

**Submission
No 340**

INQUIRY INTO WINDSOR BRIDGE REPLACEMENT PROJECT

Organisation: Department of the Environment and Energy

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NSW Legislative Council

Portfolio Committee No. 5 – Industry and Transport

Inquiry into the Windsor Bridge replacement project

Submission from the Department of the Environment and Energy

This submission relates to the nominations received by the Department of the Environment and Energy requesting the inclusion of the Thompson Square in the National Heritage List.

Emergency listing request for Thompson Square

1. In September 2016, Ms Susan Templeman MP wrote to the Minister for the Environment and Energy (the Minister) requesting that Thompson Square in Windsor, NSW, be included in the National Heritage List under the emergency listing provisions of the *Environment Protection and Biodiversity Act 1999* (EPBC Act).
2. The EPBC Act provides the Minister with the discretionary power to include a place in the National Heritage List on an emergency basis. The EPBC Act imposes no obligation or duty upon the Minister to respond to requests for emergency listing, and no timeframe or deadline for any response.
3. In order for the Minister to ‘emergency list’ a place, he must believe that:
 - a. a place has or may have one or more National Heritage values; and
 - b. any of those values is under threat of a significant adverse impact; and
 - c. that threat is both likely and imminent.
4. Ms Templeman’s request related to the NSW Roads and Maritime Services Windsor Bridge Replacement Project which opponents believed would destroy the nearby Thompson Square.
5. Thompson Square had previously been nominated and considered for inclusion in the National Heritage List, in 2012 and 2013. On both occasions the Minister decided not to include the place in the Council’s assessment program. Thompson Square is recognised as having state heritage significance and is included in the NSW State Heritage Register.
6. Ms Templeman’s September 2016 letter noted that new information on the cultural significance of Thompson Square had emerged since then that might demonstrate that the place may meet the threshold for National Heritage listing.
7. The Minister wrote to Ms Templeman in November 2016 and encouraged her to provide this information. The Minister also noted that he had asked the Department of the Environment and Energy (the Department) to work with the Council’s expert members to undertake an assessment to ascertain if the place meets the requirements for inclusion of places in the National Heritage List.
8. Ms Templeman provided additional information to the Department on 19 January 2017.

9. Subsequent submissions regarding the history and heritage significance of Thompson Square were also received throughout 2017 from community members, local council, historians, and bodies such as the National Trust (NSW and Hawkesbury).

Assessment process

10. The Department and the Council's historic experts considered all of the material provided and conducted an assessment of Thompson Square against the National Heritage criteria and threshold requirements (see **Attachment A**).
11. All the claims submitted were reviewed and comparative examples across Australia were considered, including early town squares and Georgian architecture; early river trade, bridge and wharf construction; convictism and egalitarianism; Indigenous and early settlement archaeology.
12. The Council concluded that Thompson Square may not be the most outstanding national examples of these types of places, and that these themes were already well represented in the National Heritage List.
13. Information regarding the existence of the intact brick barrel drain before it was uncovered was considered and found to not meet the national heritage threshold of outstanding heritage value to the nation. The recent uncovering of the brick barrel drain does not change the advice to the Minister.

Minister's decision

14. The Minister decided to not emergency list Thompson Square in the National Heritage List in December 2017. This decision was based on the advice that the place does not have outstanding heritage value to the nation. (Letter sent to Ms Templeman regarding this decision at **Attachment B**).
15. The Minister wrote to the Premier of NSW, the Hon Gladys Berejiklian MP, requesting a reconsideration of alternate bridge locations that bypass Thompson Square (**Attachment C**).

Attachments

- A:** National Heritage list criteria and thresholds
- B:** Letter from Minister Frydenberg to Templeman MP 21/12/2017
- C:** Letter from Minister Frydenberg to NSW Premier Berejiklian 21/12/2017

Attachment A: National Heritage list criteria and thresholds

The National Heritage List criteria

Criteria (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

Criteria (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

Criteria (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

Criteria (d) the place has outstanding heritage value to the nation because of the place's importance in demonstrating the principal characteristics of:

a class of Australia's natural or cultural places; or

a class of Australia's natural or cultural environments;

Criteria (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

Criteria (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

Criteria (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

Criteria (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

Criteria (i) the place has outstanding heritage value to the nation because of the place's importance as part of Indigenous tradition.

Thresholds

As well as assessing a place against criteria for its heritage value, the Council is required to apply a 'significance threshold'. This test helps the Council to judge the level of significance of a place's heritage value by asking 'how important are these values?'

To reach the threshold for the National Heritage List, a place must have 'outstanding' heritage value to the nation. This means that it must be important to the Australian community as a whole.

To determine whether a place has 'outstanding' heritage values, it is compared to other, similar types of places. This allows the Council to determine if one place is 'more' or 'less' significant compared to other similar places, or if it is unique. The degree of significance can also relate to the geographic area, for instance, the extent of a place's significance locally, regionally, nationally or internationally.