

**Submission  
No 177**

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

**Organisation:** Brewarrina Shire Council

**Date Received:** 30 June 2021

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The Council of the  
**SHIRE OF BREWARRINA**



OUR REF: JWS  
YOUR REF:

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Tuesday, 29 June 2021

The Hon. Peter Poulos MLC,  
Chair  
NSW Standing Committee on Social Issues  
Parliament of New South Wales  
Macquarie Street  
SYDNEY NSW 2000

Dear Chairman Hon. Peter Poluos,

**Submission - Heritage Act 1977 Review**

Thank you for the opportunity for Council to provide a submission in relation to the review of the Heritage Act 1977 currently being undertaken by the Standing Committee on Social Issues.

Brewarrina Shire Council is proud of its heritage and seeks to protect its heritage places for present and future generations. A strong Heritage Act would ensure that heritage places of significance to NSW would continue to be conserved

First Nations (Aboriginal) people occupied the Brewarrina Shire Local Government Area for tens of thousands of years prior to British colonisation. Evidence of First Nations occupation, before and after colonisation, remains in the Brewarrina Shire.

The rural heritage of Brewarrina Shire is at risk because it requires further research as well as engagement with the owners of historic rural heritage places about ways to conserve and activate these places.

The heritage places of Brewarrina Shire are an important tourism resource and need to be conserved.

The Government's draft model for Aboriginal cultural heritage laws was released on 11 September 2017 and a consultation draft Bill on 23 February 2018. This matter should be finalised as a priority so that Aboriginal cultural heritage can be protected and managed under separate legislation, rather than under the Heritage Act. Stand-alone heritage legislation would allow Aboriginal people to have agency for the conservation of Aboriginal heritage places.

The discussion paper prepared by Heritage NSW - *Review of NSW Heritage Legislation Discussion Paper, Standing Committee on Social Issues, April 2021* puts forward a number of suggestions for consideration. One suggestion is for a category scheme for heritage listings.

The proposed category scheme is not fully explained in the discussion paper, nevertheless such a scheme is not needed as the current listing approach provided for by the Heritage Act, is satisfactory and should not be complicated by a category scheme. Council is of the view that the identification and assessment of places proposed for listing on the State Heritage Register should be undertaken by a heritage professional with relevant qualifications and experience.

The discussion paper also raises the issue of “streamlining” heritage listings and de-listing, however provides no information as to how this could be achieved. The State Heritage Register should be regularly reviewed and updated (as well as the inventory sheets for each heritage item), however this requires adequate resourcing rather than a change to the Heritage Act. A comprehensive series of studies should be undertaken to investigate if there are potential places that warrant listing on the State Heritage Register. Of particular interest are Mid-century modern places and 1970s places as these are often seen as insufficiently historic.

The current requirement to obtain approval under the Heritage Act as well as approval under the integrated development provisions of the Environmental Planning and Assessment Act should be changed as this doubling up leads to additional costs and delays. It can also be confusing, as proponents may think that if they obtain one approval they do not need the other – thereby potentially raising the risk of prosecution.

The Heritage Act should ensure that heritage items (both State and local) owned by the State government have their heritage values protected. An example of the State government ignoring heritage values is the installation of two large air-conditioning units to the front façade of the Brewarrina Court House – one the finest historic buildings in the main street of Brewarrina. Council’s resolution and subsequent written request to the NSW Attorney General to re-locate the air-conditioning units was ignored.

The threat of prosecution can be an effective deterrent, therefore the enforcement provisions of the Heritage Act should not be weakened. However, the principal focus should be on helping property owners understand their responsibilities, and on supporting them to meet their responsibilities as, rather than focusing on penalties, it is better to assist property owners to do the right thing. However, penalties are an effective deterrent and should be retained.

The opportunity to discuss proposals with Heritage NSW staff throughout the design process should be readily available as this would help ensure that heritage issues were resolved prior to an application being lodged. Local council staff should be included in these discussions – thereby encouraging collaboration between State and local levels of government.

Greater support should be provided for the owners of heritage properties. Careful detailed research should be undertaken into potential appropriate options. The research must include options appropriate to remote rural areas of the State.

Consideration should be given to application fees not being required for heritage applications that include a heritage impact statement prepared by a qualified and experienced heritage consultant, and where there the heritage impacts are acceptable, (ie the proposal is approved).

The Heritage NSW discussion paper makes a number of suggestions that warrant detailed investigation. It is important that any research and recommendations encompass remote areas of NSW and that the research is made promptly and is publicly available.

Yours sincerely,

Jeff Sowiak  
General Manager