

HERITAGE INFORMATION SERIES

A GUIDE TO THE HERITAGE SYSTEM

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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*

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1. WHAT IS HERITAGE?

We all have a personal heritage of places and things that are special to us and our families and friends. The same quality of attachment applies to places valued by our local community, our state, our country and even the whole world.

Heritage consists of those things we have inherited and want to keep. These places and objects give us a sense of the past and of our cultural identity. They are the things we want to protect and pass on to future generations so that they too will understand what came before them.

In Australia there are two basic categories of heritage items:

- natural; and
- cultural heritage.

Natural heritage refers to the physical forms of the terrestrial and maritime environment. Cultural heritage encompasses the historical evidence, artefacts and beliefs of:

- Aboriginal peoples;
- people who have had contact with the Australian continent; and
- people who have been born here or who have settled here.

Although the distinction between natural and cultural appears clear enough, in fact the two are elaborately intertwined. For Aboriginal people in particular Australia is a place imbued with cultural meanings that are inseparable from its natural values. This deep connection to place has also developed in many other people who belong here.

Types of cultural heritage include:

- buildings
- relics (both on land and in water)
- works
- streets
- towns
- rural landscapes
- movable items.

Buildings include anything from timber slab huts to Georgian mansions. A relic could be an Aboriginal midden, the archaeological remains of an old pottery kiln, a 19th century steam crane or a World War II military installation. The term “work” applies to places such as an early iron suspension bridge or an open-cut coal mine.

This brochure is concerned principally with how cultural heritage is defined, assessed and protected.

2. HOW DO WE DECIDE WHAT TO KEEP?

Our environment is constantly changing. We cannot keep everything as a record of the past. We therefore need a process of identifying and assessing items so that we know which are most important to us.

“Heritage significance” is a phrase used to describe an item’s value to us in heritage terms. It is important to distinguish its heritage value from other values, such as amenity or utility.

For example, a corner store may be very useful to a local community, but this amenity value cannot be used as an argument for its heritage significance. Similarly, an attractive old house may simply be an attractive old house, with minimal heritage significance.

Ideas about heritage inevitably change as society’s tastes and values change. Some things inherited from the past will grow in value. Federation architecture was not as highly valued fifty years ago as it is now. The community’s assessment of what is significant is not static.

The significance of some items may increase as we learn more about our history. Indeed, historical information is crucial to understanding the context of individual heritage items and why they are important.

3. THE REASON FOR STATUTORY HERITAGE LISTINGS

Identifying and listing items of heritage significance are only the first steps in protecting and managing those places and objects that we as a community want to keep. The force of law is necessary to provide a framework for managing the approval of major changes so that heritage significance is retained and not diminished.

In the development boom following the Second World War many people believed that our towns and cities should be modernised by removing the old and replacing it with the new. Even when 19th century buildings were not demolished, verandahs were removed and facades given a facelift.

When this modernism drive threatened some of the most historically significant areas of Sydney in the late 1960s, community reaction led to the introduction of the “Green Bans” and the pressure for legislative control. The NSW Government introduced the Heritage Act in 1977 so that the heritage of the state could be properly identified and conserved.

4. HERITAGE REGISTERS

Heritage registers are lists of identified heritage items. In New South Wales there are two types of **statutory** register:

- the State Heritage Register, and;
- schedules to local councils' local environmental plans.

There are many **non-statutory** lists:

- National Trust register;
- Registers compiled by the Royal Australian Institute of Architects, Engineers Australia and other organisations with an interest in heritage

These non-statutory registers have an important role in alerting us to the potential heritage value of particular places. They help us to decide which places are worthy of further investigation and possible statutory listing.

5. HOW TO FIND OUT IF A PLACE IS LISTED

To check if your property is listed on a statutory register in NSW, search the Online Heritage Database at www.heritage.nsw.gov.au.

If you require documentation of a listing on the State Heritage Register for legal purposes, you will need to apply to the Heritage Office for a s167 certificate.

6. THE STATE HERITAGE REGISTER

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

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

There are currently over 1,500 items listed on the State Heritage Register. It includes items as diverse as:

- Aboriginal fish traps at Brewarrina;
- Elizabeth Bay House in Sydney;
- Knuckey's Corner Store in Wellington;
- shipwreck of the *Dunbar* in Sydney Harbour;
- the New Italy settlement site near Woodburn; and
- Wylie's Baths in Coogee.

The Register continues to grow as the Heritage Council works with local councils, State government agencies and community organisations to identify their valued places.

7. WHAT DOES LISTING ON THE REGISTER MEAN?

Listing on the State Heritage Register doesn't mean that owners can't make changes to their property. It does mean, however, that for certain kinds of work approval is needed from the Heritage Council of NSW. The Heritage Council will usually approve changes that do not compromise the heritage significance of the listed property.

Listing on the State Heritage Register controls activities such as:

- alteration
- damage
- demolition
- development.

Formal approval is not required for routine maintenance such as guttering and roofing repairs. However, it is always best to check with the Heritage Office before making alterations.

Listing gives owners access to heritage grants and loans through both the NSW Heritage Office and local councils. Listing on the State Heritage Register also enables owners to enter into heritage agreements, which can attract land tax, stamp duty and local rate concessions.

8. ADDING ITEMS TO THE STATE HERITAGE REGISTER?

Items are added to the State Heritage Register by the Assistant Planning Minister on the recommendation of the Heritage Council.

Everyone has the opportunity to comment on whether an item should be listed. When an item is proposed for listing, the Heritage Council publishes notices in local media and invites the owners, occupiers, local council and any interested members of the public to write a submission.

If an owner objects to listing, or if disputes arise during the listing process, the Minister may refer the matter to a Ministerial Review Panel to provide independent advice on the item in question. The panel must report to the Minister within a month of its appointment.

Assessing heritage items for listing on the register

Heritage assessment is a process of identifying heritage items and assessing their relative levels of significance. The assessment is based on firstly understanding the historical themes that are relevant to the item. The next step is to relate the particular item to the relevant themes. The assessor then needs to work out how well the item demonstrates the themes, and to what extent it meets the heritage assessment criteria.

State Heritage Register Criteria

The Heritage Council of NSW has developed criteria to help assess whether an item should be recommended for listing on the State Heritage Register. An item must meet one or more of the following criteria to be of State heritage significance:

- 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 State Heritage Register on the ground that items with similar characteristics have already been listed on the Register.

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 will be significant under only one or two criteria.

In using these criteria it is important that the values are assessed first, then the context in which they are significant. The appropriate context is decided by

considering similar items of local and State significance in each of these contexts.

These criteria were gazetted following amendments to the Heritage Act that came into force in April 1999. The Heritage Council determines the criteria for State significance and issues guidelines to assist in their application. *Assessing Heritage Significance* can be purchased from the Heritage Office website at www.heritage.nsw.gov.au/publications or on (02) 9873 8500.

9. LEVELS OF SIGNIFICANCE

As well as these criteria, we need to decide the appropriate **level** for the item. This indicates the item's importance in a particular geographical area. The levels of significance applying to items in New South Wales are:

- local;
- state;
- national; and
- world.

Local heritage items are usually identified through heritage studies, often with extensive community involvement. Once approved by the local council and owners, the list of heritage items then becomes a schedule to the council's local environmental plan.

State significant items are listed on the State Heritage Register. Many of these items are valued by particular groups in the community, such as Aboriginal communities, religious groups or people with a common ethnic background. The owner's approval and public comment are sought for all proposed listings. The Heritage Office maintains the State Heritage Register.

Nationally significant items are listed on the National Heritage List by the Australian Government Minister for the Environment & Heritage through a process that is similar to that used for the listing of State items.

10. STATE AND LOCAL HERITAGE MANAGEMENT

The focus of heritage management has changed considerably since the Heritage Act came into force in 1977. Whereas the Heritage Council was previously the principal body involved in the statutory listing of heritage items, in 1985 a Ministerial direction issued to local councils that year has led to a two-tiered heritage management system. Local government now has the primary responsibility for managing local heritage in New South Wales.

Amendments to heritage legislation have further clarified the different legislative means of listing heritage items of local and State significance:

- items of **local** significance through heritage schedules to local environmental plans (*Environmental Planning & Assessment Act, 1979*); and
- items of **State** significance through the State Heritage Register (*Heritage Amendment Act, 1998*).

An item may be included on both a local environmental plan and the State Heritage Register if it is considered to be of both local and State significance.

The principal tools that guide local government management decisions are the heritage study and the local environmental plan.

A **heritage study** identifies and assesses heritage items that reflect the key historical themes for an area. It also makes recommendations on policies the local council should adopt to protect and conserve the identified heritage items.

The **local environmental plan** (LEP) translates the recommendations of the heritage study into a legal document that provides a broad framework for future management of the area's heritage. The LEP is prepared in accordance with principles laid down in the *Environmental Planning & Assessment Act, 1979* and the model LEP prepared by the Heritage Council. The heritage items identified in the heritage study are listed in a schedule to the LEP.

As well as the LEP, some councils also produce **local approval policies** (LAPs) under the *Local Government Act, 1993* and **development control plans** (DCPs) under the *Environmental Planning & Assessment Act, 1979* to provide more detailed guidance to developers and owners in specific localities, such as heritage conservation areas. These deal with the treatment of fences, colour schemes, replacement of vegetation, setbacks and other factors that contribute to the heritage significance of an area.

11. MANAGEMENT OF PUBLICLY-OWNED HERITAGE ASSETS

From the beginnings of colonisation until the late 20th century the business of government was one of the biggest enterprises in Australia. We can see the legacy of that activity all around us - in the post offices, police stations and court houses in all the State's main settlements. Or in the railway lines, roads and bridges that spread throughout NSW to transport wool, wheat, timber and other primary products to the cities and ports.

It is not surprising, therefore, that much of the significant heritage in NSW is owned or managed by State government agencies. The Heritage Act requires these agencies, and State-owned corporations, to compile registers of their heritage assets and to properly manage them on behalf of the community. They are also required to report on the condition of their heritage assets in their annual reports each year.

The State Heritage Register consists of roughly equal numbers of publicly and privately owned places and items.

12. ARCHAEOLOGICAL RELICS

Anyone likely to discover or expose an archaeological relic in NSW must obtain a permit before undertaking further disturbance or excavation. The Heritage Council has the discretion to waive the permit requirement, particularly when it is confident that the discovery of significant relics on the site is unlikely. This streamlines the process by requiring an assessment of archaeological potential before works begin. In addition, the Minister has the power to direct that relics, whether obtained with a permit or not, are donated to a museum, body or individual that can adequately conserve and interpret them.

13. INTERIM HERITAGE ORDERS

If there is a threat to demolish or harm a place of potential State significance, interim heritage orders can be made by the Minister on the recommendation of the Heritage Council. In addition, the Minister has authorised some local councils to make interim orders for items of local heritage significance.

The interim heritage order remains in force for a period of 12 months. During this period the Heritage Council will need to approve any proposals for alterations to the item. An owner may appeal to the Land and Environment Court against the making of an order made by a council. It is not possible to appeal against an order made by the Minister.

14. HERITAGE CONSERVATION

We need to properly look after heritage items so that their heritage values can be passed on to future generations. It is not much use identifying and listing heritage items on statutory registers if they are then neglected, vandalised or modified so completely that their heritage significance is compromised.

Heritage conservation is the process of looking after important places. The *Burra Charter* is produced by **Australia ICOMOS** (see non-government organisations). It is a set of principles that guide conservation work in Australia, based on seven key ideas:

- the place itself is important
- understand the significance of the place
- understand the fabric
- significance should guide decisions
- do as much as necessary, as little as possible
- keep records
- do everything in logical order

A key principle of conservation work is the importance of understanding the significance of a place **before** making any decisions about its future. This ensures that the assessment process is as objective as possible and is based only on the intrinsic qualities of the place itself.

15. CHANGES TO HERITAGE ITEMS

Statutory heritage listing not only controls the demolition of listed heritage items, it also limits the degree to which changes can be made to them so that their heritage significance is retained. For example, in most cases keeping only the facade of an important building is a poor solution that results in neither a well-designed modern building nor an effectively conserved old one.

Legislation requires owners to apply to a consent authority (usually the local council or the Heritage Council) before making substantial alterations. There are many exemptions to this requirement for relatively minor works or those that will have minimal effect on the heritage significance of the place.

The aim of the legislation is to achieve a sensible balance between retaining the heritage significance of special places and enabling them to continue to be of use to the owners and the community. Staff of local councils and the Heritage Council provide advice to owners so that this balance can be achieved. For example, heritage buildings can be modified in a sympathetic way to meet fire safety standards while respecting their heritage significance.

16. A COMMUNITY RESPONSIBILITY

The heritage items we want to conserve and pass on to future generations are an expression of our values as a community. The legislation, regulations and government organisations involved in managing these important places are there to support our interests when necessary.

But these government organisations cannot tell us what our interests are. We all need to become involved in decision-making at the local level so that the heritage items that our local community identifies, assesses and conserves are a proper reflection of our collective values as a community. Sometimes it is difficult to reach a consensus on the value of particular places or areas, and tastes and values inevitably change over time. The important thing is to be prepared to debate these issues so that the decisions of official bodies reflect the majority view.

17. THE HERITAGE COUNCIL OF NSW

The Heritage Act created the Heritage Council, which provides advice and recommendations to the Minister. The Minister approves the listing of items on the State Heritage Register and can also put in place interim heritage orders that prevent the demolition of items of potential heritage value until an assessment of their significance has been made.

The Heritage Council is made up of an independent chair, Mr Michael Collins, and fourteen members representing a variety of skills and organisations with an interest in heritage.

The Council and its major working committees meet monthly and consider:

- places to be recommended for listing on the State Heritage Register; and
- applications for approval to make major changes to listed items.

The composition of the Heritage Council reflects the State government's heritage policy requiring the Council to have an interest in Aboriginal, movable and natural heritage, rather than primarily the built environment. For example, although the National Parks and Wildlife Service of the Department of Environment & Conservation has the primary responsibility for the State's natural and Aboriginal heritage, the Heritage Council also has a role in recognising and managing these important aspects of the heritage of NSW.

The staff of the Heritage Office provide administrative and technical support for the Heritage Council, its committees and panels.

18. HERITAGE COUNCIL PANELS

The Heritage Council is advised by a series of expert panels on a wide range of subjects:

- Aboriginal heritage
- Archaeology
- Fire, access and services
- Historical archaeology
- History
- Incentives
- Interpretation
- Maritime archaeology
- Religious property
- Technical advice

19. GOVERNMENT HERITAGE ORGANISATIONS

Australian Government Department of Environment & Heritage is the Commonwealth heritage agency supporting the work of the Australian Heritage Council in recommending the listing of items on the National Heritage List to the

Minister for Environment & Heritage and for maintaining the Register of the National Estate. [Internet address: www.deh.gov.au]

NSW Department of Infrastructure, Planning & Natural Resources prepares State Environmental Planning Policies (SEPPs) and Regional Environmental Plans (REPs), some of which involve heritage considerations. [www.dipnr.nsw.gov.au]

Heritage Building Services (Department of Commerce) offers a range of architectural and management services and maintains a database of State-owned heritage items. It is involved in the conservation of significant buildings owned by the State government and also contracts its services to the private sector. [see Heritage Building Services page in the Buildings & Infrastructure section at www.dpws.nsw.gov.au]

NSW Heritage Office provides support services for the Heritage Council, and also provides advice and comment on local government LEPs. It also liaises with local councils on the management of items protected by listing in their LEPs and also items in their area which are listed on the State Heritage Register. [www.heritage.nsw.gov.au]

Historic Houses Trust maintains, interprets and presents a number of heritage properties, curates exhibitions and manages the Museum of Sydney. It has earned a reputation for innovation in heritage interpretation and presentation. Its presentation of Hyde Park Barracks in particular is a good demonstration of the principles of the Australia ICOMOS Burra Charter. The Trust's Conservation Resource Centre has a particularly fine collection of information on interiors, furniture and decoration. [www.hht.nsw.gov.au]

National Parks & Wildlife Service has primary responsibility for the State's natural and Aboriginal heritage. Some national parks also include significant items of cultural heritage which are protected by the National Parks and Wildlife Act. [www.nationalparks.nsw.gov.au]

NON-GOVERNMENT ORGANISATIONS

Australia ICOMOS promotes good practice in caring for culturally important places. Its members include many professionals involved in heritage conservation, such as town planners, tradespeople, historians, geographers, engineers, curators, architects, archaeologists and managers. It is the national chapter of ICOMOS (International Council on Monuments and Sites), which is affiliated with UNESCO. [www.icomos.org/australia]

National Trust of Australia (NSW) was formed in 1945. The Trust acts as a community watchdog to alert both government and the community to emerging heritage issues. It works through a number of specialist and local committees which lobby authorities and owners to protect items of environmental heritage.

The Trust also coordinates annual Heritage Festival activities and celebrations across the state. [www.nsw.nationaltrust.org.au]

Royal Australian Historical Society has a large network of affiliated local historical societies that provide research and information for input into local heritage studies and heritage management decisions. The Society has also developed a local history bibliography which is a valuable source of information about heritage items. [www.rahs.org.au]

20. FUNDING ASSISTANCE

The Heritage Office manages the Heritage Incentives Program, which distributes \$2.4M each year to a wide variety of heritage projects, ranging from publications and heritage advisory services to conservation work on heritage items. Applications are called from community organisations every two years. On-going funding is provided to local councils and major organisations through three-year agreements.

For more information refer to funding page on the website, www.heritage.nsw.gov.au or contact the Heritage Office on (02) 9873 8500.

21. HERITAGE AGREEMENTS

Owners of State significant items may also be eligible to receive benefits from the State government through a heritage agreement. These benefits can only be made available through a heritage agreement and apply only to:

- land tax relief;
- payment of stamp duty; and
- council rates.

A special “heritage valuation” is carried out when an item is added to the State Heritage Register. This can provide an owner with lower land taxes. It acknowledges that retaining heritage significance is the “highest and best use” which can be achieved. This benefit is automatically extended to private owners of properties on the State Heritage Register.

A land tax benefit of the previous Act, however, which effectively provides additional discounts to certain owners of multiple heritage properties, is being phased out.

22. FURTHER INFORMATION

The first point of contact for heritage information is the local council’s heritage or planning officer. Many councils employ part-time heritage advisors, and also librarians who specialise in local history and heritage information. The local historical society or branch of the National Trust is also a useful source of advice.

The Heritage Office issues a wide range of heritage publications. Most can be downloaded from www.heritage.nsw.gov.au or contact the Heritage Office on (02) 9873 8500 and ask for the current heritage publications list.

The Heritage Office newsletter *Heritage NSW* provides information on heritage activities around the State. Contact the Heritage Office for a free subscription.

The Online Heritage Databases, including the State Heritage Register, can be accessed through the internet on the Heritage Office's home page: **www.heritage.nsw.gov.au**