

**Submission
No 290**

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Australian Institute of Architects

Date Received: 11 July 2021



Australian
Institute of
Architects

Review of the Heritage Act 1977 (NSW)

Submission to the Upper House Standing Committee on Social Issues

Submission issued 11 July 2021



Tusculum (above) was designed by John Verge and built between 1831 and 1837. In the 1980s it had fallen into disrepair and was under threat from Demolition. It was acquired by the NSW State Government in 1983 under the Heritage Act and was restored by the Royal Australian Institute of Architects whose NSW Chapter still occupies the premises today. It is an excellent example of what the NSW Heritage Act can achieve.

SUBMISSION BY

Australian Institute of Architects ABN 72 000 023 012

NSW Chapter

Level 1, 3 Manning St

Potts Point NSW 2011

+61 2 9246 4055

policy@architecture.com.au

Contact

Name: Kate Concannon, NSW State Manager

WORKING GROUP

The NSW Chapter of the Australian Institute of Architects established a working group to review the Terms of Reference and Discussion paper and formulate this response. The working group comprised of:

Hector Abrahams

Jennifer Castaldi

Matthew Devine

Robert Gasparini

Elisha Long

Peter Phillips

Dr Jennifer Preston (Chair)

Roderick Simpson

PURPOSE

- This submission is made by the Australian Institute of Architects NSW Chapter (the Institute) to provide comments to the Upper House Standing Committee on Social Issues towards its review of NSW heritage legislation.
- At the time of this submission, the Chapter President of the Institute is Laura Cockburn.
- The State Manager is Kate Concannon.

INFORMATION

The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with around 11,000 members across Australia and overseas. More than 3,000 of these are based in NSW.

The Institute exists to advance the interests of members, their professional standards and contemporary practice, and expand and advocate the value of architects and architecture to the sustainable growth of our communities, economy and culture.

The Institute actively works to maintain and improve the quality of our built environment by promoting better, responsible and environmental design.

TABLE OF CONTENTS

SUMMARY OF RECOMMENDATIONS	i
1. INTRODUCTION	1
2. RESPONSE TO THE TERMS OF REFERENCE	2
(a) The need for legislative change to deliver a heritage system that is modern, effective and reflects best practice heritage conservation, activation and celebration.	2
(b) The adequacy of the Act in meeting the needs of customers and the community and the protection of heritage.....	2
(c) How the Act could more effectively intersect with related legislation, such as heritage elements of the Environmental Planning and Assessment Act 1979 and the National Parks and Wildlife Act 1974	2
(d) The issues raised and focus questions posed in the Government's Discussion Paper:.....	3
Question 1: What should be the composition, skills and qualities of the Heritage Council of NSW? 3	
Question 2: How should Aboriginal Cultural Heritage be acknowledged and considered within the Heritage Act?.....	4
Question 3: Are the objectives of the Heritage Act still relevant?	5
Question 4: Does the Act adequately reflect the expectations of the contemporary NSW community?	6
Question 5: How can the NSW Government legislation better incentivise the ownership, activation and adaptive reuse of heritage?	6
Question 6: How can we improve incentives within the taxation system to help mitigate the cost of private heritage ownership?	7
Question 7: What sort of initiatives might encourage activation and conservation of heritage through commercial and philanthropic investment?	7
Question 8: How could tailored heritage protections enhance heritage conservation?	8
Question 9: How should heritage items that are residential properties be accommodated under a proposed category scheme?	8
Question 10: Would greater community engagement deliver a more robust State Heritage Register?	8
Question 11: Would streamlining enhance the listing process?	8
Question 12: How could we improve the current approval permit system?	8
Question 13: Are the current determination criteria for heritage permits still appropriate?	9
Question 14: How could we improve heritage consideration within land use planning systems? ...	9
Question 15: Are there opportunities to enhance consideration of heritage at the strategic level? 9	
Question 16: How could heritage compliance and enforcement be improved?	9
Question 17: How could understanding of state heritage be enhanced?	10
Question 18: How could we improve heritage tourism or help activate heritage places for tourism?	10
Question 19: How could public heritage buildings be activated to meet the needs of communities?	10
3. CONCLUDING STATEMENT.....	11

SUMMARY OF RECOMMENDATIONS

It is the view of the Australian Institute of Architects (the Institute) that delivering a heritage system that is modern, effective and reflects best practice heritage conservation, activation and celebration does not require significant legislative change but rather needs to address the support and resourcing that the administration of the Act requires.

The NSW Chapter of the Institute makes the following key recommendations:

- Ensure that members of the Heritage Council have demonstrable experience and expertise in heritage in addition to their other qualifications
- Increase resourcing and in-house expertise to enable the Heritage Office to carry out its functions as specified in the Act
- Ensure First Nation people are at the centre of heritage policy and are actively involved in determining the legislation around the protection of Aboriginal Cultural Heritage
- Retain the existing system of categories rather than implement the proposed new categories
- Update the technical guidelines and ensure they are made accessible for the use of heritage practitioners as well as community users

Engage with the community through the Heritage Council to educate them to see heritage as a challenge with a reward rather than a problem

We note also that the Institute considers that carefully managed adaptive reuse options for heritage listed items will be an important aspect of any program to purposefully and appropriately protect and advance built heritage in NSW. To this end we are currently developing a position on how this might best be achieved through legislative and policy instruments.

Once formalised, we look forward to presenting this position to Government, sharing our recommendations for changes and initiatives that will enable the realisation of our mutual objectives for protecting and valuing cultural heritage, and in particular protecting 20th century modernist buildings, which are currently at significant risk.

1. INTRODUCTION

The Australian Institute of Architects (the Institute) is the peak body for the architectural profession in Australia, representing around 11,000 members, with around 3200 members residing in NSW. The Institute works to improve our built environment by promoting quality, responsible and sustainable design. Architecture influences all aspects of the built environment and brings together the arts, environmental awareness, sciences and technology. By combining creative design with technical knowledge, architects create the physical environment in which people live, which in turn, influences quality of life. Through its members, the Institute plays a major role in shaping Australia's future.

As a distinct profession, architects can and do offer services that directly impact on public health and safety issues and quality issues affecting buildings. The Institute's Code of Conduct expects architects to 'improve standards of health and safety for the protection and welfare of all members of the community.' This is an important distinction, beyond the basics of safety, and it is not just to serve interests of the client, the developer or the financial institution, but everyone.

The Institute welcomes the opportunity to make a submission to the Upper House Standing Committee on Social Issues. The comments below relate to the following Terms of Reference:

1. That the Standing Committee on Social Issues inquire into and report on the Heritage Act 1977 (NSW) (the Act), with reference to:

- (a) the need for legislative change to deliver a heritage system that is modern, effective and reflects best practice heritage conservation, activation and celebration.
- (b) the adequacy of the Act in meeting the needs of customers and the community and the protection of heritage
- (c) how the Act could more effectively intersect with related legislation, such as heritage elements of the Environmental Planning and Assessment Act 1979 and the National Parks and Wildlife Act 1974
- (d) the issues raised and focus questions posed in the Government's Discussion Paper, in particular:
 - (i) a category approach to heritage listing to allow for more nuanced and targeted recognition and protection of the diversity of State significant heritage items
 - (ii) consideration of new supports to incentivise heritage ownership, conservation, adaptive reuse, activation and investment
 - (iii) improvements to heritage compliance and enforcement provisions
 - (iv) streamlining heritage processes
- (e) any other related matter.

2. RESPONSE TO THE TERMS OF REFERENCE

(a) The need for legislative change to deliver a heritage system that is modern, effective and reflects best practice heritage conservation, activation and celebration.

It is the view of the Institute that delivering a heritage system that is modern, effective and reflects best practice heritage conservation, activation and celebration does not require significant legislative change but rather needs to address the support and resourcing that the administration of the Act requires. The Heritage Council does not currently have the expertise or resources it needs to do its job thoroughly. Heritage NSW has become remote, difficult to access and its previous publications that have in the past been very useful are now out of date.

Cultural heritage in NSW is also at significant risk from State Significant Developments that effectively switch off the Act, overriding the provisions of the Heritage Act.

In its preamble, the Act should acknowledge – and aspire to the principles set out by – the Burra Charter and other conventions or agreements to which the NSW Government and/or Federal Government is signatory.

(b) The adequacy of the Act in meeting the needs of customers and the community and the protection of heritage

We believe the Act itself is largely adequate in being able to meet the needs of customers and the community and protect our heritage assets. There are relatively minor amendments that could improve the Act further, but we do not see the Act itself as the largest issue, rather we believe that the administration and resourcing of the Act fails to support the legislation effectively.

We agree that making heritage accessible and better understood and appreciated at the wider community level is important and should be encouraged. However as around 66% of State Heritage Listed properties in NSW are owned by the three levels of government and 54% by the State Government alone, it would seem that the largest beneficiary of any easing of protections would be the government rather than the community.

(c) How the Act could more effectively intersect with related legislation, such as heritage elements of the Environmental Planning and Assessment Act 1979 and the National Parks and Wildlife Act 1974

Aboriginal Cultural Heritage should be removed from the National Parks and Wildlife Act and either included under the Heritage Act or a specific Aboriginal Cultural Heritage Act should be developed. This should be the first priority of the Government when looking at heritage legislation in NSW.

The NSW Government should also ensure that any new legislation or amendments to existing legislation aligns with the requirements of 2021 NSCA and the work being driven by the Government Architect NSW on the Designing with Country Framework.

(d) The issues raised and focus questions posed in the Government's Discussion Paper:

Question 1: What should be the composition, skills and qualities of the Heritage Council of NSW?

Under Section 8.3 of the Heritage Act, the areas of qualifications, knowledge and skills currently required for members of the Heritage Council are:

- Archaeology
- Architecture
- The building, development and property industries
- Conservation of the environmental heritage
- Engineering
- New South Wales or Australian history
- Local government
- Moveable heritage
- Natural heritage
- Planning
- Property, planning or environmental law
- Property economics
- Rural interests
- Cultural landscapes.

We support this wide range of categories and believe that while they can all contribute to the Council, some areas of discipline are more critical than others. These are: Archaeology, Architecture, Environmental Heritage, Engineering, Moveable Heritage, Natural Heritage, Cultural landscapes. We propose that persons with qualifications and extensive practical experience in these areas are required members of the Heritage Council and the other disciplines are optional.

Under section 8 of the Act there are currently nine members of the Heritage Council, eight of which are appointed by the Minister with the ninth being the Secretary of the Department of Planning, Industry and Environment. Prior to changes in 2007 the Heritage Council had 14 members and it may be appropriate to return to this number.

Section 8.3a requires one of the appointed members to be a person who possesses qualifications, knowledge and skills relating to Aboriginal heritage. This is applauded but we would support The Act being amended so that this person is also someone who identifies as Aboriginal.

Section 8.4 requires one of the other appointed members to be a person appointed from a panel of three persons nominated by the National Trust of Australia (New South Wales). This is supported and should continue. We suggest that other members are similarly drawn from a shortlist put forward by other relevant industry organisations such as the Australian Institute of Architects, the Australian Institute of Landscape Architects, Australian ICOMOS, Engineers Australia, for example.

This section of The Act leaves the assessment of qualifications, knowledge and skills to “the opinion of the Minister”. A further improvement to this section of the Act would be for each criterion to be defined to avoid ambiguity and ensure clarity and consistency that is not dependant on an individual minister. Setting out the required qualifications, years of experience and the type of experience and skills required would be helpful. It is felt that individuals with proven, significant involvement with real projects rather than those with only administrative backgrounds would be of benefit.

There is no requirement for a member of the Heritage Council with expertise in the areas of museums, galleries, education or tourism. We feel that these are areas for which expertise on the Heritage Council would be beneficial.

Given that there are more areas of expertise that should be covered by the Heritage Council than the present limit on the number of Council members we suggest the number of Council members be increased to accommodate a wider spread of knowledge and experience. Moreover, the number of Council members with particular kinds of knowledge, expertise and experience should be a direct reflection of the nature of the matters that the Council typically deals with. For example, given that a significant proportion of these matters relate to built heritage, it is necessary for there to be more than one member of Council with acknowledged expertise and experience in built heritage.

The Director of the Heritage office is currently an observer on the Heritage Council. We believe that they should have proper recognition and a direct responsibility by being on the Heritage Council.

There are areas of expertise that we believe are necessary to the Heritage Council which are currently not covered by the Act. These include experts in the areas of museums, galleries, education or tourism, a specialist in conservation planning theory and practice, an expert in materials and building compliance, an expert in cultural education and communication and an expert in memory studies. We feel that these are areas for which expertise on the Heritage Council would be beneficial. If it cannot be accommodated on the Heritage Council due to limitations on the number of members these areas of expertise should be included on the supporting Heritage Advisory Panel and the Technical Advisory Panel which should be sufficiently resourced so that they can provide useful, timely and accurate information to the Heritage Council.

The NSW Heritage Council should be an independent public champion of heritage comprised largely of heritage experts and possessed of an independent public voice .

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

Caring for Country practices, including architecture and place-shaping, have existed on this continent since time immemorial. The Institute is committed to advancing understanding with First Nations peoples in recognition of this enduring and ongoing connection to these lands and waters.

The Institute recognises a professional commitment to engage and act meaningfully through reciprocal partnership and relationships with Aboriginal and Torres Strait Islander peoples. This is with acknowledgement and respect for Aboriginal and Torres Strait Islander Countries, Cultures and Communities, and their ways of being, knowing and doing.

The Institute is working to advance this professional commitment and a greater shared understanding through a range of initiatives being led by the First Nations Advisory Working Group and Cultural Reference Panel.

Advice from the Working Group and Panel is contributing to ongoing step changes in architectural practice and education and is supporting the enhanced understanding of cross-cultural design within architectural work environments and ethical responsibility to

Aboriginal and Torres Strait Islander Peoples in architectural practice, including in relation to heritage considerations.

This has included work leading to the inclusion of First Nations design principles in the new [2021 National Standard of Competency for Architects \(NSCA\)](#) led by the Architects Accreditation Council of Australia. Aboriginal Cultural Heritage should be acknowledged and considered within the Heritage Act in line with the requirements outlined in NSCA 2021 which describes the standard of skill, care and diligence widely accepted in Australia for a competent and professional Architect.

The deliberations around the development and inclusion of First Nations design principles in NSCA 2021 have also been supported by the work of the Government Architect NSW on the Connecting with Country Draft Framework which lays the foundations for developing connections with Country to inform the planning, design, and delivery of built environment projects in NSW, including those with heritage considerations.

The ambition of the commitment to improving health and wellbeing of Country in the Framework is to help realise three long-term strategic goals:

- reduce the impacts of natural events such as fire, drought, and flooding through sustainable land and water use practices
- value and respect Aboriginal cultural knowledge with Aboriginal people co-leading design and development of all NSW infrastructure projects
- ensure Country is cared for appropriately and sensitive sites are protected by Aboriginal people having access to their homelands to continue their cultural practices.

The Institute supports these ambitions being considered alongside how Aboriginal Cultural Heritage should be acknowledged and considered within the Heritage Act. The review of the Heritage Act must ensure it aligns with this concurrent work being led by the Office of the NSW Government Architect.

Additional comments include that Aboriginal Cultural Heritage should be recognised as part of Aboriginal living culture and spirituality. Aboriginal communities, land councils and elders need to be actively involved in determining the legislation around the protection of Aboriginal Cultural Heritage.

Aboriginal Cultural Heritage is a complex issue and may not be best administered under the Heritage Act or the National Parks and Wildlife Act. First Nations people may not view their sacred places and lands as “heritage”, or something that exists in the past, but it may be defined as more nuanced with deep spiritual and personal meanings.

Question 3: Are the objectives of the Heritage Act still relevant?

The objects as stated in the Act are as follows—

- (a) to promote an understanding of the State’s heritage,
- (b) to encourage the conservation of the State’s heritage,
- (c) to provide for the identification and registration of items of State heritage significance,
- (d) to provide for the interim protection of items of State heritage significance,

- (e) to encourage the adaptive reuse of items of State heritage significance,
- (f) to constitute the Heritage Council of New South Wales and confer on it functions relating to the State's heritage,
- (g) to assist owners with the conservation of items of State heritage significance.

Generally we believe that all these objects remain relevant and as pressure on property increases, property values rise and governments focus on infrastructure and development, they become increasingly important. Two suggested changes to these objects are as follows:

- (b) to encourage *and regulate* the conservation of the State's heritage,
- (d) to provide for the [delete 'interim'] protection of items of State heritage significance.

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

This can only be determined by detailed surveying of the wider NSW community. However, feedback from the membership of the NSW Chapter of the Australian Institute of Architects did not generally raise significant issues with the Act itself but rather the implementation of the Act through issues such as:

- The length of time taken by Heritage NSW to process approvals
- The limited number of buildings that are listed on the State Heritage Register each year
- Inadequate opportunity for discussion regarding potential developments of heritage listed properties with informed and knowledgeable personnel at Heritage NSW
- The Heritage Office needs a "front door" or voice to the public and needs to be more accessible, approachable and collaborative.

Moreover, the contemporary NSW community – whatever its expectations – and the State Government are only the temporary custodians of the heritage of the State. It is far more important to consider how the State's heritage will survive into the future for the benefit of the future NSW community.

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

There are already many incentives in place relating to heritage properties but the knowledge of them is poor and therefore they are not used as often as they could be. The Heritage Act has the ability to change planning and zoning to introduce worthy outcomes, but this possibility has rarely been used.

More direct grants, favourable loans or tax benefits could all be considered as further incentive measures. Where GST and income tax (deductibility) are concerned, the NSW Government could advocate for these concessions with the Federal Government matters. Alternatively or additionally, benefits could take the form of relief with regard to taxes, levies, duties or tariffs that are within the jurisdiction of the NSW Government responsibility, such as property transfer stamp duty, land tax, or payroll taxes for organisations who purchase and occupy a heritage listed site with their operations.

The City of Sydney's heritage floor space scheme works well and this could be expanded to other commercial business districts such as North Sydney and Parramatta where high rise development is occurring.

Sydney Living Museums' Endangered House Fund programme produced some successes and could be looked at closer as a model that could be rolled out more broadly.

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

Private ownership of State heritage items was about 21% in 2015 comprising 16% private companies and 5% private individuals therefore private ownership of state heritage listed items is relatively small. While incentives may be useful and would be welcomed, education is also needed. Private individuals or organisations looking to buy a State-listed heritage property, particularly one that is Government-owned, should be made fully aware of the heritage values of the property, any conservation management plan that applies to it, and their responsibilities under the Heritage Act – not just of its prime location or great views.

For private owners of heritage properties who genuinely respect the heritage values of their property and wish to safeguard them incentives within the taxation system could include:

- Tax deductibility of costs associated with the maintenance of heritage items including professional services fees
- Professional Services or materials to repair and maintain heritage properties being GST exempt
- Waiving land tax on heritage properties used as investments provided they are maintained and kept in good condition
- Extension of the transferable floor space measures used by the City of Sydney to other developing centres such as Parramatta.

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

There are many heritage buildings owned by State Government departments that are sitting empty, in poor repair or underutilised. At the same time there is the need for buildings to be used for affordable housing, domestic violence refuges, medical and health facilities, childcare facilities and educational facilities as well as the potential for commercial or industrial enterprises. The government should publicly list the heritage properties it has that are not being fully utilised and actively seek uses for them. They should provide favourable lease conditions and support to the lessee in understanding and maintaining the heritage asset.

This support may be the provision of Conservation Management Plans, Construction Code and Fire Safety audits and assistance with the process of completing approval applications for works required. There are already some good examples of this happening but it needs to be more widely and more actively pursued in a more transparent way that enables easy public access to information around the opportunities available. Once companies and organisations are aware that these opportunities exist with favourable leasing conditions and practical support, innovative uses are more likely to be explored.

It may be beneficial for Heritage NSW to form a think-tank comprised of heritage architecture practitioners, construction code experts and others to actively explore options for more fully utilising government owned heritage assets.

Government agencies should be exemplary owners and managers of heritage properties. They need to be properly resourced for their heritage maintenance and management role and take real responsibility for the heritage assets in their care.

The State Government could also consider petitioning the Commonwealth Government to extend deductible gift recipient status to organisations other than the National Trust that could attract donations for the conservation of cultural heritage.

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

We do not believe that tailoring heritage protections through a category system is wise or appropriate. Tailored heritage policies can and are contained in all Conservation Management Plans and these policies help to guide the protection and use of heritage properties. All heritage protection relies on identifying the significance of the particular place and its components, and directing conservation efforts accordingly.

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

We do not support the idea of the proposed category scheme. There is real concern that a categorisation system could be used to rank heritage and therefore devalue items in category 3 or 4 – exactly as local government heritage protection under Local Environmental Plans is currently considered as being devalued in comparison to State heritage listing. In addition, residential properties will not all be of the same cultural significance, so treating them as a separate category would potentially compromise the proper conservation of the most significant residential properties, including their interiors.

A proposed category scheme would also add another layer of complexity and uncertainty to heritage, at both the listing and assessment stages and is likely to increase the cost of administration of the Act. It would add further complications where a property changes from a non-residential use, such as a church, to a residential use, and uncertainty around what rules would then apply.

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

The community is currently able to nominate items to the Register. However, it is likely that wider community engagement would deliver an even more robust Heritage Register. A significant roadblock to listing seems to be the resources devoted to assessing and listing of properties onto the State Heritage Register rather than the lack of community engagement in proposing items for listing.

Question 11: Would streamlining enhance the listing process?

Rather than streamlining, which could reduce heritage protections, we would suggest more resources are put into the assessment and listing of State Heritage properties. The public expects some visible and positive outcomes from NSW Heritage, including a significant listing programme.

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

The current approval permit system could be improved by providing additional resourcing to speed up the approval process without diluting heritage protections and having experienced and knowledgeable staff available to discuss potential projects related to heritage properties so that a collaborative approach can be taken to resolving issues and developing solutions.

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

Yes, current determination criteria for heritage permits are still appropriate. The recent introduction of the 'self-assessment' of exemptions does however present potential dangers. Recent changes to self-assessment under S57(2) for Standard Exemptions has the potential to be highly problematic. Self-assessment removes the checks and balances and collaboration that formerly existed with staff at Heritage NSW. Many applications that would have been submitted as a S57(2) notification will now move to a S60 process due to the risk of self-assessment. It may therefore increase the regulatory burden rather than reduce it. It could also result in professionals being pressured to assist their clients on what might be borderline applications to self-assess.

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

Eliminating conflicts between the heritage listings of properties and the other planning controls would be a positive initial step towards improving heritage consideration within land use planning systems. It is all too common to see zoning, floor space ratio and height maps that take no account of the fact that a property is also shown as heritage listed on the heritage map. Development expectations for the property are consequently raised, laying the groundwork for future conflict with the authorities. The level of development appropriate to a State heritage listed property should be determined primarily by the significance of the property and its curtilage and setting.

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

Yes. A strategy for continuing education for both heritage specialists and the wider community should be developed. This could include lectures, forums and online presentations as well as updating heritage publications. Working these in with various professional continuing professional education programs would also be of benefit. It is noted that there has been a reduction in the education programs offered by Heritage NSW in recent years, particularly practical conservation topics which are of the great assistance to owners and their advisors.

A strategy should also be developed for the enlivening of underutilised heritage assets in government hands. It may be beneficial for Heritage NSW to form a think-tank comprised of heritage architecture practitioners, construction code experts and others to actively explore options for more fully utilising government owned heritage assets. Refer to question 7 above.

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

Through both education and notification of the use of Standard Exemptions heritage compliance and enforcement stand to be improved.

The Heritage Council has published some excellent resources in the past but these are now largely out of date. Heritage NSW needs to review and update the publications on a regular basis and we suggest also hold training sessions and forums to explore heritage issues and update those working in this area.

In addition, it is essential to amend the current regulations for Standard Exemptions under S57(2) so that Heritage NSW is required to be notified of every instance of the use of a Standard Exemption process that does not relate solely to routine maintenance (such as cutting the grass). Under the present system, where notification is not required for any of the Standard Exemptions, there is no possibility for Heritage NSW to audit individual cases or assess whether the new procedures are having an adverse impact on the State's heritage, as there is no way for the authorities to find out who has done what.

Question 17: How could understanding of state heritage be enhanced?

A strategy for continuing education for both heritage specialists and the wider community needs to be developed. This could include lectures, forums and online presentations as well as updating heritage publications. Working these in with various continuing professional education programs, eg those offering credit towards maintaining professional registration, would also be of benefit.

Question 18: How could we improve heritage tourism or help activate heritage places for tourism?

We recommend undertaking detailed research on heritage places in NSW that are seen as successful to understand on what basis (artistic, educational, entertainment, financial) they are successful and what potential they have to be more successful? Once these lessons have been learned they can be applied to other underutilised heritage places.

It should be noted that tourism trends are often very short lived. Great care should be exercised in assessing the 'fit' to the heritage place.

Question 19: How could public heritage buildings be activated to meet the needs of communities?

We recommend (1) identifying underutilised heritage buildings in particular need of activation, then canvassing the local community and local council to determine the needs of the community, then (2) comparing the list of available heritage assets in the area with the list of community needs to see where matches can be made.

The place of public heritage buildings in our community life is profound and extends beyond simple financial concerns. The best ways to activate public heritage buildings is to keep them providing wherever possible either the service they were intended for or a related function. This would mitigate the diminishment of community suffered where buildings of public benefit and amenity such as historic post offices are lost.

3. CONCLUDING STATEMENT

The Institute appreciates this opportunity to contribute to the Government's review of NSW heritage legislation and we thank Heritage NSW for providing two briefings for Institute representatives.

We fully support the Government's state intention to ensure NSW delivers a heritage system that is modern, effective and reflects best practice heritage conservation, activation and celebration.

It is the view of the Institute that meeting this objective does not require significant legislative change but rather needs to address the support and resourcing that the administration of the Act requires.

The Institute also considers that carefully managed adaptive reuse options for heritage listed items will be an important aspect of any program to purposefully and appropriately protect and advance built heritage in NSW. To this end we are currently developing a position on how this might best be achieved through legislative and policy instruments and, once formalised, we look forward to sharing our recommendations with Government.

We look forward to further opportunities for consultation on this critical matter of ensuring the judicious protection of our cultural heritage, and we take this opportunity to offer the Government the assistance of the Institute, backed by the expertise of its member volunteers, in any capacity that would be of benefit to the protection and advancement of our rich cultural heritage.