

**Submission
No 113**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Coffs Harbour City Council

Date Received: 2 July 2021



Our ref: ECM 7327891

2 July 2021

Att. NSW Legislative Council's Social Issues Standing Committee
Heritage NSW

Submission lodged via Parliament of NSW Website

Dear Sir/Madam

Submission regarding Review of the Heritage Act 1977

Please find enclosed a submission on the review of the *Heritage Act 1977* package currently on exhibition until 4 July 2021. This submission has been prepared by Council staff on behalf of Coffs Harbour City Council.

Council thanks the NSW Government for the opportunity to provide input into the review of the *Heritage Act 1977*. The attached submission contains a number of matters which Council requests are taken into consideration during the finalisation of the reforms.

For further information, please contact Council's Planner/Urban Designer Marten Bouma

Yours faithfully

Sharon Smith
Section Leader, Local Planning

Encl.

REVIEW OF THE EFFECTIVENESS OF THE NSW HERITAGE ACT 1977

Submission by Coffs Harbour City Council

2 July 2021

This submission has been prepared by staff of Coffs Harbour City Council (Council) in response to an exhibition of the discussion paper for the review of the effectiveness of the *NSW Heritage Act 1977*. The submission provides responses to a selection of the focus questions that are posed throughout the Heritage Act review discussion paper. The responses are put forward not only in the interests of the Coffs Harbour region, but also in the interests of heritage protection in NSW as a whole.

Council has an interest in this matter as the custodian of public lands that are directly impacted by the legislation, including the Coffs Harbour Jetty. The Jetty has recently been listed on the State Heritage Register and Council is looking forward to continuing a successful working relationship with Heritage NSW under the Act and its permit system.

GENERAL COMMENTS TO THE REVIEW

Coffs Harbour City Council's general comments on the review of the *NSW Heritage Act 1977* (referenced as 'the Act' for the remainder of this submission) are as follows:

- Any proposed amendments to the Act should result in better heritage outcomes, rather than a weakening of heritage protection.
- While the Act and its regulations may benefit from small updates and amendments, its objectives and principles remain appropriate and relevant in the context of heritage protection in NSW.
- Cultural heritage is at risk from State Significant Developments, which effectively switch off and override the provisions of the Act.
- Greater resourcing to enable the Act's effective implementation is extremely important, so that Heritage NSW can effectively manage sympathetic change to heritage in a rapidly changing world.
- Heritage is a shared responsibility, involving government at all levels, owners, corporations and community groups to identify, protect and conserve the state's heritage values for future generations.
- The NSW Heritage Council should be an independent, bipartisan public champion of heritage comprised largely of recognised heritage experts and organisational representatives.
- Government agencies should be exemplary owners and managers of heritage assets and need ongoing additional resources to fulfil their respective heritage maintenance and management role.
- Support for local government is vital for adequate identification, protection and conservation of the state's locally listed and identified heritage places.

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

RESPONSES TO FOCUS QUESTIONS

Council makes the following specific comments to four selected focus questions outlined in the discussion paper (and has no comment on the additional 15 focus questions in the paper):

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

The NSW Heritage Council should be an independent public champion of heritage that is comprised largely of recognised heritage experts and organisational representatives. The Heritage Council of NSW should be bi-partisan in its views and remain free of targeted political interference.

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

Aboriginal Cultural Heritage is currently managed under the *National Parks and Wildlife Act 1974*. It forms a critical part of our State's story and any heritage legislation, including the *Heritage Act*, must acknowledge this connection.

Aboriginal Cultural Heritage should be managed and cared for by Aboriginal People. Currently, the NSW Government is consulting with Aboriginal bodies on Aboriginal cultural heritage legislation that will (hopefully) ensure self-determination and custodianship underpins any legislation that deals with Aboriginal cultural heritage. However, the continued stalling of progress of this legislation means that any meaningful change is a long way off. Therefore, it is important that any contemporary legislation to protect and conserve Indigenous Heritage must remain a priority over amending heritage legislation.

It is also worth noting that cultural heritage is at risk from State Significant Development, which effectively switches off and overrides the provisions of the *Heritage Act*. With respect to Aboriginal Cultural Heritage, Council has spoken to local Elders groups and knowledge-holders who have specifically raised similar concerns over this situation.

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

Like most other legislation, there is no doubt that the Heritage Act and its associated regulations will benefit from regular updates and amendments. While this ongoing monitoring process is important, in the case of this review, the objectives and principles of the Heritage Act remain appropriate and relevant. Caution should be taken if looking to 'tinker' with these aspects of the Heritage Act and any proposed amendments should result in better heritage outcomes and not a weakening of heritage protection.

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

Greater resourcing to enable the Act's effective implementation is crucial, so that the state's heritage places can be efficiently managed through sympathetic change where necessary in a rapidly changing world. Heritage is a shared responsibility, involving government at all levels, owners, corporations and community groups. For example, climate change will have a dramatic impact on coastlines and communities at large through sea level rise and more frequent extreme weather events and heritage agencies at all levels should be able to prepare for and respond to such issues as they evolve in order to protect and conserve the state's heritage values for future generations.

Government agencies should be exemplary owners and managers of heritage assets and need to resource their respective heritage maintenance and management role, and take responsibility for the cultural heritage of significant places. It is not cheap to do this and with an ageing, decentralising population, the pressure on existing infrastructure in the regional areas of NSW often pushes budgets to their absolute limits. Many more varied opportunities for funding and or financial incentives are needed to ease the burden on local communities. Additional ongoing support for local government is also vital to safeguard the adequate identification, protection and conservation of the state's locally listed heritage places.

The Heritage Act does not prevent sympathetic re-use of heritage places. When applied well, it can enhance strong economic development and deliver good heritage outcomes. Owners of heritage places should continue to receive useful advice, effective financial incentives and adequate conservation grants to ensure well informed ownership of heritage places leads to desirable outcomes.