

**Submission  
No 153**

## **INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977**

**Name:** Mr Phil Jenkyn OAM

**Date Received:** 27 June 2021

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**RE: NSW HERITAGE ACT REVIEW 2021**

1. THE REVIEW

This Review is seeking feedback on the Heritage Act 1977, on its operation and effectiveness. It has raised issues about incentives and resourcing.

The Minister in the forward to the Discussion Paper states that “our heritage deserves to be protected and cherished”. The Discussion Paper states: “While heritage has a very clear cultural and educative value, it has also been shown to contribute to a sense of identity and well-being, to benefit local economies and to promote social cohesion,” and that “heritage places can contribute to tourism in many ways, providing important character to an area.”

The Terms of Reference to the Standing Committee on Social Issues seeks a “heritage system” that “reflects best practice heritage conservation, activation and celebration.”

2. BEST PRACTICE

“Best practice heritage conservation” means “looking after a place so as to retain its cultural significance including its preservation, protection, maintenance, restoration and adaption.” It requires an effective Heritage Act and “heritage system” that is clear and unambiguous, has teeth and applies across all planning decisions.

3. OBJECTS OF THE ACT

The objects clause of the Heritage Act 1977 has seven objects that cover the field of conservation, education, listing of heritage items, adaptive reuse, and assistance to owners. It perhaps could be made clearer that both State and local heritage is fully covered.

4. HERITAGE COUNCIL AND STAFF

It is imperative that both the Heritage Council and its staff contain a majority of people highly qualified and experienced in heritage conservation. The Act needs to be changed to ensure that the Council has a number of appointments made by Independent Organisations knowledgeable in the area of heritage - built, natural and indigenous. The Council must be, and seen to be, free from political appointments and interference.

5. CATEGORIES OF HERITAGE

Once independently assessed to have heritage significance, it is my view that such a place should be properly protected. Most of our heritage listings are local. Local communities are the backbone of this country. If they operate well, they are of great assistance to State governments in so many ways. Their heritage is valued not just locally, but across the State and nation. Heritage is not just heritage items, it is heritage places and conservation areas.

To consider local as a lesser category of heritage that can be considered differently is to miss the point. It could be argued it is in fact more important.

Both State and local listings should be subject to much stronger protections in law than presently.

#### 6. INCENTIVES AND ADAPTIVE REUSE

The Heritage Act 1977 in its objects clause and in other provisions allows for the Minister to enter into heritage agreements and give financial assistance. A Heritage Conservation Fund and a Heritage Incentive Fund are available to provide grants and loans. The problem is that Governments of both political persuasions have not adequately provided the money. They should do so.

#### 7. HERITAGE PROCESSES

Heritage processes should reflect best practice. They should be strong, clear, and unambiguous. Once an item and a place has been identified and recognised as of heritage significance, it must be protected and conserved.

#### 8. RELATED LEGISLATION

Strong heritage protections need to be respected and enforced across the whole planning system without exception. The present planning system is a mess, and communities have little confidence in it. This is partly because there are so many loopholes – State significant sites, unsolicited proposals .... a long list.

#### 9. ABORIGINAL HERITAGE

We live in a country of over 60,000 years of history and culture. Aboriginal heritage – our first nations' heritage – is of the utmost significance and importance to all Australians.

#### 10. COMMUNITY NEEDS AND VIEWS

In my view, the community wants all our 60,000-year heritage to be properly protected and conserved for present and future generations. Communities acknowledge and respect our combined history and culture.

#### 11. RESOURCES

Basically, it gets down to resources. How much do Governments respect and value our heritage? How much does this present Government value heritage?

Might I suggest that the Government listen carefully to those knowledgeable on heritage, and to all those communities who love their heritage places, both built and natural and want then to be retained and cherished.

It must provide proper and adequate funding to make the "heritage system" work.

Phil Jenkyn OAM