

## Conservation of Aboriginal Heritage in NSW

### A Guide for Landholders

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This guide provides information about Aboriginal interests in and entitlements to land access and natural resource management in NSW.

Landholders can help protect Aboriginal cultural values and at the same time develop mutually beneficial relationships with local Aboriginal communities and benefit from traditional Aboriginal knowledge of the environment. This is facilitated through a range of linked Government programs. Contact details are listed throughout the guide and at the end.

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Patterns in sandstone

The NSW Government acknowledges Aboriginal people as the first people and nations of the State, and recognises that Aboriginal peoples have a spiritual, social and cultural relationship with their traditional lands and waters. The Government recognises that Aboriginal communities have a role in managing the State's land, water and biodiversity.

Government programs aim to strengthen Aboriginal communities through increasing Aboriginal peoples' participation in land and natural resource management and supporting Aboriginal landholders to manage their lands for socioeconomic, cultural and environmental outcomes. Government programs can protect native vegetation, biodiversity, land, rivers and coastal waterways through providing greater opportunities for Aboriginal peoples to take part in management of Country, including joint management of national parks.

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There are two additional guides which provide information for:

- Aboriginal landholders
  - Aboriginal people and public land.
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## Abbreviations

AHIMS	Aboriginal Heritage Information Management System
ALR Act	<i>Aboriginal Land Rights Act 1983</i>
CAP	catchment action plan
CCHD	Country, Culture and Heritage Division (OEH)
CMA	catchment management authority
FM Act	<i>Fisheries Management Act 1994</i>
ILC	Indigenous Land Corporation
ILUA	Indigenous Land Use Agreement
LALC	Local Aboriginal Land Council
MRSC	Murrumbidgee Rural Studies Centre
NPW Act	<i>National Parks and Wildlife Act 1974</i>
NPWS	National Parks and Wildlife Service NSW
NSWALC	NSW Aboriginal Land Council
OEH	Office of Environment and Heritage, Department of Premier and Cabinet
TAFE NSW	NSW Technical and Further Education Commission
TSC Act	<i>Threatened Species Conservation Act 1995</i>

## Assistance for landholders to work with Aboriginal people in land management

There are many practical ways that landholders can work with Aboriginal people to improve how land is managed, and at the same time facilitate greater recognition of Aboriginal culture.

Working effectively with Aboriginal communities at the local level can be based on simple, practical projects with a cultural and/or environmental focus. There is a range of government programs to support projects that aim to improve land management, help protect the environment and acknowledge Aboriginal culture as well as places and objects valued by Aboriginal communities.

### Environmental Trust

The Environmental Trust is an independent statutory body established by the NSW Government to support environmental projects and is administered by the Office of Environment and Heritage (OEH). The objectives of the Environmental Trust include:

- to encourage and support restoration and rehabilitation projects
- to promote research into environmental problems of any kind
- to promote environmental education in both the public and private sectors
- to promote waste avoidance, resource recovery and waste management (including funding enforcement and regulation and local government programs)
- to fund environmental community groups
- to fund the purchase of water entitlements for the purpose of increasing environmental flows for the State's rivers and restoring or rehabilitating major wetlands.

Protecting our Places is an Environmental Trust program aimed at protecting land that is culturally significant to Aboriginal people and to support environmental education projects. The Aboriginal Land Clean-Up Program aims to reduce the incidence of illegal dumping across NSW while working with Aboriginal communities to improve health, education and social outcomes for Aboriginal people.

Contact: 02 8837 6093, [www.environment.nsw.gov.au/grants/envtrust.htm](http://www.environment.nsw.gov.au/grants/envtrust.htm)

### Conservation Agreements

A Conservation Agreement provides permanent protection of significant natural and cultural heritage values within the landscape. All Conservation Agreements are entered into voluntarily. Owners of freehold land, lessees of Crown land and local councils are eligible to enter into Conservation Agreements.

The area under the Conservation Agreement is registered on the title of the land ensuring that if the land is sold, the Conservation Agreement and management requirements remain in place. Landholders who enter into a Conservation Agreement are eligible for rates relief and tax concessions, although this is not controlled by OEH.

A Conservation Agreement may be entered into for a number of purposes, including:

- in relation to areas in which Aboriginal objects or Places of special significance are situated
- in relation to areas containing scenery, natural environments or natural phenomena worthy of preservation
- in relation to areas of special scientific (including archaeological) interest
- in relation to buildings, objects, monuments or events of national significance
- for the study, preservation, protection, care or propagation of fauna or native plants or other flora
- for the purpose of study, preservation, protection or care of karst environments
- for the conservation of critical habitat or the conservation of threatened species, populations or ecological communities, or their habitats.

A Conservation Agreement is most suited to landholders who:

- have special features of natural and/or cultural heritage significance including native vegetation, wildlife habitat, Aboriginal sites and historic places on their property
- want their investment in the conservation of the area to be protected if they leave the property.

Conservation Agreements are established, monitored and supported as part of the OEH Conservation Partners Program. This can include monitoring advice and on-ground works funding assistance, as well as eligibility for rates exemptions under section 555 of the *Local Government Act 1993*, land tax exemptions under section 10 of the *Land Tax Management Act 1956*, and income tax concessions under Division 31 of the *Income Tax Assessment Act 1997* (Cwlth).

Contact: 131 555, [www.environment.nsw.gov.au/cpp/ConservationPartners.htm](http://www.environment.nsw.gov.au/cpp/ConservationPartners.htm)

### **Aboriginal Places program**

OEH recognises Aboriginal people as the primary determinants of the cultural significance of their heritage. The gazettal of Aboriginal Places is a way of recognising and legally protecting Aboriginal cultural heritage. Aboriginal Places can be declared over any land in NSW that is deemed to have special significance to Aboriginal culture. This includes all public and private land.

Under section 84 of the *National Parks and Wildlife Act 1974* (NPW Act), Aboriginal Places may be declared over land that 'is or was of special significance to Aboriginal culture'. This allows Aboriginal Places to be declared to recognise and protect non-tangible cultural values (for example ceremonial, spiritual and mythological values), as well as areas containing tangible cultural material (for example middens, burials, reburials, Bora rings and rock art). Aboriginal Places will usually have a plan of management developed jointly by the Aboriginal community, OEH and landholders to ensure that long-term cultural, access and management needs are met.

The Country, Culture and Heritage Division (CCHD) of OEH has an ongoing program of assessing and recommending the declaration and gazettal of Aboriginal Places throughout NSW. This program aims to advance the recognition, protection and understanding of Aboriginal cultural values throughout NSW. CCHD works with local Aboriginal communities to nominate and develop proposals for Aboriginal Place gazettal.

Contact: CCHD Community Operations Branch Regional Offices

### **Green Teams**

Aboriginal Green Teams employ Aboriginal people to provide natural resource management, sustainable land use and environmental services to public or private landholders. Green Teams have been established in various ways across NSW, including as voluntary groups (for example Landcare), employees of State agencies and local councils, or as stand-alone community enterprises.

Green Teams aim to provide quality, environmentally sustainable and culturally sensitive land management solutions for landholders while also providing regional employment and training opportunities for Aboriginal workers. In many cases, Green Team managers will be able to assist

landholders in working with local Aboriginal communities, including traditional owners and Elders, and provide labour for land management activities on their lands.

Contact: CCHD Community Operations Branch Regional Offices and CMAs



N Foster/OEH

Paroo Overflow Lakes

## Green Teams Alliance

The purpose of the Green Teams Alliance is to address high levels of unemployment and social equity issues amongst Aboriginal people living on the coast between the Hawkesbury and Tweed rivers. The Green Teams Alliance aims to capitalise on existing Aboriginal teams which are undertaking land rehabilitation work in this region. It also aims to take opportunities emerging in areas of land rehabilitation along highway developments and other major construction initiatives as well as recent changes in the legislative framework on carbon reduction initiatives.

Contact: [info@greenteamsalliance.com.au](mailto:info@greenteamsalliance.com.au)

[www.coffsinnovation.com.au/wp-content/uploads/green-teams-alliance.pdf](http://www.coffsinnovation.com.au/wp-content/uploads/green-teams-alliance.pdf)

## Threatened species recovery planning

Developing strategies to tackle biodiversity loss requires the identification and understanding of the threatening processes, such as weeds, feral animals and climate change, that lead to the extinction of species, populations and ecological communities. To guide recovery and threat abatement actions the *Threatened Species Conservation Act 1995* (TSC Act) provides for the preparation of a Threatened Species Priorities Action Statement which outlines actions to recover species and manage threats. Measures to protect threatened species often involve actions that benefit the whole local environment, including landholders' properties.

All parts of the environment have value in Aboriginal culture, including listed threatened species and their habitats. In 2002 the TSC Act was amended to require Aboriginal peoples' interests to be considered during the development of recovery plans for threatened species, populations and ecological communities. Working with Aboriginal communities and exchanging information can assist in prioritising projects and in some cases improve the cost efficiency of conservation activities.

Contact: OEH 131 555, [www.environment.nsw.gov.au/threatenedspecies/index.htm](http://www.environment.nsw.gov.au/threatenedspecies/index.htm)

## Aboriginal Heritage Information Management System

OEH maintains the Aboriginal Heritage Information Management System (AHIMS) which includes:

- information about Aboriginal objects that have been reported to the Chief Executive of OEH
- information about Aboriginal Places which have been declared by the Minister to have special significance with respect to Aboriginal culture
- archaeological reports.

AHIMS refers to recorded Aboriginal objects and Places as Aboriginal sites.

AHIMS Web Services is a system that allows users to search information about recorded Aboriginal objects and Places in a fast and efficient way via the internet. For some activities the *National Parks and Wildlife Act 1974* (NPW Act) requires that you exercise due diligence to check if Aboriginal sites will be harmed by your activities – checking AHIMS is part of due diligence.

There are also other reasons why a person may wish to use AHIMS:

- conveyancing prior to purchase or sale of a property
- Aboriginal heritage research, studies and assessments
- fire hazard reduction certificates
- Aboriginal community initiatives.

Contact: [www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm](http://www.environment.nsw.gov.au/licences/AboriginalHeritageInformationManagementSystem.htm)

## Legal information for landholders about Aboriginal heritage

Lack of access to and care of Country has adversely affected Aboriginal communities spiritually. The recognition, promotion and practice of culture and maintenance of links between people and Country are central to overcoming many of the issues facing Aboriginal communities in NSW.

Landholders can be guided by Aboriginal communities in the protection of Aboriginal cultural values and at the same time develop mutually beneficial relationships with local Aboriginal communities and potentially benefit from traditional Aboriginal knowledge of the landscape.

## **Hunting and fishing**

The ability to hunt, fish and gather food is an important part of Aboriginal peoples' connection to Country. Aboriginal people may hunt and gather protected fauna and flora for domestic purposes on private land if the private landholder agrees to this. The National Parks and Wildlife Regulation 2002 exempts Aboriginal people from prohibitions on domestic-purpose hunting or gathering of protected fauna and flora species, except for fauna and flora species and ecological communities listed under the TSC Act.

Permits may be obtained from OEH for commercial harvesting of protected animals and plants after sustainability issues have been dealt with. Under the *Game and Feral Animal Control Act 2002*, native title claimants or holders or Local Aboriginal Land Council (LALC) members hunting feral animals within their respective areas are exempt from requiring a hunting licence.

Contact: OEH 131 555, Fisheries Information Line 1300 550 474, [www.dpi.nsw.gov.au/fisheries](http://www.dpi.nsw.gov.au/fisheries)

## **Aboriginal Land Rights Act 1983**

The *Aboriginal Land Rights Act 1983* (ALR Act) recognises that the land is of cultural, spiritual, social and economic importance to Aboriginal people. The ALR Act creates an Aboriginal land council system to address Aboriginal land rights.

LALCs are able to negotiate agreements with private landholders to permit access to the land by Aboriginal people for the purpose of hunting, fishing or gathering. The ALR Act also allows for the Land and Environment Court to determine access arrangements where negotiated outcomes are not achievable.

Contact: Registrar, Aboriginal Land Rights Act 02 9562 6327

## **National Parks and Wildlife Act 1974 – Aboriginal cultural heritage**

Private landholders can play an important role in protecting Aboriginal cultural heritage on their land. New provisions enacted in 2010 significantly strengthen the protection of Aboriginal cultural heritage on all public and private land in NSW. They include new strict liability offences and a range of defences and exemptions. Landholders should be aware that some of their land management activities could harm Aboriginal cultural heritage.

To help land managers avoid harm, the new provisions contain two important defences. Checking for Aboriginal objects and sites of significance through due diligence will be a defence against strict liability harm. Low impact activities, such as normal farming operations on disturbed land, will not trigger the strict liability harm offence.

There are also exemptions for all new offences which include actions that relate to the preservation of Aboriginal objects or Places under a Conservation Agreement, traditional Aboriginal cultural activities, emergency firefighting or bushfire hazard reduction work done in accordance with the *Rural Fires Act 1983* and conservation measures undertaken by or on behalf of the Chief Executive of OEH.

Contact: OEH 131 555, [www.environment.nsw.gov.au/licences/ACHregulation.htm](http://www.environment.nsw.gov.au/licences/ACHregulation.htm)

## **How to get involved in conserving Aboriginal heritage, or involving Aboriginal people in land management on your land**

People can get involved in helping conserve Aboriginal heritage on their land through the programs listed above or where available through local landholder groups, involvement in local Green Team initiatives or through initiatives of LALCs.

Contact with CMAs as a landholder as well as through the Aboriginal Reference Group can give access to locally organised natural resource management activities and processes that can protect Aboriginal heritage. Joint activities between landholders and local Aboriginal communities to conserve and manage significant sites of Aboriginal heritage can be arranged through CMA contacts.

## Catchment management authorities

CMA's have been established across NSW to facilitate regional communities having a say in how natural resources are managed in their catchments. Thirteen CMA's are working with farmers, Landcare and other 'carer' groups, Aboriginal communities, local government, industry and State agencies to respond to the key natural resource management issues facing their catchments. The CMA's are responsible for administering and managing native vegetation consents under the *Native Vegetation Act 2003*, including property vegetation plans for land clearing consents.

CMA's are responsible for managing natural resources at the catchment scale. Key roles include preparing catchment action plans (CAPs) and managing incentive programs to implement the plans. The preparation of CAPs involves integrating previous work with the latest information and science and with local knowledge. CMA's also consult Aboriginal communities on CAPs, natural resource management programs and investment strategies.

Each CMA has at least one permanent Aboriginal identified position called a Catchment Officer (Aboriginal Communities). Some CMA's may also have contract Aboriginal positions. These dedicated staff work closely with Aboriginal Reference Groups and Aboriginal communities within each catchment to implement natural resource management programs. Aboriginal Reference Groups advise CMA's on priority natural resource management and cultural heritage issues for Aboriginal communities. They act as a conduit for the exchange of information between CMA's and local Aboriginal communities on natural resource management issues.

In general, Aboriginal Reference Groups have a strategic role in:

- working with the CMA to develop ways to engage Aboriginal people in natural resource management throughout the catchment
- promoting natural resource management funding opportunities for Aboriginal communities through the CAP and investment strategy
- strengthening the partnership between the CMA and local Aboriginal communities
- assist delivery of natural resource management projects to Aboriginal communities
- providing advice to CMA Boards on policies, strategies and actions relating to natural resource issues affecting Aboriginal communities during the development of CAPs.

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



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Common lace monitor

## Contacts

### OEH

- General Inquiries: 131 555, [info@environment.nsw.gov.au](mailto:info@environment.nsw.gov.au), [www.environment.nsw.gov.au](http://www.environment.nsw.gov.au)
- Aboriginal Co-management Unit (NPWS): 02 9585 6632  
[www.environment.nsw.gov.au/jointmanagement/index.htm](http://www.environment.nsw.gov.au/jointmanagement/index.htm)
- CCHD Community Operations Branch Metro Region: 02 9995 5000
- CCHD Community Operations Branch Far West Region: 02 6966 8100
- CCHD Community Operations Branch North West Region: 02 6881 4611
- CCHD Community Operations Branch Northern Region: 02 6659 8294
- CCHD Community Operations Branch Southern Region: 02 6229 7177
- Conservation Partners Program Coordinator: 02 9995 6768  
[conservation.partners@environment.nsw.gov.au](mailto:conservation.partners@environment.nsw.gov.au)  
[www.environment.nsw.gov.au/cpp/ConservationPartners.htm](http://www.environment.nsw.gov.au/cpp/ConservationPartners.htm)
- Land Alive: [LandAlive@environment.nsw.gov.au](mailto:LandAlive@environment.nsw.gov.au)  
[www.environment.nsw.gov.au/landalive/index.htm](http://www.environment.nsw.gov.au/landalive/index.htm)
- Protection of cultural objects and sites:  
[www.environment.nsw.gov.au/licences/ACHregulation.htm](http://www.environment.nsw.gov.au/licences/ACHregulation.htm)

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

Communitybuilders: [www.communitybuilders.nsw.gov.au/research](http://www.communitybuilders.nsw.gov.au/research) (case studies, discussion papers, toolkits and contacts that could be applied to community based land management projects)

Environmental Trust: 02 8837 6093, [info@environmentaltrust.nsw.gov.au](mailto:info@environmentaltrust.nsw.gov.au)  
[www.environment.nsw.gov.au/grants/envtrust.htm](http://www.environment.nsw.gov.au/grants/envtrust.htm)

Fisheries Information Line: 1300 550 474, [www.dpi.nsw.gov.au/fisheries](http://www.dpi.nsw.gov.au/fisheries)

Green Team Alliance (North Coast): [info@greenteamsalliance.com.au](mailto:info@greenteamsalliance.com.au)  
[www.coffsinnovation.com.au/documents/green-teams-alliance.pdf](http://www.coffsinnovation.com.au/documents/green-teams-alliance.pdf)

Indigenous Land Corporation: 1800 818 490, [ilcinfo@ilc.gov.au](mailto:ilcinfo@ilc.gov.au), [www.ilc.gov.au](http://www.ilc.gov.au)

Land and Property Management Authority: 1300 052 637

NSW Aboriginal Land Council: 02 9689 4444, [www.alc.org.au](http://www.alc.org.au)

NSW Native Title Tribunal: 1800 640 501, [enquiries@nntt.gov.au](mailto:enquiries@nntt.gov.au)

TAFE NSW: 131 601, [www.tafensw.edu.au/services/indigenous](http://www.tafensw.edu.au/services/indigenous)

Working on Country (Commonwealth): 1800 552 008, [workingoncountry@environment.gov.au](mailto:workingoncountry@environment.gov.au)  
[www.environment.gov.au/indigenous/workingoncountry/index.html](http://www.environment.gov.au/indigenous/workingoncountry/index.html)

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### Published by:

Office of Environment and Heritage  
Department of Premier and Cabinet  
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PO Box A230, Sydney South 1232

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OEH 2011/0388 ISBN 978 1 74293 043 5 October 2011