



EPBC Unit
15/71 Constitution Ave,
Campbell, ACT 2612

Phone: (02) 6257 4010
Fax: (02) 6257 4030
Email: heritage@wwf.org.au
Website: www.wwf.org.au/epbc

A joint project of WWF Australia, the Australian Council of National Trusts and the Tasmanian Conservation Trust

Commonwealth Heritage List Information

INTRODUCTION

The Commonwealth Heritage List

Australia has changed the way it protects its Commonwealth heritage places. New laws that came into effect on 1 January 2004 combine the more successful elements of the old Commonwealth heritage system with a number of new elements including the creation of a new Commonwealth Heritage List. These places will be on Commonwealth lands and waters or under Australian Government control with significant heritage value to the nation, including places overseas. This new heritage system operates under a national act called the Environment Protection and Biodiversity Conservation Act 1999 (Cth), or the "EPBC Act" as it is more commonly known.

This information sheet provides details on the Commonwealth Heritage List, including:

- Nominating places to the Commonwealth Heritage List
- An overview of the Commonwealth Heritage listing process
- Information about emergency Commonwealth heritage listing
- Management of Commonwealth Heritage places
- Other obligations of Commonwealth agencies with regard to their heritage
- Legal protection for places on the Commonwealth Heritage list under the EPBC Act
- Integration of the national heritage system with State and local heritage systems
- Funding and support for places on the Commonwealth Heritage list
- Where to find more information.

NOMINATING PLACES TO THE COMMONWEALTH HERITAGE LIST

How are places entered in the Commonwealth Heritage List?

Anyone from the public can nominate a place with significant Commonwealth Heritage values to the Commonwealth Heritage List, including the Australian Government Minister for the Environment and Heritage and the Australian Heritage Council. The Australian Heritage Council is an expert heritage body set up under legislation, whose role in relation to the Commonwealth Heritage list is to assess nominations to the list and then make recommendations to the Minister as to their listing.

For the first six months following the enactment of the legislation, the Australian Government Minister for the Environment and Heritage was also able to transfer onto the new Commonwealth Heritage List those places in Commonwealth areas that were on the Register of the National Estate. As a result, the Australian Government Minister for the Environment and Heritage listed 336 places on the Commonwealth Heritage List in June 2004.

What type of places can be nominated to the Commonwealth Heritage list?

Commonwealth Heritage places are likely to often relate to the defence of Australia, or the development of nation-wide communications and government. Australian Government-owned places include telegraph stations, defence sites, migration centres, customs houses, lighthouses, national institutions such as parliament and High Court buildings, memorials, islands and marine areas.

Criteria for entry onto the Commonwealth Heritage List

Commonwealth Heritage places must qualify against at least one (1) of nine (9) Commonwealth Heritage criteria. In addition, they should also be under the control of the Commonwealth. In short, the Commonwealth Heritage List will be a list of places with **significant** Commonwealth heritage value to the nation.

The Commonwealth Heritage List criteria

To be entered on the Commonwealth Heritage list, a place must qualify against at least one (1) of the following nine (9) 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:
 - (i) a class of Australia's natural or cultural places; or
 - (ii) a class of Australia's natural or cultural environments;
- e) the place has significant heritage value because of the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
- f) 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;
- g) 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;
- h) 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;
- i) the place has significant heritage value because of the place's importance as part of Indigenous tradition.

NOTE: The cultural aspect of a criterion means the Indigenous cultural aspect, the non-Indigenous cultural aspect, or both.

How to make a nomination for the Commonwealth Heritage List

If you decide that the place you wish to nominate is likely to qualify against at least one of these 9 criteria and is in the control or ownership of the Commonwealth Government, you need to make a formal nomination of the place to the Commonwealth Heritage List. This must be done on the official nomination forms that are available from the Department of Environment and Heritage in Canberra.

You can call the Department and get them to post you the forms. Call the switch (02) 6274 1111 and ask to speak to the Commonwealth Heritage List Nominations Manager.

Or write to:
The Nominations Manager
Heritage Division
Department of the Environment and Heritage
GPO Box 787
Canberra ACT 2601

Information required in the forms

In your nomination of the place, you will be required to provide details about the place. The more sound information you can provide, the better. It is probably advisable to invest more time preparing this information than rush the nomination and have it held up later due to a lack of sufficient information.

Information requested in the forms includes:

- Geographical details about the place (where it is, boundaries, names of the place)
- Owners of the place and other interest groups
- The 'significance' of the place and the Commonwealth List criteria it meets
- Your own description of the place
- The place's condition
- Any sensitive issues that relate to the place

Australian Heritage Council assessment of the place's Commonwealth Heritage values

After receiving a nomination for the Commonwealth Heritage List the Australian Government Minister for the Environment and Heritage refers it to the Australian Heritage Council for assessment of its Commonwealth Heritage values. The place must qualify for listing against at least one of the Commonwealth Heritage criteria and be of 'significant' heritage value to the nation.

Consultation about the values of the nominated place

In conducting its of whether to list the place or not, the Australian Heritage Council must consult with the owner or occupier of a place as well as Indigenous people with rights or interests in the place, where appropriate. The Council must also ask for public comments on the Commonwealth Heritage values of the place during this process. The Council can, however, only consider the heritage values of the place when making its considerations and taking into account the comments of other parties.

In other words, if public comments are received that relate to other issues besides the Commonwealth Heritage values of the place, the Council cannot take these into account in its assessment of whether the place qualifies for the Commonwealth Heritage list.

Referral back to the Minister for a final decision

After its assessment is complete, the Australian Heritage Council makes a recommendation to the Minister for Environment and Heritage about the Commonwealth Heritage listing of the place. The Council also hands over any of the comments received that have been received from the public about the nomination for his or her consideration.

At this stage, the Minister will consider the Council's recommendations. In addition, the Minister can consider all the comments that have been made by the public. In other words, the Minister can consider not just the comments that relate to the Commonwealth Heritage values of the place, but also comments that relate to other issues as well.

The Minister will also consult with all relevant Ministers prior to a decision to list. In addition, the Minister may call for additional public comments on the nomination. In making a final decision about whether to enter the place onto the list, the Minister must be satisfied that it has one or more Commonwealth heritage values to a 'significant' degree.

Can confidential information be protected?

Where the Minister considers that the heritage values of a place could be significantly damaged by the disclosure of some information, he may decide to only make available a general description of the place, its location or its Commonwealth heritage values. It may, for example, be inappropriate to disclose certain information about a site for cultural reasons.

THE COMMONWEALTH HERITAGE LIST NOMINATION AND LISTING PROCESS

STAGES	ACTIONS TAKEN	INFORMATION AVAILABLE
NOMINATION	Place is nominated by Australian Heritage Council (AHC), public or Australian Government Minister (the Minister) for the Environment and Heritage; Place is referred to AHC for an assessment of its heritage values against the criteria	Notice about nomination is inserted into the Department of the Environment and Heritage (DEH) "Heritage Notifications" database (see the 'More Information' section of this information sheet for this web address).
AHC ASSESSMENT	The AHC consults with place owners or managers and other parties who may have an interest in the place	
AHC CALLS FOR PUBLIC COMMENTS	The AHC calls for general public comments on heritage values of the place	Advertisements are placed in national media; notice of the comments period is also placed in "Heritage Notifications" database on the DEH heritage website.
AHC DECISION	The AHC makes decision based on their consultations, deliberations and public comments on heritage values; AHC hands their assessment report and all comments that have been received to the Minister for a final decision on listing.	
MINISTERIAL CONSIDERATION	The Minister considers the AHC assessment report and all comments that have been received (also non-heritage related comments).	
MINISTER CAN CALL FOR FURTHER PUBLIC COMMENTS	The Minister may call for additional public comments on the listing of the place; the Minister may also consult with other relevant parties.	Advertisements are placed in national media; a notice of the comments period is also placed in "Heritage Notifications" database
MINISTERIAL DECISION	The Minister makes a final decision as to the listing of the place or not.	The place is included in the Commonwealth Heritage list by instrument in the Gazette; a copy of the values is published on the DEH website; owners / occupiers are advised of the decision; nominators are advised of the decision; if place is not listed the notice of the decision must still be published on the DEH website and the nominator of the place must be given the reasons for its rejection.

MANAGEMENT OF PLACES ON THE COMMONWEALTH HERITAGE LIST

What is a management plan?

A management plan is a document that sets out the significant heritage aspects of a place, and details the appropriate policies to manage it, so that its values are retained for future use and appreciation.

While management arrangements should be tailored to the place, generally, a management plan will:

- identify the property's heritage values
- identify the constraints and opportunities that its heritage values place on future use
- identify what the owner is required or wishes to do regarding its use
- balance this information and make policies and strategies to achieve compatible outcomes.

A management plan should also allow for ongoing technical and community input to decisions and actions that may have a significant impact on a place's heritage values. Commonwealth heritage place management should make continuing use of the best available knowledge, skills and standards for the place.

Commonwealth Heritage management plans

An Australian Government agency must make a written plan to protect and manage the Commonwealth heritage values of a Commonwealth heritage place it owns or controls. Agencies must not contravene such a plan or authorise another person to do so.

Commonwealth Heritage management plans are developed by those responsible for the property and are able to be accredited or endorsed under the EPBC Act by the Australian Minister for the Environment and Heritage. Management plans need to be consistent with the Commonwealth Heritage Management Principles set out in new Regulations to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). If a management plan is already in place to manage these places and are consistent with the new Commonwealth Heritage Management Principles prescribed in regulations to the Act, a new plan is not be required.

If agencies do not have a management plan for a Commonwealth Heritage place and propose to take any action that may have a significant impact on the heritage values of a place, they must not act inconsistently with the Commonwealth Heritage Management Principles. They must also seek the advice of the Minister before taking any such action. However, agencies do not need to seek the Minister's advice if the proposed action is taken in accordance with a management plan already endorsed by the Minister.

The Commonwealth Heritage Management Principles

- a) The objective in managing Commonwealth Heritage places is to identify, protect, conserve, present and transmit, to all generations, their Commonwealth Heritage values.
- b) The management of Commonwealth Heritage places should use the best available knowledge, skills and standards for those places, and include ongoing technical and community input to decisions and actions that may have a significant impact on Commonwealth Heritage values.
- c) The management of Commonwealth Heritage places should respect all heritage values of the place and seek to integrate, where appropriate, any Commonwealth, state and territory and local government responsibilities for those places.
- d) The management of Commonwealth heritage places should ensure that their use and presentation is consistent with the conservation of their Commonwealth Heritage values.
- e) The management of Commonwealth Heritage places should make timely and appropriate provision for community involvement, especially by people who:
 - (a) have a particular interest in, or associations with, the place, and
 - (b) may be affected by the management of the place.

- f) Indigenous people are the primary source of information on the value of their heritage and the active participation of Indigenous people in identification, assessment and management is integral to the effective protection of Indigenous heritage values.
- g) The management of Commonwealth Heritage places should provide for regular monitoring, review and reporting on the conservation of Commonwealth Heritage values.

Who does a management plan affect?

By its nature, a management plan affects the use of listed heritage places because it seeks to protect the heritage values of a place. Therefore, management plans can affect members of the community, managers of the place, local, state, territory and federal governments and any other relevant stakeholders such as potential developers.

What support may be available for managing listed places?

The Australian Government may provide technical and/or financial assistance for the protection or conservation of places with Commonwealth heritage values on the Commonwealth Heritage List. Financial or other assistance may be given to promote, identify and present places on the list.

Management plans and the taking of actions the impact on the Commonwealth Heritage place

Before an Australian Government agency takes an action that has, will have, or is likely to have, a significant impact on a Commonwealth heritage place, the agency must ask the Minister for advice about taking the action. However, the agency is not required to ask for the advice if it has a plan for managing the place that is endorsed by the Minister and the action is provided for or taken in accordance with the plan.

OTHER OBLIGATIONS OF COMMONWEALTH AGENCIES

Other obligations of Australian Government agencies

Australian Government agencies must assist in identifying potential heritage places under their ownership or control by also developing heritage strategies and heritage inventories

Commonwealth agency heritage strategies

As part of the new national heritage system, if an Australian Government agency owns or controls one or more heritage places, it must prepare, within two years from 1 January 2004, a written heritage strategy for managing the places to protect and conserve their Commonwealth heritage values. The principal objective of a heritage strategy is to outline a strategic approach for the agency to effectively manage places that it owns or controls for the long-term protection and conservation of their Commonwealth heritage values. Before making a heritage strategy, the agency must consult the Australian Heritage Council and take its advice into account.

These heritage strategies are required to be reviewed every three years. Guidelines to assist Commonwealth agencies to develop heritage strategies are available from the Department.

Commonwealth agency heritage assessments and inventories

An Australian Government agency must, within the period mentioned in its heritage strategy:

- a) conduct a program to identify Commonwealth heritage values for each place it owns or controls
- b) produce a register that sets out, for each place it owns or controls, the Commonwealth heritage values (if any) of that place
- c) give the Minister a written report that includes details of the program and a copy of the register.

Protecting heritage values of places sold or leased

When an Australian Government agency executes a contract for the sale or lease of a Commonwealth area, that includes all or part of a Commonwealth heritage place (or a National Heritage place under Commonwealth control), the agency must give the Minister for the Environment and Heritage at least 40 business days' notice before executing the contract.

The agency should also ensure that the contract includes a covenant for the place before sale or lease of property. The objective of the covenant should be to conserve the National or Commonwealth heritage values of the place. This does not have to be done, however, if the agency is satisfied that it is either unnecessary or unreasonable to draw up the covenant (if the values are protected in another way, for example) or if including such a covenant in the contract is not practicable.

If the Minister is informed that the Australian Government agency is satisfied that it is unnecessary to include such a covenant in the contract, the Minister may advise the agency about measures to ensure the ongoing protection of the Commonwealth (or National) heritage values of the place, in which case the agency must take all reasonable steps to ensure that the measures are taken.

LEGAL PROTECTION FOR PLACES ON THE COMMONWEALTH HERITAGE LIST

Protecting places on the Commonwealth Heritage List

The importance of Commonwealth heritage places is recognised through the EPBC Act, which contains provisions for their identification, management and protection.

In terms of the identification of Commonwealth Heritage places, all Commonwealth agencies are required to develop strategies that set out a process for identification and management of heritage places under their ownership and/or control. These strategies will include identification of the Commonwealth Heritage values of these places.

The EPBC Act acts to protect Commonwealth Heritage places because actions that are likely to have a significant impact on the environment and are taken by Commonwealth agencies are regulated by the EPBC Act. So too are actions likely to have a significant impact on the environment on Commonwealth land, but taken by anyone. The definition of 'environment' in the EPBC Act includes heritage. So this means that Commonwealth Heritage places are protected by these requirements of the EPBC Act.

INTEGRATION WITH OTHER HERITAGE SYSTEMS

How does the national heritage system integrate with other heritage systems?

States and territories across Australia all have heritage legislation and systems. In many cases, these systems also allow for the establishment of heritage lists or registers that have importance or relevance to people of that particular state or territory. In addition, many local government authorities also develop and maintain heritage lists or registers that operate under local or municipal planning schemes.

The Commonwealth Heritage list operates in parallel with these state and local planning schemes. They operate a bit like layers of an onion – each heritage system offers another potential layer of protection for the site.

Can a place be on more than one list?

A place can be on more than one heritage list. For example, being on the Commonwealth Heritage List does not exclude the place from being included on the National Heritage list, a state or local heritage list, or vice versa.

What is the point in applying for National Heritage listing if the place is already on another heritage list?

There are a number of reasons for Commonwealth Heritage listing even if the site is listed under a state or local heritage scheme. Amongst others, these include:

- Different types of values may be protected under the national heritage system
- Improved management arrangements & requirements may be introduced
- Additional funds may be available to assist with the management of the place
- The heritage values of the places are given greater recognition, which could lead to tourism and development opportunities for the region

THE NATIONAL HERITAGE LIST AND FUNDING / SUPPORT

What support is available for managing Commonwealth Heritage places?

The Australian Government may provide technical and/or financial assistance for the nomination and protection / conservation of places with commonwealth heritage values on the Commonwealth Heritage List, including preparation of management plans. Financial or other assistance may be given to identify and promote places on the list.

In the May 2003 Budget, it was announced that \$52.6 million would be provided over four years for a “*Distinctively Australian*” program to protect and promote Australia's national heritage places. This is not a grants program but is tied closely to the implementation of the new heritage system. It will be from this pool of funds (amongst others) that money for support of communities nominating, listing and protecting places may be drawn.

MORE INFORMATION

The Department of Environment and Heritage, Canberra

The Heritage Division of the Department of Environment and Heritage in Canberra (DEH) administers the new heritage system, including the Commonwealth Heritage list. The Heritage Division of the Department is divided into historic heritage, natural heritage and Indigenous heritage sections. Within each of these sections there is a Heritage assessment team (dealing with new nominations assessing their eligibility for the Commonwealth Heritage List) and a heritage management team (dealing with ongoing management of places once they are added to the Commonwealth Heritage List).

Phone: (02) 6274 1111

Fax: (02) 6274 2095

Email: heritage@deh.gov.au

Website: www.deh.gov.au/heritage

The EPBC Unit Heritage Outreach Officer

The EPBC Unit Heritage Outreach Officer is an independent national heritage information service co-hosted by WWF Australia, the Australian Council of National Trusts and the Tasmanian Conservation Trust. The Unit provides free and independent information about the new national heritage system, including the Commonwealth Heritage list, particularly to community organizations. A large part of the Unit's work is conducting face-to-face sessions about the new heritage system. Contact the Unit if you are interested in attending a workshop on the new national heritage system.

The EPBC Unit Heritage Outreach Officer also produces a monthly-bulletin that alerts to new National Heritage and Commonwealth Heritage list nominations, nominations open for public comment and new places that are listed. To receive the e-bulletin send an email with the subject SUBSCRIBE to heritage@wwf.org.au.

Phone: (02) 6257 4010

Fax: (02) 6257 4030

Email: heritage@wwf.org.au

Website: www.wwf.org.au/epbc

Links to more information

Information about the new Commonwealth Heritage list can be found at <http://www.deh.gov.au/heritage/commonwealth/index.html>.

For information about how to nominate a place for Commonwealth Heritage listing see <http://www.deh.gov.au/heritage/commonwealth/listing.html>.

To find out whether a place in your State or region has been nominated for Commonwealth Heritage listing, is open for comment on the proposed listing, use the "Heritage Notifications" database which can be found at http://www.deh.gov.au/cgi-bin/epbc/heritage_ap.pl.

DEH has produced a range of Fact Sheets about the new national heritage system. They can be found at <http://www.deh.gov.au/heritage/publications/factsheets/index.html>.

Once a place becomes listed on the Commonwealth Heritage list it is protected under the EPBC Act. To find out more about how this works see <http://www.deh.gov.au/heritage/national/natlaw.html>.

To find out more about the EPBC Act in general see the EPBC Unit's webpage at www.wwf.org.au/epbc.