

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Highgate Owners Corporation SP49822

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Review of the Heritage Act 1977

The residents of Highgate commend the Standing Committee on Social Issues for undertaking a review of the Heritage Act 1977 to determine if legislative change is needed 'to deliver a heritage system that is modern, effective and reflects the best practice heritage conservation, activation and celebration' (Terms of Reference). Residents of Highgate's 204 apartments are acutely aware of, and strongly committed to, the maintenance of heritage areas in New South Wales, and particularly in Sydney, the birthplace of our nation.

Highgate is privileged to be situated on the doorstep of the historic end of Kent Street that adjoins the Heritage listed Rocks area. Residents are fortunate to view the Sydney Observatory, old Meteorological Building, the National Trust Building, the S.H. Erwin Gallery, the Glover Cottages, and the Agar Steps, and have easy access to the heritage buildings along Hickson Road.

The value of our colonial history, as expressed in the early architecture of this area, is deeply appreciated by our community. Access to the proposed Sydney foreshore walk dedicated to Indigenous history that will run for nine kilometres from Darling Harbour to Woolloomooloo will add significantly to the cultural richness of Sydney in the area.

Highgate appreciates the opportunity to represent the views of its 382 residents in this submission. To protect and maintain our valuable heritage, we believe that the review of the Heritage Act 1977 is critical. We strongly believe that to meet its obligations to the NSW community, the Heritage Council needs to be adequately funded to employ the required personnel to enable it to meet its mission. The heritage expertise of Heritage Council and staff need to be maintained and developed.

What should be the composition, skills and qualities of the Heritage Council of NSW?

The primary requirement of the Heritage Council is that its decisions, based on clear standards and guidelines, are enforced for all parties, including government, developers, and private owners. The same rules and conservation regulations need to apply for all development of historical items across all parts of the State.

Local government reports need to inform and guide the Heritage Council in its decision-making. The Heritage Council does not itself possess the capacity nor the expertise to evaluate Local Environment Plans, Development Control Plans, or Construction Management Plans. Personnel with the skills, expertise, experience to make these determinations against well-developed guidelines reside within local councils.

Policies and standards

The principal roles of the Heritage Council are to Identify heritage items, list them on the State Heritage Register, establish policy and standards, maintain the Register and other relevant records, and promote heritage. These tasks ensure proper conservation and management of our heritage.

Currently it appears that the requirements for management of state government heritage assets are considerably weaker than those for private owners. This is evidenced in our local area of Millers Point, where residents owning heritage properties are subjected to a succession of arduous approvals with more rigorous standards than the approvals required for the NSW government in the adjacent Rocks area. This discrepancy is leading to lowered standards of conservation and a decline in the heritage value of government managed heritage assets, such as the Rocks. All applications for development approvals, including those items on the Section 170 Heritage and Conservation Register of all state government heritage assets, need to be assessed equally according to established standards and guidelines, and held to the same standards of accountability.

Because of the broader and more significant value of assets held by the government, the management of these assets needs to be tied to the Heritage Asset Management Guidelines, 1990 (<https://www.environment.nsw.gov.au/-/media/OEH/Corporate-Site/Documents/Heritage/state-agency-heritage-guide.pdf>), which need to be reviewed and strengthened in consultation with the City of Sydney, local councils, and resident groups.

Restoration and renovation guidelines need to be implemented in accordance with the principles of the Burra Charter: The Australia International Council on Monuments and Sites Charter for Places of Cultural Significance, 2013. The Burra Charter 'provides guidance for the conservation and management of places of cultural significance (cultural heritage places), and is based on the knowledge and experience of Australia ICOMOS members' (p. 1. <https://australia.icomos.org/wp-content/uploads/The-Burra-Charter-2013-Adopted-31.10.2013.pdf>).

This significant document provides guidance for the contemporary adaptation of heritage assets for new uses. It provides the basic principles and procedures for the conservation of heritage places and 'advocates a cautious approach to change: do as much as necessary to care for the place and to make it useable, but otherwise change it as little as possible so that its cultural significance is retained' (p.1). Under these principles, adaptive reuse and activation assessment should be mandatory for all listings on the State Heritage Register.

Guidelines

Currently precedents or 'rules of thumb' are utilised in place of proper guidelines to underpin decisions about development of heritage items, buildings, or areas by the Heritage Council of NSW. This results in a lack of adaptation and responsiveness, and excessive rigidity in relation to individual unique heritage items, buildings, and areas, and leads to the perpetuation of poor decisions, with cumulative impacts on our heritage.

Records

A rich heritage of documentation has been accrued over the more than 40 years of operation by the Heritage Council. Unfortunately, this is not readily accessible. It needs to be digitised and open to public access. Unfortunately, some documents appear to have been lost with the transfer to the new platform of the State Heritage Register, including much valued Construction Management Plans.

Aboriginal Cultural Heritage

Many would appreciate a greater understanding of Aboriginal culture and history. However, there is little awareness of what is currently available for the public or overseas visitors to gain this understanding, despite sites such as, <https://www.sydney.com/things-to-do/aboriginal-culture>. These, and other similar heritage-related resources need to be advertised more widely, particularly through government advertising of NSW to tourists, and on social media.

In every State and Territory there is wonderful rock art produced by Aboriginal people who inhabited these areas. The rock engravings and artworks in NSW are largely unknown. While they are labelled on Google maps, they are not well protected, and are not actively promoted as destinations for hiking and tourist travel.

Are the objectives of the Heritage Act still relevant?

While the objectives of the 1977 Heritage Act remain relevant in essence, wording needs to be strengthened to meet the more stringent standards required by the NSW contemporary community. The objective “to *encourage* [emphasis added] the conservation of the State’s heritage” is no longer the goal of the community. The community **wants** its heritage protected.

Furthermore, it is apparent that the Act does not have sufficient legislative authority to ensure that the more stringent standards now required by the NSW community are actually applied.

Does the Act reflect the expectations of the contemporary NSW community?

The current Act does not meet contemporary requirements, and must be strengthened to reflect the wishes of the community. Since the Act was developed in 1977, the NSW community has significantly raised its expectations for the identification and conservation of heritage buildings. Heritage must now be better protected from government and developers.

A government Minister should not have the power to override the resolutions of the Heritage Council, or the wishes of the community being served in the conservation of heritage buildings and areas. Confidence in politicians’ ability to assess developments in the best interests of the NSW and City of Sydney communities has plummeted since the refusal of the NSW government to reject the advice of the Heritage Council of NSW to protect the Sirius building via heritage listing in 2017; the approval of the Crown Casino on public land at Barangaroo; the ongoing height creep of buildings along around the Sydney Harbour foreshores (in direct contravention of the restrictions established by the City of Sydney, and despite their repeated objections); the over-development at Barangaroo; the attempted removal of the Wattle Grove mansion and a nearby row of terraces in Parramatta to accommodate a new Powerhouse Museum; and government threats to the White Bay Power Station and WestConnex in Haberfield. While not all of these are heritage issues, the

breadth of the government's disregard for the wishes of the community clearly covers heritage buildings and areas.

Government threats to heritage sites such as the White Bay Power Station and WestConnex in Haberfield, and government actions in connection with the Sirius Building, are being met with local grass-roots resistance and legal action, underpinned by demands for greater protection of our heritage. Unfortunately, the legislation has not kept pace.

A grass roots legal objection, undertaken by the Parramatta Residents Action Group, to the removal of the Wattle Grove mansion and a nearby row of terraces in Parramatta to accommodate a new Powerhouse Museum is a case in point. The Land and Environment Court decision by Justice Moore stated that the Government had complied with the relevant heritage requirements and there was no obligation on the government to investigate alternative sites for the Museum. The residents of Parramatta are not satisfied with this decision and continue to fight for the retention and maintenance of Wattle Grove and the terraces in their current location, along with the unions via a 'green ban'.

Grass roots objections to these and other projects that demolish or diminish our heritage have been increasing across Sydney. Legal action has been unsuccessful because legislation is weak and inadequate to prevent these attacks on our heritage. Strengthening of legislation needs to occur as a matter of urgency.

Changes to Victoria's Heritage Act

In Victoria, the 2016 illegal demolition of the Corkman Pub, formerly known as the Carlton Inn Hotel, that was built in 1858, led to legislation to provide greater protection for Victoria's heritage buildings. The legislation changes prevent developers from profiting from the illegal demolition, or 'demolition by neglect' of heritage properties by:

- prohibiting development on these sites for up to 10 years if the owners are charged with unlawful demolition of a heritage building, or where a heritage building has fallen into disrepair,
- enabling existing permits to be revoked
- allowing for new permits to be issued for specific purposes – such as building a park or reconstruction or repair of the heritage building.

NSW needs to implement similar legislation as a matter of urgency. Many sites are falling into disrepair, such as the abandoned, privately owned, Heritage-listed Wangi Wangi Power Station, the 1892 railway station in outback Cobar, Kenmore Psychiatric Hospital in Goulburn, and the Bloomfield area in Orange. Legislation similar to that of Victoria will significantly strengthen the current enforcement regime and act as a powerful deterrent to the unlawful demolition, or demolition by neglect, of buildings of heritage significance.

We support the introduction of intermediate enforcement powers to allow heritage regulators to take a graduated and proportionate response to non-compliance.

Activating and enforcing compliance of our Heritage items

We commend the Committee on the decision to increase incentives and determine viable means of investment to enhance the conservation and adaptive reuse of heritage buildings in our state. We appreciate that the Committee has scoped options and is seeking further possibilities, and regret we are unable to further assist in this area.

Community engagement

Heritage identification and listing

Given the increasing involvement and engagement with the heritage process by the community in response to government attempts to demolish or diminish this legacy, it is essential that the community is given the opportunity to be involved in heritage processes at every level prior to threats emerging.

We strongly support the introduction of a community-driven preliminary nomination process by the Heritage Council, with follow-up assistance provided when more detailed nominations are required. This would indeed deliver a more robust State Heritage Register. Community involvement in this process can only enhance outcomes. Community engagement and involvement is crucial in the revitalisation of all publicly owned heritage items to meet the contemporary needs of the communities in which they reside.

To ensure that the wishes of the community are being heard and carefully considered, independent representatives, nominated by the relevant community, need to be part of the entire decision-making process undertaken by the Heritage Council for major sites. Public involvement and engagement is essential at all levels of heritage conservation.

Streamlining heritage processes

Some provisions of the Act are counterproductive. For example, the requirement for an archaeological report for any excavation that may harm or disturb historical archaeological relics is, in its current form, onerous, expensive, and pointless. Costs for archaeological reports are high, time delays are extensive, and relics disappear and are not made available to the owners or the local area for display, undercutting any purpose of this requirement. Consequently, there is no value of an archaeological report for owners, despite their considerable investment in its procurement. This can lead to owners destroying artifacts to avoid the requirement.

All provisions of the Act need to be reviewed to ensure each delivers outcomes that are proportionate to the investment of time and cost, heritage value, and benefit to the community. If reports are required that will provide little or no benefit for the property owner or the local community, that report needs to be provided by the Heritage Council without cost to the owner.

Heritage promotion

Much is being done to promote heritage in NSW, but public knowledge of these activities remains poor. A much stronger social media presence with regular announcements of old and new developments would help to activate engagement in these projects. The Heritage NSW twitter site @Heritage_NSW is blank! Transport Heritage NSW (@TH_NSW) is better, but neither site links to the other and none appear to be promoted by the NSW government. All NSW politicians could be inveigled upon to make announcements on a regular basis to support NSW heritage.

Local communities across the state need to be involved in the development of 'Heritage trails' that provide maps of walks with informational signposting, as in the Rocks area, and 'Heritage drives' that similarly provide maps of NSW heritage sights. This is of particular importance for Aboriginal sites and history.

The placement of historical photographs of Sydney on hoardings around Sydney has been much appreciated by the public. These open-air art galleries are worth making permanent in areas where possible and where the photographs reflect past views of the same area.

Similarly, the new historical plaques with short facts regarding historically significant people and events that have been attached to Sydney buildings and places are much appreciated and raise public awareness of our history. Inclusion of local Aboriginal tribes and history would reduce the focus on our colonial history.

The GPS heritage trail app of the Menindee, Wilcannia, and White Cliffs areas being developed by Newcastle University, with strong community input, has been made possible by funding from the Far Southwest Joint Organisation. This effort could be replicated in many areas of historical significance, and funded to boost tourism in these areas.

The annual Secret Sydney opens buildings of interest, many of which are of historical interest, to the public for a day. A more focussed Historical/Heritage Sydney opening day could be considered. This could include private heritage housing, which could showcase good restoration and allow local owners and communities access to displays of archaeological items found in the homes.

In conclusion, the Highgate community strongly supports the review of the Heritage Act 1977 to give it the powers to meet current community expectations. The contemporary community of NSW requires assurance that sound standards, guidelines, and accountability are applied equally to government, developers, and private owners. We support and encourage the inclusion of local communities in the identification of heritage assets and, where applicable, in the responsible repurposing of heritage properties with sympathetic restoration and renovation to provide greater use by the public. To undertake this effectively and efficiently, the Heritage Council needs to streamline the application process for value-based outcomes. This requires adequate funding by State Government.

This submission can be published in full on your website including our organisation's name – **Highgate Owners Corporation Strata Plan 49822**.

Yours sincerely,

Maryann Knight
Highgate Secretary

* on behalf of Owners Corporation Strata Plan 49822