

HERITAGE ACT REVIEW



Peak Body Consultation Feedback

HeritageNSW

NEW SOUTH WALES CHAPTER

Submission date: 9 June 2022

OVERVIEW

Guided by our vision of ensuring that everyone benefits from good architecture, we represent over 13,000 members globally and are committed demonstrating the value of architecture to the public whilst strengthening our profession and the practice of architecture.

Along with our members, we are dedicated to improving our built environment and the communities we call home by promoting quality, responsible, sustainable design and advocating on behalf of the profession for the benefit of all Australians.

The Australian Institute of Architects (the Institute) and its members are dedicated to raising the quality of the built environment for people, and to the advancement of architecture. We seek to improve the enduring health and wellbeing of all Australians. The design of the built environment shapes the places where we live, work and meet.

The importance of heritage in our built environment is well established. A heritage item may be significant for aesthetic, historic, social, spiritual or technical reasons. Even where a building's heritage significance is recognised, the usefulness and long-term viability of the structure (physical and financial) remain important considerations.

The architectural profession has a responsibility to contribute to the conservation and understanding of the built environment. Creativity, allied with design skills and an appreciation of the original are required for successful conservation and adaptive re-use.



Laura Cockburn

PRESIDENT NSW CHAPTER



ABOUT THE INSTITUTE

The Australian Institute of Architects (the Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with around 13,000 members across Australia and overseas.

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.

PURPOSE

This submission is made by the Australian Institute of Architects (the Institute) to provide input on the review of the Heritage Act NSW.

At the time of this submission the NSW Chapter President is Laura Cockburn, the NSW State Manager is Joanna McAndrew and the NSW Policy and Advocacy Manager is Lisa King.

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DEFINITIONS

The use of wording which is not open to interpretation is critical, and the Institute believes definitions must be worded, where possible, using language which is consistent with the known and universally understood definitions already widely accepted. The Burra Charter, Commonwealth heritage legislation definitions, and heritage documents such as the UNESCO World Heritage Convention, *Operational Guidelines for the Implementation of the World Heritage Convention (WHC.21/01 2021)* are examples of this.

Where definitions are created, they should use concise and clear language which is not open to interpretation. The use of open language can lead to unintended outcomes, along with an increase in the number of cases which require legal intervention to determine the outcome.

Terms which must be clearly defined are:

- celebration
- recognition
- commemoration

Definitions which should be based upon universally agreed wording include:

- 'cultural landscape'
- 'intangible heritage'
- 'activation'
- 'adaptive reuse'
- 'relic'

For example: the proposed definition for 'cultural landscape' would not comprehensively capture towns such as Braidwood, or other urban and town precincts such as Catherine Hill Bay, Millers Point and Haberfield. A more robust approach would be to align with the international benchmark definition for 'cultural landscape' contained in the UNESCO World Heritage Convention, *Operational Guidelines for the Implementation of the World Heritage Convention (WHC.21/01 2021)*.

HERITAGE COUNCIL & LINKS TO PLANNING

The Institute of Architects recommends a focus group be formed in partnership with government and including other relevant member organisations and professional bodies to further resolve the following ongoing issues:

- Links to planning - ‘exempt and complying development’ – architects are often the first point of call for clients wanting to understand what they can and can’t do within the legislative framework. As a result, there are practitioners with vast experience in working with the planning system who could assist in simplifying and streamlining the connection of heritage with planning
- Heritage Council membership and terms – feedback from industry suggests there is concern that the appointments to the Heritage Council often do not include members with skillsets from some of the key vocations such as architects, archaeologists and others with particular and extensive expertise in Heritage. In addition, members appear to come and go according to political will. Set terms of engagement would assist in assuring the industry of the robustness of the process.
- Important conduits between industry and the Heritage Council appear to have been lost. These include the once key subcommittees of the Heritage Council, and the past strong relationship between the Institute of Architects and the Heritage Council. How can we work to reactivate these connections?

RECOMMENDATIONS

1. **Definitions which have existing definitions in universally accepted documents should be retained rather than new ones created**
2. **New definitions should be written with the intent that they may come under legal scrutiny and should therefore be concise, clear and robust**
3. **New descriptors such as ‘celebrate’, ‘recognise’ and ‘commemorate’ should be carefully defined in a glossary to avoid misinterpretation**
4. **An industry focus group should be established to strengthen important links between industry and the Heritage Council, provide access to those with the best skillsets for Council membership, and work together to streamline and optimise links to the planning system**

CONCLUSION

The Institute commends the policy team for the extensive work which has been undertaken on the Heritage Act Review. We are concerned that consultation with industry has been swift, and that the final draft legislation is not available for comment or review prior to being completed. It is our sincere hope legislative changes can be made which lead to greater engagement of people in their heritage, and better harmony between this legislation and other environmental legislation.

The Institute is nevertheless grateful for the opportunity to provide some input into the draft Heritage Act. We look forward to continued consultation as this work evolves and we offer the Institute's support in assisting the policy team to achieve a high quality, legislative framework for delivering well-considered heritage outcomes for all in NSW.