

STANDING COMMITTEE ON SOCIAL ISSUES
REVIEW OF THE HERITAGE ACT 1977
Hearing – 24 August 2021

Supplementary question to Ms Lisa Newell, Principal Planner, Hornsby Shire Council

1. Ms Lisa Newell, Hornsby Shire Council mention that “The cultural heritage of NSW is managed through the interrelationship of several pieces of legislation, the principal being the NSW Heritage Act 1977, the Environmental Planning and Assessment Act 1979 (EP&A Act) through Local Environmental Plans (LEPs) and the National Parks and Wildlife Act 1975 (NPW Act).”

Could you give me an example of a heritage item and how the different pieces of legislation you speak of intersect to affect it?

Answer

Together, the Heritage Act, the Environmental Planning and Assessment Act and the National Parks and Wildlife Act 1974 (date of Act correction), form a symbiotic and mutually complementary heritage management ‘system’ for identifying and protecting the diverse cultural heritage of NSW.

While there is some overlap, the Heritage Act and the National Parks and Wildlife Act primarily protect and manage different categories or types of cultural heritage. Council Local Environmental Plans (LEPs) established under the EP&A Act, are the ‘common’ legislation to all because they protect and manage a range of local heritage item types and can include and co-manage items protected by the other Acts.

Because it is a mutually complementary system, it is not common for all the pieces of heritage legislation to actively apply to one heritage item. It is common, instead, for the various pieces of legislation to be worked in concert to protect heritage. For example, a site nominated for inclusion on the State Heritage Register may not be prioritised for inclusion on the Register because it is otherwise protected by the EP&A Act through a council Local Environmental Plan.

Some places, however, have multiple layers of heritage significance and are affected by all the different pieces of legislation. The former Prince Henry site at Little Bay is included on the State Heritage Register, the Randwick Local Environmental Plan and includes relics protected under the National Parks and Wildlife Act. The Hornsby Quarry is another example. Much of it is included as heritage item in the Hornsby Local Environmental Plan and a cemetery within its boundary is included on the State Heritage Register. Any Aboriginal relics within the boundary (and on any other land in NSW except where exempted) would be subject to the provisions of Part 6 of the National Parks and Wildlife Act.

During development, coordinated approvals under all three pieces of legislation are required.