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Environment Institute of Australia and New Zealand Inc.

The Australian Heritage Strategy and the EPBC Act

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Environment Protection Biodiversity Conservation Act Forum: 8 March 2016

I acknowledge the Ngunnawal people - the traditional custodians of this land on which we are meeting and pay respect to their Elders both past and present. I extend this respect to all indigenous people in attendance today.

Hope and wonder . . .

- Hope Inquiry 1975
- Commonwealth leadership
- ‘National’ estate

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Seminal Commonwealth role

- Australian Heritage Commission Act 1975
- Register of the National Estate
- No national – state – local thresholds
- Section 30 referral
- Commonwealth bound not to harm if there were 'prudent and feasible' alternatives

Those components of the natural or cultural environment of Australia that have aesthetic, historic, scientific, social or other special value for past, present or future generations

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Heritage Convention 1998

- Government and non-government participants
- Natural – historic – Indigenous framework
- National – state – local roles

EPBC Act amendments 2003

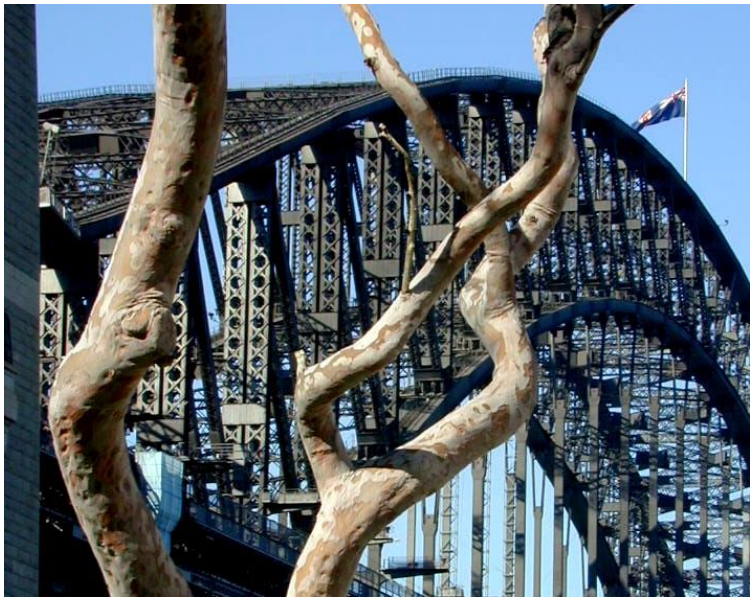

Photo: GML Heritage Pty Ltd

- Heritage inserted
- Sections 26 and 28 remain in effect
- World Heritage provisions
- National Heritage List
- Commonwealth Heritage List
- Demise of the RNE
- Matters of National Environmental Significance

Environment Protection Biodiversity Conservation Act

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Subsidiarity

- Productivity Commission Inquiry 2006
- Resources for conservation are limited
- Responsibility should vest in the appropriate level of government
- Duplicate processes and multiple consent authorities should be avoided
- Except in Tasmania……..until 2015

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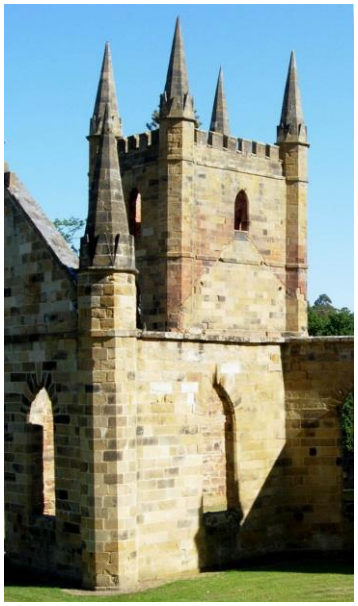
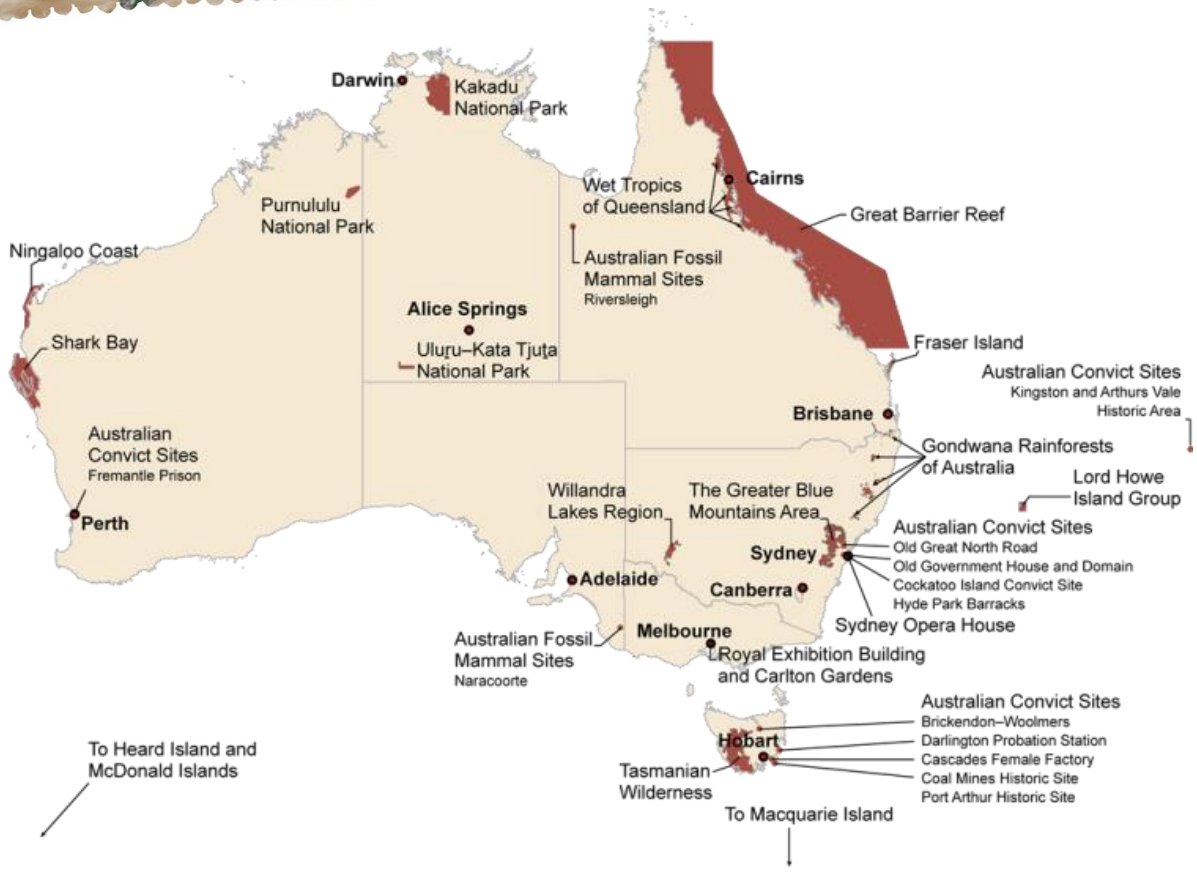
World Heritage





Source: World Heritage Areas, Australia (2011), Environmental Resources Information Network, Australian Government Department of Sustainability, Environment, Water, Population and Communities, based on Australian Coastline and State Borders 1:100 000 (1990), Geoscience Australia

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National Heritage List

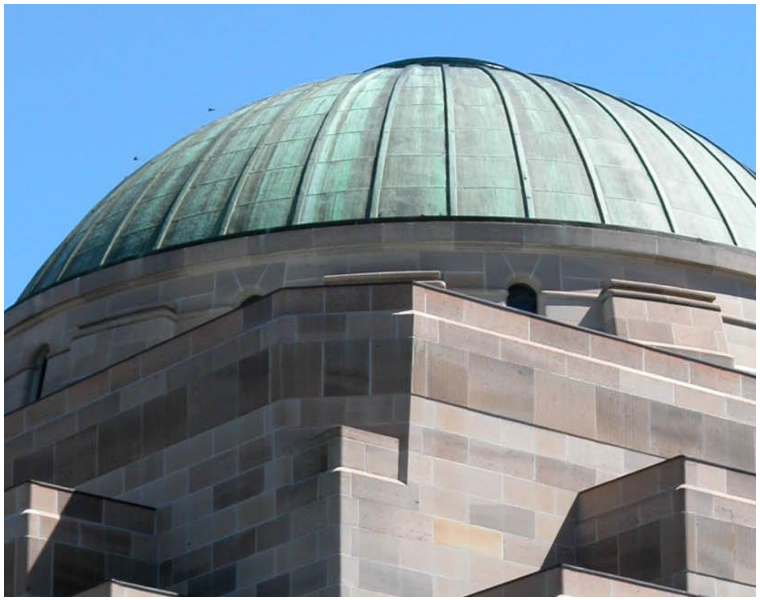

Photo: GML Heritage Pty Ltd

- Australia's nationally significant places
- Extent and profile of NHL not clear . . . more than a decade on
- Matter of National Environmental Significance
- 'Management Plan' requirement

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Commonwealth Heritage List

Photo: GML Heritage Pty Ltd

- Established under EPBC Act
- Heritage places in Commonwealth ownership or control
- Obligations for owners and managers
- Recent rationalization and removals
- Stringent disposal requirements

Management plans

- Required by EPBC Act
- Commonwealth agencies obliged
- NHL Places – 'best endeavours'
- Used for day-to-day asset management and for processes such as disposal
- Content governed by overly-prescriptive regulations

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Hawke review: management plans

Management Plans are potentially a very useful tool for managing places on the National and Commonwealth Heritage Lists, so as to retain and interpret their heritage values.

The framework and processes provided for Management Plans under the EPBC Act Regulations are inflexible and cumbersome and do not meet the needs of heritage places, nor of the people and agencies who own and manage them.

The review of the Act offers an opportunity to address these concerns and to achieve better heritage outcomes.

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Commonwealth property disposal

Photo: GML Heritage Pty Ltd

- A Commonwealth Heritage Place may only be disposed of in a manner which retains Commonwealth Heritage values
- Section 341ZE
- Disposal can be a referred or controlled activity
- Management plans can assist
- Defence Site Maribyrnong provides a 'heritage' case study :

  www.gml.com.au

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Section 26 and Section 28

Image: supplied by GML Heritage Pty Ltd

- Often overlooked by proponents
- Heritage values are included within EPBC definition of 'environment' (Section 528)
- Section 26 affects any action on Commonwealth land
- Section 28 affects any action taken by the Commonwealth
- 'Significant impact' threshold
- *Airports Act* anomaly . . .

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Enforcement?

Source: Jo McDonald, Jo McDonald Cultural Heritage Management

Dampier Archipelago National Heritage Place

Petroglyph in the immediate vicinity of the area affected by clearing, blasting and quarrying works

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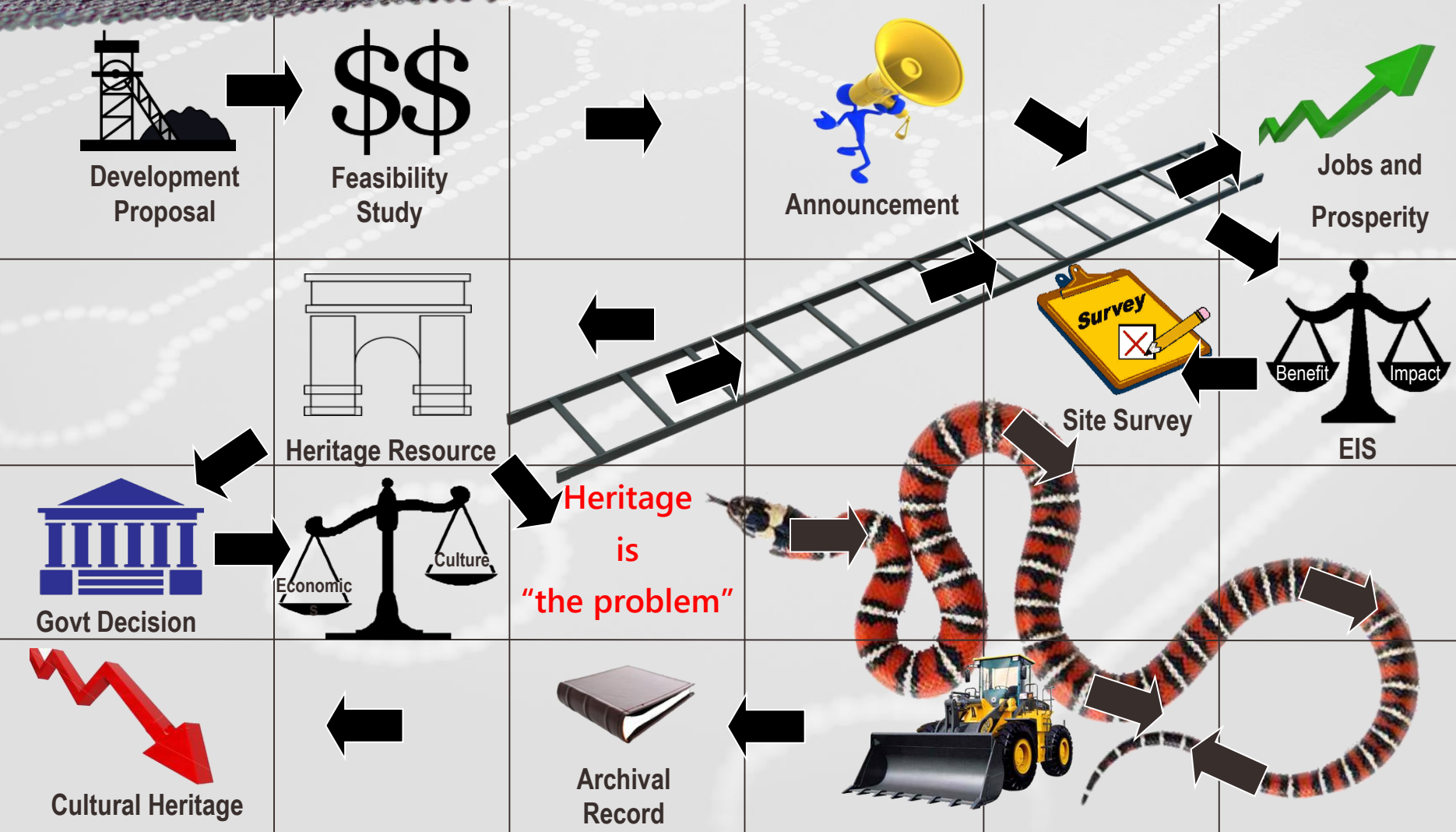
Reactive consent processes . . .



Reliance on lists and registers

Photo: GML Heritage Pty Ltd

- Significant unlisted places are at risk
- Lists and registers are incomplete
- SoE 2011:

  The outlook for Australia's heritage depends on . . . thorough assessments that lead to comprehensive natural and cultural inventories

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Australian Heritage Strategy

Launched December 2015

Three high-level outcomes:

- National Leadership
- Strong Partnerships
- Engaged Communities

http://www.environment.gov.au/heritage/publications/australian-heritage-strategy

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Australian Heritage Strategy

Vision

Our natural, historic and Indigenous heritage places are valued by Australians, protected for future generations and cared for by the community

Outcome 1
National leadership

Objectives:

1. Continue to support Australia's iconic World Heritage properties
2. Ensure Australia's National Heritage List truly reflects the Australian story
3. Effective management of the Commonwealth Heritage List
4. Contribute to international heritage standard setting and guidance

Outcome 2
Strong partnerships

Objectives:

5. Improve heritage policy and process alignment across all levels of government
6. Further develop heritage partnerships between government and other sectors
7. Explore innovative funding, resource sharing and creative partnerships
8. Foster greater collaboration between the heritage and tourism sectors

Outcome 3
Engaged communities

Objectives:

9. Focus protection efforts on Indigenous heritage
10. Promote greater awareness, knowledge and engagement with our national heritage
11. Provide consistent best practice standards and guidelines for heritage conservation and management

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Australian Heritage Strategy

Outcome 3
Engaged communities

Objectives:

9. Focus protection efforts on Indigenous heritage
10. Promote greater awareness, knowledge and engagement with our national heritage
11. Provide consistent best practice standards and guidelines for heritage conservation and management

Proposed actions	Delivery	Lead	Partners
Promote existing heritage sector best practice guidelines to empower community groups; for example, the *Burra Charter*, the *Natural Heritage Charter* and *Ruins* guidelines.	Ongoing	Department of the Environment	Australian Heritage Council; Australia International Council on Monuments and Sites, Australian Committee for International Union for Conservation of Nature Heritage Officials of Australia and New Zealand
Support the development of the *Framework for Best Practice Management of Australian World Heritage Properties* to provide a common approach for the management of Australia's World Heritage properties.	July 2016	Australian World Heritage Advisory Committee	World Heritage property managers Department of the Environment
Update the following best practice management guidelines for National Heritage and Commonwealth Heritage place managers: • *Australia's National Heritage, Working Together: Managing National Heritage Places—A guide for owners and managers* • *Working Together: Managing Commonwealth Heritage Places—A guide for Commonwealth Agencies.*	July 2016	Department of the Environment	Place managers
Provide guidance for regular, long-term monitoring, evaluation and reporting of World and National heritage value conditions, including through the research outcomes of the Australian Government's National Environmental Science Programme, which will consider World and National Heritage place management as a cross-cutting theme.	June 2021	Department of the Environment Australian Heritage Council Australian World Heritage Advisory Committee	Heritage Officials of Australia and New Zealand State and territory governments

National leadership

1. Continue to support Australia's iconic World Heritage properties
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Strong partnerships

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Engaged communities

9. Focus protection efforts on Indigenous heritage

10. Promote greater awareness, knowledge and engagement with our national heritage

11. Provide consistent best practice standards and guidelines for heritage conservation and management

Key objectives for EPBC Act

- ✓ Continue to support Australia's iconic World Heritage properties
- ✓ Ensure Australia's National Heritage List truly reflects the Australian story
- ✓ Effective management of the Commonwealth Heritage List
- ✓ Improve heritage policy and process alignment across all levels of government
- ✓ Focus protection efforts on Indigenous heritage

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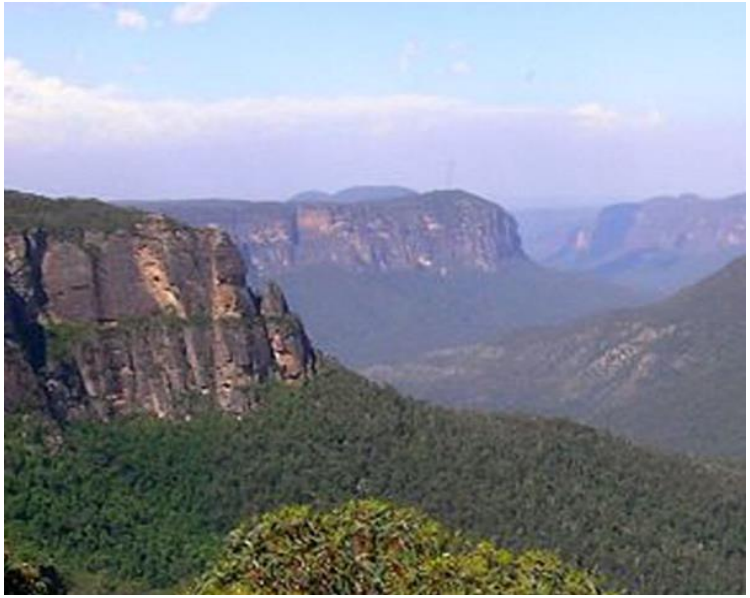
Support for World Heritage



Progressively review existing World Heritage places that have been listed for natural values only to identify whether the areas may contain internationally significant cultural heritage.

Support for World Heritage

rogressively review existing

World Herit

cultural heritage.

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National Heritage List

Determine future directions for the National Heritage List.

Streamline the existing National Heritage listing process through best practice administration of the EPBC Act requirements.

Review the National Heritage listing processes under the EPBC Act

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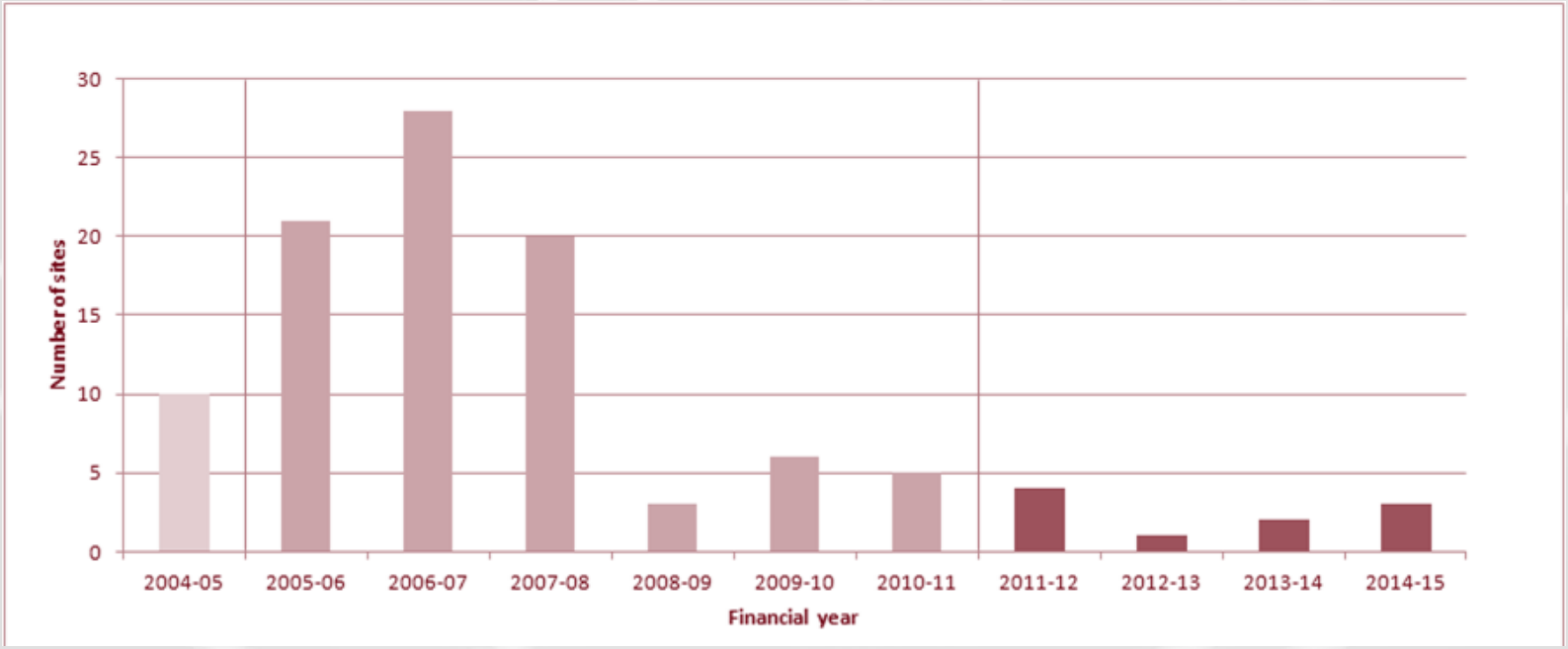
National Heritage List



Source: Department of the Environment 2016

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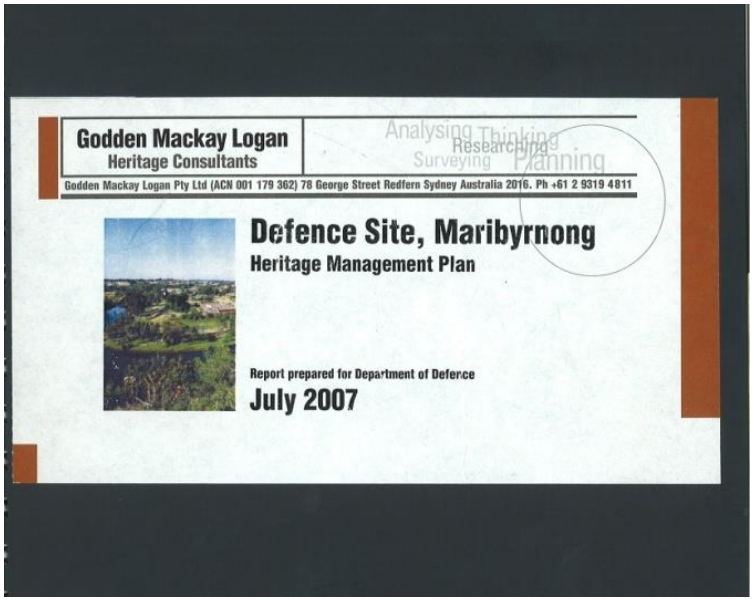
Commonwealth Heritage List



Source: The National Heritage List and Commonwealth Heritage List: 1 July 2008 – 30 June 2013, Commonwealth of Australia, 2013

Australian Government agencies to finalise plans for Commonwealth Heritage places

As at 30 June 2013:

- *c390 CHL places*
- *107 draft management plans under review and 7 in preparation*
- *2 actually finalised*

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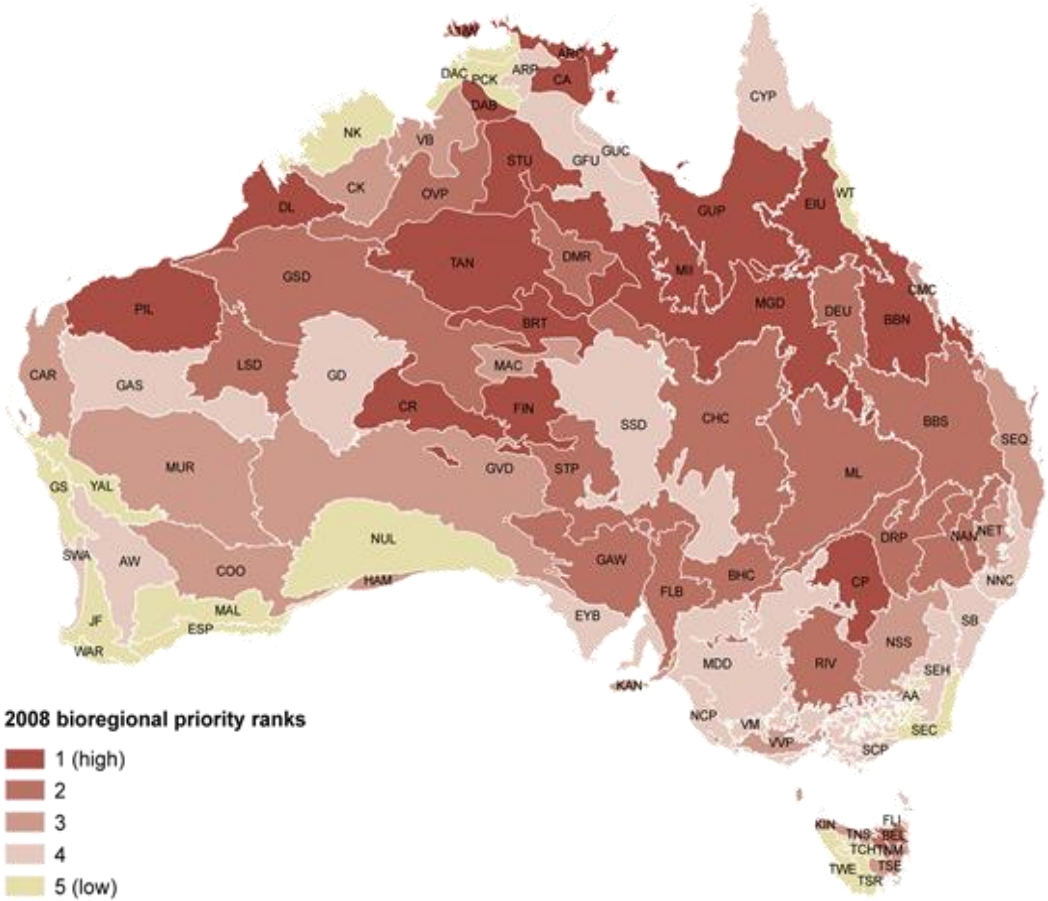
Improved heritage policy

Implement the One-Stop Shop policy through bilateral agreements between the Australian Government and states and territories in order to make it easier to navigate heritage regulations

Indigenous heritage: consistency

Promote a consistent approach to the recognition, protection and management of Indigenous heritage sites across all levels of government and other organisations

Priorities for bioregions



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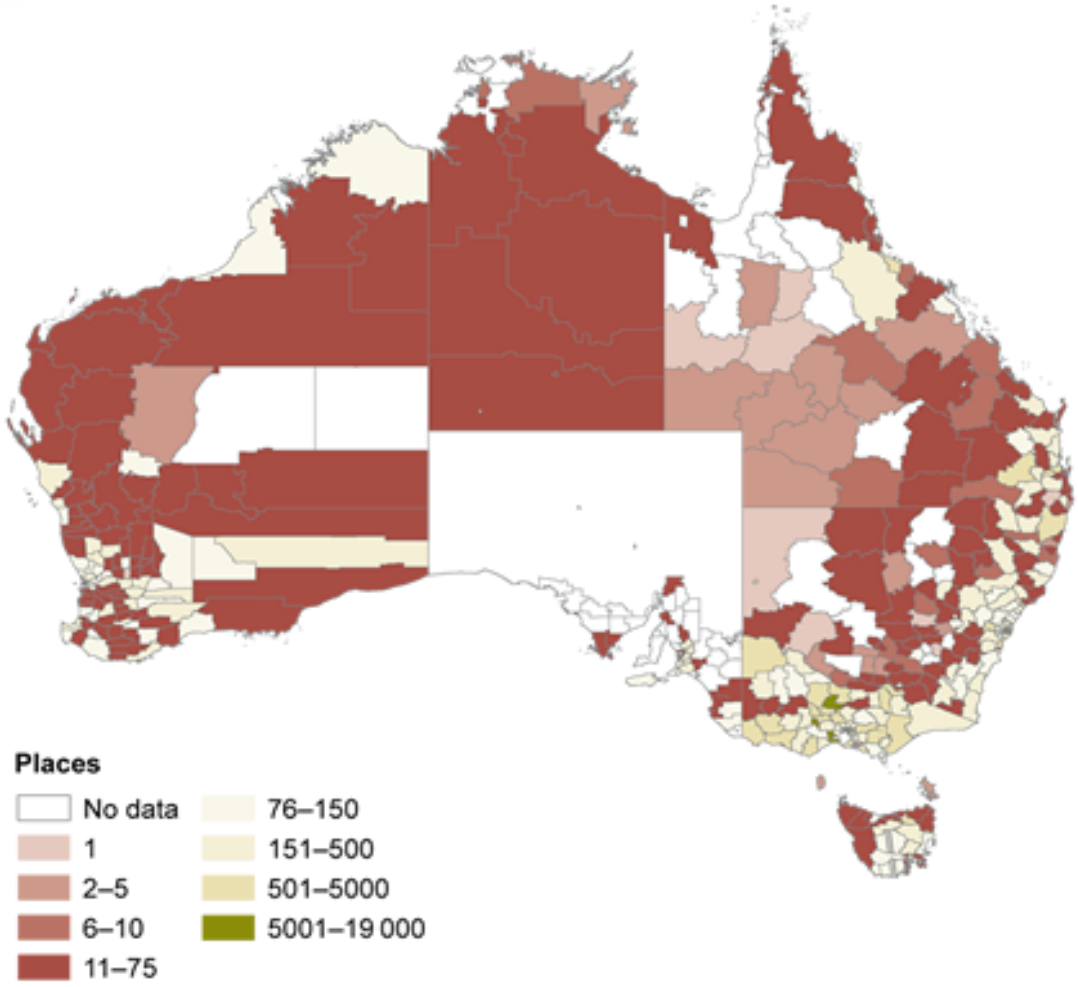
Source: SoE 2011

Locally listed heritage places



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Source: SoE 2011

National Indigenous heritage data

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Source: SoE 2011

The outlook?

The heritage provisions in the EPBC Act rely on:

- subsidiarity
- consistent values-based policy
- adequate statutory lists
- management plans

The *Australian Heritage Strategy* presents an opportunity to implement the EPBC Act 'model' for heritage as originally envisaged.

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