

HERITAGE INFORMATION SERIES

MINIMUM STANDARDS OF MAINTENANCE AND REPAIR



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Front cover graphics:

Aboriginal hand stencils, South Coast. *Photograph courtesy of National Parks and Wildlife Service*
Interior of Belltrees shearing shed, built near Scone in NSW in 1879 by architect J. Horbury Hunt.
Artefacts from the site of first Government House Archaeology Collection. *Photograph courtesy of Museum of Sydney on the site of first Government House*
Grose Valley, Blue Mountains, NSW. *Photograph courtesy of NSW National Parks and Wildlife Service*

Back cover graphics:

Australia Square, Sydney
Entrance to the central temple, Sze Yup Temple, Glebe. *Photograph by Karl Zhao*
Lands Department Building, Sydney
The bow of iron steamer, *Merimbula*, wrecked near Currarong in 1928. *Photograph by David Nutley*
Snowy Mountains Scheme. *Photograph courtesy of the Snowy Mountains Hydro-electric Authority*
St Mark's Anglican Church, Darling Point, Sydney. *Photograph by Stuart Humphreys*
Belltrees Shearing Shed, near Scone, NSW.
Detail from the crypt floor of St Mary's Cathedral, Sydney. *Photograph courtesy of St Mary's Cathedral*

MINIMUM STANDARDS FOR MAINTENANCE AND REPAIR

Major amendments to the Heritage Act 1977 passed both houses of State Parliament and came into effect on 2 April 1999. The changes are the result of substantial review of the NSW heritage system.

One of the changes in policy reflected in the new legislation is the establishment of Minimum Standards. Since the original Heritage Act was passed in 1977 the “wilful neglect” provisions had been ineffective in preventing the deterioration of heritage items. In the twenty years of its operation there were no successful prosecutions under this section of the Act.

The section has therefore been deleted and replaced. Owners of items listed on the **State Heritage Register** are now required to ensure that heritage significance is maintained. Owners are required to achieve minimum standards of maintenance and repair.

The standards are set out in the Regulation, and relate to:

- weatherproofing;
- fire protection;
- security; and
- essential maintenance.

These are minimum standards to ensure that heritage significance is maintained. They do not require owners to undertake restoration works, but where works are needed owners may be eligible to apply for financial assistance through the Heritage Incentives Program.

Where these standards are not met and the heritage significance of the item is in jeopardy the Heritage Council will now have the power to order repairs after consultation with the owner.

As a last resort, if negotiations have failed and the owner does not comply with the order, the Heritage Council can arrange for the works to be carried out and charge the expenses to the owner. The Minister may consent to the Heritage Council's prosecution of the owner for failure to comply with an order under this section of the Act.

A copy of the *Heritage Amendment Regulation 1999*, extracted from the New South Wales Government Gazette No.27, 1999, pages 1 – 9, is included for your information.

What is the State Heritage Register?

Heritage places and items of particular importance to the people of New South Wales are listed on the State Heritage Register. The Register was created in April 1999 by amendments to the *Heritage Act 1977*.

The key to listing on the State Heritage Register is the level of significance. Only those heritage items which are of **state significance in NSW** are listed on the State Heritage Register.

The Register replaces the old system of permanent conservation orders as a means of listing items of state significance

The Register forms part of the State Heritage Inventory, an electronic database of all protected heritage items in New South Wales. To check whether an item is listed on the Register, consult the **State Heritage Inventory** on the internet through the Heritage Office home page: www.heritage.nsw.gov.au

Heritage Amendment Regulation 1999

under the

Heritage Act 1977

His Excellency the Governor, with the advice of the Executive Council, has made **the following Regulation under the *Heritage Act 1977***.

CRAIG KNOWLES, M.P.,
Minister for Urban Affairs and Planning

Explanatory note

The object of this Regulation is to impose minimum standards with respect to the maintenance and repair of buildings, works and relics that are listed on the State Heritage Register or within a precinct that is listed on that Register.

This Regulation is made under the *Heritage Act 1977*, including sections 118 (as substituted by the *Heritage Amendment Act 1998*) and 165 (the general regulation-making power).

Clause 1 Heritage Amendment Regulation 1999

Heritage Amendment Regulation 1999

1 Name of Regulation

This Regulation is the *Heritage Amendment Regulation 1999*.

2 Commencement

This Regulation commences on 2 April 1999.

3 Amendment of Heritage Regulation 1993

The *Heritage Regulation 1993* is amended as set out in Schedule 1.

4 Notes

The explanatory note does not form part of this Regulation.

Heritage Amendment Regulation 1999

Amendments

Schedule 1

Schedule 1 Amendments

(Clause 3)

[1] Part 1, heading

Insert before clause 1:

Part 1 Preliminary**[2] Clause 3 Interpretation**

Insert at the end of clause 3:

(3) Notes in the text of this Regulation do not form part of this Regulation.

[31] Part 2, heading

Insert before clause 4:

Part 2 Fees and forms**[4] Part 3**

Insert after clause 9:

Part 3 Minimum standards of maintenance and repair**9A Minimum standards imposed**

Pursuant to section 118 of the Act, the standards set out in this Part are imposed as minimum standards with respect to the maintenance and repair of a building, work or relic that is listed or within a precinct that is listed on the State Heritage Register.

Note. Section 119 of the Act requires the owner of the building, work or relic to ensure that it is maintained and repaired to standards that are not less than the minimum standards imposed by this Part. Nothing in this Part affects any requirement for the approval under Part 4 of the Act of any aspect of maintenance or repair.

Heritage Amendment Regulation 1999**Schedule 1 Amendments****9B Inspection**

- (1) The building, work or relic, and its curtilage or site, must be inspected to identify maintenance and repairs that are needed to ensure compliance with section 119 of the Act in respect of the standards set out in clauses 9C-9H.
- (2) The inspection must be carried out at least once every 12 months in the case of the standards set out in clauses 9C-9G and at least once every 3 years in the case of the standards set out in clause 9H.

Note. The maintenance and repair requirements of section 119 of the Act are ongoing and are not limited to matters identified by an inspection carded out for the purposes of this clause.

- (3) The inspection is to be carried out by a person with expertise and experience appropriate to the nature of the item concerned.
- (4) In the case of a relic kept in a repository or as part of a collection, the inspection is to extend to the conditions under which the relic is kept.
- (5) In the case of a relic that is attached to or forms part of land, the inspection is to include an assessment of the stability of the site of the relic.

9C Weather protection

- (1) The following systems or components, if present, must be maintained and repaired (including by being cleaned and secured) when and to the standard necessary to ensure a reasonable level of protection for the building, work or relic, and its curtilage or site, against damage or deterioration due to weather:
 - (a) surface and sub-surface drainage systems,
 - (b) roof drainage systems, including gutters, rainwater heads, downpipes and stormwater drainage systems,
 - (c) water storages, dams, ponds, retention basins, watercourses, batters, levee banks, sea-walls and other flood and erosion mitigation measures,

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- (d) roofs, walls, doors and windows (including the glass components of doors and windows) and other components intended to exclude sun, rain, wind, hail, snow or other weather elements, including their security against the effects of high winds;
 - (e) systems or components which might be at risk of damage or dislodgment by high winds, including damage by falling trees and branches, tidal inundation or wave action;
 - (f) systems and components such as damp proof courses, flashings, ventilation systems and other measures intended to prevent the ingress of water or dampness or to reduce its effects;
 - (g) lightning conductors;
 - (h) any other system or component designed to protect the building, work or relic or its curtilage or site against damage or deterioration due to weather.
- (2) Doors and windows of a building may, as an alternative to being repaired, be boarded up, but only:
- (a) if the building is unoccupied, or
 - (b) as a short term measure pending repair.
- (3) If an opening to a building is designed or intended to have a door, window or other closure in place and does not have the door, window or other closure in place, the opening must be boarded up.

9D Fire protection

- (1) Vegetation, rubbish and any other material that could create a fire hazard for the building, work or relic is to be removed and not permitted to accumulate.

Note. Vegetation and other items can be of heritage significance, and their removal may require the approval of the Heritage Council or the local council.

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Schedule 1 Amendments

- (2) The following systems or components, if present, must be maintained and repaired when and to the standard necessary to ensure a reasonable level of protection for the building, work or relic against damage or destruction by fire:
- (a) lightning conductors,
 - (b) fire detection and control systems, including smoke and heat detectors and fire sprinkler systems and including associated alarm and communication systems,
 - (c) stores of inflammable materials or rubbish,
 - (d) building services such as electricity, gas and heating systems,
 - (e) any other system or component designed to protect the building, work or relic from damage or destruction by fire.

9E Additional fire protection for unoccupied buildings

- (1) The following additional fire protection measures must be taken for the protection of a building that is to be unoccupied for a continuous period of 60 days or more:
- (a) heating or gas services must be shut down, gas or oil supply to those services must be turned off at the mains or other point of connection to supply, and portable gas or oil storages must be removed,
 - (b) permanent or temporary smoke detection systems must be installed with associated communication systems connected to the Fire Brigade and, if the building will be unoccupied for a period of 6 months or more, provided with a permanent power supply.
- (2) This clause does not apply to any outbuilding within the curtilage or site of a building unless the outbuilding has been constructed or adapted for use as a dwelling.
- (3) The use of a building for storage of goods or materials does not constitute occupation of the building for the purposes of this clause if the building ordinarily has another use or is a building of a kind not ordinarily used for storage.

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9F Security

- (1) Fencing or surveillance systems appropriate to the nature and location of the building, work or relic must be installed to secure it and its site and prevent vandalism.
- (2) The following systems or components, if present, must be maintained and repaired when and to the standard necessary to ensure a reasonable level of security for the building, work or relic:
 - (a) boundary and internal fences and gates, **including associated locking mechanisms**,
 - (b) in the case of a building, the walls, roof and other building elements, doors, windows and other closures, including glazing and associated locking and latching mechanisms,
 - (c) any electronic surveillance or alarm system installed on the site,
 - (d) any other system or component designed to ensure the security of the building, work or relic.
- (3) Doors and windows of a building may, as an alternative to being repaired, be boarded up, but only:
 - (a) if the building is unoccupied, or
 - (b) as a short term measure pending repair.
- (4) If an opening to a building is designed or intended to have a door, window or other closure in place and does not have the door, window or other closure in place, the opening must be boarded up.

9G Additional security measures for unoccupied buildings

- (1) The following additional security measures must be taken for the protection of a building that is to be unoccupied for a continuous period of 60 days or more:
 - (a) if an electronic surveillance or alarm-system is installed, the system must be connected to a Police Station or a commercial security provider,

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- (b) if no electronic surveillance or alarm system is installed, arrangements must be in place for regular surveillance of the building, work or relic, as appropriate to its nature and location.
- (2) This clause does not apply to any outbuilding within the curtilage or site of a building unless the outbuilding has been constructed or adapted for use as a dwelling.
- (3) The use of a building for storage of goods or materials does not constitute occupation of the building for the purposes of this clause if the building ordinarily has **another use or is a building of a kind** not ordinarily used for storage.

9H Essential maintenance and repair

- (1) Essential maintenance and repair of a building, work or relic (being maintenance and repair necessary to prevent serious or irreparable damage or deterioration) must be carried out whenever necessary.
- (2) Essential maintenance and repair includes:
 - (a) the taking of measures (Including inspection) to control pests such as termites, rodents, birds and other vermin, and
 - (b) the taking of measures to maintain a stable environment for in-situ archaeological relics.
- (3) The requirement for essential maintenance and repair extends to (but is not limited to) the following:
 - (a) foundations, footings and supporting structure of any building, work or relic,
 - (b) structural elements such as walls, columns, beams, floors, roofs and roof structures, and verandah or balcony structures,
 - (c) exterior and interior finishes and details,
 - (d) systems and components (such as ventilators or ventilation systems) intended to reduce or prevent damage due to dampness,

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- (e) fixtures, fittings and moveable objects attached to the building, work or relic, or to its curtilage or site,
- (f) landscape elements on the site of and associated with the building, work or relic, including vegetation, garden walls, paths, fences, statuary, ornaments and the like.

9I Conservation management plans

- (1) A **conservation management plan** is a plan prepared by the owner of a building, work or relic for the conservation of the building, work or relic.
- (2) A conservation management plan endorsed by the Heritage Council for a building, work or relic may:
 - (a) provide that a standard set out in this Part does not apply to the building, work or relic (in which case the standard does not apply to it), or
 - (b) impose additional standards of maintenance and repair for the building, work or relic (in which case those standards are imposed as minimum standards with respect to the maintenance and repair of the building, work or relic, in addition to those set out in this Part).

[5] Part 4, heading

Insert before clause 10:

Part 4 Miscellaneous