

# LOCAL GOVERNMENT | HERITAGE GUIDELINES

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The Local Government Heritage Guidelines (including the delegation of certain Heritage Council functions under the NSW *Heritage Act* 1977 and the authorisation to make Interim Heritage Orders)

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Welcome to the Heritage Office's new Local Government Heritage Guidelines.

The Guidelines have been written in plain English, in a user-friendly format to assist local councils with heritage management. They explain in detail two initiatives: the delegation of certain approval functions of the Heritage Council of NSW to local councils and the authorisation for local councils to make Interim Heritage Orders.

The delegations will further streamline the approvals system for those items listed on the State Heritage Register, consistent with the review of Part 4 of the *Environmental Planning and Assessment Act 1979* (EP&A Act). The authorisation to make Interim Heritage Orders will support the powers of local councils to manage local heritage.

Local government has played a pivotal role in heritage management in New South Wales since 1985 when it was given responsibility for protecting local heritage through the local environmental planning process, under the EP&A Act. Today, local government fulfils its role largely through environmental planning instruments such as regional and local environmental plans.

The NSW Heritage Office has provided various forms of assistance to local government in the last few years to help it with its heritage responsibilities. It established the Local Government Heritage Advisors Network and provides training to Heritage Advisors. More recently, the Heritage Office released the model heritage provisions for local environmental plans.

The delegation of approval functions, the authorisation to make Interim Heritage Orders, and the Local Government Heritage Guidelines reflect the Government's ongoing willingness to identify, and then provide local government with the resources it needs to better manage local heritage.

The Heritage Office has a liaison officer who can assist your council with the implementation of these new powers. If you would like to discuss any issues relating to heritage management or the implementation of the new powers please contact the Heritage Office on 02 9635 6155 and ask to speak to your liaison officer.

We welcome any comments the community, local government and heritage practitioners may have on the Local Government Heritage Guidelines. Please email these to Alice Brandjes at [brandja@heritage.nsw.gov.au](mailto:brandja@heritage.nsw.gov.au)

**Rosalind Strong**

Director  
NSW Heritage Office  
March 2002

# 1. INTRODUCTION

This section provides the context for the conservation of environmental heritage in New South Wales, outlines the New South Wales heritage management system, explains the purpose of the Local Government Heritage Guidelines and provides advice about how to make the best use of the Guidelines.

## 1.1 HERITAGE MANAGEMENT IN NEW SOUTH WALES

In 1977 the NSW Government introduced the Heritage Act in response to increasing community concern about the loss of the environmental heritage of the State, particularly in localities such as The Rocks, Woolloomooloo and Kings Cross, and in towns such as Morpeth in the Hunter. Since then local and state government agencies, professionals and the community have developed skills in heritage management, because of their interest in heritage matters and to meet their statutory responsibilities.

Community interest in heritage matters has continued. A number of local councils have sought to benefit from this by establishing community heritage advisory committees. The committees have representatives who meet on a regular basis to discuss heritage matters of concern in the local area. Other councils have developed expertise in heritage matters through the appointment of skilled staff and/or heritage advisors.

State Government policy for heritage management has also changed with changing community attitudes. The 1979 changes to the EP&A Act and the 1985 Ministerial Directive required the involvement of local government in heritage management in New South Wales. Major changes to the heritage system were announced in the 1996 Ministerial Heritage Policy. Subsequent amendments to the NSW Heritage Act, gazetted in 1999, established the State Heritage Register and clarified the roles of state and local government in heritage

management. The responsibility for identifying, assessing and managing items of local significance rests with local government. The NSW Heritage Office focuses on items of State significance and the State Heritage Register. This means responsibility for heritage management in New South Wales is shared between local government, the Heritage Council of NSW and the NSW Heritage Office.

## 1.2 THE NSW HERITAGE MANAGEMENT SYSTEM

The NSW heritage management system adopts a three-step process for investigating, assessing and managing heritage resources, as follows:

Step 1: INVESTIGATE significance

Step 2: ASSESS significance

Step 3: MANAGE significance.

These three steps are explained in detail in the NSW Heritage Manual (1996). The Manual provides the framework for making sound heritage conservation decisions in NSW.

Local councils have a role in all three stages of the NSW heritage management system. The purpose of the Local Government Heritage Guidelines is to assist local councils to fulfil their roles and responsibilities under the system. The Heritage Office can help local councils establish the necessary framework for heritage management. The Heritage Office also works closely with local councils in carrying out their regulatory roles.

## 1.3 WHY THE LOCAL GOVERNMENT HERITAGE GUIDELINES HAVE BEEN PREPARED

The skills and expertise of professionals such as planners, architects, historians and archaeologists, involved in identifying, assessing



and managing environmental heritage, has increased significantly since heritage legislation was introduced in the late 1970s. This has been achieved through education, training and practical experience. The standard of documentation relating to heritage and conservation submitted by professionals has also improved.

Nevertheless, there are still some inconsistencies in the heritage management performance of local and state government agencies, professionals and the community. The reasons for this are varied: not all local councils have the resources to properly fulfil their statutory responsibilities or have access to the necessary professional expertise. In some areas there may not be an understanding of the broader values of heritage within the community, and correspondingly, little support for heritage conservation. It will be some time, therefore, before the excellent performance of some local councils, government agencies, professionals and communities is evident consistently throughout the State.

In February 2002 the State Government delegated certain approval functions of the Heritage Council of New South Wales to those councils with appropriate skills and expertise. It also authorised a number of local councils to make Interim Heritage Orders. The Government believes that by doing this it will help local councils improve their performance in heritage management and provide a more streamlined and integrated approvals process for owners of heritage items.

The Local Government Heritage Guidelines have been prepared to provide a better understanding of local government heritage management for all those who have some responsibility in this area. They will guide decision-making and improve heritage practice by local councils. The Guidelines sit alongside the *NSW Heritage Manual* and provide more detailed information to help local councils establish the necessary framework for heritage management. The Guidelines also provide councils with all the information they need to manage their approval functions and to make Interim Heritage Orders.

#### 1.4 HOW TO USE THE LOCAL GOVERNMENT HERITAGE GUIDELINES

The Local Government Heritage Guidelines are divided into seven sections. Each section of the Guidelines is prefaced by a short summary of its contents so that users only need to read those sections which are relevant.

The Guidelines are available on-line in the dedicated Local Government section of the Heritage Office website at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au).

Copies of templates are provided for the various statutory processes that are required when councils use the delegation of certain Heritage Council functions or make an Interim Heritage Order. (See Appendix 8.4.)

Copies of the Heritage Office documents cited in the Guidelines are included in the Appendices. Most of the documents referred to are also available on-line and this is indicated in the text. Links are provided in the on-line version.

## 2. THE MEANING OF HERITAGE

This section provides statutory definitions for and explains “environmental heritage”, “item”, “place”, “precinct” and “heritage significance”.

### 2.1 WHAT IS “ENVIRONMENTAL HERITAGE”?

Our environmental heritage involves places and landscapes of historic, cultural, social, spiritual sacrifice, archaeological, architectural or aesthetic significance.

New South Wales has been the home of Aboriginal people for 50,000 years and the evidence of their known presence is everywhere in the landscape. Aboriginal places and landscapes of significance include ceremonial sites, camping places, sacred landscapes, quarries, burial sites, Massacre sites, historic reserves and mission stations, paintings and engravings. It should be recognised that many places of historic heritage significance are also valued by Aboriginal people, due to their association with those places, either since or prior to European settlement. Although these associations are not always happy ones it is important that they be acknowledged.

The built environment includes buildings, works, shipwrecks, relics and places where important events occurred, or which have important historic associations. The natural environment includes elements of the natural world such as plants, animals, ecosystems on which they depend and geographic features formed by geological and climatic processes such as a woodland or a fossil site. The modified environment, or cultural landscape, includes areas of the natural environment modified by human occupation such as a rural landscape, a designed garden or an avenue of trees.

### 2.2 WHAT IS AN “ITEM”, “PLACE” AND “PRECINCT” ?

The *Heritage Act* 1977 defines an “item” as a place, building, work, relic, movable object or precinct.

A “place” is further defined in the *Heritage Act* 1977 as an area of land, with or without improvements and a “precinct” as an area, a part of an area, or any other part of the State.

Items, places or precincts may include public buildings, private houses, housing estates, archaeological sites, industrial complexes, bridges, roads, cemeteries, churches and schools, parks and gardens, trees, memorials, lookouts and natural areas.

### 2.3 WHAT IS “HERITAGE SIGNIFICANCE”?

The heritage significance of an item includes all the values that make it special to past, present and future generations. These may be its historical origins and subsequent development, its association with particular people or events, its visual or townscape qualities, its construction or other technical qualities, a religious or symbolic role and archaeological research potential. The values may not only be evident in the fabric or physical material of the place, building, work, relic, movable object or precinct, but also in the relationship with its surroundings, and in associated documents that can be researched to gain knowledge of the item and its significance. The values do not have to be mutually exclusive and usually a place will have multiple values. The values of an item will depend on its integrity, comparative standing, and community perceptions.

Section 6 discusses the assessment of heritage significance in detail.

### 2.4 REFERENCES

NSW Heritage Office *NSW Heritage Manual – Assessing Heritage Significance* Sydney 2001

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

The *Heritage Act* 1977

This section provides a legislative and philosophical context for the conservation of heritage in New South Wales. It explains the role of the Burra Charter in conservation philosophy and practice in Australia, introduces the concepts of heritage conservation which the Burra Charter embodies, and outlines the principles fundamental to planning the care of heritage items and places.

## 3.1 THE LEGISLATIVE FRAMEWORK

Local government responsibility for heritage management is enshrined within two acts – the *Heritage Act 1977* and the *Environmental Planning and Assessment Act (EP&A) 1979*. Together, they establish the legislative framework for heritage management in New South Wales and ensure that heritage forms an integral part of the planning system.

In addition to these, the National Parks and Wildlife Service is responsible for the conservation, protection and management of Aboriginal sites, places and relics under the *National Parks and Wildlife Act 1974 (NP&W Act)*. Works affecting such sites must be referred to the National Parks and Wildlife Service.

The *Threatened Species Conservation Act 1995* amended the EP&A Act and NP&W Acts, requiring an assessment of the environmental impact on threatened species as part of the development process.

The *Wilderness Act 1988* enables the declaration and management of wilderness areas.

The *Australian Heritage Commission Act 1975* (currently under review) established the Australian Heritage Commission, which maintains the Register of the National Estate and administers the National Grants Program.

The *Historic Shipwrecks Act 1976* now requires that the Director of the Heritage Office, as delegate of the Federal Minister, be notified of

any shipwreck discovered in Australian waters off the NSW coast.

### 3.1.1 The *Heritage Act 1977*

The NSW *Heritage Act 1977* provided the first systematic means of protecting heritage in the State. It was drafted in response to community concern over the loss of items in the 1970s. The *Heritage Act 1977* may be accessed on line at [www.austlii.edu.au](http://www.austlii.edu.au).

The 1996 Ministerial Heritage Policy clarified the roles of local and state governments in relation to heritage management. The 1999 Amendments to the Heritage Act implemented this policy by providing more tools for local councils to manage their heritage. It provided for the delegation of certain Heritage Council functions and the authorisation to make Interim Heritage Orders to local councils.

Under the *Heritage Act 1977* the Minister, on the recommendation of the Heritage Council, can place Interim Heritage Orders on items, places and areas, which on further investigation may be found to be of State or local significance and are under threat. An Interim Heritage Order provides temporary protection from demolition or mismanagement. Places found to be of State significance and listed on the State Heritage Register are required to have ongoing conservation. The consent of the Heritage Council must be obtained before development of the item, place or area can be carried out. The Act also requires that an excavation permit be obtained before any relic can be disturbed, whether or not a conservation order is in place. Interim Heritage Orders are commonly used in emergency situations where urgent protection of items, places and areas is needed. Under the Act, state government agencies have the same obligations as private owners of heritage items, places and areas, and must list them in a conservation register as a requirement of section 170 of the Heritage Act. Items of State

significance in state government ownership are also listed on the State Heritage Register.

The *Heritage Act 1977* provides that the owner of a building, work or relic, listed, or located in a precinct, listed on the State Heritage Register, must ensure that the building, work or relic is maintained and repaired to the minimum standards imposed by the regulations.

The standards cover the following matters:

- a) the protection of the building, work or relic from damage or deterioration due to the weather (including such matters as the weatherproofing of roof, doors and windows)
- b) the prevention of, and the protection of the building, work or relic from destruction by fire
- c) security (including fencing and surveillance measures to prevent vandalism)
- d) essential maintenance and repair (being maintenance and repair necessary to prevent serious or irreparable damage or deterioration).

The Minimum Standards of Maintenance and Repair are described more fully in Appendix 8.8.

Under the *Heritage Act 1977* the Heritage Council can issue an order to the owner of a building, work or relic listed on the State Heritage Register, if it is not being maintained or repaired in accordance with the minimum standards imposed by the regulations. There are significant penalties for owners who fail to meet these standards; they are:

- the land on which the building, work or relic is situated may be resumed
- no development or use of the land shall occur for up to ten years, other than the conservation of the building or work
- no development or use of the land shall occur, other than development or use of the building envelope, at the time that the order was served.

### 3.1.2 The *Environmental Planning and Assessment Act 1979*

The *Environmental Planning and Assessment Act 1979* enabled responsibility for heritage to be shared by state and local government agencies. The Act also provided local government with the power to protect items and places of heritage significance in the local area through local environmental plans and development control plans. The 1985 Ministerial Directive confirmed local council's obligation to identify heritage items in their local environmental plans.

Under the *Environmental Planning and Assessment Act 1979* councils may prepare local environmental plans which incorporate standard heritage provisions and which contain schedules of items and places of heritage significance, previously identified through a heritage study process. The provisions relate to items and places listed in a schedule, as well as unlisted items and places located in the area. The provisions perform a number of functions, they:

- set out any requirements that council has for development that involves listed and unlisted items
- identify the protocol to be followed by a council when it assesses a proposal
- identify any incentives that council may offer.

Heritage items may also be identified in State Environmental Planning Policies and Regional Environmental Plans.

Development consent must be obtained from the local council for work that may impact on the heritage significance of items listed. Council must also take into account the impact of a proposal on the heritage significance of an item, before making a decision about it.

Councils also prepare development control plans to specify more detailed management policies for those items and places listed in the schedule of a local environmental plan. These, together with any other heritage issues, must

be considered by the council when assessing development applications, as required by section 79C (Matters for Consideration) of the *Environmental Planning and Assessment Act 1979*.

A model local environmental plan has been prepared to assist local councils to develop appropriate provisions to protect and manage their heritage. This is discussed in detail in section 4.2.1.

### 3.2 THE BURRA CHARTER

The Burra Charter is a set of best practice principles and procedures for heritage conservation. It was developed by Australia ICOMOS (International Council for Monuments and Sites), the Australian group of the international professional organisation for conservation. At a meeting in 1979 in the South Australian historic mining town of Burra, Australia ICOMOS adopted an Australian charter for the conservation of places of cultural significance. This became known as the Burra Charter.

The Burra Charter may be applied to a wide range of places – an archaeological site, a town, building or landscape. The Burra Charter defines various terms and identifies principles and procedures that must be observed in conservation work. Although the Burra Charter was drafted by heritage professionals, anyone involved in the care of heritage items and places may use it to guide conservation policy and practice.

The Burra Charter embodies the following concepts:

- the place itself is important
- understand the significance of the place
- understand the fabric
- significance should guide decisions
- do as much as is necessary, as little as possible

- keep records
- do everything in logical order.

Although the Burra Charter is not cited formally in any act it is nationally recognised and underpins heritage management in New South Wales and Australia. The policies and guidelines of the Heritage Council of NSW and the NSW Heritage Office are consistent with and guided by the Burra Charter.

A full copy of the Articles of the Burra Charter appears in Appendix 8.1. The Burra Charter is also available on-line through the ICOMOS website at [www.icomos.org/australia](http://www.icomos.org/australia).

The Burra Charter uses a number of terms, for which definitions are provided in the Glossary, located at the rear of the Guidelines.

### 3.3 PRINCIPLES OF CARE OF HERITAGE ITEMS AND PLACES

Inherent in the NSW Heritage Act and the Burra Charter are principles that are fundamental to planning the care of heritage items and places. The principles are that:

- there are *places* worth keeping because they enrich our lives by helping us to understand the past, by contributing to the richness of the present environment and because we expect them to be of value to future generations
- the cultural significance of a place is embodied in its fabric, its setting and its contents; in the associated documents; and in people's memory and association with the place
- the *cultural significance* of a place, and other issues affecting its future, are best understood by a methodical process of collecting and analysing information before making decisions
- keeping accurate records about decisions and changes to a *place* helps in its care, management and interpretation.

The principles should be followed by those responsible for the care, control and management of items or places of all levels of heritage significance.

### **3.4 REFERENCES**

Australia International Council on Monuments and Sites *The Australia ICOMOS Charter for the Conservation of Places of Cultural Significance*, (The Burra Charter), 1999

Marquis-Kyle, P. and Walker, M. *The Illustrated Burra Charter* International Council on Monuments and Sites Sydney Australia 1992

NSW Heritage Office *Minimum Standards of Maintenance and Repair*. Sydney 1999

The *Heritage Act* 1977

The *Environmental Planning and Assessment Act* 1979

# THE ROLE OF LOCAL GOVERNMENT, THE HERITAGE COUNCIL OF NSW, NSW HERITAGE OFFICE & OTHERS

4.

This section:

- describes the roles of the Heritage Council of NSW and NSW Heritage Office
- identifies the role that local government plays in identifying, protecting and managing the heritage of the local area
- describes the tools that local government may use to effectively manage heritage
- explains the model heritage provisions of a local environmental plan and what they mean in plain English
- describes the various statutory and non-statutory lists and registers of heritage items
- describes the role that other government and non-government agencies play in heritage management in New South Wales.

## 4.1 THE ROLE OF THE HERITAGE COUNCIL OF NSW & NSW HERITAGE OFFICE

The Heritage Council of NSW, created by the *Heritage Act 1977*, comprises an independent Chair and fourteen members who embody a cross-section of community, government and professional expertise.

The Heritage Council is appointed by the NSW Government to:

- provide advice on heritage matters to the Minister for Planning
- recommend items of State significance for listing on the State Heritage Register
- recommend the interim protection of potential heritage items so that their significance can be assessed

- determine proposed changes to items on the State Heritage Register so that their significance is retained
- advise the community on heritage.

The Heritage Council has delegated some of its functions to three major committees and is assisted by a number of specialist advisory panels. The major committees consider items and places nominated for listing on the State Heritage Register (the Heritage Council State Heritage Register Committee), applications seeking approval for changes to items and places listed on the State Heritage Register (the Heritage Council Approvals Committee), and strategic issues (the Heritage Council Strategy Committee).

The NSW Heritage Office, previously the Heritage and Conservation Branch of the Department of Urban Affairs and Planning, was established in July 1996. The Heritage Office is a state government agency directly responsible to the Minister responsible for the *Heritage Act 1977*.

The NSW Heritage Office was established to:

- provide specialist administrative and policy support to the Heritage Council and Minister for Planning
- advise the community, local and state government agencies on heritage matters
- coordinate the funding of heritage projects by the State and Federal Governments
- advise the Minister for Planning about applications affecting items and places listed in regional environmental plans.

The Heritage Office has delegation to carry out certain Heritage Council functions.



## 4.2 THE ROLE OF LOCAL COUNCILS

The focus of heritage management in New South Wales has changed since the introduction of the *Heritage Act* in 1977. Today, local councils play an important role in heritage management by identifying, assessing and managing heritage places and items in their local government area. They fulfil their role through the preparation of local environmental plans, development control, strategic planning, heritage promotion and education. All of these activities are conducted under the Environmental Planning and Assessment Act. There are a number of basic tools available to local councils to manage their local heritage. Many councils use all or a number of these tools, others use only one or two and some have yet to establish a suitable framework for effective heritage management. The NSW Heritage Office publication, *Eight Suggestions On How Local Councils May Promote Heritage Conservation*, provides detailed information for councils on the tools available.

A description of the various tools is provided below.

### 4.2.1 The Model Heritage Provisions for Local Environmental Plans

The NSW Heritage Office has developed model heritage provisions to simplify statutory controls for the protection of local heritage items. They incorporate best practice and should be included in any new local environmental plan that contains items of significance.

The provisions are based on Australian conservation practice and experience with planning instruments. The provisions comprise definitions, objectives and standard clauses. The clauses relate to:

- the protection of heritage items and heritage conservation areas
- advertised development
- notice of demolition to the Heritage Council
- development affecting places or sites of

known or potential Aboriginal heritage significance

- development affecting known or potential archaeological sites of relics of non Aboriginal heritage significance
- development in the vicinity of a heritage item
- conservation incentives
- development in heritage conservation areas.

The provisions improve the certainty of the development process for both applicants and councils. They clearly identify the types of activities that may only be carried out with development consent, together with the process to be followed. They also enable minor works to be undertaken without consent, provided heritage significance is not affected. Consistent application of the model provisions by local government across the State will further reduce costs and delays in the development process.

A plan which incorporates the model provisions will receive the endorsement of the Heritage Office/Heritage Council, planningNSW and Parliamentary Counsel.

A full copy of the model heritage provisions appears in Appendix 8.2.

Guidelines to assist local councils with use of the model heritage provisions are currently in the course of preparation. These Guidelines will be provided in the near future.

### 4.2.2 Heritage Officers and Heritage Advisors

Many local councils in New South Wales already employ a Heritage Officer or Heritage Advisor to help manage their heritage programs. They may be employed full-time as a member of staff or alternately engaged on a part-time consultancy basis. Heritage specialists employed by councils have specialised training and experience in heritage management, particularly relevant to council's role and functions. Town planners and architects with strong development control



and heritage backgrounds typically fill such positions. The work that they perform includes:

- assisting councils to establish a suitable framework for heritage management
- providing pre-application advice to applicants and council for applications relating to heritage items, places and areas
- providing general heritage advice
- assessing applications for work relating to heritage items, places and areas
- administering and managing local heritage funds
- establishing and participating in local heritage committees
- assisting applicants with applications for funding assistance from local and state funds
- heritage education and promotion.

Heritage Officers and Heritage Advisors are familiar with heritage and planning issues in the local government area. They develop strong relationships with the local community, local heritage groups, owners, developers and council and are able to provide council and the public with informed advice on local heritage issues. More importantly, they develop an overview of the total heritage resource of an area. They are well placed, therefore, to provide advice about the relative significance of items, places or areas in the local area.

The NSW Heritage Office funds and coordinates the Local Government Heritage Advisors Network – a state-wide network of trained heritage specialists and provides funding to local councils to help establish local advisory services. The Heritage Office also administers a training program for Heritage Advisors.

In order to use the delegated functions of the Heritage Council and/or make an Interim Heritage Order the council must involve a person in the process who has:

- an adequate knowledge and suitable experience in heritage conservation work
- the ability to actively promote heritage conservation through education and management
- the ability to negotiate acceptable solutions to problems involving heritage matters where these arise.

The person will be required to prepare an assessment of the item, place or area. This will provide the basis for council's decision to use the delegated Heritage Council approval functions or to make an Interim Heritage Order. Persons with the necessary skills and experience to prepare assessments for councils include Heritage Officers, Heritage Advisors and suitably qualified consultants.

#### **4.2.3 Local Government Heritage Incentive Schemes**

Through its Heritage Incentives Program the Heritage Office provides dollar for dollar funding to local councils to:

- identify heritage items, places and areas in the local government area and list these in a local environmental plan
- appoint a Heritage Advisor to assist council, the community and owners of listed items
- introduce a local incentives program fund to provide small grants to encourage local heritage projects
- run a main street program.

The Model Heritage Provisions for Local Environmental Plans highlight how local councils can offer various incentives to property owners and developers to encourage the conservation of heritage items, places and areas. The incentives available include the variation of statutory requirements in relation to use of items, floor space ratio and car parking.

Local councils may also waive or reduce the fees for applications for work on heritage items, places or areas which require approval under the local environmental plan.

#### 4.2.4 Local Government Heritage Committees

A number of councils in New South Wales have established Heritage Committees to assist them with heritage management in the local government area. The primary role of such committees has been to advise councils on how to conserve and promote heritage items, places and areas. The responsibility of these committees has encompassed Aboriginal, built, movable and natural heritage.

Heritage Committees are structured so that they constitute a formal committee of council under section 377 of the *Local Government Act 1993*.

They are chaired by a councillor and include community representatives and council staff. Persons or organisations with an interest in heritage matters in the local area such as the historical society, National Trust, Aboriginal Land Council, ethnic communities, main street committees and Chambers of Commerce are generally included. Council staff provide administrative support to the Heritage Committee.

In order to function effectively Heritage Committees must have well-defined and achievable objectives. These may extend to any or all of the following:

- prepare and monitor a heritage policy
- provide advice to council on local heritage management
- raise community awareness of heritage conservation via publications, seminars, public displays and annual heritage awards
- make recommendations on the collection and recording of local heritage material or artefacts
- compile a register of local heritage suppliers and heritage consultants

- make recommendations on the nomination and deletion of items in the heritage schedule of council's local environmental plan
- supervise funding submissions to other agencies, including heritage grants from the NSW Heritage Incentives Program
- comment on specific development applications before council.

Similar to other council committees the role and purpose of the Heritage Committees are set down in writing.

#### 4.3 STATUTORY HERITAGE LISTS

Only lists based on legislation have statutory standing in NSW. Heritage items with statutory protection include:

- items of local heritage significance listed on schedules to local environmental plans
- items of special significance to the people of New South Wales listed on the State Heritage Register
- items in New South Wales on the Register of the National Estate (the Commonwealth has limited powers to restrict the actions of its agencies which affect these items).

Most of the 20,000 statutory items in New South Wales are listed by local councils. Over 100 local councils in NSW have listed heritage items on their local environmental plans.

Statutory lists of heritage items indicate special places and objects that should be kept for future generations to appreciate and enjoy. Owners of items on these lists need to make an application to a consent authority, such as a local council or the Heritage Council, before they can make major changes to the item. The consent authority must take the heritage significance of a locally listed item into consideration when considering development applications.

Most of the items on local heritage schedules are of local heritage significance. Some items,

however, may also be of State significance. The Heritage Office is working with local councils to find out which of these items should be added to the State Heritage Register.

#### 4.3.1 The State Heritage Register

The State Heritage Register is a list of items of particular importance to the people of New South Wales. It includes items important to specific groups in the community such as Aboriginal communities, religious groups, or people with a common ethnic background. The State Heritage Register was created in 1999 and includes items and places in public and private ownership. Items are only listed on the Register when the Minister agrees to the Heritage Council's recommendation that they are of State heritage significance. Eventually this will be a comprehensive list of items and places of State heritage significance.

The process of listing items and places allows for a high level of owner and community comment. Listing protects and conserves the items and places because approval for alteration, damage, demolition and development must be obtained from the Heritage Council under section 60 or section 140 of the *Heritage Act 1977*, before the commencement of any work.

The Minister may direct that an item be removed from the State Heritage Register if he considers that the item concerned is not of State significance and the Heritage Council recommends its removal. The procedure for removal of a listing is the same as the procedure for listing.

The State Heritage Register is accessible via the Heritage Office website at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au)

#### 4.3.2 The State Heritage Inventory

The State Heritage Inventory includes all items listed on NSW statutory registers, that is, the State Heritage Register and heritage schedules of Local Environmental Plans. Eventually it will also include all items on section 170 registers. It is an electronic database with

information on the 20,000 items on NSW statutory lists. In most cases the information on the local items in the State Heritage Inventory is minimal, consisting of only the name and address of the item and the date of the local environmental plan. The heritage study for each area will provide more detailed information on each item. Some councils have developed electronic databases, and the Heritage Office is working with these councils to transfer this detailed information onto the State Heritage Inventory. Eventually the Inventory will include statements of significance for each item listed.

The State Heritage Inventory is accessible via the Heritage Office website at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au)

#### 4.3.3 The Register of the National Estate

The Australian Heritage Commission compiles the Register of the National Estate for the Federal Government. The Register includes over 11 000 natural, historic and Aboriginal places cared for by a variety of private, government and organisational owners. The purpose of the Register is to identify and provide information about heritage places. Inclusion on the Register has no statutory implications except for Federal Government instrumentalities. Some places listed on the Register of the National Estate will be listed on the State Heritage Register and local lists.

The Register of the National Estate may be accessed at [www.environment.gov.au/heritage/](http://www.environment.gov.au/heritage/)

#### 4.4 THE ROLE OF OTHER ORGANISATIONS AND NON-STATUTORY LISTS

A number of other government and community organisations are also engaged in identifying, assessing and managing environmental heritage. Some of these organisations also have lists of heritage items. The State Heritage Inventory already includes some cross referencing to heritage items in New South Wales that are identified by organisations such as the National Trust, the Art Deco Society, the Institution of Engineers and the Royal Australian Institute of Architects.

In most cases these non-statutory lists cannot be used to control future changes to the items. Their value is to alert the community, local councils and the Heritage Council to significant items that may need to be listed on the State Heritage Register or local environmental plan.

The role of the key organisations is discussed below.

#### **4.4.1 The National Parks and Wildlife Service (Register of Aboriginal Places and Archaeological Sites)**

As discussed in Section 3.1 the *National Parks and Wildlife Act 1974* provides for the protection of Aboriginal heritage sites and natural heritage items. The National Parks and Wildlife Service maintains a Register of Aboriginal Places and Archaeological Sites. (There are certain protocols regarding access to this register.) The National Parks and Wildlife Service may be contacted through their website at [www.npws.nsw.gov.au](http://www.npws.nsw.gov.au)

#### **4.4.2 State Government Agencies**

Under section 170 of the *Heritage Act 1977* government agencies must establish and maintain heritage and conservation registers. Government agencies are required to manage and maintain items on the Register in accordance with state owned heritage management principles.

The Heritage Office is working with state government agencies so that eventually their section 170 registers will be included on the State Heritage Inventory.

#### **4.4.3 Australia ICOMOS**

Australia ICOMOS (International Council on Monuments and Sites) promotes good practice in caring for culturally important places. Its members include many professionals involved in heritage conservation. Australia ICOMOS is affiliated with UNESCO. Australia ICOMOS does not maintain a register or list of its own. Australia ICOMOS is the author of the Burra Charter. Australia ICOMOS may be contacted through their website at [www.icomos.org/australia](http://www.icomos.org/australia)

#### **4.4.4 The National Trust of Australia (NSW) (Register)**

The National Trust is an independent community organisation that identifies buildings and sites it considers worthy of conservation. The National Trust of Australia (NSW) Register is the oldest list of heritage items. Although the National Trust encourages conservation activities it has no legal powers to protect the heritage of the State. The Trust works closely with government authorities, including local government, to provide information and opinion on conservation issues. Whilst inclusion of an item on this Register does not have any statutory force it is acknowledged as an important indicator of heritage significance. The Register has been the basis for listing items on the State Heritage Register and local lists.

The National Trust of Australia (NSW) may be accessed at [www.nsw.nationaltrust.org.au](http://www.nsw.nationaltrust.org.au)

#### **4.4.5 The Royal Australian Historical Society**

The Royal Australian Historical Society has a large network of affiliated local historical societies that provide research and information for local heritage studies. The Society can provide contact details for its affiliated societies. It also maintains a Local History and Heritage Bibliography to assist with the investigation of heritage items.

The Local History and Heritage Bibliography may be accessed at [www.rahs.org.au](http://www.rahs.org.au)

#### **4.4.6 The Royal Australian Institute of Architects (Register of Twentieth Century Buildings of Significance)**

The Register of Twentieth Century Buildings of Significance includes buildings and monuments of high architectural and aesthetic merit and items designed by leading twentieth century architects.

The Royal Australian Institute of Architects may be accessed at [www.raia.com.au](http://www.raia.com.au)

#### 4.4.7 The Institution of Engineers Australia (Register of Engineering Structures)

The Register of Engineering Structures includes significant engineering structures.

The Institution of Engineers Australia may be accessed at [www.ieaust.org.au](http://www.ieaust.org.au)

NSW Heritage Office *Eight Suggestions On How Local Councils May Promote Heritage Conservation* Sydney 2001

*Threatened Species Conservation Act 1995*

*Wilderness Act 1988*

#### 4.4.8 Professional Historians Association (NSW) INC

The Professional Historians Association maintains a Register of Historic Places and Objects. The Register of Historic Places and Objects may be accessed at [www.phansw.org.au](http://www.phansw.org.au)

### 4.5 REFERENCES

*Australian Heritage Commission Act 1975*

*Environmental Planning and Assessment Act 1979*

*Historic Shipwrecks Act 1976*

*Heritage Act 1977*

*National Parks and Wildlife Act 1974*

NSW Heritage Office and Department of Urban Affairs and Planning *NSW Heritage Manual – Heritage Approvals* Sydney 1996

NSW Heritage Office and Department of Urban Affairs and Planning *NSW Heritage Manual* Sydney 1996

NSW Heritage Office and Department of Urban Affairs and Planning *NSW Heritage Manual Heritage – Planning Practice Notes Nos 1 and 2* Sydney 1996

NSW Heritage Office *The Role of the Heritage Council* Sydney 2001

NSW Heritage Office *State Heritage Register* Sydney 2001

NSW Heritage Office *The Approvals Process* Sydney 2001

## 5. THE DELEGATIONS & THE AUTHORISATION

This section explains the additional powers provided to local councils, describes how local councils can use the delegation of certain approval functions of the Heritage Council and the authorisation to make Interim Heritage Orders, explains the benefits of these initiatives, as well as the conditions attached to their use.

### 5.1 ADDITIONAL POWERS FOR LOCAL GOVERNMENT HERITAGE MANAGEMENT

The delegation of certain Heritage Council functions enables local councils to be a 'one-stop-shop' for applications for work to State heritage items where the works do not materially affect the significance of the item. This will streamline the approvals process for minor works and save applicants and councils time and money. It will also enable the Heritage Council of NSW and the NSW Heritage Office to focus on the management of items, places or areas of State significance and provide more support to local councils.

Previously local councils had to rely on the intervention of the Heritage Council of NSW and the Minister when unlisted items of local heritage significance came under threat. On February 1, 2002 the Minister for Urban Affairs and Planning gave certain councils the power to make Interim Heritage Orders (under section 25 of the *Heritage Act 1977*) over such items located in the local government area. This extends councils' existing powers and allows them to quickly respond to an item or items under threat.

The need for the authorisation to make Interim Heritage Orders arises from the fact that not all heritage schedules of local environmental plans are comprehensive. Similarly, not all local councils have undertaken comprehensive heritage studies. Community values about what constitutes heritage may also change over a period of time.

### 5.2 THE DELEGATIONS AND THE MINISTERIAL ORDER FOR AUTHORISATION TO MAKE INTERIM HERITAGE ORDERS

A copy of the Ministerial Consent to the delegation of certain approval functions of the Heritage Council of NSW to local councils and the Ministerial Order which authorises certain local councils to make Interim Heritage Orders, appears at Appendix 8.3.

#### 5.2.1 Can powers be sub-delegated within local councils?

Section 377 of the *Local Government Act 1993* confers a general power on councils to delegate their functions. Section 379 of the *Local Government Act 1993* sets out limitations on the rights of councils to delegate their regulatory function. Since none of the Heritage Council's or Minister's powers, pursuant to the delegation or authorisation, are regulatory functions a council may delegate the new powers to one of its officers. It must do this, however, in accordance with section 377 of the *Local Government Act*.

### 5.3 THE DELEGATION OF CERTAIN APPROVAL FUNCTIONS OF THE HERITAGE COUNCIL OF NSW

Under section 169(3) of the *Heritage Act 1977* the Heritage Council of NSW may, with the Minister's consent, delegate to a person, or to a committee established by the Heritage Council, any of its functions. For the purposes of section 169(3) "a person" is taken to mean a local council.

The approval functions that the Heritage Council has chosen to delegate to local councils include:

1. For items listed on the State Heritage Register, to determine whether public notice of an application under section 60 of the *Heritage Act 1977* should be given under section 61 of that Act.



**2. For items listed on the State Heritage Register, to approve under section 63 of the *Heritage Act 1977*, an application made under section 60 of that Act and all incidental powers, functions and duties thereto.**

These two functions need to be read in conjunction with one another to clarify the powers being delegated to local councils. The first delegation enables councils to accept applications made under section 60 of the *Heritage Act 1977* for minor works to items listed on the State Heritage Register. It requires councils to determine whether or not the proposed works will “materially affect” the heritage significance of an item and whether public notice of the application is required. The second delegation enables councils to approve an application made under section 60 of the *Heritage Act 1977* for works that do not “materially affect” the significance of an item listed on the State Heritage Register. It also issues general terms of approval for Integrated Development Applications.

Conditions are attached to the use of the delegations and these are described in 5.3.2

### 5.3.1 The Benefits of the Delegation

The delegation of these functions provides local councils with a number of benefits including:

- council will be able to act as a genuine one-stop-shop for proposals that do not “materially affect” the significance of items listed on the State Heritage Register. Council may issue approvals required under the *Environmental Planning and Assessment Act 1979* and the *Heritage Act 1977* for such proposals without reference to the Heritage Council or Heritage Office.
- the approvals process for works that do not “materially affect” the significance of items listed on the State Heritage Register will be streamlined, resulting in significant time and cost savings for applicants and local councils.

- local councils will play an important role in conserving items listed on the State Heritage Register in their local area.
- the Heritage Council of NSW and NSW Heritage Office will be able to concentrate on conserving items of State heritage significance.

### 5.3.2 Conditions attached to use of the Delegation

A number of conditions have been attached to use of the delegations. They appear in bold below with explanatory notes in italics.

**1. The council must have an environmental planning instrument containing a schedule of heritage items derived from a heritage study and provisions for the management of those items.**

*In order to use the delegations council must have a proven track record in identifying, assessing and managing the environmental heritage of the local government area. An environmental planning instrument includes a Planning Scheme Ordinance.*

**2. The council must not own the heritage item or be the proponent of the development.**

*This condition has been imposed to ensure that the community does not perceive a conflict of interest when council uses a delegated function on behalf of the Heritage Council.*

**3. The council must satisfy itself that the application is not rendered unnecessary by an exemption under section 57 of the *Heritage Act 1977*.**

*The Heritage Act 1977 enables works that would normally require Heritage Council approval to be exempted from such approval. Councils must establish whether standard exemptions or site specific exemptions are applicable so that the need for formal approval under the Heritage Act 1977 can be determined. A copy of the Heritage Office publication Standard Exemptions appears in*

*Appendix 8.9. Any item-specific exemptions can be identified by accessing the entry for the item on the State Heritage Register at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au).*

4. **The council must obtain the advice of a person with appropriate heritage knowledge, skills and experience, employed or retained by the council, about the heritage significance of the item(s) and /or the impact of a development proposal on the heritage significance of that item(s) and take that advice into account.**

*The use of the delegations requires the detailed involvement of a person with appropriate heritage knowledge, skills and experience. That person may be a Heritage Advisor, a council officer or consultant engaged by council for a specific project. Heritage must be a core element in the work of that person rather than a general interest or peripheral to their professional practise.*

*Reports to the council or its delegate must include a copy of the advice of the heritage expert in full.*

5. **The Delegate must ensure that the delegations are carried out in accordance with guidelines issued by the Heritage Council of NSW or NSW Heritage Office at all times.**

*Councils using the delegations should comply with the conditions attached to their use and/or any guidelines issued by the Heritage Council or the Heritage Office.*

6. **The council shall not determine an application for approval under Division 3 of Part 4 of the *Heritage Act 1977* pursuant to a delegation from the Heritage Council where they know or have reasonable cause to suspect, that the proposed activity will, or is likely to result in a relic being discovered, exposed, damaged or destroyed, before it has referred the application to the Heritage Office regarding archaeological matters, and complied with the**

**recommendations of the Heritage Office made in its assessment prepared pursuant to the referral.**

*Councils must refer all applications involving archaeological issues to the Heritage Office for assessment. The advice and recommendations of the Heritage Office must be taken into account, prior to council's determination of the application.*

7. **The council must take into account as far as practicable, the cumulative effect of its decisions on the heritage significance of the item and on the heritage resource of its area.**

*Heritage management today demands that councils retain a big picture view whilst assessing individual applications. Councils must be aware of the impact of a number of individual approvals on the overall heritage resource of the local government area. Although each approval may have minor impact, the cumulative effect of the approvals may be that the significance and character of an area has been irrevocably changed.*

8. **Any conditions attached to an approval under Division 3 of Part 4 of the *Heritage Act 1977* made pursuant to the delegation, must comply with Heritage Council guidelines, and comply with and include, any relevant standard conditions issued by the Heritage Council. The council may impose additional conditions that do not conflict with the standard conditions.**

*The Heritage Council of NSW is currently drafting standard conditions for use by local councils. The conditions should be used whenever councils use the delegation, and for the determination of any applications relating to heritage items, places or areas. The conditions are based on heritage best practice. Councils may also impose additional conditions that do not conflict with the wording or intent of the standard conditions.*

9. **If the council becomes aware of any breach of the *Heritage Act 1977* it must promptly report that breach to the Heritage Council of NSW.**



*In using the delegations councils will, in effect, become the Heritage Council's "eyes and ears" in the local area. Councils may become aware of breaches of the Heritage Act 1977. These should be reported to the Heritage Council as soon as possible.*

**10. The council must provide the Heritage Council of NSW with a copy of:**

- any approvals it has issued under the Heritage Act 1977
- any consents it has issued for integrated development under the Environmental Planning and Assessment Act 1979

**as soon as practicable after the delegation has been used.**

*It is essential that the Heritage Council be kept informed of any approvals issued by councils. Copies of all delegated decisions will be kept on file at the Heritage Office so that a chronology of approvals exists.*

**11. The council must publish annually in the Annual Report or State of the Environment Report a summary of all decisions for that year, the nature of each matter, and the local council's decision. A copy of the summary must be provided to the NSW Heritage Office.**

*The summary of decisions must include in full the recommendations of the Heritage Advisor / Heritage Officer and council's final determination. The summary will assist in monitoring council's performance. In cases where councils use the approval functions inappropriately, the Minister will revoke the delegations.*

**12. Where the Heritage Council of NSW or the NSW Heritage Office requests that council not exercise its delegation over a particular matter, the matter is to be referred to the Heritage Council for determination.**

*The Heritage Council or Heritage Office may request that council not use its delegation in relation to a specific matter so that the Heritage Council can determine the matter.*

**13. A council will be responsible for defending any proceedings in any court relating to its decisions made under the delegation (including the bearing of all costs). Council will notify the Heritage Office of NSW of any appeals lodged.**

*Councils will be responsible for conducting any appeals that arise from decisions made by councils using the delegations. The Heritage Council and/or Heritage Office may choose to participate in the appeals.*

**5.4 HOW TO USE THE DELEGATION**

Councils can only use the delegations if they have been authorised to do so by the Minister for Urban Affairs and Planning. They must be used in accordance with the conditions set out in subsection 5.3.2 above.

**5.4.1 Circumstances where the delegations cannot be used**

The delegations cannot be used in a number of circumstances, including:

- Where the council determines that public notice should be given under section 61 of the *Heritage Act 1977* the council must forward the application to the Heritage Council within five days of receiving it.

It is appropriate that the public have an opportunity to comment on any proposal that might impact on (materially affect) a heritage item, either positively or negatively. Therefore, before councils use the delegations they must first establish whether or not an application needs to be advertised in accordance with section 61 of the *Heritage Act 1977*. In order to do this councils must determine whether the works proposed in the application would "materially affect" the heritage significance of an item, place or area listed on the State Heritage Register. If council believes this is so, based on the advice of its Heritage Officer, Heritage Advisor or consultant, then it must refer the application to the Heritage Council for determination within five days of receiving it.

Section 60 applications for works that council believes do not “materially affect” the heritage significance of an item, place or area listed on the State Heritage Register, do not require advertising.

Section 5.4.3 explains the concept of “material affectation” in detail and how to assess whether work will “materially affect” the significance of an item, place or area.

- **A local council must not use the delegations if the item is of significance to Aboriginal people, as identified on the State Heritage Inventory.**

Councils must not use the delegation if they believe that an item, place or area that is the subject of an application is of significance to Aboriginal people. The State Heritage Inventory identifies whether or not something listed on the State Heritage Register is of significance to Aboriginal people. Councils may access the State Heritage Inventory at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au). The assessment of Aboriginal heritage is a specialised task. Aboriginal people should be involved in identifying, assessing and making decisions about such matters. Given that most councils do not have staff trained in Aboriginal heritage management the NSW Heritage Office will continue to assess such applications in consultation with the Aboriginal Heritage Committee of the Heritage Council. The Heritage Office also consults with government agencies and groups involved in Aboriginal heritage including the National Parks and Wildlife Service, the Department of Aboriginal Affairs, the NSW Aboriginal Land Council and Local Aboriginal Land Councils.

#### 5.4.2 The Processes involved when using the Delegation

A summary of the processes that councils must follow when using the delegations is described below and shown on the flowcharts titled as follows:

*1: Local council processes for assessing and determining integrated development applications under delegation for works listed on the SHR*

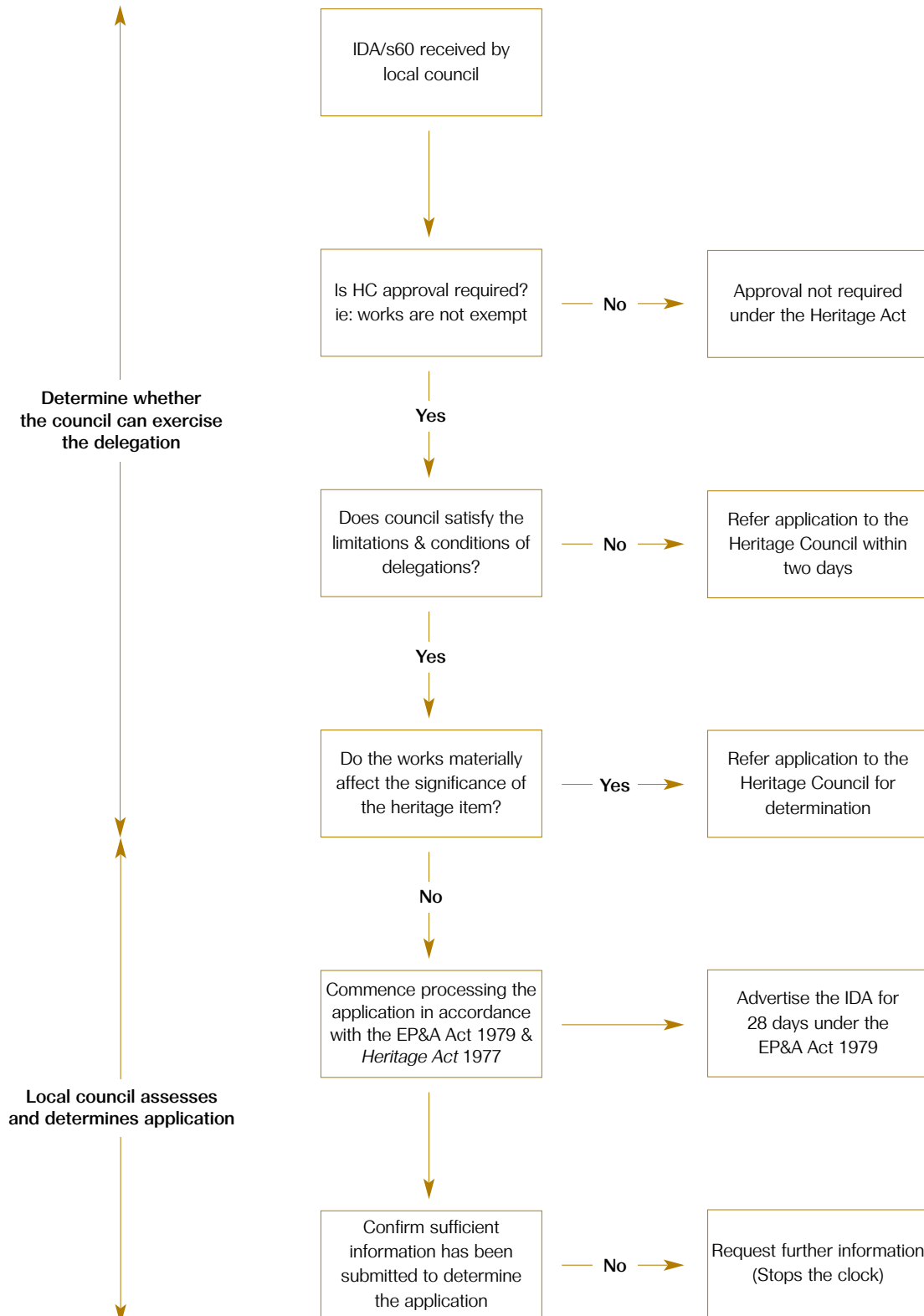
*2: Local council processes for determining section 60 applications under delegation &*

*3: Local council processes for assessing and determining section 60 applications for items the subject of an IHO made by a local council:*

1. Confirm whether or not the property is listed on the State Heritage Register.
2. Confirm whether or not Heritage Council approval is required for the works. (This includes checking to see if any standard or site-specific exemptions apply to the property).
3. Confirm that the local council satisfies the conditions and limitations of the delegation.
4. Confirm that the works proposed in the application will not “materially affect” the heritage significance of the item, place or area.
5. Process the application in accordance with the requirements of the *Heritage Act 1977* and the *Environmental Planning and Assessment Act 1979* (if an Integrated Development Application has been lodged).
6. Confirm that sufficient information has been submitted with the application to enable a thorough assessment of the heritage significance of the item and the impact of the proposed works on the significance of the item.
7. Assess the application.
8. Where council is satisfied that the impact of the works on the heritage significance of the item is minor and satisfactory it may issue general terms of approval for the works under the EP&A Act.
9. Council determines the application under the *Environmental Planning and Assessment Act 1979*.
10. Once the integrated development application has been determined the local council can give approval under section 63 of the Heritage Act.
11. Notify the applicant and the Heritage Council of the determination.

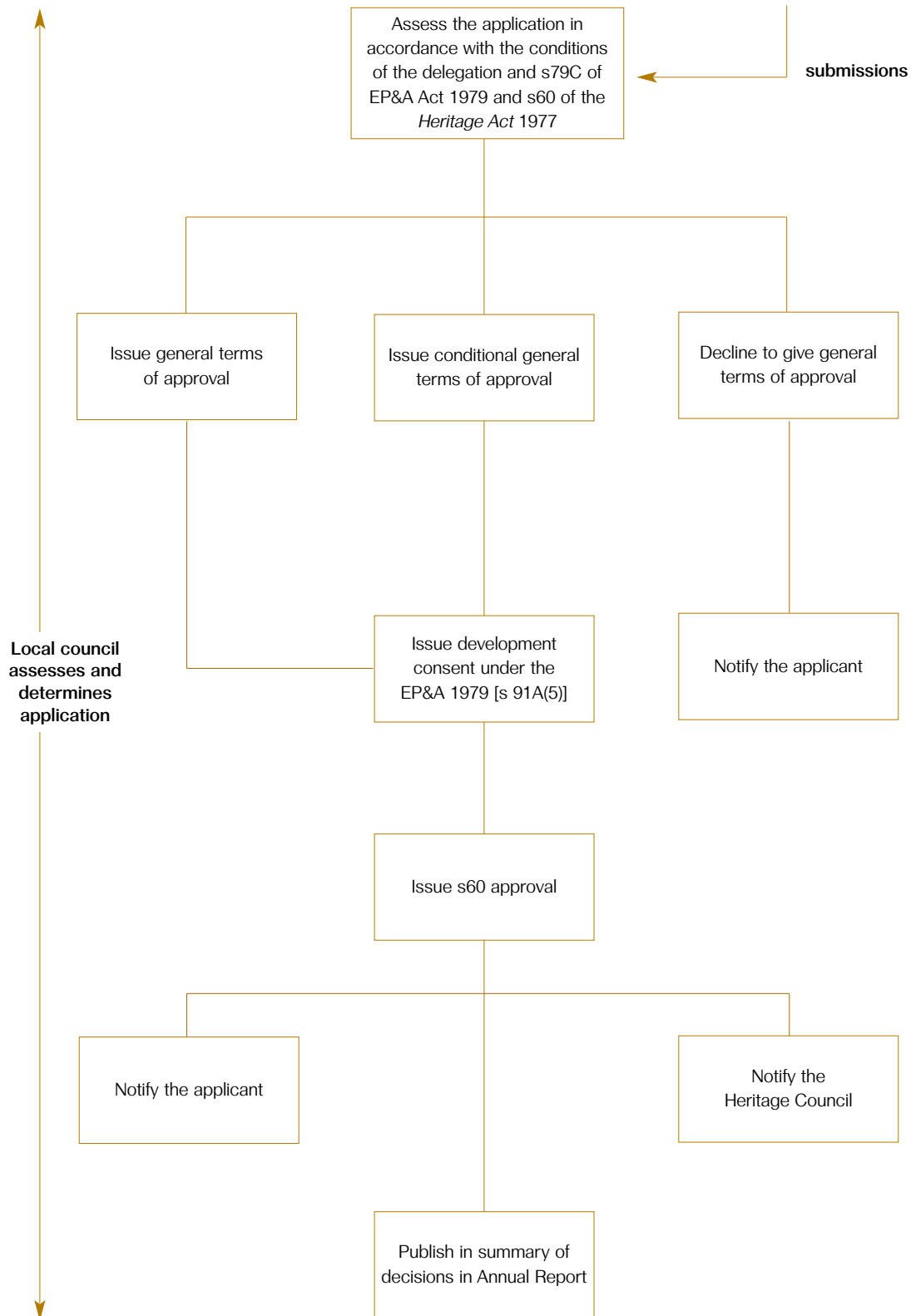
The procedures outlined above are described in greater detail in section 7.1

**FLOWCHART 1**  
**LOCAL COUNCIL PROCESSES FOR ASSESSING & DETERMINING**  
**INTEGRATED DEVELOPMENT APPLICATIONS UNDER DELEGATION**  
**FOR WORKS TO ITEMS LISTED ON THE SHR.**

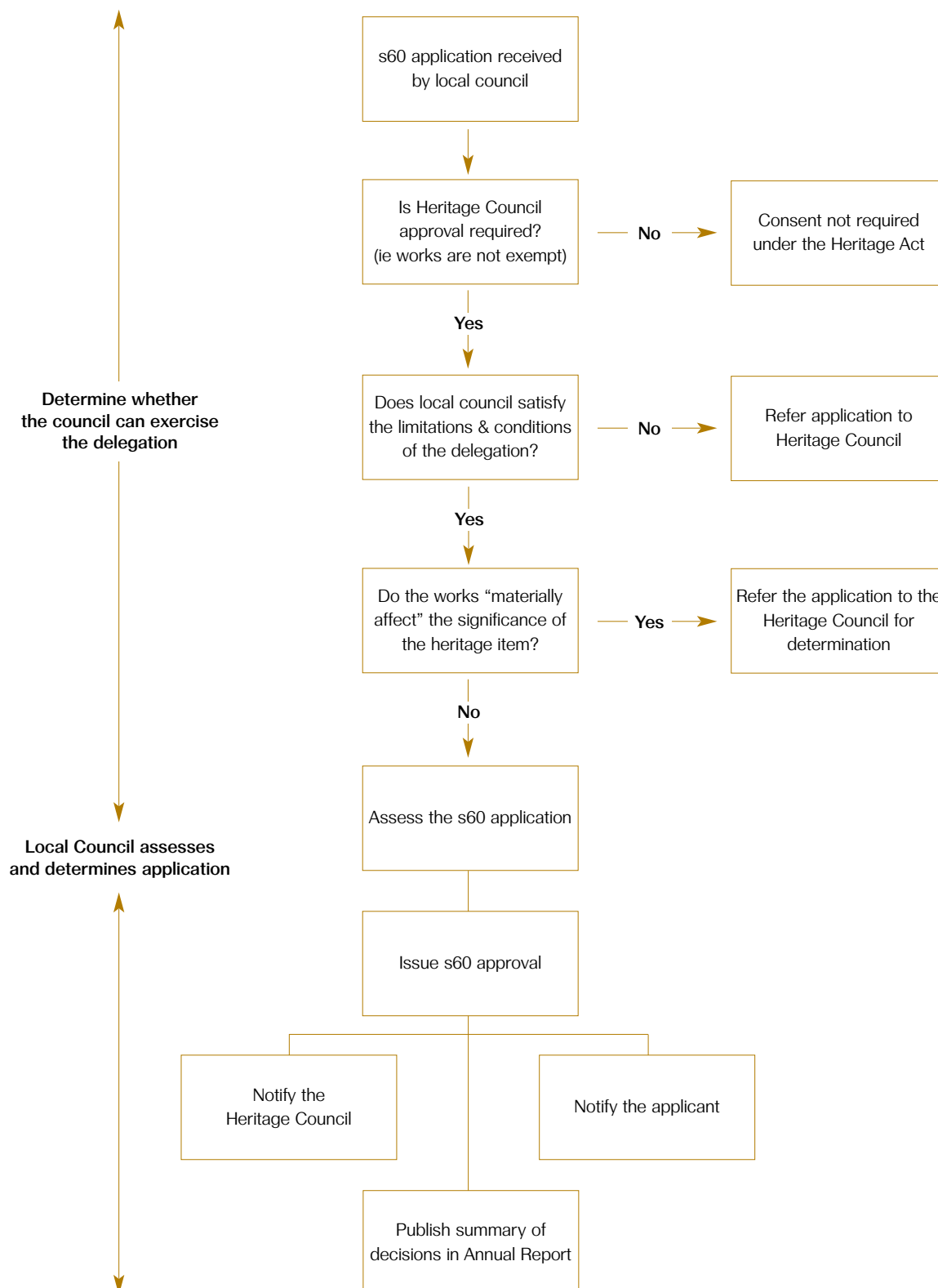


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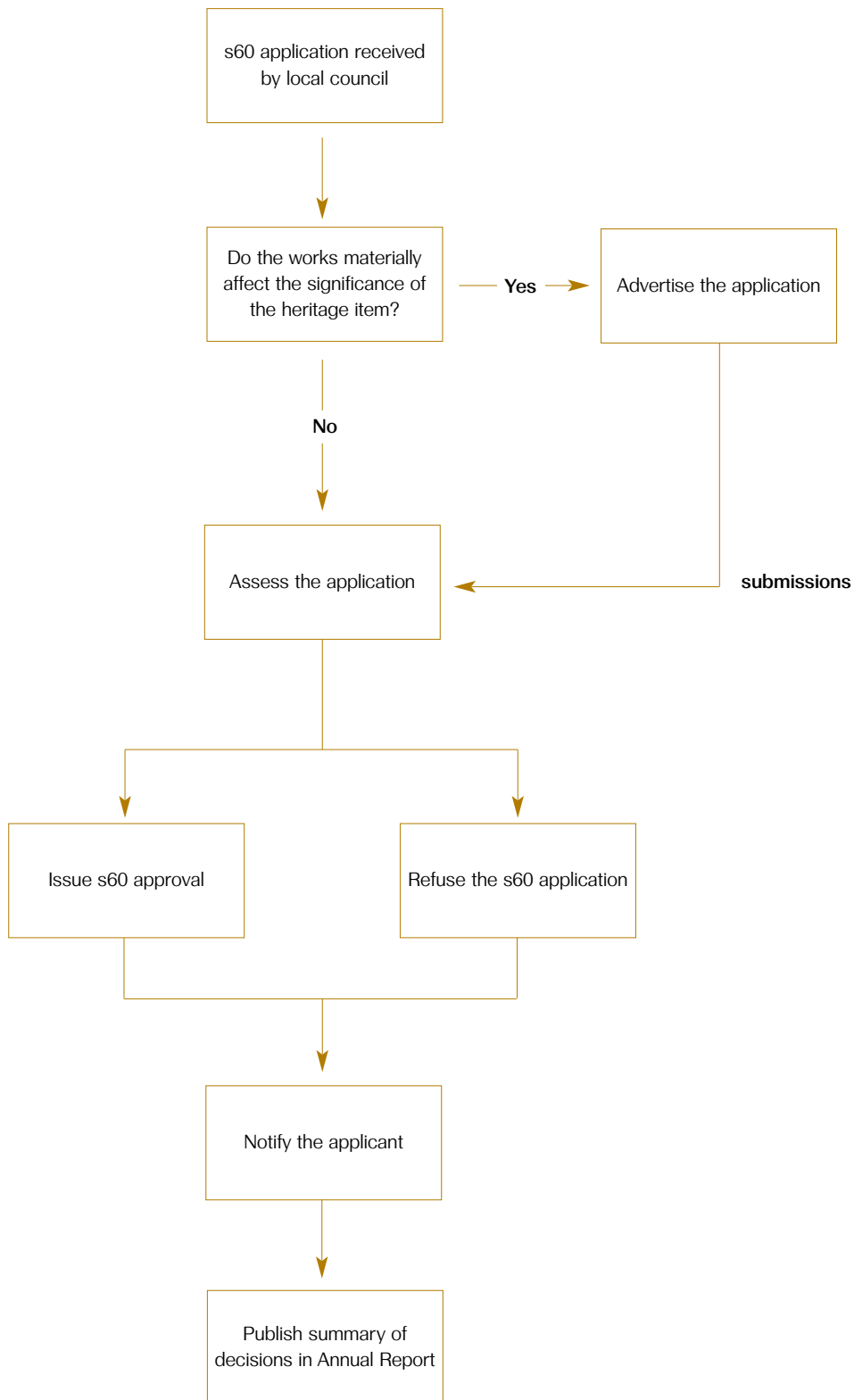
**FLOWCHART 1 (continued)**  
**LOCAL COUNCIL PROCESSES FOR ASSESSING AND DETERMINING INTEGRATED DEVELOPMENT APPLICATIONS FOR WORKS TO ITEMS LISTED ON THE SHR.**



**FLOWCHART 2**  
**LOCAL COUNCIL PROCESSES FOR ASSESSING & DETERMINING**  
**s60 APPLICATIONS UNDER DELEGATION (WHERE IDA DOES NOT APPLY)**  
**FOR ITEMS ON THE STATE HERITAGE REGISTER**



**FLOWCHART 3**  
**LOCAL COUNCIL PROCESSES FOR ASSESSING**  
**AND DETERMINING s60 APPLICATIONS FOR ITEMS**  
**THE SUBJECT OF AN IHO MADE BY COUNCIL**



### 5.4.3 "Material Affectation"

Before a local council can decide whether it will use the delegations it must first decide whether the works being proposed will "materially affect" the significance of the item. This decision will determine how the application is processed and who will be responsible for its determination.

after receiving advice from a person with appropriate heritage knowledge, skills and experience, employed or retained by council. Flowchart 4 shows the steps involved.

#### 5.4.3.1 What does the term "materially affect" mean?

In simple terms "materially affect" means the changes being proposed to a heritage item, place or area that will have an affect on its heritage significance and include more than just change/s made to the built or physical fabric.

The term "materially affect" is used in section 61 of the *Heritage Act 1977* as the bar for deciding whether or not an application for work to a heritage item, place or area must be advertised. Section 61 of the *Heritage Act 1977* provides that when an application is made for work that, in the opinion of the approval body, would "materially affect" the heritage significance of a heritage item, place or area the approval body must advertise the application.

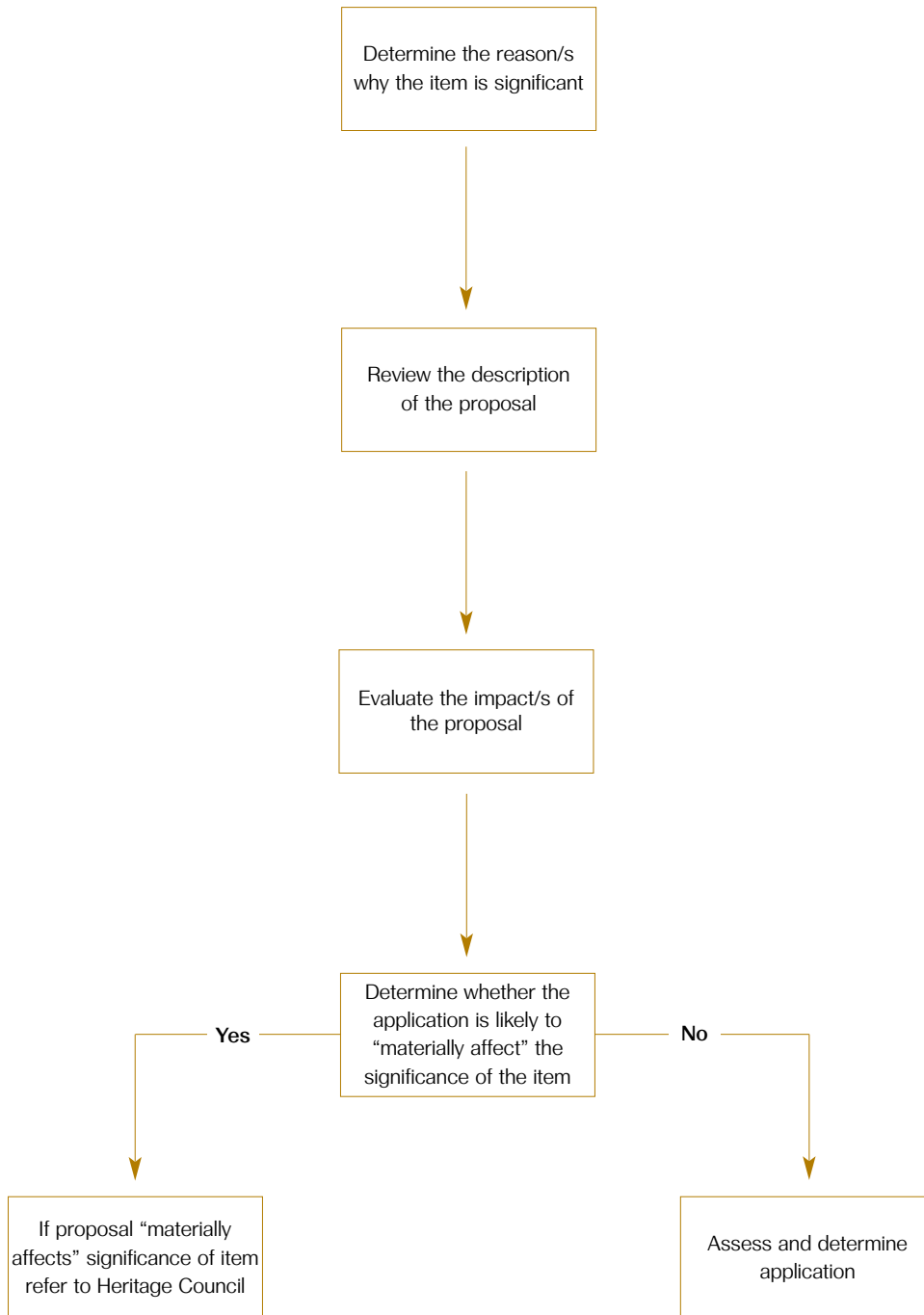
Material affectation refers to the impact on the item's significance, regardless of whether it is a positive or a negative effect. An application which has a material effect, which is regarded as acceptable, will still need to be advertised and referred to the Heritage Council.

Applications for work that do not "materially affect" the heritage significance of an item do not have to be advertised.

#### 5.4.3.2 How does council determine whether the works proposed in an application will "materially affect" the significance of an item, place or area?

Council should base its decision on whether a proposal for works will "materially affect" the heritage significance of an item, place or area

**FLOWCHART 4**  
**HOW DOES COUNCIL DETERMINE WHETHER**  
**“WORKS PROPOSED IN AN APPLICATION WILL**  
**MATERIALLY AFFECT” THE SIGNIFICANCE OF AN ITEM?**





The advice should consider the following:

**1. The reason/s why the item, place or area is significant.**

The reasons why an item, place or area is significant may be determined from an inventory sheet prepared as part of a heritage study or a heritage assessment of the item, place or area. If it is listed on the State Heritage Register a Statement of Significance will usually be included in the listing. The listing can be accessed through the Heritage Office web site at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au). If a conservation management plan has been prepared for the item, place or area and has been endorsed by the Heritage Council, the Statement of Significance should be taken from the plan.

**2. A description of the proposal.**

The proposal should be described in sufficient detail to explain the impact of the works. Applications for works to an item, place or area should at the very least include a Statement of Heritage Impact prepared by a person with appropriate heritage knowledge, skills and experience.

**3. An evaluation of the impacts of the proposed works.**

The impacts of the proposed works on the heritage significance of the item, place or area and on any policies relating to the management of that item, place or area included within a conservation management document, should be evaluated.

**4. Whether the application is likely to “materially affect” the significance of that item, place or area.**

Recommendations should be made as to whether or not the application is likely to “materially affect” the significance of the item, and whether council should use the delegations of the Heritage Council.

Council will only be able to decide if works proposed in an application will “materially affect” the significance of an item, place or

area, if it fully understands the significance of the item, considers the proposal in detail, and finally notes the degree of change being proposed.

Flowchart 4 above illustrates this process.

It is important that council consider the degree of change being proposed in the application in relation to the item as a whole. In the case of an application for a building or work, this should include consideration of the item’s setting and any gardens or landscape associated with it. This is because even minor changes could “materially affect” the heritage significance of that item and more extensive works certainly would.

Applications which propose works or activities which conflict with management policies or recommendations included in conservation management documents, prepared for the item, should be treated by council as “materially affecting” the significance of the item. Under no circumstances should council use the delegations and approve such applications.

**Table 1 – Does a Proposal “Materially Affect” the Significance of an Item?”**

summarises the most commonly proposed changes to heritage items and includes guidelines to help councils decide whether those changes will “materially affect” their significance. Where doubt exists, council should not use the delegations and instead should contact the Heritage Office. The proposal must be tested against the heritage significance of the item to determine whether it materially affects it.

Table 1– Does a Proposal “Materially Affect” the Significance of an Item?”

Proposal	Guidelines
<p><b>Demolition</b> of the whole of a building or work which is, or which forms part of, a heritage item</p>	<ul style="list-style-type: none"> <li>• <b>Demolition</b> will materially affect the significance of the item unless there is conclusive evidence that the building or work affected is not of heritage significance.</li> <li>• Note that approval under the Heritage Act to demolition of the whole of a building or work covered by an IHO or listed on the SHR can only be approved in very limited circumstances (see s.63 (2), (3) &amp; (4), <i>Heritage Act 1977</i>) and in accordance with Heritage Council Guidelines. Therefore such applications must be referred to the Heritage Council.</li> </ul>
<p><b>Partial demolition</b> of a building or work which is, or which forms part of, a heritage item (including internal elements)</p>	<ul style="list-style-type: none"> <li>* <b>Major partial demolition</b> would normally materially affect the significance of the item if there is conclusive evidence that the part of the building or work proposed to be demolished is not of heritage significance. Such applications should be referred to the Heritage Council.</li> <li>• <b>Minor partial demolition</b> may not affect the significance of the item unless significant elements, spatial qualities, fabric, finishes or fittings will not be affected.</li> </ul>
<p><b>Change of use</b> of a building, work or site which is, or which forms part of, a heritage item</p>	<ul style="list-style-type: none"> <li>• Will not materially affect the significance of the item if: <ul style="list-style-type: none"> <li>• the proposed use will contribute to the heritage significance of the item; and</li> <li>• the proposed use will not require more than minor alterations to accommodate it, including to significant interior spaces, fabric and finishes.</li> </ul> </li> </ul>
<p><b>Additions</b> to a building or work which is, or which forms part of, a heritage item</p>	<ul style="list-style-type: none"> <li>• <b>Major additions</b> such as a new wing or additional storey should be assumed due to the high degree of change to materially affect the significance of the item.</li> <li>• <b>Minor additions</b> may not materially affect the significance of the item if: <ul style="list-style-type: none"> <li>• The additions are small in relation to the overall bulk of the building or work and visually compatible with it. [Note: This is a value judgement which is dependent on the nature of the item. For example, an addition to the Sydney Harbour Bridge would need to be relatively small to meet this criterion].</li> <li>• The additions are sensitively designed to relate sympathetically to the form, scale, design, materials, finishes and details of the building or work.</li> <li>• The additions are sensitively located in relation to the significant building or work, its curtilage and setting and any significant landscaping or gardens.</li> </ul> </li> </ul>

Proposal	Guidelines
<p><b>Alterations</b> to a building or work which is, or which forms part of, a heritage item</p>	<ul style="list-style-type: none"> <li>• The following are examples of alterations which would materially affect the significance of the item: <ul style="list-style-type: none"> <li>• Major conservation programs, major improvements, upgrading works etc)</li> <li>• Alteration of significant interior spaces (eg by the insertion of a mezzanine floor)</li> <li>• Replacement of significant existing fabric</li> <li>• Alteration of significant fabric (eg, replacement of timber or steel window frames or other joinery with joinery of another material)</li> <li>• Replacement of major building elements with different materials or construction (eg replacement of a timber floor with a concrete slab)</li> <li>• Works which interfere with the environmental performance of traditional materials (eg the use of synthetic paint coatings, chemical damp proof courses and closure of ventilators to sub-floor areas)</li> <li>• Re-roofing or re-cladding buildings, other than repairs to existing fabric</li> <li>• Fire upgrading and/or insertion of new building services such as air conditioning or electric and communications cabling unless this can be done with minimal alteration of significant spaces, fabric and finishes</li> <li>• Abrasive cleaning methods such as sandblasting</li> <li>• Repainting previously unpainted surfaces or removing paint from traditionally painted surfaces</li> <li>• Removing or introducing applied finishes such as external render or internal plaster</li> <li>• Use of colours or types of paint uncharacteristic of the period of the building or work.</li> </ul> </li> </ul>

Proposal	Guidelines
<p><b>New development</b> on land which is, or which forms part of, a heritage item</p>	<ul style="list-style-type: none"> <li>• <b>Major new development</b> should be assumed to materially affect the significance of the item.</li> <li>• <b>Minor new development</b> may not materially affect the significance of the item if: <ul style="list-style-type: none"> <li>• the new development is small in relation to the bulk of an existing significant building or work and visually compatible with it.</li> <li>• the new development is sensitively designed to relate sympathetically to the form, scale, design, materials, finishes and details of the existing building or work.</li> <li>• the additions are sensitively located in relation to the significant building or work, its curtilage and setting and any significant landscaping or gardens.</li> </ul> </li> </ul>
<p><b>Subdivision</b> of land which is, or which forms part of, a heritage item</p>	<ul style="list-style-type: none"> <li>• Should be assumed to materially affect the significance of the item unless it follows the recommendations of a conservation management plan endorsed by the Heritage Council.</li> <li>• Should be considered the first step in a development proposal, and the likely impact of development on the resultant allotments taken into account.</li> </ul>
<p><b>Repainting</b> of a building or work which is, or which forms part of, a heritage item</p>	<ul style="list-style-type: none"> <li>• <b>Repainting</b> will not materially affect the significance of the item provided it follows traditional methods. However, some activities will have a material affect such as: <ul style="list-style-type: none"> <li>• painting previously unpainted surfaces</li> <li>• use of colours or types of paint uncharacteristic of the period of the building or work</li> <li>• aggressive cleaning methods such as sandblasting</li> <li>• inappropriate paint formulations which may impact adversely on the long-term conservation of the item (eg by preventing or restricting the permeation of moisture through the surface).</li> </ul> </li> </ul>
<p><b>Landscape works</b> on land which is, or which forms part of, a heritage item</p>	<ul style="list-style-type: none"> <li>• <b>Major changes</b> such as full or partial removal of a tree or landscape element such as a flower bed, retaining or garden wall, should be assumed to materially affect the significance of the item unless specifically recommended in a conservation management plan endorsed by the Heritage Council.</li> </ul>
<p><b>New signage</b> on land which is, or which forms part of, a heritage item</p>	<ul style="list-style-type: none"> <li>• Unless very minor in extent and nature, new signage should be assumed to materially affect the significance of the item.</li> </ul>

## 5.5 THE AUTHORISATION TO MAKE INTERIM HERITAGE ORDERS

At this stage the Minister has given the authorisation to make Interim Heritage Orders to councils who do not yet have fully comprehensive heritage management systems in place to assist them in managing their heritage. A list of those local councils authorised to make interim heritage orders is included in the Ministerial Order in Appendix 8.3.

The authorisation allows a council to make an Interim Heritage Order over an item, place or area, whilst it assesses whether statutory protection is warranted via a listing in a heritage schedule of a local environmental plan. The authorisation also allows a local council to become the approval body for approvals required under the *Heritage Act 1977*, once the Interim Heritage Order has been made. The matters that an applicant must obtain approval for are set out in full in section 57(1) of the Act. Council's authority to make approvals, however, only lasts for the duration of the Interim Heritage Order.

Councils can only make Interim Heritage Orders in those circumstances where a potential heritage item, place or area:

- is or is likely to be of heritage significance
- is under threat of demolition or unsympathetic alteration
- does not have statutory heritage protection under the *Environmental Planning and Assessment Act 1979* or the *Heritage Act 1977*.

The capacity to make an Interim Heritage Order should not become the sole form of heritage management in a local area. All councils are encouraged to undertake heritage studies and to fulfil their obligations to prepare a local environmental plan with a schedule of heritage items.

### 5.5.1 The Benefits of the Authorisation

The authorisation to make Interim Heritage Orders provides local councils with a number of benefits including:

- councils have the ability to provide short-term protection to items, places or areas of local significance under threat
- councils can quickly respond to an urgent need to assess and manage potential heritage items, place or areas
- conservation outcomes will be achieved which reflect the concerns of the local community
- heritage matters can be considered and approved speedily at a local level.

### 5.5.2 Conditions attached to use of the Authorisation to make Interim Heritage Orders

A number of conditions have been attached to the use of Interim Heritage Orders. The conditions appear in bold below with explanatory notes in italics.

#### 1. A council must not make an Interim Heritage Order unless:

- a) **an environmental planning instrument, containing a schedule of heritage items derived from a heritage study and provisions for the management of those items, is in force in the local government area.**

*Council must have an environmental planning instrument in place that can be amended to include items that are only temporarily protected by an Interim Heritage Order within the time frame stipulated in Condition 5.*

- b) **it has considered a preliminary heritage assessment of the heritage item, prepared by a person with appropriate heritage knowledge, skills and experience, employed or retained by the council and considers that:**

- i) **the item is or is likely to be found on further inquiry and investigation to be of local heritage significance, and**
- ii) **the item is being or is likely to be harmed.**

Council's use of the authorisation is contingent on it commissioning or retaining a person with appropriate heritage knowledge, skills and experience to prepare a preliminary heritage assessment of the potential heritage item. The assessment must consider whether:

- a) the potential heritage item is likely to be of heritage significance
- b) the changes being proposed to the potential heritage item or the condition of the item is a threat to its heritage significance
- c) the condition of the item is such that it is likely that its heritage significance can be conserved

and include a site visit to the item.

The council or delegate's report must include a copy of the heritage expert's advice in full.

The person may be a Heritage Advisor, Heritage Officer or a consultant engaged by the council for a specific project. The person must have knowledge, skills and experience in heritage conservation work as an integral part of their professional practise.

Council must have considered a preliminary assessment of the potential heritage item and formed the view that the item is, or is likely to be, of heritage significance.

The potential heritage item must actually be under threat, that is, either full or partial demolition of the fabric may be possible, or the heritage significance of the item may be materially affected. The sale of a property does not mean that an item is under threat.

Council may learn that a potential heritage item is under threat from different sources including its own observations, notification under other legislation, pre-development application consultation, lodgement of a development application or community lobbying. Council should first consider holding discussions with the owner/developer to find out whether an alternative scheme can be developed rather than immediately making an Interim Heritage Order. In some cases the applicant may be

receptive to amending the proposal once the potential heritage significance of the place is explained.

- iii) **the Interim Heritage Order is confined to the item determined as being under threat.**

The intent of an Interim Heritage Order is to provide temporary protection for a potential heritage item under threat. The Interim Heritage Order must be limited to the specific property that the potential item is situated on and not the entire heritage schedule of a draft local environmental plan. The curtilage of the item to be encompassed by the Interim Heritage Order must be determined before the Order is made.

- c) **Where an Interim Heritage Order is made over land which includes an item which on further inquiry and investigation may be of significance to Aboriginal people, council must refer the proposal to the NSW Heritage Office. The Heritage Office will conduct an assessment regarding its significance, and undertake community consultation, before the Interim Heritage Order is made. Council must comply with the recommendations of the NSW Heritage Office, following its referral.**

The assessment of Aboriginal heritage is a specialised task. Aboriginal people must be included in identifying, assessing and making decisions about the potential heritage item. Most local councils in New South Wales do not have persons trained in Aboriginal heritage management on staff.

Council's referral of the proposal to the NSW Heritage Office enables consultation to take place with the Aboriginal Heritage Committee of the Heritage Council of NSW and other peak agencies, such as the National Parks and Wildlife Service, the Department of Aboriginal Affairs, the NSW Aboriginal Land Council and Local Aboriginal Land Councils.

2. **A council must not make an Interim Heritage Order where:**

- a) the item is listed on:
- i) an environmental planning instrument
  - ii) the item is within a conservation area identified in an environmental planning instrument
- b) the item is covered by an order made pursuant to sections 130 or 136 of the *Heritage Act 1977*.

*Councils should not make Interim Heritage Orders over potential heritage items that are already protected under the Environmental Planning and Assessment Act 1979 or Heritage Act 1977.*

- c) the council has previously placed an Interim Heritage Order on the item.

*Councils may only place an Interim Heritage Order over a potential heritage item once. After the Order has been placed, council has twelve months to finalise the assessment of the item, including to resolve to prepare a local environmental that will list the item in a heritage schedule and finalise preparation of that plan. Interim Heritage Orders can only be used to provide short-term protection for potential heritage items. Local councils should protect heritage items in the longer term through the planning system.*

*Its important to recognise that in instances where a council resolves not to make an Interim Heritage Order over an item under threat, the Heritage Council can still place an Order over it.*

- d) the court has granted development consent in relation to the item, that permits the item to be harmed, and the development consent is still in force.

*It is unreasonable for local councils to place an Interim Heritage Order over a potential heritage item, following a Land and Environment Court hearing on the matter. The Environmental Planning and Assessment Act 1979 establishes the process to be followed in the event of an appeal against council's decision. The Court in its hearing of the matter must consider all*

*relevant issues, including the heritage significance of the potential item and the impact of any development proposals.*

3. A council must not make an Interim Heritage Order (IHO) over a potential heritage item that is located on land:

- that is Crown Land
- which is being developed for or on behalf of the Crown.

*Councils should not make Interim Heritage Orders over land that is either Crown land or land that is being developed for or on behalf of the Crown. The Heritage Act 1977 provides that government agencies must manage and conserve heritage items owned, occupied or under their control.*

- which is subject to a development declared to be “State significant development” under the *Environmental Planning and Assessment Act 1979*.

*Councils should not make an Interim Heritage Order over land which is subject to development declared to be “State significant development” by the Minister for Urban and Affairs and Planning, under the Environmental Planning and Assessment Act 1979. Before determination of such applications the Minister must consider all planning considerations, including heritage.*

**For the purposes of this clause, the “Crown” includes State Government agencies, State owned corporations, statutory corporations, statutory authorities and ministerial corporations. “Crown” is taken to have the same meaning as included in section 57 (1A) (b) of the *Heritage Act 1977*.**

4. A council must not make an Interim Heritage Order in respect of an item (that includes a building, work, relic or place) that is subject to an approval, consent, license, permit, permission or any other form of authorisation, that requires or permits the item to be harmed, and is issued by the Crown, an officer or employee of the Crown or Minister.



*The authorisation to make Interim Heritage Orders is not intended to void Crown approvals.*

**For the purposes of this clause, the “Crown” includes State Government agencies, State owned corporations, statutory authorities and ministerial corporations. “Crown” is also taken to have the same meaning as specified in section 57(1A) (b) of the Heritage Act 1977. This clause does not apply to approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and is issued by council.**

- 5. An interim heritage order made by a council must contain the following condition:**
- a) “This Interim Heritage Order will lapse six months from the date that it is made unless the local council has passed a resolution before that date either:**
  - b) in the case of an item which, in the council’s opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and**
  - c) in the case of an item which in the council’s opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register.”**

*Councils must establish whether a potential heritage item is of local or State significance within a reasonable time frame. As soon as possible after an Interim Heritage Order is made, the Heritage Advisor, council heritage officer or consultant should undertake a detailed assessment of the heritage significance of the item. The assessment should be prepared in accordance with Heritage Council guidelines. In some instances it may be necessary for council to engage a consultant with particular expertise to carry out the assessment.*

*Where council forms an opinion, following a detailed assessment, that the item is of heritage*

*significance, it should either resolve to list the item in its local environmental plan or refer the item to the Heritage Council for inclusion on the State Heritage Register.*

*Where council forms an opinion that the item is not of sufficient heritage significance to warrant protection under the local environmental plan, the Order should be revoked.*

*Should council make a resolution to either list the potential heritage item in its local environmental plan or nominate the item for inclusion on the State Heritage Register, the Interim Heritage Order will remain effective for a period of twelve months. By the end of this period a local environmental plan, which provides protection for the item, should have been prepared, exhibited and gazetted.*

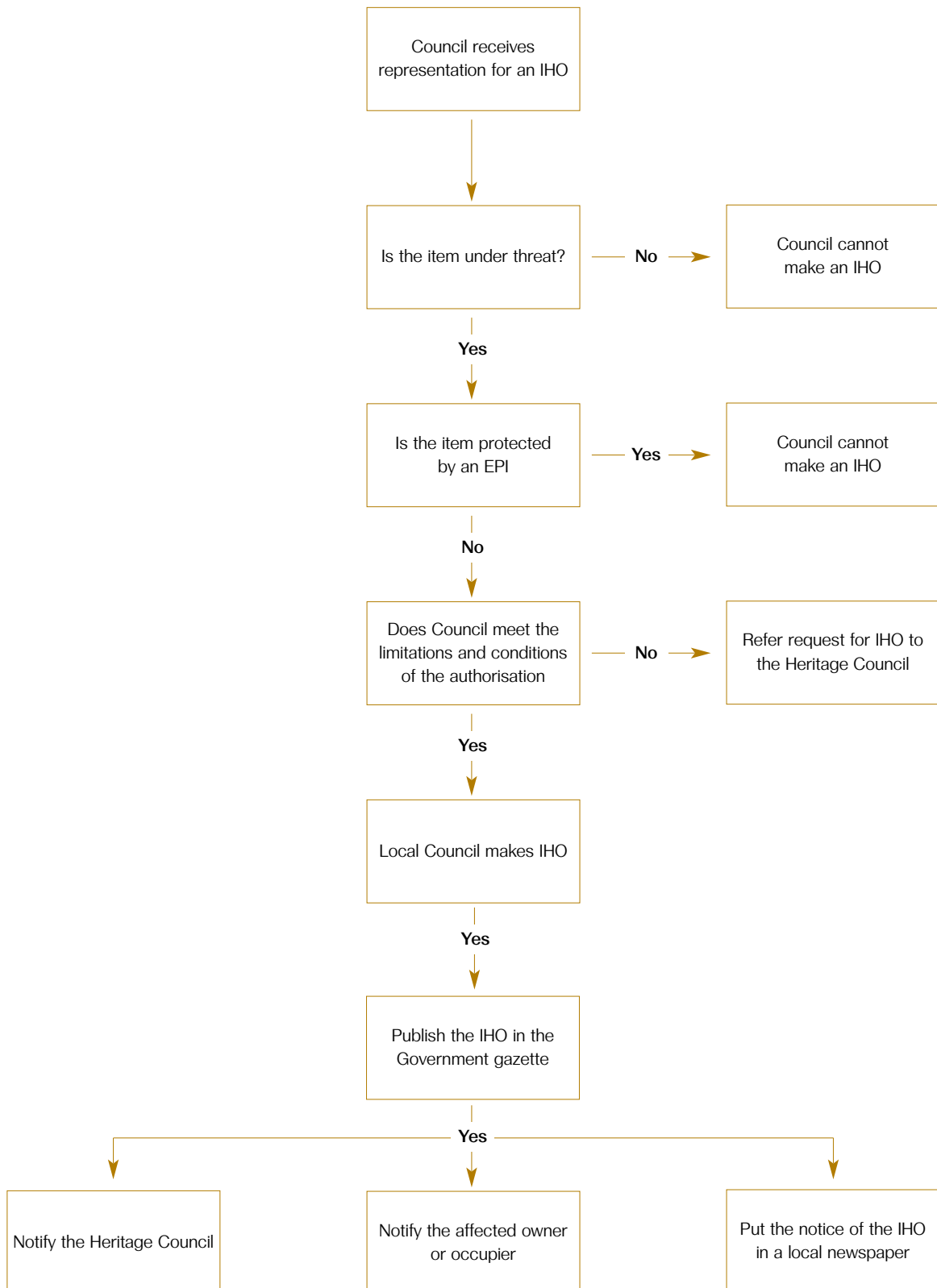
*Alternately, the item should have been included on the State Heritage Register. Where council fails to resolve to list the item in the local environmental plan, or refers it to the nomination to the Heritage Council for the State Heritage Register, the Interim Heritage Order will expire six months from the date that it was made.*

*Flow chart 5 on the following page describes this process.*



## FLOWCHART 5

### PROCESS FOR THE MAKING OF AN IHO BY LOCAL COUNCILS



**6. A council must ensure that the authorisation is carried out in accordance with any guidelines issued from time to time by the Heritage Council of New South Wales or New South Wales Heritage Office.**

*Councils using the authorisation to make Interim Heritage Orders should comply with the conditions attached to their use and/or any guidelines issued by the Heritage Council or Heritage Office. This is to ensure consistency in heritage management throughout the State. The guidelines include publications such as "Assessing Heritage Significance".*

**7. The council must publish annually in its State of the Environment Report or Annual Report, a summary of all decisions regarding Interim Heritage Orders for that year and provide a copy to the New South Wales Heritage Office.**

*The summary of decisions must include all council decisions to make or not make an Interim Heritage Order. The Heritage Advisor's recommendation, the council officer's recommendation to council and council's final determination must also be included in the summary. The summary will assist in monitoring council's performance. In cases where a council makes Interim Heritage Orders inappropriately, the Minister for Urban Affairs and Planning will revoke the authorisation to that council.*

**8. A council will be responsible for defending proceedings in any court relating to its decisions made under this authorisation (including the bearing of all costs).**

*The intent of the authorisation is to enable councils to operate autonomously when managing heritage issues in the local area.*

**5.6 HOW TO USE THE AUTHORISATION TO MAKE INTERIM HERITAGE ORDERS**

Councils can only make Interim Heritage Orders over potential heritage items if they have received the authorisation from the Minister for Urban Affairs and Planning under section 25 of the *Heritage Act* 1977. The conditions attached to the authorisation were described in section 5.5.2 above. The Minister has the power to

withdraw a council's authorisation to make Interim Heritage Orders or change the conditions attached to the authorisation at any time. Those councils authorised to make Interim Heritage Orders are listed in Annexure A1 of the Ministerial Order at Appendix 8.3.

**5.6.1 How to make an Interim Heritage Order**

In addition to meeting the conditions outlined above, council should also consider the following matters when making an Interim Heritage Order:

**Section 26 No notice required of intention to make Interim Heritage Order**

Council is not required before making an Interim Heritage Order to notify any person who will be affected by the order or the intention to make the order.

**Section 27 Application of Interim Heritage Orders to Curtilage and Site**

An Interim Heritage Order can apply to a building and its curtilage or site, or a work or relic that is attached to or forms part of the land.

**Section 28 Procedure for notifying Interim Heritage Orders**

- (1) When an Interim Heritage Order is made council must:
- a) publish the order in the gazette
  - b) notify the Chairperson of the Heritage Council and each person who is an affected owner or occupier about the order as soon as possible
  - c) include in the notice to the affected owner or occupier a statement as to the effect of the order and the reasons why the order was made
  - d) provide notice of the order in a newspaper circulating in the area in which the item is situated, within seven days of the order appearing in the Government Gazette.

- (2) The Interim Heritage Order is considered published in the Government Gazette even when a map or plan referred to in the order does not appear with it in the Gazette.
- (3) An Interim Heritage Order is not invalid merely because of:
  - a) failure to give notice of the order as required in section 28 (1) or
  - b) failure to include in the notice a statement as required by section 28 (1) (c) or
  - c) error or omission from the statement included in the notice.

### **Section 29 Commencement, duration and revocation of Interim Heritage Orders**

- (1) An Interim Heritage Order takes effect on the date that it is published in the Government Gazette.
- (2) An Interim Heritage Order remains in force for twelve months or a shorter specified period, unless it is revoked sooner.
- (3) The Minister may revoke an Interim Heritage Order made by the Minister or a council.
- (4) Council may revoke an Interim Heritage Order that it has made but not one made by the Minister.
- (5) When council revokes an Interim Heritage Order it must:
  - a) publish notice of the revocation of the order in the Government Gazette
  - b) provide notice of the revocation of the order to the Chairperson of the Heritage Council and to each affected owner or occupier
  - c) publish notice of the revocation of the order in a newspaper circulating in the area in which the item is situated within seven days of the notice appearing in the Government Gazette.
- (6) Listing of an item on the State Heritage Register revokes an Interim Heritage Order.

### **Section 30 Appeal against Interim Heritage Order made by a local council**

- (1) An affected owner or occupier may appeal to the Court against council's making of the Interim Heritage Order.
- (2) An appeal must be made within 28 days after the order takes effect.
- (3) The appeal does not stay an Interim Heritage Order unless the Court orders otherwise.

### **5.6.2 Template for an Interim Heritage Order**

A template Interim Heritage Order has been prepared for use by local councils. A copy of the template appears in Appendix 8.4.

### **5.6.3 Gazettal of an Interim Heritage Order**

An Interim Heritage Order is not effective until it appears in the Government Gazette or the Special Supplement of the Government Gazette. The Government Gazette and Special Supplement are both printed by the Government Printing Office. A council that wishes to make an Interim Heritage Order over a potential heritage item will need to request that the Government Printing Office gazette the Order. Councils may do this by faxing a letter to the Government Printing Office that describes the Order and attaching a copy of the signed order to the letter. Immediately after the letter has been sent councils should email an electronic version of the Interim Heritage Order to the Government Printing Office. The Government Printing Office email address is [nswgazette@dpws.nsw.gov.au](mailto:nswgazette@dpws.nsw.gov.au). Councils should request a reply email as an assurance that the request was received. Councils will receive a copy of the Government Gazette on the Monday following the Friday gazettal of the Interim Heritage Order.

The Government Printing Office deadline for receipt of signed Interim Heritage Orders for gazettal is Wednesday morning prior to the Friday gazettal of the Order. If by Wednesday afternoon a council thinks that it is necessary for an Interim Heritage Order to be gazetted on the Friday of that same week, then council should contact the Government Printing Office to

determine whether they will accept a late request. Councils should be aware that it is generally too late to seek gazettal of an Order after Wednesday in the Other Notices section of the Government Gazette. Orders may, however, be gazetted in the Special Supplement Section of the Government Gazette. This means that the Interim Heritage Order will take effect from the Friday but not be published in the Government Gazette until the following Friday.

#### 5.6.4 Following Gazettal of an Interim Heritage Order

Once the Interim Heritage Order is gazetted council must notify Land and Property Information (formerly the Land Titles Office) of the gazettal of the Order.

Following gazettal of an Interim Heritage Order council will be responsible for approvals required under the *Heritage Act 1977* for all applications that seek to demolish, damage, despoil, move, develop, alter or destroy the item, place or area that is covered by the Order. A full list of matters that require approval appears in section 57(1) of the *Heritage Act 1977*.

Councils cannot approve development that is declared to be “State significant development” under the *Environmental Planning and Assessment Act 1979*, or development or demolition of a building or work that is being carried out on or behalf of the Crown.

Similarly, council cannot approve any work that involves disturbance of a “relic” as defined by the *Heritage Act 1977*. An application for an excavation permit and the approval of the Heritage Council must be sought for this work. Under section 57(3) of the *Heritage Act 1977* councils authorised by the Minister to make Interim Heritage Orders can grant applicants exemption from the need to obtain approval under the *Heritage Act 1977* for certain matters. These include work, for example, that does not materially affect the significance of an item covered by an Interim Heritage Order or that is in accordance with heritage best practice.

#### 5.6.5 Voiding of Notices or Orders

Councils should be aware that under section 137 A of the *Heritage Act 1977* an Interim Heritage Order over a building, work, relic or place, voids any notice or order issued under any other Act that permits the building, work, relic or place to be harmed. The exception to this is a fire safety awareness order or prescribed notice.

Development consents issued by a local council that propose harm to an item may be rendered void by an Interim Heritage Order. Approvals issued under Part 5 of the *Environmental Planning and Assessment Act 1979* and orders issued by the Land and Environment Court that permit harm to an item may also be rendered void by an Interim Heritage Order made by the Minister.

#### 5.6.6 Appeals

Affected property owners or occupiers may lodge an appeal with the Land and Environment Court against the making of an Interim Heritage Order by council. The appeal must, however, be made within twenty-eight days after the Interim Heritage Order takes effect. The appeal will not stay the Interim Heritage Order except to the extent that the Court may order. The right of appeal against Interim Heritage Orders is consistent with the right of appeal against listing on the State Heritage Register.

### 5.7 REFERENCES

*Environmental Planning and Assessment Act 1979*

*Heritage Act 1977*

Ministerial Consent and the Ministerial Order 2002

NSW Heritage Office and Department of Urban Affairs and Planning *Heritage Approvals NSW Heritage Sydney 1996*

NSW Heritage Office *Standard Exemptions Sydney 1999*

This section explains why heritage significance should be assessed, identifies the heritage assessment procedure used in New South Wales, describes the less well understood areas of Aboriginal, archaeological and natural heritage assessment and explains the different levels of heritage significance.

### 6.1 WHY ASSESS HERITAGE SIGNIFICANCE?

Before making decisions about the future of a heritage item it is first necessary to understand

its heritage values. The process of identifying these values is called heritage assessment.

If a local council intends making an Interim heritage order on an item, it must have a preliminary understanding of that item. However, the preliminary assessment of significance, and the imposition of an Interim Heritage Order must be followed by a more formal and rigorous assessment.

**See Table 2 – Preparing a Heritage Significance Assessment.**

**Table 2 – Preparing a Heritage Significance Assessment**

Step	Work Required
1	<p><b>Documentary Research</b></p> <p>Obtain information about the historical origins, development and physical fabric of the heritage item, place or area from:</p> <ul style="list-style-type: none"> <li>• a title search</li> <li>• the previous property owners</li> <li>• old council rate books and shire building registers</li> <li>• early maps and plans</li> <li>• old photographs</li> <li>• written accounts about the property</li> <li>• heritage registers</li> <li>• materials in the local history/local studies collections of the council library</li> </ul>
2	<p><b>Investigate Physical Fabric</b></p> <p>Investigate the physical fabric of the item, place or area to determine heritage and contributory values. Once this is complete, the origins and importance of all site elements and features and how they express its history, will be understood. A sketch plan of the whole site should be prepared illustrating boundaries, buildings, roads and paths, landscape features, archaeological sites or features and the boundaries of adjacent lots. Photographs should be taken of key site elements and features.</p>

Step	Work Required
3	<p><b>Assess Heritage Significance</b></p> <p>Prepare a summary of knowledge about the item, place or area (including a description of its history, historical themes and archaeological potential). Identify any similar items in the local area to assess its comparative value. Assess the heritage significance of the item, place or area, using the heritage assessment criteria.</p>
4	<p><b>Prepare a Statement of Significance</b></p> <p>Prepare a Statement of Significance – a summary of the item, place or area’s important values, how these relate to comparable places at a local and state level and key features which embody significance, based on previous research and investigation. This must address:</p> <ul style="list-style-type: none"> <li>• aspects of the site’s history including origins and subsequent development</li> <li>• notable physical attributes</li> <li>• any social or symbolic role</li> <li>• the site’s known or potential ability to reveal further information</li> </ul>
5	<p><b>Manage Heritage Significance</b></p> <p>Once the heritage significance of a heritage item, place or area is understood it can be used to guide the changes being proposed to, or the future management of the item, place or area. The parts of the item, place or area that should not be changed will have been identified together with those parts which may be developed or adapted. Where changes will adversely impact on the heritage significance of the item, place or area, the assessment will enable the owner and council to acknowledge the extent of any impacts, before making a decision about whether the loss of significance is acceptable.</p>

In April 1999 the Heritage Council of NSW issued more explicit and nationally consistent criteria for assessing the significance of an item. The criteria embrace the heritage values described in section 6.3 below.

The Heritage Office publication, *Assessing Heritage Significance*, describes the criteria, and the procedures for assessing heritage significance, in detail. It can be found at Appendix 8.6.

## 6.2 SOURCING EXISTING ASSESSMENTS OF HERITAGE ITEMS

The first and most obvious place to find existing assessments of significance is the State Heritage Inventory (SHI). The Inventory comprises statutory listings for individual items and places and usually includes a statement of significance. Council’s heritage study, local environmental plan, heritage study for a regional environmental plan or regional environmental plan may also provide this information.

Other sources include the non-statutory lists that are described in section 4.4.

A statement of significance is included for all items on the State Heritage Register.

## 6.3 HERITAGE VALUES

Heritage is not just about buildings. Some other heritage values follow:

### 6.3.1 Aboriginal heritage

Aboriginal heritage sites are part of a living culture. Many items, places and precincts may also be of heritage significance to Aboriginal people. Aboriginal heritage is not limited to relics but also includes burial sites, engraving sites, natural sacred sites or features, rock art and midden deposits. Most areas of New South Wales contain sites, relics, places and landscapes of heritage significance to Aboriginal people.

A place of Aboriginal heritage significance means:

- a place that has the physical remains of pre European occupation, or is of contemporary significance to Aboriginal people. It can include items and remnants of the occupation of the land by Aboriginal people such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves
- a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of longstanding cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

The values used to identify Aboriginal heritage significance include:

- cultural heritage – Aboriginal archaeological sites are significant for the same reasons as European heritage items. They have importance for scientific research into prehistory and into processes of cultural adaptation and change in a changing environment. Archaeological sites are of specific cultural heritage significance and social value to Aborigines because they are the only form of tangible evidence about the antiquity, history and variety of Aboriginal culture. Sites also provide important evidence about the impact of colonisation and its legacy.
- traditional significance – Aboriginal religious beliefs and understanding of the natural world bestow special and sacred significance on particular places and landscapes. The places can include natural features and built structures. The traditional significance of the places may no longer be known, however, due to destruction and rejection of Aboriginal culture by the wider community.
- historic and social significance – Places such as missions, reserves, cemeteries and campsites are the heritage of the past two centuries. The places allow the cultural practice of linking the Aboriginal sense of

identity to the places where they and their forebears have lived, to continue. They are also important because of their value in providing historic evidence of their social, political and economic situation.

The National Parks and Wildlife Service is responsible for the conservation, protection and management of Aboriginal sites, places and relics under the *National Parks and Wildlife Act 1974*. Aboriginal people are acknowledged as the cultural owners and managers of knowledge about Aboriginal heritage. Consequently, the Aboriginal community should be involved in identifying sites, relics, places and landscapes of Aboriginal significance.

Aboriginal Heritage Officers in the National Parks and Wildlife Service (NPWS) have prepared guidelines that help with the assessment of cultural value of Aboriginal heritage places within present-day Aboriginal culture. *The Aboriginal Heritage Standards and Guidelines Kit* is available from NPWS, PO Box 1967, Hurstville 2220, tel: (02) 9585 6444 Fax: (02) 9585 6555.

It is important to use these guidelines because the local and State levels of significance used in the assessment of other items do not easily translate to the assessment of Aboriginal heritage items.

Aboriginal heritage places may also be listed on the State Heritage Register and in local environmental plans. Many heritage items have a multitude of values including Aboriginal heritage significance.

The Aboriginal Heritage Committee recommends items for listing on the State Heritage Register to the Heritage Council. Assessment of Aboriginal heritage items is undertaken in collaboration with the National Parks and Wildlife Service.

### 6.3.2 Archaeological heritage

Archaeological significance is part of the heritage significance of many land-based and underwater heritage items. There are four main



areas of archaeological research carried out in Australia: historical archaeology, underwater or maritime, industrial and Aboriginal archaeology. The assessment of Aboriginal sites has already been discussed.

A separate guideline, *Archaeological Assessments*, explains the processes involved in the investigation of historical archaeological sites. This is at Appendix 8.7.

### 6.3.3 Maritime archaeology

Underwater archaeology is also known as maritime or nautical archaeology. There are 1600 known maritime archaeology sites along the coast of NSW and 200 in inland rivers and lakes. Qualified maritime archaeologists should prepare assessments of wreck sites.

### 6.3.4 Natural heritage

The assessment of natural heritage items can include reference to any of the assessment criteria. Scientific values are particularly important in the conservation of species habitats and ecosystems. Cultural values will be more relevant in those areas where there has been a long or varied interaction between humans and the natural environment.

Assessments should take account of the Heritage Office's *Natural Heritage Principles* and the National Parks and Wildlife Service's *Conservation Partners Program Technical Notes*, and 'Bush Matters', the newsletter of the Service's Conservation Partnership Program. The Australian Heritage Commission's – *The Australian Natural Heritage Charter: Standards and principles for the conservation of places of natural heritage significance*, also describes the values attributed to natural heritage places.

### 6.3.5 Movable heritage

This is a term used to describe any natural or manufactured item or group of items. In assessing the significance of movable heritage, it is important to relate the item(s) back to places and people. It is most likely that this type of item will be furniture and fittings associated

with an item. The Heritage Office publication *Movable Heritage Principles* provides further information on this issue.

### 6.3.6 Culturally diverse heritage

NSW has a culturally diverse heritage that has been greatly enriched by the people from many different parts of the world that came to live in Australia over the last two centuries. Local councils should ensure that migrant experiences are included when assessing items of culturally diverse heritage significance, and that relevant ethnic communities are consulted.

The *Ethnic Communities Reference Book* and *Migrant Heritage Places in Australia* are useful references on this subject.

## 6.4 LEVELS OF HERITAGE SIGNIFICANCE

Items, places, buildings, works, relics, movable objects or precincts can be of either local or State heritage significance, or have both local and State heritage significance.

### Local heritage items

Local heritage items are those of significance to the local government area. In other words they contribute to the individuality and streetscape, townscape, landscape or natural character of an area and are irreplaceable parts of its environmental heritage. Collectively, such items reflect the socio-economic and natural history of a local area. Items of local heritage significance form an integral part of the State's environmental heritage.

### State heritage items

Items, places, buildings, works, relics, movable objects or precincts of State heritage significance include those items of special interest in the State context. They form an irreplaceable part of the environmental heritage of New South Wales and must have some connection or association with the State in its widest sense.



### Regional heritage items

In past years assessments of geographical regions in NSW – such as the Illawarra and the North Coast – have been undertaken. These surveys have added a third level – regional significance – between local and state. To simplify the assessment process the Heritage Act now uses only local and State significance as statutory terms. However, it remains the case that an item may have significance beyond the local area but not be of State significance.

A comparative analysis of an item with other like items is usually necessary to assist in determining a level of significance.

Local councils, the Heritage Council of NSW and the NSW Heritage Office play an important role in identifying, protecting and managing items of local and State significance. The process that each uses to identify and manage items of heritage is the same. Their roles are described in Section 4 The Role of Local Government, the Heritage Council of NSW, NSW Heritage Office, and Other Organisations.

## 6.5 REFERENCES

Australian Heritage Commission *Migrant Heritage Places in Australia* Canberra

Cairns, L. *The Australian Natural Heritage Charter: Standards and principles for the conservation of places of natural heritage significance*, Australian Heritage Commission, Canberra 1996

Ethnic Communities Council of NSW *Ethnic Communities Reference Book* Sydney 2000

National Parks and Wildlife Service *The Aboriginal Heritage Standards and Guidelines Kit* Sydney

National Parks and Wildlife Service *Conservation Partners Program Technical Notes* Sydney 1999

National Parks and Wildlife Service *Bush Matters* Newsletter Sydney 2002

NSW Heritage Office *Archaeological Assessments* Sydney 1996

NSW Heritage Office *Natural Heritage Principles* Sydney 2000

NSW Heritage Office *Movable Heritage Principles* Sydney 2000

NSW Heritage Office *NSW Heritage Manual – Assessing Heritage Significance* Sydney 2001

## 7. DETERMINING APPLICATIONS FOR WORK TO HERITAGE ITEMS

This section describes the procedures for assessing and determining applications for works to State Heritage Register items, and describes the information required for local councils to assess applications, including heritage impact statements, archaeological assessment reports and conservation management plans.

### 7.1 ASSESSING AND DETERMINING APPLICATIONS UNDER THE HERITAGE ACT OR THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT

The procedures for assessing and determining applications for works to State Heritage Register items have already been briefly mentioned in section 5.4.2. The flow chart included in that section illustrates the process, which is described in more detail in the following section.

#### **Step 1 – Confirm whether or not the property is listed on the State Heritage Register**

The local council should check that the property which is the subject of the application is listed on the State Heritage Register. This can be checked on the Heritage Office website at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au).

#### **Step 2 – Confirm whether or not Heritage Council approval is required for the proposed works**

The proposed works should be checked against the Standard Exemptions and any site-specific exemptions that have been gazetted for that item. A copy of the Standard Exemptions is included at Appendix 8.9. Site specific exemptions can be checked against the entry in the State Heritage Register via the Heritage Office website [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au).

#### **Step 3 – Confirm that the local council satisfies all the conditions associated with the delegation of certain Heritage Council functions**

These are discussed in detail in Section 5. A copy of the Ministerial Order, gazetted on 1 February 2002, is at Appendix 8.3.

#### **Step 4 – Confirm that the works proposed in the application will not “materially affect” the heritage significance of the item, place or area**

Following receipt of an application under section 60 of the *Heritage Act 1977*, or an Integrated Development Application under the *Environmental Planning and Assessment Act 1979*, the local council must determine whether works proposed in the application will “materially affect” the significance of the item, place or area.

Section 61 of the *Heritage Act 1977* provides that where an application is made for work that, if approved, would “materially affect” the significance of an item, place or area, the approval body must advertise the application.

The Heritage Council functions delegated to local councils are limited to determining applications that do not “materially affect” the significance of the heritage item. Therefore, Integrated Development Applications and section 60 applications that materially affect the significance of the heritage item must be referred to the Heritage Council for determination. The meaning of the term “materially affect” and a discussion about how councils determine whether the works being proposed in an application will “materially affect” the significance of an item are described more fully in section 5.4.3.

Table 1 in section 5.4.3.2 describes typical activities and whether they are likely to materially affect the item.

For proposals that affect an item protected by an Interim Heritage Order made by the Minister, the local council must refer the application to the Heritage Council. It cannot use the delegation.

**Step 5 – Commence processing the application in accordance with the requirements of the *Environmental Planning and Assessment Act 1979* (if an Integrated Development Application has been lodged) and the *Heritage Act 1977*.**

This will include advertising an application made under the *Environmental Planning and Assessment Act 1979* regardless of whether the proposed works materially affect the significance of the item or not.

The local council is the approval body for section 60 applications affecting items that are protected by an Interim Heritage Order made by the local council. Such items are exempt from the integrated development assessment process under Schedule 2 Section 76A (6) f) (i) of the *Environmental Planning and Assessment Act 1979*. Therefore, if the proposed works “materially affect” the significance of the item the council must advertise the application in accordance with the Heritage Act.

The process for advertising an application is explained in section 7.2.5. A template for the advertisement is at Appendix 8.4.

The approval body cannot determine the application until such time as the exhibition period has expired.

A section 60 application which has previously been advertised as part of the Integrated Development Application process does not have to be advertised again.

**Step 6 – Confirm that sufficient information has been submitted**

Sufficient information should be provided with the application to enable a thorough assessment of the heritage significance of the item and the impact of the proposed works on the significance of the item.

The information required in an application for works to a State Heritage Register item is described in section 7.2.8.

**Step 7 – Assess the application**

Condition 4 of the *General Conditions of Delegation of Heritage Council functions to local councils* requires that a person with appropriate heritage knowledge, skills and experience provide advice about the impact of the proposal on the heritage significance of the item to the council. This should be the Heritage Officer or Advisor or a consultant employed by the local council to satisfy this condition.

The officer assessing the application will need to carry out a site inspection of the item, place or area. The site inspection should be carried out as early as possible in the assessment process as it will help to understand the significance of the item and to identify issues which may have been omitted in information submitted with the application.

Section 62 of the *Heritage Act 1977* sets out the matters that must be considered when assessing applications. These matters include:

- a) the extent to which the application, if approved, would affect the significance of the item as an item of the environmental heritage
- b) the representations, if any, made as a result of advertising the application
- c) such matters relating to the conservation of the item or land as seem relevant
- d) such other matters as seem relevant.

The local council should also ask the following questions when assessing the application:

- Are the proposed works adequately described in the required documentation?
- Have all heritage issues been addressed?
- Is there a Statement of Heritage Significance which describes the significance of the item or place?

Are there any outstanding aspects of significance that must be considered?

- Is there clear information about the likely effect of proposed works on the fabric?
- Has there been an independent assessment of the impact of the proposed works prepared by a person with appropriate skills?
- Is there a Statement of Heritage Impact and does it describe the affect of the proposed works accurately? (See section 7.2.10)
- Has a Conservation Policy or Conservation Management Plan been prepared for the site? (See section 7.2.12)
- Does the proposal conflict with the Conservation Policy or Conservation Management Plan?
- Are the Statements of Heritage Impact, Conservation Policy or Conservation Management Plan a true assessment of the significance of the item and impact of the proposal?
- Have a range of alternatives been considered as well as all options for mitigating the effect of the proposal on the significance of the heritage item?
- Has the application been referred to the Heritage Officer or Heritage Advisor for comment? Have their views been taken into account?
- What design approach is being taken in new work? Will the works respect the significance of the item, place or area?

There will also be less tangible aspects of the proposal that council must consider in assessing an application. These may include the effect on the natural environment, and the archaeology of the place.

**Table 3 – Documentation and types of heritage impact assessments required for processing applications for works to heritage items** provides a summary of the

changes that people most commonly wish to make to heritage items, places or areas. This table includes a summary of questions that an applicant proposing changes to a heritage item must answer. It also identifies the type of heritage document that a local council would require, at a minimum, to be submitted with such an application.

A copy of the Heritage Council template used by the Heritage Office for determining applications under delegation is at Appendix 8.4. Councils may wish to adapt this for their own use.

**Table 3 – Documentation and types of heritage impact assessments required for processing applications for heritage items**

Proposed Change to Heritage Item	Questions to be Answered in the Heritage Impact Assessment	Minimum Supporting Information Required
<b>Demolition of a building or structure</b>	<ul style="list-style-type: none"> <li>• Have all options for retention and adaptive re-use been explored?</li> <li>• Can all of the significant elements of the heritage item be kept and new development located elsewhere on the site?</li> <li>• Is demolition essential at this time or can it be postponed in case future circumstances make its retention and conservation more feasible?</li> <li>• Has the advice of a heritage consultant been sought? Have the consultant's recommendations been implemented? If no, why not?</li> </ul>	Local: SOHI Regional: CMP State: CMP
<b>Minor partial demolition (including internal elements)</b>	<ul style="list-style-type: none"> <li>• Is partial demolition essential for the heritage item to function?</li> <li>• Are important features of the item affected by the partial demolition (eg fireplaces in buildings)?</li> <li>• Is partial demolition sympathetic to the heritage significance of the item (eg creating large square openings in internal walls rather than removing the wall altogether)?</li> <li>• If partial demolition is a result of the condition of the fabric, is it certain that the fabric cannot be repaired?</li> </ul>	Local: SOHI Regional: CP State: CMP
<b>Major partial demolition (including internal elements)</b>	<ul style="list-style-type: none"> <li>• Is partial demolition essential for the heritage item to function?</li> <li>• Will any features of the item be affected by the demolition (eg fireplaces in buildings)?</li> <li>• Is partial demolition sympathetic to the heritage significance of the item (eg creating large square openings in internal walls rather than removing the wall altogether)?</li> <li>• If partial demolition is a result of the condition of the fabric, is it certain that the fabric cannot be repaired?</li> </ul>	Local: SOHI Regional: CMP State: CMP
<b>Change of use</b>	<ul style="list-style-type: none"> <li>• Has the advice of a heritage consultant or structural engineer been sought and implemented? If no, why not?</li> <li>• Does the existing use contribute to the significance of the heritage item?</li> <li>• Why does the use need to be changed?</li> <li>• What changes to the fabric are required as a result of the change of use?</li> <li>• What changes to the site are required as a result of the change of use?</li> </ul>	Local: SOHI Regional: CP State: CMP

Proposed Change to Heritage Item	Questions to be Answered in the Heritage Impact Assessment	Minimum Supporting Information Required
<b>Minor additions (see also minor partial demolition)</b>	<ul style="list-style-type: none"> <li>• How will the impact of the addition on the heritage significance of the item be reduced?</li> <li>• Can the additions be located within the existing structure? If no, why not?</li> <li>• Will the additions visually dominate the heritage item?</li> <li>• Are the additions sited on any known, or potentially significant archaeological deposits? If so, have alternative locations for the additions been considered?</li> <li>• Are the additions sympathetic to the heritage item? In what way (eg form, proportions, design)?</li> </ul>	Local: SOHI Regional: CP State: CMP
<b>Major additions (see also major partial demolition)</b>	<ul style="list-style-type: none"> <li>• How will the impact of the addition on the heritage significance of the item be reduced?</li> <li>• Can the additions be located within an existing structure? If not, why not?</li> <li>• Will the additions visually dominate the heritage item?</li> <li>• Are the additions sited on any known, or potentially significant archaeological deposits? If so, have alternative locations for the additions been considered?</li> <li>• Are the additions sympathetic to the heritage item? In what way (eg form, proportions, design)?</li> </ul>	Local: SOHI Regional: CP State: CMP
<b>Repainting in a new colour scheme</b>	<ul style="list-style-type: none"> <li>• Have previous (including original) colour schemes been investigated? Are these being reinstated?</li> <li>• Will the repainting affect conservation of the fabric of the heritage item?</li> </ul>	Local: SOHI Regional: CP State: CP
<b>New development adjacent to a heritage item (including additional buildings and dual occupancies)</b>	<ul style="list-style-type: none"> <li>• How will the impact of new development on the heritage significance of the item or area be reduced?</li> <li>• Why is it necessary for new development to be sited adjacent to a heritage item or area?</li> <li>• Does the curtilage of the heritage item allow the heritage significance of the item or area to be retained?</li> <li>• How will the new development affect views to, and from, the heritage item or area? What is being proposed to reduce negative effects of the new development?</li> <li>• Is the new development sited on any known, or potentially significant archaeological deposits? If so, have alternative sites been considered? Why were they rejected?</li> <li>• Is the new development sympathetic to the heritage item? In what way (eg form, siting, proportions, design)?</li> <li>• Will the additions visually dominate the heritage item or area? How will the effects of this be reduced?</li> <li>• Will the public, and users of the item, still be able to view and appreciate the significance of the item or area?</li> </ul>	Local: SOHI Regional: CMP State: CMP

Proposed Change to Heritage Item	Questions to be Answered in the Heritage Impact Assessment	Minimum Supporting Information Required
<b>Subdivision</b>	<p>Note: The potential impacts of subdivision on the heritage significance of heritage items or areas can be reduced by development control plans.</p> <ul style="list-style-type: none"> <li>• Is the proposed curtilage for the heritage item or area appropriate?</li> <li>• Could future development that results from the subdivision compromise the significance of the heritage item or area? If so, has this been reduced?</li> <li>• Could future development that results from this subdivision affect views to, and from, the heritage item? How will negative impacts on views be reduced?</li> </ul>	<p>Local: SOHI Regional: CMP State: CMP</p>
<b>Re-Roofing /Cladding</b>	<ul style="list-style-type: none"> <li>• Have previous (including original) roofing/cladding materials been investigated (through archival and physical research)?</li> <li>• Is a previous material being reinstated?</li> <li>• Will re-roofing or cladding affect conservation of the fabric of the heritage item?</li> <li>• Are all details in keeping with the heritage significance of the item (eg guttering, cladding profiles)?</li> <li>• Has the advice of a heritage consultant or skilled tradesperson been sought? Will the advice be implemented?</li> </ul>	<p>Local: SOHI Regional: SOHI State: CMP</p>
<b>New services (e.g. air conditioning, plumbing)</b>	<ul style="list-style-type: none"> <li>• How will the impact of the new services on the heritage significance of the item be reduced?</li> <li>• Do any of the existing services have heritage significance? In what way? Will the services be affected by the new work?</li> <li>• Has the advice of a heritage consultant been sought? Will the consultant's advice be implemented?</li> <li>• Will any known or potential archaeological deposits (underground and under floor) be affected by the proposed new services?</li> </ul>	<p>Local: SOHI Regional: SOHI State: CP for minor upgrading / CMP for major upgrading</p>
<b>Fire upgrading</b>	<p>Note: Where a local council and a heritage consultant are unable to reach agreement on suitable fire-upgrading of a heritage item the advice of the Heritage Council's Fire Advisory Panel may be sought.</p> <ul style="list-style-type: none"> <li>• How will the impact of the fire upgrading on the heritage significance of the item be reduced?</li> <li>• Do any of the existing services have heritage significance? If so why? Will they be affected by the new work?</li> <li>• Has the advice of a heritage consultant been sought? Will the advice of the consultant be implemented? If no, why not ?</li> </ul>	<p>Local: SOHI Regional: CP State: CP for minor upgrading / CMP for major upgrading</p>

Proposed Change to Heritage Item	Questions to be Answered in the Heritage Impact Assessment	Minimum Supporting Information Required
<b>Fire upgrading (continued)</b>	<ul style="list-style-type: none"> <li>• Will any known or potential archaeological deposits (underground or under floor) be affected by the proposed new services?</li> <li>• Has the advice of a fire consultant been obtained re options that would have less impact on the heritage item? Will the advice be implemented? How?</li> </ul>	
<b>New landscape works and features (including carparks and fences)</b>	<ul style="list-style-type: none"> <li>• How has the impact of the new work on the heritage significance of the existing landscape been minimised?</li> <li>• Has evidence (archival and physical) of previous landscape work been investigated? Are previous works being reinstated?</li> <li>• Has the advice of a consultant skilled in the conservation of heritage landscapes been sought? If so, will the consultant's recommendations be implemented?</li> <li>• Will any known or potential archaeological deposits be affected by the landscape works? If so, what alternatives have been considered?</li> <li>• How does the work impact on views to, and from, adjacent heritage items?</li> </ul>	Local: SOHI Regional: CP State: CMP
<b>Tree removal or Replacement</b>	<ul style="list-style-type: none"> <li>• Does the tree being removed or replaced contribute to the heritage significance of the item or landscape?</li> <li>• Why is the tree being removed or replaced?</li> <li>• Has the advice of a tree surgeon or horticultural specialist been obtained?</li> <li>• Will the tree, if removed, be replaced with one of the same or a new species?</li> </ul>	Local: SOHI Regional: CP State: CP
<b>New signage</b>	<ul style="list-style-type: none"> <li>• How will the impact of the new signage on the heritage significance of the item be reduced?</li> <li>• Have alternative forms of signage been considered? Why were they rejected?</li> <li>• Does the signage comply with council policy?</li> <li>• Will the signage visually dominate the heritage item/heritage conservation area or streetscape?</li> <li>• Can the sign be remotely illuminated rather than internally illuminated?</li> </ul>	Local: SOHI Regional: CP State: CP

### Key to Table 3

**SOHI** – Statement of Heritage Impact

**CP**– Conservation Policy

**CMP** – Conservation Management Plan

**Local** – Item of Local Significance

**Regional** – Item of Regional Significance

**State** – Item of State Significance



**Step 8 – Where council is satisfied that the impact of the works on the heritage significance of the item is minor and satisfactory it may issue general terms of approval for the works under the *Environmental Planning and Assessment Act (EP&A Act) 1979***

Council may issue general terms of approval either unconditionally, or subject to conditions, or decline to give general terms of approval within the timeframes described in the EP&A Act. It must do this after it has fully assessed the heritage impact of works proposed in the application.

One of the benefits of the delegations is that councils will be able to deal with section 60 applications and Integrated Development Applications virtually simultaneously. Consequently, councils will be able to function as a one-stop-shop. However, at present it is still necessary to process applications under both the EP&A Act and the Heritage Act. To avoid possible legal challenge, council must consider such applications separately. Councils must also furnish separate records of each of the decisions it makes in this regard to the Heritage Office. This will make it clear the matters that were and were not taken into account when the application was determined.

The Heritage Council of NSW is presently drafting standard conditions for use by local councils. The standard conditions will be forwarded to local councils on completion and must be used by councils whenever section 60 applications or integrated development applications are approved, using the delegations. The standard conditions must also be used by councils when approving applications that relate to heritage items, places or areas.

Councils may impose conditions of their own, additional to the standard conditions. Such conditions should not, however, conflict with any Heritage Council guidelines or the Heritage Council's standard conditions.

The *Heritage Act 1977* also enables councils to impose conditions on an approval for matters including :

- a) a requirement that the applicant provide security in a form and amount to be determined by council to ensure the satisfactory completion of work
- b) where an application relates to the demolition of an item, measures be taken in the interests of public safety and convenience.

**Step 9 – Once general terms of approval have been issued for an Integrated Development Application, the council can determine the application.**

**Step 10 – Once the IDA is determined then approval under section 63 of the *Heritage Act* can be given by the local council on behalf of the Heritage Council.**

General Terms of Approval under the EP&A Act need to be given prior to issuing an approval under section 63 of the *Heritage Act 1977*.

Council's determination of an application under section 63 of the Heritage Act, for which an Integrated Development Application approval has been previously issued, must be consistent with that approval and comply with the requirements of Division 5 of Part 4 of the EP&A Act.

**Step 11 – Notify the applicant and the Heritage Council of the determination**

Council must advise the applicant in writing of its determination of the application, in accordance with the Heritage Act. The notice must advise the applicant that he/she has a right of appeal under the *Heritage Act 1977* against the determination.

As soon as possible after council has determined an application, a copy of the determination must be forwarded to the Heritage Council for its records. This should include a copy of the stamped drawings and any supporting documentation for the Heritage Office files. This is necessary so that the Heritage Council can provide correct advice to applicants about the approvals issued by councils under delegation.

Council must determine an application made under section 60 of the *Heritage Act 1977* within a period of forty days from the date of receipt of the application where the application has not been advertised. For section 60 applications which have been advertised the council must determine the application within 60 days. Where a council does not determine an application within the statutory period it is deemed to have refused the application.

Under section 70 and 70A of the *Heritage Act 1977* an applicant may appeal the determination of an application to the Minister. Appeals against section 60 determinations made by local councils for proposals affecting items subject to an Interim Heritage Order, should be made to the Land and Environment Court.

## 7.2 REQUIREMENTS & DOCUMENTS NEEDED FOR DETERMINING APPLICATIONS FOR WORK TO HERITAGE ITEMS

### 7.2.1 Integrated Development Applications made under the Environmental Planning and Assessment Act 1979

“Integrated Development” is development which requires development consent and one or more approvals from different government agencies, including the Heritage Council. Integrated development includes those matters for which approval is required under section 57 of the *Heritage Act 1977*. Therefore Integrated Development Assessment applies to:

- heritage items listed on the State Heritage Register
- items subject to an Interim Heritage Order made by the Minister where the approval of the Heritage Council and the local council is required for the proposed works.

Integrated Development Assessment (IDA) does not apply:

- to Heritage items subject to section 130 or 136 Orders (made by the Minister or the Chair of the Heritage Council)

- to section 140 archaeological excavation permits
- to Interim Heritage Orders made by local councils
- where Heritage Council approval is not required under the *Heritage Act* for the proposed works (for example, where the works are exempt under the standard or any site-specific exemptions)
- for items owned by the “Crown” (see definition in section 5.5.2)

Integrated Development Assessment was introduced so that all matters affecting a development application would be considered by the consent authority in an integrated way. It is mandatory if a development application is lodged first with the local council. However, an applicant may still choose to submit a section 60 application first to the local council or the Heritage Council under the *Heritage Act* and have that determined before the development application is submitted to council. In this case the local council must determine the Section 60 application first.

The Heritage Office encourages applicants to follow the IDA process.

Integrated Development Applications must be made on council’s development application form. The form must be completed and submitted to council together with the information required to support the application, and the appropriate fee. The form must include the owner’s written consent to the lodgement of the application.

### 7.2.2 Section 60 Applications made under the *Heritage Act 1977*

Applications for works made under section 60 of the *Heritage Act 1977* must be made on the section 60 Application Form. A copy of the application form is included in Appendix 8.5. The form must be completed and submitted to the local council together with information required to support the application, and the appropriate fee. The form must include the

owner's written consent to the work/s being proposed in the application.

### 7.2.3 Prescribed applications

#### 7.2.3.1 What is a prescribed application?

A prescribed application is an application that needs the approval of a consent authority under any of the following legislation:

- *Environmental Planning and Assessment Act 1979* ( not applications related to integrated development)
- Part 1 Chapter 7 of the *Local Government Act 1993*
- Any prescribed provision of the *Local Government Act 1993* or any prescribed provision of any instrument made under that Act
- Division 4 of Part 2 of the *Strata Schemes Act 1973*
- Division 7 of Part 2 of the *Strata Schemes Act 1986*

for an act, matter or thing that also needs the approval of the Heritage Council under the *Heritage Act 1977*.

Therefore, an application for works to a heritage item listed on the State Heritage Register which requires approval under section 60 of the *Heritage Act 1977* and also requires approval under the legislation identified above, is a prescribed application.

#### 7.2.3.2 Does the *Heritage Act 1977* include provisions relating to prescribed applications?

The *Heritage Act 1977* includes a number of provisions relating to prescribed applications. They state what takes precedence when there is inconsistency between the provisions of the *Heritage Act* and the legislation relating to prescribed applications; the order that approvals should be given in; the consistency of approvals; the liability of consent authorities and appeals.

Section 66 of the *Heritage Act 1977* states that the provisions of sections 66 to 69 of the *Heritage Act 1977* prevail where there is inconsistency between sections 66 to 69 and the legislation relating to prescribed applications.

Section 67 of the *Heritage Act 1977* states that if a consent authority issues approval to a prescribed application before it has received notification of the Heritage Council's determination of the application, that approval is void.

Section 68 of the *Heritage Act 1977* states that an approval issued by a consent authority to a prescribed application is void if it is inconsistent with the Heritage Council's determination of the application.

Section 69 of the *Heritage Act 1977* states that nothing in sections 66 to 69 of the Act affects a consent authority's liability for an approval it has issued to a prescribed application.

#### 7.2.3.3 Appeals in respect of Prescribed Applications

Section 76 of the *Heritage Act 1977* states that if, under any of the legislation relating to prescribed applications, an applicant has a right of appeal arising from the making of a prescribed application, the appeal is to be made to the Minister.

Section 77 of the *Heritage Act 1977* states that where appeals are made pursuant to section 76 of the Act the Minister may do one of two things. The Minister may determine the appeal if he/she believes that the matter has special significance for the conservation of a heritage item. Alternately, the Minister may refer the appeal for hearing and determination by the Court if the matter does not have special significance for the conservation of an item. Section 77 further states that the Minister will notify the person making the appeal of his/her decision.

Section 78 of the *Heritage Act 1977* states that if the Minister decides to determine an appeal the Minister may appoint a Commissioner of

Inquiry to provide a report in relation to the appeal. The report will include a recommendation as to whether the appeal should be dismissed, allowed either unconditionally or subject to any conditions specified in the report and the reasons for the recommendations.

Section 79 of the *Heritage Act 1977* states that the Commissioner of Inquiry must provide the appellant, the Heritage Council, a person who has made representations to the Heritage Council and the consent authority with the opportunity of appearing personally.

Section 79A of the *Heritage Act 1977* states that the Minister, after considering the Commissioner's report, may dismiss the appeal, allow the appeal either unconditionally or subject to conditions, refuse to approve the application for approval or return the report to the Commissioner for further consideration of the report.

Section 79B of the *Heritage Act 1977* states that the Minister's decision about the appeal is final.

#### 7.2.4. Restrictions on Approvals

Local Councils must refer IDA and section 60 applications that materially affect the significance of the heritage item to the Heritage Council. This includes applications that:

- involve the demolition of the whole of a building or work,
- if approved, would necessitate the demolition of a whole of a building or work.

Section 63 (3) of the *Heritage Act* provides for certain circumstances where an application described above may be approved. However, in such cases local councils should refer such applications to the Heritage Council to determine in accordance with the forthcoming Heritage Council Guidelines on this subject.

#### 7.2.5 Advertising a section 60 application under the *Heritage Act*

An approval body (council or the Heritage Council) must follow the process set out in

section 61 (1A) –(4) of the *Heritage Act 1977*, when advertising a section 60 application.

The approval body must ensure that public notice of the application is given in a daily newspaper circulating throughout the State. The notice must include advice that the application, plans, specifications and documents will be on public exhibition at the approval body's office for a period of 21 days after the day on which the notice appears in the newspaper. The notice must also include advice to the effect that representations may be made in regard to the application. The Heritage Office has prepared a template advertisement for use by approval bodies. A copy of the advertisement appears in Appendix 8.4.

#### 7.2.6 Who can lodge applications?

Applications for approval for work to an item, place or area covered by a council made Interim Heritage Order or listed on the State Heritage Register, may be lodged by:

- the owner of the item or the land
- a person who obtains the written consent of the owner
- the lawful occupier of Crown land if the item is situated on, or comprises land that is Crown land, as defined in the *Crown Land Act 1989*.

#### 7.2.7 Application Fees

Applicants must pay an application fee to the approval authority for processing the application. The fee is based on the cost of the work proposed in the application.

The *Heritage Regulation 1999* sets out the fees to be charged. An approval authority may, however, reduce or waive the fees to be paid by an applicant on the basis of financial hardship. Evidence of hardship should be provided with the application.

The fee for Integrated Development Applications is set down in the *Environmental Planning Assessment Regulation 2000*. A flat fee of two hundred and fifty dollars applies to

each approval that is required for the work. This is additional to the fee charged by council for the development application.

### 7.2.8 Background information required by local councils in order to process an application

In order to process an application which affects a State Heritage Register (SHR) item, under delegation, the local council will need the State Heritage Register Listing Sheet, the map showing the site boundaries from the listing, and any exemptions which apply to the property. Councils may also require access to Heritage Office files on the property.

If a Conservation Management Plan has been endorsed by the Heritage Council within 5 years of the date of the application, there may be additional exemptions for the item. Councils may also require a copy of such a Conservation Management Plan. The SHR listing sheet and the site-specific exemptions can be found on the SHR which may be accessed via the Heritage Office website at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au). At present, the site boundaries are not available online. Local councils intending to use the delegations will be provided with these three pieces of information for all items listed on the State Heritage Register. The Heritage Office can also provide any additional information required by the council such as files and conservation management plans.

### 7.2.9 The documentation to be provided by an applicant to support an application

Applications for works to a heritage item, place or area need to be supported by sufficient information to enable the approval authority to assess the application. The information required will vary depending on the nature and complexity of the item and the changes proposed. **Table 3 – Documentation and types of heritage impact assessments required for processing applications for heritage items** describes the minimum supporting information that is required to determine an application and the issues that need to be addressed in the local council's assessment of the application. A checklist of the minimum information required to support the application is provided below.

#### a) Written Material

The application should include the following:

- A statement of significance for the item (this can be part of the Statement of Heritage Impact).
- A statement of heritage impact – the effect the proposed work will have on the heritage significance of the item and its site or the conservation area. (See section 7.2.10 Statements of Heritage Impact).
- A schedule of work listing the proposed work to the item or property and cross-referenced to drawings.
- The future use of the item or property.
- Consultants' reports as required (e.g. by historians, archaeologists and engineers) (Note: if archaeological investigations are proposed a research design and methodology must also be submitted. See section 7.2.11 Archaeological Assessment Reports).
- A brief schedule of finishes cross-referenced to the drawings.

#### b) Drawings

- A location plan and site plan, drawn to scale, showing the location of the heritage item or property and any other features that may be affected by the proposal (e.g. neighbouring structures, outbuildings, trees, significant landscape features, views and vistas). This should also define the title boundaries and, where appropriate, conservation order and/or conservation area boundaries. It should also include a north point. Councils may require the site plan to show levels across the site and adjoining sites – check with your local council.
- Measured drawings of the item as 'existing drawings'. A measured drawing is a technical or architectural record (drawn to scale) of the heritage item in its existing form. The drawings should clearly identify previous alterations, dates of construction, materials, etc. (not required for properties in conservation areas that are not of heritage significance).

- Drawings that analyse the heritage significance of the place can also be useful.
- Plans, sections and elevations, drawn to scale, showing the proposed works by colour or hatching, in accordance with standard architectural and technical drawing practice. These drawings should show how the works would affect existing buildings, structures and features. Fabric to be removed should be shown by dotted lines, new fabric by hatching or rendering. (See Australian Standard AS 1100 – Technical Drawing 1, Part 301, and Supplement 1, Architectural Drawing).

### c) Other Illustrative Material

- Coloured photographs of:
  - the heritage item or property and its setting where the works impact on this
  - particular details which will be affected by the proposal
  - views which explain the character of the conservation area where there is an impact on the conservation area.
- Photographic montages, perspectives, drawings or sketches and scale models illustrating the proposal.
- Early photographs or drawings of the item or area, especially where you are returning an item or property to a known earlier state.
- Colour schemes and information on materials (for example, pictures, brochures and samples).

Note: Photographs should be mounted on A4 sheets, dated and annotated.

In some instances additional information may be required to assess an application that is complex or where there are sub-surface works proposed that may have an archaeological impact. In these instances a selection or all of the following documents may be required:

- an archaeological assessment report
- conservation management plan
- conservation policy.

These documents are described in the following section.

### 7.2.10 Statements of Heritage Impact

A Statement of Heritage Impact (SOHI) identifies the heritage significance of the item, place or area, the impacts of any changes being proposed to it and how any impacts arising from the changes will be mitigated.

A Statement of Heritage Impact must:

- identify why the item, place or area is of heritage significance (the statement of heritage significance)
- describe the works, change of use and any physical changes to the place
- identify the impact or impacts the proposed changes to the heritage item will have on its heritage significance
- identify and describe any measures being proposed to lessen negative impacts of the proposed changes
- identify why more sympathetic solutions to those being proposed are not viable.

In circumstances where the proposed changes are likely to have a detrimental affect on the item, place or area's heritage significance the Statement of Heritage Impact must:

- clearly identify any change or changes that will have a negative impact on the heritage significance of the item, place or area
- state why the impact or impacts cannot be avoided
- state the steps being taken to minimise their effect or effects.

The Statement of Heritage Impact (SOHI) must include a statement of heritage significance. It should also include an analysis of heritage significance and proposed conservation policies. Physical condition reports and any consultant reports should be included where they exist and are relevant to the application.



The length of the statement of heritage impact will vary depending on the scale and complexity of the proposal. A brief one to two page account included in the Statement of Environmental Effects may be sufficient for minor work that will have little impact on the heritage significance of an item. A more extensive report would be required for more complex proposals or those that will have a major impact on the item.

The SOHI must address the site of the item or place in its entirety. Features of the item and site, including configuration, layout, setting, buildings and other structures, landscape features such as gardens, trees, paths and walls, archaeological features such as wells, and views in and out of the site should be identified where the proposal affects these features. For example, where the proposed change is minor and restricted to the interior of a building the significance of that interior will need to be highlighted in the SOHI.

### 7.2.11 Archaeological Assessment Reports

Archaeological deposits or relics are physical evidence of the past. Because deposits or relics have the potential to contribute to our knowledge of early history it is essential that they are properly investigated and recorded.

The *Heritage Act 1977* defines an archaeological deposit or relic as “any deposit, object or material evidence relating to the settlement of the area that comprises New South Wales, not being Aboriginal settlement; and which is fifty or more years old”.

The *Heritage Act 1977* protects all archaeological relics in New South Wales. Under the Act it is illegal to disturb or excavate land to discover, expose or move a relic without a permit issued by the Heritage Council of NSW. In addition to providing protection for relics, the Act also ensures that archaeological relics are properly investigated and interpreted.

The conservation of archaeological resources is the responsibility of the owner of the land on which they are located and/or the developer of any new building or development being proposed on the land.

Local councils may require that applicants carry out an archaeological assessment, before issuing development or building consent. This is so the extent, nature and intactness of the archaeological resource on the land can be evaluated and its significance and future management determined. The cost of the assessment and/or any subsequent excavation is borne by the person disturbing the potential archaeological resources located on the land. This is usually the owner or applicant. The archaeological assessment must be carried out, before any development on the land, so that the relics are not disturbed.

Local councils should insist that archaeological assessment be carried out when:

- a site is identified as having archaeological potential in a local environmental plan or archaeological zoning plan
- a site is believed to contain “relics” and therefore requires an excavation permit under section 60 or 140 of the *Heritage Act 1977*
- the local council or another consent authority requires an assessment as part of supporting documentation for a development application
- proposed development or another activity on the site could disturb archaeological features.

Archaeological assessment not only identifies the significance of the archaeological resource but also incorporates recommendations for managing it. The recommendations of each assessment will differ, depending on the significance of the resource and the reasons why the assessment is being carried out.

**Table 4 – Preparing an Archaeological Assessment** outlines the steps to be followed when preparing an archaeological assessment for an item, place or area.

Table 4 – Preparing an Archaeological Significance Assessment

Step	Work Required
1	<p><b>Historical Research</b></p> <p>Obtain information about the archaeological resource to understand the site's history and potential for physical evidence from:</p> <ul style="list-style-type: none"> <li>• title search</li> <li>• previous property owners</li> <li>• published local histories or heritage studies</li> <li>• local historical societies</li> <li>• old council rate books and building registers</li> <li>• oral histories</li> <li>• early maps and plans</li> <li>• old photographs</li> <li>• written accounts</li> <li>• heritage registers</li> <li>• materials in the local history/local studies collection of the council library</li> </ul>
2	<p><b>Physical Evaluation</b></p> <p>Do a physical examination of the site as this may reveal information about its archaeological potential. This should include :</p> <ul style="list-style-type: none"> <li>• a review of existing topography</li> <li>• documentation of existing structures and disturbances</li> <li>• inspection of the site for indications of subsurface features</li> <li>• evaluation of the impact of structures on earlier features</li> <li>• examination of records of other disturbances such as service trenches</li> <li>• data review from adjacent sites</li> </ul>
3	<p><b>Synthesis</b></p> <p>Synthesise the data arising from research and physical evaluation :</p> <ul style="list-style-type: none"> <li>• collate evidence</li> <li>• overlay key plans</li> <li>• examine potential impact of later activities on early features</li> <li>• determine the likely presence or absence of archaeological features</li> </ul>
4	<p><b>Assess Heritage Significance</b></p> <p>Prepare an assessment which considers all aspects of an archaeological site's significance by:</p> <ul style="list-style-type: none"> <li>• undertaking contextual research</li> <li>• identifying research questions</li> <li>• preparing a summary statement of significance</li> <li>• drawing graded zones of significance</li> </ul>
5	<p><b>Identify Issues</b></p> <p>Specify issues taken into consideration including :</p> <ul style="list-style-type: none"> <li>• any obligations arising from significance</li> <li>• client requirements – potential impact of any proposal/s</li> <li>• statutory context</li> </ul>
6	<p><b>Policy Development and Recommendations</b></p> <p>Prepare a policy statement that takes into account requirements for retaining significance and other issues. Make recommendations that identify the actions necessary to implement the conservation policy. This should reflect :</p> <ul style="list-style-type: none"> <li>• statutory requirements</li> <li>• whether further research is required</li> <li>• appropriate management actions for the site</li> </ul>



The Heritage Office publication *Archaeological Assessment* describes the requirements for and processes of preparing an Archaeological Assessment in more detail. This is included at Appendix 8.7.

### 7.2.12 Conservation Management Plans

A Conservation Management Plan guides the future development and management of a heritage item, place or area in a way that protects its heritage significance. It not only identifies a preferred use for the item, place or area but also how any proposed changes will be implemented so that the maximum heritage significance is retained. As such, it provides a framework for investigating, assessing and managing the heritage significance of heritage items, places or areas.

Local councils may request that applicants

submit a Conservation Management Plan with an application that proposes changes to a heritage item, place or area. It is most beneficial when prepared early in the development process, or preferably before the development process. This is so that any information arising from the heritage assessment process can be used to guide decision-making.

Applicants may prepare a Conservation Management Plan themselves or engage a consultant to do this on their behalf.

Conservation Management Plans must be prepared in accordance with the process outlined in The Conservation Policy by James Semple Kerr (published by the National Trust of Australia (NSW) various editions to 2000). The process is described in **Table 5 – Preparing a Conservation Management Plan** below:

**Table 5 – The Conservation Management Plan Process**

Step	Work Required
Stage 1 - Understanding the Item, Place or Area Collect documentary and physical evidence on the item, place or area	<ul style="list-style-type: none"> <li>• Collect documentary and physical evidence on the item, place or area</li> <li>• Coordinate collected material</li> <li>• Develop a Statement of Significance</li> </ul>
Stage 2 - Developing Conservation Policies and Implementation Strategies	<ul style="list-style-type: none"> <li>• Collect information necessary to develop Conservation Policy. This should include client requirements, budget constraints and viable uses, physical condition of the place, legal, legislative or other requirements and measures necessary to retain the significance of the item, place or area.</li> <li>• Develop and state Conservation Policy</li> <li>• Identify strategy for implementing Conservation Policy</li> </ul>

Some State heritage items have conservation management plans that have been endorsed by the Heritage Council. These can provide additional exemptions from the approval process. Where council is dealing with an application for works to a heritage item that has a Heritage Council endorsed conservation management plan, council may need to refer to this document as part of the determination process. Heritage Council endorsement usually lasts for 5 years. Council will need to ensure that the copy of the Conservation Management Plan is stamped to indicate whether the Heritage Council endorsement is still valid.

Councils can check whether a heritage item has an endorsed conservation management plan in place via the Heritage Office website at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au). The Heritage Office can also answer any queries in regard to conservation management plans.

### 7.3 REFERENCES

Kerr, J.S. *The Conservation Plan: A Guide to the Preparation of Conservation Plans for Places of European Cultural Significance* National Trust Sydney 2000

NSW Heritage Office and Department of Urban Affairs and Planning *NSW Heritage Manual* Sydney 1996

NSW Heritage Office and Department of Urban Affairs and Planning *NSW Heritage Manual – Archaeological Assessments* Sydney 1996

NSW Heritage Office *NSW Heritage Manual – Assessing Heritage Significance* Sydney 2001

NSW Heritage Office and Department of Urban Affairs and Planning *NSW Heritage Manual – Conservation Management Documents* Sydney 1996

NSW Heritage Office and Department of Urban Affairs and Planning *NSW Heritage Manual – Statements of Heritage Impact* Sydney 1996

Pearson, M and Sullivan, S *Looking After Heritage Places* Melbourne University Press Victoria 1995

- 8.1 THE ARTICLES OF THE BURRA CHARTER
- 8.2 THE MODEL HERITAGE PROVISIONS FOR LOCAL ENVIRONMENTAL PLANS
- 8.3 THE MINISTERIAL CONSENT TO DELEGATIONS AND MINISTERIAL ORDER FOR AUTHORISATION
- 8.4 TEMPLATES
  - 8.4.1 Interim Heritage Order
  - 8.4.2 Determining applications under the Delegations
  - 8.4.3 Advertisement for section 60 Applications
- 8.5 SECTION 60 APPLICATION FORM
- 8.6 ASSESSING HERITAGE SIGNIFICANCE
- 8.7 ARCHAEOLOGICAL ASSESSMENT
- 8.8 MINIMUM STANDARDS OF MAINTENANCE AND REPAIR
- 8.9 STANDARD EXEMPTIONS

## 8 APPENDICES

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### 8.1 THE ARTICLES OF THE BURRA CHARTER

*The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance 1999* is reproduced here without the associated Guidelines and Code of Ethics of Co-existence with the co-operation of Australia ICOMOS. Full copies of this document can be purchased from the NSW Heritage Office or ICOMOS directly ([www.icomos.org/australia](http://www.icomos.org/australia)).

## The Burra Charter

(The Australia ICOMOS Charter for Places of Cultural Significance)

### Preamble

Considering the International Charter for the Conservation and Restoration of Monuments and Sites (Venice 1964), and the Resolutions of the 5th General Assembly of the International Council on Monuments and Sites (ICOMOS) (Moscow 1978), the Burra Charter was adopted by Australia ICOMOS (the Australian National Committee of ICOMOS) on 19 August 1979 at Burra, South Australia. Revisions were adopted on 23 February 1981, 23 April 1988 and 26 November 1999.

The Burra Charter provides guidance for the conservation and management of places of cultural significance (cultural heritage places), and is based on the knowledge and experience of Australia ICOMOS members.

Conservation is an integral part of the management of places of cultural significance and is an ongoing responsibility.

### Who is the Charter for?

The Charter sets a standard of practice for those who provide advice, make decisions about, or undertake works to places of cultural significance, including owners, managers and custodians.

### Using the Charter

The Charter should be read as a whole. Many articles are interdependent. Articles in the Conservation Principles section are often further developed in the Conservation Processes and Conservation Practice sections. Headings have been included for ease of reading but do not form part of the Charter.

The Charter is self-contained, but aspects of its use and application are further explained in the following Australia ICOMOS documents:

- Guidelines to the Burra Charter: Cultural Significance;
- Guidelines to the Burra Charter: Conservation Policy;

- Guidelines to the Burra Charter: Procedures for Undertaking Studies and Reports;
- Code on the Ethics of Coexistence in Conserving Significant Places.

### What places does the Charter apply to?

The Charter can be applied to all types of places of cultural significance including natural, indigenous and historic places with cultural values.

The standards of other organisations may also be relevant. These include the Australian Natural Heritage Charter and the Draft Guidelines for the Protection, Management and Use of Aboriginal and Torres Strait Islander Cultural Heritage Places.

### Why conserve?

Places of cultural significance enrich people's lives, often providing a deep and inspirational sense of connection to community and landscape, to the past and to lived experiences. They are historical records, that are important as tangible expressions of Australian identity and experience. Places of cultural significance reflect the diversity of our communities, telling us about who we are and the past that has formed us and the Australian landscape. They are irreplaceable and precious.

These places of cultural significance must be conserved for present and future generations.

The Burra Charter advocates a cautious approach to change: do as much as necessary to care for the place and to make it useable, but otherwise change it as little as possible so that its cultural significance is retained.

Articles	Explanatory Notes
<p><b>Article 1. Definitions</b> For the purposes of this Charter:</p>	
<p><b>1.1</b> <i>Place</i> means site, area, land, landscape, building or other work, group of buildings or other works, and may include components, contents, spaces and views.</p>	<p>The concept of place should be broadly interpreted. The elements described in Article 1.1 may include memorials, trees, gardens, parks, places of historical events, urban areas, towns, industrial places, archaeological sites and spiritual and religious places.</p>
<p><b>1.2</b> <i>Cultural significance</i> means aesthetic, historic, scientific, social or spiritual value for past, present or future generations.  <i>Cultural significance</i> is embodied in the <i>place</i> itself, its <i>fabric</i>, <i>setting</i>, <i>use</i>, <i>associations</i>, <i>meanings</i>, records, <i>related places</i> and <i>related objects</i>.  Places may have a range of values for different individuals or groups.</p>	<p>The term cultural significance is synonymous with heritage significance and cultural heritage value.  Cultural significance may change as a result of the continuing history of the place.  Understanding of cultural significance may change as a result of new information.</p>
<p><b>1.3</b> <i>Fabric</i> means all the physical material of the <i>place</i> including components, fixtures, contents, and objects.</p>	<p>Fabric includes building interiors and sub-surface remains, as well as excavated material.  Fabric may define spaces and these may be important elements of the significance of the place.</p>
<p><b>1.4</b> <i>Conservation</i> means all the processes of looking after a <i>place</i> so as to retain its <i>cultural significance</i>.</p>	
<p><b>1.5</b> <i>Maintenance</i> means the continuous protective care of the <i>fabric</i> and <i>setting</i> of a <i>place</i>, and is to be distinguished from repair. Repair involves <i>restoration</i> or <i>reconstruction</i>.</p>	<p>The distinctions referred to, for example in relation to roof gutters, are:</p> <ul style="list-style-type: none"> <li>• maintenance — regular inspection and cleaning of gutters;</li> <li>• repair involving restoration — returning of dislodged gutters;</li> <li>• repair involving reconstruction — replacing decayed gutters.</li> </ul>
<p><b>1.6</b> <i>Preservation</i> means maintaining the <i>fabric</i> of a <i>place</i> in its existing state and retarding deterioration.</p>	<p>It is recognised that all places and their components change over time at varying rates.</p>
<p><b>1.7</b> <i>Restoration</i> means returning the existing <i>fabric</i> of a <i>place</i> to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.</p>	
<p><b>1.8</b> <i>Reconstruction</i> means returning a <i>place</i> to a known earlier state and is distinguished from <i>restoration</i> by the introduction of new material into the <i>fabric</i>.</p>	<p>New material may include recycled material salvaged from other places. This should not be to the detriment of any place of cultural significance.</p>
<p><b>1.9</b> <i>Adaptation</i> means modifying a <i>place</i> to suit the existing use or a proposed use.</p>	
<p><b>1.10</b> <i>Use</i> means the functions of a place, as well as the activities and practices that may occur at the place.</p>	

Articles	Explanatory Notes
1.11 <i>Compatible use</i> means a use which respects the <i>cultural significance</i> of a <i>place</i> . Such a use involves no, or minimal, impact on cultural significance.	
1.12 <i>Setting</i> means the area around a <i>place</i> , which may include the visual catchment.	
1.13 <i>Related place</i> means a <i>place</i> that contributes to the <i>cultural significance</i> of another place.	
1.14 <i>Related object</i> means an object that contributes to the <i>cultural significance</i> of a <i>place</i> but is not at the place.	
1.15 <i>Associations</i> mean the special connections that exist between people and a <i>place</i> .	Associations may include social or spiritual values and cultural responsibilities for a place.
1.16 <i>Meanings</i> denote what a <i>place</i> signifies, indicates, evokes or expresses.	Meanings generally relate to intangible aspects such as symbolic qualities and memories.
1.17 <i>Interpretation</i> means all the ways of presenting the <i>cultural significance</i> of a <i>place</i> .	Interpretation may be a combination of the treatment of the fabric (e.g. maintenance, restoration, reconstruction); the use of and activities at the place; and the use of introduced explanatory material.
<b>Conservation Principles</b>	
<b>Article 2. Conservation and management</b>	
2.1 <i>Places of cultural significance</i> should be conserved.	
2.2 The aim of <i>conservation</i> is to retain the <i>cultural significance</i> of a <i>place</i> .	
2.3 <i>Conservation</i> is an integral part of good management of <i>places of cultural significance</i> .	
2.4 <i>Places of cultural significance</i> should be safeguarded and not put at risk or left in a vulnerable state.	
<b>Article 3. Cautious approach</b>	
3.1 <i>Conservation</i> is based on a respect for the existing <i>fabric, use, associations</i> and <i>meanings</i> . It requires a cautious approach of changing as much as necessary but as little as possible.	The traces of additions, alterations and earlier treatments to the fabric of a place are evidence of its history and uses which may be part of its significance. Conservation action should assist and not impede their understanding.
3.2 Changes to a <i>place</i> should not distort the physical or other evidence it provides, nor be based on conjecture.	
<b>Article 4. Knowledge, skills and techniques</b>	
4.1 <i>Conservation</i> should make use of all the knowledge, skills and disciplines which can contribute to the study and care of the <i>place</i> .	

Articles	Explanatory Notes
<p><b>4.2</b> Traditional techniques and materials are preferred for the <i>conservation</i> of significant <i>fabric</i>. In some circumstances modern techniques and materials which offer substantial conservation benefits may be appropriate.</p>	<p>The use of modern materials and techniques must be supported by firm scientific evidence or by a body of experience.</p>
<p><b>Article 5. Values</b></p> <p><b>5.1</b> <i>Conservation</i> of a <i>place</i> should identify and take into consideration all aspects of cultural and natural significance without unwarranted emphasis on any one value at the expense of others.</p>	<p><b>Conservation of places with natural significance is explained in the Australian Natural Heritage Charter. This Charter defines natural significance to mean the importance of ecosystems, biological diversity and geodiversity for their existence value, or for present or future generations in terms of their scientific, social, aesthetic and life-support value.</b></p>
<p><b>5.2</b> Relative degrees of <i>cultural significance</i> may lead to different <i>conservation</i> actions at a place.</p>	<p><b><i>A cautious approach is needed, as understanding of cultural significance may change. This article should not be used to justify actions which do not retain cultural significance.</i></b></p>
<p><b>Article 6. Burra Charter Process</b></p> <p><b>6.1</b> The <i>cultural significance</i> of a <i>place</i> and other issues affecting its future are best understood by a sequence of collecting and analysing information before making decisions. Understanding cultural significance comes first, then development of policy and finally management of the place in accordance with the policy.</p>	<p>The Burra Charter process, or sequence of investigations, decisions and actions, is illustrated in the accompanying flowchart.</p>
<p><b>6.2</b> The policy for managing a <i>place</i> must be based on an understanding of its <i>cultural significance</i>.</p>	
<p><b>6.3</b> Policy development should also include consideration of other factors affecting the future of a <i>place</i> such as the owner's needs, resources, external constraints and its physical condition.</p>	
<p><b>Article 7. Use</b></p> <p><b>7.1</b> Where the <i>use</i> of a <i>place</i> is of <i>cultural significance</i> it should be retained.</p>	
<p><b>7.2</b> A <i>place</i> should have a <i>compatible use</i>.</p>	<p>The policy should identify a use or combination of uses or constraints on uses that retain the cultural significance of the place. New use of a place should involve minimal change, to significant fabric and use; should respect associations and meanings; and where appropriate should provide for continuation of practices which contribute to the cultural significance of the place.</p>



Articles	Explanatory Notes
<p><b>Article 8. Setting</b></p> <p><i>Conservation</i> requires the retention of an appropriate visual <i>setting</i> and other relationships that contribute to the <i>cultural significance</i> of the <i>place</i>.</p> <p>New construction, demolition, intrusions or other changes which would adversely affect the setting or relationships are not appropriate.</p>	<p>Aspects of the visual setting may include use, siting, bulk, form, scale, character, colour, texture and materials.</p> <p>Other relationships, such as historical connections, may contribute to interpretation, appreciation, enjoyment or experience of the place.</p>
<p><b>Article 9. Location</b></p> <p><b>9.1</b> The physical location of a <i>place</i> is part of its <i>cultural significance</i>. A building, work or other component of a place should remain in its historical location. Relocation is generally unacceptable unless this is the sole practical means of ensuring its survival.</p>	
<p><b>9.2</b> Some buildings, works or other components of <i>places</i> were designed to be readily removable or already have a history of relocation. Provided such buildings, works or other components do not have significant links with their present location, removal may be appropriate.</p>	
<p><b>9.3</b> If any building, work or other component is moved, it should be moved to an appropriate location and given an appropriate <i>use</i>. Such action should not be to the detriment of any <i>place</i> of <i>cultural significance</i>.</p>	
<p><b>Article 10. Contents</b></p> <p>Contents, fixtures and objects which contribute to the <i>cultural significance</i> of a <i>place</i> should be retained at that place. Their removal is unacceptable unless it is: the sole means of ensuring their security and <i>preservation</i>; on a temporary basis for treatment or exhibition; for cultural reasons; for health and safety; or to protect the place. Such contents, fixtures and objects should be returned where circumstances permit and it is culturally appropriate.</p>	
<p><b>Article 11. Related places and objects</b></p> <p>The contribution which <i>related places</i> and <i>related objects</i> make to the <i>cultural significance</i> of the <i>place</i> should be retained.</p>	

Articles	Explanatory Notes
<p><b>Article 12. Participation</b></p> <p><i>Conservation, interpretation and management of a place should provide for the participation of people for whom the place has special associations and meanings, or who have social, spiritual or other cultural responsibilities for the place.</i></p>	
<p><b>Article 13. Co-existence of cultural values</b></p> <p>Co-existence of cultural values should be recognised, respected and encouraged, especially in cases where they conflict.</p>	<p>For some places, conflicting cultural values may affect policy development and management decisions. In this article, the term cultural values refers to those beliefs which are important to a cultural group, including but not limited to political, religious, spiritual and moral beliefs. This is broader than values associated with cultural significance.</p>
<p><b>Conservation Processes</b></p>	
<p><b>Article 14. Conservation processes</b></p> <p><i>Conservation may, according to circumstance, include the processes of: retention or reintroduction of a use; retention of associations and meanings; maintenance, preservation, restoration, reconstruction, adaptation and interpretation; and will commonly include a combination of more than one of these.</i></p>	<p><i>There may be circumstances where no action is required to achieve conservation.</i></p>
<p><b>Article 15. Change</b></p> <p><b>15.1</b> Change may be necessary to retain <i>cultural significance</i>, but is undesirable where it reduces cultural significance. The amount of change to a <i>place</i> should be guided by the <i>cultural significance</i> of the place and its appropriate <i>interpretation</i>.</p>	<p>When change is being considered, a range of options should be explored to seek the option which minimises the reduction of cultural significance.</p>
<p><b>15.2</b> Changes which reduce <i>cultural significance</i> should be reversible, and be reversed when circumstances permit.</p>	<p>Reversible changes should be considered temporary. Non-reversible change should only be used as a last resort and should not prevent future conservation action.</p>
<p><b>15.3</b> Demolition of significant <i>fabric</i> of a <i>place</i> is generally not acceptable. However, in some cases minor demolition may be appropriate as part of <i>conservation</i>. Removed significant fabric should be reinstated when circumstances permit.</p>	

Articles	Explanatory Notes
<p><b>15.4</b> The contributions of all aspects of <i>cultural significance</i> of a <i>place</i> should be respected. If a place includes <i>fabric, uses, associations</i> or <i>meanings</i> of different periods, or different aspects of cultural significance, emphasising or interpreting one period or aspect at the expense of another can only be justified when what is left out, removed or diminished is of slight cultural significance and that which is emphasised or interpreted is of much greater cultural significance.</p>	
<p><b>Article 16. Maintenance</b> <i>Maintenance</i> is fundamental to <i>conservation</i> and should be undertaken where <i>fabric</i> is of <i>cultural significance</i> and its <i>maintenance</i> is necessary to retain that <i>cultural significance</i>.</p>	
<p><b>Article 17. Preservation</b> <i>Preservation</i> is appropriate where the existing <i>fabric</i> or its condition constitutes evidence of <i>cultural significance</i>, or where insufficient evidence is available to allow other <i>conservation</i> processes to be carried out.</p>	<p>Preservation protects fabric without obscuring the evidence of its construction and use. The process should always be applied:</p> <ul style="list-style-type: none"> <li>• where the evidence of the fabric is of such significance that it should not be altered;</li> <li>• where insufficient investigation has been carried out to permit policy decisions to be taken in accord with Articles 26 to 28.</li> </ul> <p>New work (e.g. stabilisation) may be carried out in association with preservation when its purpose is the physical protection of the fabric and when it is consistent with Article 22.</p>
<p><b>Article 18. Restoration and reconstruction</b> <i>Restoration</i> and <i>reconstruction</i> should reveal culturally significant aspects of the <i>place</i>.</p>	
<p><b>Article 19. Restoration</b> <i>Restoration</i> is appropriate only if there is sufficient evidence of an earlier state of the <i>fabric</i>.</p>	
<p><b>Article 20. Reconstruction</b> <b>20.1</b> <i>Reconstruction</i> is appropriate only where a <i>place</i> is incomplete through damage or alteration, and only where there is sufficient evidence to reproduce an earlier state of the <i>fabric</i>. In rare cases, reconstruction may also be appropriate as part of a use or practice that retains the <i>cultural significance</i> of the place.</p>	
<p><b>20.2</b> <i>Reconstruction</i> should be identifiable on close inspection or through additional <i>interpretation</i>.</p>	

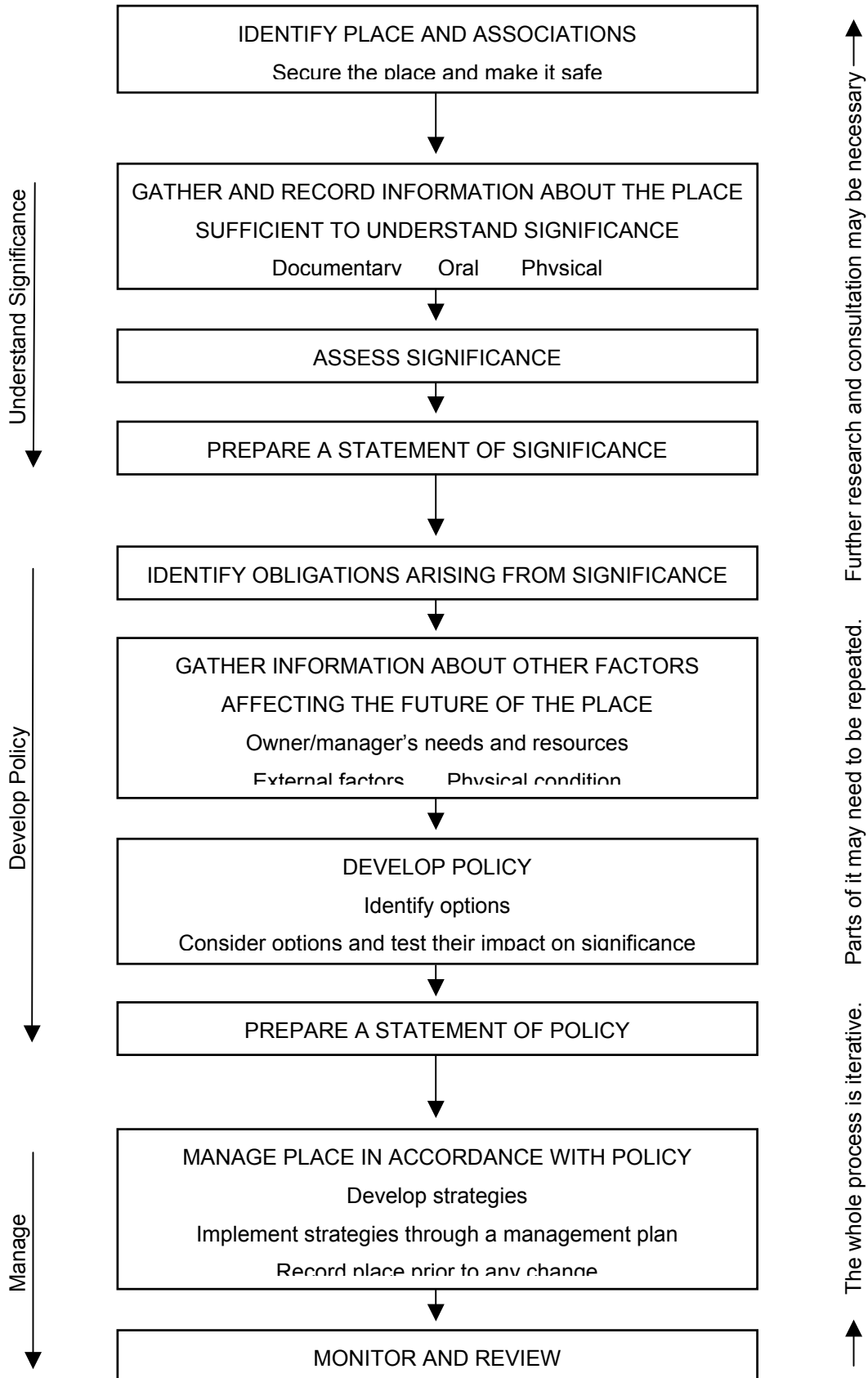
Articles	Explanatory Notes
<p><b>Article 21. Adaptation</b></p> <p><b>21.1</b> <i>Adaptation</i> is acceptable only where the adaptation has minimal impact on the <i>cultural significance</i> of the <i>place</i>.</p>	<p>Adaptation may involve the introduction of new services, or a new use, or changes to safeguard the place.</p>
<p><b>21.2</b> <i>Adaptation</i> should involve minimal change to significant fabric, achieved only after considering alternatives.</p>	
<p><b>Article 22. New work</b></p> <p><b>22.1</b> New work such as additions to the <i>place</i> may be acceptable where it does not distort or obscure the <i>cultural significance</i> of the place, or detract from its <i>interpretation</i> and appreciation.</p>	<p>New work may be sympathetic if its siting, bulk, form, scale, character, colour, texture and material are similar to the existing fabric, but imitation should be avoided.</p>
<p><b>22.2</b> New work should be readily identifiable as such.</p>	
<p><b>Article 23. Conserving use</b></p> <p>Continuing, modifying or reinstating a significant use may be appropriate and preferred forms of <i>conservation</i>.</p>	<p>These may require changes to significant <i>fabric</i> but they should be minimised. In some cases, continuing a significant use or practice may involve substantial new work.</p>
<p><b>Article 24. Retaining associations and meanings</b></p> <p><b>24.1</b> Significant <i>associations</i> between people and a <i>place</i> should be respected, retained and not obscured. Opportunities for the <i>interpretation</i>, commemoration and celebration of these associations should be investigated and implemented.</p>	<p>For many places associations will be linked to use.</p>
<p><b>24.2</b> Significant <i>meanings</i>, including spiritual values, of a <i>place</i> should be respected. Opportunities for the continuation or revival of these meanings should be investigated and implemented.</p>	
<p><b>Article 25. Interpretation</b></p> <p>The <i>cultural significance</i> of many <i>places</i> is not readily apparent, and should be explained by <i>interpretation</i>. Interpretation should enhance understanding and enjoyment, and be culturally appropriate.</p>	
<p><b>Conservation Practice</b></p>	
<p><b>Article 26. Applying the Burra Charter process</b></p> <p><b>26.1</b> Work on a <i>place</i> should be preceded by studies to understand the place which should include analysis of physical, documentary, oral and other evidence, drawing on appropriate knowledge, skills and disciplines.</p>	<p>The results of studies should be up to date, regularly reviewed and revised as necessary.</p>

Articles	Explanatory Notes
<p><b>26.2</b> Written statements of <i>cultural significance</i> and policy for the <i>place</i> should be prepared, justified and accompanied by supporting evidence. The statements of significance and policy should be incorporated into a management plan for the place.</p>	<p>Statements of significance and policy should be kept up to date by regular review and revision as necessary. The management plan may deal with other matters related to the management of the place.</p>
<p><b>26.3</b> Groups and individuals with <i>associations</i> with a <i>place</i> as well as those involved in its management should be provided with opportunities to contribute to and participate in understanding the <i>cultural significance</i> of the place. Where appropriate they should also have opportunities to participate in its <i>conservation</i> and management.</p>	
<p><b>Article 27. Managing change</b></p> <p><b>27.1</b> The impact of proposed changes on the <i>cultural significance</i> of a <i>place</i> should be analysed with reference to the statement of significance and the policy for managing the place. It may be necessary to modify proposed changes following analysis to better retain cultural significance.</p>	
<p><b>27.2</b> Existing <i>fabric</i>, <i>use</i>, <i>associations</i> and <i>meanings</i> should be adequately recorded before any changes are made to the <i>place</i>.</p>	
<p><b>Article 28. Disturbance of fabric</b></p> <p><b>28.1</b> Disturbance of significant <i>fabric</i> for study, or to obtain evidence, should be minimised. Study of a <i>place</i> by any disturbance of the fabric, including archaeological excavation, should only be undertaken to provide data essential for decisions on the <i>conservation</i> of the place, or to obtain important evidence about to be lost or made inaccessible.</p>	
<p><b>28.2</b> Investigation of a <i>place</i> which requires disturbance of the <i>fabric</i>, apart from that necessary to make decisions, may be appropriate provided that it is consistent with the policy for the place. Such investigation should be based on important research questions which have potential to substantially add to knowledge, which cannot be answered in other ways and which minimises disturbance of significant fabric.</p>	

Articles	Explanatory Notes
<p><b>Article 29. Responsibility for decisions</b></p> <p>The organisations and individuals responsible for management decisions should be named and specific responsibility taken for each such decision.</p>	
<p><b>Article 30. Direction, supervision and implementation</b></p> <p>Competent direction and supervision should be maintained at all stages, and any changes should be implemented by people with appropriate knowledge and skills.</p>	
<p><b>Article 31. Documenting evidence and decisions</b></p> <p>A log of new evidence and additional decisions should be kept.</p>	
<p><b>Article 32. Records</b></p> <p><b>32.1</b> The records associated with the <i>conservation</i> of a <i>place</i> should be placed in a permanent archive and made publicly available, subject to requirements of security and privacy, and where this is culturally appropriate.</p>	
<p><b>32.2</b> Records about the history of a <i>place</i> should be protected and made publicly available, subject to requirements of security and privacy, and where this is culturally appropriate.</p>	
<p><b>Article 33. Removed fabric</b></p> <p>Significant <i>fabric</i> which has been removed from a <i>place</i> including contents, fixtures and objects, should be catalogued, and protected in accordance with its <i>cultural significance</i>.</p> <p><b>Where possible and culturally appropriate, removed significant fabric including contents, fixtures and objects, should be kept at the place.</b></p>	
<p><b>Article 34. Resources</b></p> <p>Adequate resources should be provided for <i>conservation</i>.</p>	<p>The best conservation often involves the least work and can be inexpensive.</p>
<p><i>Words in italics are defined in Article 1.</i></p>	

# The Burra Charter Process

Sequence of investigations, decisions and actions



## 8.2 THE MODEL HERITAGE PROVISIONS FOR LOCAL ENVIRONMENTAL PLANS

The Heritage Office is currently preparing Guidelines to the Model Heritage provisions and these will be provided to local councils on completion.



## Heritage Model Provisions

(Revised Edition: August 2000)

Part [X] Heritage conservation

### I Definitions

[Note: It may be more convenient to insert these definitions in the clause, Schedule or Dictionary containing other definitions used in the LEP adopting these model provisions]

In this Part [or “plan” or “Division”]:

**archaeological site** means the site of one or more relics.

**conservation management plan** means a document prepared in accordance with the requirements of the NSW Heritage Office that establishes the heritage significance of an item, place or heritage conservation area and identifies conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**demolish** a heritage item, or a building, work, archaeological site, tree or place within a heritage conservation area, means wholly or partly destroy, dismantle or deface the heritage item or the building, work, archaeological site, tree or place.

**heritage conservation area** means an area of land that is shown [*insert how it is shown, for example, edged heavy black*] on the map marked “.....” and includes buildings, works, archaeological sites, trees and places and situated on or within the land.

**heritage impact statement** means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area, or of a building, work, archaeological site, tree or place within a heritage conservation area, an assessment of the impact that proposed development will have on that significance and proposals for measures to minimise that impact.

**heritage item** means:

- (a) a building, work, archaeological site or place specified in an inventory of heritage items that is available at the office of the Council and the site of which is described in Schedule X [*insert reference to the schedule of the plan containing a written description of heritage item sites*] and shown [*insert how it is shown, for example, by diagonal hatching*] on the map marked ‘.....’, or
- (b) a place specified in an inventory of heritage items available at the office of the Council and described in the inventory as a place of Aboriginal heritage significance.[*the site may also be described in a Schedule to the plan and shown on a map*]

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**maintenance** means the ongoing protective care of a heritage item or a building, work, archaeological site, tree or place within a heritage conservation area. It does not include alterations, such as carrying out extensions or additions, or the introduction of new materials or technology.

**place of Aboriginal heritage significance** means:

- (a) a place that has the physical remains of pre-European occupation by, or is of contemporary significance to, the Aboriginal people. It can (but need not) include items and remnants of the occupation of the land by Aboriginal people, such as burial places, engraving sites, rock art, midden deposits, scarred and sacred trees and sharpening grooves, or
- (b) a natural Aboriginal sacred site or other sacred feature. It includes natural features such as creeks or mountains of long-standing cultural significance, as well as initiation, ceremonial or story places or areas of more contemporary cultural significance.

**potential archaeological site** means a site:

- (a) that is specified in Schedule [X], described in that Schedule as a potential archaeological site and shown [*insert how it is to be shown, for example, by cross hatching*] on the map marked ‘.....’, or
- (b) that, in the opinion of the consent authority, has the potential to be an archaeological site, even if it is not so specified.

**potential place of Aboriginal heritage significance** means a place:

- (a) that is specified in an inventory of heritage items available at the office of the Council and described in the inventory as a potential place of Aboriginal heritage significance [*the site may also be described in a Schedule to the plan and shown on a map*], or
- (b) that, in the opinion of the consent authority, has the potential to have Aboriginal heritage significance, even if it is not so specified.

**relic** means:

- (a) any deposit, object or material evidence (which may consist of human remains) that is more than 50 years old relating to the use or settlement, not being Aboriginal habitation, of [*insert name of local government area*] and that is a fixture or is wholly or partly within the ground, or
- (b) any deposit, object or material evidence (which may consist of human remains) of any age relating to Aboriginal habitation of [*insert name of local government area*].

## 2 Objectives

The objectives of this plan in relation to heritage are:

- (a) to conserve the environmental heritage of [*name of local government area*], and
- (b) to conserve the heritage significance of existing significant fabric, relics, settings and views associated with the heritage significance of heritage items and heritage conservation areas, and

- (c) to ensure that archaeological sites and places of Aboriginal heritage significance are conserved, and
- (d) to allow for the protection of places which have the potential to have heritage significance but are not identified as heritage items, and
- (e) to ensure that the heritage conservation areas throughout [*name of local government area*] retain their heritage significance.

### **3 Protection of heritage items and heritage conservation areas**

#### **When is consent required?**

- (1) The following development may be carried out only with development consent:
  - (a) demolishing or moving a heritage item or a building, work, relic, tree or place within a heritage conservation area,
  - (b) altering a heritage item or a building, work, relic, tree or place within a heritage conservation area by making structural or non-structural changes to its exterior, such as to its detail, fabric, finish or appearance,
  - (c) altering a heritage item by making structural changes to its interior,
  - (d) disturbing or excavating a place of Aboriginal heritage significance or an archaeological site while knowing, or having reasonable cause to suspect, that the disturbance or excavation will or is likely to result in a relic being discovered, exposed, moved, damaged or destroyed,
  - (e) moving the whole or a part of a heritage item,
  - (f) erecting a building on, or subdividing, land on which a heritage item is located or which is within a heritage conservation area.

#### **What exceptions are there?**

- (2) Development consent is not required by this clause if:
  - (a) in the opinion of the consent authority:
    - (i) the proposed development is of a minor nature or consists of maintenance of the heritage item or of a building, work, archaeological site, tree or place within a heritage conservation area, and
    - (ii) the proposed development would not adversely affect the significance of the heritage item or heritage conservation area, and
  - (b) the proponent has notified the consent authority in writing of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development will comply with this subclause and that development consent is not otherwise required by this plan.

- (3) Development consent is not required by this clause for the following development in a cemetery or burial ground if there will be no disturbance to human remains, to relics in the form of grave goods or to a place of Aboriginal heritage significance:
- (a) the creation of a new grave or monument, or
  - (b) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers.

**What must be included in assessing a development application?**

- (4) Before granting a consent required by this clause, the consent authority must assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage item or heritage conservation area concerned.

**What extra documentation is needed?**

- (5) The assessment must include consideration of a **heritage impact statement** that addresses at least the following issues (but is not to be limited to assessment of those issues, if the heritage significance concerned involves other issues). The consent authority may also decline to grant such a consent until it has considered a **conservation management plan**, if it considers the development proposed should be assessed with regard to such a plan.
- (6) The minimum number of issues that must be addressed by the heritage impact statement are:
- (a) for development that would affect a **heritage item**:
    - (i) the heritage significance of the item as part of the environmental heritage of [name of local government area], and
    - (ii) the impact that the proposed development will have on the heritage significance of the item and its setting, including any landscape or horticultural features, and
    - (iii) the measures proposed to conserve the heritage significance of the item and its setting, and
    - (iv) whether any archaeological site or potential archaeological site would be adversely affected by the proposed development, and
    - (v) the extent to which the carrying out of the proposed development would affect the form of any historic subdivision, and
  - (b) for development that would be carried out in a **heritage conservation area**:
    - (i) the heritage significance of the heritage conservation area and the contribution which any building, work, relic, tree or place affected by the proposed development makes to this heritage significance, and
    - (ii) the impact that the proposed development would have on the heritage significance of the heritage conservation area, and

- (iii) the compatibility of any proposed development with nearby original buildings and the character of the heritage conservation area, taking into account the size, form, scale, orientation, setbacks, materials and detailing of the proposed development, and
- (iv) the measures proposed to conserve the significance of the heritage conservation area and its setting, and
- (v) whether any landscape or horticultural features would be affected by the proposed development, and
- (vi) whether any archaeological site or potential archaeological site would be affected by the proposed development, and
- (vii) the extent to which the carrying out of the proposed development in accordance with the consent would affect any historic subdivision pattern, and
- (viii) the issues raised by any submission received in relation to the proposed development in response to the notification or advertising of the application.

#### **4 Advertised development**

The following development is identified as advertised development:

- (a) the demolition of a heritage item or a building, work, tree or place in a heritage conservation area, and
- (b) the carrying out of any development allowed by clause [*insert the number of the clause (equivalent to clause 9 in these model provisions) that allows a heritage conservation incentive*].

#### **5 Notice of demolition to the Heritage Council**

Before granting consent for the demolition of a heritage item identified in Schedule [X] as being of State significance, the consent authority must notify the Heritage Council about the application and take into consideration any comments received in response within 28 days after the notice is sent.

#### **6 Development affecting places or sites of known or potential Aboriginal heritage significance**

Before granting consent for development that is likely to have an impact on a place of Aboriginal heritage significance or a potential place of Aboriginal heritage significance, or that will be carried out on an archaeological site of a relic that has Aboriginal heritage significance, the consent authority must:

- (a) consider a heritage impact statement explaining how the proposed development would affect the conservation of the place or site and any relic known or reasonably likely to be located at the place or site, and
- (b) except where the proposed development is integrated development, notify the local Aboriginal communities (in such way as it thinks appropriate) and the Director-General of National Parks and Wildlife of its intention to do so and take into consideration any comments received in response within 28 days after the relevant notice is sent.

## **7 Development affecting known or potential archaeological sites of relics of non-Aboriginal heritage significance**

- (1) Before granting consent for development that will be carried out on an archaeological site or a potential archaeological site of a relic that has non-Aboriginal heritage significance (whether or not it is, or has the potential to be, also the site of a relic of Aboriginal heritage significance), the consent authority must:
  - (a) consider a heritage impact statement explaining how the proposed development will affect the conservation of the site and any relic known or reasonably likely to be located at the site, and
  - (b) notify the Heritage Council of its intention to do so and take into consideration any comments received in response within 28 days after the notice is sent.
- (2) This clause does not apply if the proposed development:
  - (a) does not involve disturbance of below-ground deposits and the consent authority is of the opinion that the heritage significance of any above-ground relics would not be adversely affected by the proposed development, or
  - (b) is integrated development.

## **8 Development in the vicinity of a heritage item**

[Note:

*If there are no heritage conservation areas, references to them are to be removed from this clause]*

- (1) Before granting consent to development in the vicinity of a heritage item, the consent authority must assess the impact of the proposed development on the heritage significance of the heritage item and of any heritage conservation area within which it is situated.
- (2) This clause extends to development:
  - (a) that may have an impact on the setting of a heritage item, for example, by affecting a significant view to or from the item or by overshadowing, or
  - (b) that may undermine or otherwise cause physical damage to a heritage item, or
  - (c) that will otherwise have any adverse impact on the heritage significance of a heritage item or of any heritage conservation area within which it is situated.

- (3) The consent authority may refuse to grant any such consent unless it has considered a heritage impact statement that will help it assess the impact of the proposed development on the heritage significance, visual curtilage and setting of the heritage item.
- (4) The heritage impact statement should include details of the size, shape and scale of, setbacks for, and the materials to be used in, any proposed buildings or works and details of any modification that would reduce the impact of the proposed development on the heritage significance of the heritage item.

## 9 Conservation incentives

The consent authority may grant consent to the use for any purpose of a building that is a heritage item, or of the land on which such a building is erected, even though the use would otherwise not be allowed by this plan, if:

- (a) it is satisfied that the retention of the heritage item depends on the granting of consent, and
- (b) the proposed use is in accordance with a conservation management plan which has been endorsed by the consent authority, and
- (c) the granting of consent to the proposed use would ensure that all necessary conservation work identified in the conservation management plan is carried out, and
- (d) the proposed use would not adversely affect the heritage significance of the heritage item or its setting, and
- (e) the proposed use would not adversely affect the amenity of the surrounding area otherwise than to an insignificant extent.

## 10 Development in heritage conservation areas

[Note: The following subclauses are optional and apply only if there are heritage conservation areas]

- (1) Before granting consent for the erection of a building within a heritage conservation area, the consent authority must be satisfied that the features of the proposed building will be compatible with the heritage significance of the heritage conservation area, having regard to the form of, and materials used in, buildings that contribute to the heritage significance of the heritage conservation area.
- (2) In satisfying itself about those features, the consent authority must have regard to at least the following (but is not to be limited to having regard to those features):
  - (a) the pitch and form of the roof (if any), and
  - (b) the style, size, proportion and position of the openings for windows or doors (if any), and
  - (c) the colour, texture, style, size and type of finish of the materials to be used on the exterior of the building.
- (3) Consent must not be granted to development on a site within a heritage conservation area which will result in a landscaped area of less than [*insert appropriate percentage*]% of the site area, if the site is within [*specify where this requirement will apply*].

**8.3 THE MINISTERIAL CONSENT FOR DELEGATIONS AND MINISTERIAL ORDER FOR AUTHORISATION**

**Ministerial Order**

Authorisations for local councils

**To make Interim Heritage Orders**

**Section 25 of the Heritage Act 1977**

I, Minister for Urban Affairs and Planning, by s.25 (1) Heritage Act 1977, make this order to authorise the local councils identified in Annexure A1 to make Interim Heritage Orders for items in the local council's area in accordance with s.25 of the Heritage Act 1977, and subject to the conditions listed in Schedule 1.

**Dr Andrew Refshauge M.P.,  
Minister for Urban Affairs and Planning**

**Sydney, 21 August 2001**



## Annexure A1

**I. Councils authorised to make Interim Heritage Orders in accordance with  
Section 25 of the NSW Heritage Act 1977**

**Sydney Suburban Councils**

Auburn Council	Campbelltown City Council	Liverpool City Council
Bankstown City Council	Canterbury City Council	Marrickville Council
Blacktown City Council	Fairfield City Council	Rockdale City Council
The Council of the City of Botany Bay	Holroyd City Council	Ryde City Council
Burwood Council	Hurstville City Council	Strathfield Municipal Council
	Kogarah Municipal Council	Warringah Council

**Rural and Regional Councils**

Albury City Council	Glen Innes Municipal Council	Newcastle City Council
Armidale Dumaresq Council	Gloucester Shire Council	Nundle Shire Council
Ballina Shire Council	Gosford City Council	Oberon Council
Balranald Council	Goulburn City Council	Orange City Council
Barraba Shire Council	Grafton City Council	Parkes Shire Council
Bathurst City Council	Great Lakes Council	Parry Shire Council
Bega Valley Shire Council	Greater Taree City Council	Port Stephens Council
Bellingen Shire Council	Griffith City Council	Pristine Waters Council
Berrigan Shire Council	Gundagai Shire Council	Queanbeyan City Council
Bingara Shire Council	Gunnedah Shire Council	Quirindi Shire Council
Bland Shire Council	Gunning Shire Council	Richmond Valley Council
Blayney Shire Council	Guyra Shire Council	Rylstone Shire Council
Bogan Shire Council	Harden Shire Council	Scone Shire Council
Bombala Council	Hastings Council	Severn Shire Council
Boorowa Council	Hay Shire Council	Shellharbour City Council
Bourke Shire Council	Holbrook Shire Council	Shoalhaven City Council
Brewarrina Shire Council	Hume Shire Council	Singleton Shire Council
Broken Hill City Council	Inverell Shire Council	Snowy River Shire Council
Byron Shire Council	Jerilderie Shire Council	Tallaganda Shire Council
Cabonne Council	Junee Shire Council	Tamworth City Council
Camden Council	Kempsey Shire Council	Temora Shire Council

### Rural and Regional Councils (cont'd)

Carrathool Shire Council	The Council of the Municipality of Kiama	Tenterfield Shire Council
Central Darling Shire Council	Kyogle Council	Tumbarumba Shire Council
Cessnock City Council	Lachlan Shire Council	Tumut Shire Council
Cobar Shire Council	Lake Macquarie City Council	Tweed Shire Council
Coffs Harbour City Council	Leeton Shire Council	Uralla Shire Council
Conargo Shire Council	Lismore City Council	Urana Shire Council
Coolah Shire Council	Lithgow City Council	Wagga Wagga City Council
Coolamon Shire Council	Lockhart Shire Council	The Council of the Shire of Wakool
Cooma-Monaro Shire Council	Macleay Shire Council	Walcha Council
Coonabarabran Shire Council	Maitland City Council	Walgett Shire Council
Coonamble Shire Council	Manilla Shire Council	Warren Shire Council
Cootamundra Shire Council	Merriwa Shire Council	Weddin Shire Council
Copmanhurst Shire Council	Moree Plains Shire Council	Wellington Council
Corowa Shire Council	Mudgee Shire Council	Wentworth Shire Council
Cowra Shire Council	Mulwaree Shire Council	Wingecarribee Shire Council
Crookwell Shire Council	Murray Shire Council	Wollondilly Shire Council
Culcairn Shire Council	Murrumbidgee Shire Council	Wollongong City Council
Deniliquin Council	Murrurundi Shire Council	Wyong Shire Council
Dubbo City Council	Muswellbrook Shire Council	Yallaro Shire Council
Dungog Shire Council	Nambucca Shire Council	Yarrowlumla Shire Council
Eurobodalla Shire Council	Narrabri Shire Council	Yass Shire Council
Evans Shire Council	Narrandera Shire Council	Young Shire Council
Forbes Shire Council	Narromine Shire Council	
Gilgandra Shire Council		

## SCHEDULE I

### CONDITIONS FOR COUNCILS TO MAKE INTERIM HERITAGE ORDERS

- 1) A council must not make an Interim Heritage Order (IHO) unless:
  - a) an environmental planning instrument containing a schedule of heritage items derived from a heritage study and provisions for the management of those items is in force in the Local Government Area;
  - b) it has considered a preliminary heritage assessment of the item prepared by a person with appropriate heritage knowledge, skills and experience employed or retained by the council and considers that:
    - i) the item is or is likely to be found, on further inquiry and investigation, to be of local heritage significance;
    - ii) the item is being or is likely to be harmed;
    - iii) the IHO is confined to the item determined as being under threat; and
  - c) where the IHO is made over land which includes an item which is likely to be found, on further inquiry and investigation, to be of significance to Aboriginal people, a council must refer the proposal to make an IHO to the Heritage Office for assessment regarding significance and community consultation, before the IHO is made. Council must comply with the recommendations of the Heritage Office made in its assessment prepared pursuant to the referral.
  
- 2) A council must not make an IHO where:
  - a) the item is listed on:
    - i) an environmental planning instrument as an item of environmental heritage;
    - ii) the item is within a conservation area identified in an environmental planning instrument;
  - b) the item is covered by
    - i) an order under s.130 or s.136 of the Heritage Act 1977;
  - c) the council has previously placed an interim heritage order on the item;
  - d) the Court has granted development consent in relation to the item, that permits the item to be harmed, and the development consent is still in force.
  
- 3) A council must not make an IHO in relation to item(s) that are located on land:
  - a) that is Crown land;
  - b) which is being developed by or on behalf of the Crown;
  - c) which is subject to a development declared to be State Significant Development under the Environmental Planning & Assessment Act 1979.
  
- 4) A council must not make an IHO in respect of an item (which includes a building, work, relic, or place) that is subject to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the Crown, an officer or employee of the Crown or a Minister.

For the purposes of this clause, “the Crown” includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial Corporations. “Crown” is also taken to have the same meaning as specified in section 57(1A)(b) of the Heritage Act, 1977.

For the purposes of this clause, "the Crown" includes State Government Agencies, State Owned Corporations, Statutory Corporations, Statutory Authorities and Ministerial Corporations. "Crown" is also taken to have the same meaning as specified in section 57(1A)(b) of the Heritage Act, 1977. This clause does not apply to an approval, consent, licence, permit, permission or any other form of authorisation that requires or permits the item to be harmed and that is issued by the council.

5. An Interim Heritage Order made by a council must contain the following condition:
  - (a) "This Interim Heritage Order will lapse after six months from the date it is made unless the local council has passed a resolution before that date:
  - (b) in the case of an item which, in the council's opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan

(LEP) with appropriate provisions for protecting and managing the item; and  
 (c) in the case of an item which in the Council's opinion, is of State heritage significance, to nominate the item for inclusion on the State Heritage Register."

6. A council must ensure that the authorisation is carried out in accordance with guidelines issued from time to time by the Heritage Council and/or Heritage Office.
7. A council must publish annually in its State of Environment Report or Annual Report a summary of all decisions regarding IHOs for that year and provide a copy to the NSW Heritage Office.

A council will be responsible for defending proceedings in any Court relating to its decisions made under this authorisation (including the bearing of all costs).

**Section 169(3) of the *Heritage Act 1977*****Ministerial Consent**

I, Minister for Urban Affairs and Planning consent to the determination of the Heritage Council of NSW, in accordance with s.169 (3) and s.21 of the Heritage Act 1977, at its meeting of 7 December 2000:

1. to delegate to all local councils in NSW, the functions of the Heritage Council listed in Column I of Schedule A, subject to the conditions listed in Column II Schedule A, and the general conditions in Schedule B;
2. to revoke all previous delegations to the General Managers of North Sydney and Broken Hill Councils under the Heritage Act.

**Dr Andrew Refshauge M.P.**  
**Minister for Urban Affairs and Planning**  
**Sydney, 21 August 2001**

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**Heritage Act 1977**  
**Delegation of Functions of Heritage Council of NSW**

The Heritage Council of NSW, by s.169 (3) and s.21 of the Heritage Act 1977, and with the consent of the Minister for Urban Affairs and Planning, determined at its meeting of 7 December 2000 to

1. delegate to all local councils in NSW, the functions of the Heritage Council listed in Column I of Schedule A, subject to the conditions listed in Column II Schedule A, and the general conditions in Schedule B.
2. revoke all previous delegations to the General Managers of North Sydney and Broken Hill Councils under the Heritage Act.

The delegation takes effect from 1 February, 2002.



Hazel Hawke  
Chair  
Heritage Council of NSW  
Sydney, 21 December 2001

*SCHEDULE A*

## DELEGATION OF HERITAGE COUNCIL FUNCTIONS TO LOCAL COUNCILS

Subject to compliance with the General Conditions in Schedule B and the specific conditions in Column II of the table below, a council may exercise the functions of the Heritage Council listed in Column I:

<b>Column I</b>	<b>Column II</b>
<b>Functions delegated</b>	<b>Conditions and limitations</b>
<p><b>1. For items listed on the State Heritage Register, to determine whether public notice of an application under s.60 of the Heritage Act 1977 should be given under s.61 of that Act.</b></p>	<ul style="list-style-type: none"> <li>a) Where the council determines that public notice should be given under s.61, the council must forward the application to the Heritage Council within 5 days of receiving it.</li> <li>b) A local council must not exercise this function where the item is of significance to Aboriginal people, as identified on the State Heritage Inventory.</li> </ul>
<p>2. For items listed on the State Heritage Register, to approve, under s.63 of the Heritage Act 1977, an application made under s.60 and all incidental powers, functions and duties thereto.</p>	<ul style="list-style-type: none"> <li>a) A local council must not exercise this function where the local council has determined that public notice should be given under s.61.</li> <li>b) Where the council knows, or has reasonable cause to suspect, that the proposed activity will or is likely to result in a relic being discovered, exposed, damaged or destroyed, the application must be referred to the Heritage Office for assessment regarding archaeological matters. Council must comply with the recommendations of the Heritage Office made in its assessment prepared pursuant to the referral. (see condition 6, Schedule B).</li> <li>c) A local council must not exercise this function where the item is of significance to Aboriginal people, as identified on the State Heritage Inventory.</li> </ul>

## SCHEDULE B

### GENERAL CONDITIONS OF DELEGATION OF HERITAGE COUNCIL FUNCTIONS TO LOCAL COUNCILS

A council must not exercise the functions set out in Column I of the table in Schedule A unless it meets the following general conditions and the specific conditions set out in Column II of that table:

1. The council must have in force an environmental planning instrument containing a schedule of heritage items derived from a heritage study and provisions for the management of those items.
2. The council must not own the item or be the proponent of the development.
3. The council must satisfy itself that the application is not rendered unnecessary by an exemption under s57 of the Heritage Act or a Heritage Agreement made under the Heritage Act.
4. The council must obtain the advice of a person with appropriate heritage knowledge, skills and experience employed or retained by the council about the heritage significance of the item(s) and/or the impact of the development proposal on the heritage significance of that item(s), and take that advice into account.
5. The council must ensure that delegations are carried out in accordance with guidelines issued by the Heritage Council and/or Heritage Office at all times.
6. The council shall not determine an application for approval under Div.3 of Pt.4 of the Heritage Act 1977 pursuant to a delegation from the Heritage Council where the council knows, or has reasonable cause to suspect, that the proposed activity will or is likely to result in a relic being discovered, exposed, damaged or destroyed, before it has referred the application to the Heritage Office for assessment regarding archaeological matters, and complied with the recommendations of the Heritage Office made in its assessment prepared pursuant to the referral.
7. The council must take into account as far as practicable the cumulative effect of its decisions on the heritage significance of the item and on the heritage resource of its area.
8. Any conditions imposed on an approval under Div.3 of Pt. 4 of the Heritage Act made pursuant to a delegation from the Heritage Council must comply with Heritage Council guidelines and comply with and include any relevant standard conditions issued by the Heritage Council. The council may impose additional conditions that do not conflict with Heritage Council conditions.
9. If the council becomes aware of any breach of the Heritage Act, it must promptly report that breach to the Heritage Council.
10. The council must provide the Heritage Council with a copy of delegated decisions:
  - consents issued under the Environmental Planning and Assessment Act related to integrated development; and
  - approvals issued under the Heritage Act as soon as practicable after the delegation has been exercised.
11. The council must publish annually in the Annual Report or State of the Environment Report a summary of all decisions for that year, the nature of each matter, and the local council's decision. A copy of the summary must be provided to the Heritage Office.



**SCHEDULE B (cont'd)****GENERAL CONDITIONS OF  
DELEGATION OF HERITAGE  
COUNCIL FUNCTIONS TO LOCAL  
COUNCILS**

12. Where the Heritage Council or the Heritage Office requests that council not exercise its delegation over a particular matter, the council will refer the matter to the Heritage Council for determination.
13. A council will responsible for defending proceedings in any Court relating to its decisions made under this delegation (including the bearing of all costs). Council will notify the Heritage Office of any appeals lodged.

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## Ministerial Consent

### Section 169(3) of the *Heritage Act 1977*

I, Minister for Urban Affairs and Planning, consent to the determination of the Heritage Council of NSW, in accordance with s.169 (3) and s.21 of the Heritage Act 1977, at its meeting of 7 December 2000, to delegate to Randwick Council and Sydney City Council the functions of the Heritage Council listed in Column I of Schedule C, subject to the conditions listed in Column II Schedule C and Schedule D for a trial period of one year from the date of the delegation coming into effect.

**Dr Andrew Refshauge M.P.**  
**Minister for Urban Affairs and Planning**  
**Sydney, 21 August 2001**

## Heritage Act 1977

### Delegation of Certain Archaeological Functions of Heritage Council of NSW

The Heritage Council of NSW, by s.169 (3) and s.21 of the Heritage Act 1977, and with the consent of the Minister for Urban Affairs and Planning, determined at its meeting of 7 December 2000 to delegate to Randwick Council and Sydney City Council the functions of the Heritage Council listed in Column I of Schedule C, subject to the conditions listed in Column II Schedule C and Schedule D for a trial period of one year from the date of the delegation coming into effect.

The delegation takes effect from 1 February, 2002.



**Hazel Hawke**  
**Chair**  
**Heritage Council of NSW**  
**Sydney, 21 December 2001**

## SCHEDULE C

### DELEGATION OF HERITAGE COUNCIL FUNCTIONS TO LOCAL COUNCILS IN NSW

Subject to the conditions in Schedule D, Sydney City Council and Randwick Council may exercise the following functions of the Heritage Council for a trial period of one year:

Column I	Column II
Functions delegated	Conditions and limitations
<p>1. For items listed on the State Heritage Register, to approve under s63 of the Heritage Act applications made under s60 and all incident powers, functions and duties thereto for the following specific classes of works affecting relics:</p> <ul style="list-style-type: none"> <li>• monitoring; and</li> <li>• test excavation.</li> </ul>	<p>a) A local council must not exercise this function where the item is of significance to Aboriginal people, as identified on the State Heritage Inventory.</p>
<p>2. To issue under s141 of the Heritage Act excavation permits for the following specific classes of works affecting relics:</p> <ul style="list-style-type: none"> <li>• monitoring; and</li> <li>• test excavation.</li> </ul>	

## SCHEDULE D

### GENERAL CONDITIONS OF DELEGATION OF CERTAIN HERITAGE COUNCIL ARCHAEOLOGICAL FUNCTIONS TO LOCAL COUNCILS

A council must not exercise the functions set out in Column I of the table in Schedule C unless it meets the following general conditions and the specific conditions set out in Column II of that table:

1. The council must have in force an environmental planning instrument containing a schedule of heritage items derived from a heritage study and provisions for the management of those items.
2. The council must not own the item or be the proponent of the development.
3. The council must satisfy itself that the application is not rendered unnecessary by an exemption under s57 of the Heritage Act or a Heritage Agreement made under the Heritage Act.
4. The council must employ an historical archaeologist on staff with appropriate archaeological qualifications, knowledge, skills and experience and must obtain the advice of that person about the heritage significance of the archaeological resource and/or the impact of the development proposal on the heritage significance of the archaeological resource, and take that advice into account.
5. The council must take into account as far as practicable the cumulative effect of its decisions on the heritage significance of the item and on the heritage resource of its area.
6. The Delegate must ensure applications and permits comply with Heritage Council requirements, guidelines, regulations and conditions at all times. The Delegate may set additional conditions which do not conflict with Heritage Council conditions. Heritage Council conditions may not be waived without the written consent of the Heritage Council.
7. If the council becomes aware of any breach of the Heritage Act, it must promptly report that breach to the Heritage Council.
8. The delegation only extends to the following classes of works affecting archaeological relics (under s63 and s141 of the NSW Heritage Act 1977):
  - a) monitoring (where there is an expectation of only minor archaeological remains and supervision is required primarily to record archaeological information); and
  - b) test excavation (where small-scale excavation is undertaken on a site to determine the extent and preservation of a larger archaeological resource).
9. Major archaeological projects (including large-scale salvage or research excavations) must be referred to the Heritage Council for approval.
10. Where the delegate is uncertain whether proposed work is major or minor, or where the work may be controversial the matter should be referred to the Director of the Heritage Office. If relics are unexpectedly uncovered during work, work must cease immediately and the Heritage Office must be notified.

## SCHEDULE D (cont'd)

### **GENERAL CONDITIONS OF DELEGATION OF CERTAIN HERITAGE COUNCIL ARCHAEOLOGICAL FUNCTIONS TO LOCAL COUNCILS**

11. One copy of any archaeological assessment must be supplied with an application and one copy of any final report shall be provided to the Heritage Office to provide a single collection of reporting on all archaeological work undertaken in NSW.
12. The council must provide the Heritage Council with a copy of delegated decisions:
  - consents issued under the Environmental Planning and Assessment Act related to integrated development;
  - approvals issued under section 63 of the Heritage Act;
  - excavation permits issued under section 141 of the Heritage Act;

as soon as practicable after the delegation has been exercised.

A council must not exercise the functions set out in Column I of the table in Schedule C unless it meets the following general conditions and the specific conditions set out in Column II of that table:

13. The council must publish annually in the Annual Report or State of the Environment Report a summary of all decisions for that year, the nature of each matter, and the local council's decision. A copy of the summary must be provided to the Heritage Office.
14. Where the Heritage Council or the Heritage Office requests that council not exercise its delegation over a particular matter, the council will refer the matter to the Heritage Council for determination.
15. The council will be responsible for defending proceedings in any Court relating to its decisions made under this delegation (including the bearing of all costs).



8.4 **TEMPLATES**

**8.4.1 Interim Heritage Order**

**HERITAGE ACT 1977**

**INTERIM HERITAGE ORDER NO.**

Under Section 25 of the *Heritage Act 1977* .....Council does by this order:

- I. make an interim heritage order to cover the item of the environmental heritage specified or described in Schedule ‘A’; and
- II. declare that the Interim Heritage Order shall apply to the curtilage or site of such item, being the land described in Schedule ‘B’.

This Interim Heritage Order will lapse six months from the date that it is made unless the local council has passed a resolution before that date either:

- 1) in the case of an item which, in the council’s opinion, is of local significance, to place the item on the heritage schedule of a local environmental plan with appropriate provisions for protecting and managing the item; and
- 2) in the case of an item which in the council’s opinion, is of State heritage significance, nominate the item for inclusion on the State Heritage Register.

Delegated person  
.....Council

Sydney.....2002

**Schedule ‘A’**

### 8.4.2. Determining Applications under Delegations – example of Heritage Council delegated decision report

#### Delegated decision for Assistant Director's signature

<b>Name &amp; address of property or issue:</b>	Name [as heritage listing] and street address
<b>Item Description:</b>	Keep brief, one sentence only e.g. Federation house set within mature landscape
<b>Type of application or issue:</b>	eg S60, IDA DA referral OR S60 that is essentially the same as earlier approved IDA delate as appropriate
<b>Applicant:</b> <b>Owner:</b>	Ms J Bloggs Ms J Bloggs Pty Ltd
<b>Proposal:</b>	eg Adaptive reuse of heriatge buildings and subdivision of site - keep brief and state if minor works
<b>Approximate cost of works:</b>	\$ you must include cost here
<b>Statutory Listings</b>	i. SHR include no. & date of listing ii. LEP iii.
<b>Non Statutory Listings</b>	iv. Conservation area etc v. Others (eg. NT, RNE, etc) include date listed
<b>Other items affected by proposal</b>	where setting of other heritage items is affected
<b>Previous Heritage Council determinations:</b>	Include only resolutions relevant to this application or issue, eg S60 for signage approved under delegation 20/03/01, if S60 essentially same as earlier IDA say so here
<b>Notifications</b>	Yes/No
<b>Information for consideration:</b>	Annexure A: Drawings xyz dated 0/0/0 prepared by Annexure B: e.g. Site Plan showing curtilage of item Annexure C: SHR Listing if necessary and not in summary SOS Annexure D: Submissions received

File no.		HRL no.		Application no.	IDA/DA/S60 no.
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## Delegated decision for Assistant Director's signature (cont'd)

Date received		Date decision required	
Date further info requested		Date further info received	

*Statement of significance*

Summary statement if it is too lengthy to fit here within a page. If it is a summary, state this and include full statement as an annexure

**Reference : Cite source with brief explanation why if SHR statement not used**

**Date : when statement was prepared**

\*\*Note this box should be kept on one page if possible i.e. shrink the font 1 point if that makes it fit – if it is short and the SOS fits on the page - include it. Page break to main body of report

## Details of the application

This explains to the HC what it is they are considering. Insert a brief factual description of what the issue is about, as described in the application. Do not include opinion here.

Refer to the documents that the HC need to consider which explain the issue

e.g.

- Drawings
- HIS
- etc

## Site Description

Physical description of site taken from the application

## Historical Development

A summary of the history of the item, highlighting/concentrating on matters relevant to application. Add subheadings where appropriate to break up text into specific periods and if greater detail is required include as an annexure.

Maximum three short paragraphs.

## Archaeological Potential

Include Statement of Archaeological Potential here if applicable, include Aboriginal archaeological potential OR

In view of the previous extensive disturbance and/or relatively recent settlement and use of the site, there is little likelihood of there being any relics on the land or of any relics of state or local significance delete as appropriate

## Planning Background

This should describe any prior applications or decisions, discussions with the Heritage Office, council, advisers or committees and their outcomes that are RELEVANT to the issue - eg. the applicant has had extensive pre DA discussions with the HO.

Use bullet points if necessary.

## *Impact of the proposal on heritage significance*

### Applicants Assessment

This is the applicant's view and the text where possible should be copied from application. If necessary, use bullet points to summarise key issues. Cross reference to the HIS which may appear in full or in part in an annexure

### *Archaeological Methodology*

after discussing the impacts of the proposal, state the applicant's methodology, how it mitigates any impact on the archaeological resource, etc... OR

The proposal will have no substantive adverse impact on heritage values or European archaeological resources and therefore a research design and methodology has not been prepared.

### Heritage Office Assessment

This is your assessment of the material affect of the proposal on heritage significance. It will be the longest section of the report as the issues need to be discussed comprehensively. Impacts can be positive as well as negative....

Use the following subheadings to describe impact of proposal, all subheadings should be addressed

### *Natural Heritage*

This includes ecosystems, geological areas, water systems. Rare species or communities may be protected by legislation eg Cumberland Plain Woodland. Modified landscapes (gardens and parks, etc) should be addressed under the heading 'Landscape'

This matter is not applicable to this application because the item does not have natural heritage significance.

OR DISCUSS delete as appropriate

### *Archaeological Heritage*

#### Aboriginal Archaeology

State whether there are known or potential sites, comments from the local Aboriginal Land Council, etc OR

No Aboriginal sites have previously been recorded within the subject site. The landscape type and/or disturbed nature of the subject land indicates there is little likelihood of there being any Aboriginal relics present. delete as appropriate

#### Historical Archaeology

Discuss research design and methodology here, their adequacy and impacts.... OR

Previous use of the site and/or extensive disturbance in the past mean there is little likelihood of the works having an impact on archaeological relics. delete as appropriate

#### Maritime Archaeology

This relates to any underwater relics and submerged sites, not just maritime sites

This matter is not applicable to this application because the site does not include any water bodies and/or underwater relics.

OR DISCUSS delete as appropriate

### *Built Heritage*

#### Demolition

Have all options for retention and adaptive reuse been explored, can any/all significant elements be kept and incorporated within proposal, is demolition essential or can it be postponed, if based on safety issues is there adequate evidence.... DISCUSS OR

This matter is not applicable to this application because no demolition (whole or partial) is proposed. delete as appropriate

#### Building Design

For new development adjacent to a heritage item and major and minor additions. Will the

new work visually dominate the heritage item, can the additional area be located within the existing structure, how is the impact on the significance minimised....Look at bulk, scale, massing, infill buildings, style, form, location, materials, etc...DISCUSS OR

This matter is not applicable to this application as eg all proposed works are internal/no new building work is proposed, etc delete as appropriate

#### Impact on Fabric

Is original fabric being removed, is new fabric being added ? are these changes essential/necessary

This matter is not applicable to this application because eg no new fabric/intervention of fabric is proposed, etc delete as appropriate

#### Landscape Heritage

This refers to modified landscapes which can include urban landscapes eg streetscapes, etc....Natural landscapes and issues should be discussed under 'Natural Heritage'....

#### Curtilage and Setting

The curtilage of an item should include what is essential to the significance of the item, the setting is the context within which the item sits, eg a homestead and paddocks would be included in curtilage but the valley itself is the setting. Discuss both, bear in mind the listed curtilage is often not the same as the heritage curtilage. Is the item in a Conservatin Area, what are the impact of the proposal on the area or setting...DISCUSS OR

This matter is not applicable to this application because the curtilage and/or setting will not be affected by the proposal. delete as appropriate

#### Subdivision

How does the subdivision boundary impact on the item, is the proposed new curtilage around the item appropriate, could future development resulting from the subdivision compromise the heritage item....OR

This matter is not applicable to this application because no subdivision or boundary adjustments are proposed. delete as appropriate

#### Views and Vistas

Does the proposal affect views to and from the item, are these views intrinsic to the significance of the item, has any impact been mitigated...DISCUSS OR

This matter is not applicable to this application because eg..all works proposed are internal and will therefore not affect existing views to and from the item. Delete as appropriate

#### Impact on Fabric

Does the proposal involve the removal or alteration of significant features, are new features and plantings appropriate, will the proposal involve a change in maintenance that will have an impact on features and plantings, etc....DISCUSS OR

This matter is not applicable to this application because no changes to landscape features are proposed. delete as appropriate

#### Signage and Street Furniture

Has the impact of the new signage on the heritage significance of the item been minimised, have alternative forms been considered, will it visually dominate the item....is the style of the furniture (bins, seats...) appropriate DISCUSS OR

This matter is not applicable to this application as no signage and/or street furniture is proposed. delete as appropriate

#### Movable Heritage

Are the items being removed from their context, is there no alternative to removal and has this been considered, are they being documented, has their significance been adequately assessed, is a collection being broken up, etc...DISCUSS OR

This matter is not applicable to this application because no significant movable heritage items have been identified on the subject site OR all movable heritage items are to remain in situ. delete as appropriate

#### Other Heritage Items in the Vicinity

If other heritage items are highlighted on the cover page they must be discussed here, this includes items of local heritage significance and potential heritage items DISCUSS OR

This matter is not applicable to this application because no other heritage items have been identified in the vicinity of the subject site. delete as appropriate

#### Interpretation

Can the building/garden layout still be interpreted, is more formal interpretation appropriate....is it adequate DISCUSS OR

This matter is not applicable to this application because the works are of a minor nature and do not require interpretation OR appropriate interpretation already exists on site. adapt or delete as appropriate

#### Community heritage

Does the item have significance to a particular community (eg Chinese, Italian, etc), does the proposal impact on this significance...DISCUSS OR

This matter is not applicable to this application because the item does not have significance for a particular ethnic community. delete as appropriate

#### Notifications

State if the application has been advertised and whether submissions were received. If there are submissions they should be summarised here – use a tabular form that includes the name of the person making the submission the issue and our comment.

*Include the submission in an Annexure and cross-reference them here.*

#### *Other issues*

Include here any issues that affect the application but are not necessarily purely conservation issues, eg. prospective purchasers are looking for pre DA guidance

#### *Planning Issues*

This could include issues such as rezoning, setbacks, impact on adjoining properties etc. Adjacent heritage items should be discussed under 'Heritage Items in the Vicinity'...DISCUSS OR

This matter is not applicable to this application because adapt and delete as appropriate

#### *Change of Use*

Does the existing use contribute to significance, is a change in use necessary for the ongoing survival of the item, changes to fabric and site should be addressed in the 'Built Heritage' and 'Landscape Heritage' subheadings. DISCUSS OR

This matter is not applicable to this application because there is not any proposed change of use. delete as appropriate

#### *Fire and Access*

Are changes to the item necessary to meet fire and/or access requirements, what impact will this have, how can it be mitigated, is it essential to the use of the item, eg disability access to a public building. DISCUSS OR

This matter is not applicable to this application because adequate fire and access provisions already exist. delete as appropriate

#### *Traffic and Parking*

Will the proposal result in an increased traffic load, is additional parking required, discuss impacts and necessity..this includes provision of temporary access....DISCUSS OR

This matter is not applicable to this application because no changes are proposed to the existing traffic and parking arrangements. delete as appropriate

### **Conclusions**

This should briefly summarise the issues described in detail in the section on Conservation Issues, and make an overall recommendation based on those issues. e.g. it does affect the significance but on balance because of xyz it is acceptable.

#### *Recommendation*

Use the general format for numbering below - in some cases it may be appropriate to separate conditions from reasons. Remember for IDAs and DA referrals the Council will need to reproduce the entire recommendation

Use for items not on the SHR where we are offering advice only :

**That the Heritage Council recommend to insert name of consent authority that the application be approved with the following conditions OR refused/deferred for the following reasons (delete as appropriate) :**

- 1) ;
- a) ;
- 2) ;
- a) ;

**Use for IDAs and S60s :**

**That the Heritage Council approve the application with the following conditions OR refuse/defer the application for the following reasons (delete as appropriate):**

- 1)        ;
- a)        ;
- 2)        ;
- a)        ;

**Use for S60s that are essentially the same as an earlier approved IDA :**

**That the Heritage Council approve the application with the following conditions:**

- 1)        ;
- a)        ;

- 2)        ;
- a)        ;

Prepared by: Your name here

**Recommended for Approval by the Principal Heritage Officer**

**Approved by the Director/Assistant Director**

### 8.4.3 Advertisement for section 60 application that materially affects the significance of the item

#### **Heritage Act, 1977** **Public Notice of Section 60 Application**

Notice is hereby given that an application has been received to carry out development at the property known as \_\_\_\_\_ being part of the land which is listed on the State Heritage Register (SHR Listing No \_\_\_\_\_) made under the Heritage Act, 1977.

The application provides for \_\_\_\_\_.

As the development would, in the opinion of the Heritage Council, if approved, materially affect the significance of the subject site as an item of the environmental heritage, the Heritage Council invites written representations regarding the proposal. Submissions are to be forwarded by close of business to the address below within 21 days after the date of publication of this notice, until \_\_\_\_\_.

The application and plans relating to the proposal may be inspected at the office of the Heritage Council, Level 11, Signature Tower, 2-10 Wentworth Street, Parramatta, between the hours of 8.30am and 5.30pm.

Further enquiries may be made at the Heritage Office, by contacting \_\_\_\_\_ on telephone number (02) \_\_\_\_\_.

Heritage Council of New South Wales  
Locked Bag 5020  
PARRAMATTA NSW 2124  
( \_\_\_\_\_ )

8.5 SECTION 60 APPLICATION FORM

HERITAGE ACT, 1977

APPLICATION UNDER SECTION 60

for approval to carry out a section 57(1) activity to an item or land listed on the State Heritage Register or to which an Interim Heritage Order applies.

OFFICE USE ONLY

Please complete all relevant parts of this form and attach:

Application No: .....

- 3 copies of all **drawings and/or documents** (one set full size and two sets A3 size) necessary to describe your proposal. Show clearly what you propose to demolish, remove, destroy or excavate, what will remain without change, and what you propose to construct, create, plant or alter. Show the relationship of your proposals to the site boundaries and existing site features.

File No: .....

Please include photographs of the building and areas affected by your proposal.

Date Received: .....

- 1 copy of a **heritage impact statement** and any other supporting documentation. Information to assist you to prepare your application and documentation is available from the NSW Heritage Office.
- 1 copy of a **conservation management plan (CMP)**, if your proposal will have a major impact on the heritage significance of an item listed on the State Heritage Register.
- If **archaeological excavation** is proposed, complete the section entitled 'Excavation Director' on page 2.

Application fee (no GST is applicable)--- see page 2.

ITEM AND/OR PROPERTY

Name of item or property (or shipwreck no.): .....Address: .....

Suburb or Town: .....Postcode: .....Council: .....

Was the Interim Heritage Order made by the local council?.....If so, this application should be submitted to council.

Type and/or description of the item (vacant land, house, movable item, etc): .....  
.....



APPLICATION UNDER SECTION 60 (cont'd)

Is there a CMP for the item? ..... Who prepared it?:  
..... Date: .....

Has the CMP been endorsed by the Heritage Council? ..... Date: .....

**PROPOSAL**

Description of the proposal:  
.....

.....  
Estimated cost of works.....

**APPLICANT**

Name: ..... Company Name (if applicable):  
.....

Address:.....Postcode:.....

Person responsible for project:  
.....

Telephone: ( ) ..... Mobile: ..... Facsimile: ( )  
.....

Email: .....Signature: ..... Date: .....

APPLICATION UNDER SECTION 60 (cont'd)

**CONSENT OF OWNER (WHERE THE APPLICATION IS NOT MADE BY THE OWNER)**

**Note:** The owner's consent must relate specifically to the making of **this** application. It may be provided in a separate letter.

If the item is situated on Crown Land, this section should be completed by the lawful occupier.

I, ..... the owner of the item to which this application relates, hereby consent to the making of this application.

Signature: ..... Date: .....

Address: ..... Postcode: .....

Telephone: ( ) ..... Mobile: ..... Facsimile: ( )

**EXCAVATION DIRECTOR**

.....

**Note:** Complete this section if your proposal involves building cavities or excavation of land which will or is likely to disturb relics

Name: ..... Company Name (if applicable): .....

Address: ..... Postcode: .....

Telephone: ( ) ..... Mobile: ..... Facsimile: ( ) .....

Signature of Excavation Director: ..... Date: .....

Please attach CV of Excavation Director if this has not been lodged with the Heritage Office

**INTEGRATED DEVELOPMENT**

within the last 12 months.

Has consent for integrated development been granted? ..... If so: IDA No: ..... Date: .....

Please attach a copy of the consent.

## APPLICATION UNDER SECTION 60 (cont'd)

Is this application consistent with the consent? .....

### MAKING YOUR APPLICATION

If the item is listed on the **State Heritage Register** or has an **interim heritage order made by the Minister**, forward your application and the applicable fee to:

**NSW Heritage Office**

**Locked Bag 5020**

**PARRAMATTA NSW 2124 Or: DX  
8225**

For an item with an **interim heritage order made by a council**, forward your application and the applicable fee to the council.

**For further information**, please contact the Heritage Office on (02) 9635 6155.

### APPLICATION FEES

Estimated cost of work	Fee	Estimated cost of work	Fee
For work to a private owner-occupied house up to \$100,000	\$60	\$500,000 - \$1million	\$400
Other projects up to \$100,000	\$100	\$1million - \$2million	\$750
\$100,000 - \$250,000	\$150	\$2million - \$5million	\$1,000
\$250,000 - \$500,000	\$250	Over \$5million	\$2,000

**Note:** You can apply to have the fee reduced or waived on the basis of financial hardship. If you wish to do so, please submit evidence of financial hardship with your application.

Heritage Regulation 1999: V1.0 17/08/99

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8.6 ASSESSING HERITAGE SIGNIFICANCE

**Assessing Heritage Significance**

a NSW Heritage Manual update



NSW  
Heritage  
Office



## ACKNOWLEDGMENTS

Much of the information contained in the NSW Heritage Manual has been adapted from, and replaces, the State Heritage Inventory Project, including reports prepared by consultants to the former Heritage Branch, NSW Department of Planning. The principal source documents are:

**Colleran, Jocelyn** (Feb-Mar 1990), State Heritage Inventory Manual: Policy and Procedures. JRC Planning Services.

**Domicelj, Joan** (Dec 1989), State Heritage Inventory: Status and Scope. Final Report, vols 1 and 2.

**Domicelj, Joan** (Mar 1993), A Review and Extension of Criteria for the State Heritage Inventory.

**Jeans, Prof. Dennis & Jack, Prof. Ian** (Jun 1990), State Historical Guidelines, University of Sydney. This has been published under the title Regional Histories by the NSW Heritage Office and the Department of Urban Affairs and Planning in 1996.

**Mackay, Richard & Haertsch, Sue** (1994), State Heritage Inventory Project: Draft Historical Themes and Evaluation Criteria. Godden Mackay Pty Ltd.

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## DISCLAIMER

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## I THE NSW HERITAGE MANAGEMENT SYSTEM

The NSW Government is responsible for the management of our cultural and natural heritage in partnership with local councils and the community. The NSW heritage management system consists of three steps in managing individual heritage items:

- investigate significance
- assess significance
- manage significance.

The *NSW Heritage Manual* explains these steps, which apply to all kinds of heritage items, from

individual houses and movable items to archaeological and industrial sites, conservation areas, landscapes and natural areas. They also apply to items of any level of significance, from local to world. In practical terms, however, the vast majority of items managed in New South Wales will be of local significance. A smaller number will be of State significance.

This chart summarises the processes in the NSW heritage management system.

### STEP 1. INVESTIGATE significance

- Investigate the historical context of the item or study area
- Investigate the community's understanding of the item
- Establish local historical themes and relate them to the State themes
- Investigate the history of the item
- Investigate the fabric of the item.

### STEP 2. ASSESS significance

- Summarise what you know about the item
- Describe the previous and current uses of the item, its associations with individuals or groups and its meaning for those people
- Assess significance using the NSW heritage assessment criteria
- Check whether you can make a sound analysis of the item's heritage significance
- Determine the item's level of significance



This guideline explains Step 2

- Prepare a succinct statement of heritage significance
- Get feedback
- Write up all your information

### STEP 3. MANAGE significance

- Analyse the management implications of the item's level of significance
- Analyse the constraints and opportunities arising out of the item's significance (including appropriate uses)
- Analyse owner and user requirements
- Prepare conservation and management recommendations
- If any obvious options are not suitable, explain why
- Get feedback from the community
- Analyse statutory controls and their relationship to the item's significance
- Recommend process for implementing conservation/management strategies.

This guideline explains the second step in this process - **ASSESS significance**. It is an update to the *Heritage Assessments* guideline published in the *NSW Heritage Manual* in 1996. The Manual is a comprehensive set of guidelines explaining the NSW heritage management system. The other components of the Manual are:

*History and Heritage*

*Investigating History*

*Investigating Fabric*

*Altering Heritage Assets*

*Planning and Heritage*

*Heritage Planning Practice Notes 1 & 2*

*Statements of Heritage Impact*

*Heritage Approvals*

*Heritage Studies*

*NSW Government & Heritage*

*Conservation Management Documents*

*Heritage Nominations*

**FURTHER INFORMATION:**

*Heritage Terms and Abbreviations*

*Heritage Contacts*

*Heritage References*

**COMPANION DOCUMENTS:**

*Archaeological Assessments*

*Conservation Areas*

*Heritage Curtilages*

*Regional Histories*

## WHY ASSESS HERITAGE SIGNIFICANCE?

Before making decisions about the future of a heritage item it is first necessary to understand its heritage values. This leads to decisions that will retain these values in the future.

## STATEMENTS OF HERITAGE SIGNIFICANCE

The main aim in assessing significance is to produce a succinct statement of significance, which summarises an item's heritage values. The statement is the basis for policies and management structures that will affect the item's future. It is important to get it right. In most cases a short paragraph will suffice. An item of particular importance to the heritage of the State may require a statement that takes up a page or more.

## WHEN TO ASSESS SIGNIFICANCE

The assessment of significance, and the statement that it produces, is the basis for all good heritage decisions. It's a process that should be used as part of the management of all heritage items because it clarifies why the item is important.

There is a range of situations when assessment is needed. These include:

1. making decisions about whether to retain an item;
2. considering changes to an item;
3. preparing a heritage study (see the *Heritage Studies* guide in the *NSW Heritage Manual*);
4. preparing a conservation management plan (see the *Conservation Management Documents* guide in the *NSW Heritage Manual*);

5. considering an item for listing on the State Heritage Register or on the schedule of heritage items in a local environmental plan; or

6. preparing a statement of environmental effects or a heritage or environmental impact statement as part of the development and building approval process (see the *Heritage Approvals* and *Statements of Heritage Impact* guides in the *NSW Heritage Manual*)

## SKILLS REQUIRED

Heritage assessments can be carried out by anybody who understands the NSW heritage management process and who has training and experience in the area. As well as gathering information and relating it to the item, an assessor needs to evaluate its comparative significance. What counts is personal knowledge and experience in assessing the significance of heritage items and places.

Professional heritage consultants, staff from the Heritage Office and council officers or heritage advisers based at your local council can offer valuable assistance. It is usually advisable to seek a professional opinion before an assessment is submitted to a local or State government authority.

## THE ROLE OF THE LOCAL COMMUNITY

The aim of the NSW heritage management system is to conserve important places and objects from the past so they can be appreciated and enjoyed by future generations. The knowledge and values of the community are therefore important ingredients in the assessment process.

Historical societies, local libraries and museums and larger organisations such as the Institution of Engineers, Royal Australian Historical Society, Royal Australian Institute of Architects and the National Trust of Australia (NSW) can all provide valuable information for heritage assessments. Relatives and friends of owners and the wider community may be able to provide documents and photographs and informed judgments, all of which can be useful in making comparative analyses.

Community consultation requires a clear focus and sensitivity to differing and sometimes conflicting values. It is preferable that there is broad community support for heritage assessments. This will make future management more effective.

## THE ROLE OF HISTORY

The relationship between an item and its historical context underlies the assessment process. Historical themes provide a context within which the heritage assessment criteria are applied, especially if historical values are critical to an understanding of an item's heritage significance.

Local historical themes are usually identified by qualified historians with reference to an historical context report prepared as part of a heritage study. State historical themes have been developed by the Heritage Council of NSW to connect local issues to the broader history of NSW (see *History and Heritage* in the *NSW Heritage Manual*).

Historical themes help in evaluating comparative significance, as like items under like themes can be compared and their rarity

or representativeness assessed. Applying the themes also helps to prevent one value from taking precedence over others. Themes such as *events*, *industry*, *social institutions* or *welfare* help in deciding whether historical or social values may be more important to the heritage significance of a building than its aesthetics or research potential.

## 2 THE NSW HERITAGE ASSESSMENT PROCEDURE

Before undertaking a heritage assessment it is essential to have a full understanding of the item based on documentary and oral research and the physical investigation of its fabric. The NSW Heritage Manual guidelines *Investigating History* and *Investigating Fabric* cover these steps.

The steps in assessing heritage significance are:

- Summarise what you know about the item
- Describe the previous and current uses of the item, its associations with individuals or groups and its meaning for those people
- Assess significance using the NSW heritage assessment criteria
- Check whether you can make a sound analysis of the item's heritage significance
- Determine the item's level of significance
- Prepare a succinct statement of heritage significance
- Get feedback
- Write up all your information

**Step 1: Summarise what you know about the item**

Essential information includes:

- first-hand knowledge of the item and its fabric;
- physical description of the item and its curtilage (setting);
- its historical context;
- historical themes relevant to the item;
- plans, photos and other documents.

**Step 2: Describe the previous and current uses of the item, its associations with individuals or groups and its meaning for those people**

This step involves going beyond the usual sources and often entails primary research to obtain information on:

- archaeological potential;
- community values relating to the item;
- oral histories of the people associated with the item;
- documentation and analysis of the fabric of the item.

**Step 3: Assess significance using the NSW heritage assessment criteria**

Refer to all criteria.

Most items will meet more than one criterion, but it is not critical if this is not the case.

**Step 4: Check whether you can make a sound analysis of the item's heritage significance**

Loss of the integrity or condition of an item may diminish its significance.

Has it been altered so much that it fails to meet the relevant assessment criterion?

Refer to the context as of the item (a movable item removed from its important context may have lost much of its significance).

Note the condition of the item (but be careful not to let its condition determine its significance). Use the historical themes and the inclusion and exclusion guidelines in the following section of this guideline.

**Step 5: Determine the item's level of significance**

State significance means significance to the people of NSW.

Local significance means significance within the local government area.

Some items of local significance may have values that extend beyond the local government area, or need a wider contextual consideration. Where this is the case these values should be included in the statement of heritage significance.

**Step 6: Prepare a succinct statement of heritage significance**

The statement should answer the question: "Why is this item significant?"

It should indicate the specific heritage values of the item.

It should summarise, but not simply reiterate, the analysis in Step 3.



If an item is historically significant because it demonstrates a significant activity the statement must describe the activity and why it is important.

If an item is a rare example of a particular architectural style in an area, identify the area to qualify the item's rarity. A comparative analysis that considers the set of similar items may be required.

If the item is significant for a particular community or cultural group, identify the group and the reasons for its associations with the item.

The statement should preferably be written in a prose style, clearly relating the attributes of the item to the criteria.

For a large site subject to a development proposal or partial demolition it may be appropriate to present a summary statement supported by a series of subsidiary statements that respond to each of the relevant criteria. For a large complex site or area it may also be appropriate to provide subsidiary statements for individual components of the item as well as the summary statement. In some cases it may be useful to indicate the relative significance of the individual components of the item (see Gradings of Significance).

#### **Step 7: Get feedback**

Check that your statement of significance agrees with other views of the item.

Seek comments from the people and institutions that have provided information for your assessment.

Check the views of the owner or manager of the item on the statement of significance.

#### **Step 8: Write up all your information**

If you are preparing a nomination for listing complete a nomination form or inventory sheet for the item (this can be downloaded from [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au)).

Retain all analysis as an archival record.

### **3 HERITAGE SIGNIFICANCE CRITERIA**

The NSW heritage assessment criteria encompass the four values in the Australia ICOMOS *Burra Charter*, which are commonly accepted as generic values by Australian heritage agencies and professional consultants:

- historical significance
- aesthetic significance
- scientific significance
- social significance

The values are expressed as criteria in a more detailed form than this to:

- maintain consistency with the criteria of other Australian heritage agencies;
- minimise ambiguity during the assessment process; and
- avoid the legal misinterpretation of the completed assessments of listed items.

They are based on the criteria used by the Australian Heritage Commission for the assessment of potential items for the Register of the National Estate and are in line with the standard criteria adopted by other state heritage agencies.

In past years assessments of geographical regions in New South Wales - such as the Illawarra and the North Coast - have been undertaken. These surveys added a third level - regional significance - between local and State. To simplify the assessment process the Heritage Council has since discontinued the use of regional significance and now uses only local and State significance as the two levels of significance within New South Wales. Items previously identified as of regional significance will need to be re-assessed against these two levels.

#### **4 NSW HERITAGE ASSESSMENT CRITERIA**

An item will be considered to be of State (or local) heritage significance if, in the opinion of the Heritage Council of NSW, it meets one or more of the criteria shown in the box over.

While all criteria should be referred to during the assessment, only particularly complex items or places will be significant under all criteria. In many cases, items of environmental heritage will be significant under only one or two criteria.

In using these criteria it is important to assess the values first, then the context in which they are significant. Decide the appropriate context by considering similar items of local and State significance in each of these contexts.

These criteria were gazetted following amendments to the Heritage Act which came into force in April 1999. The Heritage Council determines the criteria for State significance and issues guidelines to assist in their application.



- Criterion (a)** – an item is important in the course, or pattern, of NSW’s cultural or natural history (or the cultural or natural history of the local area);
- Criterion (b)** – an item has strong or special association with the life or works of a person, or group of persons, of importance in NSW’s cultural or natural history (or the cultural or natural history of the local area);
- Criterion (c)** – an item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW (or the local area);
- Criterion (d)** – an item has strong or special association with a particular community or cultural group in NSW (or the local area) for social, cultural or spiritual reasons;
- Criterion (e)** – an item has potential to yield information that will contribute to an understanding of NSW’s cultural or natural history (or the cultural or natural history of the local area);
- Criterion (f)** – an item possesses uncommon, rare or endangered aspects of NSW’s cultural or natural history (or the cultural or natural history of the local area);
- Criterion (g)** – an item is important in demonstrating the principal characteristics of a class of NSW’s
- cultural or natural places; or
  - cultural or natural environments.
- (or a class of the local area’s
- cultural or natural places; or
  - cultural or natural environments.)

An item is not to be excluded from the Register on the ground that items with similar characteristics have already been listed on the Register.

Different components of a place may make a different relative contribution to its heritage value. Loss of integrity or condition may diminish significance. In some cases it may be useful to specify the relative contribution of an

item or its components. While it is useful to refer to this table when assessing this aspect of significance it may need to be modified to suit its application to each specific item:

<b>GRADING</b>	<b>JUSTIFICATION</b>	<b>STATUS</b>
EXCEPTIONAL	Rare or outstanding item of local or State significance High degree of intactness Item can be interpreted relatively easily	Fulfil criteria for local or State listing
HIGH	High degree of original fabric Demonstrates a key element of the item's significance Alterations do not detract from significance	Fulfil criteria for local or State listing
MODERATE	Altered or modified elements Elements with little heritage value but which contribute to the overall significance of the item	Fulfil criteria for local or State listing
LITTLE	Alterations detract from significance Difficult to interpret	Does not fulfil criteria for local or State listing

## **5 HOW TO ASSESS HERITAGE SIGNIFICANCE**

The following criteria and guidelines indicate the kinds of questions that should be asked in making a heritage assessment. The guidelines are not a substitute for independent critical analysis and sound judgment. The particular qualities of the individual item should guide the assessment process.

The inclusion and exclusion guidelines are a checklist only - they do not cancel each other out. The exclusion guidelines should not be applied in isolation from the inclusion guidelines, but should be used to help in reviewing and qualifying the conclusions reached.

An item is **significant** in terms of the particular criterion if the kind of attributes listed in the inclusion guidelines help to describe it. Similarly, the item is **not significant** in terms of the particular criterion if the kind of attributes listed in the exclusion guidelines help to describe it.

Items of both local and State heritage significance have been used in the following pages to illustrate the NSW heritage assessment criteria. Accordingly, all criteria are expressed in optional terms as State or local. In most cases the level of significance will be

the last question that needs to be addressed in the assessment process.

## 6 GRADINGS OF SIGNIFICANCE

Different components of a place may make a different relative contribution to its heritage value. Loss of integrity or condition may diminish significance. In some cases it may be useful to specify the relative contribution of an item or its components. While it is useful to refer to the following table when assessing this aspect of significance it may need to be modified to suit its application to each specific item:

### GRADING

### JUSTIFICATION

### STATUS

EXCEPTIONAL

Rare or outstanding item of local or State significance.  
High degree of intactness.  
Item can be interpreted relatively easily.

Fulfils criteria for local or State listing.

HIGH

High degree of original fabric.  
Demonstrates a key element of the item's significance.  
Alterations do not detract from significance.

Fulfils criteria for local or State listing.

MODERATE

Altered or modified elements.  
Elements with little heritage value, but which contribute to the overall significance of the item.

Fulfils criteria for local or State listing.

LITTLE

Alterations detract from significance.  
Difficult to interpret.

Does not fulfil criteria for local or State listing.

INTRUSIVE

Damaging to the item's heritage significance.

Does not fulfil criteria for local or State listing.

## 7 USING THE HERITAGE SIGNIFICANCE CRITERIA

**7.1 Criterion (a):** **An item is important in the course, or pattern, of NSW’s cultural or natural history** (State significance); **OR**  
**An item is important in the course, or pattern, of the local area’s cultural or natural history** (local significance).

<i>Guidelines for Inclusion</i>	<i>Guidelines for Exclusion</i>
<ul style="list-style-type: none"> <li>• shows evidence of a significant human activity</li> </ul>	<ul style="list-style-type: none"> <li>• has incidental or unsubstantiated connections with historically important activities or processes</li> </ul>
<ul style="list-style-type: none"> <li>• is associated with a significant activity or historical phase</li> </ul>	<ul style="list-style-type: none"> <li>• provides evidence of activities or processes that are of dubious historical importance</li> </ul>
<ul style="list-style-type: none"> <li>• maintains or shows the continuity of a historical process or activity</li> </ul>	<ul style="list-style-type: none"> <li>• has been so altered that it can no longer provide evidence of a particular association</li> </ul>

Types of items which meet criterion (a) include:

- items which demonstrate strong associations to past customs, cultural practices, philosophies or systems of government, regardless of the intactness of the item or any structure on the place;
- items associated with significant historical events, regardless of the intactness of the item or any structure on the place;
- significant cultural landscapes and other items demonstrating overlays of the continual pattern of human use and occupation; and/or
- items where the physical fabric (above or below ground) demonstrates any of the points described above.

The inclusion guidelines are pointers to assist in making an assessment against this criterion, but should not constrict the consideration. Similarly, the attributes described in the exclusion guidelines can be used to check if the fabric of the item or place meets the criterion, or to check a judgment that an item does not meet this criterion.

The level of heritage significance at State or local levels can only be determined by comparison with other like items. The attributes described for criteria (f) and (g) can assist in the determination of significance. A heritage item is not to be excluded on the ground that items with similar characteristics have already been entered on a statutory list.

- 7.2 Criterion (b):** **An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history (State significance); OR**  
**An item has strong or special association with the life or works of a person, or group of persons, of importance in the cultural or natural history of the local area (local significance).**

<i>Guidelines for Inclusion</i>	<i>Guidelines for Exclusion</i>
<ul style="list-style-type: none"> <li>• shows evidence of a significant human occupation</li> </ul>	<ul style="list-style-type: none"> <li>• has incidental or unsubstantiated connections with historically important people or events</li> </ul>
<ul style="list-style-type: none"> <li>• is associated with a significant event, person, or group of persons</li> </ul>	<ul style="list-style-type: none"> <li>• provides evidence of people or events that are of dubious historical importance</li> </ul>
	<ul style="list-style-type: none"> <li>• has been so altered that it can no longer provide evidence of a particular association</li> </ul>

Types of items which meet this criterion include:

- items which demonstrate strong associations to a particular event, historical theme, people or philosophies, regardless of the intactness of the item or any of its structures;
- items associated with significant historical events, regardless of the intactness of the item or any structure on the place; and/or
- items where the physical fabric (above or below ground) demonstrates any of the points described above.

The inclusion guidelines are pointers to assist in making an assessment against this criterion, but should not constrict the consideration. Similarly, the attributes described in the exclusion guidelines can be used to check if the fabric of the item or place meets the criterion, or to check a judgment that an item does not meet this criterion.

For example, a place may be considered significant because an important historical figure was said to have lived there. However, further research may reveal insufficient evidence of that fact, or that the period of habitation was too brief to be relevant to the life and work of the historical figure.

The level of heritage significance at State or local levels can only be determined by comparison with other like items. The attributes described for criteria (f) and (g) can assist in the determination of significance. A heritage item is not to be excluded on the ground that items with similar characteristics have already been entered on a statutory list.

**7.3 Criterion (c): An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW**

(State significance); **OR**

**An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in the local area** (local significance).

<i>Guidelines for Inclusion</i>	<i>Guidelines for Exclusion</i>
<ul style="list-style-type: none"> <li>• shows or is associated with, creative or technical innovation or achievement</li> </ul>	<ul style="list-style-type: none"> <li>• is not a major work by an important designer or artist</li> </ul>
<ul style="list-style-type: none"> <li>• is the inspiration for a creative or technical innovation or achievement</li> </ul>	<ul style="list-style-type: none"> <li>• has lost its design or technical integrity</li> </ul>
<ul style="list-style-type: none"> <li>• is aesthetically distinctive</li> </ul>	<ul style="list-style-type: none"> <li>• its positive visual or sensory appeal or landmark and scenic qualities have been more than temporarily degraded</li> </ul>
<ul style="list-style-type: none"> <li>• has landmark qualities</li> </ul>	<ul style="list-style-type: none"> <li>• has only a loose association with a creative or technical achievement</li> </ul>
<ul style="list-style-type: none"> <li>• exemplifies a particular taste, style or technology</li> </ul>	

Types of items which meet this criterion include:

- items which demonstrate creative or technical excellence, innovation or achievement;
- items which have been the inspiration for creative or technical achievement;
- items which demonstrate distinctive aesthetic attributes in form or composition; and/or
- items which demonstrate a highly original and influential style, such as an important early (seminal) work of a major architect.
- items which demonstrate the culmination of a particular architectural style (known as climactic)

The inclusion guidelines are pointers to assist in making an assessment against this criterion, but should not constrict the consideration. Similarly, the attributes described in the exclusion guidelines can be used to check if the fabric of the item or place meets the criterion, or to check a judgment that an item does not meet this criterion.

An item may be considered significant under this criterion if it is a major landmark in a town, or it is the first major work in a particular architectural style. It will not be significant if its landmark qualities have been diminished by surrounding development, or it is only one of many examples of the architectural style.

The level of heritage significance at State or local levels can only be determined by comparison with other like items. The attributes described for criteria (f) and (g) can assist in the determination of significance. A heritage item is not to be excluded on the ground that items with similar characteristics have already been entered on a statutory list.

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**7.4 Criterion (d): An item has strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons (State significance); OR An item has strong or special association with a particular community or cultural group in the area for social, cultural or spiritual reasons (local significance).**

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<i>Guidelines for Inclusion</i>	<i>Guidelines for Exclusion</i>
<ul style="list-style-type: none"> <li>• is important for its associations with an identifiable group</li> </ul>	<ul style="list-style-type: none"> <li>• is only important to the community for amenity reasons</li> </ul>
<ul style="list-style-type: none"> <li>• is <u>important</u> to a community's sense of place</li> </ul>	<ul style="list-style-type: none"> <li>• is retained only in preference to a proposed alternative</li> </ul>

Types of items which meet this criterion include:

- items which are esteemed by the community for their cultural values;
- items which if damaged or destroyed would cause the community a sense of loss; and/or
- items which contribute to a community's sense of identity.

Items are excluded if:

- they are valued only for their amenity (service convenience); and/or
- the community seeks their retention only in preference to a proposed alternative.

The inclusion guidelines are pointers to assist in making an assessment against this criterion, but should not constrict the consideration. Similarly, the attributes described in the exclusion guidelines can be used to check if the fabric of the item or place meets the criterion, or to check a judgment that an item does not meet this criterion.

Note the use of the adjective 'particular' in this criterion. An item does not need to be known to or valued by the whole community in a town or geographical area to be significant. The 'particular' community may be defined by such things as a common ethnic background or religious belief or profession.

Care must be taken not to confuse heritage significance with amenity or utility. For example, a community may seek the retention of an older building in preference to its replacement with a more intensive development of a site. In such cases, there must be evidence that the item is separately valued in accordance with this criterion or one of the other criteria to have any validity as a significant heritage item.

The level of heritage significance at State or local levels can only be determined by comparison with other like items. The attributes described for criteria (f) and (g) can assist in the determination of significance. A heritage item is not to be excluded on the ground that items with similar characteristics have already been entered on a statutory list.



**7.5 Criterion (e): An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history (State significance); OR**  
**An item has potential to yield information that will contribute to an understanding of the area's cultural or natural history (local significance).**

<i>Guidelines for Inclusion</i>	<i>Guidelines for Exclusion</i>
<ul style="list-style-type: none"> <li>• has the potential to yield new or further substantial scientific and/or archaeological information</li> </ul>	<ul style="list-style-type: none"> <li>• has little archaeological or research potential</li> </ul>
<ul style="list-style-type: none"> <li>• is an important benchmark or reference site or type</li> </ul>	<ul style="list-style-type: none"> <li>• only contains information that is readily available from other resources or archaeological sites</li> </ul>
<ul style="list-style-type: none"> <li>• provides evidence of past human cultures that is unavailable elsewhere</li> </ul>	<ul style="list-style-type: none"> <li>• the knowledge gained would be irrelevant to research on science, human history or culture.</li> </ul>

The inclusion guidelines are pointers to assist in making an assessment against this criterion, but should not constrict the consideration. Similarly, the attributes described in the exclusion guidelines can be used to check if the fabric of the item or place meets the criterion, or to check a judgement that an item does not meet this criterion.

In addition to a detailed examination of surviving physical fabric, documents, oral history and other sources of evidence can often assist the assessment of whether a site has the ability to reveal valuable archaeological, technical, or scientific information. For example, it may become apparent that the buried footings of a colonial house have little integrity if there is historical evidence that the site has been so disturbed that there will be no additional archaeological deposits associated with the use of the house.

The level of heritage significance at State or local levels can only be determined by comparison with other like items. The attributes described for criteria (f) and (g) can assist in the determination of significance. A heritage item is not to be excluded on the ground that items with similar characteristics have already been entered on a statutory list.

**7.6 Criterion (f):** **An item possesses uncommon, rare or endangered aspects of NSW’s cultural or natural history (State significance); OR An item possesses uncommon, rare or endangered aspects of the area’s cultural or natural history (local significance).**

<i>Guidelines for Inclusion</i>	<i>Guidelines for Exclusion</i>
<ul style="list-style-type: none"> <li>provides evidence of a defunct custom, way of life or process</li> </ul>	<ul style="list-style-type: none"> <li>is not rare</li> </ul>
<ul style="list-style-type: none"> <li>demonstrates a process, custom or other human activity that is in danger of being lost</li> </ul>	<ul style="list-style-type: none"> <li>is numerous but under threat</li> </ul>
<ul style="list-style-type: none"> <li>shows unusually accurate evidence of a significant human activity</li> </ul>	
<ul style="list-style-type: none"> <li>is the only example of its type</li> </ul>	
<ul style="list-style-type: none"> <li>demonstrates designs or techniques of exceptional interest</li> </ul>	
<ul style="list-style-type: none"> <li>shows rare evidence of a significant human activity important to a community</li> </ul>	

The inclusion guidelines are pointers to assist in making an assessment against this criterion, but should not constrict the consideration. Similarly, the attributes described in the exclusion guidelines can be used to check if the fabric of the item or place meets the criterion, or to check a judgment that an item does not meet this criterion.

For example, a park in a country town may be said to be a *rare* example of Victorian public garden design, but further research may reveal that it is a *representative* example, as there are many such parks in country towns in NSW. If it is one of the few remaining examples of an important 19th century garden designer, or contains species not found in similar gardens elsewhere, it may qualify as rare in the NSW context. Assuming it is the only garden of its type in the local area, it is likely it would also be rare in the local context.

The level of heritage significance at State or local levels can only be determined by comparison with other like items or by proving that there is no documentation on similar items. This helps in determining the heritage significance of an item.

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**7.7 Criterion (g): An item is important in demonstrating the principal characteristics of a class of NSW's**

- cultural or natural places; or
- cultural or natural environments (State significance); **OR**

**An item is important in demonstrating the principal characteristics of a class of the area's**

- cultural or natural places; or
  - cultural or natural environments (local significance).
- 

<i>Guidelines for Inclusion</i>	<i>Guidelines for Exclusion</i>
<ul style="list-style-type: none"> <li>• is a fine example of its type</li> <li>• has the principal characteristics of an important class or group of items</li> <li>• has attributes typical of a particular way of life, philosophy, custom, significant process, design, technique or activity</li> <li>• is a significant variation to a class of items</li> <li>• is part of a group which collectively illustrates a representative type</li> <li>• is outstanding because of its setting, condition or size</li> <li>• is outstanding because of its integrity or the esteem in which it is held</li> </ul>	<ul style="list-style-type: none"> <li>• is a poor example of its type</li> <li>• does not include or has lost the range of characteristics of a type</li> <li>• does not represent well the characteristics that make up a significant variation of a type</li> </ul>

The inclusion guidelines are pointers to assist in making an assessment against this criterion, but should not restrict the consideration. A fine representative example needs to demonstrate key characteristics of its type or class. The intactness of the physical fabric of an item (its integrity) is another attribute that can be used to qualify the rare or representative criteria – see Section 6 of these guidelines. The attributes described in the exclusion guidelines can be used to check if the item or place meets the criterion or to check a judgment that an item does not meet this criterion.

For example, a group of Victorian cottages in a place with many examples of 19th century architecture, such as Bathurst or the inner suburbs of Sydney, may have representative value. In another city or suburb in which most of the 19th century architecture has been replaced they may be assessed as rare.

The level of heritage significance at State or local levels can only be determined by comparison with other like items. The attributes described for criteria (f) and (g) will assist in the determination of significance. A heritage item is not to be excluded on the ground that items with similar characteristics have already been entered on a statutory list.

## 8 OTHER INFORMATION

### USING A STANDARD PROCEDURE

It is important that all heritage assessments in NSW are carried out in accordance with the procedures described in this guideline so that assessments are:

- accountable and can be tested;
- comparable;
- consistent (because the same criteria are used in every case across the State); and
- applicable to all types of heritage items.

### ABORIGINAL HERITAGE ASSESSMENT

Aboriginal heritage sites and Aboriginal communities are part of a living culture. Aboriginal Heritage Officers in the National Parks and Wildlife Service (NPWS) have prepared guidelines that assist the assessment of the cultural value of Aboriginal heritage places within present-day Aboriginal culture. The *Aboriginal Heritage Standards and Guidelines Kit* is available from NPWS, PO Box 1967, Hurstville 2220 (Ph: (02) 9585 6444, Fax: (02) 9585 6555).

It is important to use these guidelines because the local and State levels of significance used in the assessment of other items do not easily translate to the assessment of Aboriginal heritage items.

The listing of items of Aboriginal heritage on the State Heritage Register is recommended to the Heritage Council by its Aboriginal Heritage Committee. Assessment of Aboriginal

heritage items is undertaken in collaboration with the National Parks and Wildlife Service.

### ARCHAEOLOGICAL HERITAGE ASSESSMENT

Archaeological significance is part of the heritage significance of many land-based heritage items. A separate guideline, *Archaeological Assessments*, explains the processes involved in the investigation of archaeological sites.

There are 1,600 known maritime archaeology sites along the coast of NSW and 200 in inland lakes and rivers. More sites are being found and researched each year. Assessments of wreck sites should be prepared by qualified maritime archaeologists.

### NATURAL HERITAGE ASSESSMENT

The assessment of natural heritage items can include reference to any of the assessment criteria. Scientific values are particularly important in the conservation of species habitats and eco-systems. Cultural values will be more relevant in those areas where there has been a long or varied interaction between man and the natural environment.

Assessments should take account of the Heritage Council's *Natural Heritage Principles* and the National Parks & Wildlife Service's *Land for Wildlife Notes* and *Land for Wildlife Newsletter*.

### STATUTORY HERITAGE LISTS

Only lists based on legislation have statutory standing in NSW. Heritage items with statutory protection include:

- items of local heritage significance listed on schedules to local environmental plans

- items of special significance to the people of NSW listed on the State Heritage Register
- NSW items on the Register of the National Estate (the Commonwealth has limited powers to restrict the actions of its agencies which affect these items).

Most of the 20,000 statutory items in NSW are listed by local councils. One hundred of the State's local councils have listed heritage items on their local environmental plans.

Statutory lists of heritage items advise owners and the community of special places and objects which should be kept for future generations to appreciate and enjoy. Owners of items on these lists need to make an application to a consent authority, such as a local council or the Heritage Council, before they can make major changes. The consent authority has the responsibility of approving only those changes that respect the heritage significance of the item.

Most of the items on local heritage schedules are of local heritage significance. But some items listed by local councils are also of State significance. The Heritage Office is working with local councils to find out which of these items should be added to the State Heritage Register.

### **THE STATE HERITAGE REGISTER**

The State Heritage Register was created in April 1999 as a result of amendments to the Heritage Act, 1977. The Heritage Council seeks public comment before recommending the listing of items to the Minister for Urban Affairs and Planning. Listings are published in the Government Gazette.

The Register will eventually be a comprehensive list of heritage items of significance to the people of NSW.

### **THE STATE HERITAGE INVENTORY**

The State Heritage Inventory is an electronic database with information on the 20,000 items on NSW statutory lists. In most cases the information on local heritage items in the State Heritage Inventory is minimal, consisting only of the name and address of the item and the date of the local environmental plan. To find out more detailed information you will need to refer to the heritage study for your area. This should be available from your local library or your council planning department.

Some councils have developed electronic heritage databases. The Heritage Office is working with these councils to transfer this detailed information to the State Heritage Inventory.

You can access the State Heritage Inventory on the Internet through the Heritage Office's home page at [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au)

### **OTHER HERITAGE LISTS**

The State Heritage Inventory already includes some cross-references to heritage items in New South Wales that are identified by organisations such as the National Trust, the Art Deco Society, the Institution of Engineers and the Royal Australian Institute of Architects.

In most cases these non-statutory lists cannot be used to control future changes to the items. Their value is to alert the community, local councils and the Heritage Council to significant items that may need to be listed on the State Heritage Register or local environmental plans lists.



## 8.7 ARCHAEOLOGICAL ASSESSMENT

### ARCHAEOLOGICAL ASSESSMENT GUIDELINES

BASED ON A STUDY CONDUCTED FOR THE DEPARTMENT OF URBAN AFFAIRS AND  
PLANNING BY GODDEN MACKAY PTY LTD

HERITAGE OFFICE  
**Department of Urban Affairs and Planning**



















## Requirements

### 2.1 THE NEW SOUTH WALES HERITAGE ACT

The Heritage Act (NSW) 1977 affords protection to all relics. It is illegal in New South Wales to disturb or excavate land to discover, expose or move a relic, without a permit issued by the Heritage Council of New South Wales.

Standard procedures for applying for an excavation permit and details about how these applications are evaluated are available from the Heritage Office.

### 2.2 THE NEW SOUTH WALES ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

Under the Environmental Planning and Assessment Act (NSW) 1979 local government authorities and the Department of Urban Affairs and Planning prepare local and regional environmental planning instruments respectively (LEPs and REPs), to give statutory force to planning controls. These instruments may incorporate specific provisions for the conservation and management of archaeological sites including above and below ground sites, cultural landscapes and features within lakes or rivers.

The Department of Urban Affairs and Planning in conjunction with the Heritage Council of NSW has prepared a number of standard provisions for incorporation into new environmental planning instruments. These are outlined in the Department's Circular to Councils C22 and Heritage Planning Practice Note 2.

The clauses relating to development of archaeological sites apply to: known sites,

potential sites (whether scheduled or not) and relics.

Under these clauses development consent can only be granted if the relevant authority has:

- considered an archaeological assessment
- notified the Heritage Council of New South Wales and considered any comments received
- ensured that any necessary excavation permit required under the *Heritage Act (NSW) 1977* has been granted.

Local councils or the State Government may also prepare heritage studies which identify, assess and list items of heritage significance in a particular place or region. Identified heritage items including archaeological sites, may be included in the heritage schedule of a LEP to which specific conservation and management provisions apply.

The Act also includes requirements for the preparation of a Statement of Environmental Effects or an Environmental Impact Statement for certain types of development. The latter are usually broad ranging studies that address a series of specific requirements identified by the Director General of Urban Affairs and Planning. Both Aboriginal and non-Aboriginal archaeological sites are now normally included in specified 'Director's Requirements' for such studies.

### 2.3 THE LOCAL GOVERNMENT ACT (NSW) 1993

Under the *Local Government Act (NSW) 1993* councils may prepare local approvals policies which set out specific matters for consideration in relation to applications for demolition, building or works. Archaeological sites could be considerations under such a policy.



## 2.4 THE COMMONWEALTH HISTORIC SHIPWRECKS ACT

The *Historic Shipwrecks Act (Cwlth) 1976* provides for the conservation and management of shipwrecks and associated objects adjacent to the New South Wales coast. In New South Wales the delegated authority for administration of this Act is the Director of the Heritage Office.

## 2.5 THE AUSTRALIAN HERITAGE COMMISSION ACT (Cwlth) 1975

The Australian Heritage Commission is a Commonwealth statutory authority which compiles and maintains the Register of the National Estate. The Register lists those places which have:

“Aesthetic, historic, scientific or social significance or other special value for future generations as well as for the present community.” (Section 22, 4(1), 3(1))

Section 30 of the Act imposes obligations on Commonwealth Ministers, departments and authorities, to act in a manner which does not adversely affect a registered place unless there is no feasible and prudent alternative. If there is no such alternative, all measures necessary to minimise adverse effects must be taken. The powers of the Commission and Act do not extend to State authorities/owners or private owners unless a Commonwealth body is involved.

## 2.6 BUILDING AND DEVELOPMENT CONSENT

Where known or potential archaeological sites are identified and protected through an environmental planning instrument or local approvals policy, the proponent of a new building or development may be required to provide an archaeological assessment as part of the application for building or development approval. Archaeological assessments must be prepared prior to consent, as supporting documentation for an application.

## 2.7 EXCAVATION PERMITS

An excavation permit is required if relics (individual features or sites) are to be disturbed or excavated. The existence of a ‘relic’ can be established by:

- visibility or a reliable sighting
- historical documentation
- the findings of an archaeological assessment
- discovery during excavation for another purpose.

Excavation permits are issued by the Heritage Council of New South Wales in accordance with sections 57 or 140 of the *Heritage Act 1977*. For sites protected by the *Historic Shipwrecks Act (Cwealth) 1976*, excavation permits are issued by the Director of the Heritage Office.

Excavation permits are usually issued subject to a range of conditions that cover matters such as analysis and reporting requirements, artefact cataloguing, storage and curation.

## Management

### 3.1 INITIAL ASSESSMENTS

An initial assessment (sometimes called a baseline assessment) is a basic overview study or examination undertaken to determine whether a particular site warrants further investigation. Initial assessments may be undertaken for a single site or a larger area, depending upon their purpose.

An initial assessment is not intended to provide comprehensive data but to identify appropriate management actions, including the need for further investigation and assessment.

The level of research or investigation required for an initial assessment will vary but may include:

- a review of available historical information
- some historical research
- the identification of historical themes
- a field survey / site inspection
- preliminary conclusions about archaeological potential
- preliminary significance assessment
- an analysis of client needs and objectives
- management recommendations including recommendations for further work.

### 3.2 ARCHAEOLOGICAL ZONING PLANS

Archaeological zoning plans assist in conserving significant archaeological features by identifying potential archaeological sites.

An archaeological zoning plan may be prepared for an individual site, a precinct, a proposed subdivision or even a larger piece of land such as a local council area. They are appropriate for areas with a high likelihood of

significant archaeological remains being preserved.

Archaeological zoning plans are prepared using methods and processes similar to an initial assessment or archaeological assessment. However, there are important differences.

- they do not include comprehensive site specific research - their intent is to identify whether archaeological features may be present, not necessarily to assess significance.
- they divide the subject area into units of archaeological potential. These units will vary according to the individual circumstances of each zoning plan. An example would be:
  - known archaeological sites or features (high archaeological potential)
  - potential archaeological sites or features medium archaeological potential)
  - archaeologically sterile sites or features (low archaeological potential).
- They are usually presented as a map divided into different units, with text that explains the different archaeological potential of each unit. There may also be an associated inventory of sites that provides more information. In some cases, archaeological zoning plans are linked to an environmental planning instrument, or to specific management procedures for each unit. These procedures are usually referred to as an archaeological management plan.

Archaeological zoning plans can be used in conjunction with an archaeological management plan or an environmental planning instrument to prescribe appropriate management action or future assessment requirements for areas within each unit.

### 3.3 ARCHAEOLOGICAL ASSESSMENTS

The process for undertaking archaeological assessments is outlined in detail in Section 4 and summarised in Figure 2.

An archaeological assessment provides specific recommendations for the management of archaeological resources. The recommendations and their content will vary depending upon the type of study area or site, its significance and the reason for the assessment. In some cases these recommendations may also be made in heritage studies, zoning plans, and Environmental Impact Statements.

In the case of an environmental impact assessment, the recommendations will address the significance of the site, the impact of the proposal and proposed conservation or mitigation measures.

For development or building proposals, the assessment should recommend specific actions, such as:

- no further action
- archaeological monitoring
- test excavation
- archaeological excavation
- in situ conservation.

#### 3.3.1 No Further Action

A recommendations that no further action is necessary will be made if the archaeological assessment indicates that the subject site is either unlikely to contain archaeological features or is likely to contain archaeological features of little or no significance.

Consultation should, nevertheless, occur with the Heritage Office if relics' (as defined by the *Heritage Act, 1977*) are to be disturbed.

#### 3.3.2 Archaeological Monitoring

Archaeological monitoring may be recommended where the predicted significance of features is unknown or low or when a site is likely to have suffered a degree of disturbance. In this case a site may not warrant detailed recording.

Archaeological monitoring invariably involves disturbance and the excavation of relics, and must therefore be carried out in accordance with a research design and an excavation permit issued by the Heritage Council of New South Wales. The research design should indicate the objectives of the monitoring process.

Archaeological monitoring requires the archaeologist to liaise effectively with other workers on site to ensure that relevant features are adequately recorded. In some circumstances monitoring may involve the collection of artefacts. In rare instances monitoring may reveal archaeological features of considerable significance that were not identified or predicted during the assessment. Where this occurs, test excavation, comprehensive archaeological excavation or even in situ conservation may be required.

#### 3.3.3 Test Excavation

Archaeological assessment may conclude that potential archaeological resources on a site are unclear. In such cases test excavation may be recommended to clarify the potential of the site, to establish significance and to determine appropriate further action. In this context, test excavation can become part of a comprehensive archaeological assessment.

Test excavation involves disturbance and excavation of relics and must be carried out in accordance with a research design and an excavation permit issued by the Heritage Council of New South Wales. The research design should explain the basis on which the testing will be undertaken.

Test excavation can use traditional archaeological methods (small hand tools and hand excavation) or large-scale mechanical excavation.

Test excavation is a preliminary phase that is likely to lead to recommendations for: no further action; archaeological monitoring; archaeological excavation; or in situ conservation.

### 3.3.4 Archaeological Excavation

Excavation involves disturbance and excavation of relics and must therefore be carried out in accordance with a research design and an excavation permit issued by the Heritage Council of New South Wales.

Archaeological excavation should reveal the research potential of an archaeological site. It involves a structured program of on-site activities including:

- site preparation
- excavation itself
- sampling (as appropriate)
- artefact recovery
- photography
- drawing
- recording.

Archaeological excavation also involves off-site activities including:

- contextual and other historical research

- documentation of the stratigraphy on the site
- artefact cataloguing
- preparation of graphic evidence
- preparation of a synthesis of all of the material
- reporting
- conservation of excavated material
- lodgement of artefacts and records with a public archive.

Archaeological excavation should only be undertaken under the direction of a suitably qualified and experienced archaeologist. The archaeologist is responsible for determining the methodology and sampling strategies appropriate for a particular site.

### 3.3.5 In Situ Conservation

An archaeological assessment may conclude that the most appropriate management action for the archaeological remains is conservation in situ. This may be because the archaeological features are of such significance or research value that they warrant retention and conservation in the place in which they were found.

The procedures for determining appropriate conservation and management actions for such sites are the same as for any other item of environmental heritage.

This form of report is generally referred to as a conservation management plan. The principles and procedures for the preparation of these plans are set out more fully in The Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (The Burra Charter) 1988; and The Conservation Plan, by J.S. Kerr, third edition, National Trust of Australia, (NSW), 1990.

### 3.4. RECORDING AND REPORTING

The level of recording and reporting appropriate for a particular archaeological site or feature depends on the level of significance assigned to that site or feature.

The following standards for site recording are provided as an indicative guide only.

#### **Monitoring**

- colour print photography (with north arrow and scale)
- sketch plans and elevations (with dimensions noted)
- written report which includes response to original objectives
- artefacts and catalogue (if artefacts are collected).

#### **Test Excavation**

- colour slide photography (with north arrow and scale)
- black and white print photography (with north arrow and scale)
- sketch plans, to scale
- sketch sections and elevations, to scale
- context sheets
- stratigraphic matrix showing relationship of context
- descriptive text
- artefact catalogue
- written report which includes response to the research design.

#### **Archaeological Excavation**

- colour slide photography (with north arrow and scale)
- black and white print photography (with north arrow and scale)
- measured drawings
- accurate plans, sections and elevations
- context sheets
- stratigraphic matrix showing relationship of contexts
- artefact catalogues

- analysis of artefacts
- synthesis of results
- written report, which includes response to the research design.

#### **Conservation in situ**

Broadly summarised this procedure involves:

- assessing significance
- establishing requirements for retention of significance
- identifying other key issues, such as physical condition, requirements of the owner or proponent, statutory controls and other factors
- analysing options
- preparing a conservation policy statement
- formation of implementation recommendations.

Archaeological project reports, together with the primary records (for example, photos, drawings, field notes) and artefacts are the means by which the research potential of archaeological sites is realised. Data is collected from structures, features and deposits (usually in the ground) and transferred to records and collections. The realisation of research potential requires synthesised interpretative analysis of results, supported by these primary records. The quality and coverage of the project report is therefore of paramount importance to any archaeological project.

The format, content and length of the report will be determined by the nature and extent of features excavated or recorded, the amount of data recovered and the extent of relevant associated research undertaken. However, all reports on archaeological excavations including test excavations, should include a formal response to the project research design (see Section 6).

### 3.5 ARTEFACT COLLECTIONS

Excavated artefacts (including samples of structures or deposits), form an integral part of the record of any excavated sites.

Prior to excavation and following recovery of artefacts, advice should be obtained from an experienced materials conservator in relation to:

- cleaning
- short term storage
- special treatment requirements
- long term storage and curation.

Artefacts should be numbered and identified by context at the time of excavation. A catalogue of excavated material is an essential part of the artefact collection.

Arrangements should be made for the long term curation and storage of artefacts and associated material. Responsibility for collection management rests with the owner of the site.

### 3.6 COMMUNITY CONSULTATION

Community interest in Australian history generally and archaeology in particular, is growing. Some sites may have value for particular individuals or groups that extend beyond their economic or utilitarian purposes and their archaeological significance. Sites which have high social value (or “community

esteem”) carry with them an additional obligation for the archaeologist to consult with interested persons and to involve them, where possible, in the decision-making process.

### 3.7 COMMUNITY INVOLVEMENT

It is important in major archaeological projects to provide opportunities for appropriate public participation and access to the final results. In addition to disseminating the final report (through academic or general papers), it is also desirable to provide means for community involvement during the course of work. Such involvement can provide high quality public relations opportunities and may be an effective means of promoting the development proposal and overcoming potential conflict and delays at a later stage.

Initiatives for public and community involvement in archaeology include:

- oral history collection
- volunteer participation
- publication of a brochure! leaflet
- media briefing and events
- site tours during excavations
- exhibitions and open days
- on-site lectures
- invitations to other practitioners to visit.

## The Process

This section outlines a general set of guidelines for archaeological assessments which can be used as a checklist. Not all tasks will be relevant to every site and every project, so the process must be amended to suit the particular circumstances. The assessment process occurs after it has been determined that the site has some archaeological potential.

### 4.1 PROJECT INITIATION

Project initiation is the responsibility of different people depending on the circumstances of the assessment. For example, in a building or development project responsibility for initiation rests with the development proponent. Typical project initiation actions are:

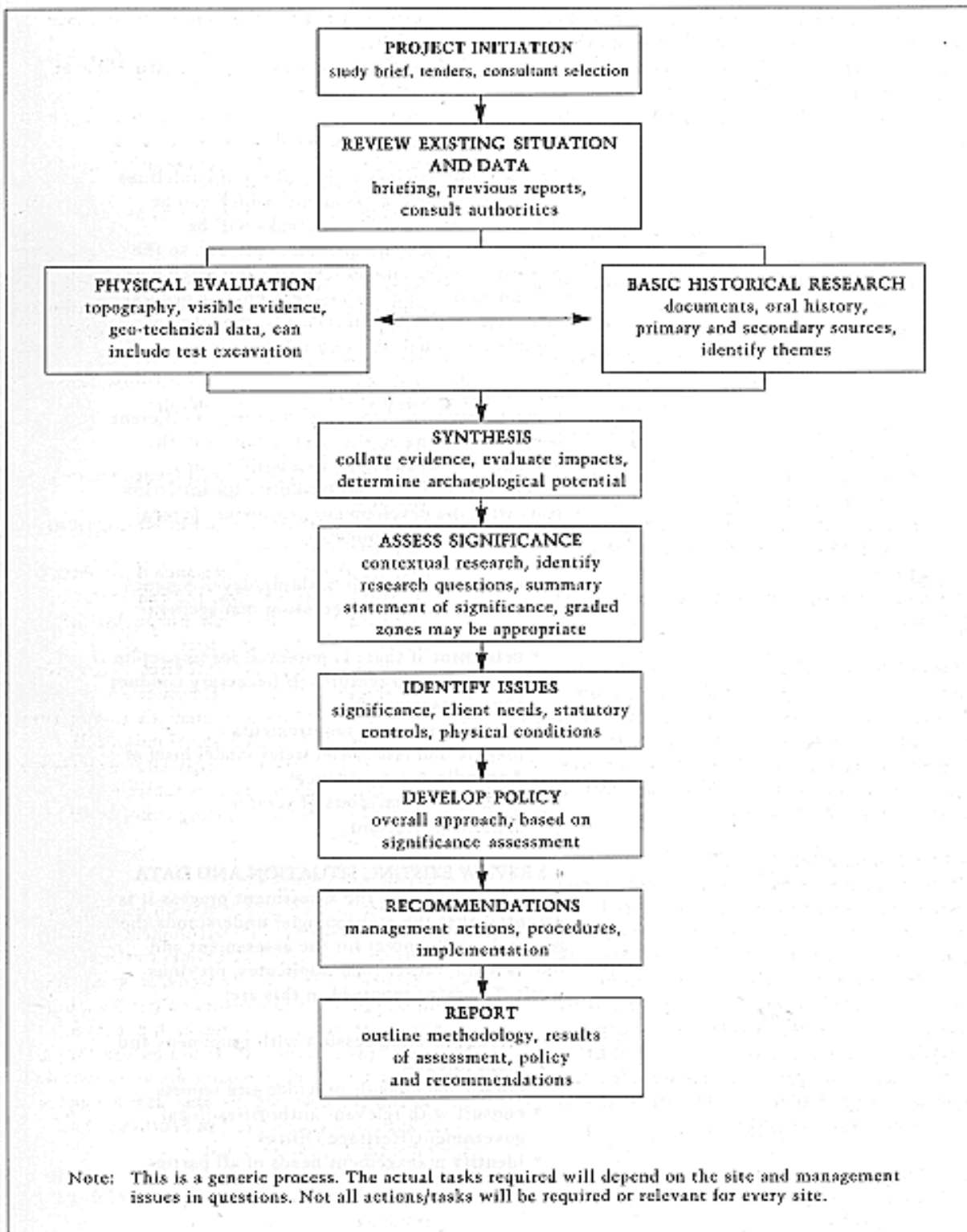
- prepare concept for building/development/heritage study/conservation management plan
- determine if there is potential for impact on archaeological features (if necessary conduct initial assessment)
- identify statutory requirements
- prepare and issue brief (refer model brief at Appendix A for guidance)
- receive tenders/offers of service
- appoint consultant.

### 4.2 REVIEW EXISTING SITUATION AND DATA

As an initial step in the assessment process it is essential that the archaeologist understands the rationale and context for the assessment and builds upon, rather than duplicates, previous work. The steps involved in this are:

- arrange briefing session with proponent and archaeologist
- obtain and consult previous site reports
- consult with relevant authorities (local government/Heritage Office)
- identify management needs of all parties.



**FIGURE 1: ARCHAEOLOGICAL ASSESSMENT PROCESS**



### 4.3 BASIC HISTORICAL RESEARCH

Historical information and other data may be most cost effectively obtained through oral and documentary research which focuses on the specific management purpose of the assessment. Any or all of the following avenues of investigation may be appropriate to a particular site:

- refer to History and Heritage (NSW Heritage Manual)
- review published local histories and/or heritage study
- contact local historical societies/experts
- record oral history, if available
- review secondary sources
- consult primary source repositories such as Mitchell Library, Archives Office of NSW, Royal Australian Historical Society, local history bibliography and other local history collections
- examine primary source material, such as directories, rate books, Lands Title Office records, statutory authority records, historical maps, plans and pictures as appropriate
- compile a set of key references and graphical material.

The outcome of historical research should provide a concise understanding of the site's history and the consequent potential for physical evidence. An understanding of the historical context of the site, which is needed for assessing significance, will require additional contextual research (refer Section 5.4).

### 4.4 PHYSICAL EVALUATION

Physical examination of a site can often reveal much about its archaeological potential, particularly in cases where structures or foundations are still standing, or where bulk excavation has clearly removed all former archaeological features. It is often preferable to examine the site before undertaking

detailed historical research, as the condition of the site may limit the extent of research needed or direct efforts in a particular way. The steps involved in site examination may include:

- note existing topography
- if practical, define or assume pre-contact topography
- document existing structures and ruins (sketch/photograph)
- inspect site for indications of sub-surface features
- evaluate impact of existing structures on earlier features
- obtain geo-technical cores (ideally be present when cores are drilled)
- examine records of other disturbances, for example, service trenches
- consider any data from nearby sites.

### 4.5 SYNTHESIS

The fundamental task of any archaeological assessment is the logical and cohesive synthesis of the sometimes complementary, sometimes conflicting, data provided by research and physical evaluation. The steps involved in preparing a synthesis may include:

- collate evidence
- overlay key plans (historic/contemporary/assumed)
- examine potential impact of later activities on earlier features
- determine the likely presence or absence of archaeological features. For example, establish zones in which archaeological features are likely to occur
- known archaeological sites or features (high archaeological potential)
- potential archaeological sites or features (medium archaeological potential)
- archaeologically sterile sites or features (low archaeological potential).
- graphic presentation (using zones) may be appropriate.

#### 4.6 ASSESS SIGNIFICANCE

Appropriate management decision making for identified or predicted archaeological features depends upon effective assessment of their significance. In the case of archaeological sites the most important measure of significance is technical significance or 'research potential'. However, the assessment should ensure that all aspects of a site's significance are addressed and taken into account. Significance assessment is dealt with in greater detail in Section 5, but includes the following steps:

- use NSW Heritage Manual methodology/framework
- identify relevant research themes (historical and/or archaeological)
- assess potential research contribution of archaeology to themes
- examine context relative to other sites
- identify potential research contribution of this site (in the light of comprehensive material)
- evaluate potential research questions
- present a summary statement of significance (between 50—200 words)
- consider graphic presentation of graded zones of significance (depending on site and issues).

#### 4.7 IDENTIFY ISSUES

Before proceeding to develop a policy for the site or specific management recommendations, it is important to specify the issues that have been taken into consideration. This process follows the normal conservation planning methodology outlined in the *Burra Charter* and Kerr's *The Conservation Plan*:

- identify any obligations arising from significance (research potential or other significance as appropriate)
- specify the requirements of client/proponent/owner (including impact of proposal)
- identify any statutory controls and procedures

- identify any other issues for example, physical condition.

#### 4.8 POLICY DEVELOPMENT

The policy statement should take into account requirements for retaining significance, realising the research potential of the site and any other issues. It should set out the philosophical basis for management of the site's archaeological resources. The process should include identifying and analysing options, determining the approach to be adopted and presenting a policy statement.

#### 4.9 RECOMMENDATIONS

Recommendations should clearly and succinctly set out the steps that must be taken by all relevant parties to implement the conservation policy. They should also reflect the values established in the statement of significance and should include:

- statutory requirements
- further research required
- appropriate management actions for the site or individual parts of the site.

#### 4.10 TYPES OF ARCHAEOLOGICAL ASSESSMENT

Archaeological assessments are undertaken for different purposes and for different types of sites or places. All assessments will have certain principles in common, but the process and the steps included in an assessment must be tailored to suit the particular circumstances. Most assessments will result in some sort of report (see section 4.11 for minimum requirements).

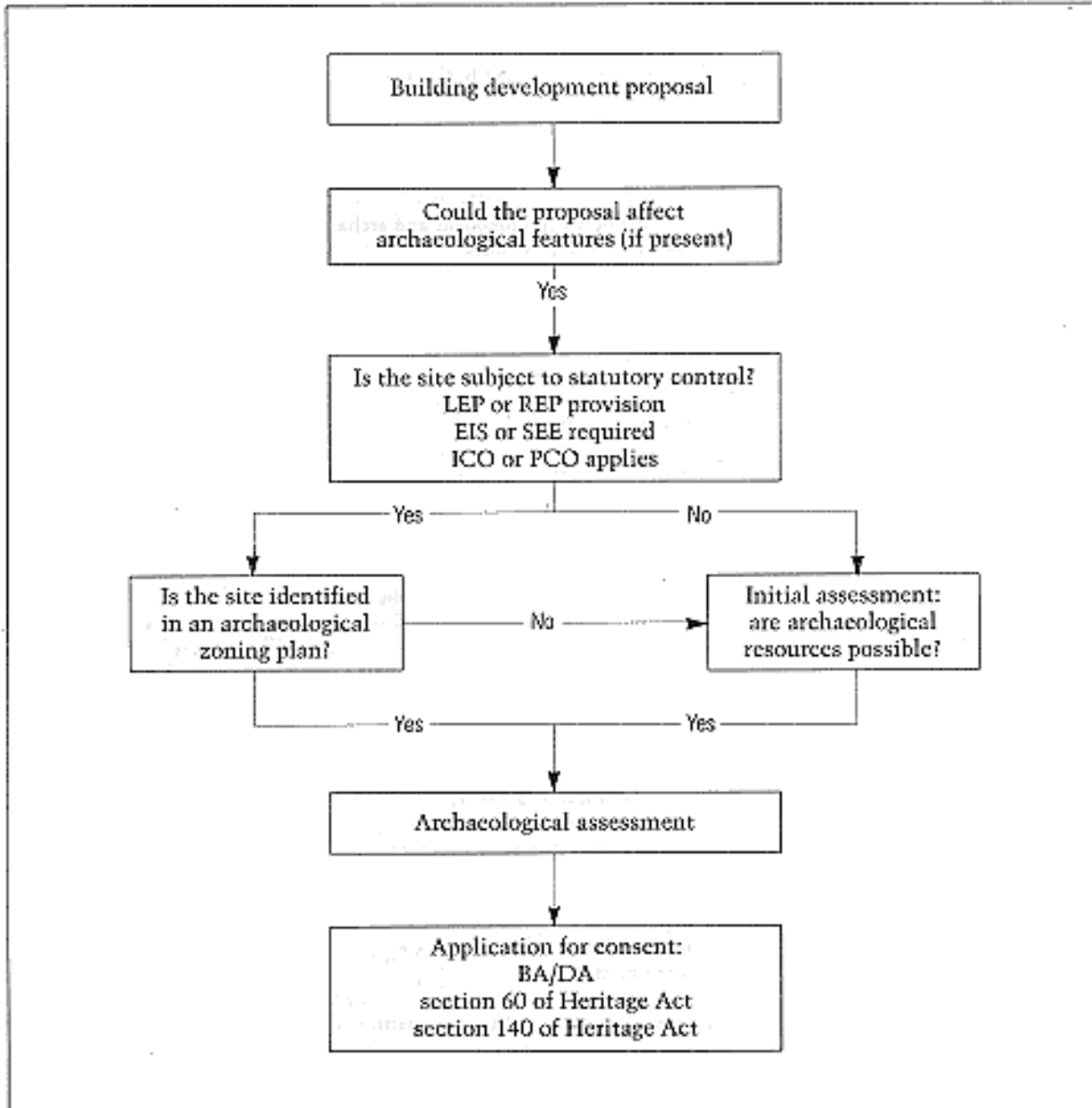
Set out in the following pages are some examples of different archaeological assessments and the tasks that could be undertaken for each. As with the overall process outlined above, these check-lists are indicative, not prescriptive. In each case it is presumed that a decision has already been made to undertake an archaeological assessment

**TABLE I: DEVELOPMENT AND BUILDING PROPOSALS**

(Use for building applications, development applications, other works such as excavation, dredging or land clearance, feasibility studies for individual sites.)

Project initiation	prepare concept for proposed building or development identify if there is potential impact (if no impact — no further action) appoint consultant, (brief/tender. etc.)
Review existing situation and data	briefing between proponent and archaeologist consult previous reports consult authorities identify management needs.
Basic historical research	review secondary sources primary research compile key graphic evidence outline site history.
Physical evaluation	may occur before historical research document existing structures and disturbances inspect site for indication of sub-surface features evaluate impact of existing structures on earlier features examine geo-technical data examine information from nearby sites.
Synthesis	collate evidence determine likelihood for archaeological features or sites to occur.
Assess significance	use NSW Heritage Manual criteria identify themes identify research questions state significance identify graded zones, if appropriate.
Identify issues	obligations arising from significance requirements of client - especially potential impact of proposal statutory context other matters.
Policy development	prepare succinct policy statement.
Recommendations	indicate appropriate management actions identify implementation strategy.
Product	report addressing all of the above points.

**FIGURE 2: THE ARCHAEOLOGICAL ASSESSMENT PROCESS AND BUILDING AND DEVELOPMENT PROPOSALS**



## TABLE 2: PLANNING STUDIES, HERITAGE STUDIES AND REGISTERS

(Use for local Council heritage studies, LEP/REP preparation, thematic studies, inventories of heritage items, section 170 registers.)

Refer to *Heritage Planning Notes 1 and 2* and *NSW Government and Heritage* (both included in the NSW Heritage Manual) in regard to these assessments.

Project initiation	include requirement for archaeological assessment in project brief appoint consultant, (brief/tender etc).
Review existing situation and data	collate and review previous reports.
Basic historical research	liaise with study historian (where engaged) identify major themes collate key graphic evidence identify potential archaeological sites.
Physical evaluation	limited (overall) field survey inspect potential archaeological sites.
Synthesis	collate evidence identify areas and/or sites of archaeological potential in some cases prepare archaeological zoning plan.
Assess significance	use NSW Heritage Manual criteria assess overall significance of archaeological resources in study area if appropriate, assess significance of archaeological sites.
Issues	obligations arising from significance existing statutory context purpose of study intended outcomes.
Policy	prepare succinct policy statement.
Recommendations	identify appropriate statutory provisions possibly prepare archaeological management plan or further detailed assessment to identify provisions that apply to units in archaeological zoning plan.
Product	The products arising from these type of studies include: archaeological zoning plans, contributions to broader heritage studies, lists with brief descriptions of items for a register, inventory or planning instrument.

**TABLE 3: ENVIRONMENTAL IMPACT ASSESSMENT**

(Use for Environmental Impact Statement, Statement of Environmental Effects, Statement of Heritage Impact.)

Refer to *Statements of Heritage Impact* in the NSW Heritage Manual for further assistance

Project initiation	Director's requirements (identify archaeological/heritage resources as an issue) appoint consultant (brief/tender etc).
Review existing situation and data	briefing between archaeologists and project team consult previous reports consult authorities identify issues and needs.
Basic historical research	review secondary sources primary research identify historic themes compile key graphic material outline history identify potential archaeological sites.
Physical evaluation	area/site survey/inspection inspect potential archaeological sites examine other evidence (eg geo-technical data).
Synthesis	collate evidence identify areas and/or sites of archaeological potential if appropriate, prepare archaeological zoning plan.
Assess significance:	use NSW Heritage Manual criteria statement of significance for overall area and/or individual sites graded zones of significance, if appropriate.
Identify issues	obligations arising from significance statutory context impact of proposal - identify and consider design alternatives identify possible mitigating actions.
Policy development	conclusions regarding significance and likely impact desirable design changes succinct policy statement.
Recommendations	indicate appropriate management actions identify special mitigating measures or design changes required if appropriate, prepare archaeological management plan identify implementation strategy.
Product	report to be included in larger environmental impact assessments.

**TABLE 4: CONSERVATION PROJECTS**

(Use for conservation management plans, plans of management, physical conservation works, other works projects requiring specific archaeological input.)

Project initiation	identify need for archaeological assessment appoint consultant (brief/tender etc).
Review existing situation and data	briefing between project director and archaeologist consult previous reports consult with authorities identify objectives and outcomes.
Basic historical research	liaise with project historian (where engaged) review secondary sources compile key graphics outline history.
Physical evaluation	liaise as appropriate with other project officers such as architects and/ or planners where engaged site inspection and documentation including built environment examine other evidence (eg geo-technical data) examine information from nearby sites.
Synthesis	collate evidence (overlays can be useful) determine archaeological potential.
Assess significance	use NSW Heritage Manual criteria identify themes identify research questions identify potential contribution to conservation project itself prepare statement of significance identify graded zones of significance, if appropriate.
Identify issues	obligations arising from significance requirements of project - especially information needs statutory context other matters.
Policy development	prepare succinct policy statement for the archaeological resource link to overall policy for place.
Recommendations	indicate appropriate management actions identify implementation strategy.
Product	report.

**TABLE 5: RESEARCH INVESTIGATIONS**

(Use for academic research projects, local community initiatives, other projects not included above.)

Project initiation	select areas or sites to be studied.
Review existing situation and data	consult previous reports consult with authorities.
Basic historical research	refer to <i>History and Heritage</i> , NSW Heritage Manual review published local histories and/or heritage study contact local historical societies/experts record oral history, if available review secondary sources primary research collate the graphic evidence.
Physical evaluation	note existing topography document existing structures and disturbances inspect site for indication of sub-surface features evaluate impact of existing structures on earlier features examine records of other disturbances obtain geo-technical cores, if available consider data from nearby sites, if available.
Synthesis	collate evidence overlay key plans examine potential impact of later activities on earlier features determine archaeological potential.
Assess significance	use NSW Heritage Manual criteria identify themes identify research questions assess site-specific values prepare statement of significance identify graded zones of significance.
Identify Issues	obligations arising from significance statutory context resources available objectives of research project.
Policy development	prepare succinct policy statement.
Recommendations	indicate appropriate management actions if appropriate, prepare archaeological management plan identify implementation strategy.
Product	report including all of the information above.



#### **4.11 REPORTS: MINIMUM REQUIREMENTS**

Archaeological assessment reports should contain sufficient data to stand alone; support documents should be unnecessary. They should demonstrate the process and results, providing information in a format that is useful as reference material.

The content of an archaeological assessment report will depend on the site and the purpose of the study. The following checklist provides a guide to likely minimum information requirements. For smaller assessments or simple inventories less information may be appropriate.

- site or study area marked on a map
- relevant statutory controls/zoningsa
- author identification
- background to the assessment, including reference to previous reports
- outline of methodology employed
- sources consulted
- an historical outline/summary
- analysis of physical evidence (possibly illustrated)
- synthesis (possibly in graphic overlay form)
- likelihood of archaeological remains occurring (known, potential, no archaeological features), may be presented graphically
- identification of research themes and questions (and how these were derived)
- assessment of significance (statement of significance and/or graded zones)
- identification of issues
- policy statement
- recommendations
- acknowledgments
- bibliography.

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## Significance

### 5.1 WHAT IS SIGNIFICANCE?

'Heritage significance' is a term used to describe a heritage item's value or importance. Heritage significance is contained in the fabric of an item, in its setting and relationship to other items, and in the response that the item evokes in those who value it.

Archaeological deposits and features provide evidence of the history and settlement of New South Wales. Archaeological investigation can reveal much about technologies, economic and social conditions, taste and style. The features and artefacts extracted and recorded can provide primary evidence about the way of life of previous generations. It is through the potential for revealing information unavailable from other sources that archaeological significance is derived.

### 5.2 EVALUATION CRITERIA

The Heritage Office and the Department of Urban Affairs and Planning have prepared a detailed set of criteria for assessing the State's environmental heritage (see *Heritage Assessments*, NSW Heritage Manual).

The criteria are divided into two categories: nature of significance; and comparative significance.

#### 5.2.1. Nature of Significance Criteria

*Criterion 1: Historic significance (evolution and association).* An item having this value is significant because of the importance of an association with, or position in the evolving pattern of our cultural history.

*Criterion 2: Aesthetic significance (scenic qualities/creative accomplishment).* An item having this value is significant because it demonstrates positive visual or sensory appeal,

landmark qualities and/or creative or technical excellence.

*Criterion 3: Technical/research significance (archaeological, educational, research potential and scientific values).* Items having this value are significant because of their contribution or potential contribution to an understanding of our cultural history or environment.

*Criterion 4: Social significance (contemporary community esteem).* Items having this value are significant through their social, spiritual or cultural association with a recognisable community.

### 5.2.2. Comparative Significance Criteria

*Criterion A: Representativeness.* Items having this value are significant because they are fine representative examples of an important class of significant items or environments.

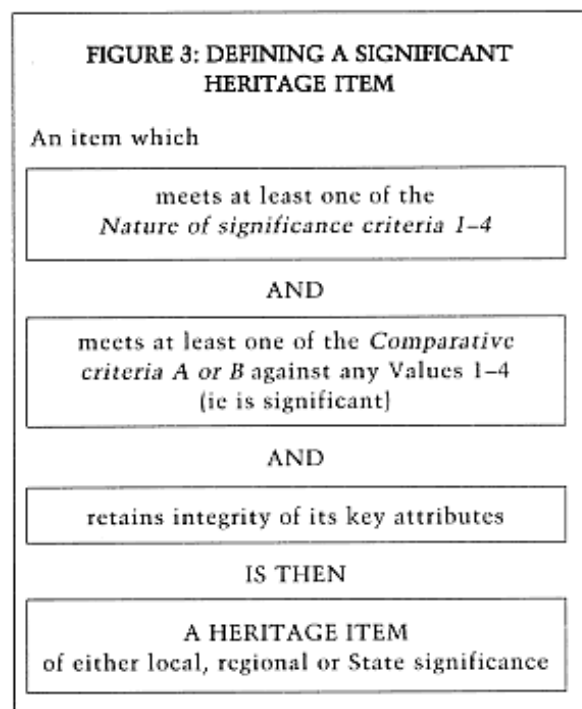
*Criterion B: Rarity.* An item having this value is significant because it represents a rare, endangered or unusual aspect of our history or cultural environment.

### 5.2.3. What is meant by local, regional and State heritage significance?

These terms relate to the geographical and social context of an item's significance. An item of local significance will be of historical, social, aesthetic or technical/research significance in a local geographical context. Because particular communities benefit from the conservation of heritage items, the terms also indicate appropriate levels of management.

Local councils play the pivotal role in the management of all heritage items because they can most directly liaise with both owners or managers and the interested community. Items which are significant in regional or State contexts require additional consultation and concurrence at regional and State levels. Where appropriate management of any heritage item is not occurring or where State planning policies are being implemented, it may be appropriate to manage items at a State level, at least in the short term.

*Heritage Assessments* (NSW Heritage Manual) provides more detailed information on assessing the significance of heritage items.



### 5.3 RESEARCH POTENTIAL

Research potential (Nature of significance criterion 3) is the most relevant criterion for assessing archaeological sites. However, assessing research potential for archaeological sites can be difficult as the nature or extent of features is sometimes unknown, therefore judgements must be formed on the basis of expected or potential attributes. One benefit of a detailed archaeological assessment is that judgements can be better informed by more rigorous historical or other research.

The key test that must be applied in understanding the scientific research value of a known or potential archaeological site is the question of whether further studies of the physical evidence may reasonably be expected to help answer research questions.

### 5.4 CONTEXT

In relation to research questions, an understanding of the broader context of an individual site is essential, as it is impossible to address the research potential of a single site in isolation.

Consultation with professional colleagues both within and outside the discipline of archaeology is required. In addition to addressing current archaeological research questions, the input from historians on matters that cannot be addressed by basic documentary research, can be invaluable.

The historic themes listed in *History and Heritage*, NSW Heritage Manual, or themes identified in local heritage studies, can assist in identifying particular research areas. However, within these areas it is also important to focus on particular questions and subjects, so that the potential archaeological research value of individual sites or features can be specifically identified.

### 5.5 DOES THE SITE HAVE RESEARCH POTENTIAL?

Once the archaeological potential of a site is known, and the research themes and questions to which it may contribute evidence have been established, it is possible to apply the following inclusion guidelines to assess its research potential (Bickford and Sullivan, 1984):

- can the site contribute knowledge that no other resource can?
- can the site contribute knowledge that no other site can?
- is this knowledge relevant:
  - to general questions about human history
  - to other substantive questions relating to Australian history
  - to other major research questions?

If the answer to these questions is yes then the subject site does have archaeological research potential.

### 5.6 FORMAT FOR THE ASSESSMENT OF SIGNIFICANCE

The assessment of significance is usually presented as several components:

- identification of relevant historic themes
- identification of specific research questions discussion of research potential and how and why the archaeological resources of the subject can realise this potential
- a short 50—200 word summary statement that answers the question “what is the research potential of this site?”
- if appropriate, a plan of the site, showing graded zones of significance (especially useful for large scale sites) such as
  - no significance
  - low significance
  - moderate significance
  - considerable significance
  - outstanding significance.

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## Research Designs

### **6.1 WHAT IS A RESEARCH DESIGN?**

A research design is an important prerequisite for an archaeological investigation. In NSW all applications for an excavation permit must be accompanied by a research design. This ensures that archaeological investigations are problem-oriented and focused on research needs.

A research design is a set of research questions and a methodology to address them, developed specifically for the subject site within a wider research framework. It is a tool which ensures that when archaeological resources are destroyed by excavation, their information content is preserved and can contribute to current and relevant knowledge about the past.

### **6.2 WHEN IS A RESEARCH DESIGN PREPARED?**

A research design is only prepared if monitoring, test excavation or excavation is recommended. It is prepared after the completion of an archaeological assessment as part of an application for an excavation permit.

Much of the content of a research design will have already been determined by the process of identifying research themes and questions during the assessment of significance. The research design develops this work into a more detailed document.

### **6.3 HOW IS A RESEARCH DESIGN PRESENTED?**

A research design for archaeological investigations (monitoring/test excavation/comprehensive archaeological excavation) should include:

- Identification of research themes: This requires substantial knowledge on the part of the assessor. Consultation with professional colleagues and a multi-disciplinary approach are desirable.

- Identification of major research questions: These questions should relate to research themes, but should be selected and framed in a way that indicates how data from the site can contribute meaningful information. The questions may be presented in a hierarchical format, with issues of historical process and pattern being further divided into quantifiable questions about excavated structures or artefacts.

For archaeological work associated with other conservation projects, the questions may be very specific and directed at obtaining information that will assist with the overall project.

- *On-site excavation methodology:* The philosophical approach to on-site work and the processes and procedures proposed for recovery and recording of archaeological data should be stated and related to the research questions. It may be appropriate to include detailed schedules of personnel, equipment and other similar factors here depending upon the type of excavation proposed.
- *Post-excavation:* **The** final part of the research design should explain the archaeologist's intentions regarding postexcavation documentation and analysis. Techniques to be used in the post excavation phase should also relate directly to the research questions.

## Appendices

### APPENDIX A. MODEL BRIEF FOR ARCHAEOLOGICAL ASSESSMENTS

This model brief is provided as a guideline only. It is not intended to be prescriptive. It is comprehensive and detailed so as to cover all types and sizes of assessment. The brief should be adapted to suit the particular site, project and client requirements.

#### I. INTRODUCTION

##### I.1 Preamble

The preamble should explain the background to the proposed archaeological assessment; including an outline of any building or development proposed and the manner in which the results of the assessment will be used for management of the archaeological resource.

##### I.2 The Client

The client is *[Insert name and address of client]*.

The contact officer for this project is *[Insert name and contact number for contact officer]*.

##### I.3 Objectives

The objectives of this assessment are to:  
 evaluate the probable extent, nature and integrity of the archaeological resource at *[insert name of site/area]*  
 determine the significance of that resource  
 define the appropriate management for that resource having regard to significance and statutory requirements.

#### 2. BACKGROUND TO THE STUDY AREA

##### 2.1 Location

*[Describe location - include explicit site plan.]*

##### 2.2 History

*[Outline (circa 50 word) known history, if available.]*

2.3 Previous reports Include here a schedule of reports previously completed on the study area, or other relevant documentation.

#### 3. TASKS

##### 3.1 Approach and methodology

This assessment should be undertaken following the procedures and approach outlined in Archaeological Assessments (Heritage Office & Department of Urban Affairs and Planning 1996).

##### 3.2 Reporting

- attendance at briefing meeting with the project contact officer
- consultation with *[Insert Council Name]* Council and Heritage Office if required.

##### 3.3 Historical research

- primary research, as required
- review of relevant published historical references
- collation and review of previous studies and data
- consultation with local historical society or similar sources if required
- recording of oral history as required
- identify relevant historical themes.

### 3.4 Site evaluation

- evaluation of existing physical evidence, including site topography
- inspection of geo-technical core data, [if available]
- examination of records from associated sites, [list - if available and known].

### 3.5 Synthesis and archaeological potential

- bring together the historical research and the physical evaluation of the site
- determine archaeological potential.

### 3.6 Assess significance

- following NSW Heritage Manual methodology
- including summary statement of significance and graded zones of significance.

### 3.7 Identify issues

- obligations arising from significance
- requirements of [Insert Client Name]
- statutory controls and procedures
- other issues as appropriate.

### 3.8 Policy development

- overall policy statement
- specific conclusions.

### 3.9 Recommendations

Clear and precise procedural recommendations for the future management of the archaeological resource.

### 3.10 Reporting

The consultant will provide a comprehensive report outlining the results of the above tasks and including:

- site identification
- author identification (individual personnel involved)
- background to the assessment
- outline of methodology employed
- an historical outline
- schedules of key historical data (background where relevant)
- analysis of physical evidence
- synthesis
- analysis of archaeological potential
- identification of research themes and questions where relevant
- assessment of significance
- identification of issues
- policy statement
- recommendations
- bibliography

## 4. ASSISTANCE AVAILABLE

### 4.1 Documents and reports

[Insert schedule, including location and availability.]

### 4.2 Site access

[Provide a clear indication of site access including special arrangements or contact personnel.]

### 4.3 Accommodation

[Indicate whether on-site accommodation, (ie office/work-space) is available.]

### 4.4 Other

[For example, photocopying, photography, field assistance]



## 5. TIMETABLE

*[Actual dates and milestones may be inserted as appropriate]*

Week one      Submission of project work program

Week xx        Completion of research and site evaluation

Week xx        Submission of draft report

Week xx        Submission of final report.

The offer of services should indicate an earliest available starting date, required notice of commencement or any other relevant constraints on availability.

## 6. PROJECT MANAGEMENT

### 6.1 Contact personnel

*[Include here names and addresses of all relevant personnel, including the contact officer.]*

### 6.2 Liaison meetings

*The consultant will be required to attend up to [xxx] liaison meetings for a maximum of one hour duration during the course of the project.*

### 6.3 Copyright and confidentiality

*[Insert here any specific requirements regarding copyright and confidentiality etc.]*

## 7 FEES

*[Fees may be handled in two ways; either: nomination of a fixed fee, based on an indicative estimate or limiting amount or an open tender/call for services.]*

## 8. OFFER OF SERVICES

### 8.1 Deadline for submission

*[Nominate both time and date.]*

### 8.2 Address

*[Insert address for submission of proposal. Indicate whether tenders forwarded by facsimile will be accepted.]*

### 8.3 Format

Offers of service submitted in accordance with this brief should generally follow the scope of works provided at Section 3. In addition, tenderers should provide specific details regarding:

- the consultant or organisation/ company
- relevant previous experience
- personnel to be employed, including qualifications and experience.

### 8.4 Evaluation criteria

Offers of service will be evaluated in relation to the following criteria:

- qualifications and skills of the proposed study team
- previous relevant experience
- response to the nominated scope of works
- fee structure
- ability to meet timing requirements.

### 8.5 Notification

*Successful and unsuccessful tenderers may expect to be notified of the outcome of the offer of services on or before [Insert date].*

### 8.6 Further inquiries

*Further information may be obtained from [Insert name and contact number].*

## APPENDIX B. GLOSSARY

**Archaeological Assessment** — A study undertaken to establish the archaeological significance (research potential) of a particular site and to identify appropriate management actions. (refer to Sections 1 and 4 of these guidelines).

**Archaeological Feature** — Any physical evidence of past human activity. Archaeological features include buildings, works, relics, structures, foundations, deposits, cultural landscapes and

**Archaeological Management Plan** — A set of management provisions that apply to particular archaeological units or zones. These units or zones are normally indicated graphically in an archaeological zoning plan. The provisions of an archaeological management plan may be included within a heritage study or environmental planning instrument.

**Archaeological Potential** — The degree of physical evidence present on an archaeological site, usually assessed on the basis of physical evaluation and historical research. Common units for describing archaeological potential are:

- known archaeological features/sites (high archaeological potential);
- potential archaeological features/sites (medium archaeological potential);
- no archaeological features/sites (low archaeological potential).

**Archaeological Sensitivity** — A term used by some archaeologists to refer to archaeological potential.

**Archaeological Significance** — A category of significance referring to scientific value or 'research potential', that is, the ability to yield information through investigation,

**Archaeological Site** — A place that contains evidence of past human activity. Below ground archaeological sites include building foundations, occupation deposits,

features and artefacts. Above ground archaeological sites include buildings, works, industrial structures and relics that are intact or ruined.

**Archaeological Zoning Plan** — A graphic plan of a place, which indicates the relative archaeological potential of different areas or zones. Archaeological zoning plans are prepared by undertaking broad-scale archaeological assessment of a large area. They may be incorporated into the provisions of a heritage study or environmental planning instrument. On archaeological excavations, the term 'feature' is used to refer to archaeological remains. Archaeological Management Plan — refer section 3.2 of these guidelines.

**Archaeology** — The study of the human past using material evidence.

**Artefacts** — An object produced by human activity. In historical archaeology the term usually refers to small objects contained within occupation deposits. The term may encompass food or plant remains and ecological features (for example, pollen).

**Australian Association of Consulting Archaeologists Incorporated (AACCA)** — Professional association of archaeologists.

**Australian Heritage Commission (AHC)** — An independent statutory authority which is responsible to the Commonwealth Minister for the Environment. It administers the Australian Heritage Commission Act 1975 and is responsible for the Register of the National Estate.

**Baseline Assessment** — See Initial Assessment.

**Building Application (BA)** — An application under the Local Government Act 1993 for approval to construct or alter a building.

**Burra Charter and Guidelines** — Charter adopted by Australian ICOMOS which established the nationally accepted standard for the conservation of places of heritage significance.

**Conservation** — All the processes of looking after a place so as to retain its heritage significance. Includes maintenance and may, according to circumstances, include preservation, restoration, reconstruction and adaptation and will be commonly a combination of more than one of these.

**Conservation Instrument/Conservation Order** —

A permanent or interim conservation order or a s. 130 or 136 Order under the *NSW Heritage Act*,

**Conservation Management Plan** — A document establishing the significance of a heritage item or a heritage conservation area and policies to retain that significance. It can include guidelines for additional development or maintenance associated with the heritage item or conservation area.

**Contact Sites** — Sites which are associated with interaction between Aboriginal and non-Aboriginal people.

**Cultural Landscapes** — Areas of land that display evidence of human activity or occupation. They include rural lands such as farms, villages and mining sites, as well as country towns, suburbs or urban centres.

**Cultural Significance** — A term frequently used to encompass all aspects of significance, particularly in guidelines documents such as the *Burra Charter*. Also one of the categories of significance

**Demolition** — The damaging, defacing, destroying or dismantling of a heritage item or a component of a heritage conservation area, in whole or in part. This definition will vary according to the context and document in which it is used.

**Demolition Application** — Application to a local government authority to demolish a building or other item.

**Determining/Consent Authority** — The body with the authority to approve or refuse development applications usually the local

council, but in some cases a State government agency.

**Development Application (DA)** — An application under the EPA Act for consent or permission to carry out development.

**Development Control Plan (DCP)** — A plan prepared by a local council to provide more detailed development controls and guidelines to accompany a Local Environmental Plan. Often used for heritage conservation areas.

**Environmental Planning and Assessment Act 1979 (EPA Act)** — The Act under which planning in New South Wales takes place, and under which the majority of heritage provisions are included. Environmental Planning Instrument — Another term for statutory planning controls made by a council or the State Government under the EP&A Act. These can include Local Environmental Plans, Regional Environmental Plans and State Environmental Planning Policies.

**Excavation Permits** — A permit to disturb or excavate a relic issued by the Heritage Council of New South Wales under section 60 or section 140 of the *NSW Heritage Act 1977*.

**Feature** — See Archaeological Feature.

**Heritage Act** — *The NSW Heritage Act (1977)*.

listed in the *NSW Heritage Act, 1977*.  
**Heritage Council of NSW** — The NSW Government's heritage advisory body established under the *Heritage Act, 1977*. It provides advice to the Minister for Urban Affairs and Planning and others on heritage issues. It is also the determining authority for s.60 applications.

**Heritage Significance** — A term used to encompass all aspects of significance (see Cultural Significance). Defined in the *Heritage Act* as aesthetic, historic, scientific, cultural, social, archaeological, natural or aesthetic value for past, present or future generations.

**Heritage Value** — Term often used interchangeably with “heritage significance”.

**Heritage Study** — A conservation study of an area, often commissioned by the local council for its area. The study usually includes a historical context report, an inventory of heritage items within the area and recommendations for conserving their significance.

**Historical Archaeology** — The study of the human past using both material evidence and documentary sources. In Australia “historical archaeology” excludes Aboriginal archaeology prior to non-indigenous occupation but may include ‘contact’ sites.

**Historic Houses Trust** — The State Government instrumentality responsible for maintaining and managing a range of publicly owned historic houses and places.

**Historic Significance** — One of the categories of significance listed in the Heritage Act. Included in evolution and association significance in the State Heritage Manual criteria,

**Historic Shipwrecks Act (Commonwealth) 1976** — The national statutory framework for the identification and conservation of shipwrecks in coastal waters. In NSW the Act is administered by the Director, Heritage Office.

**Initial Assessment** — A basic overview study, sometimes referred to as a “baseline assessment”, undertaken to determine whether a particular site or group of sites warrants further investigation. Initial assessments are used to determine the need for a full assessment for a specific site and to identify sites that should be subject to environmental planning instrument or archaeological management plan provisions. (refer section 3.2 of these guidelines).

**International Council on Monuments and Sites (ICOMOS)** — An international

organisation linked to UNESCO that brings together people concerned with the conservation and study of places of cultural significance. There are also national committees in sixty countries including Australia (see Australia ICOMOS).

**Interim Conservation Order (ICO)** — An order made under section 26 of the Heritage Act to control demolition and development. The order lasts for one year or until it is revoked or a permanent conservation order is made.

**Item** — A building, structure, work, relic, place or group. The generic term used to describe objects under consideration for heritage significance.

**Local Environmental Plan (LEP)** — A plan prepared by a local council under the EP&A Act and made by the Minister following public exhibition. Regulates the carrying out of development in a particular local government area and controls the use and development of land and the conditions under which they can take place. An LEP may identify items via a schedule, and include provisions to allow for their protection and appropriate conservation.

**Maritime Sites** — Shipwrecks, deposits and structures associated with maritime activity.

**National Trust of Australia (NSW)** — A community organisation which maintains a register of heritage items and provides advice on heritage issues. The Trust also owns and manages heritage properties throughout the state.

**Occupation Deposits** — Accumulations of cultural material that result from human activity. They are usually (but not always) associated with domestic sites; (for example, under flow or yard deposits).

**Place** — A term often used interchangeably with “item” in describing matters under heritage assessment consideration. (Does not

include movable items). The term is used particularly in relation to items on the Register of the National Estate.

**Permanent Conservation Order (PCO)** — An order made under Section 44 of the *Heritage Act* to protect a significant heritage item in NSW. This order remains in place indefinitely, unless revoked.

**Post-contact** — A term used to refer to study of archaeological sites dating after European occupation in 1788.

**Post-Excavation** — The stage of an archaeological investigation that occurs after completion of on-site excavation. The post-excavation phase may include further research, artefact cataloguing and analysis, physical conservation, synthesis of findings, presentation and reporting.

**Potential** — see Archaeological Potential and Research Potential.

**Potential Archaeological Site** — A place that may contain evidence of past human activity; (see Archaeological Site).

**Professional Historians Association (PHA)** — Professional association of historians.

**Proponent** — The person or organisation who proposes building a development activity at a site. (Often, but not always the owner of the site).

**Register of the National Estate** — List of natural, Aboriginal and European heritage items of national significance. The Register is kept by the Australian Heritage Commission and includes both interim and permanent listings.

**Relic** — Any deposit, object or material evidence relating to non Aboriginal settlement which is more than 50 years old. The *NSW National Parks and Wildlife Act, 1974* defines a 'relic' as

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 NSW, being habitation both prior to and concurrent with the occupation of that area by persons of European extraction, and includes Aboriginal remains.

**Regional Environmental Plan (REP)** — A plan prepared by the Department of Urban Affairs and Planning under the EP&A Act and made by the Minister following public exhibition. Similar to a LEP, but usually made over a wider area. Can identify heritage items and include controls for their protection and development, such as the Hunter heritage REP.

**Regional Framework** — A co-ordinated approach to archaeological research and investigation developed for a large area or precinct incorporating research questions and themes that apply to a number of sites.

**Research Design** A set of questions which can be investigated using archaeological evidence and a methodology for addressing them. A research design is intended to ensure that archaeological investigations focus on genuine research needs. It is an important tool which ensures that when archaeological resources are destroyed by excavation, their information content can be preserved and can contribute to current and relevant knowledge (refer section 6 of these guidelines),

**Research Potential** — The ability of a site or feature to yield information through archaeological investigation. The significance of archaeological sites is assessed according to their ability to contribute information to substantive research questions. See Scientific Significance.

**Royal Australian Institute of Architects (RAIA)** — Professional organisation of architects.

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**Royal Australian Planning Institute (RAPI)** — Professional organisation of planners.

**Scientific Significance** — A term used to summarise the ‘research potential’ criteria in the NSW Heritage Manual criteria. Items meeting this criterion are significant because of their potential to contribute to an understanding of the history of New South Wales.

**Section 60 Application** — Application made under section 60 of the *Heritage Act* to make changes to an item covered by an ICO or PCO.

**Section 117 Direction** — Direction issued under section 117 of EP&A Act which requires local councils to address heritage issues when preparing LEPs.

**Section 130 Order** — An order made under section 130 of the *Heritage Act* to control demolition. This order normally lasts for one year unless revoked.

**Section 136 Order** — An emergency order made under section 136 of the *Heritage Act* to halt or prevent demolition. This order lasts for 40 days unless revoked.

**Section 140 Application** — Application made under section 140 of the *Heritage Act* for a permit to excavate relics (see Excavation Permit).

**Section 170 Register** — Section 170 of the *Heritage Act* requires each New South Wales government agency to prepare and maintain a register of heritage items in their ownership or under their control.

**State Environmental Planning Policy (SEPP)** — A statutory instrument which addresses matters of State significance, or which deals with issues where the statewide application of policy is necessary. SEPPs are prepared by the Director—General of Urban Affairs and Planning and are made by the Minister, usually following consultation with local government, the community and public authorities.

**Technical Significance** — Items valued for their technical significance can come under either aesthetic significance (creative accomplishment) and/or technical/research significance (contribution or potential contribution to an understanding of our cultural history or environment).



## APPENDIX C. FURTHER INFORMATION

### Organisations

Australian Association of Consulting  
Archaeologist Incorporated  
PO Box 214  
Holme Building  
UNIVERSITY OF SYDNEY NSW 2006

Australian Heritage Commission  
39 Brisbane Avenue  
BARTON ACT 2600  
Ph: (06) 671 2111  
Fax: (06) 273 2395

Australasian Society for Historical  
Archaeology  
PO Box 220  
Holme Building  
UNIVERSITY OF SYDNEY NSW 2006

Heritage Council/Heritage Office  
Level 17  
Governor Macquarie Tower  
1 Farrer Place  
SYDNEY NSW 2000  
Ph: (02) 9391 2255

Local Government  
Contact the heritage adviser (if there is one)  
or planning department of your local council,

Museums Australia (NSW)  
43-51 Cowper Wharf Road  
Woolloomooloo NSW 2011  
Ph: (02) 9358 1760 Fax: (02) 9358 1852

National Trust of Australia (NSW)  
Observatory Hill  
SYDNEY NSW 2000  
Ph: (02) 9258 0123 Fax: (02) 9251 1110

NSW National Parks and Wildlife Service  
43 Bridge Street  
HURSTVILLE NSW 2220  
Ph: (02) 9585 6444

Professional Historians Association  
GPO Box 2437

SYDNEY NSW 2000  
Ph: (02) 9660 3580

Royal Australian Historical Society  
133 Macquarie Street  
SYDNEY NSW 2000  
Ph: (02) 9247 8001

Royal Australian Institute of Architects  
(NSW)  
3 Manning Street  
POTTS POINT NSW 2001  
Ph: (02) 9356 2839

Royal Australian Planing Institute (NSW)  
Darlinghurst Public House  
Liverpool Street  
POTTS POINT  
Ph: (02) 9331 6920

### Publications

Australian Heritage Commission. *Background Notes*, 1992

Australian Heritage Commission, *What Do We Want to Pass on to Future Generations? An Overview of Criteria and Assessment Procedures for the Register of the National Estate*, April 1990.

Australia ICOMOS. *The Australia ICOMOS Charter for the Conservation of Places of Cultural Significance: The Burra Charter and its associated Guidelines*, 1988.

*Australian Journal of Historical Archaeology*

Bickford, A. and Sullivan, S. *Assessing the Research Significance of Historical Sites* in Sullivan, S. and Bowdler, S. *Site Surveys and Significance Assessment in Australian Archaeology*. Department of Prehistory, Research School of Pacific Studies, ANU, Canberra, 1984.

Birmingham, J. and Murray, T., *Historical Archaeology in Australia, A Handbook*. Issued under the National Estate Agents Programme, (Project No 24 of 1978/79). Published 1987.

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NSW Department of Planning, Heritage Council of NSW. *Historical Archaeological Sites: Investigation and Conservation Guidelines*, Department of Planning, Sydney, 1993.

NSW Department of Urban Affairs and Planning. *Leaflet: Suggestions on How Local Councils Can Promote Heritage Conservation*

### **Consultant contacts**

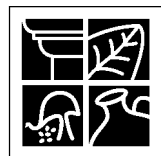
Building or development proponents should make their own enquires regarding appropriate consulting archaeologists and/or other heritage practitioners. Assistance may be available from:

- The Heritage Office
- your local council Heritage Advisor or Planning Department
- Australian Association of Consulting Archaeologists
- Professional Historians Association
- Museums Association of Australia
- Royal Australian Institute of Architects
- Royal Australian Planning Institute.

**8.8 MINIMUM STANDARDS OF MAINTENANCE AND REPAIR**

**HERITAGE INFORMATION SERIES**

*MINIMUM STANDARDS OF MAINTENANCE AND REPAIR*



NSW  
Heritage  
Office

## DISCLAIMER

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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 have recently 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 apply for financial assistance through the *Heritage 2001* funding 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](http://www.heritage.nsw.gov.au)

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**1596 LEGISLATION      5 March 1999****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).

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**5 March 1999 LEGISLATION 1597**

**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 I****Schedule I 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.

**[3] 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.

---

**5 March 1999 LEGISLATION 1599****Heritage Amendment Regulation 1999****Schedule I 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,

**Heritage Amendment Regulation 1999****Amendments Schedule I**

- (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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5 March 1999 LEGISLATION 1601

## Heritage Amendment Regulation 1999

### Schedule I 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,
  - (c) 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.

## Heritage Amendment Regulation 1999

### Amendments Schedule I

#### 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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5 March 1999 LEGISLATION 1603

## Heritage Amendment Regulation 1999

### Schedule I Amendments

- (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,

**Heritage Amendment Regulation 1999****Amendments Schedule I**

- (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****7      APPENDIX**

8.9 STANDARD EXEMPTIONS

**HERITAGE INFORMATION SERIES**

STANDARD EXEMPTIONS

**FOR WORKS REQUIRING  
HERITAGE COUNCIL APPROVAL**



## DISCLAIMER

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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*

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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*



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## INTRODUCTION

In NSW important items of the state's environmental heritage are listed on the State Heritage Register. Any major works proposed for **State Heritage Register items** need to be assessed and approved by the Heritage Council to ensure that the heritage significance of the item will not be adversely affected. The changes should respect and retain those qualities and characteristics that make the heritage place special.

The assessment process can waste the time and resources of both the owner and the Heritage Council if the works are only minor in nature and will have minimal impact on the heritage significance of the place. The Heritage Act allows the Minister for Urban Affairs & Planning, on the recommendation of the Heritage Council, to grant exemptions for certain activities which would otherwise require approval under the NSW Heritage Act.

There are two types of exemptions which can apply to a heritage item listed on the State Heritage Register:

1. **standard exemptions** for all items on the State Heritage Register. Typical activities that are exempted include building maintenance, minor repairs, alterations to certain interiors or areas and change of use.
2. **site specific exemptions** for a particular heritage item can be approved by the

Minister on the recommendation of the Heritage Council.

These guidelines have been prepared to inform owners and managers of heritage items listed on the State Heritage Register about the standard exemptions. They also explain how to develop site specific exemptions for a heritage item.

### 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](http://www.heritage.nsw.gov.au)

## STANDARD EXEMPTIONS

### WHY HAVE STANDARD EXEMPTIONS?

The standard exemptions apply to all items listed on the State Heritage Register. These new exemptions came into force on the 23 October 1998.

The purpose of the standard exemptions is to clarify for owners, the Heritage Office and local councils what kind of maintenance and minor works can be undertaken without needing Heritage Council approval. This ensures that owners are not required to make unnecessary applications for minor maintenance and repair.

**These standard exemptions do not apply to movable heritage items, such as transport vehicles, machinery and furniture collections.**

The Heritage Office is developing policies and procedures for the protection and management of significant movable items. Management guidelines for these items will also be developed.

**These standard exemptions do not usually apply to excavations.**

The approval of the Heritage Council is required for the uncovering of all archaeological relics. See Standard Exemption 4 for the exceptions to this rule

### HOW WILL EXEMPTIONS ALREADY IN PLACE BE AFFECTED BY THE NEW STANDARD EXEMPTIONS?

1. **Standard Exemptions:** The new standard exemptions replace all existing standard exemptions.
2. **Site Specific Exemptions:** Some heritage items have site specific exemptions for works other than those in the standard list. Site specific exemptions will continue to remain in force.

## **WHAT OTHER APPROVALS ARE NECESSARY TO DO WORK ON A HERITAGE ITEM?**

The exemptions only reduce the need to obtain approval from the Heritage Council, under Section 60 of the Heritage Act, to carry out works to a heritage item listed on the State Heritage Register. You should check with your local council for information on additional development and building approvals, and with the Heritage Office for other approvals which may be required under the Heritage Act, such as an Excavation Permit.

## **HOW TO RELATE THE STANDARD EXEMPTION CLAUSES TO YOUR HERITAGE ITEM**

The standard exemption clauses can be grouped under two headings:

- maintenance and repairs;
- alterations.

Clauses have been kept as concise as possible to avoid ambiguities. The terminology used is consistent with the Australia ICOMOS Burra Charter. Australia ICOMOS is the Australian chapter of International Council on Monuments and Sites, a UNESCO-affiliated international organisation of conservation specialists. The Burra Charter is a nationally

accepted standard for assessing and managing change to heritage items.

Before you develop firm proposals for changes to the heritage item, take the following actions:

- [ 1.] Check the boundaries of the item to which the State Heritage listing applies;
- [ 2.] Check the exemptions which apply to your heritage item;
- [ 3.] Read these explanatory notes to ensure that the work you propose is exempted;
- [ 4.] If the work is not exempted, apply to the Heritage Council for approval under Section 60 of the Heritage Act;
- [ 5.] Check with the local council concerning other approvals that may be required;
- [ 6.] Check with the Heritage Office if the work you propose involves the disturbance of relics more than 50 years old.

## **STANDARD EXEMPTION I: MAINTENANCE**

**Maintenance of all components of a place, including the fabric, contents and setting, where “maintenance” means “the continuous protective care without causing any damage or change to the existing fabric.”**

This exemption applies to the full range of heritage items subject to heritage orders under the Heritage Act, including landscapes and vegetation, rural sites, heritage conservation areas, building complexes, buildings, structures, monuments, Aboriginal and movable heritage and industrial heritage sites.

Typical maintenance works covered by this exemption include:

- cleaning generally, as well as cleaning out gutters, drainage systems, ponds, dams and other water storage and drainage areas;
- re-securing loose elements of roofs, timber-work and decorative features in the original manner;
- straightening and re-securing fences and gates;
- minor servicing of equipment and services like lifts, air conditioning and fire services, components with moveable parts requiring lubrication like machinery, engines, water reticulation systems, but only where less than half the parts need replacing;
- maintenance of any existing power or pipe lines or other public services located on the property where this involves no alteration of the fabric of the place;
- landscape maintenance such as weeding, watering, pruning and fertilising necessary for the continued growth of existing plantings without major alterations to layout, contours, structures, plant species or other significant features; and
- tree surgery by a qualified horticulturist or tree surgeon necessary for the survival of vegetation.



## STANDARD EXEMPTION 2: REPAIRS

**(2A) Repairs to components of the place where this involves replacing missing or deteriorated fabric to match the existing fabric in all respects.**

This exemption is strictly limited to the copying of existing fabric. Repairs should be carefully specified and carried out by licensed tradespeople with experience in the conservation of heritage fabric. It is essential that the composition of the fabric elements such as mortars, renders and timber species remain the same. This exemption usually includes the replacement of missing or deteriorated components such as:

- bricks or other masonry units
- sections of mortar or render
- weatherboards and external timber elements
- sections of decorative detail like balusters and cast iron lace panels
- sheet iron or slates of other roofing components
- paving surfaces or components
- machinery components
- gutters and downpipes

- landscape and garden elements such as kerbs and edges
- sections of render or plaster
- sections of joinery such as architraves and skirtings.

**(2B) Repairs to services where this does not involve alterations to or opening up of existing early or significant fabric.**

This part of the exemption allows normal repair of services and fittings, where this does not involve demolition or damage to significant fabric, including:

- for most buildings - electrical wiring, plumbing and air conditioning services;
- in city buildings - repair and upgrading of air conditioning, phone and computer cabling, etc;
- in theatres- theatrical stage equipment;
- buildings for public assembly - fire services, kitchen services, etc.;
- for public authorities - the repair and maintenance of service infrastructure and supply, etc. and emergency repairs.

### **STANDARD                  EXEMPTION                  3: PAINTING**

#### **Repainting all previously painted surfaces in the same colour scheme and paint type.**

This exemption echoes the two previous exemptions, in that repainting a heritage item can be considered maintenance, especially where it matches the existing colour scheme and type of paint. Similarly, when minor repairs are carried out the surface is often repainted to hide the repair.

- If the finishes on an item are rare, original or elaborate and contribute in an important way to its significance, repainting is not exempt (check the statement of significance);
- If the exterior finishes are so significant that repainting will detract from the

heritage significance of the whole property, this exemption will only apply to the interior finishes and painting (check the statement of significance);

- If the interior finishes are so significant that repainting will detract from the heritage significance of the whole property, this exemption will only apply to the exterior finishes and painting (check the statement of significance).

Where the heritage item has not undergone any major restoration work, but has only been maintained and redecorated to suit changing tastes, the painted surfaces will have an accumulation of layers which can provide important information on how the item has been presented over time. This will enable earlier finishes to be recreated. In this case repainting is only exempted where it is carried out without disturbing the earlier significant paint layers, allowing for them to be investigated and recorded in the future.

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**STANDARD          EXEMPTION          4:  
EXCAVATION**

**Excavation for services and maintenance where this does not impact on areas designated as archaeologically significant.**

This exemption applies only when the entire area covered by the heritage order has been

the subject of an archaeological assessment. The assessment will identify areas which are archaeologically significant and should not be excavated except for compelling reasons, and only with the approval of the Heritage Council. The assessment should also identify areas free of archaeological relics, so that excavation for services and maintenance can occur without the need for Section 60 approval.

**STANDARD      EXEMPTION      5:  
RESTORATION**

**Restoration of components of the place by returning existing fabric to a known earlier location or configuration by removing accretions or by reassembling existing components without the introduction of new material.**

This exemption is based on the strict definition of restoration contained in the Australia ICOMOS Burra Charter. In practice, restoration works are generally accompanied

by some minor reconstruction which would be covered by the repairs exemption.

The restoration exemption covers works such as:

- reinstating components such as doors, windows, decorative detail and landscape features which have been removed from their original locations and which are in a suitable condition for reuse; and
- removing infills from verandahs, enclosures to fireplaces and minor partitions.

## **STANDARD EXEMPTION 6: SPECIFIC CONSERVATION WORKS**

*ENDORSED BY THE HERITAGE COUNCIL*

**Conservation works in accordance with a conservation policy or strategy contained in a *conservation management plan* endorsed by the Heritage Council of NSW or, for minor works, a *conservation policy* endorsed by the Director of the Heritage Office.**

*Conservation management plans* and *conservation policies* are documents which:

- explain the significance of heritage items;
- analyse that significance with reference to external constraints; and
- develop policies which provide guidelines for maintaining and enhancing the heritage significance of the item.

A *conservation management plan* also includes strategies for implementing development policies or maintenance works which will ensure the conservation of the item.

This exemption applies to works specified in a *conservation management plan* or *conservation policy* prepared in accordance with approved guidelines and evaluation criteria, which has been endorsed by the Heritage Council or, in the case of *conservation policies* for minor works, the Director of the Heritage Office.

### **NOTE:**

**These standard exemptions replace all similar existing exemptions for maintenance and minor works, but exemptions to carry out specified works to specific items will continue to apply. All other exemptions which may be applied to heritage items and sites will be site specific and hence, by definition, are not standard exemptions.**

## SITE SPECIFIC EXEMPTIONS

**You may request the Heritage Council to recommend additional site specific exemptions for a heritage item listed on the State Heritage Register. These are for works other than those in the attached standard exemptions list.**

An application for site specific exemptions should be made to the Heritage Council of NSW. The application should be supported by a **conservation management plan** or similar study carried out by an experienced heritage consultant. Contact the Heritage

Office for information on preparing conservation plans.

Site specific exemptions must be recommended by the Heritage Council and approved by the Minister and published in the NSW Government Gazette before they apply to your heritage item. The owner of the heritage item and the local council will be notified when this has occurred.

To obtain more information on exemptions other than the Standard Exemptions explained in this guideline, contact the NSW Heritage Office on (02) 9635 6155.

## FURTHER READING

*NSW Heritage Act, 1977* and *Heritage Amendment Act, 1998* - the legislation governing the activities of the Heritage Council is available from the NSW Government Information Service, cnr Elizabeth & Hunter Streets, SYDNEY or by downloading from the Australasian Legal Information Institute home page: [www.austlii.edu.au](http://www.austlii.edu.au)

“Schedule of Standard Exemptions and the Activities to which they apply”, *NSW Government Gazette* No.152, p. 8472, 23 October 1998

The following publications are available from:

NSW Heritage Office

Locked Bag 5020

PARRAMATTA 2124

Ph: (02) 9849 9552

Fax: (02) 9891 4688

E-mail: [heritageoffice@heritage.nsw.gov.au](mailto:heritageoffice@heritage.nsw.gov.au)

Home page: [www.heritage.nsw.gov.au](http://www.heritage.nsw.gov.au)

- *Common Terms and Abbreviations Used in Heritage Conservation*, Heritage Office and Department of Urban Affairs and Planning (free)
- An Introduction to the Heritage Amendment Act, 1998, NSW Heritage Office (free)
- *Heritage Approvals*, NSW Heritage Office and Department of Urban Affairs and Planning (\$10)

*The Illustrated Burra Charter* is a useful explanation of conservation principles. Orders can be posted or faxed to the secretariat of Australia ICOMOS, PO Box 254, Curtin ACT 2600.

Ph: (02) 6282 6366 Fax (02) 6281 3222

## GLOSSARY OF HERITAGE TERMS

This section identifies and defines heritage terms used in the Burra Charter, the *Heritage Act 1977* and in the model heritage provisions for local environmental plans.

**adaptation** means modifying a *place* to suit compatible uses

**alter** in relation to

- (a) a heritage item means to :
  - (i) make structural changes to the inside or outside of the heritage item or
  - (ii) make non-structural changes to the detail, fabric, finish or appearance of the outside of the heritage item, including changes resulting from painting previously unpainted surfaces, providing that the same colour scheme and paint type is used
- (b) a building or work within a heritage conservation area means to :
  - (i) make structural changes to the outside of the building or work or
  - (ii) make non-structural changes to the detail, fabric, finish or appearance of the outside of the building or work, not including changes resulting from painting previously painted surfaces, providing the same colour scheme and paint type is used

**compatible use** means a use that involves no change to the culturally significant *fabric*, changes which are substantially reversible or changes which require a minimal impact.

**conservation** means all the processes of looking after a place so as to retain its **cultural significance**. It includes maintenance, and may according to circumstance, include **preservation, restoration, reconstruction** and **adaptation** and will commonly be a combination of more than one of these.

**conservation management plan** means a document prepared in accordance with the NSW Heritage Office guidelines which establish the heritage significance of an item, place or heritage conservation area, and identify conservation policies and management mechanisms that are appropriate to enable that significance to be retained.

**cultural significance** means aesthetic, historic, scientific, or social value for past, present or future generations.

**curtilage** means the area of land (including land covered by water) surrounding an item or area of heritage significance which is essential for retaining and interpreting its heritage significance.

**demolish** a heritage item or a building work, relic, tree or place within a heritage conservation area means wholly or partly destroy or dismantle the heritage item or building, work, tree or place.

**environmental heritage** means those places, buildings, works, relics, movable objects, and precincts, of State or local heritage significance.

**fabric** means all the physical material of the **place**.

**heritage conservation area** means an area of land that is shown (insert how it is shown for example edged heavy black) on the map marked “.....” and includes buildings, works, archaeological sites, trees and places, situated on or within that land.



**heritage impact statement** means a document consisting of a statement demonstrating the heritage significance of a heritage item or heritage conservation area, or of a building, work, archaeological site, tree or place within a heritage conservation area, an assessment of the impact the proposed development will have on the significance and proposals for measures to minimise the impact.

**heritage item** means :

- (a) a building, work, archaeological site or place specified in an inventory of heritage items that is available at the office of the council and the site of which is described in Schedule X (insert reference to the schedule of the plan containing a written description of heritage item sites) and shown (insert how it is shown, for example, by diagonal hatching) on the map marked “.....”, or
- (b) a place specified in an inventory of heritage items available at the office of the council and described in the inventory as a place of Aboriginal heritage significance. (The site may also be described in a schedule to the plan and shown on a map).

**heritage significance** means historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value.

**in the vicinity** means surroundings, context, environment or vicinity of a heritage item

**item** means a place, building, work, relic, movable object or precinct.

**local heritage significance** means significance to an area in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.

**maintenance** means the continuous protective care of the fabric, contents and setting of a place and is to be distinguished from repair. Repair involves **restoration** or **reconstruction** and should be treated accordingly.

**material affectation** means changes made to an item or place that will affect the heritage significance of that item or place and inclusive of more than just change to the fabric of that item or place.

**movable object** means a movable object that is not a relic.

**place** means an area of land, with or without improvements.

**potential archaeological site** means a site :

- (a) that is specified in Schedule (X), described in that Schedule as a potential archaeological site and shown (insert how it is to be shown, for example, by cross hatching) on the map marked “.....”, or
- (b) that, in the opinion of the consent authority, has the potential to be an archaeological site, even if it is not so specified.

**potential place of Aboriginal heritage significance** means a place :

- (a) that is specified in an inventory of heritage items available at the office of the council and described in the inventory as a potential place of Aboriginal heritage significance (the site may also be described in a Schedule to the plan, and shown on a map), or
- (b) that, in the opinion of the consent authority, has the potential to have Aboriginal heritage significance, even if it is not so specified.

**precinct** means an area, a part of an area, or any other part of the State.

**preservation** means maintaining the fabric of a place in its existing state and retarding deterioration.

**reconstruction** means returning a place as nearly as possible to a known earlier state and is distinguished by the introduction of materials (new or old) into the fabric.

**relic** means any deposit, object or material evidence:

- (a) which relates to the settlement of the area that comprises New South

Wales, not being Aboriginal settlement, and

- (b) which is 50 or more years old.

**renovation** in relation to a building or work means:

- (a) the making of any structural changes to the outside of the building or work or
- (b) the making of non -structural changes to the fabric or appearance of the outside of the building or work, including changes that involve the repair, plastering or other decoration of the outside of the building or work.

**restoration** means returning the existing fabric of a place to a known earlier state by removing accretions or by assembling existing components without the introduction of new material.

**setting** means the area of influence or setting of a heritage item which may vary from the surrounding garden and fields of a country house to the pavement of an urban building.

**State heritage significance** means significance to the State in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.