

**Submission
No 87**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Curio Projects Pty Ltd

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Heritage Act Review

Submission by Natalie Vinton, CEO, Curio Projects

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Submission regarding review of NSW Heritage Legislation

Dear Standing Committee

Thank you for providing Curio Projects with the opportunity to provide feedback with respect to the current and significant Heritage Act Review currently underway.

In order to be as targeted as possible, I have responded against each of the Focus Questions highlighted in the Discussion Paper prepared by the Standing Committee on Social Issues (April 2021).

Please find below, my considered response to the focus questions.

Focus questions

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

The existing skillsets identified within the current Heritage Council criteria are still considered appropriate, however it would benefit from an expansion of professionals to include experts in Cultural Heritage Tourism, Place-Making and possibly, even education-based (i.e., Significant knowledge of, and/or experience in the development of school curriculum etc).

As part of the criteria for membership, members should be able to demonstrate a working knowledge and understanding of cultural heritage processes, environments, assets and or values, in order to be able to bring a balance of their specific skillset to the table, whilst having as a minimum, a base understanding of heritage values, assets and general management process. This would help to achieve a more focused outcome at meetings, to ensure the very best balance of heritage and other matters are achieved.

Focus Question 2: How should Aboriginal Cultural Heritage be acknowledged and considered within the Heritage Act?

First Nations People should be involved in the development of any processes and opportunities for stream-lining the heritage listing, protection, and management system for Aboriginal Cultural Heritage in NSW.

The current legislative system is based in the need to prepare written documentation, prepared by particular types of professionals, as part of an extremely rigid assessment system. This system doesn't account for the ways in which First Nations People may prefer to discuss, protect and manage Country. It also requires a very detailed understanding of legislation, process and 'white ways' of doing things that are often not effective and/or even appropriate for how First Nations People may want to manage significant cultural heritage values, both tangible and intangible.

For example, significant information, including stories, and intangible heritage values are passed on by Elders, orally from generation to generation, yet this is not necessarily recognised in the Heritage Act as a possible, legitimate way to ensure a place of cultural significance is protected under heritage legislation. As a minimum, written submissions for the protection of places must be prepared and

accompanied by extensive paperwork, whereas perhaps oral submissions prepared by First Nations People may be a preferred method of preparing evidence for heritage listings in some circumstances. It would be best for such options to be further investigated with First Nations People, as a priority as part of any future review process.

Focus Question 3: Are the objectives of the Heritage Act still relevant?

Yes, the key objectives are still extremely relevant. The way in which the objectives are managed and applied in practice within Heritage NSW and in local councils is where the disconnect between the core objectives and their intended outcomes appear to have become disjointed over the last several decades.

There are many reasons that could be attributed to this, but most likely it relates to:

- the lack of appropriate funding programs, guidance and support to ensure the objectives of the Heritage Act can be readily met.
- the restrictive nature of many of the assessments undertaken by individual heritage officers across multiple agencies; and
- the lack of general quality control across the approvals process to ensure equitable and fair assessments occur at all levels of the heritage approvals processes across the State.

Having worked within the government (City of Sydney, NSW Heritage and the Country, Culture & Heritage Division, OEH, between 1997-2012) and now, also having worked in the private sector since 2012, I have been lucky enough to view the heritage process in the round, from many angles, and have come to realise that the process for the management of heritage, despite the legislative requirements, remains too subjective, with little to no requirement for a consistent approach by individual officers, Councils or agencies in the management, assessment and incentivisation for heritage asset owners.

I am not suggesting that we need to create a 'one size fits all' approach to heritage management, but that there is lack of the consistency in how officers in approvals/management roles implement and assess applications against the requirements of the Heritage Act.

In particular, projects, heritage listings and developments will have a dramatically different ranges of outcomes (even within one agency) depending on who the 'assessing officer' is. This is, perhaps, the biggest weakness in how the objectives of the Heritage Act are applied – how individual officers approach **the actual application of the Act, not its stated intentions or objectives.**

Some of the best heritage project outcomes I've had to date have been because staff from Heritage NSW and the City of Sydney have been willing to attend regular meetings, think about different options and have been very supportive of testing new ways of doing things in order to meet the needs of heritage conservation, community outcomes and client needs.

The worst projects are those where staff are unwilling to meet to discuss projects or to provide a rationale for why they have made certain decisions. The lack of consistency between how different staff respond to the same types of heritage scenarios is extremely high risk for clients and heritage consultants alike, as there are no clear pathways or guidance that can be provided in order to help ameliorate the existing key risk of subjectivity in the heritage assessment process.

Focus Question 4: Does the Act adequately reflect the expectations of the contemporary NSW community?

As noted above, the objectives likely do, but the lack of any real incentives, the processes related to heritage listings and the assessment of development applications do not generally allow for an easy, enjoyable, low-risk pathway for owners of heritage sites. Contemporary NSW communities love heritage generally but are fearful of the processes surrounding gaining approvals to undertake works, and the costs associated with heritage works because it often seems like the goal posts move from project to project.

The contemporary community clearly love heritage places and are willing to voice their disapproval when they feel let down with respect to heritage protection of key places. On the other hand, when government agencies host heritage events, such as Sydney Open, the events run by Sydney Living Museums, and fund heritage grant programs, the community interest and support is huge. Positions such as government-funded heritage advisors in small towns and communities has also been invaluable for regional areas and has really raised the profile of heritage, and its ability to promote sustainable, tourism-based resurgences in regional areas.

Cultural heritage places, landscapes and precincts are generally more valued now, than ever before as people start to learn about connection to country, revitalisation, sustainability and the benefits of cultural heritage tourism. As part of this, communities are more likely to expect on-balance outcomes when it comes to the management of heritage precincts.

Contemporary communities want to see clever design and conservation as part of the reuse of a site, provided with clear, realistic examples of how homeowners can work with heritage assets, rather than keep them completely mothballed, yet unusable in today's environment. Owners of heritage assets generally want to conserve the asset, whilst having the ability to sensitively adaptively reuse assets that are no longer fit for their original, intended purpose.

Focus Question 5: How can the NSW Government legislation better incentivise the ownership, activation, and adaptive reuse of heritage?

The key is in developing the right supporting frameworks such as:

- Land Tax Relief.
- Dollar for dollar funding for significant projects in heritage precincts.
- Grants tailored to revitalise heritage assets for building owners (private and commercial).
- Government needs to continue to lead by example – showcase heritage assets, pave the way and inspire others to follow.
- Introduction of better training for heritage staff in approvals roles (at State and Local levels) so that decision-making is more consistent, not driven by personal agendas, and more transparent.
- Promote heritage programs within local communities and celebrate heritage through event-based activities organised with other key cultural tourism agencies, including Destination NSW, and other relevant agencies that can help 'sell' heritage.
- Grants for heritage consultants who develop incredible cultural tourism programs, ideas, not just building owners but the experts who can deliver, if given the creative opportunities to create new heritage-related cultural heritage tourism, adaptive reuse products.
- Celebrating and awarding those communities that retain and value their heritage assets.

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

- Reduce land tax on heritage homeowners who can demonstrate that they work to some type of approved heritage management document for their house (i.e., Reward those owners who conserve and care for their assets)
- Look at options for how to tie in reduction in stamp duty tax to be offset by necessary conservation works being undertaken instead.(i.e., \$50,000 in conservation works, if demonstrated to have been completed appropriately may lead to a refund of \$50,000 in stamp duty.
- Tax rebates for conservation works to heritage items, including removal of obtrusive additions, signage, more appropriate paint schemes etc. For example, if you are an owner of a heritage asset and can demonstrate an appropriate quality of work and receipts, can be claimed/offset against tax.

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

- Clearly tax offsets are the most attractive incentive to investors.
- Ability to use heritage as part of the sustainability rating systems/6-star rating.
- Better promotion and awards by the NSW State Government for landmark heritage projects
- Greater opportunities initiated by Government to create partnerships and trust between Government/ Private Sector to showcase the redevelopment, conservation, interpretation, and adaptive reuse of heritage assets.

Focus Question 8: How could tailored heritage protections enhance heritage conservation?

A tiered system allows for the level of scrutiny required for the level of significance and intactness of a heritage asset. This would allow for less fear within the broader community if the tiered system was applied across the register.

This may also address the issue of fear associated with the risk-management inherent in owning a heritage asset when it comes to both resale and adaptive reuse of heritage items, if a tiered system were introduced.

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

Residential properties vary greatly and cannot successfully be placed in just one category. For example, you can not compare a huge private residential estate of great worth, intactness, and heritage significance, with a small cottage in a tiny country town, or with a terrace that for all intentional purposes is the same as at least another 2000 terraces in its surrounding area.

Each property needs to have an updated inventory that assesses its level of intactness, significance and proposed level of conservation that is then matched to an appropriate a pre-determined tier, such as highly intact and rare house should sit in Tier 1 or 2 management regimes whereas an inner-city terrace with multiple alterations and additions, very little internal original fabric, or containing standard internal fabric should be managed under a much lower threshold, or Tier.

This creates tiers that relate more to what fabric is absolutely critical to conserve, regardless of whether it's a commercial property, corner shop or house, verses categories based on building types only.

As a result, the proposed 3 tier approach creates too much of a jump between iconic State sites, the more intact retail, commercial and residential sites (State and/or Local) with those that are fairly typical and have been majorly adapted over time.

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

Yes, most likely.

Focus Question 11: Would streamlining enhance the listing process?

Potentially, although, as noted, it is also important to streamline the delisting process, as well as improve the overall transparency of the listing process.

Focus Question 12: How could we improve the current approval permit system?

It is critical to ensure that staff responsible for assessing permits are properly trained to review applications less subjectively, and as part of a broader, accountable, and measurable heritage management approach that has a greater level of across-the-board consistency.

There should be an easier, fairer opportunity for clients to have their applications reviewed by an independent body or overseeing board, rather than straight to the Land & Environment Court. Most clients can not afford to lodge an appeal in the Land & Environment Court which makes scrutiny of decision-making next to nil.

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

It is most appropriate that a review of how heritage approvals are assessed within Heritage NSW and Local Councils is undertaken, to understand just how subjective and varied the assessments are, and how to best smooth out the process, and improve consistency in decision-making. A more consistent approach to heritage assessments would benefit both the owners of assets and assessing officers.

Focus Question 14: How could we improve heritage consideration within land use planning systems?

It is important to ensure that there is continuity in the management of heritage, and the approach to the management of heritage between State and local government. This potentially relates back to the need for across the board, training, testing and quality control within different agencies to ensure that agencies work well together to develop streamlined systems of managing heritage. The relationship between the City of Sydney and Heritage NSW, including delegations is proving to be highly successful for clients because both agencies are generally aligned in how they prefer to manage heritage, and the processing time for applications has dropped dramatically, as a result.

Focus Question 15: Are there opportunities to enhance consideration of heritage at the strategic level?

There are many opportunities to consider how to better manage heritage assets, cultural landscapes across broad precincts, including meaningful engagement with communities as part of that process. Overarching precinct strategies related to heritage incentives, opportunities and ideals could help create continuity in preparing and planning for future communities.

Curio can provide an example of this – as it relates to heritage outcomes, cultural tourism, education, and interpretation, alongside heritage preservation at South Eveleigh if required.

Focus Question 16: How could heritage compliance and enforcement be improved?

The proposed compliance and enforcement approach outlined on page 19 of the review is part-way to resolving the issue. Court and heavy penalties must still apply or else there will be no compliance with the legislation, but the difference with adding an additional stage is that much of the ongoing non-compliance at heritage sites can be stopped quickly and effectively.

Focus Question 17: How could understanding of state heritage be enhanced?

More funding for targeted programs such as 'Heritage Near Me', greater showcase projects undertaken by State Government Asset Holders, such as National Parks, Place Management, etc.

Focused effort within communities to create better tax incentives, grant programs and awards.

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

There needs to be closer alignment between National Parks, Destination NSW, Heritage NSW, NSW Education to develop key documents and principles (even research) related to the benefits of cultural heritage tourism to the NSW economy, both at a Domestic level and at an International level (post-covid). There is rarely any cross-over between the 4 agencies who could all play a key role in bringing cultural heritage tourism and activation of heritage assets to the forefront.

Cultural tourism is a key activator of small towns and unique heritage suburbs/precincts, worldwide, yet NSW does not always embrace the opportunities to use both our natural and cultural heritage as part of a broader approach to tourism across towns, precincts, and local government areas. The focus is often on natural heritage values alone or one-off experiences, rather than an approach that leads to the revitalisation of a whole town or precinct for its heritage tourism possibilities. Natural places located within the close vicinity of stunning small historic towns become popular once they are revitalised (i.e., Revitalisation of small towns in Tasmania as a result of mountain bike riding), but to reverse the impacts of loss of tenants, former industries, heritage decay takes a coordinated effort from many partners at the local and State level

As part of the over-arching revitalisation of heritage places, including small precincts, there should be better incentives for private owners to retain, protect and beautify heritage assets as part of the broader approach by Government to attract cultural tourism. For example, owners could be given grants to remove inappropriate paint schemes, signage, shopfronts, as part of a shift towards creating small villages/precincts that celebrate the heritage within their community. Education can play a key role in creating positive change towards heritage places but the research that demonstrates the benefits for communities of heritage conservation needs to be readily provided, and incentives need to be clear and positive for private landowners and/or local communities.

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

Public heritage buildings need to be available for community uses at a level that is affordable, but also encourages repeat visitation, respect and usage. Public buildings left empty, or mothballed are subject to vandalism and are more at risk of rapid deterioration and eventual, demolition through neglect.

Where communities prioritise maintaining and using their public buildings, private owners are encouraged and inspired to do the same. Leading by example is the most powerful influencer of change. One of the key needs of communities relates to the need to balance non-profit generating community activities with the reality of rents in town centres. This is one of the key reasons why churches, halls and public buildings become so important in communities, as their hall spaces can be rented cheaply for ballet classes, karate classes etc and activities that are important for the social fabric of communities but do not necessarily create high financial returns. As a result, it is often only not-for-profit organisations or public authorities that can then afford to offset the cost of rent versus the social benefit of the use of the place. Most private owners of heritage assets can not afford to supplement the rental returns in this way.

Public activation could include the creation of start-up spaces, after-school activities, day-time seniors activities, or learning hubs and places for pop-up events. At the very least, empty public buildings should be assessed for their individual adaptive reuse opportunities so that reuse is a planned, targeted and prioritised approach. Often small or new businesses can not afford to rent the spaces they need to expand, grow and even facilitate production. Councils and the State Government could match prospective clients to heritage buildings based on eligibility criteria, such as the soundness of the business feasibility planning, previous work experience, compatibility of the use to the building, potential to create new jobs etc. This provides an opportunity for the progression of local businesses at different critical stages of new growth (1 -6 years) within the context of the revitalisation and reuse of heritage assets.

Should you wish to discuss any of the above-mentioned issues in more detail, please do not hesitate to contact me . Thank you again for the opportunity to provide you with some of my insights gained over the last couple of decades.

Yours sincerely

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