

Aboriginal places and objects on private property

The Biodiversity Conservation Trust (BCT) acknowledges that Aboriginal cultural values are intrinsically linked to the landscape and often co-exist with natural assets. This means that conservation management and associated management actions may occur in areas with significant Aboriginal cultural values.

Aboriginal people have lived in NSW for many thousands of years. During that time, they left physical evidence of their activities which now survive as cultural heritage objects, places and values.



Rhys McCulloch next an Aboriginal hearth, located in the Murray Riverina NSW. Image: Nigel Jones

Examples include shell middens, scatters of stone artefacts, oven mounds, stone quarries, rock art sites, bora rings, ceremonial and gathering areas, fish traps, scarred trees, stone arrangements and places of burial.

Where can you find Aboriginal cultural heritage values?

There are Aboriginal cultural heritage values through the whole of NSW and Australia. The most common landscape features

that are highly likely to contain Aboriginal values include: rivers, lakes, swamps, riparian areas, flood plains, sandhills, grasslands, rocky outcrops and coastal areas. These places may be on your property. However, Aboriginal values can occur anywhere, so may be on your property even if you don't have these types of landscape features. For example, many other ecosystems provided resource materials, such as woodlands, mallee eucalypt forest, and evidence of this use may still be existing in the landscape.

Are Aboriginal cultural values protected?

Yes. All Aboriginal cultural objects and declared Aboriginal places in NSW are protected by law.

The *National Parks and Wildlife Act 1974* (the NP&W Act) is the primary legislation for the protection of Aboriginal cultural objects and declared Aboriginal places in NSW.

It is against the law to knowingly or unknowingly disturb or destroy an Aboriginal object or declared Aboriginal place.

The *Due Diligence Code of Practice for the Protection of Aboriginal Objects in NSW* provides practical steps to ensure land management activities will not harm Aboriginal objects and helps provide a defence against prosecution if an object is unknowingly harmed without an Aboriginal Heritage Impact Permit.

Duty of notification

The NP&W Act requires that if a person finds an Aboriginal object and the object is not already recorded on the Aboriginal Heritage Information Management System (AHIMS), they are legally bound to notify NSW Heritage as soon as possible of the object's location (Section 89A). This requirement applies to all people and to all situations.



Scar tree at Savernake Station, Murray Riverina NSW.
Image: Nigel Jones

What is the Aboriginal Heritage Information Management System (AHIMS)?

- AHIMS is a database that contains information and records of Aboriginal objects and declared places.
- Heritage NSW maintains the AHIMS that contains detailed information on over 100,000 sites and over 14,000 archaeological and cultural heritage assessment reports.

- The AHIMS is not a comprehensive database, particularly where no archaeological assessment has been undertaken, eg. outside development, roads and national parks.
- Aboriginal communities use AHIMS to help them identify, manage, conserve and protect local sites and heritage.
- Government, industry and heritage professionals use AHIMS to access information for land-use planning, regulation and conservation management. The information on the database can also be used for archaeological surveys, cultural heritage research projects, development proposals, property purchases and oral history projects.
- If sites haven't been recorded on the AHIMS they are still protected by law.
- Checking the AHIMS data base is part of the due diligence process BCT takes before landholders, prior to a site assessment.

Why are Aboriginal objects and declared places protected?

Aboriginal objects and places are a significant part of the heritage of the whole community. They are of immense cultural, scientific, educational, and historic interest, but are also cultural indicators and can support conservation management as they are able to tell how the landscape once was, and about the biodiversity within.

Aboriginal objects and places are also fragile. When they are destroyed or damaged, information about past cultural

and environmental changes may be lost forever. In many cases, information about the past occupation of Australia can only be obtained through the archaeological investigation of these cultural objects and places.

It is important to understand that Aboriginal people are interested in sharing traditional ecological knowledge and protecting cultural values together.



Axe head found in the Murray Riverina NSW. Image: Kaleana Reyland

What are the threats?

Many conservation management activities are considered as low impact activities under the *National Parks and Wildlife Regulation 2019*. For example, environmental rehabilitation works such as bush regeneration and weed control, or maintenance of existing tracks or fencing on land that has already been disturbed by previous land use (clause 58).

However, some conservation management activities are high impact activities and require a due diligence process to be followed. For example, new earthworks or fencing that disturbs the ground surface on land that has not been disturbed by previous land use.

Even in previously disturbed lands it is important to proceed with caution. For example, land management techniques such as warren destruction for rabbits may destroy or uncover Aboriginal objects, potential fire mechanical removal of woody weeds in some landscapes may also uncover objects.

There are also examples where conservation land management and the protection of ecological communities has helped to preserve Aboriginal cultural values and objects. For example, controlling feral animals such as pigs and goats will protect cultural values being damaged. Fencing out significant ecological values such as wetlands will also help protect those cultural values within those areas.



Grinding dish found in Western NSW. Image: Patsy Winch

What does this mean for me?

The BCT will undertake an AHIMS search before assessing your site for a conservation agreement. The BCT will inform you if there are any registered objects or declared places on your property. If you have knowledge of any Aboriginal objects or places within your conservation area, you should inform the BCT.

When assessing your site, if any Aboriginal objects are identified that are not currently

registered in the AHIMS database the BCT staff member is required to record the location and submit it to the NSW Heritage using the AHIMS App. This is in accordance with the *National Parks and Wildlife Act* (section 89A).

BCT will also discuss with you whether your proposed conservation management activities will disturb the ground surface or risk impacting cultural objects. If your management activities are deemed as low risk and your bid/application for a conservation agreement is successful, you can proceed with caution. You should immediately stop work and contact the BCT if you believe you have discovered an Aboriginal object while undertaking management activities.



Scattered artefacts, located in the Murray Riverina NSW.

Image: Kaleana Reyland

If any of your proposed management activities will disturb the ground surface in areas that have a high likelihood of cultural values and risk disturbing cultural objects, the BCT will work with you to alter your activities to avoid any impacts, or in some circumstances a more detailed assessment process may be triggered if your bid/application is successful.

If your bid/application is successful and a more detailed assessment is required, the BCT will arrange and cover the cost of an assessment prior to finalising the conservation agreement. If the proposed management activities are assessed as likely to impact Aboriginal objects, the BCT will work with you to amend the proposal to avoid any impacts on these objects.

The BCT will not support conservation management activities that impact on cultural objects. Landholders are required to apply for an Aboriginal Heritage Impact Permit (AHIP) under the NP&W Act to impact Aboriginal objects. The BCT will work with landholders to amend any proposed management actions to avoid impacts to Aboriginal objects. Landholders should discuss options to avoid impacts with the BCT.

Why is this important?

It means that you are doing your part in protecting and acknowledging important cultural values on your property, which will contribute to our knowledge of our rich history and how Aboriginal communities cared for Country.

What this doesn't mean

Finding Aboriginal objects on your land will not lead to a land claim where the land is lawfully occupied crown land or freehold land. There is no legislation in NSW that allows the acquisition of land because Aboriginal cultural values are present.

Finding Aboriginal objects on your land will not mean people are granted access to your land without your permission.

