

social significance

a discussion paper

Denis Byrne Helen Brayshaw Tracy Ireland



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SERVICE

Cover photograph:

The cover photograph shows an audience at the Boomerang picture theatre, Taree, c.1923. Along with many such country town theatres in NSW prior to the 1960s the Boomerang was segregated, Aboriginal people being restricted to certain sections of seating, usually the front rows. The sections of theatres reserved for Aboriginal people were often roped off. Aboriginal people also usually entered the local cinema by a side door rather than through the main foyer. In this photograph a group of Aboriginal people can be seen sitting in the front two rows on the left-hand side.

Source: Greater Taree History Resource Unit

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Published by the NSW National Parks and Wildlife Service, June 2001
Second edition June 2003

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ISBN 0 7313 6365 5

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Source: Greater Taree History Resource Unit

Foreword

The Social Significance discussion paper introduces a new era in cultural heritage assessment and management for the NSW National Parks and Wildlife Service. This and other research projects currently being conducted by the Service are designed to move cultural heritage management in NSW away from its traditional paradigm of *Aboriginal* and *historic* ('white') heritage being separate and discrete categories or fields. This move is underpinned by the principle that any one place in the landscape may hold significance for many different people for many different reasons.

Certainly, the work currently being undertaken to investigate the attachment which migrant communities have to national parks is pioneering a direction for heritage work that fits within neither of the two cultural heritage 'streams' mentioned above. Yet this is a legitimate area of research for the Service that should prove important in influencing the way park values are assessed, managed and interpreted in the future.

Advocacy of social significance is not about devaluing the contributions made by the so-called heritage professions. Instead it is putting archaeological, architectural and historical significance within a broader context, such that rather than being the primary determinants of significance, they become tools to support and better understand the attachment of communities to heritage places and items.

Although the concept of social value does at least appear to be better understood for Indigenous heritage than for non-Indigenous heritage, it is still rarely provided for. While there is widespread acceptance that Indigenous people should primarily determine the significance of places associated with their heritage, and that very often significance has little to do with the presence or absence of physical evidence, heritage agencies throughout the country continue to grapple with the embedded priority which heritage practice gives to physical fabric. Also, the emphasis which social significance gives to people-place attachment at a local level seems to sit uneasily with the idea of State and National heritage listings for Indigenous heritage places.

This discussion paper provides a fascinating account of the history of significance assessment in NSW and includes a number of key recommendations for the way forward. The challenge for the Service now is to apply these to its day to day heritage management activities.

Jason Ardler
Director, Cultural Heritage.

Contents

FOREWORD	iii
ACKNOWLEDGEMENTS	vii
AUTHORSHIP	vii
FEEDBACK	viii
INTRODUCTION	ix
CHAPTER OUTLINES	x

Part 1 Stating the problem

1	EXPANDING THE DEFINITION	
1.1	New directions	3
1.2	The assessment of significance	4
1.3	Looking for the right model	6
1.4	Guiding principles	9
1.5	Supporting an holistic model of cultural heritage	10
2	THE CURRENT SITUATION	
2.1	Introduction	13
2.2	Aboriginal heritage and EIA: the neglect of social significance	15
2.3	The under-recording of Aboriginal post-contact heritage	17
2.4	Professionalisation	19
2.5	Naturalising Cultural Heritage	21
3	HOW DID WE GET HERE?	
3.1	A three-phase history	23
3.2	Timeline for cultural heritage management in NSW	25

Part 2 Deeper issues

4	INTRODUCTION: CULTURAL HERITAGE AND THE SOCIAL SCIENCES	43
5	WHAT ARE COMMUNITIES?	
5.1	What is culture?	45
5.2	Local knowledge and the lived world	46
5.3	What is a cultural landscape?	49
6	THE OLD MODEL: HERITAGE AS MATERIAL	
6.1	Introduction	53
6.2	Culture commodified	53
6.3	Intrinsic significance	55
7	NEW MODEL: HERITAGE AS SOCIAL ACTION	
7.1	Cultural change and social significance	58
7.2	Promoting heritage values	64
7.3	Heritage and identity	67

Part 3 Legislation, policy & practice

8	CHARTERS, LEGISLATION AND POLICY	
8.1	Introduction	73
8.2	International conventions and protocols	73
8.3	Overseas legislation	78
8.4	Australian Federal legislation and policy	83
8.5	Interstate legislation and policy	87
8.6	NSW cultural heritage legislation	99
8.7	Chronology of Aboriginal heritage policy	103
8.8	Chronology of historic heritage policy	108
8.9	Policy trends in historic heritage	111
8.10	Conclusions	115
9	REVIEW OF REPORTS ON ABORIGINAL HERITAGE	
9.1	Introduction to review of EIA reports	119
9.2	Consultants' briefs	120
9.3	Background research	121
9.4	Aboriginal community involvement	122
9.5	Significance assessment	126
10	REVIEW OF REPORTS: HISTORIC (NON-INDIGENOUS) HERITAGE	
10.1	Introduction	130
10.2	Discussion of results	130
11	PRACTITIONER INTERVIEWS	
11.1	Summary of interview outcomes	134

Part 4 Conclusions and recommendations

12.1	Progressing change	139
12.2	An holistic model for cultural heritage	140
12.3	NPWS leadership	141
12.4	The significance concept	141
12.5	Environmental impact assessment (EIA)	142
12.6	Non-Indigenous communities	143
12.7	Heritage as social action	143
	APPENDIX 1: SIGNIFICANCE TERMINOLOGY	145
	APPENDIX 2: PRACTITIONER INTERVIEWS	150

Acknowledgements

The NPWS wishes to thank all those heritage professionals in NSW who generously agreed to be interviewed for this project. Thanks are also extended to the heritage staff of agencies in other states and at the Australian Heritage Commission who offered advice and provided research materials. Particular thanks are due to Cath Snelgrove for advice given early in the project, also to Anne Bickford, Kath Sale, and Meredith Walker for comments and advice at various stages. We gratefully acknowledge Maria Nugent who provided critical comment on the first draft and made suggestions for editorial changes.

Authorship

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Helen Brayshaw gained her PhD with a thesis examining Aboriginal material culture of the Herbert-Burdekin district of north Queensland. Since the early 1980s she has worked continuously as a consultant archaeologist in NSW and Queensland, principally in the EIA field in relation to Aboriginal heritage. Her work outside EIA includes the development of interpretation material for Middle Head in Sydney Harbour National Park and the non-Indigenous heritage studies components for the Upper and Lower Northeast forests Comprehensive Regional Agreements (CRA).

Tracy Ireland was employed by the NSW Department of Urban Affairs and Planning and the NSW Heritage Council from 1987 through to 1995, where she worked both as an archaeologist and a town planner. She was appointed as the senior archaeologist advising the Heritage Council in 1990. From 1996 she has worked as a heritage consultant on projects for both private and public sector clients. In 2001, Tracy completed her PhD at the University of Sydney on archaeology, heritage and nationalism.

Denis Byrne wrote Parts 1, 2, and 4 of this paper. Helen Brayshaw and Tracy Ireland researched and wrote Part 3 [the Aboriginal heritage sections (HB), the non-Indigenous/historic heritage sections (TI)].

It is the ambition of this paper to be at once critical and constructive. The authors wish to acknowledge their own history of professional involvement in the cultural heritage field in NSW, an involvement which is seen as essential to in-depth analysis. They naturally consider the critique of heritage practice presented in the paper to apply as much to their own involvement as to that of any of their colleagues.

Feedback

The discussion paper aims to enhance our understanding of the development of cultural heritage practice in NSW. We acknowledge that aspects of the paper are open to debate and, indeed, we hope the paper will stimulate discussion. Comments are welcome and should be addressed to Dr Denis Byrne, Manager Research Unit, Cultural Heritage Division, NSW National Parks and Wildlife Service, PO Box 1967, Hurstville NSW 2220. *denis.byrne@npws.nsw.gov.au*.

Introduction

This discussion paper is released at a point in time when the NPWS is expanding its paradigm for cultural heritage. This expansion involves moving from a conventional site-based (or 'relics'-based) approach to one which is more responsive to the social and environmental (landscape) dimensions of cultural heritage.

The paper reviews the past three decades of the Service's involvement with cultural heritage. In relation to Aboriginal heritage, the main achievement of these decades has been the opening up of archaeological work to Aboriginal participation. During this period we have seen it become standard practice for Aboriginal people to be working side by side with archaeologists in field surveys and in site investigations carried out in advance of land developments as part of the environmental impact assessment (EIA) process. This model of collaboration is now well established in NSW and most other parts of Australia. In this paper we acknowledge the value of this model but also wish to state its limitations. It has created a heritage assessment process in NSW which is well informed about the archaeological value (significance) of heritage places and landscapes but poorly informed about their social or cultural value. It has provided quite limited scope for an understanding of how these places and landscapes are perceived or experienced by local people and local communities.

We predict that the next decade or so will see the scope for such understanding greatly expanded. In the area of Aboriginal heritage this will be accompanied by, and closely related to, a much greater emphasis on the Aboriginal cultural heritage of the historic (post-1788) period. While archaeologists, in a sense, are the experts on pre-contact Aboriginal heritage places, the primary expertise on post-contact heritage places resides with Aboriginal people themselves. These places are meaningless without the memories and feelings Aboriginal people have of and for them, and without the still mostly unwritten histories of the post-1788 period that Aboriginal families and communities have kept alive. In the area of the Service's non-Indigenous heritage responsibilities, this 'new deal' for social significance will relate to a greater focus on the land-use history of those landscapes that are now National Parks and a greater responsiveness to the attachment that non-Indigenous communities have to these landscapes.

The focus of the discussion paper is on the significance assessment process and the potential for expanded community involvement in this. We argue that the established four-part significance classification (aesthetic, historical, scientific, social), while it has been useful in distinguishing areas of professional practice in cultural heritage (i.e., architecture, history, archaeology), represents a poor fit for the reality of the way communities value and interact with their heritage places. We suggest the NPWS use a more fluid approach to significance assessment, one that is responsive to the whole range of heritage values as they exist in communities in NSW today.

This discussion paper is intended to provide a basis for debate and policy building. It is not a policy document or a position paper in its own right (i.e., defining the Service's position on issues such as Aboriginal consultation or significance assessment). Rather, the paper aims to connect the NPWS with new knowledge and innovative approaches in the social sciences which can inform the Service's cultural heritage conservation strategies.

Chapter outlines

PART 1: *Stating the problem*

1 Expanding the definition

Provides a critical assessment and historical overview of the significance assessment categories and process. A new approach, based on community heritage values is advocated.

2 The current situation

An appraisal of the extent to which current NPWS practice neglects social significance and community heritage values. Explanations for this neglect are examined, including the particular way cultural heritage practice has been professionalised, and the inappropriate use of the nature conservation paradigm for cultural heritage.

3 How did we get here?

A three-phase history of the Service's approach to Aboriginal heritage management is offered. This highlights the dominance of EIA-archaeology in the period 1980-2000, a dominance that has eclipsed the social significance of heritage places and landscapes. A detailed timeline traces events and developments in the history of cultural heritage management in Australia and NSW.

PART 2: *Deeper issues*

4 Introduction: cultural heritage and the social sciences

An argument is made that the inadequacy of current theory and practice in the field of social significance assessment reflects a disengagement from the social sciences.

5 What are communities?

A review of a selection of recent research and writing in anthropology and history on the nature of culture, social practice, cultural landscapes, historical expression, and cultural change. This work is examined in relation to its usefulness in fostering a greater openness by NPWS to the social value of heritage places and landscapes.

6 The old model: heritage as material

A critical examination of the way that cultural heritage practice in the past has stressed the physical/material side of heritage places at the expense of their social meaning. It is argued that the embeddedness of this 'discourse of the material' poses an obstacle to the acknowledgment of social significance.

7 The new model: heritage as social action

The way people in communities acquire knowledge of ‘heritage’ and express heritage values is part of the way individuals and social groups construct their identity. The view is canvassed that communities are participants in the heritage discourse rather than passive subjects of this discourse (i.e., passive subjects of investigations by heritage practitioners).

PART 3: *Legislation, policy and practice*

8 Charters, legislation and policy

A review of current cultural heritage legislation and policies relevant to social significance assessment. This review examines the extent to which the legislation enables or limits community involvement. Coverage is federal, interstate, NSW, with some attention to the international situation.

9 Review of reports on Aboriginal heritage

A review of reports by cultural heritage consultants in NSW focuses on the extent to which they assess the ‘social’ category of significance and the extent to which they involve Aboriginal communities in the assessment process. A summary of this survey is contained in Chapter 2.

10 Review of reports on historic (non-Indigenous) heritage

The outcomes of a review of the work of consultants in the non-Indigenous (historic) heritage field.

11 Practitioner interviews

A sample of cultural heritage practitioners in NSW (mainly archaeologists) were interviewed regarding their opinions of the present system of assessment and their ideas of how it could be changed or improved.

PART 4: *Conclusions and recommendations*

A summing up of current shortcomings in the way community heritage values are accounted for in cultural heritage management. Particular focus is on Environmental Impact Assessment (EIA), the under-recording of Aboriginal historic heritage and the concept of cultural heritage as social action. Options for action are suggested to improve the responsiveness of current management practices to community heritage values.

Part 1

Stating the problem

1. Expanding the definition

1.1 New directions

This discussion paper argues for an expanded definition of cultural heritage. The NSW National Parks and Wildlife Service, along with most other heritage agencies, have until now approached cultural heritage places very much in terms of their archaeological and architectural values or significance. In other words, the established approach is one that focuses on the physical fabric of sites and built structures rather than on their historical and social dimension.

The present paper is specifically about the need for a much greater recognition of the social significance of heritage places. But this is just one part of a larger move to expand the NPWS approach to cultural heritage management. This expansion aims to give visibility to neglected dimensions of cultural heritage.

The social dimension. Individuals and communities are engaged in an endless conversation with the landscapes in which they live. One side of this conversation involves people giving meaning to places through the events in their lives which have ‘taken place’ in landscapes. Generations pass knowledge of these events down to each other. Often the events have left no mark on the places or on the landscapes, but people remember what has happened. It is as if we carry around in our heads a map of the landscape which has all these places and their meanings detailed on it. When we walk through our landscapes the sight of a place will often trigger the memories and the feelings – good or bad, happy or sad – which go with them. This is the other side of the conversation: it is the landscape talking to us. The key thing is that a heritage practitioner, who is a stranger or outsider in these local landscapes, can never discover this world of meaning just by observing a place. They can only know about it by talking to people. This is the essence of social significance assessment and it is the thing that we heritage practitioners have not done enough of.

The spatial dimension. Archaeologists, architects and other heritage practitioners have tended to focus on sites and buildings rather than on the landscapes in which these occur. It has been very much a dots-on-the-map approach, an approach that has the advantage of being convenient for ‘listing’ purposes and planning purposes. But, arguably, it misrepresents the way people, past and present, live in and think about the world. Aboriginal people, for instance, have complained that they don’t think of their heritage places as ‘sites’. They think of heritage as country. The NPWS is moving toward an approach that gives more recognition to this, recognition that entails an expansion from a site-based approach to a cultural landscape approach. One aspect of this shift is the work now being done to map those plants and animals, and their habitats, which are important to Aboriginal people in local landscapes in NSW.¹

The time dimension. One feature of the present approach to cultural heritage is that, as far as Aboriginal heritage is concerned, it focuses almost exclusively on the pre-contact (pre-

¹ Anthony English, ‘An emu in the hole: exploring the link between bio diversity and Aboriginal cultural heritage in New South Wales, Australia,’ *Parks*, 10 (2000): 13-25.

1788) period. Almost all the records in the Aboriginal Sites Register ² are for rock art, stone artefact scatters, or shell middens. There has been very little attention to heritage places and landscapes, which relate to Aboriginal life (and death) in the post-1788 period. Heritage practitioners have tended to think of the pre-1788 period as ‘belonging’ to Aboriginal heritage and the post-1788 period as ‘belonging’ to settler heritage. This has led to the peculiar situation in which the term ‘historic heritage’ has come to stand for non-Indigenous heritage only. The NPWS is now moving to ‘expand’ Aboriginal heritage out of the pre-contact period and into the historic (post-1788) period.

The future is holistic. The outcome of the above program of expansion will, we hope, be a far more holistic understanding of cultural heritage than that which we have previously had.

1.2 The assessment of significance

Significance and Burra. In 1975 the Australian Heritage Commission Act defined the National Estate as comprising those places ‘that have aesthetic, historic, scientific or social significance or other special value.’³ In 1979 the Australia ICOMOS Burra Charter set out guiding principles for conservation practice in cultural heritage: the same four categories of significance were cited together with the principle that the significance of a place should always be documented and assessed in advance of management decisions affecting it.⁴

AESTHETIC - HISTORICAL - SCIENTIFIC - SOCIAL

In practice, the aesthetic category of significance came to stand mostly for a place’s architectural or art historical significance. Scientific significance was mainly taken to mean a place’s archaeological significance. (See Section 1.3, below, and Appendix 1 for a more detailed discussion of significance).

The principles of the Burra Charter have received very wide acknowledgement by heritage agencies and practitioners in Australia and have been taken to be applicable both to Aboriginal and non-Indigenous (historic) heritage places. The NSW National Parks and Wildlife Service, for instance, has drawn on the Burra Charter in formulating guidelines for its own staff and has almost routinely included in its contracts with heritage consultants a clause requiring them to abide by the Charter.

Aboriginal heritage. By the mid-1970s, the NPWS was moving to acknowledge a special role for Aboriginal people in the management of Aboriginal heritage places. This meant recognising that Aboriginal communities had a role in the identification and interpretation of their heritage places not accorded to non-Indigenous communities. But, significantly for later developments, this role would not be seen as coming under the ‘social’ category of significance. It was a role that crystallised around the concepts of ‘ownership’ and ‘custodianship’ rather than around the concept of significance (it would be decades, however, before the concepts of ownership and custodianship would be given real meaning). On the

² Now known as the Aboriginal Heritage Information Management System (AHIMS)

³ The Australian Heritage Commission Act 1975 [s.4.1].

⁴ The Australia ICOMOS charter for the conservation of places of cultural significance (the Burra Charter).

non-Indigenous side of cultural heritage, meanwhile, the ‘interest’ which non-Indigenous communities had in heritage places was fairly consistently addressed under the social significance category.

This was part of the development, in Australia, of quite separate management regimes for Aboriginal and non-Indigenous heritage. In NSW and elsewhere, the two tended to be managed by separate heritage agencies and to be protected under separate pieces of legislation. On the Aboriginal side, legislation tended to give ‘blanket’ protection to all heritage places whereas on the non-Indigenous side only those places ‘listed’ as having particular significance were protected. This explains why the whole process of significance assessment came to play a much more central role on the non-Indigenous side of heritage management than it did on the Aboriginal side. The assessment of significance is what determined whether a non-Indigenous heritage place would be listed and thus legislatively protected. In the case of Aboriginal heritage places, however, they were protected whether they were listed or not and whether their significance had been assessed or not. Under these circumstances, needless to say, the Burra Charter also had a more central role on the non-Indigenous side of heritage practice than it did on the Indigenous side.

Pluses and minuses. It can be argued that the development in Australia of separate management regimes has had a significant benefit for Aboriginal people in the form of the more direct role it had allowed them to play in the management/conservation process. However, the low priority given to the formal process of significance assessment in Aboriginal heritage practice has, it must be said, had negative consequences. These are explored in greater detail below. Suffice to say here that it has allowed a situation to develop in which little attention is given to the social significance of Aboriginal heritage places.

Two systems. At NPWS in the 1970s the special interest of Aboriginal people in their heritage places was recognised, firstly, by distinguishing two types of ‘site’: the sacred/ceremonial site and archaeological site.⁵ The former would be identified and assessed through a partnership between anthropologists and NPWS Aboriginal heritage staff (see Section 2.1). The latter would be identified and assessed by archaeologists (NPWS staff and consultants) though local Aboriginal people would be consulted about the areas surveyed and about any sites recorded there by archaeologists. As discussed later (Sections 2.1 and 9.5), archaeologists by-passed the Burra Charter model. Instead of assessing the significance of heritage places as a way of defining them, archaeologists pre-determined the significance of the places by classifying them in advance either as ‘sites of Aboriginal significance’ (e.g., Dreaming sites) or as archaeological sites.

By the early 1980s a system of ‘Aboriginal consultation’ had been developed by archaeologists. But rather than ‘inputting’ Aboriginal people’s own values (the social significance of the places) into the assessment process what ‘Aboriginal consultation’ did was bring local Aboriginal people into the work of archaeology (e.g., helping record stone artefacts in the field, sieving dirt on excavations). The result has been that for the great majority of Aboriginal heritage places recorded over the last 25 years in NSW, only the archaeological significance has been assessed.

To recap, from the 1970s in NSW, two different frameworks have developed for community involvement in cultural heritage assessment:

⁵ As will be made clear repeatedly elsewhere in this paper, ‘archaeological sites’ have no reality outside the discourse of archaeology. For most Aboriginal people these places/remains are not in essence ‘archaeological’.

- **NON-INDIGENOUS COMMUNITIES.** The engagement of heritage professionals with non-Indigenous communities has taken place mainly in the context of social significance assessment (i.e., to discover what special value a place might have to people at a local community level). It should be noted that in many cases there has been no community involvement at all, the significance of places being assessed purely in terms of their architectural and archaeological values by professionals in these two fields.
- **ABORIGINAL COMMUNITIES.** The engagement of heritage professionals and agencies with Aboriginal communities has taken place within the framework of ethnicity or Indigenous rights. The primary logic of ‘Aboriginal consultation’ has thus been that Aboriginal people have a right to be physically present with archaeologists during fieldwork. The logic has not been to discover how the places recorded, or the area of land surveyed, might be valued by the Aboriginal community. Consequently, no adequate methodology has been developed to achieve the latter.

The reality obscured. Putting aside until later the rights and wrongs of this situation, what seems important to clarify here is that this separation of approaches has never been specifically acknowledged as a reality by heritage practitioners and agencies (e.g., the NPWS or the NSW Heritage Office). The reality of the situation on the ground has been obscured by the widely held Burra Charter ideal – i.e., that for all heritage places (Aboriginal and non-Indigenous) all strands of significance should be assessed prior to management decisions being made. It is almost as if the desire of heritage practitioners to believe they are applying the Burra Charter has blinded them to the fact that they are not.

It is frequently the case that where a gap develops between a reality and an idea (between what we do and what we think or believe we do) it becomes difficult to move forward. This, we suggest, is the case here. The present paper is intended to focus attention on this gap.

1.3 Looking for the right model

In this Section we look for principles which can guide the NPWS in carrying out social significance assessments. We begin, though, by looking at the established model for significance assessment in Australia and questioning its continued validity. The established model is, after all, now in its third decade of use. In the time since it was formulated much has changed in the way we think about society and culture. Much has also changed in the extent to which agencies like NPWS are prepared to engage with communities and community values.

The emphasis should be on finding the model, which best fits the Service’s particular cultural heritage accountabilities as well as its present corporate values.⁶

How ‘the social’ was diminished. The framework for thinking about significance, established in the mid-1970s, conceptualises four categories of significance as existing on a par with each other. The convention of listing them in alphabetic order emphasised the ideal of equity seen as existing between them. This show of equity seems, however, to have

⁶ For a statement of the Service’s corporate values see the NPWS 2000/2003 Corporate Plan on the NPWS website: <http://www.npws.nsw.gov.au>

obscured a rather enormous presumption, namely that the 'social', meaning the community, is merely equal to, and not greater than, each of the other three categories.

AESTHETIC - HISTORICAL - SCIENTIFIC - SOCIAL

The four-in-a-line concept runs counter to the understanding that the entire heritage process is located within society. It is in this sense that the social can be said to be 'greater' than the aesthetic, the historical and the scientific: not only does it envelop the other three, they cannot even be 'thought' outside of the social (we are social beings, society is an environment we act and think inside of).

In the reality of heritage practice, the 'social' has come to be diminished even further. In practice, in the topsy-turvy world of heritage, the social ends up coming a very distant last behind the other three significance categories. In fact, in the great majority of heritage assessments carried out over the last 30 years, the category of the social has been treated by heritage professionals in Australia as dispensable altogether. It could be argued that the four-in-a-line framework of significance has actually been an impediment to greater community involvement in the management of its cultural heritage.

Professional values and social values. The NSW Heritage Office guidelines for assessing significance makes it clear that, while social significance refers to a community's 'sense of place', this can include aesthetic, historical and scientific (technical/research) values.⁷ In other words, a community may value a place for spiritual reasons but they may also value or esteem it for the qualities of its architecture, for the historical associations it has for them, or for its potential to answer research questions about their past.

What this model effectively does is distinguish between professional-objective values and values held by community groups. This reflects the reality of the way particular professions have dominated the cultural heritage sphere. Architects and landscape architects have mainly done the work of assessing aesthetic significance, historians have done the work of assessing historical significance, and archaeologists have done the work of assessing scientific significance.

The model has the virtue of acknowledging that society is made up of many groups (e.g., socio-economic class groups, gender groups, religious groups, ethnic groups) and that each of these may value a place, or be attached to it, in a distinctive way. Yet by employing the four-in-a-line framework of significance, a community's heritage values are still merely on a par with the professional-objective categories (with an implication remaining that the latter are somehow also not social values). This model would not appear to equate with the emphasis and recognition which the NPWS wishes to give to the way communities value heritage places.

⁷ *NSW Heritage Manual: Heritage Assessments* (Sydney: NSW Heritage Office. 1996).

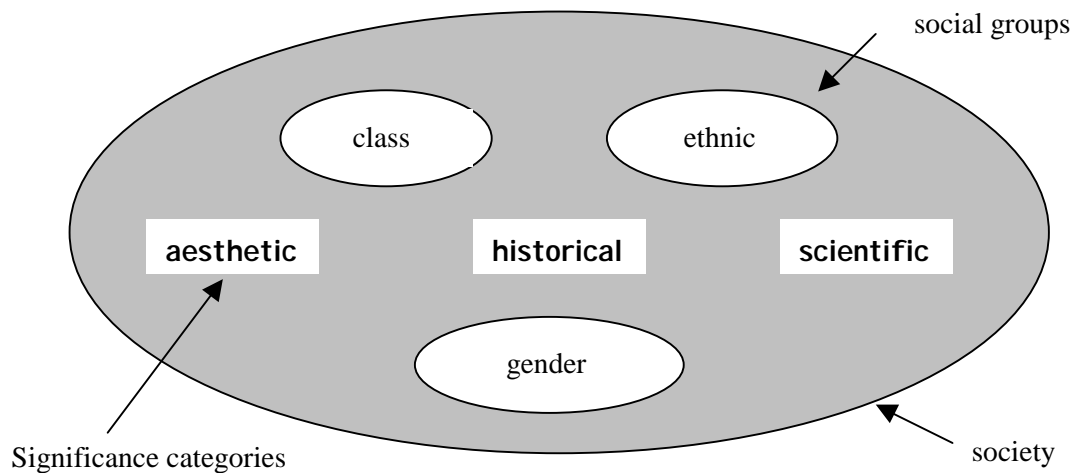


Figure 1: The aesthetic, historical and scientific categories of significance seen as contained by the social (i.e., society) which itself is made up of various social groupings.

Reinstating the social. An alternative to the four-in-a-line model is illustrated in Figure 1. Here, society and its various social groupings or fractions are seen as constituting the environment in which heritage is conceived and managed. It recognises that the aesthetic/historical/scientific values, and the professions identified with them (architecture, history, archaeology) exist *within* society rather than alongside it. If we accept this view of things, then the social significance of heritage takes on a rather greater importance.

Scope to improvise. There is something of a tendency among heritage practitioners in Australia to promote the Burra Charter model as if it were universally accepted. In fact, it is only one of a number of quite different alternative models used internationally. The U.S. National Parks Service, for instance, dispenses with significance categories altogether, basing its entire management system for cultural heritage on a five-part categorisation of 'cultural resources' (i.e., archaeological resources, cultural landscapes, [built] structures, museum objects, and ethnographic resources).⁸ The NPS's mission is to conserve these 'resources'. What are referred to in this discussion paper as social values (social significance) would mostly come under the category of ethnographic resources in the NPS model and would be the subject of identification and conservation efforts. Conceptually, this approach is radically different from the Burra Charter model.

We do not suggest that this system is superior to the Australian model, simply that, in a world where there is no agreed framework for conceptualising the significance of cultural heritage places, the NPWS has scope to improvise and develop a model appropriate to its needs.

⁸ *National Park Service Cultural Resource Management Guidelines* (Release No. 5. 1997), pp. 7-9.

1.4 Guiding principles

In moving to give greater recognition to the social significance of heritage places it is suggested NPWS be guided by the following principles.

1.4.1 Significance ahead of management. Significance assessment is fundamental to good management of cultural heritage. Undoubtedly the most valuable contribution made by the Burra Charter over the last 20 or so years has been to establish the principle that conservation management decisions should never be made for a cultural heritage place until the significance of the place is documented, understood and assessed. Conservation decisions and measures should not, in other words, be initiated until it is understood why society values a place.

1.4.2 Comparability. Any framework for assessing significance should accommodate, and be appropriate to, both Aboriginal and non-Indigenous (historic) heritage. The NPWS should employ a single coherent framework and logic for the conservation of both Aboriginal and non-Indigenous cultural heritage.

1.4.3 Comprehensive assessment. All strands of a place's significance should be documented.

1.4.4 Archaeology, architecture and history should be recognised as fields of expertise rather than as categories of significance. Professionals in these fields should not be seen as having a monopoly on this expertise. People in communities, for instance, are conventionally thought of as 'possessing' oral histories relating to heritage places, but we should also recognise that the maintenance and transmission of these oral histories by ordinary members of society is a skill in its own right.

1.4.5 Balance rather than downgrading. The new approach to cultural heritage should seek to expand the assessment of social and historic significance rather than downgrade the quality of archaeological and architectural assessments. The Service should endeavour to bring assessment of social and historic significance up the level of the assessment of archaeological and architectural significance.

1.4.6 Aboriginal people and archaeology. The involvement of Aboriginal people in archaeological assessment work should be continued and expanded. But the Service should be mindful that this involvement will not of itself ensure an assessment of the social significance of heritage places and landscapes until proper methodologies (e.g., oral history recording) for such an assessment are adopted.

1.5 Supporting an holistic model of cultural heritage

The NPWS is supported from a number of quarters in shifting to an expanded definition of, and model for, cultural heritage. Not least among the agents of change have been the Aboriginal staff of the Service who, in the late 1990s, undertook a concerted push for a much greater role for Aboriginal communities in the identification and conservation of their own heritage.⁹

NSW Government. The shift to a new paradigm for cultural heritage is in line with the NSW Government's commitment to increasing the empowerment of Aboriginal communities through heritage self-management.

“Let me start by reaffirming the Government's commitment to the Aboriginal peoples of NSW and the belief that increased self-management of their heritage and traditional lands is absolutely fundamental to the well being of Aboriginal people” [Hon. Carmel Tebbutt MLC, Minister Assisting the Minister for the Environment, March 17, 2000].

There is a case to be made that the present approach, centred on archaeological and architectural significance, is an impediment to increased self-management partly in the way it effectively marginalises the social significance of heritage places and landscapes.

Reconciliation. An expanded definition of cultural heritage has the potential to contribute to the movement for reconciliation in two ways:

- in being culturally more appropriate from the Aboriginal point of view, offering greater scope for Aboriginal participation in EIA as cultural knowledge-holders rather than as assistants in the assessment of archaeological significance
- by focussing greater attention on the heritage of the post-contact years (the last 213 years), and the potential of heritage places from this period (e.g., the old missions, fringe camps, massacre sites) to convey an understanding of the history of race relations in NSW.

The NPWS Statement of Reconciliation, endorsed by Bob Debus (Minister for the Environment) and Carmel Tebbutt (Minister Assisting the Minister for the Environment), provides a mandate for the Service to be proactive in rethinking its approach to cultural heritage management.

“We are committed to facilitating a greater role for cultural knowledge in an environmental impact assessment system which currently is based almost entirely on scientific knowledge.” [Statement of Reconciliation from the Staff of the NSW National Parks and Wildlife Service, 2000]

Practitioners. Many of the heritage practitioners spoken to in the course of a program of interviews conducted for this discussion paper (Section 11) were supportive of the NPWS giving greater emphasis to the assessment of social significance and giving guidance to consultants on carrying out or facilitating such assessments. A significant number of consultants interviewed took the view that their clients (for the most part, development proponents) would not resist such a change in EIA practice.

⁹ See the NPWS documentation of the 1996 grievance process by Aboriginal staff.

Visions for the New Millennium. The new cultural heritage paradigm was given powerful endorsement by the NPWS Visions for the New Millennium review which took place in 1997.¹⁰ The following were among the recommendations of the review:

- The Aboriginal peoples of NSW are recognised as the primary custodians and interpreters of their cultural heritage, both past and present (Recommendation B.2.2)¹¹
- Appropriate recognition be given to the concept of Aboriginal cultural heritage as more than just physical evidence... [5.1]
- Local Aboriginal people should determine the level of cultural significance of a site or area and their determination should provide the basis for setting management objectives [5.2]

Global trends. The shift to the ‘social’ also has links to more global trends. In the context of Aboriginal heritage, this includes the successes which the international Indigenous peoples’ movement has had during the last two decades in achieving recognition for the principle of ownership of cultural heritage. It also reflects the wind of change blowing through international heritage agencies such as UNESCO (exemplified by the 1994 Nara Document on Authenticity),¹² and the sheer accumulated momentum of the post-colonial movement.

Decolonising place. The work of post-colonialism has been about understanding the many ways in which colonialism has sought to control, modify and exploit the cultures of subject peoples. It has also been about working to dismantle this control. The Aboriginal past can be seen to have been colonised by white Australia both in terms of ownership of places and objects and the way these have been interpreted. Archaeology’s dominance of the Aboriginal heritage arena has been one manifestation of this. The Aboriginal struggle for community custodianship of that heritage has been an effort to decolonise their past and the traces of their past.

There is a sense in which the heritage professions (archaeology, architecture, history, planning) can be said also to have colonised non-Indigenous (historical) heritage. The tendency has been for professionals either to ignore local social values or to make ad hoc judgements as to what these values are. Against this tendency, the recognition of the social significance of cultural heritage places amounts to an acknowledgement that conservation will only be truly effective when communities take ownership of the aims and strategies of heritage conservation. This, however, will only happen when the places in question are meaningful to local people. Places are unlikely to be meaningful to them unless meaning is permitted to be expressed in terms of attachment.

¹⁰ *Visions for the New Millennium: Report of the Steering Committee to the Minister for the Environment*, November 1998.

¹¹ These general principles were first enunciated in the 1980 report of the [NSW] Select Committee of the Legislative Assembly upon Aborigines which stated that the Committee ‘firmly believes that Aborigines are the only competent persons to determine the significance to themselves of any site’ (p.12).

¹² See Section 8.2

Stating the problem

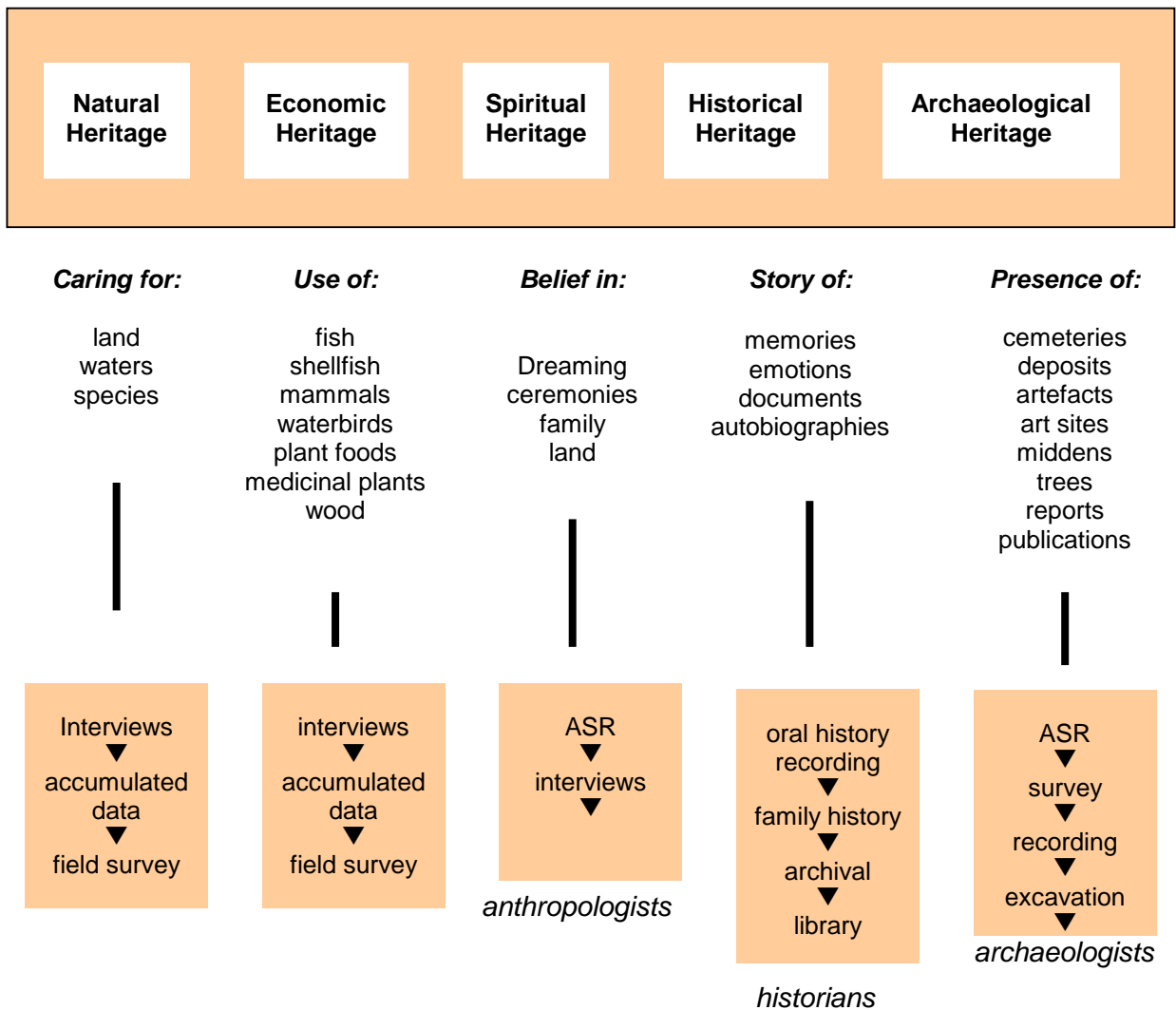


Figure 2: Community heritage values (particularly reference to Aboriginal communities). This diagram attempts to depict (from top to bottom) the types of heritage with which a community may be involved, the activities which this involvement implies, the work of documenting/assessing this heritage (boxes at bottom of diagram) and some of the relevant professionals who can assist in this work.

2 The current situation

2.1 Introduction

Embeddedness. The study that has culminated in discussion paper set out not only to document the neglect of social significance assessment in the Service's sphere of operations but to examine the causes and context of this neglect. It quickly became apparent that the neglect had deep roots in Australian heritage practice generally. In relation to Aboriginal heritage, it was embedded in the way White Australian society was accustomed to thinking about Aboriginal culture. Early in the study it was decided to begin tracking the historical antecedents for the neglect of social significance assessment. The results of this are presented in the form of a timeline in Section 3.2 below.

NPWS and significance assessment. In very simplistic terms, the Service's present situation regarding significance assessment is as follows:

- **ABORIGINAL HERITAGE.** Due partly to the 'blanket' protection afforded to Aboriginal heritage places by the National Parks and Wildlife Act the formal process of significance assessment has tended not to have had a major role in Aboriginal heritage management. The Service's cultural heritage staff, and to some extent other staff, liaise and collaborate with Aboriginal people at an individual and community level on particular issues. This particularly takes place in the context of Aboriginal Sites Officers and Heritage Officers working with individuals and communities to conserve particular sites and remains (e.g., fencing off Aboriginal cemeteries, managing the erosion of shell midden sites). While there is thus considerable involvement of Aboriginal people in the Service's day-to-day heritage management activities, this rarely takes place within the framework of a significance assessment process. There tends not to be a systematic gathering of information on the significance of the places in question and, in particular, since the end of the Sites of Significance Program in the early 1980s, very little systematic or in-depth canvassing of the significance of places in terms of historical attachment (e.g., through oral history recording) has occurred.

At the present time the Service rarely prepares formal Conservation Plans for Aboriginal heritage places (which would entail systematic assessment of all streams of significance). As part of the current shift in approach, the Service is now planning to begin preparing Conservation Management Plans for many of these places.

In the Environmental Impact assessment (EIA) context, significance assessment only takes place in a systematic way in the course of Consent to Destroy applications. This work is almost always done by consultant archaeologists and significance is rarely assessed against significance categories other than the scientific-archaeological category. Community input into these rarely takes the form of a systematic canvassing of social significance at a community level.

- **NON-INDIGENOUS HERITAGE.**¹³ Assessments of the significance of on-park non-Indigenous heritage places take place mainly in the course of the preparation of

¹³ In this discussion paper the term 'non-Indigenous heritage' or 'non-Indigenous (historic) heritage' is used in preference to the established term 'historic heritage' since, if the latter is to signify non-

Stating the problem

Conservation Management Plans. The majority of these are prepared by consultants. Most of these assessments give relatively little attention to social significance.

Formal procedures for establishing the significance of non-Indigenous heritage places have tended to be only a minor part of the Service's management culture. This may be because the heritage items have been perceived as adequately protected purely by virtue of their presence within National Parks, areas whose basic function is conservation. Sadly, past experience has shown the flaw in this notion.¹⁴

The low priority given to the assessment of social significance is reflected in the 1991 discussion paper, *An Outdoor Museum*, which examines the Service's current role and future directions in relation to non-Indigenous heritage places.¹⁵ The report notes that 'History is no longer about rulers and their monuments but about the ruled and their private and public experiences.' It points to the great potential for the Service 'to interpret to the public the physical reality of "history from below"' (emphasis added) but makes no mention of canvassing the public themselves about the significance these places might already hold for them.¹⁶

While assessments of the social significance of non-Indigenous historic heritage places have, in a number of recent cases, been carried out by NPWS, these assessments have not been rigorous. In the case of the Conservation Management and Cultural Tourism Plan for NPWS Lighthouses, social significance appears to have been canvassed by speaking to NPWS staff, other heritage agency staff, local tourism bodies 'and other interested persons'.¹⁷ Little information on methodology was provided and claims for social significance made in the plan, such as that the lighthouses were 'important to relatives of those who have been shipwrecked in the vicinity', appear not to have been generated by firsthand contact with those families. There appears to have been no canvassing of the local non-Indigenous community comparable to the relatively comprehensive canvassing of Aboriginal community members in the areas where the nine lighthouses were located. In the case of the North Head Quarantine Station Conservation Management Plan, social significance was addressed by convening a Reference Working Group which included heritage professionals and identified local stakeholders such as the local historical society and the Friends of the Quarantine Station.¹⁸ Input was from these people plus public responses to the draft plan. No attempt was made to canvass community views 'on the ground' (e.g., by collecting oral histories). The process could be said to have been an acknowledgement of local community attachment to the Quarantine Station but not an analysis of that attachment.

In summary, comprehensive assessments of significance play a relatively small role in the Service's cultural heritage management process. This is particularly striking in relation to

Indigenous heritage, there is a clear implication that Aboriginal heritage does not have a presence in the period after 1788. There is a connotation that Aboriginal heritage belongs in the pre-contact period is particularly unfortunate at a time when, partly in the context of reconciliation, so many in the broader Australian community are acknowledging the endurance and continuity of Aboriginal culture in NSW. Having said this, the term 'non-Indigenous' is not unproblematic in that it defines by way of a negative (i.e., the negative of Indigenous is non-Indigenous). We await a more suitable term.

¹⁴ Geoff Ashley, Denis Gojak and Carol Liston, 'An Outdoor Museum: Historic Places in the NSW National Parks & Wildlife Service Estate'. Unpublished discussion paper (Sydney: NPWS. 1991), p.92.

¹⁵ Ashley, Gojak and Liston, 1991, 'An Outdoor Museum'

¹⁶ Ashley, Gojak and Liston, 1991, 'An Outdoor Museum', p. 15.

¹⁷ Graham Brooks and Associates Pty Ltd, NPWS Lighthouses Draft Conservation Management and Cultural Tourism Plan (January 1999).

¹⁸ Peter Freeman Pty Ltd *et al*, 'North Head Quarantine Station', Sydney Harbour National Park Conservation Management Plan (2000).

Aboriginal heritage. The relative neglect of social significance in the Service's cultural heritage practice thus needs to be placed in the context of the low priority given to significance assessment as a formal process.

In the following sections some of the key aspects of the problem are addressed.

2.2 Aboriginal heritage and EIA: the neglect of social significance

The extent of neglect. This section focuses on Aboriginal heritage in the environmental impact assessment (EIA) context. The great majority of assessments of Aboriginal heritage places in NSW are undertaken not by the NPWS but by consultant archaeologists. These assessments (field surveys and site investigations) are commissioned by development proponents as part of the EIA process. A review has been carried out of a sample of the collection of consultant's reports held by the NPWS as part of the Aboriginal Sites Register. The sample covers a 25-year period (1975-1999) and involved reviewing a total of 125 reports (out of a total of 4471).

A detailed account of the review is contained in Section 9 below. The following points briefly summarise the results of the review:

- **BIAS IN BACKGROUND STUDY.** Consultant archaeologists working in EIA, in order to know what remains are *likely* to be present in a study area, have routinely carried out background studies of previous archaeological investigations and of ethno-historical literature as well as reviews of the physical environment (e.g., soil types, landforms, climate) prior to going into the field themselves.¹⁹ This has helped alert them to where the remains are likely to be (e.g., in the foredune, along a ridge-line) and it also provides a cultural-historical context for the remains. These background-predictive studies, however, are only undertaken in relation to the remains of the pre-contact period. No comparable effort has been made by practitioners in relation to places associated with the post-contact (post-1788) period.

This is likely to have been a major contributing factor to the non-recording of Aboriginal post-contact sites during EIA work. It seems reasonable to expect that the places with most social significance to Aboriginal people will be those which date to the historical period (e.g., fringe camps, old reserves, tracks, fishing places, work sites such as timber camps, pastoral station camps). The radical under-recording of post-contact sites is thus, in turn, seen as a key factor in the neglect of social significance assessment in relation to Aboriginal heritage places.

- **A MECHANICAL APPROACH TO ABORIGINAL CONSULTATION.** In the first half of the 1980s it is possible to see the development of a somewhat tokenistic and mechanical approach to Aboriginal community consultation. Endured into the present, this approach stands in stark contrast to that taken by the NPWS Sites of Significance Survey in the 1970s and early 1980s. As suggested below (Section 3.1), the establishment of the Local Aboriginal Land Council network, following the passage in 1983 of the Aboriginal Land Rights Act, was a factor in the development of the new approach.

¹⁹ The EIA study areas under study range in size from a few house blocks to whole areas of landscape (e.g., in the case of open-cut mining proposals).

This approach is discussed in more detail below (Section 3.1). It is sufficient here to note that, while it has facilitated the involvement of local Aboriginal people in archaeological assessments, it has substantially failed to ensure that the overall (EIA) process is informed by an understanding of what heritage places mean to communities. In other words, the present system brings Aboriginal people into the work of archaeology but fails to bring information of Aboriginal social value into the assessment process.

- **CONFUSION ABOUT SIGNIFICANCE ASSESSMENT.** One of the most striking patterns to emerge from the review of reports produced by consultant archaeologists over the period 1975-1999 was the variation in the way practitioners understood and defined significance (Section 9.5). Very often the different ways in which Aboriginal people might value a place (e.g., historically, spiritually, socially) are conflated into the single category 'Aboriginal significance.' The tendency was to regard 'Aboriginal significance' as relating to a particular class of places – i.e., sacred (Dreaming) and ceremonial sites. Aboriginal archaeological sites were seen as mainly having archaeological/scientific significance. Local Aboriginal people were invited to participate in the archaeological recording and investigation of such places but few if any efforts were made to record the meaning they had to Aboriginal communities.

While there has frequently been reference to the Burra Charter, there has been very little reference to the way that significance is assessed in relation to non-Indigenous heritage places. For instance, none of the reports reviewed referenced Johnson's book, *What Is Social Value?*, or acknowledged the existence of a methodology for assessing social significance.²⁰

The low awareness of significance assessment as a process is likely, as noted earlier, to relate to the blanket protection which the National Parks and Wildlife Act confers on Aboriginal 'relics' in New South Wales (Section 2.1). This also applies within the NPWS. It is notable that in the 30 or so years since the Act was passed NPWS has never issued guidelines on how significance should be assessed.²¹

- **THE EXPECTATIONS AND LIMITS OF ARCHAEOLOGY.** There was a clear expectation on the part of NPWS that, in all but exceptional cases, consultant archaeologists would be capable of delivering the 'total package' for Aboriginal cultural heritage in the EIA context. What might be called the Service's 'compact' with archaeology has been one of the key factors in stunting the development of social significance assessment as a field of practice in NSW in relation to Aboriginal heritage. This appears to also be the case in other States, particularly in eastern Australia.

Going into the field as opposed to going into the community. The limited nature of the present consultation process is graphically illustrated by the fact that very often, following initial discussion by phone, a representative of the Local Aboriginal Land Council will meet up with the archaeologist on-site (i.e., the area of the proposed development) in order to participate in the fieldwork. This is a symptom of the way that the system that has developed is happening at a distance from communities, both geographically and conceptually. One might contrast it with the Sites of Significance program in the 1970s which saw researchers going *into* Aboriginal communities to talk to people and learn about what it was that made certain places in the landscape significant to them. The present system is very telling in terms of where heritage values are seen to be located: in the field rather than in the community.

²⁰ Chris Johnson, *What Is Social Value?* (Canberra: Australian Government Publishing Service. 1994).

²¹ The coverage of social significance in the 'blue folder' [*Aboriginal Cultural Heritage Standards and Guidelines Kit* (Sydney: NSW National Parks and Wildlife Service. 1997)] reviews the categories and concepts rather than providing a methodological framework.

Not against involvement in archaeology. The above critique of the present system of ‘Aboriginal consultation’ in EIA should not be taken as an argument against the involvement of Aboriginal people in the work of archaeology, whether by providing field assistance to consultant archaeologists or by undertaking archaeological investigations themselves. This involvement has brought significant benefits for both Aboriginal people and non-Aboriginal archaeologists over the last twenty years and it should continue to occur. Aboriginal people across NSW have acquired skills through this involvement. They have acquired an insight into what archaeologists do and into archaeology’s potential to shed light on the Aboriginal past. And, last but not least, it has been an important source of financial income for local communities at a time when opportunities for culturally relevant employment for Aboriginal people, at a local level, are few and far between. For their part, archaeologists have been enriched by the experience of working alongside Aboriginal people, often forming enduring friendships, and have gained insights into Aboriginal life. The problem with this involvement is thus not with what it delivers but with what it does not deliver. It delivers archaeological assessments but not assessments of social significance.

2.3 The under-recording of Aboriginal post-contact heritage

A case of under-recording. One of the most striking features of the Aboriginal Sites Register (maintained by NPWS) is that of the more than 30,000 ‘sites’ recorded only a few hundred relate to the period of the last 213 years. The rest are pre-contact sites. Of the 17,500 sites on the NSW State Heritage Inventory that relate to the State’s 213-year history since 1788 only seven have been placed there for their value to Aboriginal heritage.

In both cases the inventories would seem to fairly accurately reflect the relative lack of attention devoted by the respective agencies to Aboriginal post-contact heritage.

NPWS and the pre-contact focus. The ‘timeline’ in Section 3.2 goes some way towards explaining how this situation came about in the case of the Service. Three elements of NPWS’s development in the cultural heritage area were critical.

1. **ARCHAEOLOGY.** From 1970, when NPWS first took up responsibility for Aboriginal heritage, archaeology was seen as the proper profession to investigate and manage this heritage. It happened that at this time in NSW archaeologists working with the Aboriginal past were focussing almost exclusively on the pre-contact component of that past.
2. **DREAMING SITES.** The Sites of Significance program (1973-1983) which turned to the living Aboriginal people of NSW for information on places important to them was from the outset almost exclusively focused on ‘traditional’ sites such as Dreaming story sites and ceremonial grounds. The exception to this were the mission cemeteries, most of those presently on the Aboriginal Sites Register being recorded in the course of this program. Only in the last years of the program did attention begin to be turned to the many other, secular places in the landscape that had been significant in Aboriginal history since 1788. After the program ended in 1983 even this tentative engagement with Aboriginal post-contact heritage on the part of NPWS virtually ceased.

3. EIA DOMINANCE. From the early 1980s the Environmental Impact Assessment (EIA) process dominated Aboriginal heritage management at NPWS. The Service's success in persuading developers and State and local governments (as planning and consent authorities) of the need to carry out archaeological surveys of proposed development areas led to a rapid expansion of the archaeological consulting industry. There were three aspects to this which are of importance here:
 - a) The consultant archaeologists were prehistorians (i.e., specialised in the pre-contact period). The focus of their EIA work was entirely on the pre-contact period.
 - b) The consultation with Aboriginal communities was carried out by these archaeologists in a way that carried this pre-contact focus over into the communities themselves. Oral histories, which might have identified post-contact heritage places and landscape values, were rarely recorded. (It should be said here that if NPWS did not actively promote this approach it did nothing to discourage it).
 - c) NPWS cultural heritage staff found their time increasingly monopolised by the need to provide services to consultants and developers (e.g., Aboriginal Sites Register searches), to review consultant's reports, and to inventory sites recorded by consultants. It thus happened that at a time when increasing attention was being given to the post-contact Aboriginal experience by historians, cultural commentators, and Aboriginal people themselves, NPWS was 'locked into' an approach to Aboriginal heritage which seemed to have no room for the post-1788 component of that heritage.

The identification stage. The argument presented here is that a direct link exists between the neglect of social significance in Aboriginal heritage management and the radical under-recording of post-contact heritage places. In order to explore this link it is necessary to separate the heritage process into its three major parts, identification, assessment, and conservation. The first two of these have special importance here.

For an archaeologist, the identification stage involves not just walking across the landscape, combing it for artefacts and other traces. Before even going into the field, the archaeologist gives consideration to the geology and geomorphology of the area and the history of farming and other land uses. What is critical, though, is also the thought that has gone into deciding *who* should do the identification. If an historical archaeologist is brought in then there is clearly a good chance that the remains of an Aboriginal fringe camp might be identified through the fragments of bottle glass, tin, clay pipes etc that are on the ground. But there is also a good chance that the pre-contact flaked stone artefacts will be missed. Equally, if an historian is collaborating with the historical archaeologist there is an even better chance of the fringe camp being identified in the field because references to its existence are likely to have been found in local historical or state archives.

The problem here is that, at the present time, prehistoric archaeologists alone are appointed to carry out EIA assessments of Aboriginal cultural heritage in NSW. An exception to this would be those situations where Aboriginal post-contact remains are already known to be present in the study area, in which case it is likely an historical archaeologist would also be engaged. This, though, simply perpetuates the cycle of under-recording: the location of very few Aboriginal post-contact sites is known in NSW, largely because only prehistoric archaeologists are engaged in EIA surveys, but prehistoric archaeologists alone are engaged because so few post-contact sites have been recorded that the need to engage historical archaeologists is not perceived. The same circularity applies to the lack of engagement of historians in these EIA surveys: they are not retained because the lack of previous historical input has created the impression that Aborigines were not historical actors in the larger landscape (i.e., that their activities were confined to the Aborigines reserves).

There appears to be an assumption on the part of heritage agencies in NSW that if post-contact sites exist in a survey area they will be detected by prehistoric archaeologists. But this is almost the equivalent of expecting that zoologists engaged in EIA field surveys will record the location of endangered plant species. The situation is compounded by the particular need, in the case of post-contact sites, for field survey to be preceded by documentary and other historical research.

It is interesting to note that the Australia ICOMOS Burra Charter has very little to say about the identification stage of the heritage process. This could be said to reflect its origins as a charter mainly directed at conservation of built heritage, a situation in which the heritage remains have far greater visibility than is the case with archaeological heritage (whether in-ground or on the surface). The Charter is weighted towards what happens *after* sites have been identified – i.e., it is weighted towards the assessment and management phases.

The proposition, then, is that the under-recording of Aboriginal post-contact sites in NSW is a foregone conclusion given the way that the identification phase of the EIA process is set up.

The assessment stage. Another way of putting this is that the failure to canvass social significance has not seemed to be obvious or problematic in relation to Aboriginal heritage because, by the time archaeologists come to assess the significance of the sites identified in their surveys, they have already screened out precisely those places which local Aboriginal communities are most likely to have attachments to and historical information about. For this reason it would make relatively little difference to the situation if the assessment of social significance were suddenly to be made mandatory in the cultural heritage component of EIA in NSW. It would result in an effort to elicit from Aboriginal communities information on the social significance of the pre-contact sites recorded by archaeologists, probably with rather disappointing results. These sites, whose existence the community may only have become aware of a few days previously (when the archaeological survey was carried out), are unlikely to have played any significant role in the lives of community members or in the lives of their parents or grandparents. This is not to say that *no* pre-contact sites are socially significant, nor is it to say that Aboriginal communities do not value these sites. It is simply to say that when it comes to social significance, it will mainly be places from the more recent past that will be important to people.

Immediately, though, it needs to be emphasised that what is being advocated here is not simply an equity at the recording stage between post-contact and pre-contact Aboriginal sites. This could lead to the post-contact sites being treated very much like the pre-contact sites. That is to say, simply as places where the remains of post-1788 Aboriginal occupation are present (e.g., iron and tin from old humpies, fragments of children's toys, ceramics, bottle glass). What is advocated is that these places be recorded and assessed in a way that documents the meaning which present day Aboriginal people give to them. What is advocated is that they should be regarded as sites of *attachment* rather than archaeological sites.

2.4 Professionalisation

Significance categories and the heritage professions. From its very inception, the NPWS has made serious efforts to ensure a level of professionalism in its conservation work. In the cultural heritage sphere this included, in 1968, the appointment of a Committee of Architects to advise it on built heritage conservation and the appointment of the Aboriginal Relics Committee to help draft legislation to protect Aboriginal heritage, a committee whose membership was dominated by professional archaeologists and anthropologists. Equally, when the first non-Indigenous (historic) heritage legislation was introduced at both a Federal

Stating the problem

and State level it, along with the Burra Charter, set out categories of significance which quickly came to be equated with the various heritage professions.

<i>Significance</i>	<i>Profession</i>
Aesthetic	– architecture
Historic	– history
Scientific	– archaeology
Social	– ?

It appears to be the case that the category of social value came to be regarded, informally, by heritage professionals as that value given to a site/place by the community of non-professionals. Also, that this value would exclude the valuation given to it by the different professions. Chris Johnson states this as a problem:

Many discussions of social value suggest that social value is *the* value attributed to a place by the community. This implies that communities are only interested in what we think of as the social value of a place and that the other values that make up social significance (historic, aesthetic, scientific) are not of interest; this is clearly not the case.²²

It would be absurd, for instance, to try to isolate social significance from historical significance when one of the most important methodologies under the ‘social’ heading is oral history recording. Also, when ‘history work’ is itself expanding out of the academy and into communities. Journalists and film makers (particularly those making television and radio documentaries) are nowadays engaging in the work of history on a large scale, inevitably elevating a consciousness of history in the community. At the same time, increasing numbers of the public are engaging in forms of ‘micro-history’ (e.g., family history projects).²³

Equally, there is abundant evidence that the general public is interested in science (e.g., archaeology) and it is quite likely that members of the public will value a place for what archaeology has revealed about it. Aboriginal people, for instance, not uncommonly, will refer to C14 dates which have been established for certain rock shelters or shell middens. In a survey of heritage professionals and members of the public that sought their assessments of the social, aesthetic, scientific and historical value of four heritage properties in Victoria, Snelling and Schapper discovered that the general public actually had a *higher* interest in the scientific value of these places than did the professionals.²⁴

On the face of it, the Burra Charter and the NSW Heritage Office’s guidelines for significance allow for the idea that the different categories of significance may occur at a community level. The point we would make here, though, is that what has earlier been referred to as the four-in-a-line framework of significance categories (Section 1.3) enables the ‘professionalised’ categories (aesthetic, historical, scientific) to be on a par with the category of social significance. We see this as a major flaw.

²² Chris Johnson, *What Is Social Value?* (Canberra: Australian Government Publishing Service. 1994), p. 15.

²³ Paul Ashton and Paula Hamilton, ‘Blood money? Race and nation in Australian public history,’ *Radical History Review* 76 (2000): 188-207, p. 195.

²⁴ Rob Snelling and Jan Schapper, ‘Historic landscapes: a comparison of the attitudes of the broader community and heritage experts towards historic landscape conservation,’ *Historic Environment* 10(1993):13-19, pp.14.

2.5 Naturalising cultural heritage

Aboriginal heritage naturalised. A principal cause of the neglect of social significance, and a major impediment to correcting this neglect, is the temptation to naturalise cultural heritage.²⁵ By this is meant the tendency, increasingly common during the 1980s and 1990s, to manage cultural heritage as if it consisted of populations of places or objects that, because they occur in the physical landscape, are part of the natural world. While this may apply in the case of non-Indigenous (historic) heritage, in Aboriginal heritage it is aggravated by an historical tendency for White society to classify and ‘collect’ Aboriginal heritage objects and places as if they were natural products. In the nineteenth century, and even later, Aboriginal skeletal remains were collected as if they were geological specimens. Along with Aboriginal artefacts, they were housed in natural history museums (e.g., the Australian Museum).²⁶ In the colonial context, the discourse of natural history was applied to Aboriginal people and their heritage places at the same time, and often by the same people, as it was applied to the continent’s geology, flora and fauna.

In the context of heritage management this tendency, among other things, involves:

- ❑ Moving across into cultural heritage management models that were originally developed in the natural heritage field for describing and conserving plant and animal species.
- ❑ A belief that in major programs, like the Comprehensive Regional Assessments (CRA), it is desirable that cultural heritage be dealt with along broadly similar lines to natural heritage.
- ❑ An entrenched and underlying assumption that the essence of cultural heritage consists in the places and objects on the ground rather than in the value and meaning that is bestowed upon these places by individuals and communities in the present. This relates to the problematic belief in ‘intrinsic significance’ (see Section 6.3).

Managerial considerations. It seems likely that the historical habit of naturalising Aboriginal culture may, in the present, be compounded by a managerial desire for integration of the various elements of heritage. The first legislation in NSW to allow for conservation reserves to be set aside, the Fauna Protection Act 1948, could be argued to represent the beginning of a continuum stretching from the preservation of animals themselves, to the preservation of their habitat, to the preservation of ‘everything in their habitat.’²⁷

Under the heading of ‘Conservation Planning’ the NPWS Corporate Plan 2000/2003 lists three points designed ‘to achieve the use of rigorous and systematic policy, science and assessment as the basis for conservation planning and management in NSW.’ The first of these points reads: ‘*integration of natural, cultural and community values*’. What is important here is that the Plan’s purpose in advocating this ‘integration’ is to ensure that cultural heritage and community values are not left out of the planning process or tacked on to it as an afterthought or an ‘optional extra’. This illustrates the difficulty we address in this section: while it is desirable to integrate cultural heritage into conservation planning, the question is, how to do this while maintaining the integrity of the cultural heritage as a social rather than a biological construction.

²⁵ There has been consistent criticism from some quarters of the management of Aboriginal heritage places alongside native plants and animals, as if these places were natural products of the landscape – see for instance Peter James, ‘Anglo-Australian law and the Aboriginal cultural heritage,’ *Historic Environment*, 11 (1995): 52-56, p. 52.

²⁶ See Tom Griffiths, *Hunters and Collectors* (Cambridge: Cambridge University Press. 1996).

²⁷ Ian Charles, ‘Shaping the Service: the establishment and early development of the NSW National Parks and Wildlife Service,’ unpublished background paper (Sydney: NPWS. 1998), p. 22.

The environmental bandwagon. Environmental conservation (natural heritage conservation) is a larger movement or discourse, with greater political and economic clout, than cultural heritage. To some extent the latter deliberately emulates environmentalism in the hope of being pulled along in its wake. In this way we have colluded in the misconstrual of cultural heritage as a natural occurrence rather than a social construct.

The preconditions for this situation show no signs of going away. Looking to the next couple of decades, we can expect a quantum increase in the profile of nature conservation and the resources devoted to it. This will take place under the twin headings of environmental repair and biodiversity conservation. If the temptation to gloss cultural heritage as 'natural' (in other words, to naturalise it) is with us now it can only grow more powerful in the future. The bright side of this is that it poses a great opportunity for a greater recognition of Aboriginal environmental values (e.g., community access to bush tucker and raw materials, the conception of cultural heritage in terms of landscapes rather than sites).

The right to exist. The tendency to naturalise cultural heritage reflects a failure to understand that whereas natural heritage is alive, cultural heritage is inanimate. Cultural heritage places are not alive in themselves, people give them 'life' and meaning by the way they treat them and by the way they think and feel about them. Cultural heritage places are static and cannot replenish or repair themselves if damaged (the way, under the right circumstances, natural environments may be able to do) but each generation produces or leaves behind it new cultural heritage places as well as reworking the meaning and often the shape and form of the places it inherits. This is the sense in which cultural heritage is dynamic.

Internationally, there has been a trend in natural heritage conservation towards recognising nature's right to exist. This might be seen as an equivalent of the human rights concept. As expressed in the *Australian Natural Heritage Charter* (1997):²⁸

The *principle of existence* value is that living organisms, earth processes and ecosystems may have value beyond the social, economic or cultural values held by humans.

To state the obvious, cultural heritage objects and places are not alive (though, for Indigenous people, certain sites and places may be regarded as being animated by power). Cultural heritage places thus do not have the value spoken of above; their value lies entirely within human culture.

Spinning our own web. The anthropologist, Clifford Geertz, has observed that 'man is an animal suspended in webs of significance he himself has spun.'²⁹ We might think of the cultural landscape, populated, as it is, with old places and remains, as the two-dimensional aspect of such a web. Contemporary human interaction with this web gives it a three-dimensionality. We interact with these places, our memories are stirred by them and give meaning to them; we are attached to some of them, indifferent to others. The interactional circularity of our relationship with the cultural landscape is similar to the ecological nature of our relationship to nature, with one crucial difference: we, our species, created these places.

²⁸ *Australian Natural Heritage Charter: Standards & Principles for the Conservation of Places of Natural Heritage Significance* (Sydney: Australian Committee for IUCN. 1997).

²⁹ Clifford Geertz, *The Interpretation of Cultures* (New York. 1973), p.5.

3 How did we get here?

3.1 A three-phase history

A review of the history of Aboriginal heritage management in NSW over the last 30 years suggests this history falls into two reasonably distinct periods or phases (see below). It is proposed that we now stand at the edge of a new, third phase in the history of cultural heritage management at the NPWS.

This history, it should be noted, applies only to Aboriginal heritage management. In what follows, the thumbnail sketches of each of these phases is intended merely to highlight the main distinctions. More detailed, sourced information can be found in the ‘timeline’ (Section 3.2).

SITE PROTECTION 1969-1980. Although the amendment to the National Parks and Wildlife Act that gave protection to Aboriginal ‘relics’ was only enacted in 1969, this obviously did not mark the beginning of cultural heritage management in NSW. There were already, in white society, well-established ways of thinking about and ‘dealing’ with Aboriginal heritage places and objects. These go back, in fact, to 1788. There were also, of course, ways that Aboriginal people in NSW attempted to protect their heritage places even before the era of self-determination. But, more than anything else, what 1969 meant for Aboriginal heritage in NSW was the arrival of protective legislation, lobbying for this having begun as early as the 1930s.

Much of the work of the NPWS in this first phase was to do with establishing the NSW Aboriginal Sites Register and with initiating surveys to add sites to the Register. From the beginning, administrative control was in the hands of non-Aboriginal people and archaeology was recognised as the primary expertise in relation to Aboriginal heritage. This continued what might be called the ‘materialist’ view of Aboriginal heritage, the tendency to see it primarily in terms of collectible objects, a tendency established by the antiquarian artefact collectors. But two new developments constituted a radical departure from this pattern. The first was the appointment in the second half of the 1970s of Aboriginal representatives to serve on the Aboriginal Relics Advisory Committee. The second was the establishment of the NPWS Sites of Significance Survey program (1973-1983), the objective of which was to register and document the significance of Aboriginal Dreaming and ceremonial sites. Apart from its anthropologist, the survey team was entirely Aboriginal, this marking the entry of Aboriginal people into the field of heritage management (at least at the government level).

This first phase thus closes with NPWS having engaged with the social significance of Aboriginal and with there being every prospect for this engagement to continue and expand.

EIA-ARCHAEOLOGY 1980-2000. This period begins, in 1980, with the replacement of the NPWS Relics Committee with the Interim Aboriginal Sites Committee which had a majority Aboriginal membership. However, what chiefly characterises the 1980s was the swamping of the Aboriginal heritage field at NPWS by the Environmental Impact Assessment process. The social significance of Aboriginal heritage was relegated to a peripheral status during this phase.

The form of EIA that developed in NSW was heavily dominated by the practice of prehistoric archaeology. While by the mid-1980s 'Aboriginal consultation' by EIA archaeologists had become a regular part of EIA projects, it took the form of Aboriginal people assisting in the work of archaeology (as field assistants) rather than in bringing knowledge of social value into the EIA process.³⁰ This pattern of 'consultation' was closely associated with the network of Local Aboriginal Land Councils established under the NSW Land Rights Act of 1983.

In the last years of the Sites of Significance Survey there had been an expansion of the Survey's interest to include a range of post-contact places nominated by Aboriginal people as historically and emotionally important to them. In retrospect, this could be seen as a natural evolution in the Service's approach: to expand from the sphere of scientific significance into the sphere of social significance. Unfortunately, the development was cut short by the termination of the Survey program in 1983. The Survey's Aboriginal staff was absorbed into the District structure of the NPWS where their work consisted mostly of site protection work rather than the oral history work which the Survey had pioneered.

Meanwhile, the Service's success through the 1980s in getting development proponents to comply with EP&A provisions for Aboriginal heritage led to a ballooning of the number of archaeological survey and salvage excavation projects in NSW and of the number of consultant archaeologists working in NSW. The time of the Service's Aboriginal cultural heritage staff came to be monopolised by the reviewing of EIA reports and the processing of Consent to Disturb/Destroy applications. The prehistoric archaeologists engaged in EIA work had little or no interest in post-contact heritage and, with the termination of the work of the Sites of Significance Survey, the recording of Aboriginal post-contact places virtually ceased in NSW.³¹

The Service did not establish a research unit in cultural heritage until 1997, 20 years after the establishment of its research section in nature conservation. This was perhaps symptomatic of a perception that cultural heritage management was comparatively straightforward and 'obvious' whereas the work of nature conservation required continual innovation based on solid scientific research. The lack of cultural heritage research during this period meant management practices were not exposed to the sort of continual constructive critique which might have recovered, for the Service, the earlier engagement with community heritage values (of the first phase) and taken it further.

HOLISTIC APPROACH 2000 - It is probably unwise to attempt to read the future (to anticipate history, as it were). On the other hand there is obvious value for an agency such as NPWS in being able to position itself in relation to its own history and its path into the future. In this spirit, then, we nominate a third phase and name it the holistic approach. It is an approach that we predict will be characterised an expansion into the social, historical and landscape dimensions of cultural heritage.

The third phase has its origins in 1996 when the Service's staff lodged a formal grievance with management over the relative lack of engagement with Aboriginal community heritage values. A long period of negotiation produced a settlement of this grievance which

³⁰ The Environmental Protection and Assessment Act, 1980 played a major role in this surge of archaeological assessment work.

³¹ The exception to this was the survey of Aboriginal post-contact sites by Peter Kabaila (1995, 1996, 1998), a project carried out almost completely without reference to the NPWS (the recorded sites were not entered on the Aboriginal Sites Register), a fact which tends to corroborate lack of attention to the post-contact.

dramatically increased resources for this engagement and provided for a new Aboriginal led structure for achieving it.³²

Postscript. The foregoing may lead to the impression that archaeology is the villain in the piece. While it is that true there has been a focus on archaeological significance at the expense of social significance it would be naïve to suppose that archaeologists alone brought this about. It is worth noting the effort that many archaeologists have put into sharing their skills with Aboriginal people and also their concern for the protection of Aboriginal heritage.

3.2 Timeline for cultural heritage management in NSW

Introduction. The ‘timeline’ (below) sets out a history of the last few hundred years from the point of view of the development of heritage management in NSW. The ‘timeline’ approach obviously simplifies historical reality: events and developments in real life tend not to line up, one after another, as neatly as this. In reality, they often overlap or parallel each other. The ‘timeline’ approach is used here in order to provide an easily referenced general order in which events have occurred.

The ‘timeline’ tracks well back into the period before there was anything recognisable as heritage governmentality in NSW. It is important, as noted earlier, to recognise that there were established ways of thinking about old places and cultural remains long before the 1950s and that these may have had a profound effect on the development of heritage practice as we now know it.

The causes are embedded. This discussion paper argues that the relative neglect of the social significance of heritage places can be traced back into the early history of NSW and even back beyond that to deep tendencies in European social history. A combination of tendencies in Australian (colonial) society, academia, and government set the scene for a heritage system which would privilege the scientific and antiquarian value of ‘relics’ and built heritage.

Given that the neglect of social significance is historically embedded, it is not possible to simply close the book on this neglect and put it behind us. We need to consider who in society benefits from this neglect and what established patterns of thought need to be changed in order to overcome it. To fail to do this would be to risk that any initiative to change the situation would be like dropping a rock into a pond: the rock may make a big splash but then it sinks and the water closes back over it.

³² The Aboriginal Heritage Division was established 1997. The Division amalgamated with the Cultural Heritage Services Division in 2000 to become the Cultural Heritage Division.

T i m e l i n e

1600 **Natural history.** In the Western system of knowledge as it developed during the European Enlightenment (17th and 18th centuries), the discovery and description of the peoples of the world beyond Europe was part of the larger project of natural history. Natural history's classificatory approach was based on observable physical attributes.³³ The European voyager explorers who ventured into the Pacific were part of this 'project' of natural history, a project concerned with 'cataloguing the varieties of mankind', their physical characteristics and their products (e.g., artefacts).³⁴

The peoples discovered were not studied in terms of their own culture and view of the world, rather 'they are exposed to an inventory'.³⁵ It was thus seen as possible to describe people without talking to them. This approach had a powerful and lingering influence in colonial (and 'post-colonial') Australia. Aboriginal 'products' (including 'sites' in the landscape such as shell middens and rock art) would be treated almost like such natural products as plants, birds, insects, or rock types.

1788 **Establishment** of the Port Jackson penal colony on the site of present day downtown Sydney.

Exploration phase in NSW. Major exploratory expeditions included John Oxley's 1817 exploration of the Lachlan River, Charles Sturt's 1828-31 expeditions into northwestern NSW, Major Mitchell's 1835 and 1836 explorations of the Darling and Murray-Darling.

Explorers, surveyors, geologists, and other scientists fanned out from the coastal settlements; trained observers, they frequently depicted Aboriginal camps, burials, and carved trees in their records and collected Aboriginal artefacts. The surveyors plotted rivers and mountains onto maps and laid down a cadastral grid over the land surface. Traces of Aborigines on the land (e.g., burial mounds, campsites) were sometimes plotted onto maps. Thus began the recording and classification of Aboriginal remains as a form of European knowledge (the idea that you could 'know' these places without input from the people who created them).

Antiquarianism in the early colony. Antiquarian collecting had its origins deep in the European past.³⁶ Transplanted to Australia with the first white settlers it took the form of collecting Aboriginal artefacts along with fossil shells and natural 'curiosities'.³⁷ At a more sinister level it included the 'collection' of Aboriginal human remains, often by digging up and robbing graves.³⁸

³³ Foucault, Michel. 1973, *The Order of Things*, first published 1966, New York.

³⁴ A. L. Kaepler, 'Pacific culture history and European voyages', in *Terra Australia: the Furthest Shore*, ed. E. Eisler and B. Smith. (Sydney: 1988), pp. 141-46.

³⁵ Defert, Daniel. 1982, 'The collection of the world: accounts of voyages from the sixteenth to the eighteenth centuries', *Dialectical Anthropology*, vol. 7, pp. 11-20. P. 13.

³⁶ See for instance Krzysztof Pomian, *Collectors and Curiosities: Paris and Venice, 1500-1800* (London: Polity Press. 1990).

³⁷ For a discussion of antiquarian collecting in the colonial context see Nicholas Thomas, *Entangled Objects* (Cambridge (Mass.): Harvard University Press. 1991).

³⁸ Tom Griffiths, *Hunters and Collectors* (Cambridge: Cambridge University Press. 1996)

³⁹ See Graeme Davison, *The Use and Abuse of Australian History* (Sydney: Allen and Unwin. 2000), pp. 9-19; Bob Ellis, 'Rethinking the paradigm: cultural heritage management in Queensland,' *Ngulaig* 10(1994).

Antiquarianism has much more to do with the pleasure of collecting and possessing objects than with using them to discover knowledge about the past. For antiquarians, the objects are an end in themselves rather than a means to an end.

Accepted wisdom has it that antiquarianism was displaced in NSW by modern archaeology in the 1960s and by professional heritage management in the 1970s. It can be argued, though that much or most of the archaeology and history practiced in the heritage field in NSW in the present day remains strongly antiquarian.³⁹ Also, that this continuing antiquarian inclination is one of the main obstacles to greater recognition and openness to the social significance of heritage places and landscapes.

See below (1885, 1930, 1970s, 1990) for later references to **antiquarianism**.

1800 **Colonialism.** While the relative neglect of social significance is common to both the Aboriginal and non-Indigenous heritage fields the context in each case is fundamentally different. Put most simply, it is the difference between the colonised and the colonisers.

As the post-1788 history of NSW unfolds, not only do Aboriginal heritage places pass into white ownership but it is white people, rather than Aboriginal people, who become the interpreters and experts on these places. (After 1970 this situation comes under Aboriginal challenge).

1820s **Monuments.** The first public monuments constructed in NSW – e.g., those commemorating Captain James Cook. By the 1840s, monuments were being constructed to early governors.⁴⁰ This represents a form of ‘heritage from above’ – i.e., a form of community heritage without community input.

1850 **Settlement-invasion** of the greater NSW landscape. From 1788 white settlement radiated out from Sydney until by about 1880 even the most distant and inhospitable areas of the colony of NSW had some degree of white presence. As white settlers displaced Aboriginal people in the NSW landscape they ‘took up’ Aboriginal cultural remains (sites) as they ‘took up’ the land. While the Aboriginal survivors seemed to the white settlers to be losing their cultural integrity (e.g., losing their traditions) the remains they left behind (e.g., carved trees, stone artefact scatters) retained their integrity.⁴¹

As Aboriginal ‘sites’ became European property a perceptual gap was opened up between these sites and the persons of surviving Aborigines. For the white settlers, the Aboriginal sites represented the culture of ‘the old blacks’ who had vanished, not the culture of the surviving Aboriginal people in the fringe camps, missions and reserves. By the 1960s when archaeologists were excavating Aboriginal rock shelters in NSW it apparently never occurred to them to consult or involve the people in the local Aboriginal communities in their work. They saw no connection between the sites and these people.⁴²

Set aside. The colonial government sets aside 35 reserves for Aboriginal people in NSW.⁴³

⁴⁰ Paul Ashton and Paula Hamilton, ‘Blood money? Race and nation in Australian public history,’ *Radical History Review* 76 (2000): 188-207, p. 191.

⁴¹ Harry Allen, ‘History matters - a commentary on divergent interpretations of Australian history,’ *Australian Aboriginal Studies*, 2 (1988), pp. 79-89. p. 86.

⁴² Denis Byrne, ‘Deep Nation: Australia’s acquisition of an Indigenous past,’ *Aboriginal History*, 20 (1998): 82-107, pp. 85-88.

⁴³ For Aboriginal reserves in NSW see Heather Goodall, *Invasion to Embassy: Land in Aboriginal Politics in New South Wales, 1770-1972* (Sydney: Allen and Unwin. 1996).

1877	<p>Founded, in London, the Society of Protection of Ancient Monuments. Members included John Ruskin (1819-1900) and William Morris (1834-1896) who were partly motivated by a distaste for industrialism and its affects. These conservationists represented an elite aesthetic. Not only did their conservationism not originate in community (popular) values, to some extent it developed in opposition to them. They opposed clergymen renovating old churches, styling them as vandals.⁴⁴ They railed against the common people of Italy and Greece whom they saw as desecrating classical heritage.⁴⁵ To some extent the conservation movement in the West has developed <i>against</i> popular social sentiment rather than in response to it.</p>
1883	<p>'The Board'. NSW Aborigines' Protection Board established.</p>
1885	<p>Antiquarianism. The antiquarian collecting of Aboriginal artefacts continued through the 19th century. In NSW the collecting of Aboriginal clothing, wooden and bone artefacts from Aboriginal <i>people</i>, common at Port Jackson in the early years, gives way to the collecting of stone artefacts from Aboriginal '<i>sites</i>'.⁴⁶</p> <p>Stone artefact collectors tended to be uninterested in the theory or practice of ethnology and archaeology.⁴⁷ The emphasis was on amassing private artefact collections.</p> <p>See other references to antiquarianism (1788, 1930, 1970s, 1990)</p> <p>Disconnecting. White 'experts' on Aboriginal cultural remains in the late 19th century often relied on the memory of white landowners about how Aboriginal people lived in the early days rather than on the memories and knowledge of Aboriginal people themselves. See, for instance, the amateur ethnologist Edmund Milne. Milne, in his own work, does name his informants but, in the transition from Milne's more popular publications to Etheridge's scientific publications the Aboriginal names drop out.⁴⁸ In Etheridge's work, now regarded as the authoritative account of Aboriginal carved trees, it is Milne and the white landholders who are credited with being the primary knowledge-holders rather than the Aboriginal people themselves.</p> <p>The words of Michael Dodson, in his 1994 Wentworth Lecture, are pertinent here:</p> <p style="padding-left: 40px;">There may be an enlightened minority [of white Australians] who have been willing to open their eyes and their ears to allow the space for Aboriginal people to convey their Aboriginalities. But, as my colleague Marcia Langton so poignantly wrote, the</p>

⁴⁴ A tension between heritage proponents and elements of the clergy and Christian faithful, at least episodically, has been a continuing theme in the history of the heritage movement, Sydney and NSW being no exception.

⁴⁵ For an account of the Society of Antiquaries early involvement in conservation see Joan Evans, *A History of the Society of Antiquaries* (Oxford: Oxford University Press. 1956), e.g., Pp. 312, 335. For British antiquarians in Italy see Carolyn Springer, *The Marble Wilderness* (Cambridge: Cambridge University Press. 1987).

⁴⁶ For collecting at Port Jackson see Isobel McBryde, "'...To establish a commerce of this sort" - cross-cultural exchange at the Port Jackson settlement', in *Studies from Terra Australis to Australia*, ed. J. Hardy & A. Frost. Occasional Paper No. 6 (1989) of the Australian Academy of the Humanities, Canberra, pp. 170-82. The exploits of stone artefact collectors were acknowledged in *Science of Man*, a journal published by the Sydney-based Anthropological Society of Australasia (1895-1913).

⁴⁷ Mulvaney 1977.

⁴⁸ See for instance Edmund Milne, 'Aboriginal arborglyphs,' *Scientific Australian* 10(2), pp. 29-32. 1914.

⁴⁹ Michael Dodson, 'The Wentworth Lecture. The end in the beginning: re(de)finding Aboriginality,' *Australian Aboriginal Studies* 1994(1), pp. 2-13. The quotation from: Marcia Langton is from her publication, *Well I Heard it on the Radio, and I Saw It on the Television* (Sydney: Australian Film Commission. 1993) p. 33.

⁵⁰ Denis Byrne, 'Deep nation...', p. 94-96.

majority of Australians ‘...do not know and relate to Aboriginal people. They relate to stories told by former colonists’.⁴⁹

The process of disconnecting from contemporary Aboriginal people was continued, in the first half of the 20th century, by amateur and then professional archaeologists. The same disconnection, it might be suggested, lies behind the lack of openness to the social significance of heritage places to Aboriginal people.

‘**The last** of his tribe’. It was relatively common for Aboriginal elders at this time to be spoken of by white people as being ‘the last of their tribe’. By this they conveyed the belief that these were the last ‘real’ and authentic Aboriginal people in places like NSW. In this view, ‘real’ Aboriginal people were disappearing from the landscape of NSW, leaving it to white people (the white nationalists of the 1890s actually spoke of themselves as being the ‘new natives’, the rightful inheritors of the spirit of the ‘old blacks’).⁵⁰ In the 1970s when Aboriginal elders and community activists laid claim to their heritage places they were seen by many white people as imposters.

1889 **Disgrace.** Robert Etheridge (1847-1920), paleontologist and ethnologist at the Australian Museum, called for preservation of Aboriginal sites in NSW. He maintained there was so little interest in preserving these remains:

...as to almost amount to a national disgrace. Their burial-mounds, “kitchen-middens”, and other traces likely to become geologically interesting, are disappearing so fast...that ere long few or no traces will be left.⁵¹

No reference was made to contemporary Aboriginal people of NSW or of any association between them and these remains.

Consciousness of old buildings in Australia as having antiquarian value begins to become apparent around the turn of the century.⁵² The focus was on public buildings, middle class mansions, and homesteads of the rural ‘aristocracy’.

1901 **Post-colonialism.** In the Australian context this refers only to the condition of the white population following independence from Britain. Aboriginal people, obviously, continue to exist in a colonial rather than a post-colonial condition. The appropriation of Aboriginal heritage as part of the Australian national heritage mirrors what has occurred in the world’s other settler colonies (America, Canada, South Africa, and New Zealand).⁵³

The difficulty of gaining greater acknowledgement for the social significance of heritage places to Aboriginal people is intimately connected to the colonial condition of Aboriginal people.

Crown lands come under State control following Federation. This establishes the basis for the (much later) State legislation to protect Aboriginal sites across NSW.

Founded. The Australian Historical Society founded in Sydney. Its patronage was primarily Anglo, middle class, and male. Its reverence of things British reflected its adoption in 1919 of the ‘Royal’ prefix. Members made field excursions to colonial historical sites.⁵⁴ Like its later counterpart, the Anthropological Society of NSW (1928

⁵¹ Robert Etheridge, ‘Report on supposed caves with Aboriginal drawings on Harriss Creek, and George’s River, near Liverpool,’ *New South Wales Geological Survey Records* 1(1889): 146-48.

⁵² Graeme Davison, ‘A brief history of the Australian heritage movement,’ in G. Davison and C. McConville (eds), *A Heritage Handbook* (Sydney: Allen and Unwin. 1991), pp. 14-27: p. 15.

⁵³ Denis Byrne, ‘Deep nation..’ The term “post-colonial” came into usage after 1950 in specific reference to the people’s of India, Africa, the Caribbean etc. who had newly gained independence from the Western colonial powers.

⁵⁴ Susan McClean, “‘Progress the iconoclast”: campaigns, ideologies and dilemmas of historic building preservation in New South Wales, 1900-1939,’ *Public History Review*, 7 (1998): 25-42, pp. 29-30.

-), the AHS organised field excursions as a regular activity. Both represented early middle class interest in 'heritage sites'.
- 1905** **Increasing** interest in Aboriginal rock art sites (particularly through the recording work of Robert Campbell) led to the issue of their protection being raised in the NSW parliament in 1905. No reference was made to Aboriginal communities in Sydney (e.g., La Perouse) and what concerns they might have had.
- 1909** **Founded**, the Wildlife Preservation Society, in NSW. It was 'the first of a number of community groups to have a major impact upon the development of the conservation ethic in NSW'.⁵⁵
- 1910** **Acquired**, Vacluse House, by the NSW State Government after lobbying by 'a local Vacluse association, The Harbour Foreshores Vigilance Committee'. It was opened to the public in 1912.⁵⁶
- 1911** **Set aside**. By 1911 the government had set aside 115 Aboriginal reserves in NSW comprising a total of 26,000 acres.⁵⁷ Many of these were subsequently revoked. The reserves became a focus of Aboriginal attachment to land and 'place' and later a focus of Aboriginal memories, oral histories etc.
- 1912** **Founded**, the Mountain Trails Club, by Myles Dunphy and others. The Club pioneered overnight bush walking in NSW. Rock art and other Aboriginal sites were frequently discovered in the bush and marked on the bush walkers' maps (cf. field naturalists). The Club was among the advocates for legislative protection for Aboriginal cultural heritage.⁵⁸ This marked an expansion of popular interest in Aboriginal 'heritage' places in the non-Indigenous community (i.e., additional to the antiquarian collectors and amateur archaeologists).
- Local historical societies in NSW, around this time, often took an interest in Aboriginal heritage sites and frequently included Aboriginal artefacts in their local museums.
- 1913** **Provision** was made in the Crown Lands Consolidation Act of 1913 for the creation of special reserves for Aboriginal art sites in NSW (these reserves to be managed by local governments). Only a handful were ever created.
- 1920** **Elite**. 'Conservative' preservationists were virtually the sole advocates of what we would now call historic heritage from the 1920s through to the 1970s when neighbourhood movements in places like the Rocks and Woolloomooloo mobilised against urban renewal projects.
- It has been suggested that the earlier exclusion of working class heritage owed something to the continuing power of Social Darwinism. This doctrine of Progress, which situated the English gentleman at the forefront of civilisation and placed the 'primitive races' at the tail end, also held the white working class to be 'suspect'.⁵⁹ The notion that there could be anything worth commemorating in the history of the working class is comparatively recent (i.e., beginning in the 1960s). The pre-conditions for acknowledging the social significance of heritage places (outside of the social elite) were thus not present in NSW until the mid-20th century.

⁵⁵ Ian Charles, 'Shaping the Service: the establishment and early development of the NSW National Parks and Wildlife Service,' unpublished background paper (Sydney: NPWS. 1998), p. 9.

⁵⁶ Susan McClean, 1998, p. 26.

⁵⁷ Goodall, *Invasion to Embassy*.

⁵⁸ F.D. McCarthy, 'Aboriginal relics and their preservation,' *Mankind* 2 (1938), pp. 120-12, p. 124.

⁵⁹ Susan McClean, 1998, p. 39.

- 1922 Campaign to save Burdekin House, Macquarie Street, Sydney, by the Royal Australian Historical Society and the Royal Australian Institute of Architects. This was one of the earliest preservation campaigns (ending in failure when the building was demolished in 1933). The campaign reflected professional, middle class interest in elite history and architecture. (Burdekin House was an early colonial mansion.)
- 1930 Lobbying during 1930s of NSW Government by Fred McCarthy (The Australian Museum) and the Anthropological Society of NSW for protection of Aboriginal 'relics' because of their value to science. No reference made to Aboriginal people of NSW having any interest in or association with these remains.⁶⁰
- Unsatisfactory. McCarthy describes protection of Aboriginal relics under the 1913 Act as 'extremely unsatisfactory' and insists on blanket protection of all 'sites of prehistoric or Aboriginal origin'.⁶¹
- A gap. Archaeological investigations of Aboriginal sites in NSW in the 1930s (and through to the 1970s) took place in a landscape in which Aboriginal people had become invisible to most white Australians. No connection was seen between Aboriginal people on the Reserves and fringe camps and the sites being investigated. In the minds of most white Australians, a conceptual gap had long ago opened up between the remains (artefacts and sites) of the 'old blacks' and the contemporary Aboriginal people of NSW.⁶² This 'gap' was a part of the conceptual environment in which the National Parks and Wildlife Act was drafted in the mid-1960s.
- Precedent. In the 1930s the *Birds and Animals Act* and the *Wild Flowers Act* were passed. Together with the efforts of the youthful conservation movement, they had some effect upon the destruction of, and trafficking in, native plants and animals listed as protected. This legislation provided a precedent for 1970s legislation to prevent/control destruction of and trafficking in Aboriginal heritage items.
- Antiquarianism. In New South Wales in the 1930s some antiquarians assisted Fred McCarthy in the excavation of rock shelter deposits and in Victoria they helped familiarise John Mulvaney with that state's archaeological record when he began his archaeological research there.⁶³ Many collectors were keenly interested in artefact classification and helped produce the early stone tool typologies. The distinction at this time between archaeology and antiquarian collecting was somewhat blurred.
- See other references to antiquarianism (1788, 1885, 1970s, 1990)
- 1931 Athens Charter, for the Restoration of Historic Monuments. The first international convention on cultural heritage.
- 1932 First inventory of Aboriginal sites established by Norman Tindale at the South Australian Museum. Fred McCarthy at the Australian Museum established a site list soon after.
- 1934 Deputation to NSW Government, including members of the RAHS, the RAI, the Pioneers Club, the Society of Artists and the Town Planning Institute, to urge for legislation to protect old buildings. This represented the 'preservationist' movement which 'consistently worked to preserve symbols which underpinned the place in society of the old ruling class.'⁶⁴ [See founding of NSW National Trust, 1947, and the shift from veneration of old ruling class to veneration of the Australian 'national' elite].

⁶⁰ F. D. McCarthy, 1938, pp. 120-126.

⁶¹ McCarthy, 1938, p. 121.

⁶² Denis Byrne, 'Deep Nation', pp. 85-88.

⁶³ Mulvaney 1981, p. 18.

⁶⁴ McClean 1998, p. 38.

- 1937** **Assimilation policy 1937-1975.** Initiated at the 1937 national Conference of Heads of [Aboriginal] Protection Departments. The Assimilation Policy was based on the belief, on the part of white government, that, in modern Australia, Aboriginal culture was redundant and dysfunctional:
- The policy of assimilation means that all Aborigines and part-Aborigines are expected to attain the same manner of living as other Australians and to live as a single Australian community enjoying the same rights and privileges, accepting the same responsibilities, observing the same customs and influenced by the same beliefs, as other Australians.⁶⁵
- '**Total institution**'. The assimilation paradigm meant increased government surveillance and control over Aboriginal people on Reserves in NSW. 'In terms of Aboriginal policy, the total institution was a cultural apparatus with which to implement a cultural programme of homogenisation to eradicate the 'otherness' of Aboriginality.'⁶⁶ Effectively, this tightened the suppression of Aboriginal culture. It helps explain why that, until the end of Assimilation, Aboriginal people's interest in their heritage places is 'invisible'.
- 1938** **Mourning.** Aboriginal National Day of Mourning held in Sydney on the 150th anniversary of the founding of the Port Jackson penal colony. Organised by William Ferguson, William Cooper, Doug Nicolls, Jack Patten and others.
- 1939** **Submission** of draft Aboriginal 'relics' protection legislation to the NSW parliament by Fred McCarthy (Australian Museum). War broke out (1939) and the government changed (1941) before any action was taken.
- 1940** **Issuing** of maps to 'hikers' by the Royal National Park Trust and the Railways Department (NSW), in the 1940s, which showed the location of rock engravings in the Park, giving some indication of the interest of the white community in Aboriginal 'relics'.⁶⁷
- Established.** The Aborigines' Welfare Board (1940-1969) established to replace the Aborigines Protection Board in NSW.
- 1945** **End of** the Second World War. The post-war period saw an increase in the prestige of 'hard' science and technology, a situation that extended into the Cold War. It formed part of the social-intellectual environment in the 1960s in which the 'science' of archaeology was recognised by government as the proper expertise on Aboriginal heritage places.
- 1947** **Founded,** the NSW National Trust (the first National Trust in Australia). It focused on campaigns to save and restore stately homes. Its leadership drawn mainly from the elitist 'intellectual wing of the Australian establishment' and it aimed to 'preserve "the best" of the past'.⁶⁸ A register of buildings was established. Based on criteria of connoisseurship, buildings were classified according to 'aesthetic and stylistic, rather than technological or historical, criteria'.⁶⁹

⁶⁵ Statement from the 1961 Native Welfare Conference, Commonwealth and State Authorities [Barry Morris, *Domesticating Resistance: the Dhan-Gadi Aborigines and the Australian State* (Berg: Oxford, New York, Munich. 1989), p. 135].

⁶⁶ Barry Morris, *Domesticating Resistance*, p. 154.

⁶⁷ H.J. Wright, 'The preservation of the rock engravings and paintings of the Sydney district,' *Mankind* 3(1941): pp. 7-14, p.10.

⁶⁸ Davison, 1991, pp. 18-19.

⁶⁹ Davison, 1991, pp. 19.

- 1950** **Mates.** The 'radical nationalist' movement in Australian cultural/intellectual life during the 1950s created the historical myth that modern Australia was the culmination of a continuous tradition of proud, egalitarian, independent-minded Anglo-Celtic mateship.⁷⁰ The nationalist myth excluded from the national narrative the role of women, glossed over the racism of the outback, and ignored the ethnic and cultural diversity of pre-1914 Australia.⁷¹ It conditions the development from the 1950s to the 1980s of a heritage model marked by similar exclusions (e.g., the focus on architecture privileged male achievements and the neglect of the post-contact Aboriginal heritage allowed the history of black-white race relations to be avoided).
- The neglect of social significance was functionally important in this heritage model.
- Cold War.** At least in its early and most intense phase (1950s, early 1960s), the Cold War led to an intensification of the 'consensus' view of history, one which emphasised social unity and continuity.⁷² Under these conditions there was little scope for investigations of historical experience that penetrated below the level of the social elite.
- 1951** **Plan** by Sydney City Council to demolish the whole of Paddington to make way for medium density housing. 'Not one protest was recorded.'⁷³ Paul Ashton contrasts this to the situation in 1965 when a proposal to construct a major thoroughfare led to the formation of a resident action group.
- 1960s** **Rise of the New Archaeology**, a supposedly more empirical approach. In Australia the scientific chauvinism associated with this approach discouraged approaches not amenable to 'scientific' proof. It is probable that this development led to a long term tendency for archaeologists, including those engaged in heritage work, to be skeptical of social significance insofar as its 'data', in the form of memory and emotion, is not amenable to scientific measurement or validation.
- Broadening** of support for built heritage. In the late 1960s, this was especially evident in the battle over old inner city areas (e.g., the trade union's Green Ban movement of the early 1970s). This happening in the climate of accelerated post-war land development. This movement frequently involved residential communities defending a certain attachment to, or vision of, place. No NSW Government (non-Indigenous) heritage agency existed at this time to regulate development planning.
- Conference.** The 1968 Conference on Prehistoric Monuments and Antiquities in Australia was held in Canberra. It was organised by the Australian Institute of Aboriginal Studies (now the Australian Institute of Aboriginal and Torres Strait Islander Studies) to review the state of Aboriginal cultural heritage, seen by the conference mainly as the province of archaeology.
- 1964** **Venice Charter.** Charter of Venice (see Section 8.2 of this paper)
- 1965** **Resident action** groups began galvanising opposition to redevelopment of inner city neighbourhoods in Sydney (e.g., the Save The 'Loo Campaign). By the early 1970s there was at least some awareness in official circles that ordinary non-elite citizens had an attachment to historical neighbourhoods which, while rather different from the elite's interest in fine architecture and grand houses, had to be acknowledged.⁷⁴
- The 'battles' over The Rocks, Woolloomooloo, and the Glebe Estate were probably

⁷⁰ Russel Ward, *The Australian Legend* (1958)

⁷¹ Ann Curthoys and Stephen Muecke, 'Australia, for example', in *The Republicanism Debate*, ed. W. Hudson & D. Carter, pp. 177-200 (Sydney, UNSW Press. 1993), p. 179.

⁷² Warren-Finley 1998, 'Public history in the United States', p. 19.

⁷³ Paul Ashton, 'Contested spaces: cultural and intangible heritage in Australia,' [ms. 2000], p. 7.

⁷⁴ See *Sydney Morning Herald* March 10, 1965, p. 4; March 12, 1965, p. 6.

the first public expressions of community attachment to place in a heritage context in NSW.

'The loss or impending loss of familiar buildings, parkland and potential parkland, or of access to coastlines, foreshores and pleasant landscapes, is an obvious cause of distress to many people.'⁷⁵

Justice Hope's (1974) report notes the 'almost willful official unconcern' about citizens' concerns for the quality of their traditional environment

In Chris Johnson's (1994) paper on social significance in she writes that if you want to know whether or not a place has social value you can either just ask the locals or you can 'threaten the place and then wait to hear from the community if they care about it'.

1967 The *National Parks and Wildlife Act*.

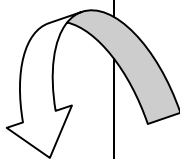
Vaucluse House, Hill End, and Hartley were among a number of built heritage sites vested in the NPWS at the time of its formation (Vaucluse House was later transferred to the Historic Houses Trust).

Industrial Archaeology Committee (National Trust) established. Early historical archaeology in Australia was largely concerned with industrialisation and the spread of modernity. It focused on technology rather than social effects and context of industrialisation.

1968 An **Aboriginal Relics Committee** established to assist in the preparation of draft legislation to protect Aboriginal heritage places in NSW. There was no Aboriginal representation on Committee. To put this into historical perspective, it was only in 1967 that a referendum agreed to allow Aboriginal people to be counted as citizens in the Australian census. Through the 1970s NPWS played a leading role in gaining acceptance for Aboriginal involvement in heritage management.⁷⁶

Appointment by NPWS of its first staff member (Sharon Sullivan) to administer cultural heritage.

1969



Phase I in the history of Aboriginal heritage management:

Site Protection 1969 – 1980 (see Section 3.1).

Characterised by:

- Legislative protection for Aboriginal 'relics'
- Domination of the Aboriginal heritage field by archaeology
- First recognition of Aboriginal community values via the Sites of Significance Survey (1973-83)

National Parks and Wildlife (Amendment) Act. The beginning of legal protection for Aboriginal heritage places and objects ('relics').

1970s A **generation** of heritage professionals arrive on the scene and, in a sense, relieve the community of the burden of having to fight for their historic neighbourhoods. The old buildings would now be saved by the force of rational and scholarly processes of investigation, documentation and assessment (architectural and archaeological arguments would be constructed for saving them).

⁷⁵ R.M. Hope (Justice), *Report of the National Estate* (Canberra: Australian Government Publishing Service, 1974), p. 26.

⁷⁶ Charles, 'Shaping the Service,' 1998, p. 61.

Heritage begins to be bureaucratised in the 1970s in Australia. A conservationist predicted: 'statutory controls would take the heat out of 'the preservation war.'⁷⁷

Antiquarianism. The private collecting of Aboriginal artefacts became illegal under the new 'relics' legislation in Australia. There was a perception that this spelt the end of antiquarianism as a point of view (attitude or habit of thought). Ellis, however, argues that archaeologists working in the Aboriginal heritage field are themselves, in fact, deeply antiquarian.⁷⁸ This type of 'archaeology' seems to have little or no interest in Aboriginal agency in history, in the social context of archaeological remains, or in Aboriginal historic period (post-contact) archaeology.

To a great extent heritage archaeology involved the recording of sites as an end in itself. From one point of view, the 1970s simply meant that artefact collecting was replaced by site collecting (site inventories take over from museums as 'hoards' of Aboriginal remains disconnected from living Aboriginal culture).

See below for later references to antiquarianism (1885, 1930, 1970s, 1990)

1970 **The rise of the 'new social history'** in Australian universities was linked to the civil rights movements of the 1970s. This was the first real challenge to the conventional 'national' history narrative of heroic pioneers, mateship in the bush etc. Subsequent work in social history formed part of the basis for the acknowledgement of the social significance of heritage places and landscapes

Women's liberation movement began to create a place for women and gender in Australia history (and heritage). The work of the first Australian feminist historians begins to appear.

Established, at NPWS, a small 'Aboriginal sites' unit. This unit immediately began building an Aboriginal Sites Register (by 1974 the Register has 9,650 sites, including 200 sacred/ceremonial sites and 5,000 rock art sites).⁷⁹

Established, at NPWS, the Aboriginal Relics Advisory Committee. Members included representatives of the Australian Museum, the Mines Department, and the Anthropological Society of NSW together with two practising archaeologists. There were no Aboriginal representatives on Committee.

1971 **Green Ban.** The first Green Ban imposed by the Builders Labourers Federation over Kelly's Bush at Hunter's Hill (Sydney). The area of bushland had long been used and enjoyed by local residents. In the 1960s proposals were made to develop and subdivide the bushland for housing. A group of local women, the Battlers for Kelly's Bush, supported by many residents, campaigned to save the bushland; the Builders Labourers Federation, sympathetic to their cause, placed the first Green Ban on the site in 1971 (identifying it as a site where its members would not work).⁸⁰

1972 **CRM.** 1972-74. The term Cultural Resource Management (CRM) first came into use in the US. An unfortunate effect of the term was that it conveyed the impression of covering all cultural heritage issues (including, for instance, social significance) whereas in practice it was almost exclusively concerned with the archaeological value

⁷⁷ Graeme Davison, 'The meaning of heritage,' in G. Davison and Chris McConville, *A Heritage Handbook* (Sydney: Allen and Unwin. 1991), p. 26.

⁷⁸ Bob Ellis, 'Rethinking the paradigm: cultural heritage management in Queensland,' *Ngulaig* 10 (1994).

⁷⁹ R.M. Hope (Justice) 1974, p. 166.

⁸⁰ Meredith Walker, *Protecting the Social Value of Public Places* (Canberra: The Australian Council of National Trusts. 1998), p. 22.

of 'archaeological' sites.⁸¹

Use of the term CRM became common in Australia by the early 1980s but by the 1990s had been abandoned in favour of 'heritage management'.

Tent embassy. The Aboriginal Tent Embassy in Canberra. Marked an upsurge of cultural consciousness in Aboriginal people, partly influenced by the 1960s civil rights movement in America.

First survey. Archaeological surveys to assess the impact of development proposals began in 1972 with the Moomba to Sydney natural gas pipeline project. Earlier surveys generally related to academic research.⁸² Because a qualification in the NPW Act did not secure protection of 'relics', the NPWS requested the Department of Mines, on granting a licence to construct and operate the Moomba pipeline, to include with it a schedule of conditions aimed at the protection of Aboriginal relics.⁸³

1973 **First.** The NPWS Sites of Significance Survey program (1973-1983) began work. The Survey team consisted of anthropologist, Howard Creamer, and a team of Aboriginal researchers led by Ray Kelly (appointed 1973) and including Glen Morris, Wayne Cook, Sabu Dunn, and Jolanda Gonda.⁸⁴ The Survey constituted the first public/official recognition in NSW of the social significance of heritage places to Aboriginal people.

Nearly 500 reports on Aboriginal sites and areas were produced, with the emphasis on Dreaming sites, ceremonial sites (including bora grounds, birthing sites, increase sites), post-contact period cemeteries, and 'mission' sites. Nearly 600 sites were recorded by the Survey which was unique in southeastern Australia, at the time, insofar as it approached the recording of sites on the basis of knowledge held in Aboriginal communities rather than by archaeological field recording.

The termination of the Survey in the early 1980s (as Aboriginal heritage management was swamped by the EIA process - see Section 3.1) marked a major loss of initiative in terms of the Service's openness to the social significance of heritage places to Aboriginal people.

Hope Report. The Commission of Inquiry into the National Estate chaired by Justice Hope. This took place in the context of the 'new nationalism' of the Whitlam years.⁸⁵ Finding No. 6c defined the components of the natural and cultural environment forming National Estate as those which are 'of such aesthetic, historical, scientific, social, cultural, ecological or other special value to the nation or any part of it...'⁸⁶

1974 **Victorian Historic Buildings Act,** the first legislation to protect non-Indigenous

⁸¹ Thomas F. King, 'How the archaeologists stole culture: a gap in American environmental impact assessment practice and how to fill it,' *Environmental Impact Assessment Review* 18 (1998): 117-133, p. 124.

⁸² E.g., Rosemary Buchan, Report on an archaeological survey in the Murray Valley, NSW, 1973-4. Report to the Australian Institute of Aboriginal Studies and the National Parks & Wildlife Service, 1974. C-884.

⁸³ Rosemary Buchan, Report on the situation regarding Aboriginal relics and the pipeline route from Sydney to Newcastle. From NPWS Submission to SPCC Enquiry, November 1975 (1975). C-1303.

⁸⁴ Ray Kelly, 'From the "Keepara" to the "cultural bind" - an analysis of the Aboriginal situation,' *Australian Archaeological Association Newsletter* 2 (1975), pp. 13-17; Howard Creamer, 'A Gift and a Dreaming: The NSW Survey of Aboriginal Sacred and Significant Sites 1973-1983.' Unpublished ms. NPWS Dec 1984. See also Charles 1998, pp. 62-64. The Survey was funded by the Australian Institute of Aboriginal Studies until 1979 and by the NPWS thereafter.

⁸⁵ Graeme Davison, 'The meaning of "heritage"', in Graeme Davison and Chris McConville (eds), *A Heritage Handbook* (Sydney: Allen and Unwin, 1991), pp. 1-27. P. 6.

⁸⁶ *Report of the Committee of Inquiry into the National Estate*, p. 334.

heritage places in Australia.

NSW National Parks and Wildlife Act amended. Provision was made for gazettal of Aboriginal Places: places 'of special significance with respect to Aboriginal culture'. This provided protection for Dreaming sites (natural landscape features) and other places whose cultural significance to Aboriginal people was not manifest *vis-a-vis* material remains. This constituted the first legislative recognition in NSW that the State's living Aboriginal people had an attachment to heritage sites (the first recognition of the social significance of 'sites' to Aboriginal people).

Relics Committee. 'A proposal to include statutory Aboriginal representation on the Relics Committee was not approved. Slightly later in the decade, an Aboriginal representative, nominated by the Aboriginal Lands Trust, was appointed to the Committee, as one of two Ministerial appointees.'⁸⁷

1975

Abandoned. The Assimilation Policy (1937-1975) was abandoned as government policy in 1975. It was officially abandoned at about the same time as the beginning of legislative protection for Aboriginal heritage. It would be wrong to see this as a complete break in government policy. The Assimilation Policy had always been based on the idea that Aboriginal people would be assimilated by adopting Anglo-Celtic cultural modes. What the new Relics Acts enabled in south east Australia was not a new respect or appreciation of Aboriginal cultural modes but the establishment of archaeology as the officially approved way of appreciating Aboriginal culture.⁸⁸ It has been suggested that when Aboriginal 'trainees' were brought into heritage agencies it was 'in the expectation that they would assume and share the values of the archaeological discipline, its practices and preoccupations.'⁸⁹ The relevance of this to the present study is that the heritage conservation model adopted in south east Australia was never intended to cater to the Aboriginal view of culture or the Aboriginal view of heritage places.

Revival. The Aboriginal cultural revival movement in NSW. At about this time 'culture camps' for boys and young men first began to be conducted by Aboriginal elders in NSW. The revival movement also saw the establishment of language programs in Bandjalung and other NSW Aboriginal languages. There was a dramatic increase in Aboriginal expressions of concern for and interest in heritage places.⁹⁰

Significance. The Australian Heritage Commission Act 1975 defined the National Estate as 'those places being components of the natural environment of Australia or the cultural environment of Australia, that have aesthetic, historic, scientific or social significance or other special value...' (s.4(1)).

- This appears to be based on the Hope report definition, the words 'cultural' and 'ecological' having been dropped in transition (see Fig. 12 in Appendix 1).
- Established the significance concept in heritage management in Australia
- Established the concept of 'social significance' - see also Burra Charter 1979 (below)

⁸⁷ Sharon Sullivan, 'The Interim Aboriginal Sites Committee in NSW: communication between archaeologists and Aborigines,' in Moya Smith (ed), *Archaeology at ANZAAS* (Perth: Department of Anthropology, Western Australian Museum. 1983), pp. 322-328. P. 323.

⁸⁸ Bob Ellis, 'Rethinking the paradigm...' pp. 7-11.

⁸⁹ Bob Ellis, 'Rethinking the paradigm...' pp. 11.

⁹⁰ Ray Kelly, 'From "Keeparra" to the "cultural bind" - an analysis of the Aboriginal situation,' *Australian Archaeological Association Newsletter* 2 (1975): 13-17; Ray Kelly, 'A revival of Aboriginal culture,' in C. Haigh and W. Goldstein (eds), *The Aborigines of New South Wales* (Sydney: NSW National Parks and Wildlife Service. 1980).

⁹¹ Early books by Henry Reynolds were *The Other Side of the Frontier* (Townsville: James Cook University. 1981) and *Frontier* (Sydney: Allen and Unwin. 1987). Lyndall Ryan's early work included 'The struggle for recognition: part Aborigines in Tasmania in the nineteenth century,' *Aboriginal History* 1(1), 1977.

- 'Other side'. From the mid-1970s the work of Henry Reynolds, Lyndall Ryan, and others focused on the Aboriginal experience of colonialism.⁹¹ This represented the first concerted effort by white historians to depict the 'other side' of the colonial experience. This work formed part of the basis for recognising the historical significance of post-contact places and landscapes to Aboriginal people and communities.
- 1976** **Research.** The Scientific Services section for research in nature conservation was established at NPWS. An equivalent research unit for cultural heritage was not established at NPWS till 1997.
- 1977** **Testimonial writing.** The first biographies and autobiographies written by NSW Aboriginal people appeared in the late 1970s. These providing a 'view from the inside' of Aboriginal experience in the cultural landscape of NSW. Early examples were the autobiographical writing of Kevin Gilbert and the assisted autobiography of Mum Shirl.⁹² This 'testimonial' writing provided a foundation for mapping the Aboriginal experience through the course of the 20th century. It provided a unique insight into the social significance of heritage place to Aboriginal people.
- Australia ICOMOS** began a review of the applicability of the Venice Charter to Australia (this resulted in the Burra Charter)
- Publication** of Schiffer & Gumerman's book, *Conservation Archaeology*, the first major discussion of significance assessment in archaeology.⁹³
- 1979** **Burra Charter**, adopted, 1979 by Australia ICOMOS at a meeting in Burra, South Australia (*The Australia ICOMOS charter for the conservation of places of cultural significance*). The Charter was a major force in establishing the four-part framework of significance categories: aesthetic, historical, scientific, social.
- AACA.** The formation of the Australian Association of Consulting Archaeologists (AACA). The Association, arguably, has had a considerable influence in strengthening archaeology's 'hold' on the EIA process, especially in relation to Aboriginal heritage places.
- EPA.** NSW *Environmental Planning and Assessment Act* (EPA). This Act formalised the requirement that development proponents carry out investigations to ensure that Aboriginal sites were not impacted by development projects.
- EPA Regulation 1979, Section 56** stipulated that social significance (among other values) was to be taken into account in regard to EIA.
- The Act defined the environment broadly as covering 'all aspects of the surroundings of humans, whether affecting any human as an individual or his or her social groupings.' In implementation, however, only the scientific (archaeological) significance of Aboriginal heritage places has tended to be assessed.

⁹² Kevin Gilbert, *Living Black* (Melbourne: Allen Lane. 1977); Mum Shirl and Bobby Sykes, *Mum Shirl* (Melbourne: Heinemann. 1981).

⁹³ Michael Schiffer and George J. Gumerman, *Conservation Archaeology: A Guide for Cultural Resource Management Studies* (New York: Academic Press. 1977).

1980



**Phase II in the history of Aboriginal heritage management:
EIA-Archaeology 1980- 2000** (see Section 3.1)

- In this period Aboriginal heritage management in NSW was 'swamped' by EIA archaeology to the virtual exclusion of community heritage values.
- A system of 'Aboriginal consultation' succeeded in involving Aboriginal people in the assessment of archaeological value but failed to assess Aboriginal community heritage values in relation to development areas.

Advisory Committee. The NPWS Aboriginal Advisory Committee was restructured by the Minister to give it an Aboriginal majority. The new committee was called the Interim Aboriginal Sites Committee. An Aboriginal sub-committee and archaeological sub-committee established within the new committee.

One of the main tasks of the Aboriginal sub-committee was to decide on the adequacy of 'Aboriginal consultation' in the context of specific Consent applications and applications to carry out research on Aboriginal heritage places.

'The most common problem is uncertainty about the extent of Aboriginal consultation and where this doubt arises there is usually a recommendation that further consultation be undertaken'⁹⁴

1981

Symposium. A symposium entitled, 'Assessing the Significance of Archaeological Sites,' was held at Springwood as part of the Australian Archaeological Association's annual conference. It focused only on scientific (archaeological) significance.⁹⁵ It marks the early awareness of the significance concept by archaeologists working in the field of Aboriginal heritage. Subsequently (over the next 20 years or so), there appears to have been confusion about significance categories among archaeologists working in this area (see Section 9.5 of this report).

There was a perception, at this time, that where a place had social significance this would be readily apparent because 'society' would make its views felt. The 'heritage wars' of the previous decade involving residents of 'heritage' areas like The Rocks and Woolloomooloo were perhaps seen as a model for this.

'This public appeal ... is usually apparent, or tends to demonstrate itself, in contrast to research significance, the assessment of which requires specialist skills and criteria.'⁹⁶

In the light of later scholarship and commentary by people like Dolores Hayden⁹⁷ [but see also Bickford's 1981 paper] we now appreciate that social significance will only present itself in this way if the people who hold these values also have a public voice.

⁹⁴ Sharon Sullivan, 'The Interim Aboriginal Sites Committee in NSW, p. 326.

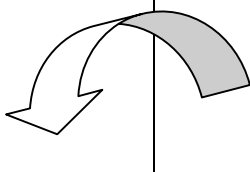
⁹⁵ Proceedings subsequently published as: *Site Surveys and Significance Assessment* Sharon Sullivan and Sandra Bowdler (eds), *Site Surveys and Significance Assessment in Australian Archaeology* (Canberra: Dept Prehistory, Research School of Pacific Studies, The Australian National University. 1984).

⁹⁶ Sharon Sullivan, 'Introduction', in S. Sullivan and S. Bowdler (eds), *Site Surveys and Significance Assessment in Australian Archaeology*, p. vi. Note, though, that Sullivan was an energetic and powerful proponent of the involvement of Aboriginal people in heritage management.

⁹⁷ Dolores Hayden, *The Power of Place: Urban Landscapes and Public History* (Cambridge, Massachusetts: The MIT Press. 1995).

Stating the problem

- 1983** Passed. NSW Aboriginal Land Rights Act. This Act led to the establishment of a network of Local Aboriginal Land Councils throughout NSW. These quickly became points of contact for consultant archaeologists engaged in EIA field surveys and excavations. This development was one of the main ingredients in the new style of 'Aboriginal consultation' in EIA:
- a) it represented a departure from the type of Aboriginal community involvement pioneered by the NPWS Sites of Significance Survey program (1973-1983) with an emphasis on oral history recording and spiritual attachment.
 - b) it led to a focus on archaeological significance
- 1992** **Mabo decision.** The High Court's Mabo decision led to the recognition of Native Title and a legal-administrative process for claiming it.
- By the mid-1990s traditional owner and Native Title claimant groups were being established around NSW. NPWS policy recognised that these groups, in addition to Aboriginal Land Councils, be consulted on heritage matters (e.g., by NPWS staff and EIA consultants).
- 1994** **Rethinking.** Publication of Bob Ellis's important paper, 'Rethinking the paradigm: cultural heritage management in Queensland.'⁹⁸ This was a major critique of the influence of archaeology in Aboriginal heritage management. Ellis argued that heritage agencies had become 'archaeological support groups.'⁹⁹ He advocated the recognition of community heritage values.
- 1997** **Introduced** in NSW, the Integrated Development Assessment (IDA). This was provided for in the new Environmental Planning and Assessment Act 1997.
- 1998** **Integrated Development Assessment Process.** In July 1998 NPWS released a document entitled, 'Aboriginal Cultural Heritage and the Integrated Development Assessment Process'. Where the IDA process was triggered, NPWS would require 'community assessment of any Aboriginal sites'.¹⁰⁰
- 2000** **CHD.** The Cultural Heritage Division formed at NPWS by amalgamation of the previous Aboriginal Heritage Division and the Cultural Heritage Services Division.
- The advent of a multi-dimensional, holistic approach to cultural heritage. This approach would be characterised by an expansion into the social, historical and landscape dimensions of cultural heritage.



Holistic approach

New multi-dimensional approach to cultural heritage at NPWS

⁹⁸ Bob Ellis, 'Rethinking the paradigm: cultural heritage management in Queensland,' *Ngulaig* 10 (1994).

⁹⁹ Ellis 1994, p. 15.

¹⁰⁰ 'Aboriginal Cultural Heritage and the Integrated Development Assessment Process: Information for Applicants,' NPWS, July 1, 1998, p. 4.

Part 2

Deeper issues

4. Introduction: cultural heritage and the social sciences

Part 2 of this paper looks at some of the more theoretical concepts and issues which underpin our understanding of the social significance of heritage places and landscapes. This is in line with the discussion paper's twin objectives:

- to present a reasoned case for the NPWS to expand its definition of cultural heritage to include the social, historical and landscape dimensions of that heritage.
- to provide a depth of knowledge and understanding to underwrite this change.

In the pages that follow we look at how current thinking in the social sciences may help us in understanding what communities are, what heritage is, and how people value heritage places.

A job of translation. The task outlined above is partly a job of translation. It is the job of the NPWS's researchers to bring into the agency new knowledge in their fields of expertise and to do this in a way that allows this knowledge:

- a) to be understood by those in the Service who are interested in new ideas but don't themselves understand the technical and conceptual language of the various disciplines well enough to access the literature of these disciplines;
- b) to be made relevant to the practical realities of the work the Service does.

It has long been one of the roles of the Service's natural science researchers to perform this job of translation. This discussion paper is a product of the recent creation within the NPWS of a research unit in cultural heritage whose role mirrors that of the Service's Biodiversity Research and Management Division.

The state of the social sciences. It is proposed that some of the radical changes in the social sciences in recent times, particularly in history and anthropology, are propitious to the Service giving greater acknowledgement to the social significance of heritage places. Another way of putting this is to say that much of the work being done in history and anthropology over the last few decades is highly applicable to the assessment of social significance and can be useful in putting this assessment on a realistic basis.

Historians in 2000 are far more concerned with the history of local, peripheral groups and underclasses than they were in 1960 or even 1980. The rapid growth in the field of public history is testament to this. Historians are also more interested in space and place: they are interested in the relationship and attachment which people in the past have had with particular places and landscapes. Anthropologists, for their part, have embraced history, breaking free of the tendency (embedded in the structuralist approach) to see non-Western societies as 'timeless' and unchanging structured entities. All human cultures are now seen to be subject to constant change and continual reinvention.

Insulated. Cultural heritage practice in NSW has been dominated over the last 30 years or so by people trained in archaeology and architecture. One affect of this has been that much of the new work in fields such as cultural geography, cultural studies, public history, anthropology, and sociology – work that often has produced ideas and insights highly relevant to what we do – has remained unknown to heritage workers and has been of little or no benefit to the field.

This situation has been exacerbated by the fact that often the archaeologists and conservation architects who have made up the majority of the cultural heritage workforce have not kept abreast of new thinking even in their own fields. This is understandable given that, working as they do in private practice (as consultants) or in government agencies, background reading tends not to be considered 'core business' in the way it would be if they were working in universities. It also reflects a tendency for heritage work to become tailored to particular bureaucratic systems where the incentive is to produce work that fits a particular approach or paradigm. There is little incentive to be inventive outside of this paradigm.

It is characteristic of publications and reports emanating from the field of social significance assessment that the literature they reference – to the extent that they reference any at all – consists almost entirely of other heritage publications and reports. In Australia, the field has its intellectual grounding in architecture and geography rather than in the social sciences.¹ This relatively closed circle, we suggest, has created a largely un-theorised field whose methodology seems largely *ad hoc* and whose interpretations and determinations often lack transparency.

Connecting. There is a danger that as time goes by the ship of practice will have sailed so far from the ship of knowledge that there will be almost no way back and they will each have gone beyond the range of communication. The result would be a cultural heritage field insulated against new thinking (e.g., new thinking in the social sciences) and insulated from change. Our intention here is to help break this cycle.

In the sections which follow, a number of issues or concerns have been chosen for discussion on the basis of their relevance to the issue of the social significance of heritage places. An effort has been made to keep the discussion and arguments as straightforward as possible. The numbered footnotes provide references to books and journal articles for those who wish to pursue matters further.

¹ All the published literature cited by Chris Johnston in *What is Social Value?*, itself the standard reference on the subject, is in the fields of landscape architecture and geography. The papers in the Australian Heritage Commission's *People's Places: Identifying and Assessing Social Value for Communities* (Canberra, 1993) are characteristic of their field in their almost complete failure to cite any scholarly or scientific literature at all.

5. What are communities?

5.1 What is culture?

The whole package. In everyday language ‘culture’ is often taken to mean ‘high culture’, the realm of art galleries, dance theatre, writers festivals and orchestras. Here we use the word ‘culture’ in its anthropological sense to mean ‘whole ways of life’, the coherent totality of everything that is learned group behaviour. So it includes the kinship system of a society as well as its political system, high culture as well as popular culture, religious beliefs as well as attitudes to nature, the agricultural system as well as the manner of organising domestic space, table manners, how close you stand to a stranger at a bus stop, and so on. In other words ‘culture’ is taken to mean the whole package, everything that makes one society distinctive from another.

To some extent, in the twentieth century the culture concept replaced the racial classification of human differences. In the first half of the twentieth century, though, we retained a way of thinking about non-Western cultures which saw them as deeply embedded in individuals as a kind of unchanging *essence* which was not that different from the way we had thought about ‘blood’.² Not till the 1960s was it accepted that all cultures were constantly changing, constantly remaking themselves. The importance of this understanding for cultural heritage practice cannot be overestimated, nor can the implication that the social significance of heritage places is also subject to change, innovation, improvisation (see Section 7.1 below).

Culture as structure. Equally, it might be said that we have found it difficult to get away from the idea of culture as consisting of structures – for instance, social, economic, and political structures. Often we think and speak about such structures almost as if they have physical substance. This view of culture is associated with the functionalist and structuralist schools of anthropology which were dominant in the early and middle decades of the 20th century. Johannes Fabian refers to it as a ‘law-and-order’ concept of culture, a phrase which captures the sense of a somewhat rigid set of rules, customs and practices which you inherit at birth and which determine your social existence.³ This idea of culture as structure or substance can be seen to have encouraged or permitted the notion that different cultures have a sort of unchanging essence – not unlike the old idea of ‘blood’ – which marked them off from each other. In the words of Arjun Appadurai, ‘This substantialization seems to bring culture back into the discursive space of race, the very idea it was originally designed to combat.’⁴ What Appadurai is referring to here is the way that, though we have rejected race, in favour of culture, as a way of classifying people, we are still somehow pulled back into a way of thinking about behaviour – about culture – that makes an object out of it. The reason for dwelling on this point is that heritage practitioners might be said to be particularly prone to this ‘substantialization’ of culture. Our focus on physical substance, whether in the form of artefacts or built structures, often resembles a kind of fetishism (see Section 6.2).

The structuralist view of culture was thoroughly critiqued and dismantled in anthropology in the latter decades of the 20th century. It was replaced with an idea of culture which emphasised practice over structure. Cultures came to be seen as fluid and responsive to

² Gillian Cowlishaw, ‘Colour, culture and the Aboriginalists’, *Man* (N.S.), 22 (1987), pp. 221-37.

³ Johannes Fabian, *Moments of Freedom: Anthropology and Popular Culture* (Charlottesville and London: University of Virginia Press, 1998), p. 4.

⁴ Arjun Appadurai, *Modernity at Large* (Minneapolis & New York: University of Minneapolis Press, 1996), p. 12.

changing circumstances, as inventive and ever-changing. The boundaries around cultures came to be seen as porous zones rather than hard shells or impervious skins. In the old way of thinking, the idea of culture contact evoked the idea of cultures as billiard balls, a vision in which 'European culture bumped into non-European culture without merging.'⁵ This has been replaced with the notion of cultures which become 'entangled' when they come into contact. They borrow from each other and what they borrow they often 'rework' for their own purposes.⁶ We believe that it is this understanding of culture which should inform our work in the area of social significance assessment.

The discussion in the pages that follow does not attempt to comprehensively answer the very large question, 'what is culture?' The question is central to the projects of anthropology, sociology, history and cultural studies and there is a huge body of work and literature pertaining to it. Instead, some aspects have been chosen for discussion because they bear upon the subject of social significance.

5.2 Local knowledge and the lived world

The view from the inside. One of the most notable trends in the social sciences in the last few decades has been the 'call to the local and specific,' a 'call' that represents a turning away from or loss of confidence in sweeping general theories of how society works.⁷ In anthropology the best known pioneer in the investigation of the 'view from the inside' has been Clifford Geertz, famous for his concept of *local knowledge* which he describes as: 'significant worlds and the Indigenous outlooks that give them life'.⁸ Geertz emphasises the particular. What is important, here, from our point of view, is the shift of focus to the local community and the small-scale worlds of ordinary people. It is these worlds we turn to when considering the social significance of heritage places.

One immediately has to caution, though, as Geertz does, that you can never put yourself inside the local world of other people; you can only ever interpret, and interpretation lacks closure or finality. Critics of Geertz are concerned at the treatment of cultures as islands unto themselves, 'spaces' which are not subject to external or even global influence and power. They are also concerned at the limited scope in his model for local 'actors' to be self aware and to be agents of change.⁹ Some of the implications of this are taken up below (Section 7.1 *Modern Self-consciousness*).

In history, the trend to particularity has led through the course of the 1980s to a great deal of historical study concerned with how ordinary people experience the world and make sense of

⁵ Edmund Leach, 'Tribal ethnography: past, present, future', in *History and Ethnicity*, ed. E. Tonkin, M. McDonald, & M. Chapman (London: Routledge. 1989), pp. 34-47.

⁶ Nicholas Thomas, *Entangled Objects* (Cambridge [Mass.]: Harvard University Press. 1991).

⁷ Henrietta L. Moore, 'The changing nature of anthropological knowledge,' in Henrietta L. Moore (ed), *The Future of Anthropological Knowledge* (London and New York: Routledge. 1996), pp. 1-15. P. 2; George E. Marcus and Michael M.J. Fischer, *Anthropology as Cultural Critique* (Chicago & London: University of Chicago Press. 1986), p. 8.

⁸ Clifford Geertz, *Local Knowledge: Further Essays in Interpretive Anthropology* (New York: Basic Books. 1983).

⁹ Geertz's critics, most of whom also admire him, include Talad Asad, 'Anthropological conceptions of religion: reflections on Geertz,' *Man* 18 (1983); Roger Keesing, 'Anthropology as interpretive quest,' *Current Anthropology* 28 (1987): 161-62; Marshall Sahlins, *Islands in History* (Chicago: Chicago University Press. 1985); Eric Wolf, *Europe and the People Without History* (Berkeley and Los Angeles: University of California Press. 1982).

it.¹⁰ Perhaps the best known example of this type of history, from the 1980s, is Natalie Zemon Davis's book (later a film), *The Return of Martin Guerre*.¹¹ Davis 'uses a series of incidents from the peasant life of sixteenth century France to probe local sentiments, motivations, values, feelings, and *the lived world*' (emphasis added).¹² At a certain level, this list of headings could almost represent the agenda for social significance assessment. In the assessment of social significance we are concerned not with the meaning of heritage places in the fields of archaeology or architecture, but their meaning in 'the lived world' of ordinary people. There is clearly support, in the work cited here, for a type of heritage management which is protective of old places and things in the context of their own 'local world'.

Landscapes of signs. Anthropology tells us that we are symbolic beings. In the course of our lives we assign meanings to places and things which differ from the 'obvious' or practical meaning they have for us. In an example given below (in *Places with local futures* - Section 7.1) a shell midden comes to signify the fate of the 'old people' who produced the site and occupied it. The fact is that every local landscape is populated with places to which local people have given symbolic meaning.¹³ These meanings are 'inscribed' invisibly onto places and although they can be easily 'read' by local people, they will be invisible to outsiders. Places thus function as signs, in the sense that they are signified with meaning (hence the concept of *significance*). When we assess the local heritage value of places we seek to gain access to this local knowledge in order to conserve places not just for their obvious meaning (e.g., a shell midden as a shell midden) but for the meanings assigned to them by local people.

For much of the post-contact period in Australia the white authorities strove to limit the visibility of Aboriginal people in the colonised landscape as well as to suppress any aspect of Aboriginal culture not considered to be in line with the white 'civilising' mission. Even under such circumstances, though much of the old knowledge was lost, elements of the meaning of the 'traditional' landscape were still able to survive. No amount of official surveillance or suppression can control meanings people give to places in the privacy of their own minds or which they communicate in private conversation. The keeping alive of this 'landscape of signs' can become almost an act of defiance, an element of what Gillian Cowlishaw has called 'oppositional culture'.¹⁴

Up until very recently, the Aboriginal side of Australia's post-1788 history received little public attention and was largely 'written out' of school history books, white local histories, and heritage registers. Aboriginal people themselves, however, recorded their own local histories, partly in the form of the invisible meanings they inscribed places with – i.e., meanings invisible to 'outsiders'. The old massacre site, the old fringe camp which is now a vacant paddock, the land they cleared for a white farmer, the 'sites of segregation' such as the town hospital, picture theatre and public swimming pool – the meaning of these places was 'mapped' and recorded in people's minds.¹⁵ One of the reasons for documenting the meaning places have for local communities is, then, that there are histories there which would otherwise be invisible. The scenario described here lends itself to the notion of 'encrypted'

¹⁰ Aletta Biersack, 'Local knowledge, local history: Geertz and beyond,' in Lynn Hunt (ed), *The New Cultural History* (Berkeley: University of California Press. 1989), pp. 72-96. P. 76.

¹¹ Natalie Zemon Davis, *The Return of Martin Guerre* (Cambridge, Mass. 1983).

¹² Biersack, 'Local knowledge...', p. 76.

¹³ There is a very large and varied literature on this, including the following: papers in Steven Field and Keith H. Basso (eds), *Senses of Place* (Santa Fe: School of American Research. 1996; Kathleen Stewart, *A Space on the Side of the Road* (Princeton: Princeton University Press. 1996; Christopher Tilly, *A Phenomenology of Landscape* (Oxford: Berg. 1994).

¹⁴ Gillian Cowlishaw, *Black, White or Brindle* (Cambridge University Press: Cambridge. 1988), pp.132-37.

¹⁵ Denis Byrne, 'The archaeology of disaster,' *Public History Review* 5/6 (1996-7), pp. 17-29.

significance, both in the sense of a secret or semi-secret knowledge (unknown to officialdom) and in the sense of a buried, underground knowledge.¹⁶ We thus come to an understanding of how any given landscape can have several different layers of signs, some of them more publicly accessible than others.

History as narrative. Since the 1950s many historians, particularly those influenced by the *Annales* school, have focused on the narrative aspect of historical production. Hayden White, drawing upon the work of Paul Ricoeur, describes historical productions as allegorical. He has it that the historian is engaged not in fiction, because the events dealt with are and were real, but in imagination.

How else can any past, which by definition comprises events, processes, structures, and so forth, considered to be no longer perceivable, be represented in either consciousness or discourse except in an "imaginary" way? Is it not possible that the question of narrative in any discussion of historical theory is always finally about the function of imagination in the production of a *specifically human truth*? (emphasis added).¹⁷

While there is a fair degree of acceptance for the view that there can be no final, definitive version of an historical event, this obviously does not stop professional historians combing the archives to ensure their 'narratives' have maximum possible accuracy in representing what happened in the past. On the other hand, it seems clear that the acceptance that there will always be different versions of history has given impetus to the public history movement and the attention given to recording oral histories.

Specifically human truths. In the of environmental impact assessment (EIA), which is the context for so much of the work in cultural heritage carried out these days, there is understandably a concern to establish objective truths. The primary responsibility of the cultural heritage practitioner always remains, however, that of representing the 'specifically human truth', to borrow Hayden White's phrase. The specifically human truth of the meaning of places to individuals and communities is rarely the quantifiable, provable truth of physics, biology or geology. The cultural meaning of a place may be contested locally; different local people may 'narrativize' a place differently. It is not the role of the heritage practitioner to resolve such contestation.¹⁸

It can be argued that heritage agencies such as the NPWS have a role in educating government and other stakeholders in EIA as to the forms that significance takes at a local level and the social processes by which places become meaningful to people.

Subjects of history. If historians were becoming interested in cultures, anthropologists from the 1970s were becoming increasingly interested in history (see, for instance, Eric Wolf's work on historical change in non-Western cultures).¹⁹ Not only were they becoming interested in the history of the peoples they studied, they were becoming increasingly interested in their own history as anthropologists. The work of Talad Asad, for instance, situated anthropology within the project of colonialism, arguing that it provided colonial

¹⁶ The idea of encrypted significance has been drawn from Erik Mueggler, 'A carceral regime, violence and social memory in Southwest China,' *Cultural Anthropology* 13 (1998), pp. 167-192.

¹⁷ Hayden White, *The Content of the Form* (Baltimore: Johns Hopkins University Press. 1987), p. 57.

¹⁸ Note that the ICOMOS 'Draft Code on the Ethics of Co-Existence in Conserving Significant Places' (1997). Article 14: 'where appropriate, seek co-existence of differing perceptions of cultural significance rather than resolution'.

¹⁹ Adam Kuper, *Anthropology and Anthropologists* (Routledge: London & New York. Revised edition 1996), p. 182

powers with the means to understand and manipulate or govern their colonial subjects.²⁰ In other words, historians and anthropologists turned to consider themselves not just as interpreters of history and society but also as subjects of history and society.

The cultural heritage field is something of an oddity in the social sciences in the extent to which it seems largely unaware of its own historical development. There has been a strong tendency for we heritage practitioners to ‘naturalise’ our area of work, in other words, to see what we do as a natural response to an obvious need (e.g., a nice old building is collapsing, we go out and conserve it). We do not see our own work as ‘producing’ heritage, or as producing a particular view of heritage.

5.3 What is a cultural landscape?

Contested landscapes. The discourse of heritage is comparatively recent. We have not always regarded old places as ‘heritage’, and yet nobody these days can disregard their heritage without running the risk of being left out of history. In NSW, the Aboriginal post-contact experience exemplifies this.

In settler colonies it is not enough just to occupy the new landscape, you must inscribe it culturally. The new country must begin to reflect your presence. To cease being foreigners and start being citizens, to start being *of* a place instead of merely being *in* a place, the landscape needs to begin tell your story. In country NSW the history of white settlement is commemorated in local history books, local museums, local government heritage studies. In almost all cases these refer to Aboriginal occupation prior to, but not after, white settlement. Aboriginal fringe camps and missions rarely get a mention, Aboriginal participation in local industries such as sheep shearing, crop picking, fishing, logging, or mining, rarely gets a mention. The touchy subject of race relations is routinely left out. Effectively, the Aboriginal presence and experience in the local landscape after the time of white settlement is erased from public view. What is publicly visible as a landscape is a landscape filled up with the heritage of white settlement, one in which there is no space for the heritage of the Aboriginal experience.

This is hardly surprising. Heritage is a field that is highly contested and social groups which have most power have most chance of having their story or experience commemorated as history. Dolores Hayden has shown, for instance, how heritage landscapes in the USA have not only routinely excluded African-Americans and their historical experience, they have also excluded the white working class and its historical experience, just as they have tended to exclude women and their historical experience.²¹ If you are a minority group, heritage visibility is often a matter of struggle. Not to struggle for visibility is to remain invisible in the heritage landscape.

Shared history – shared heritage. Presumably the proper role of heritage managers and professionals is not to participate in this struggle over visibility in the cultural-historical landscape. Rather, our role is to facilitate the visibility of all. The Aboriginal leader, John Ah Kit, has attributed the difficulty in obtaining recognition for Aboriginal post-contact heritage places in the Northern Territory to a refusal by white people to admit to a ‘shared history’:

²⁰ Talal Asad, *Anthropology and the Colonial Encounter* (London: Ithaca Press. 1973).

²¹ Dolores Hayden, *The Power of Place* (Cambridge, Massachusetts: MIT Press. 1995).

People chose to be blind to this living heritage because it confronts them with a shared history of colonialism in the Northern Territory – and it makes them uncomfortable...²²

The landscapes of the pastoral industry in NSW are a good example of a 'theatre' where Aboriginal and white people engaged together in a climate of interdependence.²³ Many of the heritage places representing the history of the pastoral industry cannot be interpreted without reference to both Aboriginal and white culture. They, along with so many other traces of the last 213 years of history in NSW, transcend the categories of Aboriginal and non-Indigenous (historic) heritage.

Cultural landscapes as social constructs. Much of the space-related work in the social sciences and humanities since at least the 1960s is founded on the idea that space and landscape are socially constructed. They are seen as deriving their meaning, and often even their physical form, from the actions and imaginations of people in society. We are familiar with the idea of *landscape formation* as a geomorphic process involving erosion and sedimentation, a process whereby mountains are gradually broken down and river deltas gradually built up. We are less familiar, though, with the idea of landscape formation as a social process which involves:

- a) THE BUILT LANDSCAPE: the visible built environment of houses, churches, roads, farms, plantations, sewer lines.
- b) THE LANDSCAPE OF MEMORY: the invisible component of the cultural environment which consists of the *associations* which both natural and 'built' features of the landscape have for people.

It is the second of these which is the subject of social significance assessment. The memory associations may be public or official ones, as in the case, for instance, of the beach at Gallipoli which Australians (of the older generation, at least) see as not just as a formation of sand and rock and bushes but as a crucible of suffering and bravery.

What is more real? It would be wrong to think that the built and the natural elements of landscape are more real than the cultural landscape. The fact that these elements are physical and visible does not mean they form our primary experience of landscape with memory forming a secondary, more remote experience. This may well be the case for strangers or tourists moving through a foreign landscape, but for the local people who move through this same landscape may be to move through their memories. The anthropologist, Susanne Küchler, describes how for natives of the Melanesian island of New Ireland the experience of walking through the landscape is an experience of collecting or 're-collecting' memories:

The secondary forest and the garden land surrounding each settlement offers an extended journey into the burial places of memory. The pathways which connect gardens, settlements and villages connect also past settlements, so that each journey done by foot is a journey in which buried, forgotten landscape is quite literally re-collected as nut and fruit trees are harvested by the passers by.²⁴

The surface of the ground is both affected by and changed by memory.

²² John Ah Kit, 'Aboriginal aspirations for heritage conservation,' *Historic Environment* 11(1995), pp. 34-36 (p. 35).

²³ See Rodney Harrison, *Shared Landscapes*, (Sydney: NPWS and the University of NSW Press, forthcoming 2003-2004).

²⁴ Susanne Küchler, 'Landscape as memory: the mapping of process and its representation in a Melanesian society,' in Barbara Bender (ed), *Landscape: Politics and Perspectives* (Providence and Oxford: Berg. 1993), p. 100.

Mapping. Many of us have had the experience of trying to locate a feature on a topographic survey map with the help of a farmer or a member of a local Aboriginal community. Often, on first examining the map they will say that ‘they’ (the map maker) ‘have got it wrong’ because the mental map they have of their local landscape is so different from the one shown on the published map. These mental maps have often been built up over a lifetime and are far more complex than any map on paper could ever be.

Social significance assessment is partly to do with attempting to give validity to the maps that people hold in their minds. One of the obstacles to effective social significance assessment is the habit which heritage professionals sometimes have of forcing the local, mental map into the straitjacket of the official printed map.

Overlapping Cultural Landscapes. Societies tend not to be homogeneous entities. Rather, they consist of coexisting fractions, such as ethnic minorities, sub-cultures, genders, socio-economic classes, and religious congregations. These fractions each ‘construct’ different landscapes. It is not difficult to imagine, for instance, that the way a resident of Vaucluse maps Sydney might differ from the way a resident of Blacktown maps it. The former may map it as a landscape populated with private schools, corporate office towers, Italian designer boutiques, yacht anchorages and cocktail circuits. The latter may map it as populated with state schools, suburban shopping malls, George Street cinemas, Darling Harbour, and RSL clubs. This is not to say there are not areas of overlap – the Sydney Cricket Ground, for instance, might be a key site on both maps. Yet it seems fair to say that each of these people experience Sydney as a somewhat different place – in cultural landscape terms, they *are* two different places.

To convey the idea of how two landscapes can occupy the same place at the same time we offer the following description of an imaginary country town somewhere in NSW in the 1950s.

The town, with its paved streets, cinema, pubs, streets of houses, the surrounding landscape of fenced paddocks, the highways and other infrastructure, is a product of Anglo-Celtic settlement. But half a kilometre away from the edge of town is an Aboriginal reserve whose occupants carry around in their minds a map of the local landscape which, though it accurately represents the reality of daily life for these people, would likely be unrecognisable to the town’s white citizens.

The Aboriginal landscape would consist of the reserve and its immediate environment, spaces that are intimately known and signified by Aboriginal people but either a no-go area for whites or a place they prefer not to see. The landscape includes fishing and hunting places in the swamps, creeks and forests as well as the Christmas camp down on the coast where the reserve community spends several weeks a year camping. It also consists of a web of routes and pathways, many of which follow trajectories dictated by the patterning of ‘friendly’ as opposed to ‘unfriendly’ landowners who will or will not let Aboriginal people cross their land or fish, hunt, or camp there. This web and the vast amount of information supporting it is critical to the ‘underground’ occupation or utilisation of a topography they no longer own. This duality of landscapes is maintained by the policies and practices of segregation and oppression. The town’s picture theatre is used by both populations but the people of the reserve are forced to sit in a roped off section up the front. The police station is also a site where the two landscapes ostensibly coincide but for a disproportionately large number of Aboriginal people it is the inside of the lockup which they know most intimately. None of them has ever worked behind the front desk.

Gone fishing. We know that the places we call ‘sites’ are often really just points on pathways (or ‘trajectories’). They are ‘moments’ in a journey or trip across a landscape. However, because the heritage system is currently set up around the concept of the ‘site’, the points on the pathway have tended to dominate our thinking and the pathway is lost sight of. The following scenario was written by Denis Byrne as a reflection on his role as an archaeologist and ‘site’ recorder.

In the course of an oral history recording project on the NSW North Coast an archaeologist asks two Aboriginal women if they could show him some fishing sites, places where they are accustomed to go fishing along the big river which lies between the mission community, where they live, and the nearby town. As the three of them are driving down the narrow road from the mission to the river the women remember how, when they were children in the 1960s, they would always walk along this road to the river, often with their parents or relatives. They remember one time when they took a short cut across a paddock belonging to a farmer known to be unfriendly towards local Aboriginals and were chased into a pond by a big dog. They recall how scared they were and they laugh about this and it triggers other memories of things that happened on the walk to the river. Having reached the river they walk down through the long grass to the riverbank where they talk about the variety of fish that had been caught there over the years by themselves and others. There is some friendly disputation about the size of some of these fish. The remembering of these fishing events sparks off talk about some of the other people involved: where they are now or when they passed away, details about their lives and personalities.

The archaeologist, who has been plotting the fishing site on his map then gets down to business and asks them to describe the significance of this fishing place, the spot they are standing on. What does this place mean to them? After a pause, one of the women says, ‘Well, this is a place we used to come and fish. We still do come here, with our kids.’ They pause again, looking around at the spot. ‘Well, there’s not a lot you can say about it really.’ It is as if they are lost for words. But on the way back in the car they chat away again about the days when they were kids walking down to the river from the mission.

What the archaeologist has recorded, what he goes away with, is a dot on the map: a fishing site/place. But what the women were talking about – what apparently they had ‘in mind’ – was the act of going fishing. The memory of ‘going fishing’ was in no way contained by the fishing site; for them, the path there and back was just as rich in memories as ‘the site’. The act of going fishing involved the whole tract of landscape that you passed through and experienced in the course of ‘going fishing’. And even when people were at the fishing site they spent a lot of time looking up and down and across the river, enjoying the view, thinking about the weather, wondering where the fish were, noticing other places along the banks and remembering times they’d fished from those places, who they were with at the time, and what they caught. Their field of vision was continuous with the spot they were standing on and this field of vision pushed out the boundaries of the ‘site’.

The archaeologist’s act of recording the fishing site as a ‘site’ effectively disconnected it from almost everything that made ‘going fishing’ meaningful to the women. The accuracy with which the archaeologist plots the ‘site’ on the map disguises the gross *inaccuracy* of the whole recording exercise. It is a misrepresentation of social reality. The ‘site’ in this case didn’t exist for them as an independent place. To think of it in that way was like taking a bead off a necklace, holding it up between your fingers and saying, ‘this is a necklace’. What the

archaeologist was doing, essentially, was asking them to try to translate the full meaning and richness of 'going fishing' into his exotic and alien 'site' concept.

It is not difficult to see that what is happening here is that the social meaning of places is taking second place to its archaeological meaning. It is a case of privileging the physical over the social. There is thus a linkage between the dominance of site-based heritage and the neglect of social significance.

6. The old model: heritage as material

6.1 Introduction

The struggle for culture. For the staff of an agency such as the NPWS it is often a struggle to keep in mind, and to remind others, that cultural heritage is about people, communities and the values they give to heritage places. In its EIA accountabilities the Service interacts with land owners and developers who seek timely decisions on the management of the physical aspect of heritage places and are reluctant to acknowledge that these places may have social significance. At another level, the Service's cultural heritage staff often struggle to convince other staff that natural landscapes are also cultural landscapes (i.e., they have a human landuse history and they often are valued by communities for cultural reasons). Often it seems as if people have forgotten the cultural heritage, in the last resort, really is about culture.

It may appear that the relative neglect of the social significance of heritage places and landscapes is a result of archaeologists and architects having monopolised the field of cultural heritage management. We should bear in mind, though, the role that developers, planners and land managers have had in maintaining the primacy of archaeology and architecture. The latter often prefer to deal with archaeologists and architects than with local communities; they find archaeological and architectural priorities easier to deal with than community priorities. This is understandable. But it is also increasingly untenable in a world where conservation is increasingly seen as an area for community action.

6.2 Culture commodified

Materialism as a condition. It would be naïve to suppose that the materialism (the focus on 'fabric') which we see in cultural heritage practice is not related to deeper social and historical forces. One of these is the tendency of capitalist societies to commodify things.

In Karl Marx's critique of capitalism, ordinary people (workers) are alienated from the things they produce because their employers, the controllers of capital, are only interested in the monetary value of their output. The industrial revolution, in this view, ushered in a world in which the production of objects and wealth was privileged over the well-being of ordinary people. This new value system quickly naturalised or normalised itself so that soon whole populations – both the owners of capital and the slaves of capital – internalised its values. The accumulation of capital and goods and the endless labour involved in acquiring them came to be seen as morally good.

It was in those northern European societies which in the nineteenth century were leading the world in capitalist development that our present concept of cultural heritage first appeared. Many commentators have attributed its appearance to a linkage between the economic capital and cultural capital. In particular, it is linked to a tendency for nation states to begin to think of themselves as possessing a 'heritage' or patrimony in the form of cultural capital.²⁵ Cultural capital (national wealth) included those old places and objects which now were regarded as a form of *property* belonging to the nation.²⁶

Reification. A refinement of the understanding of commodification has come through the notion of *reification*. In a famous essay of 1922, Georg Lukacs attacked the distinction held to exist between 'objectivity' and 'subjectivity', arguing that this distinction was itself a product of the capitalist value system. The concept of reification has been absorbed into the social sciences where it is used, for instance, to describe how we have come to think of culture as a thing rather than as a set of ideas, actions, and beliefs residing in people's minds.

The notion that we could or should preserve culture is a good example of reification. The assumption here is that culture is a thing, an object that can be acted upon from the outside, an entity that is *available* to conservation. The implication is that culture is something that can be lost, as if it were a set of car keys. Yet, really, culture is just a word we give to the whole pattern of a particular people's thoughts and actions. As we pointed out earlier (Section 5.1), culture is a process rather than an object.

Many in the social sciences see the heritage industry as a key instance of the reification or 'thingification' of culture.²⁷ There has been considerable discussion of the effect of the discourse of heritage in objectifying Aboriginal culture and of the extent to which Aboriginal people themselves engage in this power-laden discourse in which artefacts and 'traditions' are privileged over social action.²⁸ An example of reification at work would be a scenario in which a heritage practitioner, in the course of recording a person's oral history, records a story told about a certain place such as an old Aboriginal mission site or a Dreaming site. Since it happens that the heritage system gives primacy to places over people it comes about that what is recorded on the inventory is a place which has an associated story rather than a story that has an associated place.

Inventories as commodifiers. Heritage inventories, such the Aboriginal Sites Register or the State Heritage Inventory, while they are indispensable to the task of heritage conservation, also lend themselves to the commodification of heritage. Once a recording of a place is entered on an inventory people easily slip into thinking of the recording as being equivalent to the place. In the case of the Aboriginal Sites Register, normally what is recorded by archaeologists is only that part of a site visible to them on the ground (e.g., the stone artefacts visible along road margins or on eroding surfaces) rather than the real extent of the site. Clearly, in this case, the recording is an incomplete representation of the place.

²⁵ Benedict Anderson, *Imagined Communities*, first published 1983, (London and New York: Verso, 1991).

²⁶ The foremost commentator on heritage as national/cultural property is Richard Handler in: 'On having a culture: nationalism and the preservation of Quebec's *Patrimoine*' in G. Stocking (ed), *Objects and Others* (Madison: University of Wisconsin Press, 1985); *Nationalism and the Politics of Culture in Quebec*, (Madison and London: University of Wisconsin Press, 1988).

²⁷ Michael Taussig, *The Nervous System* (New York & London: Routledge, 1992), p. 84.

²⁸ For instance: Kevin Keefe, 'Aboriginality: resistance and persistence,' *Australian Aboriginal Studies* 1988 (1), pp. 67-81; Andrew Lattas, 'Aborigines and contemporary Australian nationalism: primordiality and the cultural politics of otherness,' *Social Analysis* 27 (1990), pp. 50-69; Francesca Merlan, 'The objectification of "culture": an aspect of current political process in Aboriginal affairs,' *Anthropological Forum* 6(1989), pp. 105-116;

It can even be said that the recording becomes more real than the place itself, in the sense that it is the record (the recorded information) which is mentioned in subsequent reports and by people researching the Aboriginal heritage of the particular area where it occurs. It is likely that the majority of 'sites' recorded in the Aboriginal Sites Register have never been revisited in the field after their initial recording. We come to know these places only through their recordings. In this way, the real place, the place in the ground, is left behind. Equally, there is often a tendency to take whatever details are recorded of the place's significance to a community as being a complete statement of its significance. The tendency, then, is to treat the inventory as providing a form of completion or closure.

Heritage inventories, if not carefully managed, can facilitate the treatment of heritage places as commodities. They contain locational details (cartographic and cadastral) of the places as well as quantifiable data on them. As a matter of principle there may be agreement that social values have priority, or at least equity, with scientific or architectural values. Yet it is possible to see that, once they are included on an inventory, the places, in a sense, break free of their community context. It becomes possible to manipulate the site recordings in a way that implies that the locational and archaeological data have stand-alone meaning; to imply, in other words, that the community is separable from rather than integral to the meaning of a place. Such manipulations occur, for example, when recordings are plotted on maps according to archaeological attributes (e.g., artefact density).

6.3 Intrinsic significance

The problem. Built into most cultural heritage legislation and charters in Australia is the principle that the significance of a heritage place resides in the physical fabric or form of the place. This assumes that significance or meaning is intrinsic to or inherent *in* a place rather than being something given *to* a place by people. We argue here that this principle is based on flawed logic. A critique of the principle of inherency is necessary as part of any serious consideration of the role of social significance in heritage management.

In perhaps the most important contribution to the debate on significance in the USA, Tainter and Lucas point out that cultural heritage charters and laws in the USA, from the 1930s to the 1950s, all embodied the idea that heritage properties possessed 'intrinsic qualities' which made them unique, important, inherently valuable or significant.²⁹ Tainter and Lucas trace this 'to the influence of the Western philosophical tradition known as empiricism (in England) or as positivism (on the Continent).' They list the principal relevant features of this tradition as follows.

INHERENT MEANING

- Atomism. There are certain 'terms or statements whose meaning or truth is non-problematical because of their immediate connection with sense experience.'
- Semantics: 'All meaningful terms or statements are either understood directly on the basis of experience, or defined with reference to terms or statements that are so understood'
- 'All claims to knowledge that pertain to empirical reality must be either direct reports of experience or observation, or statements that can be derived from such reports.'

²⁹ Joseph A. Tainter and G. John Lucas, 'Epistemology of the significance concept,' *American Antiquity* 48(1983), pp. 707-719 (p. 711). See also Leone and Potter, 'Legitimation and the classification of archaeological sites.'

It follows that, in the empiricist-positivist view, significance will be thought of as present *in* a cultural property rather than in the mind of the observer.³⁰ Tainter and Lucas go on to critique this view.

CRITIQUE OF THE IDEA OF INHERENT MEANING

- The notion that ‘observation and language can be objective and theory-neutral’ is spurious. During the great paradigm shifts in the history of science (as Kuhn has shown) not only is theory altered, ‘But more fundamentally, the basic perception of the object of study changes, so that it is often seen to have a different nature.’
- ‘The theories to which we subscribe, as well as our education and training, fundamentally influence our sense experiences.’
- The assertion ‘that meaning is inherently fixed in the object of perception... contradicts basic anthropological theory and experience. To anyone familiar with cross-cultural variation in symbol systems, it should be clear that meaning is assigned by the human mind.’³¹

Before looking at the wider implications of this critique we consider its implications for archaeology.

Archaeologists reject ‘intrinsic meaning’. Archaeologists in the USA and elsewhere, have naturally been more concerned about the implications for their own work of this oddity in the legislation (its assumption of intrinsic meaning) than they have been about the difficulty it poses for social significance assessment. The archaeological profession has rejected virtually unanimously the notion of inherent significance – the ‘inherency thesis’ as Leone and Potter call it.³² In a review of 83 peer-review publications on significance assessment in archaeology, covering the period 1972-1994, Briuer and Mathers found a high level of consensus among authors on the principle that significance is a dynamic and relative concept; that significance is ascribed rather than inherent, changeable rather than stable.³³

Since the 1970s, archaeologists in both the USA and Australia have, in practice, replaced the principle of inherent significance with the principle of *representativeness*. Beginning from the premise that all sites are unique and significant – but acknowledging the reality that all sites cannot be preserved – they have focused their energy on determining which sites are representative of the range of variation present at various geographic scales (e.g., the local scale, the regional scale).

While archaeologists reject the inherent value principle, they do so only in relation to their own archaeological assessments. They do not take the implications of this rejection to its logical conclusion, which is that if significance is relative, if significance lies in the eye of the beholder, then non-archaeologists are liable to value places in quite different ways from archaeologists. In other words, the rejection of the inherency principle by archaeologists has not led them to be advocates for a greater community voice in significance assessment. For the most part they have still been content to monopolise the process.

³⁰ Tainter and Lucas, ‘The significance concept’, p. 711-712

³¹ Tainter and Lucas, ‘The significance concept’, pp. 713-714.

³² Mark P. Leone and Parker B. Potter, Jr., ‘Legitimation and the classification of archaeological sites,’ *American Antiquity* 57(1992), pp. 137-145.

³³ Frederick L. Briuer & Clay Mathers, *Trends and Patterns in Cultural Resource Significance: An Historical Perspective and Annotated Bibliography* (Vicksburg, Mississippi: US Army Corps of Engineers, Center for Cultural Site Preservation Technology. 1996), p. 11.

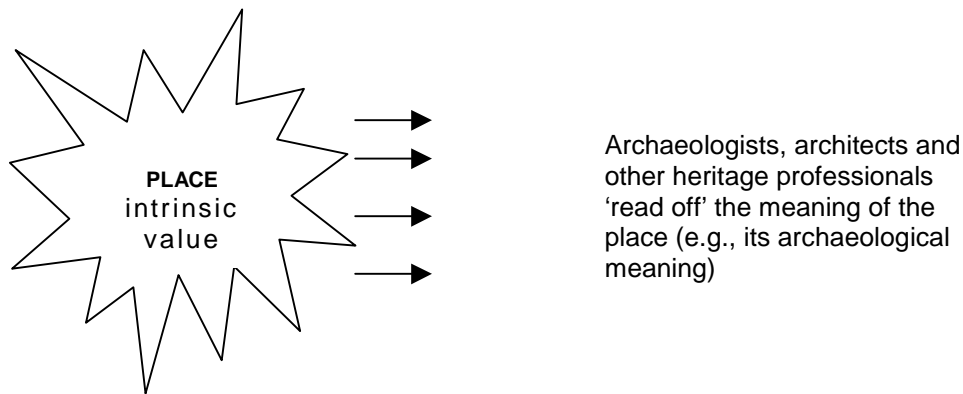


Figure 3: The inherent meaning (intrinsic value) model

Reality check. There is reason to believe that legislators will not readily abandon the idea of inherent meaning. The following are among the reasons for its embeddedness:

- ❑ **PREDICTABILITY.** There is powerful pressure on government to be able to deliver predictability and transparency in the management of cultural heritage. The principle that the primary meaning of places is inherent is seen as making them relatively amenable to assessment: providing you have the right professionals, they can go to the heritage places and 'read off' their meaning/significance (this is what archaeologists and architects do).
- ❑ **THE FEAR OF PROLIFERATION OF MEANING.** If significance is not inherent but, rather, is in the eye of the beholder, then archaeologists and architects become simply beholders among other beholders. The archaeological point of view, for instance, would be seen as having to share equity with other groups in society. The present system relies on professionals providing the primary definition of what a heritage place is; communities (as individuals and groups) are recognised as having views of and attachments to 'places' as defined by professionals.
- ❑ **COMPARABILITY WITH NATURAL HERITAGE.** There appears to be a strong desire on the part of planners and natural heritage conservators to be able to treat cultural heritage as comparable to natural heritage (e.g., in terms of mapping, predictive studies, conservation of representativeness etc). Much of this relies on an assumption that cultural heritage places have intrinsic meaning (see Section 2.5 for a critique of this).

It may thus be necessary for heritage practitioners to accommodate the idea of intrinsic significance despite knowing that it is flawed. It seems likely, however, that an increased emphasis by the NPWS on social significance would in itself, over time, have the effect of at least diluting the belief in intrinsic significance.

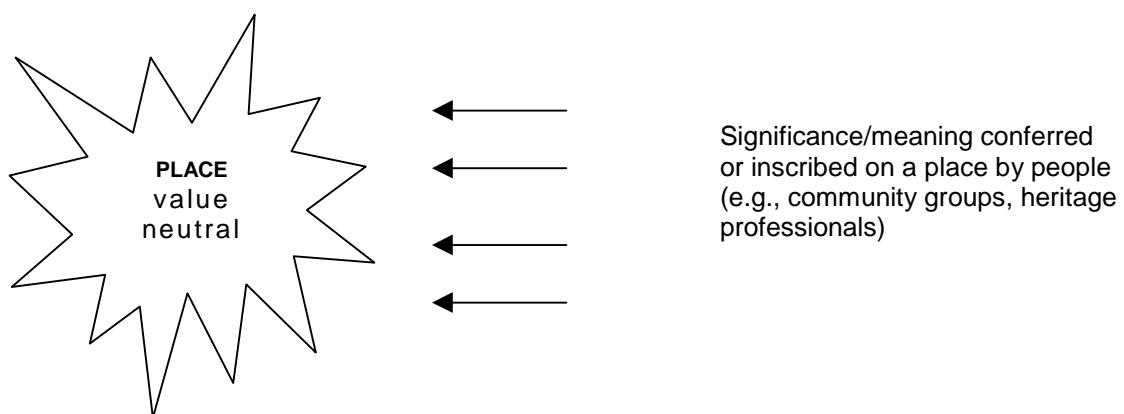


Figure 4: The 'attributed meaning' model

Decentring the community. In summary, the notion of intrinsic significance decentres the community in the overall scheme of cultural heritage. The real centre of value moves from the person (the valuer) to the object (the valued). The object or place is seen as having meaning-in-itself, thus cutting it loose from the original social context.

As Figure 4 indicates, the meaning of a place is, in this way, seen as radiating out from it and heritage professionals are seen as reading off this radiated meaning. Some archaeologists, in the way they refer to 'archaeological sites', seem still to believe that it is the place or site, rather than their interpretation of the place or site, which is archaeological. Needless to say, Aboriginal people, among others, are inclined to contest this. In Figure 5, by contrast, rather than reading off the meaning of the place, people are seen as inscribing that meaning upon it.

7. New model: heritage as social action

Culture as social action. Earlier (Section 5.1), reference was made to Appadurai's concern that the idea of culture as 'substance' takes us back to an earlier idea of culture as race, an idea one would have hoped had been left behind.³⁴ He suggests we think of culture mainly as being to do with the 'mobilizing of group identities.'

In the pages that follow, material is presented which supports the idea that cultural heritage is a field of social/cultural action.

7.1 Cultural change and social significance

Cultural change. In a book that had a major impact on the way anthropologists think about culture, Eric Wolf pointed to the amount of time members of a culture spend adapting to new circumstances, interpreting their history, and inventing new practices. Wolf writes that, 'A culture is thus better seen as a series of processes that construct, reconstruct, and dismantle cultural materials...' ³⁵ As indicated earlier in this chapter (Section 5), cultures are these days seen as more fluid and changeable than they were before. People are seen not as inheritors or passive recipients of culture but as active owners and modifiers of culture.

Down through the generations. Historical space is stratified insofar as it is populated, at any one time, by several generations or people. Each generation to some extent reinterprets the historical space of the preceding generation(s) rather than taking it as given. This draws on the understanding that individual generations, or age-cohorts, have different experiences of history.³⁶ The implication is that the significance or meaning of heritage places is

³⁴ Appadurai, *Modernity at Large*, p. 12-13.

³⁵ Eric Wolf, *Europe and the People Without History* (Berkeley: University of California Press. 1982), p. 378.

³⁶ Elizabeth Colson, 'The reordering of experience: anthropological involvement with time,' *Journal of Anthropological Research* 40 (1984): 1-13; Renato Rosaldo, *Ilongot Headhunting 1883-1974*. (Stanford: Stanford University Press. 1980).

simultaneously inherited and reinvented by the living. The living, in this way, are constantly re-producing significance.

The historical landscape is inherited by any one generation as a configuration of places whose significance was established by the previous generation. This significance is communicated by members of the previous generation who are now more or less old. Orally transmitted (in the local context), typically in story form, such communication is obviously only possible because generations overlap. If a generation spans twenty years, for argument's sake, then members of at least four generations are likely to be alive and sharing the landscape at any one time. Also, those in the middle generations, the 40-60 age bracket, are layered between both older and younger generations of the living. Those in the newest generation 'inherit' the historical landscape of their parent's generation as well as that of their grandparents' generation, as reinterpreted or mediated by their parent's generation. But they are also able to receive it directly from the grandparental generation. The complexity of the situation can be appreciated if we acknowledge that each generation's reworking of the landscape is not something accomplished and then concretized but is a process of 'becoming' which continues until death.

But it is not merely the process of reinterpreting physical traces which renders the historical landscape dynamic. Succeeding generations add their own traces in the form of the things they build, the places they frequent, the cars they drive and abandon, and the events they witness and participate in. The landscape is thus authenticated or personalized by each generation in a transactional manner, transactional in the sense that present and past lives act on each other.

It is critical for any assessment of the social significance of heritage places and landscapes that inter-generational transmission and change be treated seriously. Allowance has to be made for the fact that this significance can and does change through time: an assessment of social significance carried out twenty years ago is an historical document, not a basis for determining the significance of a place in the present.

Cultural change in Aboriginal NSW. One of the most important aspects of the work of Aboriginal studies over the last couple of decades has been to show how the old perception of Aboriginal culture as traditional, timeless and unchanging has served to oppress contemporary Aboriginal people, especially in places like NSW.

Western society has a history of viewing other cultures as custom-bound and as less 'alive' and dynamic than its own cultures.³⁷ Other cultures are seen as less able to change and innovate. We would not think of referring to the eighteenth or nineteenth century British as 'traditional' because history tells us that this, the period of the industrial revolution, was a time of great change in British society. By the same token, these changes are not believed to have made the Europeans culturally less European. The West, in other words, has seen change as natural and proper to its own culture. But when non-Western 'traditional' cultures – Aboriginal cultures, for instance – are observed to be undergoing change in the colonial context this is perceived to be a symptom of cultural breakdown or collapse. It is seen to represent a loss of integrity and authenticity. The changes are also almost always seen as being forced on the non-Western cultures and almost never seen innovative responses by people who, while they did not choose to be colonised, may nevertheless be determined to take advantage of whatever opportunities the new economy has to offer.

The anthropologist, James Clifford, has described the way the West has typically seen the situation of the colonised:

³⁷ Nicholas Thomas, *Out of Time: History and Evolution in Anthropological Discourse* (Cambridge: Cambridge University Press. 1989), p. 39.

Entering the “modern world”, their distinct histories quickly vanish. Swept up in a destiny dominated by the capitalist West and by various technologically advanced socialisms, these suddenly “backward” peoples no longer invent local futures. What is different about them remains tied to traditional pasts, inherited structures that either resist or yield to the new but cannot produce it.³⁸

Like the Native Americans in the USA, the contemporary Aborigines were always seen as ‘survivors’, a category redolent with connotations of passivity. As survivors they ‘could not by definition be dynamic, inventive, or expansive.’³⁹

Many social scientists are deeply concerned at the way the Native Title process relies on the concept of cultural stability through time.⁴⁰ In this it seems to rely on an antiquated notion of ‘authentic’ culture as timeless and static.⁴¹ It disadvantages Indigenous cultures in places like NSW where cultural change and innovation in the historic period has been rapid and far-reaching. Native Title seems based on a theory of culture which sees the process of change as a form of erosion which eats away at the attachment people have to land and place.

Places with local futures. The dramatic under-recording of Aboriginal historic period (post-contact) heritage places in NSW suggests much of the old thinking, outlined above, still holds sway in the field of heritage practice. There appears to be a perception that Aboriginal pre-contact (pre-1788) heritage is more authentic than that of the later period. It hardly needs to be said that such thinking is likely to produce an environment in which the social significance of heritage places and landscapes to Aboriginal people in present-day NSW will not be taken seriously.

Complicating matters, in the face of this lack of recognition by white people of the authenticity of contemporary Aboriginal culture, it is likely that in certain circumstances Aboriginal people have felt compelled to use the language of the ‘sacred’ to describe values which ostensibly are secular.⁴² A shell midden, for instance, may in the present day have taken on symbolic meanings and emotional associations which have no precedent in ‘traditional’ culture. Some Aboriginal people, when they are present at such places are overcome by a sense of the presence of the ‘old people’ and a sadness for what happened to them – a sadness about the violence of the frontier period and the later oppression of the Protection era. In a situation where the heritage system only has one category for these sites (shell midden – archaeological) and has only been responsive to two categories of value or significance (archaeological and sacred/Dreaming) it may happen that Aboriginal people describe such sites as ‘sacred’. They may do so not so much for want of a better word as for want of a heritage system (and heritage professionals) capable of acknowledging that there are authentic

³⁸ James Clifford, *The Predicament of Culture*, p. 5.

³⁹ James Clifford, p. 284.

⁴⁰ See for example papers in ‘Mabo and Australia,’ Vivienne Kondos and Gillian Cowlishaw (eds), special volume of *The Australian Journal of Anthropology* 6 (1995).

⁴¹ See Jane Jacobs, ‘The construction of identity.’ In Jeremy Beckett (ed), *Past and Present*, (Aboriginal Studies Press, Canberra. 1988), pp. 31-43; Jane Jacobs “‘Shake ‘im this country’’: the mapping of the Aboriginal sacred in Australia – the case of Coronation Hill.’ In Peter Jackson and Jan Penrose (eds), *Constructing Race and Place*, (University College London Press, London. 1993), pp. 100-118.

⁴² For a critique of the way legal frameworks relating to Aboriginal lands rights in South Australia placed an over-emphasis on the sacred site, leading to be seen as *the* authentic Aboriginal site, see Jane Jacobs, ‘The construction of identity.’ In Jeremy Beckett (ed), *Past and Present*, (Aboriginal Studies Press, Canberra. 1988), pp. 31-43.

ways of valuing places in present day Aboriginal society which are uniquely to do with the present day.⁴³

In James Clifford's terms (above), the established heritage system, in this case, is failing to acknowledge the inventive quality of contemporary Aboriginal culture. Specifically, it is failing to acknowledge that a prehistoric shell midden can be recycled back into Aboriginal culture with a new meaning. Failing to acknowledge, in other words, that the place's significance can be up-dated and failing, to use Clifford's terms again, to acknowledge that the place could be given a 'local future'.

Modern self-consciousness. There is a general acknowledgment that one of the features of modernity has been a self-consciousness (reflexivity) about the way we live and act.⁴⁴ Social practices in the modern world are constantly altered by new information and the habit of reflecting on those practices.⁴⁵ This particular self-consciousness was enabled by the advent of print media and later, of course, by electronic media.

There can, for example, be no local community of any kind in NSW not aware, through the media, of the activity surrounding the identification and conservation of cultural heritage. One of the consequences of this is that a heritage professional cannot go into a local community to assess the social significance of an old place without finding that the community's expression of that significance is not, to some extent, structured by received concepts of heritage. The community's expression of a place's significance will be filtered through the language or discourse of heritage.

This does not mean that expressions of attachment are not authentic. It just means that we heritage professionals should not think of ourselves as taking heritage concepts and methodology, as part of our 'equipment' into a local community in order to document and assess significance. They are there in advance of us. This situation is crystallised by the (perhaps mythic) story of the anthropologist in a remote tribal village who asks a local woman, his informant, to explain to him a certain complex part of the local marriage system. Certainly, she says, and excuses herself while she goes into her hut to consult the relevant section in the book which a previous anthropological 'authority' has written about her culture.⁴⁶

Taking this further, we should note the development in the post-colonial world, from the time of the 1950s, of the practice of 'talking back' or 'writing back'. This describes the way previous colonial subjects in places like India, Africa, and the Caribbean have turned the West's own system of knowledge back on it. Third World scholars thus use their Western training in fields like history, anthropology, and literature to mount an attack on the West and its behaviour towards them. It is not difficult to find instances of Aboriginal people engaging with heritage discourse in this way. When John Ah Kit, for instance, uses his understanding of existing heritage processes in the Northern Territory to launch a critique of the way these

⁴³ Because change implies the novel, the unexpected, the unprecedented, even where heritage workers are open to the possibility of cultural change it will often be difficult to perceive its presence, even in their own culture. 'It is easier to register the loss of traditional orders of difference than to perceive the emergence of new ones' (Clifford 1988, p. 15).

⁴⁴ Modernity: roughly associated with the time since the industrial revolution but standing not just for technology and lifestyle but a whole way of thinking and perceiving, epitomised by the great belief in progress (the doctrine of Progress) and its supposed virtues. For many in the West, this belief was destroyed by the horror of the First World War.

⁴⁵ Anthony Giddens, *The Consequences of Modernity* (Stanford: Stanford University Press. 1990), p. 38.

⁴⁶ The classic work in this area probably remains James Clifford's, *The Predicament of Culture* (Cambridge, Mass.: Harvard University Press. 1988).

processes have excluded Aboriginal experience from the Territory's historic heritage he is no longer, if he ever was, a passive subject/recipient of heritage practice, he is an active interlocutor.⁴⁷

Heritage as discourse. While it is clear that a desire to 'reform' public perception is not a good premise for a program to assess social significance there is an argument that intervention is justifiable when it takes the form of 'enabling'. Chris Johnston has been a proponent of this in Australia. She argues that, rather than formal education on heritage, the community needs to be given 'opportunities for discovery and participation' in the heritage process.⁴⁸ Johnson is recognising, here, that from a local community's point of view, having attachment to places, and knowledge of them, is not enough to give it a real role or stake in the world of heritage. If a local community is to become an effective, rather than notional, stakeholder in local heritage outcomes then it will need to develop certain skills.

The heritage conservation process has its own established concepts and language. 'Heritage' is a discourse which non-professionals need to learn if they want their views to register with officialdom. In Chris Johnson's terms, they need to become 'connoisseurs'.⁴⁹ Presumably she has in mind a scenario where it may not be enough for a community simply to value an old building or a landscape feature; they will also, for instance, need to be able to describe the history of the place and perhaps record oral histories relating to it.

All of this reflects the heightened consciousness in the present-day social sciences of the equation between language and power. This consciousness to a great degree stems from the work of the French philosopher Michel Foucault. After Foucault it is possible and useful to think of a field like archaeology not so much as a discipline (the old term) but as a discourse. The discourse of archaeology is a formation of concepts and language which can be deployed in order to make a certain sense of the physical traces of the human past. Over the last 100 years or so archaeologists have been successful in gaining recognition, from governments and institutions, as the experts on the physical traces of the human past. For better or worse, archaeology is now recognised as the 'proper knowledge' of these traces. Under these circumstances there is considerable advantage to other people (i.e., non-archaeologists) in borrowing bits of the language of archaeology to describe old places. Aboriginal people in NSW increasingly deploy the discourse of archaeology to describe certain of their old places, presumably because this language carries more weight in getting protection for places than other forms of language. Presumably for the same reasons, they increasingly deploy the discourse of heritage. They might even be said to have appropriated or 'hijacked' the heritage discourse, a discourse whose origins were in white society.

Agency and cultural capital. If a society's social structure is critical to holding it together, then how, one might ask, does social change ever occur? Perhaps the most influential theoretician in this respect is the French sociologist Pierre Bourdieu. Bourdieu has been concerned with how society is experienced by the individual (the individual social 'actor'). He coined the term 'habitus' to refer to the accumulated knowledge which individuals use in order to be acceptable and successful in society.⁵⁰ An individual's habitus might include his or her ability to take part in a group conversation, their ability to be humorous, their ability to use forms of speech appropriate in different situations, their command of table etiquette, their taste in art, or their knowledge of the conventions of

⁴⁷ John Ah Kit, 'Aboriginal aspirations for heritage conservation,' *Historic Environment* 11(1995), pp. 34-36.

⁴⁸ Chris Johnson, 'Whose views count?: achieving community support for landscape conservation,' *Historic Environment* 7(2), pp. 33-37 (p. 35).

⁴⁹ Johnston, 'Whose views count?', p. 36.

⁵⁰ Pierre Bourdieu, *Outline of a Theory of Practice*, translated from the French by R. Nice (Cambridge: Cambridge University Press. 1977).

sportsmanship. This might seem simply to describe the process of an individual's 'socialisation,' except that Bourdieu is interested in showing the individual's own initiative in acquiring these skills and deploying them. Such initiative might best be called *agency*.⁵¹

It is clear that in each culture or society there are generally accepted ways of thinking about old places and expressing attachment to them, knowledge of them, or interest in them. These ways would be part of an individual's habitus. A key element of the concept of habitus, though, is the idea that we continue to work at acquiring knowledge and skills all through our lives. We do this in the interests of social advancement. It is well known that certain forms of what might be called 'heritage appreciation' are associated with high class or elite culture. These include the collection of 'fine art' and antiques, an appreciation of Victorian, Edwardian, or Federation houses, and a knowledge and appreciation of local history sites.

Another of Bourdieu's concepts, that of 'cultural capital', is useful here. The skills and knowledge people accumulate in their lives are a form of cultural capital not unlike economic capital (or money). Cultural capital is not just a form of status in itself but can be deployed to a variety of ends such as gaining public office or gaining entry to influential circles where there are more opportunities to accumulate more capital. It is well known that in some countries the extent to which antiquities have become a form of cultural capital is causing a boom in the trade in antiquities often illegally obtained by 'looting' heritage sites.⁵²

But simply being able to speak about old places and objects can also be an important factor in the sort of 'upward mobility' that comes under Bourdieu's term 'personal trajectories.'⁵³ There can be no doubt that this accumulation of cultural capital is a fact of life in communities all over NSW, that it is driving force in local historical societies, the National Trust, and museum volunteer groups. Nor can there be any doubt that it is a dynamic that is present on the ground in many assessments of social significance. It would be wrong, however, to try to separate this form of knowledge and appreciation from supposedly more 'authentic' forms. Bourdieu, after all, is not describing how 'social climbers' operate but how people in general operate. Appreciation of heritage places is not something people are born with, it is something acquired.

An in-depth understanding of the social significance of heritage places and landscapes requires an awareness of such processes. It also requires an awareness of when and how certain places become a focus of, or come under the heading of, cultural capital. In most parts of NSW, for instance, an appreciation of the sites of old Aboriginal fringe camp is not useful for social advancement in white society. Equally, as Dolores Hayden demonstrates, an appreciation of the heritage of Afro-Americans, women, the working classes and immigrants has not traditionally been socially sanctioned in white establishment culture in the United States.⁵⁴ In Australia it is clear that there is more cultural capital involved in pre-contact Aboriginal heritage places (e.g., rock art sites) than post-contact heritage places (e.g., old fringe camp and mission sites).

Agency and cultural change. The whole social science debate on cultural change can be seen to be tied up with the new understanding of agency. This understanding revolves on the

⁵¹ 'Agency' is a key term in contemporary social science. It describes the ability of people to make their own lives, the ability to be creative agents of change.

⁵² See for instance Denis Byrne, 'The nation, the elite and the Southeast Asian antiquities trade,' *Conservation and Management of Archaeological Sites* 3 (1999): 145-153; Y. Hamilakis and E. Yalouri, 'Antiquities as symbolic capital in modern Greek society,' *Antiquity* 70 (1996), pp. 117-129.

⁵³ 'Practice results from a process of improvisation that, in turn, is structured by cultural orientations, personal trajectories, and the ability to play the game of social interaction' (Postone, LiPuma and Calhoun, 'Introduction: Bourdieu and social theory,' pp. 1-13).

⁵⁴ Dolores Hayden, *The Power of Place* (Cambridge, Massachusetts: MIT Press. 1995).

principle that individuals and groups in society (e.g., gender groups, classes, sub-cultures) are not passive subjects of anthropological inquiry but are actively changing their society even as it is being studied. It is absurd and futile to expect that cultures and cultural processes will keep still while they are being studied.

The concept of agency is of the greatest importance in cultural heritage practice. It demands recognition that the social significance of heritage places and landscapes is a matter of social *process* and is not a social *fact* (in the sense of being fixed and stable). It demands recognition that when heritage practitioners go into communities they are not in a position to simply download those communities of information (social facts) about the way they value old places. Rather, they inevitably engage community members in a dialogue, the outcome of which will have as much to do with the heritage practitioner as with the community.

7.2 Promoting heritage values

Resistance and circularity. The idea of cultural heritage as social action is likely to meet resistance from some heritage practitioners on the basis that it condones the ‘invention’ of significance. This sits uncomfortably, it is argued below, with the fact that heritage practitioners and heritage agencies have always been energetic ‘educators’, even manipulators, of public opinion and community values. There is no question that many of the expressions of public value that social significance assessors collect in community groups were ‘seeded’ by other heritage professionals. While there is an undeniable circularity in this, there is nothing necessarily wrong with it. It simply underlines the point that heritage is a field of social action.

What is questionable, however, is the failure of heritage professionals to acknowledge reality in this area. At worst, this obfuscation (the right hand pretending not to notice what the left hand is doing) has produced the lack of transparency so characteristic of the way that social significance is currently discussed by most heritage professionals.

Commemorations. ‘Heritage’ is a relatively recent concept in Western society. Pierre Nora, in a well known article, notes that prior to the 19th century ‘the milieu of memory’ was a pervasive part of everyday life and not something subject to commemoration in the way that it became later.⁵⁵ In John Gillis’s words, ‘Ordinary people felt the past to be so much a part of their present that they perceived no urgent need to record, objectify, and preserve it.’⁵⁶ The industrial revolution and the European political revolutions of the late 18th and early 19th centuries changed all that.

The demand for commemoration was then taken up by the urban middle and working classes, gradually expanding until, today, everyone is obsessed with recording, preserving, and remembering. According to Nora, “we speak so much of memory because there is so little of it left,” referring to the kind of living memory, communicated face to face, that still exists in rural Ireland, but which now has to compete with a multitude of other memories, some official, others commercialized.⁵⁷

Instilling significance. Most heritage commentators note the linkage between the concept of national heritage (e.g., Australia’s National Estate) and the enterprise of national identity

⁵⁵ Pierre Nora, ‘Between memory and history: *les lieux de memoire*,’ *Representations* 26 (Spring 1989)

⁵⁶ John R. Gillis, ‘Memory and identity: the history of a relationship,’ in John R. Gillis (ed), *Commemorations: The Politics of National Identity* (Princeton: Princeton University Press. 1994), p. 6.

⁵⁷ John R. Gillis, ‘Memory and identity...’, p. 7.

building.⁵⁸ There is by now a well entrenched belief by governments across the globe that the identification of the national population with certain sites and monuments helps to foster a sense of cohesion and consensus. Nobody would suggest that such cohesion or social bonding is a bad thing if it results in an avoidance of communal violence and blood-letting. The benefits, it would have to be said, are less obvious where national heritage has been used to prop up military dictatorships (examples of which range from Hitler's Germany to Soeharto's Indonesia).

We need to be clear that this critique of 'national heritage' sites is not implying that these places had no value or significance to communities prior to the appearance of the modern nation state (i.e., prior to the 18th century in Europe). What it does imply is that the identification of these places with the nation is recent and 'invented'.⁵⁹ It could certainly be argued that a large part of the mission and activity of the Australian Heritage Commission over the last 25 years has been to make Australians conscious of a shared national heritage, the National Estate. Many of the places in the National Estate were unknown to the average Australian prior to the publicising of them by the AHC and related bodies.

From the beginning of the preservation movement – in Europe in the 19th century, later in Australia – architects, archaeologists and historians have energetically promoted an appreciation of heritage values in the population as a whole. It is not insignificant that in England in the second half of the 19th century both John Ruskin and William Morris, the two most significant public voices on the protection of built heritage, both saw themselves as educators of public opinion and were deeply committed to the education of the lower classes. In 1931 the influential Charter of Venice (and later international conventions) took as one of its principles the promulgation of the conservation ethic among the general public (see Section 8.2). Later, National Trusts and then government heritage agencies joined this project of public education.

There can be little doubt that many of the heritage places we now value and even love have only survived because of a groundswell of public support for their preservation, support which has been at least partly a product of this educational enterprise. The point here is that the promulgation of a particular way of valuing old places has, from the beginning, been an integral feature of the heritage discourse.

A typical expression of the proselytising mission of heritage practitioners and agencies is the following statement in the NSW Heritage Office's *Heritage Assessments* publication under the heading, 'What is meant by integrity':

an item '...must be capable of being successfully interpreted now or in the future so that the general public can appreciate its significance'

There is, in this case, no separation between the process of instilling heritage values and that of assessing them. Almost every publication on cultural heritage contains exhortations to enhance the community's appreciation of heritage. Clearly, heritage practitioners themselves are implicitly committed to the concept of heritage as a form of social action.

Appealing to the unborn. Much heritage legislation and policy cites the interests of future generations as a reason for protecting heritage in the present. Partly what is problematic here is that the job of deciding what future generations will appreciate, and how they will appreciate it, falls to present-day heritage professionals who make their determinations largely

⁵⁸ See for instance David Lowenthal, *The Past is a Foreign Country* (Cambridge: Cambridge University Press. 1985); *The Heritage Crusade and the Spoils of History* (London: Viking. 1996).

⁵⁹ The key seminal reference here remains Eric Hobsbawm and Terrence Ranger (eds), *The Invention of Tradition* (Cambridge: Cambridge University Press. 1989).

on the basis of scientific, historical and aesthetic significance (which largely translate as the sectoral values of the archaeological, historical and architectural professions). The most problematic dimension of this ‘appeal to the unborn’ is where the assumed value system of future generations is used to over-ride the expressed values of the present-day community.⁶⁰

Professional self-awareness. In the period roughly between 1900 and 1960 anthropologists went into the field to study non-Western cultures through extended, intensive research. This intensive fieldwork (ethnography) was seen as producing a true picture of the social reality of these cultures. After 1960, however, it began to be seen that these ‘true pictures’ were still very much interpretations. Non-Western peoples were still being portrayed the way the West wanted to see them (e.g., as passive, unchanging, gullible, superstitious). Rather than trying to get rid of the filter of interpretation, anthropology embraced it. It was acknowledged that the anthropologist could not leave his or her own culture behind when he or she traveled into the field. They took it with them and it inevitably acted as the lens through which they observed the Other culture. But this did not mean that no understanding of the Other was possible. It simply meant that any understanding has limits. Anthropologists came to appreciate how important it is to include themselves as a subject of their study, how essential it is to understand the preconceptions and biases they take with them into the field and how these might affect their interpretations.

We suggest that we heritage professionals strive for a similar self-awareness when assessing the social significance of heritage places and landscapes. This would mean understanding the extent to which we are advocates of conservation and understanding the professional value systems we take with us when we go into the community as (supposedly) objective observers.

Heritage as social action. There is a good argument to be made that a conservation agency like the NPWS resist pressure to be the arbiter of what is and what is not authentic in regard to the social significance of heritage places. Attachment to heritage places may be based on life experiences or stories that have been passed down to a person. Very often attachment will be formed out of the struggle to preserve a place (e.g., from development). Very often it will be formed in the context of the sort of ‘cultural revival’ activities in which many Aboriginal communities in NSW are engaged. Sometimes heritage values will be acquired in the course of improving one’s social position (developing one’s social ‘trajectory’, in the words of Bourdieu). More often attachment will involve combinations of various or all of these, combinations which may well defy any heritage practitioner’s efforts to untease them.

James Clifford writes that:

Twentieth-century identities no longer presuppose continuous cultures or traditions. Everywhere individuals and groups improvise local performances from (re)collected pasts, drawing on foreign media, symbols and languages.⁶¹

Everywhere, in other words, cultures (societies) are inventive. Cultural identity is improvised partly by drawing on the past. The term ‘(re)collected’ conveys the sense of remembering and ‘gathering together’. There is a tendency, when we think of cultural heritage, to think of it as

⁶⁰ Perhaps the best known case of this was the campaign by a faction of Australian archaeologists in the 1980s to prevent reburial of Aboriginal skeletal remains by present day Aboriginal communities. In the face of a clearly stated and virtually unanimous desire by these communities to rebury or otherwise dispose of the remains, the archaeologists argued that this should not be permitted because future generations of Aboriginals might not agree.

⁶¹ James Clifford, *The Predicament of Culture*, p. 14.

something we just protect, keep an eye on, and perhaps restore. What Clifford is referring to, though, is the way we use heritage as a resource in the on-going project of creating our identity. One could say that heritage is *deployed* in this aspect of social life.

Another way of putting this is that landscapes, with all their heritage places and remains and contain, and also our minds, with all their memories, are an archive of our culture's past and an archive of ourselves as individuals. We *mobilise* elements from this archive in the process of forming our identity. There is nothing sinister about this deployment of heritage. It would be difficult to find an example of heritage work in which heritage is not being deployed in identity formation, whether by way of nominating places for the State Heritage List or by the activity (on the part of a local Aboriginal community) of including a bora ring or shell midden in a cultural tourism module.

Heritage is the very stuff of social identity and to this extent can be regarded as a form of social action. The implication is that we all – people in communities as well as heritage practitioners – are 'heritage workers'. We are all engaged in the work of signifying places, deciding what should be done with them, deploying them as identity markers. This would seem to be an adequate basis for NPWS to engage with communities.

7.3 Heritage and identity

Communities don't just happen, they are built. Local communities are not natural phenomena. They are cultural constructions in the sense that they come into being and maintain their integrity only through the ceaseless work of local identity building. Crucial here is the work of identifying a particular community with a particular place, that limited piece of terrain that the community comes to regard as its neighbourhood.

The relationship between a community and its neighbourhood is essentially two-way (i.e., dialectical). Arjun Appadurai, who describes locality as 'a structure of feeling,' observes that the association of a community with a locality can never be taken for granted (locality should never be considered a 'given').⁶² Anthropologists working all over the globe have noticed that local communities themselves never seem to take locality as a given. 'Rather they seem to assume that locality is ephemeral unless hard and regular work is undertaken to produce and maintain its materiality.'⁶³ An example of this work would be the relationship of a local Aboriginal community in NSW with its cemetery. The 'work' that goes into maintaining the association between the space of the cemetery and the community includes not just the activity of decorating and maintaining the graves, or maintaining the fence around the cemetery which keeps stock from trampling the graves. It also includes the attendance of often large numbers of community members at funerals. The cemetery becomes a local place partly because the community has 'stamped' its identity upon the place; in the case of cemeteries, the names of its members are quite literally 'stamped' on the wooden crosses and the headstones). But the place, in a sense, has also stamped itself on the identity of the community in the way that the community is known, and knows itself, partly as being that group of people who periodically gather at this particular place. Such place-based activity, while it may never be consciously thought of as 'work', is nevertheless precisely the work of identity building.

The above example obviously is a clue to the linkage between cultural heritage and identity building. The fact that a local community, Indigenous or non-Indigenous, may live in a

⁶² Arjun Appadurai, *Modernity at Large* (Minneapolis & New York: University of Minneapolis Press, 1996), p. 182.

⁶³ Appadurai, *Modernity at Large*, p. 181.

landscape which is scattered with places where physical traces of past occupation are present, does not in itself create an identity association between those traces and the community. The association comes about through certain activities. These may include the work carried out to protect the traces from erosion or vandalism, the taking of visitors out to see the traces as part of a local cultural tourism venture. It may consist of a community member talking to a class at the local school about the traces, or it may consist simply of the reminiscences about the place which appear in an autobiography written by a community member.

Heritage, identity and Mabo. Tom Griffiths' reflections on what Mabo means for local history also has implications for the linkage between heritage work and local identity-building.

In what I call post-Mabo, post-Green Australia, local history has a new moral and environmental edge to it. It's not just the history of your parish or your town. Suddenly there is a real reason - politically, morally - why we need to engage in a local sense of place.

The Mabo context is obvious: Mabo has meant that Aboriginal Australians can now claim native title provided they can show a local history of a link to a piece of land. And I think environmental consciousness has linked the local world with global concerns quite strongly. How does the theme go? Think globally, act locally.⁶⁴

It seems clear that Native Title has given a whole new impetus to identity work at a local level by Aboriginal communities. People have been made aware that something that may previously have been taken for granted (their attachment to locality, their sense of belonging) now has to be made public and demonstrable. It is no longer enough for people to have a sense of 'who they are', they have to be able to have a tangible linkage between their community and the local landscape. The need for this linkage, it might be suggested, has brought about a merging of 'heritage work' and the work of identity building.

The heritage-identity nexus in the non-Indigenous community. It is interesting to observe the way that the process of identity-building on the part of one community is often derided or criticised by representatives of another community who appear to be blind to the identity-building process they themselves are engaged in. Frequently one hears non-Indigenous Australians criticise Aboriginal communities for what they claim is the invention of heritage places.

The linkage between heritage and identity is, of course, as much a feature of Anglo Australian culture as it is of Aboriginal Australian culture. One example of this would be the way local residents' associations in the 1970s were formed in the face of urban redevelopment proposals in what Graeme Davison refers to as, 'The defence of neighbourhood integrity'.⁶⁵ The 'upsurge in local historical activity' which this gave rise to enhanced the consciousness of the 'historical ambience and distinctiveness of the inner suburb' and this in turn proved to be 'a powerful source of urban solidarity.'

The position argued here is that the way that local places 'become' heritage places is not merely a normal aspect of community identity building but that it is probably in some way critical to the viability or survival of a community. It is something all communities engage in.

⁶⁴ Tom Griffiths interviewed by Christopher Henning, 'Eureka!' *Sydney Morning Herald* Nov 16, 1996, p. 15.

⁶⁵ Graeme Davison, 'The meaning of heritage,' in G. Davidson and Chris McConville, *A Heritage Handbook* (Sydney: Allen and Unwin, 1991), pp. 1-13 (p. 5).

The desire to belong. What one commentator has described as the ‘tenacious and fragile desire’ of people to belong to a place and a community is often not easy to satisfy.⁶⁶ Many local communities have been placed under such a degree of stress through loss of income, welfare dependency, forced relocation, or rapid change in the physical environment surrounding them (to name a few factors) that community identity has been shaken to its foundations.

In the case of Aboriginal communities in NSW, the Council for Aboriginal Reconciliation’s draft National Strategy (Dec 1999), recognises the issue in one of the five Key Result Areas it recently identified for action: *Building Communities & Partnerships*. While at present the focus is on improving employment and provision of services in local communities the heading chosen for this area clearly reflects an understanding that:

- a) strong functional communities are the backbone of Aboriginal well being
- b) communities don’t just happen, they are built.

It is likely that the importance of heritage places in the building of community identity has tended to be overlooked. The general tendency has been to see community identity as something natural rather than something that is as a product of social action. This, however, may change as greater attention is directed to the question of why it is that some communities are viable and strong while others are dysfunctional.

In this context the potential an agency like the NPWS has for enabling and empowering local communities to engage in cultural heritage work assumes an importance, almost an urgency, which may not have been apparent previously.

⁶⁶ Elspeth Probyn, *Outside Belongings* (New York: Routledge. 1996), p. 8.

Part 3

**Legislation
policy &
practice**

8. Charters, legislation and policy

8.1 Introduction

This chapter overviews the laws and conventions governing or influencing cultural heritage management in New South Wales. The focus is on the extent to which these laws and conventions enable or constrain the assessment of social significance in heritage management. The overview is in relation to both Aboriginal and non-Indigenous (historic) cultural heritage.

As well as drawing upon available literature and electronic (internet) sources the overview has also been built on conversations with staff in heritage agencies in NSW, interstate and at a Federal level.

8.2 International conventions and protocols

The Athens Charter 1931. While there had been decrees by various reigning monarchs in Europe relating to the preservation of monuments since the 16th century, and the development of some associated national bodies¹, one of the earliest international conventions relating to cultural heritage was the ATHENS CHARTER FOR THE RESTORATION OF HISTORIC MONUMENTS. Perhaps significantly in the light of future developments in cultural heritage management, this charter was adopted at the First International Congress of Architects and Technicians of Historic Monuments, held in Athens in 1931.²

At the Congress seven main resolutions were adopted as ‘Carta del Restauro’:

1. International organisations for Restoration on operational and advisory levels are to be established.
2. Proposed Restoration projects are to be subjected to knowledgeable criticism to prevent mistakes which will cause loss of character and historical values to the structures.
3. Problems of preservation of historic sites are to be solved by legislation at national level for all countries.
4. Excavated sites which are not subject to immediate restoration should be reburied for protection.
5. Modern techniques and materials may be used in restoration work.
6. Historical sites are to be given strict custodial protection.
7. Attention should be given to the protection of areas surrounding historic sites.

The Congress was firmly convinced that the best guarantee for the ‘preservation of monuments and works of art derived from the *respect and attachment of the people themselves*’ (emphasis

¹ Eg., England’s Queen Elizabeth I in 1560, Gustavus Adolphus in Sweden, and the Grand Duke Louis of Hesse in 1818. See Max Bourke 1980, ‘The preservation of historical places,’ *Victorian Historical Journal*, Vol 51, No 1. Reprint.

² http://www.icomos.org/docs/athens_charter.html

added). It considered that public authorities could appropriately promote these feelings. It recommended that educators should 'urge children and young people to abstain from disfiguring monuments of every description and that they should teach them to take a greater and more general interest in the protection of these concrete testimonies of all ages of civilisation'.

- The group of architects and technicians who drafted the ATHENS CHARTER were clearly conscious of the importance of the public's attachment to place. However, there is a strong sense that they saw the public as a source of support for their own conservation ethic (and management agenda) rather than seeing the public as having its own values, values which themselves might be worth taking account of in management. This is illustrated in the idea that the authorities should promote the conservation ethic among the public. They appear to have seen respect for 'fabric' as something which could be imposed on or inculcated in the public mind if it was not already there.
- Note the uneasy, and to some extent contradictory, combination of desires to attend to community values and to influence and 'educate' community values has remained a feature of the thinking of heritage professionals up to the present day (see Section 7.2).

International principles applicable to archaeological excavations 1956. The General Conference of the United Nations Educational, Scientific and Cultural Organisation (UNESCO), meeting at New Delhi in 1956, following closely the spirit of the Athens Charter, declared itself of the opinion

that the surest guarantee of the preservation of monuments and works of the past rests in the respect and affection felt for them by the peoples themselves, and persuaded that such feelings may be greatly strengthened by adequate measures inspired by the wish of the Member States to develop science and international relations.³

The conference resolved that each member state should protect its archaeological heritage by making archaeological excavations subject to prior authority by obliging excavators to declare their finds, define the legal status of the archaeological sub-soil, and 'consider classifying as historical monuments the essential elements of its archaeological heritage'.

The conference also resolved that the member states should establish an administrative archaeological service with legal status, preferably as a central state administration. It was envisaged that the body should set up a central system of documentation, including maps, of its movable and immovable monuments, and to carry out a program of works, including scientific publications.

Education of the public was seen as an important task of the competent body. Methods suggested to arouse and develop respect and affection of the remains of the past included the teaching of history, the participation of students in excavations, publication in the press of archaeological information, interpretation of sites and the facilitation of public access to them.

- As with the Athens Charter, UNESCO appears to have been more interested in the potential of the community as a source of support for preservationism than in community values informing management. Note that in many non-Western cultures, as in the West itself, a community's esteem for a place may not translate as conservation (frequently it means radical and 'unsympathetic' renovation).

³ <http://www.icomos.org/unesco/delhi57.html>

The Venice Charter, 1964. The Second International Congress of Architects and Technicians of Historic Monuments, meeting in Venice in 1964, adopted the INTERNATIONAL CHARTER FOR THE CONSERVATION AND RESTORATION OF MONUMENTS AND SITES.⁴ Building on the ATHENS CHARTER, and in keeping with the INTERNATIONAL PRINCIPLES APPLICABLE TO ARCHAEOLOGICAL EXCAVATIONS, the Congress laid down international principles guiding the preservation and restoration of ancient buildings. While allowing for the importance of context in the significance of a monument or site, the VENICE CHARTER is very much a technical document, focused on fabric and making no reference to community attachment or values.

The basis for conservation practice formulated in the VENICE CHARTER, and adopted by the UNESCO-sponsored International Council for Monuments and Sites (ICOMOS), has subsequently been adapted and adopted by member organisations. The BURRA CHARTER, the instrument embodying Australian standards in this area, is an adaptation of the VENICE CHARTER by Australia ICOMOS.

ICOMOS CHARTER FOR THE PROTECTION AND MANAGEMENT OF THE ARCHAEOLOGICAL HERITAGE, 1990. This charter was inspired by the success of the VENICE CHARTER and also acknowledges the INTERNATIONAL PRINCIPLES APPLICABLE TO ARCHAEOLOGICAL EXCAVATIONS. It provided detailed principles for the management of archaeological heritage that are reflected in Australian national and state legislation.

The Charter stated that 'the protection of archaeological heritage should be considered as a moral obligation upon all human beings.' It advocated that the protection of the archaeological heritage should be integrated into planning policies at international, national, regional and local levels. Because of the threat of development to archaeological heritage,

A duty for developers to ensure that archaeological heritage impact studies are carried out before development schemes are implemented, should ... be embodied in appropriate legislation, with a stipulation that costs of such studies are to be included in project costs.

Following the line of the ATHENS CHARTER, the ARCHAEOLOGY CHARTER advocated that local commitment and participation should be actively sought and encouraged as a means of promoting the maintenance of archaeological heritage, a principle especially important when dealing with the heritage of Indigenous peoples or local cultural groups. The Charter suggested that 'in some cases it may be appropriate to entrust responsibility for the protection and management of sites and monuments to Indigenous peoples.' The Charter made a distinction between sites and places that are part of living traditions and those that are not.

- Over the last two decades the international and regional heritage organisations have moved to recognise the right of Indigenous people to have a role in the management of their heritage places. This has not been confined to Indigenous minorities but has often extended to cover the association which local communities have to certain (e.g., religious) sites. The Southeast Asian regional organisation, SPAFA, for instance recognises a distinction between ancient monuments in the countryside which *appear* not to be in active use (e.g., the Borodobur in Java) and old-ancient parts of urban centres which are still occupied and used (e.g., the *kraton* area of Yogyakarta in Java).⁵ What is problematic here is that:

⁴ http://www.international.icomos.org/e_venice.htm

⁵ See for instance, SPAFA, *Principles and Methods of Preservation Applicable to the Ancient Cities of Asia* (Bangkok: SPAFA. 1989).

- a) frequently the definition of a 'living' context involves judgements by heritage managers on what constitutes a legitimate association (e.g., in Thailand animistic [nature spirit] practices are excluded).
 - b) social significance which is 'recent' (e.g., cannot be traced back more than 100 years) are often excluded.
- Note the tendency, common in UNESCO declarations up until the late 1990s, to attempt to universalise (and moralise) a conservation ethic which is culturally and historically specific to northern Europe. While charters such as this are useful in drawing attention to social significance they provide a poor basis for recognising the values that communities *actually* have, as opposed to the ones that UNESCO considers them 'morally obliged' to have.

Draft Declaration on the Rights of Indigenous Peoples, 1992. While the ARCHAEOLOGY CHARTER acknowledged that in some cases it may be appropriate to entrust responsibility for the protection and management of sites and monuments to Indigenous peoples, Article 29 of the DRAFT DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES 1992, specified the right of Indigenous people to full ownership, protection and control of their own cultural and intellectual property.⁶

Article 12 of the Draft Declaration referred to the right of Indigenous peoples to practise and revitalise their cultural traditions and customs.

This includes the right to maintain, protect and develop the past, present and future manifestations of their cultures, such as archaeological and historical sites, artifacts, designs, ceremonies.

Declaration of Oaxaca, 1993. During the international seminar on education, work and cultural pluralism convened by UNESCO and the Mexican National Commission for UNESCO, a declaration was made supporting the principle of cultural diversity and identity. The declaration made particular reference to the rights of Indigenous peoples, and by implication to the preservation of their cultural heritage.

Nara Document of Authenticity, 1994. This document was drafted at the 1994 Nara Conference on Authenticity in Relation to the World Heritage Convention.⁷ Conceived on the basis of the VENICE CHARTER, the NARA DOCUMENT advocated that the protection and enhancement of cultural and heritage diversity should be actively promoted (Article 5). It further stated that it was not possible to place judgement of value and authenticity on fixed criteria, and that cultural heritage must be considered and judged within the cultural context to which it belongs (11). Article (8) contains the statement:

Responsibility for cultural heritage and the management of it belongs, in the first place, to the cultural community that generated it, and subsequently to that which cares for it.

As noted at the Heritage and Social Changes Symposium, the NARA DOCUMENT reflected a movement in international preservation doctrine to a postmodern position of cultural relativism.⁸

⁶ <http://www.tufts.edu/fletcher/multi/humanrights.html>

⁷ <http://www.international.icomos.org/nara.htm>

⁸ Cantacuzino S. 1997 Excerpts of Conclusions on the Heritage and Social Changes Symposium. *ICOMOS News*, Vol 7, 1, pp. 19-24.

This required at the very least an acknowledgment of cultural diversity and explicit justification by heritage managers for what they do in the eyes of the community on whose behalf they are supposedly acting. Cultural heritage was now seen as more encompassing, as being landscape-based rather than site-based, and as including social meaning and association to place.

One paper at this Symposium stated that ‘irrespective of its historical or artistic value, it can only truly be considered heritage if the community has an emotional attachment to it.’ The report of the World Commission on Culture, *Our Creative Diversity*, emphasised the need for a broader approach to cultural heritage to include ‘immaterial, intangible forms set in people’s minds and hearts’.

- The Nara Convention represents an important departure for UNESCO in giving social value priority over archaeological, architectural, art historical etc values. The convention can serve as a major reference point for NPWS policy in cultural heritage management.
- Unfortunately, the principles behind the Convention have by no means yet filtered down to the level of heritage practice in Australia. As noted earlier in this paper (Section 1.2) social significance remains the poor cousin of the other three categories of significance recognised in Australia (i.e., aesthetic, historical, scientific). It should be regarded more as a pointer to a possible future than an indicator of present agency/practitioner policy and practice.

Declaration of San Antonio, 1996. At San Antonio, in 1996, the Inter-American Symposium on Authenticity in the Conservation and Management of the Cultural Heritage was asked to review the NARA DOCUMENT.⁹ One of its criticisms, in the attachment to the DECLARATION OF SAN ANTONIO, was that the Document failed to include the local community in the identification process. The DECLARATION OF SAN ANTONIO stressed that the authenticity of cultural resources lies in the identification, evaluation and interpretation of their true values as perceived in the past and present as elements of an evolving and diverse community. The Symposium was particularly concerned that protocols reflected the multiplicity of Indigenous peoples in the Americas.

The comprehensive cultural value of our heritage can be understood only through an objective study of history, the material elements inherent in the tangible heritage, and a deep understanding of the intangible traditions associated with the tangible patrimony.

For the forthcoming General Assembly to be held in Zimbabwe, ICOMOS, at the request of African delegates, chose as its theme ‘intangible heritage’.¹⁰

⁹ http://www.international.icomos.org/e_charte.htm

¹⁰ Luxen J. 1999 Secretary General’s Message. *ICOMOS News*, Vol 9, 3, pp. 6-7.

8.3 Overseas Legislation

United States of America. The first federal cultural resource legislation in the USA was the *Antiquities Act 1906*,¹¹ which provided for the protection of historic or prehistoric remains on sites of scientific value on federal lands and established criminal sanctions on unauthorised destruction or removal. The *Historic Sites, Buildings and Antiquities Act 1935* placed with the Secretary of the Interior responsibility for national leadership in the field of historic preservation. The *Archaeological Resources Protection Act 1979* secured the protection of archaeological ‘resources’ (that are at least 100 years old) on public or Indian lands. It requires the notification of Indian tribes prior to issuing permits for activities at sites which may be of religious or cultural importance to them.

The key Federal Act regulating cultural heritage is the *National Historic Preservation Act 1966*, as amended. This Act has strongly influenced Australian national heritage legislation.¹² The National Register of Historic Places is composed of ‘districts, sites, buildings, structures, and objects significant in American history, architecture, archeology, engineering, and culture’ (Section 101[a 1.A]).

Inclusion of Native Americans in the consultation process is mandatory for Federal agencies (Section 110, amended in 1992).

Significance. For the purposes of the National Register, significance requires that a cultural resource must have important historical, cultural, scientific, or technological associations. Associations fall into the following categories (emphasis added):¹³

- A. that are associated with events that have made a significant contribution to the broad patterns of our **history**; or
- B. that are associated with the lives of **persons significant** in our past; or
- C. that are embodiments of **technical** accomplishment, **design**, or **workmanship**
- D. that have yielded, or may be likely to yield, **information important in prehistory or history**.

On the face of it, these criteria provide little scope for recognition of the social significance of heritage places, the emphasis being solidly on historical association, architecture and archaeology. They have, however, been interpreted as providing a basis for recognition of places locally significant (to communities).¹⁴

The U.S. National Park Service recognises the additional criteria that places ‘may be important in the cultural system of an ethnic group.’¹⁵ The NPS defines ‘ethnic group’ broadly enough to include - as well as Native Americans and African Americans – local ‘white ethnic groups.’ The

¹¹ http://www.nps.gov/legacy/leg_cult.html

¹² James P. 1995 Where is legislation appropriate and what form should it take? In Sullivan S. (ed) *Cultural Conservation – Towards a National Approach*. Special Australian Heritage Publication Series Number 9. Australian Heritage Commission, Canberra, p. 8.

¹³ See also table in Appendix 1.

¹⁴ Sherfy M. and Ray Luce W. 1998 *Guidelines for Evaluating and Nominating Properties that have Achieved Significance within the past Fifty Years*. National Register Bulletin. US Department of the Interior National Park Service National Register of Historic Places. Revised, originally published 1979. <http://www.cr.nps.gov/nr/bulletins/less50.html>.

¹⁵ *National Park Service Cultural Resource Management Guidelines* (Release No. 5. 1997), p. 9.

definition would appear to be broad enough to include most local community groups of any origin.¹⁶

The *National Environment Policy Act 1969* regulates environmental impact assessments that are to be carried out in relation to proposed developments. The term environmental impact statement evolved from the language of this Act.¹⁷ The Act makes the federal government responsible for enabling the nation to 'preserve important historic, cultural, and natural aspects of our heritage, and maintain, wherever possible, an environment which supports diversity, and variety of individual choice', s 101(b) 4.

The *Regulations for Implementing NEPA* stipulate that 'effects' to be considered under the Act include ecological (such as the effects on natural resources and on the components, structures, and functioning of affected ecosystems), aesthetic, historic, cultural, economic, social, or health, whether direct, indirect, or cumulative', s 1508.8(b). The regulations also provide for the participation of Indigenous peoples alongside other interested parties, and require notice to be given to Indian tribes when effects may occur on reservations, s 1506.6.

The reality, however, appears to be that culturally valued aspects of the environment, which were neither historic properties, nor easily quantified socioeconomic variables, are not recognised in the typical EIS.¹⁸ In other words, heritage professionals normally make their findings in terms of scientific criteria and where Social Impact Assessments are carried out these address only such quantifiable issues as financial income, demography etc. The neglect of social significance in EIA appears to be as common in the US as it is in Australia. One factor seen as possibly contributing to this was a court finding that purely social and psychological issues were not sufficient to trigger preparation of an EIS, this leading to a reluctance to consider these aspects at all. It is argued that cultural heritage has come to mean archaeological heritage, the term having been first adapted from the 1970s land manager phrase 'natural resource management' by a conference of archaeologists in Denver in 1974.¹⁹

The USA national position paper at the Inter-American Symposium on Authenticity in the Conservation and Management of the Cultural Heritage held at San Antonio in 1996 stated, 'the value of a living culture which surrounds and uses cultural properties, whether static or dynamic, is fundamentally more important than the properties themselves' (IV 3). While US archaeologists may have endorsed the 1990 Archaeology Charter, the San Antonio position paper indicates that social value had strong support amongst US ICOMOS representatives.

Canada. Canada's response to emerging principles of heritage preservation reflected in international charters and protocols can be seen in two ICOMOS Canada Charters.²⁰

DESCHAMBAULT DECLARATION (1982 Charter for the Preservation of Quebec's Heritage): defined heritage as 'the combined creations and products of nature and man, in their entirety, that make up the environment in which we live in space and time.' The Declaration acknowledged that

¹⁶ NPS *Cultural Resource Management Guidelines*, p. 158-159.

¹⁷ Smith G. 1996 The role of assessment of environmental effects under the Resource Management Act. *Environmental and Planning Law Journal*. Vol 13, 2, p. 83.

¹⁸ King T. F. 1998 How the archaeologists stole culture: a gap in American environmental impact assessment practice and how to fill it. *Environmental Impact Assessment Review* 18, pp. 117-133.

¹⁹ King T. F. 1998 'How the archaeologists stole culture...' p. 129.

²⁰ http://www.inmternational.icomos.org/e_charte.htm.

Quebec was 'wrested from the American Indians, who were its original inhabitants', and points to the cultural plurality developing from subsequent migrations, which has resulted in an 'art of living that is uniquely Quebecois.' The 'cultural, historical, natural, social and esthetic importance' of heritage must be assessed on national, regional and local levels.

The APPLETON CHARTER FOR THE PROTECTION AND ENHANCEMENT OF THE BUILT ENVIRONMENT, 1983: focussed on fabric. Its only reference to any kind of significance is as follows:

In order to properly understand and interpret a site, there must be a comprehensive investigation of all those qualities which invest a structure with significance.

Environment Canada (which administers the Canadian Environmental Assessment Act 1992) and the Canadian International Development Agency funded a report to the World Council of Indigenous People.²¹ This draft document suggested a framework within which appropriate inclusion of Indigenous people and their traditional knowledge as part of the process could be ensured. The document highlighted the importance of traditional knowledge and its usefulness to the process, for example stressing its advantage of being based on long term observation compared with scientific knowledge, which in the case of environmental impact assessment is usually based on short term data.

The principal federal legislation in Canada providing for environmental assessments is the *Canadian Environmental Assessment Act 1992*.²² The Act requires that consideration be given to cultural heritage resources in federal environmental assessments. The Act is administered by the Canadian Environmental Assessment Agency in Environment Canada. In its *Reference Guidelines on Physical and Cultural Heritage Resources* a cultural heritage resource is defined as 'a human work or a place that gives evidence of human activity or has spiritual or cultural meaning, and that has historic value'. A stated principle of the guide is that

concerns of local governments, property owners and others affected by the project should be considered, including concerns of Aboriginal, ethnic or cultural groups whose heritage is involved. All are an important source of local or traditional knowledge.

Thus local cultural groups are cited, along with professional experts and agencies, as being important sources of information in identifying and evaluating sites, particularly, for example, sites with no evidence of physical activity.

Under the *National Parks Act 1988*

the Governor in Council may set apart any land the title to which is vested in Her Majesty, as a National Park to (a) commemorate a historic event of national importance; or (b) preserve any historic landmark or any object of historic, prehistoric or scientific interest of national importance (Part 2, 9(1)).

²¹ Emery A.R. 1997 *Guidelines for Environmental Assessments with Indigenous People*. Report by A.R. Emery & Associates from the Centre for Traditional Knowledge to the World Council of Indigenous People. Funded by the Canadian International Development Agency and Environment Canada.

²² CEAA 1996 *Assessing Environmental Effects on Physical and Cultural Resources: A Reference Guide to for the Canadian Environmental Assessment Act*. Canadian Environmental Assessment Agency, p. 27. <http://www.ceaa.gc.ca/publications>.

The Alberta *Historical Resources Act 1980* is an example of Canadian provincial heritage legislation. Under this Act an archaeological resource is defined as being primarily of value for its prehistoric, historic, cultural or scientific significance, s 1(a).

The *Canadian Environmental Assessment Act 1992*, especially as elucidated in the guidelines, is notable in expressly providing for social significance assessment to take place, although there is some ambivalence with regard to intangible heritage. The role of Environment Canada in co-funding the *Guidelines for Environmental Assessments with Indigenous People* indicates government commitment to the involvement of Indigenous communities in the environmental assessment process, which is fundamental to social significance assessment.

New Zealand. The CHARTER FOR THE CONSERVATION OF PLACES OF CULTURAL HERITAGE VALUE, adopted by ICOMOS New Zealand in 1992, and following the spirit of the Venice Charter, sets out principles to guide the conservation of places of cultural heritage value.²³

By the Charter definition (Article 22), 'cultural heritage value' means:

possessing historical, archaeological, architectural, technological, aesthetic, scientific, spiritual, social, traditional or other special cultural significance, associated with human activity.

Article 2 of the Charter refers to the Indigenous heritage of Maori and Moriori, which 'relates to family, local and tribal groups and associations'. The Charter then establishes the *Treaty of Waitangi* as the historical basis for Indigenous guardianship:

It recognises the Indigenous people as exercising responsibility for their treasures, monuments and sacred places. This interest extends beyond current legal ownership wherever such heritage exists. Particular knowledge of heritage values is entrusted to chosen guardians. The conservation of places of Indigenous cultural heritage value therefore is conditional on decisions made in the Indigenous community, and should proceed only in this context. Indigenous conservation precepts are fluid and take account of the continuity of life and the needs of the present as well as the responsibilities of guardianship and association with those who have gone before. In particular protocols of access, authority and ritual are handled at a local level. General principles of ethics and social respect affirm that such protocols should be observed.

Article 3 specifies procedures which conservation projects should include. The social significance of Indigenous and non-Indigenous heritage should be addressed under the first two of five procedures. First, definition of the cultural heritage value of the place, which requires prior researching of any documentary and oral history, and a detailed examination of the place and its condition; and second, community consultation, continuing throughout a project as appropriate.

The *Resource Management Act 1991* also acknowledges the principles of the *Treaty of Waitangi*, s 8. The 'relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu [sacred sites] and other taonga [treasured possessions]' is a principle relevant to the operation of the Act, s 6(e).

²³ http://www.icomos.org/docs/nz_charter.html

For the purpose of the Act 'heritage' includes land and resources that display

special interest, character, intrinsic or amenity value or visual appeal, or ...special significance to the tangata whenua [people of the land, or Maori] for spiritual, cultural or historical reasons...special interest [means] having special cultural, architectural historical, scientific, ecological, or other interest, s 189.²⁴

Regional and district policy statements and plans have to take into account any actual or potential effects on 'Natural, physical or cultural heritage sites and values, including landscape, land forms, historic places and wahi tapu' (Schedule 2). An assessment of environmental effects must take into account

Any effect on natural and physical resources having aesthetic, recreational, scientific, historical, spiritual, or cultural, or other special value for present or future generations (Schedule 4).

Although public participation in the impact assessment process is dependent on the degree of notification determined by the consent authority, this Act clearly addresses various aspects of social significance assessment.²⁵

The *Environments Acts (1986-1996)* apply to 'Areas, landscapes, and structures of aesthetic, archaeological, cultural, historical, recreational, scenic and scientific value', s 17(b). The definition of environment, s 2, includes

- (a) Ecosystems and their constituent parts [including people and communities]; and
- (b) All natural and physical resources; and
- (c) Those physical qualities and characteristics of an area that contribute to people's appreciation of its pleasantness, aesthetic coherence, and cultural and recreational attributes; and
- (d) The social, economic, aesthetic and cultural conditions which affect the matters stated in paragraphs (a) to (c) of this definition or which are affected by these matters.

Clause (c), which applies to place, but significance due to its social value, is additional, not being present in the 1986 *Environment Act*.

The *Historic Places Act 1993* addresses historic places, historic areas, wahi tapu and wahi tapu areas. Like the *Resource Management Act*, this Act acknowledges the relationship of Maori and the culture and traditions with their ancestral lands, s 4(2)(c). A place or area may be registered if it possesses 'aesthetic, archaeological, architectural, cultural, historical, scientific, social, spiritual, technological, or traditional significance or value', s 23 (1). Other criteria which point to social significance include (2)(d) the importance of the place to the tangata whenua, and (e) the community association with, or public esteem for, the place.

The Act is administered by a Board of Trustees comprising 11 members, at least three of whom are to be Maori, s 42. The Act also establishes a Maori Heritage Council comprising four Board members, at least one of whom is Maori, and four additional Maori representatives. The Act uses similar definitions, requirements and processes for the registration of historic places and Wahi Tapu (Part II).

²⁴ Kirby V. 1996 Landscape, Heritage and Identity. In Hall C.M. and McArthur S. (eds) *Heritage Management in Australia and New Zealand The Human Dimension*. Oxford University Press, pp. 232-233.

²⁵ Smith G. 1996 'The role of assessment of environmental effects...', p. 91.

The legislative and policy context of New Zealand cultural heritage management, with its broad and specific definitions of environment and cultural heritage value, is such that social significance should be addressed under all relevant instruments. The mindset indicated by reference in the New Zealand Charter and the *Resource Management Act* to the Treaty of Waitangi, plus the inclusion of both Maori and historic heritage together in Acts, suggests that New Zealand has achieved an instrument to deliver positive duality of participation and control.

New Zealand appears to have established a world benchmark in addressing Indigenous (Maori) and historic heritage equitably, and in providing broad interpretations of cultural heritage which address social significance. The *Treaty of Waitangi* features strongly in heritage and environmental legislation. 'Consultation' does not appear in legislation affecting Maori heritage, perhaps because the Maori are a priori in terms of New Zealand cultural heritage management and its structure.

8.4 Australian Federal legislation and policy

Aboriginal and Torres Strait Islander Heritage Protection Act 1984. The Act was passed to provide protection for Aboriginal heritage in circumstances where it was not available at state level.²⁶ The purpose of the Act is 'the preservation and protection from injury or desecration of areas and objects...of particular significance to Aboriginals in accordance with Aboriginal tradition', s 4. 'Aboriginal tradition' means:

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, s 3.

This legislation is activated by applications made by or on behalf of an Aboriginal individual or a group of Aboriginals, ss10, 12.

A review of the Act was carried out in 1995-96 by Justice Elizabeth Evatt (*The Evatt Report*). Among her findings, Evatt continues to recognise the changing nature of culture, and aim to protect living culture / tradition as Aboriginal people see it now. Significance assessment should be based on information provided by, and consultations with, the relevant Aboriginal community, communities or individuals and on any anthropological reports or information provided with their consent.²⁷ The Act thus provides a powerful validation of cultural change and of the authenticity of present-day Aboriginal culture in places like NSW.

In reality, Ministerial discretion in relation to this Act has severely limited its usefulness to Aboriginal people (see for instance the case of Boobera Lagoon in north-central NSW).

Aboriginal and Torres Strait Islander Heritage Protection Bill 1998. Provides for accreditation of State and Territory heritage protection regimes that meet specified minimum standards. Where a State is unaccredited, protection of Aboriginal objects, sites, and places can be sought from the Commonwealth Minister. Where a State or Territory is accredited, Commonwealth protection can only be granted where the Commonwealth Minister considers

²⁶ Pearson M. and Sullivan S. 1995 *Looking After Heritage Places*. Melbourne University Press, p. 53.

²⁷ Evatt E. 1996 *Review... Recommendations* 8.6, 8.7.

Legislation, policy and practice

such protection to be in the national interest. Otherwise, protection of Aboriginal cultural heritage will be entirely a matter for State processes.

To be accredited, a state or territory must have laws that meet defined standards [section 26 (1)]. Of particular relevance here are the following requirements:

- (a) that those laws provide for the protection of all areas and objects that are significant to Indigenous persons in terms of their Indigenous traditions
- (b) that those laws recognise that Indigenous persons are the primary source of information about the significance of areas and objects...

Item (b) clearly gives social value priority over other values (e.g., scientific-archaeological). This would also give Aboriginal people's *interpretation* of historical or scientific value priority over the interpretation of a professional (e.g., archaeologist or historian).

'Indigenous tradition' is defined as:

The body of traditions, observances, customs and beliefs of Indigenous persons generally or of a particular community or group of Indigenous persons, and includes any such traditions, observances, customs or beliefs relating to particular persons, areas, objects or relationships.

This is compatible with the definition in the Aboriginal and Torres Strait Islander Heritage Protection Act 1984. It situates 'tradition' in the present – i.e., as consisting of what people believe and what their customs are in the present. This contrasts with Justice Olney's interpretation of tradition in the Yorta Yorta Native Title case which focuses on the past (i.e., defining tradition in terms of Aboriginal custom and belief in the 19th century).

The bill also provides for 'protection for culturally sensitive information disclosed in the course of administering heritage protection legislation'.

The Native Title Act 1993. Provides native-title holders with the right to negotiate about protecting managing and securing access to heritage areas or sites in native-title affected land or waters where a government proposes to allow mining, exploration or other activities.²⁸ This allows for greater consultation with and participation by native titleholders and applicants regarding heritage.

The Australian Heritage Commission Act 1975. Modelled on the USA *National Historic Preservation Act 1966* the Act established the Australian Heritage Commission and the Register of the National Estate.²⁹ The Register contains places of 'aesthetic, historic, scientific or

²⁸ Janke T. 1998 *Our Culture : Our Future*. Report on Australian Indigenous Cultural and Intellectual Property Rights. Prepared by Michael Frankel and Company, Solicitors, for the Australian Institute of Aboriginal and Islander Studies and the Aboriginal and Torres Strait Islander Commission, p. 92.

²⁹ Flood J. 1995 Aboriginal sites: identification and significance assessment at a national level. In Sullivan S. (ed) *Cultural Conservation – Towards a National Approach*. Special Australian Heritage Publication Series Number 9. Australian Heritage Commission, Canberra, p. 200.

social significance or other special value for future generations as well as for the present community' (s 24).

Criteria developed for assessment of nominations to the Register of the National Estate were incorporated into the Act in 1990.³⁰ In brief these criteria are

- A: Its importance in the course, or pattern, of Australia's natural or cultural history
- B: Its possession of uncommon, rare or endangered aspects of Australia's natural or cultural history
- C: Its potential to yield information that will contribute to an understanding of Australia's natural or cultural history
- D: Its importance in demonstrating the principal characteristics of
 - (i) a class of Australia's natural or cultural places; or
 - (ii) a class of Australia's natural or cultural environments
- E: Its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group
- F: Its importance in demonstrating a high degree of creative or technical achievement at a particular period
- G: Its strong or special associations with a particular community or cultural group for social, cultural or spiritual reasons
- H: Its special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history.

While it is criterion G) which specifically references social-community value it is clear that any of the other criteria could also be elements of the way a community values a place.

Guidelines. In 1993 the Commonwealth Government set in process the development of guidelines for the management of Aboriginal and Torres Strait Islander heritage places. These guidelines were developed on the basis of the Burra Charter model but gave far more centrality to Indigenous communities in the heritage process.³¹ They were partly intended to address a desire by Indigenous Australians to have a set of guidelines that would be separate from the Burra Charter. The project was guided by a steering committee with a majority of Aboriginal members and two expert panels, one of exclusively Aboriginal and Islander membership.

The guidelines stress that 'social' significance includes contemporary cultural values. All values of a place to all groups are to be addressed, and sources of information should include stories or oral tradition about a place, its meaning and history.

³⁰ Pearson M. and Sullivan S. 1995 *Looking After Heritage Places*. Melbourne University Press, p. 45

³¹ DCA 1997 *Draft guidelines for the protection, management and use of Aboriginal and Torres Strait Islander cultural heritage places*. Commonwealth Department of Communication and the Arts.

The guidelines are to some extent superseded by the Australian Heritage Commission's publication *Protecting Local Heritage Places: a Guide for Communities* which is directed at both Indigenous and non-Indigenous communities.³² The guide discusses 'value' under the four established categories and adds four further value categories:

- Social
- Aesthetic
- Historic
- Scientific
- Special (spiritual)
- Biodiversity
- Ecosystem
- Geodiversity

It can be argued that in attempting to provide a more community-friendly account of significance the guide has actually confused matters further. Spiritual value, for instance, is listed as both a Special value and a Social value.

The Comprehensive Regional Assessment (CRA) Process. The comprehensive regional assessments (CRAs) provided the scientific basis on which the State and Commonwealth Governments sign Regional Forest Agreements (RFAs) for major forest areas of New South Wales and the rest of Australia. These agreements determine the future of the forests, with a view to providing a balance between conservation and ecologically sustainable use of forest resources.

The technical framework for Comprehensive Regional Assessment of Regional Forest Agreement areas spelt out requirements for addressing heritage criteria in the NSW CRAs.³³ The process included the identification and documentation of areas of cultural significance according to state heritage legislation and National Estate heritage criteria.³⁴

Of particular interest here are the use of community workshops to assess the social significance of heritage places. Invitations to these workshops were issued to many community groups, including Local Aboriginal Land Councils and other Aboriginal organisations. These have been the subject of outcome reports and a number of papers to heritage forums.³⁵ In the Victorian case, the workshops aimed to identify all heritage values held by the community (i.e., not only those defined under the 'social' significance category). Representatives of all known community groups were invited to attend the workshops, four of which were held in each of the study areas.

The NSW State Land Council administered the Indigenous cultural heritage CRA/RFA project. Legislative criteria used for establishing the social significance of heritage places during the CRA

³² AHC 1998 *Protecting Local Heritage Places A Guide for Communities*. Australian Heritage Commission, Canberra.

³³ CRA/RFAEHTC 1998 *Technical framework for environment and heritage assessments in the NSW CRA/RFA process*. NSW CRA/RFA Environment and Heritage Technical Committee for NSW RFA Steering Committee.

³⁴ Eldershaw G. 1998 *Comprehensive Regional Assessments: standards and guidelines for the submission of non-Indigenous cultural heritage data*. NSW National Parks & Wildlife Service.

³⁵ See for example Juliet Ramsay, 'Assessing the social value of Victoria's East Gippsland and Central Highlands Forests,' in S. Blair (ed), *People's Places: Identifying and Assessing Social Value for Communities* (Canberra: Australian Heritage Commission. 1994), pp. 25-30; *Method Papers: East Gippsland and Central Highlands Joint Forest Projects Vol. 2* (Canberra: Australian Heritage Commission. 1994).

process were the criteria for the register of the National Estate and the NSW Heritage criteria³⁶. These included criteria relating to contemporary, traditional, spiritual, historical and scientific values. The scoping agreement specified the need for full consultation with Indigenous communities about the CRA process and Indigenous value assessments to ensure that Aboriginal people's interests and rights were recognised in the CRA process and to ensure robust and enduring RFAs.

The project provided for coordinators to establish Aboriginal Regional Management Committees. The process was designed to establish Aboriginal community interests in each CRA region, timely scoping of Indigenous heritage assessment, and negotiated management strategies for inclusion in the RFAs for the effective management of Aboriginal community cultural, social and economic interests.

8.5 Interstate legislation and policy

Australian Capital Territory. The principal Act affecting cultural heritage in the ACT is the *Land (Planning and Environment) Act 1991 (ACT)*. The *Heritage Objects Act 1991* complements the Land Act, and has similar definitions. Both Acts address both Indigenous and non-Indigenous heritage.

'Aboriginal place' is defined in the *Land Act* to mean a place which is of significance in Aboriginal tradition. 'Aboriginal tradition' means

the traditions, observances, customs or beliefs of the people who inhabited Australia before European colonisation and include traditions, observances, customs and beliefs that have evolved or developed from that tradition since European colonisation, s 52.

The wording of this is somewhat ambiguous, but suggests the intention for significance in Aboriginal tradition to accommodate contemporary values, including individual memories and experiences. These would definitely be accommodated under the definition of 'heritage significance', s 4, as meaning

archaeological, historic, aesthetic, architectural, scientific, natural or social significance, or other special significance in relation to the environment, for the present community, and for future generations.

The Australian Capital Territory Heritage Council is established under s 91. A Heritage Places Register is maintained by the Heritage Council, s 54. The criteria for the assessment of heritage significance and eventual listing in the register are listed in Schedule 2 of the Act. Social significance is addressed by 1 (iv):

a place which is highly valued by the community or a cultural group for reasons of strong or special religious, spiritual, cultural, educational or social associations.

The legislation requires consultation with 'relevant Aboriginal organisations' in dealing with reported Aboriginal places, during their assessment for listing. 'The Heritage Council shall

³⁶ CRA/RFAEHTC 1998 *Technical framework for environment and heritage assessments in the NSW CRA/RFA process*.

consult with, and consider the views of, any relevant Aboriginal organisation about the effect of the interim Register or revision on Aboriginal tradition', s 81(2). Evatt commented that this Act gave the local Aboriginal community intimate involvement in the mechanics of the legislation, including the opportunity for membership of the Heritage Council of the Australian Capital Territory³⁷.

There is no parallel requirement in the legislation concerning consultation with non-Indigenous parties about proposals affecting the registration of heritage places except for the s 60 requirement for public gazetting.

Northern Territory. The *Aboriginal Land Rights (Northern Territory) Act 1976* (Commonwealth) recognises the spiritual affiliation of Aboriginal people to certain sites. It provides for the protection of sacred sites regardless of whether those sites are on land which is held under Aboriginal title or could be claimed as such, s 69. Traditional Aboriginal owners of land are defined in terms of their spiritual affiliations to a site on the land.

The *Northern Territory Aboriginal Sacred Sites Act 1989*. This Act is directed to the reconciling of Aboriginal interests in sacred sites and their protection with the interests of development.

The definition of 'Aboriginal tradition' (s 3) has the same meaning as in the *Land Rights Act*, s 3, which is,

the body of traditions, observances, customs and beliefs of Aboriginals or of a community or group of Aboriginals, and includes those traditions, observances, customs and beliefs as applied in relation to particular persons, areas of land, things or relationships.

The Act is administered by the Aboriginal Areas Protection Authority (AAPA) which has a predominantly Aboriginal membership with equal gender representation, s 6 (1-2). The functions of the AAPA (s 10) include the facilitation of discussions between custodians of sacred sites and persons performing or proposing to perform work, with a view to their agreeing on appropriate means of site avoidance or protection. The AAPA is an advisory body, discretion residing with the Minister.

The AAPA maintains a register of sacred sites to which sites can only be nominated by custodians s 27 (1). It is significance to the Aboriginal people which is the determining factor, in that the definition of a sacred site is, again from the *Land Rights Act*, s 3,

a site that is sacred to Aboriginals or is otherwise of significance according to Aboriginal tradition, and includes any land that, under a law of the Northern Territory, is declared to be sacred to Aboriginals or of significance to Aboriginal tradition.

The AAPA has the power to register a sacred site, s 29, but if an objection is lodged, the Minister then decides whether the AAPA should review its decision, s 30.

The Northern Territory *Heritage Conservation Act 1991* relates to the natural and cultural heritage of the Northern Territory. The principal object of the Act is

to provide a system for the identification, assessment, recording, conservation and protection of places and objects of prehistoric, protohistoric, historic, social, aesthetic or

³⁷ Evatt E. 1996 *Review...*p. 377.

scientific value, including geological structures, fossils, archaeological sites, ruins, buildings, gardens, landscapes, coastlines and plant and animal communities or ecosystems, s 3.

The Act is administered by the Heritage Conservation Branch of the Department of Lands Planning and Environment, and establishes the Northern Territory Heritage Advisory Council.

The *Heritage Conservation Act 1991* theoretically addresses 'non-traditional', 'post-contact' or 'Aboriginal historic' sites. However the register contains few (non-sacred) places of significance to Aboriginal people. Recently the Heritage Commission and the National Trust have conducted workshops amongst communities to demystify the register and to raise people's awareness of the importance of vernacular architecture, for example the use of corrugated iron.³⁸ The case of Wave Hill (now on Aboriginal land) has been cited as an illustration of problems Aboriginal people have with the use of the Heritage Register for listing of Aboriginal sites. Whereas listing under the *Sacred Sites Act* means the stakeholder is the traditional owner and not the whole community, to list Wave Hill under the *Heritage Conservation Act* would mean the whole community, perhaps also other communities, would be recognised as stakeholders.³⁹

The *Heritage Conservation Regulations* stipulate heritage assessment criteria (s 5) for assessing for declaration under Part 4 of the Act as a heritage place or a heritage object. Of relevance to social significance are the following:

- (m) in demonstrating the principal characteristics of the range of human activities which take or have taken place in the Territory, including ways of life, customs, processes, land uses, functions, designs or techniques;
- (n) by virtue of aesthetic characteristics or through technical, creative, design or artistic excellence, innovation or achievement held in high esteem or otherwise valued by a community;
- (p) in being highly valued by a community for religious, spiritual, symbolic, cultural, educational or social associations.

These provisions would apply to places of significance to Aboriginal, as well as non-Indigenous, people provided they were not sacred according to Aboriginal tradition. Aboriginal sacred sites and movable property located on these sites are excluded from the Act, s 6 (2).

The *Environmental Assessment Act 1994* provides for the assessment of the environmental effects of development proposals and for the protection of the environment which is defined as 'all aspects of the surroundings of man including the physical, biological, economic, cultural and social aspects' s3. The degree to which cultural and social aspects of the environmental impact are explored is at the discretion of the Minister. The Act is only triggered by physical impact, so unless social significance or value becomes a public issue it would be unlikely to be addressed. In practice, the Environmental Assessment Section, Department of Lands Planning and Environment determines in advance whether social significance is likely to be present in relation to a development area and, thus, whether community consultation will be carried out in the course of an EIS.⁴⁰ The situation is better in relation to Aboriginal sacred sites since the *Sacred Sites Act* gives presumptive protection to these places, whether registered or not and whether on Crown,

³⁸ Personal communication 7th December 1999, of David Ritchie, AAPA Chief Executive Officer.

³⁹ Personal communication, David Ritchie.

⁴⁰ Personal communication 30th November 1999. Sarah McEvoy, Environmental Assessment Section, Department of Lands Planning and Environment

park, leasehold or private land. This means that there is a practical compulsion to consult Aboriginal communities ahead of development.

Indigenous control of heritage through the *Sacred Sites Act* is high for those with traditional rights. Social significance could be addressed under the *Environmental Assessment Act*, but the wording is such that this is not ensured. The *Heritage Conservation Act*, especially in conjunction with the regulations, stipulates that social significance assessment be addressed.

Queensland. Heritage Legislation in Queensland is administered by the Environmental Protection Agency (EPA). The EPA was created in December 1998 by renaming the Department of Environment and Heritage. At the same time the Queensland Parks & Wildlife Service was created as part of the EPA⁴¹.

The first legislation in Queensland relating to Indigenous heritage, the *Aboriginal Relics Preservation Act 1967-76*, had a relics based, archaeological approach. That Act was repealed and replaced by the *Cultural Record (Landscapes Queensland and Queensland Estate) Act 1997* (the *Cultural Record Act*). This Act is not specific to Aboriginal cultural heritage, but subsumes Aboriginal heritage within its definitions. It makes few references to Aboriginal people, and there is no requirement for consultation as part of significance assessment.

A Cultural Heritage Review Team established within the Department of the Premier and Cabinet was in early 2000 coordinating the preparation of new Indigenous cultural heritage legislation. It is proposed in the *Draft Model for New Legislation* that the Cultural Record Act will be repealed and replaced by new legislation.⁴²

The *Draft Model* defines the concept of cultural heritage as 'areas and objects of particular significance to Indigenous persons in accordance with tradition or history', s 5.1.2. A significant object or area is 'of particular significance to Indigenous persons in accordance with Indigenous tradition and history'. Indigenous tradition means

the body of traditions, observances, customs and beliefs of Indigenous persons generally or of a particular community or group of Indigenous persons, and includes any such traditions, observances, customs or beliefs relating to particular persons, places, objects or relationships.

History is not defined.

Section 5.3.1 points out that 'significant areas' may include areas with no physical evidence of that significance, and that such areas may include massacre sites or sites of particular significance in accordance with customary beliefs.

The *Draft Model* notes that assessments could be undertaken for academic purposes, for documenting community histories, for preserving knowledge or for informing land use decision makers. Any person would be able to initiate a cultural significance assessment. However, as Indigenous cultural heritage is best identified and interpreted by Indigenous people, actual

⁴¹ <http://www.env.qld.au/environment/about/>.

⁴² QP&C 1999 *Queensland Indigenous Cultural Heritage Review: Draft Model for New Legislation*. Queensland Department of the Premier and Cabinet. Draft December 1999.

assessment activities would be required to be carried out by Interested Indigenous Parties, or their representatives.

The Minister would be advised by an Indigenous Cultural Heritage Advisory Board. The Board would consist of 'Aboriginal and Torres Strait Islander representatives, Local Government, mining, petroleum, pastoral industry representatives etc'. Indigenous Cultural Heritage Bodies would be registered and required to facilitate the identification of Interested Indigenous Parties for the purposes of consultation and negotiation. Interested Indigenous Parties are native title claimants or holders or those who have been accepted by the Indigenous Cultural Heritage Bodies.

Indigenous post contact sites are theoretically covered by the *Queensland Heritage Act 1992* which only excludes Indigenous heritage places when the values are based on tradition, custom, or belief. The *Heritage Act* provides for the protection of 'cultural heritage' in the form of places or objects of aesthetic, architectural, historical, scientific, social or technological significance to the present generation or past or future generations, s 4.

The protection of cultural heritage within National Parks is primarily dealt with under the *Nature Conservation Act 1992*. The Act provides for the recognition of the interests of Aborigines and Torres Strait Islanders in protected areas and native wildlife, and for the co-operative involvement of Aborigines and Torres Strait Islanders in the conservation of nature, s 5 (f). The Act provides for the protection of cultural resources and values in the management of National Parks, s 17 (1), this to be achieved by the declaration of restricted access areas, and by the administration of permits, including permits to take, use, keep or interfere with cultural resources. Provision is made for consultation with land holders and interested groups and persons, including Aborigines and Torres Strait Islanders, in the administration of the Act, s 6.⁴³

As proposed, the new Indigenous heritage and development legislation does ensure Indigenous involvement in cultural assessments, though social significance assessment may be restricted to traditions, customs and beliefs. The *Heritage Act* allows for social significance to be assessed.

South Australia. The *Aboriginal Heritage Act 1988* is administered by the Division of State Aboriginal Affairs, a branch of the Department for Environment, Heritage and Aboriginal Affairs.

An 'Aboriginal object' is defined as an object 'of significance according to Aboriginal tradition', or 'of significance to Aboriginal archaeology, anthropology or history', s 3. Likewise an 'Aboriginal site' is defined as an area of land 'of significance according to Aboriginal tradition', or 'of significance to Aboriginal archaeology, anthropology or history.'

'Aboriginal tradition' is clearly defined to include present day values. The term means,

traditions, observances, customs or beliefs of the people who inhabited Australia before European colonisation and includes traditions, observances, customs and beliefs that have evolved or developed from that tradition since European colonisation.

⁴³ Evatt E. 1996 *Review...*p. 349.

Evatt pointed out that this is one of the broadest definitions of Aboriginal cultural heritage in any of the state and territory laws, only South Australia and the ACT expressly recognising that Aboriginal traditions may change over time.⁴⁴

When determining whether an area of land is an Aboriginal site or an object is an Aboriginal object, 'the Minister must accept the views of the traditional owners of the land or object on the question of whether the land or object is of significance according to Aboriginal tradition', s 13 (3).

The Act establishes the Aboriginal Heritage Committee, s 7, which consists of Aboriginal persons appointed by the Minister, as far as is practicable, from all parts of the state and, also as far as is practicable, consisting of equal numbers of men and women.

A register of Aboriginal sites and objects is maintained. In 1996 there were 4,000 entries on the register, most relating to sites.⁴⁵ The register is not an exhaustive list of sites, and registration is largely carried out as part of the process of dealing with development applications. There have been issues of concern over confidentiality of information concerning Aboriginal sites, objects, remains and traditions.⁴⁶

The *Heritage Act 1993* is administered by Heritage South Australia, whose role is to identify, conserve, promote and provide policy advice on the built and maritime heritage. The Act establishes the State Heritage Authority, which administers the State Heritage Register. The criteria for registration are set out in section 16, and closely adhere to the criteria for listing on the National Estate (above). They include:

- (f) it has strong cultural or spiritual associations for the community or a group within it; or
- (g) it has a special association with the life or work of a person or organisation or an event of historical importance.

Criteria and Guidelines for state heritage places have been issued by the Heritage Authority. In relation to 16(f) the guidelines state that for inclusion the place should be one which the community or a significant cultural group have held in high regard for a significant period. This must be much stronger than people's normal attachment to their surroundings. The association may in some instances be in folklore rather than reality (i.e., widely believed to be rather than known to be). Places will not be considered for inclusion 'if their associations are commonplace by nature, or of recent origin, or recognised only by a small number of people, or not held very strongly, or held by a group not widely recognised, or cannot be demonstrated satisfactorily to others'.

Under the *Heritage Act 1993*, since the 1980s, a survey of the entire state has been in process⁴⁷. This survey has been carried out on a regional basis by consultants, whose brief has included documenting places of state significance according to criteria listed in section 16 of the Act

⁴⁴ Evatt E. 1996 *Review...*p. 322.

⁴⁵ ATSIC 1997 *A Plain English Introduction to Legislation Protecting Aboriginal and Torres Strait Islander Heritage in Australia. Aboriginal and Torres Strait Islander Commission*, p. 27.

⁴⁶ Evatt E. 1996 *Review...*pp. 323, 325.

⁴⁷ Womersley J. 1995 South Australian state conservation plan. In Sullivan S. (ed) *Cultural Conservation – Towards a National Approach*. Special Australian Heritage Publication Series Number 9. Australian Heritage Commission, Canberra.

outlined above.⁴⁸ Places of local heritage were also to be documented according to criteria listed in the *Development Act 1993* (s 23, 4):

- (a) it displays historical, economic or social themes that are of importance to the local area; or
- (b) it represents customs or ways of life that are characteristic of the local area; or
- (c) it has played an important part in the lives of local residents; or
- (d) it displays aesthetic merit, design characteristics or construction techniques of significance to the local area; or
- (e) it is associated with a notable local personality or event; or
- (f) it is a notable landmark in the area.

Local significance criteria appear to address social significance more effectively than do those relating to state significance.

Development within South Australia is regulated by the *Environment Protection Act 1993*. The objects of the Act are, s 10 (a), to promote the principles of ecologically sustainable development, namely,

- (i) that the use, development and protection of the environment should be managed in a way, and at a rate, that will enable people and communities to provide for their economic, social and physical well-being and for their health and safety...;
- (ii) that proper weight should be given to both long and short term economic, environmental, social and equity considerations in deciding all matters relating to environmental protection, restoration and enhancement...

For the purposes of the Act 'environment' means 'land, air, water, organisms and ecosystems, and includes made or modified structures or areas; and the amenity values of an area', s 3. There are no specific provisions for cultural heritage or associated social values.

Tasmania. Protection of both Indigenous and non-Indigenous cultural heritage in Tasmania is managed administratively by the Department of Primary Industries, Water and Environment. The principal legislation covering Indigenous cultural heritage is the *Aboriginal Relics Act 1975* which applies to Tasmanian Aboriginal relics created prior to 1876. A relic is defined in the Act, s 2(3), as:

- (a) any artefact, painting, carving, engraving, arrangement of stones, midden or other object made or created by any of the original inhabitants of Australia or the descendants of any such inhabitants; (b) any object, site or place that bears signs of the activities of any such original inhabitants or their descendants or (c) the remains of the body of such an original inhabitant or of a descendant of such an inhabitant who died before the year 1876.

Under the *National Parks and Wildlife Act 1970*, land can be declared a conservation area to preserve features of historical, archaeological or scientific interest, and to preserve or protect any Aboriginal relic on that land, s 13. The consent of the owner of private land is required. Relics, as defined by s 3 (1) of this Act, are not restricted to pre-1876 relics but include

⁴⁸ Heritage South Australia 1999 *Heritage Survey of the Oodnadatta Track Project Brief*. Heritage South Australia, Department for Environment, Heritage and Aboriginal Affairs.

any artefact, painting, carving, midden, or other object made or created by any of the aboriginal inhabitants of any of the islands contained within the State, or any object, site, or place that bears signs of the activities of any such inhabitants.

The *Aboriginal Lands Act 1995* transfers to Aboriginal ownership twelve crown land sites that have historical, cultural, social and economic significance to the Aboriginal community. The land is vested in perpetuity in the Aboriginal Land Council of Tasmania, established under the Act.

Under the *Land Use and Planning Act 1993*, local councils are responsible for including consideration of cultural heritage in the preparation and administration of planning schemes. Criminal sanctions make it necessary to seek consent if it is known that proposed development will affect a relic. However, these provisions are not necessarily effective without an automatic clearance or consent procedure.⁴⁹ There are no legal requirements to carry out consultations concerning Aboriginal heritage in the planning and development process in Tasmania.

The *Aboriginal Relics Act 1975* is currently under review. The Review discussion paper notes the lack of provision for adequate participation from the Aboriginal community.⁵⁰ It also stresses that the Act has a strong archaeological focus and does not provide for the protection of Aboriginal cultural heritage that may not have physical evidence (e.g., a place with important cultural or historic associations, such as a massacre site). Additionally the Act does not offer protection for Aboriginal cultural heritage created after 1876. The Review suggests that there may be a need to establish linkages with the *Historic Cultural Heritage Act 1995* which, as it stands, does not deal with Aboriginal cultural heritage despite there being sites and places within the state that are important to all Tasmanians. 'In that event, there will need to be a means of protecting both forms of cultural heritage without diminishing the importance of either'. The Review also refers to the need to protect historical objects of Aboriginal heritage.

The inadequacies of the *Aboriginal Relics Act 1975* highlighted by the discussion paper, together with the fact that Aboriginal heritage is presently not incorporated into the planning process, indicate that social significance assessment is not addressed by present Tasmanian legislation in relation to Aboriginal heritage.

The *Historic Cultural Heritage Act 1995* provides for the identification, assessment, protection and conservation of places having historic cultural heritage significance. The Act establishes the Tasmanian Heritage Council which advises the Minister on matters relating to Tasmania's historic cultural heritage and the measures necessary to conserve that heritage for the benefit of the present community and future generations; working within the planning system to achieve the proper protection of Tasmania's historic cultural heritage; and keeping proper records of places of historic cultural heritage significance, s 7(1).

The criteria for listing on the Register are based on the criteria for listing on the Register of the National Estate (Section 8.4 above). They include:

- (f) it has strong or special meaning for any group or community because of social, cultural or spiritual associations;
- (g) it has a special association with the life or work of a person, a group or an organisation that was important in Tasmania's history.

⁴⁹ Evatt E. 1996 *Review...*p. 361.

⁵⁰ <http://www.dpac.tas.gov.au/divisions/policy/rachpt/1999>, p. 3.

Victoria. The protection of Aboriginal cultural heritage in Victoria is dealt with under the Victorian Act, the *Archaeological and Aboriginal Relics Preservation Act 1972*, and the Commonwealth *Aboriginal and Torres Strait Islander Heritage Protection Act 1984, Part IIA: Victorian Aboriginal Cultural Heritage 1984*. Both the *Relics Act* and *Part IIA* are administered by the Heritage Services Branch of Aboriginal Affairs Victoria, within the Department of Human Services.

The *Relics Act* adopts an archaeological approach to the protection of relics, and is comparable with relics based legislation in other parts of Australia. It establishes administrative procedures for archaeological investigation, and provides blanket coverage for all relics, whether they are registered or not.

The Act defines an 'archaeological relic' or 'relic' as

a relic pertaining to the past occupation by the Aboriginal people of any part of Australia, whether or not the relic existed prior to the occupation of that part of Australia by people of European descent, and without affecting the generality of the foregoing, includes any Aboriginal deposit, carving, drawing, skeletal remains and anything belonging to the total body of material relating to that past Aboriginal occupation of Australia, but does not include a body or the remains of a body interred in a cemetery, burial ground or place of burial after the year 1834, or a handiwork made for the purpose of sale.

Part IIA of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* is specific to Victoria, and was passed by the Commonwealth in 1987 in response to a request from the Victorian Government. It defines heritage broadly and gives local Aboriginal communities an extensive role in the protection of heritage.

The guiding principles are based on: Aboriginal ownership and control of heritage, and a definition of heritage which reflects the aspirations of Aboriginal people rather than scientific interests. The principles on which the Act is based were developed by the Koori Heritage Working Group after extensive consultation with Aboriginal people.

Part IIA covers 'Aboriginal cultural property' which means Aboriginal places, objects and folklore s 21A(1). 'Aboriginal folklore' means traditions or oral histories that are or have been part of, or connected with, the cultural life of Aboriginals (including songs, rituals, ceremonies, dances, art, customs and spiritual beliefs) and that are of particular significance to Aboriginals in accordance with Aboriginal tradition. Aboriginal places and objects are also defined as being 'of particular significance to Aboriginals in accordance with Aboriginal tradition'.

The definition of 'Aboriginal tradition' derives from the Commonwealth part of the Act, s 3,

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.

'Folklore', which includes oral tradition and perhaps therefore contemporary significance, appears nevertheless to be linked to customs and beliefs and not to extend to contemporary non-traditional values. Under *Part IIA* this appears to be restricted to non evolving tradition.

Under *Part IIA* Victoria is divided into 'community areas' and in each area a 'local Aboriginal community' is recognised as having responsibility for the Aboriginal heritage in that area. In the Schedule, s 21A, 29 local communities are listed. Local Aboriginal communities can advise the Minister that declarations should be made s 21(E), enter into Aboriginal Cultural Heritage Agreements, appoint wardens, receive remains, negotiate for the return of remains, and request an arbitrator to review a decision of the Minister to refuse a declaration. The Evatt Review commented that some of these bodies did not operate due, in part, to lack of funding.⁵¹

The Heritage Services Branch of Aboriginal Affairs Victoria has carried out extensive work to document Aboriginal historic places and sites which are significant in terms of Aboriginal post-contact heritage.⁵² These are described in terms of a specifically developed list of themes.

The *Heritage Act 1992* is administered by Heritage Victoria. The Act establishes the Heritage Council of Victoria.⁵³ Aboriginal places significant to both Aboriginal and non-Aboriginal people can come under this Act but in practice are generally not considered under it (fewer than ten such places are listed). Assessment criteria for inclusion of places and objects in the Heritage Register 'social or cultural associations', s 8(2)(d). However, in practice there is no established protocol for assessing social value which is treated on a case by case basis and often by oblique reference, ie cited as a contributing factor to registration.

In the case of the assessment of places for registration, community consultation is not carried out unless raised by submission or the nominator. Sector Studies carried out 'in house' over areas where there is a gap in the register do consciously address social significance, although the procedure is not specified. Heritage Studies are less likely to address it, doing so in varying degrees. Individual nominations are least likely to, although they may in themselves imply significance.

In the case of a proposed development, rather than a nomination, if it is considered likely that an area might be socially significant or of interest to the public, Heritage Victoria may require the proponent to put a notice in the local newspaper. If there is a significant response to this Heritage Victoria holds Interested Party Hearings or Meetings to discuss the proposal, although there is no basis for this procedure in the Act.

The *Planning and Environment Act 1987* makes it obligatory for local government to take action through planning schemes to protect registered places⁵⁴. This Act cites the objectives of planning in Victoria as including 'to conserve and enhance those buildings, areas or other places which are of scientific, aesthetic, architectural or historical interest, or otherwise of special cultural value' s 4(1)(d). Planning authorities are empowered to carry out studies and commission reports, s 12(3)(a). It would appear that under s 4 there is power in this Act for such studies and reports to address social significance.

Aboriginal places and archaeological sites meet the criteria for conservation and enhancement through the planning process under the *Planning and Environment Act*, although Aboriginal heritage protection is not explicitly included in the planning process. Where Aboriginal heritage may be affected, Aboriginal Affairs Victoria advises the proponents of developments to engage

⁵¹ Evatt E. 1996 *Review...* p. 368.

⁵² Evatt E. 1996 *Review...* p. 367; Clarke C. and Feary S. 1994 *Placing the Past*.

⁵³ <http://www.heritage.vic.gov.au/Who-1.html>.

⁵⁴ Pearson M. and Sullivan S. 1995 *Looking After Heritage Places*, p. 70.

an archaeological consultant to carry out a survey and assess likely impacts. Aboriginal communities would participate, and advise the consultant of the community's views on matters such as site significance and appropriate management actions. This practice is not supported by any formal legal structure for negotiation or mediation with Aboriginal people in the planning process.⁵⁵ In practice, this form of 'Aboriginal consultation' is comparable to that in NSW: it is successful in bringing Aboriginal people into the work of archaeology but largely fails to bring social significance into the assessment process.

Guidelines for Conducting and Reporting upon Archaeological Surveys in Victoria, issued by Aboriginal Affairs Victoria specify 1(e) that people undertaking surveys of Aboriginal places and sites are required to consult fully with the relevant local community/ies.⁵⁶ These communities are listed in Schedule 1 of the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984, Part IIA: Victorian Aboriginal Cultural Heritage 1984*. Consultation is to cover such matters as participation in the field project, presentation of results, and treatment of sensitive material. For assessment of relative significance the Burra Charter and Australian Heritage Commission criteria are cited as useful comparative guidelines. Assessments of significance are described as essential for management, identifying sites with research potential and educational value and 'identifying sites of importance to Aboriginal people or other groups.' In practice, most reports by consultants merely note the participation of Aboriginal community representatives in the archaeological survey and include an appended letter from the relevant Aboriginal community body.⁵⁷ Rather than providing information on the social significance of the area these letters tend to confine themselves to generic statements of interest (value) in the study area and to express a concern for the protection of Aboriginal heritage in general terms.

Western Australia. The Heritage and Culture Division of the Aboriginal Affairs Department administers the protection of Indigenous heritage in Western Australia under the *Aboriginal Heritage Act 1972*. Unlike the corresponding Tasmanian Act, this Act extends to places where physical evidence of significance is not present, however the focus is on traditional use and significance.

The Act also goes beyond the primarily relics based approach of legislation in some other states in that it refers to places and objects which are currently used by Aboriginal people. As amended in 1995 (No 24 s 6), the Act applies, s 5(a), to a place of importance/significance, where persons have left objects for use for 'any purpose connected with the traditional culture life of the Aboriginal people, past or present'. In practice, however, the term 'traditional' does not allow for evolving traditions are cultural change.

The Act establishes the Aboriginal Cultural Material Committee, s 28. The Act requires that the Minister appoint an anthropologist and other members who, whether or not of Aboriginal descent, have special knowledge, experience or responsibility in relation to the recognition and evaluation of cultural significance. Evatt noted that in fact three quarters of the committee membership was Aboriginal.⁵⁸

⁵⁵ Evatt E. 1996 *Review...*p. 370.

⁵⁶ AAV 1997 *Guidelines for Conducting and Reporting upon Archaeological Surveys in Victoria*. Aboriginal Affairs Victoria.

⁵⁷ In 1999 Denis Byrne reviewed a sample of reports held by Aboriginal Affairs Victoria.

⁵⁸ Evatt E. 1996 *Review...*p. 332.

Legislation, policy and practice

The importance of a place or object is assessed by taking into account, s 31(2),

- (a) any existing use or significance attributed under relevant Aboriginal custom;
- (b) any former or reputed use or significance which may be attributed upon the basis of tradition, historical association, or Aboriginal sentiment;
- (c) any potential anthropological, archaeological or ethnographical interest; and
- (d) aesthetic values.

Any suggestion that 'existing use' or 'historical association' in (b) might allow for the inclusion of non-traditional places as places of significance is quashed by s 31(3):

Associated sacred beliefs, and ritual or ceremonial usage, in so far as such matters can be ascertained, shall be regarded as the primary considerations to be taken into account in the evaluation of any place or object for the purposes of this Act.

There is no provision for consultation in the legislation. The Act is presently under review to remove procedural uncertainties. The review seems likely to increase the control of Aboriginal people over their heritage as advised by the 1995 *Review of the Aboriginal Heritage Act 1972*.⁵⁹ This would also be in line with requirements of the Commonwealth *Aboriginal and Torres Strait Islander Heritage Protection Bill 1998*.

The *Guidelines for Aboriginal Heritage Assessment in Western Australia*, has been created for use by developers and consultant anthropologists and archaeologists.⁶⁰ Prior to development a developer consults Heritage Management staff, who conduct a search of the register (established under s 38 of the Act). They then usually advise the developer to conduct appropriate anthropological and archaeological surveys of the project area in consultation with the appropriate Aboriginal people.⁶¹ These guidelines are not legally binding, and they point out that a site is protected only by the Act, and although Aboriginal custodians should be consulted about its management, there is no legislative basis for the traditional ties an Aboriginal person may have to it.

In accordance with the overall focus of the Act, this consultation, which is in practice carried out, focuses on aspects of potential anthropological and/or archaeological interest and not on non-traditional social significance values. Most consultant anthropologists in WA have employed a literal and, arguably essentialist reading of the term 'traditional', a reading which excludes the social significance of heritage places where this is of recent origin or apply to 'recent' sites (e.g., mission sites, pastoral stations).

The *Heritage Western Australia Act 1990* is administered by the Department of Planning; Employment and Training under advice from the Heritage Council one of whose functions is to establish and maintain a register of heritage places (s 46). In addition, local governments are to compile and maintain inventories of buildings which are or may become of cultural heritage significance (s 45).

⁵⁹ The *Senior Review*, referred to extensively in Evatt E. 1996 *Review...* pp. 330-338.

⁶⁰ DAS 1994 *Guidelines for Aboriginal Heritage Assessment in Western Australia*. Department of Aboriginal Sites, Aboriginal Affairs Western Australia.

⁶¹ <http://www.aad.wa.gov.au/acmc.htm>

The general criteria for entry into the register include, s 47(1)(a) 'that a place is of cultural heritage significance; or possesses special interest related to or associated with the cultural heritage, and is of value for the present community and future generations'.

Cultural heritage significance means, 'in relation to a place, the relative value that place has in terms of its aesthetic, historic, scientific, or social significance, for the present community and future generations', s 3. While the Act does cover social significance, where social value is addressed (e.g., in assessments for nomination to the Register) it tends to be by way of minor and unsubstantiated comment by heritage professionals.

The *Heritage Western Australia Act* does not refer to Aboriginal cultural heritage but it could apply to places of cultural significance. Evatt⁶² cited the Old Swan Brewery site as an instance where an agreement was made in relation to a place of Aboriginal significance under this Act.

8.6 NSW cultural heritage legislation

The National Parks and Wildlife Act 1974, as amended, covers Aboriginal sites throughout the state and historic heritage on the NPWS estate. The Act replaced the *National Parks and Wildlife Act 1967* (No 35), the purpose of which was to reserve, preserve and manage national parks, state parks and historic heritage. New definitions added in 1969 (Act No 78, s 4) included 'Aboriginal area', 'protected archaeological area' and 'relic', s 3(1). Of these only 'relic' was defined in detail, to mean

any deposit, object or material evidence (not being a handicraft made for sale) relating to Indigenous and non-European habitation of the area that comprises New South Wales, being habitation both prior to and concurrent with the occupation of that area by persons of European extraction.

Part IVA s33 'Relics' was added in 1969 and came into effect the following year. However section 33D(3) included the words 'Nothing in this section shall be construed as restricting the lawful use of land,' a qualification which made lawful use of land a defense for the destruction, defacing, or damaging of a relic.

An Aboriginal Relics Advisory Committee was established in 1969 under the new Part 4A relating to relics, s 33A(1). The eight members were to include an archaeologist or anthropologist at a NSW university, an archaeologist or anthropologist of the Australian Museum, a member of the Anthropological Society of NSW, a person nominated by the National Trust, an officer of the Department of Mines and an officer of the National Parks & Wildlife Service.

No Aboriginal people were included in this list. However, at the instigation of committee members and the Relics Section of the National Parks & Wildlife Service, Aboriginal people were brought onto the Committee. A new committee, called the Interim Aboriginal Sites Committee, convened its first meeting in December 1980, and a majority of members of this committee were Aboriginal.⁶³

⁶² Evatt E. 1996 *Review...*p. 337.

⁶³ Sharon Sullivan 1983 The Interim Aboriginal Sites Committee in NSW. Communication between archaeologists and Aborigines. In *Archaeology at ANZAAS* (Ed) Moya Smith, p. 324.

Section 33K(1) of the Act established that 'a person who, without first obtaining the written consent of the Director, knowingly destroys, defaces or damages a relic, shall be guilty of an offence' against the Act. However, while s 33D established that relics were the property of the crown, s 33D(3) included the wording 'nothing in this section shall be construed as restricting the lawful use of the land'.

This meant that until the gazetting of the *National Parks and Wildlife Act 1974* on January 1, 1975, there was a loophole for developers.⁶⁴

The 1974 Act retains the definition of 'relic' largely unchanged but includes Aboriginal remains, s 5.

With regard to Aboriginal heritage, the 1974 Act gives blanket protection to all Aboriginal relics that originate within the state. As defined a relic covers material evidence of Indigenous occupation at any time in the past, including the recent past, and unrestricted by definitions of tradition, custom or belief. The definition does not apply to natural features of significance, however under s 84 places which in the opinion of the Minister are or were of significance with respect to Aboriginal culture can be declared as Aboriginal places and protected under the Act.

English commented that the 'relics' definition fails to explicitly acknowledge that Aboriginal heritage also consists of Indigenous connections with land, natural resources, places of spiritual significance and traditional knowledge.⁶⁵ The resulting relics-based administration of the Act has effectively confined Aboriginal expressions of attachment to land to 'parcels defined by the boundaries of stone tool scatters and rock shelter overhangs.' The result has been the marginalisation of cultural connections with the broader landscape.

There is no legislative obligation under the Act for the Minister or Director-General to consult the Aboriginal community to determine if the significance of a place or site is of special significance before recording sites, making a declaration or granting consent to destroy.

With regard to on-park historic sites, areas to be reserved as historic sites 'are areas that are the sites of buildings, objects, monuments or events of national significance or areas in which relics, or Aboriginal places, of special significance are situated', s 8 (2)(b). No process for determining significance is specified.

Part 5 s 72(1) of the Act requires that a plan of management be prepared for each historic site, regard being paid to, 'the encouragement and regulation of the appropriate use, understanding and enjoyment' of each historic site by the public[s 72 (4) (e)]. The encouragement of understanding conveys an obligation to educate about (or interpret) the site. Social significance could therefore be addressed under the Act, in the course of educating the public about a site.

The Environmental Planning and Assessment Act 1979 controls land development in NSW. The Act defines the environment broadly to cover cultural and social significance, including 'all aspects of the surroundings of humans, whether affecting any human as an individual or in his or her social groupings', s 4. The *Environmental Planning and Assessment Act*

⁶⁴ Buchan R. 1975 Report on the situation regarding Aboriginal relics and the pipeline route from Sydney to Newcastle. From NPWS Submission to SPCC Enquiry, November 1975. C-1303.

⁶⁵ English A. 1996 Legislative and policy frameworks for Indigenous Involvement in Cultural Heritage Management in New Zealand and New South Wales. *Environmental and Planning Law Journal*. Vol 13, 2, p. 107.

1979 does not refer specifically to Aboriginal heritage, although it is perhaps implied in the concept of anthropological significance.

Parts 3 and 4 of the Act specify that Local and Regional Environmental Plans (LEPs, REPs) must take account of heritage of all kinds as part of the environment to be protected. Heritage must be part of environmental assessment, which may entail archaeological surveys. Environmental Impact Statements, which must accompany applications for certain kinds of development (Part 5), have to take into account the effect of development activity on the cultural and heritage significance of the land, and the environmental impact on a community.⁶⁶

The *Environmental Planning and Assessment Amendment Act 1997* provided a single integrated development impact assessment process for development, building and subdivisions, and linked some approvals granted by government agencies under other environmental legislation. The involvement of NPWS in the approval procedure in relation to Aboriginal heritage is triggered by the presence of an Aboriginal site or place. The *EPA Amendment Act* introduced a requirement for up-front presentation of information by development proponents to approval agencies, and imposed time constraints under which the Director General of the National Parks & Wildlife Service has a limited number of days to determine whether consultation with Aboriginal persons or organisations is required, and then whether consultation as carried out is sufficient.⁶⁷

The *Environmental Planning and Assessment Regulation 1980* stipulated, s 56, that for the purposes of Part V of the Act, the factors to be taken into account by determining authorities when considering the likely impact of a development were to include

- (d) a diminution of the aesthetic, recreational, scientific or other environmental quality or value of a locality.
- (e) any effect on a locality, place, building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations.⁶⁸

Significance is defined as meaning 'important, notable, weighty or more than ordinary, of consequence',⁶⁹ and depends upon

- 1 fact or degree and is conditioned by the circumstances of the environment
- 2 the context and intensity
- 3 the existence of pre-existing legal limits or precedents
- 4 the level of social and political acceptance.

Local Government (General) Regulation 1999. Section 13 of this Regulation sets out guidelines for the categorisation of land as areas of cultural significance which clearly include social significance. The area of land may be of Aboriginal significance 'because of its significance to Aboriginal people in terms of their traditional or contemporary cultures', or 'is associated with Aboriginal stories', or 'contains heritage items dating after European settlement that help to explain the relationship between Aboriginal people and later settlers.' An area may

⁶⁶ Evatt E. 1996 *Review...*p. 345.

⁶⁷ Timeline examples are provided in NPWS 1998b *Aboriginal Cultural Heritage and the Integrated Development Assessment Process Information for Applicants*. NSW National Parks & Wildlife Service.

⁶⁸ This stipulation has been carried forward into the 1994 Regulation, s 82 (1), updated 1st February 2000.

⁶⁹ DUAP 1995 *Is an EIS Required? Best Practice Guidelines for Part 5 of the Environmental Planning and Assessment Act 1979*. NSW Department of Urban Affairs and Planning.

also be of social significance 'because of its association with Aboriginal life after 1788 or with a contemporary community for social, spiritual or other reasons'. A 'contemporary community' can presumably be either Aboriginal or non-Aboriginal.

Under the *Environmental Planning and Assessment Act 1979* as amended councils are not obliged to prepare local environmental plans, although under s 54 (1) they *may* decide to do so. It is therefore not mandatory for them to carry out heritage studies in order to incorporate heritage controls in local environmental plans. Under section 84 of the *Heritage Amendment Act 1998*, however, a council can be directed to address heritage in a local environmental plan.

The Aboriginal Land Rights Act 1983 recognises that the state of New South Wales was traditionally owned and occupied by Aboriginal people and acknowledges the vital importance of land in Aboriginal culture. It set up a system of Land Councils at state, regional and local levels.

The Heritage Act 1977, amended by the *Heritage Amendment Act 1998*, is administered by the Minister of Urban Affairs and Planning through the Heritage Council. The *Amendment Act* included under the Act environmental heritage places and items of local significance as well as those of state significance. Heritage significance, in relation to a place, building, work, relic, movable object or precinct, means significance to the State (state) or to an area (local) in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item, s 4A (1). A relic is defined as any deposit, object or material evidence which relates to the settlement of the area that comprises New South Wales, not being Aboriginal settlement, and which is 50 or more years old, s 4.

It is clear that under the Act an item or place can be regarded an item of environmental heritage by virtue of its social significance. The inclusion of local significance in the *Amendment Act* is an attempt to overcome the limitation of the 1977 Act where 'significance to the state' meant that things which are important on a local or neighbourhood level may have been overlooked.⁷⁰

The functions of the Heritage Council include, s 21 (1), making recommendations to the Minister, maintaining a database (the State Heritage Inventory) listing items of State and local heritage significance, conducting community education and arranging consultations, discussions, seminars and conferences relating to environmental heritage.

The Heritage Council is also to maintain the State Heritage Register, s 31, to protect items of state significance. Under s 57 items listed on the Register, or covered by interim heritage protection orders (IHO), are protected by the Act.

The 1992 *Heritage System Review* noted that (non-Indigenous) heritage was not explicitly mentioned in Section 90 of the *Environmental Planning and Assessment Act 1979*, which specifies the matters that consent authorities must consider in assessing a development application. The review suggested that it could be considered under those sections dealing with character, impact and design.⁷¹ The review noted that the specific omission of heritage from s 90 meant that there was no explicit requirement to consider heritage issues in development which did not affect heritage items already identified in a planning instrument (eg SEPP, REP, LEP).

⁷⁰ Snelgrove C. 1996 *Community Participation in Heritage Projects...*p. 7.

⁷¹ DoP 1992 *Heritage System Review Technical Paper*. Heritage Council, Department of Planning, Sydney, p. 27.

In 1996 government policy on the implementation of the Heritage Act recognised that its administration in relation to Aboriginal historic heritage had been curtailed, resulting in a neglect of this area of heritage.

8.7 Chronology of Aboriginal heritage policy

NPWS Policies on Aboriginal Heritage. There is no obligation under the *National Parks and Wildlife Act 1974* for the Minister or Director-General to consult Aboriginal communities to determine the significance of a place before recording sites, making a declaration or granting consent to destroy. It is however agency policy that consultation does occur. In the following, a chronological overview of NPWS policy on cultural heritage will be attempted. It should be noted, however, that much of the relevant policy has been 'informal' (i.e., unwritten), making it difficult to track historically except through exhaustive archival research with old agency files.

1978 NPWS published a brochure entitled *For Planners and Developers: Aboriginal Sites in NSW*. This document invited developers and planners such as local councils to play an active role in preserving the state's heritage. Examples of management scenarios were illustrated, as were types of Aboriginal sites occurring within the state.

The document advanced two reasons for the preservation of Aboriginal heritage. As the consequences of disturbing ecological systems were becoming clear, it was seen as important to understand the culture of Aborigines who had lived in a state of equilibrium in their natural environment for such a long period.

The other, equally important, reason is that Aboriginal people today retain a strong emotional attachment to their land and their culture. Many of the state's Aboriginal relics are of significance to Aboriginal communities. To the Aboriginal people such relics provide a direct link with their traditional culture and lifestyle.

The Service was urging developers and planners to engage in Aboriginal heritage protection because of both the scientific and social significance of that heritage.

1984 The Australian Association of Consulting Archaeologists produced a document, *Checklists and Requirements for Consultants' Reports*, which summarised legislative and policy requirements for Aboriginal heritage management in all states and the Commonwealth.⁷² A number of agencies, including the NSW National Parks & Wildlife Service, did not have written policies at the time, and advice was sought from senior archaeologists as to their agency's requirements.

The checklist noted that contact with Aboriginal groups was a NPWS requirement for a permits and consents and was a requirement (stipulated by the Interim Aboriginal Sites Advisory Committee) for an archaeological survey. The Service required a statement of Aboriginal interest, although it was not clear that this statement had to be written by the Aboriginal community.

⁷² AACA 1984 *Checklists and Requirements for Consultants' Reports*. Australian Association of Consulting Archaeologists. Edited by Laila Haglund.

The Local (or Regional) Aboriginal Land Council for the area should be informed before a survey commences and be encouraged to participate if interested. Results should be relayed back to the local Aboriginal community in a non-technical manner and their level of interest should be recorded and submitted with the report.

Contact should be made with the NPWS Regional Archaeologists or Site Officers for lists of Aborigines in their area who may be contacted. The report must indicate who has been contacted, what they said about the sites and their wishes for protection and management of these sites.⁷³

1989 NPWS produced *Guidelines for the Preparation of Archaeological Reports: Requirements by NPWS*, which were to take effect on 1st January 1990.⁷⁴ The preamble to the *Guidelines* noted that with the introduction of the *Land Rights Act 1983* and the establishment of the Aboriginal Land Council System, the Interim Sites Committee was disbanded, reports were reviewed in-house, and Aboriginal consultation and the review of applications for Permits and Consents by Aboriginal people was decentralised.

‘As scientists’, the *Guidelines* noted, ‘archaeologists were obliged to set standards and acceptable procedures for their work.’ The detailed guidelines for report production excluded ethnography from the mandatory components of a report. However if present it could include the following:

- *brief* outline of relevant literature and summary of main features of relevance;
- *brief* outline of contact history;
- *brief* outline of European history where applicable.

The *Guidelines* spelt out requirements for Aboriginal consultation, stating Service policy that ‘Aborigines have a legitimate interest in site management’ and that the relevant Local Aboriginal Land Council or Aboriginal community group ‘will be consulted on all aspects of site management.’ The Director would not usually sign a Permit or Consent unless the Aboriginal views regarding the proposal had been received.

What the service requires is that a reasonable proportion of the relevant Aboriginal community understands the development proposed, the consequences of that development vis-à-vis Aboriginal sites, and has the opportunity to comment on any recommendations made regarding that development.

Every report had to contain an assessment of the degree of significance for each site located. The criteria to be used by consultants in making a decision about site importance were listed, although no methodology was suggested, and social significance was not clearly enunciated.

Aboriginal significance: eg traditional; contemporary;

Scientific significance: eg research potential; analytical potential; stratigraphic context; uniqueness; the site as a particularly good example of its type; state of preservation; density and size;

⁷³ AACA 1984 *Checklists and Requirements*, section 5.5.6. The document issued by NPWS was undated.

⁷⁴ AACA 1989 *Newsletter*, No 43, December. The document issued by NPWS was undated.

Educational significance: eg well known to the public; often visited; aesthetically pleasing; information potential for public education; ease of interpretation; manageability; state of preservation; the site as a particularly good example of its type.

Where appropriate the guidelines of the Burra Charter were to be adhered to.

1997 NPWS issued the *Aboriginal Cultural Heritage Standards and Guidelines Kit*.⁷⁵ In this document NPWS recognised the right of Aboriginal people to protect, preserve and promote culture, and that Aboriginal people were in principle the rightful cultural owners of cultural heritage information and Aboriginal sites and objects.

The *Standards* component of the document covered procedures utilised in the process of gathering scientific and other information, including ethnohistory and oral history. The *Guidelines* component relating to archaeological survey reporting outlined content regarded as minimal by NPWS for EIS scale projects. Past land use history was included, but not ethnohistory or post contact history, although reference was made to the *National Parks & Wildlife Amendment (Aboriginal Ownership) Act 1996*, which recognises Aboriginal history, under section 71D(1), in the provisions describing the cultural significance of land.⁷⁶

The *Guidelines* indicate that 'it is possible to identify two main streams of significance: cultural/social significance to Aboriginal people and scientific significance to archaeologists.'⁷⁷ Archaeologists are discouraged from assessing educational and aesthetic significance, in case they project their own values and because their qualifications are inappropriate. With regard to social significance, it is pointed out that archaeology is not a skill which lends itself to making assessments of the cultural value of places and areas to Aboriginal people, but archaeologists can carry out cultural assessments if requested to do so by an Aboriginal community group, and if they feel competent to do so.⁷⁸ If archaeologists do carry out 'cultural assessments' they should devote resources to the task 'comparable to those devoted to the archaeological assessment.'

1998 NPWS issued the *Aboriginal Cultural Heritage and the Integrated Development Assessment Process Information for Applicants*, a document prepared in response to the *Environmental Planning and Assessment Amendment Act 1997*, an Act which provided a single integrated development impact assessment process.⁷⁹ The involvement of NPWS in the IDA approval procedure is triggered by the presence of an Aboriginal site or place. The duality of 'cultural/social significance to Aboriginal people' and 'scientific significance' is maintained in the requirement for information then to be provided with an IDA application:

⁷⁵ NPWS 1997 *Aboriginal Cultural Heritage Standards and Guidelines Kit*. Working Draft September 1997. NSW National Parks & Wildlife Service.

⁷⁶, NPWS 1997 *Aboriginal Cultural Heritage... Guidelines*, p. 24.

⁷⁸ NPWS 1997 *Aboriginal Cultural Heritage... Guidelines*, p. 11.

⁷⁹ NPWS 1998b *Aboriginal Cultural Heritage and the Integrated Development Assessment Process Information for Applicants*. NSW National Parks & Wildlife Service.

1. *Aboriginal cultural heritage assessment* which involves consultation with Aboriginal community groups. The NPWS is committed to working in partnership with Aboriginal community groups in the management of sites and requires community assessment of any Aboriginal sites.
2. *Archaeological assessment* which involves the assessment of Aboriginal sites and their management based on archaeological heritage criteria.

IDA applicants are to provide NPWS with evidence of consultations with community groups and the extent of their involvement with the assessment process. 'Usually a letter from the respective groups is included in the appendix of the assessment report to document their views and recommendations.' IDA applicants are not told to direct equal resources to both areas of significance, although the implication of the information required is that social and scientific significance are to be considered equally.

There is an opportunity for NPWS to ask for more specific information than indicated in the IDA guidelines at planning focus meetings held under the Director General's Requirements through DUAP. There have been recent instances of mining project approvals being delayed for up to 12 months because of a failure to provide sufficient information relating to consultation with the local Aboriginal community.⁸⁰

Discussions with agency staff indicate that archaeologists within the NPWS Aboriginal Heritage Division are endeavouring to become less caught up in individual development applications in order to focus more on longer term strategic planning. Phil Hunt, A/Archaeologist in the NPWS HO Aboriginal Heritage Division felt confident that this would provide more conservation opportunities as well as opportunities for social significance assessment.⁸¹ An example of this approach was the Cumberland Plain Aboriginal Heritage Strategy study which provided funding for five participating⁸² Local Aboriginal Land Councils and Native Title Claimant groups to identify places which they regarded as important.⁸³ The fact that all these groups had responded in terms of archaeological values and by identifying pre-contact archaeological sites suggested these groups were responding to what they perceived the interest of NPWS to be. If it is true that in the past the NPWS has presented communities with a definition of heritage which is based on prehistoric sites then it may be necessary for the agency to broadcast its new vision of heritage to the communities (i.e., a vision which includes post-contact places and a range of community heritage values).

Local Government Area Heritage Studies, which have the potential to provide long term strategic planning, are a council responsibility. Occasionally a council may seek advice from NPWS in regard to the content of a brief. Typically the council would be informed that in addition to the archaeological research aspect, a project would need to make provision for 'substantial Aboriginal community involvement.' It would be suggested that liaison with Aboriginal community groups should take place 'to identify land or places with social/contemporary significance (may include some areas with little potential for surviving physical evidence, but

⁸⁰ Margrit Koettig NPWS Aboriginal Heritage Division Archaeologist, Interview 22nd May 2000.

⁸¹ Personal communication 8th June 2000.

⁸² One Local Aboriginal Land Council chose not to participate.

⁸³ *A strategic Approach to Aboriginal Heritage in Western Sydney*. Central Aboriginal Heritage Unit, Cultural Heritage Division, NPWS, File 96/509, 17th September 1999.

which have significance to the community for other reasons).⁸⁴ However the agency role in this is purely advisory, and the council is not required to follow the advice. Further, even if a requirement for social significance assessment gets into the brief, it may not always be covered in the final document.⁸⁵

1989 The NPWS *Field Manual* acknowledged the importance of Aboriginal sites to Aboriginal people and the legitimate concern and interest of Aboriginal people in managing their heritage.⁸⁶ The manual stipulates that Aboriginal people will be consulted about site management issues, and that such consultation will be undertaken at a community level, not an individual level.

1999 The draft *Field Management Policies* NPWS recognise Aboriginal peoples as the rightful owners of their cultural heritage, and states that as there is a strong likelihood that local Aboriginal people will have an attachment to and knowledge of the landscape of the park, and their involvement will not be restricted to only site management issues.⁸⁷ NPWS commits to partnership with Aboriginal communities in Aboriginal heritage and cultural heritage assessment, and to take all reasonable measures to inform Aboriginal peoples and consult as widely as possible with Aboriginal communities and representative bodies on matters related to its management and protection responsibilities for Aboriginal cultural heritage. The significance of Aboriginal places is to be assessed in accordance with the *Aboriginal Cultural Heritage Standards and Guideline Kit* and in consultation with relevant Aboriginal community groups.

- An increasing orientation towards social significance is apparent in the development of NPWS policy towards Aboriginal heritage. This is evident in parts of the 1997 *Standards and Guidelines*. More recently it appears that social significance assessment is achieving a status approaching that of scientific significance. There is no provision in the *National Parks & Wildlife Act 1974*, as amended, for social significance assessment. Its elevation is policy driven, and while those policies are not yet fully formulated, the direction is clear.

NPWS policy on non-Indigenous historic heritage is summarised in the 1989 *Field Manual*.⁸⁸ In these policies NPWS ascribes to the BURRA CHARTER, and defines 'historic resources' as 'all evidence of post-European invasion of New South Wales, physical, oral, documentary.' All Conservation Plans and historic resource documents are to be prepared in accordance with the BURRA CHARTER and specialist advice from the Historical and Archaeological Services Branch. There is no reference to significance assessment or consultation with interested parties.

The 1999 draft *Field Management Policies* also makes no specific reference to significance assessment or consultation with interested parties. However, the stipulation that cultural heritage significance will be assessed in accordance with the BURRA CHARTER and the *NSW State Heritage Manual* implies that social significance will be assessed.⁸⁹ With regard to social significance in non-Indigenous historic heritage, NPWS policies could be described as very basic and undeveloped, relying entirely on the BURRA CHARTER and the *State Heritage Manual*.

⁸⁴ Letter from NPWS Cultural Heritage Manager to Wollondilly Shire Council 13th February 1996.

⁸⁵ Phil Hunt, A/Archaeologist NPWS Cultural Heritage Division, personal communication 8th June 2000.

⁸⁶ NPWS 1989 *Field Management Policies Manual*. NSW National Parks & Wildlife Service, section 3.

⁸⁷ NPWS 1999 *Managing Cultural Heritage on Service Estate DRAFT Field Management Policies*. November 1999. NSW National Parks & Wildlife Service, sections 1.2, 2.3 and 3.8.6.

⁸⁸ *Field Management Policies Manual*. NSW National Parks & Wildlife Service, section 4.

⁸⁹ NPWS 1999 *Managing Cultural Heritage on Service Estate DRAFT Field Management Policies*. November 1999. NSW National Parks & Wildlife Service, section 2.3.

8.8 Chronology of historic heritage policy

The following is a selective and analytical review of published heritage policy from the late 1970s, which draws out both changes and continuities in the management of social significance. It is designed as a background to the current situation in historic heritage management.

1979 The Burra Charter is discussed at length in Section 1.2 and Appendix 1 of this paper. Significance in the Burra Charter is conceptualised as embedded in fabric and place. A major concern of the Charter was to advance the professionalisation of heritage management, and in particular the interventionary processes of maintenance and restoration. The Charter's recommended process for decision making in heritage conservation was quickly adopted by heritage agencies and professionals across Australia as a guiding rationale and benchmark.

1982 Jim Kerr, *The Conservation Plan*, The National Trust of Australia (NSW). Kerr's *Conservation Plan* established a methodology for conservation planning which, in essence, is still widely used. Kerr's document set out an accountable process as a benchmark for professional credibility. Although consultation is generally advised, the assessment of social and research significance is not considered in this document.

1984 *Guidelines to the Burra Charter: Cultural Significance*. The guidelines define social significance as 'the qualities for which a place has become a focus of spiritual, political, national or other cultural sentiment to a majority or minority group.' In assessing social significance the guidelines suggest that information should be sought from the people who 'use or have used the place, or descendants of such people'.

1984 *Heritage Study Flow Chart*. Although this flow chart is an appendix to a discussion paper which advocates an integrated approach to natural, built and intangible heritage, community consultation is absent from the process (although oral history is mentioned as part of historical analysis).⁹⁰ The same document does however stress the need for consultation with Aboriginal communities where heritage studies cover Aboriginal heritage..

1989 *Heritage Assessment Guidelines*, NSW Department of Planning. These guidelines, prepared by Sheridan Burke, aimed to marry the different terminology used in the NSW Heritage Act with the broader concepts of the Burra Charter. The guidelines expand on the Burra Charter approach to assessing social significance, seeing such significance as deriving from people using, living and working in places, and developing spiritual associations with religious places and cemeteries. Although the nature of social significance is more clearly defined here, methodologies for assessment are not set out.

1989 *Heritage Study Guidelines*, NSW Department of Planning. The process established here is in response to the environmental planning requirements of the EPA Act, 1979. The guidelines state that heritage studies 'tend to focus on built environment and cultural landscapes', while separate studies may be required to look at areas of natural and Aboriginal importance. The guidelines and the model brief do not require community participation in the process; they do however advocate the gathering of oral information about the built environment in the process of developing its historical context.

⁹⁰ This chart appeared in Gregory Young, 1984, *Environmental Conservation: Towards a Philosophy, A Discussion Paper*, Heritage Council of NSW.

1989 *State Heritage Inventory: Status and Scope Final Report*, NSW Department of Planning (prepared by Joan Domicelj). This report describes social significance as relating to 'community esteem' and notes that communities may value places for a wide range of reasons which may overlap with the professional criteria of history, aesthetics and science. However, it advocates that if the social value of a place primarily relates to the 'professional criteria' then it should be assessed under those criteria, not the criteria of social value. This encourages a separation of professional areas of work and helps to identify the sorts of places where 'social significance experts' might be needed, for example community buildings, cemeteries, temples, churches, synagogues.

1992 The *Heritage System Review* found that heritage studies carried out under the *Heritage Act 1977* tended to concentrate on European built heritage and above ground archaeological sites.⁹¹ Natural areas, in-ground archaeological sites and portable heritage items tended not to be comprehensively identified and assessed. Further, Aboriginal sites were excluded from standard heritage study briefs 'to focus their range and limit costs'. Aboriginal heritage studies, it noted, were 'often carried out simultaneously, supervised by the National Parks & Wildlife Service'.

1992 Publication of Chris Johnston's *What is Social Value*. The first detailed discussion of the social significance concept. It reviews contemporary debate regarding the admissibility of the concept of social value in professionalised heritage practice.⁹² The paper set out an influential methodology for investigating social value and incorporating it into heritage assessments. Social value is described as an attachment to place echoing the Burra Charter's concept of significance as embedded in place.

1993 *Historical Archaeological Sites Guidelines for Investigation and Conservation*, NSW Department of Planning. These guidelines, specifically for historical archaeological sites, cover the use of oral history in the interpretation of historical archaeological sites, but not as a means of establishing their significance.⁹³ The community's interest in archaeological sites is, however, stressed and volunteer programs and guided tours are seen as important issues relating to a community's access to its heritage.⁹⁴

1994 *Code of Ethics of Co-Existence in Conserving Significant Places*. Australia ICOMOS.⁹⁵ This code establishes ethical principles and practices for conservation practitioners relating to cultural diversity. It states that it is a conservation practitioner's responsibility to identify and acknowledge all cultural groups associated with a place and to seek 'co-existence of differing perceptions of cultural significance rather than resolution.'

1995 *Community Liaison and Heritage – A Discussion Paper*, NSW Department of Planning (Cameron White).⁹⁶ Identified key issues that were inhibiting the effectiveness of community involvement in heritage studies – i.e., resource restrictions and time constraints upon consultants, liaison too late in the process, and a lack of integration of the results of consultation into the study process. Notes that meaningful community participation required a focus on and real response to

⁹¹ DoP 1992 *Heritage System Review Technical Paper*..., p. 17.

⁹² See for instance p. 25.

⁹³ *Historical Archaeological Sites Guidelines for Investigation and Conservation*, NSW Department of Planning, p. 18.

⁹⁴ *Historical Archaeological Sites Guidelines*, p.3.

⁹⁵ www.icomos.org/australia/code2.html .

⁹⁶ A draft paper which was not published, available from the NSW Heritage Office.

the results of community involvement, rather than simply on the outcome of the process, i.e. a heritage LEP.

1996 *State Heritage Manual*, NSW Heritage Office and Department of Urban Affairs and Planning. The Manual is made up by a number of volumes, of which four are viewed here.

1. *Heritage Assessments*: This volume of the manual established a formal procedure for significance assessment. Social significance or contemporary community esteem is described as being found in items which contribute to a community's sense of identity, are esteemed because of their cultural values and if destroyed would cause a sense of loss in the community. To be of state significance an item of social value must be valued by a statewide community, not just a local one. For Aboriginal heritage there is a requirement to 'assess the archaeological and anthropological significance of any Aboriginal relic or place identified on the site in consultation with the Land Council, the Department of Aboriginal Affairs and the National Parks & Wildlife Service.' In the use of the phrase 'archaeological and anthropological significance' the *Guidelines* employ an interpretation of 'relic' as restricted by definitions of tradition, custom and belief, although this is not how it is defined in the *National Parks and Wildlife Act 1974*.

2. *Heritage Studies*: the process and the model brief require a minimum amount of community liaison as part of the Heritage Study. The minimum is defined as community notification and two community workshops aimed at identifying items and articulating the management requirements.

3. *Conservation Management Documents*: Consultation with communities in the establishment of significance is an optional step in the process.

4. *Archaeological Assessments*: Focuses on the concept of research significance and establishes a process for making management decisions about historical archaeological sites. Encourages a clear separation of research significance from other aspects of significance.

1997 *Guidelines for the Management of Human Skeletal Remains under the Heritage Act, 1977*. NSW Department of Planning (Anne Bickford, Denise Donlon, and Siobhan Lavelle). Recommends that community consultation should occur after a draft statement of significance is prepared but before the management policy document has been finalised. 'Many burial sites will be associated with particular communities of interest for whom individual sites and burials may have particular meaning, which will need to be researched and identified to establish significance'.

1999 *State Heritage Register Criteria*, NSW Heritage Office. The State Heritage Register was established under the Heritage Amendment Act, 1988, and came into effect on the 2 April 1999.⁹⁷ The current criteria for listing on the register include 'a strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons.'⁹⁸

2000 BURRA CHARTER (Revised). This revision of the charter attempted to deal with several key concerns including its 'fabric bias', 'advances made in understanding and assessing the social value of heritage places', and the 'need to involve the community in heritage processes'.⁹⁹ The charter's definition of places has been broadened to encompass land and landscapes, and its definition of cultural significance expanded. The new charter states that 'cultural significance is

⁹⁷ www.heritage.nsw.gov.au/shi/shi_2.htm .

⁹⁸ www.heritage.nsw.gov.au/shi/shi_2.htm

⁹⁹ www.icomos.org/australia/burra.html

embodied in the place itself, its fabric, setting, use, associations, meanings, records, related places and related objects.¹⁰⁰ The charter now calls for the participation of communities in the conservation and interpretation of places and for the acceptance of the co-existence of varied and conflicting cultural values.

2000 Draft Guidelines, *Community Based Heritage Studies: a guide*, A NSW Heritage Manual update, NSW Heritage Office. These draft guidelines encapsulate attitudes developing throughout the 1990s that saw Heritage Studies as the most critical vehicle for interaction between heritage professionals and the community. The stated aim of the guidelines is increasing community *ownership* of local Heritage Plans and decreasing division and conflict in communities over heritage.¹⁰¹ This involves actively seeking expressions from the community about the places they value, and how they might be managed.

8.9 Policy trends in historic heritage

Policy trends in community involvement. Policy has clearly moved steadily towards more significant forms of community involvement in the heritage process. In broad terms, it can be seen that policy published in the 1980s is generally concerned with establishing acceptable and consistent methodologies as a necessary hallmark of professional practice. Social significance, where it is dealt with, such as in the *Burra Charter* and the 1989 *Heritage Assessment Guidelines*, is associated with particular types of places, such as churches, cemeteries or schools. However as social significance is not linked to a pre-existing body of expertise, in the way that architecture, archaeology and history are, the guidelines establishing study and policy development procedures, such as Kerr's *Conservation Plan*, are not concerned with techniques designed to derive evidence from contemporary communities. It is clear, though, that in the 1980s some practitioners were becoming increasingly interested in a community, rather than a professionally oriented heritage practice.¹⁰²

Chris Johnston's 1992 Technical Paper does deal with issues of methodology and the establishment of forms of evidence for social value. However, as Cameron White's 1995 discussion paper reveals, practice had generally failed to really incorporate community consultation and participation into the heritage process in a meaningful way. The most recent guidelines prepared for 'community based' heritage studies take this developing trend a step further by effectively minimizing the role of the heritage professional to an advisory and facilitating one.

Ian Jack has raised some interesting issues about putting these guidelines into practice.¹⁰³ The move away from professionals is seen as a way to lower the cost of heritage studies. Jack, who

¹⁰⁰ This definition remains at odds with the thrust of this discussion paper which theorises that values and meanings are culturally constructed and therefore located in communities and individuals, who may share understandings about the meaning of places, rather than in the places themselves.

¹⁰¹ While these aims are managerially based, rather than specifically addressing empowerment of diverse groups within society, the general process is aimed at participation within a fairly rigidly, professionally controlled agenda.

¹⁰² See for instance the reference to Meredith Walker's proposal for the investigation of social value in the *Heritage Issues and Strategies* volume of the Western Region Cultural Heritage Study, quoted in C. Johnston. 1992, *What is Social Value*, p.1, and issues raised by Stephen Harris and others in Australian Heritage Commission, 1990, *A Sense of Place?*, Technical Publications Series Number 1.

¹⁰³ Ian Jack, pers. comm. Interview 2.6.00. This interview is discussed further in Section XX.

has been involved in a number of community based heritage studies around the state, notes that communities were very different in how they responded to such projects, ranging from a complete lack of interest to committed and enthusiastic involvement. He also notes the discrepancy created between urban and rural local government areas, in terms of the expertise and resources available for such exercises.

Mike Pearson, however, has noted cases where the community consultation budget has vastly outweighed, and at the expense of, scientific significance, for example the initial stage of the CRA process. The latest RNEP funding is for 'works and products' – things important to and preferably done by the community; there is no funding for research. He felt that this was a political decision, linked to the current political view that this is what heritage is about (i.e., community values) without an awareness of the research that underpins it.¹⁰⁴

Aboriginal historic heritage. It has been government policy since 1996 that the Heritage Act may be used to protect items and places of significance to Aboriginal people, especially post-contact places that may not receive coverage under the NPW Act's relic based approach.¹⁰⁵ Although significant Aboriginal places remain poorly represented on the State Heritage Register (SHR) the Heritage Council has established an Aboriginal Heritage Committee, has included Aboriginal representation on the Council itself and has employed an Aboriginal heritage officer in the Heritage Office.¹⁰⁶ This has resulted in a significant increase in the number of Aboriginal heritage studies funded through the Heritage Assistance Program. Examples of projects include oral histories, mission studies and other community based projects that focus on historic period heritage¹⁰⁷.

These policy developments signal significant changes in the administration and implementation of the *NSW Heritage Act* which will undoubtedly impact upon the area of social significance assessment and hopefully go some way towards redressing what are essentially colonialist definitions of Indigenous and non-Indigenous heritage.¹⁰⁸ This increased focus on Aboriginal historic heritage is paralleled by Heritage Council initiatives in the area of 'multicultural heritage'.¹⁰⁹ What these two areas have in common is an acknowledgement of the need to not only involve communities in decisions about protection and development, but also in the formulation of the concept of what their heritage might be.¹¹⁰ They also undoubtedly flow from the policies considering heritage and cultural difference which have been produced by Australia ICOMOS, in response to both local and international influences.¹¹¹ Embedded distinctions remain, however, in concepts of a mainstream 'national culture', as opposed to minority Aboriginal and ethnic cultures. Ghassan Hage has argued that in contemporary Australian multicultural discourse, ethnicity is ascribed only to minorities, while the white, mainstream cultural identity is completely *nationalised*, masking a history of ethnic, religious and cultural difference in the

¹⁰⁴ Mike Pearson, pers. comm. Telephone interview 8.5.00.

¹⁰⁵ Sacred Places: Recognising the value of Aboriginal heritage, *Heritage NSW* Quarterly Newsletter of the NSW Heritage Office and Heritage Council of NSW, October 1998, Vol. 5 No. 3, p. 14.

¹⁰⁶ The only site included is the Cyprus Hellenic Club, Aboriginal Day of Mourning Site, pers.com. Mac North, 25 May 2000

¹⁰⁷ See for instance projects mentioned in Sacred Places *Heritage NSW*, p. 15.

¹⁰⁸ See the discussion of how concepts of Aboriginal heritage and social significance have changed in the NSW Heritage Office in: Aboriginal Heritage in the 20th Century, *Heritage NSW*, March 1999, Vol.6 No. 1.

¹⁰⁹ See articles in *Heritage NSW*, December 1998, Vol. 5 No.4.

¹¹⁰ See further discussion in the Policy Review.

¹¹¹ Code of Ethics of Co-Existence in Conserving Significant Places, www.icomos.org/australia/code2.html

dominant culture.¹¹² There is no doubt that work on social significance and cultural difference has increased the diversity of cultural values reflected in heritage management. However this critique has failed to come to grips with the way in which 'historical significance' enshrines the cultural values of the so-called national mainstream, while 'social significance' very often reflects the values of marginalised communities.¹¹³

State significance - local significance. The addition of a category of 'local' heritage significance in the *Heritage Amendment Act 1998*, which could give weight to social significance at a community level, has meant that in practice the identification and management of items of local significance are delegated to local government, while 'icon' items are managed by the Heritage Council.¹¹⁴ One of the main thrusts of policy and guideline development by the NSW Heritage Office has been to assist local government planners, who are often without heritage expertise, in meeting their responsibilities for heritage management. The concept of 'state significance' is now far more central to the administration of heritage in NSW than before the amendment of the Heritage Act and the creation of the SHR.¹¹⁵ There is now a very clear division between items of state significance, which are placed on the SHR and require Heritage Council level development approvals, and items of local significance, which require local government level approvals. The categories of State and local significance are determined by the 'amount' of heritage significance possessed by the item. The assumption underlying this is that heritage items assessed as possessing very high levels of any type of significance should be protected and managed for the benefit of everyone in the community, represented by the state. Heritage items possessing only medium to low levels of any type of significance may therefore be managed by local communities represented by local government.

The current criteria for the SHR allow that this high level of significance may result from an item's 'strong or special association with a particular community or cultural group in NSW.'¹¹⁶ In the case of social significance this means it is currently acceptable to demonstrate a profound depth of attachment between a local community and an item as an argument for state level protection of the item. This is a change in policy from the 1996 *Heritage Manual* that required an item to be relevant to a *statewide* community.¹¹⁷ Often the categories of local, regional and state significance have been seen as representing three orders of magnitude of communities holding an item in esteem. Such a framework effectively de-valued the criterion of social significance in the context of the other categories (historic, scientific and aesthetic) whose constituencies were imagined as universal and self-evident.

It has been argued by Murphy, Walker and others, that communities are generally not concerned with degrees or levels of significance (as recognised by heritage professionals) but rather with a concept of local character that is a reflection of tradition and presumably identity.¹¹⁸ This reflects a tension in current heritage administration where, on the one hand, community participation at

¹¹² Ghassan Hage, 1998, *White Nation*, Sydney: Pluto Press

¹¹³ Graeme Davison hints at this distinction in *The Use and Abuse of Australian History*, 2000, Sydney, Allen and Unwin, pp. 129.

¹¹⁴ Catherine Snelgrove, pers. Comm. 25.01.00

¹¹⁵ The State Heritage Register was established under the Heritage Amendment Act, 1988, and came into effect on the 2 April 1999.

¹¹⁶ See the criteria set out at www.heritage.nsw.gov.au/shi/shi_2.htm.

¹¹⁷ Heritage Assessments, *NSW Heritage Manual*, 1996, Heritage Office and Department of Urban Affairs and Planning, p. 7.

¹¹⁸ See papers by Meredith Walker and Katherine Murphy in, *Peoples' Places: Identifying and Assessing Social Value for Communities*, 1993 Technical Workshop Series No.6, Australian Heritage Commission.

local levels is being encouraged while, on the other, concepts of state and national significance are being more solidly enshrined and given a higher value.

It is no doubt inevitable, and also desirable, that a sense of national identity is fostered through heritage management, but this could be done in a number of different ways. The current move towards National, State and local lists contributes to a concept of a national 'high culture'. The original administration of the Register of the National Estate carefully avoided 'thresholds of significance', in order to encourage a sense of a national community made up of many communities and encompassing a concept of cultural and regional diversity.¹¹⁹

Social impact assessment, cultural planning and heritage. Increasing interest in the concept of social significance has highlighted the lack of integration between heritage management and other forms of social and cultural planning. As Galla so optimistically prophesied in 1993, the only way to break down the naïve/scientific characterisation of heritage as 'things' separate from the cultural intangibles which constitute them, is to move heritage workers into a collaborative, community centred direction:

We are going through a transitional phase to a wider philosophical basis of heritage management where naïve categories and fragmentation of heritage workers into several organisational bodies will be replaced by collaborative community and professional direction or integrated, interdisciplinary and pan-cultural heritage management.¹²⁰

In 2000 we can see some evidence of this change in direction but also of an ongoing lack of positive change at some levels. At the level of local government, amendments to the Local Government Act in 1988 required the development of Community and Social Plans, which aimed to recognise the special needs of the different social and cultural groups found in the local area. In addition to this, the concept of 'Integrated Local Area Planning' encouraged a 'holistic view of local areas, linking related physical, environmental, economic, social and cultural issues, rather than treating them as separate.'¹²¹ These trends encouraged a focus on the development of active processes of community participation in local planning. An interesting example is the recent *North Sydney Draft Cultural Assets and Resources Development Control Plan*. This plan places heritage conservation within the broader 'cultural goals' which have been developed for the LGA, including the livability of neighbourhoods and the continuing viability of community groups and civic networks.¹²² Such an approach goes some way towards addressing the tension in heritage management between 'real heritage' and 'urban amenity or character.' It does so by creating a decision-making framework, which encompasses a more holistic view of community life. In theory, the integration of heritage into social and cultural planning, and away from science-based, resource management methodologies appears promising, but the extent and real impact of these changes requires further research to be accurately gauged.

¹¹⁹ A National Strategy for Australia's Heritage Places, A Commonwealth Consultation Paper Issued by Senator the Hon. Robert Hill The Minister for the Environment and Heritage, April 1999, p. 15.

¹²⁰ Amareswar Galla, 1993, *Training as access : guidelines for the development of heritage curricula and cultural diversity ; a project to develop guidelines for cross-cultural training curricula for the museum sector*, Canberra, Australian Government Publishing Service, p. 4.

¹²¹ Graham Sansom Pty Ltd and Praxis Research, February 1994, *Better Places Richer Communities: Local Government, Integrated Planning and Cultural Development*, Australia Council for the Arts, p. 9.

¹²² *North Sydney Draft Cultural Assets and Resources Development Control Plan*, p. 2.

8.10 Conclusions

Community involvement and control. The up front recognition of the *Treaty of Waitangi* in the NEW ZEALAND CHARTER and resource management legislation makes Australia's legislation appear to cavil at the prospect of Indigenous control of Indigenous heritage. Certainly the BURRA CHARTER comes a poor second in this regard. The Nara statement that the responsibility for cultural heritage belongs in the first instance to the community that generated it is not fully adhered to in the BURRA CHARTER, or indeed in the non-Indigenous Australian mindset. This has yet to translate fully from the Mabo decision.

The involvement of local communities (or 'the public') is not always required by legislation but for Indigenous heritage it is usually ensured by policy. The definition of Indigenous heritage significance as relating to tradition, custom or belief is a limiting factor, as is the focus on archaeological sites or their contents. In these situations social significance is not admissible in relation to contemporary cultural values. Legislation in the ACT and South Australia stand out in this regard by acknowledging that Indigenous culture and its values are dynamic. The NSW *National Parks & Wildlife Act* has no requirement for consultation. Its liberal definition of a 'relic' allows a wider application than most other states, but it does not explicitly acknowledge cultural connections with the broader landscape.

In legislation relating to historic heritage, social significance is perhaps likely to be identified more often at the local government level than at state level. Where there is a hierarchical approach to significance value, however, places of local social significance are almost by definition at the end of the queue for protection and financial support. Aboriginal historic heritage now comes clearly within the purview of the Heritage Act and the State Heritage Register.

A duet for one piano. Pearson and Sullivan suggest that the provision of separate legislation for Indigenous and non-Indigenous heritage by the Commonwealth government was in an attempt to acknowledge a special relationship between Aborigines and the Aboriginal heritage of Australia, and to guarantee a role for Aborigines in decisions about the management of Aboriginal places of significance to them.¹²³

A Queensland Department of Environment and Heritage Green Paper recommended that Aboriginal and Torres Strait Islander sites not be dealt with under the then proposed Heritage Act, except in special cases where sites were of interest both to non-Indigenous and Indigenous people. The reasons advanced were

1. Aboriginal and Torres Strait Islander heritage particularly of a pre-historic nature requires quite different and specific expertise from that required for other heritage places.
2. Aboriginal and Torres Strait Islander issues will probably have to be dealt with by a body with specific expertise in those areas, the majority of members of which are Aboriginal and Torres Strait Islanders.¹²⁴

These are the standard arguments for separate legislation.¹²⁵ An argument can, however, be made that the requirements for expertise should not constrain the basic provisions of legislation, and as

¹²³ Pearson M. and Sullivan S. 1995 *Looking After Heritage Places*, p. 50.

¹²⁴ QDEH 1990 *Proposals for a Heritage Act for Queensland*. Green Paper. Queensland Department of Environment and Heritage, p. 30.

James points out there is already a broad spectrum of expertise involved in the conservation of historic heritage. It would seem reasonable for Indigenous people, as for non-Indigenous people, to have a majority on their relative cultural heritage bodies. The New Zealand example clearly demonstrates that it is possible to have, within one Act, two advisory bodies with some members in common but discrete majorities to deal with Maori and non-Maori heritage. In Australia the Australian Capital Territory *Land (Planning and Environment) Act* appears to provide an equitable balance of consultation and control.

Peter James has advanced the case for prehistoric and historic, Indigenous and non-Indigenous, heritage all to be seen as cultural heritage and amalgamated in legislation and management. He makes the point that there are an increasing number of sites which are being recognised as important to both, a point which is compelling now and is made even more so by a mere glance towards the future. The recent interpretation of the NSW *Heritage Act 1977* to include aspects of Aboriginal heritage, and consequent extension of Heritage Office responsibilities into that area, leaves an unresolved nexus between that Act and the *National Parks & Wildlife Act 1974*. James considered it would be unfortunate for anyone

who is presently looking to a review or legislation in these fields, to do so in 1992 without bearing in mind the possible advantage, if not the necessity, of a far greater degree of coordination.

The Australian Capital Territory, being a relatively new entity, is alone in having managed to achieve this coordination in legislation. Elsewhere in the Australian legislative landscape precedent and history hold sway and the bifurcated system persists. We are now in a new millennium and *plus ça change...*

'Intangible' heritage. Reflecting the international trend towards intangible aspects of heritage, Janke, in the *Report on Australian Indigenous Cultural and Intellectual Property Rights*, stresses the need for greater protection for Indigenous heritage, 'particularly in relation to the protection of knowledge and the intangible aspects of a site or place.'¹²⁶ The intangible aspects of heritage, whether Indigenous or non-Indigenous, are the focus of social significance assessment. The above review of Australian legislation and policy has indicated that by and large it can come within the limits of definition.

The effective instrument. The analysis here has shown that in NSW over the last 25 years Government policy has clearly reflected changes and developments in the concepts of social significance, and community participation in heritage management. Policy has increasingly required consultation with Aboriginal people but has had less to say about what consultation is to cover. In non-Indigenous heritage policy reflects an increasing focus on the concept of social significance and desire for greater community participation but the two have not necessarily been closely linked. Despite policy developments, it is clear that unless unambiguously embodied in legislation, policies are always only as successful as the will and the skill of the administrators can make them. It is therefore considered crucial that legislation acknowledges the importance of community heritage values.

Consideration should be given to the following in terms of designing an effective legislative instrument:

¹²⁵ James P. 1993 Current attitudes to cultural heritage: conservation legislation in Australia at state and territory government level. *Historic Environment*. Vol 9, 1 & 2, p. 11.

¹²⁶ Janke T. 1998 *Our Culture : Our Future*, p. 87.

- The need to acknowledge the importance of community heritage values (including social value) in relation to both Indigenous and non-Indigenous heritage places (preferably within the one Act);
- the need to make specific acknowledgement of the culture and contemporary values as evolving and adaptive, along similar lines to the New Zealand *Treaty of Waitangi* and the *Land (Planning and Environment) Act 1991 (ACT)*.
- in relation to both Indigenous and non-Indigenous heritage, the need to specifically mention intangible heritage values (i.e. non-relic sites) – e.g., Criterion G of the *Heritage Commission Act 1975*
- the desirability of suggesting a minimal methodology for the assessment of social significance, as does for example the NEW ZEALAND CHARTER; and
- the desirability of specifying supportive funding, as does the US *National Historic Preservation Act 1966*.

9. Review of reports on Aboriginal heritage

9.1 Introduction to review of EIA reports

A review of current practice has been carried out, based primarily on a review of consultants' reports held by the NPWS. The review focuses on the manner and extent to which local communities have been involved in the assessment process and the manner and extent to which social significance has been taken account of in the assessment process.

The NPWS reports collection. The National Parks & Wildlife Service has overseen the conduct of archaeological investigations and assessments of Aboriginal sites in New South Wales since 1972, a period of nearly 30 years. This work has been underwritten by the blanket protection extended to Aboriginal 'relics' (recorded and unrecorded) by the National Parks and Wildlife Act. Most of the reports present the findings of surveys conducted by consultant archaeologists with the aim of locating and recording sites present in areas of proposed development.

These surveys are commissioned by development proponents (and in some cases NPWS or other agencies). They have been subject to review by the NPWS, a review process aimed at ensuring that minimum standards have been met: in other words, a) that every reasonable effort has been made to detect sites which may exist and, b) that the significance of the sites has been adequately assessed.

A collection of the reports is maintained as part of the Aboriginal Sites Register.

Sampling strategy. The reports reviewed were all of surveys carried out in response to proposed developments. Over a 25 year period (1975-1999) five survey reports per year were examined, a total of 125. At the time of the review there was a total of 4471 reports in the NPWS collection. They related to surveys, excavations, research and other matters. Our review has thus sampled 2.8% of the total. The relative size of the sample varied from year to year depending on the total of reports held in the collection for each year – e.g., in 1975 there were 15 reports to select from, in 1985 there were 104 and in 1995 there were 251. At the time the review was carried out, in March 2000, only 45 survey reports had been entered into the system for the calendar year 1999.

The sampling strategy was non-random. An effort was made to spread the sample across a wide range of practitioners (reports by 87 individuals as sole or first author were included). Most of the reports were by consultant archaeologists, some by agency staff and, in recent years, also by Indigenous authors.

A geographical spread was achieved on the basis of 1:250,000 map sheets. NSW is covered by 63 of these; 43 were included (although linear surveys often extend across more than one map).

Archaeological survey reports in NPWS Aboriginal Sites Register

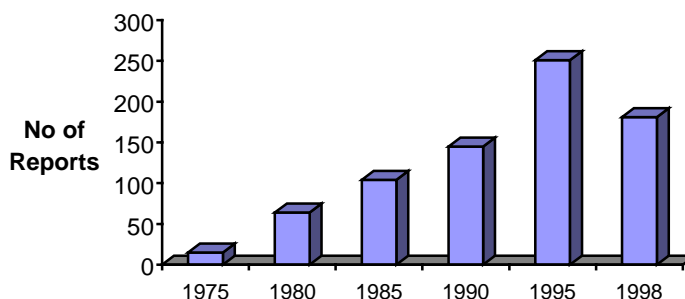


Figure 5: Number of reports held in the NPWS Aboriginal Sites Register

It was not possible to determine the planning instruments under which most of the reviewed reports were carried out. Where determination was possible, 19 related to EIS investigations.¹ Six reports related to reviews of environmental factors and others would have been carried out under regional or local environmental plans.

Citation. Reference details for consultants' reports has been confined to citation of the NPWS reports catalogue number (e.g., C-159).

9.2 Consultants' briefs

Scoping catalyst. An attempt was made to determine whether the extent of community involvement and consultation was determined by directives from NPWS, from the client, or by constraints or directives in the planning instruments. In some 25% of sampled reports there was no reference in the brief or elsewhere to the *National Parks & Wildlife Act 1974*, the role of the agency or the client. However, 66% of reports cited the Act either directly by title, by quotation of sections from it, or by stating that the survey was for 'relics'. Of these, six also referred to the *Environmental Impact Assessment Act 1979*.

¹ These would have been carried out under the *Environmental Impact Assessment Act 1979*. According to the *Environmental Impact Assessment Regulation 1980*, s 56(e), impacts to be taken into account included, 'any effect upon a locality, place or building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations.'

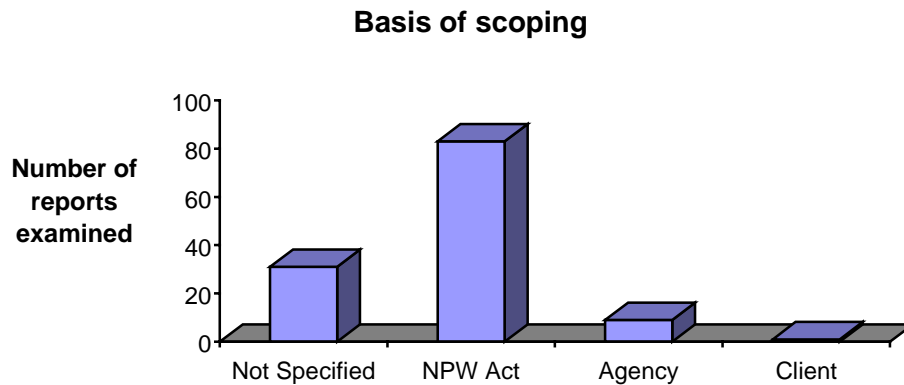


Figure 6: scoping catalyst for consultant's reports in the sample

In nine cases it was specified that the agency was the client or had input into the brief, or that the survey had been carried out by agency staff.² Over time the trend was towards increased reference in reports to the Act as the basis of the investigation and associated management recommendations.

An example of an early brief is that referred to in a 1979 report on the survey of a proposed quarry in the lower Blue Mountains. The brief called for the archaeologist 'to locate and record Aboriginal sites within the area of proposed development; to assess their significance for local Aboriginal groups and for scientific research.'³ This was the first time significance to Aboriginal people was encountered as a concept in our sample of survey reports (assessment of sites found by the survey, however, was made purely on the basis of scientific significance).

9.3 Background research

Trends. An attempt was made to determine the extent to which background (documentary, library, NPWS reports inventory, etc) research alerted the consultant to the possible presence of places likely to be of social significance. To this end the presence or absence in the report of a review of ethno-historic information and post-contact history was noted. Our key assumption here was that post-contact sites were more likely to be of social significance to communities than would pre-contact sites, and that the chances of post-contact sites being identified in a survey area would be dependent on a knowledge of ethno-history and post-contact history for the general vicinity of the survey area.

In 1979, one report on the North Coast included both ethnographic and post-contact information, but it was not until 1981 that such information began to be provided at all consistently. Twenty-nine reports, or 23% of the total reviewed sample, included ethnographic contextual information. In many cases this information was used to project land use practices and occupation patterns back into the prehistoric past. Thirteen of these reports however also covered post-contact history, as do another eight reports, 17% in all. Seven of the reports which covered post-contact history included reference to Aboriginal mission

² Note, however, that in early years, NPWS contracted archaeologists to carry out pipeline or transmission line surveys under funding by the Pipeline Authority, the Australian Gas Light Company or the Electricity Commission. The agency role would have been greater in these instances than may be apparent.

³ C-681

stations/reserves, although none included details of where these places might be located in relation to the study area. One report included historical information on fringe camps in the study area and these were recorded in the field.

With a few exceptions there was little sense that background research led to an awareness of potential for social significance though in five instances from 1976 to 1986 (four on the north coast and one in the north west) it was clear that the Sites of Significance Survey carried out by Creamer and Kelly had alerted archaeologists to the presence of places likely to have a social significance triggering effect.⁴ A 1990 survey at Lake Macquarie provided documented evidence of post-contact Aboriginal presence in the area, including a mission established in 1827, and suggested that acknowledgment and interpretation of this should be incorporated into development plans.⁵

The Sites of Significance Survey alerted some archaeologists working on the north coast and in western NSW to the potential for sites or landscape social significance existence of sites of importance, but no specific reference to it was found after 1986.⁶

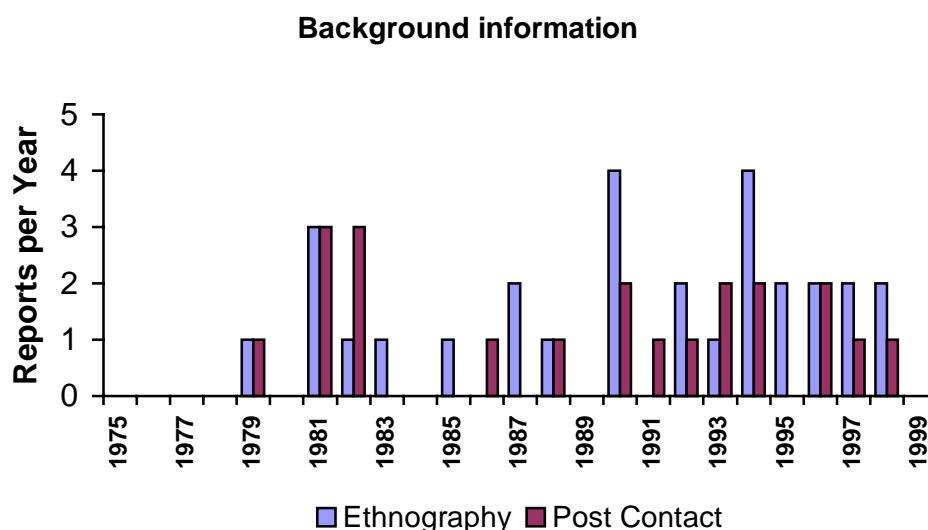


Figure 7: the occurrence in reports of background research on ethnography and post-contact history.

9.4 Aboriginal community involvement

'Off-field' community consultation. For the purposes of this review a distinction has been made between consultations between archaeologists and Aboriginal communities which have taken place in the field (i.e., on-ground at the study area) and those which have taken place in the communities themselves (e.g., at the local mission-reserve).

The first instance of Aboriginal people being contacted in relation to an archaeological survey took place in 1978. It involved detailed discussion about the project with a community group but no involvement with community members in the field. From 1980 off-field involvement

⁴ NPWS Report Catalogue C-234, C-331, C-837, C-987, C-1132, C-987; Creamer H. 'A gift and a dreaming: the NSW survey of Aboriginal sacred and significant sites (National Parks & Wildlife Service. 1984 C-789).

⁵ C-1838

⁶ Creamer H. 1984 A gift and a dreaming...

began to occur in most years in relation to a minority of projects until 1995, after which it only occurred on two occasions, both in 1998.

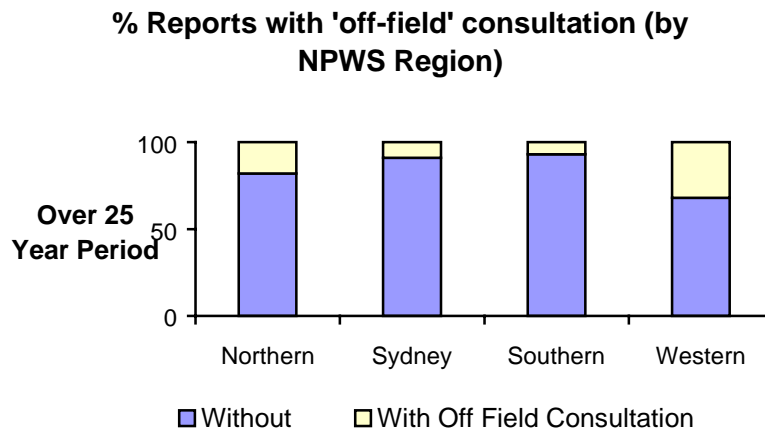


Figure 8: The relative proportion of consultancies which include 'off-field' consultation

Off-field consultation was reported in 21 instances altogether. Regional differences became apparent when the reports were viewed in relation to NPWS Regions. Of the Western Region reports, 32% involved off-field consultation, while 18% of northern region reports and less than 10% of Sydney and Southern Region reports involved off-field consultation. The role in the Western Region of long serving Aboriginal Sites Officers closely associated with local Aboriginal communities and also working closely with agency archaeologists may be a significant factor. The Northern, and to a lesser degree the Southern, regions, like the Western Region, also have considerable Aboriginal populations. However, development activity in the west has been much less intense and this in itself may have produced a climate more conducive to consideration of values other than the scientific/archaeological.

In-field community involvement. The first in-field involvement of Aboriginal people occurred in 1982 and was reported in three of the five reports sampled.⁷ In 1983 there was only one instance of in-field Aboriginal involvement, but thereafter it occurred every year, and most years in 100% of cases. In the first half of the 1980s this involvement mainly took the form of Aboriginal people being invited to visit sites which had already been recorded by the survey (perhaps a day or two previously). Later the pattern became for Aboriginal people to be present during the survey itself.

During 1988 and 1989 Local Aboriginal Land Council representatives were mostly present during field surveys and producing brief written statements about identified sites, although on other occasions the archaeologist reported on discussions with Aboriginal representatives.

Statements of community interest. The first written statement by Aboriginal people to accompany an archaeological report appeared in 1984.⁸ No instances occurred in 1985, but thereafter they occurred every year, but not in every report. Where the archaeological report stated that a statement from the Aboriginal community was expected, although not included with their report, this was taken as a positive, since such statements could arrive later or under

⁷ C-84

⁸ C-757. The report discussed features of the landscape and their past use by Aboriginal people.

separate cover. Of the 22 cases where Aboriginal reports were included with the archaeological report, 17 confined their discussion to archaeological matters - i.e, they made no reference to any other aspect of the place's significance. All of the exceptions, which addressed other matters of importance to the community, dated to 1994 or earlier. After 1994 all of the Aboriginal community statements included with archaeological reports confined their discussion to archaeological sites and recommendations relating to them. One way of interpreting this is that over time a clear message had been sent to Aboriginal communities that in the EIA process archaeological or scientific significance was paramount and there was little point in addressing other categories of significance.

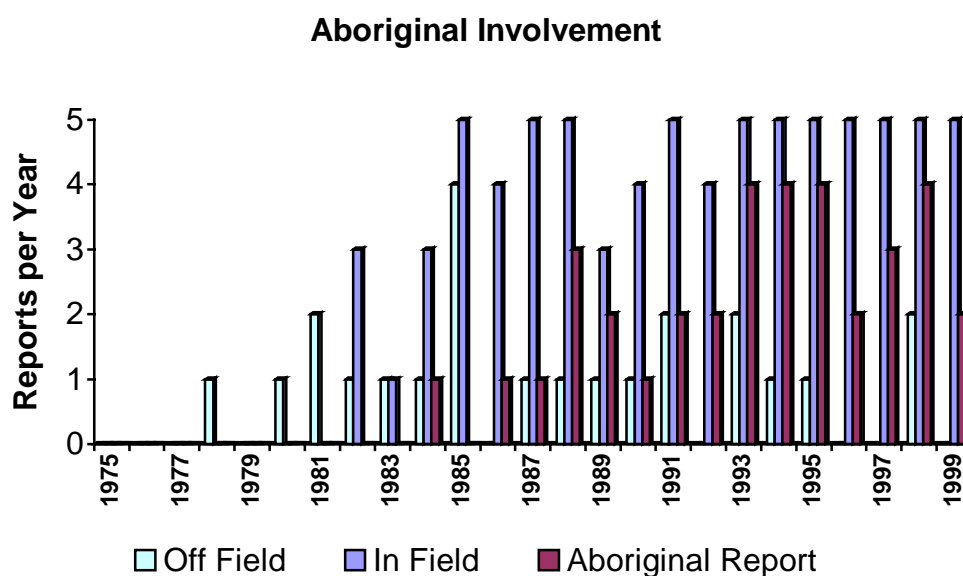


Figure 9: Nature of Aboriginal involvement in EIA projects 1975-1999

In the process of looking at the involvement of Aboriginal people in archaeological surveys, note was taken of the representation of Aboriginal women and men in the process. In the case of off-field involvement, gender representation was almost equal. In the case of in-field representation there were 62 instances where gender was specified. Women acted as field representatives six times without men, and men without women 49 times. Women and men were on occasion in the field at the same time, but women were present on 21% of surveys and men were present on 90% of surveys.

Who was consulted? In the early to mid-1970s consultants doing EIA field surveys did not contact or consult with Aboriginal communities or individuals. Frequently local white landowners were consulted for information on Aboriginal sites, a practice which continued a 'tradition' originating in the 19th century whereby people like Robert Etheridge consulted long established white land owners about Aboriginal culture and sites (drawing on their memories of the 'old blacks') rather than local Aboriginal people. Consultants also sometimes contacted (non-Aboriginal) members of local historical societies.⁹

⁹ For example, during a survey for a proposed mine at Boggabri was surveyed the list of 'informants' consulted included seven landowners, three members of the local historical society, an archaeological colleague, a Forestry officer and a geologist from the mining company (but no Aboriginal people). [C-473]

When, in the late 1970s, EIA archaeologists first began contacting Aboriginal communities they would sometimes refer to NPWS Aboriginal staff for the names of individuals in communities. In 1984 Aboriginal consultation began to be directed to the new Local Aboriginal Land Councils, although some organisations such as the Awabakal Cooperative, the Koe-Inba Regional Aboriginal Sites Protection Committee and the Tharawal Cooperative were consulted where Land Councils had not yet become established.

1981. At that time the typical approach to consultation in the Hunter Valley, where open cut coal mining was gathering momentum, was to contact the NPWS Aboriginal sites officer for names of individual Aboriginal people to consult.¹⁰

Attitude of consultants to social significance. In the first half of the 1970s none of the archaeological reports referred to Aboriginal culture as a continuing entity or considered that Aboriginal people might have an interest in the area subject to the EIA. Reports were all totally focussed on archaeology. Most consultants would have been aware of the NPWS Sites of Significance Survey, and in one report sites recorded by the Survey are referred to.¹¹ However, the Survey's approach was not adopted as a model by archaeologists, presumably because it was seen as being restricted to Aboriginal sacred and ceremonial sites and was thus not perceived to be of relevance to archaeology. Neither consultant archaeologists nor the NPWS saw the Survey's in-depth community consultation (including oral history recording) as an option for discovering values which communities might hold in relation to the land the archaeologists were studying or the sites they were recording. Rather, the model opted for in subsequent decades (i.e., 1980s and 1990s) was based on Aboriginal involvement in the archaeological work of the consultants, a model which in retrospect can be seen as failing to provide a viable avenue for social significance assessment.

By 1980 the NPWS was requiring at least some form of consultation with local communities as part of archaeological investigations.¹² In 1980 an archaeologist surveying a pipeline route between Young and Wagga Wagga spent the last of 16 days in the field contacting local people of Aboriginal descent and informing them of the nature of the project. He found their level of interest to be high and commented that 'sites which have a living significance to present day Aboriginal people form a special class of priority.'¹³ The Aboriginal people consulted were not shown any of the sites, but the archaeologist recommended that follow up work, including suggested excavation and surface collection, should also include 'an obligation to show, in the field, the results of the survey to a reasonable number of interested persons of Aboriginal descent.'

Comprehensive assessments. From the early 1980s there were a small number of projects which included comprehensive assessments of both social and archaeological significance. The social significance part of the assessment was often conducted by an anthropologist. These comprehensive assessments were carried out either because the NPWS or the development proponent (normally on advice from consultant archaeologists) decided, in advance, that social significance was going to be an issue. These EIA's stand in contrast to most of the other assessments where such determinations were not made and where no attempt was made to assess social significance in any systematic or meaningful way.

An EIA project at Jervis Bay in 1989, relating to Department of Defence proposals, serves as an example of a comprehensive assessment. This study involved an anthropologist and

¹⁰ For example, C-449.

¹¹ C-1132

¹² A 1980 report included a letter to NPWS to the effect that an effort had been made to contact local Aboriginal groups, but without success. C-1119

¹³ C-738

contained a statement from the Land Council on their interest in the Jervis Bay landscape. The report attached as much weight to Aboriginal issues as to archaeological, finding the former to provide the stronger argument against development.¹⁴

Anthropological input. Anthropological input into the assessment process was found to be rare (occurring in only one of the projects in our sample). Anthropological input was only recommended by consultants on two occasions (both Forestry Commission EIS studies in the Northern Region) where the significance of the forest to Aboriginal people was found to be beyond the scope of archaeology.

9.5 Significance assessment

Discussion of significance. Attention was paid to whether significance had been discussed as a concept in reports. Where the significance concept was discussed it was normally followed by a more detailed discussion of one or more significance categories (e.g., scientific). In our sample of reports, the first reference to significance occurs in a 1978 survey on the far North Coast, the stated aims of which were ‘to locate and record all Aboriginal sites in an area..., to assess their significance for scientific research and aboriginal heritage, and to make recommendations to the National Parks & Wildlife Service on their preservation and management.’¹⁵

The *Environmental Impact Assessment Regulation 1980* required consideration of significance. By 1981 a discussion of significance was present in a majority of the reports in our sample, but in 1983 and 1984 it was absent. From 1985 it was present every year, and with increasing consistency. Discussion of scientific significance was present every year from 1980, in a minority of reports to begin with and then also with increasing consistency. Discussion by the author/archaeologist of significance to Aboriginal people first occurred in 1980, in the same report as the first discussion of the concept of significance. In fact, the trendlines over time for discussion of the concept of significance and of significance to Aboriginal people are identical.

Confusion. A characteristic of the sample of reports reviewed was the lack of agreement among the authors as to what significance meant in relation to Aboriginal heritage places. While some consultants listed the four ‘conventional’ significance categories (aesthetic, historical, scientific, social) others listed additional or alternative categories including ‘public’, ‘tourism’ and ‘educational’ significance (as well as ‘Aboriginal significance’ – see below). ‘Social’ or ‘public’ significance in some cases was defined as being educational significance.¹⁶

In the context of Aboriginal heritage, the most widely cited published references on significance were the papers by Sharon Sullivan and Sandra Bowdler from a 1981 conference (published in 1984), along with Bowdler’s volume prepared for the NSW Forestry Commission.¹⁷ The common reference to the category of ‘public significance’ may stem from

¹⁴ C-1348

¹⁵ C-1161

¹⁶ See for example, C-4261, C4212.

¹⁷ Sharon Sullivan, ‘Introduction’, in S. Sullivan and S. Bowdler (eds), *Site Surveys and Significance Assessment in Australian Archaeology* (Canberra: Dept Prehistory, Research School of Pacific Studies, The Australian National University. 1984), pp. v-x; Sandra Bowdler, ‘Archaeological significance as a mutable quality’ (pp. 1-9 in the same volume); Sandra Bowdler, *Aboriginal Sites on the Crown-timber Lands of New South Wales* (Sydney: Forestry Commission of NSW. 1983). Note that the article by

a misreading of Sullivan’s 1984 paper where, after noting the conventional categories (aesthetic, historical, scientific, social), she observed that sites may have public appeal based on their aesthetic or historic significance.¹⁸ She was clearly not proposing the ‘public’ as an additional (fifth) category of significance in its own right.

To some extent the confusion over these significance categories was immaterial given that rarely was any attempt made to assess anything except social and ‘Aboriginal significance.’ However, it does perhaps indicate a more general confusion as to the role of significance assessment.

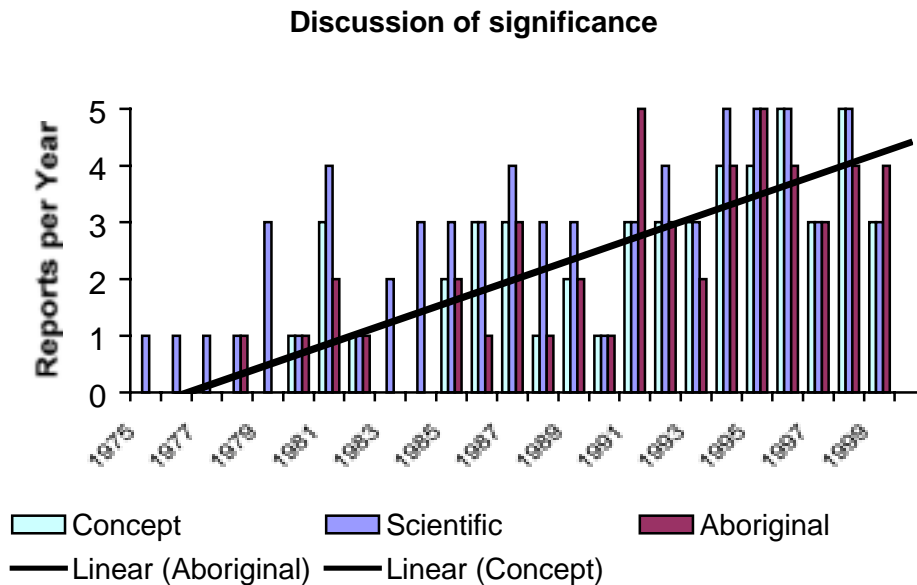


Figure 10: The extent to which significance was reported on in EIA consultancies 1975-1999

Two systems. There was an unspoken but widely recognised understanding that two systems of significance assessment operated in NSW: one, based on the Burra Charter, followed by the Heritage Office and used for assessments of historic (non-Indigenous) heritage and another followed by NPWS and based on a combination of archaeological assessment and ‘Aboriginal consultation’ (no serious effort was made to make the latter system conform to the Burra Charter).

The category of ‘Aboriginal significance’. A large number of consultants, in the 1980s and 90s, have employed the concept of ‘Aboriginal significance’ as a category of significance in its own right. Again, this may originate in a reading of Sullivan’s 1984 paper in which she observed that ‘All Aboriginal sites in Australia have significance to Aborigines, which may often override a site’s other values.’¹⁹ In retrospect, Sullivan’s paper would seem

Anne Bickford and Sharon Sullivan in the *Site Surveys and Significance Assessment* volume remains perhaps the most widely referenced statement on significance assessment in the non-Indigenous (historic) heritage field.

¹⁸ Sullivan, ‘Introduction’, p. vi.

¹⁹ Sullivan, ‘Introduction’, p. vi.

to represent a defining point in the development of the concept of 'Aboriginal' significance as an alternative to the Burra Charter's 'social' significance. As suggested earlier, a recognition of Indigenous rights was incorporated into the engagement of (white) heritage professionals with Aboriginal people. This produced a major divergence in the way Aboriginal and non-Indigenous (historic) heritage places would be assessed.

On the face of it this should have led to 'Aboriginal significance', as a category, being given far greater emphasis by those practitioners working in the field of Aboriginal heritage than that given to the category of 'social significance' by practitioners working in the field of non-Indigenous (historic) heritage. Ironically, virtually the opposite occurred. This outcome appears to have stemmed from a tendency to equate 'Aboriginal significance' not with all Aboriginal heritage places but with only a certain class of them. Bowdler's 1983 publication, widely cited by consultants in their EIA reports, makes a distinction between 'essentially archaeological sites and sites of significance to Aboriginal people.'²⁰ Though elsewhere in the publication she made clear that 'archaeological sites' could also be of interest and significance to Aboriginal people, an almost general understanding appears to have developed among practitioners that 'Aboriginal significance' could largely be equated with 'sites of significance to Aboriginal people.'²¹ It should be said that the NPWS during the 1980s and 90s did little to correct this perception, a perception which seems to have informed much of the Service's own practice in cultural heritage.

Division of roles. Archaeologists looked partly to the work of the NPWS Sites of Significance Survey (see Section 3.1) to define what sites of 'Aboriginal significance' were. To some extent, because the Survey focussed on Dreaming sites and ceremonial sites, it became a convenient reference point for separating sites of 'Aboriginal' and 'archaeological' significance. In some cases, where the former were thought likely to be present in an EIA study area, members of the Survey team were brought in to carry out community consultations to document these places.²²

In the late 1970s as prehistorians (i.e., archaeologists specialising in the pre-1788 period) moved into EIA as consultants there was an implicit understanding between them and the NPWS that they, the archaeologists, were equipped to handle the whole EIA process for Aboriginal heritage. As noted above, where 'sites of Aboriginal significance' were present or thought likely to be present in a study area, the archaeologists would arrange for NPWS Aboriginal staff or anthropologists to assess these places. By the end of the 1980s, however, some archaeologists were declining this overall role, pointing out in their reports that they were only qualified to assess scientific value (i.e., archaeological significance).

²⁰ Bowdler, *Aboriginal Sites on the Crown-timber Lands of New South Wales*, p. 13. This was the first detailed explication of the role of consultant archeologists in an EIA context and it remained the authoritative reference in this area right through the 1980s. Bowdler cites the report of the Select Committee of the [NSW] Legislative Assembly upon Aborigines (1980) which, while stating that the Committee '...firmly believes that Aborigines are the only competent persons to determine the significance to themselves of any site', went on to (perhaps unwittingly) imply that this meant 'sacred sites and sites of significance' [Bowdler 1983: 28]. It is not difficult to see that archaeologists of the time might read this as confirming a distinction between archaeological sites and 'sites of significance to Aboriginal people.'

²¹ Examples of reports which cite Bowdler 1983 in this respect include C-1241 and C-1317.

²² See for example, C-530

Date	Milestone
1967	◆ <i>National Parks & Wildlife Act</i>
1969	◆ <i>NP&W Act</i> amended to include 'relics'
1972	◆ First development driven archaeological survey
1973-83	◆ Survey of Aboriginal Sacred and Significant Sites
1974	◆ <i>National Parks & Wildlife Act</i> amended to provide presumptive protection to 'relics'
1978	◆ First Off Field involvement of Aboriginals
1979	◆ <i>Environmental Planning and Assessment Act</i>
	◆ NPWS publication <i>For Planners & Developers Aboriginal Sites in NSW</i> refers to the emotional attachment of Aboriginal people to their land and culture
	◆ First inclusion of ethnography and post contact history in a survey report
1980	◆ <i>Environmental Planning and Assessment Regulation 1980</i> stipulates that development impacts include 'any effect on a locality, place, building having aesthetic, anthropological, archaeological, architectural, cultural, historical, scientific or social significance or other special value for present or future generations'.
1980	◆ First discussion of significance as a concept in a survey report
1982	◆ First In Field involvement of Aboriginals
1983	◆ <i>Aboriginal Land Rights Act</i>
1984	◆ First Local Aboriginal Land Council involvement
1993	◆ <i>Native Title Act</i> (Commonwealth)
1995	◆ First fringe camps recorded
1996	◆ Significance to Tribal Council overrides significance to Local Land Council

10. Review of reports: historic (non-Indigenous) heritage

10.1 Introduction

A review was carried out of NSW historic heritage reports written between 1978 and 1999. The reports were chosen more or less randomly from the collection housed in the Department of Urban Affairs and Planning Library. However decisions upon the choice of reports sampled were made to ensure that:

1. A range of report types was considered – e.g., conservation plans, archaeological assessments, heritage studies.
2. A cross section of authors was sampled.
3. Reports dealing with a wide range of geographical areas across the state were covered.

The sample was small, including just 2 reports a year over the 22 year period, making a total of 44.

Information gathered on each report covered the following:

- Date
- Author
- Local Government Area
- Type of report
- Act: the piece of legislation being fulfilled by the report
- Indigenous: were Aboriginal sites considered as well as historic?
- Social Significance: was social significance discussed as a concept?
- Consultation: was any form of community consultation carried out as part of the study?
- Significance: was significance discussed as a concept?
- Which values: was significance broken down into different values?
- Type of place: what sort of a place was being studied (e.g., archaeological site, building, region, industrial complex)

10.2 Discussion of results

Limitations. The results of the review are indicative only, the sample size was clearly inadequate for conclusive findings about trends in historic heritage practice in NSW. What it does is offer some examples of practice at particular points in time.

Coverage of Aboriginal and non-Indigenous historic heritage. Prior to 1986 none of the reports discussed both historic and Indigenous heritage. The first report in the sample to do so was the *Parramatta River Regional Environmental Study: Heritage Study* by the Department of Environment and Planning (1986). Although clearly attempting an integrated approach to environmental heritage the report records difficulties in establishing complementary and parallel analytical and protective mechanisms for Indigenous and non-Indigenous heritage. This may have been due in part to the survey and listing approach to the historic sites as opposed to the predictive aspect of the Aboriginal heritage survey (essentially

archaeological). Few comparable projects were carried out subsequently – i.e., studies jointly managed by NPWS and the Department of Environment and Planning.

It became increasingly common for reports to integrate some analysis of the Indigenous heritage significance of historic sites from 1990, with 7 out of 20 reports addressing Indigenous significance in some way between 1990 and 1999, while only 2 out of 24 reports considered this issue between 1978 and 1989.

Significance as a concept. Significance was discussed as a distinct concept in every report from 1985. Prior to this date, only half of the surveyed reports (7/14) discuss significance in some form. Six of these 7 reports refer to historical significance, which is clearly seen as the dominant component of significance. One of the reports written prior to 1985 (in 1982) refers to ‘social historical significance’. Three refer to architectural significance and 2 to archaeological significance.

Between 1985 and 1990 the range of terms used to describe significance is broader and there is a great deal of variation between reports. Terms such as recreational, educational, genealogical, landscape and social significance occur individually, and are not related back to the umbrella or generic terms that are a feature of the 1990s (i.e, the significance categories set out in the NSW Heritage Act).

In the 1990s significance assessment terminology is more regulated, with 13 out of 20 reports conforming to the use of historic, aesthetic, social and scientific or cognate terms. One heritage study expresses significance only in state, regional or local terms, and does not address how these categories were arrived at. There was also the trend for archaeological assessments to discuss only research potential, as promoted in the 1996 *Archaeological Assessment Guidelines*.²³

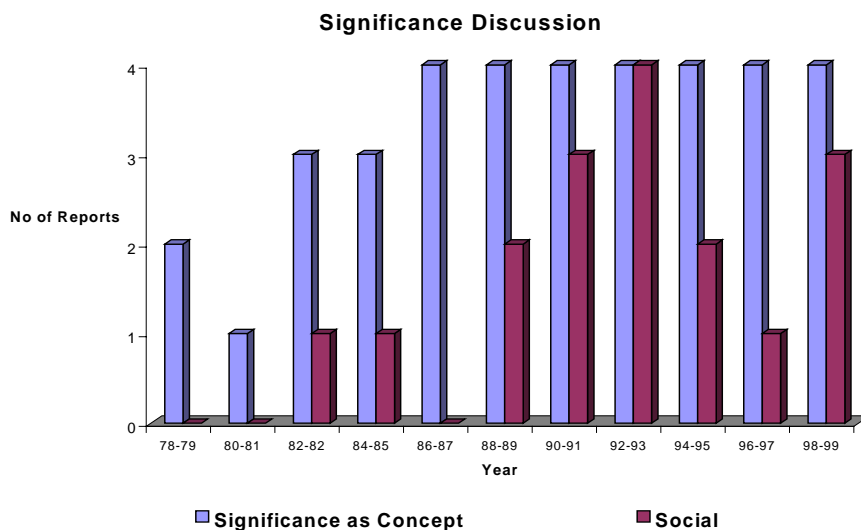


Figure 11: The extent to which social significance, and significance in general, were discussed as concepts in the reports.

Social Significance. Social significance was addressed in some way by 17 reports out of the total sample of 44. As mentioned above, the first case is in 1982, but this clearly addresses

²³ NSW Heritage Office and Department of Planning.

social history (i.e. living and working conditions in the past) rather than contemporary community concerns. The next reference to social significance occurs in 1985 where the heritage status of the building in question, which was a well-known historic house, was seen as the basis of its social significance. It appears that the ‘community’ was seen in this case as consisting of the National Trust and other heritage professionals.

In 1988 a study of a Sydney cemetery clearly saw the social significance of the place as deriving from its meaning to the community of local people and for the descendants of those people buried there. Between 1988 and 1999, 15 out of 24 reports addressed social significance, there being a growing tendency in these reports to state that more research was required to understand social significance. There was no evidence for an increase in community consultation in the formulation of significance, however the amount of consultation on projects as a whole did increase in the 1990s. This issue is taken up in the following section.

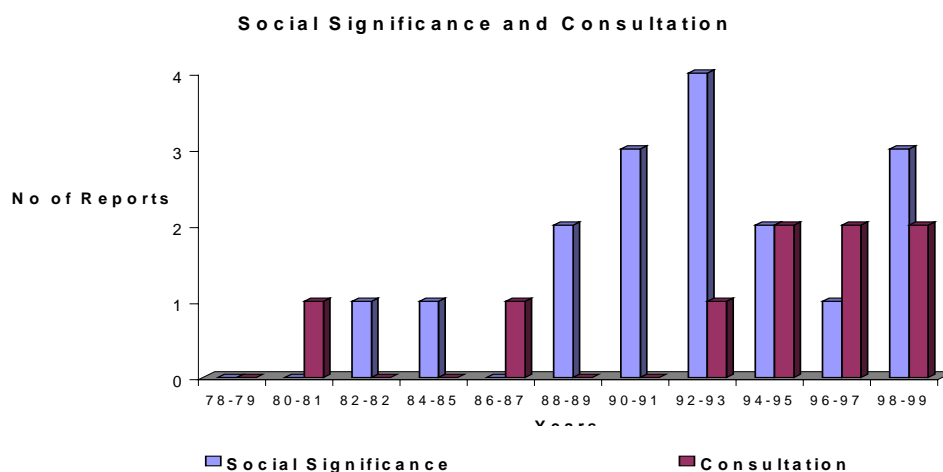


Figure 12: The extent to which significance assessments were attempted in the reports

Oral History and Consultation. Eleven of the reports surveyed were identified as heritage studies of part or all of a town or local government area. Six of the 11 of these written between 1981 and 1997 included some kind of community consultation. Of these 6 reports, one was advertised but received no responses, another consulted the local Aboriginal Land Council but no other community representatives,²⁴ while a third carried out oral history with the aim of historical reconstruction rather than soliciting community views. None of the six reports could be termed a community driven study, nor was community consultation a significant aspect of any study. This sample backs up White’s conclusion that consultation, when it did occur, was something of an ‘add-on’, and rarely integrated into the recommendations of the heritage study in any meaningful way.²⁵

Apart from the 6 heritage studies discussed above, only 2 other reports in the sample included some form of community consultation, a Conservation Management Plan prepared in 1995 and an EIS prepared in 1998. Hence out of the total sample of 44 reports, only 9 included

²⁴ *Parramatta River Regional Environmental Study: Heritage Study* (Department of Environment and Planning, 1986).

²⁵ Cameron White, 1995, *Community Liaison and Heritage – A Discussion Paper*, unpublished paper, NSW Heritage Office.

some indication that community views or input had been sought. Seven of these 9 reports were prepared in the 1990s. It was often unclear whether the results of consultation have fed into the assessment of significance. Consultation was generally undertaken to canvas views on the proposed management of items whose significance has already been determined. While it seems likely that community views did influence consultants in final determinations of significance, this process is generally not explicit.

Guessing at social significance. One of the key issues raised is that although social significance assessment and community consultation does increase markedly in the 1990s, in the reports sampled the two activities are not necessarily related. Some 'community consultation' is confined to informing the community that the heritage assessment project is taking place. In other cases it involves canvassing community response to management strategies or draft management strategies which have already been drawn up (i.e., rather than following the Burra Charter assessment-before-management model). The impression gained by looking at this sample of reports is that social significance assessment is often 'fudged' or guessed at. Several reports do however point out that time, budgetary or scoping constraints prevented them from fully addressing the issue of social significance.

Separation of the historical and the social. Another impression is that historical significance and social significance are frequently confused. This issue was clearly addressed in Joan Domicelj's 1989 report for the NSW Heritage Council, where social significance is defined as 'contemporary community esteem'. However, as Ian Jack pointed out in his interview (see Appendix 2), this definition has never been clearly or universally adopted.²⁶

The distinction between historical and social significance is based on a distinction between the broad sweep of national or local political and developmental history, on the one hand, and the more particularistic histories of the day to day life of communities on the other. While it is clear that contemporary social value has historical dimensions, it appears that the heritage management framework reserves the 'historical', as a category, for the cultural mainstream.

Consultant Specialisation and Client Choice. The fact that consultants tend to practice in various specialisations, and also to promote their services in niche areas of the consulting marketplace, is another important factor in considering practice over time. It is likely that clients, in both tendering and more informal appointment and briefing processes, will commission a product with which they are familiar, and which is likely to be delivered on time and on budget. Such factors militate against consultants using experimental techniques or structuring projects in unfamiliar ways. Clients therefore have an important role in structuring the output of heritage research. Especially in the area of consultation, there appears to be client pressure to meet only minimum requirements in this field, and at least one of the reports sampled (by Meredith Walker in 1990) had the consultation component cancelled part of the way into the project. Peter Douglas also raised this issue in an interview, stating that it was an agency role to intervene in this process so that it is open to change and to ensure that new community expectations are met.²⁷

²⁶ The interview with Jack is included in the discussion in Section 11.1.

²⁷ The interview with Douglas is included in the discussion in Section 11.1.

11. Practitioner interviews

Introduction. The views of practitioners with a varying range of experience were sought. Not all of those approached were able to respond at the time, but in the end 22 people participated in telephone or face to face interviews. Sixteen of the practitioners were active consultants or had experience as consultants, including sole traders and managers in large firms, eight were NPWS staff or had past experience there, two were academics and one a historian with the NSW Heritage Office, several were members of the Heritage Council of NSW, two were heritage architects and one an archaeologist working for the Roads & Traffic Authority. Four of the respondents were Aboriginal.

A detailed overview of the interview results is presented in Appendix 2 along with a list of the interviewees and the interview questions.

11.1 Summary of interview outcomes

While there was considerable diversity of opinion among the interviewees there was a degree of consensus on the following points:

- That the value given to a place by a community could touch on all categories of significance (aesthetic, historical, scientific, social) rather than being confined to just social significance. Social significance, in other words, was not considered to be the ‘end of the story’.
- That social significance was a neglected field, particularly in the field of Aboriginal heritage management.
- That the neglect of social significance was primarily an agency responsibility. The neglect was a result of insufficient effort in promoting an understanding of the need for social significance assessment to be done and a lack of methodology guidelines or other advice on how it should be done. There was a clear perception that the agencies, the NPWS in particular, had failed to show leadership on social significance assessment. This was a view shared both by consultants and agency cultural heritage staff. There was a desire for guidelines for this field of practice.
- There was a need for agency guidelines on social significance assessment in EIA. These should cover not just methodology for collecting community views/values but guidelines on what constitutes adequate research, what weighting should be given to social significance (compared to other values).
- While the need for an accepted methodology was acknowledged, it needed to be one that could be adapted to recognise that every case and every community needs to be responded to differently; a checkbox approach is not appropriate.
- That heritage agencies are ‘behind the game’ on social significance assessment. That the best models are coming from consultants rather than agencies.
- That in the area of Aboriginal heritage EIA, the current system of ‘Aboriginal consultation’ rarely provides an avenue for the social significance of heritage places to feed into the overall assessment process.

- ❑ Two of the Aboriginal practitioners interviewed, while they agreed that the present system of consultation only addressed the archaeological significance of places, also made the point that because the whole framework of Aboriginal heritage management was archaeological, Aboriginal people had been ‘locked into this.’ In this context it was only to be expected that community responses would be mainly framed in archaeology. It was considered important that Aboriginal people were involved in this archaeological work but a new focus on the significance assessment process would put positive pressure on communities to report on other (than archaeological) values. One of the NPWS Aboriginal staff offered the view that Aboriginal people may not appreciate the potential ‘power’ they have in the assessment process – i.e., the role they had accepted in the process was much more limited than that which they could easily have.
- ❑ There was general agreement that Aboriginal post-contact heritage places are under-recorded. This was seen as a result of the focus by the NPWS on pre-contact archaeology.
- ❑ That while there was likely to be some client (development proponent) resistance to making social significance assessment a regular part of EIA such regularisation was quite feasible. One opinion offered was that a ‘culture of compliance’ tends rapidly to build up when new requirements are introduced.
- ❑ Consultants are often under pressure from clients for a certain level of secrecy surrounding development proposals. [*Commentary: this would not, however, constrain the assessment of social significance since, under the Burra Charter model, management options should only be considered after significance is assessed*].
- ❑ Consultation is more commonly used in the resolution of management issues than for the assessment of significance. [*Commentary: under the Burra Charter model there should be a clear separation between significance assessment and management strategies; the former comes first, the latter follows*].
- ❑ That communities frequently are ‘outcome driven’ in their responses - i.e., attachment to heritage places can to some degree be ‘invented’ in the face of the threat posed to a place development. Equally, the way existing attachment is expressed can be influenced by the climate of threat. There was a feeling that agencies are not dealing with this issue, that it is being swept under the carpet.
- ❑ That community workshops were not necessarily a sound way of assessing social significance given that attendance was not necessarily representative and that it favoured those with public speaking skills.
- ❑ That social significance should be given similar weight to other categories of significance, if not more weight.

Part

4

Recommendations

12. Conclusions and recommendations

12.1 Progressing change

The first stage: discussion. This discussion paper is intended to set the scene for some major changes in the way the NPWS approaches the social dimension of cultural heritage. It provides a critical history of how we came to approach cultural heritage the way we do at the moment and it attempts to provide a social science grounding for a new and better approach. It is important to be clear that the paper is not a policy document or a position paper in its own right (i.e., defining the Service's position on issues such as Aboriginal consultation or significance assessment).

research → guidelines & piloting → policy → heritage practice

Guidelines and piloting. The discussion paper does not provide a methodology for how social significance should be assessed. This represents the next step in the progression from research (the discussion paper) to effecting actual change in on-ground heritage practice (i.e., EIA assessments, conservation plans). It is anticipated that the Service, in the short term, will develop guidelines for social significance assessment. These would draw upon methodologies already in use in the non-Indigenous heritage field but would also address the particular considerations for carrying out such assessments in Aboriginal communities. They would also address the issue of scale – i.e., what level of assessment is appropriate and practicable for development proposals of different magnitude. It is also anticipated that the Service will carry out at least one case study assessment which it will make available as a model.

Policy and practice. The third stage in the progression from research to practice involves policy building. The purpose of Service policy on social significance assessment will be to ensure that the assessment guidelines are adopted and implemented by practitioners carrying out Aboriginal cultural heritage assessments in NSW generally and, in the case of non-Indigenous heritage, assessments carried out on Service estate.

A reference point. As well as providing a stimulus and rationale for initiating the change process, the present discussion paper is also intended to provide a reference point for policy builders and heritage practitioners later in the process.

12.2 An holistic model for cultural heritage

Aboriginal heritage. The early 1980s were a turning point in the NPWS's approach to Aboriginal cultural heritage (Section 3.1). It was at this time that the EIA process began to dominate the management of Aboriginal heritage, a situation in which Aboriginal cultural heritage came to be defined largely in terms of archaeological sites. It is suggested that the task of managing the EIA process has been allowed to swamp other considerations in Aboriginal heritage. In the 1970s the Service played a leadership role in Southeast Australia in creating a role for Aboriginal people in the management of their own heritage. In the 1980s and 90s, however, the Service has been 'on the back foot', allowing Aboriginal heritage to be defined overwhelmingly in terms of its archaeological significance and accepting the limited role which the EIA-archaeology model provides for Aboriginal involvement.

It is recommended that the NPWS once again become proactive in defining what Aboriginal cultural heritage is (both in the EIA context and more broadly). It is recommended that this definition (or re-definition) be developed around the attachment which Aboriginal people have historically had to the landscape of NSW and the attachment of present day Aboriginal people to their heritage places within this landscape.

Non-Indigenous historic heritage. The Service's approach to non-Indigenous historic heritage on its own estate has been dominated by concern for the architectural and archaeological significance of this heritage. This has led to a strong focus on the physical fabric of heritage places. The context of the places in social history and the meaning which they have for present day communities have by and large not been well documented or understood.

It is recommended that the NPWS move to a new approach to non-Indigenous historic heritage which – while still maintaining high standards in the conservation of physical remains – is centred on the concept of attachment and places the emphasis on the social history and meaning of the heritage. The shift recommended here requires attention to most of the following headings.

Cultural heritage as socially grounded. Earlier in this paper (Section 2.5) a question was posed as to how the integration of natural and cultural values can take place in the context of conservation planning without a 'naturalisation' of culture occurring as a result of trying to assimilate cultural heritage into management models originally developed for nature conservation. The suggestion offered here is that this will be facilitated by broadening the definition of cultural heritage to include not just the physical traces (i.e., relics, fabric) left in the landscape by people in the past but also the intangible traces or associations. These associations are based, for instance, on memory and emotion. A 'pathway' used by Aboriginal people in the 1950s to go from a mission to a fishing spot on the coast, though it may have left no discernible trace on the ground, would represent such a trace. It is predicted that as such traces are increasingly recognised as valid expressions of cultural heritage the social nature of that heritage will be more apparent. The previous almost exclusive focus on relic/fabric 'sites', and the archaeological and architectural value of them, was conducive to a form of heritage management that saw the 'sites' as grounded in the landscape (like plants or animals) rather than grounded in society.

12.3 NPWS Leadership

In the practitioner interviews there was a fair level of consensus that the present approach – and in particular, the neglect of social significance – was flawed and untenable. There appeared to be an expectation that NPWS would lead the way to a new approach. Without clear policies and guidelines endorsing and enabling a new approach it is likely that the NPWS will be seen to be supporting the present EIA-archaeology model.

It is recommended that the Service lead the way to a new paradigm in cultural heritage, a paradigm strongly grounded in the social, historical and landscape dimension of that heritage.

12.4 The significance concept

The ‘who and why’ of heritage conservation. The blanket protection afforded to Aboriginal heritage places by the National Parks and Wildlife Act has been a major reason for the poorly developed state of the significance assessment process in relation to these places. Whereas non-Indigenous heritage places are protected (under the NSW Heritage Act) only after their significance has been assessed and found to meet certain thresholds, Aboriginal heritage places are protected by virtue of their very existence.

An unfortunate result of this submergence of significance, as a formal process, is that it has not encouraged the continual examination of the reasons for protecting this heritage – i.e., who values it? How do they value it? Are we conserving these values? The much higher profile which the significance assessment process has in the non-Indigenous (historic) heritage field has kept these questions to the fore in that area. In the Aboriginal heritage field, however, the blanket protection factor has combined with the overwhelming dominance of archaeology as the recognised expertise to produce a situation in which the archaeological value/significance of the heritage has monopolised other values.

It is recommended that the Service foreground the issue of significance in all its cultural heritage activities. The Service should encourage a culture in which the questions ‘Who values this heritage and how do they value it?’ are continually being asked. In relation to Aboriginal heritage places, the blanket protection afforded by the National Parks and Wildlife Act should not be allowed to preclude a proper assessment of all heritage values.

The Burra Charter model. One of the most valuable contributions of the Burra Charter to the field of cultural heritage practice in Australia has been in promoting the idea that there should be a clear progression of steps in the conservation process. That progression is as follows:

ASSESS CULTURAL SIGNIFICANCE ⇔ DEVELOP CONSERVATION POLICY & STRATEGY ⇔ CARRY OUT STRATEGY

The logic behind this progression is that the management of a place should always be in accordance with its significance.

Recommendations

At the present time the NPWS does not consistently adhere to the Burra Charter principle of establishing significance in advance of managing cultural heritage places. This is particularly the case in relation to Aboriginal heritage.

As a matter of policy, the NPWS should ensure that all management strategies and measures for cultural heritage places be preceded and guided by a statement of significance. Statements of significance should be based on assessment of all heritage values.

In the interests of transparency, the NPWS should either adopt and practice the Burra Charter principles or be clear about its reasons for not adopting them.

12.5 Environmental impact assessment (EIA)

The current system of 'Aboriginal consultation' followed by consultant archaeologists in EIA, while it has been successful in bringing local Aboriginal people into the work of archaeology, has largely failed as a means of documenting the meaning and significance which heritage places have for local Aboriginal communities. While it is entirely appropriate that local Aboriginal people should be involved in archaeological assessment work it is essential that other heritage values also be assessed.

A NPWS strategy to improve the consideration of the social significance of heritage places in EIA should incorporate the following:

- ❑ *Best practice guidelines to be developed by NPWS for the assessment of social significance in the course of EIA.*
- ❑ *Pilot assessments of social significance under 'real time' conditions to be carried out by NPWS and made available to practitioners as best practice models.*
- ❑ *Policies to be developed by NPWS which ensure the implementation of the guidelines.*
- ❑ *In the interests of transparency, the NPWS should require that EIA reports by heritage professionals clearly state, at the beginning, what aspects of an area's significance have been assessed by the consultant.*
- ❑ *Where claims are made (in reports) that social significance has been assessed, adequate documentation of the process and results should be provided. Where sensitivity of material or intellectual copyright considerations apply it should still be possible to document the process of assessment.*
- ❑ *NPWS should develop programs to educate development proponents in NSW of the desirability that all aspects of the significance of heritage places be assessed.*

12.6 Non-Indigenous communities

The principle of Aboriginal ownership-curatorship of cultural heritage could serve as a model for the relationship between non-Indigenous communities and their heritage places. Heritage professionals should be seen as facilitators and expert advisors and not as stakeholders in heritage (certainly not as stakeholders with parity to communities).

The principle has been widely acknowledged since the 1960s that, while there may be numerous other stakeholders, Aboriginal people remain the in-principle owners of their heritage. The justice of this position is clear. It would be unfortunate, however, if this were taken to imply that Aboriginal people necessarily have greater attachment to their heritage places than non-Indigenous people do to theirs.

NPWS should adopt and promote an approach to the management of non-Indigenous heritage places which gives greater acknowledgment to the principle of 'attachment'.

12.7 Heritage as social action

Communities do not just happen, they are built. The involvement of local people in efforts to record and conserve their heritage may be seen as a factor in building and maintaining strong, functional communities. The devolvement of heritage management responsibilities to local communities should be viewed as a means to facilitate the work of building community identity.

The way people in communities acquire knowledge of 'heritage' and express heritage values is part of the way individuals and social groups construct their identity. An argument has been presented (Section 7) that communities are participants in the heritage discourse rather than passive subjects of it (i.e., passive subjects of investigations by heritage practitioners).

The Service should consider building the concept of heritage as social action into its management ethos.

Appendix 1

Significance terminology

Categories of significance

The gang of four. In Australia, since the early 1970s, there has been agreement at a government and professional level that cultural heritage places can have four different types of significance or value. They are described by the words: aesthetic, historical, scientific and social. These were the categories used to describe significance in the Australian Heritage Commission Act of 1975 and they have subsequently been repeated in much state heritage legislation and by the Burra Charter of 1979.

The importance of this four-category system lies in the fact that it is followed by almost all heritage practitioners in Australia when they prepare cultural heritage assessments, studies, conservation plans etc. More detail regarding the history of these four categories of significance will be given later, but first a defining description each of the four will be given.¹



AESTHETIC. The Burra Charter defines the aesthetic in terms of ‘sensory perception’ relating to structure or place (criteria including form, scale, colour, texture and material of the fabric; also sounds and smells associated with its use). The aesthetic value of a place might include what most people would describe as its ‘beauty’, allowing that different societies will have different aesthetic ideals (e.g., particular arrangements of landscape features which are considered to be pleasing). The NSW Heritage Office also equates aesthetic value with ‘landmark qualities’ and with the exemplification of ‘a particular taste, style or technology’. It has been argued that there is considerable slippage between the categories ‘aesthetic’ and ‘social’.²

SCIENTIFIC. This is normally understood to mean the research value of a place, The NSW Heritage Office in fact uses the term ‘research’ instead of ‘scientific’ for this category. The

¹ Perhaps the most useful discussion of significance categories is contained in Michael Pearson and Sharon Sullivan, *Looking After Heritage Places* (Melbourne: Melbourne University Press. 1995), pp. 133-171. A good plain-English review of significance assessment can be found in *Protecting Local Heritage Places: A Guide for Communities* (Canberra: Australian Heritage Commission. 1998), pp. 29-40.

² Ken Taylor, ‘Is aesthetic value part of social value?’, *In Place* 3(1997), p. 15.

Burra Charter states that, ‘The scientific or research value of a place will depend upon the importance of the data involved, on its rarity, quality or representativeness, and on the degree to which the place may contribute further substantive information.’ The latter point is important since, at an applied level, it is mainly the research *potential* of a place which heritage practitioners assess. To a considerable extent, scientific significance has come to mean archaeological significance.

HISTORICAL. The Burra Charter understands historic significance to mean the history of aesthetics, science and society which is evident in a place. To this extent it refers to the historical dimension of the other three categories. In the past it has mainly been the association of particular places with famous people (mainly white men) and significant events which has led to places being considered historically significant. In recent decades places have been assessed in terms of their relation to historical themes – e.g., the development of steam technology, the struggle for Aboriginal land rights, the development of the pastoral industry. There has also been criticism of the thematic approach as being at times simplistic and mechanical.

SOCIAL. The Burra Charter defines social value as embracing ‘the qualities for which a place has become a focus of spiritual, political, national or other cultural sentiment to a majority or minority group.’ Most definitions of social significance, including that of the NSW Heritage Office, refer to the way a place may be important to a community’s identity. People and communities exist in time as well as space; in other words, there will nearly always be a history or story to the attachment people have to heritage places. To that extent significance can rarely be invoked separately from historic significance. Table 1 sets out defining elements of social significance as given by the Burra Charter, the Australian Heritage Commission and the NSW Heritage Office.

Origins of Terms and Categories

INTERNATIONAL³

- The Venice Charter (1964) makes no reference to significance or to categories of significance.
- The World Heritage Convention (1972) in Article 1 defines cultural heritage
 - in the case of ‘monuments’ and ‘groups of buildings’ as having value from the point of view of ‘history, art or science’
 - in the case of ‘sites’ as having value in terms of ‘historical, aesthetic, ethnological or anthropological points of view’

UNITED STATES

- The US significance standards since the 1930s dominated by the concerns of architecture and association (i.e., with historic personage or event).⁴
- Criteria of the National Trust 1956
- Historic Preservation Act 1966 gives four evaluation criteria for the National Register of Historic Places (paraphrased). In brackets after each criterion we have given the equivalent Australia criterion:
 - a) association with events contributing to our history [**historical**]
 - b) association with lives of significant persons [**historical**]
 - c) distinctive characteristics of a type, period or method of construction, or represent work of a master, or possess artistic values [**aesthetic**]
 - d) yields information important in history or prehistory [**scientific**]

³ A detailed review of international and Australian legislation relevant to social significance in cultural heritage management can be found in Section 8 of this discussion paper.

⁴ Joseph A. Tainter and John Lucas, ‘Epistemology of the significance concept,’ *American Antiquity* 48(4): 707-719, p. 709.

NB: the criterion missing from this list, but which is present in the Australian criteria (below), is the 'social'.

AUSTRALIAN - NATIONAL

- ❑ The Australian Council of National Trusts in the early 1970s introduced a system of 'Classified' and 'Recorded' buildings, the criteria being 'Those factors including architectural, cultural, environmental, historical, scientific or social significance and importance...' This may be the first attempt to define heritage in terms of such categories in Australia.⁵
- ❑ The Hope Report (1974) in its finding No. 6c defines as one of the components of the natural and cultural environment forming National Estate as those which are 'of such aesthetic, historical, scientific, social, cultural, ecological or other special value to the nation or any part of it...'.⁶
- ❑ The Australian Heritage Commission Act 1975 defines the National Estate as 'those places being components of the natural environment of Australia or the cultural environment of Australia, that have aesthetic, historic, scientific or social significance or other special value...' (s.4(1)). This appears to be based on the Hope report definition, the words 'cultural' and 'ecological' having been dropped in transition.
- ❑ The Burra Charter (1979) of Australia ICOMOS defines cultural heritage (in article 1.2) as meaning 'aesthetic, historic, scientific or social value for past, present or future generations'. While the 1975 Heritage Commission Act uses the four words (aesthetic, historical, scientific, social) it is the Burra Charter which reifies them as real categories of value.
- ❑ Guidelines to the Burra Charter. The Burra Charter (1979) did not define the terms 'aesthetic', 'historic', 'scientific', 'social'. This additional layer of detail was accomplished with the Guidelines to the Burra Charter which were adopted in 1984. The Guidelines defined 'social value' as follows: 'social value embraces the qualities for which a place has become a focus of spiritual, political, national or other cultural sentiment to a majority or minority group'.
- ❑ The final draft (October 1999) of the revised Burra Charter modifies the original definition by the addition of the word 'spiritual'. It reads: 'aesthetic, historic, scientific or social value for past, present or future generations'. The addition of 'spiritual' would appear to be an accommodation to Aboriginal opinion on the Charter.

NEW SOUTH WALES

- ❑ National Parks and Wildlife Act 1974 defines Aboriginal 'relics' as 'material evidence of Aboriginal occupation'. The Act provides blanket protection and does not address the issue of significance or list significance criteria.
- ❑ The NSW Heritage Act 1977 defined 'environmental heritage' (cultural and natural) to mean 'those buildings, works, relics or places of historic, scientific, cultural, social, archaeological, architectural, natural or aesthetic significance for the State'. The Act was somewhat odd in distinguishing 'scientific' from 'archaeological' and 'social' from 'cultural' but in other ways was broadly in line with the criteria in the Australian Heritage Commission Act 1975.
- ❑ The NSW Heritage Amendment Bill 1998 stayed with the same definition.
- ❑ In its Heritage Manual, the NSW Heritage Office refines or rationalises the NSW Heritage Act's significance criteria to just four (historic, aesthetic, technical/research, social) which brings it in line with both the Australian Heritage Commission Act and the Burra Charter.

⁵ The reference to this is given in the *Report of the Committee of Inquiry into the National Estate* [the Hope Report] (Canberra: Australian Government Publishing Service. 1974), p. 137

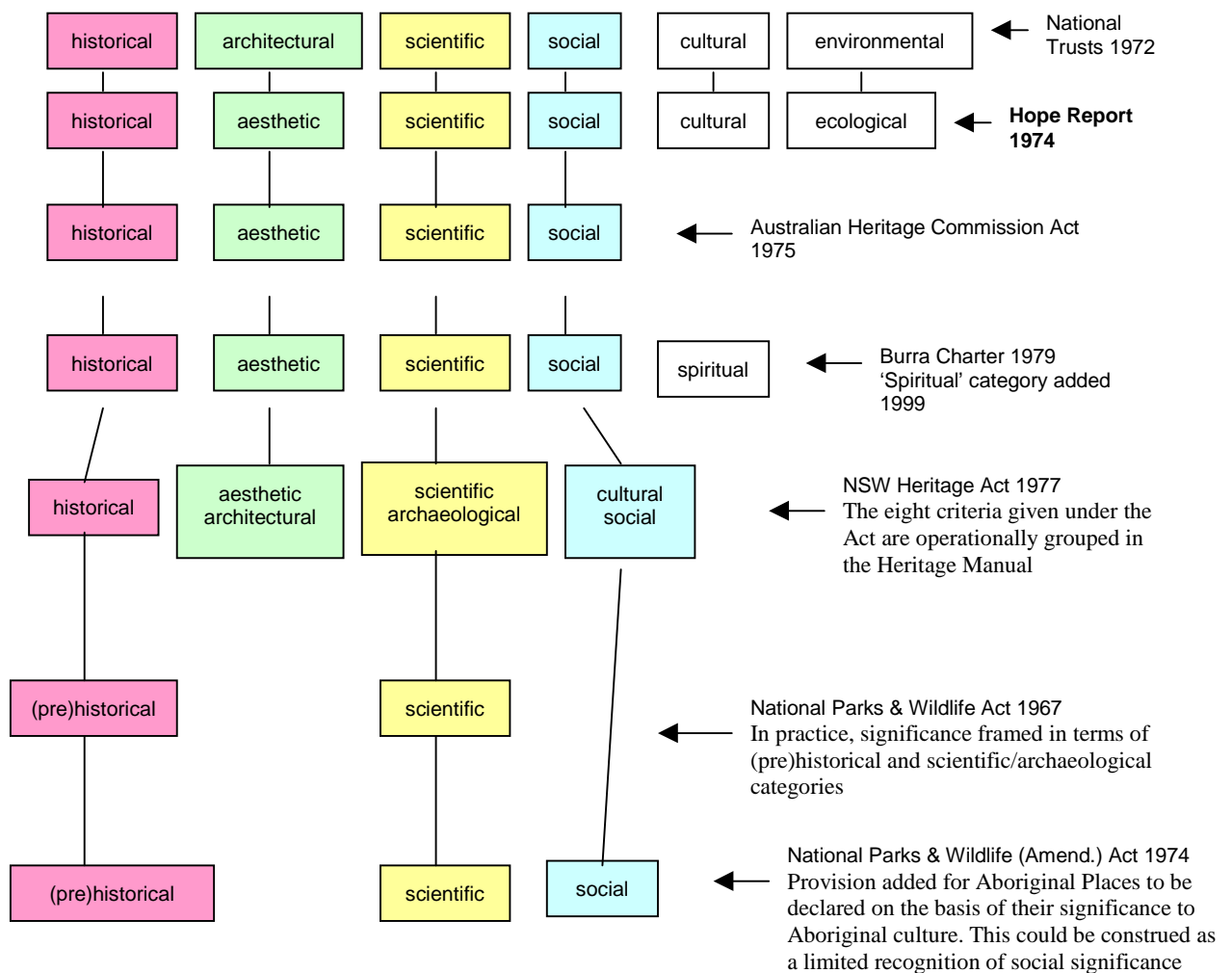
⁶ *Report of the Committee of Inquiry into the National Estate*, p. 334.

Source	Definition
The Burra Charter	Social value embraces the qualities for which a place has become a focus of spiritual, political, national or other cultural sentiment to a majority or minority group. [Burra Charter Guideline – Cultural Significance 1988] http://www.icomos.org/australia
Australian Heritage Commission	<p>Criteria for the Register of the National Estate</p> <p>CRITERION G: Its strong or special associations with a particular community or cultural group for social, cultural or spiritual reasons</p> <p>G1: Importance as a place highly valued by a community for reasons of religious, spiritual, symbolic, cultural, educational, or social associations. http://www.environment.gov.au/heritage/further</p>
NSW Heritage Office	<p>Protecting Local Heritage Places: A Guide for Communities⁷</p> <p><i>Social value to the community embraces the qualities for which a place is a focus of spiritual, traditional, economic, political, national or other cultural sentiment to the majority or minority group.</i></p> <ul style="list-style-type: none"> • Importance as a landmark or local signature • Importance as part of community identity • Importance because of attachment from long use • Value for reasons of religious, spiritual, cultural, educational or social associations <p>Nature of Significance</p> <p>Significant through association with a contemporary community for social, spiritual or other reasons.</p> <ul style="list-style-type: none"> • Is important for its association with an identifiable group • Is crucial to a community's sense of place • Is important to the community not only for amenity <p>Comparative Significance</p> <ul style="list-style-type: none"> • Is representative (of an important class of significant items or environment) • Represents a rare, endangered or unusual aspect of our history or cultural environment.

Table 1: A summary of the way significance is defined in some different Australian contexts

⁷ *Protecting Local Heritage Places: A Guide for Communities* (Australian Heritage Commission, Canberra. 1998), p.34.

Figure 12 (below). The diagram shows the categories of significance recognised in various contexts in Australia since 1972. From 1975 the four categories (historical, aesthetic, scientific, social) have been widely used for historic (non-indigenous) heritage. Significance in Aboriginal heritage, by contrast, has tended to be framed only as scientific (archaeological) though to an extent this could be interpreted as incorporating historical (i.e., prehistorical) value. Sacred-spiritual value in Aboriginal heritage has been acknowledged under the category of special site types rather than as a value which people hold in relation to any type of place.



Appendix 2

Practitioner interviews

List of heritage practitioners interviewed for this project

No	Name	Agency and/or Consulting Field	Years of Heritage Practice	Date of Interview	Interviewer
1	Neville Baker	Archaeologist with Australian Museum Business Services, has worked as an independent consultant and in Aboriginal archaeology in NPWS Head Office.	10	12.5.00	Helen Brayshaw
2	Bruce Baskerville	Historian with the NSW Heritage Office.	4	30.5.00	Tracy Ireland
3	Anne Bickford	Consultant historical archaeologist, working in this field since 1972. Experience in contentious issues, Aboriginal contact sites, interested in gender issues and politics in heritage and archaeology.	28	1.6.00	T.I.
4	Jacqueline Collins	Consultant in Aboriginal archaeology, working mainly on the north coast of NSW.	10	7.6.00	H.B.
5	Mary Dallas	Consultant in Aboriginal archaeology working since mid 1970s, has experience of contentious cases and worked with anthropologists and historians.	25	8.5.00	H.B.
6	Peter Douglas	Consultant historical archaeologist, trained in anthropology in New Zealand.	20	2.5.00	T.I.
7	Vanessa Edmonds	Consultant based near Mildura, works principally in Aboriginal archaeology.	13	17.5.00	H.B.
8	Claire Everett	Archaeologist working for the NSW Roads and Traffic Authority.	4½	2.6.00	T.I.
9	Louise Gay	Consultant in Aboriginal and historical archaeology, with training in oral history.	8	17.5.00	H.B.
10	Laila Haglund	Consultant working since 1973. Prior heritage experience in Qld, UK and Sweden. Has anthropology qualifications. Has worked in Aboriginal archaeology in NPWS Head Office.	27	16.5.00	H.B.
11	Ian Jack	Assoc. Professor of History, University of Sydney, member of the Heritage Council of NSW. Also works as a heritage consultant, especially on heritage studies in rural areas.	16	2.6.00	T.I.
12	Megan Jones	Heritage architect, working with Howard Tanner Associates, experience with large and contentious heritage projects.	20	8.5.00	T.I.
13	Jim Kelton	Aboriginal consultant archaeologist. Works in Aboriginal archaeology. Based at Cowra.	10	16.5.00	H.B.
14	Richard Mackay	Managing Director of Godden Mackay Logan Heritage Consultants, member of the Heritage Council of NSW. Degree in Archaeology, Masters in Business Administration, experience in wide range of heritage issues and contentious projects.	18	5.6.00	T.I.
15	Hilton Naden	Manager, Aboriginal Heritage Unit, NPWS Northern Region.	39 as an Aboriginal Person	11.5.00	H.B.
16	Mike Pearson	Consultant, historical archaeologist, also works in indigenous post contact area. Formerly historian/historical archaeologist with NPWS and Deputy Exec. Director of the Australian Heritage Commission.	25	8.05.00	H.B.
17	Margrit Koettig	Archaeologist in CHD NPWS Head Office, has worked as a consultant in Aboriginal archaeology.	20	22.5.00	H.B.

18	Miriam Stacy	Heritage Architect with the NPWS, Head Office. Masters of Heritage Conservation, Sydney University.	14	4.5.00	T.I.
19	Iain Stuart	Head of archaeology and heritage management at HLA-Envirosciences. Formerly OIC Historical Archaeology Unit, Victoria Archaeological Service. Works in historic and Aboriginal archaeology.	20	23.5.00	H.B.
20	Jim Kohen	Senior Lecturer, Department of Biological Sciences Macquarie University, seconded to the Macquarie University Institute of Aboriginal Studies and Research. Consulting fields Aboriginal archaeology and history.	20	24.5.00	H.B.
21	David Major	NPWS A/Manager Policy & Programs, also Manager, Aboriginal Heritage Unit, NPWS. Southern Region.	3	31.5.00	H.B.
22	Maxine Walker	Aboriginal Heritage Officer, Aboriginal Heritage Unit, NPWS Northern Region.	39 as an Aboriginal Person	5.6.00	H.B.

Interview Questions ¹

NSW NPWS is undertaking a review of the theory and practice of social significance assessment in Aboriginal and historic heritage management. Our concern is that, in Aboriginal heritage for example, although Aboriginal consultation has had many successful outcomes for heritage management, it has not tended to provide substantial input regarding Aboriginal social and cultural values of places more generally. As many practitioners are now aware, this has particularly disadvantaged the "visibility" of the Aboriginal historic landscape in the field of heritage management. Our aim in this project is to provide a fairly detailed, historical analysis of social significance assessment work in both indigenous and historic heritage, in the form of a discussion paper, which is to be used as the basis for further dialogue towards policy development in this field.

Social Significance – what is it?

WHAT DOES IT INCLUDE? We are all familiar with the category of *social significance*, one of the four elements of significance (historical-scientific-aesthetic-social) enshrined in the Burra Charter and the Australian Heritage Commission Act and subsequent legislation. What do you understand this category of significance to include?

MUTUALLY EXCLUSIVE? Would you consider social significance to be exclusive of the other categories or can it include any values which the community ascribes to a place (e.g., historical, scientific).

TIME DEPTH. For social significance to be admissible is it necessary to be able to document a time depth for the particular values a community is ascribing to a place? What would qualify as sufficient time depth and how would you document it?

SPREAD. Is it necessary that social significance be demonstrable at a group or community level rather than being confined to an individual or family? What would qualify as sufficient spread and how would you document it?

2. Is it a neglected field?

DO YOU? Do you carry out social significance assessments in the course of your work?

NEGLECTED FIELD? Do you consider that it is neglected by comparison with, say, archaeological or architectural assessments?

WHOSE FAULT? If it is a neglected field, is this because the agencies have not applied sufficient pressure to development proponents or is it because heritage consultants (archaeologists, architects, historians) have monopolised heritage work?

3. Whose responsibility?

WHICH PROFESSION? Should it be an archaeologist's responsibility to assess social significance or does it come

¹ These questions were designed for heritage practitioners and they explore issues arising from the investigation of indigenous heritage values by non-indigenous 'professionals'.

under another profession (e.g., history, anthropology, other)?

PREJUDGED. Is it the responsibility of the agency to make a determination in advance as to whether a social significance assessment is called for or should the community be canvassed as part of all heritage assessments?

4. In relation to Aboriginal heritage

ABORIGINAL CONSULTATION. Would you consider that 'Aboriginal consultation' and social significance assessment are the same thing?

ABORIGINAL SIGNIFICANCE. Many archaeologists use the term 'Aboriginal significance'. Would you understand this to be equivalent to 'social significance'?

CULTURAL INPUT. It has been suggested that what 'Aboriginal consultation' does is to bring Aboriginal people into the work of archaeology rather than to bring Aboriginal cultural/social information into the heritage assessment process? Is this a fair comment?

POST-CONTACT. Do you consider that Aboriginal post-contact sites/places are under-recorded in NSW? If so, why?

ORAL HISTORY. Have you ever collected oral histories from Aboriginal people in the course of Aboriginal consultation?

5. Feasibility

FEASIBLE? Would you think it is feasible to make social significance assessments systematic and a normal part of all heritage assessments?

TIME? Would time be an issue here? (i.e., it might take much longer than the archaeology).

CLIENT RESISTANCE? In your experience, would there be client resistance to this?

6. 'Outcome driven' community responses

[In the context of development proposals, people may couch their interest in a place in cultural heritage terms because they know this will be admissible as attachment whereas their actual interest will not]

DOES IT OCCUR? Do you think this type of 'dialectic' occurs at present in the course of social significance assessment?

NEGATES. Do you think this negates the 'truth' of social significance assessment or puts it in the 'too hard basket'?

ACKNOWLEDGED? Do you think there is sufficient acknowledgment of this dynamic, particularly by the agencies?

7. Methodology

WHICH USED? What methodologies have you used in the course of social significance assessment?

CANVASS THE COMMUNITY? Do you think it is necessary to actually go into the community in order to assess social significance (or can it be done through press reviews etc)?

AGENCY ROLE. Do you feel the agencies have done enough to provide practicable methods/techniques for social significance assessment?

8. Outcomes and admissibility

WEIGHTING? What weight should social significance have in management outcomes? Should it, for instance, have equivalent weighting to scientific significance?

ADMISSIBILITY. What problems or limitations do you see in gaining admissibility for social significance (e.g., in a Land and Environment Court)?

Summary of interviews

Social Significance – what is it?

What does it include? Social significance was seen as a demonstrable or special attachment to a place, event or landscape by individuals or a section of society. Several interviewees described social significance as the “non-professional point of view”, or values outside academic values. For Aboriginal people a spiritual connection to land. The significance was generally seen as contemporary, often intangible with no physical manifestation, and developed through personal experience and memory. However Ian Jack believed that social significance need not have a contemporary manifestation and pointed out that the Heritage Council of NSW was currently debating this issue.

Mutually exclusive? Everyone agreed that social significance was not exclusive of other values. It was pointed out that these values were used by cultural heritage managers but that the community at large did not make the same distinctions. Anne Bickford reported that she generally found that social significance was expressed in historical terms, and Ian Jack also stressed the crossover between social significance and historical significance. On the other hand Megan Jones, a heritage architect, said that aesthetic and landmark qualities were also commonly reflected through social value.

Time depth. There was general agreement that it would be wrong to impose a mandatory time depth upon social significance, rather that this should be determined on a case by case basis. It was agreed that social significance could be quite contemporary, but that the more recent the more difficult it would be to substantiate. However it was felt that social significance came from life experience and memory, and need not have persisted more than a lifetime. Michael Pearson and Neville Baker suggested ten years as a minimum period for determining whether social significance would persist. Richard Mackay agreed that time depth helped to separate genuine attachment from anti-development feelings. Anne Bickford stated that ‘through our (professional) interest we engender interest in the community’, citing a recent example of an Aboriginal community rediscovering a fringe camp site near the local rubbish dump at Peak Hill which was identified through a heritage study. The study created interest in the community about this site which was not previously well known to them.

Spread. With regard to the spread or extent of social significance, David Major’s view was typical. He said that proving social significance could be very difficult – some stories only come through one family, or a whole community could be just one family. The NPWS Aboriginal Heritage Unit would feel more comfortable if the whole community supported it – the more in a community who support it the stronger it is. At the same time this should not negate one person’s view. Jim Kelton thought social significance may be easier to establish in an Aboriginal community than a non-Aboriginal community because of the close family links. Hilton Naden was of the view that social significance must be community based, and pointed out that although one section of a community may be less articulate, or aware of processes and their implications, than another, their values must be treated equally. Miriam Stacy and Richard Mackay also spoke of the importance of some kind of social collectivity, which was both recognised by other groups in society and encompassed some notion of community good rather than more individual interests.

With regard to time depth and spread there were few suggestions as to methods of documentation. Michael Pearson suggested that the approach of Native Title, which establishes past and continuing association, could be useful, with present attachment established by consultation and past attachment established also by consultation but also by documentary or other evidence, where it exists. Richard Mackay also felt that these issues could be documented through a range of research covering oral traditions, outward and visible signs of esteem such as memorials, photographs and artwork and cultural mapping techniques.

Is it a neglected field?

Do you carry out assessments of social significance? Most interviewees had carried out social significance assessments to some degree in the course of their work. Some consultants had tended to avoid it for reasons such as a lack of accepted methodology and a lack of training. Others asked questions addressing social significance, but they may not write down what they are told unless it related specifically to the study area, or they may not be able to quantify what they are told except in a general way. Vanessa Edmonds, working mostly in the west of the state, said it was not always possible, particularly in relation to very small projects, but she did it more often than not. David Major said that the Aboriginal Heritage Unit of NPWS carried out social significance assessment, but on a relatively ad hoc basis, with no common process, and not very efficiently. He remarked that in the EIS process it was dealt with on a site by site basis, but that it featured more strongly in the Aboriginal Place process, although that tended to relate more to the past.

Is it a neglected field? Mike Pearson, and several other interviewees, thought that social significance was not neglected, since the Heritage Commission and some state authorities have been active in the area, and it is in most state Acts. However he thought it was under utilised because there is no clear evidential methodology, a factor also mentioned by Mary Dallas. Most others felt that social significance was neglected, and this was stated particularly strongly by NPWS staff, both Aboriginal and non-Aboriginal. David Major rued the lack of guidelines and procedures. He thought the main reason why social significance suffered in comparison with scientific significance was the legislation which is site based with a physical emphasis, the lack of reference to social significance in the NPW Act meaning that developers could not be made to do it. Neville Baker pointed to problems in the EIS process. Iain Stuart agreed and said he thought Aboriginal people should be consulted as part of the wider community and not only through archaeology. Louise Gay commented that council funded LGA heritage studies neglected social significance, particularly in relation to Aboriginal heritage. There was a suggestion that some archaeologists felt uncomfortable doing it, while Vanessa Edmonds thought that more consultants were taking it on now, in both Aboriginal and historic heritage. Richard Mackay, and several other historic heritage consultants, stated that social significance was a fast developing field and was not so much neglected as not consistently done. Mackay stated that his firm carries out social value research in about 40% of projects, but stated that in two recent and high profile projects he was surprised to find that social significance was not immediately accepted by the clients as integral to the projects. He stated that in both cases the clients had come around to funding social value research, but in one case allowing only half of the budgetary allocation he had proposed as required.

Whose fault? Many respondents were of the view that agencies had applied insufficient pressure for social significance assessment to be carried out, failing to ensure that it was addressed in agency, council and other briefs. NPWS was seen as having the responsibility for Aboriginal heritage because of the Act, which itself was seen as providing poor protection for non-relics sites and restricting social significance assessment to archaeology. NPWS interpretation of the Act and the way it had established the processes had made archaeological values dominant. Amongst those articulating this view was a NPWS archaeologist. The failure to follow up the Sites of Significance Survey was cited by Maxine Walker as evidence of this. Hilton Naden felt that as Aboriginal people were gaining increasing control of their heritage more account was being taken of Aboriginal cultural values. A lack of methodology for social significance assessment received several mentions as a factor in its neglect relative to scientific significance. The lack of a professional body to act as advocates for social significance, in the way that archaeologists, historians and architects have sought to promote the interests of their disciplines, was also cited as a reason for its unsatisfactory state of development. There was broad agreement that agencies were not 'experts' in this field and rather than being at the cutting edge of practice were perhaps lagging behind.

Whose responsibility?

Which profession? Most consultants were of the view that it was their responsibility to determine whether social significance assessment was required, and to recommend the input of additional expertise if needed. As to that expertise, and the appropriate profession, the question being archaeology, history, anthropology, 'other', Maxine Walker asked 'do we come under other?' Hilton Naden and Margrit Koettig also said that Aboriginal people wanted to do it themselves, and as Maxine said, as long as they conform to the *Standards and Guidelines*, why not? Laila Haglund thought in some circumstances it could be useful to have outsiders facilitating. The lack of appropriate training was mentioned by several people. Professions which were seen as having potentially useful input included community facilitators, cultural geographers, cultural planners, anthropologists or sociologists, individuals with skills in running workshops, historians, and even a jack of all trades, although it was suggested that a 'social significance assessor' might fail to pick up some intangibles. Many interviewees suggested that a range of professions could do this sort of work if they possessed the appropriate personal skills. Richard Mackay felt that heritage practitioners had become unreasonably 'pigeon-holed' and that a more multidisciplinary approach would improve heritage practice. Margrit Koettig referred to a murky area between what is cultural and what is social significance giving rise to the question as to whose discourse it was and whose value system it was expressing. David Major stressed the importance of the ownership of the decision making process and the impact this might have on the protection of a place.

Prejudged. Most thought the community should be canvassed in relation to all heritage assessments, although Mike Pearson said it may not always be appropriate, for example if the community were divided on an issue, and Iain Stuart referred to the Newcastle community's negativity towards the preservation of BHP. It was suggested that in the EIS context this should be in the Director's requirements, or covered by the provisions of LEPs. Margrit Koettig pointed out that according to Integrated Development Assessment guidelines, scientific and cultural values are supposed to be given equal consideration. It was felt that there might be some cases where detailed social significance assessment may not be required, one suggestion being that agency Aboriginal Heritage Officers could be responsible for knowing whether there were social significance issues in a place. Another consultant thought it would be difficult for the agency to know this at a distance, and that it was better left to the archaeologist as part of minimum requirements.

In relation to Aboriginal heritage

Aboriginal consultation. Few respondents considered 'Aboriginal consultation' and 'social significance assessment' to be the same thing. Several felt that consultation in Aboriginal heritage assessment was superficial and generally one way, while social significance assessment involved a contribution from the Aboriginal community which is taken note of. Louise Gay was of the view that consultation rarely allows for in-depth input which would be sufficient to change development plans. Laila Haglund and Vanessa Edmunds referred to the dichotomy between traditional owners (who may not live in the area) and Aboriginal people who do. The latter, often belonging to Land Councils, tend to be disenfranchised.

Aboriginal significance. Some saw 'Aboriginal significance' as being equivalent to 'social significance' in the sense of being contemporary or social significance to a particular section of the community, ie to Aboriginal people. Louise Gay said archaeologists used the term as equivalent, although the depth of their enquiry is generally not sufficient to determine social significance. Social significance was seen as broader than Aboriginal people, and Jim Kelton, Laila Haglund and Jacquie Collins all thought the significance of Aboriginal sites to non-Aboriginal people ought to be addressed, and Neville Baker thought the compartmentalisation of heritage was a bad thing. Richard Mackay felt that while 'Aboriginal significance' was not a useful analytical term, it was of some use as a heading to flag a group of issues which need to be referred back to the Aboriginal community. This approach was used in the Port Arthur CMP, a site with

many layers of values. In this case they did use the term Aboriginal significance to draw out issues of particular relevance to the Aboriginal community.

Cultural input. Most of those working in Aboriginal heritage agreed that Aboriginal consultation brought Aboriginal people into the work of archaeology without a concomitant infusion of Aboriginal cultural/social information into the heritage process, although several archaeologists thought the suggestion was unfair. Hilton Naden said that Aboriginal people were not being brought into the work of archaeology, they were being used to facilitate destruction of their heritage in the interest of development and control by non-Aboriginal power. Jim Kelton thought it was long overdue that Aboriginal people should be involved in the work, and that the significance aspect could put pressure on a community to make statements. Further, because the framework was archaeological, community responses tended to get locked into that. Others said the degree to which communities used archaeology to establish values varied, and it occurred less where people are historically connected to their land. David Major also made the point that communities had become used to responding in terms of archaeology only, and were not aware of the power they already have in the process. Phil Hunt, Archaeologist in the Aboriginal Heritage Division at NPWS Head Office was not interviewed for this aspect of the project, but in relation to current NPWS policy he cited² a recent study, the Cumberland Plain Aboriginal Heritage Strategy study³, which provided funding for five participating⁴ Local Aboriginal Land Councils and Native Title Claimant groups to identify places which they regarded as important. Although the project was seeking input about places of contemporary social significance, the groups responded almost exclusively in terms of archaeology and archaeological sites, illustrating David Major's point.

Phil Hunt agreed that this project was also indicative of a change to a greater emphasis on social significance by the Head Office archaeologists. For him this change had come about through working closely with Aboriginal people over the last three years since the creation of the Aboriginal Heritage Division.

Most people working in historic heritage felt much more positive about the increase in numbers of Aboriginal people being involved in the work of heritage and archaeology, and were adamant that their presence had contributed new dimensions to heritage practice on post contact sites.

Post-contact. That post-contact sites are under-recorded was accepted by most, although Michael Pearson thought they were no less recorded than any category of site in rural Australia. He and several others referred to an identification problem in that they did not have relics that were demonstrably Aboriginal. There was a view that agency focus on pre-contact sites had led to a neglect of post-contact sites, which, it was suggested, were under funded and under managed. David Major pointed to a blurring of the roles of NPWS and the Heritage Office as a contributing factor. Richard Mackay also discussed some of the difficulties in current definitions of Aboriginal post-contact sites. He then referred to current challenges being faced by the State Heritage Register Committee of the NSW Heritage Council on this issue. He pointed out that it is established government policy that Aboriginal historic sites should be included on the State Heritage Register, but it was not yet established that this was what Aboriginal people wanted. He felt that despite significant changes in the Heritage Council's infrastructure, good progress was not yet being made in this area. David Major and Jim Kohen thought there was a role for historians and anthropologists in the process. Mary Dallas, Jim Kelton and Vanessa Edmonds said that information from the communities was vital to the identification of this type of site. Iain Stuart thought post-contact sites had been under recorded

primarily because they have been defined through a historic understanding of the protectorate/mission systems and not through a broader understanding involving discussion with

² Personal communication 8th June 2000.

³ *A strategic Approach to Aboriginal Heritage in Western Sydney*. Central Aboriginal Heritage Unit, Cultural Heritage Division, NPWS, File 96/509, 17th September 1999.

⁴ One Local Aboriginal Land Council chose not to participate.

Aboriginal people. When I was in Victoria I had the opportunity to initiate such research on post-contact Aboriginal places which was undertaken by Megan Goulding and it proved that there were lots more places than could be got at by solely working through the historical record.

Oral history. Most consultants said they had not collected oral histories in the course of their work, and those who had said it was generally on an informal basis, inasmuch as they might take notes of stories they were told, either at the time or later. None had used taped interviews except Louise Gay, who did so on an Aboriginal Place study but not when doing EIS work. Maxine Walker expressed concern at a lack of funding from NPWS for oral histories, since the current elders in her area were either very elderly or unwell and there was a need to record now what they know. Jim Kohen felt there was a definite responsibility for oral history to be collected, and thought that when Aboriginal people achieved full control of their heritage more of it would be done.

Feasibility. A majority of consultants and NPWS staff were of the view that it was feasible to make social significance assessments a normal part of all heritage assessments, although to make it systematic was problematic in the absence of an agreed methodology. Margrit Koettig said that through the Integrated Development Assessment guidelines NPWS was already putting it into practice, although Neville Baker said he thought there were opportunities to place more emphasis on social significance which NPWS failed to take up, in most instances passing decisions to the archaeologists. He was of the view that NPWS needed to reconsider its policies and structure of responsibilities in this area.

Richard Mackay expressed a different view suggesting that social significance assessment could be made systematic, but that it was not feasible or warranted that it should be a mandatory aspect of all heritage projects. He suggested that in many cases it could be seen that there was a clear and reasonable outcome without the need for extensive consultation and research. Several other interviewees said that it would be useless to require more in the field of social significance without backing up this requirement with extensive education and the development of guidelines outlining what is considered to be a reasonable amount of research and ways to translate the results of research into management outcomes. Peter Douglas suggested that planners in state and local government should be one target for such an education campaign as they played a crucial role in briefing, assessing and approving work in this field.

Time factor. Time was seen by all to be an issue. Maxine Walker said,

This is what the system does not allow for – the time frame is generally very short and communities are put under pressure to deal quickly with something which is very important to them. If there is a problem, Aboriginal people miss out. The Aboriginal way of dealing with things is very different from the way non-Aboriginal people do things. Decisions are reached by a consultative process, not by someone speaking on everyone else's behalf, and this takes time.

Margrit Koettig said that although the IDA process imposed time constraints NPWS had withheld general terms of approval for periods of up to 12 months because developers had not produced documentation from the Aboriginal community. Mary Dallas was of the view that time should not be a problem if it was flagged as requiring attention or future work, in the way that a client is told a Preliminary Research Permit is required for test excavation. Some felt it was up to NPWS to ensure that once flagged, social significance was carried out, but Jim Kelton had found this did not always happen. In historic heritage practitioners agreed that community consultation was time consuming if well done. Some consultants referred to time and budget blow outs which occur when the scope of works is not well enough established or when new issues arise during the course of research. Richard Mackay cited the recent case of work on the Ingleburn defense site where community consultation was not initially factored in, but had to be accommodated, tripling the time required for the study.

Client resistance. On the matter of client resistance the response was variable. Some consultants had not met too much resistance and many felt that if social significance research is clearly a part of the approvals process clients will do whatever it takes to get that approval. Louise Gay said that provided the

need for social significance assessment was spelt out, project managers of large environmental firms, government agencies such as the RTA and local councils would be sympathetic. Vanessa Edmonds agreed except about shire councils who in her experience try to get out of doing anything. Maxine Walker also thought councils should take more responsibility. Laila Haglund thought that big operators were more likely to know that spending to achieve cooperation pays, although Mike Pearson said some clients, eg mining companies, may not want community involvement in or even knowledge of a project until they were fully committed to it. Megan Jones and Claire Everett said that in their experience clients saw any form of consultation as creating issues, and almost always wished to avoid it as far as possible. Several people thought that the lack of methodology would be a problem for clients, plus its intangible nature and the fact that it may involve large areas rather than confined parcels of land which can be signed off on. Ian Jack pointed out how the history of the heritage industry shows how a culture of compliance rapidly builds when new requirements are introduced, and he felt the writing was already on the wall for work in the area of social significance.

Outcome driven community responses

Does it occur? Everyone agreed that this dialectic did occur. Mike Pearson said the community did not distinguish between socio-political, economic, personal/family attachments and the familiar – they ‘all get mixed up when they hit the fan’. A typical scenario cited were non-Aboriginal people using Aboriginal heritage to further a non-Aboriginal cause. Mary Dallas thought Aboriginal people might use archaeological significance ‘because they think no one will listen to them otherwise’. Laila Haglund quoted a Land Council representative who explained to her that the Land Council liked to have copies of draft reports so that they could couch their statements in archaeological terms ‘to avoid being laughed out of court on the basis of other information which might be regarded as ridiculous’. Several people referred to Hindmarsh Island as an instance of the dialectic. Jackie Collins referred back to the question of social significance ‘spread’ when she said in the case of compensation, the smaller the group involved, the greater the risk of an ‘outcome driven response’. Richard Mackay stated that he had seen cases in the Land and Environment Court where residents were prepared to say anything to stop a development, while Bruce Baskerville said that in working for a community action group some time ago he had had to learn to ‘talk the talk’ to mount successful cases.

Negates. As to whether the dialectic negated the truth, Margrit Koettig said that the archaeological paradigm had become a vehicle by which Aboriginal people can be heard, and in that sense it did negate the truth. Referring to the absence of methodology, Iain Stuart said there was often no demonstrable truth in social significance, and David Major thought it would be hard to ‘prove’ social significance in a case of conflicting values. Richard Mackay stated that social significance was not about truth it was about what people believe, and this fact makes it difficult and complex. Many other respondents agreed with him in that social significance was unlikely to become simpler, it would always be a challenge.

Acknowledged? A number of consultants did not respond to the question whether there was sufficient agency response of this dynamic, because they did not know or weren’t privy to the decision making process. Margrit Koettig said there was no acknowledgement whatsoever, that the issue was very complex, and there were a diversity of responses from the four management areas of NPWS. Maxine Walker agreed, and said she got very frustrated that policies were not finalised – ‘they are either always in draft or they do not exist’. David Major said the word should be ‘understood’ rather than acknowledged. Jim Kohen said he thought the matter was partly a question of semantics - ‘if Aboriginal people say a place is culturally significant and they mean socially significant, what is the difference? There needs to be recognition of both.’

Consultants working in historic heritage all agreed that this dialectic was ignored or glossed over by agencies. Anne Bickford suggested that agencies had suppressed discussion of this issue because it brought heritage into disrepute and opened it up to those who wished to question its validity. The recent cases of the

Conservatorium of Music and St Patricks Manly were referred to by several respondents. In both of these cases the Heritage Council challenged the assessments of social significance prepared by consultants as inaccurate representations. Consultants involved in these projects felt that the Council did so without a basis in research and with a vested interest in a particular outcome.

Methodology

Which used? The methodologies used in the course of social significance assessment included oral history interviews, press releases, open days, archival research, in field and post field consultation, talking to people, to elders, workshops, consultation with community 'groups' such as historical societies and the national trust, engaging specialist historian and anthropologist inputs. Mike Pearson used oral history interviews to establish longevity of association. He had also used workshops, but was of the view that they do not provide a robust measure of community value because the participants self select and probably represent extremes. He thought they established issues but did not establish social significance. Louise Gay and Bruce Baskerville thought it was essential to visit a place with the informant to gain a full understanding of its significance. She used documentary research to augment information and as a memory jogger. She was of the view that training was necessary for oral history, also mentioned by Neville Baker.

Richard Mackay stated that his firm often employed an expert like Chris Johnston to prepare and implement a social values evaluation plan. A recent example of this was for the Heritage Study of the Rocks. This helped to show the client what was to be done and how they were going to go about it. Anne Bickford spoke about the inevitability of becoming involved in local politics when doing this sort of work and that it was important that competing groups be identified and both given a chance to put forward their view.

Canvass the community? Most people were of the view that it was necessary to go into the community to assess social significance. David Major and others also thought there needed to be a desktop component, looking at historical information. Few endorsed the use of press reviews, although Mike Pearson pointed out that press material could provide evidence of both longevity and continuation of association. Louise Gay was of the view that individuals should be talked to first, adding that it was very dangerous to have a community meeting and take that as an accurate response, since the voice of dominant people did not necessarily represent the views of all in the community. Mike Pearson thought also that canvassing the community can be political and seen to be of political value. Iain Stuart suggested that if a community values something this might be reflected in observable behaviour. For Maxine Walker it was essential to go into the community, to develop trust and talk to people directly, not just over the telephone, since factors such as body language were important.

Most consultants felt that actually canvassing the community was an essential part of social significance research, but that it may not be required in all cases. In the case of some well known sites, such as the Sydney Harbour Bridge, there would be many sources of information to be pursued. As Richard Mackay also mentioned it depends upon what is proposed, if a site is to be listed on a heritage register, it may not be necessary to perform extensive community consultation, but if the proposal is to change that place or its use, then consultation may indeed be necessary to refine understanding of social significance.

Agency role. Most were strongly of the view that the agencies had not done enough to provide a methodology for social significance assessment. Laila Haglund thought it was not so much a matter of providing techniques as applying pressure that social significance be done and done adequately. Vanessa Edmonds also thought the agency should apply more pressure and identify the people to contact. She was not sure what techniques should be used. Maxine Walker thought the agency had not done enough to train Aboriginal people to do their own assessments, although it was part of their responsibility to do so. Neville Baker thought the information in the 1977 *Guidelines* was very poor, and that there could be much more,

for example on oral history. Margrit Koettig answered with a 'categorical no'. 'Because we have no defensible methods or techniques it (social significance) cannot be upheld in court. It is absolutely essential to have something to measure performance against'. Iain Stuart said the agency would have to have methodology in mind, otherwise 'in the competitive world of EISs, they will get rock bottom'. David Major was not sure how to create a methodology, but suggested trial and error, benchmarking across the country and internationally, eg with the UN and Parks Canada. He also suggested that NSW could have a treaty with the Aboriginal people of NSW, like the *Treaty of Waitangi*, or a treaty British Columbia has with the Cowichan people of Vancouver Island.

It was generally felt that while there was a role for clearer guidelines and standards from the agencies for social significance assessment, this did not replace the need for trained and expert people to do it and further education of agency staff and other public servants such as planners in state and local government. Ian Jack stated that he is wary of the concept of a manual, stating that each case must be dealt with according to its characteristics. Richard Mackay stated that the agencies were not looked to for expertise and that Chris Johnston's 1992 Technical Paper provided a good start in terms of techniques and methodology.

Outcomes and admissibility

Equal weighting. Respondents were varied in their view of the appropriate weighting for social significance. Hilton Naden and Maxine Walker thought social significance should be of prime importance. David Major thought it should have at least equivalent weighting with scientific significance in both Aboriginal and non-Aboriginal heritage, since three of the four values listed in the Burra Charter related to how people feel. He thought scientific significance should be used to validate social significance, although scientific significance could exist on its own, and at present only though it was it possible to stop people destroying things. Others thought social and scientific significance should be theoretically equivalent and, depending on the circumstances, sometimes one and sometimes the other might rightfully prevail. Margrit Koettig said that under IDA guidelines they were supposed to be equally considered. 'However, because there is no clear managerial framework within the agency, one area manager will follow community wishes but their counterpart in another area might not.'

All respondents agreed that each category of significance should start off equal in theory, but that analysis should reveal if one value in particular is outstanding. Ian Jack pointed out the current requirement in the NSW Heritage Manual is for an integrated assessment of significance where all the values are "put back together again". Anne Bickford suggested that there should be an extra requirement for scientifically significant sites, whereby those with some special characteristics which are of relevance to the local community should be chosen for research over sites which lack this characteristic.

Admissibility. With regard to problems associated with admissibility, Mike Pearson spoke of limitations in the current methodology, which was the workshoping process, in that outcomes were rubbery and values volatile. Neville Baker also saw a problem in the mutability of social significance, the capacity for it to change over time and vary according to aspirations or politics. This he thought was particularly a problem since it generally took years for issues to reach the courts. Others also referred to problems with methodology and the lack of performance measures. Particular problems raised included establishing the right to speak for a community, significance to a small group of people only, contemporary significance as opposed to long term significance, or if there is no associated visible evidence, ie places where something happened or is believed to have happened.

Ian Jack said that in his experience it was currently more acceptable for community members to speak about issues which directly affected them in the court than it was for professionals to speak on their behalf and for a synthesised 'community view'. This statement reflected other comments about the lack of an accepted methodology for social significance evaluations hampering its expression in a legal environment. Several interviewees also suggested that there was a lack of expertise and understanding of this area amongst the assessors.