



# **CARING FOR COUNTRY**

## **A GUIDE TO ENVIRONMENTAL LAW FOR ABORIGINAL COMMUNITIES IN NSW**

**2ND EDITION**

**NSW**

**EDO**

**DEFENDING THE ENVIRONMENT  
ADVANCING THE LAW**

## Cover artwork - 'Unity' by Alison Buchanan

Junnoy Murriwan (English name - Alison Buchanan) kindly donated the cover artwork to EDO NSW.

Alison was born in the Nambucca Valley on the NSW mid-nor th 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 ar t 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](http://www.indigetec.com.au). You can also contact Alison at [alison@indigetec.com.au](mailto:alison@indigetec.com.au)

## About EDO NSW

EDO NSW is a community legal centre that specialises in public interest environmental law. EDO NSW is a non-profit organisation and we are independent from government. We have two offices - in Lismore and in Sydney. The Lismore office services the Northern Rivers region. The Sydney office covers the rest of the State.

In 2006 EDO NSW established an Indigenous Engagement Program with initial funding from the Law and Justice Foundation, and which EDO NSW now fully funds. This guide was developed as part of that program, updated in 2009, and again in 2012. The Caring for Country project was highly commended at the 2010 Justice Awards hosted by the NSW Law and Justice Foundation.

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

**Sydney** 02 9262 6989 or 1800 626 239 (free call)  
Monday-Friday

**Northern Rivers** 1300 369 791  
Monday-Friday

EDO NSW also conducts free community workshops on a range of environmental laws. Please call us or email [education@edonsw.org.au](mailto:education@edonsw.org.au) if you'd like to request a workshop for your community.

## Acknowledgments

EDO NSW gratefully acknowledges the financial support provided by the Law and Justice Foundation.

This booklet was prepared in consultation with an Aboriginal Advisory Committee. The Advisory Committee provides guidance, feedback and expert advice and EDO NSW is extremely grateful for their ongoing assistance.

## Disclaimer

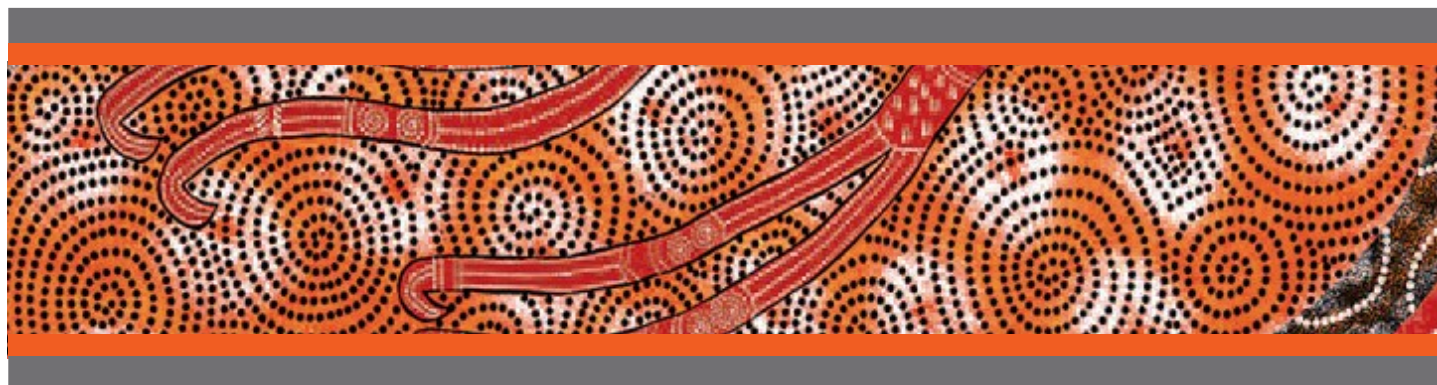
The information contained in this guide intended to provide general information about the law. While all care has been taken in the preparation of this guide, it is not a substitute for legal advice in individual cases.

## Currency

The information contained in this guide is current as at September 2012.







## Table of Contents

INTRODUCTION.....	3
PART A - ACCESSING COUNTRY.....	4
1. Access to particular types of land.....	4
2. Access to waterways.....	10
PART B - DEVELOPMENT.....	15
PART C - PROTECTING ABORIGINAL CULTURAL HERITAGE.....	19
1. National Protection.....	19
2. State Protection.....	21
3. State and Local Government Protection.....	22
PART D - MANAGING COUNTRY.....	28
1. Contaminated lands.....	28
2. Dumping rubbish.....	29
3. Water pollution.....	29
4. Noise pollution.....	30
5. Bushfire mitigation.....	30
6. Managing mining.....	31
7. Managing environmental conservation.....	34
8. Private conservation.....	35
CONTACTS AND INFORMATION.....	40



**EDO NSW**

## **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, planning, heritage and natural resource management law.

This guide is written specifically for Aboriginal communities living in NSW. 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, including culture and heritage.

You can also find more detailed information about the various laws and policies outlined in the guide on the EDO NSW website at [www.edonsw.org.au](http://www.edonsw.org.au), or by calling the EDO NSW *Advice Line* (contact details below).

### ***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



## Part A - Accessing Country

### ***Why does access to country matter?***

Aboriginal people have rights and responsibilities over land and waters as the traditional owners of those lands and waters.

Aboriginal people require access to 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.<sup>1</sup>

Aboriginal people currently own and/or manage significant areas of land in NSW, including land returned under native title, lands claimed or acquired through the *Aboriginal Land Rights Act 1983* (NSW) and protected areas returned to Aboriginal ownership.

However, there are large areas of lands and waters to which access by Aboriginal people today is restricted. The recognised legal rights of Aboriginal people to access lands and waters 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 EDO NSW.

## 1. ACCESS TO PARTICULAR TYPES OF LAND

### **General**

#### ***Access agreements***

An individual or Aboriginal group may wish to approach a landowner, or whoever controls a piece of land, to make some form of voluntary access agreement. This could be a verbal agreement or a more formal written agreement. However it is important to note that if an agreement is made based on the goodwill of a landowner only, it can be difficult to enforce the agreement if the landowner later withdraws his or her permission.

There are ways to make binding agreements over access to land, and you are encouraged to gain legal advice about this. Groups such as the NSW Aboriginal Land Council, the local council or other government agencies may also be able to assist Aboriginal groups to negotiate access agreements with private landowners. There is a list of helpful contacts at the back of this guide.

Further information about accessing land that is managed by a government agency is outlined below.

If negotiations to gain access to lands fail, a Local Aboriginal Land Council (LALC) may be able to negotiate an agreement with *any* landowner or occupier to permit *any* Aborigine or group of Aborigines “to have access to the land for the purpose of hunting, fishing or gathering on the land”.<sup>2</sup> Access can include access for Aboriginal persons who are not LALC members so if you are not a member of a LALC you can still ask for assistance with access.

If, despite the LALC’s attempts, an access agreement cannot be reached, the LALC can request that the Land and Environment Court issue a permit to allow you to access the land, or a right of way across the land, for hunting, fishing or gathering.<sup>3</sup> The Court will consider the application, along with any objections to the application, and can either grant or refuse the permit.<sup>4</sup> Once a permit has been issued by the Court it is an offence to stop anyone from accessing land in accordance with the permit.<sup>5</sup>

It is important to note that permission to access lands and waters for hunting, fishing and gathering does not cover taking or harming the animals, plants or sites themselves. Separate permits will often be required – as outlined in the *Hunting and Gathering* section below.

*For more information about access agreements, including a copy of the form needed to make an access agreement, contact the Office of the Registrar of the Aboriginal Land Rights Act.<sup>6</sup>*

### ***Hunting and gathering on private lands***

Hunting is allowed on private land with the permission of the landowner, or where an access agreement has been made, as noted above.<sup>7</sup> Different rules apply for public lands (as outlined below).

In NSW, licences from the NSW Game Council are generally required for hunting.<sup>8</sup>

Sometimes, Aboriginal people may be exempt from requiring a hunting licence, for example if you are hunting a game animal under a native title right or interest, or if you are a member of or in the company of a member of a LALC and are carrying out traditional cultural hunting within the land of that LALC.<sup>9</sup>

Note that 'game animals'<sup>10</sup> only includes some animals, and does not include native animals or threatened species, which are protected.<sup>11</sup> In order to harm native species or threatened species on private land, a licence is required from the Chief Executive of the Office of Environment and Heritage (OEH).<sup>12</sup>

Depending on what weapon you plan to use, or activities you plan to carry out, licences may also be required from other agencies, including the NSW Police (for example to carry a firearm or a knife),<sup>13</sup> the Rural Fire Service (in relation to lighting fires), or the local council.

*For information about fishing or marine resources see the 'Access to Waterways' section of this chapter.*

## **Native Title: Access, Use and Enjoyment**

You may also be able to negotiate access agreements over both private and government controlled lands under native title law.<sup>14</sup>

Native title holders (traditional owners) and registered native title claimants can have various native title rights which can include the right to access land to live on, undertake activities, develop, fish, hunt and/or gather traditional resources. Such access can be exclusive or it can sit alongside other people's rights of access.

However, native title can be a long, complicated and expensive process, and meeting the requirements to become a registered native title holder can be difficult.

*Aboriginal groups and individuals considering making a native title claim should contact the National Native Title Tribunal in NSW<sup>15</sup> or native title representative body NTSCORP (formerly NSW Native Title Services).<sup>16</sup>*

## **Protected Areas**

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.<sup>17</sup> For simplicity, in this section we refer to all these reserves as 'protected areas'.

Depending on the type of protected area, there are different rules for how they are managed, including arrangements for access. Some protected areas have specific provisions to recognise or encourage Aboriginal use or to protect Aboriginal heritage, such as areas reserved as 'Aboriginal places'.

The National Parks and Wildlife Service (NPWS) sets the rules and charges fees to manage access to protected areas and to manage the environmental and cultural values of the area.<sup>18</sup> There are penalties for disobeying these rules. The NPWS is part of the Office of Environment and Heritage (OEH). The NSW Environment Minister is responsible for the NPWS and OEH.

An Aboriginal group or individual can approach the NPWS office responsible for a protected area to make an agreement about access to that area, beyond the access allowed for other members of the public, or to negotiate a formal lease or licence agreement. Aboriginal groups should seek agreements in writing, as they may be required to show them to rangers when visiting the protected area.



An Aboriginal group or individual can also seek to have access provisions included in the plan of management applying to the protected area, or make a Memorandum of Understanding or other form of co-management arrangement with the NPWS or OEH. More information about licences and plans of management is below.

Aboriginal groups who have difficulty negotiating access to a protected area with their local NPWS office should contact the OEH head office, as OEH policies support Aboriginal people's ability to access and use protected areas in NSW.<sup>19</sup> The OEH head office may be able to assist access negotiations with a particular local NPWS office if access is being refused.

### **Access to cultural sites**

The OEH and the NPWS are also responsible for the protection of all Aboriginal objects and Aboriginal places – whether they are located in a protected area or on private land.

This can include restricting or allowing access to certain places of Aboriginal cultural significance, and requiring assessment of an area or permission before undertaking activities near places of cultural significance.

*For more information about the rules regarding Aboriginal cultural heritage, see Part C: Protecting Aboriginal Cultural Heritage.*

### **Leases and licences**

Aboriginal groups or individuals may seek a formal lease or licence for cultural and other activities, which can include access arrangements covering protected areas.<sup>20</sup> The NSW Environment Minister grants leases and licences. In most cases, a licence or permit is required to run a commercial activity, including tours in a protected area, or activities with groups such as school children.

Before a lease or licence is granted there must be a public notification and consultation period.<sup>21</sup> Members of the community will have the opportunity to make submissions in support of or against the granting of the lease or licence.<sup>22</sup> Public notification and consultation is not required if the lease or licence is only for a short term (less than 31 days), or if public consultation has occurred for an activity that is substantially the same on the land in the past 2 years.<sup>23</sup> Public notification and consultation is also not required if the lease or licence relates to 'Aboriginal land'<sup>24</sup> that will be used for any community development purpose.<sup>25</sup>

### **Plans of management**

Every protected area is required to have a plan of management.<sup>26</sup> The Chief Executive of the Office of Environment and Heritage is responsible for ensuring that plans of management are made.<sup>27</sup> The Chief Executive can delegate this responsibility to the local council in the case of regional parks.<sup>28</sup> When a new plan of management is being made or reviewed it is publicly advertised so that the community can provide comments.<sup>29</sup> Any agreements, leases and licences, or other access agreements, must be consistent with the plan of management for the protected area.<sup>30</sup>

When making a plan of management, the Chief Executive (or the delegate) has to consider 'the potential for the reserved land to be used by Aboriginal people for cultural purposes'.<sup>31</sup> This can be an opportunity for you to point out the importance of allowing the Aboriginal community access to the protected area or parts of it.<sup>32</sup> Plans of management can be changed, so it is possible to ask the NPWS to include access arrangements even if the plan is already operational.<sup>33</sup>

### **Access to Aboriginal areas**

An Aboriginal area is to be managed in accordance with several principles, including allowing the use of the area by Aboriginal people for cultural purposes, the promotion of public understanding and appreciation of the Aboriginal area's natural and cultural values and significance, and the conservation of natural or cultural values.<sup>34</sup> Most Aboriginal areas have unrestricted access for Aboriginal people, although some sites have been fenced. Contact your local NPWS Office if access to a fenced Aboriginal area is required.

## ***Hunting and gathering in protected areas***

Usually, animals and plants within a protected area are protected, and a licence is required to cause any harm to those animals or plants, including harm through hunting or gathering.<sup>35</sup>

However, Aboriginal people can sometimes be exempt from the normal licence requirements designed to protect different plants and animals. For example:

- Aboriginal people and their dependents are exempt from the restrictions against harming or harvesting fauna and native plants for 'domestic purposes';<sup>36</sup> and
- Aboriginal people are exempt from the restrictions against harming threatened species, endangered populations or endangered ecological communities, if undertaking a traditional Aboriginal cultural activity. This does not include commercial activities.<sup>37</sup>

There are some limitations. For example, a licence is still required to hunt parrots, raptors or threatened species, endangered species or species occurring in endangered ecological communities, inside a wildlife reserve or conservation area in particular.<sup>38</sup> Aboriginal groups are encouraged to contact the relevant NPWS office to check whether the protected area or target species includes special limitations.

Broad exemptions also exist for hunting and gathering in Aboriginal-owned National Parks, if the permission of Aboriginal owners has been granted (see below).<sup>39</sup>

As noted above, there are general restrictions on the carrying, licensing and use of firearms, and these apply to Aboriginal people when hunting. However, Aboriginal people are exempt from the penalties attached to carrying an animal, firearm, net, trap or hunting device once inside a protected area when they are for domestic purposes.<sup>40</sup>

## **Aboriginal-owned Protected Areas**

Some land can be handed back to the traditional Aboriginal owners.<sup>41</sup> If this occurs, the land will be vested in one or more LALCs, or the NSW Aboriginal Land Council (NSWALC). The land will then be leased by the LALC or NSWALC to the Environment Minister and then reserved as a protected area.<sup>42</sup> Some areas of land that are subject to an Aboriginal land claim can also be converted into a protected area and leased back to the NSW Government, but only if the LALC or NSWALC agrees.<sup>43</sup>

These lands are known as 'jointly-managed', 'co-managed' or 'Part 4A' protected areas.

Aboriginal-owned protected areas are run by a board of management with a majority of members being Aboriginal owners of the land.<sup>44</sup> The board is responsible for the care, control and management of the land and the preparation of plans of management.<sup>45</sup> This includes approving arrangements for access by other Aboriginal people and the carrying out of cultural activities (including hunting and gathering) by Aboriginal people within the protected area.<sup>46</sup> Access arrangements can also be outlined in the leases for the jointly managed protected areas, which are publicly available from the OEH website.<sup>47</sup>

*Aboriginal groups wanting to make access agreements over a jointly managed protected area should contact the relevant Aboriginal Joint Management Board directly or the Joint Management Network through the OEH. A listing of existing joint management arrangements is available on the OEH website.*<sup>48</sup>

## **NSW State Forests**

Access to State Forests is managed by Forests NSW, which is part of the NSW Department of Primary Industries (DPI). Forests covered by a NSW forest agreement are regulated jointly by DPI and OEH. Note that this section does not deal with forestry on *private* lands.

Access to all State Forests is free and there are minimal restrictions on camping, walking or driving, although access roads can be closed and people can be asked to leave the area when, for example, there is a logging operation in progress.<sup>49</sup>

All State Forests must be managed according to a management plan called an Ecologically Sustainable Forest Management Plan (ESFM Plan)<sup>50</sup> as well as the Regional Forest Agreement (RFA) which covers the State Forest. Some of the ESFM Plans outline specific management strategies for providing access to Aboriginal places and cultural sites in State Forests. RFAs may also provide for access agreements so that Aboriginal people can access places, sites and forest materials for cultural purposes.<sup>51</sup>



All ESFM Plans commit to fostering Aboriginal-run commercial tours to Aboriginal sites and places in NSW State Forests. Many State Forests may already be subject to an existing agreement with a LALC or local Aboriginal community to establish a commercial tour. Commercial use of forest resources by Aboriginal people is also possible where consistent with the objectives of the ESFM Plan.<sup>52</sup>

Organised or commercial activities may also require a Special Purposes Permit from Forests NSW,<sup>53</sup> for example if an activity is to be undertaken by a large group.

*For more information about existing rules regarding access to particular State Forests, contact the Forests NSW Information Centre.*<sup>54</sup>

### **Accessing State Forests**

Forests NSW can make a broad range of agreements to allow access to State Forests for Aboriginal cultural purposes. These agreements can take the form of Memorandums of Understanding (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.*<sup>55</sup>

### **Hunting and gathering in State Forests**

Aboriginal people and dependents (whether Aboriginal or not) may hunt and gather otherwise protected plants and animals for *domestic* purposes in State Forests.<sup>56</sup> The same restrictions apply as are outlined in the section on *hunting and gathering in protected areas* above.

Authorised hunting in State Forests for feral animal control can only occur at sites specifically 'declared' for hunting.<sup>57</sup> Dogs are allowed in State Forests with their owners, and there are some additional restrictions on fires, firearms and other weapons.<sup>58</sup>

### **Commonwealth Reserves**

In NSW, the Commonwealth Government is also responsible for some reserves and parks. These reserves include Booderee National Park and the Solitary Islands Marine Reserve.

Access to Commonwealth reserves is guided by management plans, under federal laws<sup>59</sup> and these state that the needs and aspirations of Indigenous people should be taken into account.<sup>60</sup> There is an opportunity for public comment when a management plan is being developed.

Some existing management plans include specific provisions for Aboriginal people to access and use particular reserves.<sup>61</sup> In some cases a formal agreement for Aboriginal control of the reserve has been developed – such as for Booderee National Park.<sup>62</sup>

Permits are required if a person wishes to conduct research or any commercial activity in a Commonwealth reserve, or to carry out certain recreational or other activities, including taking animals, plants or firearms into reserves, camping, fishing or using vehicles.<sup>63</sup> There is no general exception for Aboriginal people against the requirement for a permit.

### **Access and Benefit Sharing**

Australia's biological resources are the genetic and biochemical resources found in its native species. Biological resources include genetic resources, organisms, parts of organisms, populations and any other biotic component of an ecosystem with actual or potential use or value for humanity.<sup>64</sup>

Access to biological resources and the genetic and biochemical components found in native species may involve the use of traditional knowledge. The extent to which benefit sharing is required for the use of this knowledge depends on the title to the land from which biological resources are obtained.<sup>65</sup>

However, very few Access and Benefit Sharing agreements have been entered into that are based on the Department of Sustainability, Environment, Water, Population and Communities *Model Access and Benefit Sharing Agreement*.<sup>66</sup>

## World Heritage Areas

World Heritage Areas are areas that have been recognised for their international natural and cultural heritage values. World Heritage listing can occur for both Commonwealth and State land, and private or public land, and offers additional protection on top of the protections or limitations that may already exist for the land, water, sites or natural resources in the area.

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

Management plans are prepared<sup>67</sup> for World Heritage Areas. The management plan must be agreed by the landowner of both private and public land. Management plans can include Aboriginal access provisions.

## Crown Land

Crown land is controlled by the NSW Department of Primary Industries Crown Lands - Catchments and Lands Division<sup>68</sup> and includes over half of all land in NSW.<sup>69</sup>

Aboriginal people and their dependents (whether Aboriginal or not) may hunt and gather otherwise protected plants and animals for their own *domestic* purposes on land that is unoccupied Crown land and not dedicated for an essential public purpose. Again, the same restrictions apply as are outlined in the section on *hunting and gathering in protected areas* above.

Local Aboriginal Land Councils (LALCs) can claim Crown land that is not being used for an 'essential public purpose', as a land claim. Land which is successfully claimed is granted as freehold to be managed by the LALC on behalf of its members.<sup>70</sup>

Once land is owned by a LALC, the LALC is able to restrict access to the land, like any other private landowner. There may also be some restrictions on using Crown land which is under a land claim, where a decision has not yet been made about whether the claim will be granted to the LALC or not. Aboriginal people wishing to access and use LALC-owned land should contact the LALC directly.

Unoccupied Crown land that is subject to a native title claim cannot be claimed by a LALC.<sup>71</sup>

## Crown reserves

Crown reserves include regional reserves, State parks, town parks, caravan parks, campgrounds, walking trails, 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 reserve<sup>72</sup> and can make decisions on access, permitted activities (including cultural activities and hunting and gathering), entry fees, opening hours, vehicle entry and moorings.<sup>73</sup>

The Chief Executive of the Office of Environment and Heritage is responsible for the management and protection of Aboriginal sites and places on Crown reserves.<sup>74</sup> 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 on a Crown reserve.<sup>75</sup>

## Travelling stock reserves

Travelling stock reserves (TSRs) are parcels of Crown land that are managed by a Livestock Health and Pest Authority (LHPA)<sup>76</sup> according to its 'Function Management Plan'.<sup>77</sup> 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.<sup>78</sup>

Generally, access to an Aboriginal place or site on a TSR will be unrestricted during the day. Permission from the local LHPA 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 land<sup>79</sup> 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.<sup>80</sup>

The NPWS is responsible for the care and management of Aboriginal places and sites on TSRs. Permission, or an Aboriginal Heritage Impact Permit (AHIP), may be required to use an Aboriginal place or site to avoid incurring a penalty for moving or damaging an Aboriginal place or object.<sup>81</sup>

### ***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 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.

Native title rights were found to be completely extinguished on perpetual grazing leases.<sup>82</sup>

## **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'.<sup>83</sup> 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 depots).<sup>84</sup>

All community land falls into a specific category which will impact on how it can be used. The categories include natural areas; sports grounds; parks; areas of cultural significance; general community use; bushland; wetland; escarpment; watercourse; or foreshore. Community land can include areas of Aboriginal cultural significance.<sup>85</sup>

Community land is required to be used and managed in accordance with a plan of management which sets out the objectives for each category of community land managed by the Council.<sup>86</sup> The public can make submissions on a draft plan of management.<sup>87</sup> All activities, including rights of access, must be consistent with the plan of management.

Community land is still subject to zoning controls and a plan of management operates as an additional control over that piece of land.

## **2. ACCESS TO WATERWAYS**

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Local councils manage the majority of the coastal zone<sup>88</sup> and public lands along streams and rivers.<sup>89</sup>

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.<sup>90</sup>

### ***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 for Water.<sup>91</sup>

You can take water without the need for an access licence, water supply work approval or water use approval if you are exercising a native title right.<sup>92</sup> However, as yet no native title claims over water have been granted in NSW.

Everyone has a basic right to access water without a licence for domestic or stock watering purposes.<sup>93</sup>



Otherwise, rights to access water are generally contained in water sharing plans. Water sharing plans will allow Aboriginal communities to apply for a water access licence for Aboriginal cultural uses such as manufacturing traditional artefacts, hunting, fishing, gathering, recreation, and ceremonial purposes, so long as they are not associated with commercial activities.<sup>94</sup>

### ***What happens in times of drought?***

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

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.<sup>95</sup>

### ***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.<sup>96</sup> Interference with the flow of a creek or estuary may also require an approval.<sup>97</sup>

### ***Crown reserves***

Crown reserves can include areas such as riverbeds, lakes, ports and up to three nautical miles out to sea.<sup>98</sup> 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.<sup>99</sup>

### ***Aquatic reserves***

Aquatic reserves<sup>100</sup> 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 which make it an offence to do or take certain things from aquatic reserves, such as shells, fish, or sand.<sup>101</sup>

*Contact the Office of Environment and Heritage for more information.*<sup>102</sup>

### ***Marine parks***

NSW marine parks<sup>103</sup> currently include Cape Byron, Jervis Bay, Lord Howe Island, Batemans, Port Stephens-Great Lakes 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.

*Contact the NSW Marine Parks Authority for more information.*<sup>104</sup>

### ***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 landowner. 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.<sup>105</sup>

*Contact the Department of Sustainability, Environment, Water, Population and Communities for more information.*<sup>106</sup>

## Fishing

Fishing licenses are required, except if you are an Aboriginal person,<sup>107</sup> regardless of whether you are fishing in saltwater or freshwater.

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.<sup>108</sup> The exemption must be approved before the event, which may be difficult to organise for funerals.<sup>109</sup> There are no defences based on Aboriginal cultural heritage or tradition for taking threatened or endangered species.<sup>110</sup>

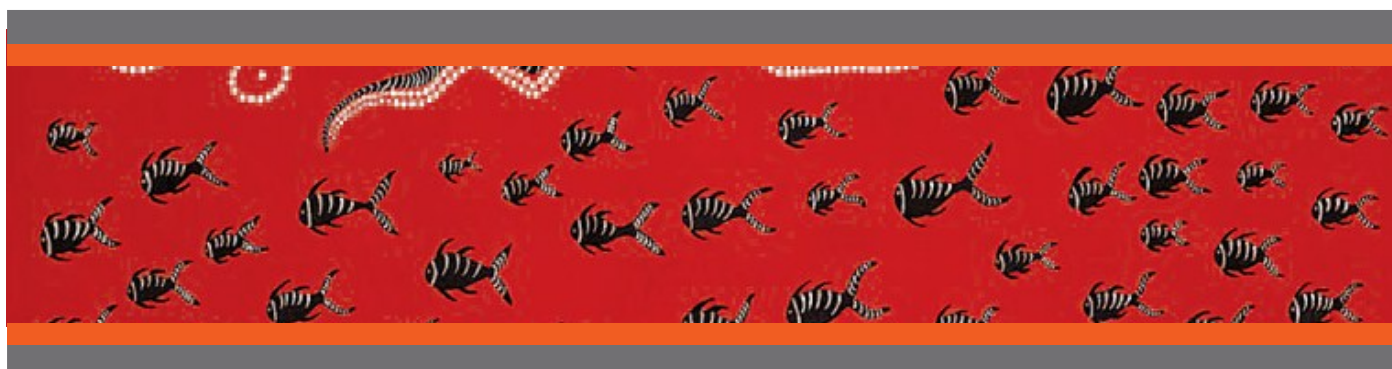
Contact NSW Fisheries for more information.<sup>111</sup>

1. NSW Department of Aboriginal Affairs, *On Country* Making access agreements for lands and waters in New South Wales, p. 3, available at: <http://www.daa.nsw.gov.au/publications/DAA%20On%20Country.pdf>.
2. *Aboriginal Land Rights Act 1983* (NSW), s. 47.
3. *Aboriginal Land Rights Act 1983* (NSW), s. 48.
4. *Aboriginal Land Rights Act 1983* (NSW), s. 48(5).
5. *Aboriginal Land Rights Act 1983* (NSW), s. 48(8).
6. On 02 9562 6327, or visit the website at: [www.oralra.nsw.gov.au](http://www.oralra.nsw.gov.au).
7. *Aboriginal Land Rights Act 1983* (NSW), ss. 47, 48.
8. Under the *Game and Feral Animal Control Act 2002* (NSW). See licence information at <http://www.gamecouncil.nsw.gov.au/>
9. *Game and Feral Animal Control Act 2002* (NSW), s. 17(1)(c).
10. *Game and Feral Animal Control Act 2002* (NSW), s. 5.
11. Under the *Threatened Species Conservation Act 1995* (NSW) or the *National Parks and Wildlife Act 1974* (NSW).
12. *Threatened Species Conservation Act 1995* (NSW), s. 91 and *National Parks and Wildlife Act 1974* (NSW), Part 9.
13. See for example the requirements of the NSW Firearms Registry, at <http://www.police.nsw.gov.au/services/firearms>.
14. See: *Native Title Act 1993* (Cth).
15. On 1800 640 501 or 02 9227 4000.
16. On 1800 111 844 or 02 9310 3188.
17. These areas are reserved and protected under the *National Parks and Wildlife Act 1974* (NSW).
18. *National Parks and Wildlife Act 1974* (NSW), Part 3 Div 1 and Part 4.
19. See for example the OEH website at [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au) for a copy of the OEH Corporate Plan. See also the OEH Co-management webpage and the *Aboriginal Land Management Framework* discussion paper (2009) on the OEH website at: <http://www.environment.nsw.gov.au/nswcultureheritage/almf.htm>.
20. See *National Parks and Wildlife Act 1974* (NSW), Part 12. Section 151A states that a licence can be issued to enable activities related to natural heritage management, cultural heritage management, to enable Aboriginal cultural activities to be carried out, and to enable the provision of facilities for that purpose.
21. *National Parks and Wildlife Act 1974* (NSW), s. 151F(1).
22. *National Parks and Wildlife Act 1974* (NSW), s. 151F(2)(e).
23. *National Parks and Wildlife Act 1974* (NSW), s. 151F(6).
24. Under the *National Parks and Wildlife Act 1974* (NSW).
25. See: *National Parks and Wildlife Act 1974* (NSW), s. 151F(6).
26. *National Parks and Wildlife Act 1974* (NSW), s. 72.
27. *National Parks and Wildlife Act 1974* (NSW), s. 72.
28. *National Parks and Wildlife Act 1974* (NSW), s. 72(1B). A regional park is defined in the *National Parks and Wildlife Act 1974* (NSW), s. 30H.
29. *National Parks and Wildlife Act 1974* (NSW), ss. 72, 73A.
30. *National Parks and Wildlife Act 1974* (NSW), s. 151C. In the Brigalow and Nandewar Community Conservation Area, group access is in accordance with the Community Conservation Agreement.
31. *National Parks and Wildlife Act 1974* (NSW), s. 72AA.
32. *National Parks and Wildlife Act 1974* (NSW), s. 73A.
33. *National Parks and Wildlife Act 1974* (NSW), s. 73B. Plans of Management can be amended by the Minister for Environment following the recommendation of the National Parks Advisory Council. Written permission from other parties may also be required, s. 73B(6).

34. *National Parks and Wildlife Act 1974* (NSW), s. 30K(2).
35. *National Parks and Wildlife Act 1974* (NSW), ss. 45, 56, 58Q, 120; *National Parks and Wildlife Regulation 2009*, (NSW), cl. 12.
36. *National Parks and Wildlife Regulation 2009* (NSW), cl. 72-5.
37. *National Parks and Wildlife Act 1974* (NSW), ss. 117, 118G(2)(g).
38. *National Parks and Wildlife Act 1974* (NSW), s. 70; *National Parks and Wildlife Regulation 2009* (NSW), cl. 72(3).
39. *National Parks and Wildlife Act 1974* (NSW), s. 45(6).
40. *National Parks and Wildlife Regulation 2002* (NSW), cl. 74. Note that the exemption does not apply to parrots and raptors.
41. *National Parks and Wildlife Act 1974* (NSW), Part 4A.
42. *National Parks and Wildlife Act 1974* (NSW), s. 71C.
43. *Aboriginal Land Rights Act 1983* (NSW), s. 36A(2).
44. *National Parks and Wildlife Act 1974* (NSW), s. 71AN(3)(a).
45. *National Parks and Wildlife Act 1974* (NSW), s. 71AO (1).
46. *National Parks and Wildlife Act 1974* (NSW), s. 71AO (2).
47. See: <http://www.environment.nsw.gov.au/jointmanagement/index.htm>
48. See: <http://www.environment.nsw.gov.au/jointmanagement/jointmanagedparks.htm>.
49. *Forestry Act 1916* (NSW), s. 41 (1)(P5), *Forestry Regulation 2009* (NSW), cl. 11.
50. Made under the *Forestry and National Parks Estate Act 1998* (NSW), *Forestry Act 1916* (NSW) and available at the DPI website at: <http://www.dpi.nsw.gov.au/forests/management/esfm>.
51. The *Regional Forests Agreement Act 2002* (Cth), 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.
52. See, for example, p. 67 the ESFM Plan for the Eden Region which recognises that Aboriginal people may have the opportunity to obtain or maintain access to Government-managed lands for recreational, as well as traditional values and uses, and ceremonial purposes, and that opportunities may exist for the commercial development of areas of cultural/economic significance.
53. *Forestry Act 1916* (NSW), s. 32F; *Forestry Regulation 2009* (NSW), cl. 52.
54. On 1300 655 687.
55. See: <http://www.forests.nsw.gov.au/about/contact-us>
56. *National Parks and Wildlife Regulation 2009* (NSW), cl. 75.
57. Under the *Game and Feral Animal Control Act 2002* (NSW).
58. See the Recreation in State Forests webpage at: <http://www.dpi.nsw.gov.au/forests/recreation>.
59. *Environment Protection and Biodiversity Conservation Regulations 2000* (Cth), Schedule 8.
60. *Environment Protection and Biodiversity Conservation Regulations 2000* (Cth), Schedule 8, Part 2, cl 3.
61. View of copy of current and draft Management plans at: <http://www.environment.gov.au/parks/index.html>
62. View the Booderee National Park Management Plan online at: <http://www.environment.gov.au/parks/publications/booderee/management-plan.html>.
63. See the list of permits at: <http://www.environment.gov.au/parks/permits/index.html>
64. Learn more about biological resources online at: <http://www.environment.gov.au/biodiversity/science/access/index.html>,
65. In New South Wales, access and benefit sharing falls under a range of legislation depending on the title to the land. For example: NSW land, NSW waters, Booderee National Park, Solitary Islands Marine Reserve, Cod Grounds Commonwealth Marine Reserve, Elizabeth and Middleton Reefs Marine National Park Reserve, Lord Howe Island Marine Park and Commonwealth waters adjacent to NSW. See: <http://www.environment.gov.au/biodiversity/science/access/contacts/nsw/index.html#>
66. Available at: <http://www.environment.gov.au/biodiversity/science/access/model-agreements/index.html>
67. Under the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
68. Under the *Crown Lands Act 1989* (NSW).
69. Department of Primary Industries Crown Lands - Catchments and Lands Division. See: <http://www.crownland.nsw.gov.au/>: Land and Property Information. See: [http://www.lpi.nsw.gov.au/land\\_titles/land\\_ownership/crown\\_land](http://www.lpi.nsw.gov.au/land_titles/land_ownership/crown_land).
70. *Aboriginal Land Rights Act 1983* (NSW), s. 36.
71. *Aboriginal Land Rights Act 1983* (NSW), s. 36.
72. *Crown Land Act 1989* (NSW), ss. 81, 88, 92.
73. *Crown Lands (General Reserves) By-law 2006* (NSW), Part 3 Div 1.
74. *National Parks and Wildlife Act 1974* (NSW), s. 85.
75. *National Parks and Wildlife Act 1974* (NSW), s. 86; *Crown Lands Act 1989* (NSW), s. 121.
76. *Rural Lands Protection Act 1998* (NSW), s. 85.
77. *Rural Lands Protection Act 1998* (NSW), s. 44.



78. *Rural Lands Protection Act 1998* (NSW), s. 45.
79. *Aboriginal Land Rights Act 1983* (NSW), s. 37.
80. *Aboriginal Land Rights Act 1983* (NSW), s. 37.
81. *National Parks and Wildlife Act 1974* (NSW), ss. 86, 90.
82. Granted under the *Western Lands Act 1901* (NSW). See: *Wilson v Anderson* (2002) 190 ALR 313, [119] (Gaudron, Gummow and Hayne JJ).
83. *Local Government Act 1993* (NSW), s. 25.
84. *Local Government Act 1993* (NSW), Chapter 6, Part 2.
85. *Local Government Act 1993* (NSW), s. 36D, 36DA, 36E.
86. *Local Government Act 1993* (NSW), ss. 36E-36N.
87. *Local Government Act 1993* (NSW), s. 38.
88. The coastal zone as defined under the *Coastal Protection Act 1979* (NSW). The coastal zone is defined by mapped boundaries and includes estuaries, coastal lakes and lagoons, islands and rivers.
89. According to the *Coastal Protection Act 1979* (NSW) and the NSW Coastal Policy 1997.
90. *Crown Lands Act 1989* (NSW), ss. 60, 61.
91. Under the *Water Management Act 2000* (NSW).
92. *Water Management Act 2000* (NSW), s. 55.
93. *Water Management Act 2000* (NSW), s. 52.
94. See: <http://www.water.nsw.gov.au/Water-management/Water-sharing-plans/how-water-sharing-plans-work/default.aspx>
95. *Water Management Act 2000* (NSW), s. 60.
96. *Water Management Act 2000* (NSW), s. 91E.
97. *Water Management Act 2000* (NSW), s. 91.
98. *Crown Lands Act 1989* (NSW), s. 4(2)(b).
99. For more information on Reserve Trusts see: [http://www.lpma.nsw.gov.au/trusts/trust\\_handbook](http://www.lpma.nsw.gov.au/trusts/trust_handbook).
100. See: <http://www.environment.nsw.gov.au/nationalparks/parktypes.aspx?type=aquaticreserve>
101. *Fisheries Management Act 1994* (NSW), s. 197K(2).
102. On 1300 361 967.
103. Created under the *Marine Parks Act 1997* (NSW). See: [http://www.edo.org.au/edonsw/site/factsh/fs06\\_3.php](http://www.edo.org.au/edonsw/site/factsh/fs06_3.php) for more information on Marine Parks.
104. See: <http://www.mpa.nsw.gov.au/contact.html> or call 1300 550 474.
105. *Environment Protection and Biodiversity Conservation Act 1999* (Cth), s. 16.
106. See: <http://www.environment.gov.au/epbc/protect/wetlands.html> or call 1800 803 772.
107. *Fisheries Management Act 1994* (NSW), s. 34C(2)(f).
108. *Fisheries Management Act 1994* (NSW), s. 37.
109. More information and forms are available at: <http://www.dpi.nsw.gov.au/fisheries/info/section-37-permits>.
110. *Fisheries Management Act 1994* (NSW), s. 21. For more information on fishing activities and protection of marine species see: [http://www.edo.org.au/edonsw/site/factsh/fs06\\_1.php](http://www.edo.org.au/edonsw/site/factsh/fs06_1.php).
111. See: <http://www.dpi.nsw.gov.au/fisheries> or call 1300 550 474.





## Part B - Development

### ***What is development and how is it regulated?***

Development refers to a range of activities undertaken on land or waters, and can involve everything from major construction to very minor works such as the erection of fences or advertising signs, or it may involve no physical changes to the land at all.<sup>1</sup> For example, changing the use of land from a paddock to a sports field is considered a 'development' under NSW law, even though there are no buildings or structures erected.

Development in NSW is mainly regulated by 'environmental planning instruments' (EPIs), such as Local Environmental Plans (LEPs), and State Environmental Planning Policies (SEPPs).<sup>2</sup> EPIs set out what development is allowed where.

Each local government area has a LEP which is made by the local council and regulates development through a system of zones. For each zone they specify whether certain developments need permission (consent) and what developments are banned. SEPPs are made by the Department of Planning and Infrastructure and are overarching planning controls that may or may not apply to a given piece of land (although they generally apply to the whole State). Some SEPPs allow certain types of development to be carried out where they would not ordinarily be able to (for example, where they are prohibited in a LEP), while others place extra restrictions on development in certain sensitive areas (such as coastal wetlands or littoral rainforest).

There are different categories of development and these will undergo different types of assessment. The type of category also determines who the decision-maker is (usually the local council or the Minister for Planning and Infrastructure).

*Contact the Aboriginal Liaison Officer in your local council to ask questions about which LEPs and other planning instruments are currently in force in your area.<sup>3</sup>*

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

When your local council is making a LEP or changing it, it will usually place a planning proposal outlining what the LEP proposes to do on public exhibition and you will have a chance to comment on it. This is a good opportunity to have a say about the strategic direction of your local area as LEPs guide future planning decisions.

You can find out what LEPs are on public exhibition by accessing the LEP tracking system on the Department of Planning and Infrastructure website.<sup>4</sup>

If there is a specific development that you oppose or think should be changed, you can usually have a say. It will depend on the category of development.

There are a number of broad categories of development:

1. ***State significant development:*** these are projects that are deemed to be of State or regional significance.<sup>5</sup> They are assessed by the Department of Planning and Infrastructure and approved by either the Minister for Planning and Infrastructure or the Planning Assessment Commission.
2. ***Designated development:*** these projects are deemed to be high impact development.<sup>6</sup> They are assessed and approved by the local council or a Joint Regional Planning Panel. They require more stringent environmental assessment than other local development.

3. *Local development*: these are standard developments for houses etc.<sup>7</sup> They are assessed and approved by the local council or a Joint Regional Planning Panel. Local development also includes a sub-category known as 'exempt and complying development' which applies to very minor developments that don't need development consent so long as they fall within set parameters. There are some categories of development which do not require any approvals, usually because they are considered to be minor or routine activities. These can include activities which are allowed 'without consent' under certain zones of a Local Environmental Plan (for example farming activities in an agricultural zone).
4. *Part 5 developments*: these projects do not need development consent, but still need to undergo an environmental assessment.<sup>8</sup>

The normal process is for a person who owns the land to lodge a development application (DA) with the body who can approve the development (the 'consent authority',<sup>9</sup> such as the local council).

The public is notified of a DA in various ways, depending on the category of development. For example, applications for State significant development will be published in a local newspaper and advertised on the Department of Planning and Infrastructure's website.<sup>10</sup> A copy of the notice must also be given to people owning or occupying adjoining land.<sup>11</sup> Designated development has similar requirements but will likely appear on the website of the local council.<sup>12</sup>

Local development must be notified in accordance with the notification provisions of the Development Control Plan that applies to your area.<sup>13</sup> Copies of relevant documents will be available at the local council office and/or the Council's website.

Some forms of exempt and complying development don't need to be notified at all.

Some local councils have developed policies to notify Aboriginal groups about development. If your local council does not have one of these policies or agreements in place, you can approach the local council to negotiate such an agreement. EDO NSW and groups such as the NSW Aboriginal Land Council may also be able to provide advice on these kinds of agreements.

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. There are standard processes for public consultation depending on the category of development.

You should write a submission setting out your opinion of the development. If you are opposed to the development, or how the developer plans to carry out the development, you should give your reasons. Your submissions must be considered by the decision-maker in deciding whether to approve the application.

*To find out what category a particular development fits into, and which rules apply, you should contact your local council and/or the Department of Planning and Infrastructure.*

### ***What is Environmental Impact Assessment?***

Most projects that require a development application to be lodged must be accompanied by some form of environmental impact assessment to enable the decision-maker to understand the likely impacts of the proposal on the environment, economy and society before deciding whether to approve it.

In some circumstances, a separate Aboriginal cultural heritage report will be prepared. This may happen when a proposed development is likely to impact on a known Aboriginal place or object. You can also request that an Aboriginal heritage report be prepared if you think a development is likely to impact on cultural heritage.

If a development is likely to impact on Aboriginal heritage it will generally be subjected to additional legal requirements for permits or approvals from other Government agencies such as an Aboriginal Heritage Impact Permit.

*For more information on heritage permits in NSW see Part C: Protecting Aboriginal Cultural Heritage.*

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

There are time limits for commenting on DAs, as part of the public consultation process. You should be informed of the time limit when you are notified of the DA.



For most developments, you will have thirty days to comment.

If you have missed the official period to provide a submission, you can still write to or lobby the decision-maker directly, as this may influence their final decision. However, the decision-maker is not required to consider your submissions if they are late.

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

If a development is approved (or rejected) and you believe the decision-maker has not followed the law correctly, or if you think the wrong decision has been made, there may be an opportunity to appeal.

Whether or not an appeal is possible will depend on the category of development (for example if the development is State significant development, designated development etc.)

*For more information about the different kinds of appeals available, see the Fact Sheets on the EDO NSW website,<sup>14</sup> call the EDO NSW Advice Line or call your local council or Department of Planning and Infrastructure office directly.*

In some cases an appeal will be possible on the merits of the decision – that is where the Court considers whether the decision was good or bad, or whether any conditions of approval are adequate. In merit appeals the Court will stand in the shoes of the original decision-maker and look at all the information again in order to come to a decision.

In other cases, only a judicial review will be possible. An application for judicial review challenges the *process* by which a decision was made, for example, by arguing that the decision-maker has not followed the correct procedure in making a decision.

In NSW most appeals against development decisions are considered by the Land and Environment Court.<sup>15</sup> There are strict time limits for commencing appeals. These differ for merits appeals and judicial review and also depending on whether you are the developer appealing the rejection of a development (or the conditions attached) or someone objecting to the approval of a development (or the conditions attached).<sup>16</sup>

If you are concerned about a development, the individual DA may not be the real problem. It may be that the person undertaking the development is complying with all the rules, and the real problem lies with the requirements such as zoning of the area.

To respond to this you can:

- lobby council to take action such as allocating a more appropriate zoning to the area;
- check that the development application has correctly described the proposal; or
- check that the environmental planning instrument (EPI) was correctly made. An EPI which is not made in accordance with the procedural requirements may be invalid.

### ***What if the developer is not complying with their consent?***

Development consents are binding and must be complied with. In addition, many developments are approved subject to conditions. The developer must satisfy these conditions when undertaking the development. If you think the developer is taking action that is not authorized by the development consent or breaching any of the conditions, you should notify the consent authority that approved the development. The consent authority is responsible for enforcing the development consent and any conditions against the developer. However, if they fail to do so, you may be able to bring proceedings in the Land and Environment Court of NSW to enforce the development consent or the conditions.<sup>17</sup>

Some developments need additional approvals from other government agencies, such as a permit to clear native vegetation or a permit to harm Aboriginal cultural heritage. These approvals are also binding and if you see them being breached you should report the breach to the relevant government agency. That government agency is responsible for enforcing the approval. However, if they fail to do so, you may be able to bring proceedings in the Land and Environment Court of NSW to enforce the law.

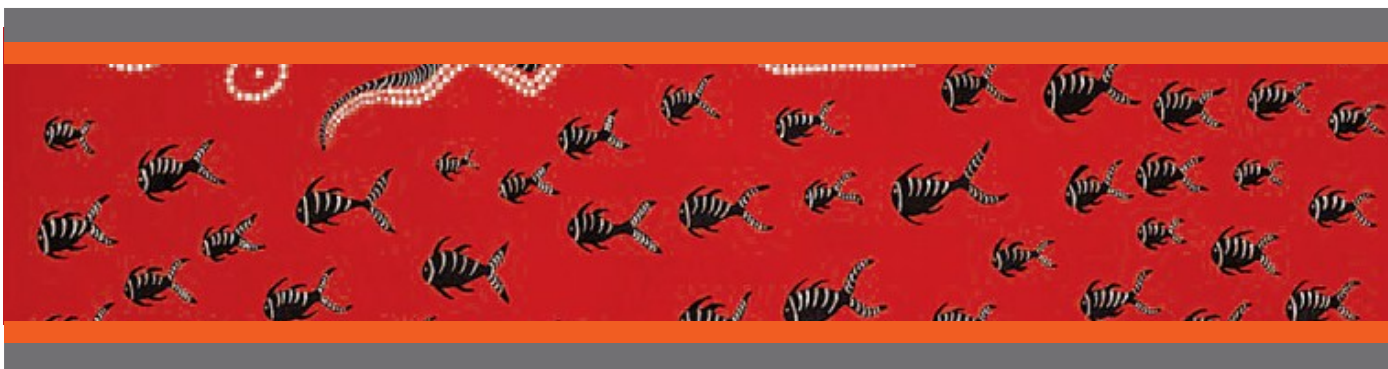
## Legal advice

It is strongly recommended that you obtain legal advice before initiating an appeal or other action against a developer, local council, or other decision-maker. The EDO NSW *Advice Line* will be able to provide initial advice, and in some cases other support.

Remember that, depending on the case, there is a risk that you will be required to pay the costs of the other side if you lose the case.

As a first step it is strongly recommended that you try to settle the matter outside of Court.

1. *Environmental Planning and Assessment Act 1979* (NSW), s. 26(1)(g). 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* (NSW), Part 3.
3. Copies of current LEPs, and other Environmental Planning Instruments can be found at <http://www.legislation.nsw.gov.au> (under 'Browse' and 'EPs')
4. See: <http://leptracking.planning.nsw.gov.au/Default.aspx>
5. They are assessed under Part 4, Division 4.1 of the *Environmental Planning and Assessment Act 1979* (NSW). Types of SSD are listed in the State Environmental Planning Policy (State and Regional Development) 2011, Sch. 1.
6. They are assessed under Part 4 of the *Environmental Planning and Assessment Act 1979* (NSW). Designated developments are listed in the *Environmental Planning and Assessment Regulation 2000* (NSW), Sch. 3.
7. They are assessed under Part 4 of the *Environmental Planning and Assessment Act 1979* (NSW).
8. They are assessed under Part 5 of the *Environmental Planning and Assessment Act 1979* (NSW), which contains general environmental assessment requirements that apply to developments that do not require consent.
9. *Environmental Planning and Assessment Act 1979* (NSW), s. 78A(1); see also *Environmental Planning and Assessment Regulation 2000* (NSW), cl. 47 - 57 which set out the procedures for lodging development applications generally. For more information on development applications and consents see EDO NSW Fact Sheet 2.2: [http://www.edo.org.au/edonsw/site/factsheet/fs02\\_2\\_1.php](http://www.edo.org.au/edonsw/site/factsheet/fs02_2_1.php)
10. *Environmental Planning and Assessment Regulation 2000* (NSW), cl. 84. See the Department of Planning and Infrastructure website at <http://www.planning.nsw.gov.au>. State significant development applications are listed under 'Major Projects' and searches can be conducted by Local Government Area.
11. *Environmental Planning and Assessment Regulation 2000* (NSW), cl. 84(2).
12. A notice must be published in a local newspaper, exhibited on the land to which the application relates; and written notice must be given to people who own or occupy adjoining land; and if practicable, to any other people who own or occupy land that may be adversely impacted by the development. See: *Environmental Planning and Assessment Regulation 2000* (NSW), cl. 77-80.
13. *Environmental Planning and Assessment Regulation 2000* (NSW), cl. 91.
14. See: <http://www.edo.org.au/edonsw/site/factsheets.php>.
15. More information on the Land and Environment Court can be found on their website: <http://www.lawlink.nsw.gov.au/lec>.
16. For more information on appeals, see EDO NSW fact sheet 2.2.8 here: [http://www.edo.org.au/edonsw/site/factsheet/fs02\\_2\\_8.php](http://www.edo.org.au/edonsw/site/factsheet/fs02_2_8.php).
17. *Environmental Planning and Assessment Act 1979* (NSW), s. 123.





## 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 culture and heritage. However, this guide will focus on the legal definitions developed by Parliament and the Courts.

Under NSW law, 'Aboriginal objects' are defined as deposits, objects or material evidence relating to Aboriginal habitation of NSW,<sup>1</sup> and include Aboriginal remains. These things legally belong to the Crown (the Government).<sup>2</sup>

An 'Aboriginal place' is a place which, in the opinion of the NSW Minister for the Environment, is or was of special significance to Aboriginal people.<sup>3</sup> In other words the Minister needs to be convinced that a place should be declared an Aboriginal place.

However, there are a number of other ways in which land and waters of cultural significance to Aboriginal people can be legally recognised and protected, as outlined below.

Many of these different kinds of legal protection can apply at the same time, and Aboriginal groups are encouraged to consider using more than one law or policy to protect places, waters and objects of significance.

## **1. NATIONAL PROTECTION**

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### **Protection of World Heritage Areas**

World Heritage Areas are areas of outstanding universal heritage value. The Australian Government can nominate Australian places to be placed on the World Heritage List.<sup>4</sup> If a nomination is accepted, the place will gain international protection, as well as protection under Australia law.<sup>5</sup>

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, or be likely to have, a significant effect on a World Heritage Area or the values of such an area, including cultural heritage values.<sup>6</sup>

World Heritage Areas within NSW include Gondwana Rainforests, Willandra Lakes, the Greater Blue Mountains and Lord Howe Island.<sup>7</sup>

### **Protection of national heritage**

The Federal Government also protects cultural heritage areas through a number of different national heritage lists.

The National Heritage List is a list of places, on public or private lands, which have been recognised by the Australian Government for their 'outstanding natural, Indigenous or historic heritage value to the nation'.

Anyone can nominate a place for inclusion on the National Heritage List if it satisfies at least one of the national heritage criteria set by the Australian Government.<sup>8</sup> Lodging nominations is free.

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

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.

Previously, places which have special value for present and future generations could also be placed on the National Estate Register. However, now new places can only be nominated for one of the other State or Commonwealth heritage lists, as these are now the primary source of protection for heritage places.

Federal Government approval is required for activities which will have a significant impact on a national heritage place.<sup>9</sup> However, in some cases the Federal Government can enter into a bilateral agreement with the State Government which allows the Federal Government to rely on the State Government's assessment of the activity.<sup>10</sup>

## **Protection of Commonwealth-owned or controlled land**

The Commonwealth Heritage List comprises places of significant (rather than outstanding) natural, Indigenous and historic heritage values, on lands and waters owned or controlled by the Commonwealth Government.

Anyone can nominate a Commonwealth place to be recognised on the Commonwealth Heritage List, and the same process is followed as for the National Heritage List, above.<sup>11</sup>

A Commonwealth agency must not take an action that is likely to have an adverse impact on the values of a Commonwealth heritage place, unless there is no feasible and prudent alternative to taking the action; and all measures that can reasonably be taken to mitigate the impact of the action on those values are taken.<sup>12</sup>

## **Protection of areas and objects of significance to Indigenous people**

An Aboriginal or Torres Strait Islander person or group, or someone on their behalf, can apply to the Commonwealth Environment Minister for protection for an area or object in Australia or Australian waters that is significant to Indigenous people.<sup>13</sup> There is no cost in making an application.

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.<sup>14</sup> This includes where a State Government has approved a development or approved destruction of an Aboriginal object or area under State laws.

## **Protection under Native Title**

Native Title holders, or recognised Native Title claimants, have certain rights over their traditional lands. This can include the right to negotiate for the protection of the heritage in the area over which Native Title applies.<sup>15</sup>

*For further advice about Native Title, contact the National Native Title Tribunal and your local Native Title Representative Body.*<sup>16</sup>



## 2. STATE PROTECTION

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### General protection of Aboriginal cultural heritage

The Office of Environment and Heritage (OEH) is responsible for protecting Aboriginal cultural heritage in NSW. The Aboriginal Cultural Heritage Advisory Committee (or ACHAC) advises the Environment Minister on matters relating to the identification, assessment and management of Aboriginal cultural heritage.<sup>17</sup>

There are five main ways that the NSW Government protects Aboriginal cultural heritage:

- 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.<sup>18</sup>

*See Part A: Accessing Country for more information on Aboriginal areas.*

- Stop work orders

The Chief Executive of OEH 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.<sup>19</sup> The order can be extended for further periods of 40 days.<sup>20</sup> This does not apply if the action is authorised by another Act.<sup>21</sup>

- Interim protection orders

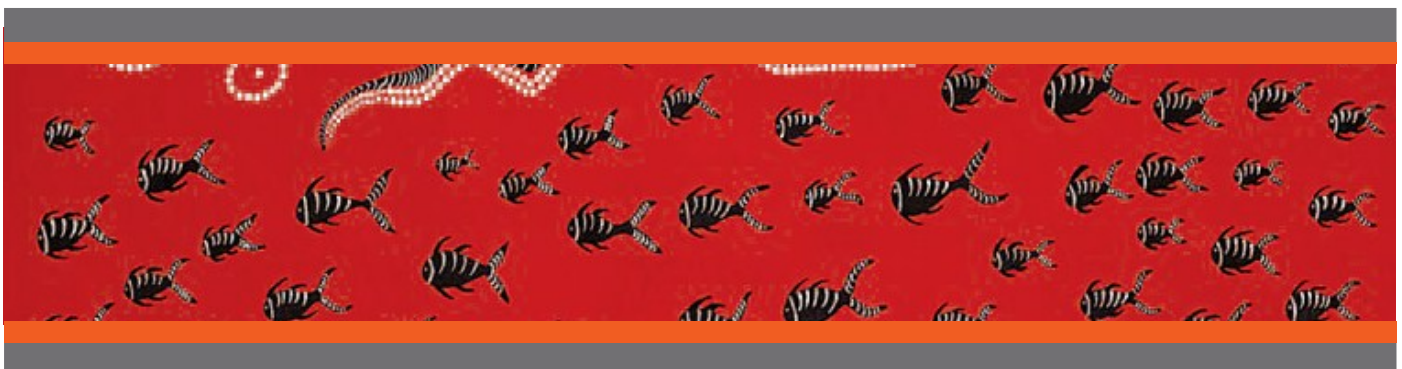
The Minister for the Environment can make an interim protection order to preserve land which, in the opinion of the Chief Executive of OEH, has cultural significance. This could include land with Aboriginal places or objects on it.<sup>22</sup> Interim protection orders are valid for the period that is specified in the order but no longer than 2 years.<sup>23</sup>

- Conservation agreements

The Minister for Environment can enter into a conservation agreement with private landowners to protect areas which contain Aboriginal objects or places of special significance.<sup>24</sup> A conservation agreement is a voluntary agreement but once it is entered into it is binding on the landowner as well as all future landowners. A conservation agreement restricts the use of the area and may require the preservation of the cultural values of the area. However, conservation agreements on private lands require the consent of the landowner and the person leasing or controlling the land.<sup>25</sup>

*See Part D: Managing Country for more information on conservation agreements.*

EDO NSW has also produced *A Guide for Private Conservation in NSW* which provides more detail on conservation agreements and outlines some of the other mechanisms landowners can use to protect and manage the cultural heritage and natural values on their lands.<sup>26</sup>



- Criminal offences

There are a number of criminal offences that relate to cultural heritage.<sup>27</sup> 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.<sup>28</sup>

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 Environmental Plans support the legal protections afforded to Aboriginal areas.

## Listing on the State Heritage Register

Natural and cultural heritage can be protected via the State Heritage Register.<sup>29</sup> Things that are listed on the State Heritage Register, with some exceptions, cannot be demolished, redeveloped or otherwise altered without an approval from the Heritage Council.<sup>30</sup>

The Minister for Planning and Infrastructure decides what gets listed but the Heritage Council can recommend listings. The Heritage Council also develops the criteria for what can be listed on the State Heritage Register.

If you want cultural heritage listed on the State Heritage Register, you should lobby the Heritage Council or the Minister for Planning and Infrastructure. It is free to lodge an application to include a place on the State Heritage Register.

## 3. STATE AND LOCAL GOVERNMENT PROTECTION

### Protection under planning law

Under NSW planning laws, all development and planning must be undertaken in accordance with environmental planning instruments such as Local Environmental Plans (LEPs).<sup>31</sup> LEPs contain a register of heritage places and items and these are also shown on a map that accompanies the LEP.<sup>32</sup> All LEPs also contain general provisions for the protection of listed heritage items and places. For example, any activity that is going to impact on a heritage item needs development consent.<sup>33</sup> Before consent can be granted, the decision-maker must consider the effect of the proposed development on the heritage significance of the item or area concerned.<sup>34</sup> This may require a heritage assessment to be undertaken.<sup>35</sup> With regards to Aboriginal places of heritage significance, the decision-maker cannot approve a development without first considering the effect of the proposed development on the heritage significance of the place and any Aboriginal object known or reasonably likely to be located at the place.<sup>36</sup> The decision-maker must also notify the local Aboriginal communities about the application and take into consideration any response received within 28 days after the notice is sent.<sup>37</sup>

*See Part B: Development for more information on how LEPs are made and your opportunities to comment on them.*

Some local councils have undertaken Aboriginal cultural studies, and have put in place policies or agreements to protect Aboriginal heritage within their boundaries, for example a requirement that a Local Aboriginal Land Council (LALC) be directly notified if a development is being considered near a recognised Aboriginal heritage site. Most councils also have Heritage Officers and Aboriginal Liaison Officers who can give you information and advice on cultural heritage matters.

The NSW Department of Planning and Infrastructure includes some requirements for assessing and considering the impacts of a development on Aboriginal cultural heritage as part of the environmental assessment processes.<sup>38</sup>

It is also important to note that planning laws operate *alongside* other laws to protect cultural heritage. This means that development consent may be granted for a development, but it would still be an offence to harm an Aboriginal object as part of undertaking that development without first getting an approval to harm that object. The only exception is where the need for additional approvals is switched off by planning law. This is the case with State significant development and State significant infrastructure which don't, for example, require Aboriginal Heritage Impact Permits (AHIPs) (see below for more information on AHIPs).<sup>39</sup>

*See Part B: Development for more information on State significant developments.*<sup>40</sup>

### **Who can destroy cultural heritage?**

Even when cultural heritage is protected by law, 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 Chief Executive of the Office of Environment and Heritage (OEH) can give permission for the destruction of cultural heritage, by issuing an 'Aboriginal Heritage Impact Permit' (AHIP).<sup>41</sup>

The Chief Executive can issue AHIPs to damage, destroy and remove objects and places of cultural heritage value. Such permits make it legal to do things that would otherwise be offences, such as to intentionally damage an Aboriginal object.<sup>42</sup>

It is rare for an application for an AHIP (previously known as a 'consent to destroy') to be rejected. However, as outlined in the following section, consultation with the Aboriginal community is required before the Chief Executive decides whether or not to issue an AHIP.<sup>43</sup> The Chief Executive is also required to consider practical measures that may be taken to protect and conserve the Aboriginal objects or Aboriginal place that are the subject of the permit,<sup>44</sup> for example through attaching conditions to the permit.

As noted above, the local council or Minister for Planning and Infrastructure can also approve developments which may damage or destroy Aboriginal heritage so long as they have given due consideration to the impact the development may have on Aboriginal cultural heritage and provided an opportunity for people to comment on the proposed development.

### **What penalties apply to the illegal destruction of cultural heritage?**

With some exceptions,<sup>45</sup> it is an offence to do any of the following without a permit:<sup>46</sup>

- a) harm or desecrate an Aboriginal object or place, even where a person did not know that they were causing harm to an Aboriginal object or place;
- b) intentionally damage an Aboriginal object or Aboriginal place; or
- c) contravene a condition of an Aboriginal Heritage Impact Permit.<sup>47</sup>

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 protected area.<sup>48</sup>

A person who is or becomes aware of the location of an Aboriginal object must notify the Chief Executive of the Office of Environment and Heritage within a reasonable period of time. It is an offence to fail to notify the Chief Executive unless the person believes on reasonable grounds that the Chief Executive is aware of the location of that Aboriginal object.<sup>49</sup>

## Case Studies

### ***Lester v Ashton Coal Pty Limited***<sup>50</sup>

In this case, Mr Lester, an elder of the Plains Clan of the Wonnarua People in the Hunter Valley argued that Ashton Coal Operations Pty Limited ('Ashton Coal') breached the *National Parks and Wildlife Act 1974* (NSW) ('the Act') by harming Aboriginal objects at three locations.

The NSW Land and Environment Court considered whether land subsidence caused by underground coal mining operations carried out by Ashton Coal caused harm to any Aboriginal objects. The objects included artefact sites, archaeological deposits and grinding grooves. The Court also considered whether construction of a road by an unrelated company harmed any Aboriginal objects.

The Court found that there was not enough evidence to establish that Ashton Coal was in breach of the Act.

### ***Plath v O'Neill***<sup>51</sup>

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 had already been destroyed, therefore any remaining Aboriginal middens in the Woombah area are the last of those originally present. Despite ongoing discussions with the former Department of Environment Climate Change (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 Land and Environment Court ordered they pay fines amounting to \$1,600 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***<sup>52</sup>

The Pinnacles south of Broken Hill are protected as an Aboriginal place.<sup>53</sup> 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.

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 words like "isn't it terrible that they put in these drains. Feels like they put a big hole in my body".

The director of Pinnacle Mines pleaded guilty. The Court found that the damage was not 'substantial' and sentenced the director to pay fines of \$1,400 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 establish a Wilykali Pinnacles Heritage Trust to which the director donated a four wheel drive truck, a trailer, a quad bike, and a fuel card of \$1,200 per annum.

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

Before making an application for an AHIP, the applicant must consult the Aboriginal community.<sup>54</sup> This involves identifying and notifying the following of the proposal to apply for an AHIP:<sup>55</sup>

- the Office of Environment and Heritage;
- the relevant Local Aboriginal Land Council;
- the Registrar appointed under the *Aboriginal Land Rights Act 1983*;
- the relevant local council;
- the National Native Title Tribunal;



- NTSCORP Limited; and
- the relevant Catchment Management Authority.

The applicant must also publish a notice of the proposed activity in a local newspaper circulating generally in the area of the land on or in which the proposed activity is to be carried out.<sup>56</sup>

The OEH also has guidelines that set out when and how Aboriginal people are to be consulted about the potential destruction of cultural heritage.<sup>57</sup> The guidelines state that the aim of consultation is to allow Aboriginal people to determine the significance of Aboriginal heritage, and to inform the decision of the Chief Executive to issue an AHIP.<sup>58</sup> The consent of Aboriginal people to the impact is not required.

If you wish to be consulted you can register your interest with the applicant. This gives you a right as a 'registered Aboriginal party' to be consulted on certain issues, including the methodology of the cultural and archaeological assessments that are undertaken and a right to provide feedback on the outcomes of such reports. If you don't register in time, you may still have a right to be consulted.

Once consultation has taken place and any reports have been completed, The Chief Executive will make a decision to either grant or refuse the application for an AHIP. If the application is approved, the views of registered Aboriginal parties may still be taken into account in attaching conditions to the approval.

### ***How can I challenge an Aboriginal Heritage Impact Permit?***

If an AHIP has been issued, 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 was the permit granted to? Was the permit issued appropriately? Who was consulted?

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

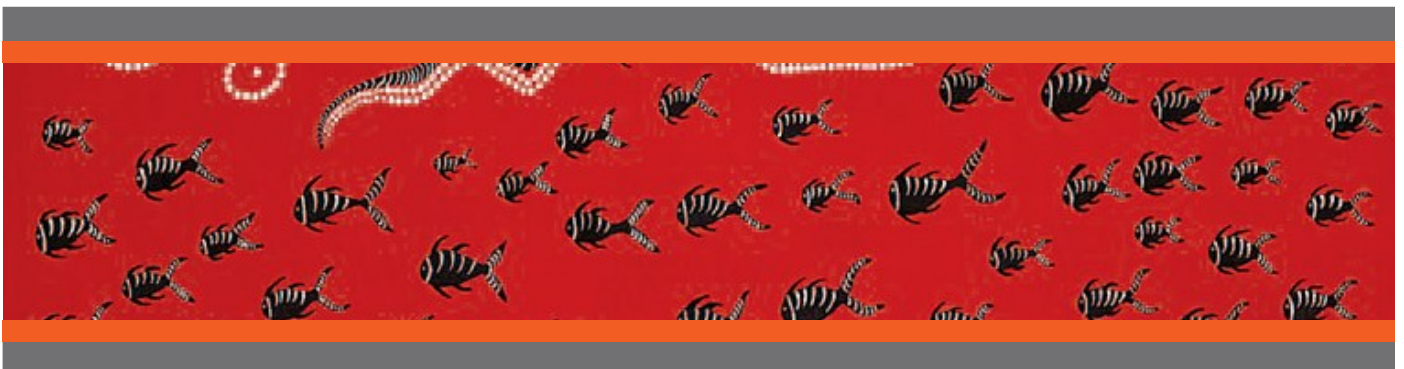
The OEH is required to keep a register of all Aboriginal objects and Aboriginal places in NSW, and make certain information public. The register is called the Aboriginal Heritage Information Management System or AHIMS.<sup>59</sup>

You can search the Register to see if anything is listed on your land or that of other people.<sup>60</sup> The fact that there is no listing does not mean that there is nothing of cultural heritage significance on the land, but rather that OEH has not been notified.

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1. *National Parks and Wildlife Act 1974* (NSW), s. 5.
  2. *National Parks and Wildlife Act 1974* (NSW), 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. Section 85A of the *National Parks and Wildlife Act 1974* (NSW) also allows for the transfer of Aboriginal objects to an Aboriginal person or Aboriginal organisation for safekeeping. The person or organisation must enter into a 'care agreement' with the Office of Environment and Heritage (OEH), using a standard form available from the OEH website: <http://www.environment.nsw.gov.au/licences/CareAgreements.htm>.
  3. *National Parks and Wildlife Act 1974* (NSW), s. 84.
  4. The Australian Government is a party to the World Heritage Convention.
  5. Through the *Environment Protection and Biodiversity Conservation Act 1999* (Cth).
  6. *Environment Protection and Biodiversity Conservation Act 1999* (Cth), s. 12.
  7. For a full list of World Heritage sites in Australia, visit: <http://www.environment.gov.au/heritage/places/world/list.html>
  8. The criteria for the National Heritage List can be found at <http://www.environment.gov.au/heritage/>. See also the *Environment Protection and Biodiversity Regulations 2000* (Cth).
  9. *Environment Protection and Biodiversity Conservation Act 1999* (Cth), s. 15B.
  10. Copies of bilateral agreements signed under the *Environmental Protection and Biodiversity Act 1999* (Cth) can be found at: <http://www.environment.gov.au/epbc/assessments/bilateral/index.html>. As of July 2012 only one bilateral agreement regarding heritage had been signed - regarding the Sydney Opera House. For more information see the Federal Department of Environment website at <http://www.environment.gov.au/heritage/index.html>.
  11. You can access the criteria from <http://www.environment.gov.au/heritage/nominating/index.html>.
  12. *Environment Protection and Biodiversity Conservation Act 1999* (Cth), s. 341ZC.

13. *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth), s. 10.
14. *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth), 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* (Cth) can also make emergency declarations for no more than 48 hours in relation to Indigenous heritage areas and objects.
15. *Native Title Act 1993* (Cth).
16. In NSW this is NTSCORP Ltd, formerly Native Title Services. See: <http://www.ntscorp.com.au/>
17. *National Parks and Wildlife Act 1974* (NSW), s. 28.
18. *National Parks and Wildlife Act 1974* (NSW), ss. 30K and 62.
19. *National Parks and Wildlife Act 1974* (NSW), s. 91AA.
20. *National Parks and Wildlife Act 1974* (NSW), s. 91DD.
21. *National Parks and Wildlife Act 1974* (NSW), ss. 91AA(3) and (4).
22. *National Parks and Wildlife Act 1974* (NSW), ss. 91A, 91B.
23. *National Parks and Wildlife Act 1974* (NSW), ss. 91B, 91D(1).
24. *National Parks and Wildlife Act 1974* (NSW), ss. 69B, 69C(1)(d).
25. *National Parks and Wildlife Act 1974* (NSW), s. 69B.
26. Contact us for a copy or access the guide online here: <http://www.edo.org.au/edonsw/site/publications.php#private>
27. *National Parks and Wildlife Act 1974* (NSW), s. 86.
28. Under the *National Parks and Wildlife Act 1974* (NSW).
29. *Heritage Act 1977* (NSW), Part 3A. Section 4A of this Act defines 'state significant heritage' to include a 'place, building, work, relic, moveable object or precinct, means significance to the State in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item'.
30. See: [http://www.heritage.nsw.gov.au/04\\_index.htm](http://www.heritage.nsw.gov.au/04_index.htm)
31. Most environmental planning instruments- Local Environmental Plans and State Environmental Planning Policies, are available online at [www.legislation.nsw.gov.au](http://www.legislation.nsw.gov.au) under 'Browse In Force'.
32. See Standard Instrument—Principal Local Environmental Plan, Schedule 5.
33. See Standard Instrument—Principal Local Environmental Plan, cl. 5.10(2).
34. See Standard Instrument—Principal Local Environmental Plan, cl. 5.10(4).
35. See Standard Instrument—Principal Local Environmental Plan, cl. 5.10(5).
36. See Standard Instrument—Principal Local Environmental Plan, cl. 5.10(8).
37. See Standard Instrument—Principal Local Environmental Plan, cl. 5.10(8).
38. See *Environmental Planning and Assessment Regulation 2000* (NSW), cl. 228(2)(e).
39. *Environmental Planning and Assessment Act 1979* (NSW), ss. 89J, 115ZG.
40. You can also refer to EDO NSW fact sheet on State significant development available at: [http://www.edo.org.au/edonsw/site/factsh/fs02\\_3\\_1b.php](http://www.edo.org.au/edonsw/site/factsh/fs02_3_1b.php).
41. *National Parks and Wildlife Act 1974* (NSW), s. 90.
42. *National Parks and Wildlife Act 1974* (NSW), s. 87.
43. *National Parks and Wildlife Act 1974* (NSW), s. 90N; *National Parks and Wildlife Regulation 2009* (NSW), cl. 80C.
44. *National Parks and Wildlife Act 1974* (NSW), s. 90K.
45. Exceptions include if an activity is consistent with the *Code of Practice for Archaeological Investigation of Aboriginal objects in NSW*, which came into effect in 2010. This Code allows certain test excavation and other activities without a permit. See: *National Parks and Wildlife Regulation 2009* (NSW), cl. 3A.
46. *National Parks and Wildlife Act 1974* (NSW), s. 86. See also *National Parks and Wildlife Act* (NSW), s. 5 and *National Parks and Wildlife Regulation 2009* (NSW), cl. 3A for the definition of 'harm' to an Aboriginal object or place.
47. *National Parks and Wildlife Act* (NSW), s. 90J.

48. For more offences, see *National Parks and Wildlife Regulation 2009* (NSW), cl 16.
49. *National Parks and Wildlife Act 1974* (NSW), s. 89A.
50. [2012] NSWLEC 181. See: <http://www.caselaw.nsw.gov.au/action/PJUDG?jgmid=159916>
51. [2007] NSWLEC 553.
52. [2007] 151 LGERA 92.
53. Under the *National Parks and Wildlife Act 1974* (NSW).
54. *National Parks and Wildlife Regulation 2009* (NSW), cl. 80C.
55. *National Parks and Wildlife Regulation 2009* (NSW), cl. 80C(2).
56. *National Parks and Wildlife Regulation 2009* (NSW), cl. 80C(2)(c).
57. The OEH *Aboriginal* cultural heritage consultation requirements for proponents 2010 are available from <http://www.environment.nsw.gov.au/licences/Consultation.htm>.
58. <http://www.environment.nsw.gov.au/licences/Consultation.htm>.
59. *National Parks and Wildlife Act 1974* (NSW), ss. 188F and 188G. For more information, see: <http://www3.environment.nsw.gov.au/naws.nsf/content/aboriginal+heritage+information+management+system>
60. OEH has a policy of providing information to the Aboriginal community free of charge but otherwise there's a fee: <http://www.environment.nsw.gov.au/licences/WhatInformationCanYouObtainFromAHIMS.htm>.





## 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.

### 1. CONTAMINATED LANDS

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#### *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.<sup>1</sup> There is a public register of all regulated contaminated lands available through the Environment Protection Authority (EPA).<sup>2</sup> Sites that are being monitored by the EPA for air, water, noise, and waste impacts can be found on the register.<sup>3</sup>

The local council is responsible for dealing with contaminated land that doesn't pose a risk of harm. If this is the case, the land may not appear on this register. In this case, the local council can provide information on contaminated land in a s. 149 certificate.<sup>4</sup>

#### *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.<sup>5</sup>

The EPA can order an investigation into land to establish whether the contamination poses a risk of harm.<sup>6</sup> Where it is not a significant risk, the local council is responsible for management.

If contamination is found to be present, the person who caused the contamination or the owner of the land<sup>7</sup> may be issued with a management order requiring them to remediate the land.<sup>8</sup> An occupier of the land or a person reasonably suspected of causing pollution may be issued a clean-up notice.<sup>9</sup>

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.<sup>10</sup>

Remediation includes:<sup>11</sup>

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



## 2. DUMPING RUBBISH

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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 s. 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,<sup>12</sup> or remediate the land if the contamination causes a 'significant risk of harm'.<sup>13</sup>

### ***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 the EPA or the local council.<sup>14</sup> 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 may need permission to dump rubbish on your land, depending on the likelihood of it causing environmental damage, and the size, extent and source of the rubbish.<sup>15</sup> To find out if you need permission, contact your local council or the OEH.

### ***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.<sup>16</sup> It is always safest to check with the local council and the OEH 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.<sup>17</sup>

You must never burn some items such as tyres, certain treated timbers, coated wires, paint tins and solvent containers.<sup>18</sup>

## 3. WATER POLLUTION

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### ***What restrictions apply to activities that pollute water?***

There is a general ban on polluting surface and ground water without permission.<sup>19</sup> 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.<sup>20</sup>

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

Polluting waters without a licence is an offence that carries large fines.<sup>21</sup> If you are in doubt, you should contact the OEH 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.<sup>22</sup>

## 4. NOISE POLLUTION

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### *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, local council, or OEH officer may issue a 'noise abatement direction'. This is a temporary order that requires you to control the noise. In addition, the local council may issue a noise control notice to place ongoing restrictions on the noise. An offensive noise is one which is harmful to, or likely to interfere unreasonably with, the comfort of a person on another property.<sup>23</sup>

If you are affected by noise you can also apply to the Local Court for a 'noise abatement order'.<sup>24</sup>

Certain noisy activities, such as operating heavy machinery may need a licence from the EPA.<sup>25</sup>

## 5. BUSHFIRE MITIGATION

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### *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.<sup>26</sup> However, the danger period may be varied by a local council or the OEH,<sup>27</sup> so you should check with your local Rural Fire Service (RFS) and the OEH for variations, bans and 'no burn notices'. You can get a permit from your local RFS Fire Control Centre. You may also need to notify your neighbours and the local 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 Centre,<sup>28</sup> and the local council, letting them know the location, purpose, period and time of the fire.<sup>29</sup> 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 local 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.<sup>30</sup>

### *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 the 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 Coordinating Committee advises you to take, and any steps included in a Bush Fire Risk Management Plan that applies to your land.<sup>31</sup>

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 notice,<sup>32</sup> and the council's Fire Control Officer must try to arrange an acceptable solution with you.<sup>33</sup> If you are still not satisfied, you can appeal to the Commissioner of the RFS.<sup>34</sup> 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.<sup>35</sup>

### ***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 NSW Department of Trade and Investment, or the OEH for assistance.<sup>36</sup>

### ***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.<sup>37</sup>

The Rural Fire Brigade must give you written notice of its intention to come onto private property, unless entry is needed urgently.<sup>38</sup>

## **6. MANAGING MINING**

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EDO NSW has prepared a community guide to mining law in NSW that provides much more detail on the information covered in this section.<sup>39</sup> This section deals with mining, as opposed to quarrying which is a different type of extractive industry and regulated differently.

### ***Who owns the minerals and petroleum in my land?***

As a general rule, the Crown (the Government) owns the minerals and petroleum on or under your land, including native title land, and LALC lands.<sup>40</sup> The Government can authorise others to come onto your land to look for and/or remove any minerals or petroleum found there.

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

There are a number of titles that allow for the exploration and extraction of minerals (such as coal and gold) and petroleum (such as coal seam gas). These titles can be issued over any land, and include:

- An *exploration licence* - allows the holder to search for certain groups of minerals or petroleum and can be granted for up to 5 years for minerals and 6 years for petroleum.<sup>41</sup>
- A *petroleum special prospecting authority* - gives the holder the right to look for petroleum in the area covered by the authority for an initial term of up to 12 months.<sup>42</sup> They tend to authorise preliminary exploration methods only, such as geological surveys and are used to ascertain the CSG potential of large areas of land. If the holder of a special prospecting authority wants to undertake more intensive exploration, an exploration licence will be required.
- An *assessment lease* - grants the leaseholder the right to explore for specified minerals or petroleum in a designated area. Assessment leases are designed to allow the retention of rights over an area in which a significant mineral or petroleum deposit has been identified, if mining the deposit is not commercially viable in the short term but there is a reasonable prospect that it will be in the longer term. Assessment leases can be granted for up to 5 years for coal and up to 6 years for CSG.<sup>43</sup>
- A *mining lease* - gives the leaseholder the right to engage in approved mining activities within a specified site. They can be granted for up to 21 years.<sup>44</sup>
- A *petroleum production lease* - gives the leaseholder the right to engage in approved petroleum production activities within a specified site. They can be granted for up to 21 years.<sup>45</sup>

All of these titles are issued by the Minister for Resources and Energy and are renewable.

Development consent from either the Department of Planning and Infrastructure or a local council is also

required for some exploration and most mining/petroleum production activities

### ***What restrictions are there on mining and exploration?***

There are some restrictions on where exploration and mining activities can take place, and these are designed to protect certain public places and private assets.

#### *Protections for houses, gardens etc.*

Mineral exploration and mining operations are not allowed within 200 metres of a person's home, within 50 metres of a garden, or on any significant improvement such as a dam without the written consent of the owner and the occupier of the land.<sup>46</sup>

Petroleum exploration and production operations are not allowed within 200 metres of a person's home, within 50 metres of a garden, vineyard, or orchard, or on any improvement such as a dam without the written consent of the owner and the occupier of the land.<sup>47</sup>

A land occupier can't take back their consent after it has been granted.<sup>48</sup>

#### *Protections for exempted areas*

There are a number of exempted areas where no *exploration* activities can take place under an exploration licence without the specific consent of the Minister for Resources and Energy.<sup>49</sup>

Exempted areas tend to be land that is held for a public purpose. Examples include State Forests, Travelling Stock Routes, State Conservation Areas, public reserves, community land, Crown land and land held on trust as a racecourse, cricket ground, recreation reserve, park or permanent common.<sup>50</sup>

Notwithstanding this restriction, the Minister for Resources and Energy can issue an 'exempted area consent' to allow for exploration in such areas.

The same restrictions apply with regards to exempted areas at the petroleum production stage,<sup>51</sup> but don't apply for mining activities (only exploration).

#### *Protections for National Parks and other protected areas*

While an exploration licence may cover them, it is generally unlawful to *explore* in a National Park, historic site, nature reserve, karst conservation reserve or Aboriginal area.<sup>52</sup>

However, a special Act of Parliament can authorise exploration in these areas<sup>53</sup> or the reserved status of the land could be revoked.

It is also possible for the NSW Minister for Environment to approve exploration in these areas if the exploration is being undertaken on behalf of the Government.<sup>54</sup> In such cases, there needs to be a notice of the Minister's intention to issue such an approval laid before both Houses of Parliament, and members of Parliament are allowed 15 sitting days to put on a motion objecting to such notice. If that motion is passed, then the Minister cannot grant the approval for the exploration.<sup>55</sup>

CSG exploration is also prohibited within a State recreation area<sup>56</sup> without the agreement of the Minister for Environment.<sup>57</sup>

It is unlawful to *mine* (which includes CSG extraction) in a National Park, historic site, nature reserve, karst conservation reserve or Aboriginal area.<sup>58</sup> A special Act of Parliament would be needed to authorise mining or CSG production in these areas. Many National Parks go to the centre of the Earth, while some have depth restrictions. If there is a depth restriction, it is possible to mine beneath the National Park below that depth.

CSG *production* is also prohibited within a State Recreation Area<sup>59</sup> without the agreement of the NSW Minister for the Environment.<sup>60</sup>

### *Protections for agricultural land and cultivated land*

The law provides some protection for agricultural land in the case of mining and cultivated land in the case of CSG production activities.

A mining lease *cannot* be granted over agricultural land without the written consent of the landowner.<sup>61</sup> If the landowner gives consent, the consent cannot be revoked.<sup>62</sup>

In order for this protection to be available, landowners must write to the Director-General of Trade and Investment and object to the granting of the lease over their land on the grounds that the land, or part of it, is agricultural land.<sup>63</sup> The objection must be in writing and must be lodged within 28 days of receiving the notice.<sup>64</sup> Agricultural land is legally defined.<sup>65</sup>

As a general rule, the holder of a petroleum production lease cannot carry out any production operations on the *surface* of any land which is under cultivation except with the consent of the landowner.

However, the Minister for Resources and Energy can define an area of cultivated land on which production activities can be carried out if the Minister thinks the circumstances warrant it. If this happens, a compensation assessment has to be made before any production activities start to ensure the landowner is compensated for any loss or damage to any crop on the land concerned.<sup>66</sup>

There is no legal definition for what constitutes cultivated land; however, cultivation for the growth and spread of pasture grasses is not to be taken to be cultivation unless the Minister thinks the circumstances warrant it.<sup>67</sup> If there is a dispute about whether particular land is cultivated, the Minister for Resources and Energy has the final say.

### *Restrictions to protect Aboriginal Cultural Heritage*

Where the exploration or mining/production activities require development consent, the decision-maker can attach conditions to protect Aboriginal cultural heritage.<sup>68</sup>

Depending on the category of development the proposal falls into, the project may also need to undergo an environmental impact assessment before it can be approved.<sup>69</sup>

Those mining and petroleum production activities that fall into a category of development known as State significant development will not require an Aboriginal Heritage Impact Permit (AHIP) to disturb or harm any Aboriginal object or declared Aboriginal place.<sup>70</sup> Those that fall into the 'designated development' category will need an AHIP.

*See Part B: Development for more information on the different categories of development.*

### ***What about exploration and mining on Native Title lands?***

Native title holders and registered native title claimants have a right to negotiate how exploration, mining, and petroleum production goes ahead on native title lands.<sup>71</sup> Restrictions may include how and where mining happens, protection or relocation of Aboriginal objects or other agreements for employment or compensation.

This right to negotiate cannot stop the approval of a mining or petroleum project.

### ***Can I prevent a mining or petroleum production project being approved?***

You may be notified of a mining or petroleum production lease application through a personal or community letter or by newspaper advertisement.<sup>72</sup>

The consent of the landowner is not required for a mining or petroleum development to be approved. The mining and petroleum industry is the only industry in Australia where a private company can develop a person's land without their consent.

You can object to the granting of an exploration or mining title or the granting of development consent but this does not mean the title or consent will not be granted.



The main opportunity landowners have to control what happens on their land is at the exploration stage where they can negotiate an access arrangement with the mining or CSG company.<sup>73</sup> These are legally required before any exploration can take place on your land. An access arrangement sets out the terms upon which the company can access the land and what they can do while they are on there. They are only required at the exploration stage, not the mining/production stage.

### ***Can I get compensation for the effect of mining and petroleum production on my land?***

Landowners are entitled to compensation if mining or petroleum activities affect the surface of their land.<sup>74</sup> Native title holders and registered native title claimants are entitled to compensation if mining or petroleum activities impact on their native title rights and interests.<sup>75</sup> However, there is no compensation for the destruction of Aboriginal places, objects, artefacts or relics under an AHIP.

### ***What agreements can be made with mining or CSG companies?***

Any type of partnership, agreement or contract may be entered into with mining or CSG companies to manage the impacts of their activities on Aboriginal rights, interests or heritage.<sup>76</sup>

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

If the conditions of a mining lease or licence, or development consent are breached, you can report the breach to the Department of Trade & Investment (Resources and Energy), the Department of Planning & Infrastructure, your local council, or the OEH. You could also contact the mine directly, and your local member of Parliament.

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.<sup>77</sup>

*For more information about taking legal action to enforce the conditions of mining lease or licence, contact EDO NSW.*

## **7. MANAGING ENVIRONMENTAL CONSERVATION**

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### ***Commonwealth Protected Areas***

Three of the six Commonwealth National Parks in Australia are joint-managed by Aboriginal people.<sup>78</sup> The Federal Minister for the Environment can lease Aboriginal-owned land and jointly manage that land as a National Park.<sup>79</sup>

In NSW, Booderee National Park is jointly managed between the Wreck Bay Community and the Department of Sustainability, Environment, Water, Population and Communities.<sup>80</sup>

### ***New South Wales Protected Areas***

Aboriginal people can own and jointly manage National Parks and other reserves in NSW.<sup>81</sup>

Certain protected areas can be transferred to the Local Aboriginal Land Council (LALC) and leased back to the National Parks and Wildlife Service (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 reserve to compensate the Aboriginal owners for loss of full use and enjoyment of the lands. The rent must be spent within the reserve 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.

Examples of reserves managed in this way include 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 and Mount Yarrowyck Nature Reserve.<sup>82</sup>

## ***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 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 (Barkindji, Mutthi Mutthi, and Nyiampaa), and the NPWS.<sup>83</sup>

## **8. PRIVATE CONSERVATION**

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There are a number of programs through which landowners can voluntarily conserve areas of ecological or cultural value on their properties, some of which are listed here.

EDO NSW has prepared a guide to private conservation for NSW communities which provides more detail on the mechanisms discussed in this section.<sup>84</sup>

### ***Conservation agreements***

A conservation agreement is a binding agreement made with the NSW Minister for the Environment and which is attached to the title of the land.<sup>85</sup> The land remains in the ownership of the landowner but the landowner and any future purchasers are required to manage the property in accordance with a plan of management that is attached to the agreement. These agreements provide strong legal protection for the natural and cultural values of a property.<sup>86</sup>

### ***Trust agreements***

Trust agreements are similar to conservation agreements (above). The key difference is that they are made between the landowner and the Nature Conservation Trust (which is a non-government organisation) rather than the Minister for Environment. The Nature Conservation Trust<sup>87</sup> aims to encourage conservation on privately managed land in partnership with land managers. In addition to trust agreements, the Trust buys property of high conservation value, places a trust agreement on it and then sells the property. The trust agreements are attached to the title of the property and bind all future purchasers. Again, these provide strong legal protection for the natural and cultural values of the land.

### ***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.<sup>88</sup>

### ***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.

The Biodiversity Banking and Offsets Scheme (BioBanking)<sup>89</sup> is administered by the Office of Environment and Heritage and is an option available to landowners who wish to generate tradeable credits by committing to actively preserving the biodiversity on their properties.<sup>90</sup> The credits that are generated can be sold on the market and used to offset the destruction of biodiversity elsewhere.

### **Property vegetation plans**

Property vegetation plans<sup>91</sup> are a way to authorise the clearing of native vegetation. Used another way, they can provide landowners with access to financial incentives such as grants to help fund conservation practices. PVPs are granted by your local Catchment Management Authority.<sup>92</sup>

### **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.<sup>93</sup>

The IPA program is part of the National Reserve System program and the national Caring for our Country funding scheme.<sup>94</sup>

There are currently eight IPAs within New South Wales: Brewarrina Ngemba Billabong, Boorabee and The Willows, Gumma, Minyumai, Tarriwa Kurrukun, Toogimbie, Wattleridge, and Weilmoringle IPAs.<sup>95</sup>

Applications for the IPA program should be made using the standard application form.<sup>96</sup>

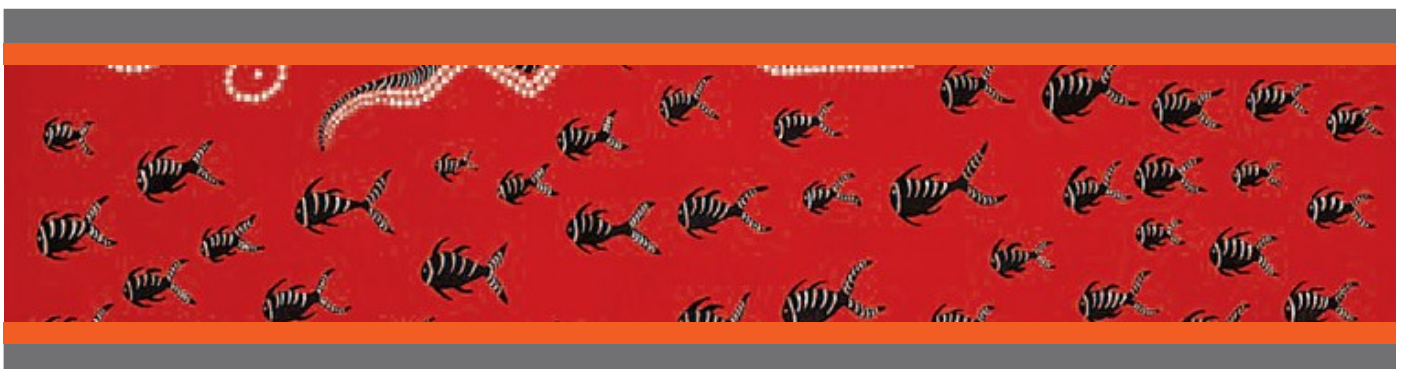
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1. As defined under the *Contaminated Land Management Act 1997* (NSW), s. 5.
  2. The EPA is an independent statutory authority. For more information, visit the EPA website: <http://www.environment.nsw.gov.au/clm/>.
  3. Access to the register must be provided upon request to the EPA. See: *Protection of the Environment Operations Act 1997* (NSW), s. 309.
  4. *Environmental Planning and Assessment Act 1979* (NSW), s. 149. Councils must provide these certificates upon the payment of the appropriate fee.
  5. *Contaminated Land Management Act 1997* (NSW), s. 60.
  6. *Contaminated Land Management Act 1997* (NSW), ss. 7, 9, 10.
  7. *Contaminated Land Management Act 1997* (NSW), s. 13.
  8. *Contaminated Land Management Act 1997* (NSW), s. 14.
  9. *Protection of the Environment Operations Act 1997* (NSW), s. 91.
  10. *Contaminated Land Management Act 1997* (NSW), s. 12.
  11. *Contaminated Land Management Act 1997* (NSW), s. 4.
  12. *Protection of the Environment Operations Act 1997* (NSW), s. 91.
  13. The maximum penalty for polluting or causing pollution of land is: for corporations - \$1,000,000 and a further \$120,000 for each day the offence continues; or for individuals - \$250,000 and a further \$60,000 for each day the offence continues.
  14. *Protection of the Environment Operations Act 1997* (NSW), Pt. 5.7.
  15. *Protection of the Environment Operations Act 1997* (NSW), s. 144.
  16. The maximum penalty is \$3,300 for an individual and \$5,500 for a corporation. See: *Protection of the Environment Operations Act 1997* (NSW), ss. 145, 145A.
  17. *Protection of the Environment Operations (Clean Air) Regulation 2010* (NSW), cl. 10.
  18. *Protection of the Environment Operations (Clean Air) Regulation 2010* (NSW), cl. 11. For more information, contact the OEH Pollution Line on 131 555 or your local Fire Brigade or Rural Fire Service.
  19. *Protection of the Environment Operations Act 1997* (NSW), s. 120.
  20. *Protection of the Environment Operations Act 1997* (NSW), Dictionary.

21. The 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. See: *Protection of the Environment Operations Act 1997* (NSW), s. 123.
22. The maximum penalty for environmental harm is \$5,000,000 for a company and \$1,000,000 and/or 7 years imprisonment for an individual. See: *Protection of the Environment Operations Act 1997* (NSW), s. 119.
23. Offensive noise is defined in the dictionary of the *Protection of the Environment Operations Act 1997* (NSW).
24. *Protection of the Environment Operations Act 1997* (NSW), s. 268.
25. *Protection of the Environment Operations Act 1997* (NSW), s. 42, Schedule 1. Check with the OEH to see if you require a licence.
26. *Rural Fires Act 1997* (NSW), s. 81.
27. For No Burn Notices, see OEH website: [www.environment.nsw.gov.au/air/aboutnb.htm#nbn](http://www.environment.nsw.gov.au/air/aboutnb.htm#nbn)
28. With at least 24 hours notice.
29. *Rural Fires Act 1997* (NSW), ss. 86-88.
30. *Rural Fires Act 1997* (NSW), ss. 86-88, 92.
31. *Rural Fires Act 1997* (NSW), s. 63.
32. Within seven days of being given the notice. See: *Rural Fires Act 1997* (NSW), s. 67.
33. Within seven days of being given the notice. See: *Rural Fires Act 1997* (NSW), s. 67.
34. *Rural Fires Act 1997* (NSW), s. 68.
35. *Rural Fires Act 1997* (NSW), 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* (NSW), s. 66.
36. The maximum penalty for not doing so is a fine of \$2,200 and/or 6 months imprisonment. See: *Rural Fires Act 1997* (NSW), s. 64.
37. *Rural Fires Act 1997* (NSW), s. 22.
38. *Rural Fires Act 1997* (NSW), Pt 2, Div 3.
39. The guide can be accessed here: <http://www.edo.org.au/edonsw/site/publications.php> or you can contact us and we'll post a free copy to you. Phone 02 9262 6989 or email [education@edonsw.org.au](mailto:education@edonsw.org.au)
40. The *Native Title Act 1993* (Cth) reserves State ownership of mineral rights.
41. *Mining Act 1992* (NSW), s. 27; *Petroleum (Onshore) Act 1991* (NSW), s. 31.
42. *Petroleum (Onshore) Act 1991* (NSW), ss. 38-40.
43. *Mining Act 1992* (NSW), s. 45; *Petroleum (Onshore) Act 1991* (NSW), s. 35.
44. *Mining Act 1992* (NSW), s. 71
45. *Petroleum (Onshore) Act 1991* (NSW), s. 45.
46. *Mining Act 1992* (NSW), ss. 31, 49, 62.
47. *Petroleum (Onshore) Act 1991* (NSW), s. 72.
48. *Mining Act 1992* (NSW), ss. 31, 49, 62; *Petroleum (Onshore) Act 1991* (NSW), s. 72.
49. *Mining Act 1992* (NSW), s. 30; *Petroleum (Onshore) Act 1991* (NSW), s. 70.
50. *Mining Act 1992* (NSW), Dictionary; *Petroleum (Onshore) Act 1991* (NSW), s. 70.
51. *Petroleum (Onshore) Act 1991* (NSW), s. 70.
52. *National Parks and Wildlife Act 1974* (NSW), ss. 41, 54, 58O and 64.
53. *National Parks and Wildlife Act 1974* (NSW), s. 41.
54. *National Parks and Wildlife Act 1974* (NSW), ss. 41(4), 54, 58O and 64. The Minister for Resources and Energy can nominate a person to undertake the exploration on behalf of the Government.
55. *National Parks and Wildlife Act 1974* (NSW), ss. 41(5), 54, 58O and 64. Note that the *Mining Act 1992* (NSW) and the *Petroleum (Onshore) Act 1991* (NSW) do not apply to National Parks and other Special Areas. Therefore, there is no requirement for an exploration licence to be issued. Rather, the process set out under the *National Parks and Wildlife Act 1974* (NSW) is the process for authorising exploration in these areas.
56. Under the *National Parks and Wildlife Act 1974* (NSW).

57. *Petroleum (Onshore) Act 1991* (NSW), s. 70(3).
58. *National Parks and Wildlife Act 1974* (NSW), ss. 41, 54, 58O and 64.
59. Under the *National Parks and Wildlife Act 1974* (NSW).
60. *Petroleum (Onshore) Act 1991* (NSW), s. 70(3).
61. *Mining Act 1992* (NSW), Sch. 1, cl. 23.
62. *Mining Act 1992* (NSW), Sch. 1, cl. 22(4).
63. *Mining Act 1992* (NSW), Sch. 1, cl. 22.
64. *Mining Act 1992* (NSW), Sch. 1, cl. 22.
65. *Mining Act 1992* (NSW), Sch. 2.
66. *Petroleum (Onshore) Act 1991* (NSW), s. 71(2A). The assessment can be made between the landowner and the gas company or, if they can't agree, by the Land and Environment Court.
67. *Petroleum (Onshore) Act 1991* (NSW), s. 71(3).
68. *Environmental Planning and Assessment Act 1979* (NSW), s. 80A(1).
69. For more information on the application process, contact EDO NSW, the NSW Aboriginal Land Council, or the Minerals Council at [www.nswmin.com.au](http://www.nswmin.com.au).
70. *Environmental Planning and Assessment Act 1979* (NSW), s. 89J(1)(d).
71. *Native Title Act 1993* (Cth), Pt 2, Div 3, Subdiv P.
72. *Mining Act 1992* (NSW), s. 51A.
73. *Mining Act 1992* (NSW), Part 8, Div. 2; *Petroleum (Onshore) Act 1991* (NSW), Part 4A.
74. *Mining Act 1992* (NSW), s. 265; *Petroleum (Onshore) Act 1991* (NSW), s. 107.
75. *Mining Act 1992* (NSW), s. 267A; *Petroleum (Onshore) Act 1991* (NSW), s. 112A.
76. Refer to <http://www.atns.net.au> for more examples of Agreements.
77. See, for example, the *Environmental Planning and Assessment Act 1979* (NSW), s. 123; *Protection of the Environment Operations Act 1997* (NSW), s. 253; *Native Vegetation Act 2003* (NSW), s. 41.
78. Kakdu, Uluru, and Booderee: <http://www.environment.gov.au/parks/parks/index.html>.
79. *Environment Protection and Biodiversity Conservation Act 1999* (Cth), s. 377.
80. The National Park is owned by the Wreck Bay community under the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986* (Cth). 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.
81. See the *National Parks and Wildlife Act 1974* (NSW), Part 4A and the *Aboriginal Land Rights Act 1983* (NSW), s. 36A.
82. *National Parks and Wildlife Act 1974* (NSW), Sch. 14.
83. See: <http://www.environment.nsw.gov.au/jointmanagement/mungojointmanagment.htm>.
84. The guide can be accessed here: <http://www.edo.org.au/edonsw/site/publications.php> or you can contact us and we'll post a free copy to you. Phone 02 9262 6989 or email [education@edonsw.org.au](mailto:education@edonsw.org.au)
85. *National Parks and Wildlife Act 1974* (NSW), Pt. 4, Div. 12.
86. For more information, see: <http://www.environment.nsw.gov.au/cpp/ConservationAgreements.htm>
87. Established by the *Nature Conservation Trust Act 2001*. For more information on the Trust, see: <http://nct.org.au/>
88. See: <http://www.environment.nsw.gov.au/grants/pop.htm>. For more information, contact the Trust's Aboriginal Programs Officer on (02) 8837 6399 or at 'Environmental Trust' PO Box 644, PARRAMATTA NSW 2124.
89. *Threatened Species Conservation Act 1995* (NSW), Part 7A.
90. See: <http://www.environment.nsw.gov.au/biobanking/>
91. *Native Vegetation Act 2003* (NSW), Part 4. See: <http://www.environment.nsw.gov.au/vegetation/nvmanagement.htm>.
92. See: <http://www.cma.nsw.gov.au/>.



93. See: <http://www.environment.gov.au/indigenous/ipa/index.html>.
94. See: <http://www.nrm.gov.au/>.
95. <http://www.environment.gov.au/indigenous/ipa/declared/nsw.html>.
96. <http://www.environment.gov.au/indigenous/ipa/index.html>.





## Contacts and Information

### 1. LEGAL ASSISTANCE

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#### **EDO NSW**

Level 5, 263 Clarence Street Sydney NSW 2000

Phone: 02 9262 6989 or 1800 626 239

Fax: 02 9264 2414

Website: [www.edonsw.org.au](http://www.edonsw.org.au)

#### **EDO NSW (Northern Rivers Office)**

Street address: 1/71 Molesworth Street Lismore NSW 2480

Postal address: PO Box 868 Lismore NSW 2480

Phone: 1300 369 791 Fax: 02 6621 3355

Website: [www.edonsw.org.au](http://www.edonsw.org.au)

#### **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](http://www.lawlink.nsw.gov.au/lec)

### 2. STATE GOVERNMENT DEPARTMENTS

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#### **Office of Communities – 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](http://www.daa.nsw.gov.au)

#### **Department of Planning and Infrastructure**

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](http://www.planning.nsw.gov.au)

### **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

Email: [info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au)

Website: [www.nationalparks.nsw.gov.au](http://www.nationalparks.nsw.gov.au)

### *Aboriginal Heritage Information Management System (AHIMS) Registrar*

Street address: Level 6, 43 Bridge Street, Hurstville NSW

Postal address: PO Box 1967, Hurstville NSW 1481

Phone: (02) 9585 6345 Fax: (02) 9585 6094

Email: [ahims@environment.nsw.gov.au](mailto:ahims@environment.nsw.gov.au)

Website: <http://www.environment.nsw.gov.au/contact/AHIMSRegistrar.htm>

### **Office of Environment and Heritage**

Postal address: PO Box A290 Sydney South, NSW 1232

Phone: (02) 9995 5000

Environment Line: 131 555 (for information on pesticides, pollutions, licences etc.)

Email: [info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au)

Website: [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)

The 'Strengthening Aboriginal Wellbeing' Toolkit is a software-based support tool designed to help Aboriginal community groups to assess their current level of wellbeing and develop goals to improve wellbeing. It includes information about land management for biodiversity, and Aboriginal places. For more information, visit the OEH website at <http://www.environment.nsw.gov.au/nswcultureheritage/AboriginalPeopleAndCulturalLife.htm>.

### **Environment Protection Authority**

Postal address: PO Box A290 Sydney South, NSW 1232.

Pollution hotline: 131555 or 02 9995 5555.

### **Department of Trade and Investment**

Street address: Level 47, MLC Centre, 19 Martin Place, Sydney NSW 2000

Phone: (02) 9338 6600

Website: [www.trade.nsw.gov.au](http://www.trade.nsw.gov.au)

### *Minerals and Petroleum*

Postal address: NSW DPI, PO Box 344, Hunter Regional Mail Centre NSW 2310

Information line: 1300 736 122

Phone: (02) 4931 6666

Email: [minres.webcoordinator@dpi.nsw.gov.au](mailto:minres.webcoordinator@dpi.nsw.gov.au)

Website: <http://www.resources.nsw.gov.au/>

#### *Agriculture*

Postal address: NSW DPI, Locked Bag 21, Orange NSW 2800

Agriculture advisory line: 1800 808 095

Email: [nsw.agriculture@dpi.nsw.gov.au](mailto:nsw.agriculture@dpi.nsw.gov.au)

Website: [www.dpi.nsw.gov.au/agriculture](http://www.dpi.nsw.gov.au/agriculture)

#### *Fisheries*

Postal address: NSW DPI, PO Box 21, Cronulla NSW 2230

Information line: 1300 550 474

Email: [information-advisory@dpi.nsw.gov.au](mailto:information-advisory@dpi.nsw.gov.au)

Website: [www.dpi.nsw.gov.au/fisheries](http://www.dpi.nsw.gov.au/fisheries)

#### *Forestry*

Postal address: NSW DPI, PO Box 100, Beecroft NSW 2119

Information line: 1300 655 687

Email: [cumberland@sf.nsw.gov.au](mailto:cumberland@sf.nsw.gov.au)

Website: <http://www.forests.nsw.gov.au/>

#### *Game Council*

Postal address: PO Box 2506, Orange NSW 2800

Phone: (02) 6360 5111

Email: [info@gamecouncil.nsw.gov.au](mailto:info@gamecouncil.nsw.gov.au)

Website: [www.gamecouncil.nsw.gov.au](http://www.gamecouncil.nsw.gov.au)

#### *Crown lands management*

Phone: 1300 052 637

Website: [www.lpma.nsw.gov.au/](http://www.lpma.nsw.gov.au/)

#### *Livestock Health and Pest Authorities*

Postal address: Locked Bag 21, Orange NSW 2800

Phone: (02) 6391 3242

Email: [lhpa.smc@lhpa.org.au](mailto:lhma.smc@lhpa.org.au)

Website: [www.lhma.org.au](http://www.lhma.org.au)

#### *Marine Parks Authority*

Postal address: C/- PO Box 21, Cronulla NSW 2230

Phone: 1300 550 474

Email: [executive.officer@mpa.nsw.gov.au](mailto:executive.officer@mpa.nsw.gov.au)

Website: [www.mpa.nsw.gov.au](http://www.mpa.nsw.gov.au)

#### *Office of Water*

Postal address: GPO Box 3889, Sydney NSW 2001

Phone: 02 8281 7777

Email: [information@water.nsw.gov.au](mailto:information@water.nsw.gov.au)

## **Catchment Management Authorities**

[www.cma.nsw.gov.au/](http://www.cma.nsw.gov.au/)

### *Border Rivers-Gwydir CMA*

Street address: 15 Vivian Street, Inverell, NSW

Postal address: PO Box 411, Inverell, NSW 2360

Phone: (02) 6728 8020

Email: [bgr@cma.nsw.gov.au](mailto:bgr@cma.nsw.gov.au)

Website: [www.brg.cma.nsw.gov.au](http://www.brg.cma.nsw.gov.au)

### *Central West CMA*

141 Percy Street, Wellington NSW 2820

Phone: (02) 6840 7800

Email: [cw@cma.nsw.gov.au](mailto:cw@cma.nsw.gov.au)

Website: [www.cw.cma.nsw.gov.au](http://www.cw.cma.nsw.gov.au)

### *Hawkesbury-Nepean CMA*

159 Auburn Street, Goulburn, NSW 2580

Phone: (02) 4828 6747

Email: [hn@cma.nsw.gov.au](mailto:hn@cma.nsw.gov.au)

Website: [www.hn.cma.nsw.gov.au](http://www.hn.cma.nsw.gov.au)

### *Hunter-Central Rivers CMA*

816 Tocal Road, Paterson, NSW 2421

Phone: (02) 4930 1030

Email: [hcr@cma.nsw.gov.au](mailto:hcr@cma.nsw.gov.au)

Website: [www.hcr.cma.nsw.gov.au](http://www.hcr.cma.nsw.gov.au)

### *Lachlan CMA*

Street address: 2 Sheriff Street, Forbes, NSW

Postal address: PO Box 726, Forbes, NSW, 2871

Freecall: 1800 885 747

Phone: (02) 6851 9500

Email: [Lachlan@cma.nsw.gov.au](mailto:Lachlan@cma.nsw.gov.au)

Website: [www.lachlan.cma.nsw.gov.au](http://www.lachlan.cma.nsw.gov.au)

### *Lower Murray Darling CMA*

32 Enterprise Way, Buronga, NSW 2739

Phone: (03) 5021 9460

Email: [imd@cma.nsw.gov.au](mailto:imd@cma.nsw.gov.au)

Website: [www.lmd.cma.nsw.gov.au](http://www.lmd.cma.nsw.gov.au)

### *Murray CMA*

315 Victoria Street, Deniliquin, NSW 2710



Phone: (03) 5880 1400

Email: [murray@cma.nsw.gov.au](mailto:murray@cma.nsw.gov.au)

Website: [www.murray.cma.nsw.gov.au](http://www.murray.cma.nsw.gov.au)

*Murrumbidgee CMA*

Level 1 43-45 Johnston Street, Wagga Wagga, NSW 2650

Phone: (02) 6932 3232

Email: [murrumbidgee@cma.nsw.gov.au](mailto:murrumbidgee@cma.nsw.gov.au)

Website: [www.murrumbidgee.cma.nsw.gov.au](http://www.murrumbidgee.cma.nsw.gov.au)

*Namoi CMA*

35- 37 Abbott Street, Gunnedah, NSW, 2380

Phone: (02) 6742 9220

Email: [namoi@cma.nsw.gov.au](mailto:namoi@cma.nsw.gov.au)

Website: [www.namoi.cma.nsw.gov.au](http://www.namoi.cma.nsw.gov.au)

*Northern Rivers CMA*

49 Victoria Street, Grafton, NSW 2460

Phone: (02) 6642 0622

Email: [northern@cma.nsw.gov.au](mailto:northern@cma.nsw.gov.au)

Website: [www.northern.cma.nsw.gov.au](http://www.northern.cma.nsw.gov.au)

*Southern Rivers CMA*

84 Crown Street, Wollongong East, NSW 2520

Phone: (02) 4224 9700

Email: [southern@cma.nsw.gov.au](mailto:southern@cma.nsw.gov.au)

Website: [www.southern.cma.nsw.gov.au](http://www.southern.cma.nsw.gov.au)

*Sydney Metropolitan CMA*

Ground Floor, 10 Valentine Avenue, Parramatta, NSW 2124

Phone: (02) 9895 7898

Email: [Sydney@cma.nsw.gov.au](mailto:Sydney@cma.nsw.gov.au)

Website: [www.sydney.cma.nsw.gov.au](http://www.sydney.cma.nsw.gov.au)

*Western CMA*

62 Marshall Street, Cobar, NSW 2835

Freecall: 1800 032 101

Phone: (02) 6836 1575

Email: [western@cma.nsw.gov.au](mailto:western@cma.nsw.gov.au)

Website: [www.western.cma.nsw.gov.au](http://www.western.cma.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

In an emergency call 000

Website: [www.nswfb.nsw.gov.au](http://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

Website: [www.rfs.nsw.gov.au](http://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

Website: [www.lgsa.org.au](http://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)

## **3. COMMONWEALTH GOVERNMENT DEPARTMENTS**

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### **Department of Sustainability, Environment, Water, Population and Communities**

Street address: John Gorton Building, King Edward Terrace, Parkes, ACT

Postal address: GPO Box 787, Canberra ACT 2601

Phone: (02) 6274 1111

Website: [www.environment.gov.au](http://www.environment.gov.au)

### **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

Website: [www.ahc.gov.au](http://www.ahc.gov.au)

### **Natural Heritage Trust**

GPO Box 787 Canberra ACT 2601

Phone: 1800 065 823 (toll-free)

Website: [www.nht.gov.au](http://www.nht.gov.au)

## 4. ENVIRONMENTAL ORGANISATIONS

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### **Nature Conservation Council of NSW**

Street Address: Level 2, 5 Wilson Street, Newtown NSW

Postal Address: PO Box 137, Newtown NSW 2042

Phone: (02) 9516 1488

Website: [www.nccnsw.org.au](http://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.nct.org.au](http://www.nct.org.au)

### **Total Environment Centre**

Suite 2, Level 1, 89 Jones Street, Ultimo 2007

Phone: 02 9211 5022

Website: <http://www.tec.org.au/>

## 5. OTHER CONTACTS

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### **NTSCORP – Native Title Service Provider for Aboriginal Traditional Owners in New South Wales and the Australian Capital Territory**

Street Address: Level 1, 44-70 Rosehill Street, Redfern, NSW 2016

Postal address: PO Box 2012, Strawberry Hills NSW 2012

Phone: (02) 9310 3188 or 1800 111 844

Email: [information@ntscorp.com.au](mailto:information@ntscorp.com.au)

Website: [www.ntscorp.com.au](http://www.ntscorp.com.au)

### **New South Wales Aboriginal Land Council (NSWALC)**

#### **Head Office**

Street Address: Ground Floor - 33 Argyle St, Parramatta NSW

Postal Address: PO Box 1125, Parramatta NSW 2124

Phone: (02) 9689 4444

Website: [www.alc.org.au](http://www.alc.org.au)

#### *Northern Zone - Coffs Harbour*

Street Address: 2/26 Park Ave, Coffs Harbour NSW 2450

Postal Address: PO Box 1912 Coffs Harbour NSW 2450

Phone: (02) 6659 1200

#### *Western Zone - Dubbo*

Street Address: 2/36 Darling St, Dubbo NSW 2830

Postal Address: PO Box 1196, Dubbo NSW 2830

Phone: (02) 6885 7000

*Southern Zone - Queanbeyan*

Street Address: Suite 110 Riverside Plaza, Monaro St, Queanbeyan NSW

Postal Address: PO Box 619, Queanbeyan NSW 2620

Phone: (02) 6124 3555

*Far Western Zone - Broken Hill*

Street Address: Level 3, NSW State Government Building, 32 Sulphide St, Broken Hill, NSW 2880

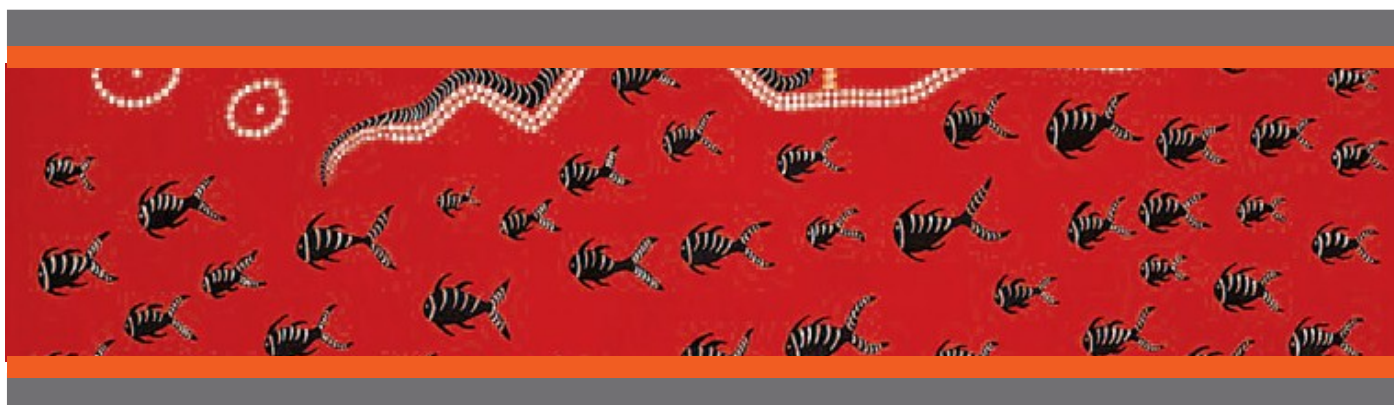
Phone: (08) 8087 3851

*Eastern Zone - Parramatta*

Street Address: 50/ 24-26, Watts Street, Gosford NSW

Postal Address: PO Box 670, Gosford NSW 2250

Phone: (02) 9689 4444







**NSW**

**EDO**

DEFENDING THE ENVIRONMENT  
ADVANCING THE LAW