

**Submission  
No 70**

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

**Organisation:** Create NSW

**Date Received:** 2 July 2021

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## **Create NSW**

### **Submission**

#### **STANDING COMMITTEE ON SOCIAL ISSUES**

##### **Review of the Heritage Act 1977**

###### **TERMS OF REFERENCE**

1. That the Standing Committee on Social Issues inquire into and report on the Heritage Act 1977 (NSW) (the Act), with particular reference to:

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

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

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

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

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

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

(iii) improvements to heritage compliance and enforcement provisions

(iv) streamlining heritage processes

(e) any other related matter.

**Table of Contents**

Acknowledgement of Country ..... 1

Introduction ..... 1

Background and Context..... 1

Address to Select Terms of Reference ..... 3

(d)(i) a category approach to heritage listing to allow for more nuanced and targeted recognition and protection of the diversity of State significant heritage items ..... 3

(d)(ii) consideration of new supports to incentivise heritage ownership, conservation, adaptive reuse, activation and investment ..... 3

Conclusions ..... 4

## **Acknowledgement of Country**

The NSW Government acknowledges Australia's First Nations Peoples as the traditional owners and custodians of the land and gives respect to the Elders - past and present - and through them to all Aboriginal and Torres Strait Islander peoples.

## **Introduction**

Create NSW appreciates the opportunity to provide input into the Social Issues Standing Committee Inquiry into the *Heritage Act 1977* (the Act). A division of the Department of Premier & Cabinet, Create NSW works to deliver the Government's priority of fostering excellence in arts, screen and culture in NSW.

Within Create NSW, Create Infrastructure is dedicated to the planning and delivery of cultural infrastructure so as to enable a coordinated, government and sector-wide response to the planning and development needs of New South Wales. Create Infrastructure, as the NSW Government's cultural infrastructure program management office, is responsible for the successful delivery of significant cultural infrastructure projects like Powerhouse Parramatta, Powerhouse Ultimo Renewal, Walsh Bay Arts Precinct Redevelopment, Sydney Modern, the National Art School Precinct Redevelopment, and many others in planning and delivery across NSW.

Create Infrastructure oversees all stages of the cultural infrastructure lifecycle, from development, to delivery, to operation and maintenance for the benefit of the State. In addition to the construction of new infrastructure, Create Infrastructure seeks opportunities for adapting, repurposing, restoring, and improving existing facilities for cultural purposes, which can revitalise neighbourhoods and restore heritage buildings as hubs for communities and centres of civic pride.

## **Background and Context**

Driven by unprecedented government investment, New South Wales is in the midst of a significant renewal of its cultural infrastructure, delivering contemporary, relevant, world-class infrastructure to strengthen the depth and quality of our cultural sector.

To support and drive this work, Create Infrastructure has developed the NSW Government's *Cultural Infrastructure Plan 2025+* (the Plan), which articulates strategic priorities to ensure that all of NSW benefits from cultural infrastructure. An objective of the Plan is to identify policy opportunities within the New South Wales planning framework to increase space for the cultural sector through adaptive reuse.

The Plan identifies a need for increased availability of affordable, fit-for-purpose and sustainable space to support growth of the cultural sector and creative industries. Growth and productivity of the cultural sector is limited by a lack of access to affordable space and there is a strong demand for more flexible space which supports a broad range of needs.

One of the key findings from an extensive process of consultation was that priorities should not just be about new infrastructure. The cultural sector continually highlights the need to focus on better utilisation of existing infrastructure. There is a strong desire from the community and cultural sector to adaptively reuse heritage buildings as cultural infrastructure, and to optimise existing facilities by making them more efficient and fit-for-purpose through maintenance, facility upgrades and redevelopment.

Create NSW recognises the importance of valuing and celebrating our state's heritage assets, and the great benefits and opportunities that these places present. Heritage places should, as the

discussion paper notes, “be used, cared for and activated as lively spaces” and our work demonstrates the possibilities for arts and culture to revitalise and become part of the history of a site, respecting the past while bringing new life and creativity.

Projects such as the refurbishment of the Sydney Opera House and the Australian Museum demonstrate the opportunities that exist for maintaining and revitalising existing cultural facilities, by integrating modern technologies and accessibility requirements while conserving their unique heritage values. In other cases, heritage buildings can be given a new lease on life with new but compatible uses, such as the current redevelopment of the Walsh Bay Arts Precinct which will restore the industrial character of the wharves while also creating new and enhanced facilities to support arts and cultural performances and events. The maintenance and reuse of historic buildings has social benefits for the communities that value these places, and can be an economically and environmentally efficient alternative to new construction.

Create Infrastructure works across government and with the cultural sector to develop and implement programs that optimise existing cultural infrastructure and adaptively re-use non-cultural infrastructure. For example, by identifying underutilised space that could be made available to the cultural sector, reviewing current infrastructure support policies and supporting the continued use of existing assets, such as the Theatre Royal in the Sydney CBD, for cultural purposes. This builds on existing investments through the Regional Cultural Fund, which supports adaptive reuse through projects including:

- Southern Highlands Gallery at Retford Park: Adaptive reuse of dairy buildings into a regional art gallery on the National Trust Fairfax Estate at Retford Park.
- Roxy Cinema at Leeton: Extensive internal re-modelling and expansion of an Art Deco cinema to re-purpose the building into a multi-purpose venue.
- Bellingen Memorial Hall: Extensive refurbishment and expansion of a 1930s hall and cinema into a multi-purpose performing arts centre for the local area.
- Albury Pumphouse: Adaptive reuse of an 1888 heritage listed Waterworks pump house into a maker space and artist workshop.

These projects demonstrate the rich potential of adaptive reuse to support cultural infrastructure needs across the state. However, as the discussion paper prepared by Heritage NSW notes, we are aware that the heritage permit process can be onerous and challenging for some heritage owners. There can be uncertainty about what kinds of alterations can be made to a heritage item, and for arts and culture organisations, the actual or perceived burden of costs and approvals can be prohibitive. It is therefore timely and appropriate that the process for making and approving changes to heritage items is reviewed, in order to simplify and clarify the process of permits and exemptions, and to ensure that heritage properties can be maintained as active, vibrant and accessible community resources.

There are important opportunities to increase available space and achieve cultural infrastructure outcomes through adaptive reuse while maintaining heritage significance. Adaptive reuse is allowed for within *The Burra Charter* (and associated Practice Notes), which establishes principles and standards for the management and conservation of heritage places. Specifically, the Charter notes that adaptation, including additions to a heritage place or the introduction of new compatible uses, is possible where it retains or has minimal impact on the heritage significance of a place.

Create NSW welcomes this review of the Act as an opportunity to increase and incentivise the activation and adaptive reuse of State Significant heritage properties. In particular, we support

further consideration of the following proposals articulated in the discussion paper prepared by Heritage NSW.

### **Address to Select Terms of Reference**

This submission seeks to make a high-level response to terms of reference with direct relevance to the work of Create NSW. It should be noted that Heritage NSW is presently facilitating interagency working groups, in which Create NSW is participating, and which will provide a forum for more comprehensive and interactive feedback over and above this submission to the Inquiry.

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

Create Infrastructure works closely with the NSW State Cultural Institutions, who are responsible for the care and management of significant heritage sites including the World Heritage listed Sydney Opera House and Hyde Park Barracks. We support regulatory controls that ensure the highest levels of conservation for these and other heritage sites of exceptional value, while noting the importance of these controls not placing undue restrictions on the essential maintenance and upgrade works that allow these sites to continue to be activated and accessible for the enjoyment of the NSW community. The Sydney Opera House ten-year renewal program illustrates the possibilities that are available, delivering better acoustics for artists and audiences, improving access and safety, while conserving the heritage values of this iconic venue.

While ensuring the protection of these exceptional heritage places, Create Infrastructure also supports consideration being given to legislative amendments which would more effectively support the activation and adaptive reuse of State Heritage items. The proposal for NSW to adopt a tier system of four heritage listing categories has the potential to encourage the continued use and adaptive reuse of heritage buildings by more clearly articulating the heritage protections that are applicable to a specific item based on its categorisation. In particular, it may remove actual and perceived constraints to the activation of heritage items which are of State significance, but do not meet the standard of 'exceptional and iconic'.

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

Create NSW supports consideration being given to new initiatives which may incentivise heritage ownership, conservation, adaptive reuse, activation, and investment. These initiatives could comprise a number of regulatory and non-regulatory options including market-based solutions along with options funded by the non-government sector and options funded more traditionally by government.

These options could include: examining the feasibility of transferable development rights schemes based on the City of Sydney's Heritage Floorspace Scheme; zoning wavers to encourage adaptive reuse of heritage listed property; consent fee waivers; innovative grants programs including greater collaboration with the non-government sector; and greater use of heritage agreements. While there is likely no single solution, a combination of complementary measures and initiatives should facilitate greater activation of, and community engagement with, our state's heritage.

For arts and cultural organisations in particular, additional space is a major concern but while adaptive reuse is an attractive option, cost can be a significant barrier for these organisations.

Create NSW currently provides infrastructure support through subsidised accommodation. Most of the properties controlled by Create NSW are significant State Heritage Listed buildings which are

owned by other Government agencies and have been made available under the terms of long-term leases for arts and cultural uses. Create NSW maintains and develops these properties as venues and facilities such as theatres, galleries, rehearsal studios and creative spaces. The precincts these anchor bring a range of benefits to the state. These include contributing to the visitor economy and the broader state economy (for example, the Walsh Bay Arts Precinct as a destination for businesses, tourists and arts consumers) to urban renewal and social cohesion (for example, the Carriageworks facility at North Eveleigh), and to the viability of arts and cultural organisations.

As the discussion paper prepared by Heritage NSW notes, there is scope to expand and increase support for conservation and adaptive reuse and Create NSW's infrastructure support program highlights the potential for arts and cultural organisations to participate in these efforts. Arts and cultural uses are often particularly appropriate uses for heritage sites. In line with the Burra Charter's directive that new uses should have minimal impact on the heritage significance of a place, activation through arts and culture will retain and can even enhance the cultural significance of a heritage place.

### **Conclusions**

Create NSW welcomes this review of the *Heritage Act 1977*. The continued use and adaptive reuse of heritage places is an important component of the work that Create Infrastructure undertakes to support the cultural infrastructure needs of the state, and it is important that the ability to maintain and adaptively reuse heritage items is retained. The cultural sector is particularly well placed to activate heritage spaces in ways that maintain and enhance their cultural significance, and we welcome proposals and initiatives that will more effectively facilitate the activation and adaptive reuse of State heritage items, both for our own projects and for the cultural sector as a whole.