

FIRST NATIONS CULTURAL HERITAGE AND FEDERAL LAW

ABORIGINAL AND TORRES STRAIT ISLANDER HERITAGE PROTECTION ACT

Is a sacred place or object about to be harmed?

Call the Environment Department on 1800 571 242 to apply for an emergency declaration.

What is a declaration?

A declaration is a document that says an important Aboriginal or Torres Strait Islander place or object is protected for an amount of time.

The Federal Minister for the Environment can make a declaration under the *Aboriginal and Torres Strait Islander Heritage Protection Act* if the cultural heritage meets all of the following criteria:

It is an area or object of significance under Aboriginal traditions or Ailan Kastom

It will be used or treated in a way that goes against Aboriginal traditions or Ailan Kastom

State or Territory laws have failed to protect it

Who can apply for a Declaration?

You can apply for a Declaration if you are:

- An Aboriginal or Torres Strait Islander person OR
- A group of Aboriginal or Torres Strait Islander people OR
- Someone helping an Aboriginal or Torres Strait Islander person or group



When can you apply for a Declaration?

If you answer yes to all three of the following questions, then you can apply for a declaration.

Have you tried to protect the cultural heritage using State or Territory laws first?

Is the cultural heritage an area or object that is important under Aboriginal traditions or Ailan Kastom?

Is there a threat to the cultural heritage? Will it be harmed, destroyed or treated inconsistently with Aboriginal traditions or Ailan Kastom?

What Declaration should you apply for?

There are four different declarations. The right one to choose depends on the type of cultural heritage and how urgently it needs to be protected.

Type of Declaration	Section 18	Section 9	Section 10	Section 12
What will be protected	A significant area or object	A significant area	A significant area	A significant object
How urgent is the threat of injury or desecration	Emergency <i>"Threat is imminent"</i>	Urgent <i>"Threat is serious and immediate"</i>	Likely <i>"Under threat"</i>	Likely <i>"Under threat"</i>
How long will it be protected	48 hours	30 or 60 days	Long-term	Long-term

How do you apply for a Declaration?

Before applying for a Declaration

Gather as much evidence as possible about why the cultural heritage is significant under Aboriginal traditions or Ailan Kastom, and how it is being threatened.

Applying for a Declaration

Call 1800 751 242 or fill out an application form and email it to atsihpa@dceew.gov.au

Include as much information about the cultural heritage and the threat as you are able to.

Processing your application

The Environment Department will speak with you, the person or company that is threatening the cultural heritage, and the State or Territory Government.

For section 10 applications: The Minister will appoint someone to write a report about the cultural heritage.

Making a Declaration

It is up to the Minister to decide whether to make a declaration. The Minister can decide not to make a Declaration, even if the cultural heritage is very significant.

There is no timeframe for making a Declaration. It can take a week, a month or even over a year.

[Click here to download the General Guide and Application Form](#)

You can call the Environmental Defenders Office on **1800 626 239** for free legal advice.

1800 626 239

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