

From: s. 47F(1)
To: s. 22(1)(a)(ii)
Cc: [ATSIHPA](#); s. 47F(1)
Subject: s. 47F(1)
Date: s. 47F(1)
Attachments: s. 47F(1)

Hi ^{s. 22(1)(a)(ii)} thank you for your reply, they have ploughed up the ground, how do we know that those stones they want to remove are not artefacts?
s. 47F(1)

On Mon, Mar 15, 2021 at 4:07 PM s. 22(1)(a)(ii) @awe.gov.au> wrote:

Dear s. 47F(1)

I have contacted the s. 47F(1) to ensure that they are aware of their obligations to comply with the *Aboriginal and Torres Strait Islander Heritage Protection (Wahluu Mount Panorama Site) Emergency Declaration 2021*. I am satisfied that they are aware of their obligations and are taking all reasonable steps to ensure that they comply with the declaration, and I am not aware of any breaches that occurred in relation to s. 47F(1).

Regards

s. 22(1)(a)(ii)

Assistant Director, ATSIHP Act Team | Indigenous Heritage Section | T: s. 22(1)(a)(ii)

Department of Agriculture, Water and the Environment

Heritage Branch | Heritage, Reef and Wildlife Trade Division

John Gorton Building, King Edward Terrace, Parkes ACT

GPO Box 858, CANBERRA ACT 2601

www.awe.gov.au

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

From: s. 47F(1)
Sent: s. 47F(1)
To: s. 22(1)(a)(ii) @awe.gov.au>
Subject: s. 47F(1)

s. 22(1)(a)(ii)

Dear

Thank you for your time this morning, I am emailing to highlight a possible breach of the Ministers section 9 declaration.

Please see image

s. 47F(1)

We would like to see the area properly protected as per the section 9 declaration, please let us know if any other info is required.

s. 47F(1)



S. 47F(1)

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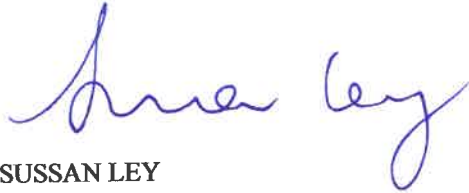
s. 47G(1)(a), s. 47F(1), s. 22(1)(a)(ii)



Aboriginal and Torres Strait Islander Heritage Protection (Wahluu Mount Panorama Site) Emergency Declaration 2021

I, SUSSAN LEY, Minister for the Environment, make the following Emergency Declaration.

Dated *5th March 2021*



SUSSAN LEY

Minister for the Environment

Contents

1	Name	3
2	Commencement	3
3	Authority	3
4	Definitions.....	3

Part 1 - Preliminary matters**1. Name**

This instrument is the *Aboriginal and Torres Strait Islander Heritage Protection (Wahluu Mount Panorama Site) Emergency Declaration 2021*.

2. Commencement

This instrument commences on the day after registration.

3. Authority

This instrument is made under section 9 of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

4. Definitions

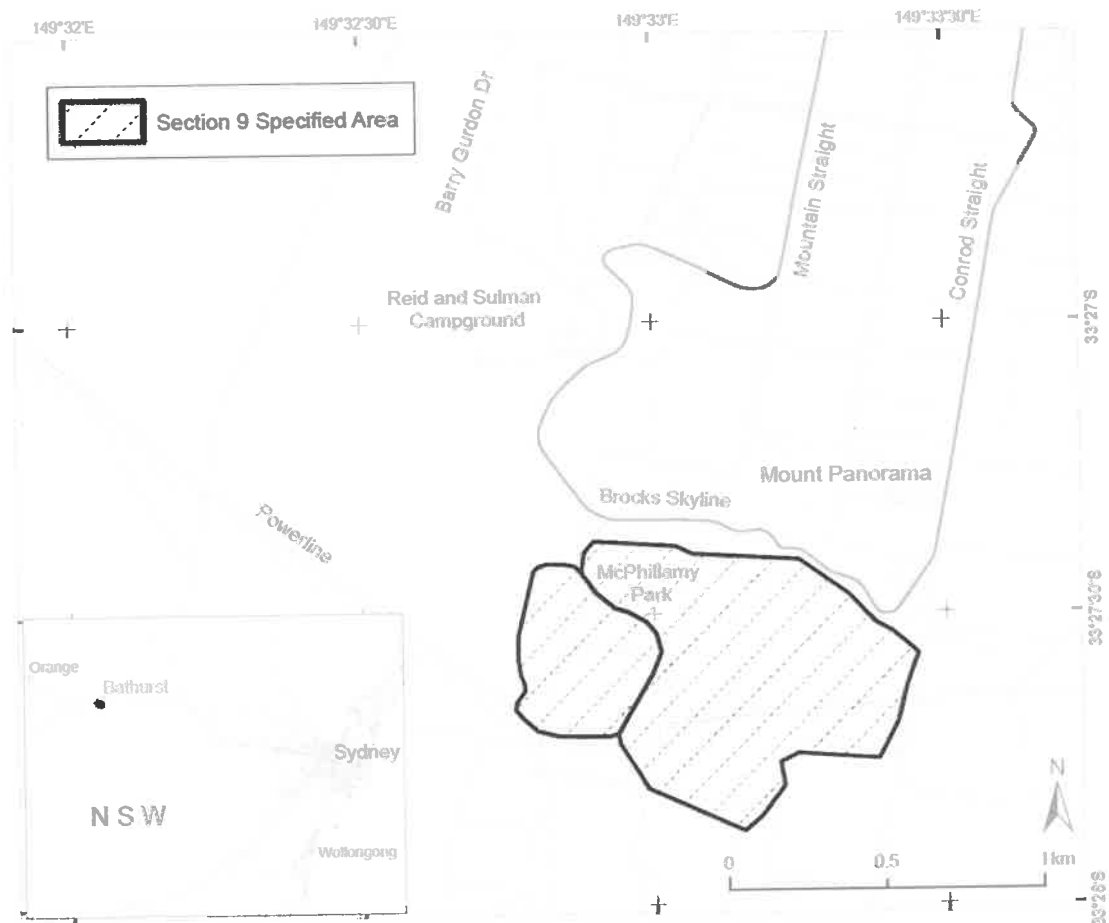
Act means the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984*.

specified area means the area described in part 2, section 1 of this instrument.

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

1. Specified area

For the purposes of subsection 9(1) of the Act, the specified area to which this declaration applies is an area on Wahuu Mount Panorama in Bathurst in New South Wales, indicated as the 'Section 9 Specified Area' in the map below.



2. Declaration

- (a) Under section 9 of the Act the specified area is to be preserved and protected from injury or desecration in the manner specified in the following paragraphs (b) and (c).
- (b) A person must not:
- (i) undertake any action that will, or is likely to, adversely affect the use or significance of the specified area in accordance with Aboriginal tradition.
 - (ii) conduct any clearing activities, preliminary activities associated with clearing, or any other act that will, or is likely to, injure or desecrate the specified area.

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.

Penalty:

- (a) if the person is a natural person - imprisonment for 5 years or 100 penalty units, or both; or
- (b) if the person is a body corporate - 500 penalty units.

- (c) Without limiting subsection (b), a person must not undertake any action that will, or is likely to, directly threaten the topography of the specified area.

3. Period of effect

This instrument has effect for 30 days beginning on the date this instrument commences.

4. Repeal

This instrument is repealed the day after the end of the period specified in part 2, section 3 of this instrument.

EXPLANATORY STATEMENT

Issued by authority of the Minister for the Environment

Aboriginal and Torres Strait Islander Heritage Protection (Wahluu Mount Panorama Site) Emergency Declaration 2021

The *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (the **Act**) preserves and protects significant traditional areas, objects and remains, that are of particular significance to Aboriginal and Torres Strait Islanders, from injury or desecration. This includes an area of land in Australia or beneath Australian waters, an area of water in Australia or an area of Australian waters.

The Act recognises the body of traditions, observances, customs and beliefs of Aboriginal and Torres Strait Islanders generally or of a particular community or group thereof, including any such traditions, observances, customs or beliefs relating to particular persons, areas, objects or relationships.

The Declaration

The purpose of this Declaration is to preserve and protect the Aboriginal area at the Wahluu Mount Panorama Site.

Part II of the Act (Part II) provides for the protection of significant Aboriginal areas and objects. Under section 9 of the Act, the Minister may, by legislative instrument, make an emergency declaration to preserve and protect a significant Aboriginal area that is under serious and immediate threat of injury or desecration.

The *Aboriginal and Torres Strait Islander Heritage Protection (Wahluu Mount Panorama Site) Emergency Declaration 2021* (the **Declaration**) is an emergency declaration made under section 9 of the Act to preserve or protect an area of Wahluu Mount Panorama (the **specified area**).

On 20 December 2018, the former Minister for the Environment, the Hon Melissa Price MP, received an oral application from the Wiradyuri Traditional Owners Central West Aboriginal Corporation seeking the preservation or protection of the specified area from injury or desecration.

In making the Declaration, the Minister considered the application and a related section 10 report prepared in accordance with the Act, and is satisfied, that the specified area is a significant Aboriginal area that it is under serious and immediate threat of injury or desecration from a proposed go-kart track development by Bathurst Regional Council.

Given the urgency, consultation was not specifically undertaken in relation to the emergency declaration. However, broad consultation has already been undertaken in preparation of the section 10 report.

On 8 October 2020, the Minister consulted the New South Wales Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, the Hon Don Harwin MLC on making a declaration under the Act, in fulfilment of the requirements of section 13(2) of the Act,

This Declaration is intended to be an interim measure and is only in place for 30 days while further assessment is undertaken. If appropriate, further consultation will occur as related applications are duly processed.

The Declaration is a legislative instrument for the purposes of the *Legislation Act 2003*.

The Declaration commences on the day after registration.

Description of provisions

Part 1 - Preliminary matters

Part 1 sets out the preliminary matters of the Declaration

Section 1 provides the name of the Declaration.

Section 2 provides the commencement information for the Declaration.

Section 3 provides the authority under which this Declaration is made.

Section 4 provides the definitions used in this Declaration.

Part 2 - Declaration

Part 2 of the Declaration provides for those matters required to be covered under sections 9 and 11 of the Act.

- Section 9 of the Act provides for the Minister to make emergency declarations in relation to the protection of significant Aboriginal areas.
- Section 11 of the Act provides that a declaration made under section 9 or 10 should describe the area with sufficient particular to enable the area to be identified and contain provisions for an in relation to the protection and preservation of the area from injury or desecration.

Section 5 provides the specified area to which the Declaration applies.

Section 6 is a provision for the purpose of paragraph 11(b) of the Act and provides for and in relation to the protection and preservation of the area from injury or desecration.

- Paragraph 6(a) provides that the specified area is to be preserved and protected from injury or desecration under section 9 of the Act.
- Paragraph 6(b) provides that a person must not carry out any works, which will or are likely to cause injury or desecration to the specified area. The provision also sets out a number of specified works. A person must not :
 - undertake any action that will, or is likely to, adversely affect the use or significance of the specified area in accordance with Aboriginal tradition.
 - conduct any clearing activities, preliminary activities associated with clearing, or any other act that will, or is likely to, injure or desecrate the specified area.
- The note clarifies that it is an offence under the Act if a 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.
- Paragraph 6(c) of this Declaration makes it clear that a person must not undertake any action that will, or is likely to, directly threaten the topography of Wahluu Mount Panorama.

Section 7 provides the period for which this Declaration is in force. This Declaration is self-repealing and ceases to be in force the day after the period of effect ends.

Statement of Compatibility with Human Rights

Prepared in accordance with Part 3 of the Human Rights (Parliamentary Scrutiny) Act 2011

Aboriginal and Torres Strait Islander Heritage Protection (Wahluu Mount Panorama Site) Emergency Declaration 2021

This Declaration is compatible with the human rights and freedoms recognised or declared in the international instruments listed in section 3 of the *Human Rights (Parliament Scrutiny) Act 2011*.

Overview of the Declaration

The purpose of this Declaration is to preserve and protect the Aboriginal area at the Wahluu Mount Panorama Site. Section 9 of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* allows the Australian Government Minister for the Environment to make emergency declarations in relation to areas where the Minister receives a valid application by or on behalf of an Aboriginal or a group of Aboriginals, and is satisfied that the area is a significant Aboriginal area, and that it is under serious and immediate threat of injury or desecration, he or she may, by legislative instrument, make a declaration in relation to an area.

This Declaration preserves and protects the significant traditional area on Wahluu Mount Panorama from injury or desecration attributed to a proposed go-kart development by the Bathurst Regional Council.

Human rights implications

This Declaration does not engage any of the applicable rights or freedoms.

Conclusion

This Declaration is compatible with human rights as it does not raise any human rights issues.

s. 47G(1)(a), s. 47F(1), s. 22(1)(a)(ii)

s. 47G(1)(a), s. 47F(1), s. 22(1)(a)(ii)



s. 47G(1)(a), s. 47F(1), s. 22(1)(a)(ii)

s. 47G(1)(a), s. 47F(1), s. 22(1)(a)(ii)

s. 22(1)(a)(ii)

From: ATSIHPA
Sent: Thursday, 8 April 2021 11:19 AM
To: s. 11C(1)(a); ATSIHPA
Cc: s. 22(1)(a)(ii) s. 11C(1)(a)
Subject: RE: Complaint in relation to Panorama Motor Cycle Club [SEC=OFFICIAL]

Categories: s. 22(1)(a)(ii)

Hi s. 11C(1)(a)

As you are aware, the department was contacted about a possible breach of the section 9 declaration. The department called and spoke with s. 47F(1) the president of the Panorama Motor Cycle Club and followed that conversation with an email. The details of the notification were outlined in the email to s. 47F(1), being that a proposed working bee may have encroached on the declared area and / or been in breach of the declaration. The department is not at liberty to disclose who raised this concern.

The department was satisfied from the discussion and subsequent email from s. 47F(1) that there had not been a contravention of the section 9 declaration.

Kind regards,

s. 22(1)(a)(ii)

Indigenous Heritage
Heritage, Reef and Wildlife Trade Division | Department of Agriculture, Water and the Environment
GPO Box 858, Canberra ACT 2601

From: s. 11C(1)(a) @bathurst.nsw.gov.au>
Sent: Thursday, 8 April 2021 10:11 AM
To: s. 22(1)(a)(ii) @environment.gov.au>; ATSIHPA <ATSIHPA@environment.gov.au>
Cc: s. 22(1)(a)(ii) @awe.gov.au>; s. 11C(1)(a) @bathurst.nsw.gov.au>; s. 11C(1)(a) @bathurst.nsw.gov.au>
Subject: Complaint in relation to Panorama Motor Cycle Club [SEC=OFFICIAL]

Hi s. 22(1)(a)(ii)

I am wondering if you can provide details of the complaint including whom made the complaint to your Dept in relation to current activities of the Panorama Motor Cycle Club being undertaken in supposed contravention of the section 9 declaration.

Thanks s. 11C(1)(a)

s. 11C(1)(a)

Bathurst Regional Council
158 Russell Street Bathurst 2795
P: s. 11C(1)(a)
W: www.bathurst.nsw.gov.au



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