



# How is Aboriginal Heritage Protected?

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The *Heritage Act 2004* (Heritage Act) makes particular provision for recognition, registration and conservation of Aboriginal places and objects, and for the involvement of Aboriginal people in decisions made about those places and objects. In the ACT, this involvement is with those with traditional affiliation, broadly recognised as the Ngunnawal people.

## DETERMINING ABORIGINAL HERITAGE SIGNIFICANCE

An Aboriginal place or object is of particular significance to Aboriginal people because of Aboriginal tradition and/or history, including contemporary history, of Aboriginal people. Aboriginal tradition includes tradition, observance, custom or belief, including that which has evolved or developed since European colonisation of Australia. Examples might include scarred trees, artefact scatters, rock shelters, and grinding grooves.

Aboriginal places or objects may be provisionally registered or registered if they meet any of the criteria for heritage significance. Criterion (e) specifically relates to Aboriginal places or objects whether 'it is significant to the ACT because of its importance as part of local Aboriginal tradition'.

## THE ACT HERITAGE COUNCIL'S ROLE

Conservation of Aboriginal places and objects are included in the role of the ACT Heritage Council and its advice under the planning and development system. There is also specific provision for enforceable Heritage Guidelines to be made about Aboriginal heritage places and objects.

To assist the Council in these and other matters, the membership of the Heritage Council includes a representative of the Aboriginal community, and other expert members include the disciplines of Aboriginal culture, Aboriginal history, and archaeology.

## ABORIGINAL CONSULTATION AND PARTICIPATION IN DECISIONS

The ACT Heritage Council consults with Representative Aboriginal Organisations (RAOs) on decisions affecting Aboriginal places and objects. For example:

- before deciding whether to provisionally register an Aboriginal place or object;
- before deciding whether to cancel the registration of an Aboriginal place or object;
- before deciding whether information about an Aboriginal place or object is to be restricted information; or
- if proposed Heritage Guidelines relate to an Aboriginal place or object.

The Minister may declare an entity to be a Representative Aboriginal Organisation. The Minister will consult on the criteria for selecting these entities with the ACT Heritage Council and Aboriginal people who have a traditional affiliation with land. In the interim, existing RAOs established under the definition in the *Land (Planning and Environment) Act 1991* will be consulted.


## REPORTING AN ABORIGINAL PLACE AND/OR OBJECT

The Heritage Act requires reporting of discovery of an Aboriginal place and/or object within five working days after the day of the discovery by the person who discovers the place or object, submitted in writing to the Heritage Council. This does not apply to a person who has a traditional Aboriginal affiliation with the land where the place or object was discovered.

As soon as practicable after its discovery is reported, the Heritage Council consults with each RAO in relation to the place or object, and then decides whether it is to be

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Provisionally Registered. It also consults on whether it will declare the information about the location or nature of an Aboriginal place or object to be **Restricted** i.e. this information will not be made publicly available to avoid an adverse effect on its heritage significance. Once declared **Restricted**, it is an offence to knowingly publish without approval any restricted information about a place or object. There are exemptions to this offence for persons with a traditional affiliation.

## HERITAGE PROTECTION

The Heritage Act makes it an offence to engage in conduct that causes damage to, disturbs or destroys, an Aboriginal place or object. There are some exemptions to this offence. This is also one of the offences for which a Heritage Order may be sought to restrain a person from causing material harm to the heritage significance of a place or object.

A proposed development may be affected by Heritage Guidelines relating to the heritage significance of an Aboriginal place or object. When this is the case, the relevant authority consults each RAO as well as considering any further comments by the Heritage Council about the development.

Heritage Agreements may also be put in place to protect and conserve an Aboriginal place or object.

## GOVERNMENT OBLIGATIONS

Public authorities are required under the Heritage Act to identify and manage Aboriginal heritage places or objects (along with non-Aboriginal heritage places or objects) for which they are responsible.

The Heritage Act also provides that each Aboriginal object owned by the Territory is kept in a repository declared by the Minister after consulting, and considering the views of the ACT Heritage Council and each RAO.

**The material in this information sheet is provided for general information only, and should not be relied upon for the purpose of a particular matter covered by the Act.**

**The Heritage Act is available at:**  
**[www.legislation.act.gov.au/a/2004-57/default.asp](http://www.legislation.act.gov.au/a/2004-57/default.asp)**