

Local Planning Policy No.4.3

HERITAGE CONSERVATION



1. Head of Power and Scope

This Policy has been adopted pursuant to Schedule 2, Deemed Provisions of the *Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)*. Part 3, Clause 8 of the Deemed Provisions requires the City to establish and maintain a Heritage List.

Part 8 of the *Heritage Act 2018* establishes a requirement for local governments to prepare and maintain a Local Heritage Survey (LHS) of places which in its opinion are, or may become, of cultural heritage significance. The Heritage List is effectively derived from this, though not all places on the LHS may qualify for inclusion on the Heritage List.

The policy applies to development across the whole of the City for all Heritage-Protected Places contained on the City's Heritage List. It does not apply to conservation of Aboriginal Heritage, except where included in the Heritage List or where located within a Heritage Area. Aboriginal Heritage is protected by the *Aboriginal Heritage Act 1972*.

2. Purpose

The purpose of this Policy is to provide clear guidance on the framework, procedures, assessment, and management of proposals for works affecting local Heritage-protected Places or Heritage Areas as defined by this policy.

This policy applies to the administration and operation of the Heritage List established pursuant to clause 8, Schedule 2 of the *Planning and Development (Local Planning Schemes) Regulations 2015 (the Regulations)* and associated with the Local Planning Scheme.

3. Objectives

The objectives of the policy are to:

- 3.1. To conserve and protect places of local Cultural Heritage Significance.
- 3.2. To ensure that development, including conservation, alterations, additions and new development, respect and do not adversely affect the Cultural Heritage Significance of Heritage-protected Places.
- 3.3. To provide certainty to landowners and the community about the planning processes for heritage identification and protection.
- 3.4. To provide clear direction on the procedures for making applications for works affecting local Heritage-protected Places.

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4. Interpretation

Unless otherwise noted, terms used in this policy have common meanings and include those defined in the *Planning and Development Act 2005, Planning and Development (Local Planning Schemes) Regulations 2015*, and the *Heritage Act 2018*.

“Archival Record” means a document containing drawings, photographs and written information prepared in order to record the state of a place at a given time, usually prior to demolition or major change. Refer to the Heritage Council of Western Australia (HCWA) *Guide to Preparing an Archival Record*.

“Burra Charter” means the document providing guidance for the conservation and management of places of cultural heritage significance. The charter has been generally accepted as the standard for heritage practitioners in Australia and is adopted by the Australian International Council on Monuments and Sites (ICOMOS).

“Conservation Management Plan” means a document that details how to identify and look after the significant cultural values of a place. Its preparation involves a systematic way of considering, recording and monitoring actions and decisions relating to all aspects of managing a place. The Heritage Council of WA provides guidelines for the preparation and use of conservation management.

“Conservation Management Strategy” means a document that provides information on the maintenance of a property outlining current condition and actions to ensure the significance of a place is not lost. The Heritage Council of WA provides an information guide to conservation management strategy.

“Cultural Heritage Significance” the same meaning given in the *Heritage Act 2018* s.5(1).

“Fabric” Means all the physical material of the place.

“Heritage Area” means an area of land as defined by Schedule 2, cl. 7 of the *Regulations*.

“Heritage Agreement” the same meaning as defined in the *Heritage Act 2018* s.90.

“Heritage Assessment” means a systematic assessment that describes a place and its setting and states its significant heritage values in terms of the criteria adopted by the Heritage Council of WA. These criteria are the aesthetic, historic, social and scientific values of the place.

“Heritage Impact Statement” means a report that evaluates the likely impact of proposed development on the significance of a heritage place and its setting, or on the heritage area

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within which it is situated. Refer to the Heritage Council of WA's Heritage Impact Statements guide.

"Heritage List" means a list of places that has been adopted and protected under the heritage provisions of the City of Busselton Local Planning Scheme in accordance with section 8(1) of the Regulations.

"Heritage-protected Place" means a place that meets the criteria as established under cl. 1A of the Regulations.

"Impact" means the manner in which proposed works will, or are likely to, affect the cultural heritage significance of a place, as assessed against the matrix at Appendix 1 of this policy.

"Interpretation Plan" is a document that explains the ways in which a place could be interpreted. Interpretation Plans should aim to increase both our understanding and our enjoyment of heritage places. Refer to the Heritage Council of WA Interpretation Guidelines.

"Place" shall have the same meaning given in the *Heritage Act 2018* s.7(1)

"Significant Fabric" means fabric identified as contributing to the cultural heritage significance of the plan.

5. Policy Statement

5.1 Adopting and amending the Heritage List

The City maintains the Local Heritage Survey, Heritage List and Heritage Areas, including undertaking periodic reviews. The City may amend the Heritage List over time in the following circumstances:

EVENT	CITY PROVISIONS
A place is found to be of Cultural Heritage Significance in a review of the Local Heritage Survey.	The City will consider inclusion of a place in the Local Heritage Survey and/or the Heritage List on the basis of its Cultural Heritage Significance as identified through a review of the Local Heritage Survey.
A place is nominated for inclusion in the Local Heritage Survey and/or Heritage List by the owner or a member of the public.	The City will consider inclusion of a place in the Local Heritage Survey and/or the Heritage List if assessment documentation to the required standard is provided by the nominator. If assessment documentation to the required standard is not provided by the nominator, the

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	City will commission a Heritage Assessment or defer its decision until a review of the Local Heritage Survey or Heritage List is scheduled.
A Heritage Assessment is prepared in conjunction with a development proposal.	The City may consider inclusion of a place in the Local Heritage Survey and/or the Heritage List if a Heritage Assessment is prepared as part of a Heritage Impact Statement submitted by an applicant, or by the City at its own expense.
A place is demolished or substantially damaged or destroyed.	The City will consider removing a place from the Local Heritage Survey and/or Heritage List if it is demolished or is damaged or destroyed, to the extent that its Cultural Heritage Significance is lost.
A Heritage Assessment of a place finds that previous historic information was not correct.	The City will consider removing a place from the Local Heritage Survey and/or Heritage List if its assessed cultural heritage significance is found to be flawed.

The procedures for adding places to the Heritage List, or modifying or removing places from the Heritage List are set out in the *Regulations*.

5.1.2 Heritage Areas

Before adopting a Heritage Area under the local planning scheme the City must prepare a Heritage Assessment for the area.

The Regulations requires that a Heritage Area has a Local Planning Policy (LPP) that comprises:

- A map showing the boundaries of the Heritage Area.
- A statement about the heritage significance of the area.
- A record of places of cultural heritage significance in the Heritage Area.

The procedures for designating an area as a Heritage Area are set out in the *Regulations*.

5.2 Applications for development approval – accompanying material

- 5.2.1 A development application must be submitted for any development, pursuant to clause 61(1) of the deemed provisions of the *Regulations*.

The accompanying material required with applications for development approval relating to a place on the Heritage List or Heritage Area will be determined by the likely impact of works on Cultural Heritage Significance, taking into consideration:

- (a) An assessment of the proposed works against the Impact Matrix at Appendix 1;
- (b) The structural condition of a place, and whether a place is reasonably capable of conservation;
- (c) Material contained in Conservation Plans, Heritage Assessments, Heritage Impact Statement or other heritage documents or reports prepared for the place.
- (d) Any advice provided by the (HCWA). All development applications for places on the State Heritage Register will be referred by the City to HCWA for advice in accordance with the Heritage Act 2018.

5.2.2 An application for works to a place on the Heritage List or Heritage Area must be accompanied by:

- (a) street elevations drawn as one continuous elevation to a scale not smaller than 1:100 showing the proposed development and the whole of the existing development on each lot immediately adjoining the land the subject of the application.
- (b) a detailed schedule of all finishes, including materials and colours of the proposed and existing development.

5.2.3 Heritage Impact Statement

If in the opinion of the local government, a proposal is for works that are likely to have a moderate or major impact as determined by the Impact Matrix (Appendix 1), on the Cultural Heritage Significance of a place on the Heritage List or Heritage Area, the application for development approval must be accompanied by a Heritage Impact Statement (HIS) consistent with the guidelines produced by the HCWA.

5.2.4 Heritage Assessment

- (a) A Heritage Assessment to be prepared at the applicant's expense may be requested for places on the Heritage List or within Heritage Areas.
- (b) Where the Cultural Heritage Significance of a place cannot be adequately determined from an existing assessment, the City may in accordance with Schedule 2 of the *Regulations* require a Heritage Assessment be carried out prior to the approval of any development.

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5.3 Development Control Principles

In considering any development applications in relation to a place on the Heritage List or within a Heritage Area, the City will apply and have due regard to the development control principles set out in this policy and *State Planning Policy 3.5 – Historic Heritage Conservation* (SPP3.5).

Development within a Heritage Area will also be assessed against the relevant provisions of any local planning policy for that area, including any design guidelines associated with the policy.

5.3.1 New development

- (a) Where a site contains a place on the Heritage List and there is capacity for additional development to occur, that development must be compatible with the Cultural Heritage Significance of the existing building(s) or place and the locality.
- (b) Where the site is located within a Heritage Area, development must comply with the Policy provisions for that area.
- (c) The following development provisions apply for new development to a place on the Heritage List:
 - i. New development, including garages, sheds and outbuildings must be designed to not detract from the place on the Heritage List on the site.
 - ii. The place on the Heritage List must remain the dominant building(s) on the site. Mixed Use and non-residential development should maintain the visual prominence of the primary street elevation of a place on the Heritage List.
 - iii. New development should respect the scale, form and proportions of the place on the Heritage List.
 - iv. New development should respect the materials and colours of the place on the Heritage List.
 - v. New development should be designed and constructed in a style that is sympathetic or compatible with, but does not mimic, traditional building styles of the place on the Heritage List.

Refer to Diagram 1 below for additional guidance.

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5.3.2 Conservation and Restoration Works

- (a) The following development provisions apply for conservation and restoration works to a place on the Heritage List, including works within a Local Heritage Area:
 - i. A Conservation Management Plan should guide conservation and restoration of buildings or places.
 - ii. Where there is no Conservation Management Plan, work should be guided by the Burra Charter.
- (b) The original Significant Fabric of a place on the Heritage List should be retained.
- (c) Where a place on the Heritage List has deteriorated to the point of requiring restoration works, deteriorated Fabric should be replaced with Fabric that matches the original as closely as possible.
- (d) Where restoration work is carried out to a place on the Heritage List that has been altered, work should be based on research including historic photographs, plans or other documents that can identify the original elements, details or finishes of the building or place. Research materials used as the basis of restoration works should be included to assist in assessing the application.
- (e) Where asbestos products is found in later additions, replacement should be based on materials that give a similar appearance to the original fabric.

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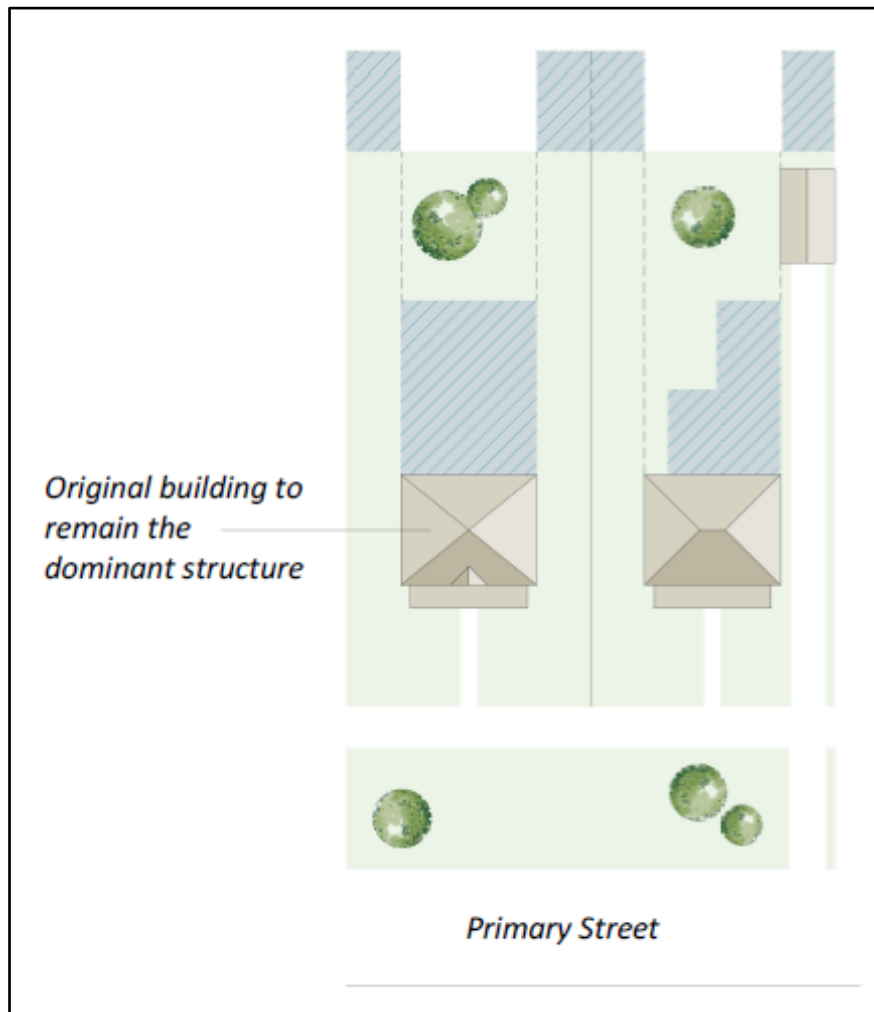


Diagram 1 – 5.2.3.b The place on the Heritage List must remain the dominant building(s) on the site.



Above – 5.3.3.b : Paisley Cottage – example of place on the Heritage List remaining dominant structure when viewed from the street.

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5.3.3 Alterations and additions and Change of Use

- (a) Adaptation should be carried out with the least amount of change to the original Significant Fabric as possible. Work that can be reversed in the future is desirable, however work that cannot be reversed will be supported provided the Cultural Heritage Significance of the place is not compromised.
- (b) The impact from any development on a place on the Heritage List or within a Heritage Area will take into account the Cultural Heritage Significance of that area as a whole.
- (c) The following development provisions apply for alterations and additions to a place on the Heritage List:
 - i. Works should comply with the Conservation Management Plan for the building or place. Where there is no Conservation Management Plan a Heritage Impact Statement may be required.
 - ii. Alterations and additions should be limited to areas of the building(s) or place assessed to be of lower significance.
 - iii. Alterations and additions should not obscure or alter areas or elements that contribute to Cultural Heritage Significance.
 - iv. Alterations and additions should:
 - Ensure that the original building remains the dominant structure when viewed from the street.
 - Be in keeping with the bulk and scale of a significant building and clearly evident as new.
 - Use materials and colours that match and/or do not detract from the significant building.
 - The façade and roof pitch of the original building should not be altered.
 - Ensure that upper floor additions are not constructed over significant areas of a building or do not impact on the Significant Fabric or elements of the building.
 - New work should not eliminate or hide original shopfront details (where applicable) and must not distort the original design's intent.

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- v. Applications for change of use should ensure the future viability of the building or place, their suitability will be assessed on the capacity of the building to retain its Cultural Heritage Significance.

Refer to Diagrams 2 and 3 for additional guidance.

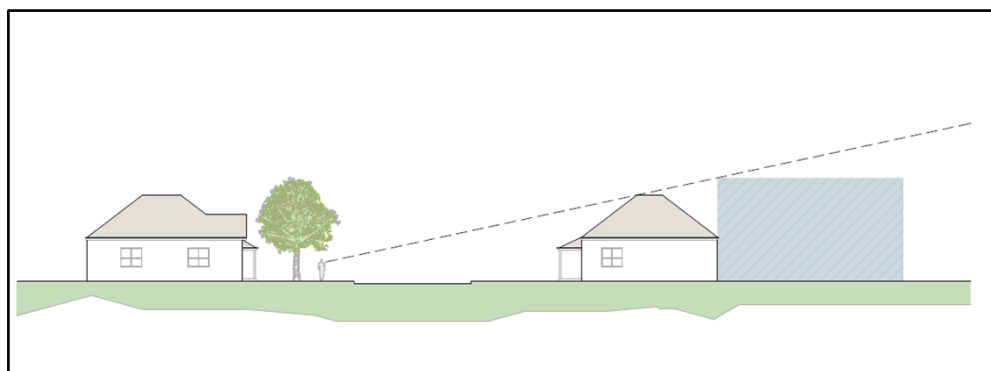


Diagram 2 – 5.4.3.(e)(f) The roof pitch of the original building should not be altered, and upper floor additions should not be constructed over significant areas of the building.



Above – 5.3.3.c : Busselton Fire Station No. 2 (former) – example of later addition not obscuring elements of Cultural Heritage Significance.

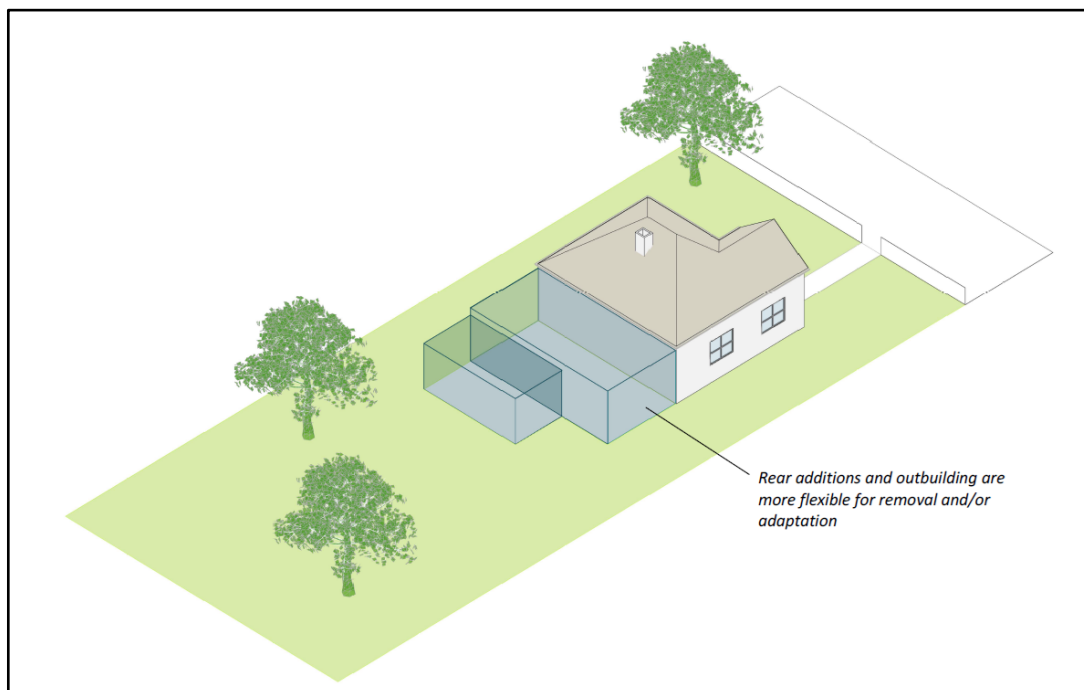


Diagram 3 – 5.5.2 Assessment of applications for demolition or partial demolition will consider the impact of demolition on the Cultural Heritage Significance.

5.3.4 Demolition controls

- (a) In accordance with Clause 61(1) of Schedule 2, Part 7 of the *Regulations*, demolition of any Heritage-protected Place is not exempt from the requirement for development approval.
- (b) In assessing an application for development approval for demolition the City will have regard to the Cultural Heritage Significance of the place and, in the case of places in Heritage Areas, of the impact of demolition on the significance or character of the Area as a whole.
- (c) If structural failure is cited as a justification for the demolition of Significant Fabric, the City may require that a structural condition assessment by a registered structural engineer with relevant heritage experience be provided.
- (d) Demolition will not be supported where the City forms the view that structural inadequacy is a result of the place not being properly maintained, as defined in clause 13(1) Schedule 2 of the *Regulations* on the grounds that redevelopment is a more attractive proposition.

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- (e) In the event that a place on the Heritage List or part thereof is demolished without City approval, the City may require reinstatement or other means of rectifying the situation as a condition of a future approval for the site.

Refer to Diagram 3 for additional guidance.

5.4 Conditions of approval

In approving an application for development approval, the City may impose the following conditions of approval.

5.4.1 Archival Record

- (a) If a proposal is for demolition, including partial demolition that will have a moderate or major impact on the Cultural Heritage Significance of the place or heritage area, the City will require the applicant as a condition of approval to submit an Archival Record of the place, prior to the commencement of development.
- (b) Where a proposal includes partial demolition of Significant Fabric, an Archival Record will be conditioned only to the extent required to record the Fabric being removed.
- (c) An Archival Record may also be requested by the City for any proposed works that result in the substantial alteration of a place.

5.4.2 Heritage Agreement

- (a) A Heritage Agreement may be a condition of approval where a planning incentive, concession or allowance is sought on the basis of a commitment to the future built heritage conservation of a place on the Heritage List.
- (b) A Conservation Management Plan or Conservation Management Strategy, prepared in accordance with the HCWA Guidelines, may be required at the expense of the applicant, to inform the details of a Heritage Agreement.

5.4.3 Interpretation Plan

The City encourages the provision of interpretative material as a means of conveying the Cultural Heritage Significance of a place. The City may require the preparation of an Interpretation Plan or interpretative material as a condition of development approval or as a requirement of a Heritage Agreement.

5.5 Incentives

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5.5.1 In accordance with cl. 12, Schedule 2 of the *Regulations*, the local planning scheme allows for the variation of any site or development requirement, where that variation facilitates the conservation of a Heritage-protected Place or enhances the values of a Heritage Area.

5.5.2 The extent of variation that will be approved will be proportionate to the conservation benefit produced by the proposed works and the cost of achieving that benefit. The City may request further information to support the assessment of these costs and benefits.

5.5.3 The variations that may be considered appropriate are:

- (a) Plot ratio
- (b) Parking requirements
- (c) Residential density
- (d) Land use categories
- (e) More than one dwelling on a rural zoned lot (where an owner wishes to construct a new dwelling and the existing dwelling is heritage protected).

5.6 Related documents

Heritage Act 2018

Planning and Development Act 2005

Planning and Development (Local Planning Schemes) Regulations 2015

State Planning Policy 3.5 Historic Heritage Conservation (WAPC, 2007)

The Burra Charter (Australia ICOMOS, 2013)

An information guide to conservation management plans (2013)

An information guide to conservation management strategy (2017)

Heritage Impact Statement interactive form (2020)

Guide to preparing an archival record (2019)

6. Review Details

Review Frequency		2 yearly		
Council Adoption	DATE	16/10/2024	Resolution #	C2410/077
Previous Adoption	DATE	10/03/2010	Resolution #	C1003/069

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Appendix 1: Impact Matrix

Impact Level of Impact is to be assessed separately for each criterion	Values				Rarity	Representativeness	Condition	Integrity	Authenticity	Demolition
	Aesthetic including streetscape and setting	Historic	Scientific including archaeology	Social						
Positive	Development that enhances the aesthetic value.	Development that conserves the historic value and interprets the history of the place.	Development that protects and/or reveals scientific value through interpretation.	Development that enhances a sense of place through retention of use associations, meaning and/or interpretation.	Enhances by retaining or conserving element(s) that contribute(s) to rarity.	Enhances by retaining or conserving element(s) that contribute(s) to representativeness.	Development that maintains, preserves or restores significant fabric to a known earlier state.	Development retains and enhances original fabric through good conservation practice.	Retains and enhances authenticity of the place through retention or reinstatement of original use, associations and meaning.	Demolition or removal only of element(s) identified in a heritage assessment as intrusive.
No Discernible Impact	Development that maintains or has no impact on the aesthetic value.	Development that does not affect the historic value.	Development does not affect known or potential scientific/archaeological value.	Development does not affect the social value of the place.	There is no loss or proposed change that affects rarity.	There is no loss or proposed change that affects representativeness.	Development that maintains, stabilises or preserves significant fabric in its current state without contributing to its deterioration.	Development does not affect the condition of fabric that contributes to the place's significance.	Development does not affect the authenticity of the place.	Demolition or removal of element(s) identified in a heritage assessment as being of little significance.
Minor (negative)	Development that does not detract from the aesthetic value. May include minor alterations to the appearance of the place.	Development that does not detract from the historic value and may include minor alterations to the place either internally or externally.	Development does affect areas of little or some scientific value and is consistent with an appropriate Management Plan.	Development results in loss of fabric or change of use of a place that has some past but lapsed association with the community.	Results in a change to an element that contributes to rarity but impact can be mitigated by interpretation.	Results in a change to an element that contributes to representativeness but impact can be mitigated by interpretation.	Development that could be detrimental to the condition of significant fabric but can be mitigated by providing advice and conditional support.	Does not substantially detract from the integrity of the place. May include minor alteration to the place to provide for a new or continued use.	Development that does not detract from the authenticity of the place. May include change of use for compatible re-use.	Partial demolition or relocation of element(s) identified in a heritage assessment as being of some significance.
Moderate (negative)	Development that extensively reconstructs fabric to reproduce an earlier state or materially alters the appearance of place through adaptations, additions or construction of new fabric.	Development that extensively reconstructs fabric to reproduce an earlier state or materially alters significant fabric through adaptation, construction of new fabric or change of use.	Development that is not informed by a conservation or archaeological management plan and may affect potential scientific value.	Development results in a significant loss of fabric or use of a place that has a strong and current association with the community.	Element that contributes to rarity is lost and impact cannot be mitigated.	Element that contributes to representativeness is lost and impact cannot be mitigated.	Development that is likely to lead to loss or deterioration of the structural integrity of the place, or the loss or deterioration of any element of the place that is integral to its cultural heritage significance.	Development results in a significant loss of fabric or settlement pattern that contributes to the authenticity of the place.	Development that proposes a change of use that is not compatible with past uses and/or does not reflect the values of the place.	Demolition or removal of element(s) of some significance. Demolition, relocation of element(s) identified in a heritage assessment as being of considerable significance.
Major (negative)	New infill development on vacant lots (including those approved for total demolition), carparks, open space. New construction that retains a façade of historic fabric.	Development that significantly detracts from the historic value through adaptation or removal of significant element(s) or introduction of a new incompatible use.	Development that significantly affects or destroys known scientific values.	Development results in a loss of place, or loss of a use that has a strong and current association with the community.	Development that results in a substantial loss of an element or area identified as contributing to the rarity of the place.	Development that results in a substantial loss of an element or area identified as contributing to the representativeness of the place.	Development that will result in deterioration in the condition of significant fabric and/or that fails to address an evident need for urgent conservation works.	Development results in a total loss of fabric and/or results in only the retention of a façade or shell of the significant fabric.	Development that proposes a change of use that is unsympathetic to the values of the place and detracts from the significance of the place.	Total demolition or removal or relocation of a building to an alternative site or dismantling and reconstruction of historic fabric. Partial demolition of elements of exceptional significance.