



New South Wales
Aboriginal Land Council

factsheet

ABORIGINAL CULTURE AND HERITAGE

Protecting Aboriginal sites through the State Heritage Register

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This Fact Sheet provides information about protecting culturally significant Aboriginal sites by listing them on the NSW State Heritage Register.

It is one of a series of Fact Sheets which have been developed for Local Aboriginal Land Councils (**LALCs**) and the Aboriginal community by the NSW Aboriginal Land Council (**NSWALC**). Copies of the Fact Sheets are available from www.alc.org.au or by calling the NSWALC Policy & Programs Unit on 02 9689 4444.

Please Note: While all care has been taken in the preparation of these Fact Sheets, they are not a substitute for legal advice in individual cases. The information in this Fact Sheet is current as of February 2015.

The NSW State Heritage Register

The *Heritage Act 1977 (NSW)* establishes the State Heritage Register to protect the State's natural, built and cultural heritage. More than 1,600 sites are currently listed.¹ Listed items cannot generally be demolished, redeveloped or altered without the approval of the Heritage Council. Listing also requires local councils to consider the effects of any proposed development in the area surrounding the item.

Listed sites can attract funding, and promote awareness of Aboriginal culture and heritage in the wider community.

What can be listed on the State Heritage Register?

For sites to be listed they generally must be of high cultural value to the people of NSW, and not just of local importance. However, acknowledging that Aboriginal culture and heritage does not necessarily fit into an imposed view of 'state significance', sites nominated for their Aboriginal culture and heritage

values must be considered by local Aboriginal people to be of greater significance than other Aboriginal sites in their area.

Examples of sites currently listed on the State Heritage Register include:

- Bundian Way,
- Brewarrina Fish Traps,
- La Perouse Mission Church,
- Cootamundra Aboriginal Girls' Training Home,
- Warangesda Aboriginal Mission and Station,
- Colebee and Nurragingy Land Grant,
- Grave of Yuranigh, and
- Tranby Aboriginal College.

Places or objects on either publicly or privately owned land can be nominated for listing on the State Heritage Register.

What protection does listing offer?

The State Heritage Register provides an extra level of protection for Aboriginal culture and heritage via the *Heritage Act 1977*, in addition to the provisions in the *National Parks and Wildlife Act 1974*.

What the State Heritage Register does not do

Recognition on the State Heritage Register does not guarantee access to the site for Aboriginal people, even when the site is registered for its Aboriginal heritage values. To guarantee access Aboriginal communities or individuals must negotiate an agreement with the landowner.

SITE PROTECTION

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Listing does not affect who owns the land. Some types of developments may still be permissible on listed sites with the approval of the Heritage Council and some types of development may be allowed without needing to obtain any approvals.

The Minister, after considering recommendations of the Heritage Council, can also remove a listing from the State Heritage Register.

Who can nominate a site?

Anyone can nominate a place or object for listing on the State Heritage Register, but it is likely to be more effective when supported by the Aboriginal community. Nomination is free.

Does heritage listing affect use of the site?

Land owners are able to obtain 'Exemptions' from the Act in order to carry out activities and maintenance of the site but must still uphold and protect the heritage values for which it is listed.

The listing of a site on the State Heritage Register often encourages both the land owner and Aboriginal communities to think about the long term management of sites. **Funding** can be sought through the Heritage Division to develop a Conservation Management Plan that helps to protect the site through its day to day management. This may include site interpretation, schedules of maintenance works and access arrangements for community.

Protecting confidential sites

Information about some sites may need to remain confidential or of limited access to the general public. If you have concerns of this nature about a site that is to be listed, please contact the Heritage Division.

How to get a site on the NSW State Heritage Register

Step 1 – Check if the site is already registered

Search the Heritage Division's database or the State Heritage Inventory online.

Step 2 - Contact the Heritage Division

Call the Heritage Division or visit their website for initial advice and assistance. The Heritage Division may be able to assist with the nomination process including research, forms and meeting the criteria.

Step 3 - Research the site and complete the form

Undertake consultation with local community, research the site and write the story about how it meets the criteria and why it is of high cultural significance. Nomination forms with a clear statement of significance may help your application get assessed earlier.

Step 4 - Lodge the nomination application form with NSW Heritage Division.

Step 5 – Public Consultation

The Heritage Council undertakes a public consultation process and publishes notices in newspapers inviting submissions from the broader community. Anyone can comment on whether a place should be listed on the State Heritage Register.

Step 6 – Assessment and decision

The Minister for Heritage decides whether an item is of State heritage significance and should be listed on the State Heritage Register, but only if the Heritage Council recommends the listing. The Heritage Council is also advised by the Aboriginal Heritage Advisory Panel (**AHAP**).

Lobbying to have your site registered should be directed at the Minister for Heritage or the Heritage Council.

Need help getting a site listed on State Heritage Register or apply for funding?

Contact the OEH Heritage Division on:

Phone: (02) 9873 8500

Free call: 1800 789290

Email: heritage@heritage.nsw.gov.au

Heritage Division website:

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

Other forms of protection

The State Heritage Register is only one way of protecting Aboriginal culture and heritage sites in NSW. Aboriginal groups are encouraged to apply for other additional protections over the same site.

ⁱ Current listings of heritage sites can be found on the Office of Environment & Heritage website.

<http://www.environment.nsw.gov.au/heritageapp/heritagesearch.aspx>