

**Submission
No 124**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Name: Ms Ursula Bonzol

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Dear Committee members,

RE: Review of NSW Heritage Legislation – Discussion Paper

Thank you for the opportunity to respond to your Discussion Paper.

Overall, I am concerned that the objectives of this review, essentially making heritage ownership, administration and usefulness simple and cost effective, does not meet the key Terms of Reference for this Review:

- Delivering a heritage system that is modern, effective and reflects best practice heritage conservation, activation and celebration,
- The adequacy of the Act in meeting the needs of customers and the community and the protection of heritage

This discussion paper does not capture best practice, nor refers to it in any of the aspects covered. This paper indicates a general watering down of the identification, preservation and conservation of the current Heritage Act, 1977 which has served this state well over the past four decades.

Having reviewed this paper, I see no reason for any change to the Heritage Act itself.

In numerous areas it is evident that the main thrust of this review, and it's rationale, is an attempt at obtaining greater funding for heritage from private sources. This can be done without changing the objectives of the legislation or weakening the conservation and protection mechanisms.

I have not found any suggestions for strengthening the Act by using best practice heritage management from other countries. I find the use of a 'nuanced' approach a contradiction to the objectives of the Heritage Act. Without strong and clear objectives and controls, any heritage management will fall into a disruptive argument of interpretation when the state, an owner or developer has differing objectives for a heritage site. In Ku-ring-gai we have already seen this occur a number of times to the detriment of the heritage site, even under current prescriptive controls.

In my view, there remains no real reason to amend the Heritage Act and I urge the Committee to maintain its strong record.

Following are my responses to the questions and recommendations raised:

Question 1. The 1977 Heritage Council model remains appropriate. It is essential that heritage experts across architecture, social and cultural history, archaeology, and planning are included with equal weight. The Council should remain independent and champion heritage conservation and protection from inroads by developers or other State agencies.

The Heritage council should not be allowed to be overridden by pro-development lobbyists, or have State Significant developments allow for the destruction loss of, or impact, valuable heritage items and their settings.

Question 2. The Heritage Council has already promised decades ago to add or enact independent Aboriginal heritage legislation. This needs to be done as a priority before any other review. It is likely that Aboriginal heritage will require specific aspects of conservation, preservation and administration that may warrant an independent piece of legislation.

Question 3. Yes. The Act remains relevant. Its objectives and principles do not require change, nor should they as these were established based on sound understanding and best practice advice. These do not change over time for Heritage. Any improvement in regard to the Heritage Act should focus on the process to evaluate and conserve heritage in order to strengthen the Act.

Question 4. Yes. No change to the Act is required. The omission of Aboriginal heritage needs to be included, or referred to, if it is separate heritage legislation. To date one would have to say that there has been little support from the Council for community heritage recommendations, whether for listing, conservation or administration. There needs to be a greater level of active involvement and trust in understanding community expectations in protecting heritage. The Act aims to protect heritage for current and future generations. Community consultation is essential in what should be a shared and co-operative process.

Questions 5&6. Yes. Agree with the need to better support best practice conservation of heritage with incentives, funding and tax minimisation. The three examples are worthy of consideration.

Question 7. Tax deductions or tax deferral schemes will assist with philanthropic investment in heritage.

Questions 8&9. The current level of two listing options as Heritage Items and Heritage Conservation Areas are sufficient. The proposed new 4 categories are too subjective and vague and should not be included. This is a further weakening of heritage conservation and would lead to unintended consequences, especially with regard to any implementation of a streamlined delisting process.

I totally reject this statement from the Discussion Paper that 'Before deciding to add an item to the State Heritage Register, the Minister should consider not only if reasonable and economic use would be affected by the listing but also what opportunities there are for adaptive reuse and activation.' **This does not meet the objectives of the Heritage Act to list items that are of State heritage significance, irrespective of their adaptive reuse!**

Identifying and listing heritage places should remain distinct from the process of managing change at these places.

Question 10. Definitely engage community to more pro-actively nominate heritage items. This should be a shared responsibility; especially as local communities will often understand the history and value of an item or area to their community. To date community recommendations have been mainly ignored or long delayed.

Question 11. A streamlined delisting process is a preservation issue and not supported. However more frequent reviews of a listing item to ensure conservation and preservation is maintained would be recommended.

Any streamlined delisting system should not be allowed as it can be used by owners or developers to allow for changes that will negatively affect the property's heritage values or allow it to deteriorate beyond repair, and hence request delisting.

Questions 12&13. No change required. The discussion document states there already exists a process where many activities and works are exempt from this permit process. Rather than wholesale change to the system, a step-by-step simplified permit system would assist with any confusion. There are many examples of government systems that have used online systems to simplify applications.

Question 14. It is essential that the objectives of the Heritage Act be upheld over time, rather than altered or weakened due to various government agendas for State Planning. The Act should not change. References from the Heritage Act should be applied to current planning instruments, not the other way around.

Question 15. Ensure that all heritage items have a significant perimeter where no development is allowed that would dominate it. Most heritage is essentially an item in a setting that adds to its value and historic validity, hence the area surrounding it needs to be similarly protected. As part of any strategic land use planning a commensurate protection area should be deemed as protected as part of any heritage listing. In Ku-ring-gai, heritage items have requested delisting as they were surrounded and dominated by apartment blocks.

Question 16. This does not require a change to the Act. Penalty infringement notices and enforcement for non-compliance by fees should already exist. These plus more frequent reviews of the state of heritage items should be immediately adopted to preserve and conserve our heritage.

Questions 17&18. With local government and volunteer organisations, the Heritage Office can assist in providing materials and advice for presentations and events. This should be active through schools and promote visits to both local and major heritage items. We totally support programs for engaging with the community through heritage promotion and tourism. Use of apps, an improved website and events to celebrate our heritage are essential for community appreciation and understanding.

Question 19. Public heritage buildings should be activated but in a manner that reflects their original use so context and heritage values remain. There is nothing in the Act that stops this adaptive re-use of heritage items. The management of public heritage buildings should be an example of best practice conservation and preservation of heritage.

Why are only 4% of the 40,000 State Heritage Inventory Items actually listed on the Heritage Registry? What does this say about what will be left for future generations to appreciate and understand. There needs to be greater support for local government to identify, protect and conserve these listed sites not yet on the Registry.

I believe the Heritage Act 1977 to be working well and that only small amendments of the Act are recommended. These amendments centre on Aboriginal heritage, financial incentives for funding conservation, penalties for non-compliance or wilful deterioration of items.

However, there is room for the Act to be strengthened, so that State Significant Developments cannot override the provisions of the Act and wilfully destroy items of heritage significance.

Yours Sincerely,

Ursula Banzol