

JULY 2024 – VERSION 1.0

1. PURPOSE

This strategy outlines the Heritage Council (the Council)'s approach to managing its compliance responsibilities under the *Heritage Act 2018* (the Act) and Heritage Regulations 2019 (the Regulations).

2. OVERVIEW

What is compliance?

To comply with the Act means to:

- not detrimentally affect the cultural heritage significance of a State-registered place through action or inaction, such as development or neglect
- have made a decision that is consistent with the Council's advice.
- satisfy any conditions set out in a works permit
- comply with heritage agreements, protection orders, repair notice or orders, or prohibition orders.
- dispose of government heritage assets in accordance with the Regulations.
- provide the Council with information it has reasonably requested of public authorities.

3. SCOPE

This Policy applies to the Council and all relevant staff of the Department of Planning, Lands and Heritage (the Department).

4. OBJECTIVE

This Policy is intended to guide the compliance operations of the Council and the Department.

5. POLICY REQUIREMENTS

5.1 GUIDING PRINCIPLES

The Council and the Department are guided by the following principles when undertaking compliance actions:

1. **Active engagement**
We actively engage with stakeholders on compliance issues with the aim of resolving the situation without taking serious action.
2. **Transparency**
We will provide accurate, clear and easily accessible information on the responsibilities of the owner, manager or decision-makers with respect to heritage places, including guidelines defining expectations.
3. **Consistency**
We will be consistent when responding to compliance matters. We will apply similar responses to circumstances of similar nature, using the risk-based approach.
4. **Matching the action to the incident**
Actions taken will be proportional to the incident, based on assessment of risk, impact and culpability.
5. **Accountability**
Compliance actions will be reasonable, fair, respectful, impartial, and will be undertaken in a manner that maximises the safety of all stakeholders.

5.2 SCALE OF PROACTIVE MEASURES AND COMPLIANCE ACTIONS

1. Education

As a proactive measure, the Department is to provide stakeholders with clear and easy access to information regarding responsibilities under the Act. The information is to assist and guide stakeholders in understanding the benefits of registration and conservation, available resources and incentives, and the process for obtaining heritage advice and approvals. The Department commits to targeted engagement where necessary.

2. Prevention

Where appropriate, the Department will limit the potential for adverse impacts to heritage places by monitoring places at risk of damage and engaging with stakeholders to improve management practices and encourage conservation.

3. Remedy

In the first instance of any compliance matter, the key is to provide the necessary information to stakeholders. This includes information on their responsibilities under the Act, and guidance on options to rectify the compliance matter quickly and effectively.

If non-compliance continues, the Department is to progress a Stop Work Order or Repair Notice, whichever is appropriate, to limit the adverse impact on the place and/or require remediation.

5. Sanction

In some cases, enforcement of the penalties as allowed under the Act is necessary when there has been catastrophic and irreversible damage to a place.

5.3 RISK-BASED APPROACH

When deciding on the response to a non-compliance matter, the Council and the Department will take the following risk-based approach. The factors that need to be considered are as follows:

- The severity of adverse impact on the cultural heritage = of the place
- The nature of the non-compliance incident and whether the incident was unintentional or deliberate.
- The evidence available surrounding the non-compliance matter.
- The level of public interest.

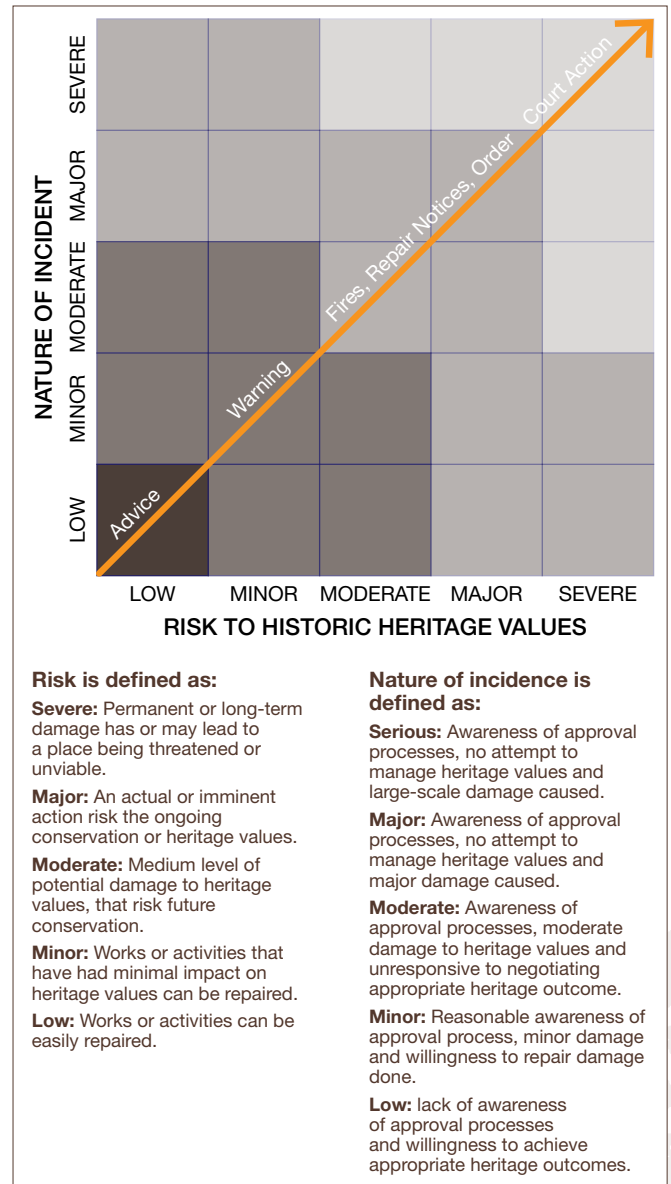


FIGURE 1: Compliance action based on risk to cultural heritage significance and the nature of the incident

6. RELATED DOCUMENTS

The following documents support this Policy:

- Heritage Agreement Policy
(Heritage Council of Western Australia, 2023).

Acknowledgement of Country

The Heritage Council of Western Australia acknowledges the Aboriginal people as the traditional custodians of Western Australia. We pay our respects to the Ancestors and Elders, both past and present, and the ongoing connection between people, land, waters and community. We acknowledge those who continue to share knowledge, their traditions and culture to support our journey for reconciliation. In particular, we recognise land and cultural heritage as places that hold great significance for Aboriginal people.

Disclaimer

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Published by the
Department of Planning, Lands and Heritage
Gordon Stephenson House
140 William Street
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Locked Bag 2506
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Published date: July 2024
Approval date: 5 April 2024
Effective date: 5 April 2024

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