

ABORIGINAL CULTURAL HERITAGE LAWS IN NSW

Last updated in April 2025

National Parks and Wildlife Act 1974

What is Aboriginal cultural heritage?

In New South Wales, **Aboriginal cultural heritage** is protected under the *National Parks and Wildlife Act 1974 (the Act)*. The Act protects both Aboriginal **places** and **objects**.

An **Aboriginal place** is a place of special significance in Aboriginal culture that is declared by the Minister for the Environment.

Aboriginal objects are deposits, objects or material evidence relating to Aboriginal habitation of New South Wales.

Examples of Aboriginal places

- ceremonial sites
- birthing places
- burial sites
- natural springs
- mountains

Examples of Aboriginal objects

- stone tools
- culturally modified trees
- Aboriginal remains
- rock art

How is cultural heritage protected?

It is an offence under the Act to:

- knowingly **harm** or **desecrate** an Aboriginal object
- unknowingly **harm** an Aboriginal object
- **harm** or **desecrate** a declared Aboriginal place
- fail to **notify** Heritage NSW about the location of an Aboriginal object

These offences do not apply to certain activities or to Aboriginal people carrying out traditional cultural activities.

A person has a **defence** if:

- In relation to objects and places: the harm or desecration was authorised by an **Aboriginal Heritage Impact Permit**
- In relation to objects:
 - The defendant exercised due diligence by complying with the **Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW**
 - The act or omission which caused harm was of low impact

What can I do if cultural heritage is under threat?

1. Propose an Aboriginal Place for declaration

Anyone can propose an area of land to be considered for declaration by the Minister as an **Aboriginal Place**. Once declared, an Aboriginal Place is added to the Aboriginal Heritage Management System and protected under the NPW Act.

Fill out the **Aboriginal Place Proposal Form** and visit the **Heritage NSW website** for more information on the process.

2. Declaration as Aboriginal area

Advocate for the Government to declare Crown land as an 'Aboriginal area' if it contains a culturally significant Aboriginal place, object, feature or landscape, or it is important for improving public understanding of Aboriginal culture.

Write to the **NSW Minister for the Environment** requesting that an area be reserved as an Aboriginal area.

3. Nominate cultural heritage for State Heritage Listing

Anyone can nominate an object or place to be listed on the **State Heritage Register**. It must meet certain criteria to be eligible to be listed, including that it has the support of the Aboriginal community. Once listed, it is protected under the *Heritage Act 1977* and a conservation management plan. For more information visit EDO's factsheet on **NSW Heritage Law**.

Fill out the **Nomination Form** and visit the **Heritage NSW website** for more information on the process.

4. Have your say on Aboriginal Heritage Impact Permit applications

Any person applying for an Aboriginal Heritage Impact Permit to harm an Aboriginal object or place **must** consult with Aboriginal people about the cultural significance of Aboriginal objects or places within the project area. For more information visit the **Aboriginal Cultural Heritage Consultation Requirements for Proponents**.

Visit the **Aboriginal Heritage Impact Permit Public Register** to see the status of applications.

5. Report concerns to Heritage NSW

You can report concerns about cultural heritage to Heritage NSW. Heritage NSW can make a **stop work order** to prevent an action that is likely to significantly affect an Aboriginal object or place for **40 days**. Heritage NSW can also recommend to the Minister that an **interim protection order** should be made to protect an area of cultural significance for up to **2 years**.

Contact Heritage NSW:

☎ 02 9873 8500
✉ heritagemailbox@environment.nsw.gov.au
NSW Department of Climate Change, Energy, the Environment and Water:
☎ 1300 361 967
✉ info@environment.nsw.gov.au

6. Apply to the Federal Government for a Declaration

If you have run out of options under NSW laws, you can apply for a declaration to protect cultural heritage under the *Aboriginal and Torres Strait Islander Heritage Protection Act*. Visit EDO's factsheet on **First Nations Cultural Heritage and Federal Law** for more information.

To apply for a declaration:

☎ 1800 751 242
✉ atsihpa@dcceew.gov.au

You can call the Environmental Defenders Office on **1800 626 239** for free legal advice.

☎ 1800 626 239

✉ first.nations.program@edo.org.au

🌐 edo.org.au

Disclaimer: This factsheet is a guide only and does not replace the need for professional legal advice in individual cases. EDO does not accept any responsibility for any loss or damage resulting from any error in this factsheet or use of this work.