

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Name: Mr Jamie Parker MP

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www.jamieparker.org.au
112a Glebe Point Road Glebe NSW 2037
9660 7586
jamie.parker@parliament.nsw.gov.au

JAMIE PARKER MP
Member for Balmain



The Hon. Peter Poulos MLC
Standing Committee on Social Issues
NSW Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000

By email: socialissues@parliament.nsw.gov.au

Submission to the inquiry into the Heritage Act 1977

I welcome the opportunity to make a submission to the NSW Parliamentary Inquiry into the review of the Heritage Act 1977.

I am the NSW Greens spokesperson on planning and heritage and have a strong and long-held interest in the protection and celebration of heritage. My electorate of Balmain is home to many fine examples of how communities respond to heritage, but it also highlights the many opportunities to identify, preserve and celebrate significant places that are yet to be realised.

Places and items that are of natural, cultural, social or environmental significance are fundamental to our shared identity, help create a sense of place and represent our shared stories, histories and connections. A strong and functioning framework to identify, protect and celebrate heritage is an important component of our state's planning laws, and an essential element of our democracy.

A review of the Act is an important way to ensure our existing framework remains appropriate, or to determine whether it requires specific reform. Prompted by this review, I have consulted with a number of experts and community members with an interest in heritage and have confirmed my view that the Act remains broadly fit for purpose. Any assertions to the contrary should be cautiously considered. Wholesale reform is not required however matters of implementation and resourcing could be improved to ensure the Act can function as intended into the future.

I have taken the opportunity to review the Government's discussion paper and I make the following comments in response.

Protecting First Nations' Heritage

I am pleased to note that specific consultation is being pursued and that discussions with peak First Nations groups are ongoing, with regard to the management and care of Aboriginal cultural heritage. A key concern is that heritage protections are over-ridden when plans are determined to be of State

Significance but when it comes to the protection of First Nations' heritage the presumption should always be in favour of retaining sites of significance.

There should be no exemptions and no exceptions. I look forward to further opportunities to consider these important matters.

Invest in expertise to improve the system

The legislative framework is broadly fit for purpose and wholesale reform is not recommended. Any requests for streamlining of processes or adding shortcuts into the system must be cautiously considered, as they are unlikely to be in the community's interests. Criteria for membership of the Heritage Council should be updated to reflect the need for specific heritage expertise on this crucial advisory body.

The same approach to expertise must be extended throughout councils and other agencies operating at the local level, and opportunities to develop and nurture expertise need to be valued and supported. Fundamentally this requires investment, and making sure the value in protecting and celebrating heritage is reflected in government funding for local agencies. An outcome of this review must be that opportunities to value and resource the development of heritage expertise across all levels are promoted and adopted.

This also applies to any efforts to activate local heritage through incentives for property owners. There can be no shortcuts here, government simply needs to invest. Property owners and other interested parties should be encouraged to access independent advice, expertise, support and financial assistance when navigating their way through existing processes, instead of relying on complex strategies and financial arrangements to incentivise the activation of heritage.

Independence of the Heritage Council

It is critical that the New South Wales Heritage Council is an independent public champion of heritage, made up of recognised heritage experts and organisational representatives.

Criteria for membership of the Heritage Council must ensure that specific qualifications, knowledge or experience in matters related to heritage are required to become eligible for appointment to the Council.

Identifying and protecting heritage

Given there are so many sites across New South Wales that are deserving of protection because of their heritage significance, it is a concern that only 22 items on average have been added to the State Heritage Register each year since 2001. Investment in rigorous, continuous research into the history and heritage of a place must be prioritised to identify important built forms as well as natural, cultural and socially significant items, sites and zones. This must be conducted with genuine input from local communities, taking guidance and advice from subject matter experts.

Conversely, there has been a significant increase in the number of local listings on the State Heritage Inventory which now includes more than 40,000 records. There is clearly a high level of need for

support for local councils and this must be taken into account when developing programs and increasing resources for the identification and preservation of heritage.

The discussion paper suggests tailoring protections by providing a range of heritage categories. While this is worth exploring it remains imperative that adequate resourcing of the sector, valuing expertise and ensuring genuine community input is placed at the heart of the system. Any change to the classification of heritage must be designed to enhance rather than diminish the likelihood of heritage protection, and ensure that the implications of a heritage listing do not result in the degradation of a site or item's heritage significance.

Ownership and management of heritage

Once the heritage significance of items and areas have been identified we must ensure they are properly cared for. Whether sites are owned by government agencies or private entities, heritage registers must be kept up to date along with maintenance logs and assessment of ongoing conservation needs, so that upkeep can be properly recorded, planned for and resourced.

Owners of heritage places should receive useful advice, effective financial incentives and adequate conservation grants to ensure well informed ownership and management of heritage leads to desirable outcomes.

State and Local Government agencies are by far the most likely owners of heritage items, and they must be exemplary managers of assets with heritage significance. It is critical that the roles of these agencies is properly valued and resourced, and they must take responsibility for the maintenance and management of the significant places under their control. Items of significance in Callan Park, within my electorate, provide an important example here, as the community has spent more than twenty years fighting for the conservation and restoration of significant government owned heritage assets that are only now being allocated funds to ward off demolition by neglect.

Streamlining processes

The idea that heritage processes are time consuming and may be inconsistent with modern customer service expectations must be challenged. To the extent that the statement is true, it should be addressed with the provision of advice, expertise and support for those who need it in order to navigate the system.

The addition of a proactive, community driven process for identifying and acknowledging local heritage is an absolute must – but this needs to be done in a way that ensures the role of experts and advice to the community is enhanced rather than diminished. In particular we must not allow additions, amendments or deletions from the heritage register to be reduced to a box-ticking exercise that requires no engagement with properly resourced subject matter experts.

Enforcement powers

Improving the system by investing in the development of expertise, and ensuring all parties who engage with heritage processes have access to advice and support if required, will lead to improved compliance and reduce reliance on punitive measures. However there is no doubt that strong enforcement powers will be needed to prevent deliberate dodgy practice.

It will be important to make sure any compliance and enforcement reforms are designed in such a way that they do not simply become a cost of doing business, and lead to the calculated destruction of heritage by developers in the pursuit of profits.

Interaction with other planning laws

Over the past two decades there has been an alarming increase in the number of planning proposals and applications seeking exemption from heritage considerations because they are considered as State Significant Development, State Significant Infrastructure or Integrated Development Applications. These applications lack transparency whereas they should be closely monitored as a matter of public interest. Details of these applications should be recorded in a publically available, accessible and searchable database to ensure that exempting development proposals from heritage considerations can be subject to an appropriate degree of public scrutiny.

If you have any questions about this submission or need more information, please do not hesitate to contact me

Yours sincerely,

Jamie Parker MP

Member for Balmain, NSW Parliament