoccupied Crown land for conversion to freehold managed by the LALC on behalf of its members.⁴⁵ Unoccupied Crown land that is subject to a native title claim cannot be claimed by a LALC.

Aboriginal people and dependents (whether Aboriginal or not) may hunt and gather otherwise protected plants and animals for their own *domestic* purpose on unoccupied Crown land. Again, the same restrictions apply as are outlined in the section on *hunting and gathering* in 'Land reserved under the *National Parks and Wildlife Act 1974* (NSW) (NPW Act)', above.

Crown Reserves

Crown reserves include regional reserves, state parks, town parks, caravan parks, campgrounds, walking trails, travelling stock routes and land reserved for conservation. Crown reserves can also include land that was leased for Aboriginal missions and Aboriginal settlements.

A Reserve Trust is responsible for the management, care and control of a Crown Reserve⁴⁶ and can make decisions on access, permitted activities (including cultural activities and hunting and gathering), entry fees, opening hours, vehicle entry and moorings.⁴⁷

The NPWS is responsible for the management and protection of Aboriginal sites and places on Crown reserves.⁴⁸ The Reserve Trust may be liable if any of their, or a reserve visitor's, actions or omissions cause damage to Aboriginal places or sites.⁴⁹

Travelling Stock Routes

Travelling Stock Routes (TSRs) are parcels of Crown land that are managed by a Rural Lands Protection Board (RLPB)⁵⁰ according to its 'Function Management Plan'.⁵¹ TSRs are managed for recreation, agistment, grazing and refuge in drought or flood, and conservation, in addition to stock movement. Function Management Plans require management principles to conserve wildlife but make no mention of management of Aboriginal heritage.⁵²

Generally access to an Aboriginal place or site on a TSR will be unrestricted during the day. Permission from the local RLPB is needed for overnight camping and other recreational activities, seed collecting, firewood collecting and taking water. Hunting is generally banned but dogs are allowed.

TSRs can be claimed as Aboriginal land⁵³ but must be leased back to the Crown for continued use as a TSR. Rent is paid to the LALC for continued public use of the TSR.

The NPWS is responsible for the care and management of Aboriginal places and sites on TSRs. Permission may be required to use an Aboriginal place or site to avoid incurring a penalty for moving or damaging an Aboriginal place or object.⁵⁴

Leased Crown Lands

Leases can be granted for exclusive possession over Crown land. Rent is charged on the lease.

Native title holders or registered native title claimants may hold rights to access fish, hunt or gather on leasehold land, or rights of access for other traditional purposes such as ceremonies. Otherwise access to leasehold land is generally the same as access to private land.

Note: Native title rights were found to be completely extinguished on perpetual grazing leases granted under the *Western Lands Act 1901 (NSW)*.⁵⁵

Community Land

All public land managed by local government, other than a road or Crown land, must be classified as either 'community land' or 'operational land'. Community land is land that should be kept for use by the general public, whereas operational land will likely be closed to the public (e.g. a Council works depot).⁵⁶

Community land includes areas such as beach foreshores, bushland reserves or sports grounds.⁵⁷ It can include areas of Aboriginal cultural significance.⁵⁸ A Plan of Management, including objectives for each category of community land must be made by each Council.⁵⁹ The public can make submissions on a draft Plan of Management.⁶⁰ All activities, including rights of access that take place on the land must be consistent with the Plan of Management.

2. ACCESS TO WATERWAYS

Local Councils manage the majority of the coastal zone⁶¹ and public lands along streams and rivers according to the *Coastal Protection Act 1977* and the *Coastal Policy 1997* which aim to maintain or improve public access to the coastal zone.

Generally, there is public access to rivers, streams, lakes and beaches for swimming, fishing and boating. Rivers, lakes and streams can be accessed from a boat, by walking along the stream, river or lake bed or via the foreshore from public land. Beaches can be accessed through dedicated paths or beachfront reserves.

Access to foreshores from private, leased or licensed land must be with the owner's permission. A landowner can fence foreshores to control stock which may prevent access to a watercourse.⁶²

Do Aboriginal communities have special rights to water?

Access to and use of a water source is outlined in either a Water Management Plan, prepared by a management committee appointed by the Minister for Water, or a Water Sharing Plan made by the Minister.⁶³

Theoretically, there are native title rights to water.⁶⁴ However, as yet no native title claims over water have been granted in NSW.

It is generally an offence to take water from a water source without an access licence.⁶⁵ However, there are exemptions for the use of water for domestic purposes and Aboriginal cultural purposes.

The NSW government is currently implementing macro water plans. Macro water plans are water sharing plans which apply to a number of water sources across catchments or aquifers.⁶⁶

Macro water sharing plans are important because for the first time there will be water access licences specific to Aboriginal people: Aboriginal cultural licences and Aboriginal commercial licences.

Aboriginal cultural licences will cover activities such as manufacturing traditional artefacts, hunting, fishing, gathering, recreation, cultural and ceremonial purposes, in addition to drinking, food preparation, washing, and watering domestic gardens. Cultural licences are capped at up to 10ML per licence per year.⁶⁷

Aboriginal commercial licences can be used for commercial enterprises owned by Aboriginal people and could include irrigated cropping, horticulture, irrigated pasture, aquaculture and manufacturing or crafts. They will generally be limited to coastal rivers, and will be capped to protect the environment at a proportion of the river flow not exceeding 500ML per year.⁶⁸

The Aboriginal Water Trust has been established to provide economic benefits to Aboriginal people by increasing the level of Aboriginal participation in the water market and encouraging innovative methods of water use.⁶⁹

What happens in times of drought?

During times of drought or water shortage, restrictions may be placed on the ability to access water.

Additionally, the priorities that exist in relation to extracting water by different categories of licences may be altered, so that domestic supplies are provided for before other commercial uses.

Controlled activities

Activities such as collecting firewood along a riverbank or rebuilding fish traps in a river will need an approval if it comes within the definition of "controlled activity". It is an offence to carry out a controlled activity without a permit.⁷⁰ Interference with the flow of a creek or estuary may also require an approval.⁷¹

Crown Reserves

Crown reserves can include areas such as riverbeds, lakes, ports and up to three nautical miles out to sea.⁷² Reserve Trust by-laws and management plans may restrict access to a waterway. A Reserve Trust can lease or licence a watercourse for exclusive use as a marina or for a jetty.

Aquatic Reserves

Aquatic reserves can be declared for the protection of fish and fish habitat. When accessing aquatic reserves it is important to know that notifications can be issued from time to time that make it an offence to do or take certain things from aquatic reserves, such as shells, fish or sand.⁷³

Marine Parks

NSW Marine Parks⁷⁴ currently include Cape Byron, Jervis Bay, Lord Howe Island and the Solitary Islands. Sanctuary zones, habitat protection zones, general use zones and special purpose zones in the marine park regulate activities and access to the park. In some zones it is an offence to fish or gather aquatic species. Commercial tours or use of the Marine Park may require a licence.

Ramsar Wetlands

Ramsar wetlands are listed on the List of Wetlands of International Importance. Access to such wetlands is in accordance with the Plan of Management prepared with the land owner. Any activity, such as gathering bird eggs, that is likely to significantly impact on the ecological character of the site must be assessed and approved by the Commonwealth Environment Minister.⁷⁵

Fishing

Fishing in saltwater requires a recreational fishing licence, unless fishing in waters subject to native or a registered native title claim.⁷⁶ Aboriginal people fishing in freshwater do not need a recreational fishing licence.⁷⁷

Bag limits apply to recreational fishers. Where a ceremony or cultural event is to occur, Aboriginal fishers may apply to NSW Fisheries for an event exemption from the bag limit.⁷⁸ The exemption must be approved before the event, which may be difficult to organise for funerals.⁷⁹ There are no defences based on Aboriginal cultural heritage or tradition for taking threatened or endangered species declared under the *Fisheries Management Act 1994*.⁸⁰

- ¹ On Country Making access agreements for lands and waters in New South Wales at p. 3.
- ² *Aboriginal Land Rights Act 1983*.
- ³ *Aboriginal Land Rights Act 1983*, s 47.
- ⁴ *Aboriginal Land Rights Act 1983*, s 48.
- ⁵ *Aboriginal Land Rights Act 1983*, s 48(8).
- ⁶ *Aboriginal Land Rights Act 1983*, s 47.
- ⁷ Issued by the NSW Game Council.
- ⁸ However, the Queensland case *Yanner v Eaton* B52/1998 (5 May 1999) provides some support for the exercise of native title rights in this way even if they are not the subject of an approved determination.
- ⁹ *Game and Feral Animal Control Act 2002*, s 17.
- ¹⁰ *National Parks and Wildlife Act 1974*, s 12(f), s 30E(2)(e).
- ¹¹ *National Parks and Wildlife Act 1974*, s 12(d).
- ¹² *National Parks and Wildlife Act 1974*, s 90.
- ¹³ *National Parks and Wildlife Act 1974*, s 72(1).
- ¹⁴ *National Parks and Wildlife Act 1974*, s 73A.
- ¹⁵ *National Parks and Wildlife Act 1974*, s 73B. Management plans can be amended by the Minister following the recommendation of the National Parks Advisory Council.
- ¹⁶ In the Brigalow and Nandewar CCA group access is in accordance with the Community Conservation Agreement.
- ¹⁷ *National Parks and Wildlife Regulation 2002*, cl 20. A licence cannot be given over a declared wilderness area.
- ¹⁸ *National Parks and Wildlife Act 1974*, s 30K (2)(c).
- ¹⁹ For example, the scarred tree has been fenced in the Nambucca Aboriginal Area.
- ²⁰ *National Parks and Wildlife Act Regulation 2002* cl 64, cl 65; see *National Parks and Wildlife Act 1974*, s 45 re national parks.
- ²¹ *National Parks and Wildlife Act 1974*, ss 56,57.
- ²² *National Parks and Wildlife Act 1974*, ss 58Q, 58R.
- ²³ Within the meaning of the *Threatened Species Conservation Act 1995*, s 91; *National Parks and Wildlife Regulation 2002*, s 62. The licence can be obtained from the Director-General of the National Parks and Wildlife Service.
- ²⁴ *Firearms Act 1996*.
- ²⁵ *National Parks and Wildlife Regulation 2002*, cl 64. Note that the exemption does not apply to parrots and raptors.
- ²⁶ *National Parks and Wildlife Regulation 2002*, cl 65(3).
- ²⁷ Listed in Schedule 14 of the *National Parks and Wildlife Act 1974*. Biamanga National Park, Gulaga National Park, Jervis Bay National Park, Mungo National Park, Mootwingee Historic Site, Mootwingee National Park and Coturaundee Nature Reserve, Mount Grenfell Historic Site, Mount Yarrowyck Nature Reserve.
- ²⁸ *National Parks and Wildlife Act 1974*, s 71AN (3)(a).
- ²⁹ *National Parks and Wildlife Act 1974*, s 71AO (1).
- ³⁰ *National Parks and Wildlife Act 1974*, s 71AO (2).
- ³¹ *National Parks and Wildlife Act 1974*, s 71AO (4).
- ³² A part of the NSW Department of Primary Industries.
- ³³ "Four Wheel Driving and Trail Bike Riding in State Forests", NSW Forests, 2005.
- ³⁴ *Forestry Act 1916*, s 41 (1)(P5).
- ³⁵ Made under the *Forestry and National Parks Estate Act 1998*, *Forestry Act 1916*, and available at www.forest.nsw.gov.au or at NSW Forests Offices.
- ³⁶ *Regional Forests Agreement Act 2002*, s 4 states that an RFA must have regard to the Indigenous heritage values of the region. See for example cl 79 of the RFA for the Eden Region under which NSW commits to facilitating ongoing Aboriginal involvement in the management of the Eden region.
- ³⁷ See for example the ESMF Plan for the Eden Region which states: "(Aboriginal) commercial use of products for social and economic development will be encouraged where this is consistent with other forest management objectives."
- ³⁸ *National Parks and Wildlife Act 1974*, s 86.
- ³⁹ For more information see www.forest.nsw.gov.au
- ⁴⁰ *Environment Protection and Biodiversity Regulations 2000*, Schedule 8.
- ⁴¹ *Environment Protection and Biodiversity Regulations 2000*, Schedule 8, cl 3.
- ⁴² *Under the Environment Protection and Biodiversity Conservation Act 1999*.

- ⁴³ Under the *Crown Lands Act 1989*.
- ⁴⁴ Department of Lands http://www.lands.nsw.gov.au/crown_land as at 1 April 2007.
- ⁴⁵ *Aboriginal Land Rights Act 1983* s 36.
- ⁴⁶ *Crown Land Act 1989*, ss 88, 81.
- ⁴⁷ *Crown Lands (General Reserves) By-Laws 2006*, Div 1.
- ⁴⁸ *National Parks and Wildlife Act 1974*, s 85.
- ⁴⁹ *National Parks and Wildlife Act 1974*, ss 86, 90.
- ⁵⁰ *Rural Lands Protection Act 1998*, s 85.
- ⁵¹ *Rural Lands Protection Act 1998*, s 44.
- ⁵² *Rural Lands Protection Act 1998*, s 45.
- ⁵³ *Aboriginal Land Rights Act 1983*, s 37.
- ⁵⁴ *National Parks and Wildlife Act 1974*, ss 86, 90.
- ⁵⁵ *Wilson v Anderson* (2002) AILR 44., per Gaudron, Gummow & Hayne JJ at 119.
- ⁵⁶ *Local Government Act 1993*, Part 2.
- ⁵⁷ *Local Government Act 1993*, ss 25, 26, note at beginning of Ch 6, Pt 2.
- ⁵⁸ *Local Government Act 1993*, s 36E.
- ⁵⁹ *Local Government Act 1993*, s 36E-N.
- ⁶⁰ *Local Government Act 1993*, s 38.
- ⁶¹ The coastal zone as defined under the *Coastal Protection Act, 1979*. The coastal zone is defined by mapped boundaries and includes estuaries, coastal lakes and lagoons, islands and rivers.
- ⁶² *Crown Lands Act 1989*, ss 60, 61.
- ⁶³ *Water Management Act 2000*.
- ⁶⁴ *Water Management Act 2000*, s 55.
- ⁶⁵ *Water Management Act 2000*, s 341.
- ⁶⁶ http://www.naturalresources.nsw.gov.au/water/macro_overview.shtml
- ⁶⁷ http://www.naturalresources.nsw.gov.au/water/info_aboriginal_water.shtml
- ⁶⁸ http://www.naturalresources.nsw.gov.au/water/info_aboriginal_water.shtml
- ⁶⁹ For more information see: http://naturalresources.nsw.gov.au/water/ind_water_trust.shtml
- ⁷⁰ *Water Management Act 2000*, s 344(1)(a).
- ⁷¹ *Water Management Act 2000*, s 91.
- ⁷² *Crown Lands Act 1989*.
- ⁷³ *Fisheries Management Act 1994*, s 197K(2).
- ⁷⁴ Created under the *Marine Parks Act 1997*.
- ⁷⁵ *Environment Protection and Biodiversity Conservation Act 1999*, s 16.
- ⁷⁶ *Fisheries Management Act 1994*, s 34C(f). Note that the Queensland case *Yanner v Eaton* B52/1998 (5 May 1999) provides some support for the exercise of native title rights in this way even if they are not the subject of an approved determination.
- ⁷⁷ *Fisheries Management Act 1994*, s 34C(f).
- ⁷⁸ *Fisheries Management Act 1994*, s 37.
- ⁷⁹ More information and forms available on www.fisheries.nsw.gov.au
- ⁸⁰ *Fisheries Management Act 1994*, s 21.



PART B: DEVELOPMENT

What is development and how is it regulated?

Development¹ can involve everything from major construction to very minor works such as the erection of fences or advertising signs,² or it may involve no physical changes to the land at all. For example, changing the use of land from a paddock to a sports field is a 'development' even though there are no buildings or structures erected.

Development is mainly regulated by environmental planning instruments (EPIs), such as Local Environment Plans (LEPs).³ These set out what development is allowed where. They specify whether certain developments need consent, what developments are banned in a particular area (or zone) and who the decision-maker is (usually local council or the Minister for Planning).

Contact the Aboriginal Liaison Officer in your local council to ask questions about the LEP in your area.⁴

Can I have a say about what types of development happen in my area?

If there is a development that you oppose or think should be changed, you can usually have a say. It will depend on the type of development, and the extent to which you are affected by it. However, some categories of development, such as critical infrastructure, allow for only minimal public participation.

If you are concerned about a development proposal, the individual Development Application (DA) may not be the real problem. The problem may lie with the zoning of the area, and the developments that are permitted by the relevant planning instruments.

To respond to this you can:

- Lobby council to rezone the land;
- Check that the development application has correctly described the proposal;
- Check that the environmental planning instrument was correctly made. An EPI which is not made in accordance with the procedural requirements may be invalid.

Otherwise, you will usually have an opportunity to participate in the decision-making process during the public exhibition stage of the development. This is when the decision-maker seeks public submissions on the development.

You should write a submission setting out your opinion of the development. If you are opposed, you should give your reasons.

How do I find out about development applications?

Many Local Councils have either a Development Control Plan which says when people will be notified of DAs or a policy of notifying people who are likely to be affected by the development (i.e. adjoining landowners).

Many developments that will have a high impact on the environment or local area⁵ such as sewage treatment works or quarries have assessment and notification requirements. 'Adjoining' neighbours will be notified in writing about the proposed development and will have a chance to comment on the proposal. Such developments are also often advertised in the local paper.

Often the DA and supporting documentation will be on public exhibition in Council offices. Anyone can go to Council offices to inspect DAs and supporting documentation free of charge (except for internal residential plans and sensitive commercial information) and have a right to make copies.⁶ Council is entitled to charge a 'reasonable' fee for copying.⁷ If the Planning Minister is the decision maker, the DA and supporting documentation should be available on the Department's website.⁸

Are there any limits on my right to have a say?

There are time limits for commenting on DAs after public notification. For developments advertised in the local paper, you have fourteen days within which to inspect the DA and supporting documentation and make written submissions to the decision-maker (usually the local council).

For most development, you have thirty days to comment. Your comments must be in writing and set out whether you support or object to the DA, and why. Your submissions must be considered by the decision-maker in deciding whether to approve the application.

If a DA is approved (or rejected) and you believe the decision-maker has not followed the law and policy correctly, or if you think they have made the wrong decision, it is important to remember there is very little time in which to respond. For merits review of high impact developments 28 days, and for judicial review 3 months. See '*Can I appeal against a decision to allow development to go ahead?*' below.

Contact the Environment Defenders Office Environmental Law Advice line to discuss.

What is Environmental Impact Assessment?

Most DAs must be accompanied by some form of environmental impact assessment (EIA) to enable the decision-maker to understand the likely impacts of the proposal before deciding whether to approve it. These provide information on the development and the effects it might have on the environment and also cultural heritage.

Examples of EIA documents that you may come across are:

- Environmental Impact Statements
- Statements of Environmental Effects
- Species Impact Statements
- Assessment under Part 3A

In some circumstances, an Aboriginal Archeological Assessment report will be prepared. This usually happens when a proposed development is likely to impact on a known Aboriginal place or relic such as a midden. Such reports are not produced as a matter of course but you can request that one is prepared if you think a development is likely to impact on cultural heritage.

Can I appeal against a decision to allow development to go ahead?

You can appeal decisions in certain circumstances. These are known as third party appeals.

There are two main types of appeal- merits appeal and judicial review. Merits appeals are brought to challenge the decision itself. The Court or Tribunal will stand in the shoes of the original decision-maker and look at all the information again in deciding whether the decision was good or bad.

Judicial review is different. It challenges the process by which a decision was made, not the decision itself. These appeals are brought where, for example, the decision-maker has not followed the correct procedure in making a decision.

Designated Development

As a third party you can only bring a merits appeal against designated development if you objected to the development during the exhibition period. This will usually mean that you wrote a submission objecting to the development. See 'Can I have a say about what types of development happen in my area' above. You must bring the appeal within 28 days of the decision being made.

Any person (not just objectors) can bring an appeal for judicial review within 3 months of the decision being made.

Non-Designated Development

For non-designated development,⁹ you cannot bring a merits- based third party appeal at all. Any person can bring an appeal for judicial review within 3 months of the decision being made.

Major Projects (non Critical Infrastructure)

You can bring a merits appeal against a non-critical infrastructure project in certain circumstances.¹⁰ The appeal must be brought within 28 days of a decision being made.

Any person can bring a judicial review appeal within 3 months.

Major Projects (Critical Infrastructure)

These days, major projects such as highway upgrades or the Kurnell desalination plant may be classified as critical infrastructure. There are no third party appeal rights at all for this type of development.

Furthermore, consents to destroy cultural heritage for this category of development cannot be refused, although there are consultation guidelines in place.

What if the developer is not complying with consent conditions?

Many developments are approved subject to conditions. The developer must satisfy these conditions. If you think the developer is breaching conditions, you can generally bring proceedings in the Land and Environment Court of NSW to enforce the conditions.¹¹

Obtain legal advice before taking legal action.

For more information on planning law, see the factsheets on the EDO's website www.edo.org.au/edonsw

¹ The definition of development includes the erection of a building, carrying out of a work, subdivision, or a use of land.

² *Environmental Planning and Assessment Act 1979*, s 26 (1)(g).

³ Under the *Environmental Planning and Assessment Act 1979*, Part 3.

⁴ Environmental planning instruments can be found at <http://www.legislation.nsw.gov.au/maintop/scanact/inforce/NONE/0>

⁵ Known as 'designated developments'.

⁶ *Local Government Act 1993*, ss 12, 12B.

⁷ *Local Government Act 1993*, s 12B(3).

⁸ www.planning.nsw.gov.au

⁹ Developments that are not classed as designated development or major projects.

¹⁰ Namely, if the development would have been designated development under Pt 4 of the *Environmental Planning and Assessment Act 1979*.

¹¹ *Environmental Planning and Assessment Act 1979*, s 123. This type of act is not possible for Part 3A projects except with the Planning Minister's consent.

PART C: PROTECTING ABORIGINAL CULTURAL HERITAGE

What is Aboriginal cultural heritage?

The law defines cultural heritage as objects and places that are significant to Indigenous people under Aboriginal or Torres Strait Islander tradition. This definition does not always fit with the way Aboriginal people themselves think of and define cultural heritage.

This guide will focus on the legal definitions developed by Parliament and the Courts.

Under NSW law, 'Aboriginal objects' are deposits, objects or material evidence relating to Aboriginal habitation of New South Wales,¹ and include Aboriginal remains. These things legally belong to the Crown (the Government).²

Under NSW law, an 'Aboriginal place' is a place which is or was of special significance for Aboriginal people, and which is also recognised as 'significant' by the Minister.³ In other words the Minister needs to be convinced that a place should be declared an Aboriginal place.

I. NATIONAL PROTECTION

Protection as a World Heritage Area

World Heritage Areas are areas of outstanding universal value.⁴ Any cultural heritage that falls within a World Heritage Area is protected as part of that area. Federal Government approval is needed before anyone can do anything that will have a significant effect on a World Heritage Area or the values of such an area, including cultural heritage values.⁵

Willandra Lakes is the only World Heritage area listed in NSW that includes natural and cultural heritage values.



Protection as National Heritage

The Federal Government also protects cultural heritage areas which are on the National Heritage List.⁶ You can nominate a place for inclusion in the National Heritage List if it satisfies at least one of the National Heritage criteria.⁷

Once a place is nominated, the Heritage Council will decide whether the place meets the National Heritage criteria. The Heritage Council must consult owners, occupiers and Indigenous people with rights or interests in the nominated area.

The Federal Minister for the Environment decides whether a place will be listed. The Minister may, but is not obliged to, invite comments on the proposal. The Minister must take into consideration the Heritage Council's assessment and received comments.

All listed areas must have a Management Plan, which is a document that identifies the values of a heritage place and outlines the policies in place to help conserve those values.

Protection under the Commonwealth Heritage List

The Commonwealth Heritage List comprises natural, Indigenous and historic heritage places on Commonwealth lands and waters or under Federal Government control.

The same process is followed to get something of cultural or natural significance listed as is followed for the National Heritage List.⁸

Protection under the National Estate Register

The Register is kept by the Australian Heritage Council⁹ and identifies places which have special value for present and future generations. There are more than 13,000 places listed on the Register, with 900 having Indigenous significance.¹⁰

You can nominate a place for inclusion on the Register.¹¹

If the place has Indigenous heritage value the Heritage Council must consult with the owner or occupier of the place, the State or Territory and local government authority as well as each person who has Indigenous rights or interest in the place.

Protection under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*

The Act protects from damage areas and objects in Australia or Australian waters that are significant to Indigenous people in accordance with Aboriginal or Torres Strait Islander tradition.¹² An Aboriginal or Torres Strait Islander can apply to the Minister for Indigenous Affairs for protection for a specified area or object.¹³

The Minister can make an emergency declaration protecting areas and objects that are at immediate risk of injury or are at risk of being used in a manner that is inconsistent with Aboriginal tradition.¹⁴

Protection under Native Title

If you are a Native Title holder, you have the right to negotiate for the protection of the places over which Native Title applies.¹⁵

The things that are considered when the government is deciding whether certain activities should go ahead in places subject to Native Title rights include the cultural significance of the place, economic considerations and the public interest.

2. STATE PROTECTION

Protection under the *National Parks and Wildlife Act 1974*

This is the main law in NSW that protects Aboriginal cultural heritage.

The Department of Environment and Climate Change (DECC) is responsible for protecting Aboriginal cultural heritage in NSW. The Aboriginal Cultural Heritage Advisory Committee advises the Minister on matters relating to the identification, assessment and management of Aboriginal cultural heritage.¹⁶

There are five main ways that the NSW Government protects Aboriginal cultural heritage under the *National Parks and Wildlife Act 1974*:

- Aboriginal areas

Land may be dedicated as an 'Aboriginal area' to preserve, protect and prevent damage to Aboriginal objects or Aboriginal places on that land.¹⁷

- Stop work orders

The Director-General of the DECC may issue a stop work order for up to 40 days if an action that is being, or is about to be carried out is likely to significantly affect an Aboriginal object or Aboriginal place.¹⁸ The order can be extended for further periods of 40 days.¹⁹ This does not apply if the action is authorised by another Act.²⁰

- Interim Protection Orders

The Minister for the Environment can make an interim protection order to preserve land with Aboriginal places or objects on it.²¹ Interim protection orders are valid for the period that is specified in the order but no longer than 2 years.²²

- Conservation agreements

The Minister for Environment may make conservation agreements with landowners to protect areas which contain objects or Aboriginal places of special significance.²³ A conservation agreement may restrict the use of the area and may require the preservation of the area.

- Criminal offences

There are a number of criminal offences under the Act that relate to cultural heritage.²⁴ These offences can deter people from destroying or damaging items or places of heritage value. For more information, see 'What penalties apply to illegal destruction?' below.

CASE STUDY

Heritage protection laws do not always effectively protect cultural heritage. This was illustrated in the case of a carved tree at Bellwood near Nambucca Heads.

Known as the 'Keepara Tree' (Diamond Tree), the tree was an extremely significant site for local Aboriginal men and only certain men were allowed to see or be near the site.

In 1979 the site was protected as an Aboriginal Area under the *National Parks and Wildlife Act 1974*.

However, the surrounding land was not protected under the local planning laws and there was no buffer zone between the tree and the surrounding area. Over the years the surrounding land has been gradually cleared for development. One adjacent area was zoned public open space and the area was cleared and levelled for a playing field. The carved tree is now visible from the playing field. The lack of visual protection for the tree makes its physical protection meaningless.

This case demonstrates the limits of cultural heritage protection laws and the need for laws to better reflect the realities of Aboriginal cultural heritage so that such places can be meaningfully protected. One way to do this would be to ensure that Local Environment Plans support the protections afforded by the *National Parks and Wildlife Act 1974*.

State Heritage Register

Natural and cultural heritage can be protected via the State Heritage Register.²⁵ This list may include cultural heritage items or places but it does not include 'Aboriginal relics'.

The Minister for Planning decides what gets listed but the Heritage Council can recommend listings. If you want cultural heritage listed on the State Heritage Register, you should lobby the Heritage Council or the Minister.

Things that are listed on the State Heritage Register are protected and cannot be demolished, redeveloped or otherwise altered without an approval from the Heritage Council.

3. STATE AND LOCAL GOVERNMENT PROTECTION

Protection under the *Environmental Planning and Assessment Act 1979*

Under NSW planning laws, all development and planning happens in accordance with state, regional and local environment plans (known as environmental planning instruments²⁶) that set out what types of development can happen where and what areas are protected.

As part of the NSW Government Planning Reforms, all Local Governments (Councils) must redraft their local environment plans (LEPs) so that they conform to the new standard LEP template designed by the State Government. When Councils are redrafting LEPs, they must provide for the conservation and management of Aboriginal heritage.²⁷ This means that the Council must complete an Aboriginal Heritage Survey and consult with local Aboriginal people to come up with a heritage plan. Aboriginal bodies such as Land Councils can tell Council about items and places of heritage significance which will bring the items or places within the heritage plan.

A fund has been established to help Councils meet the costs of complying with the reforms, including the requirement to develop Aboriginal Heritage Plans.²⁸

Before a new LEP can come into force, it must be publicly exhibited and the public is allowed to comment on its provisions. This is an opportunity for you to have a say in the level of protection your Council gives to cultural heritage in your area.

You can have your say by making a written submission during the exhibition period.²⁹

The Minister for Planning decides whether to approve an LEP. Once the Minister has approved the LEP, any development that is consistent with it can be approved by the Council. It is therefore important that you look carefully at the LEP and raise any objections during the exhibition period, otherwise you may not be able to challenge a development later on.

Most Councils have Heritage Officers and Aboriginal Liaison Officers who can give you information and advice on cultural heritage matters.

Who can destroy cultural heritage?

Even when cultural heritage is protected, there is no guarantee that it will not be damaged or destroyed. Anyone can destroy cultural heritage if they have approval from the relevant government department.

For example, the Director-General of the National Parks and Wildlife Service can give permission for the destruction of cultural heritage.³⁰

The Director-General can issue permits to damage, destroy and remove objects and places of cultural heritage value. Such permits make it legal to do any of the things that are offences under the Act, such as to intentionally damage an Aboriginal object.³¹

It is very rare for an application for a 'consent to destroy' to be rejected. However, a consent to destroy is often a last resort and follows extensive negotiations.

What penalties apply to illegal destruction?

It is an offence to do any of the following without a permit:

- a) disturb or excavate any land in order to discover an Aboriginal object
- b) disturb or move an Aboriginal object that is the property of the Crown
- c) take or remove an Aboriginal object from a national park, historic site, state conservation area, regional park, nature reserve, karst conservation reserve or Aboriginal area
- d) intentionally damage an Aboriginal object or Aboriginal place.³²

It is also an offence to touch or interfere with or do anything that may cause or assist the mutilation or destruction of any Aboriginal object in a Park.³³

A person who is or becomes aware of the location of an Aboriginal object must notify the Director-General within a reasonable period of time. It is an offence to fail to notify the Director-General unless the person believes on reasonable grounds that the Director-General is aware of the location of that Aboriginal object.³⁴

CASE STUDY

Plath v O'Neill [2007] NSWLEC 553

Owners of a property on the Clarence River in Northern NSW knowingly damaged one of the last remaining middens in the area. Many of the middens in the area have already been destroyed, therefore any remaining Aboriginal middens in the Woombah area are the last of those originally present. Despite ongoing discussions with DECC the owners maintained it was not a midden site, and organised for the site to be cleared by an excavator that resulted in damage to the midden. The Court ordered they pay fines amounting to \$1600 and court costs of \$40 000. They also lost \$45 000 on the value of the property when they sold it. The Court took into consideration that these additional costs and losses were more than the maximum penalties available for knowingly destroying Aboriginal cultural heritage.

Garrett v Williams (2007) 151 LGERA 92

The Pinnacles south of Broken Hill are protected under the *National Parks and Wildlife Act 1974* (NPW Act) as an Aboriginal place. Pinnacle Mines has a gold mine that operates next door to The Pinnacles. During development, Pinnacle Mines knowingly destroyed a number of Aboriginal artefacts in two deposits and dug large drains within the boundaries of the Pinnacles protected area, thus damaging an Aboriginal place. The director of Pinnacle Mines pleaded guilty. Justice Preston held that the damage was not 'substantial' and sentenced the director to pay fines of \$1400 and participate in a restorative justice conference with members of the affected Aboriginal community. This resulted in Pinnacle Mines agreeing to foster employment opportunities with the Aboriginal community and establishing a Willykali Pinnacles Heritage Trust to which the director donated a four wheel drive truck, a trailer, a quad bike, and a fuel card of \$1200 per annum.

To quote an elder in the case:

"The Pinnacles was a large gathering place for Aboriginal people from the Broken Hill and surrounding area. I was very upset with what I saw because the drains had been dug at a sacred place.....I believe that the Aboriginal spirits would be very unhappy. I felt like the spirits were angry because the weather was awful that day....I remember saying word like "isn't it terrible that they put in these drains. Feels like they put a big hole in my body."

How can I challenge a consent to destroy?

If consent has been granted to destroy cultural heritage, you should seek legal advice on the best way to challenge the decision.

You should not rush into legal action. It is important to do some background research first and make enquiries - Who are the proponents? Was the consent issued appropriately? Who was consulted?

If you have trouble accessing information, Freedom of Information (FOI) laws may assist you. It is always better to ask for information first and then use FOI legislation as a last resort. The EDO can assist you with making an FOI application.

CASE STUDY

Anderson & Anor v The Director-General of the Department of Environment and Conservation & Ors [2006] NSWLEC 12.

The EDO represented Douglas and Susan Anderson, traditional owners of land at Angels Beach, East Ballina, challenging the validity of a consent issued by the Director-General of the then Department of Environment and Conservation allowing the destruction of Aboriginal cultural heritage for a residential subdivision.

Justice Pain of the Land and Environment Court ruled that the consent was invalid, due to a failure to take into account certain relevant matters. In particular, she found that the decision to grant the consent failed to take into account a supplementary report in relation to the heritage significance of the subdivision site.

Am I entitled to be consulted about decisions to destroy cultural heritage?

DECC has released interim guidelines³⁵ that set out when and how Aboriginal people are to be consulted about the potential destruction of cultural heritage.

Any person who is aware of the location of an Aboriginal object must notify DECC.³⁶ That person can then apply to DECC for a permit to disturb, remove, excavate or damage the object³⁷ or a consent to destroy the object.³⁸ DECC requires applicants to consult with the Aboriginal community about the Aboriginal cultural heritage values (cultural significance) of Aboriginal objects and places within the area being considered for development.

The applicant should provide written notice of the proposal to:

- Local Aboriginal Land Council(s)
- Registrar of Aboriginal Owners
- Native Title Services
- Local Council(s)
- Department of Environment and Climate Change

The applicant should also advertise in the local newspaper:

If you wish to be consulted you can register your interest with the applicant and this gives you a 'stakeholder' right to be consulted on certain issues, including the methodology of the cultural and archaeological assessments and a right to provide feedback on the outcomes of such reports. If you don't register in time, you still have a right to be consulted.

DECC will then make a decision to either grant or refuse the application. If the application is approved, the views of stakeholders may still be taken into account in attaching conditions to the approval.

How can I find out if there are Aboriginal objects or places on my land?

DECC keeps a register of all Aboriginal objects and Aboriginal places in NSW. The register is called the Aboriginal Heritage Information Management System.³⁹ You can search the Register to see if anything is listed on your land or that of other people. The fact that there is no listing does not mean that there is nothing of cultural heritage significance on the land.

- ¹ *National Parks and Wildlife Act 1974*, s 5.
- ² *National Parks and Wildlife Act 1974*, s 83. There are policies that encourage repatriation of Aboriginal ancestral remains back to Aboriginal communities when they can be identified either by documentation or other scientific means.
- ³ *National Parks and Wildlife Act 1974*, s 84.
- ⁴ For a list of World Heritage places in Australia go to <http://www.environment.gov.au/heritage/worldheritage/>
- ⁵ *Environment Protection and Biodiversity Conservation Act 1999*, s 12.
- ⁶ Under the *Environment Protection and Biodiversity Conservation Act 1999*, s 15B.
- ⁷ The criteria for the National Heritage List can be found at <http://whc.unesco.org/en/criteria/> and you can download the nomination form from <http://www.environment.gov.au/heritage/national/request.html>
- ⁸ You can access the criteria from <http://www.environment.gov.au/heritage/commonwealth/criteria.html#list>
- ⁹ <http://www.ahc.gov.au>
- ¹⁰ Contact the Australian Heritage Council.
- ¹¹ Contact the Australian Heritage Council.
- ¹² *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, s 4.
- ¹³ *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, s 10.
- ¹⁴ *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, s 9. The emergency declaration lasts for 30 days and may be extended for a further 30 days. Officers authorised by the Minister under the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* can also make emergency declarations for no more than 48 hours in relation to Indigenous heritage areas and objects.
- ¹⁵ *Native Title Act 1993*, s 25.
- ¹⁶ *National Parks and Wildlife Act 1974*, s 28.
- ¹⁷ *National Parks and Wildlife Act 1974*, ss 30K and 62.
- ¹⁸ *National Parks and Wildlife Act 1974*, s 91AA.
- ¹⁹ *National Parks and Wildlife Act 1974*, s 91DD.
- ²⁰ *National Parks and Wildlife Act 1974*, s 91DD(3), (4) and (5).
- ²¹ *National Parks and Wildlife Act 1974*, s 91A.
- ²² *National Parks and Wildlife Act 1974*, s 91D (1).
- ²³ *National Parks and Wildlife Act 1974*, s 69C(1)(d).
- ²⁴ *National Parks and Wildlife Act 1974*, s 86.
- ²⁵ *Heritage Act 1977*, Part 3A.
- ²⁶ Most environmental planning instruments- Local Environmental Plans, Regional Environmental Plans and State Environmental Planning Policies, are available online at www.legislation.nsw.gov.au under 'Browse In Force'.
- ²⁷ Direction 9 under the powers conferred by s 117 of the *Environmental Planning and Assessment Act 1979*. You can view the direction at http://www.planning.nsw.gov.au/planning_reforms/p/s117s_30sept05.pdf
- ²⁸ Planning Reform Fund, administered by the NSW Department of Planning. For more information see <http://www.planning.nsw.gov.au/programservices/reform.asp> or contact the Department of Planning.
- ²⁹ The exhibition period is usually 28 days.
- ³⁰ *National Parks and Wildlife Act 1974*, s 90.
- ³¹ *National Parks and Wildlife Act 1974*, s 87.
- ³² *National Parks and Wildlife Act 1974*, s 86.
- ³³ For more offences, see *National Parks and Wildlife Regulation 2002*, cl 15.
- ³⁴ *National Parks and Wildlife Act 1974*, s 91.
- ³⁵ The Guidelines can be found online at http://www.nationalparks.nsw.gov.au/PDFs/interim_consultation_guidelines.pdf
- ³⁶ *National Parks and Wildlife Act 1974*, s 91.
- ³⁷ *National Parks and Wildlife Act 1974*, s 87.
- ³⁸ *National Parks and Wildlife Act 1974*, s 90.
- ³⁹ For more information see <http://www3.environment.nsw.gov.au/npws/nsf/content/aboriginal+heritage+information+management+system>

PART D: MANAGING COUNTRY

Aboriginal people have managed the environments of NSW for thousands of years. This section explains how environmental laws can be used to continue to manage country.

I. CONTAMINATED LANDS

How do I know if my land is contaminated?

Contaminated land is land that contains pollutants at above-average levels and may cause harm to humans or the environment.¹ There is a public register of all regulated contaminated lands available through the Environment Protection Authority (EPA).² Sites that are being monitored by the EPA for air, water, noise, and waste impacts can be found on the *Protection of the Environment Operations Act 1997* (POEO Act)³ register. In addition, the Land Titles Office also maintains records of land that has been declared unhealthy building land.

If the Local Council is responsible for dealing with the contaminated land, it may not appear on these registers. In this case, the Local Council can provide information on contaminated land in a s149 certificate.⁴

Do I have to clean up the contaminated land?

You must inform the EPA if you become aware of any contamination on your land, even if the contamination was not caused by you.⁵

The EPA can order an investigation into land, to establish whether the contamination poses a risk of harm.⁶ Where it is not a significant risk, the Local Council is responsible for management.

If contamination is found to be present you, as occupier of the land, may be asked to remediate the land⁷ according to a remediation order⁸ or a clean up notice.⁹

Remediation may involve:

- preparing a long-term management plan (if any) for the land, and
- removing, dispersing, destroying, reducing, mitigating or containing the contamination of the land, and
- eliminating or reducing any hazard arising from the contamination of the land (including by preventing the entry of persons or animals on the land).¹⁰

Remediation is the responsibility of the person that caused the contamination. If this person cannot be found or identified, responsibility may become that of the current owner of the land.



2. DUMPING RUBBISH

It is illegal for transporters of waste to leave their waste anywhere that is not a legal waste facility.

Properties can only accept waste if they hold a waste facility licence from the EPA or their Local Council. The licence can come with a section 143 notice, which must specify the types of waste the property can accept. If the transporter disposes of a different type of waste, or contaminated waste, the transporter may have to pay for cleaning it up,¹¹ or remediate the land if the contamination causes a 'significant risk of harm'.

Polluting or causing pollution of land has a maximum penalty of:¹²

- (a) for corporations - \$1,000,000, and a further \$120,000 for each day the offence continues, or
- (b) for individuals - \$250,000 and a further \$60,000 for each day the offence continues.

What should I do if rubbish is illegally dumped on my land?

If harmful waste is dumped illegally on your property or you suspect it has been dumped elsewhere you must report it to DECC or the Local Council.¹³ Waste should not be touched, as it may be dangerous. Also, if the site is not disturbed, investigators may be able to identify who dumped the waste material.

Do I need permission to dump rubbish on my land?

You will sometimes need permission to dump rubbish on your land, depending on the likelihood of environmental damage, and the size, extent and source of the rubbish.¹⁴ To find out if you need permission, contact your Local Council or the Department of Environment and Climate Change (DECC).

What is the penalty for dumping rubbish without permission?

Littering in a public place is an offence that carries large fines, with fines more severe if the rubbish is likely to cause harm to people or the environment.¹⁵ It is always safest to check with the Local Council and DECC to find out whether you need permission before dumping any rubbish.

Can I burn rubbish on my property?

You need to check with your Local Council to confirm the rules regarding things that may be burnt in your area. You must try to minimise the air pollution caused by the burning. This may include taking into account such things as the wind direction and the type of material being burnt.¹⁶

You must never burn some items such as tyres, treated timbers, paint tins and solvent containers.¹⁷

3. WATER POLLUTION

What restrictions apply to activities that pollute water?

There is a general ban on polluting surface and ground water without permission.¹⁸ Any matter placed in water could be a pollutant depending on the effect the matter has on the water. For example, if the matter makes the water undrinkable for people or farm animals, or the condition of the water is changed, then the matter pollutes the water.

It is also an offence to place matter where it is likely to get into the water and cause pollution, such as in a drain or gutter or a dry river bed.

What happens if I don't have permission to pollute water?

Polluting waters without a licence is an offence that carries large fines.¹⁹ If you are in doubt, you should contact DECC to see whether you need a licence. If the water pollution harms or is likely to harm the environment, the maximum penalty for an individual may include imprisonment.²⁰

4. NOISE POLLUTION

How much noise can I make on my property?

There is no general ban on causing noise. However if noise is 'offensive noise', a police, Council or DECC officer may issue a 'noise abatement direction', which is a temporary order that requires control of the noise. In addition, the Council may issue a noise control notice to place ongoing restrictions on the noise. An offensive noise is one which is likely to interfere with the comfort of a person on another property.²¹

If you are affected by noise you can apply to the Local Court for a 'noise abatement order'.

Certain noisy activities, such as operating heavy machinery, may need a licence from DECC.²²

5. BUSHFIRE MITIGATION

What approval do I need to light fires?

You will need approval to light a fire during the 'bush fire danger period', which is usually from 1 October to 31 March.²³ However, the danger period may be varied by a Local Council or DECC²⁴, so you should check with your local Rural Fire Service (RFS) and DECC for variations and bans.

You usually need a permit to light a fire during the bush fire danger period, which is available from your local RFS Fire Control Centre. You may also need to notify your neighbours and the Council. Permits are automatically cancelled if a total fire ban comes into force, or if the fire danger is 'high' or above.

Outside the bush fire danger period you may still need a permit. You may also need to notify your neighbours, the local RFS Fire Control Centre²⁵ and the Local Council, letting them know the location, purpose, period and time of the fire.²⁶ If you live in a built-up area, you must also give your local fire brigade at least 24 hours notice.

It is always advisable to contact the RFS or Council before lighting a fire as failure to notify the required people or obtain a permit, can lead to severe penalties including fines and imprisonment.²⁷

What are Bush Fire Risk Management Plans?

Bush Fire Risk Management Plans are prepared by Bush Fire Management Committees in various parts of the State. They set out requirements for managing risks associated with bush fire and may restrict or ban lighting fires in certain places. Restrictions may also be imposed due to a place's heritage value.

A plan can also set out steps to be taken to reduce fire hazard, such as by keeping areas of land cleared and using controlled back burning. If a plan has been prepared for your area, you can get a copy from your Local Council.

What do I have to do to prevent bushfires?

You have a legal duty to take certain steps to prevent bushfires. These include any steps that the Bush Fire Co-ordinating Committee advises you to take, and any steps included in a Bush Fire Risk Management Plan that applies to your land.

Your Local Council can issue you with a notice requiring you to do hazard reduction work on your property. You can object to having to comply with a notice²⁸ and the Council's Fire Control Officer must try and find an acceptable solution with you. If you are still not satisfied, you can appeal to the Commissioner of the RFS. Otherwise it is an offence to not comply with the notice and an officer of the Local Council, fire brigade or RFS can enter your property and carry out the work, at your expense.²⁹

What do I do if there is a fire on my property?

If a fire breaks out on your property, you should immediately contact 000 if you cannot put it out yourself. Also contact the local Fire Brigade, the Rural Fire Service, the Forestry Commission, or DECC for assistance.³⁰

What powers does the Rural Fire Brigade have?

Officers of the Rural Fire Brigade have powers to do various things on private property to control fires and minimise danger, including: pulling down buildings, structures and fences, removing living or dead vegetation, establishing fire breaks, and using water from your property without payment.

The Rural Fire Brigade must give you written notice of its intention to come onto private property, unless entry is needed urgently.

6. MANAGING MINING

Who owns the minerals on or under my land?

As a general rule, the Crown owns the minerals on or under your land including native title land, and LALC lands.³¹ This section deals with mining, as opposed to quarrying which is a different type of extractive industry and regulated differently.

What approvals does a company need to mine on my land?

There are a number of licences and leases that allow mineral prospecting and extraction:

- An *exploration licence* allows the holder to search for minerals on areas of private or Crown land for certain groups of minerals.
- An *assessment lease* grants the leaseholder the right to prospect for specified minerals in a designated area.
- A *mining lease* gives the leaseholder the right to engage in approved mining activities within a specified site. You may be notified of a mining lease notice through a personal or community letter or by newspaper advertisement.³²
- A *s.138 approval* allows the extraction of underground panels of coal.
- An applicant must gain a permit or consent under the *National Parks and Wildlife Act 1974* to disturb or harm any Aboriginal object or declared Aboriginal place unless the mining activity is classified as a major project- in which case the *Environmental Planning and Assessment Act 1979* applies.³³

In many instances, approval from either the Department of Planning or a Local Council is required for mining activities.

What restrictions are there on mining leases and licences?

Mining operations are not allowed within 200 metres of a person's home, within 50 metres of a garden or on any land improvement such as a dam without the written consent of the land occupier.³⁴ A land occupier may not take back their consent after it has been granted.

Restrictions to protect Aboriginal Cultural Heritage

Conditions on a mining approval can include restrictions on activities to protect Aboriginal cultural heritage.³⁵

Holders of exploration licences must get a permit from the National Parks and Wildlife Service (NPWS) to disturb or harm any Aboriginal site or place in the exploration area.³⁶ For other licences and leases, approval is required under Part 3A of the *Environmental Planning and Assessment Act 1979*, which may need environmental impact and heritage impact assessment.³⁷

Restrictions imposed by Native Title Right to Negotiate

Native title holders and registered native title claimants have a right to negotiate how exploration and mining goes ahead on native title lands. Restrictions may include how and where mining happens, protection or relocation of Aboriginal objects or other agreements for employment or compensation.

Can I prevent the grant of development consent for a mine?

The consent of the landowner is not required for mine to be approved. The mining industry is the only industry in Australia where a private company can develop a person's land without their consent. However, once a mining lease has been granted

the mining company is still required to obtain consent from the landowner to further develop or sub-divide the land.³⁸

The native title right to negotiate cannot stop the approval of a mine.

Can I get compensation for the effect of mining on my land?

Landowners are entitled to compensation if mining affects either their farming activities or their land. Native title holders and registered native title claimants are entitled to compensation if mining impacts on their native title rights and interests. However, there is no compensation for the destruction of Aboriginal places, objects, artefacts or relics under a NPWS consent to destroy.

What Agreements can be made with mining companies?

Any type of partnership, agreement or contract may be entered into with mining companies to manage the impacts of their activities on Aboriginal rights, interests or heritage.³⁹

Can I force a mine to comply with its licence requirements?

If the conditions of a mining lease or licence are breached, you can report the breach to the Department of Primary Industries, contact the mine or write to the Minister for Primary Industries. You can also report the matter to DECC who may be able to take action.

Also, any person may bring an action in the NSW Land and Environment Court to remedy or restrain a breach of environmental or planning laws.⁴⁰

For more information about taking legal action to enforce the conditions of a mining lease or licence, contact the EDO's Environmental Law Advice Line.

7. MANAGING ENVIRONMENTAL CONSERVATION

Commonwealth Protected Areas

Three of the six Commonwealth National Parks in Australia are joint-managed by Aboriginal people. The Minister for the Environment can lease Aboriginal owned land and jointly manage that land as a National Park.⁴¹

In NSW, Booderee National Park is jointly managed between the Wreck Bay Community and the Department of Environment and Water Resources.⁴²

New South Wales Protected Areas

Aboriginal people can own and jointly manage national parks and other reserves in NSW.⁴³

Certain protected areas⁴⁴ can be transferred to the LALC and leased back to the NPWS for continued use as a national park or other reserve. Aboriginal owners and representatives of the LALC negotiate the terms of the lease with the NPWS. Rent is paid by the NPWS into special accounts for each park to compensate the Aboriginal owners for loss of full use and enjoyment of the lands. The rent must be spent within the park in line with the Plan of Management. Aboriginal owners jointly manage the reserve as a majority on a board of management with the LALC and NPWS.

Joint Management by Agreement

Indigenous Land Use Agreements (ILUAs)

ILUAs allow for the joint management of both Commonwealth and State protected areas. For example the Arakwal ILUA creates and funds the Arakwal National Park, which is jointly managed by the Byron Bay Arakwal people and the NPWS. An ILUA can be registered under the *Native Title Act 1993*⁴⁵ and is generally initiated by native title holders or registered native title claimants.

Memorandums of Understanding (MOUs)

MOUs can be negotiated between any party, not only native title claimants. MOUs for joint or co-management can be as detailed or as simple as the negotiating parties wish. A MOU for co-management exists for Mungo National Park, which is within a World Heritage Area. Mungo National Park is co-managed between the Three Traditional Tribal Groups Elders Council and the NPWS.

8. VOLUNTARY CONSERVATION

There are a number of programs through which landholders can voluntarily conserve areas of ecological value on their properties some of which are listed here.⁴⁶

Voluntary Conservation Agreements

A Voluntary Conservation Agreement is a statutory covenant which is attached to the title of the land.⁴⁷ The land remains in the ownership of the landholder but the landholder and any future purchasers are required to manage the property in accordance with the conservation agreement.

NSW Environmental Trust: Protecting Our Places Program

The 'Protecting Our Places' program aims to restore or rehabilitate Aboriginal land or land that is culturally significant to Aboriginal people. It also aims to educate communities about the local environment and the value Aboriginal communities place on their natural environment.⁴⁸

Biobanking

Aboriginal groups own and continue to acquire areas of land with significant biodiversity values. Aboriginal landowners have a duty to care for this country, but are often required to also provide employment and economic advancement for their communities.

DECC is establishing a Biodiversity Banking and Offsets Scheme (BioBanking)⁴⁹ - a new scheme which may have some potential in the future to be used by Aboriginal groups to conserve (or bank) the biodiversity values on their land and sell the 'credits' on the market.

Contact DECC for more information.

Property Vegetation Plans

Property vegetation plans⁵⁰ are a way to authorise native vegetation clearing and/or access financial incentives such as grants to help fund conservation practices.

For more information contact your local Catchment Management Authority.⁵¹

Nature Conservation Trust Agreements

The Nature Conservation Trust⁵² aims to encourage conservation on privately managed land in partnership with land managers. The Trust buys property of high conservation value, places a conservation covenant on it and then sells the property.⁵³ The Trust may also enter into agreements with landholders to manage land for the protection of natural heritage. The agreements may provide for technical, financial and other support.

Indigenous Protected Areas

The IPA program supports Indigenous landowners to manage their lands for the protection of natural and cultural features in accordance with internationally recognised standards and guidelines.

The IPA program is part of the National Reserve System program and the Natural Heritage Trust.

There are currently two IPAs within New South Wales. The first was established in Wattlebridge in June 2001. The second was established in Toogimbie, Hay, in 2004.

Applications for the IPA program should be made using the standard application form.⁵⁴

Tax Incentives and Rate Relief⁵⁵

Donations to eligible environmental bodies of property valued at over \$5000⁵⁶ enable the donor to gain an income tax deduction. Gifts granted under a will attract a capital gains tax exemption.

Also, if a landholder enters a perpetual conservation covenant, they will gain an income tax deduction for any decrease in land value as a result of entering into the covenant, and capital gains tax provisions will apply as if it were a sale or gift of land. The value of the deduction can be spread over five years.

¹ As defined under the *Contaminated Land Management Act 1997*, Pt 1 s 5.

² The EPA is a statutory authority within the Department of Environment and Climate Change.

³ Access to the register must be provided upon request to the EPA.

⁴ *Environmental Planning and Assessment Act 1979*, s 149. Councils must provide these certificates upon the payment of the appropriate fee.

⁵ *Contaminated Land Management Act 1997*, Pt 5 s 60.

⁶ *Contaminated Land Management Act 1997*, ss 7, 9 and Pt 3.

⁷ The appropriate people to be ordered is set out in *Contaminated Land Management Act 1997*, s 12.

⁸ *Contaminated Land Management Act 1997*, s 23.

⁹ *Protection of the Environment Operations Act 1997*, s 91

¹⁰ *Contaminated Land Management Act 1997*, s 4.

¹¹ *Protection of the Environment Operations Act 1997*, s 91.

¹² *Protection of the Environment Operations Act 1997*, 142A.

¹³ *Protection of the Environment Operations Act 1997*, s 147.

¹⁴ *Protection of the Environment Operations Act 1997*, s 144.

¹⁵ The maximum penalty is \$3,300 for an individual and \$5,500 for a corporation. *Protection of the Environment Operations Act 1997*, ss 145, 145A.

¹⁶ *Protection of the Environment Operations (Clean Air) Regulation 2002*, cl 6C.

¹⁷ *Protection of the Environment Operations (Clean Air) Regulation 2002*, cl 6D. For more information, contact the DECC Pollution Line on 131 555 or your local Fire Brigade or Rural Fire Service.

¹⁸ *Protection of the Environment Operations Act 1997*, s 120.

- ¹⁹The maximum penalty for a corporation is \$1,000,000, with an additional maximum penalty of \$120,000 for each day the offence continues. For individuals, the maximum penalty is \$250,000 with a \$60,000 additional penalty for each day the offence continues.
- ²⁰Maximum penalty for environmental harm is \$1,000,000 for a company and \$250,000 and/or 7 years imprisonment for an individual.
- ²¹Offensive noise is defined in the dictionary of the *Protection of the Environment Operations Act 1997*.
- ²²*Protection of the Environment Operations Act 1997*, s 42. Check with DECC to see if you require a licence.
- ²³*Rural Fires Act 1997*, s 81.
- ²⁴No Burn Notices, see DECC website www.environment.nsw.gov.au/air/aboutnb.htm#nb
- ²⁵with at least 24 hours notice.
- ²⁶*Rural Fires Act 1997*, ss 86-88.
- ²⁷*Rural Fires Act 1997*, ss 86-88, 92.
- ²⁸Within seven days of being given the notice.
- ²⁹*Rural Fires Act 1997*, s 70. Failure to comply with a notice also comes with a maximum penalty of \$5,500 or 12 months imprisonment see *Rural Fires Act 1997*, s 66.
- ³⁰The maximum penalty for not doing so is a fine of \$2,200 and/or 6 months imprisonment. See *Rural Fires Act 1997*, s 64.
- ³¹The *Native Title Act 1993* reserve state ownership of mineral rights.
- ³²Anyone who opposes the granting of a lease may write to the Minister outlining their concerns within 28 days of receiving a notice.
- ³³*Environmental Planning and Assessment Act 1979*, Part 3A.
- ³⁴*Mining Act 1992*, ss 31, 49, 62, 118.
- ³⁵*Environmental Planning and Assessment Act 1979*, s 80A(1).
- ³⁶*National Parks and Wildlife Act 1974*, ss 87, 90.
- ³⁷For more information on the application process, contact the Environmental Defenders Office, the NSW Aboriginal Land Council or the Minerals Council at www.nswmin.com.au.
- ³⁸*Mining Act 1992*, ss 140, 141.
- ³⁹Refer to www.ATNS.org.au for more examples of Agreements.
- ⁴⁰See the *Environmental Planning and Assessment Act 1979*, s 123 and the *Protection of the Environment Operations Act 1997*, s 253.
- ⁴¹*Environmental Protection and Biodiversity Conservation Act 1999*, s 377.
- ⁴²The National Park is owned by the Wreck Bay community under the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*. The Board of Management is made up of a majority of Aboriginal traditional owners, and they are responsible for overseeing the management of the Park and the preparation of plans of management.
- ⁴³See the *National Parks and Wildlife Act 1974*, Part 4A and the *Aboriginal Land Rights Act 1983*, s 36A.
- ⁴⁴Being areas under Schedule 14 of the *National Parks and Wildlife Act 1974*.
- ⁴⁵Under the *Native Title Act 1993*, s 24BI.
- ⁴⁶Refer to the 'Biodiversity on Private Land Factsheet' on the EDO website for further information voluntary conservation tools at http://www.edo.org.au/edonsw/site/factsheet/fs05_3.php
- ⁴⁷*National Parks and Wildlife Act 1974*, s 69B.
- ⁴⁸For more information, contact the Trust's Aboriginal Liaison Officer on (02) 8837 6399 or at 'Environmental Trust' PO Box 644, PARRAMATTA NSW 2124
- ⁴⁹Under the *Threatened Species Conservation Amendment (Biodiversity Banking) Act 2006*.
- ⁵⁰*Native Vegetation Act 2003*, Part 4.
- ⁵¹Or visit http://www.nativevegetation.nsw.gov.au/fs/fs_03.shtml
- ⁵²Established by the *Nature Conservation Trust Act 2001*.
- ⁵³Rate relief is available for land with a conservation covenant.
- ⁵⁴<http://www.environment.gov.au/indigenous/ipa/funding.html#who>
- ⁵⁵For more information go to <http://www.environment.gov.au/tax>.
- ⁵⁶Including land, building, shares, and vehicles.

CONTACTS AND INFORMATION

LEGAL ASSISTANCE

Environmental Defender's Office (NSW)

Level 1, 89 York Street
SYDNEY NSW 2000
Phone: 02 9262 6989 Fax: 02 92626998
Website: www.edo.org.au/edonsw

Environmental Defender's Office- Northern Rivers

Street address: 10 Club Lane
Postal address: PO Box 212
LISMORE NSW 2480
Phone: 1300 369 791 Fax: 02 6622 6404
Website: www.edo.org.au/edonsw

Land and Environment Court of NSW

Street address: Level 4, 225 Macquarie Street,
Windeyer Chambers Sydney NSW
Postal address: GPO Box 3565
Sydney NSW 2001
Phone: 02 9228 8388 Fax: 02 9235 3096
Website: www.lawlink.nsw.gov.au/lec

STATE GOVERNMENT DEPARTMENTS

National Parks and Wildlife Service

Street address: Level 14,
59-61 Goulburn Street Sydney
Postal address: PO Box A290,
Sydney South NSW 1232
Phone: 1300 361 967 Fax: 02 9995 5999
Website: www.nationalparks.nsw.gov.au

Aboriginal Sites Register

Cultural Heritage Services Division
National Parks and Wildlife Service
Street address: 43 Bridge Street, Hurstville
Postal address: PO Box 1967, Hurstville 2220.
Phone: 02 9585 6444 Fax: 02 9585 6527
Website: www.nationalparks.nsw.gov.au

Aboriginal Heritage Information Management System Registrar

Street address: Level 6, 43 Bridge Street,
Hurstville NSW
Postal address: PO Box 1967,
Hurstville NSW 2220
Phone: 02 9585 6470 Fax: 02 9585 6094
Website: www.nationalparks.nsw.gov.au

Catchment Management Secretariat

C/- Sydney Metro CMA
PO Box 3720

Parramatta NSW 2124

Ground Floor Macquarie Tower,
10 Valentine Ave, Parramatta
Phone: 9895 7635 or 9895 6164
Fax: 02 9895 7330
Website: www.cma.nsw.gov.au

Department of Environment and Climate Change

Street address: 59-61 Goulburn Street Sydney
Postal address: PO Box A290
Sydney South NSW 1232
Phone: 02 9995 5000 Fax: 02 9995 5999
Website: www.environment.nsw.gov.au/home.htm

Environment Protection Authority

Pollution Hotline: 9995 5555 or 131 555

Department of Primary Industries

Head Office

Street address: 161 Kite Street Orange NSW
Postal address: Locked Bag 21
Orange NSW 2800
Phone: 02 6391 3100 Fax: 02 6391 3336
Website: www.dpi.nsw.gov.au

Minerals

Street address: 516 High Street Maitland NSW
Postal address: PO Box 344
Hunter Region Mail Centre NSW 2310
Phone: 02 4931 6666 Fax: 02 4931 6790
Website: www.dpi.nsw.gov.au/minerals

Agriculture

Street address: 161 Kite Street Orange NSW
Postal address: Locked Bag 21 Orange NSW 2800
Phone: 02 6391 3100 Fax: 02 6391 3336
Website: www.dpi.nsw.gov.au/agriculture

Fisheries

Street address: 202 Nicholson Parade
Cronulla NSW
Postal address: PO Box 21 Cronulla NSW 2230
Phone: 02 9527 8411 or 1300 550 474
Fax: 02 9527 8576
Website: www.dpi.nsw.gov.au/fisheries

Forests

Street address: 121-123 Oratava Avenue,
West Pennant Hills NSW
Postal address: Locked Bag 23,
Pennant Hills NSW 2125
Phone: 02 9980 4100 Fax: 02 9484 1310
Website: www.dpi.nsw.gov.au/forests

Department of Aboriginal Affairs

Level 13, Tower B Centennial Plaza
280 Elizabeth Street Sydney NSW 2001
Phone: 02 9219 0700 Fax: 02 9219 1790
Website: www.daa.nsw.gov.au

Department of Planning

Head Office
Street address: 23-33 Bridge Street Sydney NSW
Postal address: GPO Box 39 Sydney NSW 2001
Phone: 02 9228 6111 Fax: 02 9228 6455
Website: www.planning.nsw.gov.au

NSW Fire Brigade

Head Office
Street address: Level 10,
227 Elizabeth Street, Sydney NSW
Postal address: PO Box A249,
Sydney South NSW 1232
Phone: 02 9265 2999 Fax: 02 9265 2988
In an emergency call 000
Website: www.nswfb.nsw.gov.au

NSW Rural Fire Service

Headquarters
Street address: 15 Carter Street,
Homebush Bay NSW
Postal address: Locked Mail Bag 17
Granville NSW 2142
Phone: 02 8741 5555 or 1800 679 737
Fax: 02 8741 5550
Website: www.rfs.nsw.gov.au

Local Government and Shires Associations of NSW

Street address: Level 8,
28 Margaret Street, Sydney NSW
Postal address: GPO Box 7003
Sydney NSW 2001
Phone: 02 9242 4000 Fax: 02 9242 4111
Website: www.lgsa.org.au

NSW Environmental Trust

PO Box 644 Parramatta NSW 2124
Phone: 02 8837 6093
Website: [www.environment.nsw.gov.au/
grants/envtrust.htm](http://www.environment.nsw.gov.au/grants/envtrust.htm)

COMMONWEALTH GOVERNMENT DEPARTMENTS

Department of Agriculture, Fisheries and Forestry

Street address: Edmund Barton Building,
Blackall Street, Barton ACT 2601
Postal address: GPO Box 858
Canberra ACT 2601
Phone: 02 6272 3933

Australian Heritage Council

Street address: John Gorton Building,
King Edward Terrace, Parkes, ACT
Postal address: GPO Box 787
Canberra ACT 2601
Phone: 02 6274 1111 Fax: 02 6274 2095
Website: www.ahc.gov.au

Natural Heritage Trust

GPO Box 787 Canberra ACT 2601
Phone: 1800 065 823 (toll-free)
Website: www.nht.gov.au

Department of Environment and Water Resources

Street address: John Gorton Building,
King Edward Terrace, Parkes, ACT
Postal address: GPO Box 787
Canberra ACT 2601
Phone: 02 6274 1111 Fax: 02 6274 1666
Website: www.environment.gov.au

ENVIRONMENTAL ORGANISATIONS

Nature Conservation Council of NSW

Level 2, 301 Kent St, Sydney, NSW 2000
Phone: 02 9279 2466 Fax: 02 9279 2499
Website: www.nccnsw.org.au

Nature Conservation Trust of NSW

Head Office
PO Box 1121 Lismore NSW 2480
Phone: 02 6620 3633 Fax: 02 6621 2669
Website: www.naturetrust.org.au

OTHER CONTACTS

New South Wales Native Title Services

Street address: Suite 15, 245
Chalmers Street, Redfern
Postal address: PO Box 2105,
Strawberry Hills NSW 2012
Phone: 02 9310 3188 Fax 9310 4177

New South Wales Aboriginal Land Council

Street address: 33 Argyle Street, Parramatta NSW
Postal address: PO Box 1125
Parramatta NSW 2124
Phone: 02 9698 4444 Fax: 02 9687 1234
Website: www.alc.org.au

Rural Lands Protection Board

Street address: 161 Kite Street
Postal address: Locked Bag 21
Orange, NSW 2800
Phone: 02 6391 3242 Fax: 02 6391 3744
Website: www.rlpb.org.au



Environmental Defender's Office (NSW)
Level 1, 89 York St, Sydney NSW 2000
Tel: 02 9262 6989 Fax: 02 9262 6998
Freecall: 1800 626 239
www.edo.org.au
