

**Submission  
No 78**

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

**Organisation:** Blue Mountains Branch, National Trust (NSW)

**Date Received:** 4 July 2021

---

The Hon Peter Poulos  
Chair  
Standing Committee on Social Issues  
Legislative Council  
Parliament of NSW

Dear Chair

I am pleased to make the following submission on behalf of the Blue Mountains Branch, National Trust of Australia (NSW) in response to the inquiry and review of the NSW Heritage Act, 1977.

At the outset, the Branch wishes to register its concern over the negative language that is used in the Discussion Paper when describing the current operation of the Act. For example, the erroneous suggestion that the effect of heritage listing of an item is to “stop all change and freeze a place in time” is to ignore the successful and wide spread practice of adaptive re-use of heritage properties across the State.

We submit that the protection that the current legislation affords to the State’s cultural heritage is not an impediment to economic development as the Discussion Paper implies. Rather, it is critical to maintaining and enhancing the visitor economy of areas like the Blue Mountains with its unique collection of historic villages and landscapes.

For these reasons, the Branch rejects the claim in the Discussion Paper that the Act “is out of step with trends in heritage conservation and land use planning... onerous, procedurally complex and adversarial to adaptive re-use.” Instead, we would argue that the policy objectives of the Act remain valid and that the terms of the Act are largely appropriate to securing those objectives i.e. identifying, protecting, promoting and conserving cultural heritage places in NSW. Consequently, any amendments should be designed to deliver improved heritage outcomes rather than weaken protections.

The Branch is particularly concerned about the immense risk posed to cultural heritage by State Significant Developments which effectively over-ride the provisions of the Heritage Act. We believe it is critical that the pre-eminence of the Heritage Act is preserved in assessing the heritage impact of any project, irrespective of potential economic returns.

We strongly believe that the NSW Heritage Council, established by the Act, should only be comprised of individuals and organisational representatives who have demonstrated experience and expertise in heritage conservation. In our view, the Council should function as an independent champion of heritage in NSW with its advice clearly focussed on promoting public rather than sectional interest. We also consider that the Council’s remit should be wider than advising the Minister, so that the Council is in a position to contribute to the broad spectrum of heritage issues dealt with by the Government.

The Branch endorses the call made by the Blue Mountains City Council for the Act to be utilised to obviate the practice of demolition of heritage items by neglect. We submit that the legislation should contain provisions that explicitly discourage and penalise heritage property owners who do not protect heritage values. In addition, the legislation should impose enforceable obligations on the owners of all listed properties to meet minimum standards of maintenance and repair. Such provisions would be consistent with the requirements that exist in other jurisdictions in Australia (e.g. Victoria) and abroad.

Finally, the Branch is acutely aware that the best drafted legislation in the world is of little value if the agencies responsible for its administration are not adequately resourced for this purpose. In this connection, it is our observation that cultural heritage in NSW is chronically under-funded. Accordingly, we submit that urgent action is required to increase the funding available to Heritage NSW and local councils to expand the number of qualified staff engaged in heritage conservation activities. Given the significant number of cultural heritage assets owned by the NSW Government, an appropriate level of resources should also be allocated to maintain existing listed items as well as support additional listings.



The Branch looks forward to further engagement as the inquiry and review process progress.

Yours sincerely

Rod Stowe PSM, FRSN  
Chair  
Blue Mountains Branch  
National Trust (NSW)

3 July 2021