

**Submission
No 58**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Wollondilly Shire Council

Date Received: 25 June 2021



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Mr. Shayne Mallard
Chair of Inquiry into the Review of the Heritage Act 1977
NSW Legislative Council's Social Issues Standing Committee
<https://www.parliament.nsw.gov.au/committees/inquiries/Pages/lodge-a-submission>

25 June 2021

Dear Mr Mallard,

WOLLONDILLY COUNCIL SUBMISSION – INQUIRY - REVIEW OF NSW HERITAGE ACT 1977

Wollondilly Shire staff welcome the opportunity to respond to the NSW Legislative Council's Social Issues Standing Committee current Inquiry into the Review of the NSW Heritage Act 1977. We have noted the Terms of Reference from the Inquiry, the discussion paper and focus questions, and provide the following high level input for consideration as it pertains to Wollondilly.

Unfortunately given the limited time for response, our elected body has not had an opportunity to consider this submission. A copy will be provided to Council and we will provide any additional comments at a later date.

Heritage in Wollondilly

Wollondilly Shire Council is a well-established urban fringe Council largely characterised by its rural lands and smaller scale low density development. The state initiated, targeted urban growth that is planned for Wilton New Town will significantly increase housing that is provided within our shire, and in doing so will provide Council with new opportunities.

Aboriginal people, their histories and connection to Country and community make a valuable and continuing contribution to Wollondilly's heritage, culture and identity. Wollondilly's Aboriginal and non-Aboriginal heritage creates a unique local identity, supports local economies through tourism and contributes to great places. Wollondilly is home to some 286 local heritage items, 23 State Heritage Register items, 1,422 recorded Aboriginal sites and constitutes a significant portion of the World and National Heritage listed Greater Blue Mountains Area.

With rural uses dating back to early European and convict settlement, agriculture is a rich part of the Shire. A proactive approach to heritage will enable us to identify, conserve, interpret and celebrate Wollondilly's heritage and better respond where there is change and opportunities.

Heritage Act Review

Our Council will be interested in further defining the role of local government in working together with the NSW Government, particularly Heritage NSW in continuing to plan for and increase capacity for the ongoing conservation and management of heritage that reflects the diverse needs of the community. This submission seeks to provide commentary on the following themes that are of relevance to the current Review of the Heritage Act 1977.

Objectives of the Heritage Act

The intent of the Heritage Act is to protect and conserve heritage for future generations, the objectives of the Heritage Act accurately reflect this intent and take into account the need to promote understanding of heritage, encourage conservation and adaptive reuse and assist land owners with the conservation of heritage items.

Concern is raised with the content of the Inquiry Discussion paper that refers to the need of heritage to 'be put to work', particularly the concept of 'making heritage a viable opportunity for economic growth, employment and community enjoyment'.

The objectives of the Heritage Act should not reflect economic viability of heritage items, nor is it appropriate for all heritage items to be 'put to work', this is particularly relevant for many items of cultural and environmental heritage.

Significant concern is raised with the following statements made in the Inquiry Discussion Paper:

'..the Act is now widely considered to be out-of-step with trends in heritage conservation and land use planning and development. It reflects an outdated reliance on prescriptive regulatory measures and compliance mechanisms to achieve its objectives, and is generally considered onerous, procedurally complex and adversarial to adaptive reuse.'

'Heritage owners, developers and administrators face uncertainty, expense, duplication and delays in relation to heritage listing and approvals. This has led to a perception that heritage listing can be a burden rather than a celebration of our history.'

A watering down of State heritage legislation and processes to facilitate increased economic value and economic performance of State heritage items is not in keeping with the intent of the Heritage Act. Nor is this reflective of the public interest. While economic preference can 'enhance' and provide opportunity, it is again noted this is not the intent of recognising and preserving Heritage and Heritage value.

The purpose of preserving State heritage items for future generations should be upheld, even if this does attract an economic cost that cannot easily be offset by government. Heritage is valued for the intrinsic values that items and / or places offer through their very existence.

How should Aboriginal Cultural Heritage be acknowledged & considered within the Heritage Act

Aboriginal cultural heritage is primarily legislated and managed through the *National Parks and Wildlife Act*. Whilst cultural heritage is referred to throughout the Heritage Act, further consultation is required to determine appropriate legislative conservation and protection of Aboriginal sites and places. It is emphasised that Aboriginal people are best positioned to lead this work and such work must include representation from Aboriginal Elders, Aboriginal land councils, and Aboriginal advisory groups.

Streamlining the Heritage process

The Inquiry Discussion Paper states;

'The current heritage listing procedure has been described as lengthy and complex, with some items taking more than a year to be listed on the SHR. While anyone can nominate items for heritage listing, nominations are often received in response to perceived threat. There is no current process to engage the broader community in identifying items of value for potential listing, or for ensuring that future listings reflect the broad and diverse interests of the NSW community.'

Opposition from the community with regard to a potential heritage listing and the above described scenario of a heritage listing nomination as a 'perceived threat' does not necessitate a relaxing of heritage legislation and due process. Rather we see it as an opportunity for government and community to work together to build understanding within the community as to why a site is considered worthy of heritage value and what opportunities are available to both property owners and the wider community with regard to conservation, access and management of the site. It is recommended that increased education and capacity building activities be undertaken by the relevant organisations across the local and state government sectors to increase community knowledge and understanding of heritage typology, heritage significance and the value of conserving heritage.

Furthermore, consideration should be given to how owners of listed heritage sites are supported in terms of ongoing costs and management. State funding to support protection and maintenance of heritage buildings/items should be encouraged. Note this should be approached from the lens of conserving heritage, rather than enabling development to reduce costs.

A community-driven nomination process has merits in terms of community engagement and participation, however, should not form the only process for nominating Heritage sites under the Heritage Act. Caution is raised with regard to nominations from community members direct to the Heritage Council partway through a development application process. Concern is raised with regard to impact on statutory requirements and appeal rights.

Would streamlining enhance the listing process?

The current process for listing, reuse, modification / alteration of a State heritage item is described in the discussion paper as onerous, and whilst it is acknowledged that this process is time consuming, the process is absolutely necessary in ensuring the protection and conservation and appropriate adaptive reuse of State significant heritage items for generations to come.

The current listing process and process relating to the updating of heritage listings serves the vast majority of community interests. It does not prohibit development or modification, rather simply requires a thorough process to be followed for such actions to be considered.

Of particular note, the current approval pathway for standard exemptions and s.60 works application is considered to work well.

Additional considerations Council makes with regard to the Heritage Review include:

- Will the scope of the Review of the Heritage Act take into account the consideration of 'demolition by neglect'. Further information on this matter would be appreciated.
- It is acknowledged that the review of fines and penalties should form part of the Review of the Heritage Act, however concern is raised with regard to the role of local government in

this process. Specifically, local Council's should not be delegated to undertake heritage enforcement of State heritage matters.

Should you wish to discuss any aspect of this submission, I can be contacted

Yours faithfully

Stephen Gardiner
Manager Sustainable Growth