

**Submission
No 227**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

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NSW HERITAGE ACT

NSW Upper House Review of Legislation --Discussion Paper

SUBMISSION re Strategy Plan - April 2021

Response from Emma Brooks Maher

**Dear Minister Harwin and Members
of the Standing Committee on Social Issues--**

The following is a lengthy response, which I trust you will find useful in your deliberations as to changes (if any) re the NSW Heritage Act 1977. As it says in your the foreword “Our heritage deserves to be protected and cherished”.

When introduced in 1977, and for years after, the current Act did do that – and indeed, with a few minor tweaks and minor updates, still could. The “heritage” aspects haven’t changed much – but an update re compliance and enforcement is urgent.

The deplorable situation (and it is) that NSW Heritage finds itself in today comes from accumulating political ploys, predilections and personalities, developer pressure, defunding from what was an inadequate budget in the first place, a move towards modernised gentrification, all leading to a climate of impunity, whereby no-one seems to take it seriously anymore.

Given this, I believe a fresh start, a new Act, may be the only way to learn from, and thus resolve past failures, to create a new Heritage regime fit for purpose in 2022.

Focus Questions – 1—19.

In this submission, my response to the Focus Questions is being done in a GROUP sequence that relates to their real-life importance. The 19 are re-grouped accordingly – see following index-list. A full text with Q’s and QA’s follows thereafter.

Such re-listing by PRIORITIES is not by whim or for convenience. It derives from sound advice as given in the NSW Heritage Guidelines, issued in 2016, emphasis added:--

6.1 WHY ASSESS HERITAGE SIGNIFICANCE?

*Before making decisions about the future of a heritage item (ie strategy)
it is first necessary to understand its heritage values.*

This re-ordering is quite possibly the strongest recommendation that can be made in regard to the proposed Heritage Strategy.

For ease of reference, here is an index of the Questions in my sequence order.

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list ends

My response to “all of the above” is neatly summed up in Part VI of Ireland’s Heritage Council Strategy 2018 – 2022. A short list specifies that their Heritage Council shall, and “in particular”----

- a. *Promote interest, education, knowledge and pride in, and facilitate the appreciation and enjoyment of the national heritage,*
- b. *Co-operate with public authorities, educational bodies and other organisations and persons in the promotion of the function of the Council,*
- c. *Promote the coordination of all activities relating to the functions of the Council*

The key words are “promote” and “co-operate”, with co-ordination coming close behind. Overall title for this very helpful strategy is HERITAGE AT THE HEART. For me, that says it all.

THE NSW HERITAGE ACT 1977 -

A FEW COMMENTS THAT MAY HELP

Here are a few random points which do need revision in the current Act.

1. The definition of “harm” in the s.4 of the Act needs re-consideration to include things like “damage, divide, despoil, deteriorate, diminish, dominate, overwhelm.

2. It’s vital to keep s.5 where it ensures that this Act “binds the Crown”.

Additional to this should be a further statement parallel to that which occurs in the State Significant Development Act as it applies re the Crown Land Management Act 2016 – namely, in case of conflict with the SSD, “the Heritage Act prevails”.

3. In s.8 the qualifications stated as appropriate for membership of the Heritage Council must be expanded to include SOCIAL skills, and it must be MANDATORY to have a First Nations elder, as well as Community Representative (either individual or as nominated by a Group) with demonstrated heritage-appropriate background.

This also raises the question of what official recognition can be introduced for community heritage groups generally – they are volunteers, but do an extraordinary amount of work towards heritage understanding/campaigning/conservation etc.

4. Division 4, Subdivision 1 concerns Appeals. First – this must be revised to parallel the EP&A Act provision that gives the community a chance to be heard – ie that “Anyone” can appeal, so long as they’ve lodged an objection in the firstplace.

It should also require that Minister and Heritage Council MUST take community feedback/objections into account, not just allow general “representations” or time for “appearing personally”.

FULL TEXT OF RESPONSE STARTS HERE.

Group 1. HERITAGE AS SUCH

◆ Q.15: Are there opportunities to enhance consideration of heritage at the strategic level?

Definitely – and should have been done long ago. Point here – to do things at a “strategic level” you need to know what you’re working with, what outcome you’re working for, and the reason/s why you’d want to do that work in the first place. So far as I can see none of these questions are addressed in the current background doc.

Note: “heritage” will only ever be EASY when it’s integrated into everyday life.

Another note: heritage CAN’T be activated, not ever. It’s either there, or it’s not.

What can be “activated” is understanding, appreciation, and response – personal, public, corporate, philanthropic, government – and political.

◆ Q.3: Are the objectives of the Heritage Act still relevant?

Yes. There’s nothing wrong with the Principles as spelled out in the Heritage Act – they still apply, and in full. BUT - there’s been a such massive failure in applying them for many years that their relevance has been lost in a fog of bureaucratic amnesia at both State and Local Govt level. Consider:--

(a) to promote an understanding of the State’s heritage

Hasn’t happened. Have a look at the Heritage website and see how little since 1999.

(b) to encourage conservation of the State’s heritage

Hasn’t happened – read the Minutes of the Heritage Council and its committees. So full of admin, no plans or ideas to “encourage” anything.

(c) to provide for identification and registration of items of State heritage

Has been treated like an obstacle course – registration only grudgingly given. One Minister refused more registrations than he allowed. If memory serves me right, in one year it was either 10 or just 12.

Consider the case of Haberfield - long-recognised as a National Trust State significant Garden Suburb – in 1999 Premier Refshauge publicly announced work would start to ensure its listing on the State Heritage Register. Bureaucrats insisted on a pilot program first to ensure a viable management format for a multi-owners site. The village of Braidwood was used – and put on the Register in 2006.

Despite numerous appeals to the Heritage Office, including by myself as part of the Haberfield Association, Haberfield remains unlisted – and this is mid-2021.

(d) to provide for the interim protection of items of State heritage

I haven’t heard much about this – which is again another failure, either because it hasn’t happened – or because there’s so little understanding about the power of example that there’s been no news published about interim assistance.

(e) to encourage the adaptive reuse of items of State heritage significance

See answer to (d) above.

(f) to constitute the Heritage Council of NSW and confer on it functions relating to the State's heritage

The list of source-professions or skills that provide members for the Heritage Council needs an update to rectify at least one major anomaly. It must include at least one COMMUNITY representative.

(g) to assist owners with the conservation of items of State heritage significance

So far as I know (which in itself shows how the current system has failed) the main assistance given to owners has been in paltry amounts – mostly doled out by Councils in yearly grants scarcely promoted, and so onerous to apply for that the time spent isn't worth the pittance provided – the amounts have hardly changed (if at all) since 1999 and still seem to be \$1—2,000, compared to the current cost of restoration projects involved. And note – only major work seems to qualify – no matter how urgently needed, “repairs and maintenance” are excluded.

Given this, in NSW there is a huge need to revisit the fundamentals of what Heritage is, and what it should be - and to re-state those Principles, again based on the Burra Charter, in such a way that the current situation can never arise again.

In short – the objectives of the Heritage Act are as relevant today as they ever were – but past neglects suggest they should be reinforced as mandatory, and more emphasis than ever.

◆ Q.4: Does the Act adequately reflect the expectations of the contemporary NSW community?

Impossible to say because the expectations of the community haven't been measured, assessed or otherwise evaluated for years, if ever.

However, as someone who has been deeply involved with heritage issues since at least 1988, I am confident that this question can be answered with both **YES** and **NO**.

Over recent years, there has been such a constant downgrade re heritage considerations, values/concerns/issues, and such a blatant blind eye policy to breaches (including by the NSW Government itself) that the current NSW community has largely lost sight of what heritage is, and therefore has NIL expectation – so any old Act would get a YES, even one from 1977.

The NO comes from a different perspective.

It is clear that for many years now – probably since 2005, there has been little or no commitment to heritage and/or heritage protection from various NSW governments. You only have to look at the current Heritage office website to count up how little has been published or done. Given this gross neglect has been perpetrated while the current Heritage Act has supposedly been in force, it has clearly failed the expectations of anyone who takes an interest in heritage as such.

Including myself.

These are no flip answer. They come from multiple experience starting with a 30-yr marketing career based on professional analysis (ie understanding) and projections re social trends/attitudes etc.

To this, add years of in-depth work re local govt inc representing North East Ward of Ashfield Council – namely as Councillor for the Heritage Conservation Area of Haberfield. Indeed, in 2010 my input in this area was recognised by the Heritage Office with award as an official “Heritage Hero”.

Both as a professional, and as someone actively involved in the day-to-day of heritage assessments (as Cr, and also in the Haberfield Association where we analysed every DA in detail re the Conservation Area) and as a witness in a number of heritage matters before the LEC, I have no hesitation in saying that both my YES and my NO assessments are an indictment of Government inaction - not the Act itself.

◆ **Q.8: How could tailored heritage protections enhance heritage conservation?**

Having read the background re “tailored heritage protections” I am ambivalent on this. Yes – commonsense alone suggests that heritage controls should definitely differentiate between the Sydney Harbour Bridge and a shepherd’s hut on Mt Kosciusko. Size, shape, content, context all come into consideration. There may even be good reason to separate categories by USE (both in historic times and current) as in publicly owned, public access, private enjoyment, entertainment, religious, technological, rarity etc – all based on heritage criteria.

But what about the New York homeowner example cited, whereby anything goes, so long as the front of the house is retained. This is facadism at its worst – and often the absolute enemy of good heritage practice. To illustrate, I again cite Haberfield.

This, the world’s first Garden Suburb, is far more than a collection of fine single-storey homes in tree-lined streets – it’s singular significance is what it means in terms of social engineering, not architecture.

The key to Richard Stanton’s vision was establishing a community of harmonious middle-class family living – and this is exemplified in the fact that in a typical Stanton Haberfield home (a) there are NO maid’s room and (b) you’d find the original toilet at the back door – not a dunny at the back fence. Both were landmark innovations at the time – as indeed was the mandatory sewer system used for that toilet.

As a result, the FLOORPLAN of a Stanton house is as much, if not more, inbuilt heritage significance as the front verandah or streetfront presentation.

There has already been too much internal destruction of Haberfield houses in the name of modern living. The whole suburb is being perverted with borderline developments – pools overtaking garden-space, oversize extensions, habitable gablet rooms, two-storey insertions at the back, demolition of everything except the two front rooms, and more.

Any move to a New York front-only regime would be disastrous.

◆ Q.2: How should Aboriginal Cultural Heritage be acknowledged and considered within the Heritage Act

Not just “acknowledged” and/or “considered – the heritage of our First Nations is so integral to the heritage of all Australia , and ALL Australians, that it should be prioritised over any other consideration – and always RETAINED, not just documented.

Next, within the Act, Aboriginal Cultural Heritage should be recognised in detail and given a whole Division to itself, including an appropriate introduction so that part of the Act can function as explanatory as well as statutory.

Managing aboriginal heritage under the National Parks and Wildlife Act is an insult – a hangover from vile “terra nullius” thinking that considered first nations as non-people and lumped them in with flora and fauna.

Given the overwhelmingly “social” and often intangible factors that underlie so much of aboriginal heritage, it is essential that this be prepared in conjunction with (or by) aboriginal elders right from first draft – not just some token “consultation” session after the event

By law, every site related to Aboriginal Cultural Heritage should be identified by SIGNAGE, this being in official NSW Heritage format – with size and design standardised to be instantly recognisable.

By design, and as a cornerstone in heritage strategy, the Heritage Office should have a dedicated First Nations Division, staffed appropriately, and committed to active dissemination of, and education about, Aboriginal Cultural Heritage. From bush tucker to bushfires, we need it. This is no feel-good afterthought – it’s an integral element in the inheritance of everyone who lives in this land.

If heritage is about valuing where we come from, to give understanding of where we’re at today, to guide and conserve and thus enrich the generations yet to come, then this should be a key part of the NSW Heritage Act. We need it.

Group 2. THE COMMUNITY

◆ Q.17: How could understanding of state heritage be enhanced?

By making it more available – this means education and information. And by giving the community the tools it needs to make compliance easy.

When, in 1995, Ashfield Council added visual diagrams to “explain” what the provisions in its new Development Control Plan referred to, and how they worked in relation to real-life construction shapes/scenarios – it was hailed as a landmark. It certainly worked to make heritage rules in Haberfield more understandable, and thus more owner-friendly, with fewer “wrong” DA’s and overall with compliance much easier.

Right now, there is a huge opportunity for the Heritage Office to take the initiative and do something similar, making heritage more accessible to everyone in NSW.

In contrast, and also right now, it's all too often the NSW Government itself which has been responsible for triggering perceptions of heritage "problem" or "burden" - think the recent resistance to retaining the Powerhouse in place, the Willowgrove, schmozzle, or Glebe Island Bridge disputes, or Everleigh Railyards, or soon to come - issues re Central Station precinct.

Then there's obscenity of what's become known as "Packer's Pecker" - grotesque monument to overshadowing our world-renowned Observatory, dominating the entire Rocks precinct - and site-specific desecration at Barangaroo. It was just declared "State Significant Development" - and this Orwellian oxymoron meant that heritage didn't get a word in.

When this is the way a Govt shows us what IT thinks of heritage, how can a mere Heritage Act, or Office, or Council counter the negative message conveyed ?

Everything I know about communication strategy says that it's going to take time, and love, and hard work, and funding - but above all, CONSISTENCY.

Startpoint is to pro-actively CELEBRATE Heritage at every possible opportunity. In the Strategy doc there are a few feel-good success stories - why aren't these headline news, or part of heritage-success folk-lore?

Another instance - how long is it since there's been a real investment (and State-wide planning) to make something of "Heritage Week" to introduce anything, to celebrate something, to co-ordinate combined community recognitions, to use it as a powerful focus towards heritage understanding ? The answer is nil.

Maybe that would be a better platform to start engaging the community - a spectacular whole-of-NSW heritage festival where the incentive is discovery and participation - with the underlying objective research - ie to do fact-finding re heritage attitudes on a community-wide scale. To learn far more in real life than could ever come from a set of 19 Focus Questions geared for answers from (hopefully) some hundreds of special interest groups/responders (like me).

◆ Q.10: Would greater community engagement deliver a more robust State Heritage Register?

Definitely. Community engagement would mean people can rediscover what it means to be as proud of our heritage icons as they are re their sport heroes.

But you can't be engaged with (or proud of) something if you don't even know it exists. A more robust (and accessible) State Heritage Register might well start with a State Heritage MAP, so everyone can see what's what - and what's WHERE.

It might be a huge illuminated, interactive map, launched in Heritage Week 2022, wide as Martin Place, or set up in Hyde Park, or in the forecourt of a heritage icon itself – like the Land Titles Office, or the Opera House.

The “early round” process outlined on p.17 of the Strategy sounds like a good idea. It could also be adapted to develop a monitoring system or community input re ongoing relevance where the Heritage Council may suspect that the heritage significance of an Item may have declined over time.

◆ Q.5: How can the NSW Government legislation better incentivise the ownership, activation and adaptive reuse of heritage?

See answer to Q.6

A big help would be to encourage active appreciation – ie by showing via in its own actions that it VALUES HERITAGE VALUES - that heritage ownership is something to be proud of, a privilege as well as worthwhile.

Another practical help would be the provision of much more material on HOW to handle heritage ownership and issues that arise. Make the practical side of heritage understandable – and therefore do-able. Lots of simple DIY-style booklets are needed – things like understanding how the location of an air-conditioner can affect old timbers, or re-sealing windows, or the difference between concrete and mortars and how vital is to get them right.

Set up a special “Heritage Home-line” or website as an ongoing source of information about where to go, who to talk to etc when help’s needed. Being stuck on an impersonal 1300 phone-in is a massive turn-off., and owners/users actively interested in the upkeep of a heritage listed State Item deserve better. The moral here is -- get the message across that NSW heritage is a shared responsibility – a PARTNERSHIP between owner and Govt – and that this Government is here to do its part.

Partnership has another aspect to it. What could well work best, from a business point of view, is a shared venture-capital approach. This means an all-new regime whereby the heritage owner/corporation can develop a heritage-focus, professional “Concept Business Plan” and present it to the Heritage Office seeking government investment in a partnership project – probably with phased withdrawal of the govt input as the business develops, or the plan succeeds.

◆ Q.18: How could we improve heritage tourism or help activate heritage places for tourism?

First – by recognising that Heritage does have an economic value, and by pro-actively investing in it. To do this, Heritage NSW needs to STUDY how heritage tourism has worked – and where it’s not worked. Forget pious hopes about “improving” something which is so low-key at the moment as to be almost non-existent in NSW.

Next, recognise that it takes a very detailed site-specific plan to “activate” anywhere for tourism,. And in this post-bushfire, mid-pandemic world, that goes double.

Is the government ready for the budget ramification of this re heritage places ?

Make no mistake. Heritage tourism is no add-on to a generalised heritage strategy. It needs to fit within a whole separate industry – and needs a whole strategic plan of its own . You need to establish a positive, dynamic attitude re heritage long before you start talking “tourism”.

And be warned - heritage tourism (“the visitor economy”) also requires ongoing investment in admin to MANAGE the overview – not only of how it happens, and but also to facilitate promotion, and to ensure it keep going.

From personal experience with my Heri-Skills project (2010- 2015) I suggest a close look at the UK for practical steps to get started; particularly how to “activate” heritage tourism for the long term, and at a local level. Skills and jobs are an integral element.

Apart from this, another useful study-source would be Ireland, which has place-based and family-link tourism down to a fine art. The SA example sounds basic, but useful.

Coming back to NSW, I also recall how in the mid-90’s a few thousand dollars spent on “free” paint in heritage colours for a few shopkeepers in Haberfield helped to revitalise appeal of that whole shopping strip. Then the money stopped.

The end result was patchy – no momentum or “heritage” context overall.

◆ Q.6: How can we improve incentives within the taxation system to help mitigate the cost of private heritage ownership?

Do we even know what the cost of private heritage ownership is ?? Before doing some knee-jerk changes to the tax system, it would be far smarter to find out what the real situation is. As owner of a heritage house in Haberfield for over 30 years I can say from personal experience many of the costs are nothing more than those related to NORMAL home maintenance.

On the other hand, if a heritage property is allowed to deteriorate to the point where major restorations are required – then the costs can be extremely high indeed. But by far the biggest cost factor is a shortage in SPECIALIST SKILLS - so the work needed comes at a premium price. More often than not, the materials involved are the same as used in everyday construction – any huge extra cost is in HOW these are used.

It’s not tax (ie income-based) “incentives” that are needed – but practical assistance via real-life cost subsidies. Is it intended to somehow make the cost of heritage repairs a tax “deduction” ? If so, it will be a bonus for owners with high incomes (and more able to afford the work anyway) while leaving low-income owners (like older folk who have aged in place) way behind – first, because they can’t afford to pay the cost of repairs in the first place, and then, because they don’t have sufficient taxable income (if any) to make the deduction meaningful anyway.

Of course, there's a fundamental problem re primary tax collection, be it income based or GST -this is a Commonwealth matter – not in control of the NSW government.

The only tax incentive I can think of that might be even remotely feasible, let alone useful (other than some token amount as a feel-good gesture – the kind of thing that's currently offered by local councils) would be either the elimination of stamp duty pe se (ie not a swizz gained by artificial reduction in land valuation) re purchase of a State Heritage listed property, or a concessional rate (being least 60%) for Heritage Conservation Areas.

This financial recognition would carry over into a land tax regime when/if any such is introduced. – meaning, no land tax on State items, and a concession for Conservation areas – both of which would be based on a “bond” arrangement with inbuilt conditions so the benefit is to apply ONLY so long as the ongoing owner is in full compliance with all heritage requirements. Breach of the bond means it must be repaid in full.

A dubious alternative would be to introduce a “Heritage Homeowners Grant” parallel to those currently aimed at first homeowners. Recent market results suggest this does nothing but increase house prices. The funding ends up as a self-defeating freebie handout, and has nothing to do with the ongoing maintenance of heritage values. It certainly does nothing to help mitigate the ongoing cost of heritage ownership – for which see comments above.

Low- or no-interest loans for heritage owners are virtually unknown – and certainly not made available easily. Reliance on Council discretions to offer lower rates on heritage properties is a mirage. In short “difficult to navigate” is putting it politely.

A far more effective incentive for heritage homeowners would be to know that the government not only takes heritage seriously (ie by visible activity on its own heritage properties, and by appropriate/timely assistance to community groups with funding for heritage repairs re local items), and but also specifically supports private owners.

This would start with information, advice, and EASY ACCESS work-related Heritage Assistance Grants for a long list of permissible projects and/or repairs, plus provision to cover non-conforming issues and/or exceptional circumstances. These grants would go with the property – not the owner, and only be fully paid on completion.

And yes -such a regime would call for a whole new level of staffing, attitude and admin by the Heritage Office direct – but would be the most powerful way possible to say as a State, we VALUE HERITAGE VALUES.

◆ Q.7: What sort of initiatives might encourage activation and conservation of heritage through commercial and philanthropic investment ?

See answer to Q.6.

And again – it needs investment, this for networking as well as admin.

Developing a program that involves some form of corporate/philanthropic sponsorship

for standardised HERITAGE SIGNAGE and place-based INFORMATION BOARDS might be a smart way to go. The recent (and long overdue) introduction of “Blue” name-plaques has been well-received -- it signs points the way.

It would also be well worthwhile (and long overdue) to liaise with the Heritage Office in UK. They have heaps of ideas – and practical examples, including with the Prince Charles Foundation. The UK Heritage Enterprise Grants Scheme could be adapted for a much wider application.

Another example from the UK (and the secret of its success in secure funding heritage) that is desperately needed in NSW is a HERITAGE LOTTERY. I know there’s a legacy of legal complications re this, and that these are all too often used as an easy ‘rationale’ for rejecting the idea, but it’s high time to re-visit the issue. People loved the Opera House Lottery – and this approval generated a huge sense of community “ownership” for the result. Imagine what it would do for Willowgrove.

That’s just what NSW Heritage need. And needs it NOW !!!

◆ Q.19: How could public heritage buildings be activated to meet the needs of communities?

In the first place - start with a proper AUDIT of Heritage buildings, especially sites that come under the ownership and/or custodianship NSW Crown Lands. Then, work out which heritage buildings are available for, or in “need” of activation. Then go to the communities concerned and ask them !

This means Heritage NSW needs a detailed community engagement “master plan” program ready to roll – and which can be adapted easily for local requirements. Something similar has been developed by Crown Lands, and may be useful as startpoint.

Such a program will probably need examples to trigger public imagination and comment – NSW already has some, but there are plenty of ideas about “putting heritage to work” can be gathered from case studies published by other Heritage departments – Victoria, Western Australia, South Australia just for starters. But there are many more if you go international for reference.

Then see the answers to Q. and then Q.5.

Then see the UK part in the answer to Q.7.

Group 3. THE SYSTEM

◆ Q.14: How could we improve heritage consideration within land use planning systems?

By integrating the Heritage Principles within Land Planning and USING THEM.

And also by giving far greater emphasis to SOCIAL and CULTURAL considerations.

And also by spelling out in the EP&A Act (and any other Act that might be relevant) that in case of conflict, heritage principles apply - ie the Heritage Act prevails.

◆ **Q.13: Are the current determination criteria for heritage permits still appropriate?**

No. They're far too "architectural" and "numeric". Heritage CONTEXT needs to be recognised as having far more relevance. The Strategy refers to this as "lively spaces".

Both as Cr, and as resident/neighbour I had one very handy working philosophy re proposed modifications to Haberfield houses. It was always – "would Stanton have handled it this way if he'd been alive today?" If yes – then good. If not, then why not – and find another way to get an equivalent result, because a heritage house is always able to be livable – but within its own parameters, not as a pastiche copy of some contemporary real estate ad.

For instance – it is a mockery of heritage perpetrated by the Heritage Office itself that this Strategy shows the Female Factory as having Grade 1 significance as an icon in the same class as the Opera House– but for State Government masterplans for allow that it be visually swamped by surrounding high-rise.

I've seen the "visualisations" – they are an abomination, not only to the Female Factory (which definitely warrants recognition as World Heritage) but to what is pivotal point not only for NSW but the whole nation of Australia – its birthplace, namely the whole Parramatta Park precinct.

Still using Parramatta Park as an example of failure in what's permitted - this Strategy should consider how come a football stadium (already an illegal occupant of dedicated Crown Land) was nonetheless able to take-over a further area of this Park so it could turn an oval into a rectangle (to boost TV-rights), and then build commercial facilities– even though this required the demolition of a community-funded, nationally recognised WAR MEMORIAL with extreme social/heritage significance, being of very few solely dedicated for WW2.

Was there any Heritage Office protest? Not that I heard.

◆ **Q.11: Would streamlining enhance the listing process?**

No. Unless and until NSW has a very heritage savvy generation of homeowners, fast-tracking the approval process would be – and already is in Haberfield – dangerous to the point of disaster. Most haven't a clue what they're doing. Most are ready to evade the rules already -because they don't understand the why's and wherefore's. But financing at a level which shows a proper respect for heritage would !

To build confidence in the system (especially if there's any intention to use heritage status as a tourist "asset") the listing procedures must be as rigorous and as thorough as needed for integrity as all levels. This is also essential to ensure NSW Heritage peer recognition/respect in relationship to other heritage institutions, including international.

Having enough skilled staff to do the research and evaluation work required in a timely manner – that would make a huge difference and certainly be the best way to "streamline" the process".

PS – “streamlining” can be taken as a weasel-word. Not good. Often understood as cutting corners, allowing cop-outs. All big no-no’s when it comes to heritage protection. The think about heritage – if you love it, want to get it right – time is part of what it means. “Simplifying” is simpatico, but “streamlining” seems to shortchange the whole process. – a contradiction in terms.

◆ **Q.12: How could we improve the current approval permit system?**

Given my years of experience with, and as Cr on, Ashfield I am firmly convinced that a “light touch” regime would prove to be counter-productive. The message given would be that heritage is no big deal . A far better strategy would be via EDUCATION.

It seems to me that, in exactly the same way that foster parents need to be vetted as “suitable” for that role, so too anyone intending to own/lease or otherwise occupy/use any property on the State Heritage Register should be required to demonstrate their qualifications to do so before being allowed to enter into such significant custodianship.

Consider – given the extra factors involved re road safety, lorry drivers have to have a higher grade license to drive a B-Double. Why can’t the same apply to property, where the stakes, and heritage risks re wrongdoing, are equivalently high.

I also believe that it is essential to ban “private certifiers” from any development, addition or alteration that involves heritage in whatever is the subject of certification.

By mandating that only a person with appropriate heritage training (whatever that means in relation to the item involved) is qualified to give certification or approval for work that applies to heritage matters This includes DA/consent, construction, context, curtilage - and in Conservation Areas. This includes planning staff at Local Councils.

The only exceptions would be for “standard” maintenance and repairs – these identified in a commonsense master-list of exempt everyday activities. This is the only area where a “light touch” could be justified.

Long term you could simplify the above approval/permit/certification system by developing a heritage-skills training program that leads to a Register, readily available and updated at least yearly, of appropriately trained trades-folk with heritage skills of such high calibre that they act as a stage of pre-approval for the work proposed.

◆ **Q.16: How could heritage compliance and enforcement be improved?**

First, by explaining in simple terms, why heritage rules are important for THEM and their home/property. To make sure they know that the rules are there for good, practical reason – and that breaches can mean damage and/or other consequences for the heritage value of their asset.

Next answer --By taking compliance seriously, and enforcing it in the first place. Penalty notices for minor matters, maybe. But enforcements - no exclusions.

Then, by having more inspectors, and insisting that Councils take heritage-related inspections seriously – and do them more often.

Then, by increasing the penalties so that they become a serious deterrent – not just a “cost of business” to developers. .

Take a few egregious offenders to Court and argue for jail-time as a warning to others that Heritage NSW is serious about protections. Make sure the court event is headline news.

By naming and shaming – this includes a “penalty” list of names/locations on the Heritage NSW website as well as LARGE SIGNAGE to identify offending sites.

And behind all this – get serious about an INFORMATION strategy – to make sure everyone knows that there are rules, and what they are – so people know what they’re supposed to be complying with in the first place. This could include a bold postcard - size “warning” or brochure about “Make sure you know what the Heritage Rules are” – this from the Heritage Office, given to Councils, to be included with every Consent that involves heritage.

◆ Q.9: How should heritage items that are residential properties be accommodated under a proposed category scheme?

Why bother ? There’s good reason to categorise when the difference is between a steepled cathedral, a retro cinema from the 20’s or 30’s, a magnificent shearing shed, and sites like the Opera House or Harbour Bridge.

But when considering strictly residential properties, there is no reason to abandon a “one-size-fits-all” approach. These homes may be large or small, public or private, urban, regional or rural, be owned, leased or whatever, have one tiny bedroom or be a multi-roomed convent, old hotel or boarding school, they can be of State or local significance – no matter what, all the parameters revolve around residence and accommodation.

If any “unique or challenging management needs” arise, surely these can be addressed in the Statement of Significance – in exactly the same way as the EP&A Act allows for special controls via appropriate conditioning in Development Consents.

However, and in regard to special conditions etc, please note that I strenuously object to the “Reform Proposal” on p.18 if this is intended to mean that Minister has power to interfere with the everyday process of heritage approvals – randomly fast-tracking applications or allowing variations in permits and/or exemptions.

Based on past ministerial behaviour, such discretion would soon become an open invitation to unequal, unfair and/or corrupt dealing (worse even than can happen already as a result of the skills shortage in town planners at local Councils) and runs the risk of bringing NSW Heritage into dire disrepute.

◆ Q.1: What should be the composition, skills and qualities of the Heritage Council of NSW?

More heritage, more social, more cultural, more legal, less economics.

No real estate, no political, no “development and property industry”. As stated earlier, the Council must include a COMMUNITY representative. The Chair should be elected by the Council as a whole, not a political appointment. It should be a rotating position, with new Chair every two years. If for any reason the Chair resigns mid-way, the Deputy Chair completes that term

Members of the public should be allowed to raise issues of heritage concern with the Council, and to address the Council in this regard.

It might be a smart move for the Council to copy an idea used by many local govt Councils – to declare a “Community Forum” period at the start of each meeting, where members of the public have a few minutes (usually 3mins) to address Heritage Council members with whatever issues they wish to raise. As a community engagement tool, it means ACCESS, and that works.

Note also – the Heritage Council should be independent of government, and free of ministerial control or discretion. Its decisions should be taken to have statutory force unless there can be shown some failure in law by appeal to the Supreme Court – not the LEC.

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Thank you.

Emma Brooks Maher