



# **Aboriginal and Torres Strait Islander Heritage Protection (Bellwood Sacred Site) Declaration 2019**

made under section 10 of the

*Aboriginal and Torres Strait Islander Heritage Protection Act 1984*

## **Compilation No. 1**

**Compilation date:** 3 September 2019

**Includes amendments up to:** *Aboriginal and Torres Strait Islander Heritage  
Protection Amendment (Bellwood Sacred Site)  
Declaration 2019*

Prepared by the Department of the Environment and Energy

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## About this compilation

### **This compilation**

This is a compilation of the *Aboriginal and Torres Strait Islander Heritage Protection (Bellwood Sacred Site) Declaration 2019* that shows the text of the law as amended and in force on 3 September 2019 (the *compilation date*).

The notes at the end of this compilation (the *endnotes*) include information about amending laws and the amendment history of provisions of the compiled law.

### **Uncommenced amendments**

The effect of uncommenced amendments is not shown in the text of the compiled law. Any uncommenced amendments affecting the law are accessible on the Legislation Register ([www.legislation.gov.au](http://www.legislation.gov.au)). The details of amendments made up to, but not commenced at, the compilation date are underlined in the endnotes. For more information on any uncommenced amendments, see the series page on the Legislation Register for the compiled law.

### **Application, saving and transitional provisions for provisions and amendments**

If the operation of a provision or amendment of the compiled law is affected by an application, saving or transitional provision that is not included in this compilation, details are included in the endnotes.

### **Modifications**

If the compiled law is modified by another law, the compiled law operates as modified but the modification does not amend the text of the law. Accordingly, this compilation does not show the text of the compiled law as modified. For more information on any modifications, see the series page on the Legislation Register for the compiled law.

### **Self-repealing provisions**

If a provision of the compiled law has been repealed in accordance with a provision of the law, details are included in the endnotes.

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## Part 1—Preliminary matters

### 1 Name

This instrument is the *Aboriginal and Torres Strait Islander Heritage Protection (Bellwood Sacred Site) Declaration 2019*.

### 2 Commencement

This instrument commences on the day after registration.

### 3 Authority

This instrument is made under section 10 of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

### 4 Definitions

Note: A number of expressions used in this instrument are defined in the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*, including the following:

- (a) Aboriginal;
- (b) area;
- (c) significant Aboriginal area.

In this instrument:

*Act* means the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

*authorised person* has the meaning given by subsection 6(5).

*declared area* means the area specified in section 5 of this instrument.

*Geocentric Datum of Australia* means the Geocentric Datum of Australia as defined in Gazette No. 35 of 6 September 1995 (GDA94 geocentric data set).

*land* includes vegetation.

*MGA* means Map Grid of Australia 1994.

*Part 1* has the meaning given by item 1 of Schedule 1.

*Part 2* has the meaning given by item 2 of Schedule 1.

*Part 3* has the meaning given by item 3 of Schedule 1.

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## Part 2—Declaration of an area as a significant Aboriginal area to be preserved and protected from injury or desecration

### 5 Declared area

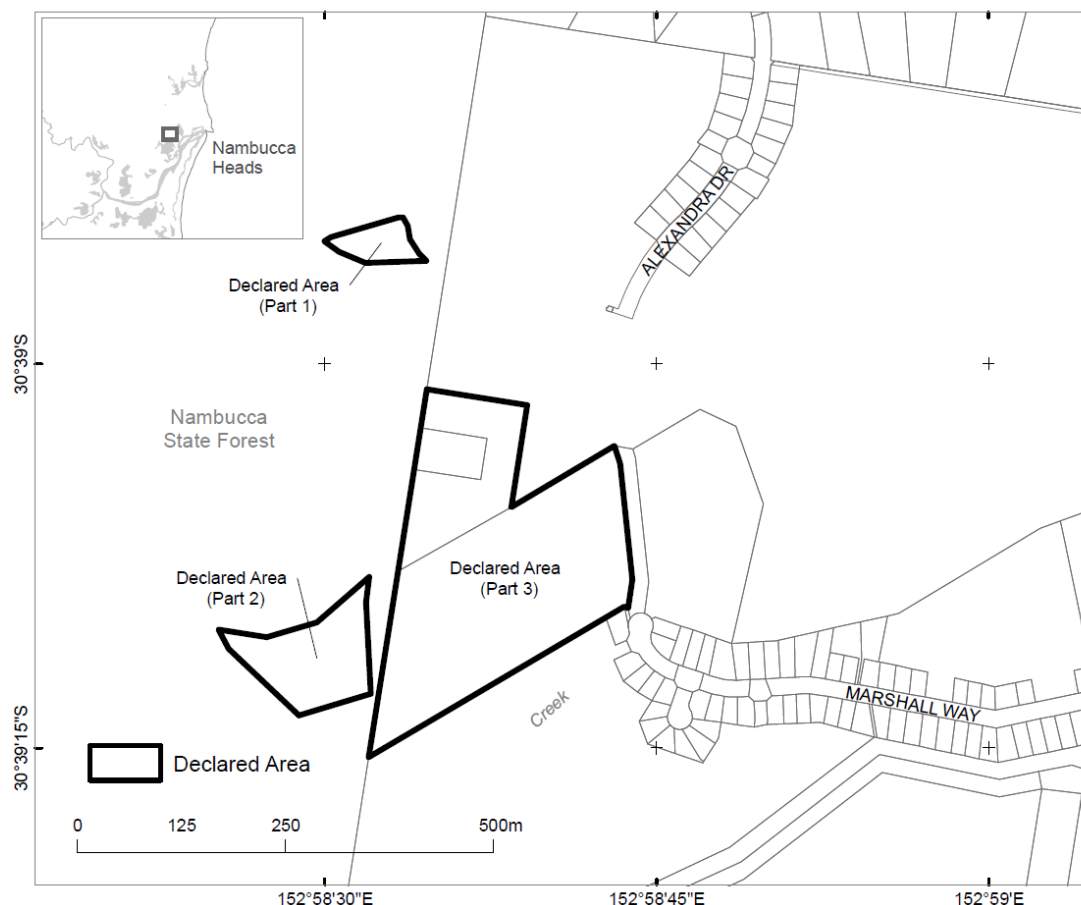
- (1) The area to which this declaration applies (the *declared area*) is the area known as ‘Bellwood Sacred Site’ in Nambucca Heads in New South Wales, and which consists of the whole of *Part 1*, *Part 2*, and *Part 3*.

Note: *Part 1*, *Part 2* and *Part 3* are defined in Schedule 1.

- (2) The position of the declared area is to be determined by reference to the Geocentric Datum of Australia.

Note: *Geocentric Datum of Australia* is defined in section 4.

- (3) The following map illustrates the declared area:



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## 6 Prohibitions and restrictions with respect to the declared area

- (1) For section 10 of the Act, the declared area is a significant Aboriginal area that is to be preserved and protected from injury and desecration.
- (2) A person must not do any act in, on or near the declared area that will, or is likely to, injure or desecrate the declared area.

Note: Subsection 3(2) of the Act relevantly states that for the purposes of the Act, an area shall be taken to be injured or desecrated if:

- (i) it is used or treated in a manner inconsistent with Aboriginal tradition;
- (ii) by reason of anything done in, on or near the area, the use or significance of the area in accordance with Aboriginal tradition is adversely affected; or
- (iii) passage through or over, or entry upon, the area by any person occurs in a manner inconsistent with Aboriginal Tradition.

Note: Under subsection 22(1) of the Act, a person commits an offence if the person engages in conduct that contravenes a provision of a declaration made under Part II of the Act in relation to a significant Aboriginal area.

- (3) Without limiting subsection (2), a person must not:
  - (a) pass through or over, or enter, the declared area; or
  - (b) bulldoze, grade, drill, dig, excavate, cut, fill, blast, clear, demolish, tunnel, burn, remove, or otherwise damage land in the declared area; or
  - (c) build or construct any road, building or structure in, or intruding into, the declared area; or
  - (d) kill, cut down, poison, deface, burn, remove or otherwise damage any tree in the declared area; or
  - (e) cause any projectile or aerial device to enter into the declared area.
- (4) Subsections (2) and (3) do not apply to acts done by an authorised person:
  - (a) for the purposes of practising or observing Aboriginal traditions, observances, cultural practices, customs, or beliefs;
  - (b) for the purposes of education, research, management, monitoring, revegetation, restoration or rehabilitation; or
  - (c) where doing the act is authorised or required by law.
- (5) A person is an **authorised person** in relation to the doing of an act if:
  - (a) the person is an elder of the Gumbaynggirr Nation; or
  - (b) the person has received permission to do the act from:
    - (i) an elder of the Gumbaynggirr Nation; or
    - (ii) the Nambucca Heads Local Aboriginal Land Council; or
  - (c) the person is authorised or required by law to do the act.
- (6) For the purposes of paragraph 5(c), a person is not authorised or required by law to do an act merely because the person has received an approval, permission, authority or consent to undertake activities in connection with using or developing land in, on or near the declared area.

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## **7 Period of effect**

This instrument has effect for 25 years beginning on the date this instrument commences.

## **8 Repeal**

This instrument is repealed the day after the end of the period specified in section 7 of this instrument.

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## Schedule 1—Parts 1, 2 and 3 of the declared area

### 1 Part 1 of the declared area

- (1) **Part 1** consists of the whole of the area bounded by a line commencing at the point in item 1 of the following table and proceeding through each of the coordinates listed in column 1 of the table in the manner described in column 2 of the table:

Item	Column 1 The line runs from this point...	Column 2 thence...
1	MGA Zone 56 497604.7E and 6609332.7N	generally East to the point in item 2
2	497612.7E and 6609338.2N	generally East to the point in item 3
3	497693.5E and 6609361.7N	generally East to the point in item 4
4	497699E and 6609361.7N	generally South East to the point in item 5
5	497704.8E and 6609351.3N	generally South to the point in item 6
6	497707.4E and 6609335.5N	generally South East to the point in item 7
7	497718.7E and 6609317.3N	generally South East to the point in item 8
8	497726.8E and 6609309.3N	generally West to the point in item 9
9	497654E and 6609306.5N	generally North West to the point in item 10
10	497622.6E and 6609320N	generally North West to the point in item 11
11	497604.7E and 6609332.7N	concluding at that point.

- (2) Directions included in the table in subitem (1) are indicative only.

### 2 Part 2 of the declared area

- (1) **Part 2** consists of the whole of the area bounded by a line commencing at the point in item 1 of the following table and proceeding through each of the coordinates listed in column 1 of the table in the manner described in column 2 of the table:

Item	Column 1 The line runs from this point...	Column 2 thence...
1	MGA Zone 56 497477.1E and 6608865.8N	generally East to the point in item 2
2	497535E and 6608856.7N	generally East to the point in item 3
3	497595.3E and 6608874.4N	generally North East to the point in item 4
4	497658.1E and 6608929.2N	generally South to the point in item 5
5	497654.5E and 6608899N	generally South to the point in item 6
6	497660.4E and 6608789.1N	generally West to the point in item 7

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7	497573.7E and 6608762.4N	generally North West to the point in item 8
8	497489.7E and 6608842.7N	generally North West to the point in item 9
9	497477.1E and 6608865.8N	concluding at that point.

(2) Directions included in the table in subitem (1) are indicative only.

### 3 Part 3 of the declared area

(1) **Part 3** consists of the whole of the area bounded by a line commencing at the point in item 1 of the following table and proceeding through each of the coordinates listed in column 1 of the table in the manner described in column 2 of the table:

Item	Column 1	Column 2
	The line runs from this point...	thence...
1	MGA Zone 56 497729.136E and 6609156.545N	generally East to the point in item 2
2	497849.704E and 6609137.683N	generally South to the point in item 3
3	497830.521E and 6609015.065N	generally North East to the point in item 4
4	497956.090E and 6609086.571N	generally South East to the point in item 5
5	497962.907E and 6609063.867N	generally South East to the point in item 6
6	497975.404E and 6608924.473N	generally South to the point in item 7
7	497970.044E and 6608890.163N	generally North West to the point in item 8
8	497965.546E and 6608892.117N	generally South West to the point in item 9
9	497660.672E and 6608718.865N	generally North along the forest boundary to the point in item 10
10	497729.136E and 6609156.545N	concluding at that point.

(2) Directions included in the table in subitem (1) are indicative only.



## Endnotes

### Endnote 1—About the endnotes

The endnotes provide information about this compilation and the compiled law.

The following endnotes are included in every compilation:

Endnote 1—About the endnotes

Endnote 2—Abbreviation key

Endnote 3—Legislation history

Endnote 4—Amendment history

### Abbreviation key—Endnote 2

The abbreviation key sets out abbreviations that may be used in the endnotes.

### Legislation history and amendment history—Endnotes 3 and 4

Amending laws are annotated in the legislation history and amendment history.

The legislation history in endnote 3 provides information about each law that has amended (or will amend) the compiled law. The information includes commencement details for amending laws and details of any application, saving or transitional provisions that are not included in this compilation.

The amendment history in endnote 4 provides information about amendments at the provision (generally section or equivalent) level. It also includes information about any provision of the compiled law that has been repealed in accordance with a provision of the law.

### Misdescribed amendments

A misdescribed amendment is an amendment that does not accurately describe the amendment to be made. If, despite the misdescription, the amendment can be given effect as intended, the amendment is incorporated into the compiled law and the abbreviation “(md)” added to the details of the amendment included in the amendment history.

If a misdescribed amendment cannot be given effect as intended, the abbreviation “(md not incorp)” is added to the details of the amendment included in the amendment history.

**Endnote 2—Abbreviation key**

ad = added or inserted	o = order(s)
am = amended	Ord = Ordinance
amdt = amendment	orig = original
c = clause(s)	par = paragraph(s)/subparagraph(s) /sub-subparagraph(s)
C[x] = Compilation No. x	pres = present
Ch = Chapter(s)	prev = previous
def = definition(s)	(prev...) = previously
Dict = Dictionary	Pt = Part(s)
disallowed = disallowed by Parliament	r = regulation(s)/rule(s)
Div = Division(s)	
exp = expires/expired or ceases/ceased to have effect	reloc = relocated
F = Federal Register of Legislation	renum = renumbered
gaz = gazette	rep = repealed
LA = <i>Legislation Act 2003</i>	rs = repealed and substituted
LIA = <i>Legislative Instruments Act 2003</i>	s = section(s)/subsection(s)
(md) = misdescribed amendment can be given effect	Sch = Schedule(s)
(md not incorp) = misdescribed amendment cannot be given effect	Sdiv = Subdivision(s)
mod = modified/modification	SLI = Select Legislative Instrument
No. = Number(s)	SR = Statutory Rules
	Sub-Ch = Sub-Chapter(s)
	SubPt = Subpart(s)
	<u>underlining</u> = whole or part not commenced or to be commenced

## Endnote 3—Legislation history

## Endnote 3—Legislation history

Name	Registration	Commencement	Application, saving and transitional provisions
<i>Aboriginal and Torres Strait Islander Heritage Protection Amendment (Bellwood Sacred Site) Declaration 2019</i> [F2019L01139]	2 September 2019	3 September 2019	-

## Endnote 4—Amendment history

**Endnote 4—Amendment history**

<b>Provision affected</b>	<b>How affected</b>
Sch 1, s 3	am F2019L01139