

# Heritage Regulation 2005

## Regulatory Impact Statement

For



Department of  
**Infrastructure, Planning and Natural Resources**



NSW  
Heritage Office

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## Abbreviations

CBA	Cost Benefit Analysis
CEA	Cost Effectiveness Analysis
CMP	Conservation Management Plan
DEC	NSW Department of Environment and Conservation
DIPNR	Department of Infrastructure Planning and Natural Resources
EFT	Equivalent Full Time (refers to employment)
EPA	NSW Environment Protection Authority (now DEC)
EPHC	Environment Protection and Heritage Council
HIS	Heritage Impact Statement
HO	NSW Heritage Office
NPWS	NSW National Parks & Wildlife Service (now DEC)
R&M	Repairs and maintenance
RIS	Regulatory Impact Statement
SHR	State Heritage Register
WTP	Willingness to pay – in this case a measure of community WTP or community economic benefit associated with heritage protection

## **1. INTRODUCTION**

Regulation:	Heritage Regulation 2005
Enabling Act:	Heritage Act 1977
Responsibility:	Honourable Craig Knowles Minister for Infrastructure and Planning Minister for Natural Resources

The *Heritage Regulation 1999*, made under the *Heritage Act 1977*, is due for staged repeal on 1 September 2005. It is proposed to remake the Regulation as the matters it contains continue to be required.

The remaking of the Regulation will produce a number of social and economic benefits and costs to government, property owners and the community. The *Subordinate Legislation Act 1989* therefore provides for the preparation of a Regulatory Impact Statement (RIS) and public consultation prior to remaking of a regulation.

A RIS is an assessment of all economic and social costs and benefits relating to the proposed regulation and other possible options to ensure that the approved regulation is the preferred course of action in achieving the policy objectives. The NSW Heritage Office and the NSW Department of Infrastructure, Planning and Natural Resources (DIPNR or the Department) engaged AgEconPlus (the consultant) to prepare a RIS for the above regulation.

## **2. METHODOLOGY**

The RIS was prepared in accordance with the *Subordinate Legislation Act 1989* and has followed the methods for RIS preparation in the document titled *Regulatory Impact Statement Instruction Manual*, NSW Business Deregulation Unit (undated) and for economic appraisals as outlined in the NSW Treasury document titled *NSW Government Guidelines for Economic Appraisal (1997)*.

The cost benefit analysis of options was conducted over a 5-year time period using a 7% discount rate with sensitivity tests at 4% and 10%. The 5-year period is chosen, as the regulation will be repealed in the fifth anniversary of the date on which it was published unless postponed by the Governor.

## **3. BACKGROUND**

### **3.1 Current Regulation**

The *Heritage Regulation 1999* provides for minimum standards of maintenance and repair of buildings, works and relics listed on the State Heritage Register. It also provides for the collection of fees to contribute to the equitable funding of heritage protection.

### 3.2 Regulation Making Powers Under the Heritage Act 1977

The *Heritage Act 1977* provides wide-ranging regulation making powers. Part 7 Implementation and Enforcement, Division 4 Regulations, Section 165 provides for:

- (1) The Governor to make regulations with respect to any matter required to give effect to the *Heritage Act 1997*.
- (2) A regulation may be made so as to apply differently according to such factors as may be specified in the regulation.
- (3) A regulation may be made so as to authorise any matter or thing to be from time to time determined, applied or regulated by any person or body specified in the regulation.

Part 8 Miscellaneous, Section 166A provides for:

- (1) The regulations may make provision for or with respect to the fees that may be charged for the services provided by the Heritage Council.
- (2) The services in respect of which such regulations may be made include the following:
  - a. The supply of a service, product or commodity,
  - b. The review of a conservation management plan,
  - c. The provision of a service in connection with the exercise of the Heritage Council's functions with respect to applications under the Act (including the carrying out of inspections).

These are the regulation making powers of the *Heritage Act 1977*.

### 3.3 Nature of the Problem

Heritage items of state significance are recorded on the State Heritage Register. There are currently 1,473 items (say 1,500 items) on the State Heritage Register.

The Heritage Council of NSW is responsible for adding items to the State Heritage Register and the Register grows by approximately 50 items per annum. There may be as many as 8,000 items that warrant inclusion on the Register. To be eligible, an item must be considered by the Minister to be of State heritage significance. More specifically to be assessed for listing on the Register an item must, in the opinion of the Heritage Council of NSW meet one or more of the following criteria<sup>1</sup>:

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<sup>1</sup> NSW Heritage website [www.heritage.nsw.gov.au/docs/criteria.pdf](http://www.heritage.nsw.gov.au/docs/criteria.pdf) accessed 23 February 2005.

- a) An item is important in the course, or pattern, of NSW's cultural or natural history;
- b) An item has strong or special association with the life or works of a person, or group of persons, of importance in NSW's cultural or natural history;
- c) An item is important in demonstrating aesthetic characteristics and/or a high degree of creative or technical achievement in NSW;
- d) An item has strong or special association with a particular community or cultural group in NSW for social, cultural or spiritual reasons;
- e) An item has potential to yield information that will contribute to an understanding of NSW's cultural or natural history;
- f) An item possesses uncommon, rare or endangered aspects of NSW's cultural or natural history,
- g) An item is important in demonstrating the principal characteristics of a class of NSW's
  - cultural or natural places; or
  - cultural or natural environments.

Items on the register include commercial buildings, residential buildings, historic precincts, terrestrial and marine archaeological sites, landscapes, bridges, movable heritage such as book collections and horse drawn wagons and European and Indigenous monuments and graves.

Because of their significance to the people of NSW, items on the State Heritage Register require proactive preservation i.e. a guaranteed minimum standard of repair and maintenance.

In the absence of some form of policy intervention it is likely that items of state significance will not be properly maintained, will fall into disrepair and eventually deteriorate.

Identification, placing an item on the Register and regular spot inspections to ensure appropriate repairs and maintenance incurs a cost. This cost must be funded.

The Heritage Office has an annual budget of \$7.7 million. Approximately 94% is provided from Consolidated Funds, 1% comes from grants, 1% from investment income and 4% comes from application fees. The part of this regulation that relates to funding is concerned only with application fees.

The cost of processing applications is not covered by the current fees so that the process is being cross-subsidised. If the fees are raised so that the cost is covered then cross-subsidisation will cease. Funds will be released and will be available to the Heritage Office to fund activities and the function of adding extra items to the State Heritage Register has been identified as the most pressing recipient.

Once fees move beyond cost recovery they may be construed as a tax and this is not the objective of the regulation.

### 3.4 Policy Objectives

The *Heritage Act 1977* provides for repair and maintenance of heritage items to a standard specified by regulation and for the charging of fees.

The objectives to be met are:

- i. To set a general enforceable minimum standard for maintenance and repair of items on the State Heritage Register.
- ii. To contribute to equitable and adequate funding of heritage protection activities.

### 3.5 Relevant Stakeholders

Stakeholders relevant to the remaking of this regulation include government, property owners and the community, i.e.

#### Government

- Heritage Office\* (executive to the Heritage Council)
- Department of Infrastructure Planning and Natural Resources\*
- The Government Architect\*
- Department of Environment and Conservation\* (DIPNR)
- Local Government Association
- Shires Association of NSW

#### Property owners

- National Trust of Australia\* (New South Wales)
- Australian Property Institute (NSW Division)
- Property Council of Australia (NSW Division)
- Owners of listed items (including government owners)
- Owners making applications under Section 167
- Building, development and property industries\*

#### Community

- Property rights of citizens\*
- Royal Australian Historical Society\* (New South Wales)
- Royal Australian Institute of Architects\* (New South Wales)
- Planning Institute of Australia\* (New South Wales)
- Labor Council of New South Wales\*
- Aboriginal heritage expertise\*
- Institute of Engineers Australia (New South Wales)
- AusHeritage – network of cultural heritage management organisations
- Movable heritage\* (represented by a reference panel)
- Natural heritage\* (Director General of DIPNR)
- Rural Interests\* (NSW Farmers Association)

(asterisk denotes Heritage Council membership)

#### 4. OPTIONS TO ACHIEVE THE OBJECTIVES

Specific options to address both of the policy objectives were identified, they were:

General enforceable minimum standard of maintenance and repair:

- i. Base case – no policy intervention on maintenance and repair
- ii. Voluntary guidelines – stressing the importance of items on the State Heritage Register and suggesting appropriate maintenance
- iii. Prescriptive regulation – prescribe a separate maintenance program for each item on the State Heritage Register
- iv. Remake regulation with minor change to maintenance standards

Contribute to the equitable and adequate funding of heritage protection activities:

- i. Base case – no policy intervention to fund heritage protection
- ii. Reliance on consolidated revenue for heritage protection
- iii. Remake of the current regulation - equitable but not adequate funding
- iv. Needs based funding - levy on property owners to cover the full cost of Heritage Office heritage protection activities - inequitable
- v. The proposed regulation - equitable and adequate funding

These options are amalgamated into a series of rational policy proposals for evaluation. The policy proposals are:

- A base case – ‘do nothing’ scenario
- Voluntary guidelines and a reliance on consolidated revenue
- Remake of the current regulation
- A fully prescriptive regulation entirely funded by owners of heritage items
- The proposed regulation

The implications of each option for maintenance standards and fee setting are summarised in the table below.

**Table 1 Options to Achieve Objectives**

	Maintenance Standards		Fee Setting	
	Existing	Alternative	Existing	Proposed
<b>1. Base Case</b>		No maintenance standards		No capacity to set fees
<b>2. Voluntary Guidelines and Consolidated Revenue</b>		Some definition of maintenance standards, no enforcement capacity		No capacity to set fees
<b>3. Remake Current Regulation</b>	Existing Maintenance standards		Existing fee structure	
<b>4. Fully Prescriptive Regulation</b>		Higher standards set for maintenance		Highest level of fees collected from property owners
<b>5. Proposed Regulation</b>	Existing Maintenance standards			Additional fees collected from property owners

#### **4.1 Base Case – Do Nothing**

The base case is the situation that would exist if the current Heritage Regulation were allowed to lapse without any policy response. It is the ‘do nothing’ situation.

This means that no application fees would be payable by owners of heritage items in association with Part 2 of the *Heritage Regulation 1999*. Currently owners of heritage items the State Heritage Register (or protected by an interim heritage order) pay fees under:

- Section 60 of the *Heritage Act 1977* when an application is made to carry out an activity on an item listed on the State Heritage Register. A sliding schedule of fees is included in the regulation and is based on both the type of item (owner-occupied private house or not) and the cost of carrying out the activity.
- Section 140 of the *Heritage Act 1977* when an application is made for an excavation permit affecting an item on the State Heritage Register. Again the regulation includes a sliding schedule of fees based on the type of item and the cost of carrying out the activity.
- A fee for certain reviews of conservation management plans (CMP) for the purpose of their endorsement by the Heritage Council.
- Section 167 of the *Heritage Act 1977* for the provision of an evidentiary certificate. A single flat rate fee is prescribed for provision of an evidentiary certificate. In addition to affecting items on the State

Heritage Register, section 167 is relevant to the transfer (sale) of all NSW property items.

Under the base case the Heritage Office would incur costs of processing applications and this would be funded from consolidated revenue.

The base case also means that there would be no regime of maintenance for items listed on the State Heritage Register. Maintenance would be entirely at the discretion of the owner of the item. The owner would determine maintenance costs.

#### **4.2 Voluntary Guidelines and Consolidated Revenue**

Under this option – voluntary guidelines and reliance on consolidated revenue, the Heritage Office would have no means of charging application fees for applications made under the *Heritage Act 1977*. All Heritage Office funding would need to be sourced from consolidated revenue.

The Heritage Office would incur costs for processing applications (as under the base case). The Heritage Office would incur additional costs for development of voluntary maintenance guidelines and an accompanying education program targeting owners of heritage items.

The regime of maintenance for items listed on the State Heritage Register would be influenced by Heritage Office prepared guidelines and owner education but would ultimately be at the discretion of the owner of the item. The owner would determine maintenance costs.

#### **4.3 Remake Current Regulation**

Remaking the current regulation provides for the charging of fees for applications made under the *Heritage Act 1977*. The Heritage Office would incur costs for processing applications and this would be partially offset by fee revenue.

A minimum maintenance regime would be described and enforced for items on the State Heritage Register. The Heritage Office would determine the minimum cost of maintenance.

#### **4.4 Fully Prescriptive Regulation**

Under this approach to heritage regulation individual repair and maintenance prescriptions would be prepared for each item on the State Heritage Register. The full cost of prescription preparation would be recovered through fees payable for applications made under the *Heritage Act 1977*. Fees would be set at a much higher level than remaking the current regulation.

The Heritage Office would incur costs for processing applications. The Heritage Office would incur additional costs for preparation of individual maintenance programs for each item on the State Heritage Register.

The regime of maintenance for items listed on the State Heritage Register would be fully prescribed by the Heritage Office. The Heritage Office would determine the cost of maintenance.

#### **4.5 Proposed Regulation**

The proposed regulation provides for the charging of fees under the *Heritage Act 1977*. Fees would be set at a higher level than remaking the current regulation but at a lower level than a fully prescriptive regulation. The Heritage Office would incur costs for processing applications and this would be partially offset by fee revenue.

A minimum maintenance regime would be described and enforced for items on the State Heritage Register. The Heritage Office would determine the cost of maintenance.

The proposed regulation consists of four parts:

Part 1 provides definitions for a 'heritage impact statement' and a 'conservation management plan'. These definitions state that both documents must be prepared in accordance with guidelines issued by the Director of the Heritage Council.

Part 2 of the proposed regulation specifies the level of fees and format of certain application forms under the Act. These include application fees for approval, application fees for an excavation permit, certificates of authority, application fees for evidentiary certificates and fees for certain reviews of conservation management plans.

The proposed regulation provides for increased fee charges in Part 2.

Part 3 of the proposed regulation imposes minimum standards of maintenance and repair of buildings, works and relics that are listed on the State Heritage Register or within a precinct that is listed on the Register. Part 3 deals with annual inspection, weather protection, fire protection, security and essential maintenance and repair.

Part 4 contains savings and transitions provisions dealing with the repeal of the *Heritage Regulation 1999*.

## 5. ANALYSIS FRAMEWORK

### 5.1 Identification of Costs and Benefits for Each Option

A brief description of cost and benefit items associated with each of the five policy options are identified in this section and summarised in the table below.

**Table 2 Cost and Benefit Items Associated with Heritage Regulation Options**

<b>Costs</b>	<b>Benefits</b>
<b>Quantified</b> HO Administration and Compliance HO Voluntary Guidelines HO Maintenance Prescription HO Assessment of New Items Owner Compliance SHR Items (fees) Owner Compliance Section 167 (fees) Owner Repair & Maintenance Costs	<b>Quantified</b> Additional Heritage (measured by WTP)  <b>Unquantified</b> Owner Property Valuation Impact Owner increased Certainty for R&M Owner increased Certainty – Section 167

### 5.2 Cost Items

#### *Heritage Office Administration and Compliance*

Administration resources are consumed by the Heritage Office granting exemptions and approvals in association with Section 60, Section 140, certain reviews of CMPs and Section 167 of the Act. In addition the HO employs staff to maintain the database of items on the State Heritage Register and the State Heritage Inventory. This cost item is relevant to all five policy options.

Compliance with maintenance standards is achieved by the HO through the availability of the enforcement option. Most heritage property owners can be prompted to comply without actual prosecution. Prosecution is only rarely necessary and the cost is absorbed as part of HO administration. This cost is relevant to Remaking the Current Regulation, Fully Prescriptive Regulation and the Proposed Regulation.

#### *Heritage Office Voluntary Guidelines*

The Heritage Office will incur costs to prepare repair and maintenance guidelines if a voluntary approach to maintenance is adopted. This cost is only relevant to option 2 – Voluntary Guidelines and Consolidated Revenue.

#### *Heritage Office Maintenance Prescription*

The Heritage Office will incur costs to prepare individual repair and maintenance programs for each item on the State Heritage Register if a fully prescriptive approach to maintenance is adopted. This cost is only relevant to option 4 – Fully Prescriptive Regulation.

### *Heritage Office Assessment of New Items*

Resources are consumed by the Heritage Office assessing items for their heritage significance. Resources are required to identify items, process applications and make field assessments. This cost is relevant to all five policy options.

### *Owner Compliance Costs – SHR Items and Section 167 Fees*

Fees are paid by owners of items on the State Heritage Register when applications are made under Section 60, Section 140 and for certain reviews of CMPs. Fees are paid by all owners of property potentially affected by heritage listing under Section 167 of the Act. These costs are relevant to Remaking the Current Regulation, a Fully Prescriptive Regulation and the Proposed Regulation.

### *Owner Repair and Maintenance Costs*

Expenditures incurred by owners of items on the State Heritage Register to comply with repair and maintenance standards above expenditures that would otherwise be incurred are costs associated with regulation. These costs are relevant to Voluntary Guidelines, Remaking the Current Regulation, a Fully Prescriptive Regulation and the Proposed Regulation.

## **5.3 Benefit Items**

### *Additional Heritage (Measured by WTP)*

Heritage protection is ultimately a 'public good' driven by demand from the broader community (Environmental Protection and Heritage Council 2004). Under regulation, public benefits are created by additional heritage protection over that which would be achieved under the base case.

Both owners of heritage items and the broader community enjoy public benefits. The public benefits of heritage protection include:

- Existence values – this is the satisfaction that the community derives from simply knowing that certain heritage items exist;
- Bequest values – refers to the economic value created by maintenance of heritage items for the benefit of future generations;
- Vicarious use values – these values are gained by people from the knowledge that others may enjoy the heritage asset;
- Option values – recognise the future uses that the heritage item might be put (eg future research and understanding of our past);
- Quasi-option values – refer to the welfare obtained from the opportunity to gain better information by delaying a decision that may result in irreversible damage to the heritage asset; and
- Use values – the benefit gained by members of the public and heritage item owners from viewing, using or experiencing the heritage item.

The public benefit associated with heritage protection can be measured by the maximum amount of money that individuals in a community would be willing to give up in order to obtain protection for a particular heritage item (King & Mazzotta 2001). This is often referred to as 'willingness to pay' (WTP). Consumer surplus is the net economic value obtained by an individual from 'consuming' or using a particular good or service, including heritage resources. Consumer surplus is measured and defined as the difference between the maximum an individual would be willing to pay for the good or service, and the amount they actually pay to use or consume it.

Heritage and environmental WTP studies that measure consumer surplus completed in other time periods or jurisdictions can be 'transferred' to the current cost benefit analysis to provide an estimate of WTP for additional heritage. This process is called 'benefit transfer' and is detailed in the economics literature. See NSW EPA 2001 for a full explanation of the benefit transfer technique.

Review of the literature for WTP studies for heritage protection reveals a number of relevant examples (see Table 3).

**Table 3 WTP for Heritage Protection (per person per annum)**

WTP for	Country	Author	\$ Aust 2002
Hartley Historic Site	NSW, Aust	Christensen 1997	57.96
Temples of Paestum	Italy	Colombino <i>et al</i> 2002	37.57
Preserve Agricultural land	Sweden	Drake 1987	114.84
Preserve a view	USA	Johnson & Haspel 1983	80.49
Urban amenity	Australia	Lockwood & Tracy 1995	11.00

Source: Research completed by the consultant and Envalue 2005, per person estimates derived assuming the Australian average of 2.96 persons per household

The studies reported in the table show a WTP for heritage protection of between \$11 and \$114.84 per person per annum.

The most relevant example shown in Table 3 is for WTP for Hartley Historic Site, an item listed on the State Heritage Register and located at the base of Victoria Pass 140 km west of Sydney. The NSW National Parks and Wildlife Service study showed that WTP for Hartley Historic Site was \$57.96 per person per visit, a total annual value of \$1.9 million.

Arguments for using this estimate of WTP for additional heritage protection include:

- The credibility of the study – an authoritative report prepared by the NSW National Parks and Wildlife Service (Christensen 1997)
- Study relevance – the site is a NSW State Heritage Register listed site
- The importance of items listed on the State Heritage Register to the people of NSW - a relatively high value of \$1.9 million would seem reasonable given the 'state heritage significance' of Register listings

Arguments against use of this apparently high value include:

- It is a heritage property based estimate and many items on the State Heritage Register are less iconic in their appeal e.g. book collections and simple graves
- The lack of information available on future State Heritage Register listings and whether they will have the same broad appeal as Hartley
- Diminishing marginal returns – each additional heritage asset protected is likely to be valued less as the body of protected heritage increases

While the Hartley estimate is in the mid range of other WTP estimates shown in Table 3, it would, on balance, seem prudent to discount annual value estimates to the lower end of Table 3 estimates.

A total annual WTP per additional heritage item protected of \$250,000 has therefore been selected. Selection of a WTP value of \$250,000 to measure the additional public benefit of each additional item protected by heritage regulation is a conservative assumption that underestimates the benefit of regulation.

#### *Owner Property Valuation Impact*

In addition to the WTP for additional heritage enjoyed by owners of heritage items and the broader community, consideration is given to changes in owner property valuation as a result of listing on the State Heritage Register.

A number of studies contained in the heritage and economics literature examine the issue of purely private benefits for property owners associated with heritage listing. These include:

- Deodhar (2004) who was able to conclusively establish that heritage listed houses in the Ku-ring-gai local government area of Sydney enjoy a market premium compared to unlisted houses. After controlling for other property attributes, houses on the local heritage register commanded an average premium of 12%. This premium reflected the combined value that the market places on their heritage character, their architectural style elements, and their statutory listing status. Only that portion of the premium attributable to a properties statutory listing status is relevant to consideration of the current regulation.
- Byrne (2004) whose informal research amongst real estate agents indicated that additional economic benefits were available for heritage listed streetscapes and precincts – like Ku-ring-gai but that individual houses that are heritage listed in isolation may not enjoy the same benefits. Therefore isolated houses or buildings may incur a cost in association with heritage listing. Costs were associated with the opportunity cost of foregone development opportunities.
- Dominy (2001) who concluded that heritage listing of commercial buildings increased development costs by only a 'mild degree'. However, such costs were inevitably recovered, and in fact were

counterbalanced and far exceeded, by the commensurate increases in project value. Project value increases for the heritage property owner were associated with concessions granted to developers of commercial heritage buildings by consent authorities to offset limits imposed by heritage preservation. A financial benefit to the developer rather than an economic benefit to the community i.e. the financial benefit gained by the developer is a transfer payment from the community.

From the above literature there is marginal evidence that listing results in a benefit to the owner of a heritage item. From this evidence it could be hypothesised that heritage listing functions are like a 'certificate of quality'. It results in the differentiation of housing product and encourages the payment of a premium. There is also evidence that listing imposes a cost on owners (see Byrne 2004).

If listing were to result in a net benefit to owners of items on the State Heritage Register, then it could reasonably be argued that a regulation forcing compliance with minimum maintenance standards and imposition of fees to fund inspection and other HO activities would not be required. There would be an existing incentive in the marketplace for owners to maintain their heritage properties to at least minimum standards. The counter argument to this point favouring regulation is that there may be poor information flows and owners of heritage assets (particularly owners of buildings in areas undergoing redevelopment) may not be aware of the private benefit associated with preservation.

On balance it is concluded that regulation does not confer an economic benefit in the form of increased property values on owners of heritage items. Therefore regulation is required to ensure their maintenance.

Increased property values is not included as a benefit in any of the five policy options.

#### *Owner Increased Certainty for Repair and Maintenance*

Specification of repair and maintenance standards in a policy option provides owners of heritage items with certainty in relation to their legal requirements for maintaining their asset. The benefit is relevant to all policy options except the base case. It has not been possible to quantify this benefit. Quantification would only be possible if a cost and time prohibitive non-market valuation study were undertaken.

#### *Owner Increased Certainty – Section 167 Applications*

Owners of all potentially heritage-impacted property in NSW are able to apply to the Heritage Office to check the heritage status of their asset prior to renovation or sale. Provision of this service is of benefit to property owners. The benefit is relevant to all policy options. As with owner increased certainty for repair and maintenance, it would only be possible to quantify this benefit with a cost and time prohibitive non-market valuation study.

## **6. BASE CASE – ‘DO NOTHING’ COST BENEFIT ANALYSIS**

Under the base case no application fees would be payable by owners of heritage items. The Heritage Office would incur costs of processing applications and this would be funded from consolidated revenue.

The base case also means that there would be no regime of maintenance for items listed on the State Heritage Register. Maintenance would be entirely at the discretion of the owner of the item. The owner would determine maintenance costs.

Under the base case there would be a reduction in the effectiveness of the Heritage Office because of the uncertainty as to maintenance standards and their lack of enforceability. The spot checks on the condition of the 1,500 items on the State Heritage Register would be unlikely to occur, or may occur but not improve the items condition.

Consequently, it is suggested that items on the State Heritage Register would fall into disrepair over time and eventually be lost to the NSW community at the same rate as all historic heritage in Australia. The Environment Protection and Heritage Council (EPHC) estimates this rate of loss in historic heritage Australia wide could be between 10% and 15% of the total Australian stock of heritage items over the next 15 to 20 years (EPHC 2004).

In addition there will be fewer resources available to the Heritage Office to undertake assessments under the base case. The listing of new items for inclusion on the State Heritage Register will occur at a lesser frequency, say half of that applicable to the current regulation. The number of items on the register that are protected will also decline as items fall into disrepair. Under funding provisions flowing from the current regulation the number of items on the register grows by 50 items per annum.

Under the base case fewer NSW heritage items would receive the protection of listing on the register and some of those on the register would fall into disrepair. An estimate of how this situation is likely to develop into the future under the base case and alternative regulatory options is shown in Table 4.

**Table 4 NSW Heritage Register – Items Registered and Items Falling into Disrepair by Option**

Option	2006	2007	2008	2009	2010
<b>1. Base Case</b>					
Items on register (beginning of the year)	1500	1504	1508	1512	1516
Items falling into disrepair through neglect	21	21	21	21	21
Total heritage items protected	1479	1483	1487	1491	1495
New items added	25	25	25	25	25
Items on register (end of the year)	1504	1508	1512	1516	<b>1520</b>
Net Addition to the SHR	4	4	4	4	4
<b>2. Voluntary Guidelines and Consolidated Revenue</b>					
Items on register (beginning of the year)	1500	1514	1528	1542	1556
Items falling into disrepair through neglect	11	11	11	11	11
Total heritage items protected	1489	1503	1517	1531	1545
New items added	25	25	25	25	25
Items on register (end of the year)	1514	1528	1542	1556	<b>1570</b>
Net Addition to the SHR	14	14	14	14	14
<b>3. Remake Current Regulation</b>					
Items on register (beginning of the year)	1500	1550	1600	1650	1700
Items falling into disrepair through neglect	0	0	0	0	0
Total heritage items protected	1500	1550	1600	1650	1700
New items added	50	50	50	50	50
Items on register (end of the year)	1550	1600	1650	1700	<b>1750</b>
Net Addition to the SHR	50	50	50	50	50
<b>4. Fully Prescriptive Regulation</b>					
Items on register (beginning of the year)	1500	1600	1700	1800	1900
Items falling into disrepair through neglect	0	0	0	0	0
Total heritage items protected	1500	1600	1700	1800	1900
New items added	100	100	100	100	100
Items on register (end of the year)	1600	1700	1800	1900	<b>2000</b>
Net Addition to the SHR	100	100	100	100	100
<b>5. Proposed Regulation</b>					
Items on register (beginning of the year)	1500	1600	1700	1800	1900
Items falling into disrepair through neglect	0	0	0	0	0
Total heritage items protected	1500	1600	1700	1800	1900
New items added	100	100	100	100	100
Items on register (end of the year)	1600	1700	1800	1900	<b>2000</b>
Net Addition to the SHR	100	100	100	100	100

## 6.1 Costs

Costs associated with the base case are:

- Heritage Office Administration and Compliance
- Heritage Office Assessment of New Items

### *Heritage Office Administration and Compliance*

Under the base case the Heritage Office will still be required to process exemptions and approvals in association with Section 60, Section 140, certain reviews of CMPs and Section 167 of the Act. The HO will also be required to maintain a database to ensure compliance. HO administration and compliance costs associated with these activities are summarised in the Table below.

**Table 5 Heritage Office Administration Costs**

<b>Area Administered</b>	<b>Total Administration Cost (\$)</b>
Section 60	346,639
Section 140	240,581
Section 167	609,845
<b>Total Cost</b>	<b>1,197,065</b>

Source: HO estimates prepared 13 April 2005 and updated 10 May 2005

### *Heritage Officer Assessment of New Items*

The base case results in an under funding of HO activities and a significant reduction in resources currently applied to the assessment of new items occurs. At the current time assessment of new items consumes the equivalent of one full time heritage officer (EFT) i.e. the heritage officer assesses 50 new items per annum, one item per week. The cost of this assessment activity is a salary, including on-costs and vehicle, of \$85,000 per annum. It is assumed that half this amount, \$42,500, is expended under the base case.

## 6.2 Benefits

There are no public benefits generated under the base case. Fewer items are added to the register and there are losses in assets falling into disrepair through neglect.

Owners of SHR items do not gain the benefit of having minimum repair and maintenance standards described.

The only benefit available under the base case is the benefit that owners of potentially heritage affected items gain from being able to source a Section 167 certificate. It was not possible to quantify this benefit.

### **6.3 Cost Benefit Analysis and Equity Considerations**

Under the base case the HO incurs costs associated with administration and assessment of new items. These costs are not offset with owner compliance fees.

Under the base case the public and owners of heritage items receive the least amount of heritage protection benefit. There is no net gain in items protected on the SHR.

Critically, the policy objective of setting and enforcing minimum standards for maintenance and repair of items on the SHR and the equitable and adequate funding of heritage protection activities cannot be achieved.

Accordingly the 'do nothing' base case is rejected.

## **7. VOLUNTARY GUIDELINE COST BENEFIT ANALYSIS**

Under this option, voluntary guidelines that suggest repair and maintenance schedules for SHR items and funding drawn from consolidated revenue are proposed. All HO funding would need to be sourced from consolidated revenue. The HO has no basis for charging fees. Under this option maintenance would be 'voluntary' and guided by HO publications and education.

Costs in addition to the base case would be incurred for development of voluntary guidelines and an accompanying education program.

Voluntary guidelines together with an education program would achieve additional heritage protection over the base case but would not achieve the 'no loss' rate of heritage protection achieved for SHR items under Remaking the Current Regulation, a fully Prescriptive Regulation or Proposed Regulations. Minimum standards for repairs and maintenance would be neither established nor enforced. Under this option it is assumed that 50% of the items that fall into disrepair under the base case are protected by voluntary guidelines.

The rate of addition of new items to the State Heritage Register under this option is the same as achieved under the base case i.e. 25 new items of state significance are added each year (see Table 4).

### **7.1 Costs**

Costs associated with voluntary guidelines and consolidated revenue are:

- Heritage Office Administration and Compliance
- Heritage Office Guidelines
- Heritage Office Assessment of New Items
- Owner Repair and Maintenance Costs

#### *Heritage Office Administration and Compliance*

HO administration costs for processing exemptions and approvals and database maintenance are the same as under the base case. Therefore, strictly speaking there are no incremental additional costs for HO Administration and Compliance under this option. However, the RIS has been completed using the principle and the benefits of regulation should be understated and costs of regulation should be overestimated. Consistent with this principle the full cost of HO Administration and Compliance has been included in the estimate of impact for each regulatory option.

### *Heritage Office Guidelines*

Under this option costs will be incurred by the HO preparing general-purpose guidelines on repair and maintenance standards for items on the SHR. Costs will also be incurred educating owners of SHR items on the availability and use of guidelines. An estimated annual cost of \$85,000 is assumed – the equivalent on one full time HO officer.

### *Heritage Office Assessment of New Items*

One full time equivalent (EFT) heritage officer is required to assess new items under this option. The cost of this assessment activity is a salary, including on-costs and vehicle of \$85,000 per annum.

### *Owner Repair and Maintenance Costs*

It is possible that owners of heritage items will incur additional repair and maintenance costs to comply with voluntary guidelines. However, this is considered to be unlikely. Guidelines are voluntary and owners will be unwilling to incur costs in addition to their planned expenditure if requirements cannot be enforced.

## **7.2 Benefits**

Benefits associated with voluntary guidelines and consolidated revenue are:

- Additional Heritage (Measured by WTP)
- Owner Increased Certainty for Repair and Maintenance
- Owner Increased Certainty – Section 167 Applications

### *Additional Heritage (Measured by WTP)*

The benefit to the public and owners of SHR items of this option is expressed through community WTP for the additional heritage achieved.

Table 4 in Chapter 6 shows the number of heritage items protected under each policy option. Community WTP for the additional heritage achieved under voluntary guidelines is estimated as the additional items protected by a community WTP per item of \$0.25 million per annum. The annual community WTP for additional heritage is shown in the table below.

**Table 6 Value of Additional Heritage Achieved Under Voluntary Guidelines (\$'million)**

	<b>Units</b>	<b>2006</b>	<b>2007</b>	<b>2008</b>	<b>2009</b>	<b>2010</b>
Voluntary guide – addition to SHR	No.	14	14	14	14	14
Base case - – addition to SHR	No.	4	4	4	4	4
Net Addition to SHR	No.	10	10	10	10	10
Community WTP per additional item	\$'million	0.250	0.250	0.250	0.250	0.250
Total WTP	\$'million	2.500	2.500	2.500	2.500	2.500
NPV @ 7%	\$'million	\$10.000				

The application of voluntary guidelines results in a present value benefit, 7% discount rate, of \$10 million.

### *Owner Increased Certainty for Repair and Maintenance*

The provision of voluntary guidelines for repair and maintenance of SHR items along with education to inform their use is a benefit to owners. It was not possible to quantify this benefit.

### *Owner Increased Certainty – Section 167 Applications*

Owners of potentially heritage-impacted property are able to check the heritage status of their asset using a Section 167 application. It was not possible to quantify this benefit to property owners.

## **7.3 Cost Benefit Analysis and Equity Considerations**

The table below provides a summary of the above data and cost benefit analysis results for voluntary guidelines.

**Table 7 Voluntary Guidelines Cost Benefit Analysis Results (\$'million)**

	2006	2007	2008	2009	2010
<b>Costs</b>					
HO Administration and Compliance	1.197	1.197	1.197	1.197	1.197
HO Guidelines	0.085	0.085	0.085	0.085	0.085
HO Assessment of New Items	0.085	0.085	0.085	0.085	0.085
Total Costs	1.367	1.367	1.367	1.367	1.367
<b>Benefits</b>					
Community WTP for Additional Heritage	2.500	2.500	2.500	2.500	2.500
Total Benefits	2.500	2.500	2.500	2.500	2.500
<b>Benefit Cost Results</b>					
Net Benefits	1.133	1.133	1.133	1.133	1.133
NPV @ 4%	\$5.044				
NPV @ 7%	\$4.646				
NPV @ 10%	\$4.295				

Voluntary guidelines result in a Net Present Value (NPV) of \$4.646 million at the central discount rate of 7%.

**Table 8 Voluntary Guidelines Equity Considerations**

Option	Cost of HO Activities (Year 1 \$'million)	Fee Revenue (\$'million pa)	Equity –% of HO Activities Met by Owner Fees
Voluntary Guidelines and Consolidated Revenue	1.367	0	0

The public sector contribution to achieving this outcome is 100% of total cost. Owners do not contribute to HO activities and no fees are raised from the private sector. For this reason the outcome is inequitable and the 'voluntary guideline' option is rejected.

## **8. REMAKE CURRENT REGULATION, COST BENEFIT ANALYSIS**

Remaking the current regulation provides for the charging of fees for applications made under the *Heritage Act 1977*. The HO would incur costs for processing applications and this would be partially offset by fee revenue. A minimum maintenance regime would be described and enforced for items on the SHR. The HO would determine the minimum cost of maintenance.

Under this option repair and maintenance standards are appropriate and no item, once included on the SHR, is allowed to fall into disrepair through neglect or inappropriate maintenance (see Table 4).

### **8.1 Costs**

Costs associated with remaking the current regulation are:

- Heritage Office Administration and Compliance
- Heritage Office Assessment of New Items
- Owner Compliance Costs – SHR Items (fees)
- Owner Compliance Costs – Section 167 (fees)
- Owner Repair and Maintenance Costs

#### *HO Administration and Compliance*

HO administration costs for processing exemptions and approvals and database maintenance are the same as under the base case and voluntary guideline options.

#### *HO Assessment of New Items*

The HO consumes resources assessing items for their heritage significance. Resources are required to identify items, process applications and make field assessments. Annually this activity consumes the equivalent of one full time heritage officer (EFT) i.e. the heritage officer assesses 50 new items per annum, one item per week. The cost of this assessment activity is a salary, including on-costs and vehicle, of \$85,000 per annum. The cost is the same as the voluntary guideline option.

#### *Owner Compliance Costs – SHR Items (fees)*

In order to determine the cost of fees levied by the HO on owners of heritage items listed on the SHR, data is required and the following data has been used:

**Table 9 Fees Charged to Owners of SHR Items, Remake Current Regulation**

Type of Fee	Applications per annum	Average current cost (\$)	Total cost
Section 60 Application	90	150	13,500
Section 140 Application	63	100	6,300
<b>Total</b>			<b>19,800</b>

Source: Data provided by the HO 13 April 2005 and estimates prepared by the consultant

The total annual cost to all owners of items on the SHR of HO levied fees is \$19,800 per annum. Owners of items on the SHR make a positive contribution to HO activities under this regulatory option.

*Owner Compliance Costs – Section 167 (fees)*

In addition to fees levied by the HO on owners of items listed on the SHR, fees are levied on Section 167 applications:

**Table 10 Fees Charged Section 167 Applications, Remake Current Regulation**

Type of Fee	Applications per annum	Average current cost (\$)	Total cost
Section 167 Application	6,000	20	120,000
<b>Total</b>			<b>120,000</b>

Source: Data provided by the HO 13 April 2005 and estimates prepared by the consultant

The total annual cost to owners of items establishing whether or not those items are affected by heritage listing is \$120,000 per annum.

*Owner Repair and Maintenance Costs*

Expenditures incurred by owners of items on the SHR to comply with repair and maintenance standards above expenditures that would otherwise be incurred are costs associated with remaking the current regulation.

Given the breadth of scope of items on the SHR (marine archaeology, book collections, movable heritage, residential and commercial property, etc) it is difficult to provide an accurate estimate of incremental additional maintenance costs associated with remaking the current regulation. In the absence of data the following costs have been used with the intention of overestimating total additional cost:

- Each item on the register has a market value of \$1 million (there is no relationship between market value and WTP for heritage protection)
- The annual base case – no regulation cost of maintenance is 0.5% of capital value.
- Remaking the current regulation increases annual maintenance cost to 1% of capital value.

- The annual incremental repair and maintenance cost associated with remaking the current regulation is therefore \$5,000 per item and this is applicable to all items on the SHR (i.e. 1,500 items in 2006 increasing to 1,700 items by 2010).

A substantial additional cost to owners of items on the SHR is incurred as a result of inclusion of minimum repair and maintenance provisions in the remaking of the current regulation. Annually this cost is between \$7.5 million (1,500 items at a cost of \$5,000 per item) and \$8.5 million (1,700 items at a cost of \$5,000 per item).

It is noted that once minimum standards for repair and maintenance are prescribed by regulation they can be enforced.

## 8.2 Benefits

Benefits associated with remaking the current regulation are:

- Additional Heritage (Measured by WTP)
- Owner Increased Certainty for Repair and Maintenance
- Owner Increased Certainty – Section 167 Applications

### *Additional Heritage (Measured by WTP)*

The benefit to the public and owners of SHR items of remaking the current regulation is expressed through community WTP for each additional SHR item protected by the number of items protected, see table below:

**Table 11 Value of Additional Heritage Achieved, Remaking Current Regulation**

	Units	2006	2007	2008	2009	2010
Remake current reg – addition to SHR	No.	50	50	50	50	50
Base case – addition to SHR	No.	4	4	4	4	4
Net Addition to SHR	No.	46	46	46	46	46
Community WTP per additional item	\$'million	0.250	0.250	0.250	0.250	0.250
Total WTP	\$'million	11.500	11.500	11.500	11.500	11.500
NPV @ 7%	\$'million	47.152				

Remaking the current regulation results in a present value benefit, 7% discount rate, of \$47.152 million.

### *Owner Increased Certainty for Repair and Maintenance*

Remaking the current regulation provides a measure of certainty for owners of SHR items. Owners have a clear statement of minimum repair and maintenance requirements required to comply with the legislation. This clarity constitutes a benefit to owners. It was not possible to quantify this benefit.

### *Owner Increased Certainty – Section 167 Applications*

Owners of potentially heritage-impacted property are able to check the heritage status of their asset using a Section 167 application. It was not possible to quantify this benefit to property owners.

### 8.3 Cost Benefit Analysis and Equity Considerations

The table below provides a summary of the above data and cost benefit analysis results at the central discount rate (7%) and sensitivity tests at 4% and 10%.

**Table 12 Remake Current Regulation Cost Benefit Analysis Results (\$'million)**

	2006	2007	2008	2009	2010
<b>Costs</b>					
HO Administration and Compliance	1.197	1.197	1.197	1.197	1.197
HO Assessment of New Items	0.085	0.085	0.085	0.085	0.085
Owner R&M Costs	7.500	7.750	8.000	8.250	8.500
Total Costs	8.782	9.032	9.282	9.532	9.782
<b>Benefits</b>					
Community WTP for Additional Heritage	\$11.500	\$11.500	\$11.500	\$11.500	\$11.500
Total Benefits	\$11.500	\$11.500	\$11.500	\$11.500	\$11.500
<b>Benefit Cost Results</b>					
Net Benefits	\$2.718	\$2.468	\$2.218	\$1.968	\$1.718
NPV @ 4%	\$9.961				
NPV @ 7%	\$9.233				
NPV @ 10%	\$8.588				

The remaking the current regulation results in a net present value (NPV) of \$9.233 million over 5 years at the central discount rate of 7%.

**Table 13 Remake Current Regulation Equity Considerations**

Option	Cost of HO Activities (Year 1 \$'million)*	Fee Revenue (\$'million pa)#	Equity –% of HO Activities Met by Owner Fees
Remake Current Regulation	1.282	0.140	11

\* Sum of HO costs in Table 12

# sum of fee revenue estimates from Tables 9 and 10

Fee revenue from the private sector contributes approximately 11% of the cost of HO Administration and Compliance and HO Assessment of New Items. Remaking the current regulation is inequitable and does not provide for adequate HO funding. Estimates circulating in the public arena are that there may be as many as 8,000 items of State heritage significance in NSW. Current funding arrangements do not generate sufficient revenue for the HO to complete assessments on these items and have them added to the SHR at an appropriate rate.

For these reasons the option of remaking the current regulation is rejected.

## **9. FULLY PRESCRIPTIVE REGULATION COST BENEFIT ANALYSIS**

Under this approach to heritage regulation individual repair and maintenance prescriptions will be prepared by the HO for each item on the SHR.

The HO will incur additional costs for preparing repair and maintenance prescriptions. The full cost of preparing repair and maintenance prescriptions will be recovered through fees payable for applications made under the Act. Fees will be set at a higher level than either Remaking the Current Regulation or the Proposed Regulation in order to recover the cost of preparing individual maintenance prescriptions.

The cost to owners of satisfying prescriptive maintenance programs will also be greater than either Remaking the Current Regulation or the Proposed Regulation. Additional heritage protection achieved may not be any greater than under the proposed regulation. Owners will resist the high cost of repairs and maintenance even though standards are enforceable. HO will have only the same amount of resources available to assess new items and achieve compliance. Fees generated from applications will be absorbed preparing individual R&M prescriptions.

Consistent with Remaking the Current Regulation and the Proposed Regulation, there is no loss in items on the SHR associated with this option. The rate of increase in new items might be approximately double that under Remaking the Current Regulation and Voluntary Guidelines i.e. approximately 100 new items are added to the SHR each year (see Table 4). Additional fee revenue is available to the HO to achieve this higher level of new item listing (see Table 12).

### **9.1 Costs**

Costs associated with a fully prescriptive regulation are:

- Heritage Office Administration and Compliance
- Heritage Office Maintenance Prescription
- Heritage Office Assessment of New Items
- Owner Compliance Costs – SHR Items (fees)
- Owner Compliance Costs – Section 167 (fees)
- Owner Repair and Maintenance Costs

#### *HO Administration and Compliance*

HO administration costs for processing exemptions and approvals and database maintenance are the same as under the Base Case, Voluntary Guideline and Remake the Current Regulation options.

### *Heritage Office Maintenance Prescription*

Under this option costs will be incurred by the HO preparing site-specific maintenance programs for each item on the SHR. Four FTE heritage officers will be required each year to complete this task. Total cost is estimated at \$340,000 per annum (four FTE at @ \$85,000 each).

### *HO Assessment of New Items*

Under the fully prescriptive regulation, HO Assessment of New Items will increase from 50 items per annum under Remaking the Current Regulation and requiring one EFT (at a cost of \$85,000) to 100 items per annum, requiring the employment of a second EFT. The total cost of Assessment of New Items will increase to \$170,000. The increased cost will be funded through additional fee revenue and the removal of government cross subsidisation.

### *Owner Compliance Costs – SHR Items (fees)*

Fees charged for applications under the Act for Remaking the Current Regulation, the Proposed Regulation and the Fully Prescriptive option are shown in the table below.

**Table 14 Fees Charged SHR Items – Remake Current, Proposed and Fully Prescriptive Options (\$)**

Type of Fee	Remake Current Regulation	Proposed Regulation	Fully Prescriptive Regulation
<b>Section 60 Application</b>			
Owner occupied house, activity value <\$100k	60	150	300
Non-owner occupied house, activity value <\$100k	100	300	600
Activity value >\$100k but <\$500k	200	400	800
Activity value >\$500k but <\$1 million	400	500	1,000
Activity value >\$1 million but <\$2 million	750	1,000	2,000
Activity value >\$2 million but <\$5 million	1,000	1,500	3,000
Activity value >\$5 million but <\$10 million	2,000	2,500	5,000
Activity value >\$10 million	2,000	3,000 + \$10 for every 100k > \$10 million	6,000 + \$20 for every 100k > \$10 million
<b>Section 140 Application</b>			
Owner occupied house, activity value <\$100k	25	100	200
Non-owner occupied house, activity value <\$100k	100	250	500
Activity value >\$100k	100	500 + \$10 for every 100k > \$100k	1,000 + \$20 for every 100k > \$100k

Source: HO instructions to Parliamentary Counsel 4 April 2005 for Remake Current Regulation and Proposed Regulation, consultant estimates for the Fully Prescriptive option.

The increase in fees associated with the Fully Prescriptive option will increase revenue available to the HO. Forecast additional revenue, associated with SHR items, is shown in the following table.

**Table 15 Fees Charged to Owners of SHR Items Under Fully Prescriptive Regulation**

Type of Fee	Applications per annum	Average cost (\$)	Total cost
Section 60 Application	90	600	54,000
Section 140 Application	63	800	50,400
<b>Total</b>			<b>104,400</b>

Source: Data provided by the HO and estimates prepared by the consultant

Under the Fully Prescriptive regulation the total annual cost to all owners of items on the SHR of HO levied fees is \$104,400 per annum.

*Owner Compliance Costs – Section 167 (fees)*

In addition to fees levied by the HO on owners of items listed on the SHR, fees are levied on Section 167 applications. The proposal is to increase Section 167 application fees from \$20 (Remake Current Regulation) to \$200 (Fully Prescriptive Regulation):

**Table 16 Fees Charged Section 167 Applications, Fully Prescriptive Regulation**

Type of Fee	Applications per annum	Average current cost (\$)	Total cost
Section 167 Application	6,000	200	1,200,000
<b>Total</b>			<b>1,200,000</b>

Source: Data provided by the HO 13 April 2005 and estimates prepared by the consultant

The total annual cost to owners of items potentially affected by heritage listing is \$1.2 million per annum.

*Owner Repair and Maintenance Costs*

Expenditures incurred by owners of items on the SHR to comply with repair and maintenance standards above expenditures that would otherwise be incurred are costs associated with a fully prescriptive regulation. Incremental repair and maintenance costs associated with an item specific repair and maintenance regime are estimated on the following basis:

- Each item on the register has a market value of \$1 million (there is no relationship between market value and WTP for heritage protection)
- The annual base case – no regulation cost of maintenance is 0.5% of capital value.
- A fully prescriptive regulation increases annual maintenance cost to 1.5% of capital value.

- The annual incremental repair and maintenance cost associated with a fully prescriptive regulation is therefore \$10,000 and this is applicable to all items on the SHR (i.e. 1,500 items in 2006 increasing to 1,900 items by 2010).

A substantial additional cost to owners of items on the SHR is incurred as a result of inclusion of site-specific repair and maintenance provisions in the Fully Prescriptive regulation. Annually this cost is between \$15 million and \$19 million.

## 9.2 Benefits

Benefits associated with a fully prescriptive regulation are:

- Additional Heritage (Measured by WTP)
- Owner Increased Certainty for Repair and Maintenance
- Owner Increased Certainty – Section 167 Applications

### *Additional Heritage (Measured by WTP)*

The benefit to the public and owners of SHR items of a Fully Prescriptive regulation is expressed through community WTP for each additional SHR item protected by the number of items protected, see table below:

**Table 17 Value of Additional Heritage Achieved, Fully Prescriptive Regulation**

	Units	2006	2007	2008	2009	2010
Fully Prescriptive reg – addition to SHR	No.	100	100	100	100	100
Base case – addition to SHR	No.	4	4	4	4	4
Net Addition to SHR	No.	96	96	96	96	96
Community WTP per additional item	\$'million	0.250	0.250	0.250	0.250	0.250
Total WTP	\$'million	24.000	24.000	24.000	24.000	24.000
NPV @ 7%	\$'million	98.405				

The Fully Prescriptive regulation results in a present value benefit, 7% discount rate, of \$98.405 million.

### *Owner Increased Certainty for Repair and Maintenance*

A Fully Prescriptive regulation provides a high degree of certainty for owners of SHR items. Owners have a clear site-specific statement of repair and maintenance requirements required. This clarity and detail constitutes a benefit to owners. It was not possible to quantify this benefit.

### *Owner Increased Certainty – Section 167 Applications*

Owners of potentially heritage-impacted property are able to check the heritage status of their asset using a Section 167 application. It was not possible to quantify this benefit to property owners.

### 9.3 Cost Benefit Analysis and Equity Considerations

The table below provides a summary of the above data and cost benefit analysis results at the central discount rate (7%) and sensitivity tests at 4% and 10%.

**Table 18 Fully Prescriptive Regulation Cost Benefit Analysis Results (\$'million)**

	2006	2007	2008	2009	2010
<b>Costs</b>					
HO Administration and Compliance	1.197	1.197	1.197	1.197	1.197
HO Maintenance Prescription	0.340	0.340	0.340	0.340	0.340
HO Assessment of New Items	0.170	0.170	0.170	0.170	0.170
Owner R&M Costs	15.000	16.000	17.000	18.000	19.000
Total Costs	16.707	17.707	18.707	19.707	20.707
<b>Benefits</b>					
Community WTP for Additional Heritage	24.000	24.000	24.000	24.000	24.000
Total Benefits	24.000	24.000	24.000	24.000	24.000
<b>Benefit Cost Results</b>					
Net Benefits	7.293	6.293	5.293	4.293	3.293
NPV @ 4%	23.912				
NPV @ 7%	22.256				
NPV @ 10%	20.784				

The fully prescriptive regulation results in a net present value (NPV) of \$22.256 million over 5 years at the central discount rate of 7%.

**Table 19 Fully Prescriptive Regulation Equity Considerations**

Option	Cost of HO Activities (Year 1 \$'million)*	Fee Revenue (\$'million pa)#	Equity –% of HO Activities Met by Owner Fees
Fully Prescriptive Regulation	1.707	1.304	76

\* Sum of HO costs in Table 18

# sum of fee revenue estimates from Tables 15 and 16

Fee revenue from the private sector contributes approximately 76% of the cost of HO Administration and Compliance, HO Maintenance Prescriptions and HO Assessment of New Items. The burden of funding the HO has switched from taxpayers to the private sector. The fully prescriptive option is not equitable. It results in the adequate but not equitable funding of heritage protection. Accordingly the option is rejected for failure to achieve the second policy option (see Section 3 of the RIS).

## 10. PROPOSED REGULATION COST BENEFIT ANALYSIS

The Proposed Regulation provides for the equitable and adequate funding of the Heritage Office and its activities.

Inspection via spot checks on SHR items would be maintained with the ability to take enforcement action. Resources would be available to increase the rate of listing of heritage items. The cost of this activity would be shared between the public and the private sectors.

Under the Proposed Regulation there would be no loss of items on the State Heritage Register and the rate of increase in listing of new items would be the same as that achieved under Fully Prescriptive Regulation (see Table 4).

### 10.1 Costs

Cost items associated with the Proposed Regulation are:

- Heritage Office Administration and Compliance
- Heritage Office Assessment of New Items
- Owner Compliance Costs – SHR Items (fees)
- Owner Compliance Costs – Section 167 (fees)
- Owner Repair and Maintenance Costs

#### *HO Administration and Compliance*

The quantum of Heritage Office administration and compliance costs is the same as other regulatory options.

#### *HO Assessment of New Items*

Under the Proposed Regulation HO Assessment of New Items will increase from 50 items per annum to approximately 100 items per annum, the same as the Fully Prescriptive option. The total cost of Assessment of New Items will be \$170,000. The increased cost will be funded through additional fee revenue.

#### *Owner Compliance Costs – SHR Items (fees)*

Fees charged for applications under the Act for Remaking the Current Regulation and the Proposed Regulation are shown in the table below.

**Table 20 Fees Charged SHR Items – Remake Current, Proposed and Fully Prescriptive Options (\$)**

Type of Fee	Remake Current Regulation	Proposed Regulation
<b>Section 60 Application</b>		
Owner occupied house, activity value <\$100k	60	150
Non-owner occupied house, activity value <\$100k	100	300
Activity value >\$100k but <\$500k	200	400
Activity value >\$500k but <\$1 million	400	500
Activity value >\$1 million but <\$2 million	750	1,000
Activity value >\$2 million but <\$5 million	1,000	1,500
Activity value >\$5 million but <\$10 million	2,000	2,500
Activity value >\$10 million	2,000	3,000 + \$10 for every 100k > \$10 million
<b>Section 140 Application</b>		
Owner occupied house, activity value <\$100k	25	100
Non-owner occupied house, activity value <\$100k	100	250
Activity value >\$100k	100	500 + \$10 for every 100k > \$100k

Source: HO instructions to Parliamentary Counsel 4 April 2005.

The increase in fees associated with the Proposed Regulation will increase the revenue available to the HO. Forecast additional revenue, associated with SHR items, is shown in the following table.

The increase in fees will increase revenue available to the HO. Forecast additional revenue, associated with State Heritage Register, items is shown in the following table.

**Table 21 Fees Charged to Owners of Items on the State Heritage Register Under Proposed Regulation**

Type of Fee	Applications per annum	Average cost (\$)	Total cost
Section 60 Application	165	300	49,500
Section 140 Application	79	400	31,600
<b>Total</b>			<b>81,100</b>

Source: Data provided by the HO and estimates prepared by the consultant

Under the Proposed Regulation the total annual cost to all owners of items on the SHR of HO levied fees is \$81,100 per annum.

*Owner Compliance Costs – Section 167 (fees)*

In addition to fees levied by the HO on owners of items listed on the SHR, fees are levied on Section 167 applications. The proposal is to increase Section 167 application fees from \$20 (Remake Current Regulation) to \$100 (Proposed Regulation):

**Table 22 Fees Charged Section 167 Applications, Proposed Regulation**

Type of Fee	Applications per annum	Average current cost (\$)	Total cost
Section 167 Application	6,000	100	600,000
<b>Total</b>			<b>600,000</b>

Source: Data provided by the HO 13 April 2005 and estimates prepared by the consultant

The total annual cost to owners of items potentially affected by heritage listing is \$0.6 million per annum.

### *Owner Repair and Maintenance Costs*

Expenditures incurred by owners of items on the SHR to comply with repair and maintenance standards above expenditures that would otherwise be incurred are costs associated with the Proposed Regulation. Incremental repair and maintenance costs associated with an item specific repair and maintenance regime are estimated on the following basis:

- Each item on the register has a market value of \$1 million (there is no relationship between market value and WTP for heritage protection)
- The annual base case – no regulation cost of maintenance is 0.5% of capital value.
- The Proposed Regulation increases annual maintenance cost to 1% of capital value, as per Remaking the Current Regulation.
- The annual incremental repair and maintenance cost associated with the Proposed Regulation is therefore \$5,000 per item and this is applicable to all items on the SHR (i.e. 1,500 items in 2006 increasing to 1,900 items by 2010).

A substantial additional cost to owners of items on the SHR is incurred as a result of inclusion of minimum repair and maintenance provisions in the Proposed Regulation. Annually this cost is between \$7.5 million and \$9.5 million.

## **10.2 Benefits**

Benefits associated with the Proposed Regulation are:

- Additional Heritage (Measured by WTP)
- Owner Increased Certainty for Repair and Maintenance
- Owner Increased Certainty – Section 167 Applications

### *Additional Heritage (Measured by WTP)*

The benefit to the public and owners of SHR items of the Proposed Regulation is expressed through community WTP for each additional SHR item protected by the number of items protected, see table below:

**Table 23 Value of Additional Heritage Achieved Proposed Regulation**

	Units	2006	2007	2008	2009	2010
Proposed regulation – addition to SHR	No.	100	100	100	100	100
Base case – addition to SHR	No.	4	4	4	4	4
Net Addition to SHR	No.	96	96	96	96	96
Community WTP per additional item	\$'million	0.250	0.250	0.250	0.250	0.250
Total WTP	\$'million	24.000	24.000	24.000	24.000	24.000
NPV @ 7%	\$'million	98.405				

The Proposed Regulation results in a present value benefit, 7% discount rate, of \$98.405 million, the same as achieved under the Fully Prescriptive option.

#### *Owner Increased Certainty for Repair and Maintenance*

The Proposed Regulation provides certainty for owners of SHR items. Owners have a clear statement of minimum repair and maintenance requirements required to comply with the legislation. This clarity and detail constitutes a benefit to owners. It was not possible to quantify this benefit.

#### *Owner Increased Certainty – Section 167 Applications*

Owners of potentially heritage-impacted property are able to check the heritage status of their asset using a Section 167 application. It was not possible to quantify this benefit to property owners.

### **10.3 Cost Benefit Analysis and Equity Considerations**

The table below provides a summary of the above data and cost benefit analysis results.

**Table 24 Proposed Regulation Cost Benefit Analysis Results (\$' million)**

	2006	2007	2008	2009	2010
<b>Costs</b>					
HO Administration and Compliance	1.197	1.197	1.197	1.197	1.197
HO Assessment of New Items	0.170	0.170	0.170	0.170	0.170
Owner R&M Costs	7.500	8.000	8.500	9.000	9.500
Total Costs	8.867	9.367	9.867	10.367	10.867
<b>Benefits</b>					
Community WTP for Additional Heritage	24.000	24.000	24.000	24.000	24.000
Total Benefits	24.000	24.000	24.000	24.000	24.000
<b>Benefit Cost Results</b>					
Net Benefits	15.133	14.633	14.133	13.633	13.133
NPV @ 4%	63.092				
NPV @ 7%	58.225				
NPV @ 10%	53.935				

The Proposed Regulation results in a NPV of \$58.225 million at the central discount rate of 7%.

**Table 25 Proposed Regulation Equity Considerations**

<b>Option</b>	<b>Cost of HO Activities (Year 1 \$'million)*</b>	<b>Fee Revenue (\$'million pa)#</b>	<b>Equity –% of HO Activities Met by Owner Fees</b>
Proposed Regulation	1.367	0.681	50

\* Sum of HO costs in Table 24

# sum of fee revenue estimates from Tables 21 and 22

Fee revenue from the private sector contributes approximately 50% of the cost of HO Administration and Compliance and HO Assessment of New Items. The burden of funding the HO is shared equally between the public and private sectors. The Proposed Regulation provides for equitable and adequate HO funding. Additional private sector funds are available to the HO over Remaking the Current Regulation and the cost imposed on the private sector is less than the Fully Prescriptive option. The Proposed Regulation provides the same level of heritage protection benefit to the public as the Fully Prescriptive option.

This option meets the requirements of both policy objectives.

## 11. SUMMARY OF RESULTS

The table below provides a summary of cost benefit and equity analysis results for the five regulatory options analysed.

**Table 23 Summary of Cost Benefit and Equity Analysis Results**

Option	NPV @ 7% (\$'million)	Cost of HO Activities (Year 1 \$'million)	Fee Revenue (\$'million pa)	Equity – % of HO Activities Met by Owner Fees	Comment
Base Case	N/a	N/a	0	0	Does not achieve the policy objectives
Voluntary Guidelines and Consolidated Revenue	4.646	1.367	0	0	Inequitable – owners do not contribute to HO activities
Remake Current Regulation	9.233	1.282	0.140	11	Inequitable and inadequate HO funding
Fully Prescriptive Regulation	22.256	1.707	1.304	76	Inequitable – public makes minor contribution to the cost of heritage protection through HO
Proposed regulation	58.225	1.367	0.681	50	Equitable and adequate funding of HO activities

The Proposed Regulation generates the highest level of net benefit, measured through NPV, and achieves both the policy objectives. For these reasons the Proposed Regulation is the preferred option.

## 12. COMMUNITY CONSULTATION STRATEGY

Stakeholders relevant to the remaking of this regulation include government, property owners and the community. Representatives from these three groups constitute membership of the NSW Heritage Council (see Section 3). Members of the NSW Heritage Council have been consulted during the preparation of this RIS. A briefing and a working draft of the RIS was provided to the NSW Heritage Council at its April 2005 meeting and a briefing and complete draft report was provided to its May 2005 meeting.

In addition to consultation with the comprehensive set of stakeholders that constitutes the NSW Heritage Office, the following consultation is proposed:

- Circulation of copies of the draft RIS to stakeholder groups not represented on the NSW Heritage Council including AusHeritage and the Institute of Engineers Australia
- Posting of the RIS on both the Heritage Office and DIPNR websites.
- Advertisements in NSW newspapers
- Posting of intention to remake the regulation and the availability of a RIS in the NSW government gazette

Comment received will be incorporated into a final *Heritage Regulation 2005* RIS.

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