



**Industry &
Investment**

Aboriginal Objects

Due Diligence Code

For Plantation Officers

administering the

Plantations & Reafforestation (Code) Regulation 2001

Prepared by Johanna Kempff

B Nat. Res. (Hons)

Grad Cert Arts (Archaeology and Palaeoanthropology) (UNE)

13 September 2010

Table of Contents

Table of Contents	Page
Acronyms and Abbreviations	1
1. What is due diligence?	2
2. Why is there a need to practice due diligence?	2
3. Exceptions to the Due Diligence requirements	2
4. What Aboriginal objects could be present in the landscape?	4
5. Where to start looking?	5
6. Assessment process.	5
7. Aboriginal Heritage Impact Permits.....	8
8. Notification of Aboriginal objects	9
9. References	9

Figures

Figure 1 – Flowchart for cultural heritage assessment process	8
---	---

Appendices

- Appendix A - Aboriginal Cultural Heritage field assessment form
- Appendix B - AHIMS recording form
- Appendix C - Map of Local Aboriginal Land Councils
- Appendix D - Examples of Aboriginal Objects

Cover Photograph: *Aboriginal scarred tree near Tatham, northern NSW*

Acronyms and Abbreviations

AHIMS	Aboriginal Heritage Information Management System, managed by DECCW
DECCW	Department of Environment, Climate Change & Water
I & I NSW	Industry & Investment NSW
LALC	Local Aboriginal Land Council
NPW Act	National Parks and Wildlife Act 1974
PR Act	Plantations and Reafforestation Act 1999
PR Code	Plantations and Reafforestation (Code) Regulation 2001

1. What is “due diligence”?

Due diligence is a legal concept describing a standard of care. Exercising due diligence means considering the *likely risks* of a proposed course of action.

This excerpt is from the “Due Diligence Guidelines for the Protection of Aboriginal Objects in NSW” released by the Department of Environment, Climate Change and Water (DECCW):

“In the context of protecting Aboriginal cultural heritage, due diligence involves taking **reasonable and practicable measures** to determine whether your actions will harm an Aboriginal object, such that a court could conclude that your actions would not be considered negligent or otherwise at fault because you had fully considered the risks of your actions and taken measures to avoid any harm.”

Consistent with the Objects of the National Parks and Wildlife Act 1974 and existing standards of environmental and cultural heritage management promoted by DECCW, the Minimum Standards require that a due diligence Code of Practice:

- Promotes the conservation of objects, places or features (including biological diversity) of cultural value within the landscape, including, but not limited to places, objects and features of significance to the Aboriginal people and,
- In giving effect to the objects of the Act, apply the principle of ecologically sustainable development

The principle of ecologically sustainable development includes:

- The precautionary principle;
- The principle of intergenerational equity; and
- Recognition that to appropriately manage a place first requires an understanding of its significance, and Aboriginal people have the right to determine the cultural significance of Aboriginal cultural heritage.

2. Why is there a need to practice due diligence?

In the past, if a person harmed an Aboriginal object **unknowingly** they did not commit an offence. However the *National Parks and Wildlife Act 1974* (NPW Act) has recently been amended such that Section 86 makes it an offence to harm an Aboriginal object even if the offender did not know it was an Aboriginal object. There are a range of exemptions and defences to this offence, including the exercise of due diligence. This means that ignorance is no longer a defence and appropriate precautionary steps need to be taken to protect Aboriginal objects and declared Aboriginal places.

Under the NPW Act **harming** an Aboriginal object includes to:

- Destroy, deface, damage or desecrate an object
- Move an object from the land on which it is situated
- Cause or **permit** an object to be harmed

A due diligence process enables people to have confidence that if the process is followed, there will only be a minimal likelihood of harming Aboriginal objects.

If a plantation officer authorises a timber plantation without following the due diligence process described in this Due Diligence Code and an Aboriginal object is subsequently

harmed in the course of plantation operations, Industry & Investment NSW (I&I NSW) on behalf of the Crown may be prosecuted for the offence of harming an Aboriginal object on the basis that the plantation officer permitted an Aboriginal object to be harmed.

If the plantation officer follows this Due Diligence Code and acts in **good faith** when authorising the timber plantation, the plantation officer cannot be found personally liable for any consequences of that authorisation. I&I NSW has a defence to a prosecution of harming an Aboriginal object if it can demonstrate that the **plantation officer exercised due diligence** and reasonably determined that the authorisation of the timber plantation would not harm an Aboriginal object.

The Plantations Due Diligence Code has been accepted as an industry specific code of practice under the amended NPW Act and Regulation. Industry and Investment Plantation Officers will implement this Code as part of their assessment duties under the Plantations and Reafforestation Act 1999 and the subsequent authorisation that may be issued for Plantation Development.

This Code also applies to plantation landowners / managers in some circumstances

Owners or managers of authorised plantations will be covered by the application of this Code during the first twelve months after receipt of a plantation authorisation, provided that they fully comply with the PR Code provisions.

For any ground disturbing operations following the expiry of the 12 month period, plantation owners and managers will be required to conduct a search of the AHIMS register prior to the commencement of operations so that any new sites may be protected by the application of the buffer distances prescribed in the PR Code.

3. Exceptions to the due diligence requirements

DECCW's Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW lists the following activities involving "trivial or negligible" harm that would not give rise to an offence under the NPW Act:

- Picking up and replacing a small stone artefact
- Breaking a small Aboriginal object below the surface when you are gardening
- Crushing a small Aboriginal object when you walk on a track
- Picnicking, camping or other similar recreational activities

The NPW Regulation removes the need to follow a due diligence process for "low impact activities" including:

- Maintenance of existing constructed roads, fire trails and tracks on disturbed land
- Cropping, and leaving paddocks fallow on disturbed land
- Construction of fences on disturbed land
- Construction of farm dams and irrigation infrastructure on disturbed land
- The grazing of animals
- Construction of soil conservation works such as contour banks on disturbed land
- Environmental rehabilitation works etc.

Plantation operations include establishment of new plantations on essentially cleared (agricultural) landscapes as well as management operations and harvesting operations. Upon completion of end of rotation harvesting, second or subsequent rotation establishment operations may be undertaken on authorised plantation areas so long as the standards within the PR Code are met.

Establishment, management and harvesting operations involve significant levels of soil disturbance to previously cleared land that has generally been managed for grazing activities. New roads are constructed and maintained for access, fire protection and harvesting activities throughout the life of the plantation. At the time of initial plantation establishment, some minor clearing of native vegetation is allowed in accordance with the limits prescribed in the PR Code and the plantation consent (Authorisation) map. Prior to approving any clearing of native vegetation, the I&I assessment officer inspects all mature paddock trees for threatened species and ACH values.

As a result of the disturbance to the soil surface that results from these types of operations, **plantations do not meet the criteria** for trivial or negligible harm or low impact activities as provided in the NPW Act 1974.

4. What Aboriginal objects could be present in the landscape?

In the NPW Act:

***Aboriginal object** means any deposit, object or material evidence (not being a handicraft made for sale) relating to the Aboriginal habitation of the area that comprises New South Wales, being habitation before or concurrent with (or both) the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains.*

Aboriginal people have lived in Australia for at least 50,000 years and evidence of their presence is found throughout the landscape. The types of Aboriginal objects that may be present include:

- Human skeletal remains
- Middens
- Stone artefacts
- Raised earth rings
- Grinding grooves
- Rock Shelters
- Carved or scarred trees
- Rock art (paintings & engravings)
- Earth mounds
- Hearths
- Stone arrangements

(DECCW, 2010)

Examples of these types of objects are presented in [Appendix D](#).

5. Where to start looking?

The following landscape features are more likely to contain evidence of Aboriginal occupation:

- ♣ **Floodplains** and **Water bodies** such as creeks and wetlands are a focus of human activity
- ♣ **Caves** and **rock overhangs** were often used as shelters
- ♣ **Rock outcrops** especially on plains country could serve as lookouts or quarries
- ♣ **Sandy hills** and sandy riverbanks could be used as burial sites
- ♣ **Small hills** or other elevated country on floodplains are likely camp sites
- ♣ **The junction of rivers** was sometimes used for campsites or ceremonial grounds
- ♣ **Some mountain tops** with long sight lines were used as lookouts and campsites
- ♣ **Ridgelines** were often used as walking tracks
- ♣ **Unusual or striking landscape features** are likely to be included in dreamtime stories

Because plantations occur throughout NSW except for the far west of the state, they nearly all involve at least one, and often several of the above landscape features.

There are some landscape features however which receive specific protection under the PR Code. Wetlands and Rivers are subject to a 20 metre non-disturbance buffer from any plantation operations except for road construction which is necessary to cross the river. Rivers are defined in the Code as streams of third order or higher that have permanent flow. Rocky outcrop areas must not be cleared and are generally excluded from plantation establishment operations as they are not compatible with plantation development.

The Aboriginal Cultural Heritage Field Assessment Form in [Appendix A](#) will serve as a checklist to help carry out and document the due diligence process. [Appendix D](#) contains specific information about Aboriginal objects.

6. Assessment process

The assessment process has been summarised into four basic steps, set out below and in Figure 1.

Step 1: AHIMS search

The first step is to request a search of the Aboriginal Heritage Information System (AHIMS) database. This can be done online or by downloading an application using the following website:

<http://www.environment.nsw.gov.au/licences/HowToObtainAHIMSData.htm>

Step 2: Field Inspection

Carry out the field inspection as part of the pre-application field assessment process and use the checklist in [Appendix A](#) to record and document observations.

- If there are AHIMS-listed objects or any other objects known to I&I NSW within the proposed plantation area, those sites where they occur must be located and validated by the plantation officer during the inspection(s) so that the buffer distance prescribed by Clause 19 of the Code can be applied. (Where necessary, expert assistance may be required to ensure that the whole site is protected.)
- If no additional Aboriginal objects are found during the inspection, note this on the checklist to prove the process has been followed and proceed to Step 3.
- All Aboriginal objects found during the inspection must be recorded and protected by buffers as required by clause 19 of the PR Code.
- DECCW must be notified of new objects found during the inspection (see Step 4 and Section 8).
- If an object that **may** be Aboriginal is found, the precautionary principle should be applied, ie the buffers prescribed by Clause 19 of the PR Code must be applied and DECCW must be notified.
- If the proponent challenges this approach, they should be advised that they can engage the LALC and/or an archaeologist to confirm otherwise.
- If after expert examination the object or site is found not to be an Aboriginal object, the protection provisions should be removed and DECCW and the LALC advised.

Step 3: Consultation

Consultation with the Aboriginal community is not a formal requirement of the due diligence process. However, proponents may wish to consider undertaking consultation if it will assist in informing decision-making (DECCW 2010).

- Where AHIMS-listed sites occur within the proposed area of plantation operations, or if new sites are located within the proposed plantation area during the field inspection at step 2, the LALC may be consulted and informed. The LALC may have other relevant information that needs to be considered during the plantation assessment process.
- It is the responsibility of the plantation proponent and the landowner to initiate and conduct consultation with the LALC and any relevant traditional owners. I&I officers will facilitate this process and remain informed of the progress of such consultation.
- In the event that an application for a plantation authorisation has already been lodged with I&I, if Aboriginal consultation is required it will “stop the clock” with respect to the time periods prescribed in Section 18 of the Plantations and Reafforestation Act 1999 until the consultation has been completed.
- Any other Aboriginal objects identified as a result of consultation must be recorded and protected by buffers as required by clause 19 of the PR Code.
- DECCW must be notified of new objects identified as a result of consultation (see Step 4 and Section 8).
- Update the checklist at Appendix A with any relevant information obtained as a result of consultation.

Step 4: Record Keeping

To prove that the due diligence process has been followed, written records must be kept. The simplest way to do this is to complete and file the checklist at Appendix A. This should be done even if no Aboriginal objects were found.

Photographic records should also be retained on file.

The form in Appendix B should be used to notify new objects for recording on the AHIMS database (see also Section 8 below).

Information to help complete steps 1-4

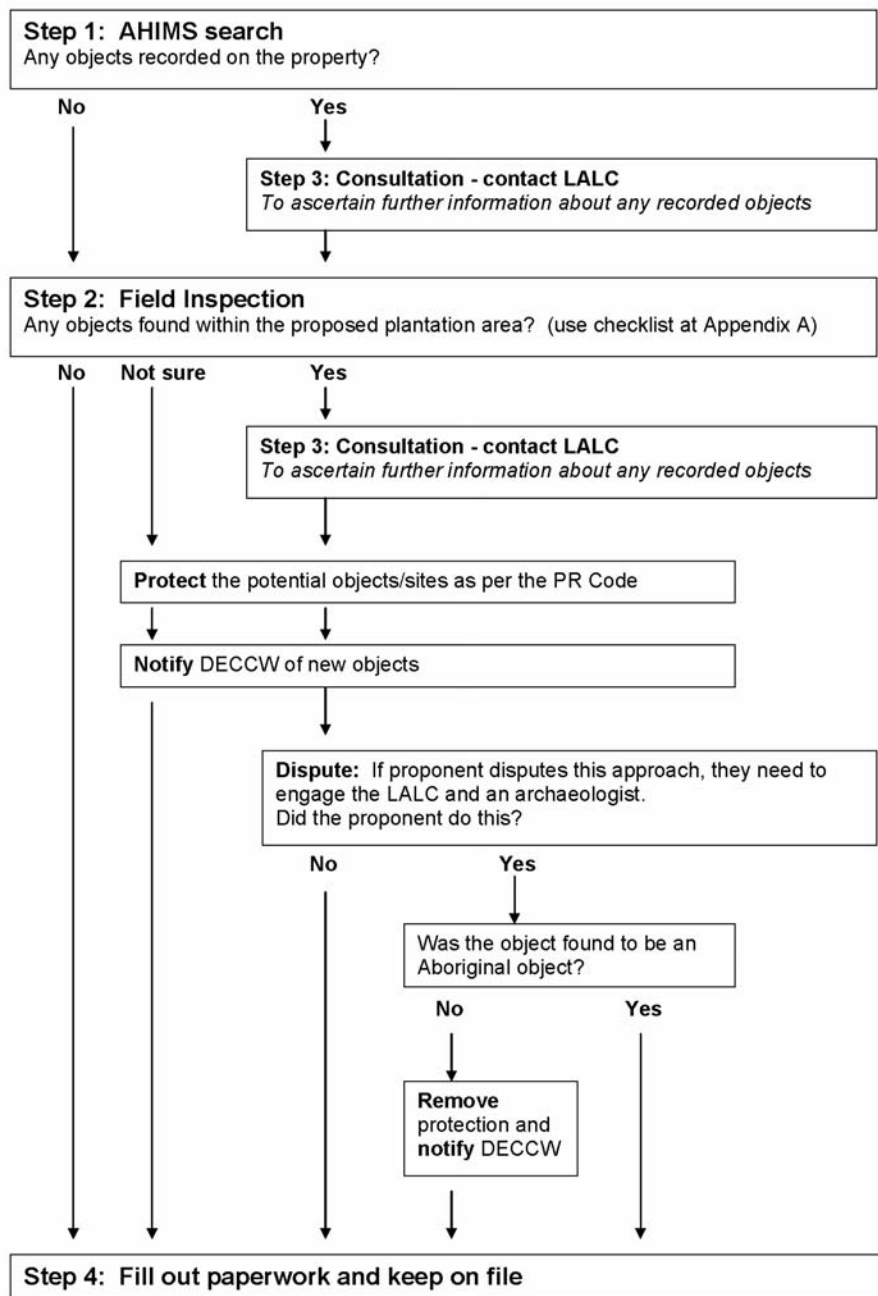
The map in Appendix C will help determine which LALC area the plantation area is in. LALC contact details can be found at:

<http://www.alc.org.au/media/28807/lalc%20contact%20details%2012.04.10.pdf>

For information regarding native title holders or registered native title claims, contact the National Native Title Tribunal.

The information and photos in Appendix D may help to recognise Aboriginal objects.

Figure 1: Flowchart for cultural heritage assessment process



7. Aboriginal Heritage Impact Permits (AHIPs)

If Aboriginal objects are present or likely to be present **and** an activity will harm those objects then an AHIP will be required.

Generally plantation developments will not require an AHIP, as it is a mandatory requirement of the plantation Code that all sites within the authorised plantation area must be protected by the buffer distances that are prescribed by Clause 19 of the PR Code. These buffers must also be applied to any new Aboriginal objects that are discovered during the assessment process.

If objects are discovered subsequent to authorisation, Clause 53 of the PR Code requires that the plantation owner or manager must protect the site by surrounding it with the appropriate buffer that is prescribed in Clause 19.

Upon authorisation of any new plantation developments, I&I will provide information to the plantation owner or manager to advise them of their on-going obligations in relation to Aboriginal Cultural Heritage, including the due diligence requirements and the need to notify DECCW when new Aboriginal objects are discovered (see section 8).

DECCW's website has further information about how to do a detailed investigation and impact assessment and the procedures for applying for an AHIP.

If after this detailed investigation and impact assessment you decide that harm will occur to Aboriginal objects then an AHIP application must be made.

See <http://www.environment.nsw.gov.au/conservation/aboriginalculture.htm#whattodo> for information that is required to support an application for an Aboriginal Heritage Impact Permit (including impact assessment and community consultation) and other relevant information.

All AHIP applicants must undertake consultation in accordance with clause 80C of the *National Parks and Wildlife Regulation 2009*. These requirements may also be followed where there is uncertainty about potential harm and you are undertaking a cultural heritage assessment.

8. Notification of Aboriginal Objects

If any Aboriginal objects are discovered during the site inspection, they **must** be reported to DECCW according to section 91 of the *National Parks and Wildlife Act 1974*.

91. Notification of sites of Aboriginal objects

A person who is aware of the location of an Aboriginal object that is the property of the Crown or, not being the property of the Crown, is real property, and does not, in the prescribed manner, notify the Director-General thereof within a reasonable time after the person first becomes aware of that location is guilty of an offence against this Act unless the person believes on reasonable grounds that the Director-General is aware of the location of that Aboriginal object.

A copy of the AHIMS recording form can be found in [Appendix B](#), or on the following website: <http://www.environment.nsw.gov.au/licences/DECCAHIMSSiteRecordingForm.htm>

9. References

DECCW (13 September 2010). *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*. Department of Environment, Climate Change and Water, NSW.

National Parks and Wildlife Act 1974 (New South Wales).

Appendix A

ABORIGINAL CULTURAL HERITAGE – Field Assessment Form			
Are there any:	Yes /No	If Yes...	Comments
'Aboriginal Places' (as declared by the responsible Minister under the National Parks and Wildlife Act)		Aboriginal places must be totally protected	
Registered sites within the application area or nearby? (check AHIMS)		Contact LALC if within application area	
Old growth areas and areas that have undergone little disturbance?		Worth checking for sites	
Large / mature trees that may have potential to be scar trees?		Check them for scars	
<i>Lophostemon suaveolens</i> Swamp Box trees?		Check them for scars	
Elevated sites with long sight lines?		Potential lookouts and camp sites, check for signs of use*	
Areas adjoining wetlands, natural springs, rivers and creeks?		Potential high usage areas, look for signs of use* including middens	
Junction of two creeks or rivers		Potential camp site, ceremonial site, middens	
Caves, rock shelters or rock overhangs?		Potential shelters, art sites, check for signs of use*	
Rainforest sites near the coast, especially near estuarine waterways?		Exclude from plantation <i>Note: automatically excluded under PRA Code</i>	
Large rock outcrops (especially in flat plains country)?		Potential lookouts, camp sites, quarries, art sites, check for signs of use*	
Sandy hills		Potential burial sites, check for scarred trees, carved trees, rock cairns – possibly exclude from plantation	
Hill or elevated site overlooking floodplain		Potential camp site or ceremonial site, check for signs of use*	
Exposed rock near creeks or shelters		Look for grinding grooves	
Ridgelines		Potential walking tracks – may find stone artefacts if visibility good	
Any evidence of open campsites, artefact scatters or other Aboriginal use of the area?		<i>Please give details</i>	

* signs of use may include stone artefact scatters, scarred trees, rock arrangements, hearths etc.

Decision:.....

Name: _____ Signature _____ Date: _____

Appendix B



This information is not guaranteed to be free from errors or omissions. DEC and its employees disclaim liability for any act done or omission made on the information and consequences of such acts or omissions.

Aboriginal Site Recording Form

AHIMS Registrar
 PO Box 1967, Hurstville NSW 2200
 ahims@environment.nsw.gov.au



Department of
**Environment and
 Conservation (NSW)**

page 1/4

Office Use Only

Site Number

Date received

Date entered into system

Date catalogued

Entered by (Name)

Information Access

Office Use Only

Gender/male Gender/female Location restriction General restriction No access

For Further Information Contact:

Nominated Trustee

Title Surname First Name Initials

Organisation

Address

Phone number Fax

Knowledge Holder

Title Surname First Name Initials

Organisation

Address

Phone number Fax

Aboriginal Heritage Unit or Cultural Heritage Division Contacts

Client on system

Geographic Location

Site Name

Easting Nothing AMG GDA

Mapsheet

Zone 54 1.25k topographic map Non differential GPS

55 1.25k topographic map Non differential GPS

56 1.25k topographic map Non differential GPS

Client GIS or CAD system

Client on system

Primary Recorder

Title Surname First Name Initials

Organisation

Address

Phone number Fax

Date recorded

Client on system

Appendix B

DEC (NSW) Aboriginal Site Recording Form - Site Information

CLOSED SITE OPEN SITE

Site Context

Landform

- Mountains
- Plain
- Rolling hills
- Steep hills
- Undulating plain

Landform Unit

- Beach
- Coastal rock platform
- Dune
- Intertidal flat
- Lagoon
- Tidal Creek

- Tidal Flat
- Cliff
- Crest
- Flat
- Lower slope
- Mid slope

- Upper slope
- Plain
- Ridge
- Tor
- Valley flat
- Levy

- Stream bank
- Stream channel
- Swamp
- Terrace
- Terrace flat

Slope

degrees

Vegetation

- Closed forest
- Grasslands
- Isolated clump of trees
- Open forest
- Open woodland
- Scrub
- Woodland
- Cleared
- Revegetated
- N/A

Land use

- Conservation
- Established urban
- Farming-intensive
- Farming-low intensity
- Forestry
- Industrial
- Mining
- Pastoral/grazing
- Recreation
- Semi-rural
- Service corridor
- Transport corridor
- Urban expansion
- N/A

Water

Distance to permanent water source metres
Distance to temporary water source metres
Name of nearest permanent water source
Name of nearest temporary water

Directions for Relocation

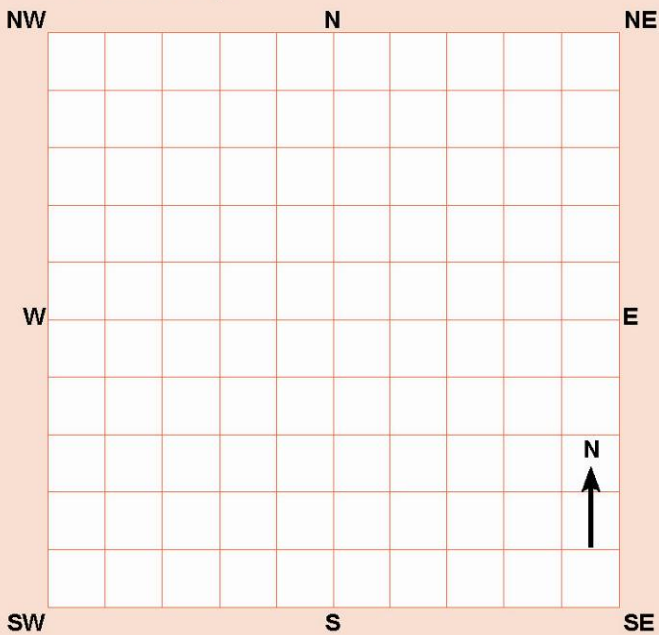
Current Land Tenure

Public National Park/other government
 Private

Primary report

I.D. (I.D. Office Use only)

Relocation Map



DEC (NSW) Aboriginal Site Recording Form - Site Information

General Site Information

Closed Site

Open Site

Shelter/Cave Formation

Rock Surface Condition

- Boulder
- Wind erosion
- Water erosion
- Rock collapse

- Boulder
- Sandstone platform
- Silica gloss
- Tessellated
- Weathered
- Other platform

Condition of Ceiling

Shelter Aspect

- Boulder
- Sandstone platform
- Silica gloss
- Tessellated
- Weathered
- Other platform

- North
- North East
- East
- South East
- South
- South West
- West
- North West

Features (including number of features)

- | | | |
|--------------------------|---------------------------------------|--------------------------|
| <input type="checkbox"/> | 1. Aboriginal Ceremony & Dreaming | <input type="checkbox"/> |
| <input type="checkbox"/> | 2. Aboriginal Resource & Gathering | <input type="checkbox"/> |
| <input type="checkbox"/> | 3. Art | <input type="checkbox"/> |
| <input type="checkbox"/> | 4. Artefact | <input type="checkbox"/> |
| <input type="checkbox"/> | 5. Burial | <input type="checkbox"/> |
| <input type="checkbox"/> | 6. Ceremonial Ring | <input type="checkbox"/> |
| <input type="checkbox"/> | 7. Conflict | <input type="checkbox"/> |
| <input type="checkbox"/> | 8. Earth Mound | <input type="checkbox"/> |
| <input type="checkbox"/> | 9. Fish Trap | <input type="checkbox"/> |
| <input type="checkbox"/> | 10. Grinding Groove | <input type="checkbox"/> |
| <input type="checkbox"/> | 11. Habitation Structure | <input type="checkbox"/> |
| <input type="checkbox"/> | 12. Hearth | <input type="checkbox"/> |
| <input type="checkbox"/> | 13. Non Human Bone & Organic Material | <input type="checkbox"/> |
| <input type="checkbox"/> | 14. Ochre quarry | <input type="checkbox"/> |
| <input type="checkbox"/> | 15. Potential Archaeological Deposit | <input type="checkbox"/> |
| <input type="checkbox"/> | 16. Stone Quarry | <input type="checkbox"/> |
| <input type="checkbox"/> | 17. Shell | <input type="checkbox"/> |
| <input type="checkbox"/> | 18. Stone Arrangement | <input type="checkbox"/> |
| <input type="checkbox"/> | 19. Modified Tree | <input type="checkbox"/> |
| <input type="checkbox"/> | 20. Water Hole | <input type="checkbox"/> |

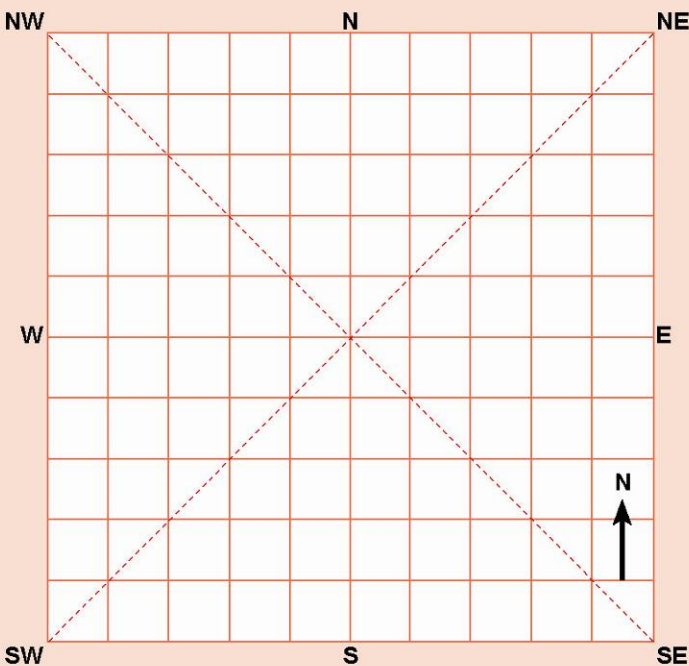
Site Orientation

- N-S
- NE-SW
- E-W
- SE-NW
- N/A

Attachments (No.)

- A4 location map
- B/W photographs
- Colour photographs
- Slides
- Aerial photographs
- Site plans, drawings
- Recording tables
- Other
- Feature inserts-No

Estimated Site Extent and Location of Features



Site Context

Closed Site Dimensions (m)

- Internal length
- Internal width
- Shelter height
- Shelter floor area

Open Site Dimensions (m)

- Total length of visible site
- Average width of visible site
- Estimated area of visible site
- Length of assessed site area

Site Interpretation and Community Statement - Aboriginal Community Interpretation and Management Recommendations

Preliminary Site Assessment - Scientific Analysis and Preliminary Management Recommendations

This section should only be filled in by the Endorsees

Endorsed by: Knowledge Holder Nominated Trustee Native Title Holder Community Consensus

Title	Surname	First Name	Initials
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text"/>

Organisation

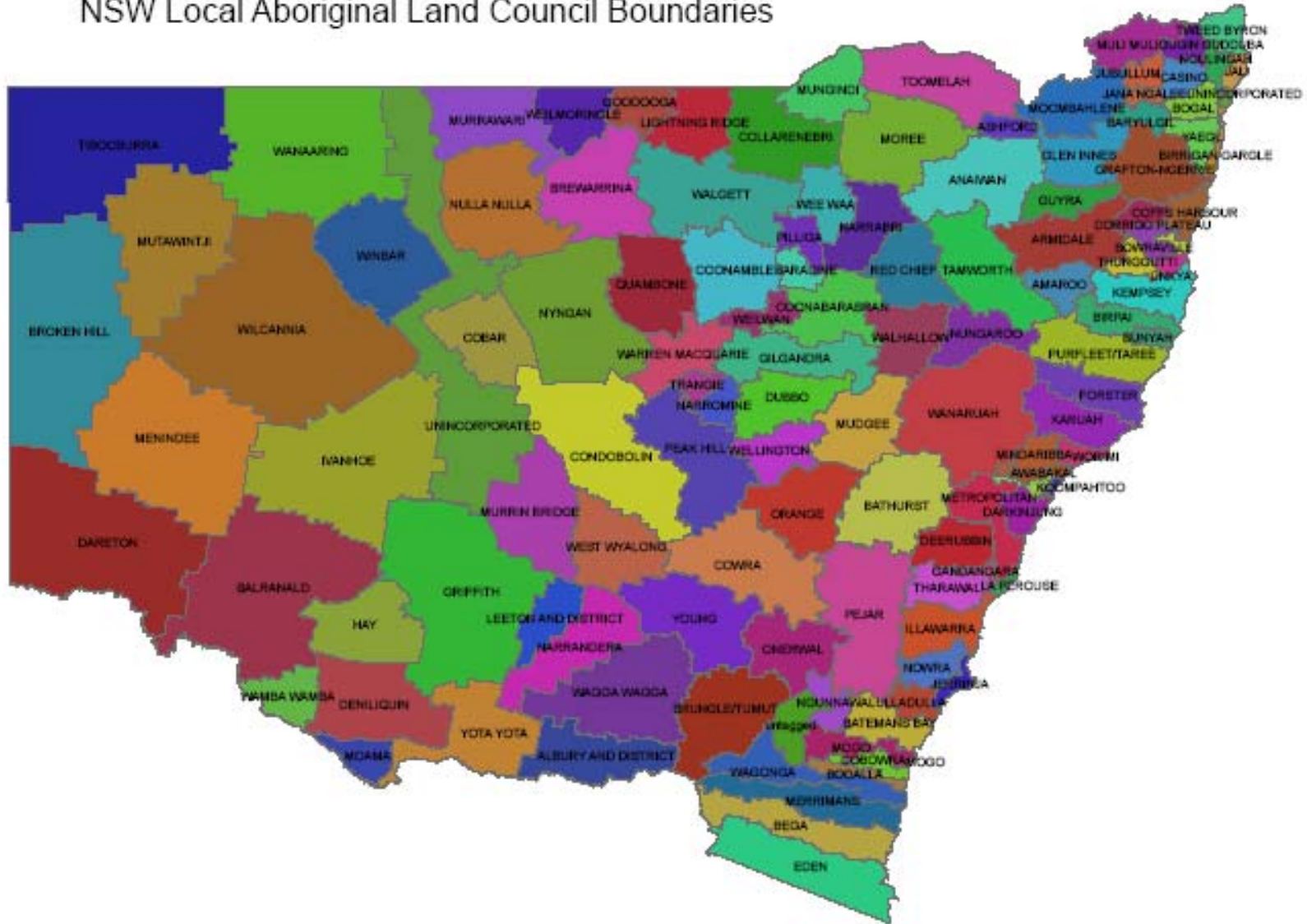
Address

Phone number Fax

Comments

Appendix C

NSW Local Aboriginal Land Council Boundaries



Examples of Aboriginal Objects

(Extract from the DECCW document “Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW – Revised Consultation Draft 25 February 2010”)

Stone artefacts are a common type of Aboriginal object, and include stone tools, spear points, surface scatters, grinding stones, ground-edge axes, and other implements that were used for a variety of purposes, such as in the preparation of food or to make nets, baskets and other tools. Stone artefacts often have sharp edges, or of a stone type that is different from the natural rock in the area.

Another type of stone artefact is a ground-edge axe, which can come in different shapes, but they are usually round or oval. They are sometimes rounded and narrow at one end, and slightly broader and straighter at the cutting edge.

Because stone artefacts do not rot or rust they are often the primary physical evidence of Aboriginal occupation in a particular area. They can also provide important information about past Aboriginal people's settlement patterns, lifestyle and other connections, such as trade.

The presence of stone artefacts in an area may indicate that either a place was previously used by Aboriginal people, or that the area continues to be a place of significance, which may include sensitive sites such as men's or women's areas which may require a buffer zone to maintain. In some cases it will be appropriate to consider removing stone artefacts from where they are found (salvage), following advice from DECCW and Aboriginal groups.

Stone artefacts are often small, so they can be difficult to protect. Erosion and weathering activities such as ditch digging and ploughing can disturb stone artefacts. They can also be broken when trampled by animals, or when run over by vehicles.



Stone Artefacts. Photo by Mark Flanders, Northern CHD, DECCW

Appendix D

Surface artefact scatters are the material remains of Aboriginal people's activities. Scatter sites usually contains stone artefacts, but other material such as charcoal, animal bone, shell and ochre may also be present. The size of scatters may vary from one square metre to larger areas, and may contain a few artefacts or thousands.

Stone artefacts can be found almost anywhere where Aboriginal people camped or lived in NSW, particularly around occupation sites, in sand dunes, rock shelters, caves, on ridges and near watercourses. Ground-axe edges may also be found near axe-grinding grooves, or quarries.

Oven or hearth sites are the remains of a domestic open fireplace. Domestic open fireplaces have been used in populated places throughout Australia to provide warmth and lighting. They are also used for cooking food and sometimes to signal from one group to another.

These hearths are roughly circular piles of burnt clay or heat fractured rock with associated charcoal fragments, burnt bone, shell and stone artefacts.



Aboriginal hearth. Photo by Steve Meredith.

Appendix D

Rock art includes paintings and drawings that generally occur in rock overhangs, caves and shelters. Stencils of hands, paintings or drawings of animal or people figures and animal tracks are common and have often been created using ochre, white pipeclay or charcoal.

Engravings commonly occur on open, flat surfaces of rock such as on sandstone outcrops, although some occur in vertical rock faces and in rock shelters. Examples of engravings include outlines of people or animals, but may also include patterns, tracks and lines.

Rock art is of high cultural significance to Aboriginal people, and many sites are still regarded as sacred, or of ceremonial significance. Rock art sites are important link to the past for Aboriginal people today. Rock art sites can also provide important information about the daily life and culture of Aboriginal people before European contact, and many sites are hundreds or thousands of years old.

Rock art sites can be easily damaged as they can be prone to erosion and vandalism. Touching rock art or disturbing a shelter floor in the immediate vicinity of the rock art can cause damage, as can movement on or over surfaces with rock art. Sites may also suffer from vegetation growth or removal. Effective management of rock art sites can include drainage, fencing, graffiti removal, and visitor control.



Mutawinji hand stencils. Photo by Pat Laughton DECCW

Appendix D

Shell Middens are commonly made up of the remains of edible shellfish, and could be the result of a single meal or many different meals at the same location over many years. A midden may also contain fish and animal bones, stone tools, or charcoal. They can vary in size and depth. Middens are sometimes associated with burials.

Middens can be found on headlands, sandy beaches and dunes, around estuaries, swamps and tidal stretches of creeks and rivers, and along the banks of inland rivers, creeks and lands. Middens may also be found in the open or in rock shelters.

Middens can indicate that a place was, and may continue to be, a key meeting place of significance. Middens can also provide information about the environment that existed when Aboriginal people collected the shellfish, such as changes in species, and tools or raw materials that were used. Middens which contain burials are particularly significant.

Middens are amongst the most fragile cultural sites. They can be exposed by wind or degraded by human and animal activity. Effective management of midden sites may include stabilising the surface, such as encouraging vegetation cover, or by restricting access to the site such as erecting fencing.



Shell Midden. Photo by Warren Mayers ACHO Northern CHD, DECCW

Appendix D

Axe grinding grooves are oval shaped indentations generally on flat and soft rock surfaces, such as sandstone outcrops. Aboriginal people made the grooves when shaping and sharpening stone axes by grinding them against the rock. Grooves can vary in size, shape and number. Sites with 20 to 60 grooves are not uncommon and some sites have more than 200.

Axe grinding grooves are important because they provide information about Aboriginal stone tool technology. They are often found along the edges of creeks, lakes or swamps as water was needed to keep the stone clean and cool. In areas where suitable outcrops of rock were not available, transportable pieces of stone were used for sharpening or grinding tools. Axe-grinding grooves provide important information about how stone tools were made.

As sandstone is relatively soft, it is prone to weathering, erosion and trampling by animals. Human activities such as mining, road infrastructure, damming, clearing, ploughing and construction can also destroy these sites. Management options can include stock and erosion control.



Axe Grinding Stones. Photo by Hilton Naden Northern CHD, DECCW

Appendix D

Aboriginal culturally modified (scarred and carved) trees are trees that show the scars caused by the removal of the bark or wood for the making of, for example, canoes, vessels, boomerangs, shelters and medicines. The shape and size of the scar may indicate the purpose for which the bark or wood was removed from the tree. In some regions of NSW, trees were carved with intricate patterns and designs for ceremonial purposes, or to mark country boundaries or burials.

Carved trees associated with burial sites are usually in groups of two or more trees. Carved trees associated with ceremonial grounds may have also been used for educational purposes. Scarred and carved trees occur in various locations across NSW.

Scarred and carved trees are significant to the descendants of the Aboriginal people living today. Scarred and carved trees are becoming rarer in NSW as trees decay, are burnt, or are destroyed.

It is important to note that the defence to a prosecution contained in Clause 80B of the *National Parks and Wildlife Regulation 2009* relating to certain low impact activities does not apply in relation to any harm to an Aboriginal scarred tree. Ensuring that scarred trees are not harmed will likely include insuring effective buffer zones are used, as their significance is often part of the broader landscape.



Carrington Scarred Tree. Photo by Warren Mayers ACHO Northern CHD, DECCW

Appendix D

Quarry sites are sites where Aboriginal people manufactured stone tools or collected ochre for painting and decoration. Quarry sites may be found in areas of rock outcrops and can be identified by the presence of artefacts such as flaked stone. Quarry sites vary in size. They may be one or two flaked boulders or a single pit, but can also incorporate many large outcrops over large areas.

As stone was an important resource for Aboriginal people, quarries are often associated with other nearby Aboriginal sites and cultural material. In NSW a variety of stone types were quarried for particular purposes. Quarries also provide information about trade routes and other activities.

Human activities such as mining, road building, damming, clearing and construction can disturb or destroy Aboriginal quarries. Natural processes such as weathering and erosion can also cause the gradual breakdown of stone outcrops.

Aboriginal quarries can be protected by management actions such as by controlling stock and managing erosion.



Daruka Axe Quarry Tamworth. Photo by Bruce Cohen ACHO Northern CHD, DECCW

Appendix D

Stone arrangements are places where Aboriginal people have positioned stones deliberately to form shapes or patterns, and can include large circular or linear arrangements, piles of stones, rock markers or more elaborate groupings that can depict animals or other designs. Aboriginal people also use stone arrangements for other purposes, such as for fish traps.

Stone arrangements have significant cultural heritage value because they are usually related to ceremonies, such as meetings or marriages. **Bora rings**, which are one or more raised earth rings, were used for male initiations. They are generally rare due to their vulnerability to disturbance. The stones are long lasting, but their arrangements can be damaged or destroyed. If stones are disturbed, the pattern and its significance may be lost. Ploughing, brush cutting, logging and large grazing animals can also cause disturbance.

Management options around Aboriginal stone arrangements can include stock, weed and erosion control.



Stone Arrangement. Photo by M Sharp, DECCW

Appendix D

Burials. Aboriginal people had a variety of customs for honouring the dead and laying them to rest and were among the first people in the world to use cremation. However, Aboriginal burials may be found in a variety of landscapes throughout NSW, although most frequently they are found in middens, sand dunes, lunettes, bordering dunes and other sandy or soft sedimentary soils. Human activities such as sand mining, stock grazing, ripping rabbit warrens, ploughing and even trail bike riding and four-wheel driving can devastate burial sites.

Aboriginal ancestral remains are very sensitive and significant to Aboriginal people. If human remains are found or disturbed, it is requirement that a person:

- Not further disturb or move these remains
- Immediately cease all work at the particular location
- Notify DECCW's Environment Line on 131 555 and the local police as soon as practicable and provide available details of the remains and their location, and
- Not recommence any work at the particular location unless authorised in writing by DECCW.

Landscape features and natural sacred sites

Many features of the landscape, such as mountains, waterholes, caves, and rock formations, are regarded as highly sacred sites to Aboriginal people. In addition, the flora and fauna species that inhabit these landscapes also carry Aboriginal cultural significance. In some cases, an inspection of the immediate area will show no physical evidence of prior occupation or usage by Aboriginal people.

Significant landscape features:

- May be recorded on AHIMS as Aboriginal objects
- May have been designated 'Aboriginal places' under the *National Parks and Wildlife Act*, in which case disturbance of the area is unauthorised without a permit
- May be marked with signage
- May have been recorded through other regional mapping processes undertaken by DECCW, the local CMA, heritage assessment of the Local Council or Local Aboriginal Land Council.

Further information about Aboriginal sites in NSW

Aboriginal Cultural Heritage Standards and Guidelines Kit, NSW National Parks and Wildlife Service, available at

<http://www.environment.nsw.gov.au/resources/cultureheritage/aboriginalHeritageGuidelinesKitFinal.pdf>

Aboriginal scarred trees in New South Wales, a field manual (DEC and Andrew Long 2005), available at www.environment.nsw.gov.au/conservation/AboriginalScarredTrees.htm.

Lost but not forgotten: a guide to methods of identifying Aboriginal unmarked graves (NPWS, 2003) available at, <http://www.environment.nsw.gov.au/nswcultureheritage/LostButNotForgotten.htm>

Cultural landscapes and park management: a literature snapshot. A report for the cultural landscapes: connecting history, heritage and reserve management research project (Department of Environment and Climate Change 2008), available at

<http://www.environment.nsw.gov.au/resources/cultureheritage/07137cultlandresearch.pdf>

Aboriginal culturally significant landscapes in the Hunter-Central Rivers Region, Hunter-Central Rivers CMA guide, 2009, available at

<http://www.hcr.cma.nsw.gov.au/uploads/res/Publications/acsl.pdf>

Site Identification, Victorian Mini Poster Series, Department of Planning and Community Development, 2008, available at

<http://www.aboriginalaffairs.vic.gov.au/web7/aavmain.nsf/headingpagesdisplay/publications+forms+and+resourcesaav+mini-poster+series>