

Submission  
No 146

## INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

**Name:** Name suppressed

**Date Received:** 25 June 2021

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Partially  
Confidential

Dear Standing Committee on Social Issues,

I submit the following in response to the Heritage Act Review Discussion Paper April 2021.

- It is unclear as to the criticism of the Heritage Act outlined in the Discussion Paper. There is a strong assertion that the Heritage Act is outdated and onerous, however no evidence has been provided such as a community survey and or a legal expert opinion.
- The legal aspects and structure of the Heritage Act – if applied correctly - are actually quite robust in the protection and conservation of state heritage items - the purpose of the Act.
- However from the Discussion Paper it is clear that there is a strong desire to focus on the will of *'owners, developers and administrators'* and their (unevidenced) uncertainty and economic disadvantage instead of the heritage conservation. As the majority of state heritage assets are government-owned it is assumed that government feels restricted by their heritage portfolio and their development desires.
- The focus of the discussion paper centres on 'customers' and 'putting heritage to work'. There is very little understanding in the paper of heritage philosophy and international best practice which primarily talks about community (*instead of customer*) and intergenerational equity (*as part of sustainability*).
- Composition of the Heritage Council should be reinstated as technical and respected experts in a range of heritage matters. Their independence is vital and we contemplated the Victorian model of having decision making capacity/veto powers rather than advisory role to the Minister.
- Resourcing and technical expertise of Heritage NSW staff assessing applications. They should be able to heavily support applications from private owners and issue highly technical advice. Where proposals are not suitable this should be identified early so less money is wasted on design and consultants (ie issue a 'no' as soon as possible). Their technical role should be extended to site inspections, audits and checks throughout the project and sign off final works prior to occupation certificate etc. 'Make good' and 're-do' work powers should be clear in their authority.
- Currently there is no heritage protection at all for those projects being approved under significant development / major projects EP&A Act. This is critical to address and seek to remove.
- Reinstating the 'condition reporting' for S170 heritage assets and include something that protects 'demolition for no reason' of assets listed on the S170 but not on an LEP and SHR (currently considered 'only S170' – however may be very significant to the asset owner's portfolio).
- Key issue of *'heritage is too hard'* is government not funding maintenance of their own heritage assets (in particular non-operational assets). This is the bulk of the state's heritage portfolio. Strict *Minimum Standard of Repair & Maintenance* should extend to S170 items.
- The Heritage Asset Management Strategy (HAMS) must be legal deliverable for state agencies (as they are the largest holder of heritage assets). In addition there should be better connection with the Treasury portfolio funding of heritage assets. Currently state owned heritage assets are either underfunded or not funded in terms of maintenance. Many of state are being demolished by neglect and then presented as a case for disposal and redevelopment.
- There is much mention in the paper of 'activation' and commercial and philanthropic ventures at heritage sites, but no mention of 'heritage-led regeneration' at a community or precinct level.
- Government initiatives to encourage regeneration and sympathetic adaption such as the 'Lotto' initiative in the UK which is a significant funding stream for privately owned and community conservation projects.
- The heritage classification proposed (exceptional etc) further nuances heritage instead of removing confusion. Prescription is better such as the English Heritage model (eg Grade 1 – no alternations or additions to whatever). The Irish model has a separate list for significant 'monuments' (separate to buildings).
- Proposed listing categories (pg 15) only provide further vagaries and overlap with existing National Heritage Listings. Please note the table includes Bondi Beach in Category 2 (State significant Landscapes), however Bondi Beach is actually listed in on the NHL so should be in Category 1.

- Consider a statutory 'Heritage At Risk' list – which facilitates special attention for grants and or an 'embargo on new proposals'. This also has a reputational impact to the owner.
- The Discussion Paper talks a lot about adaptive re-use but doesn't mention challenges with modernisation (BCA, DDA, Australian Standards etc). Legal exemptions for special solutions should be included in the Act's review.

In summary I strongly feel that only a minor periodic review would be required to the Heritage Act. The most important thing that should happen to protect heritage is to *reinstate heritage protection during major state significant projects (amendment of EP&A Act)*. Lastly the professional respect and independence of Heritage Council must be reinstated, and the Heritage NSW department must be properly resourced and supported.

Kind regards

Heritage professional and citizen of Sydney