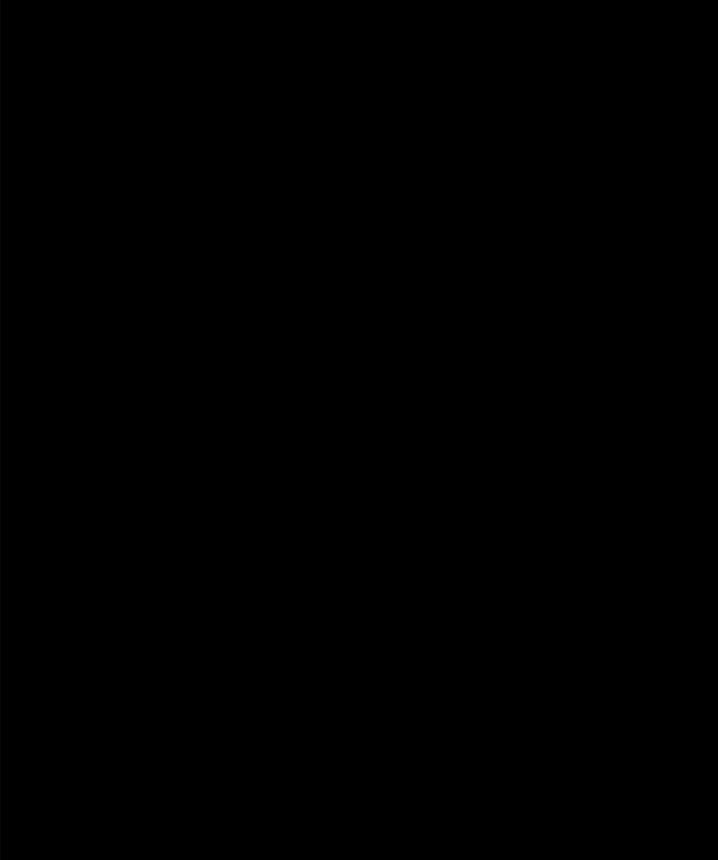


PROTECTIVE MECHANISMS FOR CULTURAL
HERITAGE - SOUTHERN REGION

A project undertaken as part of the NSW Comprehensive
Regional Assessments
December 1999



PROTECTIVE MECHANISMS FOR CULTURAL HERITAGE - SOUTHERN REGION

BELL ENVIRONMENTAL STRATEGY

**FOR THE CULTURAL HERITAGE
WORKING GROUP**

**A project undertaken for the Joint Commonwealth NSW
Regional Forest Agreement Steering Committee as part
of the
NSW Comprehensive Regional Assessments
Project Number NA 03/EH-2**

December 1999

For more information and for information on access to data contact the:

Resource and Conservation Division, Department of Urban Affairs and Planning

GPO Box 3927
SYDNEY NSW 2001

Phone: (02) 9228 3166
Fax: (02) 9228 4967

Forests Taskforce, Department of the Prime Minister and Cabinet

3-5 National Circuit
BARTON ACT 2600

Phone: 1800 650 983
Fax: (02) 6271 5511

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The project has been overseen and the methodology has been developed through the Environment and Heritage Technical Committee which includes representatives from the New South Wales and Commonwealth Governments and stakeholder groups.

Drafts of these Protective Mechanisms were reviewed by members of the Cultural Heritage Working Group including representatives of:

Environment Australia
North East Forest Alliance
NSW Aboriginal Land Council
NSW Department of Aboriginal Affairs
NSW Heritage Office
NSW National Parks and Wildlife Service
Resource and Assessment Conservation Division
State Forests of NSW

Disclaimer

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EXECUTIVE SUMMARY

This working paper describes a project undertaken as part of the comprehensive regional assessments of forests in New South Wales. The comprehensive regional assessments (CRAs) provide the scientific basis on which the State and Commonwealth Governments will sign regional forest agreements (RFAs) for major forest areas of New South Wales. These agreements will determine the future of these forests, providing a balance between conservation and ecologically sustainable use of forest resources.

Project objectives

The objectives of these Protective Mechanisms are to ensure the protection of cultural heritage values within the forest estate of the Southern CRA Region and to ensure that appropriate mechanisms are in place to protect these values through the:

- integration of cultural heritage policies, programs and practices into the core management functions of forest management agencies including proposed environmental management systems;
- continual improvement of policies, programs and organisational performance;
- allocation of an appropriate level of resources within an agreed framework for identifying priorities; and
- recognition of the interests of community groups with particular recognition to the rights of Aboriginal communities as custodians of their sites and other features of the forest estate.

Methods

Report preparation followed 'desk top' review of background studies commissioned as part of the Southern CRA together with reference to agency guidelines, manuals and other documentation. Drafting of the report was also assisted through review by members of the Cultural Heritage Working Group.

Key results and products

The Southern Region Cultural Heritage Protective Mechanisms, to be read in conjunction with the Southern Regional Forest Agreement, are intended to assist forest management agencies and stakeholders in protecting the cultural heritage values of the Southern Region forests.

The Protective Mechanisms are intended for NPWS, Heritage Office and SFNSW corporate managers, field managers and other professional staff with responsibilities in the Southern Region. They may also be of relevance to professionals in other land management agencies as well as community organisations in the Southern Region.

The Protective Mechanisms provide a framework to ensure that cultural heritage values are incorporated into all aspects of the management and usage of the forest estate. They could also be used to inform future policy and legislative changes in relation to cultural heritage management in NSW.

Management steps to be adopted by each agency are identified. These are supplemented by more detailed protective mechanisms.

The Protective Mechanisms are not intended to be a static document and can be expected to evolve and develop in response to changing practices and knowledge.

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SOURCES OF INFORMATION ON CULTURAL HERITAGE

National Parks and Wildlife Service

CULTURAL HERITAGE DIVISION

Level 6, 43 Bridge Street or PO Box 1967

Hurstville 2220

Fax. 02 9585 6325

Manager 02 9585 6465

Aboriginal Sites Registrar Tel. 02 9585 6471

SOUTHERN CULTURAL HERITAGE UNIT

6 Rutledge Street

PO Box 2115

Queanbeyan 2620

Fax. 02 6299 4281

Unit Manager 02 6298 9736

Heritage Office

Level 11, Signature Tower

2-10 Wentworth Street or Locked Bag 5020

Parramatta 2124

Tel. 02 9635 6155, Fax. 02 9891 4688

State Forests

FOREST POLICY AND PROGRAMS DIVISION

Building 2, 423 Pennant Hills Road (Locked Bag 23)

Pennant Hills 2120

Tel. 02 9980 4231, Fax. 02 9484 0057

South Coast Region Aboriginal Management Committee

Regional Project Officer: Eric Smith

5 Keiran Place

Holt 2615

Tel. 0412 110 791

Tablelands (Tumut) Region Aboriginal Management Committee

Regional Project Officer: Mark Halloran

PO Box 441

Tumut 2720

Tel. 0418 604 449

02 6947 4002

ACRONYMS

ALC – Aboriginal Land Council

AMC – Aboriginal Management Committee

ASR – Aboriginal Site Register

CHWG – Cultural Heritage Working Group

CRA – Comprehensive Regional Assessment

DAA – Department of Aboriginal Affairs

DLWC – Department of Land and Water Conservation

EMS – Environmental Management System

ESFM – Ecologically Sustainable Forest Management

GIS – Geographic Information System

IFOA – Integrated Forestry Operations Approval

ILUA – Indigenous Land Use Agreement

LALC – Local Aboriginal Land Council

MOU – Memorandum of Understanding

NFMS – Native Forest Management System

NPWS – National Parks and Wildlife Service

SFNSW – State Forests

RFA – Regional Forest Agreement

RVMP – Regional Vegetation Management Plan

SHI – State Heritage Inventory

TAFE – Technical and Further Education

CULTURAL HERITAGE OF THE SOUTHERN REGION

The Southern Region itself is a cultural landscape, in that it is an artefact of humanity which has been modified by people for thousands of years. Within this cultural landscape there are areas where human activity is more apparent than elsewhere and such areas contain places that represent a particular focus of past human activity or that represent a concentration of *in situ* cultural material (Pearson and Sullivan 1995:5). A place includes any structures, buildings or works upon or integral with the land, and any artefacts or other physical evidence associated with the land, or it may have no visible evidence of human activity, being the site of a past event of importance or the embodiment of a belief or story (ibid.:5).

The Southern Region includes a wide variety of the vestiges and products of human activity - buildings, works, relics or places of historic, cultural, social, scientific, archaeological, architectural or aesthetic significance.

The heritage value of these vestiges and products may exist in a number of different contexts (NSW/Commonwealth Governments 1999:15):

- in the tangible fabric of an archaeological or historic site;
- intangibly, through spiritual associations with particular places; or
- within a landscape which combines tangible and intangible values.

The Southern Region forests contain abundant evidence of Aboriginal use of these forests and their ongoing spiritual links to these forests. Aboriginal heritage of the Southern Region includes physical, documentary and oral evidence for features such as:

- rock shelters with archaeological deposits containing ashes from fires, stone artefacts and food remains. In outcrops of rock, overhangs may form cave type shelters. Ashes from fires, sediments and material fallen from the roof accumulate in the protection of the shelter. Fireplaces, discarded tools and food remains become part of the deposits;
- open campsites exhibiting stone artefacts on or below the surface of the ground;
- rock shelters containing paintings or drawings;
- quarry sites at which stone was extracted from rock outcrops for manufacturing as artefacts and also the associated places where at least the initial stages of manufacturing occurred;
- scarred trees from which a section of the bark or wood has been removed for making canoes, shields, containers or other weapons and utensils, or which have toeholds cut in them for hunting animals or gathering honey;
- axe grinding grooves;
- stone arrangements;
- carved trees exhibiting designs cut into the bark or heartwood of living trees. In the Southern Region they formed a part of initiation grounds or marked the location of burials;
- burials containing skeletal remains;
- ceremonial grounds where initiation ceremonies, tribal meetings and other important social functions were held;

- reserves and missions which were established by government institutions and which are historically important to Aboriginal people;
- historic cemeteries, often associated with reserves and missions; and
- features of the landscape such as mountains, rocks and waterholes which are regarded as sacred by Aborigines and form a continuing link between Aboriginal people and the land.

Non-Aboriginal heritage includes buildings, relics, works and places and may include physical, documentary and oral evidence for features such as:

- evidence of mining including refuse dumps, shafts, surface timber and iron features and associated townships and villages;
- remains of exploration routes and bridle trails (often following the routes of Aboriginal paths), cattle routes and transport routes such as cuttings, stopping points, trails and travellers' inns;
- isolated pastoral settlements and homesteads and associated outbuildings, stockyards and huts;
- cemeteries and single burials; and
- evidence of forestry and logging such as logging ramps, tramways, steam winches, camps, dumps and snig tracks, sawmills and stump remains;
- evidence of the application of forestry science such as forest arboreta;
- development of electric power and irrigation schemes such as the power stations, tunnels and dams of the Snowy Mountains Hydro-Electric Scheme;
- development of recreation or tourism facilities such as those associated with the snowfields or limestone caves;
- locations of recent protests against logging.

Many of these places and localities have contemporary community heritage value such as where people have direct experience of a place or where these places have a special association with a community. Such values may not be tied to particular physical evidence but may instead involve an association based on memory or past experience. Such places may also blend Aboriginal and non-Aboriginal heritage values.

1. INTRODUCTION

1.1 PROJECT BACKGROUND

The project '*Protecting Cultural Heritage Values and Places in NSW Forests*' is to develop clear and agreed guidelines for the management of cultural heritage values in forests in eastern NSW. These guidelines are intended to complement measures identified in the development of Regional Forest Agreements (RFAs).

The project had three distinct components:

- audits of cultural heritage case studies in CRA Regions. The audits were intended to identify opportunities for improving the management of cultural heritage by regulatory and land management agencies;
- review of the existing administrative and legislative framework for cultural heritage, with particular reference to NSW forests in eastern NSW; and
- preparation of Protective Mechanisms for Cultural Heritage within the four Comprehensive Regional Assessment (CRA) Regions in eastern NSW: Upper Northeast (UNE), Lower Northeast (LNE), Eden and Southern. The Protective Mechanisms are intended to guide forest management agencies in the application of 'best practice' cultural heritage management.

This report is concerned with the Southern Region and is the final document to be prepared as part of this project.

1.2 SCOPE OF THE PROJECT

The project was able to utilise data and analysis contained in reports prepared for the Southern Region as part of the CRA process as well as work completed during an earlier stage of the project (Grinbergs 1998). In addition, a variety of other documentation was identified and reviewed which addressed aspects of heritage legislation and administration and which suggested mechanisms for improving their application to forest areas in the Southern Region.

1.2.1 Case Study Audits

Three case studies (Bell Environmental Strategy 1999a) in the Southern Region were selected for audit. The requirement from the CHWG was to research several case studies covering Indigenous and non-Indigenous heritage on forest lands in the Southern RFA Region. The selection of case studies was based on background studies for the Southern CRA and on suggestions by the Southern Region Aboriginal Management Committees. Selection of case studies was also guided by the need to include case studies from the two Southern CRA Sub-Regions: South Coast and Tablelands (Tumut).

The case studies selected were:

- Bungonia State Recreation Area (SRA) – this area is managed by the National Parks and Wildlife Service (NPWS) and was identified during the Southern CRA as containing significant non-Indigenous cultural values. In addition, a Plan of Management for the SRA was completed in early 1998 and the audit provided an opportunity to assess how actions in relation to cultural heritage were being implemented;

- Crown land reserve near Killimicat – this area is managed by the Department of Land and Water Conservation (DLWC). The Pine Mountain Range which includes the reserve contains significant Aboriginal heritage values.
- Cultural heritage management – South Coast/Riverina State Forest Regions – hardwood forests managed by State Forests of NSW (SFNSW) contain a range of cultural heritage values, some of which were identified during the Southern CRA.

Each case study was reviewed against ‘best practice’ principles of cultural heritage management. Information on the case studies was gathered through document review, meetings with key personnel and site inspections.

The case studies identified a number of opportunities for the enhancement of cultural heritage management by the National Parks and Wildlife Service (NPWS), State Forests (SFNSW) and other agencies. The case studies have therefore provided useful analysis of applied cultural heritage management and the outcomes have been utilised in developing Protective Mechanisms.

1.2.2 Review of Heritage Management Framework

The aim of the review (Bell Environmental Strategy 1999b) was to identify the strengths and weaknesses of the current NSW system and any dysfunction in terms of its application to forest areas. Given that reviews of legislation and administrative arrangements had been undertaken in earlier stages of the Protective Mechanisms Project (Grinbergs 1998), the review focused on the application of these arrangements to forest areas, rather than reviewing the legislation itself.

Within the context of these requirements, the key objectives of the review were to:

- identify those heritage conservation principles and practices relevant to forest estate which are considered to represent ‘best practice’;
- identify and evaluate mechanisms currently in place to protect cultural heritage in forests; and
- identify deficiencies in current arrangements which are impeding the application of cultural heritage management ‘best practice’.

1.2.3 South Coast and Tablelands (Tumut) Aboriginal Management Committees

The Committees was established in 1999 to represent and articulate the views of Aboriginal communities during negotiations with government leading up to the completion of the Southern Region RFA. Meetings were held with the Committees to provide a briefing on the project and to identify issues which should be addressed as part of the Protective Mechanisms Project. This report represents a start on this process of consultation but further work will be required by forest agencies in the Southern Region.

1.3 OBJECTIVES OF THE PROTECTIVE MECHANISMS

The objectives of these Protective Mechanisms are to ensure the protection of cultural heritage values within the forest estate and to ensure that appropriate mechanisms are in place to protect these values through the:

- integration of cultural heritage policies, programs and practices into the core management functions of forest management agencies including proposed environmental management systems (see Section 2.4 below);
- continual improvement of policies, programs and organisational performance;

- allocation of an appropriate level of resources within an agreed framework for identifying priorities; and
- recognition of the interests of community groups with particular recognition to the rights of Aboriginal communities in decision making about Aboriginal heritage values.

1.4 INTENDED USERS OF THE PROTECTIVE MECHANISMS

These Protective Mechanisms are intended for NPWS, Heritage Office and SFNSW corporate managers, field managers and other professional staff with responsibilities in the CRA Regions. They provide a framework within which these agencies can identify more specific actions to protect cultural heritage values.

They may also be of relevance to professionals in other land management agencies particularly the DLWC. Although the DLWC has significant forest management responsibilities, it has not been a major participant in the cultural heritage component of the CRA process.

It is also expected that the Protective Mechanisms will be useful to community groups, particularly Aboriginal communities, in monitoring the performance of forest agencies in protecting cultural heritage values.

1.5 DEFINITIONS

The term 'cultural heritage' generally refers to the past and present cultural associations of people. Cultural heritage can be tangible in the form of physical manifestations such as buildings or artefacts or intangible in the form of spiritual or social associations, songs, stories and practices.

A cultural heritage item can be a site, area, landscape, building or other work, group of buildings or other works, together with associated contents and surroundings, that is significant for its historic, social, aesthetic or scientific value. A cultural landscape is an area with natural features and elements modified by human activity resulting in patterns of evidence layered in the landscape, which give a place its particular character, reflecting human relationship with and attachment to that landscape (Lennon and Mathews 1996: 4).

The value of an item or landscape can be determined by assessment against a set of significance criteria which reflect the values outlined above or by reference to its relationship to a contemporary community. The latter is particularly important in assessing Aboriginal heritage values. Values can also be expressed through the attributes or qualities of an item or landscape. In the forest environment these values can be expressed, for example, through the fabric of an archaeological or historic site, through spiritual associations with particular places, or within a landscape with a combination of intangible and tangible elements.

The term 'heritage management framework' has been adopted as a generic term to describe the statutes and administrative arrangements enacted by governments for the identification and management of cultural heritage.

A glossary of terms is listed in Appendix A.

2. BACKGROUND

2.1 NATIONAL FOREST POLICY

The Intergovernmental Agreement on the Environment (IGAE) signed in 1992 formalised a co-operative Commonwealth-State approach to environmental issues. The subsequent National Forest Policy Statement 1992 (NFPS) clarified the Commonwealth-State division of powers and set out a strategy and policy initiatives for ecologically sustainable forest management.

In 1996 the Commonwealth and NSW Governments signed a Scoping Agreement. The Agreement confirmed the intention of the two governments to proceed to negotiation of Regional Forest Agreements (RFAs) and to establish processes and timetables for their completion.

The RFA process involves the following steps:

- provision of interim protection to forest areas which may be required for a Comprehensive, Adequate and Representative (CAR) forest reserve system;
- preparation of Comprehensive Regional Assessments (CRAs) of environment, heritage, economic and social values of forests;
- negotiation of Regional Forest Agreements (RFAs) between the Commonwealth and State Governments about the long term management and use of forests in a particular region.

The CAR forest reserve system is to safeguard biodiversity, old growth, and other natural and cultural values of forests. Forests outside the reserves would be available for wood production, subject to codes of practice that are to ensure sustainable use of the forests and to contribute to the conservation of these natural and cultural values (Environment Australia 1998).

There are four broad CRA assessment streams:

- environment and heritage;
- economic and social;
- ecologically sustainable forest management;
- Forest Resource and Management Systems (FRAMES).

Technical committees were established to manage the assessments. These committees review existing data, identify data gaps, develop and implement projects, monitor progress, and ensure appropriate standards of information gathering. Environment and heritage assessments are managed by the Environment and Heritage Technical Committee and included a range of projects relating to:

- biodiversity;
- old growth;
- wilderness;
- endangered species;
- National Estate values;
- Aboriginal and non-Aboriginal heritage.

2.2 SOUTHERN RFA

The Southern RFA is one of a series of agreements between the Commonwealth and NSW Governments on the future use and management of the native forests of NSW.

The Southern RFA is to last 20 years, subject to five-yearly reviews. The RFA is expected to be finalised by the end of December, 1999.

2.3 SOUTHERN REGION

The Southern Region comprises an area of about 6 million hectares from the edge of the Sydney Basin to the Victorian border and west almost to Albury (NSW/Commonwealth Governments 1999:9). It excludes the Eden Region which is subject to a separate RFA.

The location of the Southern Region is shown in Map 1. It comprises three Sub-Regions: South Coast, Tablelands (Tumut) and Northern. The Southern RFA will address only the South Coast and Tablelands Sub-Regions which collectively comprise 4,513,000 hectares. Forest management for the Northern Region will be finalised subsequent to the Southern RFA (ibid.:9).

About 45% of the Southern Region is public land, of which about 80% is forested. The remaining 55% is private land of which about 30% is forested.

Public land usage comprises national parks (1,032,500 hectares), State forest (643,200 hectares) and Crown land reserves managed by DLWC (361,500 hectares).

2.4 NSW FOREST AGREEMENTS

The *Forestry and National Parks Estate Act, 1998* provides for the adoption of a new integrated regulatory regime for forest management and conservation in NSW. Forest agreements may be made in respect of regions of the State, where a regional forest assessment has been carried out by or on behalf of the Resource and Assessment Council (RACAC). The Act also makes provision for the transfer of certain State forests and other Crown land to national park estate or Aboriginal ownership as well as a system of integrated approvals for future forestry operations.

In addition to the RFAs being negotiated between the Commonwealth and NSW Governments, it is expected that the NSW Government will finalise a Forest Agreement for the Southern Region following completion of the Southern RFA (NSW/Commonwealth Governments 1999:9). This NSW Forest Agreement will be between the relevant NSW portfolio Ministers: Urban Affairs and Planning, Forestry, Environment and Fisheries.

2.4.1 Environmental Management Systems

NSW Forest Agreements require the development of an Environmental Management System (EMS) for forest management. Both the National Parks and Wildlife Service (NPWS) and State Forests (SFNSW) will prepare a separate EMS, tailored to respective agency responsibilities, but seek to maximise consistency of outcomes where environmental aspects common to both Parties are addressed in an EMS.

NPWS is to develop an EMS which:

- contains an environmental policy for all organisational operations and responsibilities;
- provides for planning and assessment processes for NPWS activities;

- sets environmental objectives and targets, and implementation measures to achieve them;
- includes management guidelines for Ecologically Sustainable Forest Management; and
- includes processes for monitoring, evaluation of performance and adaptive management.

SFNSW will develop a Native Forest Management System (NFMS) as an EMS, with the objective of achieving system certification comparable to ISO14001:1996 *Environmental management systems - Specification with guidance for use*. The NFMS is to be a comprehensive planning, assessment, implementation, monitoring, auditing and reporting system detailing how SFNSW is to implement ecologically sustainable forest management on its estate. It is to:

- outline policy, planning and operational guidelines;
- outline clear roles and responsibilities for SFNSW staff and contractors; and
- establish strategies, tools and information systems.

2.4.2 Integrated Forestry Operations Approval (IFOA)

Regulatory regimes for environmental planning and assessment, for the protection of the environment and for threatened species will be integrated under an IFOA.

An IFOA sets out the terms and conditions under which logging may occur in a State forest or on Crown timber lands which are subject to a Forest Agreement (see above). An IFOA may be for up to twenty years, but must be reviewed every five years. An IFOA is granted by the same Ministers as for Forest Agreements. It is only effective where there is a Forest Agreement in place. It is expected that an IFOA for the Southern Region will be prepared following completion of the NSW Forest Agreement.

Based on experience with other Forest Agreements, it is expected that the Southern IFOA will include clauses relating to the management of cultural heritage.

2.4.3 Regional Ecologically Sustainable Forest Management (ESFM) Plans

SFNSW is to implement its commitments and obligations under the NSW Forest Agreement through the preparation of Regional ESFM Plans. The Regional ESFM Plans will have the status of a management plan under the *Forestry Act, 1916* requiring formal public exhibition. Regional ESFM Plans are intended to enable cultural heritage planning at a regional level and to outline the process for systematic assessment of cultural heritage values. Progress in meeting the targets of Regional ESFM Plans is to be reported annually.

2.4.4 Forest Management Zoning

The Regional ESFM Plans will include mapped Forest Management Zones classifying each area of State forest into one of seven zones (SFNSW 1999a). These zones clearly separate those areas of State forest managed as conservation reserves from those areas managed for timber production. Land dedicated or set apart as a flora reserve under the *Forestry Act, 1916* will be managed by SFNSW as a formal reserve with similar conservation status as national parks and nature reserves.

Each zone may also be classified for its special values which recognise particular natural or cultural features or specific forest uses. These special values include Indigenous and Historical (Non-Indigenous) Cultural Values which may be broad areas or site specific (ibid.:23).

2.4.5 Harvesting Plans

Individual harvesting operations by SFNSW will be conducted in accordance with site specific harvesting plans. Where new roads or significant upgrading or maintenance of existing roads are required, a roading plan will also be prepared. The harvest plan will apply the conditions of the IFOA, including the relevant licences, to the planning area. These plans must be consistent with any relevant IFOA.

2.4.6 Codes of Practice and Field Guides

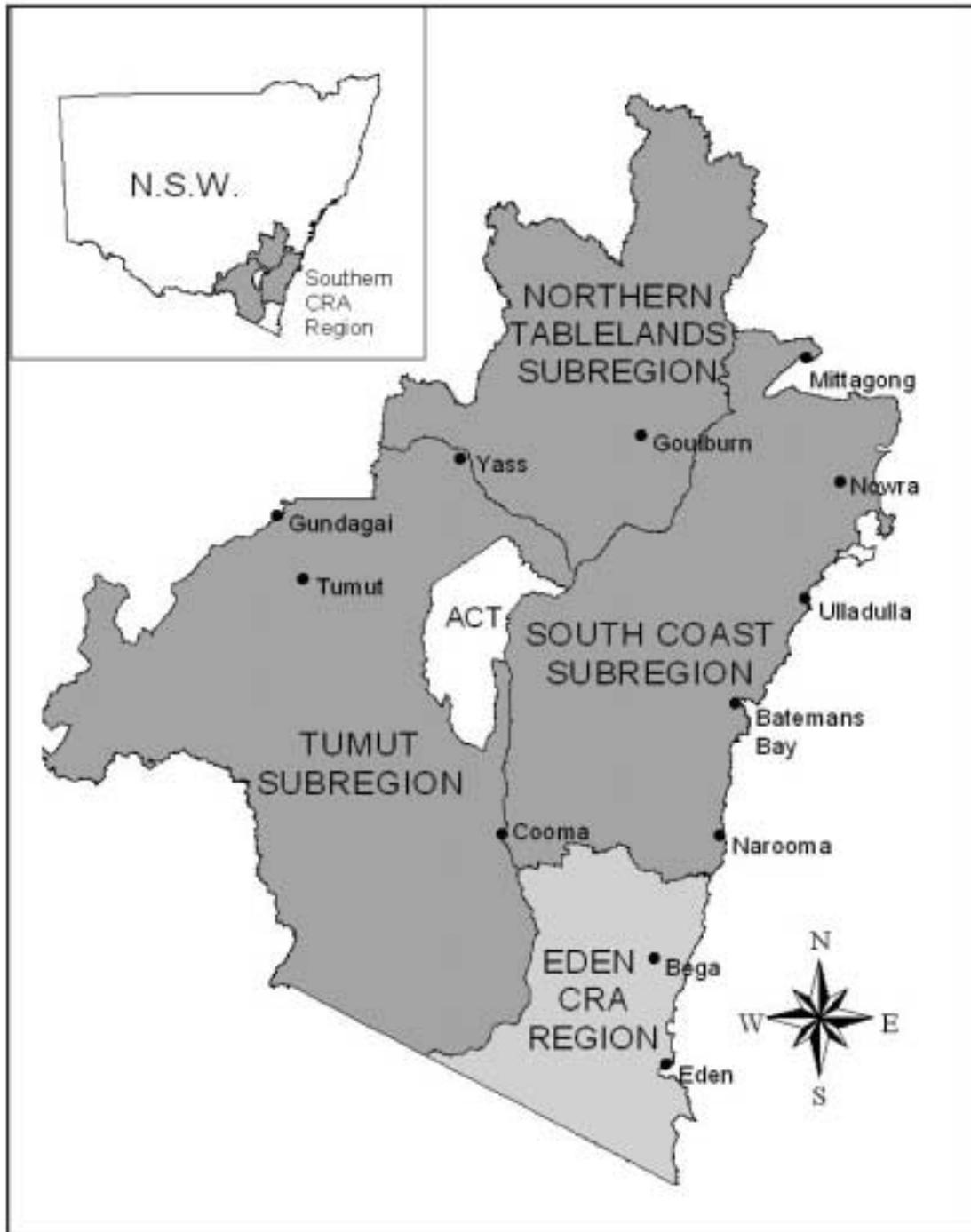
Codes of Practice provide an operational interpretation and guidelines for management for SFNSW

staff and contractors at a Statewide level. These codes are to be regularly reviewed to ensure that the best available information is used and their provisions are effective in achieving ESFM outcomes.

2.5 Indigenous Land Use Agreements

Indigenous Land Use Agreements (ILUAs) are a mechanism for the integration of Aboriginal interests in the management of public lands where the co-existence of native title remains a possibility and the NSW Government is seeking to negotiate ILUAs with local traditional owners with respect to forestry and national park estate (Farrier et al. 1999:137-138).

A Framework ILUA has been made between the NSW and NSW Aboriginal Land Council which recognises Aboriginal interests in the management of public lands, including national park estate and provides a framework for the development of comprehensive land and water rights agreements throughout NSW (NSWALC 1999).



Map 1. Southern Region

3. CULTURAL HERITAGE MANAGEMENT PRINCIPLES

This section is intended to provide guidance for agencies and other stakeholders. It outlines the basic steps to be taken in planning for and implementing programs for the protection of heritage values.

3.1 'BEST PRACTICE' CULTURAL HERITAGE MANAGEMENT

The Charter For The Conservation Of Places Of Cultural Significance (The Burra Charter) was adopted by Australia ICOMOS in 1979 and is the principal instrument for heritage conservation management in Australia. It is widely used by conservation agencies and practitioners and is an obligatory standard for conservation agencies receiving Federal funding in Australia (Pearson and Sullivan 1995: 44). *The Burra Charter* has been revised regularly since 1979 and the latest revision was adopted in 1988. An illustrated edition was published in 1992 (Marquis-Kyle and Walker 1992).

The Burra Charter provides a set of definitions as well as establishing conservation principles and processes for preservation, restoration, reconstruction, adaptation and conservation practice. The fundamental aim of conservation is to retain the cultural significance of a place and must include provision for its security, its maintenance and its future. *The Burra Charter* is supplemented by guidelines which address cultural significance, the development and implementation of conservation policy, and procedures for undertaking studies and preparing reports.

The Burra Charter was originally intended for non-Aboriginal sites and places and its emphasis on the physical aspects of a site or place can be unduly restrictive in its application to Aboriginal heritage values. This has resulted in the development of *Guidelines For The Protection, Management And Use Of Aboriginal And Torres Strait Islander Cultural Heritage Places* by the Department of Arts and Communications (1997) and which is intended as a parallel set of guidelines to complement *The Burra Charter*.

The latter document is not inconsistent with *The Burra Charter* but provides additional guidance in relation to the rights of Aboriginal people, the control of information and documentation and the significance of Aboriginal sites and places in the context of living cultural practices (Dept. of Arts and Communications 1997:10-11).

The Australian Natural Heritage Charter was adopted in 1996 by the Australian Committee for IUCN and is intended to achieve a uniform approach to the conservation of places of natural significance that can be applied to public and privately owned places, to terrestrial, marine or freshwater areas, and to protected and unprotected areas. The Charter closely follows the general structure and logic of *The Burra Charter* and can be used in conjunction with the latter for places which have both natural and cultural values.

The methodology set out in *The Conservation Plan: a guide to the preparation of conservation plans for places of European cultural significance* (Kerr 1996) is based on *The Burra Charter* and establishes the basic steps in the process of preparing conservation plans for places of European cultural significance. Preparation of a conservation plan is a two-stage process: stage 1 concerning the understanding of the cultural significance of the place and stage 2 concerning the development of a conservation policy and the strategies for its implementation.

At a State level, both the NSW Heritage Office and the NPWS have prepared guidelines for the management of cultural heritage.

The NPWS *Aboriginal Cultural Heritage Standards & Guidelines Kit* (1997) is intended for heritage practitioners and development proponents. It contains four parts:

- *Guidelines for Aboriginal Consultants*
- *Standards Manual for Archaeological Practice in Aboriginal Heritage Management*
- *Guidelines for Archaeological Survey Reporting*
- *Guidelines for Aboriginal Heritage Impact Assessment in the Exploration & Mining Industries*

The NPWS *Guide to Building Conservation Works* (1998) describes major aspects of conservation of a range of vernacular buildings typical of those found on NPWS estate and throughout NSW.

The *NSW Heritage Manual* (1996) consists of guidelines and best practice notes on the processes of heritage identification, assessment and management within NSW. The Manual covers the management of landscapes, places, buildings, structures, relics, places or works as defined under the *Heritage Act, 1977* and is intended for local councils, State government agencies, heritage practitioners and property owners and managers. The guidelines and practice notes are useful in preparing:

- a heritage study;
- a conservation policy or conservation management plan;
- a nomination to protect a heritage item; and
- documents to support an application to build or develop.

More recently, the Commonwealth Government has released a discussion paper, *A National Strategy for Australia's Heritage Places* (1999), which includes draft national standards for identifying, listing and managing heritage places by Commonwealth, State and local governments. The draft standards are intended to achieve a comprehensive and complementary heritage system, and consistency in the identification, listing, protection and management of cultural heritage places.

The standards are presented in two parts: standards for legislation and standards for government policy and administration processes. They are being developed further by the Commonwealth, States and Territories following public comment on the discussion paper.

3.2 IDENTIFYING AND UNDERSTANDING KEY INTERESTS IN DECISION MAKING

Sustainable forest management must include a process for including the interests of all stakeholders in decision making. This particularly applies to decision making in relation to the management of cultural heritage.

The background studies for the Southern Region (see Section 4 below) identified a wide range of stakeholder groups and initiated a process for identifying their interests in the Southern Region. This process needs to be continued and a framework for ongoing participation by external stakeholders developed. It also obligates agencies to commitments in terms of resources, time and expertise.

3.2.1 Aboriginal Heritage

During the RFA process, the South Coast and Tablelands (Tumut) AMCs were established to facilitate and articulate the views of Aboriginal communities. Forest agencies will need to maintain and build on the dialogue established during this process.

Options papers prepared on behalf of Aboriginal Management Committees established as part of the CRA process in other regions (see for example NSWALC/RACD 1998), indicate that forest management agencies and regulators need to review their policies on stakeholder consultation to ensure appropriate recognition of the rights of Aboriginal communities to be involved in decision making on forest management and in recognising the rights of communities to access forest estate for cultural activities.

This encompasses several key issues:

- recognition of traditional ownership. This may require forest managers to consult more widely than simply representatives of Aboriginal land councils or corporations;
- confirmation of stakeholder participation through MOUs or protocols for cooperative decision making on issues relating to the protection of heritage values;
- adequate time for assessments to enable communities to identify their views or opinions on project proposals;
- continuing access to forest areas for cultural activities; and
- increased employment opportunities for Aboriginal people.

Accordingly, forest management agencies will need to accept the challenges presented by these issues and develop strategies for managing:

- proposals for transferring national park areas to Aboriginal ownership under the *National Parks and Wildlife Amendment (Aboriginal Ownership) Act, 1996*;
- potential native title rights and interests which may exist within the public forest estate;
- agreements with Aboriginal communities concerning co-management of other national park or forest estate;
- access requirements for Aboriginal communities in relation to ceremonies, food gathering and other cultural purposes;
- enhanced role for Aboriginal communities in the management of sites particularly in relation to environmental impact assessment surveys, site registers, archaeological permits and 'Consent to Destroy' applications and site protection measures;
- EEO targets for permanent employment of Aboriginal heritage officers and enhanced opportunities for Aboriginal people to move into management functions in these agencies; and
- agency support for community based cultural heritage training.

3.2.2 Non-Aboriginal Heritage

Community workshops undertaken as part of the RFA process have provided a basis for continuing co-operation between forest agencies and individuals and organisations in identifying heritage items. However, the workshops indicated further work needs to be undertaken on identifying knowledgeable individuals who could assist with future research projects. These include SFNSW and NPWS past and present employees.

Agencies will need to develop (and share) contact lists of individuals, historical societies, museums and other sources of expertise and information.

3.3 DOCUMENTING CULTURAL HERITAGE: FINDING AND RECORDING ITEMS, SITES AND OTHER CULTURAL EVIDENCE

The location, identification and documentation of items, sites and other evidence are an essential foundation for ongoing management (Pearson and Sullivan 1995:82). However, the uncertainty of the nature, dimension and extent of the heritage resource in the forest environment presents particular challenges for forest managers.

Current understanding of the location, scale and variability of cultural heritage in the CRA Regions is poor and is generally driven by the needs of environmental impact assessments. Although assessments of aesthetic, landscape and community heritage values were undertaken as part of the CRA process, much existing information and data focuses on sites or 'relics'. Pearson and Rosen (1997: 40-43) have identified deficiencies in agency understanding of non-Aboriginal heritage values and have made a number of recommendations for filling gaps and resolving inadequacies in the data.

Lomax (1997) has identified problems with past application of archaeological methodologies that have led to protection of only a small and highly skewed and disproportionate sample of the archaeological record that is likely to be occurring in forests. Ahoy and Murphy (1996) have drawn attention to the poor understanding of the social dimension of Aboriginal heritage values in the northeast forests, and although similar comments probably apply to the Southern Region, initiatives such as the NPWS Southern Cultural Mapping project are enhancing understanding of these values.

3.3.1 Heritage Registers

The Aboriginal Sites Register (ASR) is managed by the NPWS and comprises:

- an electronic database of summary information, locations, registration numbers etc;
- hard copy site cards and photos of varying detail and complexity;
- a report catalogue of all known reports relating to Aboriginal site investigations in NSW; and
- various other resources such as the photographic slide library.

SFNSW currently has a licence from NPWS for the use of ASR electronic data for forest management activities. Ongoing use of this data by SFNSW should include consultation with Regional AMCs (or alternatively LALCs or elders groups) to ensure their views concerning use of Register data are identified and that the data is also available for the use of these communities. Data access should coincide with ongoing dialogue with Aboriginal communities concerning the management of sites and places. SFNSW should also ensure that electronic data is used as a starting point in the research required to investigate sites and that hard copy site cards and reports are accessed to fully understand the nature, location and significance of recorded sites.

The audit case studies for northern NSW (Bell Environmental Strategy 1999c) identified problems with duplication of records and a lack of cross referencing between ASR entries and supporting documentation such as conservation management plans. They also revealed deficiencies in the cross-referencing of site data and operational documents such as harvesting plans. This suggests that data control procedures can be improved. For example, it would appear that site entries in the ASR have been duplicated as new recordings are made and new site numbers created. This indicates a problem in document management, which may in turn be a result of inadequate resourcing of the ASR.

The audit case studies for the Southern Region (Bell Environmental Strategy 1999a) indicated that current use of ASR data by SFNSW on the South Coast needs to be reviewed to ensure that new site discoveries or updates of existing ASR records are forwarded to the NPWS in accordance with the provisions of the *National Parks and Wildlife Act, 1974*.

The *Statewide Cultural Heritage Data Audit, Integration and Analysis (Non-Indigenous)* (Pearson and Rosen 1997:38), recommended that all agencies involved in forest area management adopt the State Heritage Inventory (SHI) as the single database for the entry of non-Aboriginal place recording and assessment data. It was also recommended that all participating agencies adopt common standards for the recording, assessment and entry of place-related data in the NSW SHI database and that agencies transfer data from existing place records into the SHI database (ibid.: 39). Integration of data on cultural heritage values would also help to facilitate the speedier incorporation of cultural heritage values into agency strategies and management plans (O'Connor 1998:9).

Forest agencies will need to resource and maintain the s.170 Heritage Registers they are required to establish in accordance with the *Heritage Act, 1977*. In implementing this requirement, agencies are to adopt the NSW State Heritage Inventory (SHI) as the single database for the entry of non-Aboriginal heritage recording and assessment data. This will require agencies to implement programs of data transfer from existing records into the State Heritage Inventory. Items of State heritage significance should be added to the State Heritage Register (SHR).

As recommended in the Southern Region case studies report (Bell Environmental Strategy 1999a), it will also require field management staff in forest agencies to receive training in the use of the SHI and s.170 Registers.

3.4 ASSESSING THE SIGNIFICANCE OF ITEMS, SITES AND OTHER EVIDENCE

Managing cultural values requires an understanding of the nature of the significance of the site or item so that appropriate management can occur to conserve those values (Pearson and Sullivan 1995:126).

The value of a site or item is usually determined by assessment against a set of significance criteria which reflect historic, social, aesthetic, scientific, architectural or technological value (Lennon 1998:40). Assessment criteria used in the NSW Heritage Manual and for assessing the National Estate significance of a site or item are contained in Appendix B.

3.4.1 Non-Aboriginal Heritage

The method for identifying cultural values in the CRA process has involved the preparation of an overview statement to provide a framework for key historic themes and spatial contexts. Data were collected, reviewed and any major data gaps identified. The cultural attributes for each value were then developed, sites and items classified by type and those relevant to each attribute identified. Thresholds were established according to a regional understanding of the nature of each value and the sites or items were then assessed against thresholds so that those sites or items above the thresholds could be included in databases and digitally mapped using a GIS.

3.4.2 Aboriginal Heritage

Aboriginal interests in forests were identified through community workshops and meetings facilitated by the NSWALC. Outcomes of this consultation process included the identification of:

- sites or areas with cultural significance;
- sites or areas requiring community access for cultural activities (access to bush foods and medicines, teaching places); and
- areas of interest for potential community economic development.

Identified areas of interest were also mapped as a GIS layer.

3.4.3 Identification of Preferred Management and Conservation Regimes

Preferred management and conservation regimes should be based on the indicative assessment of significance. Sites or items of local, regional or state significance should be identified in heritage registers (see Section 3.3.1 above) and forest agency management plans, with clear guidelines as to how heritage values should be conserved and the level of management intervention permissible.

The identification and assessment of heritage values should be routinely integrated with strategic and operational planning (see also Section 5 below).

3.5 PLANNING FOR THE MANAGEMENT OF HERITAGE VALUES

This involves the identification of feasible management options and the adoption of the most appropriate actions for protecting heritage values. The cultural heritage manager has a clear

responsibility to assess significance prior to making management decisions. The manager also has a responsibility to consider other constraints and concerns such as budget constraints, other land use options technical problems or legislative or societal issues (Pearson and Sullivan 1995:189). Central to planning is the design of a conservation or management policy that addresses both heritage significance and potential management constraints.

The three key elements of management planning are preparing the policy, developing strategies to implement the policy and implementation and review.

3.5.1 Management or Conservation Policy

Planning must begin with a policy for the particular item or site. Policy is developed from the assessment of significance, an understanding of the main issues affecting its management and understanding of the needs and views of key stakeholders. The policy should aim to retain the significance of the item or site and should build upon agreements between key interest groups (DAC n.d.:32).

3.5.2 Developing Strategies to Implement Policy Objectives

Strategies set out what should be done to achieve objectives and must:

- be consistent with the identified significance of the item or site and the policy;
- identify priorities for action;
- outline the decision-making process, legislative context, policies and structures for implementing the policy; and
- identify resources needed to achieve the policy (ibid:34).

3.5.3 Implementation and Review

This will involve determining how and when progress towards meeting the policy will be monitored and evaluated. It is important to check regularly how the plan is progressing and to assess whether the strategies need to be altered to achieve the original policy (ibid:36-37). This process of review will also require the development of performance indicators (see also Section 5.4 below).

The Southern Audit Case Studies (Bell Environmental Strategy 1999a) identified a failure to implement high priority actions in one NPWS plan of management. It was not clear if this was an isolated occurrence or indicative of a more systemic failure. However, timely review of plan implementation and corrective action is necessary to ensure plans retain credibility, both to the organisation concerned and to the wider community.

3.6 PRINCIPLES FOR PROTECTING CULTURAL HERITAGE VALUES IN THE SOUTHERN REGION

Protection of cultural heritage in the Southern Region will be underpinned by the following principles.

3.6.1 Cultural Heritage Management as a Key Agency Responsibility

Forest management agencies will consider the protection of cultural heritage values as a key responsibility and shall ensure that decision making in relation to cultural heritage is informed and ethical, follows a coherent and logical path, and is based on best practice as articulated in:

- *The Burra Charter* (Australia ICOMOS);
- *The Conservation Plan* (Kerr 1996);

- *Guidelines For The Protection, Management And Use Of Aboriginal And Torres Strait Islander Cultural Heritage Places* (Dept. of Arts and Communication);
- *Aboriginal Cultural Heritage Standards & Guidelines Kit* (NSW NPWS);
- *NSW Heritage Manual* (Heritage Office); and
- *The Australian Natural Heritage Charter* (Australian Committee for IUCN).

3.6.2 Legislative Compliance

Forest management agencies will manage cultural heritage in accordance with the requirements of cultural heritage legislation with particular reference to the *National Parks and Wildlife Act, 1974*, the *Heritage Act, 1977*, *Environmental Planning and Assessment Act, 1979* and the *Forestry and National Park Estate Act, 1998*. Although the *Heritage Act* was subject to significant amendment in 1998, the 'relics' provisions in the *National Parks and Wildlife Act* are essentially unchanged since the 1970s. Although a number of reviews of these provisions have been undertaken since the 1980s, formal amendments have yet to be adopted. This is an issue which can be considered to be 'unfinished business' between the NSW Government, Aboriginal communities and other stakeholders.

3.6.3 Rights of Aboriginal Communities

Decision making in relation to Aboriginal heritage will involve Aboriginal communities and their knowledge, values and concerns will be considered during all phases of forest management. Unless they are disbanded, the Southern Region Aboriginal Management Committees should be recognised as one of the key contact groups for the Southern Region.

3.6.4 Identification and Assessment of Heritage Values

Identification and assessment of heritage values will be in accordance with agreed criteria and will be based on research and studies by those with appropriate knowledge or experience, the views of stakeholders and community groups and other relevant information.

3.6.5 Sharing of Knowledge

Forest management agencies will contribute to the sharing of knowledge about cultural heritage with rightful stakeholders and will develop programs to enhance public understanding of the cultural heritage values of the forest estate. In particular there is an obligation on the part of those agencies to share knowledge with Aboriginal communities and knowledge sharing may also extend to other groups and bona fide researchers, subject to agreed conditions of confidentiality and intellectual property. Knowledge of non-Aboriginal heritage values should be shared with other stakeholders including community groups and individuals who have contributed information to the agencies.

3.6.6 Skills Development

Forest management agencies will enhance the skills of and motivate employees and contractors to conduct their activities in accordance with cultural heritage protective mechanisms. Agencies will also participate in programs to enhance the skills of Aboriginal and other communities in cultural heritage management and will promote cross-cultural awareness programs to enhance relations with Aboriginal communities.

3.6.7 Stakeholder Dialogue

Forest management agencies will foster openness and dialogue with other stakeholders and will respond promptly to concerns about activities and operations within the forest estate. Agencies will also implement mechanisms to enable stakeholders to participate in policy and planning initiatives and in assessing project and activity proposals.

3.6.8 Performance Indicators

Forest management agencies will adopt performance indicators in order to better understand major trends and threatening processes and to measure the success of agency management plans, practices and

programs. Performance reviews will include regular audits and assessments of compliance with agency commitments, regulatory requirements and management guidelines. Performance indicators will be published and the outcomes of performance reviews made available through annual reports, state of the environment reporting and other means.

4. IDENTIFICATION AND ASSESSMENT OF CULTURAL HERITAGE VALUES FOR THE SOUTHERN REGION

The cultural heritage assessments for the Southern Region are based on the Commonwealth/State Scoping Agreement. It requires both Governments to address heritage issues consistent with Commonwealth and State legislation, particularly the *Australian Heritage Commission Act, 1975*, the *National Parks and Wildlife Act, 1974* and the *Heritage Act, 1977*.

The assessment of cultural heritage values for the Southern Region was undertaken under the guidance of the Cultural Heritage Working Group (CHWG). The CHWG is one of several working groups which report to the Environment and Heritage Technical Committee (see Section 2). The CHWG is made up of Commonwealth and State Government officials and non-Government organisations:

- Environment Australia
- NSW National Parks and Wildlife Service (NPWS)
- NSW Heritage Office
- State Forests of NSW (SFNSW)
- NSW Dept. of Aboriginal Affairs (DAA)
- NSW Resource and Assessment Conservation Division (RACD)
- NSW Aboriginal Land Council (NSWALC)
- Nature Conservation Council (NCC)
- Forests Products Association (FPA)*
- National Association of Forest Industries (NAFI)*
- Construction, Forestry, Mining and Energy Union (CFMEU)*

The CHWG is co-chaired by Environment Australia, the NSW National Parks and Wildlife Service and RACD.

The CHWG adopted a cross-agency approach to the identification and assessment of heritage values and the assessment of cultural heritage values was undertaken within separate Aboriginal and non-Aboriginal strands under the guidance of the CHWG.

In addition to these assessments, a number of ESFM Workshops were held in June 1998 involving government, academic and community stakeholders. These Workshops included discussion of Aboriginal and non-Aboriginal heritage values and identified actions and priorities to be followed up in specific studies or by inter-agency forums such as the CHWG. Although formal reports on the Workshops are not yet available, summaries of outcomes have been completed (RACD nd).

* The FPA, NAFI and CFMEU received copies of Protective Mechanisms reports as corresponding members.

4.1 ASSESSMENTS OF CULTURAL HERITAGE VALUES FOR THE SOUTHERN REGION

The EHTC commissioned a series of assessments to identify, assess and document cultural heritage values. These assessments are summarised below. It should be noted that the assessment process was not comprehensive and considerable gaps in the identification and understanding of forests heritage values remain.

4.1.1 Thematic Forest History and Heritage Assessment (Non-Indigenous) Southern CRA Region (Bickford et al 1999)

This study documents the forest history of the Southern Region and includes:

- identification of specific historic heritage themes of relevance to the Southern Region;
- identification of areas/themes requiring further research;
- identification of themes/areas to be further investigated within the community; and
- identification of areas which may yield specific historic heritage items which could be targeted in the field validation and recording stage.

The study provided a broad historical framework for the identification and assessment of cultural heritage values. The themes identified in this history can be grouped broadly into two categories:

- history of the principal forest agencies in the Region: NPWS and SFNSW; and
- other historical themes such as Aboriginal/European contact, pastoralism, mining and early timber-getting.

A further outcome of the study is that it provides a context for future assessment of places and items suitable for listing in the SHI or Register of the National Estate. The study also included field assessment of a number of historic places. Twenty-four places were recorded for listing in the SHI and recommendations made for their future management.

4.1.2 Assessment of Places of Aesthetic Significance within Forested Areas of the NSW CRA Regions Stage 2 Southern Region (Hibbard 1999)

This assessment was undertaken to contribute information about forest places of aesthetic value. A range of data sources, including expert and community based data, were utilised for the assessment of the Southern Region. Documentation of the aesthetic significance of a place proceeded using two sets of State and Commonwealth data fields derived from the *Heritage Act, 1977* and the *Australian Heritage Commission Act, 1975*.

Places of aesthetic value to the community were identified through forest agency staff workshops conducted by Hibbard and community heritage workshops conducted by Context Pty Ltd (see Section 4.1.3 below). These places were then assessed for aesthetic significance using thresholding data.

As a result of this process, 33 selected places were inspected and documented for aesthetic significance, in a form suitable for inclusion in the Register of the National Estate and SHI. Brief recommendations regarding the sensitivity of places as well as associated conservation principles were included in this documentation.

4.1.3 Community Heritage Values Identification and Assessment Project for the Southern Region (Context Pty Ltd 1999)

The Community Values Project comprises three volumes:

- Volume 1. Workshop Overview Report;
- Volume 2. Social Values Assessment

■ Volume 3. Place Assessments

The project identified forest-related places of potential community heritage value. This involved consulting with those who have had direct experience of these places, and for whom these places may have special associations. Community-based processes were developed to enable the collection and validation of information on places and their values. Community workshops were the primary source of data on places of potential national estate value and an important source for national estate aesthetic values.

Over 500 places were identified during the workshops. From this list, 31 places were assessed above the threshold for listing in the Register of the National Estate. A number of other places could not be fully assessed and are a high priority for full assessment of their social value.

4.1.4 Southern Aboriginal Cultural Mapping Project

This project is being undertaken by the NPWS and is intended to record places and landscapes of significance to Aboriginal people in the Southern Region. Material provided by informants is subject to confidentiality provisions and can only be released to third parties with the consent of the person who provided the information (Nick Gellie pers. comm.). Much of this material contains information which relates to mens' or womens' 'business' and would not be appropriate for use by forest management agencies unless it was in a diluted form which omitted information of a secret/sacred nature. In any case, the consent of the informant would be required for the release of any information.

4.1.5 Other Relevant CRA Studies

In addition to Regional assessments, a statewide project examining the protection and management of Aboriginal and non-Aboriginal heritage was undertaken. This included an Overview of Archaeological Resources on Forests (Lomax 1997) and a Cultural Heritage Data Audit, Integration and Analysis (Non-Indigenous) (Pearson and Rosen 1997).

The *Overview of Archaeological Resources* was undertaken to provide a context for technical discussions regarding management options for archaeological values (primarily Aboriginal sites and places) in the CRA Regions. The document provides an outline of forest archaeological values and research and provides a context for assessing the significance of these values. The spatial aspect of the resource is emphasised in understanding these values and their management. Approaches used to 'model' forest archaeological values are critiqued and recommendations made for a strategic program of management and research.

The *Cultural Heritage Data Audit* comprised four elements or tasks. Task 1 was the preparation of an annotated bibliography of sources relating to the history and non-Aboriginal cultural heritage of the CRA Regions. Task 2 was the identification of existing heritage databases and relevant reports and the integration of this data. Task 3 was the interrogation of the electronic data base established in Task 2 for the purpose of identifying broad patterns in the spatial distribution of recorded site and place types and to provide baseline data on the nature and extent of place and site data. Task 4 addressed recommendations for future data integration and management to assist agencies in the cooperative management of forest heritage and to develop a strategic program for addressing gaps or inadequacies in cultural heritage data and management.

4.1.6 Draft Alpine Region Strategy (1998)

The draft strategy has been prepared by the Alpine Region Strategy Steering Committee in order to develop actions to ensure healthy and viable communities, a sustainable natural environment and resource base as well as a strong and diverse regional economy. The Strategy places a key emphasis on partnerships between communities and governments.

The draft strategy includes a number of actions and priorities in relation to cultural heritage including:

- partnerships with Aboriginal communities in heritage protection programs;
- awareness raising in relation to Aboriginal links to 'country';
- identification of significant cultural heritage features in the alpine region; and

- guidelines for protecting and promoting the cultural heritage values of the region.

4.2 INTEGRATION AND OPTIONS DEVELOPMENT

Information from the cultural heritage assessments was organised into two major categories:

- areas of high significance or spatial extent, the appropriate management of which is likely to have a major impact on logging through the creation of buffer zones or excision from logging;
- areas which are of significance but which could be managed by prescription or informal reserves, regardless of tenure, the management of which is unlikely to have a major impact on logging.

These areas were incorporated into the GIS layers for the Southern Region and included in the ESFM outcomes for the Region. Non-Aboriginal cultural heritage values have also been published in map form on the RFA website (www.rfa.gov.au).

4.3 RECOMMENDATIONS OF BACKGROUND STUDIES

Each of the background studies made recommendations for managing cultural heritage values in the forest estate. Together with statewide recommendations from Lomax (1997) and Pearson and Rosen (1997), these recommendations were collated and are listed in Appendix C.

Where CHWG responses to these recommendations are applicable to the objectives of the Protective Mechanisms Project, these have been incorporated into the protective mechanisms outlined in Section 5 below. However, a number of responses require longer-term policy implementation by the relevant agencies. These have been identified in Appendix C.

5. PROTECTIVE MECHANISMS FOR CULTURAL HERITAGE

This section outlines a set of protective mechanisms to be adopted by each agency. Where agency specific accountabilities are necessary, these are identified. As the NSW Forest Agreements require the NPWS and SFNSW to each prepare Environmental Management Systems (EMS) to assist in the implementation of forest conservation and management, these Protective Mechanisms are set out in an EMS format to allow for their easier integration into agency EMSs.

5.1 DEVELOPING A WHOLE OF GOVERNMENT APPROACH

Cultural heritage at the State-level lacks a comprehensive ‘whole of government’ strategy which establishes goals and priorities and identifies compatible threshold requirements in assessing the significance of places and items and in implementing reserve and off-reserve protection. Although this document is confined to issues relating to the Southern Region, the protective mechanisms identified below need to have a context provided by a broader strategy agreed to by all government agencies and based on ‘best practice’ standards (see Section 3 above). The NSW Biodiversity Strategy (NPWS 1999a) is a recent example of a ‘whole of government’ approach to coordinating and integrating government and community initiatives.

5.2 PLANNING

5.2.1 Forest Practices

Agencies should identify those activities, operations, products or services that they control or exert influence over and the potential impact of these on heritage values. Each agency should ensure that the potential threats to heritage values from the practices are considered in developing objectives for the protection of these values and that cultural heritage management is integrated into the routine planning and operations of these agencies.

Protective Mechanism – Forest Practices.

Table 1 identifies a hierarchy of forest practices from regional planning to small-scale development impacts. Protective mechanisms for these practices are nominated.

TABLE 1. FOREST PRACTICES PROTECTIVE MECHANISMS

Forest Practice	Description	Cultural Heritage Protective Mechanisms
1. Regional Planning	Preparation and implementation of long-term planning strategies at an inter-agency level.	Development of an overarching heritage protection strategy based on transagency endorsement and integrated into agency business planning and operations. Such a strategy should be based on 'best practice' standards, should identify processes for integration of cultural heritage management into the routine activities of agencies, should include the development and maintenance of information resources and establish a process for communication with external stakeholders.
2. Regional ESFM Planning	The preparation and implementation of strategic forest management plans. This is centred on the activities of SFNSW.	Assessment of potential impact through reference to predictive modelling, heritage registers external stakeholders as well as targeted field survey. Development of management guidelines for planning area and further investigations. Identification of regulatory approvals required.
3. Road Corridor Location	The regional and catchment scale planning of road access requirements and the on-ground selection of the road location.	Assessment of potential impact through reference to predictive modelling, heritage registers and external stakeholders as well as sample surveys guided by modelling. Development of management guidelines for the planning area including the preparation of conservation management plans for landscapes and places of significance. Identification of regulatory approvals required and arrangements for cross-tenure management cooperation.
4. Road design and construction	This often requires choices between approaches, methods and type of machinery and the implementation of the job according to plan.	Requirements for mitigation and approvals. Implementation of monitoring program, as required.
5. Stream crossing design and construction	The selection of crossing points and design of stream crossing structures and the use of conservation practices to minimise disturbance of streambanks.	As per item 4.
6. Road and crossing maintenance	Preventative and remedial work to maintain the capability of the road surface and associated drainage systems.	Periodic audit of maintenance procedures.
7. Firetrail construction and maintenance	Construction and maintenance of unformed trails.	Assessment of potential impact and modification of plans, if required. May require monitoring during construction.
8. Wildfire suppression	Practices associated with wildfire control.	Assess opportunities and needs for post-fire survey and/or assessment of impact on known sites or items following the fire.
9. Fuel reduction burning	Covers all managed use of fire	Assessment of potential impact and inclusion of cultural heritage protective mechanisms for sites or items in fire management plans. Assess need for post-fire survey.

Forest Practice	Description	Cultural Heritage Protective Mechanisms
10. Harvest area selection	The selection of areas for harvesting. It involves the selection of proposed boundaries and the assessment of likely impacts of operations within and adjacent to these boundaries.	Assessment of potential impact and modifications to boundaries and harvest intensity, following comprehensive field survey. Development of monitoring and audit program.
11. Access road and landing location and construction	Field and office procedures used to determine the location of temporary access routes and loading facilities and the construction of these facilities.	Assess need for monitoring.
12. Harvesting at low, medium and high intensity	The silvicultural practices designed to allow for different levels of timber production ranging from thinning, single tree selection to group selection in native forests or clearfelling in plantations.	Assess need for monitoring. May require audit following completion of harvesting.
13. Plantation site selection and establishment	Practices associated with assessing areas for plantation suitability and site preparation.	As per items 2 and 10.
14. Location of campsites and tracks	Assessment processes and criteria to establish the siting of recreational facilities and trails.	Development of overall recreation management plans which include guidelines for cultural heritage management. Individual facility proposals may require assessment of impact, including field survey.
15. Recreation facilities construction	Procedures used during construction such as site earthworks and construction methods and standards.	As per item 14.
16. Site and trail maintenance	Procedures used to assess the requirements for and to undertake the necessary work.	May require periodic audit.
17. Tourism promotion	Process used to promote increased recreational usage of forest estate.	Address heritage values in tourism strategy and interpretation materials, including reference to external stakeholders. Assessment of potential impact on heritage values and identification of mitigation strategies. Consider opportunities for Aboriginal employment and business development.
18. 4WD and trail bike usage	Procedures and prescriptions used to regulate these forms of road and track usage within the forest to minimise adverse impacts.	Address heritage values in control measures. May require site or item specific measures to prevent 4WD/trail-bike access. 4WD access for Aboriginal communities for customary activities may need to be considered as a separate issue.
19. Camping and bushwalking	Procedures and prescriptions used to regulate these forms of recreation usage and minimise adverse impacts.	As per item 18. Access needs for Aboriginal communities should be identified and negotiated between the community concerned and the agencies.

Table 1 Continued

Forest Practice	Description	Cultural Heritage Protective Mechanisms
20. Grazing	Procedures and controls to minimise adverse effects.	Proposed new leases should be assessed for potential impact on heritage values and, where necessary, these values should be assessed prior to issuing new leases or occupation permits.
21. Exploration and mining	Procedures and controls to minimise adverse impact.	Manage Aboriginal heritage values in accordance with NPWS Guidelines for Aboriginal Heritage Impact Assessment in the Exploration and Mining Industries (1997). Assessment of historic heritage values in accordance with legislation and regional protective measures and forthcoming guidelines from the Heritage Office.

Table 1 Continued

5.2.1 Regional ESFM Planning

The preparation of ESFM Plans will require the development of a cultural heritage 'template' including agreed consultative methods with stakeholders, the utilisation of consistent and compatible criteria for assessing significance and requirements for data and documentation management.

Protective Mechanism – Regional ESFM Planning

NPWS, the Heritage Office and SFNSW should determine requirements for identifying, assessing and managing cultural heritage values as part of ESFM Plans. ESFM plans should identify requirements for heritage impact assessments and should assess the utility of existing correlation and GIS modelling in identifying significant landscape elements.

5.2.2 Reserve Design

Current methodologies for the integration of cultural heritage values into reserve design appear to be inadequately defined and resourced, and the protection of cultural heritage values is directed primarily through the use of forest management zoning and management prescriptions. The capacity of the Comprehensive, Adequate and Representative (CAR) Reserve System to conserve cultural heritage values needs to be assessed.

Protective Mechanism – Reserve Design

NPWS and the Heritage Office should co-manage a review of CAR reserve criteria and commission a pilot project in the Southern Region to test reserve criteria using environmental and cultural data gathered during the CRA process. This should also test the capacity of the existing reserve system (in NPWS and other tenures) to adequately protect cultural heritage values and to adequately represent the known diversity of cultural heritage values.

5.2.3 Regulatory Requirements

Agencies should establish and maintain a procedure to identify and access regulatory requirements that are applicable to the heritage aspects of its activities, products or services. For SFNSW, this will also apply to the conditions of Integrated Forestry Operations Approvals (IFOAs). Changes to heritage regulations should be monitored and information on changes distributed to field offices. This should be managed by the Head Office of each agency and information circulars issued in controlled document form. Each field office should have a designated position responsible for receiving information circulars and advising field officers.

The implementation of cultural heritage regulatory regimes to forestry operations is potentially complex and problematic. Delineation and confirmation of obligations and requirements need to be identified at an early stage by the relevant agencies. Given the regulatory framework provided under NSW Forest Agreements and Integrated Forestry Operations Approvals, there is an opportunity to reach agreement on regulatory requirements beyond the individual forest or compartment. In particular, the preparation of regional ESFM plans by SFNSW should address regulatory requirements for cultural heritage.

Protective Mechanisms – Regulatory Requirements.

- All field manuals and guidelines should be reviewed every two years to ensure that they are current in relation to legislative requirements.
- Recent changes to the *Heritage Act, 1977* should be incorporated into documentation and training courses.
- Permits and consents issued under the *National Parks and Wildlife Act, 1974* or *Heritage Act, 1977* should be issued to the principal organisation or individual concerned and specify the responsibilities of the permit or consent holder in relation to other parties such as contractors.

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- NPWS, Heritage Office and SFNSW should develop model provisions for inclusion in SFNSW harvesting plans. These model provisions should set out legislative requirements for cultural heritage under the *National Parks and Wildlife Act* and *Heritage Act*.

- Licence agreements between NPWS and forest agencies concerning the use of ASR records should identify obligations under s.91 of the *National Parks and Wildlife Act*.
- NPWS, Heritage Office and SFNSW should jointly prepare cultural heritage guidelines as an attachment to the proposed Southern Region IFOA.

5.2.4 Fire Management Plans

Fire management plans prepared under the *Rural Fires Act, 1997* or other legislation should identify potential impacts on cultural heritage items including sites or places recorded in the ASR or s.170 Registers. These plans should also identify steps to be taken to avoid sites or places and to undertake post-fire surveys of affected areas.

Protective Mechanisms – Fire Management

- Cultural heritage management requirements should be included in agency fire management plans and incident procedures and should relate to:
 - ◇ access and fire control line construction
 - ◇ use of earth moving equipment
 - ◇ post-fire assessment and restoration and rehabilitation
 - ◇ prescribed burning
 - ◇ liaison with adjoining landholders and stakeholders.
- Agency field managers should consult with Aboriginal communities and agency cultural heritage officers during the preparation of fire management plans and incident procedures.
- Post-fire rehabilitation plans should identify requirements to protect and conserve cultural heritage values.

5.2.5 Objectives and Targets

Agencies should establish and maintain documented targets and objectives for the protection of cultural heritage values at each relevant function and organisational level and which are integrated into routine business planning and operations. Objectives should give consideration to the spatial aspects of heritage values and the protection of significant elements, including landscape representativeness and significant places and items (Lomax 1997:27). When establishing and reviewing objectives and targets, agencies shall consider the NSW Forest Agreements, IFOAs, supplementary documentation, the views of stakeholders and an assessment of stakeholders' level of satisfaction with agency performance. These targets and objectives should be consistent with agency policy on cultural heritage.

Protective Mechanism – Objectives and Targets

Organisational Divisions, Regions and Districts within the Southern Region should identify targets for cultural heritage protection in business plans and regional ESFM plans. Plans of Management for parks and other reserves should include similar provisions. 'State of the Parks' reporting should also include an assessment of performance in achieving NPWS and state-wide targets for the protection of cultural heritage values, including performance in the implementation of plans of management.

5.2.6 Heritage Management Programs

Agencies should establish and maintain programs for achieving objectives and targets including the designation of responsibility at each relevant function and level of the agency and the means and time frame by which objectives and targets are to be achieved. These programs should be integrated into agency business planning and operations. They should also include co-operative arrangements with other agencies and communities where cultural heritage values overlap land tenures and should include tasks such as information sharing and joint management plans.

The Regional AMCs and Aboriginal staff in forest agencies should have a key role in co-ordinating programs between the agencies and local Aboriginal communities.

Protective Mechanisms – Heritage Management Programs

- For NPWS, heritage management within the Southern Region needs to be identified as part of the Service's strategic management cycle and developed and implemented at the Regional and District level. This will include the adequate consideration of cultural heritage values during the preparation of plans of management for land reserved or dedicated under the *National Parks and Wildlife Act, 1974*. Landscapes and items of significant heritage value should be subject to conservation management plans prepared in accordance with agency guidelines (see NPWS 1999b).
- For SFNSW, assessment of heritage values needs to be undertaken as part of the preparation of regional ESFM plans. These should also identify requirements for further assessment at the Harvesting Plan stage or for lands under consideration for purchase as plantations.
- Plans of management for Crown reserves should assess cultural heritage values in accordance with State and Commonwealth assessment criteria and involve timely consultation with stakeholders such as Aboriginal communities.
- All forest agencies should access the place recordings completed during the Southern Region assessments for community heritage values, aesthetic significance and thematic forest history, should review any management recommendations included with these place recordings and should incorporate recommendations into ongoing management programs. Where appropriate, ongoing management should be subject to the completion of a conservation management plan for the place.
- Commonwealth and State agencies should also work with Aboriginal communities in identifying opportunities for communities in the management of cultural heritage values through the Commonwealth's Indigenous Protected Areas program.

5.2.7 Identifying and Assessing Cultural Heritage Values

Current requirements for identifying and assessing cultural heritage values need to be reassessed to ensure that human and financial resources are focused on the protection of significant elements and the incorporation of representative landscape elements in reserves. This should be based on strategies and management prescriptions identified in Regional ESFM Plans and other planning documents.

NPWS, SFNSW and DLWC should support systematic area or regional studies intended to identify and record places and items indicative of forest industry, forest and park management, mining, pastoral and agricultural land uses and European settlements. Programs are also required to finalise place assessments which could not be completed during the Community Heritage Values Project (Context Pty Ltd 1999).

These agencies also need to jointly work with Aboriginal communities in better understanding the significance of forest estate for these communities particularly in relation to the spiritual significance of forest places and access requirements for traditional and ceremonial purposes. One of the priorities identified during meetings with the Regional AMCs is for the training and employment of community-based Aboriginal heritage officers.

Protective Mechanisms – Identifying and Assessing Cultural Heritage Values

- Implementing a joint NPWS and SFNSW program for regional studies utilizing the priorities identified by Pearson and Rosen (1997).
- Implementing joint agency partnership programs with Aboriginal communities in the Southern Region to enhance understanding of the Aboriginal significance of forests and the ongoing needs of these communities in terms of access and use of these forests. A priority task

should be the assessment of the Aboriginal significance of places identified during the Southern Region community heritage values workshops. These partnerships should include initiatives aimed at enhancing community-based expertise in the protection of Aboriginal heritage values.

- NPWS and SFNSW to complete social value assessments for those places which could not be fully assessed during the Southern Region Community Heritage Values Project.

5.2.8 Identifying Key Community Stakeholders

Forest agencies need to build relationships with Aboriginal and non-Aboriginal stakeholders with interests in cultural heritage. The community heritage workshops have provided initial information on potential non-Aboriginal groups and individuals that could assist forest agencies in identifying and assessing non-Aboriginal heritage values. The Regional Aboriginal Management Committees are important contact groups, though some Aboriginal stakeholders may not be formally aligned with these Committees.

Identifying and earning the trust of community stakeholders is not something that can be rushed and may take years.

Protective Mechanism – Community Stakeholders

- Forest agencies should identify and record key community stakeholder contacts, should share information on stakeholders and should have systems in place to ensure that such information becomes part of corporate knowledge.
- Regional planning should adopt a cross-agency approach to community consultation.

5.3 IMPLEMENTATION AND OPERATION

5.3.1 Structure and Responsibility

The roles, responsibilities and authorities of employees at each relevant function and level within each agency should be defined, documented and communicated. Resources for cultural heritage management are to be identified and assigned. These will include human resources, skills development, technology and financial resources.

Protective Mechanisms – Structure and Responsibility

- Position descriptions for field managers should include cultural heritage accountabilities.
- Organisational structures and responsibilities should be communicated to external stakeholders.
- Personnel with cultural heritage management qualifications and skills should be actively targeted for employment in field management positions via recruitment programs to ensure that agencies build up an appropriate skills base.

5.3.2 Training, Awareness and Competence

Forest agencies should identify the training needs of their employees and relevant external stakeholders such as Aboriginal communities. All employees whose work may create a potential impact on cultural heritage are to receive appropriate training.

Each agency is to establish and maintain procedures to ensure employees understand:

- the importance of compliance with heritage policies and procedures;
- impacts, actual or potential, of their work activities and the benefits of protecting heritage values;

- their roles and responsibilities with the requirements for protecting heritage values;
- the potential consequences of departing from specified operating procedures;
- Aboriginal interests and aspirations in relation to cultural heritage; and
- the need to undertake 'refresher' training every few years.

Agencies should also develop and maintain their own heritage expertise through the employment of cultural heritage specialists.

Training and awareness programs also need to be made available to community stakeholders such as Aboriginal organisations. Resourcing for this is uncertain but initially could involve round-table discussions between the NPWS, NSWALC, Department of Aboriginal Affairs and NSW TAFE.

Protective Mechanisms - Cultural Heritage Training

- **The NPWS, SFNSW and DLWC should develop a structured training program on cultural heritage management for their staff. Ideally this program should follow a standard curriculum and should address both 'best practice' principles and standards and their application to field and management contexts. The program should be designed so that successful completion of course modules is a criterion in assessing an employee's eligibility for promotion in certain position classifications.**
- **The aim of the program would be to provide a structured range of course modules which would enable employees to understand 'best practice principles and standards in cultural heritage management and to develop familiarity with the issues and approaches in applying these principles and standards to their workplace.**
- **In the first instance, both agencies should undertake a needs analysis of employees.**
- **A suggested program structure is:**

Course 1 - Introduction to cultural heritage management (a course module is currently in use by NPWS)

Course 2 - Advanced skills in cultural heritage management including skills in project managing the preparation of conservation management plans.

Course 3 - Research skills in cultural heritage such as archival research, oral history and field investigation.

- **Contractor induction training should include an introduction to cultural heritage values and management**
- **Forest agencies should support at least one annual heritage training workshop for community stakeholders in the Southern Region.**
- **NPWS, NSWALC, DAA and TAFE should identify opportunities for community-based cultural heritage training for Aboriginal people.**

5.3.3 Communication

Each agency is to establish and maintain procedures for:

- internal communication between the various levels and functions of the agency; and
- receiving, documenting and responding to communication from external stakeholders.

Protective Mechanisms - Communication

- **The NPWS, SFNSW and DLWC should establish memoranda of understanding (MOUs) with key stakeholders groups. For Aboriginal heritage, the principal stakeholder groups will be the Regional AMCs, or if they disband, LALCs, elders groups or traditional owners. MOUs**

should identify key contacts, the timing of consultative arrangements and the mutual obligations of the parties.

- **Agencies should consider holding an annual forum on cultural heritage issues in the Southern Region involving government, industry and non-government organisations including Aboriginal and non-Aboriginal community groups.**
- **Cultural heritage management should be included in annual reports including annual ESFM reports by SFNSW. The *Heritage Act, 1977* requires government instrumentalities to report annually on compliance with the Act and NPWS and SFNSW should develop reporting criteria (see also Section 5.4 below).**
- **MOUs or similar arrangements for the management of heritage items or sites which cross tenure boundaries (including Crown and freehold land) should identify procedures for communication between the relevant landholders.**
- **Agencies responsible for non-forestry or national park uses such as communication towers or electricity transmission line easements should enter into MOUs or similar arrangements with the NPWS, SFNSW or DLWC to identify requirements for the protection of cultural heritage values during the operation of these facilities.**

5.3.4 Cultural Heritage Documentation and Information Management

Each agency shall establish and maintain information, in paper or electronic form, to:

- describe the core elements of cultural heritage policies and procedures including guidelines on the preparation of conservation management plans and other planning documents and the process for assessing the significance of heritage landscapes, places and items;
- provide direction to related documentation; and
- establish procedures for the sharing of information on cultural heritage values with other stakeholders

Protective Mechanisms –Documentation and Information Management

1. Heritage Registers

- NPWS and SFNSW reach agreement over SFNSW access to and use of the ASR for those lands in Southern Region State Forest estate. The agreement should only be concluded following consultation with the Southern AMCs and other Aboriginal stakeholders, and be subject to strict conditions concerning access by SFNSW employees and the use of Register data by SFNSW.
- Agreements between NPWS and SFNSW for the use of ASR data should identify requirements for the exchange of information relating to new site recordings or updated recordings of known sites.
- The NPWS should audit the ASR to assess the extent of duplication of site entries and ensure that duplicated site entries are amalgamated.
- NPWS and the Regional AMCs (or alternative groups if it disbands) reach agreement over the establishment and resourcing of community-based Aboriginal site registers.
- NPWS and Heritage Office should co-ordinate the development of ‘whole of government’ protocols for intellectual property rights particularly in relation to community interests in heritage registers.
- NPWS, SFNSW and DLWC adopt the SHI as the standard database for non-Aboriginal heritage and standardise their s.170 Registers in accordance with guidelines in the NSW Heritage Manual and recent amendments to the *Heritage Act, 1977*.
- NPWS, SFNSW and DLWC to reach agreement on mutual access to their s.170 Registers for bona fide research and management purposes.
- SFNSW to transfer all data, including all site records, into the SHI database. This database should be accessible to regional planning staff.
- Heritage Office to provide adequate support in adapting the SHI database to the needs of forest management agencies.
- Agencies to ensure that selected employees with operational responsibilities in the Southern Region are trained in the use of heritage registers, subject to the provisions of any inter-agency agreements on data exchange, and that recording of heritage items or sites becomes a routine aspect of the duties of field-based staff.

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2. Heritage Guidelines

- SFNSW should develop a procedures document for the protection of non-Aboriginal values in forests

- DLWC should amend its draft Crown Land Assessment Manual to reference the NSW Heritage Manual and Aboriginal Cultural Heritage Standards and Guidelines Kit.
- Agencies should each adopt and document heritage management policies and guidelines to assist staff in protecting cultural heritage values and to ensure that these policies and guidelines are publicly available.

3. Southern Cultural Heritage Mapping Project.

- NPWS should consider how information collected during the project can be used to inform land management by other forest agencies without compromising undertakings given to informants concerning third party access to this data. One option would be to develop an inventory containing information in a diluted form which withholds information concerning precise location details.

5.3.5 Document Control

Each agency is to establish and maintain procedures for controlling all documents to ensure that:

- they can be located;
- they are periodically reviewed, revised and approved;
- the current versions of relevant documents are available at all relevant locations;
- obsolete documents are removed from all points of issue and use;
- any obsolete documents retained for archival purposes are appropriately identified.

Protective Mechanisms – Document Control

- Agencies should review existing documents to incorporate amendments to the *Heritage Act, 1977*.
- All heritage documents should be routinely reviewed every two years.

5.3.6 Operational Control

Each agency is to identify those operations, products and services that may involve potential threats to heritage values. Each agency is to plan these activities, including maintenance, in order to ensure that they are undertaken under specified conditions by:

- establishing and maintaining documented procedures to ensure heritage protection objectives and targets are achieved in accordance with ‘best practice’ standards;
- stipulating operating procedures; and
- communicating procedures to employees, contractors and other parties.

Protective Mechanisms – Operational Control

See A. Heritage Impact Assessment (page 35)

See B. Management of Contractors (page 37)

See C. SFNSW Harvesting Plans (page 38)

A. Heritage Impact Assessment

All project planning should include early identification of potential heritage impacts to maximise opportunities for project changes to protect heritage values and opportunities for liaison with relevant stakeholders.

Identify all relevant regulations, plans of management, operating manuals, guidelines and other information sources. Identify potential requirements for external approvals.

Plan the assessment in the context of the project planning and design so that the involvement of external agencies, specialists and communities can be programmed.

1. Identification of the main issues

As a precursor to undertaking a formal assessment, the proponent should identify:

- ◇ the important characteristics of the proposal which will determine the scope of the potential impacts on heritage;
- ◇ the proposed location of the project;
- ◇ the key personnel within the agency with responsibility for heritage matters and seek advice as to any other requirements for heritage assessment;
- ◇ review all relevant heritage registers. Of particular importance will be the Aboriginal Sites Register and s.170 Registers.

2. Preliminary Assessment

Review the implications of the preliminary assessment for the project design and consider whether changes should be made to avoid predictable impacts on heritage values. This may also require an initial heritage survey to confirm the findings of 'desk top' reviews.

Where the proposal may impact on heritage values, prepare terms of reference for a detailed assessment in consultation with the Heritage Office, NPWS Central or Southern Cultural Heritage Unit, Aboriginal communities and other relevant stakeholders.

3. Detailed Assessment

This involves the detailed identification of the impacts on cultural heritage values that would result from the proposal. It should be consistent with agency environmental planning and assessment guidelines, where these exist.

Based on the advice received in step 2, the detailed assessment may require the use of external heritage specialists.

Detailed assessments should include the following elements:

- ◇ objectives of study;
- ◇ review of existing situation and data;
- ◇ regional or research context;
- ◇ investigation strategy;

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- ◇ partnerships with external stakeholders such as Aboriginal communities;

<p>◇ field methods and field survey coverage data;</p> <p>◇ results and analysis;</p> <p>◇ assessment of significance;</p> <p>◇ identification of issues; and</p> <p>◇ management recommendations and mitigation strategies including requirements for external approvals.</p> <p>4. Management Options</p> <p>Depending on the outcomes of the detailed assessment, the proponent (in consultation with the relevant heritage agency) will be required to determine whether:</p> <p>◇ the project can proceed as planned;</p> <p>◇ the project needs to be modified;</p> <p>◇ the project should be abandoned.</p> <p>Management options will include the identification of measures to protect cultural values during and after the project. Subject to advice from heritage agencies, internal heritage specialists (especially Aboriginal staff) and external stakeholders such as Regional AMCs, the proponent may be required to seek formal approval to destroy or damage heritage sites or items.</p> <p>5. The Decision</p> <p>Any decision to proceed with the project should be made public and all relevant stakeholders informed. This should include all relevant employees.</p> <p>6. Approval Conditions</p> <p>Conditions of approval such as requirements for heritage protection should be included with all relevant project documentation. Approval conditions to be implemented prior to construction should be subject to field verification.</p> <p>The proponent should designate an employee with specific responsibilities for cultural heritage issues throughout all stages of the project.</p> <p>For Aboriginal heritage, proponents should maximise opportunities for representatives of Aboriginal communities to monitor the implementation of approval conditions.</p> <p>7. Management and Monitoring Plan</p> <p>The proponent may be required to prepare a formal plan for the management of heritage items and sites during and following the project. This should include requirements for site induction information for staff and contractors to be involved in the project as well as monitoring to review progress with the implementation of approval conditions. The project may also be subject to an independent audit.</p> <p><i>KEY REFERENCES</i></p> <p>NPWS 1997 <i>Aboriginal Cultural Heritage Standards & Guidelines Kit</i></p> <p>NPWS 1998 <i>Environmental Planning and Assessment Manual Vols. 1 & 2</i></p> <p>Heritage Office 1996b <i>Archaeological Assessment Guidelines</i></p> <p>State Forests 1999b <i>Interim Procedures for Aboriginal Cultural Heritage (Native Forest Management System)</i></p>
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B. Management of Contractors

1. Objectives

To ensure that heritage protection requirements are identified at the initiation stage of contract works or services and that these requirements are integrated into all stages of the contract works and services from contract specification preparation and contractor selection through to contract implementation and completion;

To ensure that the parties associated with contract works or services are fully aware of their obligations for the required performance and the corrective actions to be taken in the case of unsatisfactory performance or non-compliance.

2. Contract development

The Project/Contract Manager is required to identify heritage issues associated with the project including:

- ◇ site characteristics and existing documentation
- ◇ statutory requirements
- ◇ agency policy requirements
- ◇ any undertakings or conditions of the project approval

The heritage issues will be defined at project initiation and are to form a basis for contract development and implementation. The contract specification is to address all heritage issues and include appropriate clauses which provide guidance to ensure compliance with project approval conditions and statutory requirements.

All responsibilities which are assigned to the Contractor are to be identified at this stage and included in the specification.

3. Contractor selection

Where a contract poses potential risks to the protection of heritage values, the selection of the preferred tenderer should include a process to assess their prior environmental performance and proposed management of heritage issues in relation to the contract works or services. The contractor selection process is to include a process for evaluating and verifying the contractor's ability to achieve the contract requirements and to use these matters in the selection. Contractor selection should also refer to EEO requirements such as the employment of Aboriginal people.

4. Contractor establishment

Contractor establishment is to include an on-site meeting between the Project/Contract Manager and the contractor. The establishment meeting is to include a review of the heritage issues, the means by which the contractor is to ensure compliance, nomination of contacts and site representatives, details of monitoring and criteria for site notices and penalties.

Details of the program for the site induction of contractors' employees must be confirmed and approved by the Project/Contract Manager prior to work commencing.

5. Contractor induction

The contractor is responsible for ensuring that all its employees, subcontractors or subconsultants receive appropriate induction prior to commencing contract works or services. The induction is to include (but not limited to):

- ◇ statutory requirements
- ◇ conditions of approvals and licences

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- ◇ monitoring requirements

◇ reporting requirements

6. Contract implementation

The Project/Contract Manager will monitor contractor performance and will maintain records of performance and any site notices. The contractor is to be notified of any observed non-conformances or non-compliance and is expected to take the necessary actions to remedy the situation and ensure that such situations do not reoccur. Heritage issues may be included on the agenda of contract meetings and recorded in the minutes of meetings.

The specification may require the contractor to submit periodic reports on heritage issues at specified intervals.

If it is found that the contractor's employees have not received induction relevant to their activities, then the contractor may be asked to withdraw the respective employees until such induction has been provided.

7. Variation to contract works

Changes to contract works are to include review of heritage impacts and the adequacy of management procedures for the changes to the contract. All changes are to be communicated to the contractor.

C. SFNSW Harvesting Plans

1. Model provisions

NPWS, Heritage Office and SFNSW should jointly develop model provisions relating to cultural heritage management for inclusion in harvesting plans. These model provisions should set out legislative requirements under relevant heritage legislation and should specify requirements in relation to approvals to destroy or disturb places or items and notification concerning new information on places or items.

2. Plan methodology

SFNSW should review the methodology utilised for identifying cultural heritage values during the preparation of harvesting plans to ensure that assessments are systematic and access all relevant knowledge within and outside the SFNSW.

3. Maintenance activities

Current clauses in harvesting plans concerning maintenance activities in the vicinity of heritage places or items should be reviewed by SFNSW to ensure that they comply with the *National Parks and Wildlife Act* and *Heritage Act*.

5.3.7 Incident Response

Incident response procedures are to be included in management guidelines, management plans and monitoring schedules. These are to be periodically reviewed and revised, particularly following an incident or emergency. The efficacy of current heritage legislation in the investigation of incidents and potential prosecutions should also be included in the terms of reference for future reviews of this legislation.

Protective Mechanism – Incident Response

Each agency is to establish and maintain procedures for identifying the potential for incidents and emergencies and for preventing and mitigating threats and impacts that may be associated with them. This is to include procedures for liaising with external stakeholders such as Aboriginal communities.

Development proponents should identify an employee with responsibility for managing incident response including liaison with regulatory authorities.

5.4 MONITORING AND REVIEW

5.4.1 Monitoring and Performance Measurement

Each agency is to establish and maintain documented procedures for monitoring and measuring, on a regular basis, the key characteristics of its operations, products and services that are a potential threat to heritage values as well as monitoring and measuring the performance of cultural heritage programs. This is to include the:

- identification, implementation and communication of performance indicators for cultural heritage management. Performance indicators for cultural heritage have been identified as part of the MIG Framework of Regional Indicators (ESFM Technical Committee 1998) and by the Commonwealth Government as part of National State of the Environment Reporting (Pearson et al. 1999);
- development and implementation of system and field audits of management processes and activities to ensure compliance with agency policies and procedures and external regulations.

Protective Mechanisms – Monitoring and Performance Measurement

A. Monitoring (see page 39)

B. Performance Indicators (see page 40). These provide additional indicators to those identified as part of the MIG Framework and National State of the Environment Reporting (see above).

A. Monitoring

- **Current management guidelines should be amended to include monitoring, evaluation and reporting of practices with a potential impact on cultural heritage values. These should maximise opportunities to engage Aboriginal community representatives to undertake monitoring programs.**
- **Cultural heritage management should be incorporated into audit programs for forestry operations and the NPWS should routinely audit Regional and District operations.**

B. PERFORMANCE INDICATORS	
ISSUE OR ELEMENT	INDICATOR
1. Knowledge of the resource	1.1 Number of, and level of funding for, programs focused on systematic investigations of the heritage values of the forest estate
	1.2 Number of heritage sites and items assessed using best practice assessment standards
2. Condition of heritage	2.1 Proportion of recorded sites and items which have been destroyed without statutory approval or whose values have been severely diminished
	2.2 Proportion of sites and items assessed as being in good, fair or poor condition
3. Statutory protection	3.1 Proportion of significant Aboriginal heritage sites and non-Aboriginal items of State significance subject to a conservation management plan
	3.2 Areal extent of lands reserved primarily for cultural heritage conservation purposes under all jurisdictions
	3.3 Number of heritage items subject to statutory conservation instruments or orders
	3.4 Number of items listed on s.170 registers
	3.5 Number of Aboriginal heritage sites subject to Consent to Destroy approvals or 'salvage/collection' permits and the total number of approvals and permits granted
	3.6 Number of non-Aboriginal heritage items subject to excavation permit approvals under the Heritage Act
	3.7 Proportion of expenditure by forest management agencies on cultural heritage
4. Resources and training	4.1 Proportion of forest agency expenditure devoted to cultural heritage training of agency staff
	4.2 Proportion of forest management agency staff who have completed a cultural heritage management course within the last 5 years
	4.3 Proportion of forest management agency staff with tertiary qualifications in cultural heritage or a related field
	4.4 Number of, and level of funding for, programs for community-based heritage education programs
5. Employment and community needs	5.1 Proportion of senior management positions held by Aboriginal persons
	5.2 Number of Aboriginal persons permanently employed in cultural heritage management by forest agencies
	5.3 Number of, and level of funding for, community-based employment development programs with a cultural heritage component
6. Community representation	6.1 Number of management advisory committees which include regional Aboriginal community representatives
	6.2 Number of management advisory committees which include regional non-Aboriginal heritage representatives

5.4.2 Management Review

The senior management of each agency is to periodically review policies, procedures and processes for the protection of heritage values. This review is to be documented and is to address the need for changes to policy, objectives and procedures with regard to audits, external regulatory changes, community expectations and a commitment to continual improvement.

Protective Mechanism – Management Review

Forest agencies should undertake formal reviews of policies, procedures and processes relating to the Southern Region every two years. Such reviews should include participation by external stakeholders including regulatory agencies and Aboriginal community representatives.

5.4.3 Review of Protective Mechanisms

These Protective Mechanisms should be reviewed no later than twelve months after they have been accepted by the Cultural Heritage Working Group. The review should be co-ordinated by the NPWS and the Heritage Office and should invite input from other government, industry and community stakeholders.

5.5 SUMMARY OF RECOMMENDED AGENCY ACTIONS

Table 2 summarises actions for each agency or collectively for several agencies.

TABLE 2. ACTIONS RECOMMENDED FOR AGENCIES

Agency	Protective Mechanisms
DLWC	<p>Assess cultural heritage values during preparation of plans of management and consult with stakeholders (see Section 5.2.6)</p> <p>Update draft Crown Land Assessment Manual (see Section 5.3.4)</p>
Heritage Office	<p>Provide support to forest agencies in adapting the SHI to their needs (see Section 5.3.4)</p>
NPWS	<p>Assess performance of cultural heritage management programs in 'state of the parks' reporting (see Section 5.2.5)</p> <p>Identify cultural heritage programs in plans of management and prepare conservation management plans for significant items and places identified during the Southern CRA (see Section 5.2.6)</p> <p>Audit the ASR to identify the extent of site duplication (see Section 5.3.4)</p> <p>Support establishment of Aboriginal community-based site registers (see Section 5.3.4)</p> <p>Consider how information obtained during the Southern Cultural Mapping Project can be used to inform land management by other agencies (see Section 5.3.4)</p>
SFNSW	<p>Assess cultural heritage values and identify management requirements during preparation of regional ESFM plans (see Section 5.2.6)</p> <p>Include cultural heritage management in annual ESFM reports (see Section 5.3.3)</p> <p>Develop a procedures document for managing non-Aboriginal heritage (see Section 5.3.4)</p> <p>Transfer all relevant data into the SHI database and make accessible to regional planning staff (see Section 5.3.4)</p> <p>Review methodology for identifying cultural heritage values during the preparation of harvesting plans (see Section 5.3.6)</p> <p>Review clauses in harvesting plans relating to maintenance activities in the vicinity of heritage places and items (see Section 5.3.6)</p>
NPWS and SFNSW	<p>Include requirements under s.91 of the NPW Act in relation to agreements concerning the use of ASR information (see Sections 5.2.3 and 5.3.4)</p> <p>Commission regional heritage assessments utilising the priorities identified by Pearson and Rosen (1997) (see Section 5.2.7)</p> <p>Complete social value assessments for places which could not be completed during the Southern Region community heritage values project (see Section 5.2.7)</p> <p>Include cultural heritage component in audit programs (see Section 5.4.1)</p>
Heritage Office and NPWS	<p>Review CAR reserve criteria and commission Southern Region pilot project (see Section 5.2.2)</p> <p>Ensure permits and consents identify responsibilities of permit or consent holder in relation to contractors or other parties (see Section 5.2.3)</p> <p>Co-ordinate development of protocols for intellectual property rights in relation to heritage register information (see Section 5.3.4)</p>

Agency	Protective Mechanisms
DLWC, NPWS and SFNSW	<p>Ensure field manuals and guidelines are reviewed every two years (see Section 5.2.3)</p> <p>Incorporate Heritage Act amendments into management documentation and training materials (see Sections 5.2.3, 5.3.5)</p> <p>Include cultural heritage management requirements in fire management plans and incident response procedures (see Section 5.2.4)</p> <p>Consult with Aboriginal communities and heritage agencies during preparation of fire management plans and incident response procedures (see Sections 5.2.4, 5.3.7)</p> <p>Include measures for the protection of cultural heritage values in post-fire rehabilitation plans (see Section 5.2.4)</p> <p>Identify targets for cultural heritage protection in business plans and regional ESFM plans (see Section 5.2.5)</p> <p>Review management recommendations identified in place recordings prepared during the Southern Region heritage assessments (see Section 5.2.6)</p> <p>Develop systems for recording and sharing information on stakeholder contacts (see Section 5.2.8)</p> <p>Include cultural heritage accountabilities in field management position descriptions (see Section 5.3.1)</p> <p>Communicate organisational structures and responsibilities to external stakeholders (see Section 5.3.1)</p> <p>Target personnel with cultural heritage management skills and qualifications in filling field management appointments (see Section 5.3.1)</p> <p>Develop a structured cultural heritage training program for agency staff (see Section 5.3.2)</p> <p>Include cultural heritage management in contractor induction programs (see Section 5.3.2)</p> <p>Provide support to an annual community heritage training workshop (see Section 5.3.2)</p> <p>Develop MOUs with stakeholder groups (see Section 5.3.3)</p> <p>Develop MOUs with agencies responsible for utilities or emergency services facilities (see Section 5.3.3)</p> <p>Develop MOUs with relevant parties for items or places which cross land tenures (see Section 5.3.3)</p> <p>Adopt the SHI as the standard database for non-Aboriginal heritage (see Section 5.3.4)</p> <p>Reach agreement over mutual access to agency s.170 Registers (see Section 5.3.4)</p> <p>Provide training to employees in the use of heritage registers (see Section 5.3.4)</p> <p>Ensure that procedures are in place for the assessment and protection of cultural heritage values as part of EIA processes and contractor management (see Section 5.3.6)</p> <p>Identify employee responsibilities in the management of incidents (see Section 5.3.7)</p> <p>Include provision for performance monitoring and evaluation in management programs (see Section 5.4.1)</p> <p>Maximise opportunities for engaging Aboriginal communities to undertake monitoring programs (see Section 5.4.1)</p> <p>Review policies, procedures and management processes every two years and maximise opportunities for participation by external stakeholders in this review (see Section 5.4.2)</p>

Table 2 continued

Agency	Protective Mechanisms
Heritage Office, NPWS and SFNSW	<p>Confirm requirements for identifying, assessing and protecting cultural heritage values during the preparation and implementation of regional ESFM plans (see Section 5.2.1)</p> <p>Develop model provisions for inclusion in harvesting plans (see Section 5.2.3 and 5.3.6)</p> <p>Develop cultural heritage management guidelines to be attached to the Southern Region IFOA (see Section 5.2.3)</p>
DAA, NPWS, NSWALC and TAFE	Identify opportunities for community-based training for Aboriginal people (see Section 5.3.2)
Commonwealth/State Government Heritage Agencies	Identify partnership opportunities in the Indigenous Protected Areas program (see Section 5.2.6)
All agencies	<p>Develop partnership programs with Aboriginal communities in protecting heritage values (see Section 5.2.7)</p> <p>Develop a cross-agency approach to regional planning for cultural heritage management (see Section 5.2.8)</p> <p>Convene an annual heritage issues forum comprising participants from government, industry, professional bodies and community groups (see Section 5.3.3)</p> <p>Ensure manuals and guidelines are accessible to the community (see Section 5.3.4)</p> <p>Review management documentation at least every two years (see Section 5.3.5)</p>

Table 2 continued

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APPENDIX A. GLOSSARY

Aboriginal area - an area dedicated for the protection of Aboriginal sites

Aboriginal place - a declared area of special Aboriginal cultural significance

Aboriginal site - a location where there is material evidence of Aboriginal occupation

Comprehensive Regional Assessment - a joint scientific assessment of all forest values (environmental, heritage, economic and social) by the Commonwealth and State Governments leading to the signing of a Regional Forest Agreement

conservation agreement - an agreement negotiated with a landowner to protect areas with natural and/or cultural heritage value

cultural heritage - the term 'cultural heritage' generally refers to the past and present cultural associations of people. Cultural heritage can be tangible in the form of physical manifestations such as buildings or artefacts or intangible in the form of spiritual or social associations, songs, stories and practices.

cultural significance - social, aesthetic, historic or scientific value for present, past or future generations

Ecologically Sustainable Forest Management - managing forest so that they are sustained in perpetuity for the benefit of society by ensuring that the values of forests are not lost or degraded for current and future generations

Forest Agreement - an agreement made under the *Forestry and National Park Estate Act, 1998* between NSW Ministers

heritage item - place, building, work, relic, moveable object or precinct

historic site - an area set aside for cultural heritage conservation purposes

Integrated Forestry Operations Approval - an approval made under the *Forestry and National Park Estate Act, 1998*

protected archaeological area - an area, negotiated with individual property owners for the protection of Aboriginal sites

Regional Forest Agreement - an agreement made between the Commonwealth and a State Government about the long-term management and use of forests in a particular region

APPENDIX B. HERITAGE ASSESSMENT CRITERIA

The value of a cultural heritage item or place is determined by assessment against a set of significance criteria which reflect its historic, social, aesthetic, scientific and other values (Lennon 1998:40). These values are contained in the definition of the National Estate (see the *Australian Heritage Commission Act, 1975*). A place that is a component of the natural or cultural environment can be listed on the Register of the National Estate if it has significance or other special value because of:

- **Criterion A:** its importance in the course, or pattern, of Australia's natural or cultural history
 - ◇ A1: Importance in the evolution of Australian flora, fauna, landscapes or climate
 - ◇ A2: importance in maintaining existing processes or natural systems at the regional or national scale
 - ◇ A3: Importance in exhibiting unusual richness or diversity of flora, fauna, landscapes or cultural features
 - ◇ A4: Importance for association with events, developments or cultural phases which have had a significant role in the human occupation and evolution of the nation, State, region or community
- **Criterion B:** its possession of uncommon, rare or endangered aspects of Australia's natural or cultural history
 - ◇ B1: Importance for rare, endangered or uncommon flora, fauna, communities, ecosystems, natural landscapes or phenomena, or as a wilderness
 - ◇ B2: Importance in demonstrating a distinctive way of life, custom, process, land-use, function or design no longer practiced, in danger of being lost, or of exceptional interest
- **Criterion C:** its potential to yield information that will contribute to an understanding of Australia's natural or cultural history
 - ◇ C1: Importance for information contributing to a wider understanding of Australian natural history, by virtue of its use as a research site, teaching site, type locality, reference or benchmark site
 - ◇ C2: Importance for information contributing to a wider understanding of the history of human occupation of Australia
- **Criterion D:** its importance in demonstrating the principal characteristics of:
 - a class of Australia's natural or cultural places; or
 - a class of Australia's natural or cultural environments.
 - ◇ D1: Importance in demonstrating the principal characteristics of the range of landscapes, environments or ecosystems, the attributes of which identify them as being characteristics of their class
 - ◇ D2: Importance in demonstrating the principal characteristics of the range of human activities in the Australian environment (including way of life, custom, process, land –use, function, design or technique)

- **Criterion E:** its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group
 - ◇ E1: Importance for a community for aesthetic characteristics held in high esteem or otherwise valued by the community
- **Criterion F:** its importance in demonstrating a high degree of creative or technical achievement at a particular period
 - ◇ F1: Importance for its technical, creative, design or artistic excellence, innovation or achievement
- **Criterion G:** its strong or special associations with a particular community or cultural group for social, cultural or spiritual reasons
 - ◇ Importance as a place highly valued by a community for reasons of religious, spiritual, symbolic, cultural, educational or social associations
- **Criterion H:** its special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history
 - ◇ Importance for close associations with individuals whose activities have been significant within the history of the nation, State or region

At the NSW level, there are four broad criteria used to assess the heritage significance of an item (Heritage Manual 1996a). These are similar to the criteria used for the Register of the National Estate. The four criteria are:

- **historical significance** (evolution and association). An item having this value is significant because of the importance of its association with, or position in the evolving pattern of our cultural history;
- **aesthetic significance** (scenic/architectural qualities/creative accomplishment). An item having this value is significant because it demonstrates positive visual or sensory appeal, landmark qualities and/or creative or technical excellence;
- **technical/research significance** (archaeological, industrial, educational, research potential and scientific significance values). Items having this value are significant because of their contribution or potential contribution to an understanding of our cultural history or environment; and

social significance (contemporary community esteem). Items having this value are significant through their social, spiritual or cultural association with a recognisable community.

There are two criteria used to assess the degree of significance:

- **representativeness.** Items having this value are significant because they are fine representative examples of an important class of significant items or environments; and
- **rarity.** An item having this value is significant because it represents a rare, endangered or unusual aspect of our history or cultural environment.

Although National Estate criteria do not recognise levels of significance according to geographic or societal contexts, the NSW system does recognise levels of significance. **Local heritage** comprises items significant in a local historical or geographical context or to an identifiable contemporary local community. **Regional heritage** comprises items significant in a regional historical or geographical context or to an identifiable contemporary regional community. **State heritage** comprises items significant in a statewide historical or geographical context or to an identifiable contemporary statewide community.

Assessment of the significance of Aboriginal sites in NSW usually takes a different approach to significance assessment in relation to non-Aboriginal heritage. Since all existing Aboriginal sites in NSW are protected by the NPW Act, significance assessment normally is only undertaken when a site is threatened or potentially threatened by development or when a plan of management for a site or area is being developed (NPWS 1997). The Service's *Standards Manual for Archaeological Practice in*

Aboriginal Heritage Management which forms part of the *Aboriginal Cultural Heritage Standards & Guidelines Kit* (1997) outlines assessment criteria for archaeological significance and significance to Aboriginal communities.

APPENDIX C. RECOMMENDATIONS OF SOUTHERN REGION AND STATEWIDE STUDIES

Issue	Recommendation	Reference	CHWG Response
Community heritage values	<p>Improve process for planning and holding workshops</p> <p>Validate accuracy of data during workshops and data processing phases</p> <p>Better integration of place data from workshops and existing databases</p> <p>Improve community access to final Inventory of Places</p> <p>Complete social value assessments for places which could not be fully assessed</p>	Community Heritage Values Project Identification and Assessment Project – Southern Region (Context P/L 1999)	
Thematic studies	Commissioning of community histories including oral histories and regional heritage studies of the forestry, mining, pastoral and agricultural industries	Pearson (1997)	All agencies to recognise as a management priority. Extend thematic studies to include natural heritage (old growth, wilderness, rainforest).
Non-Aboriginal forest history	Recommendations for management of individual heritage items	Thematic forest history and heritage assessment (non-Indigenous) Southern CRA Region (Bickford et al 1999)	
Assessment of Aesthetic Significance	<p>Limitations of project methodology identified and recommendations for integration of results with other CRA projects</p> <p>Management recommendations made for individual places in the inventory forms</p>	Assessment of Places of Aesthetic Significance Within Forested Areas of the NSW CRA Regions, Stage 2 Southern Region (Hibbard 1999)	
Heritage data management	<p>Forest agencies to adopt SHI as the primary database for non-Aboriginal heritage</p> <p>Forest agencies to adopt common standards for the recording, assessment and data entry of places to be listed on the SHI</p> <p>Existing data, including all site records, held by forest agencies to be transferred to the SHI</p> <p>Known sites and places to be assessed using SHI assessment criteria</p> <p>Regularly update the annotated bibliography</p> <p>Enter all existing and new site and place location data into the GISs of the forest agencies as it is collected and verified</p>	Pearson (1997)	<p>Heritage Office to develop Stage 2 of the SHI in consultation with the forest agencies</p> <p>Forest agencies to adopt the guidelines in the NSW Heritage Manual</p> <p>Forest agencies to act on this</p> <p>Forest agencies to act on this</p> <p>NPWS to be agency 'owner' of bibliography and to be responsible for coordinating updates</p> <p>Forest agencies to act on this</p>

Issue	Recommendation	Reference	CHWG Response
Forest planning and EIA	SFNSW to identify the requirements for heritage assessments at the pre-harvest plan stage	Pearson (1997) and Lomax (1997)	To be included as a condition in the IFOAs
	Forest agencies to review the requirements for further regional scale archaeological surveys	Lomax (1997)	Forest agencies to implement a review
	Forest agencies to develop an overarching conservation strategy for the management of archaeological resources including strategies for the management of different site types		Forest agencies to develop a strategy

Appendix C continued

APPENDIX D. GUIDE TO HERITAGE LEGISLATION

This is intended as a general guide to the legislative framework for the protection of cultural heritage values and the advice of a qualified heritage practitioner should be sought if more detailed advice is required.

Apart from legislation primarily intended for Aboriginal, natural and historic heritage protection, legislation relating to environmental planning and assessment and land management is also relevant.

NSW HERITAGE LEGISLATION

National Parks and Wildlife Act, 1974

The Act provides for the protection of Aboriginal relics (commonly referred to as sites) across NSW, regardless of significance, land tenure and whether or not they are recorded in the NPWS Aboriginal Sites Register. The term “relic” includes artefacts, deposits and Aboriginal ancestral (skeletal) remains. All relics are deemed to be the property of the Crown, and the Director-General of the NPWS is the only authority empowered to have dealings with such property.

The Act also provides for the protection of areas that have been declared to be “Aboriginal Places” by the Minister. An Aboriginal Place is an area of land that “was or is of special significance to Aboriginal culture”.

It is an offence to knowingly disturb, deface or cause or permit the destruction of relics or an Aboriginal place without the written consent of the NPWS (s.90). It is also an offence to disturb land for the purposes of discovering or removing relics without a permit from the NPWS (s.87). Non-compliance with conditions on any consent or permit is also an offence under the NPW Act. The NPW Act provides for prosecution and the imposition of financial penalties and/or imprisonment for offences.

Reporting the discovery of previously unknown Aboriginal sites to NPWS within a reasonable time of discovery is obligatory (s.91).

Provision exists for the making of interim protection orders to protect an area which is of cultural significance for up to two years.

In addition to responsibilities for Aboriginal heritage, the Act also identifies the gazettal of “Historic Sites” for the conservation of non-Aboriginal places as a role for the NPWS. Places suitable for gazettal as Historic Sites are areas that are the sites of buildings, objects, monuments, or events of national significance. In addition the NPWS has a responsibility to identify and conserve historic places lying with national parks and nature reserves. Parts of national parks can be specifically reserved for a variety of purposes including ‘Historic Areas’ for the preservation of areas of historical significance to the state.

Under s.72 the NPWS is required to prepare plans of management for each area (or groups of areas) reserved or dedicated under the Act. This includes Historic Sites.

The *National Parks and Wildlife Amendment (Aboriginal Ownership) Act 1996* allows for the return of national parks and reserves of Aboriginal cultural significance to Aboriginal people, joint management arrangements through establishment of boards of management with an Aboriginal majority, and the transfer of ownership of Aboriginal relics to the Aboriginal owners.

The Act also defines that “land is of cultural significance to Aboriginals if the land is significant in terms of the traditions, observances, customs, beliefs or history of Aboriginals”. The Act requires the Director-General to consider and comment on certain matters when reporting to the Minister on the cultural significance to Aboriginal people of particular lands administered by the NPWS.

National Parks and Wildlife (Land Management) Regulation, 1995

The Regulations prohibit disturbance or removal of cultural heritage items on national park estate. This includes disturbance or removal of non-Aboriginal deposit, object or material evidence if the deposit, object or material evidence is more than **25** years old.

Heritage Act, 1977 (including Heritage Amendment Act, 1998)

The Act aims to conserve the environmental heritage of NSW. “Environmental heritage” is defined as those places, buildings, works, relics, moveable objects, and precincts, of State or local heritage significance.

The Act establishes the Heritage Council of NSW which has twelve members. The Council is empowered to investigate and make recommendations to the Minister for Urban Affairs and Planning in relation to the administration of the Act, conservation and access to items of environmental heritage, and provision of information. The Council is also responsible for keeping a State Heritage Inventory comprising items of State and local heritage significance.

The Council is assisted in its work by the Heritage Office. Although the Office reports to the same Minister, it has a Directorship independent of the Heritage Council.

Parts 3 and 4 of the Act provide a system of conservation orders which provide for minimum standards of maintenance and repair for items listed on the State Heritage Register and to provide for the enforcement of those standards.

Following advice from the Heritage Council, the Minister may make interim heritage orders for items of State or local heritage significance. The Minister may also delegate powers to local councils to make orders relating to items of local significance.

An order may impose various restrictions designed to protect and conserve the affected item. Orders can also apply to moveable items, not just buildings, works, relics and sites.

The making of an order is published in the Gazette and the affected owner or occupier must be informed. Orders remain in force for up to 12 months unless the item is listed on the State Heritage Register.

On the recommendation of the Heritage Council, the Minister can direct the listing of an item on the State Heritage Register.

There is provision for public notification of a proposed listing and the Minister may decide to refer a proposed listing to a Ministerial review Panel or a Commission of Inquiry.

The Minister may enter into a heritage agreement with the owner of an item that is listed on the State Heritage register with respect to the conservation of the item. Agreements can include restrictions on the use of the item or land on which it is located, the standards under which work is to be carried out and the provision of financial and technical advice. An agreement can also be registered on the title of the land affected.

Where an interim heritage order or listing on the State Heritage Register applies to a place, building, work, relic, moveable object, precinct, or land; restrictions are imposed on development and other activities.

There is scope for the Minister or local council to grant exemptions to conditions and development by the Crown is exempt from interim heritage orders made by local councils.

Councils are required to ensure that LEPs contain heritage conservation provisions for items of environmental heritage.

The Heritage Incentive Fund is used to provide financial assistance to the owner of an item or land subject to a heritage agreement.

It is an offence to allow a protected item to fall into disrepair for the purpose of affecting its demolition and the Heritage Council has the power to order repairs (or carry them out itself). The Minister can impose bans on redevelopment of an item or the land on which it is situated.

An excavation permit from the Heritage Council is required where a person knows or has reasonable cause to suspect that the excavation will or is likely to result in a relic being found or where the person has already found a relic on the land. There is also an obligation to inform the Heritage Council of the discovery of a relic.

A relic is a deposit, object or material evidence of non-Aboriginal settlement more than **50** years old.

Government instrumentalities (including State-owned corporations) are required to maintain registers of items of environmental heritage that they own or occupy (s.170 registers). Obligations by government instrumentalities include notification to the Heritage Council of proposed dealings with heritage items, compliance with State-Owned Heritage Management Principles and reporting requirements.

COMMONWEALTH HERITAGE LEGISLATION

Australian Heritage Commission Act, 1975

The Act establishes the Australian Heritage Commission and the Register of the National Estate. National Estate places are defined as those places with “aesthetic, historic, scientific or social significance or other special value for future generations as well as for the present community. Under s.30 of the Act, the Commonwealth is constrained from taking any action which may adversely affect a place listed in the Register of the National Estate unless there is no feasible or prudent alternative.

Aboriginal and Torres Strait Islander Heritage Protection Act, 1984

The aim of the Act is the preservation and protection from injury or desecration of areas and objects that are of particular significance to Aboriginal communities. The Commonwealth Minister responsible for administering the Act has the power to make a declaration in relation to an area, once the Minister is satisfied that the area is of Aboriginal significance and that there is insufficient protection for the area under State or Territory legislation.

The World Heritage Properties Conservation Act, 1983

The Act was enacted to identify and protect Australia’s places of world heritage significance. Under the Act “identified properties” are eligible for protection by proclamation by the Governor-General, if the Governor-General is satisfied that the property is “being or is likely to be damaged or destroyed.” Property or part of a property is considered to be identified if:

- it has been nominated for inclusion on the World Heritage List; or
- it is subject to an official inquiry to determine whether or not it is part of the cultural and/or natural heritage as defined in the World Heritage Convention; or
- it is recognised in the World Heritage List as part of the cultural and/or natural heritage.

Other Heritage Legislation

The following may also be of relevance to forest managers.

- *Wilderness Act, 1987* (NSW)
- *National Trust of Australia Act, 1960* (NSW)
- *Protection of Movable Cultural Heritage Act, 1986* (Commonwealth)

NSW ENVIRONMENTAL PLANNING AND ASSESSMENT LEGISLATION

Environmental Planning and Assessment Act, 1979

Planning under the Act is the process of developing plans to regulate competing land uses. This is achieved through environmental planning instruments (EPIs). The Act establishes three types of EPIs:

- State environmental planning policies (SEPPs)
- Regional environmental plans (REPs)
- Local environmental plans (LEPs)

EPIs must set out aims and objectives designed to achieve any of the objectives of the Act and policies and strategies for achieving these objectives. These may include protection of heritage values. SEPPs and REPs cover matters which the Minister for Urban Affairs and Planning believes are of regional or State significance.

LEPs are prepared by local councils and may apply to the whole or part of a local government area.

The Act also establishes the system for the environmental assessment of proposed activities and developments. In order to decide the process to be followed for obtaining approval, the following should be consulted:

- the relevant local environmental plan and regional environmental plan;
- Schedule 1 of the Environmental Planning & Assessment Model Provisions 1980, where this is called up by the relevant local environmental plan or regional environmental plan;
- Schedule 3 of the Environmental Planning & Assessment Regulation; and
- State Environmental Planning Policy No. 4, particularly Clauses 10 and 11.

It is the responsibility of the proponent to determine if development consent is required under Part 4 of the Act or it is to be determined under Part 5 of the Act.

A development application must be lodged with the relevant consent authority, usually the local council.

Depending on the requirements of relevant planning instruments, a Statement of Environmental Effects may need to be prepared and submitted with the development application.

An Environmental Impact Statement will be required for "designated development" as set out in Schedule 3 of the Environmental Planning & Assessment Regulation or in the relevant local environmental plan or if the consent authority requires one.

Consent by a consent authority may be refused, granted or granted subject to conditions. Conditions must be complied with and may include the requirement to obtain certain licences or approvals from regulatory authorities such as the National Parks and Wildlife Service, Heritage Office and the Environment Protection Authority.

If development consent under Part 4 of the Environmental Planning & Assessment Act is not required and if the proposal is an "activity" within the meaning of Section 110 of the Environmental Planning & Assessment Act, the determining authority must not carry out the activity or give its approval for someone else to do so without first considering the environmental impact of the proposed activity. Public authorities will normally be both proponent and determining authority for its own "activities".

As a determining authority, Section 111 of the Environmental Planning & Assessment Act requires public authorities to "examine and take account to the fullest extent possible all matters affecting or likely to affect the environment..." The likely impact of an activity is assessed by reference to a number of factors set out in Clause 82 of the Environmental Planning & Assessment Regulation, 1994.

In the case of activities involving only minor environmental impact, a Review of Environmental Factors should be prepared.

If the proposed activity is likely to significantly affect the environment, an Environmental Impact Statement must be prepared by or on behalf of the proponent, and must be examined and considered by the proponent in reaching its determination.

Whether or not an impact is "significant" must be decided having regard to the nature of the activity and the environment in question. Guidance on assessing the significance of an impact is given in the Department of Urban Affairs and Planning publication "Is an Environmental Impact Statement Required? Best Practice Guidelines for Part 5 of the Environmental Planning and Assessment Act 1979".

Matters to be covered in an Environmental Impact Statement are set out in Schedule 2 of the Environmental Planning & Assessment Regulation 1994.

Determination of activities involving significant environmental impact can be expected to be made at senior management level. Where an Environmental Impact Statement has been prepared and exhibited, the determining authority must report on its consideration of the findings and recommendations. This report (known as a 'Clause 91 Report') must be made public.

Local Government Act, 1993

The Act requires councils to have regard to the protection of the environment in carrying out their responsibilities.

Development approvals may be required under the Local Government. The scope for seeking approval is given in Section 68 of the Act. It should be noted that under Section 69 of the Act, the Crown is not required to seek the approval of a local council to erect or demolish a building (but this does not remove the need to obtain development consent under the Environmental Planning and Assessment Act, where such consent is required).

Protection of the Environment Operations Act, 1997

The Act introduces Protection of the Environment Policies for the purposes of setting environmental goals, standards, guidelines and protocols for government decision-makers. It also introduces a single licensing arrangement that covers all relevant forms of pollution and both the development and operational stages of controlled activities.

NSW LAND MANAGEMENT LEGISLATION

Forestry and National Park Estate Act, 1998

The Act makes provision for forestry and national park operations following regional resource and conservation assessments, transfers certain State Forests and other Crown lands to national park estate or Aboriginal ownership and provides for a system of integrated approvals for future forestry operations.

Forest agreements are made in respect of a region that has been the subject of a regional forest assessment carried by or on behalf of the Resource and Conservation Assessment Council. Issues to be considered during an assessment include "environment and heritage values (including Aboriginal heritage)".

Integrated forestry operations approvals provide a framework for forestry operations and apply to the whole or part of an area covered by a forest agreement. They also integrate the regulatory regimes for environmental planning and assessment, for the protection of the environment, and cultural heritage for threatened species conservation. Approvals can have effect for up to 20 years.

Provisions of the *Environmental Planning and Assessment Act, 1979* such as Part 5 do not apply in respect of the carrying out, or the granting of an approval in relation to, forestry operations during any period that an integrated forestry operations approval applies to those operations.

Soil Conservation Act, 1938

Generally, approval is required from the Department of Land and Water Conservation for any proposed "works" (including the destruction and removal of trees) on protected land.

Native Vegetation Conservation Act, 1997

The management of vegetation on private land is predominantly undertaken by the Department of Land and Water Conservation and local government.

The Act provides for the preparation of Regional Vegetation Management Plans (RVMPs) which are to provide a comprehensive strategy for managing native vegetation. In areas with an approved RVMP, all requirements relating to clearing, including exemptions, are to be contained in the Plan. It should be noted that the Act does not apply to land reserved under the *National Parks and Wildlife Act, 1974* or *Forestry Act, 1916*.

In areas without an RVMP, or approved Code of Practice, native vegetation can be cleared if the clearing is consistent with the exemptions in the Act and other local government clearing restrictions do not apply. Where exemptions do not apply, clearing can only be carried out if development consent is granted by the Department of Land and Water Conservation.

Other NSW Legislation

Approvals may be required under other legislation including:

- *Mining Act, 1992;*
- *Noxious Weeds Act, 1993;*
- *Fisheries Management Act, 1994;*
- *Dangerous Goods Act, 1975;*
- *Unhealthy Building Act, 1990;*
- *Waste Minimisation and Management Act, 1995;*
- *Threatened Species Conservation Act, 1995;*
- *Contaminated Land Management Act, 1997; and*
- *Rural Fires Act, 1997.*