

**PRODUCTIVITY COMMISSION INQUIRY INTO THE
POLICY FRAMEWORK AND INCENTIVES FOR THE
CONSERVATION OF AUSTRALIA'S HISTORIC
HERITAGE PLACES**

**INITIAL SUBMISSION BY THE CHAIRS OF THE
FOLLOWING: THE AUSTRALIAN HERITAGE
COUNCIL, THE NEW ZEALAND HERITAGE
COUNCIL, THE HERITAGE COUNCILS OF NEW
SOUTH WALES, QUEENSLAND, VICTORIA, SOUTH
AUSTRALIA, WESTERN AUSTRALIA, THE
NORTHERN TERRITORY AND THE AUSTRALIAN
CAPITAL TERRITORY, AND THE TASMANIAN
GOVERNMENT**

12 AUGUST 2005

INTRODUCTION

This submission has been prepared by the Chairs of the following: the Australian Heritage Council, the New Zealand Heritage Council, the Heritage Councils of New South Wales, Queensland, Victoria, South Australia, Western Australia, the Northern Territory and the Australian Capital Territory, and the Tasmanian Government, as a joint submission.

It is an *initial submission* in advance of a more detailed written joint submission that will be provided by the Heritage Chairs and Officials of Australia and New Zealand (HCOANZ) in October 2005. This initial submission provides information on what the HCOANZ is, what its role is, what work it is responsible for and what it is doing to assist the Productivity Commission with its Inquiry.

THE HERITAGE CHAIRS AND OFFICIALS OF AUSTRALIA AND NEW ZEALAND (HCOANZ)

The HCOANZ is a meeting of the Australian, state and territory and New Zealand Heritage Council chairpersons along with the heads of heritage agencies responsible for the administration of cultural heritage protection legislation in their respective jurisdictions.

The National Heritage Chairs and Officials first met in 1996, as an extension of the Heritage Officials meetings that began in the 1970s. The meetings were established as a way of ensuring coordination and cooperation between state, territory and Commonwealth heritage agencies with responsibilities for historic places in relation to policy, publicity and projects with a national focus.

The HCOANZ has addressed a number of issues of mutual interest including the carrying out of research and production of policy documents. HCOANZ's recent activities have included the development of publications and research projects (including studies on economics and heritage), a four-year National Heritage Coordination strategic plan, a program for identifying and documenting Federation heritage places, and the Australian Historic Themes Framework. Chairs and Officials have also been behind the development of the Australian Heritage Places Inventory, on which most state, territory and Federal heritage lists have been placed on-line.

HCOANZ supports three officer level groups of the same agencies; the Information Officers Network, the Permits and Approvals Managers Network and the Government Historic Archaeologists Network. These groups aim to meet annually to exchange practice and management with a view to improving

efficiency and effectiveness across and within their respective jurisdictions. The Network Officers have been tasked with leveraging resources in the production of publications including producing joint publications.

HCOANZ AND THE PRODUCTIVITY COMMISSION INQUIRY

The HCOANZ has recently commissioned research on the economic, social, environmental and cultural value of heritage places. There has been comparatively little of this type of research or market survey work done in Australia on historic heritage, which the HCOANZ believes limits the ability of respondents to address many of the questions raised by the Productivity Commission Inquiry.

The current work includes the following:

1. A non-market valuation study that identifies the economic, social, environmental and cultural value of the current system of heritage management. This work addresses both use and non-use benefits using discrete choice modeling. Benefits not able to be modeled in this way will also be incorporated into the analysis. The discrete choice modeling exercise attempts to assist in determining the value of heritage in its wider context.
2. An identification of the market failures and other market characteristics that impede the provision of the optimum level of heritage protection. Policy tools that are or could be used to address these market failures and characteristics will be identified to capture economic, social, environmental and social benefits.

It is anticipated that this research will be available in October 2005 and the final submission by the HCOANZ will draw on this research.

DEFINITIONS

For the purposes of this submission historic heritage is defined as follows.

Heritage covers sites, areas and cultural landscapes¹ as well as buildings and works (singly or groups and precincts), archaeological sites and relics and may

¹ A cultural landscape is one modified by human intervention, such as gardens, or at least affected by human activity. This can range from minimal intervention, such as open range grazing on pastoral properties, to large-scale degradation, such as mining landscapes.

include components, contents, spaces and views. Heritage items and places are synonymous terms.

Heritage is what we inherit, but more specifically what we retain of this inheritance.

The *heritage value* of a place is also known as its *cultural significance*, which means its aesthetic, historic, scientific, social or spiritual value for past, present or future generations. Cultural significance is embodied in the place itself, its fabric, setting, use, associations, meanings and records. Places may have a range of values for different individuals or groups.

The Terms of Reference for the Productivity Commission have excluded natural, indigenous, movable and intangible cultural heritage from this inquiry. For the purpose of this submission, post-contact indigenous sites are included.

Conservation means all the processes of looking after a heritage place so as to retain its cultural significance. It includes preservation, maintenance, restoration, reconstruction, adaptation and interpretation. These terms have specific heritage definitions, as described in the *Australia ICOMOS charter for the conservation of places of cultural significance, 1999* (Burra Charter).

THE POLICY FRAMEWORK IN AUSTRALIA

The Australian Department of the Environment and Heritage (DEH) and state/territory submissions describe the systems of heritage management in their respective jurisdictions. It is not the intent to repeat these here, but rather to give an overview of the relationships between the jurisdictions, and the systems in place to manage these relationships at national and state/territory levels.

These three tiers of legislation, which enshrine the heritage listing system, are summarized in the chart at **Annexure A**. This chart also attempts to show the relationships between the regulatory context and the non-regulatory framework that have been developed since the 1970s in Australia.

The international context

Australia's system of heritage management is largely derived and developed from international practice and largely commenced during the 1970s (although town planning legislation in some states dealt with what we now perceive as 'heritage' at an earlier time).

Australia's heritage conservation system retains international links through two principle avenues. Firstly through Australia's statutory role and responsibility in relation to World Heritage, the administration and care of these agreements and the management of the individual sites. Secondly through the profession itself, which is well linked to a number of key international organizations and institutions, or through the efforts of individual heritage practitioners. Australian legislation, policy and practice has been derived and developed from international models, and the ability to further develop and improve the policy framework through understanding of the international context and practice needs to be sustained.

The national context

Australia's system of heritage management largely dates from the 1970s, commencing with the Victorian *Historic Buildings Preservation Act 1974*. NSW and South Australia followed with legislation soon after this, and the Commonwealth passed the *Australian Heritage Commission Act* in 1975 which established the Australian Heritage Commission and the Register of the National Estate. Other states and territories followed.

Despite not being formally recognised in heritage legislation, conservation practice is largely modeled on the Australia ICOMOS Burra Charter 1999.

Consistent with the COAG Agreement in 1997, the Australian Government has focused on places of national significance and places owned by the Commonwealth. This is reflected in the 2003 amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act)

The relationship between the Australian Government's administration of the EPBC Act and state/territory jurisdictions has been formally established through the *National Heritage Protocol: Statement of Roles and Responsibilities* (September 2003).

The state/territory context

Constitutional authority for the management of land and the control of development lies largely with state and territory governments. In practice, state/territory government heritage agencies and the respective Heritage Councils hold the statutory responsibility for managing Australia's heritage places that have been recognised as being of state/territory significance.

Much of the work to identify and control the development of heritage places has been channeled through local government through its responsibilities for the

management of planning instruments. This includes advice on development applications or decisions on proposals affecting heritage places which are directed through state heritage bodies to local government.

The local government context

Local government in Australia is currently responsible for identifying and protecting the majority of places of local heritage significance, except for Tasmania where only some areas of local government maintain schedules of heritage places.

The relationship between state/territory government and local government is therefore critical to how effectively identification and protection is achieved, and as such all state/territory governments have, at different times, had programs in places to assist local government. These relationships vary from state to state but are principally achieved through the state heritage acts, local town planning and cooperative arrangements over advisory services, grant aid and the like.

Local government's capacity to deal with heritage management varies widely around the country. Some local councils are well resourced and have full-time heritage expertise, good incentives packages and promotional programs. Others, particularly in rural areas may have limited access to professionally trained staff and to heritage advice.

Local government looks to the states/territories to provide the policy framework, advice and support in order to fulfill their obligations. It is clear that this leadership role is critical.

The Environment Protection and Heritage Council

The Environment Protection and Heritage Council (EPHC) was established by the Council of Australian Governments (COAG) in 2001 to continue the work of a number of previously disparate ministerial councils and meetings.

The Standing Committee of this Council includes representatives of Australian Government and state/territory heritage agencies as members (VIC, WA, NSW, NT). They have responsibility to ensure that national heritage issues are addressed by the Council.

HCOANZ is recognized as an advisory body to the Standing Committee

At the first EPHC meeting it was resolved that an Integrated National Heritage Policy be developed that addressed natural, indigenous and historic heritage

issues. The policy was to be developed co-operatively by both the Australian Government and state/territory governments and aimed to:

- clarify the roles and responsibilities of each level of government in relation to the identification, management, protection and promotion of Australia's natural and cultural heritage places;
- develop performance measures for heritage conservation;
- develop a national strategy to promote sustainable tourism opportunities;
- develop common approaches to data collection, storage and use across all jurisdictions; and
- adopt a national approach to the development of heritage incentives and innovative policy tools.

Three taskforces were developed to progress work on these key components which would underpin the national heritage policy.

The *National Heritage Protocol, Statement of Roles and Responsibilities* defines the roles and responsibilities of the state/territories in relation to the EPBC Act amendments. The Protocol does not, however, fulfill the original intention of an Integrated National Heritage Policy, but is rather an administrative protocol to ensure that the national listing process and subsequent approval processes are undertaken with the knowledge of the state/territory governments and in the light of information available from their heritage agencies.

Two documents *Going Places: developing natural and cultural heritage tourism in Australia, Issues Paper* and *Going Places: developing natural and cultural heritage tourism in Australia key opportunities* have been produced and widely circulated.

Making Heritage Happen: Incentives and Policy Tools for conserving our Historic heritage, a survey of best practice in heritage incentives nationally and internationally has also been produced, adopted by the EPHC and used as a measure of progress across the various jurisdictions

The National Heritage Cultural Forum (NHCF)

The NCHF is primarily a meeting of non-government organizations with an interest in heritage conservation and is established by the Federal Minister for the Environment and Heritage to provide external advice. The current membership includes:

- Australia ICOMOS (International Council on Monuments and Sites)
- Australian Council of National Trusts

- Australasian Institute for Maritime Archaeology
- Federation of Australian Historical Societies
- Australian Academy of the Humanities
- Institution of Engineers Australia
- Museums Australia
- Royal Australian Institute of Architects
- National Environmental Consultative Forum
- Indigenous Cultures program
- National Indigenous Cultural Heritage Officers
- Australasian Society for Historical Archaeology
- Australian Local Government Association
- Property Council of Australia
- The Australian Heritage Council
- Heritage Chairs and Officials of Australia and New Zealand (currently represented by Michael Collins, Chair NSW Heritage Council).

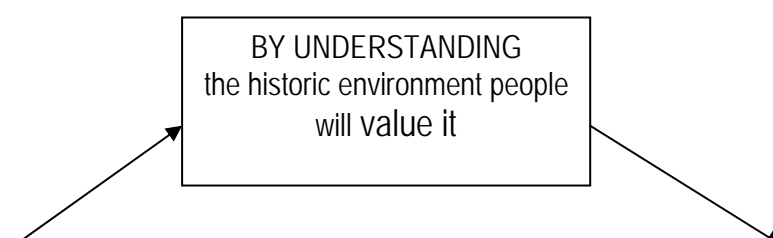
THE HERITAGE LISTS

Each tier of government establishes and maintains a heritage list, as a consequence of its relevant legislation. Although there are slight differences in administration and process the intent is the same; that is to identify those places that are of heritage significance to that jurisdiction, be it national, state/territory or local.

The practice of heritage listing is based on the principles that:

- it is important to know what heritage encompasses in order to protect and manage it effectively;
- listing provides an orderly basis for exercising development control powers and allocating incentives; and
- listing improves the level of certainty for property owners and the property market about 'what is to be protected'.

The role of heritage listing in relation to the commonly recognized cycle of heritage management is in making explicit what heritage is.





Source: English Heritage (2004)

World Heritage List

World Heritage listing provides a fourth tier of recognition. There are currently 15 Australian sites inscribed on the World Heritage List. Only one of these, the Royal Exhibition Building in Melbourne, is listed solely for its cultural heritage values.

National Heritage List (EPBC Act 1999)

At the national level there are currently 13 places on the National Heritage List that have been identified as being of heritage significance to all Australians. These include both state/territory government-owned and privately-owned places. Places on the National Heritage List are protected under the EPBC Act.

Register of the National Estate

There are some 13,000 places on the Register of the National Estate (RNE), which is a list covering places of varying levels of significance, in both public and private ownership. Places on the RNE include Commonwealth properties that may also be included on the Commonwealth list, and places that are nationally significant that may also be included on the National Heritage List. Many of the places on the RNE are also on state or local heritage lists. Places on the RNE are protected under the EPBC Act.

The information contained on the RNE is useful and can be used to inform all levels of listing, however it has a very limited role in a statutory sense.

State/territory lists

At the state and territory level there are currently 14,148 heritage places listed in state heritage registers. Most state heritage lists identify only places of state/territory significance (Tasmania is a notable exception).

Local government heritage lists

At a local government level the figures are not comprehensive, nor are they likely to be provided in a reliable form. For example, it is estimated that in Victoria there are 100,000 properties covered by heritage overlay controls. Not all of these would be individually significant and would cover unimportant places swept up in area controls.

Annexure B includes the listing criteria for world, national and state/territory levels.

The listing system at all levels is in the main rigorous, involving public processes of advertisement and comment.

Table 1: Heritage items currently identified in Australia

Historic places listed in State and Territory heritage registers.				Historic places listed in local government registers
State or Territory	Number in 1995 ^A	Number in 2000	Number in 2005	Local government listed places
ACT	37	47	150	No local government listings
NSW	626 ^B	1,254 ^C	1,498	23,721 ^D
NT	33	98	175	No local government listings
Qld	929	1,160	1,440	Not known
SA	1,973	2,146 ^E	2,195	4,500
Tas.	-	4,790	5,525	Included in adjacent figure
Vic.	1,140	1,794	1,992	100,000 ^F
WA	281	742 ^G	1,113	17,000
TOTAL	5,024	13,160	14,148	Full extent not known

- ^A The figures are taken either from data provided by the states and territories, or from Marshall and Pearson (1997), which includes mostly 1994 figures.
- ^B Number of Permanent Conservation Orders, June 1993.
- ^C The NSW State Heritage Register (SHR) was created in April 1999. At its commencement, existing state government agency registers were bulk transferred onto the SHR.
- ^D Does not include places listed as part of conservation areas.
- ^E 2,047 places were also listed in local heritage lists, but the degree of duplication is not known.
- ^F 100,000 includes properties covered by overlay controls.
- ^G A further 15,600 places are identified in the Western Australian Heritage Council's Place Database, including Municipal Inventory listings.

Non-statutory lists

The plethora of non-statutory heritage lists in Australia is symptomatic of the fact that these non-statutory lists predated the various legislations at national, state/territory and local government levels. The National Trust in NSW, for example, started its list in 1947—just over 50 years before the creation of a State Heritage Register in NSW in 1999. The Royal Australian Institute of Architects, NSW Chapter, first established a list of outstanding buildings ‘worthy of preservation’ in the County of Cumberland in 1949—forty years before the 1986 requirement for local government in NSW to identify places of heritage significance.

Since that time a number of other non-statutory lists have been developed by professional groups including the Institution of Engineers, Australia and a number of groups with an interest in 20th century heritage, such as the Art Deco Society, DOCOMOMO Australia² and Australia ICOMOS. The 20th century lists prepared by these organizations are part of an international exercise which sought local chapters of these international organizations to document significant national places from the 20th century for inclusion in international registers.

Relationships between lists and regulations

The inclusion of places on statutory heritage lists generally identifies those places that are subject to the controls established in the relevant legislation. The controls principally relate to regulating a process for determining the level of acceptable change that a place can undergo whilst still preserving its heritage values. So the listing processes are about establishing significance, while the approval and permitting processes that result can take into account other issues such as economic and financial implications and practical issues surrounding preservation. Each piece of legislation deals with these factors in different ways.

² DOCOMOMO is an international organisation which is dedicated to the documentation and conservation of buildings, sites and neighbourhoods of the modern movement.

At present only NSW (for State Heritage Register listed items only), the ACT and the Northern Territory have legislative controls that positively require the maintenance of heritage places to prevent demolition by neglect. In South Australia, Royal assent has recently been granted to a Bill to amend the *Heritage Act 1993* that will deliver similar controls.

KEY ISSUES

The HCOANZ have identified the following two issues as the most critical to improving historic heritage conservation in Australia:

1. the need to improve the policy framework for historic heritage; and
2. the need for enhanced and new incentives (economic instruments) to support historic heritage conservation,

These will be pursued more comprehensively in the HCOANZ final submission.

ANNEXURE A THE HISTORIC HERITAGE POLICY FRAMEWORK IN AUSTRALIA

LEVEL	STATUTORY REGULATIONS AND LISTS	NON-STATUTORY CONTROLS/CHARTER/LISTS
INTERNATIONAL	<p>UNESCO Convention for the Protection of Cultural Property in the Event of Armed Conflict (Hague Convention) 1954</p> <p>UNESCO Convention on the Means of Prohibiting the Illicit Import, Export and Transfer of Ownership</p>	<p>Venice International Charter for the Conservation and Restoration of Monuments and Sites 1966</p> <p>International Union of Architects List of 20th Century Buildings</p>

	<p>of Cultural Property.</p> <p>UNESCO Convention concerning the Protection of the World Cultural and Natural Heritage (World Heritage Convention) 1972</p>	
NATIONAL	<p><i>Environment Protection and Biodiversity Conservation Act 1999</i></p> <p><i>Australian Heritage Council Act 2003</i></p> <ul style="list-style-type: none"> • National Heritage List • Commonwealth Heritage List • Register of the National Estate <p><i>Aboriginal and Torres Strait Islander Heritage Protection Act 1984</i></p> <p><i>Protection of Movable Cultural Heritage Act 1986</i></p> <p><i>Historic Shipwrecks Act 1976</i></p> <ul style="list-style-type: none"> • National Shipwrecks Database 	<p>Australia ICOMOS Charter for the Conservation of Places of Cultural Significance, revised 1999 (Burra Charter)</p> <p>DOCOMOMO List of Australian 20th Century Buildings</p> <p>ICOMOS List of 20th Century Buildings</p> <p>Royal Australian Institute of Architects Register of Significant Australian 20th Century Architecture</p> <p>Institution of Engineers Australia, Australian Historic Engineering Plaquing Program</p>

STATE/TERRITORY		
	<p>NEW SOUTH WALES <i>Heritage Act 1977 (NSW)</i> amended 1998.</p> <ul style="list-style-type: none"> • State Heritage Register • s 49 Register of Shipwrecks • s 170 Heritage and Conservation Register • State Heritage Inventory (SHI) database <p><i>Environmental Planning and Assessment Act 1979 (NSW)</i> (EP&A Act) amended 1997 and 1999.</p> <ul style="list-style-type: none"> • State Environment Planning Policies • Regional Environmental Plans <p><i>National Parks and Wildlife Act 1974 (NSW)</i></p> <ul style="list-style-type: none"> • Aboriginal Sites Register 	<p>Royal Australian Institute of Architects (NSW Chapter) Register of 20th Century Buildings of Significance</p> <p>Register of the National Trust of Australia (NSW)</p> <p>Professional Historians Association (NSW) Register of Historic Places and Objects</p> <p>Art Deco Society of NSW Building Register</p>
	<p>VICTORIA <i>Heritage Act 1995</i></p> <ul style="list-style-type: none"> • Victorian Heritage Register • Heritage Inventory <p><i>Planning and</i></p>	<p>Register of the National Trust of Australia (Vic)</p> <p>Royal Australian Institute of Architects (Vic)</p>

	<i>Environment Act 1987</i>	
	WESTERN AUSTRALIA <i>Heritage Act 1990</i> <ul style="list-style-type: none"> • State Register of Heritage Places <i>Aboriginal Heritage Act 1972</i>	Register of the National Trust of Australia (WA) Royal Australian Institute of Architecture (WA)
	QUEENSLAND <i>Queensland Heritage Act 1992</i> amended 2004 <ul style="list-style-type: none"> • Queensland Heritage Register <i>Integrated Planning Act 1997</i>	Register of the National Trust of Australia (Qld) Royal Australian Institute of Architecture (Qld Chapter) Environment Protection Agency (Qld) inventory of 'reported places' (no statutory basis, no development constraints)
	SOUTH AUSTRALIA <i>Heritage Act 1993</i> <ul style="list-style-type: none"> • State Heritage Register <i>Development Act 1993</i>	National Trust of South Australia Register of Historic Buildings (closed) Royal Australian Institute of Architects (SA) Notable South Australian 20 th Century Architecture Register
	TASMANIA <i>Historic Cultural Heritage Act 1995</i> <ul style="list-style-type: none"> • Tasmanian Heritage Register 	Register of the National Trust of Australia (Tas) Royal Australian Institute of Architects (Tas) Register of 20 th Century Buildings
	AUSTRALIAN CAPITAL TERRITORY <i>Heritage Act 2004</i> <ul style="list-style-type: none"> • ACT Heritage Register 	Register of the National Trust of Australia (ACT) Royal Australian Institute of Architects (ACT) Register of

	<i>Land (Planning and Land) Act 1991</i>	Significant 20 th Century Architecture
	NORTHERN TERRITORY <i>Heritage Conservation Act 1991</i> <ul style="list-style-type: none"> Northern Territory Heritage Register 	Register of the National Trust of Australia (NT)
LOCAL GOVERNMENT	NEW SOUTH WALES <u>Under the EP&A Act</u> <ul style="list-style-type: none"> Local Environmental Plans Development Control Plans Heritage Studies 	
	VICTORIA <u>Under the <i>Planning and Environment Act 1987</i></u> <ul style="list-style-type: none"> Victorian Planning Provisions Heritage Overlays 	
	WESTERN AUSTRALIA <u>Under the <i>Town Planning and Development Act 1928</i></u> <ul style="list-style-type: none"> Local heritage lists established by local planning schemes 	
	QUEENSLAND <u>Under the <i>Integrated Planning Act 1997</i></u> <ul style="list-style-type: none"> <u>IPA Planning Scheme</u> <u>Under the</u>	

	<p><u>Queensland Heritage Act 1992 amended 2004</u></p> <ul style="list-style-type: none"> • Integrated Development Assessment System 	
	<p>SOUTH AUSTRALIA Under the <u>Development Act 1993</u></p> <ul style="list-style-type: none"> • Local Heritage Lists in Development Plans • Historic (Conservation) Zones or Historic Policy Areas 	
	<p>TASMANIA Under the <u>Land Use Planning and Approvals Act 1993</u></p> <ul style="list-style-type: none"> • 43 Individual Local Government Planning Schemes 	
	<p>AUSTRALIAN CAPITAL TERRITORY No local government listings</p>	
	<p>NORTHERN TERRITORY No local government listings</p>	

ANNEXURE B LISTING CRITERIA

UNITED NATIONS EDUCATION, SCIENTIFIC AND CULTURAL ORGANISATION

WORLD HERITAGE LISTING CRITERIA

<<http://whc.unesco.org/en/guidelines>>

Operational Guidelines for the Implementation of the World Heritage Convention (2005), UNESCO, World Heritage Committee (WHC), paras 49 and 77–78.

The over-arching criteria for world heritage listing for properties of cultural or natural heritage is 'outstanding universal value', that is 'cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations of all humanity'.

The WHC considers a property as having 'outstanding universal value' if it meets one or more of the following criteria.

- (i) represent a masterpiece of human creative genius;
- (ii) exhibit an important interchange of human values, over a span of time or within a cultural area of the world, on developments in architecture or technology, monumental arts, town-planning or landscape design;
- (iii) bear a unique or at least exceptional testimony to a cultural tradition or to a civilization which is living or which has disappeared;
- (iv) be an outstanding example of a type of building, architectural or technological ensemble or landscape which illustrates (a) significant stage(s) in human history;
- (v) be an outstanding example of a traditional human settlement, land-use, or sea-use which is representative of a culture (or cultures), or human interaction with the environment especially when it has become vulnerable under the impact of irreversible change;
- (vi) be directly or tangibly associated with events or living traditions, with ideas, or with beliefs, with artistic and literary works of outstanding universal significance.

(The Committee considers that this criterion should preferably be used in conjunction with other criteria) ;

(vii) contain superlative natural phenomena or areas of exceptional natural beauty and aesthetic importance;

(viii) be outstanding examples representing major stages of earth's history, including the record of life, significant on-going geological processes in the development of landforms, or significant geomorphic or physiographic features;

(ix) be outstanding examples representing significant ongoing ecological and biological processes in the evolution and development of terrestrial, fresh water, coastal and marine ecosystems and communities of plants and animals;

(x) contain the most important and significant natural habitats for in-situ conservation of biological diversity, including those containing threatened species of outstanding universal value from the point of view of science or conservation.

- A property must also meet the conditions of integrity and/or authenticity and must have an adequate protection and management system to ensure its safeguarding.

AUSTRALIAN GOVERNMENT

NATIONAL HERITAGE LISTING COMMONWEALTH HERITAGE LISTING REGISTER OF THE NATIONAL ESTATE

<<http://www.deh.gov.au/heritage>>

Environment Protection and Biodiversity Conservation Act 1999 (Cth)
Australian Heritage Council Act 2003

Criteria

Under the new heritage system, the National Heritage List and the Commonwealth Heritage List have similar criteria. However, the key difference is the level or 'threshold' by which they meet one or more criteria. Heritage experts will be able to 'test' a place for heritage value against these criteria.

Thresholds

While a place can be assessed against criteria for its heritage value, this may not always be sufficient to determine whether it is worthy of inclusion on a particular heritage list.

The Australian Heritage Council may also need to use a second test, by applying a 'significance threshold', to help it decide. This test helps the Council to judge the level of significance of a place's heritage value by asking 'just how important are these values?'

NATIONAL HERITAGE LIST CRITERIA

The National Heritage List will be a list of places with outstanding natural, Indigenous or historic heritage value to the nation.

The National Heritage criteria for a place are one or more of the following:

- a) the place has outstanding heritage value to the nation because of the place's importance in the course, or pattern, of Australia's natural or cultural history;
- b) the place has outstanding heritage value to the nation because of the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history;
- c) the place has outstanding heritage value to the nation because of the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history;
- d) the place has outstanding heritage value to the nation because of the place's importance in demonstrating the principal characteristics of:
 - e) a class of Australia's natural or cultural places; or
 - f) a class of Australia's natural or cultural environments;
- g) the place has outstanding heritage value to the nation because of the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
- h) the place has outstanding heritage value to the nation because of the place's importance in demonstrating a high degree of creative or technical achievement at a particular period;
- i) the place has outstanding heritage value to the nation because of the place's strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
- j) the place has outstanding heritage value to the nation because of the place's special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history;

- k) the place has outstanding heritage value to the nation because of the place's importance as part of Indigenous tradition.

NOTE:

- l) The cultural aspect of a criterion means the Indigenous cultural aspect, the non-Indigenous cultural aspect, or both.
- m) To reach the threshold for the National Heritage List, a place must have 'outstanding' heritage value, that is it must be important to the nation and to the Australian community as a whole.

COMMONWEALTH HERITAGE LIST CRITERIA

The Commonwealth Heritage List comprises natural, cultural and historic heritage places owned or managed by the Commonwealth Government.

The Commonwealth Heritage criteria for a place that meets one or more of the following criteria:

- a) the place has significant heritage value because of the place's importance in the course, or pattern, of Australia's natural or cultural history;
- b) the place has significant heritage value because of the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history;
- c) the place has significant heritage value because of the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history;
- d) the place has significant heritage value because of the place's importance in demonstrating the principal characteristics of:
 - e) a class of Australia's natural or cultural places; or
 - f) a class of Australia's natural or cultural environments;
- g) the place has significant heritage value because of the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
- h) the place has significant heritage value because of the place's importance in demonstrating a high degree of creative or technical achievement at a particular period;
- i) the place has significant heritage value because of the place's strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
- j) the place has significant heritage value because of the place's special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history;
- k) the place has significant heritage value because of the place's importance as part of Indigenous tradition.

NOTE:

- l) The cultural aspect of a criterion means the Indigenous cultural aspect, the non-Indigenous cultural aspect, or both.
- m) Thresholds for the Commonwealth Heritage List will be different to those used for the National Heritage List. For the Commonwealth Heritage List a place must have 'significant' heritage value and may be of only local or state-level significance.

REGISTER OF THE NATIONAL ESTATE CRITERIA

The Register of the National Estate provides information about Australia's natural, cultural and Indigenous heritage places.

A place meets the registration criterion if the place has a significant heritage value because of one or more of the following criteria:

- a) the place's importance in the course, or pattern, of Australia's natural or cultural history;
- b) the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history;
- c) the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history;
- d) the place's importance in demonstrating the principal characteristics of:
 - e) a class of Australia's natural or cultural places; or
 - f) a class of Australia's natural or cultural environments;
- g) the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
- h) the place's importance in demonstrating a high degree of creative or technical achievement at a particular period;
- i) the place's strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
- j) the place's special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history;
- k) the place's importance as part of Indigenous tradition.

Thresholds for the Register of the National Estate will be different to those used for the National Heritage List. A place must have 'significant' heritage value and may be of only local or state-level significance.

NEW SOUTH WALES

<<http://www.heritage.nsw.gov.au>>

Heritage Act 1977 (NSW)

CRITERIA FOR LISTING IN THE STATE HERITAGE REGISTER

The State Heritage Register is established under Part 3A of the *Heritage Act 1977* (as amended in 1998) for listing of items of environmental heritage¹ which are of state heritage significance².

To be assessed for listing on the State Heritage Register an item will, in the opinion of the Heritage Council of NSW, meet one or more of the following criteria:

- a) an item is important in the course, or pattern, of NSW's cultural or natural history;
- 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;
- c) an item is important in demonstrating aesthetic characteristics and/or a high
- d) degree of creative or technical achievement in NSW;
- e) an item has strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons;
- f) an item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history;
- g) an item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history;
- h) an item is important in demonstrating the principal characteristics of a class of NSW'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.

1 environmental heritage means those places, buildings, works, relics, moveable objects, and precincts, of state or local heritage significance (section 4, Heritage Act, 1977).

2 state heritage significance, in relation to a place, building, work, relic, moveable object or precinct, means significance to the State in relation to the historical, scientific cultural, social, archaeological, architectural, natural or aesthetic value of the item (section 4A(1), Heritage Act, 1977).

The threshold for State listing is as above.

QUEENSLAND

<http://www.epa.qld.gov.au/cultural_heritage>

Queensland Heritage Act 1992

CRITERIA FOR ENTRY IN THE QUEENSLAND HERITAGE REGISTER

- (1) A place may be entered in the heritage register if it is of cultural heritage significance and satisfies 1 or more of the following criteria:
- a) the place is important in demonstrating the evolution or pattern of Queensland's history;
 - b) the place demonstrates rare, uncommon or endangered aspects of Queensland's cultural heritage;
 - c) the place has potential to yield information that will contribute to an understanding of Queensland's history;
 - d) the place is important in demonstrating the principal characteristics of a particular class of cultural places;
 - e) the place is important because of its aesthetic significance;
 - f) the place is important in demonstrating a high degree of creative or technical achievement at a particular period;
 - g) the place has a strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;

- h) the place has a special association with the life or work of a particular person, group or organisation of importance in Queensland's history.
- (2) A place is not to be excluded from the heritage register on the ground that places with similar characteristics have already been entered in the register.
- (3) A place does not satisfy the criteria for entry in the heritage register if there is no prospect of the cultural heritage significance of the place being conserved.
- (4) A place may be entered in the heritage register even if part of the place does not fully satisfy a criterion in subsection (1) but only if it forms part of a streetscape that satisfies a criterion in subsection (1) or is adjacent to a registered place and exhibits the characteristics of the registered place and failure to enter the place would reduce the overall cultural heritage significance of the streetscape or the registered place.

SOUTH AUSTRALIA

<<http://www.environment.sa.gov.au/heritage>>

Heritage Act 1993

CRITERIA FOR ENTRY IN THE STATE HERITAGE REGISTER

To be entered in the State Heritage Register a place must satisfy one or more of the following criteria, which can be found in Section 16 of the *Heritage Act 1993*:

- a) It demonstrates important aspects of the evolution or pattern of the State's history.
- b) It has rare, uncommon or endangered qualities that are of cultural significance.
- c) It may yield information that will contribute to an understanding of the State's history, including its natural history.
- d) It is an outstanding representative of a particular class of places of cultural significance.

- e) It demonstrates a high degree of creative, aesthetic or technical accomplishment or is an outstanding representative of particular construction techniques or design characteristics.
- f) It has strong cultural or spiritual associations for the community or a group within it.
- g) It has a special association with the life or work of a person or organisation or an event of historical importance.

Section 14 of the Heritage Act requires that the Register must have attached to it an inventory containing descriptions of and notes relating to:

- places designated in any Development Plan as places of local heritage value;
- places within the State entered in any register of places of historical interest kept under the law of the Commonwealth (ie Register of the National Estate).

TASMANIA

<<http://www.heritage.tas.gov.au>>

CRITERIA FOR ENTRY IN THE TASMANIAN HERITAGE REGISTER

The Heritage Council may enter a place of historic cultural heritage significance in the Heritage Register if, in its opinion, it meets one or more of the following criteria:

- a) it is important in demonstrating the evolution or pattern of Tasmania's history;
- b) it demonstrates rare, uncommon or endangered aspects of Tasmania's heritage;
- c) it has potential to yield information that will contribute to an understanding of Tasmania's history;
- d) it is important as a representative in demonstrating the characteristics of a broader class of cultural places;
- e) it is important in demonstrating a high degree of creative or technical achievement;
- f) it has strong or special meaning for any group or community because of social, cultural or spiritual associations;
- g) it has a special association with the life or work of a person, a group or an organisation that was important in Tasmania's history.

VICTORIA

<<http://www.heritage.vic.gov.au>>

Heritage Act 1995

CRITERIA FOR ASSESSMENT OF CULTURAL HERITAGE SIGNIFICANCE FOR THE VICTORIAN HERITAGE REGISTER

Criteria adapted by the Heritage Council on 6 March 1997 pursuant to Sections 8(c) and 8(2) of the *Heritage Act 1995*.

- a) The historical importance, association with or relationship to Victoria's history of the place or object.
- b) The importance of a place or object in demonstrating rarity or uniqueness.
- c) The place or object's potential to educate, illustrate or provide further scientific investigation in relation to Victoria's cultural heritage.
- d) The importance of a place or object in exhibiting the principal characteristic or the representative nature of a place or object as part of a class of type of places or objects.
- e) The importance of the place or object in exhibiting good design or aesthetic characteristic and/or in exhibiting a richness, diversity or unusual integration of features.
- f) The importance of the place or object in demonstrating or being associated with scientific or technical innovations or achievements.
- g) The importance of the place or object in demonstrating social or cultural associations.
- h) Any other matter which the Council considers relevant to the determination of cultural heritage significance.

WESTERN AUSTRALIA

<<http://www.heritage.wa.gov.au>>

Heritage of Western Australia Act 1990

CRITERIA FOR LISTING IN THE STATE REGISTER OF HERITAGE PLACES

The State Register of Heritage Places is established under Part 5 of the *Heritage of Western Australia Act 1990* for entry of places (see Act definition below) which are of cultural heritage significance (see Act definition below).

To be assessed for entry in the Register of Heritage Places a place will, in the opinion of the Heritage Council of Western Australia, meet one or more of the following criteria from section 47 of the Act:

- (a) any distinctive features or scarcity value, the character of the environs of the place, its landscape or townscape value and, in the case of a building, its beauty and proportions, the degree of unity of its materials, design and scale, and any contribution it makes to the significance of any area, precinct, group of buildings, or amenity of which it forms part, or to its setting or the setting of any other place or feature;
- (b) any strong association which the place has with any historic personage or significant event or discovery or any development or cultural phase, or whether or not the place provides a notable example of a particular period or type important for general educational, architectural or archaeological reasons that distinguish it from other such examples, or has intrinsic merit and is commonly agreed to be —
 - (i) a work of art in itself that enriches the environment; or
 - (ii) held in high public esteem or sentiment; and
- (c) in the case of places of particular scientific or other special interest, the extent to which the place has contributed, or may be likely to contribute, to knowledge or research, but a place shall not be excluded from the Register on the ground only that like examples are already included.

Definitions:

1. Places means an area of land sufficiently identified by survey, description or otherwise as to be readily ascertainable, and includes:
 - (a) an area of land situate below low water mark on the sea shore or on the bank of tidal waters, or in the bed of any watercourse, lake or estuary;
 - (b) any works or buildings situated there, their contents relevant to the purposes of this Act and such of their immediate surroundings as

- may be required for the purposes of the conservation of those works or buildings; and
- (c) as much of the land beneath the place as is required for the purposes of its conservation;
2. Cultural heritage significance means, in relation to a place, the relative value which that place has in terms of its aesthetic, historic, scientific, or social significance, for the present community and future generations.

AUSTRALIAN CAPITAL TERRITORY

<<http://www.environment.act.gov.au/heritage/heritagelegislation.html>>

Heritage Act 2004

CRITERIA FOR ENTRY IN THE ACT HERITAGE REGISTER

A place or object has 'heritage significance' if it satisfies one or more of the following heritage significance criteria:

- a) it demonstrates a high degree of technical or creative achievement (or both), by showing qualities of innovation, discovery, invention or an exceptionally fine level of application of existing techniques or approaches;
- b) it exhibits outstanding design or aesthetic qualities valued by the community or a cultural group;
- c) it is important as evidence of a distinctive way of life, taste, tradition, religion, land use, custom, process, design or function that is no longer practised, is in danger of being lost or is of exceptional interest;
- d) it is highly valued by the community or a cultural group for reasons of strong or special religious, spiritual, cultural, educational or social associations;

- e) it is significant to the ACT because of its importance as part of local Aboriginal tradition;
- f) it is a rare or unique example of its kind, or is rare or unique in its comparative intactness;
- g) it is a notable example of a kind of place or object and demonstrates the main characteristics of that kind;
- h) it has strong or special associations with a person, group, event, development or cultural phase in local or national history;
- i) it is significant for understanding the evolution of natural landscapes, including significant geological features, landforms, biota or natural processes;
- j) it has provided, or is likely to provide, information that will contribute significantly to a wider understanding of the natural or cultural history of the ACT because of its use or potential use as a research site or object, teaching site or object, type locality or benchmark site;
- k) for a place—it exhibits unusual richness, diversity or significant transitions of flora, fauna or natural landscapes and their elements;
- l) for a place—it is a significant ecological community, habitat or locality for any of the following:
 - (i) the life cycle of native species;
 - (ii) rare, threatened or uncommon species;
 - (iii) species at the limits of their natural range;
 - (iv) distinct occurrences of species.

NORTHERN TERRITORY

<<http://www.austli.edu.au>>

Heritage Conservation Act 1991

CRITERIA FOR ENTRY IN THE NORTHERN TERRITORY HERITAGE REGISTER

The criteria to be used in assessing whether or not a place or object should be recommended for declaration under Part 4 of the Act as a heritage place or a heritage object are whether or not the object or place (as the case may be) has special significance in the Territory:

- (a) for the evolution of flora, fauna, landscape or climate;
- (b) because of the diversity or richness of its flora, fauna, landscapes or cultural features;
- (c) because it contains rare, endangered or uncommon flora, fauna,

biotic communities, ecosystems, natural landscapes or phenomena;

(d) in demonstrating the principal characteristics of the range of landscapes, environments or ecosystems, the attributes of which identify them as being characteristic of their class;

(e) as wilderness;

(f) for the maintenance of existing natural processes or systems;

(g) because it contributes to a wider understanding of natural history by virtue of its use as a research site, a teaching site, an example of a type of locality or reference area;

(h) by virtue of its association with events, developments or cultural phases in human occupation and evolution;

(j) by providing information contributing to a broader understanding of the history of human occupation;

(k) in demonstrating a way of life, custom, process, land use, function or design no longer practised, in danger of being lost or of exceptional interest;

(m) in demonstrating the principal characteristics of the range of human activities which take or have taken place in the Territory, including ways of life, customs, processes, land uses, functions, designs or techniques;

(n) by virtue of aesthetic characteristics or through technical, creative, design or artistic excellence, innovation or achievement held in high esteem or otherwise valued by a community;

(p) in being highly valued by a community for religious, spiritual, symbolic, cultural, educational or social associations; or

(q) through its close association with individuals whose activities have been significant in the history of the Territory.