

Submission
No 231

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Name: Name suppressed

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The Hon Shayne Mallard MLC
NSW Legislative Council Standing Committee on Social Issues
Parliament House,
6 Macquarie Street, Sydney, NSW 2000

Dear Mr Mallard

Submission to the Review of NSW Heritage Act

we would like to thank you for the opportunity to comment on this important review of the NSW Heritage Act.

The aim of this review should be the strengthening of heritage provisions in NSW. At present, we have a system where the Heritage Act is switched off for State Significant Development and State Significant Infrastructure. This is an unacceptable compromise putting at stake the heritage community values and the legacy of our future generations.

Heritage Conservation objectives are more important than adaptive re-use objectives. We have seen many examples where, under the term 'adaptive re-use', significant fabric has been stripped out and irreversibly demolished in the name of 'adaptive re-use'. Significant interiors must be kept for heritage items at all levels.

The key objective of the Heritage Act must be 'to conserve the State's heritage'. All other objectives should stem from this main objective. As a 'Guardian' of the State Heritage Register (SHR), the Heritage Act must continue to play a key role in ensuring that heritage in NSW is identified, protected and properly documented.

We support an approach to heritage that encourages conservation and promotes care and responsible management of heritage items by the current owners through additional financial assistance e.g. stewardship payments, tax incentives, grants or other concessions etc., however public interest must always come before self-interest.

Private assets still provide a public benefit as these assets contribute to the collective understanding of our history. Incentives or concessions must be conditional, for example, to require the owner to undertake a minimum standard of maintenance on the property or ensuring some form of public understanding and enjoyment of the asset. This includes state owned assets listed under Section 170 of the Heritage Act 1977 or privately owned properties.

We are strongly against introducing additional categorisation into an already complex heritage planning system. The categorisation may produce the effect of diminished protection of protection of SHR items in categories 3 and 4. Secondly, it may also be difficult to categorise cultural landscapes, which are combined works of nature and humankind, or fabric with social values.

We are concerned about proposals to streamline impact assessments and amendments to existing SHR listing. Streamlining the assessment process will diminish heritage outcomes. The best way to streamline assessments is by increasing Heritage NSW staff with suitably staffed personnel, by providing resources in line with the increased development pressure NSW is experiencing. No need to change the Heritage Act and the assessment process for that.

The chronic lack of resources of Heritage NSW over the last years has led to the disgraceful state of the SHR heritage inventory sheets. Immediate resources need to be put in place to ensure these are promptly updated to identify all elements that contribute to the item's significance, and to make self-evident what elements can be removed/modified and which cannot. Comprehensive inventory sheets, including for State owned items, will create certainty for landowners and make the process for proposing changes to a SHR item more streamlined because owners will have a clearer understanding of the item's tolerance for change.

We support the changes to strengthen compliance and enforcement, and support the need to enhance the community's understanding of state heritage.

The Heritage Council and its decisions must not be politicised through the Minister's appointment process. Change needs to be made to the current process whereby eight people are appointed by the Minister, as this process compromises, or leads to the perception of political influence over the decisions of the Heritage Council.

The Heritage Council must be an independent body of people with appropriate skills that are directly relevant to its role of caring and protecting places on the SHR. Including skill sets that are not directly aligned with heritage (such as property economics, development industry, etc.) erodes the validity of the heritage system.

It is essential that the Heritage Council listens to and takes the advice of Heritage NSW. Similar to the Victorian process, the Minister should not be able to override the advice of the Heritage Council and should not have control over listings.

The listing process needs to be based on merit. According to the Australia ICOMOS Burra Charter 2013, the process of identifying significance is separate from managing significance. Similarly, if an item has State significance, the listing needs to be mandatory, regardless of the prospective plans of its owners. Owners should not be provided with discretion as to whether their property is listed.

Greater consideration should also be given to sustainable heritage practices aimed at reusing embodied energy in existing buildings, regardless of their acknowledged heritage status. This offers a great opportunity for NSW to make the difference and be on the forefront in Australia's reduction of carbon emissions.

Yours sincerely,