INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Friends of Fernhill and Mulgoa Valley Inc

Date Received: 24 June 2021

Friends of Fernhill and Mulgoa Valley Inc.

From C. Cox engraving, Mulgoa Valley, 1839

Our goals are to "*safeguard Fernhill Estate and ensure protection, through legislation, of the Mulgoa Valley as an area of outstanding cultural and natural significance to NSW*".

Submission re Heritage Act

In making this submission, we have focussed on how changes to the Heritage Act may affect the heritage of the Mulgoa Valley.

Who we are

"The **Friends of Fernhill and Mulgoa Valley Inc. (FFMV)** is a community based, not for profit organisation, dedicated to:

- safeguard the cultural and natural heritage of Fernhill Estate and the Mulgoa Valley
- oppose the expansion of suburbia into Mulgoa Valley
- protect the present rural character of Mulgoa Valley and Mulgoa Road
- protect the biodiversity of the critically endangered Cumberland Plain flora and fauna
- keep the Mulgoa Valley unspoiled for present and future generations".

Winner of National Trust (NSW) Advocacy Award 2021.

Summary

- Develop a Heritage Strategy for NSW!
- "Heritage" must be defined in the Act and be much broader than buildings.
- The Heritage Council must be a merit, skills-based, knowledgeable group of respected professionals and experts.
- NSW Government instrumentalities should actively seek to determine, recognise and publicise important Aboriginal heritage sites.
- Heritage listed building sites currently have little reference to Aboriginal culture on the environment and heritage website. This should be rectified.
- There should be an objective in the Heritage Act to protect cultural landscapes and expand curtilages to capture viewsheds and conserve physical and historical links intrinsic to the significance of a place beyond property boundaries.

- The current legislative separation of natural and cultural heritage and Indigenous and non-Indigenous heritage should be rectified.
- Punitive and reactive aspects of the Heritage Act should be matched by proactive assistance.
- The NSW Heritage Act is failing its objectives because the planning system in NSW is plagued by 'commercialism', 'opacity', 'template' and 'disregard' for heritage.
- Our heritage is at risk from the impacts of climate change, the threats arising from development and the resource implications of population growth. The Heritage Act does not provide for adequate legal protection or informed management decisions and resource allocation to protect our heritage.
- Local Government Environment Plans (LEP) should clearly set out the assessment and referral process for guiding the exercising of discretion in the determination of applications for development approval and the granting of a rates concessions with respect to heritage places.
- A sustainable funding model should be developed that provides financial support for heritage by committing state government funding for a Heritage Grants Program; establishing a Heritage Home Lottery and funding for a Heritage Care Program across Australia, complementing the Landcare and Bushcare programs.
- Under the State Heritage Register (SHR), all registrations should be assigned a management category that is determined by the level of significance of the place ie exceptional, considerable, of some significance etc
- Mundey's green bans empowered people to claim their right to the heritage of their city. Such movements (including Willowgrove) should be a lesson for a more robust SHR.
- Opening heritage sites to the public and tourists can help to create awareness.
- When a building or site is SHR listed, the announcement should ideally show how it fits the local/State/national criteria. Every public statement about heritage is a chance to reinforce its diversity, value and breadth.
- There is a need to provide a high- quality in-depth Heritage Register indicating both state and local significance with:
  - Uniform definitions and regulations across levels of government, to avoid the current confusion of multiple lists.
  - Improvements to the accuracy, consistency and quality of information about heritage places (buildings and sites) entered in the State Heritage Register which is needed to support the Planning and Design Code.
- "Unsolicited proposals" that involve a heritage building, whether for adaptive re-use or destruction, must be considered by the Heritage Council with due consideration given to the building's level of significance, conservation priority, its contribution to the cultural landscape to determine if it should be maintained as is or adaptively re-used.
- *"It is not only the bricks and mortar, but the stories that go with them that together provide a tangible link to the past and which can connect a place across generations.[1]".*

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[1] David Burdon (Director, Conservation, National Trust, NSW) wrote in the National Trust's Advocacy e-Update, October 2020:

History of the Heritage Act

The Heritage Act *is an Act to conserve the environmental heritage of the State. Environmental heritage* **being defined as those places, buildings, works relics, moveable objects and precincts of State and local heritage significance. The Act also aims to conserve items of local heritage significance be it that we rely primarily on local councils to do this.**

The County of Cumberland Planning Scheme 1951 was the first attempt to protect significant heritage. Clause 38 enabled the Governor to proclaim any land building or work to be a place of scientific or historic interest. Only 5 buildings were declared in the first 5 years and only 16 buildings in the next 14 years were protected under this clause.

The National Parks and Wildlife Act 1967 provided some recognition of historic sites to natural and Aboriginal heritage.

When the Heritage Act was first introduced by the Wran Government it was recognized and promoted as one of the most powerful pieces of legislation in NSW with the potential to override any other State Act. Only the Minister could revoke a listing on the State Heritage Register (SHR) after a recommendation from the Heritage Council and a due process of assessment and public consultation.

There were four main influences that facilitated the introduction of a Heritage Act in NSW:

- legal recognition of the National Trust under its own act in 1960 and lobbying by the Trust to stimulate interest in heritage conservation and pressuring the government to introduce heritage legislation.
- social conscience of the community compounded with the widespread destruction of significant heritage buildings such as St Malo and Subiaco.
- imposition of green bans which generated widespread community interest and debate and was a key influence in recognizing the need for a Heritage Act.
- introduction of the Hope Report: The Report of the Committee of Inquiry into the National Estate provided the basis for the NSW legislation.

The first attempt to provide legislative provisions to protect heritage came with the introduction of the Environmental Planning Bill on 24 March 1976 by the then Liberal government. The specific heritage provisions in this planning bill were contained in a mere 16 clauses in Part V of the Bill, it was restricted to cultural and archaeological items and very limited in its application and was widely criticized as purely window dressing. In May 1977 separate comprehensive legislation was drafted by the Labour Government which with the help of the National Trust went on to become the NSW Heritage Act.

The Bill itself was nearly withdrawn after the opposition sought 18 amendments which would have highly modified and watered down the Act if they had accepted by the government. In response the National Trust took out an advertisement in the SMH decrying opposition attacks on the Heritage Bill and appealing to the public to lobby their local members to support the Bill in its present form. The Bill was finally approved by Parliament on 30 November 1977 with three amendments. The membership of the Heritage Council was expanded to include one additional member to cover property rights, the wilful neglect provisions were expanded.

The Heritage Amendment Act, 1998 provided the opportunity for a new approach to heritage management and created the State Heritage Register to replace the old system of PCOs. The Register came into being on 2 April 1999 to list heritage places and items of particular importance to the people of NSW.

Abridged from a speech by Reece McDougall *In Parliament* **at '40 Years of the NSW Heritage Act - A Forum' on 18 April 2017.** https://www.pennysharpe.com/heritage_forum_speech_by_reece_mcdougall

Key Factors for the Effective Administration of the Heritage Act in NSW

Key Factors for the Effective Administration of the Heritage Act in NSW

Government and Ministerial Support

Minister Sartor stood firm against very strong opposition from some of the townsfolk and local developers to list Braidwood, the first town to be listed on the State Heritage Register. Many Ministers today would have not withstood the community and political pressures and would have deferred such a controversial decision.

Good staff and resources and a strong Heritage Council

Getting good results is easy when you are supported by competent staff who have the knowledge, skills and enthusiasm to achieve some excellent heritage outcomes. Their worked was backed by a strong and committed Heritage Council who were keen to promote their work.

Adequate Funding

Adequate funding needed to fund the day to day running of the Heritage Office but also to provide a pool of monies for grants and loans for heritage property owners.

The provision of a grant under the Heritage Act sometimes made the difference in achieving the retention and conservation of heritage items possibly with **adaptive reuse**.

Focus on Promotion and Recognition rather than regulation

Rather than regulation, focus was on the recognition, promotion and celebration of heritage with the NSW community.

Supporting Local Government

The bulk of the community's heritage is under the management of local councils. Recognising this the Heritage Office had dedicated staff and packages to support councils including provision of grants and funding of the heritage advisors in rural areas.

State Government Agencies

The addition of S170 provisions to require agencies to prepare a conservation register of their heritage assets and manage them consistent with State owned heritage management Principles was a great step forward.

Abridged from a speech by Reece McDougall _In Parliament_ at '40 Years of the NSW Heritage Act - A Forum' on 18 April 2017. https://www.pennysharpe.com/heritage_forum_speech_by_reece_mcdougall

Focus Question 1: What should be the composition, skills and qualities of the Heritage Council of NSW?

"Once upon a time our heritage system was envied and emulated. Even now, legendary architectural historian and heritage practitioner James Kerr's model conservation management plan, first published by the National Trust in 1982, underpins international best practice. What we need is a return to the glory days when the Heritage Council was at least half highly respected design professionals, when the department was replete with the wise and dedicated and listings occasioned learned debate"[2] (Farrelly SMH 7 April 2021).

The Heritage Act states that the Heritage Council is to consist of 9 members; 8 are to be appointed by the Minister. This does not give the perception of a merit, skills-based group of respected professionals on the Council. Members of the Heritage Council should be appointed through a public application process with criteria for selection specified.

Focus Question 2: How should Aboriginal Cultural Heritage be acknowledged and considered within the Heritage Act

Australia's Indigenous heritage remains inadequately documented and protected, and incremental destruction continues. The inclusion of additional Indigenous heritage places is therefore particularly important. NSW Government instrumentalities should actively seek to determine, recognise and publicise important Aboriginal heritage sites.

Some heritage listed buildings have no reference to their important Aboriginal past on the environment and heritage website eg there is no mention of the Aboriginal heritage of St Thomas Church at Mulgoa on https://apps.environment.nsw.gov.au/dpcheritageapp/ViewHeritageItemDetails.aspx?ID=5045482. The site of the St Thomas Church rectory that was The Church Missionary Society Home for Half-Castes (1942-1947)[3] that housed Aboriginal children who had been evacuated under military orders by the Commonwealth Department of Native Affairs, should be adequately recognised. Many of the stolen generation from the Mulgoa Mission have written of their experiences at Mulgoa and this social history should be included in the description of the church.

Within the Western Sydney Parklands (WSP) Aboriginal archaeological sites should be investigated and recognised. On historic Fernhill Estate at Mulgoa (now part of WSP), *"artefact scatters, isolated artefacts and PADs* (potential archaeological deposits)*, possibly a small component of much larger and multifaceted subsurface artefact deposits"*[4] occur on Littlefields Creek precinct which DPIE indicated could be used for *commercial and leasing opportunities*[5]. Also on Fernhill Estate, many Kuringal ceremonies (making boys into men by knocking out the tooth) took place in sight of St Thomas Church[6]. Scatters and artefacts were identified by Austral Archaeology[7] from the lower slopes of the hill around St Thomas Church within 100 metres of Littlefields Creek.

[2] https://www.smh.com.au/national/nsw/in-don-harwin-s-sydney-what-should-be-a-project-of-sacred-trust-is-a-problem-to-be-fixed-20210415-p57jky.html

[3] https://www.findandconnect.gov.au/ref/nsw/biogs/NE01041b.htm

[4] Fernhill Estate, Mulgoa, NSW Aboriginal Archaeological Report 2013

[5] Fernhill Draft Final Plan of Management 2030 https://www.westernsydneyparklands.com.au/assets/Final-draft-Fernhill-Estate-Plan-of-Management-2030/20201222-Draft-Fernhill-Estate-PoM-2030-for-exhibition.pdf

[6] W.R. Bowers A sketch of the history of the Parish of Mulgoa, Diocese of Sydney, N.S.W.

[7] Austral Archaeology. 2013. Proposed residential subdivision, Fernhill Estate, Mulgoa, NSW Aboriginal archaeological report pp.24 and 28.

Focus Question 3: Are the objectives of the Heritage Act still relevant?

The objectives are all relevant but need to be more inclusive:

> (a) to promote an understanding of the State's heritage,
> (b) to encourage the conservation of the State's heritage,
> (c) to provide for the identification and registration of items of State heritage significance,
> (d) to provide for the interim protection of items of State heritage significance,
> (e) to encourage the adaptive reuse of items of State heritage significance,
> (f) to constitute the Heritage Council of New South Wales and confer on it functions relating to the State's heritage,
> (g) to assist owners with the conservation of items of State heritage significance.

The Heritage Act (as exemplified by the State Heritage Register) seems to be more concerned with tangible objects (buildings, places and precincts; archaeological sites and relics), rather than the broadly accepted meaning of heritage which includes landscape, environment, gardens and trees; movable heritage (artefacts) and intangible heritage (customs, language, stories, beliefs).

<u>There should be an objective to protect cultural landscapes.</u>

The Metropolis of Three Cities has an objective 28 that "*scenic and cultural landscapes are protected*" and "*strategic planning will capitalise on local identity, heritage and cultural values*". But the 50-year Vision for Greater Sydney's Open Space and Parklands "*to create a green and vibrant Sydney that is one with its landscape for the 21st century*" fails to recognise the importance of cultural landscapes. The Vision recognises that Western Parkland City is "*underpinned by the unique and rich urban, rural and natural environments*", but has no specific plan for ensuring these environments are not further degraded by urbanisation. The Mulgoa Valley is perhaps the richest area surviving in the Sydney Basin for its number and diversity of natural and cultural heritage sites, biodiversity and scenic landscapes. Such cultural landscapes should be recognised in the State Heritage Register to ensure the preservation of these unique landscapes and to protect colonial heritage with intact vistas.

Cultural landscapes recognise the landscape-scale of history and connectivity between people, places and heritage items – the continuity of past and present. Culture and nature are interconnected. Cultural landscapes are physical areas with natural features modified by human activity resulting in patterns of evidence layered in the landscape. These layers, along with the natural features, give a place its distinctive spatial, historical, aesthetic, symbolic and memorable character. Australian cultural landscapes range from the designed landscapes of public gardens and private estates to public lands reserved as national parks or conservation reserves, and rural farmlands and Aboriginal lands.

Applying a philosophical shift to include cultural landscapes on the State Heritage Register is not straight forward.

- The National Trust of Australia (NSW) has listed many cultural landscapes and although non-statutory, these listings are taken into account when assessing development.
- 'Existing instruments are inadequate in their coverage of cultural landscape heritage issues, their comprehensiveness in defining curtilages, settings and views, and in their application' (2000). In 2016 little has changed.
- A strategic approach involving a whole of government agreement is imperative if we are to conserve and manage significant cultural landscapes.
- Recognition of significant cultural landscapes from whole of government is the first step.
- The continuing challenge is to protect the valuable places that remain without them losing the qualities that make them important.
- Landscape architects have an important role in managing the landscape character of significant cultural landscapes.
- In Greater Sydney green space is an endangered species.
- The support of the local community for significant cultural landscapes is critical for their protection.

AILA (NSW) in a Landscape Heritage Conservation Listing Project[8] funded through a Heritage Council grant found that *although it appears that the SHR criteria for nominations do not necessarily fit with the core approach of the landscape architectural profession, the process is adaptable and accommodates the physical attributes and sense of place of landscapes*. Landscape conservation areas, heritage curtilages, and the possibilities of expanded curtilages to capture viewsheds intrinsic to the significance of a place beyond property boundaries were found to be central to the argument for listing and conserving large cultural landscapes.

Further work is required to implement a whole of landscape approach to the listing of cultural landscapes, particularly landscape conservation areas. Community and owner engagement with the process in larger areas would ensure the sensitive conservation and management of the heritage values of cultural landscapes.

A Heritage Strategy should integrate Indigenous and non-Indigenous heritage

The current legislative separation of natural and cultural heritage and Indigenous and non-Indigenous heritage is a barrier to understanding, efficiency and effectiveness.

Why is the Heritage Act failing its objectives?

'Our heritage is being threatened by natural and human processes and a lack of public sector resourcing…some of the systems used to manage our heritage are cumbersome…. Improvement will require change (SOE 2011: 692). Tension between those bent upon retaining the old and those building the new is not necessarily bad…provided that the basic information necessary for decision-making has been made available to all parties and that a method of making those decisions has been agreed (2013: iv).

The problems with the planning system in NSW are 'commercialism', 'opacity', 'template' and 'disregard'.

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https://www.aila.org.au/documents/AILA/News/2018/Final_AILA%20Cultural%20Landscape%20Study_Landscape%20Heritage%20Report%20Volume%202_11%20June%202018.pdf

The assessment of heritage should be fully independent of planning – ie the Department of Heritage should be independent of the Department of Planning!

The Act is not punitive enough to counter unapproved development, neglect or demolition, nor supportive enough to encourage active conservation, particularly of privately owned items.

Focus Question 4: Does the Act adequately reflect the expectations of the contemporary NSW community?

The systems used to manage Australian heritage continue to be cumbersome: land reserves, inventories and statutes. These structures do not yet adequately identify, protect, manage, resource or celebrate the integrated nature of our nation's cultural landscape. Our heritage remains at risk from the impacts of climate change, the threats arising from development and the resource implications of population growth[9].

The reasons to consider heritage as a discrete part of the environment and to list heritage places include:
- *recognising, interpreting and celebrating their values*
- *providing legal protection*
- *informing management decisions and resource allocation[10].*

Heritage must be defined

Misunderstandings, exaggerations and particularly self-interest inevitably cloud discussion of heritage value in the absence of clearly understood definitions.

Heritage is not defined in the Act, but "Heritage Significance" is. **State heritage significance**, *in relation to a place, building, work, relic, moveable object or precinct, means significance to the State in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item.*

Heritage is about the places and stories that make Australia special. It includes our amazing natural places, our rich Indigenous heritage and the diverse historic sites that together reflect our development as a nation.

Heritage should include:
- Community heritage: Celebrating community heritage can help bring people together, feel pride in where they live and save stories and traditions.
- Landscapes, parks: The need to aid nature's recovery is urgent.
- Areas, buildings and monuments: Looking after historic buildings, monuments and archaeological sites ensures that we can safeguard the places people love for future generations.
- Museums, libraries and archives: Museums, libraries and archives tell the stories of our cultural heritage. Through their collections they help to give us a sense of place and identity.
- Cultures and memories: projects which help to explore, save and celebrate the traditions, customs, skills and knowledge of different communities.
- Industrial, maritime and transport: celebrates the innovative buildings, transport and technology that helped to shape NSW.

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[9] https://soe.environment.gov.au/theme/heritage/framework/outlook
[10] https://soe.environment.gov.au/theme/heritage/topic/2016/heritage-listings

> Australia has significant living heritage in its country gardens, house surrounds, streetscapes, parks, trees, towns, villages or rural landscapes not listed in normal registers of planning schedules. Such living heritage offers huge health, amenity, and tourism opportunities that are being overlooked. Conserving it presents many challenges including lack of recognition or statutory listing, current maintenance, and ongoing management to renew significant elements such as old or aging trees and shrubs.

[11]

This living heritage should be recognised in DPIE Open Space and Parklands planning. Ongoing management to renew significant elements such as old or aging trees should be a component of the DPIE Fernhill Plan of Management. This cultural landscape is important in the history of landscape design in NSW where the retention of native trees to create an Antipodean vision of an English gentleman's park marked an important shift in the early colonists' attitude to their environment.

An alternative to listing a site as a cultural landscape may be an Area of Outstanding Natural Beauty (AONB)[12] ie an area designated for conservation due to its significant landscape value.

Intangible heritage is absent from this legislation.

The intangible is of course difficult to list or register and is consequently neglected by most governments. This is regrettable, as intangible heritage in the shape of cultural traditions, genealogy and family history is an especially popular form which can contribute greatly to public understanding without investment in bricks and mortar. The broader community is comfortable with the concept of intangible heritage as part of the mix, at least judging by its major presence in the Heritage Week events offered throughout Australia[13]

Based on the evidence of Heritage Week it seems that Australians do understand heritage to mean many things: they are happy to include steam engines, ghost stories, church architecture, landscape conservation and costumed dance. But in the popular imagination, it seems not to include the stories and cultures of Indigenous people or immigrant communities[14].

Focus Question 5: How can the NSW Government legislation better incentivise the ownership, activation and adaptive reuse of heritage?

Answer: by being supportive of private conservation as well as punitive.

Grants

The Heritage Near Me Activation Grants program (2016-19) supported projects that actively increased community interaction and participation with publicly accessible heritage items listed in a local council's Local Environmental Plan (LEP). This program recognised the importance of activating local heritage spaces and precincts to conserve their heritage significance. This program should be reinstituted.

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[11] Read, Stuart, and Gwenda Sheridan. "Challenges in Conserving Living Heritage." *Australian Garden History*, vol. 26, no. 2, 2014, pp. 21–23

[12] https://en.wikipedia.org/wiki/Area_of_Outstanding_Natural_Beauty#cite_note-AONB_story-2

[13] ESSAY: WHAT IS HERITAGE? https://environment.gov.au/system/files/pages/f4d5ba7d-e4eb-4ced-9c0e-104471634fbb/files/essay-whatisheritage-tonkin.pdf

[14] essay-whatisheritage-tonkin.pdf (environment.gov.au)

Adaptive re-use

As Heritage NSW states: "*Adaptive Reuse of buildings shows us how our built heritage can be conserved through the successful mix of existing heritage structures and cutting-edge architectural design*"[15]. But adaptive reuse must be sympathetic and not be at the expense of the heritage features of the property!

National Parks and Wildlife Act 1974 defines adaptive reuse *of a building or structure on land means the modification of the building or structure and its curtilage to suit an existing or proposed use, and that use of the building or structure, but only if—*

> *(a) the modification and use is carried out in a sustainable manner, and*

> *(b) the modification and use are not inconsistent with the conservation of the natural and cultural values of the land, and*

> *(c) in the case of a building or structure of cultural significance, the modification is compatible with the retention of the cultural significance of the building or structure.*

Identifying an appropriate level of change to existing buildings and landscape settings are a main consideration. Specific recommendations as to what constitutes an appropriate level of change, ranging from 'no-change' to 'demolition and removal' are required using an applied level of knowledge and in consultation with Heritage experts viz. the extent to which change could occur and what elements and areas of the building can be removed and/or modified, while protecting heritage values. Areas of the site where new development may be appropriate must be identified, with particular attention given to the relationship between buildings and their associated landscape settings.

But who should be the arbitrator of any adaptive reuse? Council? Heritage NSW?

A good adaptation is one that is sympathetic to the existing building and its historic context and inserts new work or makes changes that enhance and complement the heritage value of the heritage item. The new use must be compatible with the building, retain its historic character and conserve significant fabric but it can still introduce new services as well as modifications and additions. Any new work should be undertaken with an understanding of the building's heritage significance. It is important for designers to create a relationship between the old and new whether they elect to take a traditional, vernacular approach or a more contemporary one[16].

The benefits of adaptive reuse are a combination of economic, social and environmental factors[17].

The Heritage Council of NSW states that construction waste accounts for 33% of all land fill in Australia. Over 75% of this is clean fill, brick, timber and concrete. Recycling old buildings and materials significantly reduces waste. Many 19th and early 20th Century buildings were constructed using materials and techniques that can be more expensive but last longer. In many cases they will need to be repaired or replaced at half the rate of more modern buildings. This information should be more widely disseminated by Heritage NSW and by local councils.

Requirements on Councils

Guiding principles from Office of Environment and Heritage Adaptive Reuse of Heritage Places Policy October 2012:
> 1. The *Burra Charter* principles of: preservation, restoration, reconstruction and adaptation will guide adaptive reuse of heritage places.

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[15] https://www.heritage.nsw.gov.au/celebrate/sharing-our-stories/
[16] Adaptive Re-Use « Modern Heritage Matters
[17] How about we stop knocking things down? | The Fifth Estate

2. The cultural significance of the place, its fabric and its use will guide adaptation.
3. The continuation of a 'culturally significant use' (historical use) is preferable to a new use.
4. A setting contributes to the heritage significance of a place
5. Where adaptation is required it should involve the minimal amount of change to significant fabric necessary to achieve the requirements of the new use. This should be undertaken only after demonstrated consideration of alternatives.
6. Heritage is dynamic and heritage places should continue to live and develop over time. The associated stories of a place should continue *after* the adaptation of the place.
7. Adaptive reuse is an essential component of sustainable development practice and has environmental, social and economic benefits.
8. Through adaptation, the authenticity of a place should be revealed and the significance of the place should be interpreted.
9. New additions or new constructions in the vicinity of a place of heritage significance should be in harmony with the existing structure but also be clearly identifiable as new additions.
10. Adaptive Reuse should be undertaken using high quality design and materials.

The above guiding principles should be a mandatory component of all Council Local Environment and Development Control Plans.

Local Government Planning Policy Council should require a Heritage Assessment[18] to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the State Heritage Register.

Local Government Environment Plans (LEP) should clearly indicate:
- When a Heritage Assessment is required
- Content of Heritage Assessment
- Statement of Heritage Significance
- Statement of Heritage Impact

The purpose and intent of this local planning policy would be to set out the administrative and procedural requirements by which the local government will promote and safeguard the protection and enhancement of places of cultural heritage significance and worthy of built heritage conservation for present and future generations. In particular, this local planning policy would set out the assessment and referral process for guiding the exercising of discretion in the determination of applications for development approval and the granting of a rates concessions with respect to heritage places

An example of heritage assessment could be the following, employed by the Bunbury (WA) Council:[19]:

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[18] https://www.fremantle.wa.gov.au/sites/default/files/Local%20Planning%20Policy%201.6%20-%20Preparation%20of%20Heritage%20Assessments%20-%20LPP1.6.pdf
[19] Heritage Listing, Assessment and Concessions - Policy No. 6.2.pdf (bunbury.wa.gov.au)

Table 1: Levels of Cultural Heritage Significance for Development Assessment and Management.

Level of Significance	Description	Management Category
Exceptional Significance	Essential to the heritage of the locality. Rare or outstanding example.	The place should be retained and conserved unless there is no feasible and prudent alternative to doing otherwise. Any alterations or extensions should reinforce the significance of the place and be in accordance with a Conservation Management Plan (i.e. if one exists for the place).

Level of Significance	Description	Management Category
Considerable Significance	Very important to the heritage of the locality. High degree of integrity/ authenticity.	Conservation of the place is highly desirable. Any alterations or extensions should reinforce the significance of the place.
Some/Moderate Significance	Contributes to the heritage of the locality. Has some altered or modified elements, not necessarily detracting from the overall significance of the item.	Conservation of the place is desirable. Any alterations or extensions should re-inforce the significance of the place and original fabric should be retained wherever feasible.
Little Significance	Does not fulfil the criteria for entry in the local Heritage List.	Photographically record prior to major development or demolition. Recognise and interpret the site if possible.

Note: Categories of the Level of Significance -

•Category 1 (exceptional significance) places will be those that are included, or are recommended for inclusion, on the State Register of Heritage Places.

•Categories 1, 2 and 3 (exceptional, considerable and some/moderate significance) places may be proposed for inclusion on the Heritage List, and require the protection of the Scheme.

•Category 4 (little significance) places are recognised as having some value but are not considered to be significant enough to warrant protection under the Scheme.

Focus Question 6: How can we improve incentives within the taxation system to help mitigate the cost of private heritage ownership?

There should be financial incentives for owners, both private and public, and of heritage buildings to maintain them to high standards, both from the State Government and Local Councils:

- The Heritage Near Me Activation Grants program (2016-19) supported projects that actively increased community interaction and participation with publicly accessible heritage items listed in a local council's Local Environmental Plan (LEP). This program recognised the importance of activating local heritage spaces and precincts to conserve their heritage significance. This program should be reinstituted.
- Funding for a Heritage Care Program across Australia, complementing the Landcare and Bushcare programs, by inputting the historical and heritage context of all the local environmental management and rehabilitation. A Heritage Care program would be an incentive scheme to preserve cultural heritage at the same time that Landcare programs are being undertaken on the land[20].

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[20] FEDERATION OF AUSTRALIAN HISTORICAL SOCIETIES INC. SUPPLEMENTARY SUBMISSION TO THE PRODUCTIVITY COMMISSION ON CULTURAL HERITAGE

- Reduction in local council rates, stamp duty or land taxes?

Focus Question 7: What sort of initiatives might encourage activation and conservation of heritage through commercial and philanthropic investment?

Develop a sustainable funding model that provides financial support for heritage by:

- Committing state government funding for a Heritage Grants Program which will acknowledge the public value of heritage, leverage private investment into conservation and activation and help to sustain specialised trades.
- Establishing a Heritage Home Lottery (such as the lotteries in Western Australia and England[21]) and/or other incentives. NB Frank Howarth, the national president of Museums Australia in 2013, (and now Chairman of the Heritage Council) welcomed the idea of a lottery. Mr Howarth said the lack of funding at federal, state and local level for cultural and heritage institutions was very concerning[22].
- Establishing a Revolving Fund for Heritage Conservation that provides start-up capital expenditure to revitalise Government-owned vacant and under-utilised heritage properties through conservation and adaptive reuse and transitioning them to new ownership.
- Establish an Embodied Energy Fund to contribute to a 'circular economy' and recognise life cycle, embodied energy and energy efficient design principles of our heritage building stock. It could have a significant role in investor decision making concerning demolition versus adaptive reuse of our heritage building stock. Over time an Embodied Energy Fund has the potential to create significant funds, which could be invested by Government and gain interest revenue[23].

Focus Question 8: How could tailored heritage protections enhance heritage conservation?

A category of "State Significant Heritage Landscapes" – Category 2 of the four heritage listings proposed - could remove the constraints which seem to exist in listing a cultural landscape.

The 50-year Vision for Greater Sydney's Open Space and Parklands "*to create a green and vibrant Sydney that is one with its landscape for the 21st century*" fails to recognise the importance of cultural landscapes. The Vision recognises that Western Parkland City is "*underpinned by the unique and rich urban, rural and natural environments*", but has no specific plan for ensuring these environments are not further degraded by urbanisation.

The Mulgoa Valley is perhaps the richest area surviving in the Sydney Basin for its number and diversity of natural and cultural heritage sites, biodiversity and scenic landscapes. Such cultural landscapes should be recognised in the State Heritage Register to ensure the preservation of these unique landscapes and to protect colonial heritage with intact vistas. FFMV nominated the Mulgoa Valley for SHR listing as a cultural landscape in November 2020 and is awaiting a decision.

Many cultural landscapes eg the Mulgoa Valley, are valued by communities because they:
- show the evolution of settlement and societies
- hold myths, legends, spiritual and symbolic meanings
- are highly regarded for their beauty

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[21] https://www.smh.com.au/national/new-australian-lottery-could-raise-funds-for-heritage-projects-20151208-gli2jc.html
Our work | The National Lottery Heritage Fund
[22]
https://www.heritagefund.org.uk/sites/default/files/media/attachments/Priorities%20for%20National%20Lottery%20Grants%20for%20Heritage%202021-22_3.pdf
[23] REPORT ON HERITAGE PROTECTION 2020 SUMMARY | South Australian Heritage Council

- tell us about societies' use of natural resources, past events and sustainable land use
- display landscape design and technology achievements.

and should be protected for future generations, as a heritage 'green' backdrop to the city of Sydney.

Heritage protection is about how people use places, not just their architecture and history. It's why state heritage laws and local planning schemes should protect places of community importance. Social value is at the heart of conservation practice and heritage places[24]. For example, neighbourhood pubs, which are being rapidly redeveloped in NSW, are another form of at-risk public place with great social value. Pubs become important to people for their longevity as gathering places, often more so than for their architecture, facades and interiors. However, authorities have far more power to mandate the continuity of historic places' built-fabric, rather than ensuring redevelopments retain community spaces[25].

Focus Question 9: How should heritage items that are residential properties be accommodated under a proposed category scheme?

Why should a category system not apply to industrial properties and sites, archaeological (European and Aboriginal) as well as cultural landscapes?

Ideally under the State Heritage Register, all registrations should be assigned a management category that is determined by the level of significance of the place ie exceptional, considerable, of some significance etc.[26]

In the United Kingdom, there are three categories of listed building, based on their significance: Grade I buildings are of exceptional interest and only 2.5% of listed buildings are Grade I. Grade II* buildings are particularly important buildings of more than special interest representing just 5.5% of listed buildings. Grade III buildings are of special interest and the vast majority, or 92%, of all listed buildings. [27]

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[24] Lesh, J. 2019. Social value and the conservation of urban heritage places in Australia 31: 42-62.
[25] Why heritage protection is about how people use places, not just their architecture and history (theconversation.com)
[26] Examples: municipal-heritage-inventory-category-management-schedule (eastfremantle.wa.gov.au) Heritage Listing, Assessment and Concessions - Policy No. 6.2.pdf (bunbury.wa.gov.au)
[27] https://historicengland.org.uk/images-books/publications/guide-for-owners-of-listed-buildings/guide-for-owners-listed-buildings/

Focus Question 10: Would greater community engagement deliver a more robust State Heritage Register?

The State Heritage Register:

Abridged from a speech by Reece McDougall *In Parliament* at '40 Years of the NSW Heritage Act - A Forum' on 18 April 2017. https://www.pennysharpe.com/heritage_forum_speech_by_reece_mcdougall

The creation of a State Heritage Register (SHR) was one of the most significant initiatives to achieve better management of the State's heritage. With the transfer of Permanent Conservation Orders to the Register it changed the negative perception of control of State heritage items to one of recognition and celebration.

The approach to recognizing State heritage items also changed. In 1996 after creation of the NSW Heritage Office as a separate government agency the aim was not only to have a comprehensive register but also a diverse one which included not only the 'built heritage' but also natural, Aboriginal, movable and maritime.

With this aim listings were expanded to include natural areas like the Old Growth Forest on the North Coast and Malabar Headland, Aboriginal sites like the Brewarrina Fishtraps and multi cultural properties such as New Italy as well as moveable objects.

A number of initiatives were tried including regional assessments, thematic studies and even a request for public nomination of their special heritage icons eg Braidwood, the western Sydney colonial properties, the Japanese midget submarine.

A tremendous amount of work was put in by staff to get the affected owners supportive of the listing and keen to recognize and promote its values, resulting in media events which got widespread recognition in the community and good publicity for Ministers.

Mundey's green bans empowered people to claim their right to the heritage of their city. Generally, items of local and State significance have been afforded protection, so communities only had to 'take to the streets' on occasion. Perhaps if the protective mechanisms that were hard won in the 1970s are wound back, as it appears they might be in NSW, we might start to see communities fighting for the things they want to keep again.

Mundey's appointment as chairman of the NSW Historic Houses Trust also helped the heritage conservation cause.

A CFMEU green ban on the Willowgrove site at Parramatta, with support from the National Maritime Union, the Nurses and Midwives Association, the Teachers' Federation, the Public Service Association and the Dharug and allies is a recent example of an attempt to reclaim the heritage of a city. Such movements should be a lesson for a more robust SHR.

Opening heritage sites to the public and tourists can help to create awareness.

Preferences regarding what is worthy of conservation are influenced by the lack of an effective public participation mechanism and integrated heritage conservation approach in the decision-making process; the different and conflicting interests of various stakeholders; power disparity; propaganda and mobilisation of interest groups; and the lack of knowledge on heritage conservation.

When a building or site is listed the announcement should ideally show how it fits the local/State/national criteria, along with other named examples. Every public statement about heritage is a chance to reinforce its diversity, value and breadth.

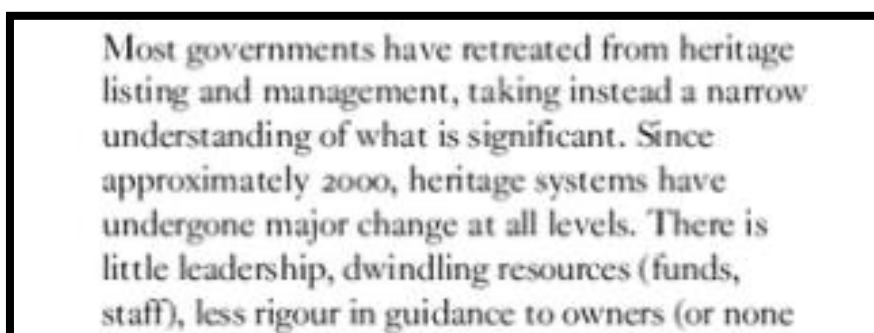## Focus Question 11: Would streamlining enhance the listing process?

A standardised template is not the answer especially for cultural landscapes!

Jim Kerr wrote "*investigating evidence to understand a specific place, in all its particularity, and deriving from that understanding a set of tailor-made policies to manage change*". He fought against standardised, template approaches to what should be an analytical and creative task.

A Conservation Management Plan has been defined in Jim Kerr's The Conservation Plan as "*a document which sets out what is significant about a place and consequently what policies are appropriate which enable that significance to be retained in its future use and development*".

Between 2017 - 2020, the average time taken from the Heritage Council recommending a listing, to the Minister receiving that recommendation, was 126 days. As at 12 March 2020, there were 1,727 items listed on the State Heritage Register[28].

Streamlining the listing process will not address the problems below:

> Most governments have retreated from heritage listing and management, taking instead a narrow understanding of what is significant. Since approximately 2000, heritage systems have undergone major change at all levels. There is little leadership, dwindling resources (funds, staff), less rigour in guidance to owners (or none

[29]

The new NSW Heritage Management System (HMS) will replace the State Heritage Register data management system but the quality and consistency of heritage advice depends on the data entered into the system.

There is a need to provide a high-quality Heritage Register indicating both state and local significance by:

1. Uniform definitions and regulations across levels of government to avoid the current confusion of multiple lists. All terms and definitions related to heritage used must be based on the terms used in "The Burra Charter 1999 – the Australia ICOMOS Charter for Places of Cultural Significance".
2. Improving the accuracy, consistency and quality of information about heritage places (buildings and sites) entered in the State Heritage Register which is needed to support the Planning and Design Code[30].
   - this will improve and inform decision-making of investors and professionals resulting in better heritage conservation outcomes,

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Premier - the Hon Don Harwin Hearing - Supplementary Questions.pdf (nsw.gov.au) BUDGET ESTIMATES 2019- 2020 SUPPLEMENTARY QUESTIONS 1 Questions from Mr David Shoebridge MLA

[29] Read, Stuart, and Gwenda Sheridan. "Challenges in Conserving Living Heritage." *Australian Garden History*, vol. 26, no. 2, 2014, pp. 21–23.

[30] NB older entries are sometimes poor, lacking in detail, accuracy and essential information for informed decision making by planners

- provide owners and stakeholders with the information they need to understand, manage and interpret heritage places and areas and
- providing clear information to support planners/architects to better manage development approvals for heritage places and areas.
- Address 'gaps' in the Register, including aboriginal contact sites, objects and cultural landscapes, archaeological sites (colonial and Aboriginal), old roads etc,

When a building or site is listed the announcement should ideally show how it fits the local/State/national criteria, along with other named examples. (Every public statement about heritage is a chance to reinforce its diversity, value and breadth).

The *cultural heritage significance* of the places on the SHR should be made based on the aesthetic, historic, scientific, social or spiritual value of a place for individuals or groups.

Heritage register lists often lack the rigour needed to protect and manage the site. This is particularly so for curtilage definition, and descriptions of layout and garden components.

Seeing heritage as buildings only, with no surrounds, outlook, views, or vistas (in or out) is destructive. We can't protect what we haven't listed, described, prepared, and or enacted conservation policies for.

Each place should be assigned a management category. The management category assigned to a place should be determined by the level of significance of the place; i.e. exceptional, considerable, or some significance and for its conservation. That will determine if a development application should be referred to Heritage NSW and the Heritage Council, whether its conservation is a priority, its contribution should be maintained and enhanced, or it has no direct impact on development potential.

However, there is a philosophical difference between identifying a series of individual sites as heritage (a 'dots on the map' approach) and listing whole cultural landscapes or reserving areas that may incorporate individual significant places, but may also have multiple layered values. An example is Braidwood and its setting which are of state significance as an excellent surviving example of a Georgian period town plan, dating from the late 1830s. This listing has caused some controversy in recent times.

Historic heritage includes the patterns from the past seen in city plans, entire suburbs and streetscapes as well as rural cultural landscapes. The protection of such historic heritage obliges individual properties to be conserved in a way that is sensitive to the integrity of the whole, requiring informed community engagement.

In the Department of the Environment and Heritage Submission to the Productivity Commission Inquiry into the Policy Framework and Incentives for the Conservation of Australia's Historic Built Heritage Places, it was argued that increased cooperation between governments would benefit public understanding, reduce duplication of effort and create a more positive climate for the conservation of historic heritage. It could conceivably:
- reduce public confusion about the different heritage lists and the regulations associated with them by creating an online 'one-stop shop' database for all listed heritage places in Australia
- improve consistency in assessment processes and conservation management plans so that minimal extra effort is required for owners in meeting the statutory heritage requirements for different levels of government
- coordinate public engagement programmes nationally for greater impact so that the intangible social benefits of heritage places and their contribution to the Australian story are more widely felt and appreciated

- promote heritage tourism more effectively nationwide and internationally to increase the economic benefits of conserving heritage places
- disseminate more effectively in the local community ideas for the adaptive reuse of historic heritage places
- make it easy to implement nationally a cooperative, cost effective, and consistent means of State of the Environment reporting on the condition of historic heritage places.

Focus Question 12: How could we improve the current approval permit system?

Transparency of listing processes and criteria, clear statements of significance, more readily available information about heritage places (what is listed and why; what management plans have been adopted or are in preparation; what kinds of use or development are possible) would be of benefit to all parties.

The process has overtaken the aim. Costly, time consuming conservation plans have become a lucrative part of the conservation industry, at the cost of simple analyses and actual conservation work – money goes on plans rather than works!

Focus Question 13: Are the current determination criteria for heritage permits still appropriate?

A sustainable understanding of heritage would involve listing structures or environments only in the context of a properly prepared statement of significance and ideally a conservation management plan. These can be expensive. Deferring them creates problems for the future. Governments (and no doubt developers) dislike the unnecessary controversy and agitation which can arise when a development proposal brings issues into the open for the first time. The Productivity Commission Report of 2006 noted that the deferral of proper heritage assessments added to uncertainty and could lead to unnecessary contention.

Cultural heritage significance assessment should be undertaken for all nominations. Nomination and listing should not be discouraged because like places are already on the heritage register. Registration of similar places in different regions or towns and also groups of properties add to the community heritage value eg. streetscapes[31].

In legislation natural and cultural heritage are usually considered separately, and there is a further division within cultural heritage between Indigenous and non-Indigenous or "historic" heritage. Those divisions may be narrowing with an emerging realisation that cultural and natural heritage are integrated, and a recognition by both Indigenous and non-Indigenous Australians of intangible heritage and cultural landscapes.

From the Discussion Paper - *the heritage permit process 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. "More major works, including any works exceeding $150,000, must obtain a standard permit under Section 60 of the Act. Some heritage owners can find the permit processes to be confusing, costly and time-connsuming. Owners can also face uncertainty about what types of change are permissible, as well as additional costs involved in ensuring that any approved works meet the heritage standards required. Managing change to a heritage item should not feel adversarial, we should explore constructing a permit system that embraces an approach to heritage conservation in which change is permissible if it is sensitive*

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[31] FEDERATION OF AUSTRALIAN HISTORICAL SOCIETIES INC. SUPPLEMENTARY SUBMISSION TO THE PRODUCTIVITY COMMISSION ON CULTURAL HERITAGE

to the heritage significance of the place (a 'yes if' approach)." **Any proposed changes must preserve our heritage, not lead to its destruction!**

Focus Question 14: How could we improve heritage consideration within land use planning systems?

By assessment prior to development planning.

"Unsolicited proposals" that involve a heritage building whether for adaptive re-use or destruction, must be considered by the Heritage Council with due consideration given to the building's level of significance of the place, conservation priority, its contribution to the cultural landscape to determine whether it should be maintained as is or adaptively re-used.

Tighter scrutiny is required of major developments and a decision-making (not advice, as now) role for the Heritage Council/Minister, NOT by the Planning Minister with the Heritage Act conveniently switched off.

Role of Local Councils

Local heritage is, like most other aspects of planning, the responsibility of local councils. Thus, local heritage outcomes are ultimately dependent on council action in heritage assessment and management. Many local councils lack the incentives, resources and expertise to adequately conserve heritage places. Increased state government funding, training and promotion of heritage are required[32].

Development Assessment of Places (buildings, sites etc) on the State Heritage Register should (under the Heritage Act) be
   (a) Subject to Deemed provisions for local planning schemes and require the development approval of the local government.
   (b) Applications for development approval for a place entered on the State Register of Heritage Places must be referred to the Heritage Council for its advice and recommendations.
   (c) Applications for development approval on land adjoining a place entered on the State Heritage Register, which may have the potential to impact on the cultural heritage values and/or significance of that place, must be referred to the Heritage Council for its advice and recommendations.

Local Government Council should require a Heritage Assessment to be carried out prior to the approval of any development proposed in a heritage area or in respect of a heritage place listed on the State Heritage Register.

Local Environment Plans should clearly indicate:
   • When a Heritage Assessment is required
   • Content of Heritage Assessment
   • Statement of Heritage Significance
   • Statement of Heritage Impact

The purpose and intent of this local planning policy would be to set out the administrative and procedural requirements by which the local government will promote and safeguard the protection and enhancement of places of cultural heritage significance and worthy of built heritage conservation for present and future generations. In particular, this local planning policy would set out the assessment and referral process for guiding the exercising of discretion in the determination of applications for development approval and the granting of a rates concessions with respect to heritage places.

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[32] Stuck in the past: why Australian heritage practice falls short of what the public expects (theconversation.com)

Local Government Councils should be required by legislation to develop Heritage Action Plans to:
- Identify and assess positive heritage measures already employed by Council;
- Identify opportunities to improve the protection, management and promotion of the Council's heritage assets (including public and private buildings, parks, gardens, public spaces, objects and other features); and
- Identify and prioritise Council's future heritage work program over a 15 year period.
- Ensure the identification, management and protection of heritage assets reflects the history and pattern of development in the Local Government Area;
- Increase community knowledge, appreciation and awareness of LGA's history, historic buildings, places and objects;
- Support the community, including community groups, to conserve and promote the LGA's history, heritage places and heritage objects; and
- Increase community awareness and adoption of best practice heritage conservation techniques.

<u>Promotional opportunities</u>

- A new Heritage Strategy should build on the promotional opportunities offered by heritage listings, grants, or new legislation to stress the diversity and value of heritage and encourage public perception of inclusiveness as a key factor in heritage decision making.
- Improve the understanding of the economic and public value of heritage, including heritage tourism by:
- Investing in research on the economic contribution and public value of heritage.
- Encouraging data capture that better reflects heritage tourism.
- Establishing opportunities to work with the Government, community, businesses and stakeholders to develop case studies and realise the economic potential that heritage places contribute to the economy.

Focus Question 15: Are there opportunities to enhance consideration of heritage at the strategic level?

This question betrays the submissive nature of the heritage legislation. The question should be how to ensure, not enhance, consideration of heritage. Consideration is too passive and should be replaced by respect and recognition!

At the strategic level there should be recognition that
- Australia's historic heritage helps define who we are. Our heritage buildings and places are part of our national identity, demonstrating our unique history and diversity of backgrounds and experiences. Once our historic heritage is destroyed, it cannot be replaced.
- There are often economic and social arguments for some level of government intervention to assist in protecting the values of historic heritage buildings and places.
- Increased cooperation between state and local governments would benefit public understanding, reduce duplication of effort and create a more positive climate for the conservation of historic heritage.

<u>Develop a Heritage Strategy for NSW!</u>

The following are recommendations from South Australian Heritage Council:
- Provide for long-term decision making – (looking beyond short-term thinking and short-lived economic gain).

- Provide an economic model for sustainable government investment in heritage (i.e. a heritage lottery, revolving fund; embodied energy fund). Heritage to be considered in the broader sense as it is with heritage lotteries in UK
- A Heritage Advisory Service
- Enable the heritage tourism sector to tell its stories, which requires better technology, support of regional destination trails, capacity building, connection with our aboriginal history and promotion of maritime and terrestrial visitor experiences.
- Develop and support the heritage trades and skills training sector (demand for heritage conservation will help to drive this outcome)[33].

The methodology Australia ICOMOS has pioneered and developed has stood Australian heritage practice in good stead because of a past alliance between our national and state governments and NGOs such as Australia ICOMOS and the National Trust. But recently state leadership in this field has declined and the heritage conservation movement has manifestly lost ground.

Heritage is a public 'good' that contributes to local communities and the economy, and therefore warrants a collaborative approach, a shared responsibility that requires innovative partnerships between state and local government, corporations and the community (State of Environment Heritage).

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[33] See REPORT ON HERITAGE PROTECTION 2020 SUMMARY | South Australian Heritage Council

Heritage is an important part of our environment and a shared responsibility

Heritage can have natural, Indigenous and/or historic values.

Heritage is a legacy from our past ...

... a living part of life today ...

... and the stories and places we pass on to future generations.

Heritage places are valued for:

Natural and cultural history

Scientific research potential

Social or spiritual importance

Connection to significant people or events

Aesthetic and creative qualities

Education and tourism

We all have a role in looking after our heritage.

Owners and managers conserve and interpret

Governments provide leadership, protection and resources

Communities enjoy, participate and celebrate

Focus Question 16: How could heritage compliance and enforcement be improved?

Prevention is better than cure – be proactive, not wait until the damage is done. Make clear to new owners, prospective developers etc the significance of properties and aid in suggesting alternative uses.

From the Discussion Paper – "*allow Government to take more nuanced and lighter-touch enforcement approaches, as an alternative to expensive and uncertain court action".* **This will encourage non-compliance and loss of heritage!**

Heritage Victoria's Heritage Compliance and Enforcement Strategy[34] describes how that state applies the law and exercises judgement and discretion in compliance and enforcement by:

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[34] Compliance and enforcement strategy (heritage.vic.gov.au)

- preventive work, such as raising awareness of Heritage Act requirements and how to comply with them
- monitoring and assessing compliance
- taking action against non-compliance
- responding to harmful events as they arise

Responses to non-compliance are considered and graduated depending on the circumstances.

This will require local governments to be aware of heritage within their LGA, list local and SHR properties/areas in their LEPs, list when a Heritage Assessment is required, content of Heritage Assessment, statement of Heritage Significance, statement of Heritage Impact. The Development Control Plans will provide detailed planning and design guidelines to support the planning controls in the LEP, as proposed by Heritage Branch, Office of Environment and Heritage and implemented by the City of Sydney[35] The Conservation Management Plan for the property should also consider compliance with any recommended management policies contained in the Heritage Inventory Assessment Report for the property, heritage conservation area or heritage streetscape.

Focus Question 17: How could understanding of state heritage be enhanced?

By information – not just "feel good" campaigns – but constructive information and guidelines to new owners, developers, planners and architects. Most major heritage demolitions are made under the direction or compliance of architects and planners. The heritage assessment should be independent.

*By recovering the histories of people and country here over time, by integrating ecology and history, it is possible to track the succession of Aboriginal, settler, industrial and suburban impacts upon this place, to see how city and hinterland were linked, how one is now being subsumed by the other, and the means, costs and transformations of urban expansion (*Karskens 2007[36]*)*

Linking the Present to the Past. "*It is not only the bricks and mortar, but the stories that go with them that together provide a tangible link to the past and which can connect a place across generations.*

It is not only from a heritage perspective, but also from a sustainability viewpoint, that we need to see the value in preserving and maintaining what we have. Each time we pull down a building or clear more land, we decrease the importance of our past, yet add to our collective carbon footprint[37]".

Heritage is an ongoing dialogical practice of collaborative history and meaning making – a creative cultural mapping enterprise that is layered, inclusive, storied, oral, visual, spatial and textural[38].

When designing for heritage, it is vital to understand the context and heritage significance of the place, the values that accrue to it, the meanings it holds for diverse groups and communities, and the possibilities and challenges embodied in the site and its stories[39].

There is a growing divide between professional and public perceptions of heritage. Public education could bridge this divide by ensuring the community understands the local heritage system and promoting the value of this local heritage to the public. Organisations like the National Trust and Australian History

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[35] Heritage DCP 2006 - City of Sydney (nsw.gov.au)

[36] Karskens G. (2007). Water dreams, earthen histories: exploring urban environmental history at the Penrith Lakes Scheme and Castlereagh, Sydney. Environment and History 1;13(2):115-54.
David Burdon (Director, Conservation, National Trust, NSW) wrote in the National Trust's Advocacy e-Update, October 2020.

[38] Sharon Veale: https://australia.icomos.org/wp-content/uploads/Does-the-practice-of-heritage-as-we-know-it-have-a-future-vol-27-no-2.pdf

[39] Design Guide for Heritage - governmentarchitect.nsw.gov.au

Council are trying to do this through the annual Australian Heritage Festival and History Week. These events are demonstrating that heritage is more than stuffy buildings. Heritage places can be recognised for their social, cultural, historical, aesthetic, Indigenous, or scientific significance, or for their representativeness or rarity, or a combination of these factors. They may tell stories of economic, architectural, or technical achievements, of arts and cultures, of social progress or industrial processes. They may recall historic moments, grand plans, and individual and collective achievement. They can provide evidence of the ambition, rise, and decline of peoples and places over time.

Focus Question 18: How could we improve heritage tourism or help activate heritage places for tourism?

When we travel in London, Singapore or New York, we head for the old parts of town with an interesting history. The same thing happens in Sydney with the most desired parts of Sydney being the old parts: Woollahra, Paddington, Hunters Hill, the Rocks, Lady Macquarie's Chair, the Botanic Gardens. And for a day trip or weekend away, people visit Hill End, Sofala, Little Hartley and we hope in future, the new Greater Sydney Park, Fernhill at Mulgoa.

Heritage tourism could therefore be defined as *"attractions or activities and experiences that engage with use or interpret heritage stories and places, including gardens, landscapes, sites, shipwrecks and objects."* Interacting with heritage can be either the primary tourism experience or an aspect of another tourism experience.

Heritage tourism provides opportunities for tourists to experience our distinctive historic heritage places and the rich stories associated with them. Heritage tourism can provide employment for the local community, and training opportunities. It can provide a community with the opportunity to protect, preserve, and share with others their familiar buildings and landscapes.

Tourism can be an opportunity and a threat for Australia's heritage. Poorly managed or unmanaged tourism also presents significant threats. Growth in visitation may place additional pressure on the resource itself. Tourism pressures can cause physical damage (from construction of visitor facilities, increased erosion, vandalism or simply excessive use) or loss of amenity (noise, visual intrusion, pollution).

"For both the public and the private sectors a nation's or community's heritage is no longer of intrinsic worth only, it has become a resource from which employment and capital accumulation may flow[40]." This encapsulates one of the central tensions of heritage tourism – conservation of intrinsic worth (or heritage value) or exploitable economic resource?

In recent years there has been a considerable amount of research concerning what makes a cultural attraction succeed as a business enterprise. A number of critical success factors have been identified. These factors tend to group into the following areas:
- Understanding of heritage significance.
- Effective management of the cultural resource to ensure its key values and integrity are retained.
- The will to enter the tourism marketplace.
- Business planning and management skills.
- The ability to develop and present distinctive product, to provide an engaging experience for visitors.

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[40]Leader-Elliot, L. 2000. Heritage, Tourism and Integrity – Making it Work. Bulletin of the Australian Institute for Maritime Archaeology (2001), 25:69-74.

- A focus on customer needs and interests.
- A well conceived and targeted marketing program which generates local and wider market interest.
- Community support and ownership[41] [42].

Tourist value of cultural landscapes

Cultural landscapes have both cultural and natural landscape features**,** which are fundamental factors for tourist development. The challenge is to discover and/or redefine values of the past into tourist experiences today, to develop dynamic preservation strategies for 21st century landscapes and societies, to maintain or even to reinforce a sense of cultural belonging and identity.

Many cultural landscapes eg the Mulgoa Valley, are valued by communities because they:
- show the evolution of settlement and societies
- hold myths, legends, spiritual and symbolic meanings
- are highly regarded for their beauty
- tell us about societies' use of natural resources, past events and sustainable land use
- display landscape design and technology achievements.

and should be protected for future generations, as a heritage 'green' backdrop to the city of Sydney.

Focus Question 19: How could public heritage buildings be activated to meet the needs of communities?

By understanding, appreciating and using them – not selling them off as commodities and financial opportunities to be developed eg post offices.

"The best way to conserve a heritage building, structure or site is to use it" (Heritage Council of NSW, p.5 2007). Places that lose relevance or purpose can become vulnerable to neglect, decay and possibly demolition. Inappropriate use can also jeopardise the conservation of heritage places, hence guidance is needed for planning and managing use".

The late Jim Kerr's "*understanding the place*" (Australia ICOMOS) states that once the significance of a place is understood, informed policy decisions can be made which will enable that significance to be retained, revealed or, at least, impaired as little as possible. The Burra Charter advocates a cautious approach – "*do as much as necessary to care for the place and to make it usable, but otherwise change it as little as possible so that its cultural significance is retained*". This approach is compatible with high-quality design.

To activate and protect public heritage buildings they must be made important to community. Traditional ideas of aesthetic and historic value have been privileged in conservation, but other significant cultural values, social, scientific and spiritual, are equally important. The introduction of social value saved Flinders Street Station when it was threatened with demolition in 1972 for high-rise development.

A Plan for Growing Sydney (2014) set the vision for Sydney as a strong global city and a great place to live and Direction 3.4 was to promote Sydney's heritage, arts and culture: Action 3.4.4: **identify and re-use heritage sites, including private sector re-use through the priority precincts program**

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[41] Leader-Elliot, L. 2000. Heritage, Tourism and Integrity – Making it Work. Bulletin of the Australian Institute for Maritime Archaeology (2001), 25:69-74.

[42] Successful Tourism at Heritage Places

The Government is committed to identifying, protecting and managing areas with heritage significance. Planning for Priority Precincts has identified new areas for heritage conservation, areas where heritage protection could be streamlined and heritage buildings for adaptive re-use in a commercial centre.

The Government was to:

- *assess the heritage significance of urban renewal sites and incorporate appropriate heritage protection into the precinct's planning controls and encourage re-use of heritage;*
- *assess the potential for additional housing to be located in heritage conservation areas in Sydney, without compromising the protection of heritage significance; and*
- *apply the best practice guidelines in the ICOMOS Burra Charter and the NSW Heritage Manual, which require detailed research of the history and development of an area to establish heritage significance, balanced against an assessment of where growth should go and how this should impact on heritage significant buildings.*

Key findings of the **2017 Review of a Plan for Growing Sydney** were

- *Supporting Greater Sydney's heritage, arts and culture remains important and is integral to building Greater Sydney's identity, international image, great places and productivity*
- *Planning for heritage, arts and culture is considered as part of planning for Priority Growth Areas and Priority Precincts.*
- *The draft district plans recognised the need to promote heritage, arts and culture. This consideration remains relevant and will support the direction of 'A city of great places' in Directions for a Greater Sydney 2017-2056.*

Funding of heritage

NSW Govt could set up a lottery fund, as the UK has done for heritage costs; eye-watering amounts of money have been raised to protect heritage for everyone.

The UK Lottery Heritage Fund supports[43]:

- Community heritage
- Landscapes, parks and nature
- Areas, buildings and monuments
- Museums, libraries and archives
- Cultures and memories: projects which help to explore, save and celebrate the traditions, customs, skills and knowledge of different communities.
- Industrial, maritime and transport

Minister Harwin's recent discussion paper on heritage does not define heritage and appears to assume a very narrow definition. But an essay by Susan Tonkin of National Museum of Australia entitled *"what is heritage"* gives this definition: *"Heritage" in the broadest sense is that which is inherited. Everything which the ancestors bequeath may be called heritage: landscapes, structures, objects, traditions.* In other words, a similar definition to the one used by UK Lottery Heritage Fund.

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[43] Our work | The National Lottery Heritage Fund; https://www.heritagefund.org.uk/sites/default/files/media/attachments/Priorities%20for%20National%20Lottery%20 0Grants%20for%20Heritage%202021-22_3.pdf

Minister Harwin is reducing funding to the Art Gallery and Australia Museum and Minister Stokes wants Sydney Parklands to be self-funding. Why not let everyone (who gambles) pay for Australia's heritage (in the broader sense of heritage)?

The first **Opera House lottery** draw took place in 1958. **Lotteries** had been conducted in NSW since the 1930s to help fund hospitals and to commemorate special events like the opening of the Sydney Harbour Bridge.

"Demolition by neglect" can follow when structures are listed but not resourced. The same applies to a natural environment: once preserved it must be maintained and managed, and that comes at a much greater cost than a coat of paint or a new damp course.

Concluding remark

Australia's historic heritage helps define who we are. Our heritage buildings and places are part of our national identity, demonstrating our unique history and diversity of backgrounds and experiences. Once our historic heritage is destroyed, it cannot be replaced.

"In NSW, the future of the past is presently turbulent and uncertain. Given this, you would expect that the enduring tensions between, development, economic growth and progress and the 'things we want to keep' would be centre stage. But are they?

Alongside this, the ever-diminishing level of government resources has ushered in mantras for historic buildings such as 'highest and best use', and a focus on increased visitation, experiences and customer focus. These are not bad aims in themselves, but when coupled with the persistent refrain that heritage is costing government, developers and private owners too much to conserve and maintain, one cannot help but feel the future of heritage is tenuous[44].

Revitalisation is needed of the State's role in providing leadership in the protection and management of heritage.

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[44] [Does-the-practice-of-heritage-as-we-know-it-have-a-future-vol-27-no-2.pdf (icomos.org). 2015](#)