



LSJ Heritage Planning & Architecture

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Standing Committee on Social Issues: Hearing on the *Heritage Act 1977*

Response to Supplementary Questions

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1. Miss Kate Denny in your submission you state that the suggested four heritage listing categories as outlined in the Discussion Paper make no sense. What do you see as the main obstacles of the category system?

The Discussion Paper includes the following reform proposal:

REFORM PROPOSAL: It is proposed that NSW adopts a more nuanced set of four heritage listing categories.....This change would allow for more tailored heritage protections to be applied to items to suit their individual circumstances.

The above proposal for implementing four heritage listing categories is based on a false premise. The Discussion Paper states that: “Currently, every heritage item listed on the SHR is treated in the same way, with one standard set of regulatory controls applied. This one-size-fits-all approach is unable to respond to the often very distinct differences in item type or circumstance.”

It is important to note that the *Heritage Act 1977* (the Act) does not regulate how a State heritage item is to be used, restored, reconstructed, interpreted, promoted, activated, adapted, or altered. Rather the Act puts into place the processes for seeking approval and defining when approval is needed. It is via the approval process that decisions are made based on the specific circumstances of both the owner and the heritage item. As such, tailored heritage protections already exist as part of the approval process, which is in turn guided by site specific heritage management documents (conservation management plans, heritage impact statements and similar).

The four suggested categories put forward by the reform proposal do not advance the processes of heritage conservation, nor simplify the administration of these processes. Specifically, I make the following comments with respect to the four categories:

Exceptional state significant heritage to be identified and rigorously managed to ensure our most iconic items are conserved to the highest standards (Category 1)

All heritage items should be identified and rigorously managed and conserved to the highest standards, with no exemptions or qualifications. The processes for the management and conservation of heritage items in Australia are guided by *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance*, 2013 (the *Burra Charter*).

The conservation of a heritage item (whether it be on the World, National, State or local list) encompasses all of the processes of looking after a place to retain its cultural significance, including maintenance, preservation, restoration, reconstruction, adaptation and interpretation, as well as its continued use or the

introduction of a new, compatible use. These processes should be applied regardless of whether a heritage item is considered to be of exceptional state significance or otherwise.

State significant heritage landscapes and areas with large curtilages, which could include farms, gardens, Aboriginal cultural landscapes and urban precincts (Category 2)

It is acknowledged that landscapes, areas with large curtilages (e.g. homesteads, estates, pastoral holdings and the like), Aboriginal cultural landscapes and urban precincts may require a mix of conservation processes applied and that some areas of these larger-scale items may be able to absorb a greater level of change and adaptation than other areas within the same curtilage. However, as with all types of heritage items, the level of change and adaptation that parts or areas of a heritage place or landscape can tolerate is, and should be, determined by a site-specific management document, such as a conservation management plan.

Most items of state heritage significance to be covered by consistent and easy to understand protections that support conservation, activation and celebration (Category 3)

All items of state heritage significance are already covered by consistent and easy to understand protections under the *Heritage Act 1977* (via the objectives of the Act and the standardised processes for seeking approval for change) and the guidelines provided for in the *Burra Charter*.

The Discussion Paper does not identify what most items of state heritage significance are and whether or not they are all of a particular type or category. Most State heritage items in NSW are in fact NSW government assets (54% of the total number of items included on the State Heritage Register) and include a broad range of item types, although most are buildings of one kind or another. A quick look at the item categories included in the search function for the state heritage inventory provides a good overview of the diversity of items and places that are currently included on the State Heritage Register. As noted above, the management of a heritage item (regardless of the type or classification) is determined on a site-specific basis, guided by a professionally prepared management document, such as a conservation management plan.

A “catch all” approach to conservation implemented via legislation puts heritage items at risk, as site specific issues, histories and uses cannot be accounted for on a case-by-case basis within said legislation. Proposed Category 3 appears in fact to be suggesting a “one-size-fits-all” approach for most State heritage items, which is exactly what the reform proposal is seeking to avoid.

Items of local significance that are identified by local governments would be recorded consistent with the arrangements in place for the State Heritage Inventory (Category 4)

This arrangement already exists. Items of local significance are identified as heritage items under the *Environmental Planning and Assessment Act 1979* and included within the relevant environmental planning instrument (local environmental plans) for the individual local government area. Local heritage items are not protected under the *Heritage Act 1977* and there is no need for local heritage items to be dealt with by NSW Heritage.

The State Heritage Inventory is only a database that lists all (or most) of the heritage items located throughout NSW including State and local items. The State Heritage Inventory does not have any legislative protections or management processes attached to it.

In conclusion, the reform proposal to introduce four heritage listing categories potentially further complicates the existing system, places heritage items at risk and disregards the well-established process of determining tolerance for change on a site-specific basis via a professionally prepared conservation management document.

By introducing a grading system into the State heritage listing process there is a risk that some heritage items will receive more rigorous protection than others and items and places already assessed and accepted as being of State heritage significance (although may not be of exceptional significance) will not be conserved to the highest standards and incremental change will result in a substantial diminishment of their heritage values.

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