

INDIGENOUS INVOLVEMENT

Places with Indigenous heritage can be protected and managed under the EPBC Act. Traditional Owners can be involved in the management of Commonwealth reserves. There are other mechanisms in the Act to support the contribution of Indigenous Australians.

The objects of the EPBC Act recognise the practical role played by Indigenous Australians in the conservation and sustainable use of resources, and the need to promote the co-operative use of local and traditional ecological knowledge to inform management and conservation decisions.

INDIGENOUS HERITAGE

Australia's Indigenous heritage is recognised internationally as being of outstanding universal value – Kakadu National Park, Tasmanian Wilderness, Uluṛu-Kata Tjuṛa and Willandra Lakes Region are inscribed in the World Heritage List for their Indigenous cultural values as well as their natural values. The Budj Bim Cultural Landscape is inscribed exclusively for its cultural values.

Places with Indigenous heritage values are also included in the National Heritage List and the Commonwealth Heritage Lists, for example the Brewarrina Aboriginal Fish Traps (Baime's Ngunnhu), the Myall Creek Massacre and Memorial Site and the Jervis Bay Territory.

The National and Commonwealth Heritage Management principles in the Act highlight that Indigenous people are the primary source of information on the value of their heritage and that the active involvement of Indigenous people is integral to the effective protection and management of Indigenous heritage values.

Indigenous Australians are encouraged to nominate places for inclusion in the National or Commonwealth lists and Indigenous Australians with rights or interests are invited to comment on potential listings of places under assessment. In accordance with the United Nations Declaration on the Rights of Indigenous People (UNDRIP), the Department seeks the free, prior and informed consent of Indigenous Australians with rights or interests to nominations for the National and Commonwealth Heritage lists and the assessment of those places.

Under the Act, management plans for heritage places with Indigenous heritage values must be developed in consultation with those Indigenous groups which have a right or interest in the relevant place.

Other Commonwealth laws also provide for the protection of Indigenous heritage:

- The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* enables the Australian Government to respond to applications from Indigenous people to protect traditional areas and objects that are under threat, if state or territory laws have not provided 'effective protection'; and
- The *Protection of Movable Cultural Heritage Act 1986* prohibits the export of certain Indigenous objects, such as sacred objects and bodily remains, bark and log coffins, rock art and carved trees.

INDIGENOUS INVOLVEMENT IN MANAGING COMMONWEALTH RESERVES

The Act expressly provides for the involvement of Indigenous people in the management of Commonwealth reserves through:

- taking into account the interests of Traditional Owners of any Indigenous land within the reserve or Indigenous people with an interest in the reserve for management planning;
- gaining agreement from the Traditional Owners of land within the reserve, or the relevant land council, for the establishment and composition of a board of management; and
- ensuring, the majority of members of a Board must be Indigenous people nominated by the Traditional Owners of the land where a Commonwealth reserve consists wholly or mostly of Indigenous peoples' land.

Joint Boards of management are currently in place for Kakadu, Booderee and Uluru-Kata Tjuṯa National Parks. Traditional Owners constitute the majority of each Board. The role of the Board is to work in conjunction with the Director of National Parks, to prepare management plans for the reserve, to make decisions consistent with those plans, and to advise the Minister on all aspects of the future development of the reserve.

In practice, joint management of Commonwealth reserves combines the legal framework provided by the Act, lease agreements with the Traditional Owners and the continuing day to day interactions between park staff and Traditional Owners.

In relation to Australian Marine Parks, the Director of National Parks works with Indigenous people to manage sea country within marine parks and achieves this through an Indigenous engagement program. This includes building partnerships with Traditional Owners and Indigenous Australians with responsibilities for sea country.

INDIGENOUS INVOLVEMENT IN CONSERVING BIODIVERSITY

The Act expressly provides for the involvement of Indigenous people in conserving Australia's biodiversity through:

- the establishment of an independent Indigenous Advisory Committee (section 505A of the Act). This Committee advises the Minister on the operation of the Act taking into account the significance of Indigenous peoples' knowledge of the management of land and the conservation and sustainable use of biodiversity;
- the requirement of the Australian Heritage Council to consult with Indigenous people who have 'rights or interests' in the place when the Council considers a place might have an Indigenous heritage value (section 324JH/section 341JG); and
- the requirement that Indigenous interests are addressed in developing bilateral agreements (section 49), recovery plans (section 270), threat abatement plans (section 271) and wildlife conservation plans (section 287) established under the Act.

PROTECTION FOR TRADITIONAL USE

A number of provisions of the Act expressly protect the traditional use of land, water and sea by Indigenous people, including:

- section 8 of the Act, which acknowledges that holders of native title rights under the *Native Title Act 1993* may undertake particular activities in accordance with section 211 of the *Native Title Act 1993* (for example fishing or hunting) without the need for a permit or authorisation under the Act;
- section 197(o) and 212(o) that ensures actions taken in accordance with a traditional marine resources agreement made under the *Great Barrier Reef Marine Park Act 1975* is not an offence;
- section 359A, which protects the traditional use by Indigenous people of areas within Commonwealth reserves; and
- the provision for the Minister to issue a Part 13 permit (for example to kill, injure or move a member of a listed threatened species) for activities which are of particular significance to Indigenous tradition.

The review acknowledges the Traditional Owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.