

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Organisation: Moree Plains Shire Council

Date Received: 25 June 2021

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Standing Committee on Social Issues
NSW Government

Dear Sir/Madam,

Review of NSW Heritage Legislation 2021

Thank you for the opportunity to consider the proposed amendments to NSW heritage legislation.

Moree Plains Shire Council makes the following comments on the Discussion Paper.

Discussion Paper Topic 2. The purpose of the Heritage Act 1977

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

Question 2 How should Aboriginal Cultural Heritage be acknowledged / considered in Heritage Act?

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

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

The objectives underpinning the Act and the protections it offers remain relevant; In particular

- (a) to promote an understanding of the State's heritage,
- (b) to encourage the conservation of the State's heritage,
- (g) to assist owners with the conservation of items of State heritage significance.

While the heritage act and its regulations may benefit from small updates and amendments, its objectives remain appropriate and relevant.

It is the management and resourcing of the Heritage Act that needs refinement and to be more supportive of heritage places regardless of a government hierarchy and be understood as the 'State's heritage' being comprehensive of places including those within local government.

The integration of Aboriginal heritage places remains to be clarified, as it was understood the State Government is in the process of drafting a separate Act. Whilst Council has undertaken an Aboriginal Heritage Study, there remain matters to be resolved to protect this group of heritage places, such as arising from cultural sensitivities and mapping lot and DPs.

All other cultural places are also in inherent conflict with the EP&A Act, and its regulations that over-ride heritage assessments and management by local government.

Increased support for protecting all the state's heritage regardless of a hierarchy is needed. Being the repository of expertise in heritage, the Heritage Council via the Heritage Branch is encouraged to have a more proactive role with local government.

Discussion Paper Topic 3. Activating heritage

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

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

Council has always supported adaptive re-use of buildings. The Standard LEP template already

enables consideration of non-permissible uses for an item and adaptive reuse, such as deconsecrated former churches to houses or child care centres.

In regional NSW the notion of floor space transfer has little meaning.

The Paper infers a potential to devolve responsibilities for State's items onto local government. A Council's only resource is its Heritage Advisor who is retained on the basis of 6 visits per year and a small 2-to-1 dollar heritage advisor grant. This does not cover the investment required to update existing inventories or undertaken periodic reviews of heritage places throughout the Shire. The local Heritage Advisor service is highly valued by staff and the wider community, more so as there is no longer such expertise available from the Heritage Branch.

Changes to how a council rates a property is a concern. Rural councils are by their very nature based on rural pursuits which incur different rating models to urban local government areas.

Council owns several listed properties in the main streets of its towns and villages. Examples are the adaptive reuse of a former hotel into a community centre, and the local museum in the former shire premises. At issue is the withdrawal of key services, such as banks, from key landmark buildings. Support is needed to find new uses for historic buildings in main streets and to encourage absentee land lords to maintain premises. In regional NSW property values fail to attract that sort of investment. The issue is not 'activation' and adaptive reuse of its historic building stock but the incentives.

Owners of heritage places seek and value advice. The small local grants scheme is a small incentive but the money available is too small to assist larger projects, more so one that will have majority impact in the Main Streets. Increasing tourism is becoming vital to sustainability of local businesses, and for local employment, but this is predicated on the historic settings of our towns and villages.

Discussion Paper Topic 4. Heritage identification and listing: categories

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

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

The community understands the distinction between the three tiers of government. The proposal to downgrade 'local' lists would be detrimental. The 'local' should not be lowered or demeaned in esteem, recognition or management.

In regional NSW a council area may have a few state items, however the bulk are owned by State agencies. The maintenance and upkeep of a State agency place is a concern as these are key anchors in historic towns and part of local tourism strategies. The 'nuance' sought is more about maintenance of places on the State Heritage Register.

Places on a schedule 5 of a LEP are managed under the EP&A Act and its associated standard template heritage clauses. However, there has been minimal financial means to review and update schedules.

Many heritage places are held in high esteem by the local community. Some may rarely have an economic use. Such places should not be limited in their recognition under the Acts.

For regional towns and villages, it is the collective of historic buildings and streetscapes that is important and valued by communities and attract visitors. More resources are needed to conserve these places.

Categories

- The process of IDENTIFYING and LISTING cultural heritage places should be separate from the process of MANAGING CHANGE at cultural heritage places.

It should NOT INTRODUCE further categories of places.

- The Heritage Act does not prevent sympathetic re-use of heritage

Discussion Paper Topic 5: Streamlining heritage processes

Heritage listings and amending existing listings.

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

Question 11: Would streamlining enhance the listing process?

The community is already able to nominate places for consideration for the NSW State Heritage Register. The road-block appears to be within the Heritage Branch with the processing of nominations and the limited number of places that are gazetted annually.

Local government community consultation procedures have evolved considerably for a wide spectrum of matters, such as draft policies, advertising of applications and a change to a LEP, including a heritage schedule.

The Heritage Council, via the Heritage Branch should assist in the preparation of nominations for the State Heritage Register.

It already is best heritage practice to periodically review lists. The road block is having the resources, both expertise and budgets, to do so. What a community values and community knowledge, matures over time, and so list prepared in the 1990s need review, but local government is not resourced to do so.

Heritage permit process

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

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

Heritage best practice does not prevent change: it seeks to guide how that change occurs.

As a State item is also on a local LEP schedule, local consent is predicated on the decision from the Heritage Branch and it is here where delays occur. For integrate development applications (IDA) it is more a matter of adequate resourcing and timely processing of applications within the Heritage Branch.

For regional councils, as the Heritage Branch staff no longer visit sites, it often relies upon a local Heritage Advisor. Being immersed in a council area, Heritage Advisors know their clientele, understand the contexts and settings, and often undertake a pre-application consultation and guidance for State items Where possible this might be in concert with guidance about the standard exemptions (as revised in 2020).

It is vital that there is a central repository for the consent history of a place. For State items this resides within the Heritage Branch, and such a data base is beyond the abilities of a local council.

Heritage within the planning system

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

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

Support from local government is vital for adequate identification, protection and conservation of the State's heritage.

Conflicts arise with the dual controls for heritage in NSW. The overwhelming majority of heritage places in NSW are on local LEP schedules, that are governed by the EP&A Act.

Arising out of this duality are conflicts from State Environmental Planning Policies (SEPP), and sites deemed to have State 'significance' for development or infra structure (SSD and SSI).

A missing gap for State items is currently that of 'in the vicinity', context', 'setting' and the various forms of 'curtilage'. These aspects are assessable under the EP&A Act unlike the Heritage Act which is restricted to the SHR designation in isolation with its surroundings.

Compliance and enforcement

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

HC already has clauses but these have been rarely used.

A major ownership groups are absentee owners, many of whom undertake minimal to nil maintenance. This in turn has an impact on how a country town is viewed with negative effects.

Council need more ability to deal with neglect.

Discussion Paper Topic 6: Heritage promotion and engagement

Heritage listings and amending existing listings.

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

Grants to local government have tended to be on an annual basis and notified within a current financial year. What has been a mismatch with local government are funding cycles and the lack of certainty that grant programmes would persist into a minimum of a three-year cycle. Without this certainty it is exceedingly difficult to do strategic planning and develop projects over multiple fiscal years when.

Heritage tourism

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

Heritage is absolutely vital to regional NSW. Heritage images abound in local government brochures. Heritage tourism generates small business which in turn employ a range of supplementary services. In times of drought such activities are essential to the viability of many communities.

Small town sustainability, off farm incomes and tourism are intertwined.

The Forum highlighted the important role cultural heritage places have in domestic and international tourism and their contribution to a vibrant state economy.

Conclusion

This submission is focused on key issues for the Moree Plains Shire community.

It is the implementation and management of the Act which needs more support and resources of expertise and funds, rather than a need to amend the Heritage Act itself.

Several proposals raised would have a negative impact on rural and regional NSW.

Any devolution of assessment and management of the State's heritage places onto local government needs keen attention and discussion, including how such proposals would be resourced in the immediate and longer terms.

The absence of a reply to some questions or comments on inferences implied in the Paper, should not be taken as agreement to these questions and inferences.

Please contact me if you would like to discuss these matters.

Yours faithfully

Murray Amos

TEAM LEADER PLANNING