



Australian Government

AUSTRALIA'S

National Heritage



## Heritage and the *Environment Protection and Biodiversity Conservation Act 1999*

- ▶ **Protecting places in the National Heritage List**
- ▶ **Commonwealth Heritage List protection**

Australia changed the way it protects its heritage places on 1 January 2004. The system that came into effect gives people the opportunity to nominate places with outstanding heritage value to the nation to the National Heritage List. They are also able to nominate places that are Commonwealth-owned or managed to a new Commonwealth Heritage List.

The heritage values of places on these two lists are protected under the Australian Government's *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

### **Protecting places on the National Heritage List**

Under this system, **national heritage** joins six other matters of national environmental significance (NES matters) already specifically protected by the EPBC Act.

By law, no one should take any action that has, will have, or is likely to have, a **significant impact** on any of these matters without approval. There are penalties for those who do. An action includes a project, development, undertaking, an activity or series of activities.

The matters of national environmental significance are:

1. nationally-threatened animal and plant species and ecological communities that are listed under the EPBC Act (note that these species and communities may not be the same as those listed under state legislation)
2. Australia's World Heritage properties
3. Ramsar wetlands of international importance
4. migratory animal species that are listed under the EPBC Act (these are migratory species protected under international agreements)
5. Commonwealth marine areas (generally Australian waters beyond the three nautical mile limit of state waters)
6. nuclear actions, including uranium mining, and
7. national heritage.

If you are proposing to take an action that will have, or is likely to have, a significant impact on the National Heritage values of a National Heritage place and/or any other NES matter, you must refer that action to the Australian Government Minister for the Environment and Water Resources (the Minister).

If the Minister decides that the action is likely to have a significant impact on a matter of national environmental significance, then the action requires approval under the EPBC Act.

If the Minister decides that the action is not likely to have a significant impact on a matter of national environmental significance, then the action does not require approval under the Act.

If the Minister's decision is that an action does not require approval, a person will not contravene the Act if the action is taken in accordance with that decision. If the Minister's decision is that an action requires approval, then an environmental assessment of the action must be carried out. The Minister decides whether to approve the action, and what conditions (if any) to impose, after considering the environmental assessment.

Severe penalties face people and organisations that take an action which is likely to have a significant impact on any of the NES matters without approval from the Minister.

### **Further information:**

For information on the referral process, including documentation requirements, contact:

The Community Information Unit

The Department of the Environment and Water Resources

Tel: 1800 803 772

Web: [www.environment.gov.au/epbc](http://www.environment.gov.au/epbc)

In a few exceptional cases, you do not have to tell the Minister about your actions. These include where:

- the action is approved under, and taken in accordance with, a state management plan that is accredited by the Australian Government for the purposes of a bilateral agreement, OR
- the action is approved under, and taken in accordance with, an Australian Government management plan that is accredited by the Environment and Water Resources Minister for the purposes of a Ministerial declaration, OR
- the action is a forestry operation taken in a Regional Forest Agreement region, OR
- the action is taken in the Great Barrier Reef Marine Park and is authorised under the *Great Barrier Reef Marine Park Act 1975*, OR
- the action has been authorised by a government decision on which the Minister's advice has been sought (see section 160 of the Act).

In addition, an approval is not required for an action if:

- the action was authorised by the Australian Government, a state or a territory prior to the EPBC Act commencing (16 July 2000), and
- at the time the EPBC Act commenced, no further environmental authorisation was required to allow the action to be lawfully taken.

Finally, the EPBC Act provides that approval is not required for an action that is a lawful continuation of a use of land, sea or seabed that was occurring immediately before the commencement of the Act. (This exception does not apply to an enlargement, intensification or expansion of an existing use). If, prior to the start of the new heritage system on 1 January 2004, a person had referred an action to the Minister, and the Minister had decided whether or not the action required approval under the EPBC Act, then that decision will not be revisited in relation to that particular action.

### **Commonwealth Heritage List protection**

The places that are included in the Commonwealth Heritage List are those that are owned or managed by the Australian Government. These places are protected under existing provisions of the EPBC Act, in the following manner.

The Act already provides that actions:

- taken on Commonwealth land which are likely to have a significant impact on the environment will require the approval of the Minister
- taken outside Commonwealth land which are likely to have a significant impact on the environment on Commonwealth land, will require the approval of the Minister

- taken by the Australian Government or its agencies which are likely to have a significant impact on the environment anywhere will require approval by the Minister.

As the definition of ‘environment’ in the EPBC Act includes the heritage values of places, these provisions of the Act in the context of their operation, provide protection for the values of Commonwealth heritage places.

The provisions in the EPBC Act mean that places in the Commonwealth Heritage List are protected for their values – and that no-one can take an action on Commonwealth land that might have a significant impact on the environment. If an individual (or an Australian Government agency) believes their action might have a significant impact, they must refer their project plans to the Minister for the Environment and Water Resources for approval.

These EPBC Act provisions also restrict Australian Government agencies from taking any action that may have a significant impact on the environment anywhere, including overseas, without first referring the action to the Minister for approval.

**Further information:**

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