

**Submission
No 262**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Walgett Shire Council

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Your Reference: Heritage Act Review

1 July 2021

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

Dear Sir

REVIEW OF THE HERITAGE ACT 1977 - SUBMISSION

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

Walgett Shire Council is proud of its heritage and seeks to protect its heritage places for present and future generations. A commitment from the State government to protect NSW's heritage places by supporting a strong Heritage Act would be welcomed.

The submission takes the form of responses to the focus questions set out in the discussion paper prepared by Heritage NSW - *Review of NSW Heritage Legislation Discussion Paper, Standing Committee on Social Issues, April 2021*.

Focus Question 1 – What should be the composition of the Heritage Council of NSW?

Members of the Heritage Council of NSW should be appointed based on their heritage qualifications and expertise. A high degree of heritage expertise is needed as the Council makes decisions on heritage matters that often have a high degree of technical heritage complexity. The composition of the Heritage Council should reflect the proportion of the types of matters brought before the Council e.g. archaeological, built, landscape, maritime etc.

Heritage Council meetings should be open to the public and streamed on-line.

Focus Question 2 – How should Aboriginal Cultural Heritage be acknowledged and considered within the Heritage Act?

Walgett Shire has a rich Aboriginal heritage, with the local community having an on-going connection to the land. *Walgett Shire LGA Aboriginal Heritage Study* notes that within the Shire there are a range of Aboriginal site types, including scared trees, burial sites, camp sites, rock engravings etc. As part of the heritage study, the Aboriginal community raised concerns regarding the potential loss of certain sites and Aboriginal heritage information, as well as concerns that all places associated with foundation legends/creation stories be protected.

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. This would allow Aboriginal people to direct the listing and management of places with Aboriginal values in accordance with stand-alone Aboriginal cultural heritage laws.

Focus Question 3 – Are the objectives of the Heritage Act still relevant?

The primary objective of the Heritage Act should be to conserve the heritage values of the State's heritage – not just to “encourage” their conservation.

An objective of the Heritage Act should be to ensure excellence in heritage conservation.

Focus Question 4 - Does the Act adequately reflect the expectations of the contemporary NSW community?

A community based heritage study for Walgett Shire was undertaken in 2008. This study identified a number of potential heritage places which were subsequently made heritage items, as well as a number of places that warranted further research. This further research has not yet been undertaken due to lack of resources.

The Walgett Shire Council Community Strategic Plan has as one of its strategies: “*Respect the heritage of the region and highlight and enhance unique characteristics*”. It is evident that the protection of heritage is important for the community, however the “expectations” of the community in relation to its heritage has not been explored in detail.

Focus Question 5: How can the NSW Government legislation better incentivise the ownership, activation and adaptive reuse of heritage?

The conservation of the State's heritage should be incentivised through appropriate means. Careful detailed research should be undertaken into potential appropriate options. Some options for investigation include:

- tax deductions for conservation works; and
- no fee for applications that include a heritage impact statement prepared by a qualified and experienced heritage consultant where there will be no adverse impact from the proposed works.

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

This matter is worthy of detailed research and the analysis of a range of options. Detailed research, including case studies should be undertaken to provide information on the cost of private heritage ownership compared with owning a similar property that is not heritage listed. Remote rural areas should be included in the study. There are some places, such as Zac's Shak at Cumborah, which are very interesting, which tourists like to visit, but which are very vulnerable as owners may not have the means to restore or protect such places, and the places have no value. There are other places such as the stone building on Moordale, which appears to be a remanet building of the Boorooma Pastoral holding, that is falling into disrepair. Incentives to encourage the conservation of such places would be welcomed, although incentives should not be limited to those provided by the taxation system.

Focus Question 7: What sort of initiatives might encourage activation and conservation of heritage through commercial and philanthropic investment?

A good understanding of the benefits of owning a heritage property should be conveyed to the community following a research study on this matter. Research should encompass remote rural areas of the State such as Walgett Shire.

Focus Question 8: How could tailored heritage protections enhance heritage conservation?

The category scheme as proposed in the discussion paper is a concern because:

- it would complicate the management of the State's heritage;
- it could lead to some places being considered of lesser heritage value and therefore place these places at risk; and
- different types of heritage places are able to be accommodated within the current Act.

Focus Question 9: How should heritage items that are residential properties be accommodated under a proposed category scheme?

The proposed category scheme is not fully explained in the discussion paper. It is not clear why a category scheme is needed given the current approach works.

Focus Question 10: Would greater community engagement deliver a more robust State Heritage Register?

Walgett Council has not undertaken research on this matter.

It would be beneficial for research to be undertaken on the type of community engagement that would encourage greater support for the State's heritage. However, the assessment and determination of what places should be listed on the State Heritage Register should be undertaken by a heritage expert with relevant qualifications and experience.

Focus Question 11: Would streamlining enhance the listing process?

The review and updating of the State Heritage Register and of the inventory sheets for each heritage item should be undertaken regularly. This requires adequate resourcing rather than a change to the Heritage Act.

An abridged delisting process is not needed as an assessment of heritage impacts is based on an understanding of the heritage values of a place. If a place has been destroyed, so too has its heritage values, therefore the assessment of heritage impacts is straightforward and quick. This should be a matter of process rather than legislation.

Focus Question 12: How could we improve the current approval permit system?

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.

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.

Focus Question 13: Are the current determination criteria for heritage permits still appropriate?

Walgett Shire Council has not undertaken research on this matter.

Focus Question 14: How could we improve heritage consideration within land use planning systems?

The identification and protection of heritage places must be considered in any strategic planning work undertaken.

State government departments and agencies should be required to obtain approval from the local Council for work undertaken to State owned properties listed on the Heritage Schedule of the Council's Local Environmental Plan.

Focus Question 15: Are there opportunities to enhance consideration of heritage at the strategic level?

- 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 concern are Mid-century modern places and 1970s places, as these places are often not seen as insufficiently historic.
- The State Heritage Register should be reviewed to determine if any existing heritage items should be removed.
- High levels of guidance and technical support should be provided for the owners of State heritage places.

Focus Question 16: How could heritage compliance and enforcement be improved?

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.

Should you require any further information please contact me

Yours sincerely,


Kobus Nieuwoudt
Director Environmental Services