

APPENDIX 7: NSW HERITAGE OFFICE STANDARD EXEMPTIONS

HERITAGE INFORMATION SERIES

STANDARD EXEMPTIONS FOR WORKS REQUIRING HERITAGE COUNCIL APPROVAL

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INTRODUCTION

In NSW important items of our environmental heritage are listed on the State Heritage Register. Any changes to those items should respect and retain those qualities and characteristics that make the heritage place special.

Any major works proposed for **State Heritage Register items** therefore need to be assessed and approved by the Heritage Council to ensure that the heritage significance of the item will not be adversely affected.

However, the assessment process can waste the time and resources of both the owner and the Heritage Council if the works are only minor in nature and will have minimal impact on the heritage significance of the place. The Heritage Act allows the Minister Assisting the Minister for Infrastructure and Planning, on the recommendation of the Heritage Council, **to grant exemptions for certain activities** which would otherwise require approval under the NSW Heritage Act.

There are two types of exemptions which can apply to a heritage item listed on the State Heritage Register:

1. **standard exemptions** for all items on the State Heritage Register. Typical activities that are exempted include building maintenance, minor repairs, alterations to certain interiors or areas and change of use.
2. **site specific exemptions** for a particular heritage item can be approved by the Minister on the recommendation of the Heritage Council.

These guidelines have been prepared to inform owners and managers of heritage items listed on the State Heritage Register about the standard exemptions. They also explain how to develop site specific exemptions for a heritage item.

The State Heritage Register

Heritage places and items of particular importance to the people of New South Wales are listed on the State Heritage Register. The Register was created in April 1999 by amendments to the *Heritage Act 1977*.

The key to listing on the State Heritage Register is the level of significance. Only those heritage items which are of **state significance in NSW** are listed on the State Heritage Register.

To check whether an item is listed on the register, check the online heritage database on the Heritage Office homepage:

www.heritage.nsw.gov.au.

This online database lists all statutorily protected items in NSW.

STANDARD EXEMPTIONS

WHY HAVE STANDARD EXEMPTIONS?

The standard exemptions apply to all items listed on the State Heritage Register. These new exemptions came into force on the 7 March 2003 and were amended in June 2004. They relate to a broad range of minor development and will result in a more streamlined approval process.

The new exemptions replace all previous standard exemptions.

The purpose of the standard exemptions is to clarify for owners, the Heritage Office and local councils what kind of maintenance and minor works can be undertaken without needing Heritage Council approval. This ensures that owners are not required to make unnecessary applications for minor maintenance and repair.

Heritage Council has drafted guidelines to help owners and managers to interpret and apply the standard exemptions. These guidelines were published in 2004 and have been incorporated into this document.

Note: the standard exemptions do not usually apply to excavations.

The approval of the Heritage Council is required for the uncovering of all archaeological relics.

Note: For more information on exceptions to the general requirement for an excavation permit, go to the Permits and Applications page on the Heritage Office website:
www.heritage.nsw.gov.au

HOW WILL EXEMPTIONS ALREADY IN PLACE BE AFFECTED BY THE NEW STANDARD EXEMPTIONS?

1. **Standard Exemptions:** The new standard exemptions replace all existing standard exemptions.
2. **Site Specific Exemptions:** Some heritage items have site specific exemptions for works other than those in the standard list. Site specific exemptions will continue to remain in force.

WHAT OTHER APPROVALS ARE NECESSARY TO DO WORK ON A HERITAGE ITEM?

The exemptions only reduce the need to obtain approval from the Heritage Council, under section 60 of the Heritage Act, to carry out works to a heritage item listed on the State Heritage Register. You should check with your local council for information on additional development and building approvals, and with the Heritage Office for other approvals which may be required under the Heritage Act, such as an Excavation Permit.

HOW TO RELATE THE STANDARD EXEMPTION CLAUSES TO YOUR HERITAGE ITEM

The standard exemption clauses can be grouped under two headings:

- maintenance and repairs;
- alterations.

Clauses have been kept as concise as possible to avoid ambiguities. The terminology used is consistent with the Australia ICOMOS Burra Charter. Australia ICOMOS is the Australian chapter of International Council on Monuments and Sites, a UNESCO-affiliated international organisation of conservation specialists. The Burra Charter is a nationally accepted standard for assessing and managing change to heritage items.

Before you develop firm proposals for changes to the heritage item, take the following actions:

- [1.] Check the boundaries of the item to which the State Heritage Register listing applies;
- [2.] Check the exemptions which apply to your heritage item;
- [3.] Read these explanatory notes to ensure that the work you propose is exempted;
- [4.] If the work is not exempted, apply to the Heritage Council for approval under section 60 of the Heritage Act;
- [5.] Check with the local council concerning other approvals that may be required;
- [6.] Check with the Heritage Office if the work you propose involves the disturbance of relics more than 50 years old.

STANDARD EXEMPTIONS
AS AMENDED IN JUNE 2004 AND INCORPORATING
HERITAGE COUNCIL GUIDELINES

SCHEDULE OF EXEMPTIONS TO SUBSECTION 57(1) OF THE *HERITAGE ACT 1977*
MADE UNDER SUBSECTION 57(2)

GENERAL CONDITIONS

1. These general conditions apply to all of the following Exemptions.
2. Anything done pursuant to the following Exemptions must be carried out in accordance with relevant guidelines issued by the NSW Heritage Office including *The Maintenance Series* of technical sheets and *The Heritage Council Policy on Managing Change to Heritage Items* (currently in development and due for release in late 2004).
3. The following standard exemptions do not apply to anything affecting relics, places, items or sites of heritage significance to Aboriginal people or which affect traditional access by Aboriginal people.
4. The Assistant Director, Principal Heritage Officers employed by the Heritage Office and the Executive Director, Place Management employed by the Sydney Harbour Foreshore Authority may perform any of the functions of the Director of the Heritage Office under these exemptions. The authorisation to the Executive Director, Place Management of the Sydney Harbour Foreshore Authority is restricted to land for which the Sydney Harbour Foreshore Authority is the delegated approval body under section 169 of the Heritage Act, and the preparation and submission of information required to demonstrate that compliance with the criteria contained in these exemptions is satisfied, must not be carried out by the Executive Director, Place Management. (amended 18 June 2004)
5. In these Exemptions, words shall be given the same meaning as in the *Heritage Act 1977* ("the Act") unless the contrary intention appears from the context of the exemption.
6. Anything done pursuant to the following Exemptions must be specified, supervised and carried out by people with knowledge, skills and experience appropriate to the work.

Guideline

In addition to the guidelines listed in paragraph two above, the Heritage Council adopted additional guidelines on 7 April 2004 for use in interpreting and applying the standard exemptions. If it is unclear whether proposed development satisfies the requirements of these exemptions, an application will be required under section 60 of the Heritage Act.

STANDARD EXEMPTION 1: MAINTENANCE AND CLEANING

1. The following maintenance and cleaning does not require approval under s. 57(1) of the Act:
 - (a) the maintenance of an item to retain its condition or operation without the removal of or damage to the existing fabric or the introduction of new materials;
 - (b) cleaning including the removal of surface deposits, organic growths or graffiti by the use of low pressure water (less than 100 psi at the surface being cleaned) and neutral detergents and mild brushing and scrubbing.

NOTE 1: Traditional finishes such as oils and waxes must continue to be used for timber surfaces rather than modern alternative protective coatings such as polyurethane or acrylic which may seal the surface and can cause damage.

NOTE 2: Surface patina which has developed on the fabric may be an important part of the item's significance and if so needs to be preserved during maintenance and cleaning.

Guideline

Maintenance is distinguished from repairs, restoration and reconstruction as it does not involve the removal of or damage to existing fabric or the introduction of new materials. It is a continuing process of protective care. Typical maintenance activity includes:

- The removal of vegetation and litter from gutters and drainage systems;
- Resecuring and tightening fixings of loose elements of building fabric;
- Lubricating equipment and services which have moving parts;
- The application of protective coatings such as limewash, polish, oils and waxes to surfaces which have previously had such coatings applied; and
- Cleaning by the removal of surface deposits using methods other than aggressive mechanical or chemical techniques such as high pressure, high temperature or strong solvents which may affect the substrate.

This standard exemption applies to the maintenance of all types of heritage items including buildings, works, landscapes, cemeteries and movable heritage. Reference should be made to other relevant standard exemptions (#12, 14 and 17) for particular types of items.

STANDARD EXEMPTION 2: REPAIRS

1. Repair to an item which is of the type described in (a) or (b) below does not require approval under s. 57(1) of the Act:
 - (a) the replacement of services such as cabling, plumbing, wiring and fire services that uses existing service routes, cavities or voids or replaces existing surface mounted services and does not involve damage to or the removal of significant fabric;
 - (b) the repair (such as refixing and patching) or the replacement of missing, damaged or deteriorated fabric that is beyond further maintenance, which matches the existing fabric in appearance, material and method of affixing and does not involve damage to or the removal of significant fabric.

NOTE 1: Repairs must be based on the principle of doing as little as possible and only as much as is necessary to retain and protect the element. Therefore replacement must only occur as a last resort where the major part of an element has decayed beyond further maintenance.

NOTE 2: Any new materials used for repair must not exacerbate the decay of existing fabric due to chemical incompatibility, obscure existing fabric or limit access to existing fabric for future maintenance.

NOTE 3: Repair must maximise protection and retention of fabric and include the conservation of existing detailing, such as vents, capping, chimneys, carving, decoration or glazing.

Guideline

This standard exemption is not intended to allow the cumulative replacement of large amounts or a high proportion of the fabric of an item. If replacement of large amounts of fabric is necessary, an application will be required to be submitted under s. 60 of the Heritage Act. If there is uncertainty about whether the proposed extent of repair is exempt from approval, advice should be sought from the NSW Heritage Office.

Repairs should have detailed specifications and carried out by licensed tradespeople with experience in the conservation of heritage buildings. It is essential that the composition of elements of the fabric such renders, mortars, timber species and metal types remain the same to assist with matching appearance and avoiding chemical incompatibility.

Repair may involve reconstruction which means returning an item to a known earlier state. This may involve the use of new or recycled materials. Reconstruction must satisfy a four-part test to qualify for exemption from approval:

1. The nature of the earlier state being reconstructed must be known. Where there is conjecture about the earlier state of the fabric or where it is proposed to change the appearance, material or method of fixing of the fabric an application under s.60 of the Heritage Act will be required.
2. The replacement fabric must be matching in appearance and method of fixing. The use of salvaged or recycled fabric can be a valuable resource in

matching appearance in preference to the use of new fabric which may appear obtrusive. However the damage to other heritage buildings by the salvaging of fabric for reuse is unacceptable. Salvaged materials must be judiciously sourced so as not to encourage secondary damage to other heritage resources. The use of artificial ageing techniques to assist the matching of new with original fabric is only advocated where there is an obtrusive mismatch of materials which negatively impacts on the heritage significance of the item. Ideally, new and original fabric should be subtly discernable on close examination to assist interpretation of the history of change to the building.

3. The fabric being replaced must be beyond further maintenance. The replacement of fabric may only occur where fabric is missing or it is so damaged or deteriorated that it is beyond further maintenance. In many cases the judgement about the level of deterioration and the effectiveness of further maintenance will require the advice of a person who is suitably experienced in similar heritage conservation projects. If it is unclear that the fabric is beyond further maintenance, its replacement will require the submission of an application under s. 60 of the Heritage Act.
4. Significant fabric must not be damaged or removed. In all cases of repair, the damage or removal of significant fabric is not permitted without approval. Significant fabric is that which contributes to the heritage significance of the item. The identification of the level of significance of fabric will usually require the advice of a person who is suitably experienced in similar heritage conservation projects. The damage or removal of significant fabric will require the submission of an application under s. 60 of the Heritage Act.

New material used in repairs should where possible be date stamped in a location which is not conspicuous but is legible on close examination. Archival recording of removed and replacement fabric is advocated and should be used in interpretative displays where practicable.

STANDARD EXEMPTION 3: PAINTING

1. Painting does not require approval under s. 57(1) of the Act if the painting:
 - (a) does not involve the disturbance or removal of earlier paint layers other than that which has failed by chalking, flaking, peeling or blistering;
 - (b) involves over-coating with an appropriate surface as an isolating layer to provide a means of protection for significant earlier layers or to provide a stable basis for repainting; and
 - (c) employs the same colour scheme and paint type as an earlier scheme if they are appropriate to the substrate and do not endanger the survival of earlier paint layers.
2. Painting which employs a different colour scheme and paint type from an earlier scheme does not require approval under s. 57(1) of the Act, provided that:

- (a) the Director is satisfied that the proposed colour scheme, paint type, details of surface preparation and paint removal will not adversely affect the heritage significance of the item; and
 - (b) the person proposing to undertake the painting has received a notice advising that the Director is satisfied.
3. A person proposing to undertake repainting of the kind described in paragraph 2 must write to the Director and describe the proposed colour scheme, paint type, details of surface preparation and paint removal involved in the repainting. If the Director is satisfied that the proposed development meets the criteria set out in paragraph 2(a) the Director shall notify the applicant.

NOTE: Preference should be given to the re-establishment of historically significant paint schemes of the item that are appropriate to the significance of the building.

Guideline

Painting of surfaces which have not previously been painted such as face brickwork, stone, concrete or galvanised iron is likely to adversely affect the heritage significance of the item and is not exempt from approval under this standard exemption. Likewise, the stripping of paint coatings which were intended to be protective may expose the substrate to damage and cause the loss of the historical record and significance of the building. In cases where surface preparation has revealed significant historic paint layers, repainting should facilitate the interpretation of the evolution of the building by displaying appropriately located sample patches of historic paint schemes. This information should also be examined if it is proposed to recreate earlier finishes or paint schemes.

Paint removal of failed layers to achieve a stable base for repainting is exempt from approval but intervention should be minimised to avoid the loss of the significant historical record. Where old paint layers are sound they should be left undisturbed. The removal of paint with a high content of lead or other hazardous materials requires considerable care and use of experienced tradespeople as its disturbance can create health hazards. If the removal of such paint layers will adversely affect the heritage significance of the item, an application will be required under section 60 of the Heritage Act.

Reference should be made to *“The Maintenance of Heritage Assets: A Practical Guide”*, NSW Heritage Office, particularly Information Sheets 6.2 *“Removing Paint from Old Buildings”*, 7.2 *“Paint Finishes”* and 7.3 *“Basic Limewash”*.

STANDARD EXEMPTION 4: EXCAVATION

(amended 18 June 2004)

1. Excavation or disturbance of land of the kind specified below does not require approval under s. 57(1) of the Act, provided that the Director is satisfied that the criteria in (a), (b) or (c) have been met and the person proposing to undertake the excavation or disturbance of land has received a notice advising that the Director is satisfied:
 - (a) where an archaeological assessment has been prepared in accordance with guidelines published by the Heritage Council of NSW which indicates that any relics in the land are unlikely to have State or local heritage significance; or
 - (b) where the excavation or disturbance of land will have a minor impact on archaeological relics; or
 - (c) where the excavation or disturbance of land involves only the removal of unstratified fill which has been deposited on the land.
2. A person proposing to excavate or disturb land in the manner described in paragraph 1 must write to the Director and describe the proposed excavation or disturbance of land and set out why it satisfies the criteria set out in paragraph 1. If the Director is satisfied that the proposed development meets the criteria set out in paragraph (a), (b) or (c) the Director shall notify the applicant.

NOTE 1: Any excavation with the potential to affect Aboriginal objects must be referred to the Director-General of the National Parks and Wildlife Service.

NOTE 2: If any Aboriginal objects are discovered on the site, excavation or disturbance is to cease and the National Parks and Wildlife Service is to be informed in accordance with s. 91 of the National Parks and Wildlife Act, 1974.

NOTE 3: This exemption does not allow the removal of State significant relics.

NOTE 4: Where substantial intact archaeological relics of State or local significance, not identified in the archaeological assessment or statement required by this exemption, are unexpectedly discovered during excavation, work must cease in the affected area and the Heritage Office must be notified in writing in accordance with s. 146 of the Act. Depending on the nature of the discovery, additional assessment and possibly an excavation permit may be required prior to the recommencement of excavation in the affected area.

Guideline

Excavation or disturbance to which clause 1(c) applies only involves the removal of unstratified fill material of minor heritage significance. Such fill will have been deposited in a single episode.

STANDARD EXEMPTION 5: RESTORATION

1. Restoration of an item by returning significant fabric to a known earlier location without the introduction of new material does not require approval under s. 57(1) of the Act.
2. The following restoration does not require approval under s. 57(1) of the Act, provided that the Director is satisfied that the criteria in (a) have been met and the person proposing to undertake the restoration has received a notice advising that the Director is satisfied:
 - (a) the restoration of an item without the introduction of new material (except for fixings) to reveal a known earlier configuration by removing accretions or reassembling existing components which does not adversely affect the heritage significance of the item.
3. A person proposing to undertake restoration of the kind described in paragraph 2 must write to the Director and set out why there is a need for restoration to be undertaken and the proposed material and method of restoration. If the Director is satisfied that the proposed development meets the criteria set out in paragraph 2(a), the Director shall notify the applicant.

Guideline

Restoration in accordance with clause 1 of this standard exemption does not involve the removal of fabric and only relates to the return of fabric which has been removed to storage or has been dislodged from its original location.

STANDARD EXEMPTION 6: DEVELOPMENT ENDORSED BY THE HERITAGE COUNCIL OR DIRECTOR

1. Development specifically identified as exempt development by a conservation policy or strategy within a conservation management plan which has been endorsed by the Heritage Council of NSW or within an interim conservation management strategy endorsed by the Director does not require approval under s. 57(1) of the Act.

Guideline

This standard exemption does not exempt development that is consistent with a conservation policy or strategy contained in an endorsed conservation management plan or interim conservation management strategy other than development that is specifically identified as exempt development in that conservation plan or strategy.

STANDARD EXEMPTION 7: MINOR ACTIVITIES WITH NO ADVERSE IMPACT ON HERITAGE SIGNIFICANCE

1. Anything which in the opinion of the Director is of a minor nature and will not adversely affect the heritage significance of the item does not require approval under s. 57(1) of the Act.
2. A person proposing to do anything of the kind described in paragraph 1 must write to the Director and describe the proposed activity. If the Director is satisfied that the proposed activity meets the criteria set out in paragraph 1, the Director shall notify the applicant.

Guideline

This standard exemption has the potential to relate to a wide range of minor development. In determining whether a proposed development is minor the Director may have regard to the context of the particular heritage item such as its size and setting. For instance a development may be considered to be minor in the context of Prospect Reservoir's 1200ha curtilage whereas a similar proposal affecting an item on a smaller site may not be considered to be minor.

In order to assess whether a proposal has an adverse affect on heritage significance it is necessary to submit a clear and concise statement of the item's heritage significance and an assessment of whether a proposal impacts on that significance.

STANDARD EXEMPTION 8: NON-SIGNIFICANT FABRIC

1. The following development does not require approval under s. 57(1) of the Act, provided that the Director is satisfied that the criteria in (a) have been met and the person proposing to undertake the development has received a notice advising that the Director is satisfied:
 - (a) the alteration of a building involving the construction or installation of new fabric or services or the removal of building fabric which will not adversely affect the heritage significance of the item.
2. A person proposing to do anything of the kind described in paragraph 1 must write to the Director and describe the proposed development. If the Director is satisfied that the proposed development meets the criteria set out in paragraph 1(a), the Director shall notify the applicant.

Guideline

In order to assess the level of significance of fabric it is necessary to submit a clear and concise statement of the item's heritage significance and to grade the fabric of the place in accordance with its association with or impact on that significance. It may not always be concluded that more recent fabric is of less or no heritage significance.

STANDARD EXEMPTION 9: CHANGE OF USE

1. The change of use of an item or its curtilage or the commencement of an additional or temporary use does not require approval under s. 57(1) of the Act, provided that the Director is satisfied that the criteria in (a) or (b) have been met and the person proposing to undertake the change of use has received a notice advising that the Director is satisfied:
 - (a) the use does not involve the alteration of the fabric, layout or setting of the item or the carrying out of development other than that permitted by other standard or site specific exemptions; or
 - (b) the use does not involve the cessation of the primary use for which the building was erected, a later significant use or the loss of significant associations with the item by current users;
2. A person proposing to change the use of an item or its curtilage or to commence an additional or temporary use of an item or its curtilage in the manner described in paragraph 1 must write to the Director and describe the changes proposed. If the Director is satisfied that the proposed development meets the criteria set out in paragraph 1(a) or (b), the Director shall notify the applicant.

Guideline

For the purposes of this standard exemption any change of use which is inconsistent with specific conditions of any previous approval or consent such as hours of operation or nature of conduct of an activity requires approval under section 57(1) or the modification of an approval under section 65A of the Heritage Act.

STANDARD EXEMPTION 10: NEW BUILDINGS

1. Subdivision under the *Strata Scheme (Freehold Development) Act* or *Strata Scheme (Leasehold Development) Act* of the interior of a building that has been constructed since the listing of the item on the State Heritage Register or the publication of an interim heritage order in the Gazette which applies to the land does not require approval under s. 57(1) of the Act.
2. Alteration to the interior of a building which has been constructed since the listing of the item on the State Heritage Register or the publication of an interim heritage order in the Gazette which applies to the land does not require approval under s. 57(1) of the Act.

Guideline

Subdivision to which clause 1 of this standard exemption applies must not subdivide the curtilage of the exterior of a building other than approved car spaces. A strata plan which otherwise proposes the subdivision of the curtilage of a heritage item requires approval under section 57(1) of the Heritage Act.

For the purposes of clause 2 of this standard exemption, alterations to the interior of a building:

- do not include internal alterations to additions to buildings which existed prior to the listing of the site on the State Heritage Register or publication of the interim heritage order;
- must not affect the external appearance of the building such as by balcony enclosure or window screening; and
- must not be inconsistent with any specific conditions of a previous approval.

Such alterations require approval under section 57(1) of the Heritage Act.

STANDARD EXEMPTION 11: TEMPORARY STRUCTURES

1. The erection of temporary structures does not require approval under s. 57(1) of the Act, provided that the Director is satisfied that the criteria in (a) and (b) have been met and the person proposing to erect the structure has received a notice advising that the Director is satisfied:
 - (a) the structure will be erected within and used for a maximum period of 4 weeks after which it will be removed within a period of 2 days and not erected again within a period of 6 months; and
 - (b) the structure is not to be located where it could damage or endanger significant fabric including landscape or archaeological features of its curtilage or obstruct significant views of and from heritage items.
2. A person proposing to erect a structure of the kind described in paragraph 1 must write to the Director and set out the nature of the structure, the use for the structure and how long it will remain in place and the next occasion on which it is anticipated that the structure will be erected. If the Director is satisfied that the proposed development meets the criteria set out in paragraphs 1(a) and 1(b) the Director shall notify the applicant.

Guideline

The cumulative impact of the multiple use of this standard exemption will be considered by the Director in the assessment of the simultaneous construction of a number of temporary structures or a succession of temporary structures which may have a prolonged adverse impact on heritage significance of the item.

STANDARD EXEMPTION 12: LANDSCAPE MAINTENANCE

1. Landscape maintenance which is of the type described below does not require approval under s. 57(1) of the Act:
 - (a) weeding, watering, mowing, top-dressing, pest control and fertilizing necessary for the continued health of plants, without damage or major alterations to layout, contours, plant species or other significant landscape features;
 - (b) pruning to control size, improve shape, flowering or fruiting and the removal of diseased, dead or dangerous material, not exceeding 20% of the crown of a tree within a period of 2 years; or
 - (c) tree surgery by a qualified horticulturist or tree surgeon necessary for the health of those plants.

NOTE 1: In relation to cemeteries, landscape features include monuments, grave markers, grave surrounds, fencing, path edging and the like.

Guideline

Landscape features and gardens are fundamental to the setting of heritage items and are important to the appreciation of heritage significance. Landscape setting is by its nature evolving and often requires more regular maintenance than other elements of heritage fabric. Horticultural advice may be required to ensure a regime of maintenance appropriate to the retention of heritage significance of a place. General advice about landscape maintenance is provided by *“The Maintenance of Heritage Assets: A Practical Guide”* Information Sheet 9.1 *“Heritage Gardens and Grounds”* NSW Heritage Office.

STANDARD EXEMPTION 13: SIGNAGE

1. The erection of signage which is of the types described in (a) or (b) below does not require approval under s. 57(1) of the Act:
 - (a) temporary signage which is located behind or on the glass surface of a shop window which is not internally illuminated or flashing and is to be removed within eight weeks; or
 - (b) a real estate sign indicating that the place is for auction, sale or letting and related particulars and which is removed within 10 days of the sale or letting of the place;
2. The erection of signage which is of the types described in (a) or (b) below does not require approval under s. 57(1) of the Act, provided that the Director is satisfied that the criteria in (a) and (b) respectively have been met and the person proposing to erect it has received a notice advising that the Director is satisfied:
 - (a) the erection of non-illuminated signage for the sole purpose of providing information to assist in the interpretation of the heritage significance of the item and which will not adversely affect significant fabric including landscape or archaeological features of

its curtilage or obstruct significant views of and from heritage items;
or

- (b) signage which is in the form of a flag or banner associated with a building used for a purpose which requires such form of promotion such as a theatre or gallery, which is displayed for a maximum period of eight weeks and which will not adversely affect significant fabric including landscape or archaeological features of its curtilage;
3. A person proposing to erect signage of the kind described in paragraph 2 must write to the Director and describe the nature and purpose of the advertising or signage. If the Director is satisfied that the proposed development meets the criteria set out in paragraph 2(a) or 2(b), the Director shall notify the applicant.
 4. Signage of the kind described in paragraphs 1 and 2 must:
 - (a) not conceal or involve the removal of signage which has an integral relationship with the significance of the item;
 - (b) be located and be of a suitable size so as not to obscure or damage significant fabric of the item;
 - (c) be able to be later removed without causing damage to the significant fabric of the item; and
 - (d) reuse existing fixing points or insert fixings within existing joints without damage to adjacent masonry.

Guideline

In addition to the requirements of clause 4 of the standard exemptions, signage may be controlled by Development Control Plans or Signage Policies prepared by the relevant local Council. The operation of the standard exemptions do not affect the requirements for consent by local Councils or the need to satisfy any signage policies which may have been adopted by them.

Additional forms of signage not addressed by this standard exemption may not require approval under section 57(1) of the Heritage Act if they satisfy the requirements of other standard exemptions such as standard exemption 7 (Minor Activities with no Adverse Impact on Heritage Significance) or standard exemption 8 (Non-significant Fabric).

Signage in accordance with clause 2(a) of the standard exemption for the purpose of assisting the interpretation of heritage significance:

- requires approval under section 57(1) of the Heritage Act if additional information is provided which is unrelated to heritage interpretation such as commercial promotion or sponsorship; and
- must be in accordance with the guidelines for *Interpretation of Heritage Significance* due to be published by the NSW Heritage Office in 2004.

STANDARD EXEMPTION 14: BURIAL SITES AND CEMETERIES

1. Development on land within a burial site or cemetery which is of the type described in (a), (b) or (c) below does not require approval under s. 57(1) of the Act:
 - (a) the creation of a new grave;
 - (b) the erection of monuments or grave markers in a place of consistent character, including materials, size and form, which will not be in conflict with the character of the place; or
 - (c) an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers;provided that there will be no disturbance to human remains, to relics in the form of grave goods, associated landscape features or to a place of Aboriginal heritage significance.
2. A person proposing to carry out development in the manner described in paragraph 1(b) or (c) must write to the Director and describe the development proposed. If the Director is satisfied that the proposed development meets the criteria set out in paragraph 1, the Director shall notify the applicant.
3. This exemption does not apply to the erection of above-ground chambers, columbaria or vaults, or the designation of additional areas to be used as a burial place.

NOTE 1: Other standard exemptions apply to the maintenance, cleaning and repair of burial sites and cemeteries.

Guideline

In addition to burial remains and artefacts, above ground cemetery elements may include headstones, footstones and other burial markers or monuments and associated elements such as grave kerbing, iron grave railings, grave furniture, enclosures and plantings. It is important that cemeteries which are listed on the State Heritage Register have a conservation policy or conservation management plan endorsed by the Heritage Council which records the history and significant fabric of the place with policies for conservation, relocation and the erection of new monuments and grave markers.

Additional advice about the management of heritage cemeteries is provided in:

- *Skeletal Remains* NSW Heritage Office, 1998.
- *Guidelines for Cemetery Conservation*, National Trust (NSW) 2002

STANDARD EXEMPTION 15: COMPLIANCE WITH MINIMUM STANDARDS AND ORDERS

1. Development which is required for the purpose of compliance with the minimum standards set out in Part 3 of the *Heritage Regulation 1999* or an order issued under either:
 - (a) section 120 of the *Heritage Act 1977* regarding minimum standards of maintenance and repair; or
 - (b) section 121S of the *Environmental Planning and Assessment Act 1979* regarding an order which is consistent with a submission by the Heritage Council under section 121S(6) of the Act;does not require approval under s. 57(1) of the Act.

Guideline

This standard exemption is intended to facilitate and expedite compliance with orders and minimum standards of maintenance and repair.

The Minimum Standards of Maintenance and Repair replaced the “wilful neglect” provisions of the Heritage Act in 1999. The minimum standards are contained in Part 3 of the Heritage Regulation 1999 and are reproduced in the Heritage Information Series published by the NSW Heritage Office. The minimum standards only apply to items listed on the State Heritage Register and relate to:

- weather protection;
- fire prevention and protection;
- security; and
- essential maintenance and repair to prevent serious or irreparable damage.

Maintenance and repair which exceed the minimum standards in the Regulation may be exempt from approval under other standard exemptions (refer to #1 and #2).

Orders under s.121S(6) of the EP&A Act are those given by a Council or other consent authority in relation to an item listed on the State Heritage Register, land to which an interim heritage order applies or a heritage item listed under an environmental planning instrument. Orders must not be given in relation to items listed on the State Heritage Register or land to which an interim heritage order relates unless the consent authority has given notice of it to the Heritage Council and considered any submission made by it.

STANDARD EXEMPTION 16: SAFETY AND SECURITY

1. The following development does not require approval under s. 57(1) of the Act, provided that the Director is satisfied that the criteria in (a) or (b) have been met and the person proposing to undertake the development has received a notice advising that the Director is satisfied:
 - (a) the erection of temporary security fencing, scaffolding, hoardings or surveillance systems to prevent unauthorised access or secure public safety which will not adversely affect significant fabric of the item including landscape or archaeological features of its curtilage;
or
 - (b) development, including emergency stabilisation, necessary to secure safety where a building or part of a building has been irreparably damaged or destabilised and poses a safety risk to its users or the public.
2. A person proposing to undertake development of the kind described in paragraph 1 must write to the Director and describe the development and, if it is of the kind set out in 1(b), provide certification from a structural engineer having experience with heritage items confirming the necessity for the development with regard to the criteria set out in 1(b) and any adverse impact on significant fabric. If the Director is satisfied that the proposed development meets the criteria set out in paragraph 1(a) or (b), the Director shall notify the applicant.

Guideline

Development exempt under this standard exemption must be for the temporary or emergency securing of safety for users or the public. Permanent upgrading of site or building security may be exempt under other standard exemptions such as #7 (Minor Activities with no Adverse Impact on Heritage Significance) or #8 (Non-significant Fabric). Development described in 1(b) of this exemption is intended to apply in circumstances where there has been damage caused by a sudden change in circumstances of the building such as a catastrophic event, rather than safety risks which may arise from ongoing neglect of maintenance.

Emergency maintenance and repairs such as required following a storm event may be exempt under other standard exemptions such as #1 (Maintenance and cleaning) and #2 (Repairs). More intrusive means of upgrading security which may damage significant fabric will require the submission of an application under section 60 of the Heritage Act.

Development in accordance with this exemption must be undertaken with minimal intervention to significant fabric.

STANDARD EXEMPTION 17: MOVABLE HERITAGE ITEMS

1. The temporary relocation of movable heritage items, including contents, fixtures and objects, to ensure their security, maintenance and preservation, for conservation or exhibition, to ensure health or safety, the need for a controlled environment for those heritage items, or to protect the place, and which are to be returned to their present location within six months, does not require approval under s. 57(1) of the Act.
2. A person proposing to relocate a movable heritage item as set out in paragraph 1 must advise the Director in writing of the proposed location and the reasons for its relocation. If the Director is satisfied that the temporary relocation meets the criteria set out in paragraph 1 the Director shall notify the applicant.

Guideline

Movable heritage items or objects which are listed on the State Heritage Register must be specifically referred to in the gazetted listing. Unless specifically listed, the movable content of buildings such as furniture, paintings and other decoration is not movable heritage for the purposes of the Heritage Act which triggers approval requirements to “move, damage or destroy it”.

The permanent relocation of an item of movable heritage such as listed ships or railway rolling stock will require the submission of an application under section 60 of the Heritage Act.

Additional advice regarding movable heritage is provided by:

- *Objects in Their Place: An Introduction to Movable Heritage*, NSW Heritage Office, 1999; and
- *Movable Heritage Principles* NSW Heritage Office and Ministry for the Arts, 1999.

SITE SPECIFIC EXEMPTIONS

You may request the Heritage Council to recommend additional site specific exemptions for a heritage item listed on the State Heritage Register. These are for works other than those in the attached standard exemptions list.

An application for site specific exemptions should be made to the Heritage Council of NSW. The application should be supported by a **conservation management plan** or similar study carried out by an experienced heritage consultant. Contact the Heritage Office for information on preparing conservation plans.

Site specific exemptions must be recommended by the Heritage Council and approved by the Minister and published in the NSW Government Gazette before they apply to your heritage item. The owner of the heritage item and the local council will be notified when this has occurred.

To obtain more information on exemptions other than the standard exemptions explained in this guideline, contact the NSW Heritage Office on (02) 9873 8500
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FURTHER READING

NSW Heritage Act 1977 and *Heritage Amendment Act 1998* - the legislation governing the activities of the Heritage Council is available from the NSW Government Information Service, cnr Elizabeth & Hunter Streets, SYDNEY, or can be downloaded from the Australasian Legal Information Institute homepage: www.austlii.edu.au

The following publications can be downloaded from the Heritage Office website: www.heritage.nsw.gov.au:

- *A Guide to the Heritage System*, NSW Heritage Office
- *Introducing the Heritage Council*:
 1. *The Role of the Heritage Council*
 2. *The State Heritage Register*
 3. *The Approvals Process*
 4. *Presentations to the Heritage Council*
- *Heritage Approvals*, NSW Heritage Office and Department of Urban Affairs and Planning, 1996
- *The Burra Charter* 1999 is a useful explanation of conservation principles. It is produced by Australia ICOMOS and can be accessed via the website: www.icomos.org/australia

To order hard copies of the above documents contact:

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