

**Submission
No 24**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Business Western Sydney

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BUSINESS WESTERN SYDNEY

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Standing Committee on Social Issues
Parliament House
Macquarie Street
Sydney NSW 2000

Via: Email

Review of NSW Heritage Act: Standing Committee on Social Issues

Business Western Sydney is pleased to provide feedback on the Committee's Terms of Reference for the Review of NSW Heritage Legislation as well as respond to the ideas raised in the Minister's Discussion Paper.

Business Western Sydney represents more than 105 of the region's leading business, community, and government organisations and is a vocal advocate for the opportunities to expand the Western Sydney economy and create more quality jobs locally for our growing communities.

We also seek to improve the cultural, social, and environmental qualities of our region and the health and wellbeing of our citizens. We have taken a close interest in protecting and promoting our regions rich heritage. Western Sydney is home to historically important landscapes, numerous colonial era buildings and precincts, and places of significant cultural importance. More importantly, Western Sydney has a long and continuing indigenous culture, whose heritage stretches back thousands of years. More than anywhere else, the quality, breadth and depth of our heritage tells the story of who we are as a nation and a people.

Protecting and celebrating these heritage places and spaces is a key priority for Business Western Sydney. Equally important is to ensure that these places and spaces contribute to the economic, social and cultural well-being of our community.

In responding to the issues to be addressed by the Committee we are pleased to provide the following.

(a) the need for legislative change to deliver a heritage system that is modern, effective and reflects best practice heritage conservation, activation and celebration

The NSW Heritage Act 1977 established a robust regime for protecting and managing our valuable heritage. This regime has served Western Sydney well and we do not believe it should be repealed or replaced with a new regime.

However, we do support the Act being reformed and modernised to reflect best practice in heritage conservation and changes in how society values these places and spaces. The current Act is often overly prescriptive, treats all type of heritage in the same way, and can be difficult for the community to understand and use.

Heritage items, places and spaces need to be able to evolve and adapt so they can continue to serve an economic, social or cultural purpose. The Heritage Act should better balance this need with the need to protect and retain heritage values.

Addressing these issues does not require a new Heritage Act, though some amendments may be required. It will however require a re-prioritisation of the Heritage Councils efforts, a more bespoke approach to managing heritage items, and significantly more resources.

(b) the adequacy of the Act in meeting the needs of customers and the community and the protection of heritage

While most people say they cherish and support our state's heritage, and want to see these places and space protected, very few ever seek to have their own properties included on the heritage register. The restrictions and obligations placed on private owners can be expensive and onerous. The process of managing listed heritage items can be difficult and navigating heritage regulations bewildering for private companies and citizens. It's no coincidence that most items on the State register are publicly owned. It's also no coincidence that many built heritage items have little economic or social use and sit idle. In Western Sydney too many are currently vacant and at risk of neglect.

Making the heritage process simpler and less prescriptive is supported. Moving the heritage system away from a focus on inputs and controls towards a system based on outcomes is encouraged.

(c) how the Act could more effectively intersect with related legislation, such as heritage elements of the Environmental Planning and Assessment Act 1979 and the National Parks and Wildlife Act 1974

Business Western Sydney does not support the current system for managing aboriginal heritage which is split between the Heritage Act and the NPW Act. The Discussion Paper has indicated that how aboriginal heritage is to be addressed is currently being discussed with indigenous groups and organisation and is subject to a separate process. Whether this process leads to a stand-alone or integrated regime for protection of Aboriginal heritage should only be determined after consultation with Indigenous communities. Until this consultation process is finalised there should be no substantial changes to the Heritage Act.

The interaction between the Heritage Act and EP&A Act needs to be streamlined and greater clarification of which Act should be accorded precedence is needed. Both Acts impose restrictions and controls on land uses and combined can make managing a heritage listed item complex and difficult. Double handling between a consent authority and the Heritage Office can make even a simple development proposal expensive and time consuming. The Heritage Act does have provision

to override a zoning or local planning control, and this should be encouraged. A heritage listed house in western Sydney might be better preserved, maintained, and activated if it is allowed a commercial use such as a gallery or restaurant, notwithstanding the local zoning or the views of the Council.

Clarifying the respective roles of each Act and articulating who is responsible for what would go a long way to resolving many of the concerns and fears private owners of state heritage items have. Greater consideration should be given to delegating to Local Councils the approval of minor proposals or changes to heritage items. Likewise allowing the Heritage Council to be the sole consent authority for items on the State register would be supported.

(d) the issues raised and focus questions in the Government's Discussion Paper, in particular:

(i) a category approach to heritage listing to allow for more nuanced and targeted recognition and protection of the diversity of State significant heritage items

Encouraging a more streamlined and tailored regulatory regime for managing state heritage is supported. The management regime needed for a heritage theatre or courthouse is different to the regime needed for a heritage precinct or farm and the Act should reflect this. Establishing four categories of heritage, as proposed in the Discussion Paper, will allow for a more tailored and effective means of protecting heritage items while also allowing them to evolve and adapt.

(ii) consideration of new supports to incentivise heritage ownership, conservation, adaptive reuse, activation and investment

If the community's current aversion to having their properties listed is to be overcome, then the way the Act is currently applied needs to change. The many obligations and regulatory controls imposed on owners can be prohibitively expensive, difficult to navigate and prevent adaptation and renewal.

Reversing these difficulties will require a significant expansion of the current incentives available for heritage items, including tax exemptions, grants and the like. While this has resource implications, if we truly value our state's heritage, we must pay more for it.

We strongly support the Government expanding or replicating the City of Sydney's heritage floor space trading scheme to other CBDs in NSW.

In 2017, Business Western Sydney undertook an investigation into the barriers to creating new venues and theatres in NSW in a report called "[The Show Must Go On: Supporting the growth of live performance in NSW](#)". This report noted that many of our town centres in NSW had some large heritage listed theatres, but that most had been boarded-up and in a few cases, were derelict. These heritage buildings had been unable to repurpose to a new use, nor viably continue their previous role as a venue. In many cases, these heritage items now detract from the life of our centres, undermining the economic productivity and detracting from the amenity and vibrancy of these precinct.

The report also noted that the Sydney CBD Heritage Floor Space scheme had restored and renewed similarly heritage listed theatres and they were making a positive and ongoing contribution to the cultural and social life of the city.

We believe that what has worked so well at saving and renewing our precious heritage in the Sydney CBD should be replicated elsewhere.

Over the past few years our Council members have significantly increased both the heights and density potential of the larger town centres across Western Sydney. There should be scope for this extra development potential to support:

- An expansion of the existing CBD scheme to other centres.
- The creation of a State-wide market for heritage floorspace. Or,
- Local heritage floorspace schemes administered by participating Councils.

While the design and management of either of these options is not without difficulties, we believe they should be investigated.

(iii) improvements to heritage compliance and enforcement provisions

The need for a wider range of policy tools to monitor and enforce heritage compliance is supported as is a graduated response to non-compliance. Streamlining and fast-tracking permits to make minor changes to a heritage item would significantly reduce the regulatory burden on heritage owners.

(iv) streamlining heritage processes

We agree that the statement in the Discussion Paper that:

“Heritage listing should not stop all change or freeze a place in time. Rather, if heritage items are to have a viable future, they should be used, cared for and activated as lively spaces, accepting that changes may need to be made to keep pace with modern amenity. Nor should heritage places be inflexibly bound or ‘mothballed’ by onerous processes”.

Business Western Sydney appreciates the opportunity to contribute to this review.

Kind Regards

David Borger
Executive Director