

**NORTHERN TERRITORY OF AUSTRALIA**

**HERITAGE CONSERVATION REGULATIONS**

As in force at 1 August 2007

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# NORTHERN TERRITORY OF AUSTRALIA

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As in force at 1 August 2007

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## HERITAGE CONSERVATION REGULATIONS

### Regulations under the *Heritage Conservation Act*

#### **1 Citation**

These Regulations may be cited as the *Heritage Conservation Regulations*.

#### **2 Commencement**

These Regulations shall come into operation on the commencement of the *Heritage Conservation Act 1991*.

#### **3 Prescribed archaeological places and objects**

- (1) For the purposes of Part 6 of the Act, the following archaeological places are prescribed archaeological places:
  - (a) places containing rock paintings or rock carvings;
  - (b) prehistoric or protohistoric occupation places;
  - (c) places (not being cemeteries within the meaning of the *Cemeteries Act*) containing human remains or burial artifacts.
- (2) For the purposes of Part 6 of the Act, archaeological objects which are Aboriginal portable cultural objects (including but not limited to secret and ceremonial objects, log or bark coffins, human remains, portable rock or wood carvings or engravings or stone tools) are prescribed archaeological objects.
- (3) Without limiting the generality of subregulations (1) and (2), the Minister may, by instrument in writing, prescribe for the purposes of Part 6 of the Act a particular archaeological place or archaeological object.

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#### **4           Discovery of archaeological places and objects to be reported**

- (1) A person who discovers an archaeological place or archaeological object shall, as soon as practicable after discovering it, advise the Director of the discovery and its location.

Penalty:       \$1,000.

- (2) It is a condition of every permission under section 29 in respect of an archaeological place that the person to whom the permission is granted will comply with subregulation (1) in relation to archaeological objects discovered at the place.

#### **5           Heritage assessment criteria**

The criteria to be used in assessing whether or not a place or object should be recommended for declaration under Part 4 of the Act as a heritage place or a heritage object are whether or not the object or place (as the case may be) has special significance in the Territory:

- (a) for the evolution of flora, fauna, landscape or climate;
- (b) because of the diversity or richness of its flora, fauna, landscapes or cultural features;
- (c) because it contains rare, endangered or uncommon flora, fauna, biotic communities, ecosystems, natural landscapes or phenomena;
- (d) in demonstrating the principal characteristics of the range of landscapes, environments or ecosystems, the attributes of which identify them as being characteristic of their class;
- (e) as wilderness;
- (f) for the maintenance of existing natural processes or systems;
- (g) because it contributes to a wider understanding of natural history by virtue of its use as a research site, a teaching site, an example of a type of locality or reference area;
- (h) by virtue of its association with events, developments or cultural phases in human occupation and evolution;
- (j) by providing information contributing to a broader understanding of the history of human occupation;

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- (k) in demonstrating a way of life, custom, process, land use, function or design no longer practised, in danger of being lost or of exceptional interest;
  - (m) in demonstrating the principal characteristics of the range of human activities which take or have taken place in the Territory, including ways of life, customs, processes, land uses, functions, designs or techniques;
  - (n) by virtue of aesthetic characteristics or through technical, creative, design or artistic excellence, innovation or achievement held in high esteem or otherwise valued by a community;
  - (p) in being highly valued by a community for religious, spiritual, symbolic, cultural, educational or social associations; or
  - (q) through its close association with individuals whose activities have been significant in the history of the Territory.

## **6 Application under section 39A(2) for revocation of declaration**

- (1) The owner of a heritage place or heritage object may only apply to the Council under section 39A(2) of the Act for the revocation of a declaration in relation to the place or object if:
  - (a) no application for revocation of the declaration has been made during the 12 months immediately before the date of the application; and
  - (b) there is:
    - (i) information available about the heritage value of the place or object that has not previously been considered by the Council; or
    - (ii) other relevant information that does not appear to have been taken into account by the Minister when deciding previously whether or not to make or revoke the declaration.
- (2) An application under section 39A(2) of the Act is to contain or be accompanied by the following information:
  - (a) the name and location of the heritage place or a description of the heritage object;
  - (b) proof that the applicant is the owner of the place or object;
  - (c) the information referred to in subregulation (1)(b);

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- (d) a statement of what the applicant considers to be the heritage values of the place or object or, if the applicant is of the opinion that it has no heritage value, the reasons for that opinion;
  - (e) documents or other evidence supporting the application;
  - (f) any other information that the Council requests.

**7 Application under section 39G(1) for revocation of declaration**

An application under section 39G(1) of the Act is to contain or be accompanied by the following information:

- (a) the name and location of the heritage place or a description of the heritage object;
- (b) proof that the applicant is the owner of the place or object;
- (c) a description of the threat to health or safety or the nature of the emergency;
- (d) documents or other evidence supporting the application;
- (e) any other information that the Minister requests.

**8 Application under section 39J(1) for approval to perform works, &c., on heritage place or object**

An application under section 39J(1) of the Act is to contain or be accompanied by the following information:

- (a) the name and location of the heritage place or a description of the heritage object;
- (b) proof that the applicant is the owner of the place or object;
- (c) a description of the work, damage, desecration, destruction, demolition, alteration or removal proposed to be carried out;
- (d) the reasons for carrying out the proposed work, damage, desecration, destruction, demolition, alteration or removal;
- (e) documents or other evidence supporting the application;
- (f) any other information that the Minister or the Minister's delegate requests.

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**9            Application under section 39J(2) to destroy or demolish heritage place**

An application under section 39J(2) of the Act is to contain or be accompanied by the following information:

- (a) the name and location of the heritage place;
- (b) proof that the applicant is the owner of the place or object;
- (c) if the application relates to a building or structure on the place a description of the building or structure sufficient to identify it;
- (d) a description of the destruction or demolition proposed to be carried out;
- (e) the reasons for carrying out the proposed destruction or demolition;
- (f) documents or other evidence supporting the application;
- (g) any other information that the Minister requests.

**10          When no consent required under section 39K for minor work**

- (1) Minor work on a heritage place or heritage object to which this regulation applies (***the place or object***) falls within the exception to section 33 of the Act (and may therefore be carried out without consent under section 39K of the Act) if:
  - (a) the work is carried out by, or on the instructions of, the owner of the place or object; and
  - (b) the work is carried out only for the maintenance, conservation or protection of the place or object; and
  - (c) the work does not adversely affect the heritage value of the place or object.
- (2) This regulation applies to a heritage place or heritage object (other than a prescribed archaeological place or prescribed archaeological object) for which there is no conservation management plan.
- (3) Minor work is any of the following:
  - (a) routine maintenance or cleaning that does not involve:
    - (i) damage to or the removal of existing fabric; or
    - (ii) the introduction of new material;

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- (b) the repair or replacement of services or equipment such as telecommunication cables, water pipes, electrical wiring and fire extinguishers:
    - (i) by a person who is licensed to carry out the work; and
    - (ii) by the use of existing service routes, cavities or voids, or the replacement of existing surface mounted equipment, in a way that does not involve damage to or the removal of significant fabric;
  - (c) the repair or replacement of deteriorated, damaged or missing fabric:
    - (i) by a person who is licensed to carry out the work and has experience in the conservation of heritage buildings; and
    - (ii) in a way that ensures the repaired or replaced fabric matches the existing fabric and does not involve damage to or the removal of large amounts of fabric;
  - (d) the removal of fabric that is not significant;
  - (e) painting, using paint that:
    - (i) is of the same colour and type as used for the existing scheme; and
    - (ii) is appropriate to the substrate and does not endanger the survival of earlier paint layers;
  - (f) general landscape maintenance that does not damage or substantially alter the layout, contours, plant species or a significant landscape feature of the place or object;
  - (g) tree surgery by a qualified horticulturalist or tree surgeon;
  - (h) the erection of a temporary structure if:
    - (i) the erection or structure does not damage or endanger significant fabric or a significant landscape feature; and
    - (ii) the structure does not obstruct significant views of or from the place or object;
  - (i) the erection of a temporary fence or other structure as a safety or general security measure;



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- (j) if a building is unstable or irreparably damaged – carrying out emergency stabilising measures;
  - (k) the erection of:
    - (i) signage located behind or on the glass surface of a window on commercial premises; or
    - (ii) a temporary real estate sign relating to the sale or leasing of premises;
  - (l) if carried out on a cemetery or burial site – in addition to any other minor work:
    - (i) digging or making a new grave; or
    - (ii) the repair or maintenance of a monument or grave marker.
  - (4) In this regulation:

**significant**, in relation to fabric or a landscape feature on the place or object, means fabric or a feature that:

- (a) has heritage value in its own right; or
- (b) is an essential element of the heritage value of the place or object.

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## ENDNOTES

### 1 KEY

Key to abbreviations

<b>amd</b> = amended	<b>od</b> = order
<b>app</b> = appendix	<b>om</b> = omitted
<b>bl</b> = by-law	<b>pt</b> = Part
<b>ch</b> = Chapter	<b>r</b> = regulation/rule
<b>cl</b> = clause	<b>rem</b> = remainder
<b>div</b> = Division	<b>renum</b> = renumbered
<b>exp</b> = expires/expired	<b>rep</b> = repealed
<b>f</b> = forms	<b>s</b> = section
<b>Gaz</b> = <i>Gazette</i>	<b>sch</b> = Schedule
<b>hdg</b> = heading	<b>sdiv</b> = Subdivision
<b>ins</b> = inserted	<b>SL</b> = Subordinate Legislation
<b>lt</b> = long title	<b>sub</b> = substituted
<b>nc</b> = not commenced	

### 2 LIST OF LEGISLATION

#### ***Heritage Conservation Regulations (SL No. 53, 1991)***

Notified	1 November 1991
Commenced	1 November 1991 (r 2, s 2 <i>Heritage Conservation Act 1991</i> (Act No. 39, 1991) and Gaz S58, 1 November 1991)

#### ***Amendment of Heritage Conservation Regulations (SL No. 25, 1994)***

Notified	10 August 1994
Commenced	10 August 1994

#### ***Amendment of Heritage Conservation Regulations (SL No. 17, 1996)***

Notified	10 April 1996
Commenced	10 April 1996

#### ***Amendment of Heritage Conservation Regulations (SL No. 32, 1998)***

Notified	4 August 1998
Commenced	4 August 1998 (r 1, s 2 <i>Heritage Conservation Amendment Act 1998</i> (Act No. 17, 1998) and Gaz S31, 4 August 1998)

#### ***Heritage Conservation Amendment (Minor Work) Regulations 2007 (SL No. 21, 2007)***

Notified	1 August 2007
Commenced	1 August 2007

### 3 LIST OF AMENDMENTS

r 5	ins No. 25, 1994
r 6	ins No. 17, 1996
	sub No. 32, 1998, r 2
rr 7 – 9	ins No. 32, 1998, r 2
r 10	ins No. 21, 2007, r 3