

**Submission
No 278**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Tamworth Regional Council

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Heritage NSW
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Dear Sir/Madam

SUBMISSION FROM TAMWORTH REGIONAL COUNCIL – DISCUSSION PAPER – REVIEW OF NSW HERITAGE LEGISLATION

Ref: *jh/GV/Document Set ID 79413*

Tamworth Regional Council (TRC) and its community take great pride in their Local and State level heritage. As such, Council welcomes the opportunity to provide comment regarding the discussion paper - *Review of NSW Heritage Legislation*.

Introduction

The Tamworth Regional Local Environmental Plan (LEP) 2010 schedule 5 Environmental Heritage, lists over 500 Heritage items. This is considered an impressive number and is projected to grow with the finalisation of the LEP review that is currently underway.

Our State listed items number six; each is considered to be particularly significant. Their diversity ranges from the imposing Peel River railway bridge and viaduct to the magnificent King George V Memorial Avenue of English Oaks.

Council is of the opinion that any revision of the state's current heritage legislation that would offer enhanced protection and greater opportunities for activation of our valued heritage assets would be fully supported and embraced by Council.

Response to the Focus Questions

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

Skillset and qualifications aside (as these are a given), Council is of the opinion that greater regional representation within the Heritage Council would be beneficial to all involved.

Not only would this impart knowledge to the Heritage Council of the current challenges and needs facing regional NSW, it would serve to decentralise a body which could otherwise be perceived as Sydney-centric. Importantly, all members should have an understanding of the differences in average wages as well as the rate base of regional versus Sydney communities and Councils, therefore providing a far better understanding of the financial constraints that regional areas face in maintaining and enhancing heritage assets.

How should Aboriginal Cultural Heritage be acknowledged and considered within the Heritage Act

As an integral part of its LEP review, TRC is soon to commission the first study of its kind for Aboriginal cultural heritage sites within the LGA in association with the Tamworth Local Aboriginal Lands Council. The intent of the study is to incorporate (where appropriate) Aboriginal sites within the LEP's expanded schedule 5 listing.

The cultural sensitivities of Indigenous Australians will, in consultation with the local Aboriginal community, ultimately form the template for how the issues of listing and mapping of recognised or sacred sites are most appropriately resolved. This is a significant milestone in Tamworth in terms of the recognition, understanding and protection of Aboriginal Heritage which is long overdue. TRC endorses the high priority of the NSW Government to review and amend Aboriginal cultural heritage legislation such that it aligns with advice from peak Aboriginal bodies, and would welcome models and guidance for facilitating genuine consultation to ensure Aboriginal custodianship at a local level.

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

Council is not of the opinion that so broad a spectrum as the “contemporary NSW community” can be easily categorised. The expectations of a rural-based community, such as the Tamworth region, would differ in many aspects from that of metropolitan Sydney. Any changes to the Act should take that into consideration.

However, it is considered that appreciation and concern for the preservation and sympathetic re-use of heritage assets has significantly grown throughout Australian communities. Therefore it is not unreasonable to say that the “contemporary NSW community” does support heritage conservation, including Aboriginal cultural heritage.

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

In terms of development, particularly with regard to project management, heritage is considered a risk factor. Greater promotion of the positive ‘externalities’ associated with heritage ownership, activation and adaptive reuse may be the key. Were this to be backed with financial incentives, the perception of heritage as a burden could well turn to one of heritage as a treasured asset.

Increasing the potential funding available through grant programs, both in terms of the number of programs as well as the maximum amount that can be applied for, would encourage potential purchasers.

Specific legislated Development Application fees could be applied to listed heritage items, i.e., a percentage fee reduction could apply to any Development Application for a listed heritage item. This would be a practical way of encouraging heritage conservation. Similarly, a percentage reduction in developer contributions, where applicable should also be considered.

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

Presently, the cost of residential Heritage ownership is primarily borne by the owner, although the benefits are shared by the community at large. For smaller, regional Councils rates relief, or even a sizeable heritage grants scheme can be a financial burden.

The State government must show leadership in establishing a system of financial ‘return’ that could be administered at the local level, where the needs and aspirations of the local community can best be gauged and assistance most efficiently distributed. Positive heritage restoration, as well as necessary maintenance works on a listed heritage item should be tax deductible.

What sort of initiatives might encourage activation and conservation of heritage through commercial and philanthropic investment?

In the future, Sydney will continue to experience a greater degree of commercial and philanthropic heritage investment than could be expected in regional Australia. To mitigate this imbalance, the State government should ‘lead by example’, i.e., by way of pursuing a policy of administrative decentralisation, with the purchase or lease of listed heritage buildings for subsequent adaptive reuse as office accommodation.

This would also serve as an example to non-government investment, while initialising the activation of NSW regional centres to the benefit of the surrounding districts.

How could tailored heritage protections enhance heritage conservation?

The 'one size fits all' model does not function efficiently with regard to the diversity of heritage sites. An individual approach, including the qualified production of streamlined Conservation Management Plans or the like, is essential.

These plans, as with all heritage documents that are often produced only as a requirement for lodging development applications (SoHI etc.), should not be endorsed or accepted where their purpose is to justify change/additions/extensions that do not acknowledge best heritage practice.

How should heritage items that are residential properties be accommodated under a proposed category scheme and at a strategic level?

In regional towns, where heritage streetscapes often survive only due to the lack of development pressures, the forward-planning and continued preservation of residential and commercial properties would best be accommodated by group listings within Heritage Conservation Areas, or designated Special Character Areas that encompass buildings, trees, signage, kerb and gutter, street furniture etc. The use of complying development to enable additions/extensions/changes of use or ancillary structures such as carports and garages should **not** be permitted.

Would greater community engagement deliver a more robust State Heritage Register, and would streamlining enhance the listing process?

Greater community engagement would not only increase community understanding and appreciation of State Heritage assets, it would deliver a greater sense of community ownership, usage and enjoyment. Certainly, the streamlining of the administrative listing process if undertaken in a considered manner and while upholding recognised standards, would be an enhancement.

A process for nominations which facilitates broader community input at the outset could capture meaningful sentiment which is subsequently investigated in detail with support to proceed from the Heritage Division. It is noted that often it is not until there is some threat to a site, that the community is galvanised to articulate the value of the place or site. There needs to be a way of bringing that type of support to the forefront before a heritage asset is threatened or inappropriately altered.

How could heritage compliance and enforcement be improved?

Improvements are urgent and necessary, particularly for regional Councils which may not have the resources to adequately pursue recurring instances of non-compliance. To this end, greater powers of enforcement, including the ability to action in real-time should be handed to the Heritage Council.


There needs to both the power and the intentionality by the state to act quickly and decisively when a heritage asset is under threat. Penalties also need to be reviewed – the penalties must provide an appropriate deterrent including prohibiting the guilty party from future redevelopment of a property in circumstances where a listed item has been unlawfully demolished or its heritage value significantly degraded.

Council cites the difficulties we are currently experiencing with regard to the mismanagement of our State listed King George V Memorial Avenue of English Oaks by external parties. As confirmed within the State Heritage Register for this item, the relatively recent reduction in the health of this unique 2km avenue of English oaks has been due to inappropriate tree lopping practices by energy companies.

These lopping practices are carried out without prior notification to Council, despite assurances in writing that the heritage avenue would only be pruned in winter to minimise the damage. This assurance is in accordance with the vegetation management plan which states in section 7.1:

"Significant, special character, protected, memorial and heritage trees may require more frequent trims to minimise impact or the consideration of alternative solutions as detailed in the section of this plan called Alternatives to Pruning.

(ref: - Essential Energy - Operational Procedure - Vegetation Management Plan CEOP8008 10th December 2012).



Heritage Council advice as to how this, and similar issues, might be resolved in the favour of enhanced heritage protection would be welcomed by TRC, as well as the opportunity to further tailor exemptions for maintenance and management relevant to unique requirements for landscape features.

How could we improve heritage tourism or help activate heritage places for tourism and how could public heritage buildings be activated to meet the needs of communities?

Tourism is of particular importance to regional NSW. A strategy that is based on the equitable and needs-based distribution of resources is the key to promoting the quality and diversity of NSW Heritage. Funding of heritage tourism so that it is viewed as equally important in enhancing economic development as is community infrastructure or events.

However, this is acknowledged as only one aspect of a much broader problem, as evidenced by the slow decline of rural communities. Greater investment by the State in the provision of local services and job creation (including the repair and refurbishment of community heritage assets for all purposes ranging from affordable housing to skills centres and incorporating energy and water-wise enhancements, i.e., the green economy) are essential, if we are to see the revitalisation of rural towns and villages, where even the smallest can surprise and delight with exceptional heritage assets.

Yours faithfully

Gina Vereker
Director, Planning and Compliance

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