

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Name: Name suppressed

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Partially
Confidential

Review of the NSW Heritage Act Legislation

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

My concern is that the number of members of the Heritage Council with specialist knowledge has substantially declined. The Heritage Council should be advising the Minister on heritage significance and so should include members with expertise in all the facets that the act covers. The number of non-specialists should be kept to a minimum and not be political appointments.

Focus Question 2 : How should Aboriginal Cultural Heritage be acknowledged and considered in the NSW Heritage Act.

I do not believe that Aboriginal Cultural Heritage should be dealt with in a manner that involves ranking of sites, as this concept does not sit well with the notion of Caring for Country. A separate more culturally appropriate methodology needs to be developed and sufficient resources need to be allocated. It is not acceptable to move the protection from one unsuitable Act to another. The Heritage Council should not sit above Aboriginal Land Councils.

In addition, there needs to be a much greater provision for the Aboriginal community to have a voice. What is needed is resources and working towards self determination and Aboriginal land management of certain sites.

Focus Question 3. Are the Objectives of the Heritage Act still relevant?

The objectives are still relevant however there has been a substantial decline in resourcing and a move away from the provision of guidance such as the NSW Heritage Manual to simply dealing with applications. The Heritage Council is far less visible than it was in past decades, and the head of the organisation is invisible within the profession. This lack of visibility has resulted in the Heritage Office and the Act not being seen as relevant within a government that is so development-focused. This focus on development is a view that is at odds with the global movement towards meeting sustainable development goals. Heritage should be given a much higher profile as it can contribute to achieving these sustainable development goals.

Focus Question 4. Does the Act adequately reflect the expectations of the contemporary NSW Community.

The Act reflects a desire to protect heritage for future generations. A very large proportion of applications at both a local and state level seek to modify a building for personal gain and profit or for developer profit. There is no desire for stewardship or conservation as it is not seen as profitable. Many applications are for speculative projects that the applicant will not live in or operate. As a result the aims of the community are very different to the aims of applicants.

There is large section of the population who do seek to retain the unique character of NSW places. The most admired and visited places are places where their unique character has been retained. The community view in regards to what should be retained is not given enough weight either in the NSW Heritage Act or by the Land and Environment Court yet the aim of the Act are in line with sustainable development goals.

Focus Question 5 How can the NSW Government legislation better incentivise the ownership, activation and adaptive re-use of heritage.

The vast majority of heritage is at a local level and this process is working. Ownership and activation is based on a lot more factors than just the NSW Heritage Act, it depends on the overall state of the economy. Resourcing of heritage at a state level has steadily declined and with this has been a decline in both practical assistance for those seeking to adaptively reuse a building and a lack of guidelines and technical brochures.

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

Much more assistance could be given to community groups to conserve their buildings. Funding could be directed from the lottery as in the UK. Rate relief and other incentives to owners should be tied to undertaking conservation works to a building. More funding could also be directed towards the preparation of case studies, such as have been produced in Tasmania.

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

Australia does not have a tradition of large scale philanthropy in relation to conservation of the built environment beyond tax deductible donations. The Victorian example of Working Heritage is a very good model. Funding could be made available to assist with the proper conservation of specific materials eg slate roofs which require a higher investment at the start but are much more durable in the long term.

Focus Question 8 How could tailored Heritage protection enhance heritage conservation.

The heritage protection is already tailored to National, State, Local. Further levels are not necessary. The approvals process could be streamlined to meet timeframes in a similar manner to local Council approvals, with the applications referred to specialists. This would work better than introducing further levels that would just complicate approvals.

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

In my view a category scheme is not necessary. Rather more information should be provided to purchasers of state heritage register listed properties to inform them of the concept of stewardship and the need for the long term conservation of historic buildings. More substantial changes can be made to buildings that are not heritage listed, so the decision to purchase should be made in full knowledge of the extent of works that can occur.

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

No. The State Heritage Register evolved out of the Permanent Conservation Orders, buildings that were protected as they were under threat. There has never been sufficient funding to undertake the level of research needed to develop a comprehensive register that includes community engagement. Local heritage studies are much more comprehensive, as are some of the Section 170 Registers however potential state listings do not then go onto the SHR as originally intended. Community-based studies do not work well for Twentieth-Century heritage, as the building typology and building technologies and construction also need to be understood. Those who recognise the significance

more specialised buildings and sites are special interest groups and not necessarily the local community.

Focus Question 11. Would streamlining enhance the listing proceeds

Having been involved in submitting listings for over 20 years, the process has now become totally unwieldy and politicised. Far too much information is now sought at a listing stage and the process of adding to the register takes far too long. Numerous nominations have been submitted by organisations such as the Institute of Architects and the National Trust that were not processed by Heritage Office staff. No master list of incoming nominations was kept. The nominations that were prepared in batches as part of studies funded by the NSW Heritage Office were not processed. I can recall examples of Heritage Office staff preparing nominations for buildings without any reference to the fully filled out nomination forms already submitted.

Community organisations need to be adequately funded to submit nominations.

Focus Question 12 How could we improve the current permit application system

When I first dealt with the Heritage Office the permit application process was much smoother and much faster. Applications were dealt with by senior staff with a detailed knowledge who were able to clearly grasp the extent of the issue and deal with it from a practical point of view. There is now too much interference from generalist staff who do not have any practical conservation expertise and the big picture is frequently not understood. The advice and methodologies of the most senior conservation architects in the State is questioned by officers with no practical experience.

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

Recent changes to standard exemptions have not been successful. As noted above, the length of time and the lack of experienced staff is the bigger issue.

Focus Question 14. How could be improve Heritage consideration within land use planning systems?

In the past Regional Environmental Plans were a useful tool in which Heritage could be integrated into land use planning. It is now rare that there is a consideration of heritage beyond what is already listed. The level of analysis that underlies land use planning has declined and many proposals are developer-driven. Conservation in terms of areas is dealt with in LEP as conservation areas. The Heritage Act has rarely been utilised to protect areas.

Focus Question 15 Are there opportunities to enhance of Heritage at the Strategic level.

The Heritage Office used to comment on planning instruments and issues such as views used to be considered. Planning and heritage are now separated. As noted above, the Heritage Act is not utilised at a strategic level. Planning proposals by developers are a problem in that they seek to include a few heritage items as possible and the advice obtained is from consultants who often do not have any training in the identification and assessment of built heritage.

Focus Question 16. How could heritage compliance and enforcement be improved.

At a state level there is no evidence of compliance or enforcement occurring. At a local Council level there are compliance officers and a mechanism to lodge an issue.

Focus Question 17. How could the understanding of State Heritage be enhanced.

Currently there is no funding for publications and the Heritage Manual is not fully available. In the past the Heritage Office was involved in seminars, talks publications &c. This role is now partly being undertaken by the Heritage profession, ICOMOS in particular, without any funding. Other states still continue to produce relevant material.

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

Improved public transport across NSW. Additional grant funding, and funding made available for a broader range of activities and events.

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

This process is happening as many local councils are developing a range of community facilities in surplus state and commonwealth public buildings using rate payer funding. Additional funding for community uses would be beneficial. This process is not necessarily a function that can be controlled by the Heritage Act.

General Comment

As a general comment the listings and approvals processes under the Heritage Act have become unnecessarily unwieldy and subject to far too much interference from staff. There is far too much focus on process. In the past the aim was to work towards achieving the best heritage outcome. Recent experiences have involved the endless reworking of documentation at great expense to the client with no actual improvement in the conservation outcome. The focus should be on facilitating conservation works to the site or building in question.

Having worked in both the NSW Heritage Office and as a heritage specialist for a Local Council, the system of dealing with applications to alter local heritage items is much more streamlined and occurs within a more defined timeframe at the Council level. Applications are coordinated by a planner who then obtains the necessary input from heritage specialists. The technical aspects of a proposal are reviewed by experts with a detailed knowledge of the particular aspect of built environment.

Studies for potential listings subject to too much interference from staff, and are often set years in advance so that there is no mechanism to deal with current threats or issues. Studies and listings then vanish into the Heritage Office and are not made available for other consultants or the public to use.