

## **STATEMENT OF REASONS FOR DECISION UNDER SECTION 324F OF THE ENVIRONMENT PROTECTION AND BIODIVERSITY CONSERVATION ACT 1999**

I, Ian Gordon Campbell, Minister for the Environment and Heritage, provide the following statement of reasons for my decision of 10 December 2004, under section 324F of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), not to include the Western Precinct of the former ADI site, St Mary's, Sydney, in the National Heritage List.

### **Legislation**

1. Section 324F of the EPBC Act provides:
  - (1) This section applies (despite subsection 324C(2)) if the Minister believes that:
    - (a) a place wholly in the Australian jurisdiction has or may have one or more National Heritage values; and
    - (b) any of those values is under threat.
  - (2) The Minister may, by instrument published in the Gazette, include in the National Heritage List the place and the National Heritage values the Minister believes the place has or may have, whether or not the Minister has, under this Subdivision, given the Chair of the Australian Heritage Council a written request for the Council to assess under section 324G whether the place meets any of the National Heritage criteria.
  - (3) Within 10 business days after including the place in the National Heritage List under this section, the Minister must give the Chair of the Australian Heritage Council a written request for the Council to assess under section 324G whether the place meets any of the National Heritage criteria.
  - (4) However, subsection (3) does not apply if the Minister has already received from the Australian Heritage Council an assessment under section 324G whether the place meets any of the National Heritage criteria.
  - (5) If the Minister includes the place in the National Heritage List under this section, he or she must:
    - (a) within 10 business days, publish, on the Internet and in each other way required by the regulations (if any), a copy of the instrument published in the Gazette; and
    - (b) take all practicable steps to:
      - (i) identify each person who is an owner or occupier of all or part of the place; and
      - (ii) advise each person identified that the place has been included in the National Heritage List; and
    - (c) within 10 business days, advise each person (if any) who nominated the place or requested the Minister in writing to include the place in the List under this section that the place has been included in the List.
  - (6) If a person requests the Minister in writing to include a place in the National Heritage List under this section and the Minister has not done so within 10 business days after receiving the request, the Minister must:

- (a) publish on the Internet notice of those facts; and
- (b) advise the person that the Minister has not included the place in the List; and
- (c) give reasons why the Minister has not done so to the person and to anyone who requests them.

This subsection has effect (despite subsection (1)) whether or not the Minister has the belief described in that subsection in relation to the place and its heritage values (if any).

["The Australian jurisdiction" is defined to include the land, waters, seabed and airspace in Australia (s.5(5) EPBC Act).]

2 Subsection 324D (1) of the EPBC Act provides:

- (1) A place has a National Heritage value if and only if the place meets one of the criteria (the National Heritage criteria) prescribed by the regulations for the purposes of this section. The National Heritage value of the place is the place's heritage value that causes the place to meet the criterion.

3 The regulations state as follows:

- (1) For section 324D of the Act, sub regulation (2) prescribes the National Heritage criteria for the following:
  - (a) natural heritage values of places;
  - (b) indigenous heritage values of places;
  - (c) historic heritage values of places.
- (2) The National Heritage criteria for a place are any or all of the following:
  - (a) the place has outstanding heritage value to the nation because of the place's importance in the course, or pattern, of Australia's natural or cultural history;
  - (b) the place has outstanding heritage value to the nation because of the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history;
  - (c) the place has outstanding heritage value to the nation because of the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history;
  - (d) the place has outstanding heritage value to the nation because of the place's importance in demonstrating the principal characteristics of:
    - (i) a class of Australia's natural or cultural places; or
    - (ii) a class of Australia's natural or cultural environments;
  - (e) the place has outstanding heritage value to the nation because of the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
  - (f) the place has outstanding heritage value to the nation because of the place's importance in demonstrating a high degree of creative or technical achievement at a particular period;
  - (g) the place has outstanding heritage value to the nation because of the place's strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
  - (h) the place has outstanding heritage value to the nation because of the place's special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history;

- (i) the place has outstanding heritage value to the nation because of the place's importance as part of indigenous tradition.
- (3) For sub regulation (2), the cultural aspect of a criterion means the indigenous cultural aspect, the non-indigenous cultural aspect, or both.

## **Background**

4. I received a request on 25 November 2004 from the Hon Jackie Kelly MP for the Western Precinct of the former ADI site, St Mary's, Sydney (the place) to be included in the National Heritage List under the provisions of section 324F (Emergency Listing) of the EPBC Act. The request was missing two attachments, one of which described the boundary of the area subject to the application. The additional attachments were received on 1 December 2004. Ms Kelly claims that the place has several National Heritage values which are under threat from translocation of kangaroos and emus and urban development.
5. The Department of Finance and Administration, Lend Lease Development Pty Ltd, Penrith City Council, and the NSW Heritage Office, were provided with the request from Ms Kelly on 26 November 2004 and asked to comment on the matters raised in the request for emergency listing. All responded with comments.
6. In a letter and supporting documentation dated 30 November 2004, Lend Lease advised that the area subject to the application had been scrutinised for the past 10 years for urban and conservation uses under both State and Commonwealth legislation. Lend Lease noted that these processes had concluded that the place did not warrant listing on the Register of the National Estate, and consequently did not meet the more stringent thresholds for the National Heritage List. Lend Lease challenged factual errors in the request for emergency listing and provided supporting documentation to illustrate the absence of values. Lend Lease stated that the place had woodland so degraded in terms of clearing, species loss and invasion by exotic weeds as to no longer be Cumberland Plain Woodlands (CPW). Lend Lease noted in particular the failure of the nominator to make use of the best, most recent mapping of the extent of CPW from the Department of Environment and Conservation, which shows woodlands of any kind to be largely absent from the place. Lend Lease stated that the place did not meet criteria (b), (c) or (e) for the National Heritage List. Lend Lease noted the development of a regional park over the best area of St Mary's (adjacent to the Western Precinct) and the commitment to protect all Register of the National Estate listed land (which includes all medium and high quality CPW in areas adjacent to the Western Precinct) and the transfer of these lands at no cost to the NSW National Parks and Wildlife Service [Department of Environment and Conservation]. Lend Lease acknowledged the presence of the endangered plant *Pimelea spicata* in the place, but stated that the population will be fenced to protect it from grazing. Lend Lease also stated that the initial movement of animals will involve 60 kangaroos and not 1-2,000 kangaroos and emus as stated in the request and that translocation will occur to reduce the grazing pressure on the more significant adjacent area within the regional park. As a consequence, Lend Lease states that there was no immediate or imminent threat.
7. In a letter received 1 December 2004, the NSW Heritage Office (NSW HO) commented on the request for emergency listing of the place. NSW HO noted that no information was currently available on the place, nor were they assessing it. NSW HO

questioned the validity of the request for emergency listing based on the fact that the threatening processes were part of an agreed management strategy with community and scientific input. NSW HO suggested that a nomination assessed under the normal timeframes was more appropriate. NSW HO also included attachments from the NSW Department of Environment and Conservation providing details of the macrofauna management plan governing the translocation of the kangaroos and emus, and a letter from the NSW Department of Infrastructure, Planning and Natural Resources which provided details of the current planning actions being taken on the Western Precinct and adjacent regional park.

8. In a letter dated 30 November 2004, Penrith City Council (PCC) commented on the request for emergency listing of the place. PCC noted that there was an inadequate timeframe for proper assessment of the request. PCC stated that there are no national heritage values within the Western Precinct outside the area previously listed for the Register of the National Estate. PCC provided a history of actions and decisions taken over the ADI site and in relation to the Western Precinct in particular. PCC particularly noted that St Mary's ADI was excluded from the 2002 review of conservation values on Commonwealth Land in western Sydney given the extensive consideration of this site in the planning process to date. PCC also noted that the emergency request was inconsistent with the Commonwealth Government decision on the sale of Comland and the endorsement of the deed with Delfin Lend Lease and the State Government. PCC stated that the request was further inconsistent with the detailed examinations conducted by both Commonwealth and State Governments on ADI's bushland values and those parts regarded as being above threshold for the Register of the National Estate. PCC also questioned the imminence of the threat posed by translocation of kangaroos and/or emus, particularly given the absence of National Heritage values.
9. In a letter dated 3 December 2004, Senator the Hon Nick Minchin commented on the request for emergency listing of the place. Senator Minchin stated his opposition to the emergency listing on the basis that the values present in the Western Precinct had previously been found to be below threshold for the Register of the National Estate and were therefore substantially below the higher thresholds required for the National Heritage List. Senator Minchin noted the long history of Commonwealth and State environmental assessment of the area and the Australian Government's commitment to develop the Western Precinct following the protection of existing values in the regional park and National Estate. Senator Minchin stated that it is reasonable for Lend Lease to have an expectation that the Australian Government will not take any further actions to prevent further development, given the recent conclusion of the sale of the land.
10. In a letter dated 3 December 2004, the Urban Development Institute of Australia (UDIA) commented on the request for emergency listing of the place. UDIA stated that the site does not have sufficiently high biodiversity or ecological values to warrant listing on the National Heritage List. UDIA stated that the place had woodland so degraded in terms of clearing, species loss and invasion by exotic weeds as to no longer be CPW. UDIA noted Lend Lease's commitment to the development of parkland outside the regional park and the in-principle commitment to the protection of the wetland in the Western Precinct known as "Sydney's Secret Garden". UDIA also stated its concern at the threat to a major urban development including the provision of urgently needed new homes and 8,600 new jobs.

11. Ms Kelly was provided with the respondents' comments on 3 December 2004 and responded on 7 December 2004. Ms Kelly was provided with an additional respondent's comments on 7 December 2004 and responded on 8 December 2004. Ms Kelly reiterated that her nomination has important heritage values, and that the Western Precinct ADI Site is under immediate threat. Ms Kelly disagreed with nearly all points raised by PCC, Lend Lease, Senator Minchin and UDIA, citing in particular that there appeared to be inconsistency in timeframes between actions being undertaken by Lend Lease and related management planning processes and that this incongruence was placing values at risk. Ms Kelly cited inconsistencies between PCC's comments and other PCC documents and public statements, suggesting that PCC comments on the request were incorrect. Ms Kelly reiterated the significance of the comments by ecologist Michael Doherty that assessment of CPW should be based on floristics and not structure and that he considered weed numbers in the Western Precinct were generally low. Ms Kelly stated that new species have been listed since the Perkins report and Australian Heritage Commission assessment and that these needed to be assessed. Ms Kelly claimed that the Perkins report (1999) was undertaken under unspecified restrictions that made the results questionable and that because an additional 250 hectares was protected as recently as 2002, other as yet unidentified values may also exist in the Western Precinct. Ms Kelly criticised NSW NPWS vegetation mapping of CPW on the basis that it was too coarse and was based on structure and aerial photography, not floristics, citing Mr Doherty to support her argument. Ms Kelly, in commenting on UDIA's response, included a submission from Mr Ross Rapmund that identified widespread regeneration of CPW in the Western Precinct, including a species list. Ms Kelly used information provided by PCC to claim potential new non-Indigenous national heritage values under criterion (c) that is, potential to yield information that will contribute to an understanding of Australia's natural or cultural history.
12. In a letter dated 7 December 2004, the Nature Conservation Council of NSW Inc provided a letter of support for the emergency listing of the place. In a similar letter dated 8 December 2004, Humane Society International supported the emergency listing for the place and National Heritage listing of all significant Cumberland Plain Woodlands remnants. Both organisations supported the view that the Western Precinct of the place contains regenerating CPW.

#### **Evidence or other material on which the decision-maker's findings were based**

13. The evidence or other material upon which my findings were based were provided in a brief from the Department of the Environment and Heritage, dated 9 December 2004, including references to the following:
  - Letter from the Hon Jackie Kelly MP dated 22 November 2004, requesting entry of the place in the National Heritage List with supporting information.
  - Comments by Lend Lease on the matters raised by Ms Kelly.
  - Comments by the NSW Heritage Office including supporting documents from the NSW Department of Environment and Conservation and the NSW Department of Infrastructure, Planning and Natural Resources on the matters raised by Ms Kelly.
  - Comments by Penrith City Council on the matters raised by Ms Kelly.
  - Comments from Senator the Hon Nick Minchin on the matters raised by Ms Kelly.

- Comments by the Urban Development Institute of Australia on the matters raised by Ms Kelly.
- Comments from Ms Kelly on the responses from Lend Lease, NSW Heritage Office, Penrith City Council, and Senator Minchin.
- Comments from Ms Kelly on the response from the Urban Development Institute of Australia.
- Comments received from the Nature Conservation Council of NSW Inc in support of the emergency nomination.
- Comments received from Humane Society International in support of the emergency nomination.
- Australian Heritage Commission, 1999, *Western Sydney Shale Woodland St Mary's*. Place report from the Register of the National Estate. <http://www.deh.gov.au/cgi-bin/ahdb/search.pl>
- Perkins, I 1999, *Flora Assessment of the Disputed Areas of the Western Sydney Shale Woodlands*. Report to the Australian Heritage Commission. Ian Perkins Consultancy Services – Park, Bushland and Land Management Consultants.
- NSW National Parks and Wildlife Service, 2002, *Native Vegetation of the Cumberland Plain*. Final Edition. NSW NPWS, Landcom and UDIA.
- Advice from the *Endangered Species Protection Act 1992*, Endangered Species Scientific Subcommittee on Cumberland Plain Woodlands.

#### **Findings on material questions of fact**

14. The place nominated by Ms Kelly is wholly within the “Australian Jurisdiction”.
15. There were two questions that I had to address in considering the request for emergency National Heritage Listing of the place under s.324 F of the EPBC Act:
  1. whether the place has or may have one or more National Heritage values; and,
  2. whether any of those values are under threat.

#### *(a) Possession of National Heritage values*

16. I began by considering all the evidence provided to me about the heritage values in the nominated area. In order for me to form a belief that the place has or may have one or more National Heritage values, I needed to consider whether the place met one of the National Heritage criteria prescribed by the regulations. In doing so, I noted that each criterion indicates that the place must have “outstanding heritage value to the nation”. This reflects the intention of the Act as explained in the Explanatory Memorandum for the Environment and Heritage Legislation Amendment Bill (No.1) 2002 to distinguish between places that would properly be regarded as places of State or local significance compared with those that are “of exceptional value and importance to the nation as a whole”.
17. Ms Kelly stated that the major significance of the place is as a remnant of CPW, a vegetation community endemic to western Sydney and one of the largest continuous remaining remnants. In addition, Ms Kelly also maintained that the place contained a population of the endangered plant *Pimelea spicata*.

18. Ms Kelly also claimed that the place has outstanding national value because of its aesthetic characteristics (that the place has outstanding heritage value to the nation because of the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group). Ms Kelly stated that the value was primarily associated with the aesthetic uniqueness of a large remnant of an endangered vegetation community within a highly populated area in Western Sydney. Ms Kelly claimed that this remnant is the only large remnant that can be readily viewed by people on a daily basis, providing 2 km of uninterrupted views of intergrading Shale Plains and Shale Hills CPW as well as being the only place in Sydney where wild populations of kangaroos and emus can be viewed. Ms Kelly also claimed that the community aesthetically resembles typical pre-1788 CPW and offers "a sense of Australiana" (natural landscape). Ms Kelly claimed that the place is a historic landmark because of a munitions manufacturing facility that operated 1940s-1994. Ms Kelly stated that the place is valued by community or cultural groups, namely that it of value to the Australian Film Industry, offers public inspiration for creative expression, and has inspired democratic processes in the efforts to conserve the area, the place being a visual reminder of the conservation campaign and an action important in Western Sydney's history.
19. In support of the place's national significance, Ms Kelly maintained that there are only 943.2 hectares of CPW reserved nationally and that the proposed regional park at St Mary's would add a further 372.3 hectares. The nominated place would, if protected, represent 15% of nationally reserved CPW. Ms Kelly maintained that CPW was the first endangered ecological community listed under the former *Endangered Species Protection Act* (1992) and presented the Threatened Species determination under the *NSW Threatened Species Conservation Act* (1995) and National Trust listing in support of the area's national significance. In particular, Ms Kelly maintained that the original CPW boundary at St Mary's defined for the Register of the National Estate (RNE) was flawed. Ms Kelly presented evidence that CPW is present in the Western Precinct area and that hence, the RNE boundary is flawed.
20. I noted that Ms Kelly identified National Heritage values that she considered met three National Heritage criteria in support of her claims that the place has National Heritage value. I then examined the material supplied in support of each criterion claimed.

*Criterion (b): the place has outstanding heritage value to the nation because of the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history.*

21. I noted the claim against criterion (b) that the place comprises a remnant of CPW, a vegetation community endemic to western Sydney and one of the largest continuous remaining remnants.
22. My Department informs me that there are only approximately 11,054.5 hectares or 8.8% of moderate to high quality CPW remaining (NPWS 2002) and CPW is an endangered ecological community listed in the EPBC Act. CPW is currently poorly represented in formal reserves. Perkins (1999) identified small fragments of CPW in the place. The largest remaining remnants of CPW are at "Western Sydney Shale Woodlands St Mary's" (outside the nominated area) and at East Orchard Hills defence facility, both of which are very much larger than the Western Precinct. These two

places are also comprised of mature, high quality remnants of CPW rather than regeneration. I noted that the nominated place is adjacent to the RNE listed place (“Western Sydney Shale Woodlands St Mary’s”).

23. I noted that both the largest areas of CPW are listed in the RNE. The registration criterion for the RNE required in the *Australian Heritage Council Act 2003* is that the place has a 'significant heritage value', a much lower threshold than for the National Heritage List.
24. My Department informs me that the nominated place was previously considered for inclusion in the RNE and rejected by the then Australian Heritage Commission (AHC). I therefore considered the question of the adequacy of previous decision-making on the inclusion or exclusion of the Western Precinct from “Western Sydney Shale Woodlands St Mary’s”. I found that the AHC investigated the western half of St Mary’s ADI, which includes the place, to establish an appropriate boundary for the RNE place entitled “Western Sydney Shale Woodlands St Mary’s”. I noted the claims that the decision of the AHC was based on the Perkins report and that this report comprised an inadequate survey effort with only one vegetation survey plot. I found that this claim was incorrect. The Perkins study covered the entire Western Precinct using a 500 metre grid system, with each grid-cell traversed at least four times. These traverses were used as a basis for identifying areas as comprised primarily of either native or exotic vegetation. I found that two subsequent plots in the Western Precinct were then used for comparative purposes with plots in other parts of the place.
25. The Perkins study identified the place as being heavily infested by exotic weeds (notably carpet grass), having high levels of past site disturbance and regular slashing activities. I noted the study’s recommendation to exclude most of the place from the proposed RNE boundary on the basis that the woodland present was largely cleared, heavily infested with exotic species and had a poorer representation of native species comprising CPW than areas to the east. My Department informs me that the report identified that some areas containing low quality CPW may exist within this area, but they were small and degraded and the RNE boundary was established to reflect the distribution of medium to high quality CPW. I found that this decision was based on heritage significance. I found that the woodland remnants in the Western Precinct are of poor quality compared with better examples listed on the RNE at St Mary’s and at East Orchard Hills.
26. I noted that Ms Kelly claimed that CPW had some significance as the first ecological community listed under the *Endangered Species Protection Act 1992*. I did not find the timing of the original listing of CPW contributed significantly to the claimed heritage values.
27. I noted that the listing by the National Trust has been put forward to support the claim against criterion (b). I found that the National Trust listing pertained to the whole of the ADI St Mary’s Site, including both the Western Precinct and the area on the RNE. I found that, upon further investigations, the values described related primarily to the medium and high quality stands of CPW within the area included on the RNE, rather than the degraded and mostly cleared woodland within the Western Precinct. I noted that the National Trust listing identified regionally rare species.

28. I noted that a letter from botanist Michael Doherty and parts of the legal proceedings of *Plumb v Penrith City Council* and *Anon* in the NSW Land and Environment Court have been provided to support the claim against criterion (b). In a response to comments from UDIA, Ms Kelly provided additional evidence from Mr Ross Rapmund about the CPW floristic elements occurring in widespread regeneration in the Western Precinct. I noted that the discussions in *Plumb v Penrith City Council* and the deliberations of Mr Doherty and Mr Rapmund were based largely on investigations of regeneration following cessation of slashing in cleared areas and a claimed increase in the number of species associated with CPW as a result.
29. I noted from previous advice of the *Endangered Species Protection Act 1992*, Endangered Species Scientific Subcommittee that the Cumberland Plain Woodlands ecological community is characteristically of woodland structure but may include both more open and more dense areas. The canopy is dominated by species including one or more of the following: *Eucalyptus moluccana*, *Eucalyptus tereticornis*, *Eucalyptus crebra*, *Eucalyptus eugenioides* and *Eucalyptus maculata*. The understorey is generally grassy to herbaceous with patches of shrubs, or if disturbed, contains components of the indigenous native species sufficient to re-establish the characteristic native understorey. The Cumberland Plains Woodlands ecological community includes regrowth that is likely to achieve a near natural structure or is a seral stage towards that structure.
30. I concluded from this that, were the Western Precinct to be considered CPW, it would be as a regrowth component, currently lacking the characteristic woodland structure, but with potential to develop that structure if future conditions were appropriate.
31. I understand that there is no fixed prescription for the minimum number of characteristic species that need to be present to enable a remnant stand of vegetation to be defined as CPW. I noted that Perkins (1999) originally found regeneration of some species associated with CPW in the Western Precinct, but in addition to species numbers he also included CPW woodland structure as an important element in determining which areas he recommended to the AHC as possessing suitable heritage values for listing on the RNE. I noted that the subsequent decision by the AHC reflected agreement that quality of the CPW in its characteristic features, both floristics and structure, was an important issue in reaching the statutory heritage threshold of “significance or other special value for future generations as well as the present community”.
32. I concluded that, were the presence of CPW the key issue in determining whether the Western Precinct met NH criterion (b), then the Western Precinct is not among the better examples of extant CPW, nor is it yet clear whether it will develop the full characteristics of CPW, since it is at an early stage of regrowth. The changes in the Western Precinct seem to be only incremental since the AHC decision not to include it on the RNE and the threshold for meeting National Heritage criteria is much higher.
33. I also noted the more general suggestion that an endangered ecological community such as CPW is of outstanding heritage value to the nation such that all places containing CPW meet NH criterion (b). I did not consider this general issue further for the nominated place since the Western Precinct at present expresses only a very limited aspect of CPW characteristics based on early regrowth. I cannot judge at this stage whether it is likely to achieve near natural CPW characteristics or the degree to which it might contribute to the conservation of CPW in the future.

34. I noted the claim against criterion (b) that the place contains a population of the endangered plant *Pimelea spicata*. I found that *Pimelea spicata* is one of 509 plant taxa listed as endangered under the EPBC Act. It is known from at least 42 locations from Western Sydney and Wollongong. I can find no evidence that the occurrence of a population of this plant at the place is of more than regional significance.

*Criterion (c): The place has outstanding heritage value to the nation because of the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history.*

35. I noted the claim against criterion (c) identified in Ms Kelly's response to comments from PCC that the place is of outstanding heritage value to the nation because it demonstrates the potential to yield information that will contribute to an understanding of Australia's non-Indigenous cultural history. Ms Kelly claimed that PCC's letter had suggested the presence of additional non-Indigenous heritage values under criterion (c). I found that Ms Kelly did not identify the location of the claimed values nor provide evidence to support the assertion that the sites are of potential national significance. I found that without such evidence, I could not conclude that the place met the requirements for criterion (c) for non-Indigenous cultural National Heritage value.

*Criterion (d): the place has outstanding heritage value to the nation because of the place's importance in demonstrating the principal characteristics of: (i) a class of Australia's natural or cultural places; or (ii) a class of Australia's natural or cultural environments.*

36. I noted the claim against criterion (d) that the place is of outstanding heritage value to the nation because it demonstrates the principal characteristics of CPW. I found that the best example of CPW occurs at East Orchard Hills, where mature CPW occurs together with one of the least disturbed catchments in western Sydney. I can find no evidence that the principal characteristics of CPW are demonstrated by the degraded woodland remnants in the place.

*Criterion (e): the place has outstanding heritage value to the nation because of the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group.*

37. I noted the claims against criterion (e) that the place is of importance to the nation for aesthetic value.
38. I found that to meet this criterion for aesthetic value, the aesthetic characteristics (those that are considered 'beautiful' or 'awe-inspiring') must be outstanding examples compared with those exhibited in other sites and be highly regarded not just at regional or local level but at a national level. I found that the aesthetic natural landscape characteristics of woodland and wildlife and the "pre 1788 landscape" are conserved and exhibited in the adjacent regional park. I found that although there may be some aesthetic importance in the views of the landscape, the visibility of the landscape, and sense of "Australiana", it is not of outstanding national heritage value compared with other sites of outstanding natural beauty and distinctiveness, for example, the Great Barrier Reef and Uluru.

39. I found that the munitions factory may be a site of historic importance, but in comparison with other similar places such as Smithfield Magazine area in South Australia, and the ADI Maribryngong site in Victoria, it has less integrity as an example of a munitions landmark feature. I found that the landscape's role in inspiring democratic processes of conservation may demonstrate some significance for aesthetic or historic value but this is not outstanding at the national level when compared with key sites in the history of conservation such as Lake Pedder and the Gordon below Franklin River campaign. Similarly, there would seem to be other places that have a greater claim to have aesthetic value for the Australian Film Industry such as the use of Sydney Harbour in many films, the Painted Desert in "Priscilla Queen of the Desert" and many others. It remains to be tested whether any of these examples will meet the criterion.

*Conclusions on Possession of National Heritage values*

40. In conclusion, I was not able to form the belief that the nominated place has or may have National Heritage values.

*(b) Threat to National Heritage values*

41. As I was not able to form the belief that the nominated place has or may have National Heritage values, I concluded that no National Heritage values were under threat in the nominated place.

**Reasons for decision**

42. In the light of my finding under the heading Possession of National Heritage Values above, I do not believe that the place has or may have any National Heritage values.
43. In the light of my finding under the heading Threat to National Heritage Values above, I do not believe that the place has or may have any National Heritage values under threat.
44. In the light of these conclusions I decided I should not include the place in the National Heritage List pursuant to section 324F of the EPBC Act.

(signed by Senator the Hon Ian Campbell)

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MINISTER FOR THE ENVIRONMENT AND HERITAGE

10/12/2004