



**Australian Government**

---

**Department of the Environment,  
Water, Heritage and the Arts**

# **1. Preparing a Heritage Strategy**

**A guide for  
Commonwealth agencies**

© Commonwealth of Australia 2010. This work is copyright. You may download, display, print and reproduce this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use within your organisation. Apart from any use as permitted under the Copyright Act 1968, all other rights are reserved. Requests and inquiries concerning reproduction and rights should be addressed to Commonwealth Copyright Administration, Attorney General's Department, Robert Garran Offices, National Circuit, Barton ACT 2600 or posted at <http://www.ag.gov.au/cca>

While reasonable efforts have been made to ensure that the contents of this publication are factually correct, the Commonwealth does not accept responsibility for the accuracy or completeness of the contents, and shall not be liable for any loss or damage that may be occasioned directly or indirectly through the use of, or reliance on, the contents of this publication. The information contained in this document is provided as a guide only. Agencies should seek their own legal advice on addressing the requirements of the EPBC Act.

# Contents

1. Heritage strategies and the Commonwealth heritage system	1
2. About this guide	1
3. What is a heritage strategy?	1
4. Who needs to prepare a heritage strategy?	2
5. When does a heritage strategy have to be prepared?	2
6. Preparing a heritage strategy	2
7. When should a strategy be reviewed?	4
8. Requirements for preparing a heritage strategy	4
9. Types of heritage places	10
10. How to identify Commonwealth Heritage values	10
11. Useful sources of information	12
12. Further information	13
Attachment A: Heritage strategy process flowchart	14
Attachment B: Glossary	15
Attachment C: Related sections from EPBC Act & Regulations	18
Attachment D: Commonwealth Heritage criteria	22
Attachment E: Schedule 7B	23
Attachment F: Schedule 7C	24
Attachment G: Compliance Table	26

## 1. Heritage strategies and the Commonwealth heritage system

In 2004, the Australian Government's pre-eminent environment legislation, the *Environment Protection and Biodiversity Conservation Act 1999* (the EPBC Act) was amended to incorporate heritage. The Act and its Regulations established a system to identify, protect and manage the natural, Indigenous and historic heritage values of places under Commonwealth ownership or control.

Under the Act, each Commonwealth (ie Australian Government) agency that owns or controls one or more places must prepare a heritage strategy (*Commonwealth agency* is defined in section 528 of the EPBC Act).

With the introduction of the heritage amendments to the EPBC Act, Commonwealth agencies are obliged to include heritage management as an integral part of their core business responsibilities.

## 2. About this guide

This booklet is a guide to preparing a heritage strategy consistent with the requirements of the EPBC Act and the Regulations under the EPBC Act. This guide is current for 2009/10.

## 3. What is a heritage strategy?

A heritage strategy is a document that provides for the integration of heritage conservation and management within an agency's overall property planning and management framework.

Its purpose is to assist an agency to manage and report on the steps it has taken to protect and conserve the Commonwealth Heritage values of properties under its ownership or control.

A heritage strategy is comprised of four main components:

1. organisational structure and corporate framework;
2. identification and assessment of heritage values and development of a heritage register;
3. management of heritage values; and
4. training and promotion related to Commonwealth Heritage values.

The Commonwealth agency must give a copy of its heritage strategy to the Minister for the Environment, Heritage and the Arts (the Minister).

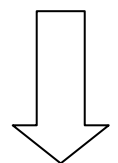
#### 4. Who needs to prepare a heritage strategy?

*Every Commonwealth agency that owns or controls one or more places must prepare a heritage strategy.* Commonwealth properties are not subject to local or state or territory heritage legislation, and are only protected under the heritage provisions within the Australian Government's EPBC Act. It is therefore important that all Commonwealth agencies comply with the requirements to prepare a strategy, assess their property for possible Commonwealth heritage values, and to manage their property accordingly.

While the EPBC Act stipulates that an agency must prepare a heritage strategy regardless of whether the property it owns or controls has heritage values, the size and the complexity of the strategy will be determined by the size of the agency's property holdings and management responsibilities.

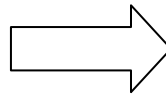
*Agencies that do not own or control any property are not required to prepare a heritage strategy.*

### Does my agency own or control *any* property?

Yes  


A heritage strategy is required. Continue.

No



A heritage strategy is not required. Write to DEWHA to formally notify.

#### 5. When does a heritage strategy have to be prepared?

A Commonwealth agency had two years from the commencement of the heritage provisions within the EPBC Act (ie by 1 January 2006) or from the time it first owns or controls a place, in which to develop a heritage strategy and provide it to the Minister. If your Commonwealth agency owns or controls property, it must develop a heritage strategy as soon as possible.

#### 6. Preparing a heritage strategy

The first practical step an agency should take is to make an initial judgement about whether the places it owns or controls are likely to have possible Commonwealth Heritage values. This will determine how detailed your strategy needs to be, and which template may assist.

If a place owned or controlled by your agency is already included on a statutory list such as the Commonwealth Heritage List or the Register of the National Estate, then you will already know that the place has heritage values and a detailed heritage strategy is required. You can check your properties by entering details in the Australian Heritage Database:

[www.environment.gov.au/heritage/places/commonwealth/index.html](http://www.environment.gov.au/heritage/places/commonwealth/index.html)

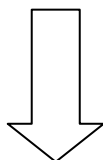
Otherwise, you may base your judgement on knowledge of the history associated with the property; whether a prominent architect was involved; or whether it was important to a particular time, for a particular function, or to a group of people. Bear in mind that a place only needs to be important at the local level to meet the threshold for Commonwealth Heritage values. and further information that may assist you in determining the likelihood of a place possessing Commonwealth Heritage values can be found in section 10, and the criteria for Commonwealth Heritage values is at [Attachment D](#).

Agencies that own or control one or more properties that *are* likely to have possible Commonwealth Heritage values must prepare a detailed heritage strategy consistent with these guidelines. A template long-form heritage strategy (Template Strategy 1) is available for your use – please contact the Heritage Division for a copy of this template.

The EBBC Act requires that agencies that own or control property that *are not* likely to have possible Commonwealth Heritage values *are still required* to prepare a heritage strategy. However, this can be an abbreviated version of a full strategy. A short-form template heritage strategy (Template Strategy 2) is available from DEWHA Heritage Division for agencies that fall within this category.

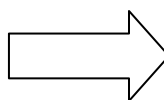
## Is any one of the properties my agency owns or controls likely to have Commonwealth heritage values?

Yes



A long-form heritage strategy is required. Request Template 1 from DEWHA Heritage Division.

No



A short-form heritage strategy can be prepared. Request Template 2 from DEWHA Heritage Division.

You do not have to use one of these templates; however, they are available for agency use, and can be provided to an agency's heritage consultant as a starting point.

The EPBC Act requires that Commonwealth agencies must consult with the Australian Heritage Council (AHC) in developing a heritage strategy, and take account of the advice received (s.341ZA). The Minister will also consider the heritage strategy and advise the Commonwealth agency whether or not the agency's heritage strategy is inconsistent with the Commonwealth Heritage management principles.

There is no statutory obligation to consult with DEWHA, however DEWHA is able to assist with advice on the development of a strategy and consultation with the AHC and Minister.

Agencies are encouraged to consult the Heritage Division of DEWHA at the following stages:

1. developing a program for identification and assessment of Commonwealth Heritage values and design of a heritage register; and
2. at draft stage, prior to submission to the AHC.

The flowchart at [Attachment A](#) outlines the process for preparation of a heritage strategy.

A glossary is included in [Attachment B](#) to clarify terms used in reference to the Commonwealth Heritage provisions of the Act and Regulations and accepted *Burra Charter* definitions.

Reference to relevant sections of the Act and the Regulations to the Act are reproduced in [Attachment C](#).

## **7. When should a strategy be reviewed?**

The agency must review its heritage strategy every three years and give the Minister a written report of the review. (See s.341ZA(5) and Regulation 10.03F). Separate guidelines are available:

Reviewing a heritage strategy: A Guide for Commonwealth agencies

Amending a heritage strategy: A Guide for Commonwealth agencies

## **8. Requirements for preparing a heritage strategy**

A heritage strategy must identify the timeframe within which an agency must:

- (a) make a management plan under s.341S of the Act;
- (b) conduct a program to identify possible Commonwealth Heritage values for each place it owns or controls (see [Attachment D](#) for Commonwealth Heritage criteria);
- (c) produce a register of places with possible Commonwealth Heritage values; and
- (d) give the Minister a written report that includes details of the program and a copy of the heritage register.

The strategy must also:

- (a) address matters contained in the Regulations to the Act; and
- (b) not be inconsistent with the Commonwealth Heritage management principles (Schedule 7B).

Specifying time periods for making management plans is required only where Commonwealth Heritage values have already been formally identified (ie for places already included in the Commonwealth Heritage List). Schedule 7B in the Regulations to the EPBC Act prescribe Commonwealth Heritage management principles (see [Attachment E](#)). These are broad principles about objectives, standards, processes and practices, which the Australian Government has agreed should underpin the management of Commonwealth Heritage places. An agency's heritage strategy must not be inconsistent with these management principles.

Schedule 7C in the Regulations details the matters a heritage strategy must address (see [Attachment F](#)).

To assist agencies in preparing a heritage strategy, explanatory text and references are provided.

Agencies need to make their own decisions in addressing the statutory requirements of the Act. It is suggested that Commonwealth agencies include a table of compliance with their heritage strategy that indicates which part of the document addresses each of the requirements of the legislation. A sample compliance table is shown in [Attachment G](#). The heritage strategy could be structured according to the headings below, and address the matters in the order they are set out within the Regulations.

A heritage strategy must address the following matters:

**1. A strategy must include general matters, including the following:**

***a) a statement of the agency's objective for management of its heritage places;***

The clearest way for an agency to recognise its heritage management responsibilities is to include them in its corporate plan as an objective. Wording of the objective may be as simple as:

*'The [agency] recognises its responsibility to identify and care for the heritage property in its control, consistent with current best practice in conservation and property management.'*

A succinct statement must be provided in the strategy.

***b) a description of how the heritage strategy operates within the agency's corporate planning framework;***

The executive of the agency must ensure that the corporate plan, at the relevant program level, covers management of its heritage properties. In addition, corporate budgeting and financial reporting processes (including annual reports) should include, and make transparent, an appropriate budget to manage property with Commonwealth Heritage values.

***c) a list of key positions within the agency, the holders of which are responsible for heritage matters;***

The strategy must identify relevant personnel and their roles in identifying and managing heritage values, those responsible for decisions, approvals and actions, and those responsible for reviewing and reporting to the Minister (see also (g)). A corporate level position with overall heritage responsibility must be identified.

***d) an outline of a process for consultation and liaison with other government agencies on heritage matters;***

The process for consultation and liaison should address when and at what stage other relevant agencies with an interest in heritage matters will be consulted. The strategy should identify relevant State and Commonwealth legislation concerning the natural and cultural heritage environment. A checklist for approvals and/or consultation requirements would be a useful administrative tool.



***e) an outline of a process for consultation and liaison with the community on heritage matters, including, in particular, a process for consultation and liaison with Indigenous stakeholders on Indigenous heritage matters;***

The agency should provide a policy approach for consultation and liaison with the community on places with historic, Indigenous and natural heritage values.

*Note: Consultation and liaison processes relevant to specific place circumstances must be outlined in management plans for individual Commonwealth Heritage places, or recommend adoption of the Commonwealth Heritage management principles as a best practice approach for other places with Commonwealth Heritage values.*

***f) an outline of a process for resolution of conflict arising from the assessment and management of Commonwealth Heritage values;***

The strategy needs to identify processes for addressing possible conflicts that may arise from the assessment and management of Commonwealth Heritage values of places. This could be in the form of a policy approach that can be applied to historic, Indigenous and natural heritage values. Conflicts may arise between the assessment of values; between managing different heritage values or between managing heritage values and managing for other purposes. There are a number of mechanisms that may be used including mediation, negotiation and arbitration. It may be appropriate to seek independent expert advice.

***g) an outline of processes for monitoring, reviewing and reporting on the implementation of an agency's heritage strategy;***

An agency must review its heritage strategy every three years and report to the Minister on the review. To facilitate the agency's process of triennial review, the strategy must provide for regular monitoring, review and reporting on its implementation. It may be useful to include a timetable for the review process over the life of the strategy, identifying who is responsible for the review and reporting - see (c) above. It is important, as part of a continuous improvement cycle, to set in place mechanisms to monitor and evaluate the implementation of the strategy.

**2. A strategy must include matters relating to identification and assessment of Commonwealth Heritage values, including the following:**

***a) an outline of the process for identifying and assessing the Commonwealth Heritage values of all agency property;***

Each Commonwealth agency needs to be aware of the extent of heritage property under its control. If it has not already done so recently, it must undertake an inventory program to identify and assess all heritage values, and those with Commonwealth Heritage values.

Australia's natural and cultural heritage comprises the components of the environment that have aesthetic, historic, scientific or social significance, or other special value, for future generations as well as for the present community. Places are assessed against the Commonwealth Heritage criteria (see [Attachment D](#)).

***b) a statement of the time-frames for the completion of:***

- i) the agency's heritage identification and assessment program; and***
- ii) the agency's register of places and their Commonwealth Heritage values; and***

- iii) the agency's report to the Minister, that includes details of the program and a copy of the register.*

The strategy must outline the details of the program, how it will be completed and who will be responsible.

Logically, a register cannot be completed until the program for identification and assessment has concluded. The report to the Minister should be sent upon completion of the register.

**3. A strategy must include matters relating to the management of Commonwealth Heritage values, including the following:**

- a) a description of how the agency's heritage places register will be maintained, updated and made accessible to the public;*

Generally, an agency's heritage places register should be kept in electronic format. If an agency manages a large number of heritage properties, it may find efficiencies in the use of database software.

The register should be accessible to all property management staff, including those responsible for property maintenance. Once data is entered, it should be reviewed and updated on a regular basis. DEWHA Heritage Division may be able to advise on the format of a register.

- b) a statement of the time-frame for the preparation of management plans for the agency's Commonwealth Heritage places;*

The strategy should include a section on roles and responsibilities to identify who is required to complete the plans and who has authority to approve the final product. The time-frame should consider any works or major changes proposed for properties with Commonwealth Heritage values. It is suggested that two to five years would be an appropriate timeframe for identifying works or major changes to properties. Management plans would be a priority for these places.

*NB: A management plan can be made for more than one place - ie a separate plan is not necessarily required for each place with heritage values (see section 341W).*

- c) an outline of the existing use, by the agency, of places with Commonwealth Heritage values;*

This requirement could be addressed by reference to the agency's heritage register - which includes a sequential description of the use of a place with Commonwealth Heritage value (see Reg.10.03G(2)(e)).

- d) an outline of current or expected development, works, disposal or other proposals that may affect Commonwealth Heritage values;*

Information about anticipated major works that may affect the Commonwealth Heritage values are required to be provided, if the information is available for the three year period of the strategy. The heritage strategy should also identify places for disposal or lease. Should development work, disposal or other proposals of a Commonwealth Heritage place be proposed during the period of the strategy, then these should be addressed in the management plan for the place.

It is important to note that some development works may have to be referred under the Act, either when an action is being taken *on or outside Commonwealth land* and is likely to have a significant impact on the environment, or when an action is being *taken by a Commonwealth agency* that is likely to have a significant

impact on the environment. Separate provisions apply (see: [www.environment.gov.au/epbc](http://www.environment.gov.au/epbc)).

***e) an outline of the process to ensure that Commonwealth Heritage values are considered in the agency's planning for future development, works, divestment or other proposals;***

Identify heritage issues early in project planning to ensure proposals for development and other significant changes do not destroy or degrade heritage values. Seek advice from a heritage consultant to help identify options for managing changes while protecting the heritage values of the property. The heritage strategy should outline how heritage values will be included in the agency's property planning processes, and the consultation arrangements for each stage of planning (see 1(e) and 1(g) above).

A management plan for the property would ensure its heritage values are conserved. The accepted methodology for conservation management plans for historic places is outlined in the Australia ICOMOS *Burra Charter*, 1999 and in Dr J S Kerr's *Conservation Plan*. The *Australian Natural Heritage Charter* documents the contents of a management or conservation plan for natural places. These documents should also be referred to for the development of the heritage strategy. For Indigenous places refer to both the *Burra Charter* and *Ask First*.

Management plans can guide major changes to places to ensure heritage values are conserved. As noted at section 3(b) above, the timeframe to prepare management plans for places on the Commonwealth Heritage List should be included in the heritage strategy. (The EPBC Regulations outline the matters to be addressed in a management plan. Refer to *Developing Management Plans*, prepared by DEWHA. This document is also available electronically from the Department's website at [www.environment.gov.au/heritage/management/commonwealth/index.html](http://www.environment.gov.au/heritage/management/commonwealth/index.html))

***f) a plan and budget for the maintenance and long-term conservation of Commonwealth heritage values;***

The plan and budget must be reconciled with (and made transparent in) an agency's audited annual report and be prepared in accordance with the agency's planning and budgeting processes. The plan should include how the budget is prepared, eg from priority works identified in a management plan.

As the strategy is required to be reviewed every three years, it would be appropriate for the plan and budget to be developed for a three-year period, with annual expenditure and works programs identified.

Any expenditure under the strategy should be included in the agency's annual audited report - though this is partly covered in 1(b) above.

***g) an outline of the process by which the success of the agency in conserving Commonwealth Heritage values will be monitored and reviewed.***

Benchmarks should be established against which the agency can measure success in conserving the heritage values of properties under its ownership or control. This could be achieved through the production of management plans or in monitoring of works/management actions under management plans.

Monitoring will also allow for a review of actions, facilitation of ongoing data collection, and guidance in the modification of management plans to achieve required conservation outcomes. Although management plans should include programs for periodic review, these programs should be flexible enough to cover unforeseen situations when important new information or data may become known thus requiring changes to management actions.

4. A strategy must include matters relating to Commonwealth Heritage training and promotion, including the following:

*a) a program for training of agency staff about Commonwealth heritage obligations and best practice heritage management;*

Clarify the scope of training needs for heritage property identification and management by linking and identifying it to the relevant corporate objectives.

Approaches to defining training needs and outcomes, as well as sample modules, are documented in the *Heritage Asset Management Manual - draft* (information available from DEWHA Heritage Division).

**b) a program for promoting community awareness of Commonwealth Heritage values, as appropriate.**

A program could include publication, public education and awareness initiatives.

## 9. Types of heritage places

### Historic

- Includes places associated with the non-Indigenous cultural heritage of Australia encompassed in the country's history. It can include buildings, monuments, gardens, industrial sites, landscapes, cultural landscapes, archaeological sites, groups of buildings and precincts, or places which embody a specific cultural or historic value. It is important to note that equipment, furniture, fittings and articles associated or connected with a building or structure are included in the definition of *place* under the Act (s.528).
- Historic places tell us about national and social developments in Australia over the past few centuries, technical and creative achievements, and provide a tangible link to past events, processes and people.

### Indigenous

- Includes all places that are part of Aboriginal and Torres Strait Islander peoples' spiritual links to the land or which tell the story of Indigenous peoples from time immemorial to the present.
- These can include sacred sites, ceremonial sites like bora rings and rock art, fish traps, burials, middens, scarred trees, camp sites and semi/permanent settlements.

### Natural

- The natural features consisting of physical and biological formations or groups of such formations, which demonstrate natural significance.
- Geological and physiographical formations and precisely delineated areas that constitute the habitat of indigenous species of animals and plants, which demonstrate natural significance.
- Natural sites or precisely delineated natural areas, which demonstrate natural significance from the point of view of science, conservation or natural beauty.

For further information please refer to the relevant heritage charters (these can be found in Section 11. Useful sources of information)

## 10. How to identify Commonwealth Heritage values

Your heritage strategy should set out a timeframe for your agency's assessment program, which is a program to identify any possible Commonwealth heritage values of your properties. Identifying possible Commonwealth Heritage values is undertaken by gathering information about a specific property through research and review of available physical, oral, documentary and other information, including information from Indigenous people. Identifying heritage values can be complex. DEWHA recommends Commonwealth agencies engage appropriately qualified professionals to assist in undertaking a heritage assessment, and can provide details of suitable consultants at your request.

To have possible Commonwealth Heritage values, a property must meet one or more criteria and be above the threshold for significance. It is important to note that the threshold for Commonwealth Heritage values starts at the local level of

significance. That is, it needs only to be important or significant to the local community to meet threshold.

Please note that separate guidelines and a preliminary assessment template are available from DEWHA Heritage Division on identifying possible Commonwealth Heritage values.

### **Studies**

Thematic and regional studies are generally considered a good approach for generating the identification of heritage places. They can be developed from histories of land use, agency activities, regional conditions, and contemporary technologies and design employed by the agency at the time of construction.

Places that best represent relevant themes are determined by their existing integrity.

### **Heritage lists and experts**

Heritage places may have already been identified on a range of statutory and non-statutory lists.

The data can be further developed for an agency register by using people with appropriate experience, knowledge and training to inspect and document the physical characteristics of the place and the place's heritage potential.

The data should provide sufficient information to demonstrate significance when assessed against the criteria.

### **Agency register**

All places that are included in the Commonwealth Heritage List, along with those places with potential heritage values, need to be entered in the agency register. The requirements for an agency register are set out in sub-regulation 10.03G(2) of the Regulations.

Store the information in a readily retrievable form:

- develop a register of the information, and
- keep the records associated with all stages of the conservation of the property in a permanent archive.

There is no one set format for a Heritage register, and the complexity of an agency register will depend upon the number of places the agency has. If there are many heritage places in the agency's estate, then an electronic database may need to be developed.

The register may be linked to an asset management database that includes processes for monitoring, compliance and review.

### **Seeking advice**

Agencies must seek appropriate professional advice.

Ensure that relevant Indigenous people are actively involved in the process of identifying their heritage places and values.

Be aware that Indigenous involvement in identification processes may be the only way to establish some values (see: *Ask First*).

## 11. Useful sources of information

### Websites

*Managing Commonwealth heritage* -

<http://www.environment.gov.au/heritage/management/commonwealth/index.html>

*EPBC Act and Regulations* - [www.environment.gov.au/epbc/about](http://www.environment.gov.au/epbc/about)

### Publications

Current best practice guides advocate a careful approach in undertaking any activities in places with Indigenous, natural and historic significance. These references outline the current standards expected in heritage work. See:

<http://www.environment.gov.au/heritage/publications/protecting/pubs/national/working-together-publications.pdf>

***Historic*** - Australia ICOMOS, 1999, *The Burra Charter (The Australia ICOMOS Charter for places of cultural significance)*.

Australian Heritage Commission, 2001, *Australian Historic Themes: a framework for use in heritage assessment and management*, Canberra. [www.ahc.gov.au](http://www.ahc.gov.au)

***Indigenous*** - Australian Heritage Commission, 2002, *Ask first: A guide to respecting Indigenous heritage places and values*, Canberra.

***Natural*** - Australian Heritage Commission, 2002, *Australian Natural Heritage Charter for the conservation of places of natural heritage significance*, second edition.

Australian Heritage Commission, 2003, *Protecting Natural Heritage - using the Australian Natural Heritage Charter*, second edition. [www.ahc.gov.au](http://www.ahc.gov.au)

### ***General***

Australian Heritage Commission, 2000 (1998), *Protecting Local Heritage Places - A guide for communities*, Canberra.

Department of Communication and Arts, 1996, *Heritage Asset Management Manual: draft*, produced by the Committee of Review-Commonwealth Owned Heritage Properties, Canberra.

Department of the Environment, Water, Heritage and the Arts, 2008, *Working Together - Managing Commonwealth Heritage Places* (Commonwealth Heritage Toolkit), Canberra.

Kerr, JS, 2002, *The Conservation Plan*, National Trust of Australia (NSW), Sydney.

Marquis-Kyle, P & Walker, M, 2004, *The Illustrated Burra Charter*, Australia ICOMOS, Melbourne.

Pearson, M & Sullivan, S, 1995, *Looking after heritage places. The basics of heritage planning for managers and administrators*, Melbourne University Press, Carlton.

Guidelines issued by State and Territory heritage agencies (contact the relevant State/Territory agency, via their website).

Titles written and/or published by the Australian Heritage Commission are available on the website [www.ahc.gov.au](http://www.ahc.gov.au)

## 12. Further information

If you would like to discuss a heritage strategy or its review, please contact us at:

Heritage Division  
Department of the Environment, Water, Heritage and the Arts  
GPO Box 787  
CANBERRA ACT 2601

Tel: (02) 6274 1111

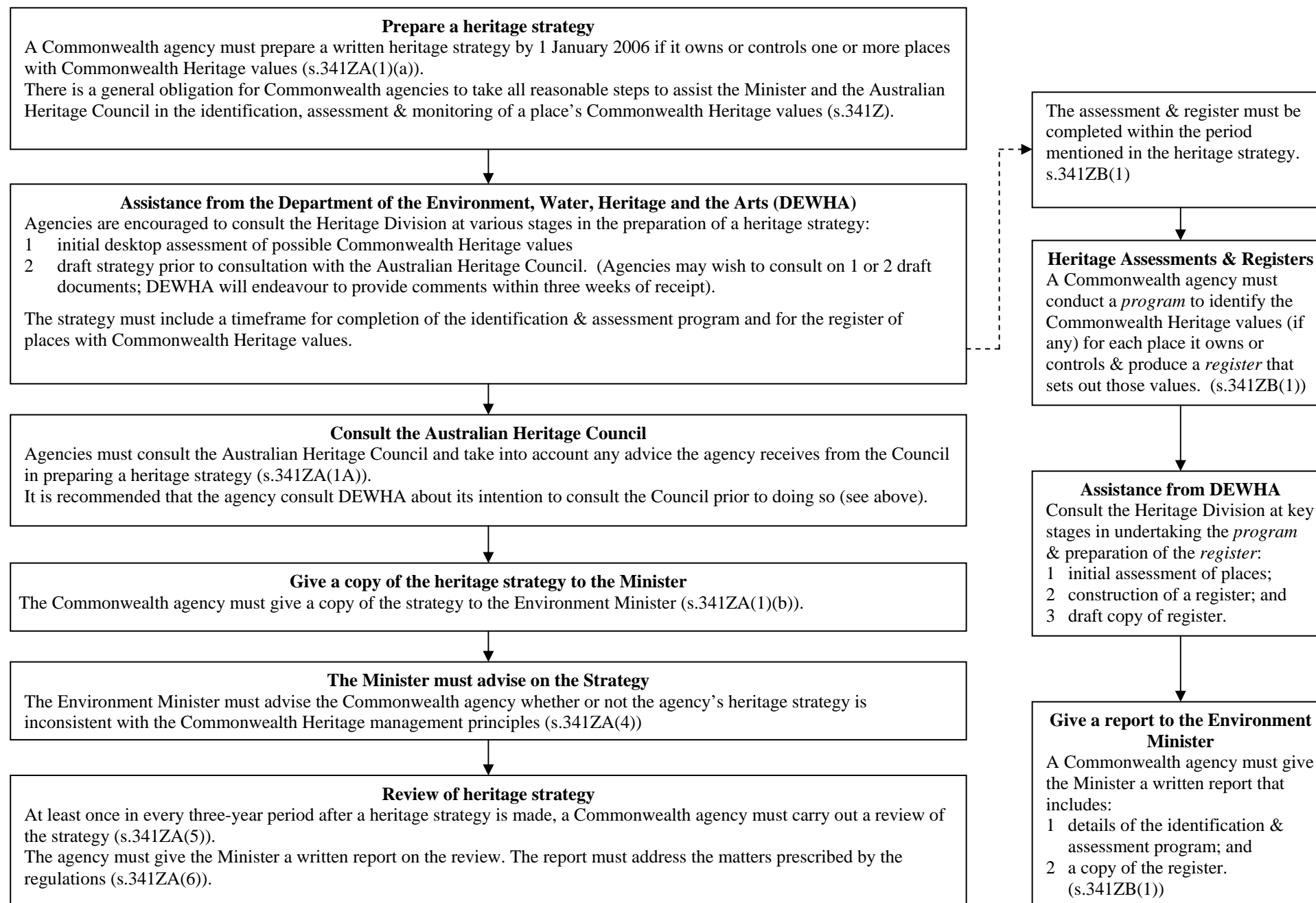
Fax: (02) 6274 2095

Email: [heritage@environment.gov.au](mailto:heritage@environment.gov.au)

Web: [www.environment.gov.au/heritage/index.html](http://www.environment.gov.au/heritage/index.html)



## Process for Preparation of a Commonwealth Agency Heritage Strategy, Assessment Program and Register



## Glossary

### Commonwealth agency:

- (a) a Minister; or
  - (b) a body corporate established for a public purpose by a law of the Commonwealth; or
  - (c) a body corporate established by a Minister otherwise than under a law of the Commonwealth; or
  - (d) a company in which the whole of the shares or stock, or shares or stock carrying more than one-half of the voting power, is or are owned by or on behalf of the Commonwealth; or
  - (e) a body corporate that is a subsidiary of:
    - (i) a body or company referred to in paragraph (b), (c) or (d); or
    - (ii) a body corporate that, because of a previous application or previous applications of this paragraph, is taken to be a Commonwealth agency for the purposes of this definition; or
  - (f) a person holding, or performing the duties of:
    - (i) an office established by or under a law of the Commonwealth (except a judicial office or office of member of a tribunal); or
    - (ii) an appointment made under a law of the Commonwealth (except an appointment to a judicial office or office of member of a tribunal); or
  - (g) a person holding, or performing the duties of, an appointment made by the Governor-General, or by a Minister, otherwise than under a law of the Commonwealth;
- but does not include:
- (h) a person holding an office established by or under any of the following Acts, or holding an appointment made under any of them:
    - (i) the *Northern Territory (Self-Government) Act 1978*;
    - (ii) the *Norfolk Island Act 1979*;
    - (iii) the *Australian Capital Territory (Self-Government) Act 1988*; or
  - (i) any of the following:
    - (i) an Aboriginal Land Trust, or an Aboriginal Land Council, established under the *Aboriginal Land Rights (Northern Territory) Act 1976*;
    - (ii) an Aboriginal corporation within the meaning of the *Aboriginal Councils and Associations Act 1976*;
    - (iii) the Wreck Bay Aboriginal Community Council established by the *Aboriginal Land Grant (Jervis Bay Territory) Act 1986*; or
  - (j) a company prescribed by the regulations for the purposes of this paragraph.

### Commonwealth Area:

(EPBC Act)

- (1) Each of the following, and any part of it, is a Commonwealth area:
  - (a) land owned by the Commonwealth or a Commonwealth agency (including land owned in Norfolk Island) and airspace over the land;
  - (b) an area of land held under lease by the Commonwealth or a Commonwealth agency (including an area held under lease in Norfolk Island) and airspace over the land;
  - (c) and in:
    - (i) an external Territory (except Norfolk Island); or
    - (ii) the Jervis Bay Territory;
 and airspace over the land;
  - (d) the coastal sea of Australia or an external Territory;
  - (e) the continental shelf, and the waters and airspace over the continental shelf;
  - (f) the waters of the exclusive economic zone, the seabed under those waters and the airspace above those waters;
  - (g) any other area of land, sea or seabed that is included in a Commonwealth reserve.

*Territory Land in the ACT is not a Commonwealth area*

- (2) Despite paragraph (1)(a), an area of land that is Territory Land, within the meaning of the *Australian Capital Territory (Planning and Land Management) Act 1988* is not a *Commonwealth area* merely because of that paragraph, unless it is held under lease by the Commonwealth or a Commonwealth agency.

*Coastal waters of the States and the NT are not Commonwealth areas*

- (3) Despite paragraphs (1)(d), (e) and (f), none of the following areas (or parts of them) are *Commonwealth areas*:
- (a) the seabed vested in a State under section 4 of the *Coastal Waters (State Title) Act 1980*; and
  - (b) the seabed vested in the Northern Territory under section 4 of the *Coastal Waters (Northern Territory Title) Act 1980*; and
  - (c) the subsoil under the seabed described in paragraph (a) or (b); and
  - (d) any water and airspace over seabed described in paragraph (a) or (b).

**Conservation:**

*(Burra Charter)* Conservation means all the processes of looking after a place so as to retain its cultural significance.

*(Australian Natural Heritage Charter)* Conservation means all the processes and actions of looking after a place so as to retain its natural significance and always includes protection, maintenance and monitoring.

**Environment:**

(EPBC Act)

environment includes:

- (a) ecosystems and their constituent parts, including people and communities; and
- (b) natural and physical resources; and
- (c) the qualities and characteristics of locations, places and areas; and
- (d) heritage values of places; and
- (e) the social, economic and cultural aspects of a thing mentioned in paragraph (a), (b) or (c).

Note: The places mentioned in paragraph (d) of the definition of *environment* include places included in the Register of the National Estate kept under the *Australian Heritage Council Act 2003*.

**Management plan:**

A management plan is a written document that sets out what is significant about the place, what values it possesses, and policies to protect and manage those values.

**Place:**

- (a) a location, area or region; and
- (b) a building or other structure, or group of buildings or other structures (which may include equipment, furniture, fittings and articles associated or connected with the building or structure, or group of buildings or structures); and
- (c) in relation to the protection, maintenance, preservation or improvement of a place—the immediate surroundings of a thing in paragraph (a) or (b).

**Significance:**

*(Burra Charter)* Cultural significance – means aesthetic, historic, scientific, social or spiritual value for past, present or future generations.

*(Australian Natural Heritage Charter)* Natural significance – means the importance of ecosystems, biodiversity and geodiversity for their existence value or for present or future generations, in terms of their scientific, social, aesthetic and life-support value.

**Statement of Significance:**

The Statement of Significance is a concise description of the values of the place. It is a summary statement written for a general audience and does not involve citation of sources used.

**Values:**

In the context of the *Burra Charter*, values are derived from what is significant about a place and relate to aesthetic, historic, scientific, social or spiritual value for past, present or future generations.

In the context of Commonwealth Heritage, values are similarly derived as in the *Burra Charter* and are ascribed against the Commonwealth Heritage criteria for the place's natural and cultural environment. The Commonwealth Heritage values of a Commonwealth Heritage place are the Commonwealth Heritage values of the place included in the Commonwealth Heritage List for the place.

In the context of the *Australian Natural Heritage Charter*, values are derived from what is significant about a place and relate to ecosystems, biodiversity and geodiversity.

**Values Statements:**

Values statements are the means of documenting attributes and values; and are short statements regarding aspects of significance against criteria. Values can be demonstrated by the presence at the place of particular characteristics, fabric, material, systems or qualities. The described values are the statutory component of the listing under the EPBC Act.

***Environment Protection and Biodiversity Conservation Act 1999***

**s.341ZA Heritage strategies**

- (1) If a Commonwealth agency owns or controls one or more places, the agency must:
- (a) prepare a written heritage strategy for managing the places to protect and conserve their Commonwealth Heritage values; and
  - (b) give a copy of the strategy to the Minister;

as soon as practicable and in any event within 2 years after the later of:

- (c) the time the agency first owns or controls a place; and
- (d) the commencement of this section.

*Note: The heritage strategy will apply to every place the agency owns or controls.*

- (1A) Before making a heritage strategy, the Commonwealth agency must consult the Australian Heritage Council and take into account any advice the agency receives from the Council.
- (2) The Commonwealth agency may, in writing, amend the heritage strategy or revoke and replace the heritage strategy. The Commonwealth agency must give the Minister a copy of the amended or replacement strategy within 20 business days of the amendment or replacement.
- (3) A heritage strategy must:
- (a) mention the period within which the Commonwealth agency must make a plan under section 341S; and
  - (b) mention the period within which the Commonwealth agency must do the things mentioned in subsection 341ZB(1); and
  - (c) address the matters prescribed by the regulations (if any); and
  - (d) not be inconsistent with the Commonwealth Heritage management principles.
- (4) The Minister must advise the Commonwealth agency whether or not the agency's heritage strategy (whether original, amended or replacement) is inconsistent with the Commonwealth Heritage management principles.
- (5) At least once in every 3 year period after a heritage strategy is made, the Commonwealth agency concerned must cause a review of the strategy to be carried out.
- (6) The agency must give the Minister a written report of the review. The report must address the matters prescribed by the regulations (if any).

### **s.341ZB Heritage assessments and registers**

- (1) A Commonwealth agency must do all of the following 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:
    - (i) details of the program; and
    - (ii) a copy of the register.
- (2) The regulations may prescribe all or any of the following:
  - (a) how Commonwealth heritage values may be identified for a place;
  - (b) matters a register must address;
  - (c) matters a report to the Minister must address.
- (3) A Commonwealth agency must keep its register up to date.
- (4) A register may be kept electronically.
- (5) If a report under paragraph (1)(c) indicates that a place owned or controlled by a Commonwealth agency may have one or more Commonwealth Heritage values, information from the report may be used or referred to in a nomination of the place for inclusion in the Commonwealth Heritage List.

### **s.341W Multiple plans in the same document**

To avoid doubt, a plan for managing a Commonwealth Heritage place may be in the same document as:

- (a) one or more other plans for managing Commonwealth Heritage places; or
- (b) one or more other plans that this Act or another law of the Commonwealth requires or permits to be prepared.

## ***Environment Protection and Biodiversity Conservation Regulations 2003 (No 1)***

### **Regulation 10.03F Report about review of heritage strategy (Act s.341ZA)**

For subsection 341ZA (6) of the Act, a report about the review of a Commonwealth agency heritage strategy must include the following:

- (a) an outline of consultation undertaken with relevant stakeholders in the review process;
- (b) a summary of the agency's achievements against its objectives for management of its heritage places;
- (c) an evaluation of the success of each of the matters included in a Commonwealth agency heritage strategy in achieving the identification, protection, conservation and presentation of Commonwealth Heritage values;
- (d) an update on the extent to which the identification and assessment of Commonwealth Heritage values of all agency property has been achieved, and the values included in an agency's heritage places register;

- (e) an update on the progress and timeliness of the preparation of management plans for Commonwealth Heritage places;
- (f) an outline of any physical and management changes that have occurred to the agency's Commonwealth Heritage places since the last strategy was prepared, and of any expected changes;
- (g) an update on progress with Commonwealth Heritage training programs;
- (h) a specification of the time-frame for updating the Heritage Strategy following the review;
- (i) an update on other heritage issues relevant to the agency's management of Commonwealth Heritage places in accordance with the Commonwealth Heritage Management Principles.

**Regulation 10.03G Heritage assessments and registers (Act s.341ZB)**

- (1) For paragraph 341ZB (2) (a) of the Act, Commonwealth heritage values for a place may be identified by:
  - (a) considering all natural and cultural heritage values, recognising indigenous people as the primary source of information on the significance of their heritage and their participation as necessary to identify and assess indigenous heritage values; and
  - (b) identifying values against the Commonwealth heritage criteria; and
  - (c) using expert heritage advice to ensure that levels of documentary and field research are appropriate to best practice assessment and management of heritage values; and
  - (d) using a comparative and thematic approach; and
  - (e) consulting widely, as appropriate, with government agencies, stakeholders and the community.
- (2) For paragraph 341ZB (2) (b) of the Act, matters a register must include are the following:
  - (a) a comprehensive description, and a clear plan showing the name and location, of each place that has Commonwealth Heritage values;
  - (b) a discrete heritage place identification number for each place;
  - (c) details of ownership, leases, licences, rental or other tenure arrangements, as applicable;
  - (d) a summary description of the significant physical characteristics and elements of the place;
  - (e) a sequential summary of the use of the place;
  - (f) a statement of significance for the place, identifying its heritage values and specifying any that are Commonwealth Heritage values;
  - (g) a record of any other heritage listings, providing relevant register numbers;
  - (h) a record of the date and nature of any works, maintenance or other activity at the place that is relevant to conservation of its heritage values;
  - (i) a specification of any property or information access restrictions or requirements;
  - (j) an outline of any consultation requirements relating to the place;
  - (k) a list of relevant conservation documents or references;
  - (l) a record of when information has been updated;
  - (m) cross references to:
    - (i) agency place records of any objects that are significant by association with the place, indicating their current location; and

(ii) archived records of particular importance to the heritage values of the place.

(3) For paragraph 341ZB (2) (c) of the Act, a report to the Minister must include the following:

- (a) an outline of the identification program;
- (b) details of any surveys conducted, or expert advice obtained by, the agency to identify the Commonwealth Heritage values;
- (c) a summary of the work undertaken with respect to each of the matters included in these Regulations for the identification and assessment of Commonwealth Heritage values.



*Environment Protection and Biodiversity Conservation Regulations 2003 (No. 1)*

**Regulation 10.03A Commonwealth Heritage criteria (Act s.341D)**

(1) For section 341D of the Act, subregulation (2) prescribes the Commonwealth Heritage criteria for the following:

- (a) natural heritage values of places;
- (b) Indigenous heritage values of places;
- (c) historic heritage values of places.

(2) The Commonwealth Heritage criteria for a place are any or all of the following:

- (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.

(3) For subregulation (2), the ***cultural*** aspect of a criterion means the Indigenous cultural aspect, the non-Indigenous cultural aspect, or both.

*Environment Protection and Biodiversity Conservation Regulations 2003 (No 1)*

**Regulation 10.03D Commonwealth Heritage management principles  
(Act s 341Y)**

For subsection 341Y (1) of the Act, the Commonwealth Heritage management principles are set out in Schedule 7B.

**Schedule 7B Commonwealth Heritage management principles**

- 1 The objective in managing Commonwealth Heritage places is to identify, protect, conserve, present and transmit, to all generations, their Commonwealth Heritage values.
- 2 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 their Commonwealth Heritage values.
- 3 The management of Commonwealth Heritage places should respect all heritage values of the place and seek to integrate, where appropriate, any Commonwealth, State, Territory and local government responsibilities for those places.
- 4 The management of Commonwealth Heritage places should ensure that their use and presentation is consistent with the conservation of their Commonwealth Heritage values.
- 5 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;
- 6 Indigenous people are the primary source of information on the value of their heritage and that the active participation of indigenous people in identification, assessment and management is integral to the effective protection of indigenous heritage values.
- 7 The management of Commonwealth Heritage places should provide for regular monitoring, review and reporting on the conservation of Commonwealth Heritage values.

*Environment Protection and Biodiversity Conservation Regulations 2003 (No 1)*

**Regulation 10.03E Heritage strategies (Act s 341ZA)**

For paragraph 341ZA (3) (c) of the Act, a heritage strategy made by a Commonwealth agency must address the matters set out in Schedule 7C.

**Schedule 7C Heritage strategies**

- 1 A strategy must include general matters, including the following:
  - (a) a statement of the agency's objective for management of its heritage places;
  - (b) a description of how the heritage strategy operates within the agency's corporate planning framework;
  - (c) a list of key positions within the agency, the holders of which are responsible for heritage matters;
  - (d) an outline of a process for consultation and liaison with other government agencies on heritage matters;
  - (e) an outline of a process for consultation and liaison with the community on heritage matters, including, in particular, a process for consultation and liaison with indigenous stakeholders on indigenous heritage matters;
  - (f) an outline of a process for resolution of conflict arising from the assessment and management of Commonwealth Heritage values;
  - (g) an outline of processes for monitoring, reviewing and reporting on the implementation of an agency's heritage strategy.
- 2 A strategy must include matters relating to the identification and assessment of Commonwealth Heritage values, including the following:
  - (a) an outline of the process for identifying and assessing the Commonwealth Heritage values of all agency property;
  - (b) a statement of the time-frames for the completion of:
    - (i) the agency's heritage identification and assessment program; and
    - (ii) the agency's register of places and their Commonwealth Heritage values; and
    - (iii) the agency's report to the Minister, that includes details of the program and a copy of the register.
- 3 A strategy must include matters relating to the management of Commonwealth Heritage values, including the following:
  - (a) a description of how the agency's heritage places register will be maintained, updated and made accessible to the public;
  - (b) a statement of the time frame for the preparation of management plans for the agency's Commonwealth Heritage places;
  - (c) an outline of the existing use, by the agency, of places with Commonwealth Heritage values;
  - (d) an outline of current or expected development, works, disposal or other proposals that may affect Commonwealth Heritage values;
  - (e) an outline of the process to ensure that Commonwealth Heritage values are considered in the agency's planning for future development, works, divestment or other proposals;

- (f) a plan and budget for the maintenance and long-term conservation of Commonwealth Heritage values;
- (g) an outline of the process by which the success of the agency in conserving Commonwealth Heritage values will be monitored and reviewed.

4 A strategy must include matters relating to Commonwealth Heritage training and promotion, including the following:

- (a) a program for the training of agency staff about Commonwealth heritage obligations and best practice heritage management;
- (b) a program for promoting community awareness of Commonwealth Heritage values, as appropriate.

## Sample Compliance Table

The table below provides a compliance checklist and is a useful tool in the preparation of an agency heritage strategy.

<i>Environment Protection and Biodiversity Conservation Amendment Regulations 2003 (No. 1)</i>	
<b>Schedule 7C Heritage Strategies</b>	
<b>Legislation</b>	<b>Comment</b>
1. A strategy must include general matters, including the following:	
(a) a statement of the agency's objective for management of its heritage places;	
(b) a description of how the heritage strategy operates within the agency's corporate planning framework;	
(c) a list of key positions within the agency, the holders of which are responsible for heritage matters;	
(d) an outline of a process for consultation and liaison with other government agencies on heritage matters;	
(e) an outline of a process for consultation and liaison with the community on heritage matters, including, in particular, a process for consultation and liaison with indigenous stakeholders on indigenous heritage matters;	
(f) an outline of a process for resolution of conflict arising from the assessment and management of Commonwealth Heritage values;	
(g) an outline of processes for monitoring, reviewing and reporting on the implementation of an agency's heritage strategy.	
2. A strategy must include matters relating to the identification and assessment of Commonwealth Heritage values, including the following:	
(a) an outline of the process for identifying and assessing the Commonwealth Heritage values of all agency property;	
(b) a statement of the time-frames for the completion of:	
(i) the agency's heritage identification and assessment program; and	
(ii) the agency's register of places and their Commonwealth Heritage values; and	
(iii) the agency's report to the Minister, that includes details of the program and a copy of the register.	
3. A strategy must include matters relating to the management of Commonwealth Heritage values, including the following:	
(a) a description of how the agency's heritage places register will be maintained, updated and made accessible to the public;	
(b) a statement of the time frame for the preparation of management plans for the agency's Commonwealth Heritage places;	
(c) an outline of the existing use, by the agency, of places with Commonwealth Heritage values;	
(d) an outline of current or expected development, works, disposal or other proposals that may affect Commonwealth Heritage values;	
(e) an outline of the process to ensure that Commonwealth Heritage values are considered in the agency's planning for future development, works, divestment or other proposals;	
(f) a plan and budget for the maintenance and long-term conservation of Commonwealth Heritage values;	
(g) an outline of the process by which the success of the agency in conserving Commonwealth Heritage values will be monitored and reviewed.	
4. A strategy must include matters relating to Commonwealth Heritage training and promotion, including the following:	
(a) a program for the training of agency staff about Commonwealth heritage obligations and best practice heritage management;	
(b) a program for promoting community awareness of Commonwealth Heritage values, as appropriate.	

*Environment Protection and Biodiversity Conservation Amendment Regulations 2003 (No. 1)*

**Schedule 7B – Commonwealth Heritage Management Principles**

<b>Legislation</b>	<b>Comment</b>
1. The objective in managing Commonwealth Heritage places is to identify, protect, conserve, present and transmit, to all generations, their Commonwealth Heritage values.	
2. 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 their Commonwealth Heritage values.	
3. The management of Commonwealth Heritage places should respect all heritage values of the place and seek to integrate, where appropriate, and Commonwealth, State, Territory and local government responsibilities for those places.	
4. The management of Commonwealth Heritage places should ensure that their use and presentation is consistent with the conservation of their Commonwealth Heritage values.	
5. The management of Commonwealth Heritage places should make timely and appropriate provisions for community involvement, especially people who:  a) have a particular interest in, or associations with, the place; and  b) may be affected by the management of the place.	
6. Indigenous people are the primary source of information on the value of their heritage and that the active participation of indigenous people in identification, assessment and management is integral to the effective protection of indigenous heritage values.	
7. The management of Commonwealth Heritage places should provide for regular monitoring, review and reporting on the conservation of Commonwealth Heritage values.	