Urban Taskforce
AUSTRALIA

11 July 2025

Draft NSW Heritage Strategy
Department of Climate Change, Energy, the Environment and Water
Locked Bag 5022
PARRAMATTA NSW 2124

Dear Sir/Madam

Draft NSW Heritage Strategy

Thank you for the opportunity to make a submission on this draft report.

From the outset, it should be noted that Urban Taskforce Australia (the Urban Taskforce) supports the protection of items of genuine heritage significance.

Our concerns centre around our assertion that heritage has been weaponised by groups of well organised activists (and in some cases, local government) to effectively frustrate or oppose development that they don't like.

This anti-development agenda has nothing to do with heritage conservation. We characterise this as a mis-use of heritage laws that has contributed to a crisis in housing supply and the unsustainable blow-out in housing prices.

In the midst of a severe and on-going housing supply crisis, the NSW Government needs to ensure that its policies and programs are centred on facilitating housing supply.

To that end, the recommendations made in the Urban Taskforce submission to the Heritage Act Review, undertaken by the Social Issues Committee of the NSW Parliament in 2021, are even more relevant today (see attachment 1 for Urban Taskforce recommendations). Since that time, the housing supply and affordability crisis has worsened.

The severity of the housing crisis is fully acknowledged by the NSW Premier, Chris Minns, who, among many other initiatives, has committed to a bipartisan review of the Environmental *Planning and Assessment Act 1979*.

The aim is to remove unnecessary and outdated red tape embedded within the *EP&A Act 1979* in the interest of housing supply and affordability. The same approach should be applied to the Heritage Act.

We have concern about the thrust of the document resulting in the expansion of the definitions around heritage without any assessment of how

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such an expansion could impact on housing, employment and the economic development of the State.

The draft Strategy needs to reduce its scope and focus on aspects of the heritage legislative framework that are negatively impacting the socio-economic fabric of the State.

1. **Bringing Heritage into a single line of decision-making responsibility and accountability**

The current legislative and regulatory framework is confusing, duplicative and unaccountable. State listed Heritage items come under the umbrella of Heritage NSW, the NSW Heritage Council and the *Heritage Act 1977*.

Indigenous heritage is the province of the *National Parks and Wildlife Act1974*.

Local Heritage falls to local Councils and is governed by the *EP&A Act 1979*.

At present, Heritage NSW has no formal say on Councils listing items, sites, spaces or even suburbs as Local Heritage items or Heritage Conservation Areas.

There is an urgent need to streamline the operation of the Acts. The imperative must be to establishing a single line of authority, decision making and appeal process. The same drive and vigour that is being applied to planning reform must simultaneously be applied to the heritage space.

Heritage NSW must have an oversight of all local Council heritage listings. Objections to local heritage listings should not need to be taken all the way to the Land and Environment Court for a merit-based assessment, on every occasion where a heritage listing is used frivolously to scupper a development.

Recommendation 1: The Heritage Strategy needs to be bolder in its scope. The Strategy must drive an alignment or rationalisation of all areas responsible for Heritage listings and the associated protections or treatment.

2. **Impact of regulation on housing supply**

Since 2021, the NSW Productivity and Equality Commission has produced a series of reports that seek to break down and assess factors that have limited housing supply in NSW.

One area that was specifically identified as a problem was the blanket use of Heritage Conservation Areas. The Productivity Commission expressed concern

over the broad application of heritage listings and expressed particular concern over Heritage Conservation Areas.

Table 3: Stakeholders reported many planning-related feasibility blockers

Category	Planning-related issues that impact feasibility	Scale of impact
Land use planning	Limited sites zoned for medium- and high-density in highly feasible inner-ring areas near Sydney CBD	
	The stringency of land use controls like Floor Space Ratios, height limits, minimum setbacks, deep soil zones, building sustainability requirements, private and communal open space requirements	
	Blanket Heritage Conservation Areas	
	Mixed-use requirements that require residential developments to include commercial space where there is minimal demand	
	Mandatory inclusionary zoning	
	Community and council opposition to new housing	
	Coordination of land use planning with major infrastructure planning	
	Protracted process related to referrals and concurrences	

NSW Productivity and Equity Commission, August 2024 p.41

It is disappointing that the draft Heritage Strategy does not explicitly address this concern. The research of the NSW Productivity and Equality Commission on the impact of heritage regulation of housing supply.

Urban Taskforce believes that the Heritage Strategy should explicitly address this critical concern with proposals to limit or remove the negative impacts that heritage conservation areas (and heritage listings more generally) have on housing supply, housing choice and affordability in many parts of Greater Sydney and beyond.

As the recent US publication "Abundance[1]' notes, a series of well-intended regulations has had a significant impact on the community, particularly those on the lower socio-economic spectrum.

The Draft Heritage Strategy needs to note the negative impacts of this on the broader community.

Unfortunately, it is the view of the Urban Taskforce that the review started with the wrong premise in terms of the 3 questions asked on page 8 of the NSW Heritage Strategy: "Why is heritage important to you?" This is a meaningless question without context and relativity.

[1] Klein, Ezra, and Derek Thompson. Abundance: How We Build a Better Future. Avid Reader Press/Simon & Schuster, 2025

Urban Taskforce members accept that items which have genuine and significant heritage value should be protected. However, the reality of the administration of the heritage system, particularly at the local level, is rife with very serious problems to the detriment of the broader society.

The starting question for any sensible discussion should be: *What heritage items or places should be celebrated, commemorated or protected, and how?*"

That question raises some important issues including:

a. How significant should an item be before it is considered for a heritage listing at either the state or local level?

b. Should we limit the protections to actual heritage items or also items that are contributory or ancillary?

c. Is it sensible (or reasonable) to give powers to local Government to declare large areas of Sydney as "heritage conservation areas" and effectively sterilise them from future development potential and the supply of sorely needed new housing?

Without explicitly considering these questions, it is not possible to consider the counter factual. No-one will object to the preservation of "heritage" until the consequences of that act are realised.

Recommendation 2: The NSW Productivity and Equity Commission's concern about the impact of locally listed Heritage Conservation Areas on Housing Supply should be explicitly considered by this Strategy with recommendations for legislative or regulatory reform to prevent such listings. Existing HCA should be independently audited by Heritage NSW with a view to removing those listings where not justified under Heritage guidelines.

Recommendation 3: The Heritage Strategy should begin with explicit consideration the points raised above (a-c) and place the Strategy into the context of the housing supply and affordability crisis. All constraints on housing supply, and the costs associated with this crisis, must be considered. Establishing clear and transparent guidelines for heritage listings, with a single line of accountability for assessment, decision making and appeal, is critical.

Heritage must be proactive, not reactive

As we called for in our 2021 submission, heritage consideration should not be re-active – that is – it should not be allowed to respond to a development proposal. Either it is a genuine heritage item or site worthy of protection, in which case, list it, or it is not.

Heritage listings should be subject to a public debate and concluded within a published timeframe. They should be reviewed periodically, but no items should be allowed to be listed in between those reviews.

Consistent with other recent reforms to the land-use planning system in NSW and beyond, Urban Taskforce believes that heritage considerations be proactive and only undertaken at the strategic planning stage.

While much of the local HCA were undertaken in the 1980's and 1990's (largely without the fulsome understanding of those whose homes and businesses were now impacted), local heritage listing continues - with the City of Sydney adding 47 sites in five years and Inner West adding 23. Each listing removes potential housing land in well located areas from circulation.

Urban Taskforce is concerned that heritage significance is all too often invoked, not on grounds of genuine merit, but as a tool to oppose or delay new development.

Some community groups and councils use heritage laws tactically to "compromise new development," rather than to protect items of true historical or architectural value.

Urban Taskforce noted the public comments made by a Woollahra Councillor in 2023,

> ***"… We are in this municipality suffering from overdevelopment and our last line of defence is heritage protection. Double Bay is particularly vulnerable … "We're down to the time where this is our very important control to try and maintain the village atmosphere and everything that we're trying to do…"***
>
> **Quoted in SMH, March 29, 2023**

This is what we are referring to when we call out the weaponisation of heritage that needs to be removed as a means of thwarting clear, transparent planning processes in NSW.

The current provisions in the Act that allow for the issuing of Interim Heritage Orders on the basis of State and/or local significance should be removed.

Though this practice eased in recent times, current interim heritage order provisions are predominantly used by anti-development, activist interest groups (sometimes led by architects with a vested interest. These interest groups do not represent the broad community interest in stymieing what is otherwise an appropriate development.

Answers to these questions can only be gained through a thorough assessment of what is currently included in local heritage registers.

To ensure any assessment is fair and as objective as possible, it is critical that any assessment be carried out at an arm's length distance from Councils.

Recommendation 4: Heritage should be considered at the time of rezoning or undertaken with caution and care on a periodic basis. There should be no knee-jerk heritage listings which are too often a cover for nothing more than opposition to development.

Recommendation 5 : that the Draft Heritage Strategy include the need for legislative reform, including the deletion of relevant sections of Parts 3 and 4 of the *Heritage Act 1977* that allow for the reactive request for, and issuing of, Interim Heritage Orders, as well as Objective (d) of the objects of the Act relating to the interim protection of items, also be deleted.

Lack of consistency

The lack of consistency in the listing of heritage items not only creates more risk and uncertainty in the planning system, but undermines public confidence in heritage conservation.

The tragic case of contrast between the treatment of the Ryde Civic Centre. This building was a magnificent post WW2 example of modernist International Style mid twentieth century architecture, used for over 50 years as the civic facility hosting Council meetings, citizenship ceremonies, a greeting location for international guests and a proud building atop the hill of Top Ryde, visible for miles around. An interim heritage order was momentarily applied, then lifted.

Contrast this case with the treatment of the MLC Building in North Sydney. A privately owned, far less significant building, directly next to a new Metro station. It was Heritage listed. The message to the property sector was clear. If you are a government agency, you can do what you like. If you are a private developer, we will list your building even if it is without merit. This entire episode is a disgrace. Meanwhile, the Ryde Civic Cente site is a giant hole in the ground. No civic pride there anymore.

Recommendation 6: that the Strategy seeks to establish clearer, more objective criteria for heritage listing and protection which must be applied consistently with a clear right of Court Appeal.

Increasing scope may dilutes the value of heritage

Heritage could be defined to include all aspects of society covering all periods. Of course, then you would not be protecting heritage, you would simply be protecting everything.

The discernment that needs to be made and the challenge for the NSW Government, is what should be formally "preserved' by the State and how. There is concerning trends in the draft strategy that seeks to significant expand the scope and reach of 'heritage.

Perversely, by trying to increase the scope of what is considered 'heritage' ends up devaluing all heritage to the detriment of society.

Appropriately restricting the areas and specific items that can have a heritage designation increases the value of heritage for everyone's benefit and means that scarce public resources can be better spent on subsidising or paying for the upkeep of more valuable and more important heritage for the benefit of current and future generations.

The draft Heritage Strategy document notes the listing of the Sydney Mardi Gras route as a case of reflecting the diversity of heritage, without limiting development opportunity.

This listing does not protect buildings or landscapes, but instead recognises the event and route itself. Such recognition of heritage is welcome as it does not impact housing or employment along the route.

Urban Taskforce welcomes the use of this principle. It is particularly relevant to proposed expanded definitions of heritage – possibly including landscapes or broader conceptions of what heritage is.

Recommendation 7: Great care must be applied to the scope of heritage. The listing of any new item or category must be subject to an opportunity cost analysis and take into consideration the impact on housing and employment opportunities. In economic terms, this is a cost/benefit analysis.

Paying more than lip service to adaptive re-use

Urban Taskforce members are concerned that concepts such as adaptive reuse are given lip service in NSW, particularly at the local level.

Many members own heritage items and contributory items in their portfolios and many believe the current heritage laws (and the manner in which they are administered) are a significant impediment to the orderly renewal of these properties.

To better recognise and value adaptive reuse in NSW, stakeholders must move from rhetoric to action by embedding adaptive reuse into policy, planning, and practice. This requires a holistic approach that addresses regulatory and economic barriers, while actively promoting successful models and measurable outcomes.

The Heritage Strategy must provide a tool book for reasonable merit-based assessment, which also considers the opportunity cost of protection along with alternative means of acknowledging the heritage of any site or artefact.

The planning pathway for the consideration of adaptive reuse projects should be streamlined, particularly where heritage overlays or planning controls make demolition difficult, but reuse is viable.

Authorities should be encouraged to work with developers and other owners of heritage properties to provide technical guidance and support for navigating the complex structural, regulatory, and heritage challenges inherent in adaptive reuse.

It is imperative that well located, serviced sites and properties are efficiently used. Opportunities for adaptive re-use of items of Local and State Heritage significance should be strongly encouraged and clearly facilitated by the decision-making framework.

Consistent with Recommendation 1 above, this will strengthen the alignment between the heritage and planning frameworks in NSW. This makes heritage better part of the solution to delivering housing and jobs, rather than a persistent obstacle. Adding GFA, height or density bonuses to adaptive re-use should be adopted (see Recommendation 10 below).

Paying more than lip service to adaptive reuse in NSW means making it a tangible, measurable priority in policy, planning, and development. This involves aligning incentives, removing barriers, and celebrating successful projects that deliver environmental, economic, and social value—transforming adaptive reuse from a buzzword into a mainstream, impactful practice.

Recommendation 8: The Heritage Strategy should call for the streamlining of planning approvals for adaptive reuse projects and puts in place system to measure performance.

Empowering owners of heritage items through incentives

The current system of heritage controls in NSW lacks mechanism for negotiation or flexibility agreements that could allow adaptive reuse while still respecting heritage values.

There are inadequate incentives or support for owners to maintain or adapt heritage buildings, especially when measured against the cost of the regulatory burdens imposed. If heritage conservation exists for public benefit, then there should be corresponding financial or planning incentives to offset the costs and encourage adaptive reuse.

One way of determining financial assistance would be to undertake valuations pre and post heritage listing, with the owner of the property entitled to compensation which equates to the differential in the valuation.

An alternative would be to establish a system of heritage credits that are tradeable between Council areas.

This would apply to both state and local heritage items, and may serve as a corrective to local Government's propensity to list items or conservation areas without facing any cost associated with such action. Such a reform would introduce some sorely needed rigour and cost-benefit analysis into listings, particularly at the local heritage level.

Recommendation 9: **that, consistent with the approach of the *Land Acquisition (Just Terms Compensation) Act 1991*, property valuations are undertaken pre and post heritage listing (both state and local) and property owners are accordingly compensated. Compensation should be by way of cash payment or an alternative heritage credit market.**

Further, little to no thought is currently given to providing economic incentives, such as bonus height or FSR in return for spending considerable amounts of money restoring a heritage facade.

The principles embedded in the NSW Government's Infill Affordable Housing bonus scheme (now enshrined in the Housing SEPP), which is proving successful and is incentivising developers to provide a public good "affordable housing", while in return providing the proponent with height and density bonuses.

The principle of offering planning control bonuses should be imported to the heritage space and may prove beneficial to the broader community. This is yet another case of the need for the Heritage reforms to be considered in conjunction with reforms of the EP&A Act and the NSW planning system.

Put simply, if you want to encourage certain behaviour, reward that behaviour.

Recommendation 10: that the Heritage Strategy endorses the concept of incentivising the owners of heritage items to preserve and enhance heritage by endorsing planning reforms to include *transferrable heritage floor space* incentives where heritage items have been retained and/or activated and there is a subsequent loss of yield and or additional building costs.

Conclusion

Urban Taskforce welcomes the new focus of Heritage NSW on a strategy that supports growth, not hindering it.

The widespread process of stakeholder consultation is also positive and supported. However, this submission highlights the need for these reforms to be considered *in globo* given the current context of housing supply crisis.

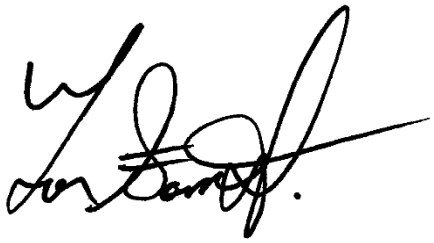
The State Government and local Councils needs to work constructively with the property development sector to confront this challenge with all agencies and Departments doing what they can to boost housing supply.

The Strategy does not explicitly address the underlining problems (weaponisation of listings, lack of incentives, no real cost-benefit analysis etc) confronting housing supply.

Before seeking to expand the scope of heritage, the Heritage Strategy should address existing issues first.

Should you wish to discuss this submission, please contact the Urban Taskforce's Head of Policy, Planning and Research, Mr Stephen Fenn, on 9238 3969 or by email stephen@urbantaskforce.com.au

Yours sincerely



Tom Forrest
Chief Executive Officer

Attachment 1 – 2021 Urban Taskforce recommendations to the Social Issues Committee Parliamentary Review of the Heritage Act 1977

	Urban Taskforce recommendations made in 2021
1.	***Urban Taskforce recommends*** **that requirements relating to the composition of the Heritage Council be amended to ensure a more balanced representation of interests and backgrounds and a sufficient level of expertise to allow for robust discussion and evidenced based discussion.**
2.	**Consistent with other recent reforms to the land-use planning system in NSW and beyond, *Urban Taskforce recommends* that heritage consideration be proactive and only undertaken at the strategic planning stage.** **Further, *Urban Taskforce recommends* that the relevant sections of Parts 3 and 4 of the *Heritage Act 1977* that allow for the reactive request for and issuing of Interim Heritage Orders be deleted and objective (d) of the objects of the Act relating to the interim protection of items, also be deleted.**
3.	**The review of the Act presents an excellent opportunity to introduce transferable incentives to encourage innovative and responsive adaptive re-uses on and around items of heritage significance.** **Accordingly, *Urban Taskforce recommends* the NSW planning framework be amended to include *transferrable heritage floor space* incentives where heritage items have been retained and/or activated and there is a subsequent loss of yield and or additional building costs.** **Further, for such a program to be commercially attractive to investors and developers, the scope of the transferability of incentives would need to be across sites and LGA boundaries. To ensure consistency of application, the scheme would need to be administered by the State Government.**
4.	**Once a Heritage order is placed on a building, this limits the potential for development and has a direct and immediate impact on the value of that land.** **The difference in value (and the value of the lost opportunity) must be compensated.** ***Urban Taskforce recommends* that, consistent with the approach of the Land Acquisition (Just Terms Compensation) Act 1991, property valuations are undertaken pre and post heritage listing and property owners are accordingly compensated. Compensation should be by way of cash payment.**
5.	**The Urban Taskforce notes opportunities to streamline the current heritage permit process. *Urban Taskforce supports* the proposal to identify thresholds for standard exemptions, fast track applications and standard applications for permits under the Act. Additionally, *Urban Taskforce recommends* that industry be directly consulted in the setting of thresholds.**

6.	**With the supply of greenfield land for new development, in Sydney, being finite and the escalating issue of housing supply and subsequent impact of affordability, it's imperative that well located, serviced sites and properties are efficiently used. Opportunities for adaptive re-use of items of State Heritage significance should be strongly encouraged and clearly facilitated by the decision-making framework.** ***Urban Taskforce recommends* that objective 'e' of the Heritage Act be amended to read:** ***"to facilitate the adaptive reuse of items of State heritage significance"***
7.	***Urban Taskforce recommends* targeted engagement with the development industry to extend the scope of minor impact works on Heritage items that do not require a permit.**