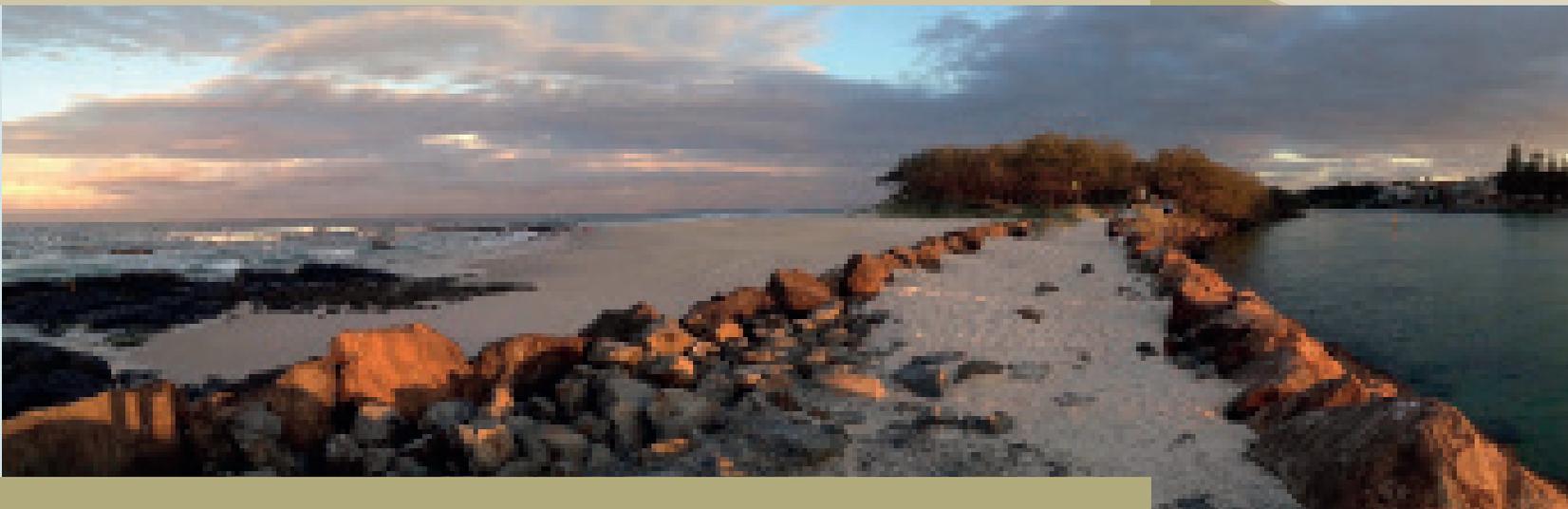


5 Land mapped as Aboriginal Place of Heritage Significance

Aboriginal cultural heritage information series



This fact sheet provides information about the process and assessment requirements for land which is mapped as Aboriginal Place of Heritage Significance.

Photo above: Cudgen Creek
Photo by: Christine Slabb of Get Creative

What is mapped as Aboriginal Place of Heritage Significance?

Land mapped as *Aboriginal Place of Heritage Significance* identifies and acknowledges areas of **known** Aboriginal cultural heritage (ACH).

The *Aboriginal place of heritage significance* layer is comprised of:

- Sites registered on the AHIMS database;
- Sites that have been identified by the Community through knowledge and tradition;
- Damaged or destroyed sites in recognition of the continued significance to the Aboriginal people.

Locations of *Aboriginal Place of Heritage Significance* may be historic, contemporary, tangible, intangible, damaged or destroyed. Of the approximately 340 mapped sites, almost one quarter (22%) have been destroyed or partly destroyed. They are included as a record and to ensure their continued recognition in the cultural landscape. The destroyed sites were once part of a wider landscape and there is a high probability they may be associated with other cultural heritage in the vicinity.



Fingal Head Causeway (Pooningbah)
Photo by: Christine Slabb of Get Creative

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Land mapped as Aboriginal Place of Heritage Significance continued

The character and landscape context of places and resources of significance to the Aboriginal culture and people has been seriously impacted and continues to be threatened by lack of understanding and by decisions which favour other competing values.

What cultural assessment is required?

The NPW Act requires that any development is to avoid harm to ACH.

An appropriate level of assessment is required, in consultation with the Aboriginal community through the TBLALC, to determine if harm can be avoided. This includes harm to objects, places and intangible ACH.

This level of assessment must meet the requirements of *Avoiding or Justifying Harm to Aboriginal Cultural Heritage* outlined in the draft Aboriginal Cultural Heritage Management Plan 2017 (ACHMP) Part C2.3.

Should a proposal not be able to avoid harm, then an Aboriginal Heritage Impact Permit (AHIP) is required. A comprehensive Aboriginal Cultural Assessment, consistent with the following Office of Environment and Heritage (OEH) guidelines will be required:

- Guide to Investigating, Assessing and Reporting on Aboriginal Cultural Heritage in NSW (2011)
- Aboriginal Cultural Heritage Consultation Requirements for Proponents (2010)
- Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (2010)
- Applying for an Aboriginal Heritage Impact Permit: Guide for Applicants (2011)

What consultation with the Aboriginal community is required?

The level of consultation required varies proportionally with the level of cultural assessment required to avoid or to justify harm.

Generally consultation is required up-front at the planning and design phase of development to ensure a proposal may avoid harm to ACH. The key first point of contact is the Tweed Byron Local Aboriginal Land Council (TBLALC). Appendix 4 of the ACHMP

provides the Aboriginal Groups and contacts for the Tweed Shire.

The ACHMP Section C3.1 provides further information on the consultation requirements.

Where harm cannot be avoided statutory consultation requirements apply and must be met.

Who may undertake the cultural assessment?

Understanding the appropriate level and type of assessment required takes specific expertise. Whilst some assessments may not require suitably qualified experts, and may be done by individuals, the *Aboriginal Place of Heritage Significance* mapped layer indicates the presence of known ACH and requires an archaeologist / cultural heritage expert to assess the potential for harm. This is outlined in the ACHMP Part C1.3 Consultation Requirements.

When is the cultural assessment to be undertaken?

This level of assessment and consultation is to be undertaken **prior** to submitting a development application. The reports and evidence of Aboriginal community consultation are to be submitted with the DA.

Following receipt, all applications for development within the *Aboriginal Place of Heritage Significance* mapped area will be referred to the TBLALC in accordance with the requirements of the applicable LEP *Clause 5.10(8) Aboriginal Place of Heritage Significance*.

Applicants may also choose to directly engage an archaeologist /cultural heritage consultant to undertake the assessment and assist with consultation with the TBLALC.

Applications which do not include the *Avoiding or Justifying Harm to Aboriginal Cultural Heritage Assessment* generally will not be accepted as complete.

Applications accompanied by an *Avoiding or Justifying Harm to Aboriginal Cultural Heritage Assessment* that is not suitably prepared or found to be inadequate, run the risk of the application being refused on grounds of insufficient information to support the development with respect to the risk of harm of ACH.

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Land mapped as Aboriginal Place of Heritage Significance continued

What are the possible pathways when undertaking a cultural assessment as part of a DA?

The level of assessment required is dependent on a number of considerations such as: whether the cultural heritage is tangible or intangible*; the extent of the cultural heritage; the scale of the works proposed; and whether harm can be avoided.

A number of cultural assessment pathways may be possible. These are explained and discussed in the ACHMP Section C3.

A simple pathway will involve consultation with the Aboriginal community through the TBLALC. A more detailed assessment will require engagement of a heritage archaeologist to undertake an assessment. A full comprehensive assessment will involve the approval of the Office of Environment and Heritage.

** Intangible heritage means Aboriginal traditional knowledge and cultural expressions, held collectively by Aboriginal people and passed down across generations with or without adaptations and evolutions in nature or practice, and may include oral traditions, performing arts, stories, rituals, social practices, environmental and ecological knowledge.*

What is the difference between Management of Aboriginal cultural heritage and Native Title claims?

Native Title claims fall under the Federal and State Native Title legislation and seeks to establish the existence of Native Title and confirm any rights.

A claimant application is made by a group of people, a native title claim group, who declare they hold rights and interests in an area of land and/or water according to their traditional laws and customs.

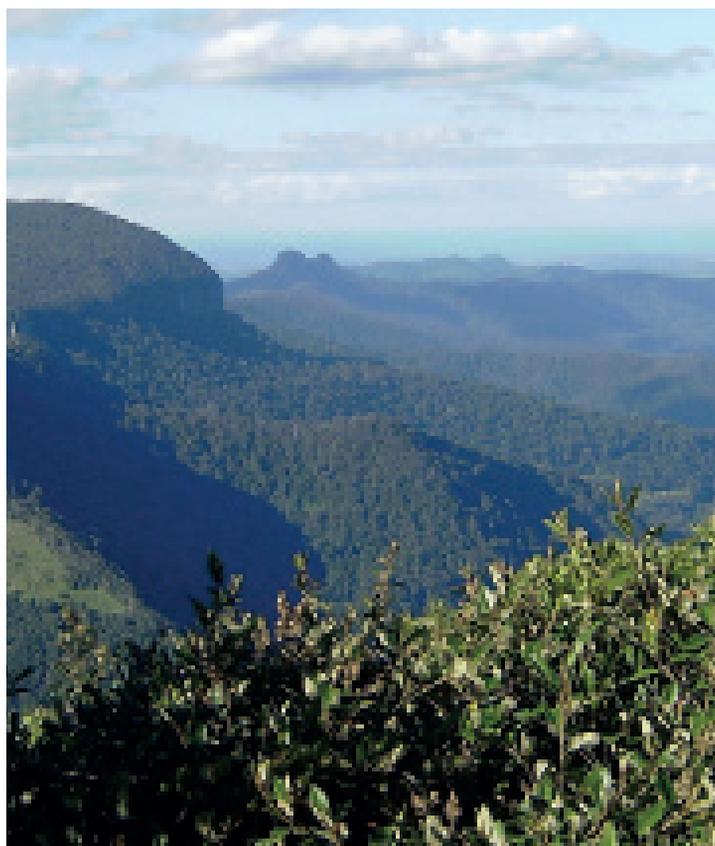
The members of the native title claim group seek a decision from the Court that native title exists, so their rights and interests are recognised by the common law of Australia. This is called a native title determination. A determination is a decision by the Federal Court or High Court of Australia, or a recognised body, that native title either does or does not exist in relation to a particular area of land or waters.

If the Court finds that native title rights and interests exist, the group must set up a prescribed body corporate to hold the rights and interests, as an agent, or in trust, for the group.

Management of Aboriginal cultural heritage falls under the National Parks and Wildlife Act, 1979 and seeks to avoid harm to Aboriginal objects or places.

It is important to understand that this Aboriginal cultural heritage management plan is NOT related to any Native Title Claim nor does it have any impact on land ownership. Therefore finding Aboriginal cultural heritage on your property does NOT lead to a native title claim and should NOT be feared.

Instead the management plan seeks to provide guidance for property owners to avoid inadvertent 'harm' to any Aboriginal object or place, with the aim of understanding, respecting and protecting our indigenous history.



Border Ranges to Springbrook
Photo by: Ian Fox

5 Land mapped as Aboriginal Place of Heritage Significance continued

Where can I get further information?

The ACHMP Part C5 outlines the process requirements for land mapped as *Aboriginal Place of Heritage Significance*.

Further information may be accessed through Tweed Shire Council's Strategic Planning and Urban Design Unit on (02) 6670 2503.

Further information from the Aboriginal community may be accessed on the Tweed Byron Local Aboriginal Land Council on (07) 5536 1763 or on their website: www.tblalc.com.au

Further information on the National Parks and Wildlife Act and Guidelines can be accessed through the Coffs Harbour Regional Office on (02) 6651 9525 or on their website: www.environment.nsw.gov.au/topics/aboriginal-cultural-heritage

Further information may also be sought through a of Heritage Consultant with Aboriginal Cultural heritage expertise.

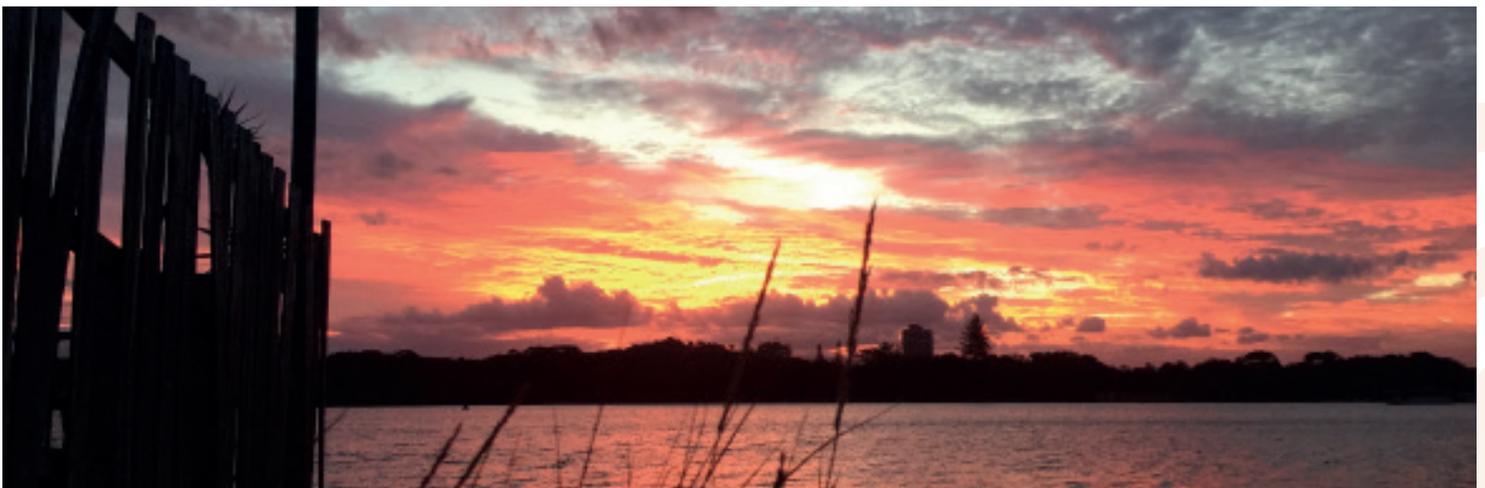


Photo above: Tweed River
Photo by: Christine Slabb of Get Creative