



Statutory requirements for the disposal of Commonwealth Heritage places

Many Defence sites have proudly served Australians for generations. They hold deep heritage value for veterans and the wider community, and serve as a reminder of our past sacrifices and achievements. That's why the Government is committed to preserving and enhancing public access to historically significant sites and collections, so that all Australians can honour our proud military history.

Heritage places will be managed in line with **legislative requirements**. The Australian Government will **protect heritage values** through the sales process.

Defence will consult with Traditional Owners throughout the divestment process to ensure Indigenous cultural values are identified, respected, and managed appropriately.

The Environment Protection and Biodiversity Conservation Act 1999

The *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) is the Australian Government's central piece of environmental legislation.

The EPBC Act establishes three primary heritage lists to protect Australia's natural, Indigenous and historic heritage as matters of national environmental significance. These include the World Heritage List for places of outstanding universal value, the National Heritage List for places of outstanding national value and the Commonwealth Heritage List for places of heritage significance that are owned or controlled by the Australian Government.

Broadly, the EPBC Act provides for the regulation of any action that will have or is likely to have a significant impact on the environment.

The EPBC Act outlines the divestment process that Commonwealth agencies must comply with when divesting a National Heritage listed place (Section 324ZA) or Commonwealth Heritage listed place (Section 341ZE).

Divesting a listed heritage place on Commonwealth land

Commonwealth agencies, such as the Department of Defence (Defence) and the Department of Finance (Finance), must ensure that the contract of sale of Commonwealth Land includes ongoing heritage protection for places with listed heritage values.

When divesting a National or Commonwealth heritage place, the responsible Commonwealth agency must ensure that the contract includes a covenant to ensure the listed heritage values of the place continue to be protected by the new owner and any future owners.

In some circumstances a covenant may be unnecessary or unreasonable because other means are in place that protect heritage values or including the covenant is impracticable.

In circumstances where the covenant is not applied, the Commonwealth Minister for the Environment (the Minister) must be informed. In these circumstances, the Minister will advise on any further measures for the ongoing protection of the place. These must be implemented, or the Minister may take reasonable measures to enter into a conservation agreement as part of the sale.

The Minister must also be provided with at least 40 business days' notice before executing the contract for the sale to ensure appropriate oversight of the process.

Heritage Covenants

A heritage covenant is an agreement included in a contract of sale that binds the new owner and any future owners to the ongoing heritage protection of a place. It protects the heritage values of a listed heritage place after it is sold. This is particularly important for places on the Commonwealth Heritage List, as they may be removed from the list and EPBC Act protections if they are sold out of Commonwealth ownership.

Covenants can include requirements for the new owner and any future owners to comply with a heritage management plan and to nominate the place to a state, territory or local heritage register.

The Department of Climate Change, Energy, the Environment and Water (DCCEEW) may review heritage covenants prior to the sale of a property and provide advice to ensure they are suitable to provide ongoing protection of the heritage values, and meet the requirements of the EPBC Act.



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Heritage Protections

Places included in the National Heritage List will continue to have protection under the EPBC Act after sale and any future sales, as these lists are independent of Commonwealth ownership.

Where a place is included in a state, territory or local heritage register, the relevant government agency will enforce heritage protections after sale and any future sales. Anyone can nominate a site to a National, state, territory or local heritage register.

Defence recognises that its heritage places, collections and individual items are valued by Defence and the Australian community.

Defence is committed to the protection of heritage and to enhance public access to important heritage places and significant collections as part of the divestment.

The views of the Australian Heritage Council, the Australian Government's principal adviser on heritage matters, will be sought throughout the divestment process.

Approvals

When a Commonwealth agency divests a property, the sale is considered an 'action' under the EPBC Act.

The potential impacts and their significance for the environment will depend on the property, the purchaser and any future land use, and will need to be considered on a case-by-case basis.

Defence and Finance will comply with the EPBC Act and where a project may have a significant impact on the environment will refer these to the Minister for a decision as to whether approval is required, and for assessment and approval as required.

Contacts

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Department of Climate Change, Energy, the Environment and Water

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Russian Cannons captured by the British Forces during the Crimean War in 1854 on display as memorials at Victoria Barracks Melbourne.



Australian Army officers and soldiers of Forces Command stand on parade for the transfer of authority ceremony at Victoria Barracks Sydney.



Remembrance Day service held at Victoria Barracks Brisbane.