

Title of Policy	SMRC Policy 127 – Heritage - Works of a Minor Nature or Maintenance		
Responsible Department	Service Planning	Document Register ID	250.2016.127.1
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Date of Council Meeting	21 December 2016	Resolution Number	243/16
Legislation, Australian Standards, Code of Practice	<p><i>Environmental Planning and Assessment Act 1979</i></p> <p><i>State Environmental Planning Policy (Exempt and Complying Development Codes) 2008</i></p> <p><i>Bombala Local Environmental Plan 2012</i></p> <p><i>Bombala Development Control Plan 2012</i></p> <p><i>Cooma-Monaro Local Environmental Plan 2013</i></p> <p><i>Cooma-Monaro Development Control Plan 2014 (Amendment 1)</i></p> <p><i>Snowy River Local Environmental Plan 2013</i></p> <p><i>The Snowy River Development Control Plan 2013</i></p>		
Aim	<p>To conserve the heritage significance of Heritage Items and Heritage Conservation Areas including associated fabric, settings and views.</p> <p>To identify works of a minor nature or maintenance associated with a Heritage Item or a place in a Heritage Conservation Area which do not require the formal development consent of Council (via a Development Application).</p> <p>To provide guidelines to meet the requirements set out in the <i>Bombala Local Environmental Plan 2012</i>, <i>Cooma-Monaro Local Environmental Plan 2013</i> and <i>Snowy River Local Environmental Plan 2013</i>.</p> <p>Note this Policy is for historic places (eg buildings and items) and may not necessarily apply to natural and Aboriginal places</p>		

1 Definitions

(in relation to a heritage item, Aboriginal object or Aboriginal place of heritage significance, or a building, work, archaeological site, tree or place within a heritage conservation area and applicable to this Policy)

Heritage Conservation Area – means an area of land identified as having heritage significance, including any heritage items situated on or within that area, listed in the *Cooma-Monaro Local Environmental Plan 2013* and *Snowy River Local Environmental Plan 2013*.

Heritage Item – means a building, work, place, relic, tree, object or archaeological site identified as a heritage item listed in the *Bombala Local Environmental Plan 2012*, *Cooma-Monaro Local Environmental Plan 2013* and *Snowy River Local Environmental Plan 2013*.

Heritage significance – means the historic, aesthetic, scientific, technical, social or other values of a place or item.

Maintenance – means ongoing protective care, but does not include the removal or disturbance of existing fabric, alterations (such as carrying out extensions or additions) or the introduction of new materials or technology.

Routine Maintenance – means a mundane activity or process carried out to ensure the safe and/or continued operation or use, and typically includes:

- weeding, watering, mowing, top-dressing, pest control and fertilizing necessary for the continued health of plants, without damage or major alterations to layout, contours, plant species or other significant landscape features;
- pruning (to control size, improve shape, flowering or fruiting and the removal of diseased, dead or dangerous material), not exceeding 10% of the canopy of a tree within a period of two (2) years;
- the removal of vegetation and litter from gutters and drainage systems to prevent deterioration or replacing guttering;
- resealing and tightening fixtures of loose elements of building fabric;
- re-hinging doors and gates;
- replacing broken windows, fly screens, etc;
- lubricating equipment and services which have moving parts;
- the application of protective coatings such as limewash, polish, oils and waxes to surfaces which have previously had such coatings applied;
- painting and decoration to the interior of the house and installation of joinery items;
- repainting surfaces which are already painted (Council may be able to assist with suggesting sympathetic colour schemes), including timberwork and metalwork;
- cleaning by the removal of surface deposits using methods other than aggressive mechanical or chemical techniques such as high pressure, high temperature or strong solvents which may affect the substrate; and
- pest control.

The routine maintenance activities listed above **do not** require notification to Council.

Repairs – means the replacement of services such as cabling, plumbing, wiring and fire services that use existing service routes, cavities or voids or replaces existing surface mounted services and does not involve damage to or the removal of significant fabric; or the repair (such as refixing and patching) or the replacement of missing, damaged or deteriorated fabric that is beyond further maintenance, which matches the existing fabric in appearance, material and method of affixing and does not involve damage to or the removal of significant fabric.

2 Background

Regular and appropriate maintenance is essential to all buildings to protect the fabric from the effects of age and weather and prevent deterioration of the property.

Maintenance and repair works are encouraged for heritage items and all properties in conservation areas and generally do not require development consent from Council if they are of a minor nature and would not adversely affect the heritage significance of the item or conservation area.

Clause 5.10 of the *Bombala Local Environmental Plan 2012*, *Cooma-Monaro Local Environmental Plan 2013*, and *Snowy River Local Environmental Plan 2013* (the LEPs) addresses heritage conservation, and in particular when development consent is and is not required for heritage affected places. To reduce unnecessary or onerous obligations on owners of heritage property, clause 5.10 (3) identifies development consent is not required under the LEP if:

- (a) *The applicant has notified the consent authority of the proposed development and the consent authority has advised the applicant in writing before any work is carried out that it is satisfied that the proposed development:*
- (i) *is of a minor nature or is for the maintenance of the heritage item, Aboriginal object, Aboriginal place of heritage significance or archaeological site or a building, work, relic, tree or place within the heritage conservation area, and*
 - (ii) *would not adversely affect the heritage significance of the heritage item, Aboriginal object, Aboriginal place, archaeological site or heritage conservation area, or*
- (b) *the development is in a cemetery or burial ground and the proposed development:*
- (i) *is the creation of a new grave or monument, or excavation or disturbance of land for the purpose of conserving or repairing monuments or grave markers, and*
 - (ii) *would not cause disturbance to human remains, relics, Aboriginal objects in the form of grave goods, or to an Aboriginal place of heritage significance, or*
- (c) *the development is limited to the removal of a tree or other vegetation that the Council is satisfied is a risk to human life or property, or*
- (d) *the development is exempt development.*

Council must, before responding to a written request to undertake works of a minor nature or maintenance in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

3 Works of a Minor Nature or Maintenance

3.1 Applications

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the SEPP) identifies types of development that are of minimal environmental impact that may be carried out without the need for development consent.

However, a number of sections within the SEPP exclude development from being ‘exempt’ because the site contains a heritage item or *draft* heritage item or is located within a heritage conservation area or *draft* heritage conservation area.

The Works of a Minor Nature specified in Attachment A of this Policy may however be permitted without obtaining formal development consent, provided the proposed work/s are in keeping with the guidelines in this document and comply with all other relevant development standards identified in the SEPP applicable to the proposed work/s.

Maintenance and repairs in accordance with Attachment B of this Policy will only be considered minor when significant fabric is **not** damaged, moved, removed, disturbed or altered. In all cases, the damage or removal of significant fabric is not permitted without approval via a Development Application (DA) to Council. Note the development must also **not** result in a development which is inconsistent with any specific conditions of a previous approval (please check with Council to confirm).

A person proposing to undertake any of the works described in Attachment A (Works of a Minor Nature) and/or Attachment B ((Maintenance and Repairs Guidelines) of this Policy **must** write to Council (preferably completing and submitting a ‘Works of a Minor Nature or Maintenance’ Application Form) and describe the proposed activity. If Council is satisfied that the proposed activity meets the criteria in Attachment A and/or Attachment B, Council will notify the applicant in writing

that the development may proceed (in accordance with the recommendations, requirements and/or conditions of Council's written advice).

3.2 Essential Requirements

To be considered as 'Works of a Minor Nature', for the purposes of this Policy, the development must:

- (a) meet the relevant deemed-to-satisfy provisions of the *Building Code of Australia* and applicable Australian Standards, or if there are no such relevant provisions, must be structurally adequate, and
- (b) must not, if it relates to an existing building, cause the building to contravene the *Building Code of Australia* or applicable Australian Standards, and
- (c) be installed in accordance with the manufacturer's specifications, if applicable, and
- (d) not involve the removal or pruning of a tree or other vegetation that requires a permit or development consent for removal or pruning, unless that removal or pruning is undertaken in accordance with a permit or development consent, and
- (e) Development that relates to an existing building that is classified under the *Building Code of Australia* as class 1b or class 2-9 will be considered to be works of a minor nature for the purposes of this Policy only if:
 - (i) The building has a current fire safety certificate or fire safety statement, or
 - (ii) No fire safety measures are currently implemented, required or proposed for the building.

3.3 Assessment

Persons intending to undertake Works of a Minor Nature and/or Maintenance are encouraged to seek preliminary advice from Council's Heritage Advisor or Town Planning staff prior to lodging a Works of a Minor Nature or Maintenance Application Form.

Wherever possible, applications for Works of a Minor Nature and/or Maintenance will be assessed by Council's Town Planning staff. In the event that a more detailed professional design or conservation advice is required, the application will be referred to Council's Heritage Advisor.

Provided the submitted information is sufficient for an assessment to be undertaken, Council will endeavour to provide a written response within five (5) working days. Note a written response from Council is required **before** any works or maintenance are undertaken.

3.4 Fees

No fee is applicable for an application for Works of a Minor Nature or Maintenance.

Where a Development Application (DA) is required because the works proposed do not meet the criteria for 'works of a minor nature', but would otherwise meet the criteria of 'exempt or complying' development under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* were the item not heritage listed, Council will make a donation of all applicable fees.

It must be noted that Applicants must pay the applicable fee/s at the time of lodgement of their DA, and using the 'Application for donations' form, make written request to Council for the donation of such fee/s.

Where Council's schedule of Fees and Charges requires payment for assessment of 'Heritage – Works of a Minor Nature', that fee will apply.

3.5 Appeal

In the event an application for Works of a Minor Nature is refused on the grounds that:

- the works are not considered to be of a minor nature, or
- the works would adversely affect the significance of a Heritage Item or Heritage Conservation Area,

an applicant is able to submit a formal Development Application (DA) to Council. If the DA is refused on the grounds that it would adversely affect the significance of the Heritage Item or Heritage Conservation Area, the applicant is able to appeal Council's decision under Section 97 of the *Environmental Planning and Assessment Act, 1979* via the NSW Land and Environment Court.

Documentation

Bombala Local Environmental Plan 2012

Cooma-Monaro Local Environmental Plan 2013

Snowy River Local Environmental Plan 2013

250.2016.125.1 Works of a Minor Nature or Maintenance Application Form

4 Variation

Council reserves the right to review, vary or revoke this policy and should be reviewed periodically to ensure it is relevant and appropriate.

5 Attachment A – Development which is considered to constitute Works of a Minor Nature

Works of a Minor Nature Acceptance Criteria – The following works may be accepted as **minor** if **all other** Development Standards specified in the relevant clauses of *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* **are met**, and permitted without obtaining formal development consent, but **do require** a written response from Council **before** being undertaken. The Development Standards for each of the works below contain important additional clauses and should be considered prior to making an application for Works of a Minor Nature approval.

The relevant SEPP Development Standards can be found at <http://www.legislation.nsw.gov.au>

Specified Development	Clause	This specified development may be considered minor provided all other standards are met and if the development is:
Access ramps	2.2	located other than in the rear yard. [2.2(e)]
Aerials, antennae and communication dishes	2.4	attached other than to the rear wall and roof plane of the existing building and/or are higher than the highest point of the roof of the building. [2.4(1)(iv)] There must be no more than three (3) developments per lot. [2.4(2)(a)] Note a mast is not considered a Works of a Minor Nature, and Council consent is required.[2.4(c)(iv)]
Air-conditioning units	2.6	wall mounted or constructed or installed on or in a heritage item. [2.6(1)(g) & (1A)(e)] located other than in the rear yard if constructed or installed in a heritage conservation area, if for residential uses only. [2.6(1)(h)] located forward of the building line of any road frontage, if for purposes other than residential uses only. [2.6(1A)(f)]
Animal shelters	2.6B	located other than in the rear yard, when it is not a stable for the keeping of horses. [2.6B(1)(i)] There must be no more than two (2) developments per lot. [2.6B(2)]
Automatic teller machines	2.6D	installed or constructed on land in a heritage conservation area. [2.6D(a)(ii)]
Awnings, blinds and canopies	2.10	located other than in the rear yard if constructed or installed on or in a heritage conservation area. [2.10(d1)]
Balconies, decks, patios, pergolas, terraces and verandahs	2.12	located forward of the building line of any road frontage if constructed or installed in a heritage conservation area. [2.12(o)]
Cabanas, cubby houses, ferneries, garden sheds, gazebos and greenhouses	2.18	located other than in the rear yard if constructed or installed in a heritage conservation area. [2.18(1)(j)] It must be a Class 10 building and not be habitable. [2.18((1)(l)] There must be no more than two (2) developments per lot. [2.18(2)]
Carports	2.20	located other than in the rear yard if constructed or installed in a heritage conservation area. [2.20(1)(m)] There must be no more than one (1) development per lot if there is a dwelling on the lot. [2.20(3)(a)]
Earthworks, retaining walls and structural support	2.30	located other than in the rear yard. [2.30(c)]
Evaporative cooling units (roof mounted)	2.30B	located other than in the rear yard and is visible from a public road. [2.30B(g)]

Specified Development	Clause	This specified development may be considered minor provided all other standards are met and if the development is:
Fowl and poultry houses	2.42	located other than in the rear yard. [2.42(1)(j)] There must be no more than one (1) development per lot. [2.42(2)]
Hot water systems	2.46B	located on a roof, [2.46B(b)(i)] and located other than in the rear yard. [2.46B(b)(ii)]
Landscaping structures	2.48	located other than in the rear yard. [2.48(e)]
Rainwater tanks (above ground) RU1, R5, E3 or E4 Zone	2.64	located other than in the rear yard. [2.64(1)(k)]
Rainwater tanks (below ground) – RU1 or R5 Zone	2.66	located other than in the rear yard. [2.66(1)(e)]
Screen enclosures (of balconies, decks, patios, pergolas, terraces and verandahs)	2.70	attached to any balcony, deck, patio, pergola, terrace or verandah that faces any road. [2.70(j)]
Shade structures of canvas, fabric, mesh or the like	2.72	located other than in the rear yard. [2.72(k)]
Skylights, roof windows and ventilators	2.74	visible from any road frontage. [2.74(g)]
Water features and ponds	2.80	located other than in the rear yard. [2.80(1)(b)]

6 Attachment B – Maintenance and Repairs Guidelines

Activities identified below are considered as *maintenance of a heritage item* and under the *Cooma-Monaro Local Environmental Plan 2013* and may be permitted without obtaining formal development consent, but **do require** a written response from Council **before** being undertaken.

Maintenance

Maintenance is distinguished from repairs, restoration and reconstruction as it does not involve the removal of or damage to existing fabric or the introduction of new materials, and is a continuing process of protective care.

Repainting of existing painted surfaces can be included as maintenance, and minor works can include such repairs to a building as the replacement of fascias, and can even include replacement of roofs where like materials as the ones being replaced are used.

Note only routine maintenance as defined in this Policy which does not involve a change to the building or site (such as lawn mowing, cleaning, inspecting gutters) **does not** require reference to Council nor development consent.

Repairs

Repairs must be based on the principle of doing as little as possible and only as much as is necessary to retain and protect the element. Therefore replacement must only occur as a last resort where the major part of an element has decayed beyond further maintenance.

Any new materials used for repair must not exacerbate the decay of existing fabric due to chemical incompatibility, obscure existing fabric or limit access to existing fabric for future maintenance.

Repairs must maximise protection and retention of fabric and include the conservation of existing detailing, such as vents, capping, chimneys, carving, decoration or glazing.

Painting

Painting of surfaces which have **not** previously been painted such as face brickwork, stone, concrete or galvanised iron is likely to adversely affect the heritage significance of the item and **will** require the concurrence of Council's Heritage Advisor.

Likewise, the stripping of paint coatings which were intended to be protective may expose the substrate to damage and cause the loss of the historical record and significance of the building. Paint removal of failed layers to achieve a stable base for repainting should aim to avoid the loss of the significant historical record.

The application of protective coatings such as limewash, polish, oils and waxes to surfaces which have previously had such coatings applied, **do not** require notification to Council.

Excavation

The excavation or disturbance of land **not** requiring notification to Council may only be undertaken for the purpose of:

- exposing underground utility services infrastructure which occurs within an existing service trench;
- carrying out inspections or emergency maintenance or repair on underground utility services;
- maintaining or repairing the foundations of an existing building; or
- exposing survey marks for use in conducting a land survey; and
- will not affect any other relics.

Restoration

Restoration **does not** involve the removal of fabric, and only relates to the return of fabric which has been removed to storage or has been dislodged from its original location **without** the introduction of new material/s.

Landscape Maintenance

Landscape features and gardens can be of heritage significance in their own right. They are often vital to the curtilage of a heritage item and fundamental to the setting of other (eg built or archaeological) heritage items and important to the appreciation of their heritage significance.

Landscaping maintenance includes:

- removal of dead or dying trees; or
- tree surgery by a qualified arborist, horticulturist or tree surgeon necessary for the health of those plants.

Where an item such as a garden has been listed, the ordinary day-to-day maintenance and replanting of garden beds **does not** require approval. The removal of significant mature trees, however, or changing the form of a garden designed in a certain style, **does** require consent.

In relation to cemeteries, landscape features include monuments, grave markers, grave surrounds, fencing, path edging and the like.

Signage

The following signage may only be considered as Works of a Minor Nature following assessment and formal written response from Council:

- temporary signage which is located behind or on the glass surface of a shop window which is not internally illuminated or flashing and is to be removed within eight (8) weeks;
- a real estate sign indicating that the place is for auction, sale or letting and related particulars and which is removed within ten (10) days of the sale or letting of the place;
- non-illuminated signage for the sole purpose of providing information to assist in the interpretation of the heritage significance of the item and which will not adversely affect significant fabric including landscape or archaeological features of its curtilage or obstruct significant views of and from heritage items;

- signage which is in the form of a flag or banner associated with a building used for a purpose which requires such form of promotion such as a theatre or gallery, which is displayed for a maximum period of eight (8) weeks and which will not adversely affect significant fabric including landscape or archaeological features of its curtilage;
- not conceal or involve the removal of signage which has an integral relationship with the significance of the item;
- be located and be of a suitable size so as not to obscure or damage significant fabric of the item; or
- be able to be later removed without causing damage to the significant fabric of the item; and
- reuse existing fixing points or insert fixings within existing joints without damage to adjacent masonry.

Burial Sites and Cemeteries

In addition to burial remains and artefacts, above ground cemetery elements may include headstones, footstones and other burial markers or monuments and associated elements such as grave kerbing, iron grave rails, grave furniture, enclosures and plantings.

Works of a Minor Nature within a burial site or cemetery includes:

- the creation of a new grave;
 - the erection of monuments or grave markers in a place of consistent character, including materials, size and form, which will not be in conflict with the character of the place; or
 - an excavation or disturbance of land for the purpose of carrying out conservation or repair of monuments or grave markers;
- provided that there will be no disturbance of human remains, to relics in the form of grave goods, associated landscape features or to a place of Aboriginal heritage significance.

Works of a Minor Nature **does not** apply to the erection of above-ground chambers, columbaria or vaults, or the designation of additional areas to be used as a burial place.

Safety and Security

Emergency maintenance and repairs apply in circumstances where there has been damage caused by a sudden change in circumstances of the building such as required following a catastrophic event (eg storm) rather than safety risks which may arise from ongoing neglect of maintenance, or works for the temporary or emergency securing of safety for users or the public include:

- the erection of temporary security fencing, scaffolding, hoardings or surveillance systems to prevent unauthorised access or secure public safety which will not adversely affect significant fabric of the item including landscape or archaeological features of its curtilage; or
- development, including emergency stabilisation necessary to secure safety where a building or work or part of a building or work has been irreparably damaged or destabilised and poses a safety risk to its users or the public.