

THE NATIONAL TRUST OF AUSTRALIA (NEW SOUTH WALES) POLICY ON THE NEW SOUTH WALES PLANNING SYSTEM (HERITAGE ISSUES)

PREAMBLE

Since the proposed introduction of planning legislation in 1979 (the Environmental Planning & Assessment Act) the National Trust has consistently lobbied for improvements for heritage protection in the planning system. Almost all heritage is dealt with by local government, not under NSW Heritage legislation.

In March, 2012 the National Trust made a submission to the NSW Planning System Review Issues Paper (the Green Paper) arguing that there was a major imbalance in the planning system favouring development over reasonable expectations that heritage would be protected. The NSW planning system failed to provide proper heritage protection for both listed heritage places and places of heritage significance that hadn't yet been formally identified. There would be many places/items of heritage significance which are not presently included on heritage lists. No heritage list is definitive. The Trust also noted that NSW planning and environmental legislation should protect environmental assets including heritage places, not only to provide for new development, but because heritage places are a non-renewable resource supporting jobs and investment through heritage trades and tourism, as well as enriching our environment and contributing to our culture and sense of place.

In a June 2013 submission on the NSW Government's Planning White Paper and Exposure Planning Bill and in representations to the State Government, the Trust stressed the need for a NSW Planning Policy for Heritage, expressed concern at the removal of third party appeal rights, the lack of protection for Conservation Areas and the absence of initiatives for improving heritage protection.

The National Trust has argued that only merit assessment (not code assessment) should be allowed for development applications affecting heritage listed items and Heritage Conservation Areas. In a December 2013 submission to the Planning Assessment Commission, the Trust expressed its concerns at modifications that are made to development consents if a development is State Significant Development. Developers use a modification procedure to put substantial modifications, where less rigorous assessment and less rigorous exhibition requirements apply. Effectively submitting entirely new development applications, these modifications effectively subvert the exhibition and assessment process in the planning legislation.

POLICY

1. The National Trust will argue for provisions in the planning system to better protect places of recognised heritage significance and for the adequate staffing of the Department of Planning with heritage professionals.
2. The National Trust will strongly oppose the use of Code Assessment for developments affecting places of recognised heritage significance.
3. As with the federal Environmental Protection and Biodiversity Conservation Act the Trust will argue that the NSW Planning System should provide for the protection and conservation of heritage (A NSW Heritage Policy), and should enshrine the principles of ecologically sustainable development and inter-generational equity and the precautionary principle.
4. The National Trust believes that "sustainable development goals" should be based upon the three equal pillars of 1) environmental protection; 2) social development; and 3) economic development and that the economic pillar must not be treated as paramount, to the detriment of social equity and the safeguarding of our natural world for future generations.
5. The National Trust, noting that developers seek certainty in the planning process, calls for "confidence" for both the community and developers through ensuring that planning and development decisions are transparent and not unfairly, unduly or illegally influenced.
6. Though difficult to assess, the Trust will continue to recognise social significance, and encourage all levels of government to do so as well. While there will be inevitable changes

and heritage places will be adapted for new uses and needs, the Trust will strongly oppose forced evictions of communities which impact on social heritage significance values.

7. The Trust will continue to argue that State Significant Development must not switch off Heritage & Environment Protection Legislation nor allow major new developments to be dealt with as modifications to an existing approval.

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