

“Land in the State of New South Wales was traditionally owned and occupied by Aborigines. Land is of spiritual, social, cultural and economic importance to Aborigines. It is fitting to acknowledge the importance which land has for Aborigines and the need of Aborigines for land. The Government has accepted that as a result of past Government decisions the amount of land set aside for Aborigines has been progressively reduced without compensation.”

fact sheet



New South Wales
Aboriginal Land Council
www.alc.org.au

Summary of the Proposed Changes to the Protection of Aboriginal Culture and Heritage in NSW

FACT SHEET



Culture and Heritage

This Fact Sheet provides general information about the changes being proposed by the NSW Government to the law and policies which govern the protection of Aboriginal culture and heritage.

It is one of a series of Culture and Heritage Fact Sheets which have been developed for Local Aboriginal Land Councils (LALCs) by the NSW Aboriginal Land Council (NSWALC).

Please Note: While all care has been taken in the preparation of these fact sheets, they are not a substitute for legal advice in individual cases.

The information in these fact sheets is current as of May 2009.

How is Aboriginal cultural heritage protected in NSW?

The main law in NSW which protects Aboriginal cultural heritage is the *National Parks and Wildlife Act 1974*¹. The NSW Department of Environment and Climate Change (DECC) is responsible for administering this Act.

The *National Parks and Wildlife Act* gives the Director-General of DECC responsibility for the proper care, preservation and protection of 'Aboriginal objects' and 'Aboriginal places'. Aboriginal objects include objects on both public and private lands.

The Director-General has the power to prosecute people who unlawfully destroy or damage Aboriginal objects or places, and can take other action to protect cultural heritage such as issuing a stop work order or an interim protection order.

The Director-General can also give permission to damage or destroy Aboriginal cultural heritage by issuing a permit, called an Aboriginal Heritage Impact Permit (or AHIP).

What is the NSW Government proposing to change?

The NSW Government has recently released the *National Parks and Wildlife Amendment Bill 2009*. If passed, the Bill would make a number of changes to the *National Parks and Wildlife Act 1974* and the *Threatened Species Conservation Act 1995*.

The Bill is also known as the **Omnibus Bill**.²

At the same time, DECC has released two new policies which will guide the administration of Aboriginal cultural heritage in NSW. These are the:

- *Due Diligence Guidelines for Protection of Aboriginal Objects in NSW (Consultation Draft)* and
- *Draft Community Consultation Requirements for Proponents* (seeking an Aboriginal Heritage Impact Permit).

What will the changes mean?

The main changes proposed through the *Omnibus Bill* are:

1. New offences (and defences) against harming Aboriginal culture and heritage;
2. Increased penalties for harming Aboriginal culture and heritage;
3. New administrative processes related to the issuing of Aboriginal Heritage Impact Permits (AHIPs);
4. Time restriction of 3 months for challenging the validity of AHIPs; and
5. Changes to the Part 4A of the *National Parks and Wildlife Act*, which governs the hand-back and joint management of national parks.

Where can I get more information about the proposed changes?

More detail about the changes proposed by the *National Parks and Wildlife Amendment Bill 2009*, as well as the new draft *Due Diligence Guidelines* and *Draft Community Consultation Requirements*, are outlined in the NSWALC Culture and Heritage Fact Sheets:

- Fact Sheet 2 – New Fines and Offences for the Destruction of Aboriginal Culture & Heritage;
- Fact Sheet 3 – Proposed Changes to Aboriginal Heritage Impact Permits;
- Fact Sheet 4 – Proposed Guidelines for Due Diligence for the Protection of Aboriginal Culture & Heritage;
- Fact Sheet 5 – Proposed Changes to the Joint Management of National Parks (Part 4A); and
- Fact Sheet 6 – Draft Community Consultation Requirements for Aboriginal Culture and Heritage.

These can also be accessed at www.alc.org.au.

Visit the DECC website at

www.environment.nsw.gov.au

- For the *Omnibus Bill* and the *Draft Due Diligence Requirements* follow the links to 'About DECC', then 'Legislation' and '[NPW Amendment Bill 2009](#)' in the menu bar down the left hand side of the DECC website.
- For the *Draft Community Consultation Requirements* follow the links to 'About DECC', then 'Public Consultation', then 'Documents for Public Consultation' or 'Proposed legislation, policies and guidelines', and then scroll down to '[Interim Community Consultation Requirements for Applicants 2009](#)' in the menu bar on the left hand side of the screen.

Can I have a say about the *National Parks and Wildlife Amendment Bill 2009*?

Yes. DECC has invited submissions from the community on the *Omnibus Bill* and the draft policies.

The closing date for written submissions is **Tuesday 7 July 2009**.

Comments can be emailed to consultation.npwbill2009@environment.nsw.gov.au.

Submissions should include your name, address, contact phone numbers and email address.

Local Aboriginal Land Councils wanting to discuss the changes and the NSW Aboriginal Land Council's response should contact their local Zone Office or the Land, Policy and Research Unit on 02 9689 4444.

Where can I find out more about the protection of Aboriginal cultural heritage in NSW?

The NSW Environmental Defenders Office has developed a free booklet called *Caring for Country: A Guide to Environmental Law for Aboriginal Communities*.

It provides information about environmental, natural resource management and heritage law for Aboriginal people.

A copy of the booklet is available to download from www.edo.org.au (follow the links to NSW, Resources & Publications) or call the EDO office on 1800 626 239.

Footnotes

- 1 A current version of the *National Parks and Wildlife Act 1974* can be accessed online at NSW Legislation: <http://www.legislation.nsw.gov.au/scanview/inforce/s/1/?TITLE=%22National%20Parks%20and%20Wildlife%20Act%201974%20No%2080%22&nohits=y>
- 2 An omnibus bill is a bill which makes changes to more than one Act of Parliament.