

**Submission  
No 30**

## **INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977**

**Organisation:** Urbis  
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NSW Legislative Council  
Social Issues Standing Committee

To whom it may concern,

## **RESPONSE ON REVIEW OF NSW HERITAGE LEGISLATION**

Urbis Heritage has prepared this letter in response to the *Review of NSW Heritage Legislation Discussion Paper* (April 2021).

The commentary below represents high level comments on the current functions of the *Heritage Act 1977* (the Act) under each theme. Urbis welcomes the opportunities to further investigate and test these suggested solutions as part of an ongoing process of review.

### **Purpose of the Heritage Act 1977**

- There is an intention, currently, for equal representation of relevant expertise on the Council however it is not executed rigorously. Currently there are few heritage consultants or architects on the Council. The Council comprises more community representatives and experts with broadly associated expertise. While this is valuable, a commitment should be made to include at least two dedicated heritage professionals/consultants on the Council to assist in providing an expert opinion.
- The Heritage Council should champion and celebrate outstanding and innovative contemporary design outcomes in the context of heritage to promote high quality adaptive reuse and motivate the public to be more optimistic about owning heritage properties. The Heritage Council should consider State prizes for successful conservation and refurbishment projects including those for adaptive reuse.
- Guidelines should be established the Heritage Council and facilitated by the Act to ensure that representatives Heritage Council are reasonable and balanced in their assessment of applications.
- We support the permanent retention of an Aboriginal representative on the Council.
- Aboriginal heritage should be addressed in a standalone Act, not the National Park and Wildlife Act. This is method is successfully working in Victoria and could be used as a case study How this is referenced in the *Heritage Act 1977* would be addressed following that piece of work.
- The Act should facilitate a standalone objective for the management and assessment of aboriginal cultural heritage significance and a dedicated Aboriginal criterion in assessing heritage significance.

### **Activating Our Heritage**

- The current system of grants facilitated by HNSW are not used by most owners because they are not easily accessible or considered to be awarded equitably between private owners and community groups. A universal system that considers all owners universally including commercial owners who have the same obligations as community and not for profit owners/occupants. Commercial owners must be incentivised to buy and protect heritage as they have the resources to own and complete conservation works to a greater extent than other owners generally especially large-scale properties.
- Investigate making conservation works to heritage properties tax deductible to incentivise owners to complete conservation works as preservation of these properties is in the community interest.
- Investigate a Heritage Lottery scheme, or similar as utilised in the UK successfully.
- Investigate a revolving funds scheme as explored by Mary Knaggs in the ICOMOS paper (October 2015) and as practiced by Working Heritage Victoria.
- Consider establish a loan system to assist with the cost of adaptive reuse to encourage commercial or community ventures. This should not be only for the cost of adaptive reuse but also for ongoing conservation works for commercial or private entities.
- Investigate the facilitation of a Heritage Floor Space scheme, as operated by the City of Sydney, applied state-wide through the Act.

### **Heritage Identification and Listing**

- There should be no further categorisation of heritage items. The categories suggested in the Discussion Paper are already addressed by other levels of heritage listing overseen by other consent authorities. Additional categorisation risks further convoluting the process for owners and introducing more basis for inconsistencies between the interpretation of guidelines by consent authorities, which is already a fundamental issue.
- Instead of further categories, a focus on public education about the existing listing system should be a priority. Heritage consultants understand the level of change to be expected from each level of listing, however this is not widely understood by the public nor are the types of listings.
- Education for owners should be established throughout the buying process. There should be an opportunity to outline further heritage expectations on Section 149 certificates, and State listing identified on property titles as a standard approach.
- In addition to the above, a focus on agency education, both within HNSW and local government advisors (LGA). There is no consistent application of guidelines across LGAs or between different LGA advisors. State level guidelines for change would help local government be consistent. This would necessitate a change in the regulations and potentially guidelines rather than the Act itself.
- Cease focussing on funding Community Heritage Studies. Rather fund Council heritage studies which are prepared and led by experts with community input. Community heritage studies sometimes lead to pedestrian sites being listed at the behest of a local resident when significant places are not. This is the only efficient way of investigating significant values with consistency and concentrating resources to items that are at most need of protection. Studies led by heritage



experts, with community input, will ensure appropriate listings based on research and significance rather than public sentiment or concern over current zonings

#### **Streamlining Heritage Processes**

- The new processes, including Fast Track Section 60s and the new Standard Exemptions are a step in the right direction. Both processes should undergo further iterations and refinement. In particular, the standard exemptions do not allow for reasonable alterations simply due to the way the exemptions are crafted. Further, there is a lack of understanding between HNSW and City of Sydney Council regarding which authority will provide pre-application advice on State listed items.
- The new Victorian Heritage Act to manage unapproved demolition has significant consequences that jeopardise any planning approval or existing use on the site, are readily enforceable and should be investigated for adoption of similar in NSW.
- The Act should remove perceived financial incentive to demolish items including demolition by neglect. Reference should be made to the new Victorian Heritage Act where purposeful demolition allows for existing planning permission to be revoked, including uses associated with the site as discussed above.

#### **Listing Process**

- Re-evaluate the process for listing items or removing items from the Register. The inefficiency and resourcing of HNSW continues to be an issue both in relation to listings and approvals with a negative impact on the development industry in the State. In some instances, it has taken over 2 years for HNSW to investigate the potential listing of State listed items. This has the potential to impede ongoing development processes and restrain the economy of the State.
- The current delegations to Council are being used by Councils and Councillors to use the IHO's for planning purposes and to stop permissible development not wanted by the residents, notwithstanding current planning controls. This process devalues the importance of Council's allocating money to properly survey their areas to ensure they have the proper planning controls in place to guide development. IHO's are being used a backyard way of stopping orderly development. The process should remain with the Heritage Council or the Minister and be used where the place is of importance to the state or agreed by the Minister that it achieves high local significance and warrants the reversal of local planning controls.

We appreciate the opportunity to provide a response to the Discussion Paper and look forward to further opportunities to collaborate on the Heritage Act Review as it progresses.

Kind regards,

Stephen Davies  
Director



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Director

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Director