

**Submission
No 88**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: City Plan Heritage

Date Received: 4 July 2021

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The Chair

Standing Committee on Social Issues
Parliament of NSW
Macquarie Street
SYDNEY NSW 2000

Dear Sir,

RE: REVIEW OF NSW HERITAGE LEGISLATION - DISCUSSION PAPER, APRIL 2021

City Plan Heritage welcomes the opportunity to provide comments to the Standing Committee on Social Issues (the Committee) regarding the April 2021 Discussion Paper on the Review of NSW Legislation.

Introduction

City Plan Heritage is a Sydney based heritage consultancy services established within the City Plan Group in 2000. City Plan Heritage is a corporate member of Australia ICOMOS and our team is skilled in the disciplines of heritage conservation and management, bringing together a unique combination of experience, qualification and practise in architecture, archaeology, heritage conservation and interpretation. We are often involved from the earliest design stage of a proposal in order to provide the best technical and management advice for all heritage issues. Our principals are involved in the making of heritage legislation and principles at government, non-government organisations and institutional levels nationally and internationally.

Key points for consideration

Our key points combining the overall reform proposals and focus questions have been provided below for consideration:

- Having extensively dealt in making changes and the management of the State significant items it is clear that the objectives of the Heritage Act are still relevant & adequate and does not require an amendment. The fundamental problem is the administration of the Act rather than the Act itself.
- Relationship of the Heritage Council and Heritage NSW with the community is no longer as open as it was previously. The leadership of the Heritage Council in the conservation of the State's heritage assets and places is not as strong as it used to be.
- Resources & expertise that are required for the adequate administration and management of the Heritage Act by Heritage NSW and the Heritage Council of NSW is no longer exist as it used to be for pre-application consultation process in order to achieve good outcomes on changes to the heritage places.
- The Heritage Council, as a heritage authority, must be representatives of the informed and skilled practitioners in heritage conservation. The composition of the Heritage Council of NSW as set in

Section 8(3) of the Heritage Act is appropriate and provides for variety of skills and knowledge in heritage conservation. However, the Act does not require the balance of skills that make up the Heritage Council. As a result, the current composition of the Heritage Council, which is essentially appointed by the Minister (8 members of the total 9 members) does not provide the required skills for the adequate administration of the State's heritage places.

- The current size of the Heritage Council should be increased to the original size of 14 in order to increase the diversity of skills required for adequate administration of the Heritage Act and policy making. Consideration should also be given to nominations by key heritage organisations and institutions as it used to be so that range of representatives would be part of the Heritage Council in addition to the National Trust.
- A system should be established to include a place on the heritage register for real significant values and reasons rather than as a reaction to a development application or treat. The focus should be on a proactive framework and system instead of a reactive system.
- Encouragement of adaptive reuses and utilisation of Conservation Incentives (similar to Cl. 5.10 (10) of the Standard Local Environmental Plan) is an essential part of 'Heads of Consideration' for adaptive reuse of heritage places to remain viable.
- Focus on understanding of NSW's heritage will create a better systematic review of the listing registers.
- The skills and qualifications of people reviewing the applications for the State's heritage items are not appropriate and as such limits the ability of the Heritage NSW for faster assessment of the applications and good heritage outcomes that balances the needs of the applicant and the key aspects of the item's heritage significance.
- Greater financial incentives should be provided involving Government at State and Federal levels to enable such incentives (Such as improved Tax incentives). Explore establishment of heritage lottery similar to that of UK National Lottery Heritage Fund <https://www.heritagefund.org.uk/>
- Exploration of options for government seeding funds and private investment to activate the buildings for a multitude of commercial and community uses should be considered. Such as the activation of the former military buildings in the lands administered by the Sydney Harbour Federation Trust is an excellent example.
- Introduction of the sale of "heritage floor space" in CBDs across NSW similar to the City of Sydney HFS scheme, could be explored in order to allow adequate conservation, adaptive reuse, and long term maintenance of heritage items.
- Site specific exemptions could provide tailored heritage protection and allow for a more affordable heritage conservation. Appropriate measures should be put in place to support such site specific exemptions in the absence of an endorsed conservation management document (including Conservation Management Plan or Strategy) .
- The purpose of the categorisation reform system as it is proposed is not clearly understood as the existing levels of significance and listing registers at National, State and Local levels provide adequate protection for all type of heritage items. The residential properties are largely fall under the state and local heritage and are protected under the Heritage Act and the EP&A Act, respectively. The proposed categorisation scheme may create unnecessary ambiguity and confusion in the heritage listing levels.
- A greater community engagement at strategic level is encouraged as it will provide better understanding of what community values in terms of importance to the state as a whole. The community-based heritage studies undertaken by local governments and lead by a suitably qualified

heritage professional and a working group with diverse range of skills together with the involvement the community and heritage organisations provide a more robust and comprehensive heritage listing outcomes. Such studies include nominations for SHR listing beside the local listing.

- The following points should be investigated and measures put in place for improvement of the current approval system.
 - The New Exemptions process in the form of self-assessment is a welcomed change to the Section 57 (2) Standard Exemptions process. Heritage NSW should explore and provide supporting educational workshops to ensure adequate implementation of the self-assessment process and use of appropriately skilled professionals in the documentation and carrying out of the works under the Standard Exemptions.
 - Improvement to the knowledge of the existing, and employment of appropriately skilled staff, is essential in order to the assessment of the applications to be made in line with heritage best practice by personnel with knowledge of heritage conservation relevant to the type of heritage item.
 - Improvement in the relationship of the Heritage Council and Heritage NSW with the community and applicants for pre-application consultation will allow for a streamlined process and good heritage outcomes.
- It is acknowledged that there are areas for improvement for heritage within the planning system in particular the overlapping process for an Integrated Development Application (IDA) under the Environmental Planning & Assessment Act 1979. In that once the approval is granted under the IDA process a separate application in the form of Section 60 is required to be made for the same approved development proposal under the Heritage Act 1977. This is a double-up and time consuming process. A system should be established that there is one IDA process and any applications fees for the consideration/application under the Heritage Act is also embedded in the IDA fees to prevent any financial loss for the Heritage NSW and Heritage Council's assessment.
- Another area of consideration should be realigning the Heritage NSW back into the Department of Planning cluster so that they work more efficiently and updates to these Acts considered collaboratively.
- The introduction of intermediate enforcement powers is supported, in principle; however, this will depend on availability of resources, and the skilled and adequately trained staff to ensure suitable conditions of consents are put in place at the approval stage for regular monitoring.

Conclusion

City Plan Heritage trust that the above key points of considerations will assist the Standing Committee on Social Issues (the Committee) in relation to the reform proposals of the April 2021 Discussion Paper on the Review of NSW Legislation.

Yours Faithfully,

Kerime Danis
Director - Heritage