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NSW Heritage Act Review 2021

Submission to the NSW Legislative Council's
Standing Committee on Social Issues

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Introduction

Engineers Australia welcomes the opportunity to provide a submission to the NSW Legislative Council's Standing Committee on Social Issues review of the NSW Heritage Act 1977 (the Act). Engineers Australia is generally satisfied with the current heritage legislation in NSW and has provided comment on areas where improvement could be made, particularly around engineering and industrial heritage.

The Act is to be commended for its use of the more inclusive term “item” as it is more embracing and informative (in it, *item* means a place, building, work, relic, moveable object or precinct.) whereas Commonwealth and other State heritage documents use the more limited term “site” or “place”. Any new Act or revisions should continue to use the term “item”.

About Engineers Australia

Engineers Australia is the peak association for the engineering profession in Australia, with more than 100,000 members. Established in 1919 and constituted by Royal Charter, our mission is to advance the science and practice of engineering for the benefit of the community.

Through Engineering Heritage Australia, a member-led group within Engineers Australia, we equip engineers with heritage conservation skills through continuing education. We also work with other heritage and cultural organisations to promote the value of all types of heritage and the continuing role of engineers in preserving all forms of technology, technological knowledge and constructed heritage artefacts.

Contact details

Engineers Australia would appreciate the opportunity to continue to be involved in the process to prepare the new Heritage Act in NSW. If you wish to discuss the issues raised in this submission further, please contact Michael Bell, Policy Advisor, via email mbell@engineersaustralia.org.au.

1. General Comments

One of the major concerns with the current legislation and its implementation is it delivers an unbalanced view of NSW heritage. Of the 1,740 items listed on the State Heritage Register on 1 January 2021, only 27 are items of movable heritage. While engineering and industrial heritage immovable items are reasonably well represented, there is an imbalance, being the items are mainly bridges, dams, sewerage and defence sites.

The overwhelming majority of technological, and in particular movable, heritage is held by private individuals or community organisations. Those in the industry estimate it exceeds 100,000 people, contribute \$700m each year to the state's economy and are 99% self-funded. It is a highly efficient way to conserve NSW's cultural heritage and small incentives will achieve dramatic benefits.

The terminology, diagrams and examples all refer to buildings and landscapes. Engineers Australia considers the terminology to be important, and the new Act must be inclusive and cover movable and intangible heritage. In addition, the Maintenance and Repair provisions in the Act do not apply to movable heritage items. It is recommended that this should be extended to do so as wilful damage and neglect can equally diminish the significance of these items. The consequences for non-compliance should also apply to movable items.

The three "Guiding themes" mentioned in the discussion paper are supported in principle, however, the statement "Putting heritage to work" could be interpreted that only money-making heritage will be conserved. The wording should be amended to avoid such an interpretation.

Engineers Australia is concerned that privatised former public organisations (for example, railways) no longer have any obligation to retain archival records or significant items (s170 lists). It is important that privatised organisations be encouraged to transfer significant items to heritage organisations where they can be conserved.

Engineers Australia encourages the NSW Government to recognise and promote the many facets of heritage including movable and immovable, and tangible and intangible. Intangible heritage is not yet well understood or defined, and it is recommended the revised Act include reference to intangible heritage and encourage continuing development of the concept.

2. Focus Questions

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

The range of qualifications, knowledge and skills defined in the current Act are acceptable. Appointments to the council must reflect the diversity of the heritage community and heritage items. A balanced council consisting of members with diverse ideas and reflecting the needs of the community-based heritage sector which has direct contact with the wider community would make it more effective.

Engineers Australia recommends a skills matrix be conducted of council members and further appointments be used to address any gaps such as a lack of technical expertise. Engineers Australia believes the appointment of more technical professionals such as engineers would add balance and diversity to the Council.

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

The principles and processes of the Act must apply to all forms of heritage.

Historically, the application of the Act has resulted in a focus on pre-1900 buildings and places and the relative neglect of aboriginal and movable heritage. If the Act is inclusive, resources can be directed to ensure a balanced view of heritage is achieved.

Engineers Australia recognises the importance of aboriginal cultural heritage and that more items need to be recognised and protected. Engineers Australia has applied its existing Engineering Heritage Recognition process to recognise aboriginal heritage (for example, the Budj Bim fish traps in Western Victoria as the oldest remaining civil engineering structure on earth).

2.3 Are the objectives of the Heritage Act still relevant?

Yes, Engineers Australia considers the objectives of the Heritage Act are still relevant. These objectives must be properly recognised, and resources put in place to achieve them.

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

In principle, yes. There has been an imbalance of attention and resources given to buildings and structures. Indigenous and movable heritage has largely been overlooked. Humble or “mundane” heritage, with which most Australians are familiar in their everyday lives is also overlooked in favour of iconic or biggest, first, grandest, etc. heritage items. Pre-1900 items form the majority of items listed. This is more a reflection of the application of significance criteria and can be addressed through education of heritage practitioners.

There is an increasing awareness of the importance of intangible heritage which needs further debate and attention. The ability to over-ride the Act without adequate consideration is unacceptable. This only serves to reinforce the perception that heritage is not important. The recent outcry over the demolition of Willow Grove at Parramatta demonstrates the level of public concern.

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

It should provide a range of incentives for restoration to be employed, depending on the circumstances for the maintenance and public display of heritage items. The options listed are appropriate. Any such legislative support must be extended to include movable heritage.

As the majority of New South Wales's movable cultural heritage is cared for by individuals or not-for-profit community organisations and museums, Engineers Australia proposes a scheme similar to the NSW Biodiversity Conservation Trust program whereby individuals and community organisations can be granted financial incentives to restore and maintain significant heritage items. These grants would be available only for items of significant cultural heritage and subject to meeting defined standards for maintenance and public display. This is considered a cost-effective way of conserving the state's movable cultural heritage given relatively small grants will have a large impact.

Community organisations often lack business, marketing and conservation skills. The provision of support in these areas would increase the quality of service provided and a corresponding social and economic return for the community (for example, Museum of Applied Arts and Science (MAAS) retaining expertise and supporting smaller organisations).

The operating heritage sector has the additional challenge of adapting 19th and 20th century technology to meet 21st century legislation and regulation which is often unsuitable and unnecessary for heritage objects and imposes prohibitive restrictions. Incentives which would assist this sector are:

- Other government agencies working with heritage custodians to develop suitable solutions to achieve regulated objectives. Often 21st century regulatory standards are imposed on heritage operators without considering alternative solutions which would achieve the same result (safety, pollution control, etc.). Engineers Australia can assist to achieve this.
- Access to reasonable insurance premiums. Insurance is often the greatest expense for small organisations and severely limits their ability to deliver services.
- Access to specialist expertise (intangible heritage) associated with heritage technologies.
- Access to professional business management and marketing advice. In Perth, the WA government has established a site for community organisations to operate as "tenants" within a controlled environment providing access to shared facilities, promotion, standards of operation and insurance coverage.

Efforts can also be made to educate private owners of heritage items to understand their responsibility as custodians, not merely owners, of Australia's cultural heritage.

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

The historic vehicle registration scheme has been very successful in reducing the cost burden on owners and activating heritage motor vehicles. Similar schemes should be examined in consultation with the custodians (private and small community museums and clubs) which care for the majority of NSW engineering and industrial heritage. These, often regional, organisations are not represented by larger collecting organisations such as galleries, libraries, archives and museums, as their needs are different.

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

Broadening the scope of what is considered “heritage”, so it is recognised as being more than institutional museums and old buildings. All types of heritage items must be recognised for their significance, as should museums and specialist organisations for the stories they tell, the community involvement they foster and not just be portrayed as repositories of interesting artifacts. Acknowledging this broader scope of heritage will attract a more diverse range of visitors and donors.

The case studies shown are viable; the concepts should be adopted and should apply equally to movable heritage.

2.8 How could tailored heritage protections enhance heritage conservation?

Engineers Australia supports the introduction of a separate category to allow World and National Heritage Listed items to be more appropriately managed within NSW. Further, the objective of allowing for tailored solutions for complex heritage items is supported.

Engineers Australia does not support the introduction of a separate category for landscapes:

- Landscapes are already identified under the term “item.”
- It is unclear how this category fits within the current overall, hierarchical, heritage structure or its impact on significance criteria, heritage lists and other categories.
- It is inconsistent with other states.
- Alternative mechanisms can be employed to achieve similar results. For example, comprehensive Conservation Management Plans or, in certain circumstances, separate legislation (for example, Commonwealth Cockatoo Island Management Plan).
- If the intention is to create separate categories for different types of items, a similar case could be made for a separate category for moveable technological heritage maintained in operating condition due to the legal and regulatory complexities involved.

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

Residential properties should be assessed for significance using the same process as other types of heritage. Incentives for conservation may need to be offered to private owners (Question 5 above).

2.10 Would greater community engagement deliver a more robust State Heritage Register?

Community engagement is essential. The Reform Proposal, if comprising a relatively short preliminary nomination (say up to three or four pages), stating briefly what the heritage values are deemed to be and why the item is considered significant, should avoid a lot of work being expended on making a nomination that may ultimately fail, and should encourage nominations.

Key partner organisations could be engaged to conduct preliminary assessments and “triage” nominations. For example, Engineers Australia has offered to conduct initial assessments of nominations of technological and industrial items and to suggest items to fill “gaps” in the Register.

It is important a rigorous and transparent process is followed, to:

- ensure small, vocal and partisan groups do not monopolise the process.
- ensure a comprehensive and feasible plan for long-term management is provided.

Wider engagement should ensure a better balance of listed items (for example, indigenous and movable).

2.11 Would streamlining enhance the listing process?

The proposal for periodical review and amendment of the state heritage register listings is supported in principle with appropriate controls in place to ensure fashions and fads do not result in continual turnover of heritage items.

It is also important because Engineers Australia members have reported they have identified current items where the information is incorrect, deficient or descriptions do not accord with the appropriate professional terminology.

Similarly, to our response to Question 10, partner organisations like Engineers Australia could assist by reviewing items on the Register referred to it.

2.12 How could we improve the current approval permit system?

Engineers Australia is concerned that decisions related to exemptions be taken primarily having regard to heritage considerations, and not political ones. Accordingly, it recommends the Reform Proposal be amended to read: 'The Minister responsible for heritage could be responsible for determining, upon the recommendation of the Heritage Council ...'

2.13 Are the current determination criteria for heritage permits still appropriate?

Currently, approvals take an unacceptable amount of time to consider options and make determinations. This can lead to potential further fabric deterioration. More involvement of properly accredited professionals early in the process is required.

2.14 How could we improve heritage consideration within land use planning systems?

Heritage within the planning system refers only to buildings which is appropriate.

Other types of heritage are also affected by non-heritage legislation (for example, hazardous work permits for operating movable heritage) at state and Commonwealth levels. Benefits can be achieved by considering the inter-relationships between different pieces of legislation and regulations for all types of heritage.

2.15 Are there opportunities to enhance consideration of heritage at the strategic level?

Commonwealth, state and local government heritage agencies must deliver consistent messages, adopt consistent values and processes and educate heritage professionals about movable and immovable, tangible and intangible heritage and recognise the different management approaches for each.

Operating heritage items are impacted by multiple legislation and regulations which needs must be considered.

2.16 How could heritage compliance and enforcement be improved?

The principle of establishing intermediate options is supported. To restore public confidence the consequences of non-compliance must be proportionate to the offence and sufficient enforcement must be undertaken.

One issue identified at present is the lack of a system and resources to follow up and ensure that conditions applying to approvals are complied with.

2.17 How could understanding of state heritage be enhanced?

Engineers Australia recommends the Government lead by example, starting with acknowledging all forms of heritage. This includes in legislation, registers, institutions, heritage office expertise, grants, etc.

Engineers Australia members advise that heritage has increasingly become centralised within a small number of institutions and organisations covering a small range of items (mainly buildings). It is important to provide increased support for community heritage organisations which often have greater community contact at “grass root” level.

In addition, better use should be made of Heritage Week by the Heritage Office making itself visible, with it and practitioners becoming actively involved in conducting talks and forums and demonstrating heritage conservation in practice.

2.18 How could we improve heritage tourism or help activate heritage places for tourism?

It is estimated community-based technological heritage organisations attract 1 million visits each year in NSW with almost no promotion or institutional support. Combining the expertise of government agencies with the enthusiasm and attractions of community heritage organisations (for example, promotion, customer service and event management) will achieve significant additional social and economic benefits.

A number of websites presently promote heritage tourism, including visitnsw.com but they tend to be parochial. There needs to be a comprehensive website that identifies all heritage sites in NSW, and which includes cultural places like museums and galleries and festivals and events, with information being easily accessible. This would aid as a ‘trip planner’ for travellers. Examples involving technological (mainly movable) heritage are:

- The Sydney Transport Heritage Festival (while visitor numbers were not counted, 10,000 train ride tickets were sold in 2019);
- Wings over the Illawarra conducted by the Historic Aircraft Restoration Society (brings over 40,000 people to the Illawarra);
- Chryslers on the Murray (dedicated to Chrysler produced vehicles, is the second largest event in Albury each year);
- Country agricultural shows include displays of heritage farming techniques and historic car clubs regularly visit historic properties throughout the state supporting local charities and businesses.

2.19 How could public heritage buildings be activated to meet the needs of communities?

Engineers Australia recommends looking at established models already activating heritage items. The Sydney Transport Heritage Festival is an example of what can be achieved when heritage buildings are brought to life with operating heritage items such as trains, buses and boats.



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