

Heritage guidance for applicants undertaking scoping for SSD and SSI applications

Introduction

Under the *Environmental Planning & Assessment Act 1979* (the Act), the applicant or proponent¹ of a State significant project² must submit an Environmental Impact Statement (EIS) with their application for approval, and the EIS must comply with the Planning Secretary's Environmental Assessment Requirements (SEARs).

The SEARs serve an important function as they identify the information that the applicant must provide in the EIS. The development of SEARs relies on scoping of the proposed project. Scoping involves identifying the scale and nature of the likely impacts of the project at an early stage in the applicant's assessment process. Applicants are required to submit a Scoping Report, identifying the matters that will be further assessed in the EIS, when they lodge a request for SEARs. Scoping also assists the Department of Planning, Industry and Environment (the Department) to identify other agencies that need to be consulted during preparation of the SEARs (e.g. the Heritage Council of NSW³).

This Fact Sheet provides guidance for applicants to help them understand the requirements under the *Heritage Act 1977*, including:

- what is heritage
- what are the types of heritage listing and who is responsible for heritage items
- what are heritage registers
- how to check heritage registers and lists
- should archaeology be considered
- what to include in the Scoping Report
- where to find additional information.

It should be used when applicants are scoping their SSD and SSI⁴ projects. Further guidance is provided in Attachment A (checklist).

What is heritage?

Natural and cultural heritage are the two basic categories of heritage items. Natural heritage refers to the physical forms of the terrestrial and maritime environment. Cultural heritage encompasses the historical evidence, artefacts and beliefs of:

- Aboriginal peoples⁵

¹ For the purpose of this Fact Sheet the terms 'applicant' and 'proponent' are used interchangeably

² State significant development (SSD) and State significant infrastructure (SSI)

³ The Heritage Council of NSW (the Heritage Council)

⁴ SSI includes critical State significant infrastructure (CSSI)

⁵ This Fact Sheet does not include guidance on Aboriginal cultural heritage or the regulation of Aboriginal cultural heritage under the *National Parks and Wildlife Act 1974*

- people who have had contact with the Australian continent
- people who were born here or who have settled here.

Types of cultural heritage include buildings, relics (both on land and in water), works, streets, towns, and rural landscapes.

What are the types of heritage listing and who is responsible for heritage items?

The types of heritage listing⁶ in NSW are:

- local
- state
- national
- world.

Under the *Heritage Act 1977* (the *Heritage Act*), local heritage significance (relating to a place, building, work, relic, moveable object or precinct) means significance to an area in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.

Local heritage items are usually identified through heritage studies and, if approved, are included in a schedule in a local council's local environmental plan (LEP). Local councils are the approval body⁷ for local heritage listed items.

Under the *Heritage Act*, State heritage significance (relating 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.

State significant items are listed on the State Heritage Register. The Heritage Council is the approval body⁸ for items listed on the State Heritage Register.

Natural, historic and Indigenous places of outstanding significance to the nation are listed on the National Heritage List and heritage places owned or controlled by the Commonwealth are listed on the Commonwealth Heritage List. While, the Australian Government has responsibility for national heritage items, State and local authorities may also have responsibilities depending on the property or item.

World heritage sites that are nominated for World Heritage listing are inscribed on the list only after they have been carefully assessed as representing the best examples of the world's cultural and natural heritage. Responsibility for world heritage sites vary from property to property.

⁶ Heritage items can have significance over multiple levels and can be listed on multiple registers (e.g. a local heritage item can also be listed on the State Heritage Register).

⁶ Under [Clause 56](#) of the *Heritage Act*

⁷ Under [Clause 56](#) of the *Heritage Act*

⁸ Under [Clause 56](#) of the *Heritage Act*

What are heritage registers?

Heritage registers are statutory lists of identified heritage items⁹ and include:

- the State Heritage Register (e.g. State heritage items, places nominated for State listing, and Interim Heritage Orders)
- environmental heritage schedules to LEPs (e.g. local heritage items and heritage conservation areas)
- declared Aboriginal Places
- the National Heritage List
- the Commonwealth Heritage List
- the World Heritage List.

How to check heritage registers and lists

In scoping, applicants should identify if the project site (or surrounds that may be affected by the project) includes any listed local, State or national heritage items, world heritage listings, is part of a heritage conservation area, includes any declared Aboriginal Places and if any items are subject to an interim heritage order.

NSW Heritage Registers

Heritage registers can be searched by various methods. Heritage NSW's (formerly the Office of Environment and Heritage) online [State Heritage Inventory](#) is a database of heritage items in NSW and includes:

- declared Aboriginal Places
- State Heritage Register items
- listed Interim Heritage Orders
- items on some State agency heritage and conservation registers¹⁰
- local heritage items.

Applicants can do a basic search online of the State Heritage Inventory, or can do specific online searches:

- of a council's LEP heritage schedule (e.g. [Schedule 5 of Hornsby's LEP](#)) for local heritage items and heritage conservation areas
- of [Aboriginal Places and the State Heritage Register](#)
- of current [State Heritage Register nominations](#)
- for [Interim Heritage Orders](#).

⁹ There are also many non-statutory lists (e.g. [National Trust Register](#), registers compiled by the [Royal Australian Institute of Architects](#), [Engineers Australia](#) and other organisations with an interest in heritage) that could be searched during the EIS assessment. These non-statutory registers have an important role in identifying the potential heritage value of particular places and which places are worthy of further investigation and possible statutory listing

¹⁰ under Section 170 of the *Heritage Act 1977*

National, Commonwealth and World Heritage Lists

Applicants can do online searches of the [National Heritage List](#), [Commonwealth Heritage List](#) and [World Heritage List](#).

Should archaeology be considered?

To help identify if impacts to archaeology may occur, applicants should consider where the project site is located. For example, is the site a local heritage item, or in a pre-1900 settlement or industrial area that has the potential for archaeological relics being uncovered during excavation? Or is the site in a highly disturbed location that has undergone extensive excavation in the past?

If there is potential for relics being discovered, an archaeological assessment may be required in the EIS and subsequent conditions of consent may include requirements for the construction phase.

What to include in the Scoping Report?

Heritage information gathered during scoping will guide the preparation of SEARs and focus applicants on what further assessment needs to be done for heritage in their EIS. Depending on whether there are heritage items of significance on or near the site, a detailed assessment may be needed to better understand what the likely impacts of the project on the heritage items will be and how to mitigate those impacts. The proposed level of assessment should be included in the Scoping Report.

If no heritage items are identified on or near the site, further heritage assessment in the EIS may not be required. However, the Scoping Report needs to discuss and justify how this conclusion was reached.

The Scoping Report should include all the relevant heritage searches and assessment. The Department's [Major Projects website](#) has further guidance on the Scoping Report.

Where to find additional information

More information can be found on the Heritage NSW [website](#). Heritage NSW can be contacted by email (heritagemailbox@environment.nsw.gov.au) or by phone 02 9873 8500.

For more information from the Department

- Call Service NSW on 1300 305 695.
- Email to information@planning.nsw.gov.au.
- If English is not your first language, please call 131 450. Ask for an interpreter in your language and then request to be connected to on 1300 305 695.

ATTACHMENT A – Heritage checklist for applicants during scoping

Heritage searches and consideration in scoping	Action	Checked
Is the project site heritage listed on any statutory registers? Or is the site or property adjacent to a heritage listed item?	Check the State Heritage Register	<input type="checkbox"/>
	Check for current State Heritage Register nominations	<input type="checkbox"/>
	Check for declared Aboriginal Places	<input type="checkbox"/>
	Check the environmental heritage schedule of the relevant local council LEP	<input type="checkbox"/>
	Check for Interim Heritage Orders	<input type="checkbox"/>
	Check the National Heritage List	<input type="checkbox"/>
	Check the Commonwealth Heritage List	<input type="checkbox"/>
	Check the World Heritage List	<input type="checkbox"/>
Is there a risk of uncovering or excavating archaeological relics?	Give consideration to where the project site is located. Is the site a local heritage item, or in a pre-1900 settlement/industrial area or is the site in a highly disturbed location that has undergone extensive excavation in the past?	<input type="checkbox"/>
Does the Scoping Report include heritage?	Is all the relevant heritage searches and assessment for scoping included in the Scoping Report?	<input type="checkbox"/>

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