



New South Wales

# Heritage Amendment Act 2011 No 71

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New South Wales

# Heritage Amendment Act 2011 No 71

Act No 71, 2011

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An Act to amend the *Heritage Act 1977* in relation to the Heritage Council and the listing of items on the State Heritage Register; and for other purposes. [Assented to 28 November 2011]

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**The Legislature of New South Wales enacts:**

**1    Name of Act**

This Act is the *Heritage Amendment Act 2011*.

**2    Commencement**

This Act commences on a day or days to be appointed by proclamation.

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## **Schedule 1      Amendment of Heritage Act 1977 No 136**

**[1]    Section 4 Definitions**

Omit “Minister” from the definition of *approved form* in section 4 (1).  
Insert instead “Heritage Council”.

**[2]    Section 4 (1), definition of “Director-General”**

Omit the definition.

**[3]    Section 8 Members of Heritage Council**

Omit “11” from section 8 (1). Insert instead “9”.

**[4]    Section 8 (2)**

Omit the subsection. Insert instead:

- (2) The other member is to be the Director-General of the Department of Planning and Infrastructure.

**[5]    Section 8 (3)**

Omit “Six”. Insert instead “Five”.

**[6]    Section 8 (3) (a)**

Omit the paragraph.

**[7]    Section 8 (3A)**

Insert after section 8 (3):

- (3A) One of the other appointed members is to be a person who, in the opinion of the Minister, possesses qualifications, knowledge and skills relating to Aboriginal heritage.

**[8]    Section 8 (6)**

Insert “, (3A)” after “subsection (3)”.

**[9]    Section 21B**

Insert after section 21A:

**21B    Publication of certain submissions**

- (1) Any written submission in relation to State significant development that is made by the Heritage Council to a consent authority, or to any other person or body having functions under the *Environmental Planning and Assessment Act 1979* with

respect to the approval of that development, is to be made publicly available on the internet by the Heritage Council within 14 days after the submission is made.

- (2) In this section, ***State significant development*** means:
- (a) development that, were it not State significant development, State significant infrastructure or a transitional Part 3A project under the *Environmental Planning and Assessment Act 1979*, would require approval under Part 4 of this Act or an excavation permit under section 139 of this Act, or
  - (b) development that is State significant development, State significant infrastructure or a transitional Part 3A project under the *Environmental Planning and Assessment Act 1979* and that impacts on an item of State heritage significance that is not on the State Heritage Register or the subject of an interim heritage order.

**[10] Section 33 Procedure before recommendation for listing**

Omit “as soon as possible” from section 33 (1) (f).

Insert instead “within 14 days”.

**[11] Section 34**

Omit the section. Insert instead:

**34 Action by Minister following recommendation for listing**

- (1) Within 14 days after the Heritage Council makes a recommendation for listing to the Minister, the Minister must:
  - (a) decide whether or not to direct the listing and inform the Heritage Council of that decision, or
  - (b) request the Planning Assessment Commission to review the matter.
- (1A) On receiving a request to review a matter, the Planning Assessment Commission is to conduct its review and provide a report to the Minister within the time period specified in the regulations.
- (2) If the Minister requests a review by the Planning Assessment Commission, the Minister must, within 14 days after the Commission provides its report:
  - (a) consider that report, and

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- (b) decide whether or not to direct the listing, and
  - (c) inform the Heritage Council of that decision.
- (3) The Minister may make a request under this section on the Minister's own motion or after a request by an affected owner, mortgagee, lessee or occupier.
- (4) A decision of the Minister to direct, or not to direct, the listing on the State Heritage Register of an item that the Heritage Council has recommended be listed is to contain the reasons for listing or not listing the item and is to be made publicly available on the internet by the Heritage Council within 7 days after the decision is made.

**[12] Section 35 Ministerial Review Panel**

Omit the section.

**[13] Section 36 Planning Assessment Commission**

Insert "of the Department of Premier and Cabinet" after "Director-General" where firstly occurring in section 36 (1) (e).

**[14] Section 121 Failure to comply with order**

Insert "of the Department of Planning and Infrastructure" after "Director-General" in section 121 (5) (c).

**[15] Schedule 1 Savings and transitional provisions**

Insert at the end of clause 1 (1):

*Heritage Amendment Act 2011*

**[16] Schedule 1, Part 6**

Insert after clause 18:

**Part 6 Provisions consequent on enactment of  
Heritage Amendment Act 2011**

**19 Approved forms**

Any form approved by the Minister, being a form that is an *approved form* for the purposes of this Act immediately before the amendment of that definition by Schedule 1 [1] to the *Heritage Amendment Act 2011*, is taken to have been approved by the Heritage Council on the commencement of that amendment.

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Schedule 1      Amendment of Heritage Act 1977 No 136

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**20    Application of amendments that abolish Ministerial Review Panels**

The amendments made to this Act by Schedule 1 [11] and [12] to the *Heritage Amendment Act 2011* apply only in relation to a recommendation for listing that is made by the Heritage Council after the commencement of those amendments.

[Agreement in principle speech made in Legislative Assembly on 18 October 2011  
Second reading speech made in Legislative Council on 19 October 2011]

BY AUTHORITY