

**Submission
No 272**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Randwick City Council

Date Received: 9 July 2021



Standing Committee on Social Issues
Legislative Council
Parliament of New South Wales
Macquarie Street
SYDNEY NSW 2000

08 July 2021

Ref No: F2004/07891

Dear Sir/Madam,

RE: REVIEW OF THE HERITAGE ACT 1977

Thank you for the opportunity to make a submission in relation to the proposed review of the Heritage Act 1977 as detailed in the accompanying Discussion Paper provided to Council.

Council notes that, while the Discussion Paper appears to mainly focus on the proposed changes to provisions and processes relating to State heritage items and listings, the issues raised in the Paper are relevant also to local council responsibilities and process for local heritage. Any changes that are contemplated for State heritage provisions and processes under the Act will have implications on the provisions of the Act relating to local listings and local items of significance. As such, the comments provided in this submission will at times apply to both State heritage and local heritage provisions and processes.

Council provides the following comments in relation to relevant issues raised in the Discussion Paper on this matter:

- **Composition, skills and qualities of the Heritage Council of NSW**

The Review is contemplating changes to the composition, skills and qualities of the Heritage Council of NSW to facilitate changes in its role under the Act. The Heritage Council of NSW is established under the NSW Heritage Act 1977. Any changes to the composition, skills and qualities of the Council must have regard to the original charter and objectives for appointment in the Heritage Act. In particular, the Heritage Council is an independent statutory advisory body that includes members of the community, the public sector and conservation profession. Any review of the Heritage Council should strengthen and protect the independence and technical integrity of the Heritage Council. This can only occur if the composition, skills and qualities of the Council are guided by the established criteria for panel selection under the Heritage Act; drawn from a wide and diverse pool of community and professional bodies; and established in a balanced way that promotes impartial and unbiased decision making. This includes the advisory committees and panels under the Heritage Council that provide expert and technical advice to the Heritage Council and Heritage NSW.

- **Aboriginal Cultural Heritage be acknowledged and considered within the Heritage Act**

Council is of the view that the requirements to honour and respect First Nations Cultural Heritage would be better met by having this integrated throughout the Heritage Act, and that outcomes are achieved through negotiation/genuine collaboration between First Nations Owners and Heritage Custodians throughout. An integrated, self-empowering approach as outlined in Designing Country (through the Government Architect Office) is a good illustration of a holistic and transparent approach.

Accordingly, Council supports the inclusion of Aboriginal Cultural Heritage matters under the Heritage Act as this would bring these important matters under the one legislative process rather than the fragmented approach that currently exists under the National Parks and Wildlife (NPW) Act 1974 and associated policies. However, the definition, scope and role of “Aboriginal Cultural Heritage” provisions in the Heritage Act must be clearly and sensitively defined, and be inclusive and all encompassing. This would include clear provisions regarding the documentation of Aboriginal culture and heritage and the scope and nature of consultation with Aboriginal communities.

Any review of the Heritage Act to include Aboriginal Cultural Heritage should also examine how the Heritage Act can integrate with the set Aboriginal cultural/heritage provisions in the NPW Act and the Environmental Planning and Assessment (EP&A) Act 1979. There is crossover with Aboriginal Place items under the NPW Act and the listings within the State Heritage Register (e.g., Prince Henry site as well as the nominated listings for Frenchmans Bay and Yarra Bay). Any review of the Heritage Act in relation to Aboriginal cultural heritage would be incomplete if possibilities to streamline these crossovers in terms of details of significance at state level and approvals processes are not undertaken as well.

- **Introduce a community-driven nomination process with ‘early-round nominations’ submitted for Heritage Council consideration. Heritage NSW could provide assistance in preparing nominations.**

Nomination of properties or places for heritage listing at both State and Local level should be community-driven at the outset as it provides the community, in all its diversity, a means for making valuable contribution to heritage conservation in their locality as well as to the heritage study that forms the basis for that conservation. Community driven nomination process must recognise and address the challenges arising from differing, often opposing, views about heritage and the implications arising from nomination. In this regard, the proposal to involve the Heritage Council in providing appropriate guidance and input into community-based nominations is a positive step so long as the role and input of the Heritage Council, as discussed above, is independent, objective and technically sound. In this manner, the Heritage Council, can be a leading body that will guide and support local councils in addressing community interest and concerns in the heritage nominations process. Similarly, any involvement of Heritage NSW in preparing nominations should be independent, objective and technically sound.

- **Introduce a streamlined process to update heritage listings for State Heritage Register by adopting a more nuanced set of four heritage listing categories to allow for more tailored heritage protections to be applied to items to suit their individual circumstances**

The proposed streamlined four (4) categories system is supported as it allows for a more tailored structure of heritage values correlated to the type, circumstance and context of each heritage item. However, the use of a four (4) categories system as proposed should not preclude the continued application of the current seven heritage significance criteria set by the Heritage Council of NSW because this potentially would lead to a narrowing, if not, dilution of the significance listing process. Furthermore, there appears to be a substantial leap from Category 1 (iconic state heritage item, e.g., Sydney Opera House) to Category 3 (standard residential properties) such that an intermediate category for State significant public buildings, places, etc. may be needed. For example, the State Heritage Register (SHR) listed buildings in the Randwick

LGA comprising the Big Stables in the (former Inglis) Newmarket site and St Jude Church in Randwick are examples of buildings that could be included in such an intermediate category.

The Discussion Paper mentions that the streamlined categorisation process will only apply to SHR items but it does not categorically mention whether or not this streamlined process is to be applied for items of local significance (that are the responsibility of local government). It is noted that Category 4 of Table 2 “*Category 4 – Local Heritage*”, says that one of the features of this category is “*Items of local significance that are identified by local governments would be recorded consistent with the arrangements in place for the State Heritage Inventory*”, and that the listing process will be “*No change from current practice*”. However, these descriptions are vague and are relative to whatever categorisation system is in place as “*current practice*”.

The proposed 4 categories system would be beneficial if it could also streamline and expedite the assessment of requests for SHR nominations. In February 2020, Randwick Council lodged submissions and application forms for State Heritage Register listings for Yarra Bay and Frenchmans Bay. These are highly significant sites in terms of their cultural values to indigenous Australians and the first contact history between indigenous First Nation people and Europeans. Despite a number of queries, to date, these nomination applications remain under assessment. As part of this Heritage Act review, there should also be a review of the provisions of the Act that govern the processing and assessment of applications for SHR listing. Specifically, the review should seek to remove any unnecessary red-tape in the application assessment process.

It is important that the criteria thresholds for state significant items be reviewed and amended to ensure a comprehensive and transparent process that better reflects community values. For example, Council was informed in September 2020 that the nomination of two significant items – the Captain Cook Statue and Blenheim House in Randwick - had been refused SHR listing. The Captain Cook Statue is an iconic monument that provides a rare link between Captain James Cook and a Randwick resident, having possible direct association with the wife of Captain Cook while Blenheim House is an Old Colonial Georgian building that was the first residence of Simeon Henry Pearce, the first mayor of the first municipality (outside of the town of Sydney). Council received little explanation as to why these nominations were refused other than, in the Committee’s assessment, they did not meet the threshold.

Furthermore, any changes to the categorisation system for SHR items should also result in clearer, streamlined and easier paths of approval processes for development to State Heritage items. In this regard, the current approvals systems can be “clunky”, confusing and time-consuming for many private owned state heritage listed items and adds complexity to the assessment process at the local level.

- **Introduce a series of intermediate enforcement powers to allow heritage regulators to take non-compliance measures including investigative powers allowing Heritage NSW the ability to gather sufficient evidence to prove an offence and issue penalty or infringement notices. This change would allow Government to take more nuanced and lighter-touch enforcement approaches, as an alternative to expensive and uncertain court action.**

No details have been provided of the proposed “*nuanced and lighter-touch enforcement approaches*” to deal with non-compliances. Will this lighter-touched enforcement approach provide adequate deterrence against non-compliance? The “heritage regulator” responsibilities mentioned in the Discussion Paper are currently undertaken by local governments and place a significant burden on Councils. This package of changes should include provision of resources to Councils to allow Councils to effectively undertake the important responsibility of protecting State heritage significant items.

- **Expand the current provisions in the Heritage Act for financial and other assistance to heritage owners to better incentivise the ownership, activation and adaptive reuse of heritage and promote heritage conservation. Consider how to improve incentives within the taxation system to help mitigate the cost of private heritage ownership.**

Council understands the benefit of an updated incentivisation scheme to promote and encourage heritage conservation. Such a scheme should be introduced hand in hand with updated provisions to identify the benefits of owning a listed home (State or Local). This would assist in addressing the misguided notion that owning a heritage property is a burden. Consideration should be given to incentives to support the Cultural Gifts Program, where donors and philanthropists are eligible for tax rebates in financially supporting conservation, restoration and adapted reuse of listed heritage sites.

Council's comments above are provided in response to broad issues raised in the Discussion Paper to the proposed Review of the Heritage Act. Council is happy to provide more comments when more details of proposed changes are provided in any future consultation process for the proposed review.

Thank you for the opportunity to comment. If you have any questions regarding the content of this submission please do not hesitate to contact Stella Agagiotis, Manager - Strategic Planning,

Yours sincerely

.

Thérèse Manns
General Manager

<p>English</p> <p>If you need help to understand this letter, please come to Council's Customer Service Centre and ask for assistance in your language or you can contact the Telephone Interpreter Service (TIS) on 131 450 and ask them to contact Council on 1300 722 542.</p>	<p>Greek</p> <p>Αν χρειάζεστε βοήθεια για να καταλάβετε αυτή την επιστολή, παρακαλείστε να έρθετε στο Κέντρο Εξυπηρέτησης Πελατών της Δημαρχίας (Council Customer Service Centre) και να ζητήσετε βοήθεια στη γλώσσα σας ή τηλεφωνήστε στην Τηλεφωνική Υπηρεσία Διερμηνέων (Telephone Interpreter Service — TIS) τηλ. 131 450 και να ζητήσετε να επικοινωνήσουν με τη Δημαρχία τηλ. 1300 722 542.</p>	<p>Italian</p> <p>Se avete bisogno di aiuto per capire il contenuto di questa lettera, recatevi presso il Customer Service Centre del Municipio dove potrete chiedere di essere assistiti nella vostra lingua; oppure mettetevi in contatto con il Servizio Telefonico Interpreti (TIS) al 131 450 e chiedete loro di mettersi in contatto col Municipio al 1300 722 542.</p>
<p>Croatian</p> <p>Ako vam je potrebna pomoć da biste razumjeli ovo pismo, molimo dođite u Općinski uslužni centar za klijente (Council's Customer Service Centre) i zatražite pomoć na svom jeziku, ili možete nazvati Telefonsku službu tumača (TIS) na 131 450 i zamoliti njih da nazovu Općinu na 1300 722 542.</p>	<p>Spanish</p> <p>A la persona que necesite ayuda para entender esta carta se le ruega venir al Centro de Servicios para Clientes [Customer Service Centre] de la Municipalidad y pedir asistencia en su propio idioma, o bien ponerse en contacto con el Servicio Telefónico de Intérpretes ["TIS"], número 131 450, para pedir que le comuniquen con la Municipalidad, cuyo teléfono es 1300 722 542.</p>	<p>Vietnamese</p> <p>Nếu quý vị không hiểu lá thư này và cần sự giúp đỡ, mời quý vị đến Trung Tâm Dịch Vụ Hướng Dẫn Khách Hàng của Hội Đồng Thành Phố (Council's Customer Service Centre) để có người nói ngôn ngữ của quý vị giúp hay quý vị có thể liên lạc Dịch Vụ Thông Dịch qua Điện Thoại (TIS) ở số 131 450 và yêu cầu họ liên lạc với Hội Đồng Thành Phố (Council) ở số 1300 722 542.</p>
<p>Polish</p> <p>Jeśli potrzebujesz pomocy w zrozumieniu treści tego pisma, przyjdź do punktu obsługi klientów (Customer Service Centre) przy Radzie Miejskiej i poproś o pomoc w języku polskim, albo zadzwoń do Telefonicznego Biura Tłumaczy (Telephone Interpreter Service — TIS) pod numer 131 450 i poproś o skontaktowanie się z Radą Miejską (Council) pod numerem 1300 722 542.</p>	<p>Indonesian</p> <p>Jika Anda memerlukan bantuan untuk memahami surat ini, silakan datang ke Pusat Pelayanan Pelanggan (Customer Service Centre) Pemerintah Kotamadya (Council) dan mintalah untuk bantuan dalam bahasa Anda, atau Anda dapat menghubungi Jasa Juru Bahasa Telepon (Telephone Interpreter Service - TIS) pada nomor 131 450 dan meminta supaya mereka menghubungi Pemerintah Kotamadya pada nomor 1300 722 542.</p>	<p>Turkish</p> <p>Bu mektubu anlamak için yardima ihtiyaciniz varsa, lütfen Belediye'nin Müşteri Hizmetleri Merkezi'ne gelip kendi dilinizde yardım isteyiniz veya 131 450'den Telefonla Tercüme Servisi'ni (TIS) arayarak onlardan 1300 722 542 numaradan Belediye ile ilişkiye geçmelerini isteyiniz.</p>
<p>Hungarian</p> <p>Amennyiben a levél tartalmát nem érti és segítségre van szüksége, kérjük látogassa meg a Tanácsház Ügyfél Szolgálatát (Customer Service Centre), ahol magyar nyelven kaphat felvilágosítást, vagy hívja a Telefon Tolmács Szolgálatot (TIS) a 131 450 telefonszámon és kérje, hogy kapcsolják a Tanácsházat a 1300 722 542 telefonszámon.</p>	<p>Czech</p> <p>Jestliže potřebujete pomoc při porozumění tohoto dopisu, navštivte prosím naše Středisko služeb pro veřejnost (Council's Customer Service Centre) a požádejte o poskytnutí pomoci ve vaší řeči anebo zavolejte Telefonní tlumočnickou službu (TIS) na tel. číslo 131 450 a požádejte je, aby oni zavolali Městský úřad Randwick na tel. číslo 1300 722 542.</p>	<p>Arabic</p> <p>إذا أردت مُساعدة لفهم هذه الرسالة، نرجوك الحضور إلى مركز خدمة عملاء المجلس وأطلب المساعدة في لغتك، أو يُمكنك الاتصال بخدمة الترجمة الهاتفية (TIS) على هاتف رقم 131 450 وأطلب منهم الاتصال بالمجلس على رقم 1300 722 542.</p>
<p>Chinese</p> <p>如果你需要人幫助你了解這封信的內容，請來市政會顧客服務中心要求翻譯服務，或者與電話傳譯服務 (TIS) 聯繫，號碼是 131 450。請他們幫助你打電話給市政會，號碼是 1300 722 542。</p>	<p>Russian</p> <p>Если Вам требуется помощь, чтобы разобраться в этом письме, то, пожалуйста, обратитесь в Муниципальный Центр Обслуживания Клиентов и попросите оказать Вам помощь на Вашем языке или же Вы можете позвонить в Телефонную Службу Переводчиков (TIS) по номеру 131 450 и попросить их связаться с Муниципалитетом по номеру 1300 722 542.</p>	<p>Serbian</p> <p>Ako vam treba pomoć da razumete ovo pismo, molimo vas da dođete do Centra za usluge mušterijama pri Opštini (Customer Service Centre) i zamolite ih da vam pomognu na vašem jeziku, ili možete nazvati Telefonsku prevodilačku službu (TIS) na 131 450 i zamolite ih da vas povežu sa Opštinom na 1300 722 542.</p>