



fact sheet

ABORIGINAL CULTURE AND HERITAGE



New South Wales
Aboriginal Land Council

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Protecting Aboriginal sites through the NSW State Heritage Register

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 Resource Centre 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 19 January 2011.

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 1,500 sites are currently listed.

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 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 include the Brewarrina Fish Traps, the 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.

Thematic Listings Program

The NSW Planning Minister has announced that **Aboriginal Heritage is a priority listing theme under the Thematic Listings Program 2009-2011.**

Aboriginal groups are encouraged to apply before the end of 2011 while applications are more likely to be prioritised for funding and staff support.

Nominated items must meet at least one of seven Heritage Council criteria. Aboriginal heritage items are often listed for their cultural, social, archaeological, educational or visual significance.

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*.

SITE PROTECTION

Jan 2011

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 come to some form of agreement with the landowner.

Listing also does not affect who owns the land.

Part 3A developments under the *Environmental Planning and Assessment Act 1979* (NSW) can 'switch off' the State Heritage Register protections. See NSWALC Planning Fact Sheet 4 - *Part 3A developments* for more info.

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 Branch 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 Branch Senior Aboriginal Heritage Officer.

How to get a site on the NSW State Heritage Register

Step 1 – Check if the site is already registered
Search the Heritage Branch's database or the State Heritage Inventory online.

Step 2 - Contact the Heritage Branch

Call the Heritage Branch or visit their website for initial advice and assistance. The Heritage Branch can help with the entire nomination process including research, forms and meeting the criteria.

Step 3 - Research the site and complete the form

Research the site and write the story about how it meets the criteria and why it is of high cultural significance. Complete and accurate nomination forms with a clear statement of significance will help your application get assessed earlier.

Step 4 - Lodge your nomination application

Lodge the completed application form with the NSW Heritage Branch.

Step 5 - Consultation

The Heritage Council undertakes a public consultation process and publishes a notice in local, state-wide and indigenous media inviting submission from land owners, occupiers, local councils and the broader community. Anyone can comment on whether a place should be listed on the State Heritage Register.

Step 6 - Assessment

The Planning Minister decides whether an item is of State heritage significance and should be placed 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 or the Heritage Council.

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

Speak to the Senior Aboriginal Heritage Officer at the Heritage Branch, Parramatta on (02) 9873 8500, or 1800 789290 (toll free), or visit the Heritage Branch website at www.heritage.nsw.gov.au.

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.