



fact sheet

ABORIGINAL CULTURE AND HERITAGE



New South Wales
Aboriginal Land Council

Aboriginal Heritage Information Management System (AHIMS)

This fact sheet has been prepared by the New South Wales Aboriginal Land Council (**NSWALC**). It provides an overview of the Aboriginal Heritage Information Management System (**AHIMS**) and outlines related issues Local Aboriginal Land Councils (**LALCs**) may have to consider.

Please Note: While all care has been taken in the preparation of this document, the advice it contains should not be seen as a substitute for independent consideration of the issues and/or legal advice on this subject. This document is current as of June 2011.

For an overview of site protection options, please refer to the NSWALC *Site Protection* Fact Sheet series available from www.alc.org.au or by calling the NSWALC Policy and Research Unit on (02) 9689 4444.

What is AHIMS?

The *National Parks and Wildlife Act 1974 (NPW Act)* is the main law managing Aboriginal culture and heritage in NSW.

Section 90Q of the NPW Act requires the NSW Office of Environment and Heritage (**OEH**), formerly the NSW Department of Environment, Climate Change and Water (DECCW), to keep the Aboriginal Heritage Information Management System (**AHIMS**). AHIMS is made up of an electronic database of recorded Aboriginal sites across NSW, and an archive of related documentation and reports.

The OEH states that AHIMS currently contains over 60,000 records relating to Aboriginal culture and heritage across NSW.

It must be noted that AHIMS is not a complete record of all sites (only sites known to the OEH are recorded)

and the recorded location of sites it does contain are not always accurate. AHIMS also does not generally record the cultural sensitivity of a site, or cultural values of the broader landscape around a location.

What is AHIMS used for?

AHIMS is intended to be used by Aboriginal people and organisations, academics – for research purposes, authorities and local governments – for planning purposes.

Anyone that is proposing to undertake activities that may impact on Aboriginal culture and heritage (a proponent), such as a developer wishing to undertake groundwork, is also encouraged to search AHIMS as part of OEH's *Diligence Code of Practice for the Protection of Aboriginal Objects in NSW*, or any other related Industry Code, before undertaking the proposed activity.

See *NSWALC Site Protection Fact Sheet 7* for more information about due diligence.

Who can access AHIMS?

The OEH recognises that certain information on AHIMS is culturally sensitive and claims to have protocols in place to ensure such sensitivities are protected. However, some basic information is available to the public generally, and the OEH may make other more sensitive information available as a result of an extensive search (see below) or through a licensing agreement (see below).

Basic online searches: In October 2010 the OEH introduced a free online search function where anyone

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can 'register' to have access to the AHIMS database (only user name and contact details are required).

Registered users can conduct a 'basic search'. This 'basic search' simply provides a yes or nil (no) result, indicating whether or not a record of Aboriginal objects or places exist within the defined area of the search. These results are available to be viewed immediately online.

If the request comes back with a '**yes**' result (that registered Aboriginal sites or Aboriginal Places are present), users are then asked to request an 'extensive search'.

Extensive searches: provide more detailed information to the person conducting the search about the identified site, including the type of site (eg. Scarred tree, burial, midden), and in some cases, who recorded the site, or whether a report exists about the site. The OEH decides what information about a registered site is to be given out as a result of an extensive search and what information is to be kept confidential. A fee of \$50 is currently charged for an 'extensive search' request, with additional costs for GIS or express services.

Issues LALCs may wish to consider

Aboriginal Heritage Information Licence Agreements: where a developer, government authority or local government requires access to AHIMS information over a large area or on an ongoing basis, the OEH may enter into an Aboriginal Heritage Information Licence Agreement (Licence Agreement) with that developer, government agency or local government to allow them access to AHIMS.

The OEH claims that there are three objectives to Licence Agreements:

- To seek endorsement or comment from relevant Aboriginal community organisations for the release of the information will be sought.
- That the information provided will be used in a manner that respects its sensitive nature.
- That the information accessed will help in the making of informed decisions about the impact of planning, land management and development on Aboriginal sites.

What if LALCs are contacted by developers or Local Councils about accessing information about Aboriginal sites?

LALCs can decide whether they are willing to endorse the release of Aboriginal site information under a Licence Agreement.

In making such a decision a LALC may wish to consider the following:

- How the information is intended to be used, stored and managed,
- What level of information is required to adequately protect and manage the site/s,
- Who is proposed to have access to the information? Will there be processes in place to ensure only appropriate people have access,
- Ensuring that culturally appropriate protocols, and agreements are in place to protect culturally sensitive information,
- Whether there will be processes in place to ensure LALCs and the Aboriginal community are consulted and involved throughout the life a project, and
- Whether answers to the above questions are adequately detailed in the proposed Licence Agreement.

It is important to note that the OEH may choose to issue Licence Agreements, even where endorsement has not been obtained from the Aboriginal community. This should not discourage LALCs from providing comment on proposed Licence Agreements.

Where a LALC is considering providing its own site records to any external organisation, the LALC may wish to consider entering into confidentiality or other agreements to ensure information is protected, and remains the intellectual property of communities. Clear processes about information use and communication can then also be established.

LALCs as providers of AHIMS services:

The OEH have proposed that LALCs or other community organisations may become a '**shopfront**' for AHIMS in the future. The OEH plan proposes that LALCs undertake services which the OEH currently undertake, such as conducting searches for proponents and referring proponents to appropriate knowledge holders.

Only a LALC can decide whether they wish to enter into an agreement with the OEH to provide AHIMS services.

However, while NSWALC respects the right of each LALC to make such decisions for themselves, a LALC

may wish to consider the following in making any decision about the proposal:

Potential benefits for LALCs:

- Whether business opportunities, such as extra site assessment work, may come to the LALC from operating the AHIMS 'shopfront' ,
- Whether there will be any benefits in terms of computers or training provided by the OEH in preparing LALCs to provide the services, and
- Whether there will be increased access to AHIMS information that will assist LALCs to protect culture and heritage.

Potential risks for LALCs:

- Whether LALCs will be responsible for any complaints arising from incorrect location or other data, or for updating outdated referral details for knowledge holders,
- How much access to AHIMS data will LALCs have so that information can be corrected or updated,
- Whether LALCs wish to provide support to a regulatory system that gives Aboriginal peoples no control over decisions that are made about the destruction of Aboriginal culture and heritage, and
- Whether LALCs have the appropriate equipment, staffing levels, and expertise to provide AHIMS services, particularly given the short time frames that proponents expect searches to be undertaken within.

It is recommended that LALCs find out whether the OEH intends to provide for the following before deciding whether to deliver AHIMS services:

- Phone, computer and internet capabilities, to support the AHIMS database,
- Training and skill development for LALC staff,
- Costs to LALCs associated with the implementation and administration of the AHIMS shop-front service (including staffing costs), and
- Adequate business modelling for undertaking the AHIMS services.

Other potential issues that may arise may include:

Referral to other Aboriginal people or organisations:
AHIMS currently relies on referrals being made to

Traditional Owner or custodian groups for more information about sites. NSWALC understands that the OEH intends to pass this role onto participating LALCs. However it is also understood that the vast majority of 'referral' information in AHIMS is out of date, incorrect or not provided.

With the OEH advising that this information will not be updated, LALCs will be required to undertake additional research to make the system workable.

Sensitive information: Some of the information in AHIMS is restricted and sensitive. However, it is not clear what protocols currently exist or will be developed to ensure that this information is not viewed by people who should not see it – possibly including LALC staff.

Community concerns: The OEH has advised that it has not discussed this project with other Aboriginal groups in detail. Given this, LALCs may want to consider whether other community members or groups may have a problem with the LALC undertaking the role proposed by the OEH – particularly given it may be perceived as having more authority over matters of culture and heritage than the proposed arrangements will provide.

'Broader reform' and longer-term management of AHIMS.

With 'broader reform' of the state's Aboriginal culture and heritage laws again being explored, the future management of AHIMS is not certain. In addition, LALCs may want to consider what affect their participation, successful or otherwise, in the OEH proposal may have on possible roles for LALCs and Aboriginal peoples in the management of Aboriginal culture and heritage protections in the future.

More information

If you would like any additional information about the contents of this document, please visit the NSWALC website www.alc.org.au, call the NSWALC Policy and Research Unit on 02 9689 4444 or email us at policy@alc.org.au.

The AHIMS Registrar at OEH can be contacted on (02) 9585 6471 or visit OEH's website www.environment.nsw.gov.au. The OEH free online search facility called the **AHIMS web service** is accessible at: www.environment.nsw.gov.au/awssapp.