



Aboriginal and Torres Strait Islander Heritage Protection Act 1984 (Cth)

**Notice of an application for the preservation and protection of a specified area, being
Point Plomer Road, near Kempsey, New South Wales**

Invitation to make representations

I, Daniel Leo, hereby give notice as follows:

The Minister for the Environment, responsible for the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) (the **Act**), has received an application made under section 10 of the Act. The Minister has appointed me to provide a report to the Minister under paragraph 10(1)(c) of the Act.

The Applicant

The application is made by Ngaire Matthews and Leo Wright in their capacity as representatives of the Dunghutti Elders Council (Aboriginal Council) Registered Native Title Body Corporate (**Applicant**).

The purpose of the application

The Applicant seeks the long-term preservation and protection of an area specified in their application. This specified area (**specified area**) is depicted in Figure 1 below. Section 10 of the Act confers power on the Minister to make a declaration to preserve and protect an area where the Minister is satisfied that it is a 'significant Aboriginal area' under threat of injury or desecration. A 'significant Aboriginal area' is defined by section 3 of the Act as an area of land or waters that is "of particular significance to Aboriginals in accordance with Aboriginal tradition". 'Aboriginal tradition' is defined as the "body of traditions, observances, customs and beliefs of Aboriginals generally or of a particular community or group of Aboriginals, and includes any such traditions, observances, customs or beliefs relating to particular persons, areas, objects or relationships".

Matters the report is required to deal with

The Minister will consider my report pursuant to section 10 of the Act in relation to the specified area before deciding whether to make a declaration under section 10 of the Act. Under subsection 10(4) of the Act, the report is required to deal with the following eight matters:

- (a) the particular significance of the area to Aboriginal peoples;
- (b) the nature and extent of the threat of injury to, or desecration of, the area;
- (c) the extent of the area that should be protected;
- (d) the prohibitions and restrictions to be made with respect to the area;
- (e) the effects the making of a declaration may have on the proprietary or pecuniary interests of persons other than the Aboriginal or Aboriginals on whose behalf the application is made;
- (f) the duration of any declaration;
- (g) the extent to which the area is or may be protected by or under a law of the State or Territory, and the effectiveness of any remedies available under any such law; and

(h) such other matters (if any) as prescribed.

The specified area

Figure 1 below depicts the area for which preservation and protection is sought. This specified area is an 11.8 kilometre long stretch of Point Plomer Road between Crescent Head and Big Hill, near Kempsey, New South Wales. The specified area comprises the whole of the road reserve containing Point Plomer Rd.

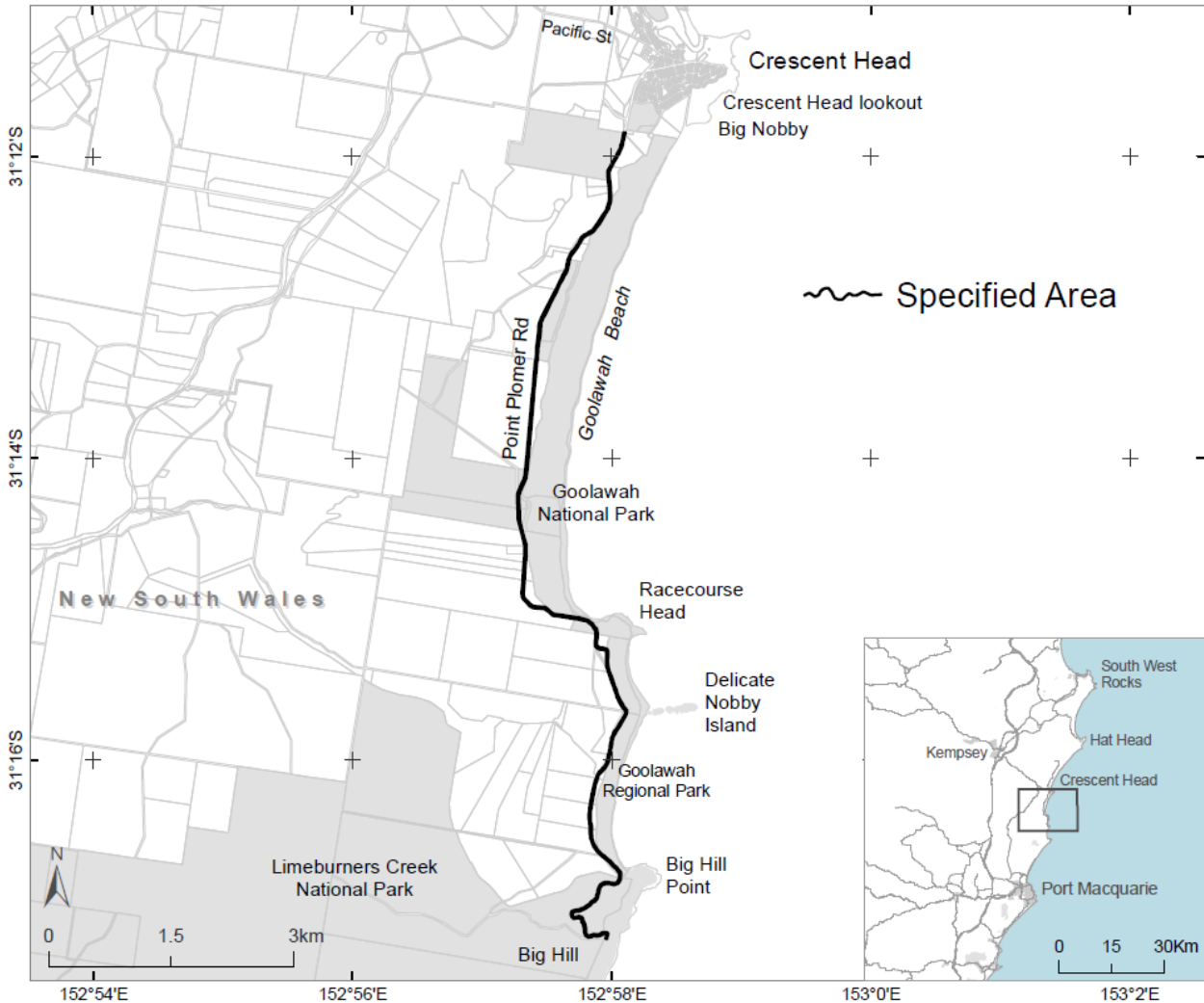


Figure 1 – Map of the Specified Area, being Point Plomer Road between Crescent Head and Big Hill, New South Wales

Claimed nature of the particular significance

The Applicant claims the specified area is of particular significance in accordance with Aboriginal tradition for several reasons, including:

- there is community knowledge of a ‘burial’ that may be in the specified area;
- there is a ‘ceremonial ground/bora ring’ that may be in the specified area;
- there are reports of ‘culturally modified trees’ in the bushland adjacent to Point Plomer Road;
- there are middens close to Point Plomer Road;
- there may be artefacts within the specified area; and
- the specified area is part of an ‘important cultural landscape’ that includes ‘graves/burials’, ‘fish trap’, ‘white ochre site’, ‘bora rings’, ‘middens’, ‘camp sites’, ‘culturally modified trees/scar trees’, ‘water wells’, ‘women’s site’, ‘tools’, ‘stone instruments’, and culturally valued flora and fauna.

Claimed threat of injury or desecration

The Applicant claims that the specified area is under threat from roadworks and underground powerlines, and from how "Increase in visitation will affect sites of significance... [w]hich will result from the tarring [sealing] of the road".

Invitation to make representations

Interested persons (or parties) are invited to furnish representations in connection with my report to:

Daniel Leo
Director, Leo Anthropological Service Pty Ltd
PO Box 39, Suffolk Park, New South Wales, 2481
Ph: 0487 266 622
Email: danleo@mail.com

Interested parties are urged to **contact me** as soon as possible to be provided with further information about the submission process, including the provision of the Application, then the making representations in response to the Application, followed by the making of final comments in response to representations received.

As part of the submission process, I will seek to take oral submissions from the Applicant, and if such occurs, any arising written record I make will be supplied to the other interested parties as a representation.

Representations must be made in writing by **5pm** NSW time on **Thursday 22 July 2021**, or within such further period as may be allowed. **Do not send your representations directly to the Minister.**

Representations received by the due date will subsequently be provided to the Applicant and to all interested parties who duly submitted a representation, and thereafter the Applicant and such interested parties will be afforded an additional period of three weeks to make final comments in writing.

Claiming confidentiality

If you wish to claim confidentiality over any part of your submission, please identify why you are claiming confidentiality and how you wish confidentiality to apply. Representations, final comments, plus all correspondence received and sent by me, will be provided to the Minister for the Environment, along with my report. Representations, final comments, and correspondence, even those subject to confidentiality, may be disclosed where it is authorised or required by law, to meet procedural fairness requirements, and in response to a request by a House or Committee of the Parliament of the Commonwealth.

Privacy notice

Personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable.

Sensitive information is a subset of personal information and includes any information or opinion about an individual's racial or ethnic origin, political opinion or association, religious beliefs or affiliations, philosophical beliefs, sexual preferences or practices, trade or professional associations and memberships, union membership, criminal record, health or genetic information and biometric information or templates.

By submitting a representation in response to the 'Notice of an application for the preservation and

protection of a specified area, being Point Plomer Road, near Kempsey, New South Wales' you consent to the collection of all personal information, including sensitive information, contained in your representation.

I, Daniel Leo, collect your personal information (as defined by the *Privacy Act 1988*) contained in your representation for the purposes of consideration in drafting a report under section 10 of the Act in relation to the specified area and related purposes. If you do not provide some or all of any relevant personal information in your representation(s), I may be unable to fully and comprehensively consider your representation in the drafting of the report to be submitted for the Minister's consideration.

Department of Agriculture, Water and the Environment (the **department**) collects your personal information (as defined by the *Privacy Act 1988*) contained in your representation for the purposes of the Minister's consideration in deciding whether to make a declaration under section 10 of the Act in relation to the specified area and related purposes. If you do not provide some or all of any relevant personal information in your representation(s), the Minister may be unable to fully and comprehensively consider your representation in deciding whether to make a declaration under section 10 of the Act in relation to the specified area.

The department may disclose your personal information to the Minister, parties that may be adversely effected by a decision of the Minister under section 10 of the Act (to meet procedural fairness requirements), and other Australian government agencies, persons or organisations where necessary for the above purposes, provided the disclosure is consistent with relevant laws, in particular the *Privacy Act 1988*. Your personal information will be used and stored in accordance with the Australian Privacy Principles.

By submitting a representation you consent to the disclosure of all personal information contained in your representation to the Minister and parties that may be adversely effected by the decision of the Minister under section 10 of the Act.

See the department's [Privacy Policy](#) to learn more about accessing or correcting personal information or making a complaint. Alternatively, telephone the department on +61 2 6272 3933.