
*National Estate Listings: Current
procedures and suggested
improvements to liaison with
State Mines Departments*

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INTRODUCTION

The purpose of this record is to document the current procedures in place by which the Australian Heritage Commission (AHC) liaises with State Government agencies, and to suggest ways in which communication between the AHC and various State Government agencies can be improved.

CURRENT LIAISON PROCEDURES

Nominations

Anyone can recommend a place to the AHC as being worthy of entry into the Register of the National Estate. These nominations are circulated to various State Government agencies. In most cases, one agency co-ordinates a State response. The nominations contain a written description of the place, and these are transcribed by drafting sections in various State agencies. On occasions pieces of map are enclosed.

Nominations are circulated as follows:

TASMANIA

- Industry Safety and Mines Division (ISM);
- Department of Premier and Cabinet (DPAC): co-ordinates reply.

VICTORIA

- Department of Agriculture Energy and Minerals;
- Department of Planning and Development: co-ordinates reply

NEW SOUTH WALES

- Department of Mineral Resources: replies direct.
- Heritage Council of New South Wales: co-ordinates reply from other agencies.

QUEENSLAND

- Department of Minerals and Energy;

- Department of Environment and Heritage: co-ordinates reply.

SOUTH AUSTRALIA

- Department of Mines and Energy: replies direct;
- Department of Environment & Natural Resources: co-ordinates reply from other agencies.

NORTHERN TERRITORY

- Department of Mines and Energy;
- NT Conservation Commission; co-ordinates reply.

WESTERN AUSTRALIA

- Heritage Council: co-ordinates reply for cultural and built environment nominations.
- The Ministry for Planning (formerly Department of Planning and Urban Development) co-ordinates reply for natural nominations.

Agencies may flag any relevant issues at this stage, but these comments cannot be considered as an objection, as the AHC, at this stage, has not made any decision about whether the place should be listed on the Register or not.

Interim Listings

States can lodge formal objections to the proposed listing of a place at the Interim Listing stage. The AHC is bound to take account of such objections. Until recently, in any re-assessment an objector was only successful if the objection could show that the National Estate values for which the area had been proposed for listing were, in fact, not there. The current use, or future potential use of any area were not considered in this process. A recent court decision may alter this situation.

In a recent appeal (*The AHC v. Mount Isa Mines Ltd*) the Full Bench of the Federal Court on 24 November 1995 found that the AHC must consider

issues raised in objections to listings other than just those directed to National Estate significance. Specifically, factors relating to economics **must** be considered. This is an absolute turnaround from the situation which has existed up until now, where the only consideration was whether or not the place to be listed did, or did not, meet the listing criteria.

The decision of whether or not a place meets the listing criteria was determined to be a matter of objective fact and is not to be left to the sole discretion of the AHC.

Three months before entering a place on the Interim List of the Register of the National Estate, each state Mines Department is requested to identify relevant persons and companies with mineral interest in areas proposed for listing. The Departments asked for the information are:

TASMANIA

- Industry Safety and Mines Division

VICTORIA

- Department of Energy and Minerals

NEW SOUTH WALES

- Department of Mineral Resources

QUEENSLAND

- Department of Minerals and Energy

SOUTH AUSTRALIA

- Department of Mines and Energy

NORTHERN TERRITORY

- Department of Mines and Energy

WESTERN AUSTRALIA

- Department of Minerals and Energy

About five weeks before listing, identified lessees and licensees are sent a form letter, similar to that to owners of private property. This outlines the objection process open to affected persons.

This letter, which was designed in the first instance to go to owners of private property placed on the Interim List, could be modified for sending to exploration licence and mining lease holders, as some of the phrasing is not accurate when applied to exploration licences. A modified version of this letter is attached as Appendix 1.

This is the stage where a Mines Department is able to make either an expression of concern or a formal objection leading to a re-assessment by the AHC of the proposed listing.

Registered Entries

Subject to re-assessment arising from any objections, a place may finally be entered in the Register of the National Estate. This action is publicised in the Commonwealth Gazette and in the press.

The NSW Department of Mineral Resources reached an agreement with the AHC in 1992 whereby it sends information as it sees fit regarding nominations and generally chooses to express concerns over interim listings rather than formally object. Formal objections are kept as a last resort. This agreement is attached as Appendix 2.

NOTIFICATION TO EXPLORATION LICENCE AND MINING LEASE HOLDERS

The AHC does not notify interested parties in any State/Territory of nominations because substantial changes are sometimes made to boundaries and statements of significance etc. relating to the nomination during the assessment process. Tasmania is the only State to advise mining tenement applicants of existing National Estate nominations, interim listings and registered entries at the application stage. Tasmania also notifies tenement holders of any nominations which come to hand during the life of a tenement.

No other State routinely advises applicants of existing listings once a mining tenement application has been lodged, and no State advises tenement holders of nominations.

All States provide the AHC with names and addresses of relevant persons and companies with mineral interests in the areas proposed for listing prior to interim listing, when the AHC sends all these persons and companies a letter advising of the interim listing.

RECORDING OF NATIONAL ESTATE PLACES

As maps are not routinely provided by the AHC various agencies in each State chart, from the written description, National Estate Nominations, Interim Listings and Registered Entries.

In some States the charting is done several times by different agencies. Whilst most Mines Departments (and equivalents) chart the nominations, interim listings and registered entries (if different from the nomination), not all States keep up-to-date records, as the magnitude of the task is so great.

TASMANIA

- up-to-date paper and GIS records kept by three agencies.

VICTORIA

- no up-to-date listing except by file. GIS listing would be useful.

QUEENSLAND

- no up-to-date listing kept except by file correspondence. GIS listing of non-urban sites would be useful.

SOUTH AUSTRALIA

- up-to-date listing kept on paper, in process of putting these on GIS.

NEW SOUTH WALES

- no up-to-date listing kept on paper or GIS by DMR. GIS listing would be useful.

WESTERN AUSTRALIA

- paper and GIS records kept.

NORTHERN TERRITORY

- up-to-date paper records kept by two agencies.

The AHC has the final boundaries of Registered Entries digitised. Nominations and Interim Listings are not routinely digitised, as boundaries may change during the assessment process.

Pieces of chart are not needed with every nomination, as many cultural sites consist of a single building, or part of a town.

Provision of pieces of chart with every natural nomination would cause some logistical problems for the AHC, and in some cases, where the nomination was an existing National Park or Reserve, would not be needed.

However, provision of charts would be useful with some of the natural nominations.

ISSUE OF MINING AND EXPLORATION TITLES

Mining

Western Australia and the Northern Territory do not take any National Estate listings into account when issuing mining titles. In South Australia, New South Wales and Queensland the listings may be taken into account during the issue of a mining lease and appropriate environmental approvals by agencies other than the respective Mines Departments. In Tasmania, National Estate listings are noted on the applications, and this may be considered when assessing a mining lease application. Any listings are also considered by other agencies in the process of issuing the necessary environmental approvals for mining.

Exploration

Tasmania is the only State to routinely take National Estate listings into consideration during the issue of exploration titles.

All States agree that listing, in itself, does not slow up the assessment of applications, although several States noted that the fact that an area was listed was sometimes used by opponents of a proposed development in an effort to slow the approval processes.

RECOMMENDATIONS

The ANZMEC Land Access/Environment Task Force recommend that ANZMEC Ministers adopt these recommendations aimed at improving communication with the AHC.

1. Written Communication: Maps and Descriptions

All States would like to receive GIS data where this is available. All States (except Tasmania) would like compiled GIS historic data of listings. States were generally satisfied with the quality of the written descriptions, with Tasmania being the most dissatisfied. Tasmania has placed more emphasis on National Estate listings than other States, and it would seem that the quality of the descriptions has not been adequate for such detailed use. The duplication within States where the one entry is transcribed several times by different agencies is wasteful. Greater efficiency could be obtained by:

- (i) the AHC including a map with every nomination (except urban sites, buildings, or well described reserves, National Parks etc.).
- (ii) the provision of periodic GIS packages (to those states with compatible GIS systems).

2. Mining Interests — Communication

- (i) Mining interests could be told of nominations by the relevant Mines Department, as happens in Tasmania, although not all jurisdictions feel that this step is justified, as all nominations do not end up as registered entries.
- (ii) The letter sent by the AHC to affected title holders at the Interim Listing stage should be amended, as the current version is written for private property holders.

3. Mines Departments – AHC Communication

- (i) AHC Commission staff could meet with relevant Mines Department staff in each state annually. This would provide a forum for the AHC to advise on relevant activities and enable discussion of current issues. A seminar in each Department may be useful. Mining interests (e.g. representatives of companies and Chambers of Mines) could be invited.
- (ii) Parts of the recent AHC *Mining and the National Estate* supplement could be reprinted in State Mines Department newsletters, and circulated to the Chamber of Mines for

distribution to their members. Other mining publications (e.g. *Minerex Report*) could be approached to include a summary on the National Estate and mining issues. This may help get wider dissemination of the AHC functions relevant to mining.

- (iii) The various liaison procedures could be reviewed and adjusted where necessary.

4. Community Perception

All States agreed that the public perception of the term 'National Estate' was poor, and frequently this

term is confused with 'National Park'. Ideally, all States would like to see the term 'National Estate' changed to something which is less confusing to the general public. If this is not possible, greater understanding of the role and the Register of the National Estate is very desirable.

The term *Australian Heritage Register* has been suggested as an alternative name so that the public do not continue to confuse National Parks etc. with National Estate.

[13 March 1996]

APPENDIX 1

(TENEMENT HOLDER DETAILS)

Dear Sir/Madam

PROPOSAL TO ENTER HERITAGE AREA IN THE NATIONAL ESTATE REGISTER

The Australian Heritage Commission is the Commonwealth authority responsible for identification and management of the National Estate.

The Register of the National Estate contains a record of places having natural, Aboriginal or historical heritage significance. The listings of the Register comprise nominations, interim and registered places. These places may have aesthetic, historic, scientific, social or other special values which should be preserved for present and future generations. The purpose of the Register is to record and document the values of these places and alert decision makers of areas of the Australian landscape which are recognised for their cultural or natural heritage.

I am writing to inform you that your Mining Act tenement or Petroleum Act permit (NUMBER) coincides with (PLACE) which has been entered in the interim list of the Register on (DATE). The listing does not alter your rights or obligations you have as holder of a tenement or permit. The (PLACE) has been identified as having significant heritage value as described in the attached printout.

Under the AHC Act we are obliged to notify affected parties prior to interim listing being registered. Public notice of the Commission's intention to register this (PLACE) will appear in the Commonwealth Gazette and in the national and local press on (DATE). Under the AHC Act 1975 any person may object to the Commission's intent to list. A period of 3 months from the date of gazettal is permitted for submission of objections.

I have attached details of the listing procedure for your information. If you have any queries or wish to discuss the matter please direct your calls to the Registration Section. The Commission will accept reverse charge calls which must be placed through your local operator. The contact officer for the AHC is (NAME).

Yours sincerely

EXECUTIVE DIRECTOR
AUSTRALIAN HERITAGE COMMISSION

(DATE)

APPENDIX 2

Summary of arrangements between the Department and the Australian Heritage Commission relating to nominations to and interim listings on the Register of the National Estate

A number of processes must be completed before a site or place can be included in the Register of the National Estate. Firstly, the site must be *nominated*. If the site is *assessed* as possessing certain heritage criteria, then it is included on the *Interim List* of the Register. Formal *objections* may then be lodged with the Australian Heritage Commission (AHC), which is required to *re-assess* the proposal in the light of the objections before deciding whether to formally *List* the site on the Register.

It was agreed that the AHC would co-operate with the Department in the following ways:-

1. Monthly updates of nominations for the Interim List received by the Commission are to be sent to the Department for comment.
2. An advance copy of the biannual Interim List is to be sent to the Department for comment.
3. A computer listing of all outstanding heritage nominations in New South Wales was forwarded by the AHC for comment.

In return, it was agreed that the Department would adopt the following practices. In relation to nominations:

1. The Department would provide information and express concerns etc. as it saw fit. It would also

provide information on title holders where consultation with mining interests prior to consideration of the nomination by the AHC was considered beneficial.

In relation to interim listing, the Department agreed to minimise the lodging of formal objections, which involve the Commission in expensive re-assessments, often by consultants. Formal objection would only be used as a last resort, following failure of this initial course of action:

1. The Department would outline the 'concerns' that it had in relation to particular sites on the Interim List. The Department also would provide information to the AHC on any titles affected by the places listed. In response the Commission would notify these title holders of its intention to include the place in the Interim List.
2. Officers of the Department and the AHC would then meet and discuss how the sites involved should be handled and/or the concerns alleviated.
3. Where its concerns continue, the Department would seek a delay in (and/or a reconsideration of the proposal for) inclusion of such sites on the Register of the National Estate, until these concerns can be satisfactorily resolved.