

Vanessa Hardy
Cultural Heritage Connections

Dr Mary-Jean Sutton
Virtus Heritage

Presentation

Changing perspectives on social and scientific values – future directions for cultural heritage practice and policy

Biography

Vanessa Hardy, (BA Hons Prehistoric and Historic Archaeology, University of Sydney) is Director and Principal Archaeologist at Cultural Heritage Connections Pty Ltd. For over 18 years she has worked in consulting archaeology. During this time she has undertaken assessments throughout Australia for both Aboriginal and non-Aboriginal heritage. Her experience includes management of large scale projects, conservation management plans and provision of high level strategic advice to clients. Her interests include Aboriginal post contact period heritage and managing shared values as well as the intangible aspects of heritage.

Dr Mary-Jean Sutton, (PhD Archaeology, University of Queensland, B.Arts Hon.s Archaeology University of Sydney), Principal Archaeologist and Company Director of Virtus Heritage has over seventeen years' professional consulting experience in Australia and overseas including the preparation of Aboriginal heritage and historical heritage assessments, relevant permits and consents, test excavations, salvage investigations, due diligence and desktop reviews, and consultation. Mary-Jean has over eleven years' experience supervising, writing and project managing both Aboriginal heritage and historical heritage assessments for State Significant projects in NSW and on Commonwealth heritage projects. Mary-Jean has research experience with a PhD, specialising in contact and mission heritage working collaboratively with communities.

Abstract

In recent years, cultural heritage legislation and policy has notably undergone change or review in many states across Australia. Many of these changes have been in response to efforts to balance the requirements of archaeological assessment with community concerns.

Researching and establishing significance (value) has and continues to be focal to heritage management within an impact assessment framework. While standard significance assessment frameworks address multiple values, in some recent cultural heritage policy, archaeological (scientific) values are often perceived as in conflict with cultural (social) values (this has been particularly noted within recent New South Wales and Queensland policies, for example: New South Wales: Aboriginal cultural heritage consultation requirements for proponents 2010 (ACHCRs) (DECCW, 2010), Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW

(OEH 2011) and the Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW (DECCW 2010) and Queensland, Department of Aboriginal Torres Strait Islander Partnerships (DATSIP), Aboriginal Cultural Heritage Act 2003 - Duty of Care Guidelines).

Using recent case studies of our work, this paper looks at how these perceived conflicts can be managed within an impact assessment framework to provide well supported values assessments and defensible management recommendations in the face of changing values and dynamic community expectations.

References

Department of Aboriginal Torres Strait Islander and Multicultural Affairs (now DATSIP), 2004. Aboriginal Cultural Heritage Act 2003 - Duty of Care Guidelines.

Department of Environment, Climate Change and Water, 2010. Aboriginal cultural heritage consultation requirements for proponents. DECCW, Sydney.

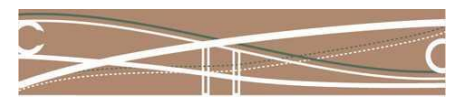
Department of Environment, Climate Change and Water, 2010. Code of Practice for Archaeological Investigation of Aboriginal Objects in NSW. DECCW, Sydney.

Office of Environmental and Heritage (OEH), 2011. Guide to investigating, assessing and reporting on Aboriginal cultural heritage in NSW. OEH, Sydney.

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Acknowledgement



We would like to acknowledge the Traditional Custodians of this land, the Turrbal people and pay respect to their elders past and present, their cultural heritage, beliefs, and continuing relationship with the land.

Introduction



- Vanessa Hardy
Director & Principal Archaeologist CHC, MEIANZ
- Dr Mary-Jean Sutton
Director & Principal Archaeologist Virtus Heritage, MEIANZ

Objectives



Cultural heritage practice & policy

- Impact assessment context
- Heritage values (significance)
- Archaeological and community focus

Archaeology is more than objects



Tangible vs intangible heritage



Burra Charter



Values / significance



Cultural significance (Burra Charter)

“aesthetic, historic, **scientific**, **social** or spiritual value for past, present or future generations”

- 1) Historic value
- 2) Rarity
- 3) Scientific/research value**
- 4) Representativeness
- 5) Aesthetic value
- 6) Technical value
- 7) Cultural/social**
- 8) Associative value
- 9) Indigenous value

NSW Legislative context



- Environmental Planning & Assessment Act 1979, Parts 3, 4 & 5
- **National Parks & Wildlife Act 1974 – (Protection for Aboriginal objects)**
- National Parks and Wildlife Amendment Act 2010
- Aboriginal Land Rights Act 1983
- Commonwealth Native Title Act 1993
- Environmental Protection and Bio-Diversity Conservation Act, 1999
- OEH/NP&WS Policy & Guidelines

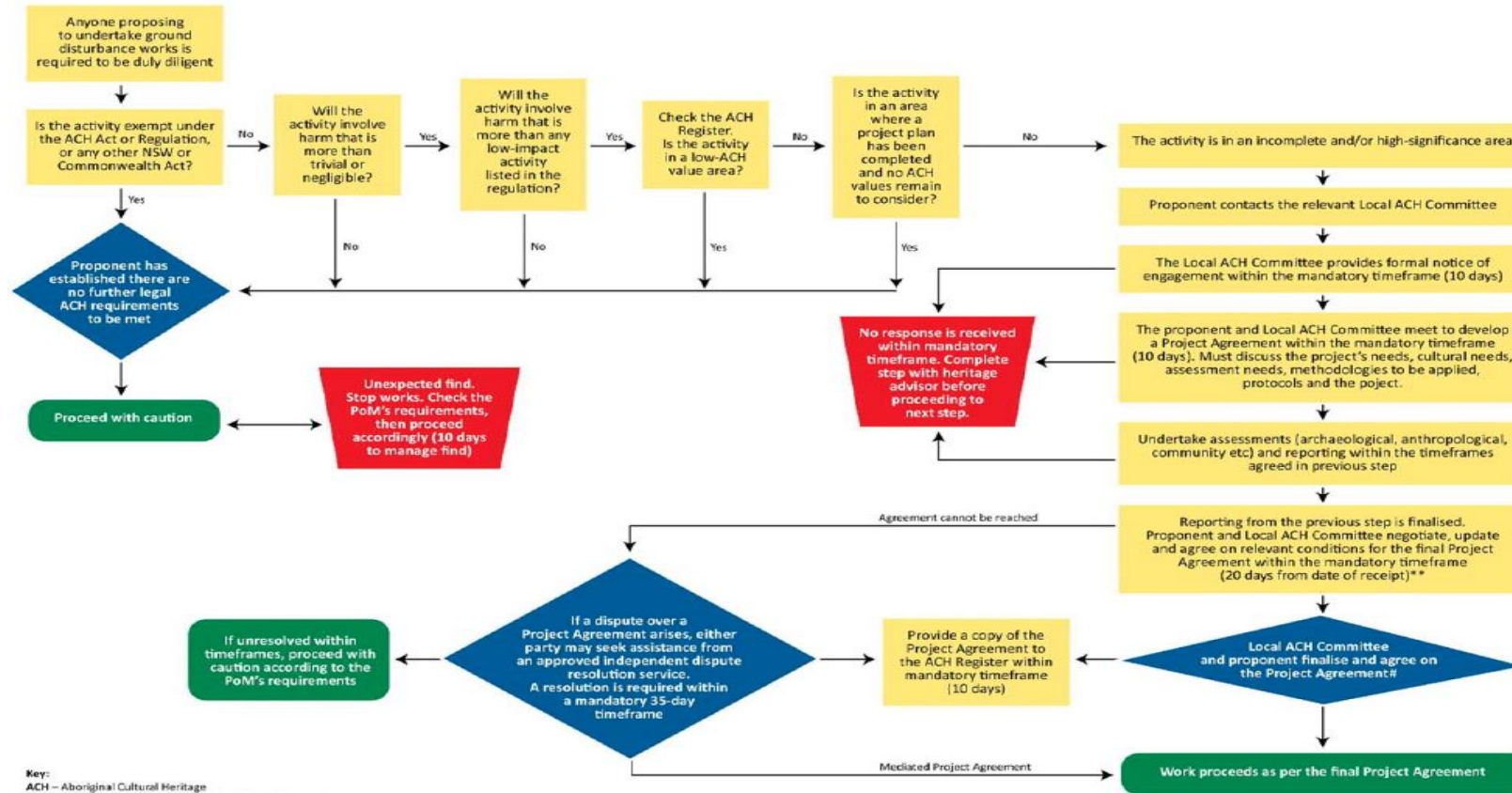
An Aboriginal object is:

- *“any deposit, object or material evidence (not being a handicraft made for sale) relating to Aboriginal habitation of the area that comprises NSW, being habitation before or concurrent with the occupation of that area by persons of non-Aboriginal extraction, and includes Aboriginal remains” (NPW Act: 1974).*

Pros and Cons of NSW Legislation



NSW Law reform



Key:
 ACH – Aboriginal Cultural Heritage
 ACH Register – a statutory database for all ACH information
 Heritage Advisor – a suitably qualified person with a discipline directly relevant to the management of Aboriginal cultural heritage.
 Local ACH Committee – 10 Aboriginal cultural knowledge holders who have the right to speak on that specific Country for all ACH matters
 PoM – A Plan of Management outlines the ACH values and the associated protocols for managing the values contained within the boundary
 Project Agreement – a legal document that stipulates how the ACH values in a project area are to be managed.
 Any conditions in the Project Agreement must be in accordance with the PoM requirements.
 Proponent – A person undertaking an activity, for the purposes of a development or conservation

Notes:
 Days in all references to mandatory timeframes relate to working days
 **If agreement on the Project Agreement is unlikely to be reached within the mandatory 20 days, a request for support from an approved, independent dispute resolution service should be lodged prior to the mandatory timeframe ending.
 #Appeals may be made through the Land and Environment Court

Aboriginal Cultural Heritage Act, 2003 and complementary Torres Strait Islander Cultural heritage Act 2003

This Act was put in place to recognise, protect and conserve Aboriginal cultural heritage in Queensland. A fundamental principle of the Act outlined in Division 5(1b) is that *‘Aboriginal people should be recognised as the primary guardians, keepers and knowledge holders of Aboriginal cultural heritage’*.

The Act defines Aboriginal cultural heritage as anything that is:

- a) a significant Aboriginal area in Queensland, or
- b) a significant Aboriginal object, or
- c) evidence, of archaeological or historic significance, of Aboriginal occupation of an area of Queensland.

Under the Act Aboriginal cultural heritage can include both

- a) archaeological or historical sites that are visibly identifiable or recorded in oral or written history or b) sites and places that are not visibly identifiable.

Pros and Cons



- a) The Act does provide an recognition of Traditional Owners ownership of heritage above specialists ie archaeologists
- b) Problems in practice:
 - a) Significance is based on objects or tangible heritage – not on culture as living
 - b) Duty of Care Guidelines and disturbance categories lead to destruction of Aboriginal sites
 - c) Focus on Traditional Owners can divide communities as does not recognise historical connections – unlike NSW
 - d) Lack of archaeological input into this process either community or specialist driven has lead to destruction of sites
 - e) “Traditional Owners have to respond to development proposals (if aware of them) and demonstrate their cultural heritage places or objects exist – requiring funding/resources they don’t have” (ALC 2010)

Localised, collaborative, holistic and engaging



Conclusions



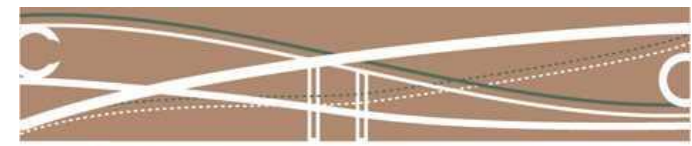
Thank you



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"So what's this? I asked for a hammer!
A hammer! *This* is a crescent wrench! ...
Well, maybe it's a hammer. ... Damn these stone
tools."



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