



NSW Government

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## No 14: Aboriginal issues and cultural heritage protection

### What is Aboriginal culture and heritage?

Aboriginal people have a close association with the Australian landscape that is tens of thousands of years old. Over this time, the land has been a source of both physical and spiritual sustenance, evident today through unique cultures and heritage, that features both tangible and intangible aspects.

Physical evidence of Aboriginal occupation includes artefacts, scar trees, carvings, burials and ceremonial places. These generally occur around places where shelter, food, and water could be found. These material aspects of Aboriginal culture and heritage have been recognised as significant and warrant protection.

Non-physical manifestations and aspects of Aboriginal cultures and heritage include teaching of environmental and ecological knowledge, songs, resource use, stories and art. These practices continue to have particular relevance to maintaining (individual and community) cultural identity and are linked to well-being.

### Significance of water to Aboriginal people

The passing down of dreamings, resource use practices and protection of totemic species are influenced by and influence the landscape. Dreaming stories teach Aboriginal people who they are and where they belong. Ceremonial rites carry children into adulthood, but are also important in passing on the knowledge of how to continue a respectful

partnership with the land and all the creatures that use it.

Rivers, floodplains, billabongs, marshes, swamps, lakes and mud flats have traditionally been sources of water and food (fish, crustaceans, oysters, grasses, tubers, fruits, kangaroo, birds, snakes etc), as well as traditional medicine plants. Additionally, the waterways themselves provide travel routes, particularly in the summer months or during periods of drought (eg, for Wiradjuri people who live around the Murrumbidgee River). Such practice facilitates access to resources and trade.

An important component of traditional life is active management and protection of totemic species, eg, the Murray Cod *Maccullochella peelii*, by using traditional knowledge accumulated over thousands of years.

Activities to maintain water quality and facilitate resource acquisition include:

- ◆ constructing stone fish traps;
- ◆ clearing sink holes to retain water during periods of low flow (eg summer);
- ◆ identifying the location of water holes in remote dry regions with stone cairns; and
- ◆ conducting practices to prevent water fouling.

Being able to use natural resources and maintain the strong spiritual links to the landscape are important issues for Aboriginal people. Since British arrival, natural systems have been degraded due to water extraction, diversion and regulation. This has affected the survival of many aquatic plants and

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animals of significance to Aboriginal people and upon which they have traditionally relied.

This has resulted in less opportunity for traditional hunting and gathering, recreation, the passing on of traditional knowledge and ceremonial practice as well as economic uses. Changes in the traditional lifestyle have resulted in a well-documented decline in social and physical well-being.

## Legislative issues

In NSW, the Government has a responsibility to protect Aboriginal cultural heritage both within and outside of the protected areas system. Through the *National Parks and Wildlife Act 1974*, the National Parks and Wildlife Service (NPWS) is responsible for protection of all physical evidence of Aboriginal occupation as well as places and sites of 'significance with respect to Aboriginal culture', where declared as 'Aboriginal Places' by the Minister for the Environment. Additionally, the *Heritage Act 1977* affords protection where known Aboriginal sites are listed on the State Heritage Register.

Other state statutes that aim to conserve natural values, and that may also be used to protect places of Aboriginal cultural heritage significance, include the *Environmental Planning and Assessment Act 1979*, the *Threatened Species Conservation Act 1995*, the *Fisheries Management Act 1994* and the *Native Vegetation Conservation Act 1997*.

Commonwealth legislation that has been enacted to protect significant Aboriginal heritage includes the *National Parks and Wildlife Conservation Act 1975*, the *Environmental Protection and Biodiversity Conservation Act 1999* and the *Aboriginal Torres Strait Islander Heritage Protection Act 1984*. Additionally, the *Native Title Act 1993* recognises rights of Aboriginal people to land and water. The Act itself provides a mechanism for determining whether those rights have survived and the extent to which they may be granted.

The objects of the *Water Management Act 2000* include:

- to protect, enhance and restore water sources, their associated ecosystems, ecological processes and biological diversity and their water quality, and

- to recognise and foster benefits to the environment, Aboriginal cultural heritage, including traditional spiritual, social, customary and economic use of land and water.

## Approaches to addressing Aboriginal cultural and heritage issues within water sharing plans

The NPWS, in its role of protecting Aboriginal cultural heritage, holds some Aboriginal cultural heritage information (location of sites, items etc). This information does not encompass all aspects of Aboriginal culture and heritage.

Any consultation with the Aboriginal community should recognise that, while NPWS holds information that may be relevant, actual ownership of culturally sensitive information remains vested with the appropriate custodians. Permission to use such information should be sought using appropriate informed consent procedures. NPWS has a policy on such procedures and regional offices should be consulted in the first instance.

Aboriginal issues and concerns need to be appropriately identified and incorporated into key objectives and outcomes for water sharing plans. The water sharing plans need to:

- take account of the cultural association of Aboriginal people with particular places and species, and reflect Aboriginal concerns and expertise;
- promote the conservation and management of Aboriginal cultural heritage and recognise cultural issues in the management of significant natural values (wetlands, riparian vegetation, threatened species) including the linkages between places, species and people;
- adopt a precautionary approach where there is a paucity of information, ie, assume that values do exist and recommend conservative actions;
- base their recommendations on consultation with traditional knowledge holders to identify water requirements for specific local 'use' requirements (ie for health, recreation, fishing, consumption etc) and 'non-use' requirements (ie, protection of totemic species, dreaming places, existence value, etc). Advice on this process

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can be obtained via DLWC Aboriginal Natural Resource Officers (ANROs);

- ◆ protect from degradation areas of particular economic and cultural value to Aboriginal people by identifying flow dependent cultural values and establishing appropriate environmental flows and water quality objectives. Where possible, natural flood patterns should be protected to enhance inundation of wetlands and floodplains;
- ◆ protect the habitat of totemic and other significant species – through appropriate environmental flow and water quality management.

### Committee Role

The Committee's role is to identify Aboriginal cultural and heritage values and provide recommendations on how to protect these in their area as far as they relate to water sharing. This will include consideration of the Aboriginal Heritage Information System register of sites and Aboriginal places. It may include consideration of habitat requirements for totemic and other culturally important species, including threatened species in the water management area. This will also include consideration of contemporary Aboriginal needs and uses of water and related water resources.

The committee will need to:

- ◆ consult widely, as Aboriginal representation on committees may not represent all Aboriginal groups within an area (traditional owners, elders groups, land councils) and therefore may not be fully aware of the divergence of views. Assistance identifying and consulting with indigenous communities is best obtained from ANROs;
- ◆ identify strategies to protect areas of high conservation value;
- ◆ consider the ecological flow requirements (where known) of any sites, places or species of Aboriginal significance (recorded or known); and
- ◆ ensure that the social and economic assessment addresses the potential impacts (positive and negative) of the water sharing plan on Aboriginal cultural values.

### Government Role

NSW Government agencies are currently developing and preparing strategies to assist with WSP development. Regional staff and representatives on WMCs will be available to:

- ◆ facilitate information exchange and assistance to ensure that the WSPs adequately address Aboriginal issues;
- ◆ provide the committee with available information on listed sites;
- ◆ support Aboriginal committee representatives; and
- ◆ provide frameworks, resourcing and advice relating to social, cultural and economic impacts of WSPs as they relate to Aboriginal cultural heritage.

**Contact details for ANROs are provided on the attachment.**

**Contact details for State Aboriginal Heritage Registrar: Paul Houston on telephone number 02 9585 6471.**

**DEPARTMENT OF LAND AND WATER CONSERVATION  
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