

# **Assessment of Protective Mechanisms for National Estate Cultural Heritage Values**

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**A Report to the Commonwealth and Western Australian Governments for the  
Western Australian  
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## EXECUTIVE SUMMARY

This report assesses the extent to which indigenous and non-indigenous national estate cultural heritage values are protected under current management practices, policies and guidelines developed by land management agencies and other operators in the South-West Forest Region. In light of that assessment, the report sets out a series of recommendations which address current shortfalls in legislative and non-legislative protective mechanisms. The report forms part of the Comprehensive Regional Assessment process being undertaken to develop a Regional Forest Agreement.

Documentation from a range of organisations and agencies was assessed. Organisations were included either because of their direct responsibility for cultural heritage matters, or because of their responsibilities for a range of potentially damaging operations which can impact on national estate cultural heritage values.

Protective mechanisms were assessed for the extent to which they made a commitment to the spatial and temporal protection of the following national estate cultural heritage values :

- Criterion A.3 Importance in exhibiting unusual richness or diversity of flora, fauna, landscapes or cultural heritage features
- Criterion A.4 Importance for association with events, developments or cultural phases which have had a significant role in the human occupation and evolution of the nation, State, region or community.
- Criterion B.2 Importance in demonstrating a distinctive way of life, custom, process, land use, function or design no longer practiced, in danger or being lost or of exceptional interest.
- Criterion C.2 Importance for information contributing to a wider understanding of the history of human occupation of Australia.
- Criterion D.2 Importance in demonstrating the principle characteristics of the range of human activities in the Australian environment (including way of life, custom, process, land-use, function, design or technique).
- Criterion E.1 Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community.
- Criterion F.1 Importance for its technical, creative, design or artistic excellence, innovation or achievement.
- Criterion G.1 Importance as a place highly valued by a community for reasons of religious, spiritual, symbolic, cultural, educational or social associations.
- Criterion H.1 Importance for close associations with individuals whose activities have been significant within the history of the nation, State or region.

They were also assessed for the degree to which they were in accordance with cultural heritage conservation 'best practice' and evaluated against a set of 'optimum protective mechanisms' which were developed for this report.

Although the primary objective of the report was to focus on non-legislative protective mechanisms, it was necessary to first assess the general adequacy of existing legislation relating to cultural heritage at both the State and Federal level in order to determine the extent to which reliance must be placed on other mechanisms to ensure protection. Furthermore, as identification of places with national estate cultural heritage values in Western Australia is currently incomplete, the commitment of agencies to this process was also considered.

The recommendations included in this report aim to provide options which involve the least amount of adjustment to existing mechanisms and build upon those developed in the Report of the Independent Expert Advisory Group on the *Assessment of Ecologically Sustainable Forest Management in the South-West Forest Region of Western Australia* (1997).

### **Legislation**

Spatial and temporal protection of national estate cultural heritage values can only be achieved if those values are adequately and comprehensively identified and assessed. It is currently the case in Western Australia, that national estate cultural heritage values are inadequately identified through State heritage processes. This is due to the combined inadequacies of mechanisms for the identification of places and for the assessment of national estate values under the *Aboriginal Heritage Act 1972* and the *Heritage of Western Australia Act 1990*.

The existing assessment criteria contained in both the State heritage Acts are not directly comparable to those adopted by the AHC, nor are they as extensive. As a result, the limited number of places which have been assessed and Registered under the Acts are unlikely to have been assessed for the full complement of national estate cultural heritage values. National estate values which have not been identified are unlikely to be protected under the statutory provisions of the Acts and must therefore rely on non-legislative protective mechanisms.

Places already identified as having national estate cultural heritage value are not automatically included in either indigenous and non-indigenous State heritage registers, but must be reassessed using State heritage criteria. It is therefore the case that many places assessed by the AHC as having cultural heritage value are not currently afforded protection under the terms of the State heritage Acts.

Processes such as the development of Municipal Inventories under the terms of the *Heritage of Western Australia Act 1990*, and Aboriginal site surveys under the *Aboriginal Heritage Act 1972* which could have gone some way to redressing the existing situation have been limited by the evaluative criteria contained within the Acts, and in the case of the Municipal Inventories, by the narrow interpretation of some local government authorities.

While there is strong protection afforded to all Aboriginal sites, whether known or unknown, under the *Aboriginal Heritage Act 1972*, this is not the case for places of non-indigenous cultural heritage under *Heritage of Western Australia Act 1990*. Places of non-indigenous cultural heritage value which have not yet been identified and assessed by HCWA are particularly vulnerable.

In order for government departments and other agencies to develop informed management strategies for national estate cultural heritage values, data on the location of places and the range of criterion for which they have been assessed must be readily available, particularly for those who have responsibilities for potentially damaging operations. Currently, information on cultural heritage values is held by two State and one Federal departments, making consultation and information gathering a lengthy and complicated process. Integration of data on cultural heritage values would help to facilitate the speedier incorporation of cultural heritage values into State Government departments' strategies and management plans.



## **Protective Mechanisms**

The following section summarises the extent to which existing protective mechanisms relate to the set of optimum protective mechanisms developed for this report. Under the optimum protective mechanisms, guidance relating to cultural heritage is provided as follows :

### ***Legislative provisions relating to cultural heritage should be abided by, with documentation containing a brief summary of those provisions***

A commitment to the provisions of legislation relating to cultural heritage is fundamental, particularly in relation to the protection of values. Although the provisions of the State heritage Acts are universal, guidance documents do not always make reference to the Acts. As knowledge of cultural heritage outside the industry is not extensive, a brief summary of the provisions of the Acts, particularly the *Aboriginal Heritage Act 1972* which has more extensive requirements and affords protection to all Aboriginal sites, would aid in effecting the aims of the Acts. It is only rarely the case, however, the such information is included in guidance documentation produced by land management agencies.

### ***Consultation with the full range of federal and state heritage agencies in identifying existing national estate cultural heritage values***

Consultation with the Aboriginal Affairs Department and the Heritage Council of Western Australia are requirements under the terms of the two state heritage Acts. However, a commitment to consultation, in addition to a commitment to abide by legislative provisions, is not always stated in guidance documentation produced by land management agencies. Additionally, neither of these State heritage agencies currently uses evaluative criteria which are congruent to those used to identify and assess national estate cultural heritage values. Additional consultation is therefore required with the Australian Heritage Commission (AHC). A commitment to consult with the AHC occurs only in a limited number of agencies and organisations. Some agencies indicate that it is an organisation which *may* be consulted, however most omit to mention it at all.

### ***Surveys of national estate cultural heritage values on lands under their management should be undertaken, particularly prior to undertaking potentially damaging operations***

The provisions of the *Aboriginal Heritage Act 1972* have led to a general acceptance of the need to undertake archaeological and ethnographic studies to identify indigenous cultural heritage values prior to undertaking potentially damaging operations and most agencies make a commitment to this process. However, the evaluative criteria of the *Aboriginal Heritage Act 1972* are not congruent with national estate cultural heritage values and therefore this process is not guaranteed to identify the full complement of national estate cultural heritage values. There is no similar provision for site surveys to be undertaken to identify non-indigenous cultural heritage values and as a result, few organisations make any commitment to this objective. Where a commitment to the identification of non-indigenous cultural heritage values has been made, it is not in accordance with national estate values, nor it an objective which has been applied consistently across the whole organisation.

### ***Appointment of staff with specific responsibilities for cultural heritage***

There are currently no instances of land management agencies appointing staff who are dedicated to cultural heritage and related issues. Some organisations have staff who effectively act as Aboriginal liaison officers, however their remit does not include

cultural heritage as understood for the purposes of this report. Cultural heritage usually falls within the remit of staff with broader environment responsibilities who have no qualifications in relation to cultural heritage.

***Conservation of significant cultural heritage places, with clarification as to how 'significance' is to be determined***

Spatial and temporal protection of cultural heritage values can only be achieved through a commitment to *conservation*. While *protection* may be limited to ensuring that cultural heritage values are not lost or damaged due to potentially damaging operations, *conservation* is concerned with ensuring the ongoing presence of cultural heritage values. Few organisations make a commitment to the conservation of cultural heritage values, although there is a more widespread commitment to their protection. It is unclear if any organisations are aware of the distinction between the two terms as terminology used in relation to cultural heritage is rarely defined. Conservation terminology has been clearly defined in Australia since the publication of the Burra Charter by Australia ICOMOS in 1979. This document draws distinctions between a range of terms commonly used in heritage conservation, in particular between 'preservation', 'restoration' and 'conservation'. These distinctions have not been clearly adopted in land management agency guidance on the protection of cultural heritage values. As a result, there are instances where terminology appears to have been used indiscriminately and interchangeably, and others where the policy objective is unclear or ambiguous. When it is specified that 'significant' places will be protected, it is rarely clear how significance will be determined.

***Use of best practice principles in developing conservation strategies for places with significant cultural heritage value***

Despite the presence since 1979 of excellent and acknowledged best practice principles for cultural heritage conservation in the Burra Charter, and the subsequent development of the Conservation Plan methodology in the early 1980s, there is almost no mention of such guidance in policy documents developed by land management agencies. Few organisations appear to have a coordinated strategy for the conservation of cultural heritage values.

***Consideration of national estate cultural heritage values in developing strategies for potentially damaging operations***

National estate cultural heritage values are not universally included in developing strategies for potentially damaging operations. In many instances, cultural heritage values are included as an optional consideration.

**Conclusions**

Cultural heritage identification and protection is still developing in Western Australia. At the legislative level, there is currently a lack of congruency between the assessment criteria contained in the *Aboriginal Heritage Act 1972* and the *Heritage of Western Australia Act 1990*. This, coupled with the fact that places identified on the Register of the National Estate are not automatically included in the two State Registers, means that many national estate cultural heritage values have not been adequately identified and assessed, and are therefore not protected.

While there is a growing awareness by land management agencies of the need to include cultural heritage issues in policy and guidance, these documents generally fall well below optimum standards. They are characterised by a lack of clarity in both their extent and intent, and do not adequately develop strategies to ensure the spatial and

temporal protection of cultural heritage values. This is despite the presence of acknowledged best practice principles for the conservation of cultural heritage values in Australia since 1979.

The development of improved management and conservation strategies is hampered by the absence of an integrated database of places with cultural heritage value, including those of national estate value, which is accessible to all land management agencies and which can provide spatial as well as textual information. Such a facility would also help to address the current lack of understanding of the full range of national estate cultural heritage values within land management agencies.

Only limited provisions exist within agencies for monitoring and measuring of the effectiveness of protective mechanisms, and these are mostly internal processes which do not facilitate independent review or public scrutiny. In line with the broad recommendations of the ESFM (1997) report, current inadequate monitoring processes should be replaced by regular external auditing of operations, and reviewing of key documentation which relate or impact upon the protection of national estate cultural heritage values.

## 1 INTRODUCTION

This project forms part of the Comprehensive Regional Assessment (CRA) process being undertaken as part of the development of a Regional Forest Agreement between the federal and State governments for the South-West forest region of Western Australia. The assessment of indigenous and non-indigenous cultural heritage values within this region forms one aspect of the CRA process. In order to satisfy the legislative conditions of the Australian Heritage Commission Act 1975 within the context of a Regional Forest Agreement, there must be adequate provision for the protection, both spatially and temporally, of national estate cultural heritage values, within the region. Such protection can be achieved through legislative and non-legislative mechanisms such as policies, management practices, guidelines, codes of practice etc. This report seeks to assess the extent and effectiveness of non-legislative protective mechanisms effective in relation to the following range of national estate values within the RFA area :

- Criterion A.3 Importance in exhibiting unusual richness or diversity of flora, fauna, landscapes or cultural heritage features
- Criterion A.4 Importance for association with events, developments or cultural phases which have had a significant role in the human occupation and evolution of the nation, State, region or community.
- Criterion B.2 Importance in demonstrating a distinctive way of life, custom, process, land use, function or design no longer practiced, in danger or being lost or of exceptional interest.
- Criterion C.2 Importance for information contributing to a wider understanding of the history of human occupation of Australia.
- Criterion D.2 Importance in demonstrating the principle characteristics of the range of human activities in the Australian environment (including way of life, custom, process, land-use, function, design or technique).
- Criterion E.1 Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community.
- Criterion F.1 Importance for its technical, creative, design or artistic excellence, innovation or achievement.
- Criterion G.1 Importance as a place highly valued by a community for reasons of religious, spiritual, symbolic, cultural, educational or social associations.
- Criterion H.1 Importance for close associations with individuals whose activities have been significant within the history of the nation, State or region.

### 1.1 Scope of the project

Within the context of the above criterion, the key objectives of this report were :

- i) To identify those conservation principles and practices relevant to the national estate values which are considered to represent 'best practice'.
- ii) To identify a range of potentially damaging operations or activities which might impact on cultural heritage values in both negative and positive ways.
- iii) To identify the range of Government and private organisations which have a role in the management and conservation of cultural heritage places in the region.
- iv) To identify and evaluate the mechanisms which are currently in place to protect or manage cultural heritage places, with particular reference to consultative mechanisms, both private and intra-agency.
- v) To identify which national estate cultural heritage values are adequately or inadequately protected under existing mechanisms and to suggest new mechanisms, or the adjustment of existing mechanisms to ensure protection.

- vi) To identify mechanisms for assessing the effectiveness of existing protective mechanisms.
- vii) To develop a series of recommendations on the improvement or extension of non-legislative mechanisms to protect cultural heritage values both spatially and temporally. These recommendations should be consistent with or build upon those contained in the report by the Independent Expert Advisory Group on the '*Assessment of Ecologically Sustainable Forest Management in the South-West Forest Region of Western Australia*' (1997) (The ESFM Expert Panel Report)

The consultant was also required to consider the manner in which spatial and textual information relating to cultural heritage places is collected, stored and accessed by organisations operating in the region.

In addition to the above specific objectives, the consultant was also required to give consideration to :

- i) legislative mechanisms to protect and conserve cultural heritage values and their relationship to non-legislative protective mechanism.
- ii) the content and recommendations of the ESFM Expert Panel Report.
- iii) the protection of values across all land tenures, both on and off reserve.
- iv) a general emphasis on broad frameworks and practices which have the potential to support or guide on-the-ground activities and processes.

A full copy of the terms of reference of this project appears in Appendix A.

## **1.2 Heritage Consultant**

This report was undertaken by Penny O'Connor of the Research Institute of Cultural Heritage Studies, Curtin University of Technology, Western Australia.

## **1.3 Acknowledgments**

This project was commissioned by Environment Australia.

The project was supervised by Philippa Watt of Environment Australia.

## **1.4 Glossary of Acronyms**

ACMC	Aboriginal Cultural Material Committee
ADD	Aboriginal Affairs Department
AHC	Australian Heritage Commission
CALM	Department of Conservation and Land Management
CRA	Comprehensive Regional Assessment
EPA	Environmental Protection Authority
ESFM	Ecologically Sustainable Forest Management
DME	Department of Mines and Energy
DOLA	Department of Land Administration
DRD	Department of Resource Development
GIS	Geographical Information System
HCWA	The Heritage Council of Western Australia
ICOMOS	International Council for Monuments and Sites
LGA	Local Government Area
RFA	Regional Forest Agreement
RNE	Register of the National Estate
VRM	Visual Resource Management
WAMP	Western Australian Ministry of Planning

Unless specified, references throughout this report to ‘cultural heritage’, ‘cultural heritage values’, ‘national estate cultural heritage values’, ‘cultural heritage places’ are intended to encompass cultural heritage values associated with indigenous and non-indigenous peoples.

No distinction is drawn between the terms ‘indigenous’ and ‘Aboriginal’ within this report and the terms are used interchangeably.

The use of other conservation terminology is intended to be consistent with that adopted in the Burra Charter, which is included in Appendix III.

In sections assessing protective mechanisms within agencies or organisations, ‘best practice’ conservation refers to those practices outlined in Section 4 of this report.

## 2 METHODOLOGY

This project looks at protective mechanisms for national estate cultural heritage values. At the spatial level, protection can be taken to mean prevention from damage or disruption which could lead to the values that places have being lost or diminished. However, the scope of this report is also to examine temporal protection, that is, protection over time. While in the short term, undertaking to prevent damage or disruption or loss of value to a place of cultural heritage significance, will protect its values, such inaction will not necessarily ensure the continuance of those values. It is often the case that neglect can be just a damaging to the retention of value as ill-considered or inappropriate activities. It is for this reason that agencies and organisations must indicate a commitment to the conservation of places of cultural heritage value in order to address the issue of temporal protection. For the purposes of this report, the conservation of cultural heritage is defined according to the terms of the Burra Charter which states :

*‘Conservation means all the processes of looking after a place so as to retain its cultural heritage significance. It includes maintenance and may according to circumstances include preservation, restoration, reconstruction and adaptation and will be commonly a combination of more than one of these’ (Australia ICOMOS, 1979).*

### 2.1 Review and Assessment

This report was undertaken in two stages. Firstly, documentation was collected from all land management agencies, heritage agencies and other organisations which might be expected to include or mention policies or guidance on cultural heritage conservation. This literature was then reviewed and assessed according to several guiding questions which were developed from the terms of reference for this report :

- 1 What mechanisms are in place to protect national estate cultural heritage values?
- 2 To what extent are these mechanisms adequately protecting national estate cultural heritage values both spatially and temporally?
- 3 Where mechanisms have been found deficient or absent, what modifications or new mechanisms could be developed to ensure protection?
- 4 What processes are in place for monitoring and measuring the effectiveness of protective mechanisms?
- 5 How is information on cultural heritage places collected and disseminated, and how can such systems be improved to facilitate inter-agency and public information exchange and the protection of national estate cultural heritage values?

In assessing the documents, continual reference was also made to other broader considerations, namely

- i) The extent to which the principles of best practice, most notably the principles of the Burra Charter, were stated or otherwise evident.
- ii) The extent to which recommendations developed by the consultant correlated to those contained within the ESFM report.

The ESFM Report assessed the ecologically sustainable management of forests in the South-West region against six principles, number 6a of which is the ‘protection of natural and cultural heritage values’ (Commonwealth and Western Australian RFA

Steering Committee, 1997, p4). As the report focuses on forests, the majority of the it's recommendations relate to the activities of CALM. The scope of the ESFM report did not allow for the detailed examination of specific policies and other documentation from individual organisations and as a result, recommendations which relate to cultural heritage are broad and tend to reflect best practice objectives.

Following the literature review, selected interviews were undertaken with representatives from a range of agencies in order to gain a better understanding of the implementation and practical application of a range of policies and guidance relating to the protection of cultural heritage values. Interviews and discussions (some conducted by telephone) were undertaken with the following individuals :

Liz Bloor	Assistant Policy Officer, AAD
Ian Briggs	Senior Manager – Environment, DRD.
Stephen Carrick	Manager of Conservation and Assessment, HCWA
John Cleary	CALM
Pat Collins	Senior Forester, CALM
Jeanette Della-Bona	Environmental Resource Officer, Department of Main Roads
Brian Doy	Corporate Relations Officer, ALCOA
Graeme French	Manager of Assessment Procedures, EPA
Tim Hilliard	Manager of Properties and Parks Branch, WAMP
Jim Ironside	Scientific Services and System Compliance, Westrail.
Shona Keneally	Environment Coordinator, Western Power
Noel Nannup	Senior Aboriginal Heritage Officer, CALM
Vivianne Panizza	Special Projects Officer (Coastal), Environment Planning
Branch, WAMP	
Madge Schwede	Senior Policy Officer, AAD
Darrel Whitely	Project Manager, Project Management Branch, Water Corporation.
Robyn Wilson	GIS Project Leader, CALM
Cliff Winfield	Programme Leader for Recreation and Tourism, Southern Forest Region, CALM.

## **2.2 Principles for the Protection of National Estate Cultural Heritage Values**

In order to ensure the spatial and temporal protection of national estate cultural heritage values, an optimum set of protective mechanisms has been identified for this report, against which the mechanisms developed by individual organisations and agencies can also be evaluated.

Most organisations develop policy statements which operate in a hierarchical manner. Broad policies relating to the 'environment' or 'conservation' or 'resource management' are subsequently broken down into policies relating to more specific issues such as cultural heritage, indigenous/Aboriginal heritage or European/historic heritage. Therefore, in order to ensure adequate protection of national estate cultural heritage values, State Government Departments, Local Government, and other agencies should have in place a hierarchy of policies which relate to or make specific reference to cultural heritage at every stage. In most instances, policies will be supported by additional objectives and/or strategies to aid their implementation.

Most organisations and agencies have developed broad environmental policy statements. Such statements should ideally take an holistic perspective of the



environment, one which is capable of including a range of values, including cultural heritage values, and should not be exclusively focused on issues relating to 'natural' or 'ecological' values. Where the environmental policy statement is very broad and generalised, the term 'environment' should be defined in the policy document in order to clarify its intent and extent. This definition should also encompass cultural heritage values.

Each agency or department should additionally develop their own cultural heritage policy, or policies if separation of indigenous and non-indigenous cultural heritage is perceived as necessary. Such policies should clearly relate to the terms of the overall environmental policy statement. There should be no significant differences in the principle aims and objectives between indigenous and non-indigenous cultural heritage policies.

For optimum protection of national estate cultural heritage values, organisations and agencies should abide by the following principles:

- abide by legislative provisions relating to cultural heritage with a brief summary of those provisions;
- consult with the full range of federal and state heritage agencies in identifying existing national estate cultural heritage values;
- undertake surveys of national estate cultural heritage values on lands under their management, particularly prior to undertaking potentially damaging operations;
- appoint of staff with specific responsibilities for cultural heritage;
- conserve of significant cultural heritage places, with clarification as to how 'significance' is to be determined;
- use of best practice principles in developing conservation strategies for significant cultural heritage value;
- consider national estate cultural heritage values in developing strategies for potentially damaging operations.

In all instances, the linkages and inter-relationships between policies and any subsequent objectives/strategies should be clear and easy to follow, and they should be consistent with one another. Clarity should be ensured not only for the benefit of departmental and agency staff, but also for the purposes of external review and assessment. Terminology should be used consistently throughout policies, objectives and strategies. Where terminology relating to cultural heritage is crucial to the understanding and application of policies, it should be clearly defined.

### **2.3 Potentially Damaging Operations**

A key consideration in assessing the effectiveness of protective mechanisms for cultural heritage values is the identification of the range of potentially damaging operations which significant places may need to be protected from or against. On the basis of the national estate cultural heritage values under consideration in this report, and the activities of land managers, operators and others in the RFA area, the following list of principle potentially damaging operations has been compiled. In addition to human activities, the extent and spread of a range of ecological processes may impact on national estate cultural heritage values, and as the control and regulation of some of these processes falls within the remit of agencies reviewed in this report, the most relevant have also been included in this list

## **I Human Processes**

**i) General activities**

Clearing of land for agriculture, industry or residential development  
Tourism and recreation

**ii) Timber harvesting and regeneration**

Timber harvesting and associated activities eg clear felling, road construction, aerial burn offs, advanced burning prior to hardwood harvesting etc.

Prescribed burning

Establishment of plantations, particularly of exotic species.

Establishment of plantations on land cleared of native forest

**iii) Mining and mineral exploration and extraction**

Mineral exploration and mining activities eg open cast extraction

Associated mining infrastructure e.g. mining conveyor belts and road construction

**iv) Public utilities**

Reservoir construction  
Electrical installations e.g. high frequency power lines with tree exclusion zones

Other infrastructure e.g. gas and water pipelines, railway

Road building and maintenance

**II Ecological Processes**

Insect attack

Fungal disease

Wildfires

Weeds

Pests

### 3 OVERVIEW OF LEGISLATIVE PROTECTION OF CULTURAL HERITAGE VALUES

The identification and protection of cultural heritage places in Australia is a complex process undertaken by a range of federal, State and local Government agencies, as well as various non-Government organisations. In each instance, there are variations in the criteria used to assess the significance of heritage places. This in turn often results in marked variations in the type and range of places which are included in the lists, registers or inventories of these agencies.

In looking at the protection of national estate cultural heritage values in Western Australia, it is important to distinguish between the roles and responsibilities of those organisations most actively involved in this field.

#### 3.1 The Australian Heritage Commission and the Register of the National Estate

Under the terms of the *Australian Heritage Commission Act 1975*, the Australian Heritage Commission is charged with the responsibility of identifying and assessing places which are considered to have significance across a range of values. Such places may be components of the natural or cultural environment and they are assessed by the Commission for their ‘...aesthetic, historic, scientific or social significance or other special value for future generations as well as for the present generation’ (S.4 (1)). Places which are identified as having met the appropriate thresholds for significance are considered to form part of the National Estate of Australia, and are listed on the Register of the National Estate (RNE).

Contrary to popular belief, the RNE is not a list of nationally significant places. In fact, from its inception, the aim of the register was specifically not to highlight such places. Places may therefore be significant at a local, regional and/or national level.

In 1990, the *Australian Heritage Commission Act 1975* was amended to include eight broad criteria under which sites proposed for inclusion in the RNE could be evaluated. These were further expanded on to create a comprehensive list of criteria for identifying and assessing national estate values, including the specific criteria identified as the focus of this report. See Appendix II for full list of the criteria.

#### Protection

The *Australian Heritage Commission Act 1975* affords only limited protection for places on the RNE. For sites in private ownership and in the hands of State or local Government, no consultation with the Commission is required prior undertaking works on a Registered place. The only consultative process required under the Act relate to places owned by the Commonwealth Government or in instances where operations intended for a place require Commonwealth consent, such as in the case of the export of minerals or certain timber products. In such instances, Section 30 of the Act requires that there be consultation between the Commonwealth Government department or agency and the Commission regarding proposals that may affect sites on the RNE. Departments or operators are not, however, bound to accept the advice of the Commission and may proceed if there is felt to be ‘no feasible or prudent alternative’. Where damaging operations do proceed, the Act urges that adverse effects should be minimised. Despite the lack of protection afforded by the Act, there is widely held

moral imperative, particularly among the general public, that consideration should be given to the protection of the national estate.

### **Data Collection**

Varying degrees of information on places in the RNE are publicly obtainable through the AHC's computer database, which is accessible through the World Wide Web. In the case of non-indigenous heritage places, the information is based on that provided with the nomination, but usually includes at least an address and/or grid reference. Many early nominations contain only limited additional information. The AHC is currently updating information on the RNE to provide more comprehensive and detailed site entries.

In the case of places of indigenous heritage significance, all information is restricted to the general location of the place.

## **3.2 State Heritage Legislation**

### **3.2.1 *Aboriginal Heritage Act 1972***

This is the principle legislation in Western Australia covering the identification and protection of indigenous cultural heritage. It was amended by the *Aboriginal Heritage Amendment Act 1995* when the Department of Aboriginal Sites, which had been under the control of the Trustees of the Western Australian Museum, was transferred to the Heritage and Culture Division of the Aboriginal Affairs Department (AAD).

#### **Evaluative criterion of the Act**

The terms of the Act apply to all Aboriginal places and objects, whether they have been identified and registered or not. The only exceptions are for those objects held by the Western Australian Museum and those objects made specifically for the purposes of sale which have no significance to Aboriginal peoples.

Places which are notified to the AAD are placed on the Register of Aboriginal Sites. Sites are entered on the Permanent Register after being assessed for significance by the Aboriginal Cultural Material Committee (ACMC) according to the following five criterion :

- a) *any existing use or significance attributed under relevant Aboriginal custom;*
- b) *any former or reputed use of significance which may be attributed on the basis of tradition, historical association, or Aboriginal sentiment;*
- c) *any potential anthropological, archaeological or ethnographical interest; and*
- d) *aesthetic values (s 39(2))*

The above criterion are relatively broad and could easily encompass most of the national estate cultural heritage values if the appropriate interpretation was taken. However, where national estate criterion require an assessment which is based either on comparative or relative assessments of sites, or on the agglomeration of sites, the criterion of this Act do not offer sufficient guidance. As a result, there are specific national estate values which may be overlooked if assessment is focussed exclusively on the Act's criterion.

Criterion A.2 refers to the significance of diversity or richness of cultural features. This criterion could operate at a micro level, considering the range of features at a very small

site, but it could also relate to diversity and richness over a wider area. This consideration of the concentration of features across a larger area is not clearly brought out in the criterion used in the Act. The spatial grouping of concentrations of sites of indigenous cultural heritage is commonly undertaken by the AHC (O'Connor, 1997) but is not a recording method used by the AAD (Bloor, 1998). It is therefore the case that when the AAD does become aware of a place or group of places of indigenous significance on the RNE, such information is not compatible with its own data, which deals with the location of specific sites.

The requirement of Criterion B.2 to consider lost practices and activities appears to be adequately covered under criterion B of the Act. However the need to consider the protection of practices which are in danger of dying out is not highlighted as being distinct from practices which are 'existing'.

The two broad criterion C.2 and D.2 which consider the significance of places which contribute to a wider understanding of the history of human occupation and the range of human activities in Australia respectively, require a comparative perspective to be adopted in the assessment of a place. Such comparative assessment processes are not implicit within the criterion of the Act.

The assessment of values associated with criterion F.1 (technical, creative, design or artistic) can be determined from two perspectives. Under the criterion of the Act they are most likely to be assessed from the perspective of indigenous peoples themselves. However, the value judgements of non-indigenous peoples may differ from those of indigenous peoples, and this should also be taken into consideration, particularly in relation to the development of management strategies for places.

### **Protection under the Act**

Sites are protected under the provisions of the Act whether there is existing knowledge of them or not. Anyone discovering an Aboriginal site is required to report its existence to the Registrar of the AAD, unless they have reason to believe that the site is already known to the Registrar. Aboriginal peoples are exempt from this requirement where informing the Registrar would be contrary to traditional customs or laws.

The State Government considers it the responsibility of the land user or manager to determine the existence of Aboriginal sites prior to any potentially damaging operations. Under the terms of the Act, it is an offence to disturb, damage, conceal or in any way alter an Aboriginal site, or to deal with an Aboriginal site in a way which is not sanctioned by relevant customs (s.17) unless written Ministerial consent has been given, or the Registrar, acting on the advice of the ACMC, has authorised the removal of material or archaeological excavations (s.16).

Applications for consent to disturb land which contains or might contain Aboriginal sites must be made under Section 18 of the Act to the ACMC. On their recommendation, the Minister may grant permission to the applicant to undertake potentially damaging operations. The Minister is not, however, bound by the decision of the ACMC and may impose whatever conditions they consider appropriate.

The Governor, at the recommendation ACMC or the Minister may declare some Aboriginal places 'protected areas', either temporarily or permanently. Such areas are afforded special protection under the Act, with the exclusive right to occupy the area vested with the Minister. The Registrar may restrict access to the place whether it is

located on public or private land. Sites nominated as protected areas are also listed in the Permanent Register of Aboriginal Sites (Ss 19 – 23).

Currently over 15,000 places of Aboriginal heritage significance have been notified to the AAD and it is likely that there are thousands more which remain undiscovered (Bloor, 1998). Of the 15,000, under 1,000 have actually been assessed by the ACMC against the Act's criterion. As yet there is no prioritisation of the assessment process and bulk assessments of similar types of sites have proved too difficult to achieve (Bloor, 1998).

There is no requirement under the *Aboriginal Heritage Act 1972* to include places which have been assessed for national estate cultural heritage value by the AHC in the Register of Aboriginal Sites, or to include information from the RNE in the State's general database of information on sites. The AAD cannot currently be certain that they have all the AHC information relating to all places of indigenous national estate cultural heritage significance (Bloor, 1998). Partly this is because of the manner in which the AHC has tended to Register places of Aboriginal heritage significance, focusing on areas with a concentration of sites rather than locating the sites in a more specific manner. There also appear to be inadequate provisions for the exchange of information between the AAD and the AHC.

### **Data Collection**

Basic data regarding all the sites on the register is contained within a computer database, apart from those places for which information is restricted on the grounds of Aboriginal law or custom. This basic data is not sufficient enough however, for exactly locating sites with a view to their protection from potentially damaging operations or for them to be incorporated into management plans. Where sites have not yet been assessed, only a rough location, provided by the nominator, is indicated on a map. Sites which have been assessed or about which there is a more substantial body of information, so called 'accurate' sites, are considered to have grid references which are accurate to within a distance of plus or minus three kilometres of the exact location of the site. Sites which are considered classified for cultural reason, are deliberately given a reference point which is accurate to within a distance of plus or minus 10km of the exact location. As yet, no comprehensive mapping of sites using a Global Positioning System has been undertaken, although such information may have been provided by consultants for individual sites during the course of area assessments.

### **3.2.2 *Heritage Act of Western Australia 1990***

The Heritage Council of Western Australia (HCWA), which was formed under this Act, is responsible for identifying, conserving and, where appropriate, enhancing places within the State which have been assessed as having significant cultural heritage value. Places are assessed using criteria based on those contained in the Burra Charter developed by the Australian branch of the International Council for Monuments and Sites (ICOMOS) and the *Australian Heritage Commission Act 1975*. Where places are assessed as having met the threshold for significance, they are included in the State Register of Heritage Places (WA).

### **Evaluative Criteria of the Act**

The Act adopts a definition of cultural heritage which is similar to that of both the *Australian Heritage Commission Act 1975* and the Burra Charter, namely that it relates to the relative value of places in terms of aesthetic, historic, scientific or social significance for present communities as well as future generations. The Act develops a

series of criteria for sites being assessed for inclusion in the Register of Heritage Places (WA Register) which seeks to expand upon this very broad understanding of cultural heritage and section 47(2) states that the following factors may be considered when assessing cultural heritage places :

- a) *any distinctive features or scarcity value, the character of the environs of the place, its landscape or townscape value and, in the case of a building, its beauty and proportions, the degree of unity of its materials, design and scale, and any contribution it makes to the significance of any area, precinct, group of buildings, or amenity of which it forms part, or to its setting or the setting of any other place or feature;*
- b) *any strong association which the place has with any historic personage or significant event or discovery or any development or cultural phase, or whether or not the place provides a notable example of a particular period or type important for general education, architectural or archaeological reasons that distinguish it from other such examples, or has intrinsic merit and is commonly agreed to be*
  - i) *a work of art in itself that enriches the environment*
  - ii) *held in high public esteem or sentiment and*
- a) *in the case of places of particular scientific or other special interest, the extent to which the place has contributed, or may be likely to contribute, to knowledge or research.*

Where a group of individual places are not considered to be significant in their individual right to be Registered under the State Act, their collective significance can be Registered under S.48 as a Heritage Precinct.

The wording of the criteria varies considerably from that of the *Australian Heritage Commission Act 1975*, however, it would appear that under the current Act, many of the national estate cultural heritage values can be taken into account when assessing the significance of places. Reliance would however, have to be placed on the interpretation of the heritage professional undertaking the assessment of a place to encompass *all* national estate cultural heritage values.

A recent review of the *Heritage of Western Australia Act 1990* (James, 1996) has suggested that the evaluative criteria in the Act be amended in order to make them clearer and more easily understood, as well as to bring them more into line with those of the AHC. The suggested criteria have followed the form of the broad criterion of the AHC, without the inclusion or development of specific sub-criterion. Should these new broad criterion be adopted in the review of the Act currently being undertaken, it is not necessarily the case that all the criterion being considered in this report will be assessed in the evaluation of cultural heritage places in Western Australia.

### **Protection under the Act**

It is an offence to damage or interfere with places on the WA Register unless a permit has been obtained from HCWA (s.79). Where developments requiring licenses or applications under other Acts, such as the *Town Planning and Development Act 1928* or the *Local Government Act 1960*, involve sites registered under the Act, these must be referred to HCWA for consultation and advice. Action which might affect the integrity of registered places must not be undertaken unless there is no 'prudent or feasible alternative', and then adverse effects should be minimised.

HCWA has a range of powers which it can utilise to further protect places on the WA Register. Registered places can be compulsorily purchased where their future is considered to be in jeopardy, or where this is requested by a landowner on the grounds that the powers of the Act have rendered the place incapable of beneficial use (s.76). Heritage agreements may be entered into between HCWA and landowners and these may contain covenants which relate to the manner in which the place can be developed and used, or to the conservation of associated land, natural features, buildings or other objects.

Where the Minister decides it is necessary or desirable to provide special protection for a place, whether registered or not, a conservation order can be imposed. Such orders can prohibit or restrict access to a place, limit potentially damaging operations or any other activity which might interfere with the land, flora or fauna. Where damage to a place is imminent, the Minister may issue a 'Stop Work Order'.

Unlike the provisions of the *Aboriginal Heritage Act 1972*, there is no requirement under the *Heritage Act 1990* for newly discovered non-indigenous heritage sites to be reported to a central agencies such as HCWA. Nor are such places protected in any way unless a Stop Work or Conservation Order is imposed by the Minister.

### **Data Collection**

As of 30 June 1998, 572 places have been registered under the *Heritage of Western Australia Act 1990*. HCWA has also compiled a database of 12,700 other significant places of which a possible 10% may warrant further consideration under the terms of the State Act. At current rates of assessment, an average of 100 new places are added to the WA Register each year.

The details of places which have either been registered or are on the interim register awaiting final assessment, are contained within a computer database maintained by HCWA. Because the assessment procedure is so thorough and comprehensive, specific grid references for registered places are usually available along with detailed descriptions and statements of the place's heritage significance.

### **3.2.3 Municipal Inventories**

Under the terms of the *Heritage of Western Australia Act 1990*, all Local Government Authorities (LGAs) were required to compile a Municipal Inventory of places, and this process is now nearing completion. However the terms of the Act and the interpretation taken by some LGAs has resulted in inventories of variable quality and extent. While the Act potentially limited the scope of the inventories by specifying the identification of buildings, some LGAs have adopted a broader approach more in line with that of the RNE. At the other extreme, some LGAs have taken narrower interpretations than even that intended by the *Heritage of Western Australia Act 1990*, such as excluding privately owned property from their inventories. Still other LGAs have limited themselves to places which are considered to reflect local significance, as distinct from places which may be primarily of regional, State or even national significance.

### **Protection**

Municipal Inventories are primarily intended to guide and inform. There is no requirement under the Act or any other legislation to protect or conserve sites identified under this process. HCWA is under no obligation to recommend places on Municipal Inventories for inclusion on the WA Register, nor are the LGAs obliged to include the inventories in Local Planning Schemes.



### 3.3 Conclusions

Spatial and temporal protection of national estate cultural heritage values can only be achieved if those values are adequately and comprehensively identified and assessed. It is currently the case in Western Australia, that national estate cultural heritage values are not comprehensively identified through State heritage processes. This is due to the combined inadequacies of communication processes and mechanisms for the identification of places and for the assessment of national estate values under the *Aboriginal Heritage Act 1972* and the *Heritage of Western Australia Act 1990*.

The existing assessment criteria contained in both the State heritage Acts are not directly comparable to those adopted by the AHC, nor are they as extensive. As a result, the limited number of places which have been assessed and Registered under the Acts are unlikely to have been assessed for the full complement of national estate cultural heritage values. National estate values which have not been identified are unlikely to be protected under the statutory provisions of the Acts and must therefore rely on non-legislative protective mechanisms.

In addition to those places identified under State heritage legislative processes, many other places have already been identified and assessed for their national estate cultural heritage value by the AHC, and are included in the RNE. However, these places are not automatically included in State registers, and currently must be reassessed using the State evaluative criteria. Although 72% (376) of the 516 places Registered under the *Heritage of Western Australia Act 1990* are also on the RNE, studies have shown that in some metropolitan local government authority areas, only 20% of the number of places included in the RNE will be included in the WA Register (O'Connor, 1997). For rural local government authority areas, direct comparisons between on the WA Register and those on the RNE are often difficult due to the use of different regional boundaries in each register. However, to give an example of one local government authority area within the RFA region, in the Shire of Manjimup, only two places are included in the WA Register, as compared to approximately 17 places listed on the RNE, a congruency of only 12%. It is therefore the case that only a small percentage of places which have been assessed as having non-indigenous national estate cultural heritage values by the AHC have also been identified under the *Heritage of Western Australia Act 1990* and are afforded protection under the terms of the Act.

Some of the current shortfall in non-indigenous cultural heritage identification could have been addressed through the Municipal Inventory process. However, the overall lack of consistency between the assessment criteria used in compiling the inventories and the emphasis placed in the *Heritage of Western Australia Act 1990* on the identification of 'buildings' means that it is unlikely that the inventories are comprehensive in terms of place identification, or that the full range of national estate cultural heritage values has been assessed. Some of these inadequacies may be addressed during the regular updating and reviews which are attendant on the municipal inventory process, however this will need to be closely monitored by HCWA.

While there are provisions under the *Aboriginal Heritage Act 1972* for the AAD to require site surveys to be undertaken prior to any potentially damaging operations in an area, there is no similar provision under the *Heritage of Western Australia Act 1990* for non-indigenous cultural heritage. Similarly, while all indigenous sites are protected whether they have been identified and recorded or not, there is no comparable provision

for sites of non-indigenous cultural heritage value to be protected against damage pending assessment by HCWA. The ESFM (1997) report recommended that CALM undertake systematic surveys in order to aid the integration of cultural heritage values into their management and planning processes. However, the current inadequate identification and assessment of cultural heritage values means that such surveys need to be undertaken by the full range of agencies and organisations operating in the RFA area.

In order for government departments and other agencies to develop informed management strategies for national estate cultural heritage values, and to facilitate the integration of cultural heritage values into planning and management processes, data on the location of places and the range of criterion for which they have been assessed must be readily available, particularly for those organisations who have the greatest responsibility for potentially damaging operations. Currently, information on cultural heritage values is held by two State and one Federal departments, with additional data held by a range of non-government organisations such as the National Trust of Western Australia. This situation makes consultation and information gathering a lengthy and complicated process.

The ESFM report recommends that CALM develop databases of information on cultural heritage values which can be linked to GIS systems, in addition to linking with the heritage databases of other agencies. However, there is a clear need for other organisations to also undertake the development of similar databases. Furthermore, such databases need to take into consideration values which may lie beyond the immediate perceived spatial range of any potentially damaging operations. This is due to the fact that the extent of certain national estate cultural heritage values, such as aesthetic (E.1) or social (G.1) values, may range across the responsibilities of several land management agencies. It is therefore likely that considerable economies of scale may be achieved through the development of a centralised, integrated database of cultural heritage values which is managed and updated by departments with specific responsibilities for cultural heritage, i.e. the AAD and HCWA.

## Recommendations

### R 1

The Minister for Heritage should consider amending the *Heritage of Western Australia Act 1990* to include requirements for:

- i) the assessment of non-indigenous national estate cultural heritage values by agencies and operators in areas where potentially damaging operations are proposed and;
- ii) HCWA to be notified of places which may have national estate cultural heritage value and for such places to be protected pending assessment and recording by HCWA.

### R 2

The Minister for Heritage should consider the compilation of an integrated information system containing details of places of indigenous and non-indigenous cultural heritage values, including national estate value for use by all State Government departments and other agencies, to facilitating informed decision making. This system should be regularly updated.

## 4 BEST PRACTICE IN CULTURAL HERITAGE CONSERVATION

At national and State levels, there are several key guidelines which are considered to represent ‘best practice’ in relation to cultural heritage conservation.

### 4.1 National Guidelines

Building on the principles of the *Australian Heritage Commission Act 1975* that heritage significance should be assessed in terms of aesthetic, historic, scientific or social value for past, present and future generations, the Australian Branch of the International Council for Monuments and Sites (ICOMOS) developed a Charter, known as the Burra Charter (1979), which sought to outline the principle criteria for cultural heritage evaluation pertinent to Australian conditions. In many ways, the impact of the Burra Charter has been far greater than the Act on which its principles are largely based. While it clearly reiterates the four broad assessment criteria, it does so by collapsing them into one overarching concept of cultural significance. The aim of conservation therefore becomes the retention or recovery of cultural significance.

By clarifying and drawing fundamental distinctions between the definitions of commonly used terminology such as ‘conservation’, ‘maintenance’, ‘preservation’, ‘restoration’, ‘reconstruction’ and ‘adaptation’ and setting limits for the conditions under which such processes should take place (see Appendix III), the Charter also removed much of the confusion surrounding conservation practice, rendering such activities more transparent, and practitioners more accountable for their actions. The concepts and definitions within the Charter have gone on to underpin most of the subsequent conservation activity in Australia, particularly in relation to non-indigenous heritage. Attempts have been made to incorporate some form of its principles into most non-indigenous heritage legislation across the states of Australia, including Western Australia. The principles are also increasingly being applied at local Government level.

It is particularly important to note the distinction which the Charter draws between two terms which are frequently present in guidance documentation relating to cultural heritage; ‘conservation’ and ‘preservation’. The Burra Charter defines conservation as an overarching term which encompasses a range of processes which together contribute to looking after a place so that it retains its cultural significance. It includes maintenance of the place, and may also include, depending on circumstances, other processes such as preservation, restoration, reconstruction or adaptation. Often the conservation of a place will involve a combination of more than one of these processes. Preservation is therefore only one aspect of the process of conservation. It is defined in the Burra Charter as maintaining the fabric of a place in its existing state and retarding deterioration. If applied to a whole place, such as a building, it may preclude the use of other processes such as ‘restoration’ or ‘reconstruction’.

The theory behind the Charter is considered to be as applicable to indigenous places as it is to non-indigenous places. As in all cases of cultural heritage assessment, it is essential to undertake community consultation, and this is perhaps more so the case in relation to the assessment of indigenous sites. Overall, the Charter stresses the need to assess *all* aspects of the significance of a place, both indigenous and non-indigenous.

While Article 25 of the Burra Charter states the importance of assessing cultural significance prior to the development of management strategies for heritage sites, the Charter does not elaborate on the processes for achieving this objective. In similar

fashion to the Charter from which it spawned, the methodology laid out in James Semple Kerr's *The Conservation Plan: a guide to the preparation of conservation plans for places of European cultural significance* (1982 and updates) has come to be regarded as a corner-stone of heritage conservation practice in Australia. It sets out a thorough, two stage programme of assessment and evaluation, with a methodology designed to firstly divine the cultural significance of heritage places, and secondly, the means of developing policies aimed at conserving that significance. Its clarity in expanding on the application of Burra Charter principles has been a key factor in its subsequent widespread use.

## **4.2 State Guidelines**

### **4.2.1 Indigenous Cultural Heritage Conservation**

Guidelines for the assessment of Aboriginal heritage in Western Australia were developed in draft by the AAD in 1994. Despite being in draft, the guidelines have been widely distributed and their use encouraged by the AAD. They are currently under review, although expectations are that much of the content of the draft guidelines will be retained in the update (Schwede, 1998). The aim of the guidelines is primarily to inform land users and their consultants as to the level and quality of reporting required by the Aboriginal Cultural Material Committee (ACMC) in order that they can make recommendation to the Minister regarding significant sites.

The overall emphasis of the guidelines focus on the comprehensive collection of information relating to Aboriginal sites. Sites are divided into two, overlapping categories; those which have living cultural significance to Aboriginal peoples today (so called ethnographic or anthropological sites), and those which provide physical evidence of past Aboriginal activities (archaeological sites). The survey and assessment of each category of sites requires the application of distinct expertise and it is likely that both types of surveys will be required for any site or area being assessed. Ultimately the assessment of the degree of Aboriginal significance of a site is determined by the ACMC.

### **Adequacy and Implementation**

The guidelines also do not offer any advice on the conservation of significant sites, or the means for developing management strategies which take account of Aboriginal heritage sites or mitigate the effects of potentially damaging operations. They state only that recommendations to the ACMC should be practicable and detail the steps necessary to fulfil the requirements of the *Aboriginal Heritage Act 1972*.

Although the main priority of guidance issued from the AAD will inevitably focus on sites of indigenous heritage significance, consideration should be made of the identification of existing non-indigenous cultural heritage values which may also relate to the place in question.

## **Recommendations**

R 3

The AAD should consider developing a set of conservation guidelines for sites of Aboriginal cultural heritage value, based on the broad principles and terminology contained in the Burra Charter and the Conservation Plan.

R 4

The AAD should consider developing guidelines in conjunction with the Heritage Council of Western Australia for the consideration, evaluation and protection of places which have both indigenous and non-indigenous cultural heritage values.

#### **4.2.2 Non-Indigenous Cultural Heritage Conservation**

In their series of heritage practice notes, the Heritage Council of Western Australia have produced *'Principles of Conservation on Heritage Places'* (1997). These principles reiterate those of the *Burra Charter* and the *Conservation Plan*, giving more detailed guidance on technical matters such as site investigation and assessment and State legislative processes. The document includes the text of the Burra Charter, although individuals wishing to undertake conservation work are advised by the document to consult the *Illustrated Burra Charter* (Marquis-Kyle and Walker, 1992) which substantially expands on the basic principles of the Charter.

The document stresses that the accurate assessment of heritage significance and the development of appropriate policies to conserve that significance, all in accordance with best practice conservation principles, will enable applications for works to places on the Register of Heritage Places (WA) to be processed more readily. In line with the emphasis of the *Heritage Act 1990*, these 'principles' focus on the assessment and conservation of buildings and similar structures.

#### **Adequacy and Implementation**

The guidance offered in this document is at once broad, in that it refers to the Burra Charter and the need for comprehensive assessment of cultural heritage significance, at the same time that its scope is limited by a primary consideration of built features which may not exhibit the full range of national estate cultural heritage values.

While no specific mention is made of the need to consider indigenous heritage issues and values which may relate to non-indigenous heritage places, there is scope within the context of the assessment of historical evidence, for archaeological reports on buried remains or human activity.

#### **Recommendations**

R 5

HCWA should consider amending *'Principles of Conservation on Heritage Places'* to include specific mention of the need to consider indigenous cultural heritage values which may relate to places primarily perceived as having non-indigenous cultural heritage significance.

R 6

HCWA should consider amending *'Principles of Conservation on Heritage Places'* to include information regarding the provisions of the *Aboriginal Heritage Act 1972* which may also relate to places of non-indigenous cultural heritage value.

R 7

HCWA should consider developing guidelines for the identification, assessment and conservation of individual places which have significant indigenous and non-indigenous cultural heritage values.

## **5 PROTECTIVE MECHANISMS FOR NATIONAL ESTATE CULTURAL HERITAGE VALUES**

The activities of many agencies and organisations may impact upon national estate cultural heritage values. The agencies which have been selected for assessment in this report are those who are most likely to have some degree of responsibility for, or control over, the potentially damaging operations identified in Section 2. Selection has also been guided by the findings of preliminary research on protective mechanisms (legislative and non-legislative) which was undertaken at a earlier stage of the CRA process. Overall, the report focuses on agencies and organisations whose operations are likely to have particularly significant impacts on non-urban areas. The order in which the agencies and organisations are assessed in this report is broadly in accordance with the spatial extent of their responsibilities.

An assessment of the legislation under which the various State Government agencies operate has been undertaken elsewhere within the CRA process. As the range of cultural heritage values being assessed in this report are not always considered holistically in guidance documentation, with indigenous, non-indigenous and aesthetic values often considered separately, these divisions will also be adopted for this report where appropriate.

### **5.1 Western Australian Department of Environmental Protection**

#### ***State Conservation Strategy (1986)***

The State Conservation Strategy was developed following the Western Australian Government's endorsement of the National Conservation Strategy for Australia in 1985 and committed the States to the goals of sustainable development and living resource conservation. The definitions used in both the National and Western Australian Conservation Strategies for 'conservation' and 'development' are those contained in the World Conservation Strategy.

The definition of 'conservation' focuses on 'living resource' conservation and makes no mention of cultural heritage values. These values are however covered in the definition of 'environment' adopted in the State Strategy which has been extracted from the *Environmental Protection Act 1986*. The definition of 'the environment' under the Act states that the environment encompasses the social surroundings of man (sic) which are his aesthetic, cultural, economic and social surroundings, to the extent that they relate directly to his (sic) physical or biological surroundings.

The Western Australian Strategy includes five key conservation objectives, two of which may be considered to have a bearing on the protection of national estate cultural heritage values :

- To maintain and enhance environmental qualities
- To optimize the quality of life for Western Australians.

Key characteristics of the concept of 'quality of life' are considered to be social, cultural, environmental and aesthetic values, as well as others.

The four principles accepted under the National Conservation Strategy of Australia have also been adopted in the State Strategy. None of these relates specifically to cultural heritage, however, the principles to '*Integrate conservation and development*', '*Accumulate knowledge for future application*', and '*Educate the community*' are most relevant to cultural heritage.

The Strategy goes on to give a very broad overview of the environment of Western Australia, a discussion which does not include any reference to either indigenous or non-indigenous cultural heritage values. Several potentially damaging operations are mentioned and their more ecological environmental impacts.

The Strategy develops a series of goals and priorities, in addition to those of the National Conservation Strategy of Australia, in order to help establish a framework for the development of an 'environmental ethic' in the State. The section titled 'Improving the Capacity to Manage' has a subsection which deals with cultural heritage. This states the Strategy's goals as being to 'preserve representative examples of our cultural heritage' and to 'recognise the affinity of the Aboriginal cultural with the natural environment' (Department of the Environment, 1987, p12).

A range of recommendations are given for the implementation of the Strategy, which include ensuring that the activities of departments, authorities and agencies facilitate the promotion and achievement of the objectives in the Strategy, that the EPA is assigned the role of coordinating the progressive implementation of both the State and National Strategies and that departments and agencies are to report annually to the public on the condition of that section of the environment for which they are responsible.

### **Adequacy and Implementation**

None of the very general principles recommended in the *State Conservation Strategy* to achieve the conservation objectives specifically relates to cultural heritage values. Broadly speaking, however, the principles to accumulate knowledge for future application and integrate conservation and development have the potential to impact positively on the protection of cultural heritage values.

The goals developed in the Strategy which relate to cultural heritage do not use terminology which is consistent with accepted definitions as stated in the Burra Charter. In particular, the use of the term 'preserve' could be ambiguous.

### **Recommendations**

R 8

The Western Australian Department of Environmental Protection should consider revising the *State Conservation Strategy* to ensure that terminology used in relation to cultural heritage conservation is consistent with accepted definitions as stated in the Burra Charter.

R 9

The Western Australian Department of Environmental Protection should consider revising the *State Conservation Strategy* to include a requirement that annual reports from State Government departments and agencies include the full range of environmental considerations, and not solely those for which the department or agency is directly responsible.

## 5.2 The Department of Land Administration

The Department of Land Administration (DOLA) is responsible for the operation and implementation of a range of legislation. In relation to the protection of national estate cultural heritage values however, the most relevant Acts are the;

- *Land Administration Act 1997* (LAA) and the *Acts Amendment (Land Administration) Act 1997* (both proclaimed on 30 March 1998)
- *Local Government (Miscellaneous Provisions) Act 1960*, which provides for the administration of the State's roads. (parts of this Act have been replaced by the above two Acts)
- *Parks and Reserves Act 1895*, which provides for a system of management for reserves established under the Land Act.

Broadly speaking, these Acts relate to the administration of Crown Land within Western Australia. Such land includes State forest and other land reserved for special purposes such as nature conservation. The majority of land within the RFA area falls under the remit of these Acts.

Within DOLA, the Land Operations Division is responsible for planning, development, disposition and management of Crown Land. Land under DOLA management can also be vested with other agencies or operators. For example, The 'Conservation Estate' of Western Australia is administered by the Department of Conservation and Land Management (CALM). This 'estate' consists of land held as National Parks or for other nature conservation purposes and such land is vested in the National Parks and Nature Conservation Authority for the 'conservation of flora and fauna' (DOLA, 1996). The management of State forest is vested in the Lands and Forest Commission, also within CALM. Land may also be vested in LGAs, public utilities or other Government agencies. In all instances, however, control ultimately remains with the Crown.

DOLA is also responsible for providing land and geographical information, and for the development of a comprehensive survey and mapping framework which will provide for the State's land information needs.

### ***Crown Land Administration in Western Australia (1996)***

This document outlines the roles and responsibilities of the various divisions and sub-divisions within DOLA. It would appear that no section or sub-section of DOLA has been allocated any responsibilities which specifically relate to cultural heritage values. Nor is there any overall statement to the effect that DOLA is committed to the protection of significant cultural heritage values.

The consideration of some indigenous cultural heritage values may be partially catered for in the Native Title Unit of the Land and Property Services Branch. However the responsibilities of this section relate specifically to the administration of Crown Land in accordance with the *Federal Native Title Act 1993*. The Unit's responsibility for research into historical land tenure may identify places which have national estate values under criteria A.4, B.2, C.2, D.2, G.1, however there is no commitment within the documentation to the protection or conservation of places with these or other national estate cultural heritage values.



### ***Overview of the Land Administration Act 1997 and Acts Amendment (Land Administration) Act 1997***

These two Acts, which were ratified in March 1998, replace the *Land Act 1933*. The Acts also replace the *Land Acquisitions and Public Works Act 1902* and parts of the *Local Government (Miscellaneous Provisions) Act 1960*. In doing so it is hoped that they will streamline and modernise the administration of Crown Land in Western Australia. Overall, this document deals with the changes to existing processes which will be initiated by the proclamation of the Acts. Regulations relating to the Acts were ratified soon after proclamation and some early guidance documents have been published, however as these were published following the drafting of this report, they have not been reviewed.

The new Act contains various potentially damaging operations, for which DOLA and/or the Minister have responsibility for, and which might impact on the protection of cultural heritage values. In particular there is the excisement of land from Class “A” reserves for the use of public utilities. Where these are defined as ‘minor amendments’, consent can be granted by the Minister of the Environment. Major amendments require an Act of Parliament to effect.

### **Adequacy and Implementation**

The document offers no guidance as to the extent to which indigenous or non-indigenous cultural heritage values should be taken into consideration in undertaking DOLA’s responsibilities under the new legislation.

### **Recommendations**

R 10

DOLA should consider developing new guidance relating to the proclamation of the *Land Administration Bill 1997 and Acts Amendment (Land Administration) Bill 1997* which includes a broad policy statement with a commitment to the protection of significant cultural heritage values on land for which it is responsible. Compliance with the policy should be expected from other agencies and operators in whom DOLA has vested land. The policy should be consistent with the terminology of the Burra Charter and conservation best practice.

### **5.3 Department of Conservation and Land Management**

The Department of Conservation and Land Management are responsible for the implementation of the *Conservation and Land Management Act 1984*. Under this Act and subsequent amendments, CALM are responsible for the following categories of land; State forests, timber reserves, national parks, conservation parks, nature reserves, marine nature reserves, marine parks, marine management areas and any other land vested to it under the *Land Act 1933*. The Lands and Forestry Commission is responsible for the preparation and administration of management plans for State forests, timber reserves and other land vested under the *Land Act 1933*. The National Parks and Nature Conservation Authority are responsible for the preparation and administration of management plans for national parks, conservation parks, nature reserves and other land vested to it under the *Land Act 1933*.

CALM is responsible for the management of a range of potentially damaging operations within the RFA which include activities relating to timber harvesting in native and plantation forests such as road construction, clear felling, aerial burn-offs, prescribed burning, advanced burning (one year prior to harvesting an area of hardwood) and the

planting or regeneration of harvested land. CALM is also responsible for the ecological management of land vested in its care and is therefore also concerned with issues such as insect attacks, the spread of fungal diseases such as dieback, mechanisms to prevent or control wildfires and the spread of weeds and pests.

In seeking to identify protective mechanisms within CALM for national estate cultural heritage values, this section is organised according to the CALM management structure :

- I Fundamental Principles
- II Departmental Policies and management guidelines
- III Management Plans
- IV Plan Implementation by regions/districts
- V Monitoring and review (CALM, 1987d)

A range of general recommendations have been identified which relate to many of the CALM documents examined in this section. These should be referred to in addition to those specifically developed for individual documents. These recommendations are as follows;

R 11  
CALM should consider adopting the use of terminology which is consistent with that accepted in cultural heritage conservation, as stated in the Burra Charter, in order to avoid ambiguity.

R 12  
CALM should consider making a commitment to the use of acknowledged best practice conservation principles in the development of management plans and strategies for places of national estate cultural heritage significance.

R 13  
CALM should consider developing policies which make a commitment to the *conservation* of national cultural heritage values in order to ensure their spatial and temporal protection.

**R 14**

Where CALM regulated potentially damaging operations may impact on national estate cultural heritage values, these values should be included in the environmental factors to be considered prior to any action being taken.

**R 15**

CALM should consider adopting a standard nomenclature for use in documentation which draws clear distinctions between commonly used terminology such as 'goals', 'objectives', 'strategies', etc in order to avoid confusion and ambiguity.

**R 16**

CALM should consider the immediate appointment of Policy Officers responsible for indigenous and non-indigenous cultural heritage.

**R 17**

CALM should consider including a reference to the requirements of State and Federal legislation which deal with cultural heritage values in any documentation which may impact on cultural heritage.

**R 18**

CALM should consider ensuring that the full range of national estate values, including those relating to cultural heritage, are referred to in all documentation which deals with this subject in order to avoid misunderstandings as to the nature and extent of national estate values.

### **5.3.1 Fundamental Principles**

Under the terms of the *Conservation and Land Management Act 1984* and subsequent amendments, the conservation of features of archaeological, historic and scientific interest are to be considered in the case of land classified as nature or marine reserves, national parks and conservation parks and marine parks. In the case of marine management areas, there is a broad commitment to their use for conservation, recreational, scientific and commercial purposes, but no specific reference of the need to conserve values which relate more directly those being assessed in this report.

For areas of State forest and timber reserves, the Act has recently been amended to include provision for the retention of a range of values, and this is discussed in more detail in following sections of this report. For other lands vested in CALM, the aim of management plans to achieve the objectives set out in the vesting.

### **Adequacy and implementation**

National estate cultural heritage values encompass a range of values which can broadly be grouped under the four major headings of aesthetic, historic, scientific and social. In view of this, the terms of the *Conservation and Land Management Act 1984* do not provide for the identification and protection of the full range of national estate cultural heritage values. In particular, there is an apparent lack of consideration of aesthetic values associated with cultural heritage and of social values. To some extent, the latter may be included in the consideration of recreation on CALM lands, however, the interpretation of social value within the national estate is far wider than recreation and includes spiritual and other emotive values communities may have for places.

The Act is not specific as to the level of ‘interest’ or significance places of archaeological, historic or scientific value must have in order to be ‘preserved’. As the listing of places of cultural heritage value is undertaken by a wide range of Government and non-Government organisations, the wording of the Act does not necessarily ensure that places of national estate value will be of sufficient ‘interest’.

Various terms are used within the act to indicate the commitment of CALM to cultural heritage conservation. Predominantly the term ‘preservation’ is used. This term has a very specific meaning within the conservation profession, one which is distinct from ‘conservation’ (see Appendix III) and describes a process which may not have been that intended by the Act.

## Recommendations

R 19

The State Government should consider amending the *Conservation and Land Management Act 1984* to ensure that :

- i) It adequately provides for the identification of the full range of national estate cultural heritage values;
- ii) It uses terminology which is consistent with those definitions set down in the Burra Charter;
- iii) It includes a commitment to the conservation of significant places to ensure spatial and temporal protection;
- iv) It clarifies the level of ‘significance’ required for conservation.

### 5.3.2 Departmental Policies and Management Guidelines

#### 5.3.2.1 Policy Statements

CALM have not as yet issued policy statements specifically relating to either indigenous or non-indigenous cultural heritage. While there is a Senior Aboriginal Heritage Officer within CALM, their duties focus on the relationship between Aboriginal heritage, community education and tourism. Information on Aboriginal heritage places, other than the site number allocated by the AAD, is not held within CALM and matters which relate to Aboriginal heritage are immediately referred to the AAD (Nannup, 1998). There is no Senior Officer with responsibilities for non-indigenous cultural heritage.

CALM Policy statement 34, *Visual Resource Management on Lands and Waters Managed by CALM* (1989a) details policies for achieving the objective of ensuring that all ‘land uses and waters managed by CALM are planned and carried out in ways that sustain the beauty of the natural environment’ (s 1). The statement defines landscape as ‘the appearance or visual quality of an area as determined by its geology, soils, landforms, vegetation, water features and land use history’ (s.3). While the policy stresses the need for management decisions to be developed on the basis of a thorough knowledge and assessment of the landscape and land uses, there is no specific mention of the need to include information on the full range of cultural heritage values.

In line with this approach, CALM’s visual resource management system (VRM) does not incorporate specific information on cultural heritage values into its assessment process. Emphasis is placed in the assessment process on the ‘physical landscape and social considerations (peoples’ concern for scenic quality)’ (CALM, 1989, p1). This approach is largely consistent with VRM systems which have been developed elsewhere in Australia and abroad (Cleary, 1998). This approach has been adopted despite the fact

that many national estate cultural heritage values may influence the wider landscape in a variety of ways or may have values which are in turn, dependant to a degree on the condition or presence of features in the wider landscape, such as the setting of a homestead to take advantage of a particular view.

Provision for the consideration of cultural heritage values is only made at the second stage of the VRM system after the assessment of the physical landscape and social conditions. This is the Project Application Level, when VRM objectives are integrated with other land use allocations and management planning (CALM, 1989b).

Computerised data collected during the predominantly desk-based VRM studies and assessments, are used in the development of landscape maps from the system. The inclusion of data relating to cultural heritage values could readily be included in the data collection and mapping process. The result could be the allocation of high priority buffer zones around cultural heritage places which are capable of protecting their cultural heritage values (Cleary, 1998).

### **Adequacy and Implementation**

There are gaps in CALM's policy framework relating to indigenous and non-indigenous cultural heritage, and there is also a lack of suitably qualified and experienced staff within the organisation *dedicated* to indigenous and non-indigenous cultural heritage issues. In combination, these factors mean there is no central reference point for CALM staff to obtain guidance on cultural heritage issues in order to make informed management decisions. The fact that guidance must be sought in documents with more specific objectives or relating to particular CALM lands, is likely to result in a less rigorous approach to cultural heritage matters than might be desired or required by the Department. The ESFM report highlighted the absence of a CALM policy statement and recommended that this omission be addressed.

While some national estate values may be identified during the VRM process, particularly those under criteria G.1 or E.1, it is doubtful whether they could be seen to be directly comparable to those of the AHC. The VRM system relies primarily on desk-based studies and there is no community consultation undertaken either as part of the information gathering process, or to verify landscape values. This process differs markedly from that used by the AHC in determining value under criteria G.1 and E.1.

The absence of the inclusion of information regarding cultural heritage values and the extent to which they may relate to the wider landscape, may mean that management decisions are taken on the basis of VRM which are in conflict with the objective to protect cultural heritage values on CALM land. While the lack of consideration given to cultural heritage values in the development of VRM objectives is consistent with the traditional application of this system, there is evidence to suggest that it is not only possible, but also desirable, to widen the data set in VRM assessments. The VRM Section of CALM were recently involved in a VRM assessment as part of the *Leeuwin-Naturalist Ridge Planning Review* (1997). This involved the successful inclusion of cultural values into the assessment of areas of natural landscape value, as well as those which have been greatly modified by human activities. While the cultural values included were limited to aesthetic, social and historic and were therefore not as extensive as those developed for the national estate, the project gives an indication of the possible development of a more integrated and holistic VRM system.

Despite its undoubted value and its potential for the development of more holistic landscape assessments, the use of VRM systems is not currently considered to be a requirement in the development of regional or area management plans.

### Recommendations

Recommendations made in the introduction to this section on CALM also relate to these documents.

R 20

CALM should consider the development of Policy Statements which specifically relate to indigenous and non-indigenous cultural heritage. These should incorporate strategies for the identification and conservation of places with national estate cultural heritage values.

R 21

CALM should seek to develop an integrated VRM system which takes account of national estate cultural heritage values.

R 22

CALM should give consideration to making the application of an integrated VRM system a requirement in the development of regional and area management plans.

### 5.3.3 Management Plans

#### 5.3.3.1 Forest Management Plan 1994 – 2003

The *Forest Management Plan 1994 – 2003* applies to areas of State forest and timber reserves within the Swan, Central and Southern forest regions. The Plan does not revoke the three 1987 Regional Forest Management Plans but where they deal with the same issues, the provisions of the Forest Management Plan (FMP to the Plan) take precedence. The FMP does however, supersede guidance relating to processes which impact on national estate cultural heritage values covered in the *Timber Production in Western Australia: A Strategy to take WA's south-west forests into the 21<sup>st</sup> century* (CALM, 1987e) and the *Strategies for Conservation and Recreation on CALM Lands in Western Australia* (1987). In the absence of policy statements on indigenous and non-indigenous cultural heritage, the Plan sets out departmental guidelines to be used in relation to CALM operations which impact on these values.

In accordance with the terms of the *Conservation and Land Management Act (1984)* the Plan covers areas reserved for 'conservation, recreation, timber production on a sustained yield basis, water catchment protection and other purposes being a purpose prescribed by the regulation' (CALM, 1994, p1). Following amendments to the CALM Act and in line with other national issues relating to land management, the FMP states CALM's new overall objective for the management of native forests in Western Australia as being

*'To manage the native forests of the south-west of Western Australia, in consultation with the community, so that they provide the values required by society while sustaining their biological and social diversity'. (CALM, 1994, p1).*

This primary objective translates into a recognition of the need to manage forest areas for a range of community values, or the Multiple Purpose Management Principle (p7). In order to effect this primary objective the FMP develops a series of secondary Objectives, and these form CALM's Forest Policy Statement. Each of these Objectives

states its broad aim and then sets out a short list of how this will be achieved. On the basis of the Objectives in the Forest Policy Statement, management strategies are developed later in the Plan. Cultural heritage is included under the Management Objective. Potentially damaging operations are covered under several Objectives. The final section of the Plan outlines those values to be included in the development of forest management strategies.

The Plan also develops a series of six ‘devices’ to effect the Objectives of the Forest Policy Statement. Of particular relevance to cultural heritage are commitments to develop issue plans, departmental policies and prescriptions, and processes to direct research priorities.

### **Cultural Heritage**

The aim of the Management Objective which incorporates cultural heritage is ‘to protect and enhance identified forest values and to employ the best practices in managing forest ecosystems’(CALM, 1994, p2). The list outlining how CALM will achieve this Objective includes the following commitments which relate directly or indirectly to cultural heritage values :-

- Identify and publish values to be managed in each forested area
- Manage forests for as many uses as their vesting purpose allows to satisfy and sustain, as far as possible, the diverse expectations of society
- Identify areas of special significance for individual forest values and consider their protection in management planning and operations
- Identify and protect Aboriginal and European cultural values during forest management operations
- Manage timber harvesting to ensure economic efficiency while sustaining other forest values
- Plan and implement the prevention of, and response to, wildfires at a level commensurate with their potential to damage life, property and identified forest values.
- Manage operations in ways that sustain the beauty of the forest through the application of landscape planning and design principles (CALM, 1994, p2).

Strategies for the identification of cultural heritage values are specified in the Managing Native Forests for Multiple Purposes section of the plan. These are, that :

- All areas of special cultural, biological, aesthetic or physical significance will be identified and recorded in CALM’s geographic information system.
- The process of identification of areas of special significance will be continuously upgraded
- Management prescriptions will be applied to protect the values of areas of special significance (p26).

Areas of ‘special significance’ are defined as those which meet the threshold for national estate listing. At the time of Plan’s publication, there had been no systematic recording of either indigenous or non-indigenous cultural heritage values within the South West Forest region.

In the section on Managed Forest Values, national estate and cultural values are discussed separately. The national estate values outlined are principally those identified in the joint assessment project undertaken between CALM and the AHC in 1992. The

majority of places identified in that study were not assessed in terms of the cultural heritage values under consideration in this report. As a consequence, the planning and operational guidelines which CALM develops in this section of the Plan to minimise the impact of timber production on sensitive national estate values, relate principally to the protection of natural, as opposed to cultural, heritage values. For example, silvicultural management programmes to enable national estate values to 're-establish' (p 47) are not likely to be relevant to the majority of cultural heritage values. On the specific subject of cultural sites, this section of the Plan states that these will be recorded and protected from disturbance which may affect their values. In the case of places with European cultural heritage values, programmes for their 'maintenance and restoration' (p48) are to be developed in consultation with local interest groups.

### **Potentially Damaging Operations**

Potentially damaging operations are covered under several Objectives in the Forest Policy Statement, most significantly those relating to Production, Tourism and Recreation, and Management, the latter of which deals with the control of feral animals, diseases, fire, weeds and other pests. An individual strategy is given for the management of the visual landscape and a detailed examination of Visual Resource Management is made in section 5.3.2.1 of this report

All of the Objectives in the Forest Policy Statement indicate the need to consider other values in the pursuit of their aims. However, the degree and extent of that consideration does not appear to be consistent. For example, the Production Objective states as one of its commitments to 'manage the commercial resources of the forest to maximise social and economic benefits to the State, *while having regard for other values*' (CALM, 1994, p3) (author's italics). Such a commitment may be taken to imply that social and economic values are viewed preferentially to other values. By comparison, the Tourism and Recreation Objective, states that management will be undertaken '*..to ensure other values are sustained*' (CALM, 1994, p4), implying a far less compromising position.

### **Adequacy and Implementation**

The FMP indicates a general commitment on the part of CALM to the identification and protection of significant cultural heritage values. As the Plan defines places of 'special significance' as those of national estate significance, it should be the case that all the cultural heritage values under consideration in this report will also be taken into account within the broad objectives of the Multiple Purpose Management Principle. At the detailed level, however, there are several features of the FMP which serve to dilute CALM's commitment in this area.

As a general comment, the presence of multiple overlapping and intersecting guidance confuses and obscures CALM's commitment to the protection of cultural heritage values. This is particularly the case in the confusing relationship between the Forest Management Plan and the Regional Plans, it being unclear as to precisely which aspects of the latter have been superseded by the former.

### **Cultural Heritage Values**

In general the Forest Management Plan does not clearly indicate that CALM has a comprehensive understanding of the full range of national estate values which may be present in the South West Forests. This is evidenced in the omission of cultural heritage values from discussions on national estate values, particularly within the context of areas of special significance. While CALM states that 'by definition, areas with attributes that achieve the "threshold" level for national estate listing are areas of special



significance' (p25), it is not clear whether this statement is made only in relation to places with natural values or applies to all national estate values. The issue becomes even more uncertain in the Management Objective which clearly separates Indigenous and European cultural values from areas of special significance i.e. those with national estate values. In doing so, it becomes unclear as to whether the full range of national estate cultural heritage values will be considered under this Management Objective, or whether another set of cultural values will apply. As there are different management priorities for areas of special significance and places with Indigenous and European cultural values, the degree to which the designation of 'areas of special significance' applies to places with cultural heritage values should be clarified.

Inconsistencies between Forest Policy Statement Objectives and subsequent Strategies further cloud CALM's aims and objectives, for example, the Management Objective states that CALM will 'consider' the protection of areas of special significance (i.e. those with National Estate values), while the Strategy states that 'management prescriptions will be applied to protect those areas' (26). This confusion is exacerbated by changes in terminology which occur both within and between sections of the Plan, for example in relation to the protection of cultural heritage values, the terms change from 'protect and enhance' (p2), to 'sustain' (p2), to 'restoration' (p48). Some of this terminology is not defined or in common usage in the heritage profession, and terms that are, such as 'restoration', are possibly misleading in the FMP due to their very specific definitions in the Burra Charter (see Appendix III).

The Plan contains only broad outlines of how strategies relating to cultural heritage will be put into effect. Most significantly, there are no specific details of how the identification and protection of national estate values will be achieved. CALM's commitment to undertaking these processes 'during forest management operations' (p 2) is vague and gives no indication of during which particular operations this will occur. It is also unclear what CALM means through a commitment to the 'upgrading' (p 26) of identification processes for areas of special significance. The term 'conservation' has not been used in the FMP in relation to cultural heritage values. There is not, therefore, a strong sense of commitment in the Plan to ensuring the temporal as well as spatial protection of places with cultural heritage values.

While the Plan commits CALM to the use of 'best practice' in managing forest ecosystems (p 2) and during forest based operations (p 3), there is no commensurate commitment to the use of acknowledged best practice in relation to the management of places with cultural heritage values. Similarly, in relation to 'management prescriptions' to protect the values of areas of special significance (p 26), there is no indication that, if these apply to places with cultural heritage values, the prescriptions will also be consistent acknowledged best practice.

The overall lack of detailed guidance in the Forest Management Plan for the implementation of objectives and strategies relating to national estate cultural heritage values is of particular concern in view of the absence of CALM Policy Statements on either historic or indigenous/aboriginal cultural heritage.

Finally the Plan makes no reference to the presence of or the need to adhere to the terms of either the *Heritage Act of Western Australia 1991* or the *Aboriginal Heritage Act 1972*, or to liaise or consult with the bodies which implement this legislation.

**Potentially Damaging Operations**

The unique remit of CALM means that there is the potential for tension between many of the organisation's Objectives. Conflict may occur for example between the protection of certain cultural heritage values and some processes involved in timber extraction. As far as possible, CALM aims to resolve such conflicts through the Multiple Purpose Management Principle. However, in light of this potential for conflict, it is important that each of the Objectives in the Forest Policy Statement show similar levels of commitment and respect for each others aims. Currently, this appears to be vary between Objectives. As a result, the commitment of the organisation as a whole may appear biased towards certain Objectives at the expense of others. In particular, it may appear weak in relation to the protection of cultural heritage values.

## Recommendations

Recommendations made in the introduction to this section on CALM and in Section 5.3.2.1 also relate to The Forest Management Plan.

R 23

CALM should consider amending the Forest Management Plan in order to clarifying the designation and protection of ‘areas of special significance’, and in particular how these relate to areas with national estate cultural heritage values.

R 24

CALM should consider amending the Forest Management Plan to ensure that each Objective in the Forest Policy Statement makes a commitment to the conservation of forest values other than those of its specific remit.

### 5.3.3.2 Regional Management Plans

Management plans were released in 1987 for the three forest regions of the south-west of Western Australia, namely the Northern (renamed Swan), Central and Southern regions. These management plans are designed to provide regional strategies in addition to departmental guidelines and policies. Where the issues contained within these plans overlap with those of the *Forest Management Plan 1994-2003* the latter takes precedence.

### Adequacy and Implementation

While in some instances it is clear that the policies, strategies and guidance contained in the Forest Management Plan do supersede those of the Regional Management Plans, there is uncertainty as to whether there are remain some elements of the Regional Plans which continue to be CALM policy.

## Recommendations

Recommendations made in the introduction to this section on CALM also relate to Regional Forest Plans.

R 25

CALM should consider clarifying the status of the Regional Management Plans, particularly in relation to the Forest Management Plan, and publish details of which policies, strategies and guidance relating to national estate cultural heritage values contained in those Plans continues to be implemented by CALM.

### 5.3.3.3 Area Management Plans

Management plans for National Parks are prepared for the National Parks and Nature Conservation Authority. To date, five National Park Management Plans have been compiled for parks in the RFA area as well as a management plan for the Lane Poole Reserve;

- Shannon-D’Entrecasteaux National Park (1987)
- Leeuwin-Naturalist National Park (1989)
- Lane Poole Reserve (1990)
- Walpole-Nornalup National Park (1992)
- John Forrest National Park (1994)
- Serpentine National Park

The contents of all CALM management plans is stipulated in the *Conservation and Land Management Act 1984*. The Act also gives additional specifications for national park management plans, stating that these must be designed ‘to fulfil as much of the demand for recreation as is consistent with the maintenance and restoration of the natural environment, the protection of flora and fauna, and the preservation of any feature of archaeological, historic or scientific interest’ (*Conservation and Land Management Act 1984*, S 56(1)). It is therefore the case that a range of cultural heritage values must be taken into consideration during the compilation of management plans for national parks.

### **Adequacy and Implementation**

The guidance relating to the compilation of management plans which is contained within the *Conservation and Land Management Act 1984* does not use terminology which is consistent with that of the Burra Charter. This may lead to ambiguity as to CALM’s aims and objectives in relation to national estate cultural heritage.

The range of values listed in the Act ‘archaeological, historic and scientific’ is not broad enough to encompass the full range of national estate cultural heritage values. In particular there is no specific mention of social values (Criterion G.1) or aesthetic values (Criterion E.1). It is also doubtful whether CALM’s interpretation of scientific values corresponds fully with that of the AHC.

The extreme variations in the structure of National Park Management Plans, and the inconsistent use of terminology (i.e. aims/objectives/prescriptions/strategies/goals etc) has the potential to cause confusion and obscure CALM objectives.

### **General Recommendations**

Recommendations made in the introduction to this section on CALM and the recommendation in Section 5.2.1, Fundamental Principles, regarding amendments to the *Conservation and Land Management Act 1984* also apply to this section on Area Management Plans.

R 26

CALM should consider the development and implementation of an approved structure for Area Management Plans in order to achieve consistency in the identification and assessment of park resources. The structure should include the consideration of national estate cultural heritage values.

Although the structure of the management plans differ from one another, this report has identified two common issues and assessed these across all the plans. The issues of the identification and assessment of cultural heritage, and the development of attendant management goals and objectives are discussed in the following section along with Visual Resource Management and policies relating to potentially damaging operations.

#### **5.3.3.3.1 Identification and Assessment of Cultural Heritage**

All plans mention the need for adherence to the prescriptions of the *Aboriginal Heritage Act 1972*. Only two of the plans post-date the *Heritage Act of Western Australia*, however neither of these makes any reference of the requirement to adhere to the prescriptions of that Act. National estate cultural heritage values are only mentioned in the context of John Forrest National Park, the entirety of which is listed on the RNE. The Plan for this National Park does not, however, indicate for which national estate cultural heritage values this listing has been made.

Overall, the identification of cultural heritage values within National Parks and reserves appears to have been done in an ad hoc manner. All of the Plans except Leeuwin-Naturalist and Lane Poole Reserve give some degree of information on the historic use of the parks by indigenous and non-indigenous peoples in order to set the context for cultural heritage values. All Plans except those for the Shannon-D'Entrecasteaux and Walpole-Nornalup National Parks give an indication of the number of sites of indigenous heritage significance which have been identified, however none cite which organisations have identified these sites. Only one plan, Leeuwin-Naturalist, presents a list of non-indigenous sites, which in this case have been identified as significant by the National Trust of Western Australia.

The lack of systematic surveys of indigenous cultural heritage in the National Parks is highlighted in all the Plans. A similar lack of awareness of non-indigenous heritage is also highlighted in the Plan for Lane Poole Reserve.

### **Adequacy and Implementation**

There is no consistency across the Plans on the identification of cultural heritage places, and no commensurate awareness of the range of values which may be present at those places. In particular, only one reference is made to the RNE and then no explanatory information is given regarding this listing. The limited approach adopted to the identification of cultural heritage resources in Area Management Plans means that many national estate values have been considered.

Despite the lack of information on sites of indigenous cultural heritage highlighted in all the Plans, not all give a commitment to undertaking comprehensive surveys to address this issue; the Plans for Walpole-Nornalup and Leeuwin-Naturalist giving only give a commitment to *encouraging* site studies by or in conjunction with other institutions. None of the plans give any guidance as to the methods or principles such studies should incorporate. A similar commitment to the undertaking of systematic surveys of non-indigenous cultural heritage is only present in the Shannon-D'Entrecasteaux Management Plan although the Lane Poole Reserve Plan states that it will encourage interested locals to record sites they are aware of.

In view of the difficulties of undertaking comprehensive surveys on thickly forested land, CALM officers and operators can play a role in the identification of both indigenous and non-indigenous cultural heritage places during forestry activities if properly trained. This role is acknowledged in the management plan for the Lane Poole Reserve, but then only in relation to non-indigenous heritage.

The identification and protection of the national estate value assessed under criterion G.1 (social, cultural or spiritual value) is unlikely to be adequately undertaken in the management plans for National Parks and reserves. Although there is scope for this value to be addressed in the assessment of current uses of the Parks, these sections of the Plans tend to focus primarily on recreational activity, largely ignoring other possible social values. While social values may be identified during the course of ethnographic studies for sites of Aboriginal significance, there is not a uniform commitment across the Plans to undertaking such studies. Liaison with local indigenous communities could go some way to addressing this shortfall, however only the two most recent Plans, for Walpole-Nornalup and John Forrest National Parks, make a commitment to identifying and communicating with such communities. Community consultation regarding non-indigenous cultural heritage is only addressed in the Lane Poole Reserve Management Plan.

The overall inadequate assessment of the full extent of the cultural heritage resource within the Plans means that the CALM objective to protect and conserve cannot be realised.

### **Recommendations**

Recommendations made in the introduction to this section on CALM also relate to Area Management Plans.

R 27

CALM should consider amending or reviewing current management plans for National Parks to ensure that information contained within them is consistent with current legislative requirements and conservation best practice.

R 28

CALM should ensure that all places and features with potential cultural heritage value are considered in National Park Management Plans.

R 29

CALM should ensure that National Park Management Plans make a commitment to community consultation processes in relation to the identification of cultural heritage values.

#### **5.3.3.3.2 Management Goals and Objectives**

All the Plans contain a series of management objectives or goals which have been developed from the terms of the *Conservation and Land Management Act 1984* and other departmental policies and these are identical for each of the Plans. The objective which relates to cultural heritage states that CALM will 'Protect and conserve physical, cultural and scenic resources'. Despite stating this objective (or goal as it is also referred to) in the introductory sections of each Plan, it is not carried through to subsequent sections dealing with goals, objectives, strategies and actions applicable to specific resources in a clear and consistent manner.

There is an inconsistent use of terminology relating to cultural heritage both between Area Management Plans and even within the individual plans themselves. Furthermore, no definitions are given for the terms that are used eg 'conservation', 'protection, preservation'. For example, the Walpole-Nornalup National Park Management Plan (1992), changes an initial commitment to '*Conserve* the Aboriginal and European history of the Park' (p47) to an aim to '*protect*'. Similarly in the John Forest National Park Management Plan (1994), one of the specific conservation goals is a commitment to the 'conservation' of landscapes and Aboriginal and non-Aboriginal heritage. However, in detailing Cultural Resource Management, the objective changes to a commitment to 'protect' Aboriginal and European cultural heritage, omitting the use of the word 'conserve'. The same substitution occurs in the Lane Poole Reserve Management Plan (1990) where it develops management objectives specific to indigenous and non-indigenous cultural heritage. The Leeuwin-Naturalist National Park Management Plan (1989) has a different structure to the other Plans and develops a strategy followed by a series of 'actions'. In relation to Aboriginal sites, the term 'conserve' used in the broad management objective, is replaced with the term 'protect'. However, for 'historic' sites, no broad commitment to either conserve or protect is given. Instead, there is a commitment to establishing conservation areas at those sites identified as significant by the National Trust.

In addition to these variations, the Plans for the Lane Poole Reserve and Walpole-Nornalup National Park use the term ‘preserve’ in management prescriptions/actions, while the Shannon-D’Entrecasteaux Plan refers to a commitment to ‘restore’. These terms are not defined in Plans and their use is therefore ambiguous and unlikely to be consistent with those of the Burra Charter. Only the Plan for John Forrest National Park makes any reference to the use of best practice principles, specifically the Burra Charter, in the conservation of non-indigenous cultural heritage.

### **Adequacy and Implementation**

As discussed in Section 2 of this report, there is a distinction between the terms ‘protect’ and ‘conserve’ which relates to their spatial and temporal capacity to retain cultural heritage values. The terms are therefore not interchangeable. In view of the fact that CALM’s stated objective towards cultural heritage is a commitment to ‘conserve’, this term should be used consistently throughout management plans for national parks and other documents. The present inconsistent use of conservation terminology between and within Area Management Plans creates confusion as to CALM’s objectives in relation to cultural heritage values. Furthermore, it is unlikely that the current usage of terms is consistent with definitions accepted in the Burra Charter.

### **Recommendations**

Recommendations made in the introduction to this section on CALM also relate to Area Management Plans.

R 30

CALM should ensure that objectives, strategies, prescriptions, actions etc developed in Area Management Plans are consistent with the broad Management Objective applicable to all National Parks and reserves both in terms of terminology and intent.

#### **5.3.3.3.3 Visual/Aesthetic Management**

Some Parks had undergone either VRM or other landscape or view assessments prior to the compilation of the Plans (Walpole-Nornalup, Leeuwin-Naturalist, John Forrest). Only the John Forrest Plan specifically mentions the contribution that cultural heritage plays in the visual landscape. In general emphasis of sections dealing with Landscape issues is focussed on ‘natural’ features. This is in line with the process adopted in the VRM system discussed in Section 5.3.2.1.

### **Adequacy and Implementation**

The overall adequacy and implementation of VRM is discussed in Section 5.3.2.1 of this report.

Despite the mention of the value of cultural heritage elements within the landscape of John Forrest National Park, the reports outline of landscape studies which have been undertaken on the Park focuses exclusively on natural landscape features.

#### **5.3.3.3.4 Potentially Damaging Operations**

All the Plans include actions/prescriptions/objectives which relate to potentially damaging operations on CALM land including fire, feral animals, weeds, fungal diseases and in some instances timber extraction and mining. None of these sections make reference to the impact that potentially damaging operations, or methods to control them, may have on cultural heritage values within the parks.

### 5.3.4 Codes of Practice

#### 5.3.4.1 *Code of Practice for Timber Harvesting (1997)*

This manual is a set of concise practice instructions for timber harvesting operations in State forest and on other Crown lands managed by CALM and is complemented by the more detailed Manual of Harvesting Specifications discussed in section 5.3.4.2 of this report. It is the primary source of guidance for Forest Officers In Charge of specific of harvesting operations. The Code also applies to operations on any private property in regions where CALM is responsible for the management of timber harvesting.

The Code does not contain a definition of the term ‘environment’, and it would therefore appear to be the case that cultural heritage values can be considered under the General Environmental Protection heading of the Code. This states that ‘The contractor will comply with all other requirements notified by a Forest Officer for the purposes of environmental protection’ (CALM, 1997, p12).

The Code states that operators are responsible for ensuring that there are no breaches of the *Conservation and Land Management Act 1984* and the *OSH Act* are made during operations. No other legislation is mentioned.

The Code deals with a range of potentially damaging operations which relate to harvesting activities, including dieback, fire, feral animals and weeds in the section on Environmental Protection. There is no specific mention however of the need to consider or protect cultural heritage values during harvesting operations, despite the fact that there is a section dealing with this topic in the Manual of Harvesting Specifications.

#### **Adequacy and Implementation**

The Code contains inadequate information on cultural heritage values and their protection. There is no specific mention of the need to protect cultural heritage values during harvesting operations. Cultural heritage values should be included with broader environmental protection concerns, as is the case in the Code of Practice which has been developed for timber plantations, discussed in Section 5.3.4.3 of this report.

The list of legislation which may be breached given in the Code is not comprehensive. In particular it does not include the *Aboriginal Heritage Act 1972* or the *Heritage Act 1990*.

#### **Recommendations**

Recommendations made in the introduction to this section on CALM also relate to Codes of Practice.

R 31

CALM should consider amending the *Code of Practice for Timber Harvesting* to include a requirement that operators comply with the provisions of the *Aboriginal Heritage Act 1972* and the *Heritage Act 1990*.

R 32

CALM should consider amending the *Code of Practice for Timber Harvesting* to include cultural heritage values in the list of factors to be considered in Environmental Protection.

R 33

CALM should consider amending the *Code of Practice for Timber Harvesting* to include a specific section relating to the protection of cultural heritage values.



#### **5.3.4.2 Timber Harvesting in Western Australia: Manual of Harvesting Specifications (1996)**

This manual contains details of management practices relating to a range of specific CALM processes and procedures and is designed to complement the Code of Practice for Timber Harvesting which is discussed in Section 5.3.4.1 of this report.

‘Short Term Integrated Harvesting and Regeneration Plans’ are compiled a year in advance for areas of State forest to be harvested by staff in the three Regions. These are then used by CALM staff and contractors. The Manual gives a list of factors and features which the Plans must cover. There is no specific consideration of cultural heritage issues, although some reference is made in subsequent guidance to the protection of landscape features in this process.

A ‘Pre Harvesting Checklist’ (CLM 109 (1995)) must be prepared for each area. These contain provision for the mention of any known sites of ‘Aboriginal, archaeological or cultural’ significance on the harvesting site which need to be protected. There is no guidance as to where such information can be obtained. There is no indication in the manual of who determines the appropriate action required to protect such sites. Consideration is also given to landscape management on the checklist. However, the section which expands on this topic and outlines options for protecting landscape features during harvesting gives no indication as to which protective processes are appropriate for which features, or the need to consider the specific values of each place.

‘Hardwood Harvesting and Inspection Forms’ (CLM 105 (1995)) are used to guide General Inspections of harvesting operations. The range of environmental controls which are checked during this process does not include cultural heritage values or places.

The Manual gives guidance on a range of timber harvesting operations, several of which involve potentially damaging operations which are additional to the actual harvesting activity, such as road construction and resurfacing, advanced burning, the location of extraction operations. Section 5 of the Manual deals with environmental protection and includes guidance on various potentially damaging operations including dieback, fire prevention. These sections do not specifically mention cultural heritage values which may need to be protected or considered.

#### **Adequacy and Implementation**

Consideration of cultural heritage values is not clearly evident in the Manual.

Professional heritage expertise is necessary to assess the impact of harvesting operations on cultural heritage values, including aesthetic/landscape values, and to determine suitable protection. Officers should be assigned within CALM with responsibility for non-indigenous and indigenous cultural heritage and the ability to provide advice and training.

No mention is made of the need to adhere to the prescriptions of the *Aboriginal Heritage Act 1972* while undertaking harvesting operations, despite the fact that surveys of State forest for indigenous heritage places are currently inadequate. Timber harvesting contractors and CALM staff may well encounter sites during forest operations and guidelines for the protection of these places are required.

The Forest Officer In Charge should be required to check on conditions to protect cultural heritage values during the course of General Inspections, and to ensure that there is compliance on site with the prescriptions of the *Aboriginal Heritage Act 1972* and the *Heritage of Western Australia Act 1990*.

### **Recommendations**

Recommendations made in the introduction to this section on CALM also relate to Codes of Practice.

R 34

CALM should consider amending the Manual of Harvesting Specifications to include the need to protect cultural heritage values in Short Term Integrated Harvesting and Regeneration Plans.

R 35

CALM should include reference in the Manual of Harvesting Specifications to the provision of the *Aboriginal Heritage Act 1972*.

R 36

CALM should consider amending the provisions of General Inspections undertaken according to the Hardwood Harvesting Inspection and Action Sheet (CLM 105 (1995) to include consideration of cultural heritage values.

#### **5.3.4.3 Code of Practice for Timber Plantations (CALM and Australian Forest Growers, undated)**

This Code provides goals and guidelines so that operations in plantations can be undertaken in a manner which is in accordance with *Forest Practices Related to Wood Production in Plantations: National Principles* (1996). The Code also facilitates the assessment of plantation timber practice by the Commonwealth.

The Code includes an extract from the *Forest Practices Related to Wood Production in Plantations: National Principles* (1996). In relation to cultural heritage values, these state that ‘high scenic quality’ and ‘cultural heritage sites’ should be recognised in the planning of plantations; cultural and landscape values should be protected through careful location, construction and maintenance of roads and the regulation of their use, landscape values should be protected by careful planning of plantation layout, operations and the reservation of areas of native vegetation; and such values should be recognised in subsequent management plans.

The Code gives a comprehensive list of legislation which is relevant to plantation activities which includes the *Aboriginal Heritage Act 1972*, the *Heritage of Western Australia Act 1990* and the *Australian Heritage Commission Act 1974*.

A series of goals are developed in the plan and these are continuously referred back to during the course of the development of related guidelines and procedures. The distinctions and relationships between each of these three terms (goals, guidelines and procedures) are clearly defined in the Code.

Goals relating to the ‘maintenance and enhancement’ of ‘heritage and social’ values are principally developed in the section relating to Plantation Location, Planning and

Design. Guidelines relating to this section state the need to comply with the terms of the *Aboriginal Heritage Act* and the *Heritage of Western Australia Act 1990*. They also advise that landowners establish whether sites of cultural heritage significance or landscape significance exist through consultation with relevant authorities, and assess the likely impact of plantation development. No guidance is given as to how such assessments are to be made. Authorities with information on cultural heritage sites are not listed.

The Code gives guidance relating to a range of potentially damaging operations associated with the development of plantations such as road construction, silvicultural practices, harvesting and fire prevention and control. The guidelines relating to roads state that their location must adhere to the provisions of the *Aboriginal Heritage Act* and the *Heritage of Western Australia Act 1990*. No reference is made, however, to the Register of the National Estate

The section of the Code which deals with species selection for plantations makes no reference to the consideration of cultural heritage values in this process despite the potential for species selection to impact on cultural heritage values.

The Code requires that Timber Harvesting Plans be compiled prior to harvesting operations, and lists the range of information that these should contain, making no reference to any cultural heritage issues which may need to be considered.

### **Adequacy and Implementation**

As not all national estate cultural heritage values are necessarily identified under the terms of the *Aboriginal Heritage Act* and the *Heritage of Western Australia Act 1990*, additional consultation with the AHC will be necessary in order to determine the possible impact of potentially damaging operations such as road construction on the retention of values.

As the impact of a plantation on certain cultural heritage values, particularly aesthetic values, may relate to the type of tree chosen for cultivation, consideration should be given to cultural heritage values in the process of plantation design and species selection. Assessment of the impact of plantations on places of cultural heritage value should only be made by experienced heritage professionals.

In view of the time lag between the establishment of a plantation and its harvesting, it would be advisable for Timber Harvesting Plans to reiterate any cultural heritage values referenced in the Management Plan. While the Code focuses on the identification and recognition of cultural heritage values which may exist prior to the development of a plantation, it is also important to remember that plantations themselves may come to have significant cultural heritage value during the course of their development, particularly social and aesthetic value (Criterion G.1 and E.1). It is therefore important that research is undertaken during the course of developing Timber Harvesting Plans to determine the existence and extent of any cultural heritage values which developed during the plantation's life-span.

### **Recommendations**

Recommendations made in the introduction to this section on CALM also relate to Codes of Practice.

CALM and Australian Forest Growers should consider amending the *Code of Practice for Timber Plantations* to include a recommendation that landowners consult with the Australian Heritage Commission regarding national estate values on land proposed for plantation development in order to ensure the comprehensive recognition of national estate cultural heritage values.

R 38

CALM and Australian Forest Growers should consider amending the *Code of Practice for Timber Plantations* to include a requirement that impact assessments of plantation developments on national estate cultural heritage values are undertaken by qualified heritage professionals.

R 39

CALM and Australian Forest Growers should consider amending the *Code of Practice for Timber Plantations* to include the consideration of national estate cultural heritage values in the process of the design and species selection for plantation developments.

R 40

CALM and Australian Forest Growers should consider amending the *Code of Practice for Timber Plantations* to include a recommendation for Timber Harvesting Plans to make reference to national estate cultural heritage values identified in the Management Plan, and to the assessment of the impact of harvesting on any cultural heritage values which have developed subsequent to the establishment of the plantation.

### **5.3.5 CALM Data Collection on Cultural Heritage**

CALM land management is undertaken according to a system of 'blocks'. This applies to State forest, national parks and other categories of reserves. Information on forest blocks is held at regional and district CALM offices in the CALM Integrated Management Control and Information System (CIMCIS). Much of this information is text contained within the individual files for each block. Increasingly however, information is being digitised using GIS systems to provide constraints maps for each block. These indicate places or areas or features which must be taken into consideration during forest operations, particularly those relating to harvesting. The constraints maps are then used as checks against aerial photographs of areas where there is CALM activity.

It should be the case that information on known cultural heritage values within the individual blocks will be contained within CIMCIS. However, standards for including data in CIMCIS vary from district to district, particularly since initial training schemes on the correct operation of the system have been discontinued. Furthermore, there is no consistency regarding the factors which will be included in constraints maps for forest blocks, and these again vary from district to district.

Certain of the functions of CIMCIS are currently being superseded by the Silvicultural Recording System (SILREC). This more advanced system links silvicultural practices to other considerations such as financial planning. The SILREC system has not, however, been established to include information on cultural heritage values for forest blocks. There will, therefore, be a continued need to consult CIMCIS for information on cultural heritage values in forest blocks.

Other datasets are currently in use within CALM. While none of these relate to cultural heritage values, they do illustrate the scope of information technology capacity within

the organisation. Many of the existing datasets are used to produce maps using GIS and the spatial information they contain is of primary importance. There are however datasets which are linked to databases and these may contain large amounts of textual information such as would be present in a database detailing cultural heritage values. However, establishing an integrated information database from a number of organisations represents a detailed and expensive process, one which would best be undertaken centrally in a similar fashion to the Western Australian Land Information System (WALIS).

#### **5.4 Department of Minerals and Energy**

The role of the Department of Minerals and Energy (DME) is to 'foster and facilitate the orderly exploration and development of minerals, petroleum and groundwater in Western Australia' (DME, 1993, p1). The Department has as one of its objectives that proper attention is paid to the rehabilitation and protection of the environment and has compiled guidelines to assist those intending to undertake or extend mining operations in developing policies which will comply with Departmental and community environmental standards.

##### ***Guidelines for Mining Project Approval in Western Australia: Revised Edition (1993)***

These Guidelines relate specifically to those issues which need to be addressed in order to gain project approval. In order to gain the written approval for a new mining project or major extension of an existing project from the State Mining Engineer, a Notice of Intent must be submitted for assessment by DME officers. The DME provides a list of headings as a guide to the type of information which should be included in an Notice of Intent, stating that the actual content will vary according to the nature of each specific project. Consideration of Aboriginal sites, heritage and social environment are included under the heading of Social Impacts. There is no specific consideration given to visual or aesthetic issues in the format guide.

In expanding on the heading Social Impacts, the Guide states that projects must show a commitment to abide by the terms of the *Aboriginal Heritage Act 1972*, undertake ethnographic and archaeological surveys and inform the WA Museum of any sites (now AAD). Applicants are also advised to consult with the Aboriginal Sites Department (now the AAD).

In relation to non-indigenous heritage, the Guide states that all 'items of European Heritage value' should be defined and that a commitment should be made on the part of the developer to 'record, relocate or preserve items' as appropriate.

#### **Adequacy and Implementation**

The list of issues to be contained within an Notice of Intent is indicative only. Applicants are not obliged to consider cultural heritage issues. Furthermore the list omits to include any consideration of visual and aesthetic values which may be affected by the proposed project.

Despite a requirement under the *Heritage Act of Western Australian 1990* to apply to HCWA for permission to undertake works on places included in the WA Register, no mention is made of this process in the section dealing with heritage values. The terminology used in this section is not consistent with that widely accepted in the conservation profession i.e. as defined by the Burra Charter, and is therefore

ambiguous. Processes such as the ‘recording’, ‘relocation’ and ‘preservation’ should only be undertaken in line with conservation best practice.

As has been stated in Section 3.2.2 of this report, it is currently not necessarily the case that all national estate values will be assessed under the terms of the *Aboriginal Heritage Act 1972*. So despite the Guide’s recommendation that ethnographic and archaeological heritage surveys be undertaken, there is no guarantee that this will result in the identification of all national estate cultural heritage values.

As this Guide deals only with processes which require approval under statute, no reference is made to the AHC. This is despite the fact that there may be instances where consultation with the AHC is required under Section 30 of the *Australian Heritage Commission Act 1975*.

## Recommendations

R 41

The DME should consider amending its guidance relating to the contents of Notices of Intent to stipulate the inclusion of national estate cultural heritage values, including visual/aesthetic values, details of which should be provided.

### ***Information Series No 11 Mining Act 1978 Guidelines for the Application of Environmental Conditions for Onshore Mineral Exploration and Development on Conservation Reserves and Other Environmentally Sensitive Land in Western Australia (1995)***

This document summarises the development and application of environmental conditions which may be applied by the Department of Minerals and Energy to lessen the potential environmental impacts of mining exploration and development mining in Western Australia. The guide does not cover offshore petroleum or mineral exploration. The guidelines are designed to provide uniform criteria to address environmental constraints for developers, explorers and other interested parties. They also reflect the consultative procedures adopted in the 1995 Memorandum of Understanding between the DME and the Environmental Protection Authority (EPA) which sought to ensure the protection of sensitive environments in areas where onshore mineral exploration and development takes place. The Guide states that is not comprehensive, and that adjustments should be made for specific situations.

As responsibility for large proportion of land in Western Australia is vested in CALM, the Guide details a range of procedures and conditions which relate to the different categories of land (National Parks, State forest etc). The specific conditions which apply to the vestings are set out in a range of schedules.

Environmental management provisions must be submitted to the DME as part of the applications for Exploration Licenses and Prospecting Licenses in all categories of CALM land, including State forest, except Section 5(g) Reserves and Executive Director (CALM) Reserves which are dealt with on a case-by-case basis. The guidelines stipulate that detailed management programmes which show the phases of work intended must be submitted. Any environmental impacts must be described and details for their management must be provided prior to any environmental disturbance. The list of issues which the programmes must consider does not make reference to any issues which could be considered to encompass national estate cultural heritage values.

Similar Schedules have been developed by the DME relating to the granting of mining licenses. In the case of all categories of CALM land, apart from Section 5(g) Reserves and Executive Director (CALM) Reserves which are dealt with on a case-by-case basis, a Notice of Intent must be submitted to the DME for assessment. This must include measures to safeguard the environment. Issues to be included in Notice of Intent are discussed above. Notices of Intent may be referred to the EPA.

Aside from those potentially damaging operations which may result from prospecting, exploration and mining activities themselves, the Schedules give guidance on preventing the spread of dieback and the unnecessary destruction of vegetation and fire prevention.

All Schedules draw the attention to the need to comply with the conditions of the *Aboriginal Heritage Act 1972*.

### **Adequacy and Implementation**

Despite a requirement under the *Heritage Act of Western Australian 1990* to apply to HCWA for permission to undertake works on places included in the WA Register, no mention is made of this process in the Schedules. As has been stated earlier in this report, it is not necessarily the case that all national estate cultural heritage values will have been identified in heritage assessments carried out under the terms of the Act.

The list of factors which must be considered in describing the environmental impacts of proposals and programs for their management includes some which are not statutory requirements, such as the consideration of 'rare or geographically restricted flora and fauna' (DME, 1995, p11). Non-statutory considerations, such as national estate cultural heritage values, are not however, included.

While the Schedules stipulate that applicants must describe management programs which relate to possible environmental impacts, they do not advise that these should be in accordance with acknowledged best practice.

Although the Guide draws the attention of applicants to the provisions of the *Aboriginal Heritage Act 1972*, it does not include a summary of how these may affect mining related developments or mention the presence of guidance documents. As has been stated elsewhere in this report, it is currently not necessarily the case that all national estate values will be assessed under the terms of the *Aboriginal Heritage Act 1972* and there is therefore no guarantee that this will result in the identification of national estate cultural heritage values.

### **Recommendations**

R 42

The DME should consider amending the *Guidelines for the Application of Environmental Conditions for Onshore Mineral Exploration and Development on Conservation Reserves and Other Environmentally Sensitive Land in Western Australia* (1995) to make reference to the provisions of the *Heritage of Western Australia Act 1990*.

R 43

The DME should consider developing an overall environment policy statement which makes a commitment to the protection and conservation of significant values, including national estate cultural heritage values.

R 44

The DME should consider amending the environment Schedules relating to the granting of prospecting and exploration licenses on CALM to include a requirement to consider cultural heritage values, including national estate values.

R 45

The DME should consider stipulating that the development of management programmes relating to environmental impacts on cultural heritage values under the terms of environment Schedules be in accordance with conservation best practice.

## 5.5 Department of Resource Development

The Department of Resource Development (DRD) is responsible for planning, promoting and coordinating the development of resources within Western Australia. For developers and investors planning to develop resource based industries and projects, the DRD provides assistance with and helps coordinate the approvals which are necessary from other Government agencies. The DRD considers these will vary according to the specific project in question.

The *Guide to the State Government's Approvals Processes in Western Australia for Major Project Developers* (DRD, 1997a), provides up-to-date information on 'major approvals' for potential developers. In stating the range of issues which need to be considered during project development, the DRD lists Aboriginal heritage evaluation, but makes no mention of non-indigenous cultural heritage.

The section of the Guide which deals with the process for Aboriginal heritage evaluation was developed in conjunction with the AAD and outlines the processes and issues which need to be considered under the terms of the *Aboriginal Heritage Act 1972*. The Aboriginal heritage evaluation flow chart closely follows the guidance issued by the AAD.

The DRD is also responsible for coordinating long-term management strategies for resource developments which operate under State Agreements, such as bauxite processing, through the establishment of working groups and other inter-departmental liaison. Coordination of this type is stated as being undertaken on a 'whole of Government' basis.

### Adequacy and Implementation

Despite a requirement under the *Heritage Act of Western Australian 1990* to apply to HCWA for permission to undertake works on places included in the WA Register, no mention is made of this process in the Guide. As has been stated in Section 3.2.2 of this report, it is not necessarily the case that all national estate cultural heritage values will have been identified in heritage assessments carried out under the terms of the Act. DRD have stated that they are unlikely to consult with the AHC regarding sites on the RNE as the assessment process used to determine thresholding is considered dubious. Consultation with HCWA is preferred.

As has been stated in Section 3.2.1 of this report, it is currently not necessarily the case that all national estate values will be assessed under the terms of the *Aboriginal Heritage Act 1972*. So despite the Guide's recommendation that ethnographic and archaeological heritage surveys be conducted as the first stage of assessing Aboriginal



heritage in an area, there is no guarantee that this will result in the identification of all national estate cultural heritage values.

As this Guide deals only with processes which require approval under statute, no reference is made to the AHC. This is despite the fact that there may be instances where consultation with the AHC is required under Section 30 of the *Australian Heritage Commission Act 1975*.

Despite a commitment to ‘whole-of-Government’ processes in the development of long term strategies for projects operating under State Agreements, it is not always the case that the full range of Government agencies are always represented. For example, the working group which was established to develop a strategy for ALCOA’s Wagerup and Pinjarra alumina refineries did not include representatives from either HCWA or AAD who could have raised issues relating to national estate cultural heritage values (DRD, 1997b).

## Recommendations

R 46

The DRD should consider the development of guidelines for the process of non-indigenous heritage evaluation in line with the requirements of the *Heritage of Western Australia Act 1990*.

R 47

The DRD should consider the development of guidelines for conditions under which consultation with the Australian Heritage Commission may be necessary according to S.30 of the *Australian Heritage Commission Act 1975*.

R 48

While the DRD Guidelines focus on statutory processes, it may be advisable to develop additional guidelines which deal with non-legislative consultative processes which should include consultation with the AHC in order to fulfil community expectations regarding cultural heritage.

R 49

The DRD should consider amending guidance documentation to stipulate that the full range of Government agencies is included in the process of developing long-term strategies for projects operating under State Agreement Acts, in order to ensure the consideration of national estate cultural heritage values.

## 5.6 Environmental Protection Authority

The current Environmental Protection Authority was established under the *Environmental Protection Act 1986* (WA) and is the Statutory State government body charged with assessing and regulating the environmental impact of land use in order to protect the environment and prevent pollution in Western Australia. It is assisted in implementing its duties by the Department of Environmental Protection (DEP). The DEP has as its aims;

- to ensure that the environment is managed so that it is conserved or enhanced
- to ensure that development in Western Australia is environmentally acceptable.

Guidance from the EPA states that the scope of environmental protection ranges from natural values, renewable production values and people related values, although it does appear to concentrate people related values to towns and cities rather than acknowledging the fact that cultural heritage values may be present in a range of different environments.

State and local government authorities and developers are required to submit details of planning schemes and development projects to the EPA, and in some instances also the public, for review and comment. On initial information submitted, the EPA determines what degree of additional environmental assessment is necessary. This assessment is made on the basis of a range of factors. Cultural heritage values are not mentioned specifically but could be included in the basic requirement to define the significance of the 'character of the receiving environment and the use and value which society has assigned to it' (EPA, 1993).

Proposals which are considered to be likely to have significant environmental impact are evaluated by the EPA through an environmental impact assessment process. The EPA then advises the Minister for the Environment on the extent to which the proposal is environmentally acceptable, and the Minister makes the final decision regarding project approval. Planning schemes and amendments and other developments are assessed slightly differently from one another, although the basic premises are the same.

### **Planning Schemes and Amendments**

All statutory planning schemes are now required to be referred to the EPA under the terms of the *Planning and Legislation Amendment Act (PLAA) 1996*. Responsible authorities must submit certain information relating to the scheme in order that the EPA can make an initial evaluation as to whether or not an environmental assessment is necessary. This information includes 'environmental constraints'. These are defined as areas 'of highest conservation value'.

On the basis of the initial information provided, the EPA can make one of four evaluations;

- Level 1 – Not assessed, no advice given
- Level 2 – Not assessed, in which case the advice provided is not binding
- Level 3 – Assessed, Environmental Review Required
- Level 4 - Decision that the scheme or amendment cannot be assessed.

Schemes and amendments assessed as Level 1 or 2 are those which either are assessed as having insignificant or not significant enough environmental impact. Such schemes are deemed to have been assessed for all future development applications under the scheme. Level 3 schemes are those where the environmental impact is considered significant and a full review, with public consultation, is required. Level 4 schemes are considered to have such a severe degree of environmental impact that it is impossible to make them environmentally acceptable, and this decision is automatically referred to the Minister.

Responsible authorities are required to deal with environmental factors which are raised by the public during the review and assessment process.

## Development Proposals

In relation to development proposals, proponents initially consult with the EPA about the project and the EPA advises them as to the extent of information it will require in order to make an initial assessment. In relation to cultural heritage the EPA's guidance suggests that the character of the receiving environment should be assessed, although there is no indication as to how comprehensive this assessment should be and what values it should include. The guidance goes on to suggest that the environmental impact of the proposal on the landscape and its visual impact may be considered. This may help to address national estate aesthetic cultural heritage value (Criterion E.1). There is no further guidance which relates to cultural heritage values. Furthermore, proponents are under no obligation to comply with the advice of the EPA.

The EPA has a range of options relating to development proposals similar to those for planning schemes. It can;

- decide that assessment is not required because the proposal is environmentally insignificant (Not Assessed)
- decide to assess the proposal 'in house' and provide public advice (Review with Public Advice)
- issue a works approval
- formally consider the proposal under either a Consultative Environmental Review, a Public Environmental Review and Management Programme.

Each of the formal assessments requires varying degrees of environmental and public review and evaluation.

In the case of Consultative Environmental Reviews, the public interest in possible environmental impacts is considered to be limited to the local community and/or special interest groups. It is usually the case that the EPA requires additional information to that on the initial referral and issues a project specific list of the key environmental factors which *should* be examined by the proponent. Public Environmental Reviews may also be required by the EPA for such proposals to enable public submissions to be made.

Public Environmental Reviews are required for those proposals where there is significant environmental impact or major public interest. Again the EPA issues a detailed project specific list of environmental factors which *should* be examined in the Review. The Review and the EPA's report are always publicly available and developers must also advertise for public submissions on the proposal.

Environmental Review and Management Programmes are the most comprehensive and detailed environmental impact assessments in Western Australia and are used for projects which have strategic environmental impacts and are of State-wide interest. In determining the range of factors which must be taken into consideration in the Review, the EPA consults with those who are most likely to be affected by, or have an interest in, the development. The EPA then produces a detailed list of environmental factors which the proponent *must* examine. This list is circulated to other government departments and agencies, and occasionally the public, for comment. Again, both the Review and the EPA's report are both available for public consultation and the proponent must advertise for public submissions on the proposal. Proponents must also freely circulate summaries of the initial project and then summaries of the Review among those most likely to be affected by the proposal. The EPA can, on the approval of the Minister, also initiate a public enquiry for proposals which have significant environmental impacts.

Proponents are required to deal with environmental factors which are raised by the public during the review and assessment process. When the EPA has reported to the Minister and the project is clear of any appeals, the Minister may approve the project and apply legally binding environmental conditions to implementation.

### **Indigenous Cultural Heritage**

A recent review of the EPA's responsibilities found that traditionally the EPA has not given a great deal of consideration to what are termed 'social impacts'. These were felt to include 'direct and indirect costs and benefits to the people resulting from a proposed activity'. However the EPA's revised interpretation of the terms of the *Environmental Protection Act* mean that where a proposal has a direct effect on the biophysical environment (plants, animals, water, landscape etc), the EPA can consider how those effects impact on the social environment. In particular, the EPA now considers it important to examine the effect that a proposal will have on the social or cultural life of Aboriginal peoples, and cites the example of places which may be of spiritual significance as a possible factor for consideration. The EPA will now consider Aboriginal heritage and culture as part of every assessment it undertakes and proponents will be encouraged to provide the EPA with archaeological and ethnographic survey information indicating potential sites of significance or interest at the earliest possible time in the process.

### **Adequacy and Implementation**

Currently there is no specific mention of national estate cultural heritage values contained in the guidelines for Environmental Impact Assessments at either the initial referral stage or during formal assessments. While there has been a recent commitment by the EPA to ensuring adequate identification of indigenous cultural heritage values during the assessment and review process, there is no indication of the extent to which these will equate with national estate cultural heritage values. There is also no commensurate acknowledgement in the review process of the need to undertake similar surveys of non-indigenous cultural heritage values in areas subject to planning schemes and development proposals.

As the information provided in the initial referral informs the decision of the EPA as to the level of assessment the scheme or development requires, it is essential that it provides a comprehensive overview of the character of the receiving environment. As stated in Section 3.3, there is currently incomplete information available regarding indigenous and non-indigenous places with national estate cultural heritage values in Western Australia. Therefore, unless specific surveys have been undertaken as part of the development of planning schemes and other projects, the information provided in the initial referral is likely to be inadequate and the assessment of environmental impact on national estate cultural heritage cannot be fully determined. Furthermore, the nature of national estate cultural heritage values means that the determination of the impact of developments or planning schemes on those values should only be made by a qualified cultural heritage professional.

Information in the initial referral also provides the basis for the development of project specific guidelines for Environmental Reviews. If the information in the referral on national estate cultural heritage values is incomplete or inadequate and this is not brought to the attention of the EPA, consultation with HCWA, the AAD or the AHC may not be undertaken. The current lack of consultation between the EPA and HCWA

indicate that cultural heritage values do not appear to be given a high priority in Environmental Reviews.

The current provisions for public consultation through the Environmental Impact Assessment process could provide excellent opportunities for the consideration of those national estate values which require such consultation, particularly values E.1 and G1.

There is provision within the existing guidelines for the consideration of impact of schemes and developments on the landscape and general visual amenity which may relate to Criterion E.1 (aesthetic cultural heritage value).

## Recommendations

### R 50

The Environmental Protection Authority should ensure that assessments of cultural heritage, either by the Department of Environmental Protection, other nominated government departments, independent consultations or proponents and responsible authorities, are consistent with national estate cultural heritage values.

### R 51

The Environmental Protection Authority and the Department of the Environmental Protection should consider amending their policies to include the consideration of non-indigenous national estate cultural heritage values as part of every assessment.

### R 52

The Environmental Protection Authority should consider amending its guidance relating to initial referrals to include information on the extent of existing surveys of national estate cultural heritage values to aid in setting levels of assessment.

### R 53

The Environmental Protection Authority should consider amending its guidance relating to Environmental Reviews to include consultation on the full range of environmental values, including national estate cultural heritage values, and provide a comprehensive list of the organisations which will be consulted including the Australian Heritage Commission.

## 5.7 Western Australian Ministry of Planning

Under changes made in 1994 to the *Town Planning and Development Act 1928*, the Ministry of Planning now have responsibility for the development of plans beyond the metropolitan area. There are three planning processes which should take account of cultural heritage values. Regional plans are non-statutory plans which cover defined rural areas, for example the Cape to Cape area of the Leeuwin Peninsula. Such plans cover issues at a broad level. On the basis of Regional Plans, it is possible for the Ministry of Planning to issue Statements of Planning Policy which specifically relate to issues identified in the plans. These Statements are supported under the terms of the Act. Other specific and localised issues can be given statutory protection under Regional Schemes.

The preparation of Regional Plans and Regional Schemes is undertaken on a case-by-case basis and there are no official guidelines as to which broad or specific issues, values or other factors should be taken into consideration. The presumption is that in order to compile a comprehensive picture of an area, all issues will be thoroughly researched. Despite this presumption, it is currently unlikely that the Ministry would consult with the AHC regarding sites which have been Registered by them during the compilation of plans, focussing instead on consultation with HCWA, AAD and the relevant LGAs for information on cultural heritage (Hilliard, 1998).

The Ministry is the State Government agency which liaises with the AHC when places are nominated for the RNE.

### **Adequacy and Implementation**

The absence of guidelines to ensure that cultural heritage values are considered in the course of preparing Regional Plans, Regional Schemes and Statements of Planning Policy represents an omission in the planning process. Assessment of the need to include information on cultural heritage is left to the individual project officer who may not have an adequate understanding of cultural heritage issues or values which may be represented in the area in question.

As has been stated elsewhere in this report, it is not necessarily the case that cultural heritage values identified by HCWA and AAD will be congruent with national estate cultural heritage values.

### **Recommendations**

R 54

The Ministry of Planning should consider developing a broad environmental statement committing the Ministry to the conservation of significant cultural heritage places. Significance should include national estate listing.

R 55

The Ministry of Planning should consider the development of guidelines which stipulate the consideration of national estate cultural heritage in the development of Regional Plans and Regional Schemes. The text of such guidance should be consistent with accepted conservation terminology as set out in the Burra Charter.

## **5.8 Department of Main Roads**

Guidance relating to indigenous and non-indigenous cultural heritage have been developed separately by Main Roads.

### **Non-Indigenous Cultural Heritage**

Guidance on places of heritage value is contained in the *Operations Branch Circular No 68: Places of Heritage Value* (Main Roads, 1984). This states the need to consider such places when developing options for road locations. As the documentation pre-dates the creation of HCWA, the Circular notes that places of cultural heritage value may be listed on the RNE, be classified by the National Trust of Western Australia on either their buildings or landscape and natural environments registers, or be present on other lists such as those of LGAs. Copies of the relevant sections of each of these registers have been sent to each country Division, and a complete set of registers is held at Main Roads' Head Office.

The Circular gives details of the Department's legal obligation to consult with the AHC on projects which are funded by the Commonwealth. The Department also makes a commitment to avoid works which may have adverse effects on places included on all other heritage registers.

The Circular notes that aesthetic or 'scenic' values and other significant features may not be included on all heritage lists, and that in cases where such values are thought to be present, the design engineer should use their own judgement and consider any effects in the course of preparing environmental assessments.

In order to expand on the guidance offered in the Circular, Main Roads commissioned '*A Report on a Heritage Strategy for Main Roads (WA)* (Edmonds L and Bush F, 1994). This report provides a detailed overview of the various organisations which undertake the identification and assessment of cultural heritage values at national, State and local levels. It makes detailed reference to the AHC and the RNE and includes all the national estate criterion. The report outlines a comprehensive 'reactive' process of consultation and site identification which Main Roads are advised to undertake in order to ensure that their work does not endanger heritage values. These processes include legislative requirements as well as those which are intended to meet community expectations relating to the conservation of cultural heritage values.

A process of thresholding the significance of those places identified as having cultural heritage value is developed in the report. Places of 'significant heritage value' are defined as those places included in the WA Register or the RNE. Detailed reports should be prepared for these sites when they are likely to be effected by Main Roads operations, and reports are to be assessed by the Environmental Officer of Main Roads for consideration and further action in relation to legislative obligations.

A 'proactive' heritage policy is also developed in the report which outlines Main Road's responsibility to conserve and protect places of cultural heritage value. This section gives guidance on the management of cultural heritage places, stating that in general terms, this should be in accordance with the principles of the Burra Charter.

Finally, the report states the need for Main Road's heritage processes to be periodically reviewed to ensure that they are in line with current legislative requirements and conservation best practice.

Some of the main points from the report have been included in the *Environment Management Manual Guidelines* (1997). These reiterate the need to develop environmental assessments and management plans for proposals which affect significant cultural heritage places, although they omit to include a threshold for assessing what is significant. The guidelines state that such management plans should be developed in consultation with the Western Australian Heritage Committee (sic) or the National Trust. Where roadworks affect a significant site, the guidelines recommend referral to the EPA. The AHC is included in the list of organisations which may have information on places of cultural heritage significance, but the guidelines state that a comprehensive list of places, including those on the RNE, is held by the Western Australian Heritage Committee (sic). Main Roads intends to develop an electronic database using the Western Australian Heritage Committee (sic) list for in house use.

A *Heritage Assessment Process for Planning Proposals* is currently being developed by Main Roads in order to create a practical, working document for employees to follow in relation to non-indigenous cultural heritage. This provides a flow chart outlining the various assessment steps, including consulting with the AHC, which need to be followed for each Main Roads project. The flow chart will be supplemented with a series of relatively detailed notes. This document is currently being reviewed by the AHC. The draft of the overview and flow chart for this document contain terminology which is potentially ambiguous, i.e. 'heritage preservation'. Other concerns, such as whether all heritage sites will be considered during the assessment process, or only those ones which have been identified as being significant, and how significance is to be determined, may be clarified in the explanatory notes, which were not available for consideration by the consultant for this report.

### **Adequacy and Implementation**

Under the terms of the Circular, there is no provision for updating information relating to registered places held at either Head Office or the country Divisions. As new sites are continually being added to the RNE, the presence of up-to-date information is essential if values are to be protected. However, in seeking to develop an in-house database, reliance should not be placed on the organisation the Guidelines refer to as the Western Australian Heritage Committee (presumably HCWA) to provide a comprehensive list of all sites of cultural heritage value as not all RNE sites are included in the WA Register.

In consolidating the findings of the *Report on a Heritage Strategy for Main Roads (WA)*, the Manual Guidelines omit certain key recommendations and processes it contained. In particular, references to the use of conservation best practice in the development of management plans for places of cultural heritage value are absent, as is any process for determining which sites are significant. Despite the detail contained in the report, and its overall quality, the Manual omits to refer those seeking additional information on cultural heritage matters to the 1994 document.

Despite the presence of the *Report on a Heritage Strategy for Main Roads (WA)* which was compiled by heritage professionals, subsequent Main Roads documentation has not continued to use conservation terminology, nor correctly referenced key organisations with responsibilities for cultural heritage in Western Australia.

### **Recommendations**

#### **R 56**

Main Roads should consider amending the section on Cultural Heritage Values in its *Environment Management Manual Guidelines* (1997) to include the use of conservation best practice principles in the compilation of management plans for places of cultural heritage value.

#### **R 57**

Main Roads should consider amending the section on Cultural Heritage Values in its *Environment Management Manual Guidelines* (1997) to include the recommendations of the *Report on a Heritage Strategy for Strategy for Main Roads (WA)* relating to the determination of a place's significance.

#### **R 58**

Main Roads should ensure that documentation relating to cultural heritage uses terminology which is consistent with that of the Burra Charter.



### **Indigenous Cultural Heritage**

Recognition of the need for Main Roads to give consideration to Aboriginal heritage under the terms of the *Aboriginal Heritage Act 1972* was first acknowledged in 1979 in *Operations Group Circular No 38*. More extensive and up-to-date guidance regarding Aboriginal heritage is contained in the *Environment Management Manual Guidelines* (1997). This gives practical information on the different types of Aboriginal heritage sites (archaeological and ethnographic), where sites might be encountered, the role of the AAD and the extent of the information held in the Register of Aboriginal sites. It also outlines the requirements of the *Aboriginal Heritage Act 1972*. Broader guidelines are also included relating to the need to provide training in the recognition of Aboriginal sites for field staff and other employees who are likely to undertake activities which might cause disturbance. The guidelines do not mention the presence of Aboriginal sites on the RNE.

In order to provide a practical document for field workers and other employees, Main Roads has developed the *Aboriginal Heritage Assessment for Planning Proposals: Process Documentation* (1997). The overview of this document states Main Road's objective to, wherever practical, avoid disruption of Aboriginal sites. The document provides a flow chart outlining the various assessment steps which need to be followed for each Main Roads project. The flow chart is supplemented with a series of relatively detailed notes based on the *Guidelines for Aboriginal Heritage Assessment in Western Australia, Draft* (1994) issued by the AAD.

The section which refers to the undertaking of initial broad investigations to identify Aboriginal sites, does not include the AHC in the check-list of organisations and groups who must be consulted. Briefs for consultants undertaking Aboriginal heritage studies for Main Roads are consistent with the guidance offered in the *Guidelines for Aboriginal Heritage Assessment in Western Australia, Draft* (AAD, 1994).

### **Adequacy and Implementation**

There is no commitment in any guidance issued by Main Roads which relates to the *conservation* of sites Aboriginal heritage places which would provide temporal protection, as distinct from processes which could be said to provide spatial protection.

As has been stated in Section 3.2.1, the assessment criterion used by the ACMC in their determination of the significance of Aboriginal sites is not congruent with that used by the AHC. Therefore, in relying on the processes stipulated under the *Aboriginal Heritage Act 1972* and the assessment of the ACMC, there is no guarantee that the full range of national estate cultural heritage values will be identified during site surveys undertaken by Main Roads, and that these will be protected in project management plans. Consultation with the AHC regarding places with such values should be undertaken to ensure that sites with these additional values are protected.

### **Recommendations**

R 59

Main Roads should consider developing a policy statement which makes a commitment to the *conservation* of cultural heritage values, including national estate cultural heritage values in order to ensure temporal protection of such places. Such conservation should be undertaken in accordance with acknowledged best practice principles.

R 60

Main Roads should consider amending its *Aboriginal Heritage Assessment for Planning Proposals: Process Documentation* (1997) to include consultation with the Australian Heritage Commission regarding places of indigenous heritage significance which have been identified on the Register of the National Estate.

### 5.9 Western Power Corporation

Western Power was established in 1995 as the agency responsible for the generation, transmission and distribution of power in Western Australia. The Corporation's environment policy, which was launched concurrently with the formation of the new organisation, aims to minimise adverse environmental impacts and lead in the field of environmental management through responsible stewardship. The policy also gives a commitment to auditing of the Corporation's environmental performance to ensure continuous improvement.

Objectives developed to fulfill the environment policy include provisions for the consideration of best practice environmental technology and timely impact assessments, the monitoring of the environmental effects of the Corporation, maintaining a high level of environmental knowledge, ensuring that the Corporation meets or exceeds statutory environmental standards and the auditing and assessment of the Corporation's environmental performance.

Specific consideration of cultural heritage values is included in the objective 'To recognise the core objective of sustainable development by continuous improvement through appropriate environmental management systems' (Western Power Corporation, 1995, p6). This outlines the Corporation's commitment to the implementation of a corporate-wide environmental management system which integrates environmental issues into business operations and reviews the implementation of procedures. The aim of the environmental management system is to help to ensure that the Corporation minimises adverse impacts on a range of natural and cultural resources, which includes 'Aboriginal and European heritage and visual amenity' (Western Power, 1995 p6). No further details of which cultural heritage values should be incorporated into the environmental management system are provided.

### Adequacy and Implementation

The document gives no indication of how the Corporation defines the term 'environment'. The overall emphasis of many of the Corporation's policy objectives relate to ecological or natural environmental considerations.

Reference made to the need to consider cultural heritage values in the Environmental Management System is extremely brief and gives no indication as to which specific values will be considered. There is also no mention of the Corporation's requirements to comply with the provisions of the *Aboriginal Heritage Act 1972* and the *Heritage of Western Australia Act 1990*.

In the case of the remaining policy objectives, most do not preclude the consideration of cultural heritage issues. It would be desirable for cultural heritage to be specifically included in their scope. However, in the absence of any statement by the Corporation as to their definition of 'environment', interpretation of the policy objectives has to be made on the basis of the sections in which they are expanded and discussed. These

focus almost exclusively on natural, ecological and technical processes and no reference is made to any cultural heritage values.

## Recommendations

R 61

Western Power Corporation should consider the development of a definition of 'environment' which encompasses the full range of environmental values, including national estate cultural heritage values.

R 62

Western Power should consider amending its policy objective *'To ensure that planning and design for new projects and changes to existing processes provide for the consideration of best environmental practice technology and timely environmental impact assessment'* to allow for consideration of best practice in areas other than technology i.e. national estate cultural heritage conservation. In this case, the Corporation's commitment to accepted cultural heritage best practice should be stated.

R 63

Western Power should consider amending its policy objectives *'To monitor environmental effects of Corporation activities, sponsor relevant research and maintain a high level of professional knowledge'* and *'To maintain contingency plans to reduce the impact of unforeseen environmental incidents from Corporation activities'* to include the Corporation's commitments to cultural heritage issues.

## 5.10 Water Corporation

The Environmental Policy (1997) of the Water Corporation gives a commitment to minimising adverse impacts on the environment. Proactive management and continuous improvement of environmental performance by the Corporation is to be achieved through the application of an environmental management system. This system is to be consistent with international standards. In expanding on this statement, the Corporation develops a series of goals to work towards, several of which could be seen to relate to the protection of cultural heritage values.

Environmental considerations are to be integrated into all planning, design, construction, operation and decommissioning processes. This will be achieved through the assessment of environmental impacts of current and planned operations and, where appropriate, the development of objectives, targets and improvement plans. Procedures to avoid or manage incidents which may have an adverse effect on the environment are to be developed and implemented, and environmental requirements are to be incorporated into tenders and contracts. The Corporation is also committed to monitoring, measuring and reporting their environmental performance. The overall environmental policy has not yet been developed into more detailed guidance or strategies.

The Corporation has produced a list of authorities and organisations which usually require notification of proposed works and includes the reasons notification (Water Corporation, 1996). This includes the AAD, HCWA and RNE (AHC) on the grounds that works may affect places of cultural heritage significance or Aboriginal sites. Places of cultural heritage significance are defined as *'..places of value in terms of their aesthetic, historic, scientific or social significance'* (Water Corporation, 1996, p5.3).

### **Adequacy and Implementation**

The Water Corporation's Environment Policy contains no definition of the term 'environment' to which the subsequent policies and related documentation can make reference. Such a definition would help in clarifying the Corporation's environmental policies and objectives as well as ensuring that all aspects of the environment, including cultural heritage values, are included in operational considerations.

The environment policy lacks any commitment to the protection or conservation of cultural heritage values, only to the avoidance or management of incidents which may have an adverse effect on the environment. There is no commitment to the use of best practice principles in the development of objectives.

The list of authorities and organisations which may require notification of proposed works, together with reasons for notification, provides an extremely easy checklist for project managers. The fact that notification is not a requirement appears to leave the assessment of environmental impact of works to Water Corporation employees or contractors. The impact of works on cultural heritage sites should always be assessed by heritage professionals who have a working knowledge of national estate values.

The fact that permission is required prior to undertaking works under the *Aboriginal Heritage Act 1972* and the *Heritage Act of Western Australia 1990* should be highlighted.

### **Recommendations**

R 64

The Water Corporation should consider the development of an holistic definition of the term 'environment' for use in the development of environmental policies, objectives and principles. This definition should include national estate cultural heritage values.

R 65

The Water Corporation should consider a commitment to the protection and conservation of national estate cultural heritage values.

R 66

The Water Corporation should consider amending its Preliminary Works Manual to ensure that consultation with the Heritage Council of Western Australia, the Aboriginal Affairs Department of Western Australia and the Australian Heritage Commission become requirements prior to the undertaking of any works.

R 67

The Water Corporation should consider amending its Preliminary Works Manual to ensure that employees and contractors are aware of the legislative requirement to seek permission prior to undertaking works on sites registered under the *Aboriginal Heritage Act 1972* and the *Heritage Act of Western Australia 1990*.

### **5.11 Westrail**

Westrail's overall environmental policy is included in its *Environmental Management Manual Part One: Policy and Strategies* (1996). The aim of Westrail's Environment policy is to provide 'effective freight and passenger transport services, consistent with

safety and environmental protection' (Westrail, 1996, p6). This broad policy is expanded through a range of more specific policies, many of which could be seen to have a bearing on the protection of cultural heritage values. These include a commitment to comply with all applicable laws, regulations and standards; the promotion of sound environmental practices; public liaison and communication, particularly in instances where Westrail activities may impact on social or cultural environments; ensuring that those working for Westrail are aware of its environmental policy and through this, their own obligations; instituting environmental management systems and procedures to identify, assess, control and monitor environmental risks from Westrail activities; developing an awareness of studies which are pertinent to Westrail operations and could assist in protecting the environment; and auditing of environmental performance to ensure compliance with Westrail policy. Additional notes expand on each of these policies. Subsequent notes give background information associated with the specific issues and develop principles for their environmental management.

Environmental management is to be incorporated as an integral part of Westrail business practice, with all levels of staff encouraged to demonstrate a commitment to environmental care in terms of the Environmental Policy. Periodic audits are to be made of operations. There is also a commitment to training staff on relevant environmental matters.

The specific environmental policy relating to Landscape, Heritage and Social values commits Westrail to providing appropriate 'knowledge' of landscape and heritage features in order to devise means of keeping the impact of operations within manageable limits. In expanding on this policy, the Manual deals separately with Social Aspects, Visual Impact and Heritage. Cultural heritage values are only specifically mentioned in the section dealing with Heritage. The environmental objective of this section is *'The protection and conservation of items of cultural or built heritage consistent with Westrail operations'* (Westrail, 1996, p33). The principle which has been derived to achieve the objective states that Westrail will liaise with all relevant authorities during the project planning phase in order to identify items of 'heritage value' with a view to conservation. The organisations listed are HCWA, the National Trust, the Department of Planning and Urban Development and Local Government Authorities.

### **Adequacy and Implementation**

The Manual contains no definition of the term 'environment' to which the Environment Policy and related documentation can refer. Such a definition would help in clarifying Westrail's environmental policies and objectives as well as ensuring that all aspects of the environment, including cultural heritage values, are included in operational considerations.

The section of the Manual which outlines Social Aspects which should be considered, or which may be encountered during the course of project planning, construction and operation does not include any which relate to national estate values. In particular, Criterion G.1 may not be adequately identified.

In its principles relating to the environmental management of the visual impact of Westrail operations, no mention is made of the need to consider aesthetic cultural heritage values. In particular, national estate criterion E.1 may not be adequately

identified, assessed and protected. Overall emphasis is placed on minimising impacts as opposed to protecting aesthetic values.

Westrail do not state that they will consult with the AHC regarding national estate cultural heritage values during the planning phase of operations. Despite making a commitment to liaise with HCWA during the project planning, HCWA have indicated that consultation is not always undertaken (Carrick, 1998). In view of the lack of absolute congruency between the assessment criteria of the RNE and the criterion of the *Heritage of Western Australia Act 1990*, it is not necessarily the case that in liaising with HCWA, all national estate cultural heritage values which should be protected will be brought to the attention of Westrail.

In relation to Aboriginal cultural heritage, Westrail do not state that they will liaise with AAD in the identification of sites of Indigenous cultural heritage value. Again, in view of the lack of congruency between the assessment criteria between the ACMC and the RNE, such consultation would not necessarily result in the identification of all national estate cultural heritage values.

While Westrail makes a commitment to the protection and conservation of heritage values, conservation should only be undertaken in accordance with best practice principles and methodologies.

## Recommendations

R 68

Westrail should consider the development of an holistic definition of the term 'environment' for use in the development of environmental policies, objectives and principles. This definition should include cultural heritage values.

R 69

Westrail should consider amending the section of the Manual which outlines principles relating to the consideration of Social Issues to include national estate cultural heritage values, particularly criterion G.1.

R 70

Westrail should consider amending the section of the Manual which outlines principles relating to the consideration of Visual Impact to include all national estate cultural heritage values.

R 71

Westrail should ensure that all State and federal heritage agencies are consulted during the project planning phase.

R 72

Where Westrail makes a commitment to the conservation of cultural heritage places, it should be stated that this will be undertaken in accordance with acknowledged best practice principles and methodologies.

## 5.12 ALCOA

ALCOA is currently developing policies and guidelines for the protection of European (sic) and indigenous cultural heritage. However, recent documentation from ALCOA

has stated the company's 'Environmental, Health and Safety Policy and Principles'. In relation to the potential protection of cultural heritage values, ALCOA's policy states

*'We will not compromise environmental, health or safety values for profit or production' (ALCOA, 1997, p6)*

Among the principles developed to support the Environmental, Health and Safety Policy, ALCOA makes commitments to practicing sound environmental management, its compliance with all laws and the auditing of its operations. Sections of the *Huntly Mine Environmental Management Plan*, (1997) expand on these principles. The plan includes a list of the 'principle' Acts and Regulations that ALCOA must comply with. This list does not mention either the *Aboriginal Heritage Act 1972* or the *Heritage of Western Australia Act 1990*.

The Plan outlines a range of Management Programmes specific to Huntly mine. These include details of ALCOA's programmes relating to potentially damaging operations other than those directly associated with mining activities such as prevention and control of the spread of dieback, fire management and feral animal control.

A range of management programmes are outlined by ALCOA in relation to cultural heritage values. The company is in the process of developing an 'Indigenous Peoples' Policy and Procedures' to ensure the management of related issues. The company has appointed a Corporate Relations Officer with responsibilities for Aboriginal affairs across all ALCOA operations. It is also committed to undertaking an site survey at the earliest possible stage of the planning process. A register of Aboriginal sites is maintained by the company on GIS for use in general mine planning.

In the case of 'European heritage', ALCOA states that it maintains close links with the AHC and CALM to ensure that heritage places are considered in the development of mine plans. A register of European heritage sites is also maintained by ALCOA on GIS.

While ALCOA is required to abide by the provisions of the two state heritage Acts during its operations, the actual management of places with cultural heritage values in areas where the company is operating is the responsibility of CALM.

### **Adequacy and Implementation**

While the list of legislation to which ALCOA must comply was not intended to be comprehensive, the failure to make reference to the *Aboriginal Heritage Act 1972* or the *Heritage Act of Western Australia 1990* is an unfortunate omission.

In making its commitment to undertake an Aboriginal site survey, ALCOA makes no mention of the AAD's guidelines on such surveys.

The company makes no general commitment to the protection of significant cultural heritage values, only to their consideration in the planning process and their possible management

### **Recommendations**

R 73

That ALCOA include the *Aboriginal Heritage Act 1972* and the *Heritage Act of Western Australia 1990* in any future lists of legislation to which it must comply with.

R 74

That ALCOA consider making a commitment to the use of best practice principles in survey, analysis and management of cultural heritage places.

R 75

ALCOA should consider developing a policy statement which makes a commitment to the *conservation* of cultural heritage values, including national estate cultural heritage values, in order to ensure temporal protection of such places. Such conservation should be undertaken in accordance with acknowledged best practice principles.



## 6 MONITORING AND MEASURING PROTECTIVE MECHANISMS

This report has measured the effectiveness of protective mechanisms against a range of questions and a set of what are considered to be optimum protective mechanisms. These state that for agencies to achieve optimum protection of cultural heritage values, policies and guidance must state a commitment:

- to abide by legislative provisions relating to cultural heritage, with a brief summary of those provisions;
- to consult with the full range of federal and state heritage agencies in identifying existing national estate cultural heritage values;
- to undertaking surveys of national estate cultural heritage values on lands under their management, particularly prior to undertaking potentially damaging operations;
- to the appointment of staff with specific responsibilities for cultural heritage;
- to the conservation of significant cultural heritage places, with clarification as to how 'significance' is to be determined;
- to the use of best practice principles in developing conservation strategies for significant cultural heritage value;
- to the consideration of national estate cultural heritage values in developing strategies for potentially damaging operations.

These optimum protective mechanisms provide a concise checklist against which future changes, revisions and developments in the policy and guidance of individual organisations can be examined. However, as is evident in Section 5 of this report, the presence of policies and guidance is no guarantee that they will be followed or implemented, and it is therefore necessary to ensure that adequate systems for monitoring the implementation and effectiveness of protective mechanisms need to be established.

It is currently the case that monitoring and review of protective mechanisms relating to cultural heritage values are undertaken internally by individual agencies, generally on an irregular basis. In the case of CALM, the ESFM report (1997) highlighted the fact that the presence of internal auditing and review processes does not provide an adequate sense of independent review and transparency, nor does it provide for the public reporting of results. The ESFM report recommends the establishment of annual external, independent audits for a sample of CALM operational practices (Recommendation 4.5). Furthermore, it recommends that there be frequent (one to two year) reviews and periodic (about every five years) reviews of two key documents, the *Code of Harvesting Practice* and the *Timber Harvesting Manual*. In relation to monitoring the effectiveness of protection for national estate cultural heritage values, it would be necessary to review other CALM documentation, and audit practices which specifically relate to cultural heritage identification and conservation.

The conclusions and recommendations of the ESFM (1997) report on the internal auditing and monitoring procedures in CALM are equally relevant to policies, guidance and practices relating to national estate values in other organisations and agencies.

External auditing and reviews need not necessarily be undertaken by the AAD and HCWA. However in order to ensure consistency in the auditing and review process, guidelines should be developed by the AAD and HCWA for heritage consultants

employed to undertake this work. Consultation with the AHC and non-government heritage agencies should also be undertaken in the compilation of this guidance.

### **Recommendations**

#### **R 76**

All land management agencies should consider implementing independent, external auditing of operational practices which relate to the spatial and temporal protection of national estate cultural heritage values.

#### **R 77**

All land management agencies should consider implementing frequent (approximately one to two yearly) internal reviews, and periodic (approximately five yearly) external reviews of policy and guidance documentation relating to the spatial and temporal protection of national estate cultural heritage values.

#### **R 78**

The Aboriginal Affairs Department and the Heritage Council of Western Australia should, in consultation with the Australian Heritage Commission and non-government organisations consider the development of guidelines relating to the auditing and review of processes and protective mechanisms relating to national estate cultural heritage values.

## 7 CONCLUSIONS

### 7.1 Identification of National Estate Cultural Heritage Values

. Prior to recent research relating to the RFA, the only government agency identifying the full complement of national estate cultural heritage values in the South-West Forest Region has been the Australian Heritage Commission. Overall, there is a lack of commitment on the part of the State organisations and agencies reviewed in this report to the identification and protection of all national estate cultural heritage values. This has meant that in the majority of cases it has not been possible to make a distinction between those values which *are* protected under existing mechanisms, and those which are not.

The policies and guidance that exist in relation to the broader theme of cultural heritage indicate that there are several key issues which need to be addressed if national estate cultural heritage values are to be more comprehensively identified and protected through non-legislative mechanisms.

Broadly speaking, the national estate values for cultural heritage can be divided according to the manner in which they are identified, either with or without public consultation. Criteria G.1 and E.1 most obviously require public consultation in order to determine the extent and degree of community, social or aesthetic value present. The remaining criterion rely on the accumulation of largely historic information, much of which can be revealed through desk based studies. It is also the case, however, that community consultation regarding historic values is likely to reveal additional information of significance. This is particularly the case with historic indigenous cultural heritage values where written records may be limited.

While the set of optimum protective mechanisms discussed in Section 7.2 of this report relates to the protection of all national estate cultural heritage values, Table 1 summarises the recommendations of this report in relation to specific national estate cultural heritage values.

The ESFM (1997) report highlighted CALM's lack of formal consultation processes with indigenous communities and the same situation exists in relation to their community consultation for non-indigenous heritage values. This lack of community consultation is repeated across many of the agencies reviewed in this report and represents a major obstruction to the identification of national estate cultural heritage values.

### 7.2 Legislation

There is presently a lack of congruency between the assessment criteria contained in the *Aboriginal Heritage Act 1972* and the *Heritage of Western Australia Act 1990*. As a result, places on the State heritage registers have not been assessed for the full complement of national estate cultural heritage values, and those unassessed values remain unprotected by specific conservation and management strategies.

Places on the Register of the National Estate which have been assessed according to national estate criterion are not automatically included in the two State heritage registers. Indications are that only a small percentage of places with non-indigenous national estate cultural heritage value, approximately 20% in any given local government area, have been reassessed according to the State heritage criterion and

have some of their values protected under the provisions of the *Heritage of Western Australia Act 1990*. It is currently unknown how many similar sites of indigenous national estate cultural heritage value are not protected under the *Aboriginal Heritage Act 1972*.

State heritage legislation provides the greatest degree of protection to places of cultural heritage value. It is also the case that state government departments and other agencies feel a greater obligation and commitment to consultation with the two State heritage agencies, the AAD and HCWA, than with the AHC or other non-government heritage agencies such as the National Trust of Western Australia. Therefore, in order to ensure more comprehensive protection of national estate cultural heritage values, it is imperative that State heritage legislation be brought into closer alignment with the *Australian Heritage Commission Act 1975*.

The current division of responsibility for indigenous and non-indigenous cultural heritage between the AAD and HCWA is understandable. However, in order to achieve more comprehensive identification of the full range of national estate cultural heritage values across indigenous and non-indigenous communities, greater cooperation, if not integration, will be necessary. There is currently only limited inter-heritage agency consultation.

**Table 1 Recommended Amendments to Protective Mechanisms and Operations for Specific National Estate Cultural Heritage Values.**

National Estate Indigenous and Non-Indigenous Cultural Heritage Values	Recommended Amendments to Protective Mechanisms and Operations
<p>Historic Values (A.3, A.4, B.2, C.2, D.2, F.1, H.1)</p>	<ul style="list-style-type: none"> <li>• Site surveys to identify national estate historic values should be completed prior to undertaking any potentially damaging operations.</li> <li>• Research into historic national estate cultural heritage values should include consultation with indigenous and non-indigenous communities.</li> <li>• Agencies should develop clear policies and guidance relating to the conservation of historic national estate values which are in line with best practice and use terminology defined in the Burra Charter.</li> <li>• Historic national estate values should be incorporated into landscape management systems.</li> <li>• Training should be provided for staff undertaking potentially damaging operations in the identification of national estate historic cultural heritage values, in order to enhance protection on the ground.</li> </ul>
<p>Social Values (G.1)</p>	<ul style="list-style-type: none"> <li>• Research to identify national estate social values should be completed prior to undertaking any potentially damaging operations. This will require consultation with indigenous and non-indigenous communities.</li> <li>• Agencies should develop clear policies and guidance relating to the conservation of national estate social values which are in line with best practice and use terminology defined in the Burra Charter.</li> <li>• National estate social values should be incorporated into landscape management systems.</li> <li>• Training should be provided for staff undertaking potentially damaging operations to create greater awareness and understanding of national estate social values, in order to enhance protection on the ground.</li> </ul>
<p>Aesthetic Values (E.1)</p>	<ul style="list-style-type: none"> <li>• Research to identify aesthetic national estate cultural heritage values should be completed prior to undertaking any potentially damaging operations. This will require consultation with indigenous and non-indigenous communities.</li> <li>• Agencies should develop clear policies and guidance relating to the conservation of aesthetic national estate cultural heritage values which are in line with best practice and use terminology defined in the Burra Charter.</li> <li>• Aesthetic national estate cultural heritage values should be incorporated into landscape management systems.</li> <li>• Training should be provided for staff undertaking potentially damaging operations to create greater awareness and understanding of national estate aesthetic cultural heritage values, in order to enhance protection on the ground.</li> </ul>

### 7.3 Protective Mechanisms

Although cultural heritage issues are most obviously the responsibility of the AAD and HCWA, the fact that national estate cultural heritage values are spread across a range of land tenures and vestings, means that many Government departments and other authorities also have responsibilities towards cultural heritage. There is, however, a general perception, that anything other than the most general concern for such issues

falls outside their remit. As a result, policy documents and guidance tends to focus on the primary role of the department or agency to the neglect of cultural heritage. This belief represents one of the most fundamental obstacles to the protection of significant places.

While there is evidence of an increasing awareness by land management agencies of the need to include cultural heritage issues in policy and guidance, these documents generally fall well below optimum standards. They are characterised by a lack of clarity in both their extent and intent, and do not adequately develop strategies to ensure the spatial and temporal protection of cultural heritage values. This is despite the presence of acknowledged best practice principles for the conservation of cultural heritage values in Australia since 1979.

The development of better management and conservation strategies is further hampered by the absence of an integrated database of places with cultural heritage value, including those of national estate value, which is accessible to all land management agencies and which can provide spatial as well as textual information. Such a facility would also help to address the current lack of understanding of the full range of national estate cultural heritage values within land management agencies.

The correlation between existing policies and guidance and the optimum protective mechanisms identified in Section 2.2 is as follows :

***To abide by legislative provisions relating to cultural heritage, with a brief summary of those provisions***

A commitment to the provisions of legislation relating to cultural heritage is fundamental, particularly in relation to the protection of values. Although the provisions of the State heritage Acts are universal, guidance documents do not always make reference to the Acts. As knowledge of cultural heritage outside the industry is not extensive, a brief summary of the provisions of the Acts, particularly the *Aboriginal Heritage Act 1972* which has more extensive requirements and affords protection to all Aboriginal sites, would aid in effecting the aims of the Acts. It is only rarely the case, however, the such information is included in guidance documentation produced by land management agencies.

***To consult with the full range of federal and state heritage agencies in identifying existing national estate cultural heritage values***

Consultation with the Aboriginal Affairs Department and the Heritage Council of Western Australia are requirements under the terms of the two state heritage Acts. However, a commitment to consultation, in addition to a commitment to abide by legislative provisions, is not always stated in guidance documentation produced by land management agencies. Additionally, neither of these State heritage agencies currently uses evaluative criteria which are congruent to those used to identify and assess national estate cultural heritage values. Additional consultation is therefore required with the Australian Heritage Commission (AHC). A commitment to consult with the AHC occurs only in a limited number of agencies and organisations. Some agencies indicate that it is an organisation which *may* be consulted, however most omit to mention it at all.

***To undertaking surveys of national estate cultural heritage values on lands under their management, particularly prior to undertaking potentially damaging operations***

The provisions of the *Aboriginal Heritage Act 1972* have led to a general acceptance of the need to undertake archaeological and ethnographic studies to identify indigenous cultural heritage values prior to undertaking potentially damaging operations and most agencies make a commitment to this process. However, the evaluative criteria of the *Aboriginal Heritage Act 1972* are not congruent with national estate cultural heritage values and therefore this process is not guaranteed to identify the full complement of national estate cultural heritage values. There is no similar provision for site surveys to be undertaken to identify non-indigenous cultural heritage values and as a result, few organisations make any commitment to this objective. Where a commitment to the identification of non-indigenous cultural heritage values has been made, it is not in accordance with national estate values, nor it an objective which has been applied consistently across the whole organisation.

***To the appointment of staff with specific responsibilities for cultural heritage***

There are currently no instances of land management agencies appointing staff who are dedicated to cultural heritage and related issues. Some organisations have staff who effectively act as Aboriginal liaison officers, however their remit does not include cultural heritage as understood for the purposes of this report. Cultural heritage usually falls within the remit of staff with broader environment responsibilities who have no qualifications in relation to cultural heritage.

***To the conservation of significant cultural heritage places, with clarification as to how 'significance' is to be determined***

Spatial and temporal protection of cultural heritage values can only be achieved through a commitment to *conservation*. While *protection* may be limited to ensuring that cultural heritage values are not lost or damaged due to potentially damaging operations, *conservation* is concerned with ensuring the ongoing presence of cultural heritage values. Few organisations make a commitment to the conservation of cultural heritage values, although there is a more widespread commitment to their protection. It is unclear if any organisations are aware of the distinction between the two terms as terminology used in relation to cultural heritage is rarely defined. Conservation terminology has been clearly defined in Australia since the publication of the Burra Charter by Australia ICOMOS in 1979. This document draws distinctions between a range of terms commonly used in heritage conservation, in particular between 'preservation', 'restoration' and 'conservation'. These distinctions have not been clearly adopted in land management agency guidance on the protection of cultural heritage values. As a result, there are instances where terminology appears to have been used indiscriminately and interchangeably, and others where the policy objective is unclear or ambiguous. When it is specified that 'significant' places will be protected, it is rarely clear how significance will be determined.

***To the use of best practice principles in developing conservation strategies for places with significant cultural heritage value***

Despite the presence since 1979 of excellent and acknowledged best practice principles for cultural heritage conservation in the Burra Charter, and the subsequent development of the Conservation Plan methodology in the early 1980s, there is almost no mention of such guidance in policy documents developed by land management agencies. Few organisations appear to have a coordinated strategy for the conservation of cultural heritage values.

***To the consideration of national estate cultural heritage values in developing strategies for potentially damaging operations***

National estate cultural heritage values are not universally included in developing strategies for potentially damaging operations. In many instances, cultural heritage values are included as an optional consideration.

#### **7.4 Monitoring and Measuring the Effectiveness of Protective Mechanisms**

Only limited provisions exist within agencies for monitoring and measuring of the effectiveness of protective mechanisms, and these are mostly internal processes which do not facilitate independent review or public scrutiny. In line with the broad recommendations of the ESFM (1997) report, current inadequate monitoring processes should be replaced by regular external auditing of operations and reviews of key documentation which relate or impact upon the protection of national estate cultural heritage values.

#### **7.5 Concluding Remarks**

This report has focussed largely on mechanisms which are either missing or need to be amended in order to protect national estate cultural heritage values. While there are positive aspects present in existing protective mechanisms, it is clearly also the case that many changes will be necessary if existing policies, guidance and processes are to be brought into line with optimum protective mechanisms, and their success monitored and measured effectively.



## **APPENDIX I : Report Terms of Reference**

### **National Estate Cultural Heritage Values Protective Mechanisms Terms of Reference**

#### **Background**

Under the National Forest Policy Statement (NFPS) Commonwealth, State and Territory governments agreed to a framework and process for carrying out comprehensive assessments of the economic, social, environmental and heritage values of forest regions. This includes the assessment of the cultural heritage values (Indigenous and non-Indigenous) of forest regions. Once completed, comprehensive regional assessments (CRAs) will provide governments with the information required to make long terms decisions about forest use and management which will be reflected in the development of a Regional Forest Agreement for Western Australia.

The identification and assessment of national estate cultural values makes up one component of the CRA process. In Western Australia, CRA projects focussing on national estate aesthetic, Indigenous and social values have been conducted. Preliminary work on the identification of historic national estate values included an audit of existing information and databases and the compilation of a thematic history has also been conducted.

In order to satisfy the legislative requirements of the Australian Heritage Commission Act 1975 in a Regional Forest Agreement, provision for the protection and conservation of national estate values spatially and temporally on a regional basis must be in place. Such provision is achieved through legislative and non-legislative protection mechanisms. The presence and effectiveness of such mechanisms are determined through the Ecological Sustainable Forest Management (ESFM) process and through the project described in these terms of reference. A similar project will be carried out in relation to natural national estate values.

As work relating to legislative mechanisms has been completed, the research component of this project relates in the main part to non-legislative protection mechanisms (management practices, policies, procedures, guidelines and codes of practice). Analysis and recommendations however should consider the effectiveness of both legislative and non-legislative protection mechanisms. This project is to focus is upon all national estate cultural heritage values, namely A.3, A.4, B.2, C.2, D.2, E.1, F.1, G.1, H.1, including Indigenous heritage (see Attachment A).

Work completed to date, and which will be made available for the use of the consultant, includes the report of the Ecologically Sustainable Forest Management Expert Panel, a review of Commonwealth and State Government legislative protective mechanisms and CRA cultural heritage assessment reports. Similar studies have also been completed as part of CRA project work for the Tasmanian and the East Gippsland Region of Victoria Regional Forest Agreements. These will also be made available to the consultant.

#### **Study Area**

The study area consists of both public and private land within the South-West Forest Region of Western Australia.

## **Project Objectives**

- To clearly indicate the extent to which national estate cultural heritage values (Indigenous and non-Indigenous) are protected under the current management practices, policies and guidelines of relevant land management agencies; and
- To recommend ways in which the protection and conservation of national estate cultural heritage values can be improved or extended to ensure the protection of values at a regional level both spatially and temporally.

## **Project Scope**

In satisfying the objectives of this project, the consultant will be required to identify:

- those conservation principles and practices relevant to cultural national estate values which are currently accepted as 'quote best practices', for example the Burra Charter and Kerr's Conservation Plan
- the range of disturbance activities in forests which are like to impact upon cultural heritage values in both positive and negative ways
- the range of Government and private organisations which play a role or have an interest in the management and conservation of historic places in the forests of the South-West region
- the means by which cultural heritage values in forests (Indigenous and non-Indigenous) are currently managed or protected by relevant land management and heritage agencies. Particular consideration should be given to the existence of consultative mechanisms, both public and intra-agency.
- which national estate cultural heritage values are adequately protected through these existing mechanisms and which are not
- which existing mechanisms can be adjusted to adequately protect those national estate cultural heritage values not currently adequately protected
- which new mechanisms/guidelines need to be developed to provide for the protection of national estate cultural heritage values which are currently not protected or which cannot be provided for under existing mechanisms
- the means by which spatial and textual information concerning places of cultural heritage value is currently collected, stored and accessed by relevant land management and heritage agencies and opportunities for the improvement or extension of these systems
- mechanisms through which the effectiveness of protective mechanisms can be monitored and measured

The consultant will also be required to:

- consider legislative mechanisms in place to protect and conserve cultural heritage values and how they relate to non-legislative mechanisms
- consider the content and recommendations of the ESFM Expert Panel report which relate to the protection of cultural heritage values;
- develop a series of recommendations on the ways in which the protection and conservation of national estate cultural heritage values can be improved or extended to ensure their protection at a regional level both spatially and temporally, which are consistent with or which build upon the work of the ESFM panel and which reflect current best practice principles.

A range of options should be presented which show the least amount of adjustment to provide adequate protection to adjustments which would provide an optimum level of protection to help guide Governments in determining the required levels of protection.

Values across all land tenures and the protection of values located both within and off-reserve must be considered. Generally, emphasis is to be placed on the broad frameworks and practices which have or have the potential to support and guide on-the-ground processes.

### **Methodology**

As this project is essentially one of research and analysis, the methodology to be followed can largely be determined by the consultant. However, the project does require the systematic collection and analysis of information from relevant land management agencies, heritage bodies and individual experts. The consultant will be required to liaise with these bodies and agencies, conduct select interviews and to conduct text-based research.

### **Reporting**

The consultant is required to produce a written report detailing and substantiating the findings and recommendations of the project. This report should follow the standard format described in Attachment B. Additionally, it is to include a table depicting

- the legislative and non-legislative protection mechanisms afforded to each national estate cultural heritage criterion (A.3, A.4, B.2, C.2, D.2, E.1, F.1, G.1, H.1, including Indigenous), any identified gaps or deficiencies in protection, and actions (minimum to optimum) required to ensure the protection of national estate cultural heritage values now and into the future.

### **Timing**

This project must be completed by January 23, 1997. Draft in week before.

### **Project Officers**

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### **Possible useful contacts**

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## **APPENDIX II: National Estate Criteria**

Without limiting the generality of subsection (1) of the *Australian Heritage Commission Act 1975*, a place that has a component of the natural or cultural environment of Australia is taken to be a place included in the national estate if it has significance or other special value for future generations as well as for the present community because of :

### **Criterion A**

#### **Its importance in the course, or pattern, of Australia's natural or cultural history**

- A.1 Importance in the evolution of Australian flora, fauna, landscapes or climate.
- A.2 Importance in maintaining existing processes or natural systems at the regional or national scale.
- A.3 Importance in exhibiting unusual richness or diversity of flora, fauna, landscapes or cultural features.
- A.4 Importance for association with events, developments or cultural phases which have had a significant role in the human occupation and evolution of the nation, State, region or community.

### **Criterion B**

#### **Its possession of uncommon, rare or endangered aspects of Australia's natural or cultural history**

- B.1 Importance for rare, endangered or uncommon flora, fauna, communities, ecosystems, natural landscapes or phenomena, or as a wilderness.
- B.2 Importance in demonstrating a distinctive way of life, custom, process, land-use, function or design no longer practiced or in danger of being lost or of exceptional interest.

### **Criterion C**

#### **Its potential to yield information that will contribute to an understanding of Australia's natural or cultural history**

- C.1 Importance for information contributing to a wider understanding of Australian natural history, by virtue of its use as a research site, teaching site, type locality, reference or benchmark site.
- C.2 Importance for information contributing to a wider understanding of the history of human occupation of Australia.

### **Criterion D**

#### **Its importance in demonstrating the principle characteristics of :**

- i) **a class of Australia's natural or cultural places or;**

**ii) a class of Australia's natural or cultural environments**

- D.1 Importance in demonstrating the principle characteristics of the range of landscapes, environments or ecosystems, the attributes of which identify them as being characteristics of their class.
- D.2 Importance in demonstrating the principle characteristics of the range of human activities in the Australian environment (including way of life, custom, process, land-use, function, design or technique).

**Criterion E**

**Its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group**

- E.1 Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community.

**Criterion F**

**Its importance in demonstrating a high degree of creative or technical achievement at a particular period**

- F.1 Importance for its technical, creative, design or artistic excellence, innovation or achievement.

**Criterion G**

**Its strong or special associations with a particular community or cultural group for social, cultural or spiritual reasons**

- G.1 Importance as a place highly valued by a community for reasons of religious, spiritual, symbolic, cultural, educational or social associations.

**Criterion H**

**Its special associations with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history**

- H.1 Importance for close associations with individuals whose activities have been significant within the history of the nation, State or region.

## APPENDIX III : The Australia ICOMOS Burra Charter

### The Australia ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter)

#### Preamble

Having regard to the International Charter for the Conservation and Restoration of Monuments and Sites (Venice 1966), and the Resolutions of the 5<sup>th</sup> General Assembly of the International Council on Monuments and Sites (ICOMOS) (Moscow 1978), the following Charter was adopted by Australia ICOMOS on 19<sup>th</sup> August 1979 at Burra Burra. Revisions were adopted on 23<sup>rd</sup> February 1981 and on 23<sup>rd</sup> April 1988.

#### Definitions

#### ARTICLE 1

For the purpose of this Charter:

- 1.1 **Place** means site, area, building or other work, group of buildings or other works together with associated contents and surroundings.
- 1.2 **Cultural Significance** means aesthetic, historic, scientific or social value for past, present or future generations.
- 1.3 **Fabric** means all the physical material of the *place*.
- 1.4 **Conservation** means all the processes of looking after a *place* so as to retain its cultural significance. It includes *maintenance* and may, according to circumstances, include *preservation*, *restoration*, *reconstruction* and *adaptation* and will be commonly a combination of more than one of these.
- 1.5 **Maintenance** means the continuous protective care of the fabric, contents and setting of a *place*, and it is to be distinguished from repair. Repair involves *restoration* or *reconstruction* and should be treated accordingly.
- 1.6 **Preservation** means maintaining the *fabric* of a *place* in its existing state and retarding deterioration.
- 1.7 **Restoration** means returning the EXISTING *fabric* of a *place* to a known earlier state by removing accretions or by reassembling existing components without the introduction of new material.
- 1.8 **Reconstruction** means returning a *place* as nearly as possible to a known earlier state and is distinguished by the introduction of materials (old or new) into the *fabric*. This is not to be confused with either recreation or conjectural reconstruction which are outside the scope of this Charter.
- 1.9 **Adaptation** means modifying a *place* to suit proposed compatible uses.
- 1.10 **Compatible use** means a use which involves no change to the culturally significant fabric, changes which are substantially reversible, or changes which require minimum impact.

## Conservation Principles

**ARTICLE 2** The aim of *conservation* is to retain the *cultural significance* of a *place* and must include provision for its security, and its *maintenance* and its future.

**ARTICLE 3** *Conservation* is based on respect for the existing *fabric* and should involve the least possible physical intervention. It should not distort the evidence provided by the *fabric*.

**ARTICLE 4** *Conservation* should make use of all the disciplines which can contribute to the study and safeguarding of a *place*. Techniques employed should be traditional but in some circumstances, they may be modern ones for which a firm scientific basis exists and which have been supported by a body of experience.

**ARTICLE 5** *Conservation* of a *place* should take into consideration all aspects of its *cultural significance* without unwarranted emphasis on any one aspect at the expense of others.

**ARTICLE 6** The conservation policy appropriate to a *place* must first be determined by an understanding of its *cultural significance*.

**ARTICLE 7** The conservation policy will determine which uses are compatible.

**ARTICLE 8** *Conservation* requires the maintenance of an appropriate visual setting e.g. form, scale, colour, texture and materials. No new construction, demolition or modification which would adversely affect the setting should be allowed. Environmental intrusions which adversely affect appreciation or enjoyment of the *place* should be excluded.

**ARTICLE 9** A building or work should remain in its historical location. The moving of all or part of a building or work is unacceptable unless this is the sole means of ensuring its survival.

**ARTICLE 10** The removal of contents which form part of the *cultural significance* of the *place* is unacceptable unless it is the sole means of ensuring their security and *preservation*. Such contents must be returned should changed circumstances make this practicable.

## Conservation Processes

### *Preservation*

**ARTICLE 11** *Preservation* is appropriate where the existing state of the *fabric* itself constitutes evidence of specific *cultural significance*, or where insufficient evidence is available to allow other conservation processes to be carried out.

**ARTICLE 12** *Preservation* is limited to the protection, and *maintenance* and, where necessary, the stabilisation of the existing *fabric* but without the distortion of its *cultural significance*.

### **Restoration**

**ARTICLE 13** *Restoration* is appropriate only if there is sufficient evidence of an earlier state of the *fabric* and only if returning the *fabric* to that state reveals the *cultural significance* of the *place*.

**ARTICLE 14** *Restoration* should reveal anew culturally significant aspects of the *place*. It is based on respect for all the physical, documentary and other evidence and stops at the point where conjecture begins.

**ARTICLE 15** *Restoration* is limited to the reassembling of displaced components or removal of accretions in accordance with Article 16.

**ARTICLE 16** The contribution of all periods to the *place* must be respected. If a *place* includes *fabric* different periods, revealing the *fabric* one period at the expense of another can only be justified when what is removed is of slight *cultural significance* and the *fabric* which is to be revealed is of much greater *cultural significance*.

### **Reconstruction**

**ARTICLE 17** *Reconstruction* is appropriate only where a *place* is incomplete through damage or alteration and where it is necessary for its survival, or where it reveals the *cultural significance* of the *place* as a whole.

**ARTICLE 18** *Reconstruction* is limited to the completion of a depleted entity and should not constitute the majority of the *fabric* of the *place*.

**ARTICLE 19** *Reconstruction* is limited to the reproduction of *fabric*, the form of which is known from physical and/or documentary evidence. It should be identifiable on close inspection as being new work.

### **Adaptation**

**ARTICLE 20** *Adaptation* is acceptable where the *conservation* of the *place* cannot otherwise be achieved, and where the *adaptation* does not substantially detract from its *cultural significance*.

**ARTICLE 21** *Adaptation* must be limited to that which is essential to a use for the *place* determined in accordance with Articles 6 and 7.

**ARTICLE 22** *Fabric* of *cultural significance* unavoidably removed in the process of *adaptation* must be kept safely to enable its future reinstatement.

### **Conservation Practice**

**ARTICLE 23** Work on a *place* must be preceded by professionally prepared studies of the physical, documentary and other evidence, and the existing *fabric* recorded before any intervention in the *place*.



**ARTICLE 24** Study of a *place* by an disturbance of the *fabric* or by archaeological excavation should be undertaken where necessary to provide data essential for decisions on the *conservation* of the *place* and/or to secure evidence about to be lost or made inaccessible through necessary *conservation* or other unavoidable action. Investigation of a *place* for any other reason which requires physical disturbance and which adds substantially to a scientific body of knowledge may be permitted, provided that it is consistent with the conservation policy for the *place*.

**ARTICLE 25** A written statement of conservation policy must be professionally prepared setting out the *cultural significance* and proposed *conservation* procedure together with justification and supporting evidence, including photographs, drawings and all appropriate samples.

**ARTICLE 26** The organisation and individuals responsible for policy decisions must be named and specific responsibility taken for each decision.

**ARTICLE 27** Appropriate professional direction and supervision must be maintained at all stages of the work and a log kept of new evidence and additional decisions recorded as in Article 25 above.

**ARTICLE 28** The records required by Articles 23, 24, 25, 26 and 27 should be places in a permanent archive and made publicly available.

**ARTICLE 29** The items referred to in Articles 10 and 22 should be professionally catalogued and protected.

## APPENDIX IV : SUMMARY OF RECOMMENDATIONS

### STATE GOVERNMENT

#### R 1

The Minister for Heritage should consider amending the *Heritage of Western Australia Act 1990* to include requirements for:

- i) the assessment of non-indigenous national estate cultural heritage values by agencies and operators in areas where potentially damaging operations are proposed and;
- ii) HCWA to be notified of places which may have national estate cultural heritage value and for such places to be protected pending assessment and recording by HCWA.

#### R 2

The Minister for Heritage should consider the compilation of an integrated information system containing details of places of indigenous and non-indigenous cultural heritage values, including national estate value for use by all State Government departments and other agencies, to facilitating informed decision making. This system should be regularly updated.

### ABORIGINAL AFFAIRS DEPARTMENT

#### R 3

The AAD should consider developing a set of conservation guidelines for sites of Aboriginal cultural heritage value, based on the broad principles and terminology contained in the Burra Charter and the Conservation Plan.

#### R 4

The AAD should consider developing guidelines in conjunction with the Heritage Council of Western Australia for the consideration, evaluation and protection of places which have both indigenous and non-indigenous cultural heritage values.

### HERITAGE COUNCIL OF WESTERN AUSTRALIA

#### R 5

HCWA should consider amending their current guidance '*Principles of Conservation on Heritage Places*' to include specific mention of the need to consider indigenous cultural heritage values which may relate to places primarily perceived as having non-indigenous cultural heritage significance.

#### R 6

HCWA should consider amending their current guidance '*Principles of Conservation on Heritage Places*' to include information regarding the provisions of the *Aboriginal Heritage Act 1972* which may also relate to places of non-indigenous cultural heritage value.

#### R 7

HCWA should consider developing guidelines for the identification, assessment and

conservation of individual places which have significant indigenous and non-indigenous cultural heritage values.

## **WESTERN AUSTRALIAN DEPARTMENT OF ENVIRONMENTAL PROTECTION**

R 8

The Western Australian Department of Environmental Protection should consider revising the *State Conservation Strategy* to ensure that terminology used in relation to cultural heritage conservation is consistent with accepted definitions as stated in the Burra Charter.

R 9

The Western Australian Department of Environmental Protection should consider revising the *State Conservation Strategy* to include a requirement that annual reports from State Government departments and agencies include the full range of environmental considerations, and not solely those for which the department or agency is directly responsible.

## **DEPARTMENT OF LAND ADMINISTRATION**

R 10

DOLA should consider developing new guidance relating to the proclamation of the *Land Administration Bill 1997 and Acts Amendment (Land Administration) Bill 1997* which includes a broad policy statement with a commitment to the protection of significant cultural heritage values on land for which it is responsible. Compliance with the policy should be expected from other agencies and operators in whom DOLA has vested land. The policy should be consistent with the terminology of the Burra Charter and conservation best practice.

## **DEPARTMENT OF CONSERVATION AND LAND MANAGEMENT**

### **General Recommendations**

R 11

CALM should consider adopting the use of terminology which is consistent with that accepted in cultural heritage conservation, as stated in the Burra Charter, in order to avoid ambiguity.

R 12

CALM should consider making a commitment to the use of acknowledged best practice conservation principles in the development of management plans and strategies for places of national estate cultural heritage significance.

R 13

CALM should consider developing policies which make a commitment to the *conservation* of national cultural heritage values in order to ensure spatial and temporal protection.

R 14

Where CALM regulated potentially damaging operations may impact on national estate cultural heritage values, these values should be included in the checklist of environmental factors to be considered prior to any action being taken.

R 15

CALM should consider adopting a standard nomenclature for use in documentation which draws clear distinctions between commonly used terminology such as 'goals', 'objectives', 'strategies', etc in order to avoid confusion and ambiguity.

R 16

CALM should consider the appointment of Officers responsible for indigenous and non-indigenous cultural heritage.

R 17

CALM should consider including a reference to the requirements of State and Federal legislation which deal with cultural heritage values in any documentation which may impact on cultural heritage.

R 18

CALM should consider ensuring that the full range of national estate values, including those relating to cultural heritage, are referred to in all documentation which deals with this subject in order to avoid misunderstandings as to the nature and extent of national estate values.

### **Fundamental Principles Recommendations**

R 19

CALM should consider amending the *Conservation and Land Management Act 1984* to ensure that :

- i) It adequately provides for the identification of the full range of national estate cultural heritage values;
- ii) It uses terminology which is consistent with those definitions set down in the Burra Charter;
- iii) It includes a commitment to the conservation of significant places to ensure spatial and temporal protection;
- iv) It clarifies the level of 'significance' required for conservation.

### **Policy Statement Recommendations**

R 20

CALM should consider the development of Policy Statements which specifically relate to indigenous and non-indigenous cultural heritage.

R 21

CALM should seek to develop an integrated VRM system which takes account of national estate cultural heritage values.

R 22

CALM should give consideration to making the application of an integrated VRM

system a requirement in the development of regional and area management plans.

### **Forest Management Plan Recommendations**

R 23

CALM should consider amending the Forest Management Plan in order to clarifying the designation and protection of 'areas of special significance', and in particular how these relate to areas with national estate cultural heritage values.

R 24

CALM should consider amending the Forest Management Plan to ensure that each Objective in the Forest Policy Statement makes a commitment to the conservation of forest values other than those of its specific remit.

### **Regional Management Plan Recommendations**

R 25

CALM should consider clarifying the status of the Regional Management Plans, particularly in relation to the Forest Management Plan, and publish details of which policies, strategies and guidance relating to national estate cultural heritage values contained in those Plans continues to be implemented by CALM.

### **National Park Management Plan Recommendations**

#### **i) General**

R 26

CALM should consider the development and implementation of an approved structure for National Park Management Plans in order to achieve consistency in the identification and assessment of park resources. The structure should stipulate the consideration of national estate cultural heritage values.

#### **ii) Identification and Assessment of Cultural Heritage**

R 27

CALM should consider amending or reviewing current management plans for National Parks to ensure that information contained within them is consistent with current legislative requirements and conservation best practice.

R 28

CALM should ensure that all places and features with potential cultural heritage value are considered in National Park Management Plans.

R 29

CALM should ensure that National Park Management Plans make a commitment to community consultation processes in relation to the identification of cultural heritage values.

#### **iii) Management Goals and Objectives**

R 30

CALM should ensure that objectives, strategies, prescriptions, actions etc developed in National Park Management Plans are consistent with the broad Management Objective applicable to all National Parks.

## Codes of Practice

### i) Code of Practice for Timber Harvesting (CALM, 1997)

R 31

CALM should consider amending the *Code of Practice for Timber Harvesting* to include a requirement that operators to comply with the provisions of the *Aboriginal Heritage Act 1972* and the *Heritage Act 1990*.

R 32

CALM should consider amending the *Code of Practice for Timber Harvesting* to include cultural heritage values in the list of factors to be considered in Environmental Protection.

R 33

CALM should consider amending the *Code of Practice for Timber Harvesting* to include a specific section relating to the protection of cultural heritage values.

### ii) Timber Harvesting in Western Australia: Manual of Harvesting Specifications ( 1996 )

R 34

CALM should consider amending the Manual of Harvesting Specifications to include the need to protect cultural heritage values in Short Term Integrated Harvesting and Regeneration Plans.

R 35

CALM should include reference in the Manual of Harvesting Specifications to the provision of the *Aboriginal Heritage Act 1972*.

R 36

CALM should consider amending the provisions of General Inspections undertaken according to the Hardwood Harvesting Inspection and Action Sheet (CLM 105 (1995) to include consideration of cultural heritage values.

### iii) Code of Practice for Timber Plantations (CALM and the Australian Forest Growers, undated)

R 37

CALM and the Australian Forest Growers should consider amending the *Code of Practice for Timber Plantations* to include a recommendation that landowners consult with the Australian Heritage Commission regarding national estate values on land proposed for plantation development in order to ensure the comprehensive recognition of national estate cultural heritage values.

R 38

CALM and the Australian Forest Growers should consider amending the *Code of*

*Practice for Timber Plantations* to include a recommendation that impact assessments of plantation developments on national estate cultural heritage values are undertaken by qualified heritage professionals.

R 39

CALM and the Australian Forest Growers should consider amending the *Code of Practice for Timber Plantations* to include the consideration of national estate cultural heritage values in the process of design and species selection for plantation developments.

R 40

CALM and the Australian Forest Growers should consider amending the *Code of Practice for Timber Plantations* to include a requirement for Timber Harvesting Plans to make reference to national estate cultural heritage values identified in the Management Plan, and to the assessment of the impact of harvesting on any cultural heritage values which have developed subsequent to the establishment of the plantation.

## DEPARTMENT OF MINERALS AND ENERGY

R 41

The DME should consider amending its guidance relating to the contents of Notices of Intent to stipulate the inclusion of national estate cultural heritage values, including visual/aesthetic values, details of which should be provided.

R 42

The DME should consider amending the *Guidelines for the Application of Environmental Conditions for Onshore Mineral Exploration and Development on Conservation Reserves and Other Environmentally Sensitive Land in Western Australia* (1995) to make reference to the provisions of the *Heritage of Western Australia Act 1990*.

R 43

The DME should consider developing an overall environment policy statement which makes a commitment to the protection and conservation of significant values, including national estate cultural heritage values.

R 44

The DME should consider amending the environment Schedules relating to the granting of prospecting and exploration licenses on CALM to include a requirement to consider cultural heritage values, including national estate values.

R 45

The DME should consider stipulating that the development of management programmes relating to environmental impacts on cultural heritage values under the terms of environment Schedules be in accordance with conservation best practice.

## DEPARTMENT OF RESOURCE DEVELOPMENT

R 46

The DRD should consider the development of guidelines for the process of non-indigenous heritage evaluation in line with the requirements of the *Heritage of Western Australia Act 1990*.

R 47

The DRD should consider the development of guidelines for conditions under which consultation with the Australian Heritage Commission may be necessary according to S.30 of the *Australian Heritage Commission Act 1975*.

R 48

While the DRD Guidelines focus on statutory processes, it may be advisable to develop additional guidelines which deal with non-legislative consultative processes which should include consultation with the AHC in order to fulfil community expectations regarding cultural heritage.

R 49

The DRD should consider amending guidance documentation to stipulate that the full range of Government agencies is included in the process of developing long term strategies for projects operating under State Agreement Acts, in order to ensure the consideration of national estate cultural heritage values.

## ENVIRONMENTAL PROTECTION AUTHORITY

R 50

The Environmental Protection Authority should ensure that assessments of cultural heritage, either by the Department of Environmental Protection, other nominated government departments, independent consultations or proponents and responsible authorities, are consistent with national estate cultural heritage values.

R 51

The Environmental Protection Authority and the Department of the Environmental Protection should consider amending their policies to include the consideration of non-indigenous national estate cultural heritage values as part of every assessment.

R 52

The Environmental Protection Authority should consider amending its guidance relating to initial referrals to include information on the extent of existing surveys of national estate cultural heritage values to aid in setting levels of assessment.

R 53

The Environmental Protection Authority should consider amending its guidance relating to Environmental Reviews to include consultation on the full range of environmental values, including national estate cultural heritage values, and provide a comprehensive list of the organisations which will be consulted including the Australian Heritage Commission.

## WESTERN AUSTRALIAN MINISTRY OF PLANNING

R 54



The Ministry of Planning should consider developing a broad environmental statement committing the Ministry to the conservation of significant cultural heritage places. Significance should include national estate listing.

R 55

The Ministry of Planning should consider the development of guidelines which stipulate the consideration of national estate cultural heritage in the development of Regional Plans and Regional Schemes. The text of such guidance should be consistent with accepted conservation terminology as set out in the Burra Charter.

## DEPARTMENT OF MAIN ROADS

R 56

Main Road should consider amending the section on Cultural Heritage Values in its *Environment Management Manual Guidelines* (1997) to include the use of conservation best practice principles in the compilation of management plans for places of cultural heritage value.

R 57

Main Road should consider amending the section on Cultural Heritage Values in its *Environment Management Manual Guidelines* (1997) to include the recommendations of the *Report on a Heritage Strategy for Strategy for Main Roads* (WA) relating to the determination of a place's significance.

R 58

Main Roads should ensure that documentation relating to cultural heritage uses terminology which is consistent with that of the Burra Charter.

R 59

Main Roads should consider developing a policy statement which makes a commitment to the *conservation* of cultural heritage values, including national estate cultural heritage values in order to ensure temporal protection of such places. Such conservation should be undertaken in accordance with acknowledged best practice principles.

R 60

Main Roads should consider amending its *Aboriginal Heritage Assessment for Planning Proposals: Process Documentation* (1997) to include consultation with the Australian Heritage Commission regarding places of indigenous heritage significance which have been identified on the Register of the National Estate.

## WESTERN POWER CORPORATION

R 61

Western Power Corporation should consider the development of a definition of 'environment' which encompasses the full range of environmental values, including national estate cultural heritage values.

R 62

Western Power should consider amending its policy objective *'To ensure that planning*

*and design for new projects and changes to existing processes provide for the consideration of best environmental practice technology and timely environmental impact assessment'* to allow for consideration of best practice in areas other than technology i.e. national estate cultural heritage conservation. In this case, the Corporation's commitment to accepted cultural heritage best practice should be stated.

R 63

Western Power should consider amending its policy objectives *'To monitor environmental effects of Corporation activities, sponsor relevant research and maintain a high level of professional knowledge'* and *'To maintain contingency plans to reduce the impact of unforeseen environmental incidents from Corporation activities'* to include the Corporation's commitments to cultural heritage issues.

## **WATER CORPORATION**

R 64

The Water Corporation should consider the development of an holistic definition of the term 'environment' for use in the development of environmental policies, objectives and principles. This definition should include national estate cultural heritage values.

R 65

The Water Corporation should consider a commitment to the protection and conservation of national estate cultural heritage values.

R 66

The Water Corporation should consider amending its Preliminary Works Manual to ensure that consultation with the Heritage Council of Western Australia, the Aboriginal Affairs Department of Western Australia and the Australian Heritage Commission become requirements prior to the undertaking of any works.

R 67

The Water Corporation should consider amending its Preliminary Works Manual to ensure that employees and contractors are aware of the legislative requirement to seek permission prior to undertaking works on sites registered under the *Aboriginal Heritage Act 1972* and the *Heritage Act of Western Australia 1990*.

## **WESTRAIL**

R 68

Westrail should consider the development of an holistic definition of the term 'environment' for use in the development of environmental policies, objectives and principles. This definition should include cultural heritage values.

R 69

Westrail should consider amending the section of the Manual which outlines principles relating to the consideration of Social Issues to include national estate cultural heritage values, particularly criterion G.1.

R 70

Westrail should consider amending the section of the Manual which outlines principles relating to the consideration of Visual Impact to include all national estate cultural heritage values.

R 71

Westrail should ensure that all State and federal heritage agencies are consulted during the project planning phase.

R 72

Where Westrail makes a commitment to the conservation of cultural heritage places, it should be stated that this will be undertaken in accordance with acknowledged best practice principles and methodologies.

## ALCOA

R 73

That ALCOA include the *Aboriginal Heritage Act 1972* and the *Heritage Act of Western Australia 1990* in any future lists of legislation with which it must comply.

R 74

That ALCOA consider making a commitment to the use of best practice principles in survey, analysis and management of cultural heritage places.

R 75

ALCOA should consider developing a policy statement which makes a commitment to the *conservation* of cultural heritage values, including national estate cultural heritage values in order to ensure temporal protection of such places. Such conservation should be undertaken in accordance with acknowledged best practice principles.

## MONITORING AND MEASURING PROTECTIVE MECHANISMS

R 76

All land management agencies should consider implementing independent, external auditing of operational practices which relate to the spatial and temporal protection of national estate cultural heritage values.

R 77

All land management agencies should consider implementing frequent (approximately one to two yearly) internal reviews, and periodic (approximately five yearly) external reviews of policy and guidance documentation relating to the spatial and temporal protection of national estate cultural heritage values.

R 78

The Aboriginal Affairs Department and the Heritage Council of Western Australia should, in consultation with the Australian Heritage Commission and non-government organisations such as the National Trust of Western Australia, consider the development of guidelines relating to the auditing and review of processes and protective mechanisms relating to national estate cultural heritage values.

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