

DISCUSSION PAPER

Towards an  
**Aboriginal land  
management  
framework** for NSW



**Healthy Country**  
Healthy Communities



New South Wales  
Government

Department of **Environment & Climate Change** NSW





DISCUSSION PAPER

Towards an  
**Aboriginal land  
management  
framework** for NSW

**Healthy Country**

Healthy Communities



New South Wales  
Government

Department of **Environment & Climate Change** NSW



© Copyright State of NSW and the Department of Environment and Climate Change NSW

The State of NSW and the Department of Environment and Climate Change NSW are pleased to allow this material to be reproduced in whole or in part, provided the meaning is unchanged and its source, publisher and authorship are acknowledged.

Cover photography:

*Front (left to right) – K Gillett/DECC (top), DECC (bottom), P Laughton (top), DECC (bottom), M Van Ewijk and DECC*

*Back (left to right) – DECC, J Turbill (top), A Simpson (bottom), G Woods (top), S Garland (bottom) and S Ruming*

Published by:

Department of Environment and Climate Change NSW

59 Goulburn Street, Sydney

PO Box A290, Sydney South 1232

Phone: (02) 9995 5000 (switchboard)

Phone: 131 555 (environment information and publications requests)

Phone: 1300 361 967 (national parks information and publications requests)

Fax: (02) 9995 5999

TTY: (02) 9211 4723

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

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

ISBN 978 1 74232 003 8

DECC 2008/545

November 2008

Printed on recycled paper

## **Contents**

<i>Introduction .....</i>	<i>1</i>
<i>Theme 1: Acknowledging Aboriginal connection to Country .....</i>	<i>4</i>
<i>Theme 2: Improving Aboriginal access to public lands .....</i>	<i>7</i>
<i>Theme 3: Increasing Aboriginal participation in the management of public lands .....</i>	<i>9</i>
<i>Theme 4: Developing economic opportunities from the sustainable use of land .....</i>	<i>13</i>
<i>Theme 5: Learning and working for Country .....</i>	<i>16</i>
<i>Appendix: NSW public land management agencies .....</i>	<i>19</i>
<i>References .....</i>	<i>22</i>



## Introduction

The NSW Aboriginal Affairs Plan 2003–12, *Two Ways Together*, recognises that Aboriginal people have a number of rights as the first peoples of Australia in addition to their customary citizenship rights (NSW Government 2003). These include the right to maintain their culture, language and identity, and the right to self-determination.

The NSW Government acknowledges Aboriginal connection to land, and its cultural significance and role in the spiritual, cultural and economic wellbeing of Aboriginal people in NSW. This is reflected in the *Aboriginal Land Rights Act 1983*. The Government recognises that Aboriginal communities have a role in managing the state's land, water and biodiversity. A number of government programs provide opportunities for Aboriginal access to land and involvement in land management, resulting in direct benefits to personal and community wellbeing.

Aboriginal culture is based on 'Country', the term used to describe both the land and waters, including the sea, to which Aboriginal people have a cultural connection. Access to land is recognised as a vital factor in maintaining the language, identity and economic and social self-determination of Aboriginal people and also aids the delivery of services to them (NSW Government 2002).

*Two Ways Together* and Priorities F1 and F4 (see below) of the *NSW State Plan* (NSW Government 2007) demonstrate the Government's commitment to reducing the social disadvantage experienced by Aboriginal people, while strengthening their capacity to practise culture and self-determination. Restoring connections to Country and the positive effects this has on the wellbeing of the Aboriginal community is reflected in the findings of the Royal Commission into Aboriginal Deaths in Custody (1991) and the *Overcoming Indigenous Disadvantage* report (Productivity Commission 2007).

This discussion paper provides a starting point for discussions with Aboriginal people and stakeholders about the issues relating to land management. The feedback and points raised in these discussions will be used to develop a NSW Aboriginal Land Management Framework. It is hoped that this framework will help advance a number of social, justice, economic and cultural outcomes for Aboriginal people in NSW.

## Why a framework?

The *NSW State Plan* (NSW Government 2007) commits the Government to improving outcomes for Aboriginal people. In particular, the following State Plan priorities are relevant:

**Priority F1:** Improved health and education for Aboriginal people

**Priority F4:** Embedding the principle of prevention and early intervention into Government service delivery in NSW

**Priority P7:** Better access to training in rural and regional NSW to support local economies

**Priority E4:** Better outcomes for native vegetation, biodiversity, land, rivers and coastal waterways

**Priority E8:** More people using parks, sporting and recreational facilities, and participating in the arts and cultural activity

The Government is proposing to develop an Aboriginal Land Management Framework to improve the coordination, focus and delivery of its programs in the broad area of land

management. The framework will acknowledge the role that Country has in the spiritual, cultural and economic wellbeing of Aboriginal people. It will also identify areas where new programs may be needed and improve the uptake of Commonwealth land management programs.

## Scope of the framework

The framework will apply to access, use and management of publicly owned land by Aboriginal people as well as the services government provides for Aboriginal landowners. The framework will:

- clarify the existing NSW approach to issues associated with land access, use and management by Aboriginal people
- identify gaps in current programs
- consider and identify opportunities to develop common principles and policies in this area
- better coordinate the delivery of the Government's existing land management, cultural heritage, conservation and economic development responsibilities.

Preparation and promotion of the framework will also help government agencies communicate existing policies to Aboriginal communities more effectively. Most importantly, it will reflect a common understanding between the Government and Aboriginal communities about the programs and initiatives that will strengthen connections to Country. The framework will deal with public lands managed by the NSW Government and also identify other government services which are available to assist Aboriginal people in managing the lands they own.

Public land includes state forests, national and state parks, traveling stock reserves and Crown land. The NSW Government administers this land (and parts of the marine environment) for various purposes on behalf of the people of NSW. Government agencies that manage public land and waters must take into account issues of public safety, legal liability, ecologically sustainable development and equity, and also balance competing public interests.

The community and industry use public land for a range of purposes: supplying timber and other forest products, protecting biodiversity and heritage, conserving native flora and fauna, education, recreation, tourism and research. As with other community sectors, Aboriginal people need access to and involvement in the management of public lands. Aboriginal people are currently able to use certain areas of public land for traditional, cultural, ceremonial and economic purposes within this broader operating environment, subject to the limitations that are placed on different categories of public land. Programs that are tailored to specific public land categories or regional areas may provide for more effective services to Aboriginal communities.

Aboriginal-owned lands include lands privately owned by Aboriginal people and communities and those owned and managed by organisations such as Aboriginal Land Councils. There is potential to better coordinate the existing Government programs and services, both state and local, that assist Aboriginal people manage their lands.



## Role of this discussion paper

This discussion paper has been developed to assist the development of the Aboriginal Land Management Framework. Feedback on the issues outlined in this paper and from a series of community forums will be the primary means of gathering responses.

This discussion paper deals with the relevant issues under the following five themes:

Theme 1: Acknowledging Aboriginal connection to Country

Theme 2: Improving Aboriginal access to public lands

Theme 3: Increasing Aboriginal participation in the management of public lands

Theme 4: Developing economic opportunities from the sustainable use of land

Theme 5: Learning and working for Country.

Theme-by-theme, the discussion paper outlines the range of government programs already in place and seeks suggestions for improving them and identifying new initiatives.

Most importantly, this process provides a forum for Aboriginal communities to express their views on land management issues and make clear what is important to them. This will help make the framework an effective and relevant communication and action document.

## Having a say

Aboriginal people and their communities are invited to attend a series of regional workshops that will be run across the state in February and March 2009. The workshops will be advertised in local community media well in advance.

Intending participants can be notified of a meeting in their region by letter or email beforehand: simply send your contact details to the postal address or email below.

These addresses should also be used to provide written comments on the proposed framework.

Input from the community will be received until **Tuesday 31 March 2009**.

### **Post:**

ALMF Project Manager  
Culture and Heritage Division  
Department of Environment and Climate Change NSW  
PO Box A290, Sydney South 1232

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

This discussion paper is also available on the DECC website at [www.environment.nsw.gov.au/nswcultureheritage/almf.htm](http://www.environment.nsw.gov.au/nswcultureheritage/almf.htm)

## Discussion question

What do you think about the proposal to develop the Aboriginal Land Management Framework?

## **Theme 1: Acknowledging Aboriginal connection to Country**

### **Issue**

Provide culturally appropriate means for acknowledging and recognising connections to Country for the various Aboriginal peoples of NSW

### **Discussion questions**

1. How do you think the Government can effectively acknowledge Country and connections to Country through the programs below or others?
2. Is there a need to better coordinate and integrate these programs?
3. Are there additional ways to acknowledge the Aboriginal connection with Country that the Government could consider?

This theme highlights that there are different perspectives on the relationship between people and the land and that all should be acknowledged, understood and respected. In many situations there is a need, before anything else, to acknowledge and accept the Aboriginal concept of 'Country' and the continuing spiritual connection of Aboriginal people to it. 'Country' is the term used to describe both the land and waters, including the sea, to which Aboriginal people have a cultural connection.

Country may refer to a clan or tribal area and stands for the values, places, resources, stories and cultural obligations associated with that geographical area. Aboriginal people have consistently described their relationship to land and natural resources as one of 'belonging to Country'. In the Aboriginal world view, people and Country are an integral whole and the entire landscape has spiritual significance. This means that there is no separation between nature and culture and the health of the natural environment and Aboriginal people are intimately connected. The wellbeing of Aboriginal people is influenced by both the health of the environment and the degree to which they can be actively involved in caring for it.

A significant element of Aboriginal disadvantage is the loss of a sense of place (Country) and spiritual connectedness (cultural identity). Appreciating the Aboriginal connection to Country should underpin all considerations of access needs and involvement in the management of land. 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.

### **What the NSW Government is doing**

The Government is working in a number of related areas to improve the connection to Country in public lands. The programs and policies below are helping inform the general public of these connections.

#### *Aboriginal languages and naming Country*

The NSW Aboriginal Languages Policy recognises the significance to Aboriginal people of revitalising and maintaining their traditional languages, as an integral part of Aboriginal

culture. The policy includes support for language learning by Aboriginal people and communities across NSW.

Other language policies include dual naming by the NSW Geographical Names Board and providing interpretation of Aboriginal place names on parks. The board's 'Dual naming: Supporting cultural recognition' policy states that the NSW Government is committed to recognising Aboriginal cultural heritage by registering the original place names given by Aboriginal people alongside existing European names. Dual naming applies to geographical features and cultural sites.

#### *DECC Aboriginal Cultural Heritage Advisory Committee*

The committee provides advice to the Minister for Climate Change and the Environment on identification, assessment and measures to improve the care, control and management of Aboriginal cultural heritage in NSW. The committee works collaboratively with government and community organisations for the benefit of Aboriginal cultural heritage.

The Department of Environment and Climate Change (DECC) regards the committee as its principal advisory body on Aboriginal cultural heritage.

#### *DPI Aboriginal Reference Group*

The Department of Primary Industries (DPI) maintains linkages with local Aboriginal communities to assist in identifying and managing their heritage and promoting access to cultural resources. A 12-member Aboriginal Reference Group has been formed to provide comment and advice on DPI policy, programs, initiatives and matters relating to fisheries resources and cultural access.

DPI also facilitates the presentation by Aboriginal groups of cultural views and interests to the Fisheries Management Advisory Committees.

#### *Welcome to Country protocols*

This policy assists NSW Public Sector agencies observe appropriate protocols for the recognition of Aboriginal people at official events or events where the NSW Government is a major sponsor. It is important that the special position of Aboriginal people as the original owners of the land is recognised and incorporated into official protocol. This enables the wider community to share in Aboriginal culture and facilitates better relationships between Aboriginal people and the general community.

#### *Community education on the cultural significance of land to Aboriginal people*

A number of agencies have programs that interpret and provide education to the broader community on the cultural significance of land for Aboriginal people. DECC's Aboriginal Discovery Program, for example, informs the public about the significance of specific sites and landscapes, and the general importance of land in Aboriginal culture.

#### *Aboriginal Place Program*

DECC established the Aboriginal Place Program to formally recognise and protect significant sites in Aboriginal culture. The program acknowledges the significance to local Aboriginal people of sites that are of educational value for present and future generations of Aboriginal and non-Aboriginal people. An Aboriginal Place protects a site and is declared under the *National Parks and Wildlife Act 1974*.

*NSW Department of Education*

The NSW Department of Education has established the Aboriginal Education and Training Directorate which has implemented a number of school programs for Aboriginal students. These provide for cultural funding, language development, education assistants, language programs, leadership programs, English literacy and numeracy strategies, and pre-schools in Aboriginal communities.

## **Theme 2: Improving Aboriginal access to public lands**

### **Issue**

Find a balance between the various access needs of Aboriginal people and the management objectives and policies relating to different types of public land

### **Discussion questions**

1. What issues does the Government need to take into account when considering access for Aboriginal people to public land?
2. Are there classes of public land where access could be improved, without adversely affecting broader public interest objectives?
3. Are there classes of public land where a broader range of cultural activities could be undertaken, without adversely affecting broader public interest objectives?

This theme addresses the question of Aboriginal access to public land and parts of the marine environment that are managed by NSW public authorities. Apart from their desire to maintain a physical connection to Country, Aboriginal people seek access to public lands for a number of other reasons including to pass on cultural knowledge; for community and individual wellbeing; for ceremonies related to particular places; and to collect food and medicines.

Aboriginal people regularly describe a strong sense of responsibility to 'care for Country', including protecting biodiversity and the landscape from harm. These obligations are established in traditional lore. Access to Country and its resources are essential for the continuation of cultural practices and to maintain links with the land and care for Country.

The State Government administers public land for various purposes on behalf of the people of NSW. These public lands – such as state forests, Crown reserves, national parks and travelling stock reserves – usually have specific management objectives and policies that govern their use by the public. Government agencies that manage public land must also take into account such matters as public safety and health, legal liability, equity and the balancing of various public interests in those lands.

The ability of Aboriginal people to access public land and the range of activities that might then be permitted varies for the different types of public land. It is important that the government approach to land access is generally consistent (wherever possible), that all policies and restrictions are well understood, and that Aboriginal people are equitably enabled and encouraged to seek and gain access in appropriate circumstances.

### **What the NSW Government is doing**

Aboriginal people are currently able to use certain areas of public land for traditional, cultural, ceremonial and economic purposes with the approval of the land manager and within the limits of legislation. In many cases, access is available without negotiation or formal arrangements following the removal of any barriers, such as fees and the provision of information about opportunities. The Government has recently developed the Cultural Resource Use Framework to guide agencies on how to grant access to resource use on public lands, such as hunting animals and collecting plants and other materials.

Aboriginal people are able to access public land and fisheries resources in accordance with relevant legislation, plans of management and specific local requirements, and in certain instances by complying with permits and permit conditions. These issues are dealt with on a case-by-case basis.

Sometimes formal agreements are negotiated to provide structure and certainty for both parties. These agreements may cover not only access, but also the use of natural resources, heritage protection, the holding of cultural camps (see case study below) and even commercial opportunities, such as tourism, local employment and business development. They may also recognise rights to speak for Country and other community communication protocols.

Discussion of cultural needs with resource managers assists to identify matters that need to be addressed in such agreements, including locations with suitable resources, the allocation of resources and operational considerations.

*Case study: Access to Country in the Brigalow Belt–Nandewar Region*

DECC works with Aboriginal communities to provide opportunities for them to access their Country. DECC is currently talking about improved land management partnerships with specific local Aboriginal communities in the Brigalow Belt South region in Central–Northern NSW under the *Brigalow and Nandewar Community Conservation Area Act 2005*.

The holding of ‘cultural camps’ in the region is an activity supported by DECC to facilitate access to Country. The camps incorporate a range of activities, including language, dance, art, story-telling and cultural resource use. They provide an opportunity for young Aboriginal people to get back onto Country and re-connect with the culture of that Country.

The local Aboriginal community is able to organise cultural camps under the auspices of a body with appropriate public liability insurance and notifies DECC when they are to be held.

### **Theme 3: Increasing Aboriginal participation in the management of public lands**

#### **Issue**

Ensure that Aboriginal communities are effectively involved in the management of public lands

#### **Discussion questions**

1. What are your views on how Aboriginal people are currently involved in public land management?
2. Is there a need for mechanisms to better coordinate existing programs? Are there other opportunities for Aboriginal people to become involved in the management of land?

Effective land management relies on the involvement and participation of the community. This theme addresses Aboriginal participation in the public processes of land management in NSW. Agencies should recognise the interests of Aboriginal peoples in managing Country and take their perspectives and knowledge into account in their management of public lands.

The coordinated approach between Aboriginal groups and agencies that already exists in many parts of NSW needs to be continued and built upon to ensure that Aboriginal perspectives are taken into account in decision-making and management of public lands in NSW. This allows for the active involvement of Aboriginal people in decisions and activities that affect their Country. Aboriginal people and government share strong aspirations to develop genuine partnerships that respect and incorporate Aboriginal cultural values into decision-making processes to achieve better outcomes for Country and community.

Aboriginal groups are well-placed to be involved as decision-makers and in operational land management. For public land managers this involves:

- recognition of the skills and knowledge developed by Aboriginal peoples in relation to land management and integration of that knowledge into strategic and operational management
- Aboriginal involvement in land management advisory committees and joint management projects
- respect and accommodation for Aboriginal decision-making structures and governance arrangements within government decision-making processes
- enhancement of the capacity of Aboriginal groups to participate in decision-making for the management of cultural heritage, land and resources
- enhancement of the capacity of government agencies, structures and representatives to facilitate input from Aboriginal communities and account for decisions based on that input.

Different types of public land in a particular area may provide a wider range of opportunities for participation by local Aboriginal communities when a number of agencies work together to offer and negotiate these opportunities. Cultural tourism, for example, may be located in national parks, with linked business development opportunities on Crown reserves. NSW Government programs could also coordinate action to develop local economies or areas where Aboriginal communities need targeted services to address specific social issues.

## What the NSW Government is doing

### *Co-management of national parks*

An Aboriginal co-management arrangement of a national park allows the government and local Aboriginal people to share responsibility for the area's management. The aim is to ensure that Aboriginal people have an opportunity to participate in planning and decision-making for the park, while maintaining access to parks for everyone.

DECC is working with Aboriginal people across the state to develop a range of co-management and partnership agreements that ensure the continuing practice of traditional and contemporary culture in the management of land under DECC's management. Aboriginal co-management fosters stronger relationships between DECC and Aboriginal communities and provides benefits to the conservation reserve system, the Aboriginal people and the broader community of NSW. Co-management provides:

- recognition of cultural association with the land or traditional ownership
- an opportunity to sustain spiritual and cultural activities
- participation in park management decision-making
- protection of cultural sites and heritage
- an opportunity to educate people about Aboriginal culture and contribute to reconciliation
- training and employment opportunities.

Aboriginal co-management is achieved in a number of ways including:

- developing Indigenous Land Use Agreements with native title holders
- returning protected areas to Aboriginal owners and leasing them back to the National Parks and Wildlife Service under Part 4A of the *National Parks and Wildlife Act 1974* (see below)
- developing other co-management agreements with Aboriginal communities.

### **Handback of parks**

Part 4A of the National Parks and Wildlife Act (NPW Act) is one formal mechanism used to achieve co-management.

Under this legislation, some parks are able to be returned to Aboriginal owners and leased back to the National Parks and Wildlife Service (NPWS) as a conservation reserve as follows:

- National parks and reserves of cultural significance to Aboriginal people that are listed in Schedule 14 of the NPW Act are returned to Aboriginal owners.



- Aboriginal owners for a particular area are identified by the Registrar appointed under the *Aboriginal Land Rights Act 1983*.
- The Aboriginal-owned national parks are leased back to NPWS under mutually agreed conditions and re-dedicated as reserves under the NPW Act.
- The lands are managed by boards of management which have a majority of Aboriginal owners. Lands managed by Aboriginal owner boards of management include Mutawintji (near Broken Hill), Biamanga and Gulaga (on the south coast), Mount Grenfell (near Cobar) and the Worrimi Conservation Lands at Stockton Bight, north of Newcastle.

Part 4A of the NPW Act was passed in 1996 and is due for review. Comments on how co-management arrangements are working or how they could work better in the future are sought as part of the broad discussion on Aboriginal land management. There will be a separate evaluation of joint management and co-management of national parks.

### *Indigenous Land Use Agreements*

An Indigenous Land Use Agreement (ILUA) is an agreement relating to the use and management of land and waters made between one or more native title groups and the Government. It allows native title claimants and governments to make native title claims by agreement without pursuing a costly and protracted litigated native title resolution through the courts. ILUAs may include agreements about the use of and access to public land.

An ILUA may be a stepping stone on the way to a native title determination, be part of the determination process or it may suit the parties better than a determination. ILUAs may be made about matters such as mining developments, sharing land and exercising native title rights and interests.

The advantage of an ILUA is its flexibility – it can be tailored to suit the needs of the people involved and their particular land use issues.

The Department of Lands is the lead agency assisting the Minister for Lands to respond to native title claims in NSW. Where credible evidence of native title has been provided, the department provides a coordinated approach to the Government's negotiation with claimants for ILUAs which cover the management of public land in the claim area. The Government has in other cases agreed to finalise native title claims through an ILUA that does not recognise native title. The availability of this option is considered on a case-by-case basis.

An ILUA may:

- enable development to take place on the land
- deal with how that development will occur
- deal with how native title rights will be exercised
- address any compensation payable to the native title group.

Where an ILUA is included on the Register of Indigenous Land Use Agreements, it binds all parties and all native title holders to the terms of the agreement. The native title rights recognised by an ILUA have the same force under Commonwealth law as if they were part of a native title determination.

### *Catchment Management Authorities*

Catchment Management Authorities (CMAs) are responsible for managing natural resources at the catchment level in NSW. Key roles of the 13 CMAs include preparing Catchment Action Plans (CAPs) and managing incentive programs to implement the plans. CAPs integrate previous work with the latest information, science and local knowledge. CMAs consult Aboriginal communities in preparing their CAPs, natural resource programs and investment strategies.

CMA programs help integrate public and private land management activities, including support for natural resource management on Aboriginal-owned lands.

Each CMA has at least one permanent Aboriginal identified position called a Catchment Officer (Aboriginal Communities). Some CMAs may also have other contract Aboriginal positions. These dedicated staff work closely with Aboriginal Reference Groups and the Aboriginal communities within each catchment to implement natural resource management programs.

Aboriginal Reference Groups advise CMAs on priority natural resource management and cultural heritage issues for Aboriginal communities and act as a conduit for the exchange of information between CMAs and local Aboriginal communities on natural resource management issues. Currently eight of the 13 CMAs use Aboriginal Reference Groups and at least two others are establishing them.

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
- helping deliver 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.

Both the DPI and DECC undertake other initiatives to involve Aboriginal communities in the management of public land. These initiatives are discussed in more detail in the Appendix.

## **Theme 4: Developing economic opportunities from the sustainable use of land**

### **Issue**

Identify opportunities for Aboriginal people to derive economic benefits from the management of both public land and their own lands

### **Discussion questions**

1. What are the issues in relation to deriving economic benefit from the sustainable use of public land?
2. How could the Government work with Aboriginal owners of land to maximise and sustain economic uses?
3. How could the NSW and Commonwealth Aboriginal land management programs work together?

This theme explores ways of developing economic benefits from the sustainable use of public land, within the limits set by wider public land management objectives. The sustainable economic use of Country is central to Aboriginal cultural heritage. Exploring the contemporary sustainable use of public lands and Aboriginal-owned lands also presents a great opportunity to capture economic benefits for Aboriginal groups.

Economic opportunities associated with the sustainable use of public lands include the management of the land (such as clearing of weeds and bush regeneration), the 'extractive' use of the land (e.g. collecting bush tucker) and managing access to the land (such as involvement in eco-tourism).

Economic opportunities are also available from contracts for a number of public land management functions. For example, DECC enters into contracts for the management of weeds, pests, bush regeneration, public education and cultural tourism in national parks. Aboriginal organisations participating in government field investigations are paid for their survey work which is identifying Aboriginal cultural heritage sites and places. In some instances, the expanded information about sites leads to business opportunities to interpret this heritage, as part of an Aboriginal cultural tourism experience.

Aboriginal cultural heritage is a key component of eco-tourism, which is one of the fastest growing areas of the tourism market. Aboriginal tourism provides much needed opportunities for employment and social stability, as well as restoring and protecting culture.

## **What the NSW Government is doing**

### *Forestry*

Forests NSW has partnered Aboriginal groups in a number of ventures. At Tabulam on the northern tablelands, Forests NSW held discussions with the Local Aboriginal Land Council over a 319-hectare parcel of land it owned. These discussions led to a joint venture with the planting of 96 hectares of spotted gum. The plantation will provide future financial returns to the land council and local employment opportunities.

### *Aquaculture*

On the NSW south coast, interest by the Aboriginal community in aquaculture led to the formation of the South Coast NSW Aquaculture Aboriginal Corporation, involving 11 land councils between Wollongong and the Victorian border.

The Bodalla Local Aboriginal Land Council became involved in aquaculture as a result of involvement with the corporation and purchased oyster leases in Wagonga Inlet. The Department of Primary Industries (DPI) has actively supported the land council's successful entry into the aquaculture industry. After a spat collection permit was granted, DPI contributed hatchery and wild spat, and sourcing equipment. A local oyster farmer has been acting as a mentor to the enterprise and an advisory network is supporting the operation of the lease. The DPI also hosted six Aboriginal trainees at a two-day oyster farming workshop at the Port Stephens Research Centre.

### *Park management*

DECC has formed a number of cooperative programs with TAFE and Aboriginal organisations for training and short-term employment and contract work on parks. These programs have included cultural heritage surveys and assessment, bush regeneration, weed control, pest control and fencing works.

DECC has assisted in business planning for Aboriginal organisations associated with the co-managed Arakwal and Stockton Bight national parks.

DECC's Aboriginal Discovery Program is an education initiative for the general community on Aboriginal cultural heritage, which provides a range of employment opportunities. DECC works in partnership with relevant Aboriginal groups to train Aboriginal people in interpretation and how to run a Discovery Program. The Mungo National Park Discovery Program won a NSW Tourism Award in 2005 for cultural tourism.

DECC has also implemented cadet and trainee employment programs.

## **Aboriginal-owned land**

Most of the land owned privately by Aboriginal people and groups in NSW is in the hands of Aboriginal Land Councils. Each land council, including the NSW Aboriginal Land Council, is required to develop a community, land and business plan which sets out strategies for managing assets, investments and the operation of business enterprises. In preparing this plan, a land council must consult its members and others who have a cultural association with the land in the council's area.

Plans must be approved by the members of the land council as well as the NSW Aboriginal Land Council, in accordance with criteria specified in the *Aboriginal Land Rights Act 1983*. Land councils operate within the parameters of their council's community, land and business plans. The plans run for up to five years, provide certainty on land council goals and objectives, and keep them clearly focused on their operations.

As with other privately run businesses, the Government can assist private Aboriginal businesses through policy development and coordination, networking and export promotion. For example, economic opportunities from the sustainable use of land could be fostered by growing industries such as Aboriginal aquaculture, bush foods, art and cultural tourism through strategic policies, support networks and help from industry.

This theme seeks discussion on ways the Government can support Aboriginal communities to achieve a sustainable economic return from their land. Aboriginal-owned

lands, in particular, offer opportunities for the development of sustainable economic benefits. The management of these lands is a matter for the Aboriginal owners involved. Aboriginal-owned businesses based on the sustainable use of the land may be a way to increase the wellbeing of Aboriginal communities linked to that land. Examples of business ideas include bush tucker gardens, cultural tourism and the use of land in accordance with the NSW Government's BioBanking scheme.

BioBanking provides a framework for offsetting the impacts of development at a site by improving or protecting biodiversity either linked to that site or at a location nearby. Under the scheme, landowners can generate and sell biobanking credits by setting up and managing biobank sites.

The NSW Environmental Trust is currently funding the *Land Alive* project which helps interested Aboriginal landowners access the benefits of the scheme and offers business planning for biobanking projects on Aboriginal-owned land.

DPI is working with Aboriginal people to improve Aboriginal employment in primary industries activities, including an Aboriginal Rural Training Program through its Murrumbidgee Agricultural College.

## **Theme 5: Learning and working for Country**

### **Issue**

Build capacity in both Aboriginal communities and Government agencies to enable them to work better together and more effectively deliver the programs discussed in other themes. Government agencies:

- protect Aboriginal heritage
- consult with Aboriginal groups about policy and operational practice
- arrange to provide for cultural practice
- provide for training of Aboriginal people
- provide support to business ventures related to cultural or natural resources or other economic opportunities on land in Aboriginal ownership
- provide extension services to assist the management of Aboriginal-owned land and are involved in the rehabilitation and enhancement of habitat on public land.

### **Discussion questions**

1. What are your views on existing programs for developing the skills needed to 'work for Country'? Is there a need for these to be improved or better coordinated?
2. What are your views on providing site identification training?
3. Can the NSW Government assist Aboriginal owners of land to access Commonwealth programs?

This theme is about improving the skills needed for both Aboriginal groups and Government employees to 'work for Country' including training in issues such as cultural awareness, employment, land and natural resource management and facilitation. Skills and expertise are needed to manage land and participate in large projects. The Government has a number of programs to develop skills in the community that facilitate land management and community cohesion and has committed to objectives in the *NSW State Plan* (NSW Government 2007) aimed at increasing the skills base.

Better land management outcomes can be achieved by improving the skills and capacity of people and agencies. Training and involvement in processes, ready access to information, cultural awareness training and knowledge in a range of areas can be critical in achieving results.

## **What the NSW Government is doing**

### *NSW Environmental Trust*

The Environmental Trust is an independent statutory body established by the NSW Government to support exceptional environmental projects that do not receive funds from the usual government sources. The trust was established under the *Environmental Trust Act 1998* and its main responsibility is to make and supervise the expenditure of grants.

DECC administers the trust which is chaired by the Minister for the Environment. The trust's Protecting Our Places Program has the following objectives:

- to restore or rehabilitate Aboriginal land or land that is culturally significant to Aboriginal people
- to educate Aboriginal and other communities about the local environment and the value Aboriginal communities place on their natural environment.

#### *Training of Park Co-Management Boards*

Under Aboriginal co-management of national parks, the Government and a Board of Management, the majority of whose members are Aboriginal owners, share responsibility for managing a reserve. The aim is to ensure that Aboriginal people have the opportunity to participate in planning and decision-making for the park. Management and governance training has been offered to boards.

#### *Primary industry training*

Primary industries activity in NSW provides a broad range of job opportunities. DPI's Aboriginal Reference Group assists in identifying further training and skill development and builds on existing programs, so that more Aboriginal people can participate in the opportunities presented in rural NSW.

#### *Cultural awareness training for agency staff*

All NSW Government agencies have access to cultural awareness training for staff.

DECC, for example, has embarked on a program of Aboriginal cultural awareness training for its entire staff. The program of two-day training courses, developed and delivered by TAFE NSW, is being rolled out across the state. Input from local Aboriginal community members – as facilitators and participants – ensures each session is unique and locally relevant.

The course develops awareness of Country, culture, people and history, and provides an overview of key legislation and policy developments relating to DECC's work with Aboriginal Australians. The course also focuses on building *Two Ways Together* workplaces and relationships, and includes visits to local Aboriginal sites.

#### *Conservation and site identification training*

Training in conservation techniques is available through a number of Government programs and with grant funding from, for example, the NSW Environmental Trust. Specific positions within DECC have received training in Aboriginal site identification in consultation with local Aboriginal communities. TAFE NSW runs training in this area and there are also community-run training courses.

#### *Procurement strategies*

The NSW Government Procurement Strategy provides that in locations where there are significant Aboriginal populations with limited opportunities, agencies must identify contracts that can provide employment, business and training opportunities for them. Increasing Aboriginal employment can be included as part of the tender assessment criteria for those identified contracts.

## Commonwealth programs

A range of Commonwealth programs have also been established to encourage Aboriginal involvement with the land.

### *Indigenous Protected Areas Program*

The Indigenous Protected Areas Program is part of the National Reserve System Program. Through this program, Aboriginal landowners are being supported to manage their lands for the protection of natural and cultural features in accordance with internationally recognised standards and guidelines for the benefit of all Australians.

An Indigenous Protected Area is an area of land over which traditional Aboriginal owners have entered into a voluntary agreement for the purposes of promoting biodiversity and cultural resource conservation.

### *Working for Country*

Aboriginal Australians have long protected and managed land and sea Country using their traditional knowledge. The Australian Government has a new program called *Working on Country* that will build on this history of management by contracting Indigenous people to provide environmental services in remote and regional areas. Their work will help to maintain, restore, protect and manage Australia's environment.

Funding for *Working on Country* is ongoing, with \$47.6 million to be invested in the program over the next four years. More than \$5.6 million will be available for on-ground work in 2007–08, building to \$12.6 million in the fourth year (2010–11). Initially, *Working on Country* will focus primarily on Aboriginal-held lands. Projects on land or sea Country owned and/or managed by the Australian, state, territory or local governments will not be eligible for funding.

### *Indigenous Land Corporation*

The Indigenous Land Corporation (ILC) assists Aboriginal people acquire land and manage it sustainably. The aim is to provide cultural, social, economic and environmental benefits for Aboriginal communities and future generations. The corporation acquires land for grant to Indigenous people. The National Indigenous Land Strategy 2007–12 (ILC 2007) outlines the policies and priorities which guide the corporation in performing its land acquisition function.

The ILC's Land Management Program aims to 'assist Indigenous people to manage their land in order to obtain cultural, social, environmental and economic benefits from such land by building capacity for self-reliance and supporting enterprises that deliver sustainable benefits'.

The ILC may support land management activities in relation to all Aboriginal-held land if the activities meet the program criteria and they will deliver sustainable benefits to Indigenous people and have been agreed to and actively supported by landholders. Land management assistance may be provided to approved applicants for land management activities. The ILC will assist Aboriginal people make full use of the funds and programs available from other agencies and help provide technical and professional advice, information and training.



## **Appendix:**

### **NSW public land management agencies**

#### **Department of Environment and Climate Change**

An important goal of the Department of Environment and Climate Change (DECC) is to work with Aboriginal communities and other government departments to facilitate the practice of Aboriginal culture and assist communities increase their capacity to engage in the management and conservation of land, water and natural resources. DECC is responsible for:

- working in partnership with the regional programs and Aboriginal communities in the management of Aboriginal culture and heritage
- supporting the delivery of natural resource management in NSW, especially through such bodies as Catchment Management Authorities
- identifying, managing and protecting the natural and Aboriginal cultural heritage of NSW
- regulating activities to conserve and protect Aboriginal cultural heritage and the environment.

DECC is committed to the identification and protection of places and objects of Aboriginal cultural significance on both its own estate as well as private lands. To meet these objectives, DECC in partnership with Aboriginal communities delivers programs that promote cultural renewal and active participation of Aboriginal people in NSW Government conservation initiatives.

The Director General of DECC has the care, control and management of parks reserved under the National Parks and Wildlife Act. These are public lands reserved for the conservation of natural and cultural heritage and public recreation. Partnerships between DECC and Aboriginal people for park management can include:

- working with Aboriginal people to manage parks, including Aboriginal co-management of parks; participation in DECC advisory committees; participation in land management activities, such as cultural heritage assessment and protection works, weed and pest management, bush regeneration, employment and training
- recognition of native title interests in parks, including the negotiation and implementation of Indigenous Land Use Agreements
- education and interpretation of Aboriginal culture through activities, such as the Aboriginal Discovery Program
- access by Aboriginal people to parks for cultural purposes, such as camps where traditional or ceremonial activities are undertaken
- commercial partnerships, such as the licensing of Aboriginal companies to conduct tours in parks.

DECC has developed Memorandums of Understanding (MOUs) for co-management at a regional and local level in response to community requests. These MOUs are more flexible and allow DECC and Aboriginal communities to build their capacity to work together over time.

DECC has a range of informal access and use arrangements with Aboriginal communities for parks around the state, including culture camps, which incorporate a range of activities, such as language, dance, art, story-telling and cultural resource use. DECC staff may assist with organising culture camps both on- and off-park, as has occurred at Yathong and Pilliga nature reserves. DECC also provides new infrastructure or for use of the existing DECC facilities for culture camps, such as those held at Ben Boyd and Saltwater national parks. In some cases DECC's only involvement has been an agreement that culture camps occur on DECC-managed lands (Montague Island Nature Reserve).

DECC administers the Environmental Trust's Protecting Our Places grants program which aims to protect land that is culturally significant to Aboriginal people and support environmental education projects.

DECC's Aboriginal Cultural Heritage Program assists communities to undertake cultural heritage projects.

## Department of Primary Industries

The Department of Primary Industries (DPI) administers legislation covering the management and conduct of mining, forestry, fisheries and agriculture. DPI has formed an Aboriginal Reference Group to give strategic advice on policy and primary industry issues. The reference group provides strategic advice on DPI liaison and consultation with Aboriginal communities.

Consultation at a local level helps identify issues that are relevant in managing primary industries. However, for mining or agricultural operations it is normally the proponent who is responsible for consultation as part of any necessary planning approvals under the *Environmental Planning and Assessment Act 1979* (EP&A Act). The *Native Title Act 1993* (Cwlth) establishes procedural rights for registered native title claimants in mining matters.

Forest operations are conducted in accordance with the *Forestry Act 1916* and the *Forestry and National Park Estate Act 1998*. In Forest Agreement regions, this requires operations to be carried out in line with Integrated Forestry Operations Approvals. These require cultural heritage matters to be addressed in accordance with cultural heritage guidelines, which include identification of key community stakeholder interests and development of MOUs governing timing of consultation and mutual obligations. Management options are considered and site management negotiated with relevant stakeholders.

More detailed operational guidelines for Aboriginal cultural heritage have been approved as part of the Forests NSW Environmental Management System. Forests NSW has Aboriginal Cultural Heritage Officers and Aboriginal coordinators to facilitate involvement with appropriate groups.

For fisheries management, DPI engages with Aboriginal groups in relation to cultural issues, as well as resource access and economic opportunities for wild catch and aquaculture. DPI also includes Aboriginal people on Fisheries Management Advisory Committees to ensure Aboriginal-specific interests are considered and addressed.

## Rural Lands Protection Boards

Rural Lands Protection Boards manage travelling stock reserves (TSRs) which are parcels of Crown land. They were originally reserved in the 19th century to allow stock to move between properties and markets. TSRs currently cover around 600,000 hectares or 0.8% of NSW. Originally, reserves for the movement of livestock included access to water. The

association of TSRs with water and the logical pathways between sources of water meant they often coincided with traditional Aboriginal pathways and access to streams.

In addition to their role for travelling stock, many TSRs have important environmental, social, historic and cultural significance to the community. TSRs often provide vital habitat and shelter for native flora and fauna, including protected and threatened species. TSRs also contain Aboriginal sites and cultural objects that are important to Aboriginal communities. Many TSRs are used by campers, bushwalkers, birdwatchers and other recreational users.

The importance of TSRs to Aboriginal people in NSW is expressly recognised in the *Aboriginal Land Rights Act 1983*, which in some cases permits Aboriginal Land Councils (ALCs) to claim and acquire control of TSRs, and negotiate access agreements. Access agreements can allow Aboriginal people to access TSRs for hunting, fishing, gathering and other cultural activities. Agreements may also formalise existing access arrangements and protect the interests of different land users.

Aboriginal interests are considered by Rural Land Protection Boards when deciding future management options for TSRs. All boards have management plans outlining cooperative strategies to identify and conserve cultural sites of significance. In managing Aboriginal sites, boards liaise with ALCs, local Aboriginal communities, and State Government agencies such as the Department of Aboriginal Affairs, Department of Lands and DPI. Management strategies adopted by boards include identifying and mapping Aboriginal sites, fencing off Aboriginal carved or scarred trees, ensuring that controlled burning does not threaten Aboriginal sites, and other management practices required to preserve Aboriginal sites.

## Department of Lands

The Minister for Lands can dedicate land for particular public purposes, including an 'Aboriginal public purpose' through the *Crown Lands Act 1989*. The Minister for Lands is also able to reserve Crown land for a nominated public purpose and appoint trustees to manage reserved Crown lands. The Act provides for Crown reserves to be managed by either a trust board (which can include Aboriginal membership and Aboriginal ex-officio membership) or by a corporation (which may be an Aboriginal corporation).

A number of Crown reserves have had Aboriginal public purpose uses gazetted. Currently, 33 Aboriginal members sit on the 24 Crown reserve boards appointed to manage reserves that include Aboriginal public purposes. Two Aboriginal ex-officio members have been appointed in relation to the Bidjigal Reserve, which has been dedicated for public purposes including the preservation of Aboriginal cultural heritage. Additional Aboriginal public purpose uses can be nominated and gazetted for Crown land already reserved for other public purposes, provided those uses are consistent with the existing public purpose.

The Minister for Lands is the nominated Minister for dealing with native title issues under the Commonwealth *Native Title Act 1993*, and has resolved seven native title applications by consent and two native title applications by a full hearing in the Federal Court. Other native title applications continue to be progressed by negotiation rather than litigation.

The Minister for Lands has granted over 82,050 hectares of land in freehold to Aboriginal Land Councils through the *Aboriginal Land Rights Act 1983*.

## References

ILC 2007, *National Indigenous Land Strategy 2007–12*, Indigenous Land Corporation, Adelaide – available at [www.ilc.gov.au/webdata/resources/files/NILS\\_2007-2012web.pdf](http://www.ilc.gov.au/webdata/resources/files/NILS_2007-2012web.pdf)

NSW Government 2002, *NSW Service Delivery Partnership Agreement*, Sydney – available at [www.daa.nsw.gov.au/data/files/FrameworkAgreement.DOC](http://www.daa.nsw.gov.au/data/files/FrameworkAgreement.DOC)

NSW Government 2003, *Two Ways Together: NSW Aboriginal Affairs Plan 2003–12*, Sydney – available at [www.daa.nsw.gov.au/publications/](http://www.daa.nsw.gov.au/publications/). See also [www.daa.nsw.gov.au/publications/2ways\\_indicators\\_pdf/Chapter\\_Two\\_240408.pdf](http://www.daa.nsw.gov.au/publications/2ways_indicators_pdf/Chapter_Two_240408.pdf)

NSW Government 2007, *NSW State Plan*, Sydney – available at [www.nsw.gov.au/stateplan/](http://www.nsw.gov.au/stateplan/)

Productivity Commission 2007, *Overcoming Indigenous disadvantage in Australia*, address to the 2nd OECD World Forum, Measuring and Fostering Progress of Societies by Gary Banks, Chairman, Canberra – available at [www.pc.gov.au/\\_\\_data/assets/pdf\\_file/0009/64584/cs20070629.pdf](http://www.pc.gov.au/__data/assets/pdf_file/0009/64584/cs20070629.pdf)

Royal Commission into Aboriginal Deaths in Custody 1991, *National Report* (Elliott Johnston QC, Commissioner), 5 volumes, Australian Government Publishing Service, Canberra – available at [www.austlii.edu.au/au/other/IndigLRes/rciadlc/index.html](http://www.austlii.edu.au/au/other/IndigLRes/rciadlc/index.html)



