



Regulating heritage conservation in NSW

Statement of regulatory intent

Department of Climate Change,
Energy, the Environment and Water



Acknowledgement of Country

Department of Climate Change, Energy, the Environment and Water acknowledges the Traditional Custodians of the lands where we work and live.

We pay our respects to Elders past, present and emerging.

This resource may contain images or names of deceased persons in photographs or historical content.

© 2024 State of NSW and Department of Climate Change, Energy, the Environment and Water

With the exception of photographs, the State of NSW and Department of Climate Change, Energy, the Environment and Water (the department) are pleased to allow this material to be reproduced in whole or in part for educational and non-commercial use, provided the meaning is unchanged and its source, publisher and authorship are acknowledged. Specific permission is required to reproduce photographs.

Learn more about our copyright and disclaimer at www.environment.nsw.gov.au/copyright

Artist and designer Nikita Ridgeway from Aboriginal design agency Boss Lady Creative Designs created the People and Community symbol.

Cover photo: Carriageworks Precinct, Redfern. Salty Dingo/DCCEEW

Published by:
Environment and Heritage
Department of Climate Change,
Energy, the Environment and Water
Locked Bag 5022, Parramatta NSW 2124
Phone: +61 2 9995 5000 (switchboard)
Phone: 1300 361 967 (Environment and Heritage enquiries)
TTY users: phone 133 677, then ask for 1300 361 967
Speak and listen users: phone 1300 555 727, then ask for 1300 361 967
Email info@environment.nsw.gov.au
Website www.environment.nsw.gov.au

ISBN 978-1-923357-12-9
EH 2024/0329 November 2024

Find out more at:

environment.nsw.gov.au

Contents

This statement of regulatory intent	1
What is Heritage NSW?	2
Risks to heritage	4
Our regulatory approach	5
Our commitment to key regulatory activities	7
Educating heritage owners, custodians and system users	7
Improving the quality of our information and data	7
Collaborative compliance approaches	8
Risk-based and outcomes-focused regulation and compliance	8
How we monitor and evaluate our regulatory approach	9
More information	10

List of figures

Figure 1	Regulatory principles	5
Figure 2	Regulatory approach	6

This statement of regulatory intent

This statement of regulatory intent (the statement) outlines how Heritage NSW approaches regulatory functions under the *Heritage Act 1977*. The statement outlines the principles and strategies that guide Heritage NSW's priorities and actions for heritage regulation.

The statement aims to provide clarity and certainty to heritage owners, managers and the general public regarding the functions and duties of Heritage NSW, as well as its regulatory approach and priorities. This statement is supported by other Heritage NSW publications, such as the *Heritage compliance framework* and *Heritage compliance policy*.

Heritage includes the places, objects and stories that we have inherited from the past and want to protect for future generations. Our heritage includes tens of thousands of years of Aboriginal culture and landscapes, as well as historic buildings, monuments, gardens, archaeological sites, shipwrecks, bridges, industrial structures, streetscapes, conservation precincts and intangible heritage.

There are over 1,780 items on the State Heritage Register. Heritage NSW, through its education, compliance, monitoring and regulation activities under the Heritage Act, supports owners and managers of heritage items to care for these items effectively, for the benefit of the whole community.

What is Heritage NSW?

Heritage NSW has delegated regulatory responsibilities under the *Heritage Act 1977* and supports the Minister for Heritage and the Heritage Council of NSW in exercising their statutory functions.

The Heritage Council of NSW is an independent statutory body that advises the Minister for Heritage on heritage matters and makes recommendations for the listing of places and objects on the State Heritage Register. As the approval body, the council also makes decisions about the care and protection of heritage places.

The primary roles of Heritage NSW are:

- Celebrating, commemorating and promoting our state's heritage:
 - providing advice and guidance to owners and managers of heritage items on how to conserve, maintain and enhance their place's heritage values
 - administering grants, incentives and other forms of assistance for heritage conservation and promotion
 - educating and raising awareness of the importance and benefits of heritage.
- Administering the *Heritage Act 1977* and working with NSW communities to help them identify, protect and conserve their important heritage places and items:
 - identifying, assessing and recommending the listing of items of state heritage significance on the State Heritage Register
 - issuing approvals to undertake controlled activities in relation to heritage items, maritime cultural heritage and historical archaeology
 - monitoring and enforcing compliance with the Heritage Act and conditions of approval for heritage works
 - investigating and prosecuting breaches of the Heritage Act and impose penalties or sanctions where appropriate.
- Our non-Heritage Act related roles include:
 - administering parts of the *National Parks and Wildlife Act 1974* (NPW Act) and working with Aboriginal communities to help them protect and conserve their important places and objects
 - managing applications, assessments and approvals for changes and impacts to Aboriginal Places and Aboriginal cultural heritage
 - supporting the repatriation of Aboriginal ancestral remains and cultural material
 - supporting the Aboriginal Cultural Heritage Advisory Committee (ACHAC).

Heritage NSW works with other parts of state and local governments using the *Environmental Planning and Assessment Act 1979* (EP&A Act) to make planning decisions relating to heritage.

Heritage NSW does not have the authority to undertake compliance in relation to the EP&A Act or the NPW Act. Instead, Heritage NSW takes a proactive support role, working with landholders, communities and agencies that have responsibilities for these Acts.

This statement of regulatory intent is focused on our Heritage Act responsibilities.

Risks to heritage

There can be significant challenges in protecting and activating heritage and Heritage NSW is committed to helping owners to successfully navigate them. Some of the risks include:

- Undertaking unauthorised works or activities to heritage items or places that affect heritage significance or cause loss of significant fabric. This includes non-compliance with conditions of permits.
- Non-adherence to minimum standards of maintenance and repair that can cause loss of significant fabric and public safety issues (sometimes known as demolition by neglect).
- The impacts of weather and natural disasters, including the increasing impacts of climate change, that can cause loss of significant fabric and public safety issues.
- Not using, or misunderstanding, standard and site-specific exemptions, including not keeping accurate records as required.

Non-compliance with legislation can be driven by a range of factors, including:

- Lack of awareness of regulations – people who are unaware of the laws protecting heritage may inadvertently breach these laws and potentially harm heritage items.
- Costs associated with maintaining a heritage item – heritage items require regular care and maintenance and often require specialised tradespeople and materials.
- Deliberate breaches – people who deliberately ignore advice on regulatory processes and related heritage laws.

Our regulatory approach

Heritage NSW prioritises a consistent and transparent approach to regulatory interventions for protecting our state's heritage. Our regulatory approach is based on the following principles:



Figure 1 Regulatory principles



Figure 2 Regulatory approach

Our commitment to key regulatory activities

Our key activities are designed to support compliance with the Heritage Act, monitor activities completed under permits and approvals, and where necessary enforce the law.

Our responses are risk-based, proportionate and focused on working with owners and the people of New South Wales to achieve positive heritage outcomes.

Educating heritage owners, custodians and system users

We educate our stakeholders and the community about how we use the regulatory framework to protect and conserve the state's heritage items. Education is the first step in helping develop an understanding of how best to care for heritage.

Educational activities can include:

- Targeted outreach
We organise face-to-face meetings and stakeholder forums to facilitate direct education and communication. These interactions ensure comprehensive understanding and adherence to heritage laws and regulations among the community and co-regulators.
- Clear guidance
We develop up to date guidelines, policy and website content. This information clarifies regulatory obligations by providing clear guidance on necessary approvals, minimum maintenance requirements, and standard and site-specific exemptions.
- Communication
We talk with our customers about their needs and communicate regularly with owners of state heritage items. This communication can include proactive site inspections and other forms of outreach.

Improving the quality of our information and data

Heritage NSW is continually working to improve and ensure the integrity of the State Heritage Register. This allows us to make informed decisions about heritage items.

This work can include:

- conducting regular audits and reviews of the State Heritage Register to identify and rectify inaccuracies
- providing training and educational resources to those involved in assessing and updating the register, to ensure they are equipped with the necessary skills and knowledge to maintain its integrity
- utilising technology to ensure information is held and made publicly available.

Collaborative compliance approaches

Heritage NSW works with owners and managers of heritage items and the community to identify and mitigate threats to heritage places. This collaborative approach recognises the expertise and knowledge these stakeholders possess and leverages it for heritage protection.

We do this by:

- development of site-specific exemptions with owners
- pre-lodgement conversations with owners to ensure an understanding of responsibilities
- reviewing, risk assessing and where necessary, taking action based on the information provided by co-regulators and the community regarding suspected breaches
- conducting site inspections in collaboration with co-regulators and aiding their inquiries.

Risk-based and outcomes-focused regulation and compliance

Heritage NSW prioritises its enforcement resources to high-risk matters. This allows us to focus our casework activities on those matters that are deemed most likely to cause significant harm.

We do this by:

- assessing each breach to determine the appropriate compliance action
- using a range of statutory and non-statutory mechanisms to respond to compliance breaches
- using internal mechanisms to manage compliance and enforcement decisions to ensure a consistent approach.

Our suite of regulatory tools can include site inspections, requests for information and warning letters. More serious breaches may warrant exercise of our powers under the Act and, if necessary, commencing prosecution should responses be unsatisfactory. Our *Heritage compliance policy* outlines these measures further.

How we monitor and evaluate our regulatory approach

Heritage NSW is committed to a robust and transparent regulatory framework. We take a data-driven approach to heritage management, using information from applications for change to heritage items as well as customer and community feedback, to inform the design of systems, interventions and resource allocation.

Transparency in our decision making is achieved through public reporting, while maintaining confidentiality where appropriate. Regulatory accountability is achieved through regular reports on regulatory performance to the Heritage Council and Minister for Heritage.

We are committed to this program of continuous regulatory improvement and are constantly building our monitoring, evaluation and reporting skills and systems.

More information

- [Heritage compliance framework](#)
- [Heritage compliance policy](#)