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# A Heritage Strategy for NSW

## Submission to Heritage NSW

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18 July 2025



The Centre for Independent Studies (CIS) appreciates the opportunity to provide a submission to this review.

The CIS is a leading independent public policy think tank in Australia. It has been a strong advocate for free markets and limited government for almost 50 years. The CIS is independent and non-partisan in both its funding and research, does no commissioned research nor takes any government money to support its public policy work.

This submission argues that NSW's heritage legislation has serious flaws. In particular, costs of listing are not compared with benefits. This results in many low-value buildings being preserved, preventing development and exacerbating the housing crisis. Many of the flaws in the heritage legislation would be corrected if the beneficiaries of preservation, such as local councils, paid fair compensation to the losers.

We would be happy to provide further information if this would assist with the review.

Yours sincerely,

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18 July 2025

NSW's heritage legislation and the processes that have developed around it have many serious flaws.

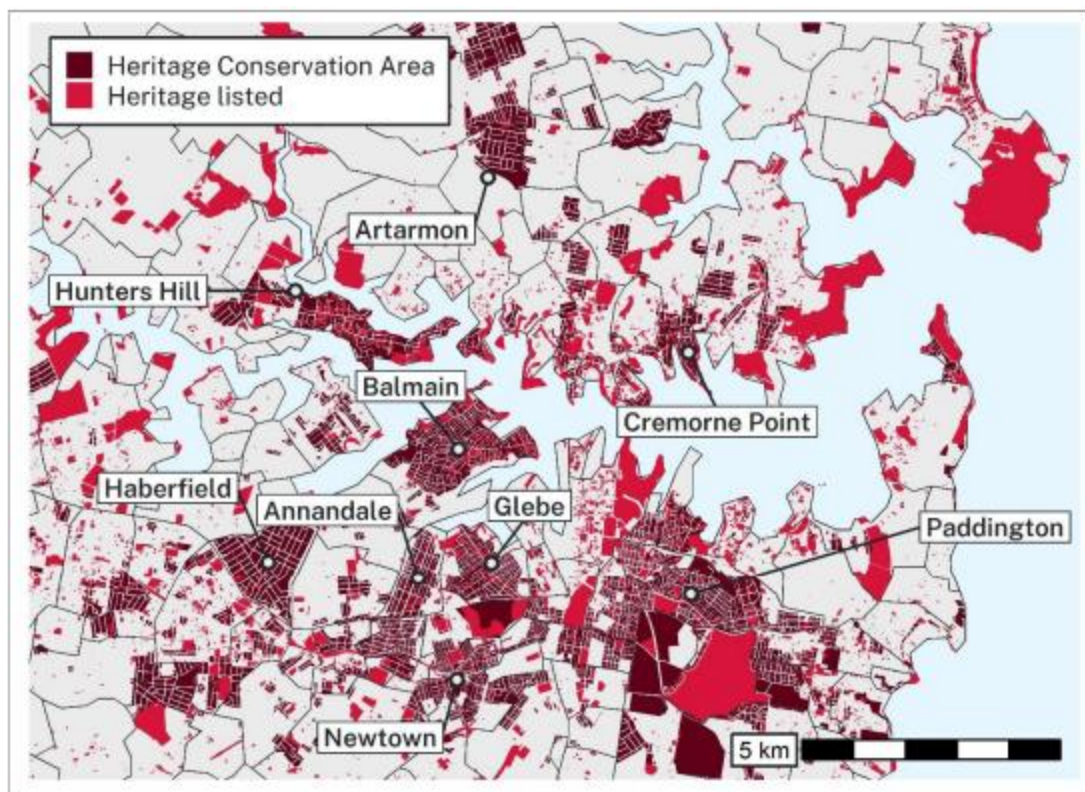
## 1. Decisions do not compare the costs of listing with the benefits.

Heritage listing is costly. It prevents alternative uses of a site that may be very valuable. For example, many heritage-listed houses in Gordon have a market value of about \$4 million. However, if they were not heritage items, the site would be used for apartments, with a site value of about \$10 million ([Gorrey, 2025](#)). The heritage listing costs the owners \$6 million. But this foregone benefit is not considered. It should be: if the value of preservation exceeds \$6 million, listing is worthwhile and should go ahead; otherwise it shouldn't.

The largest cost of listing is indirect and often not noticed. Sydney is facing a crisis of housing affordability, because the supply of housing is not keeping up with the demand. The inability to increase density on heritage sites exacerbates this shortage, increasing housing costs. Again, the legislation provides no mechanism for comparing benefits of preservation with the effect on affordability.

This is a huge problem. The [NSW Productivity Commission](#) (2024 p42) estimates that around a quarter of residential-zoned land within 10 kilometres of the centre of Sydney is subject to some form of heritage protection (Chart 1). This includes [38%](#) of the City of Sydney and [43%](#) of Inner West Council. Most heritage protections reflect Heritage Conservation Areas in councils' local environment plans. The massive scale of heritage listing – in suburbs where the demand for housing is greatest – seriously aggravates the housing affordability crisis.

Chart 1: Heritage areas in Sydney



Note: If a place is both heritage listed and in an HCA, it is marked as heritage listed. HCAs are created in councils' local environment plans. Heritage listed places receive specific protection by inclusion on either State or Commonwealth heritage registers or in local environment plans.

Source: [NSW Productivity Commission](#) (2023, Figure 17)

To gauge a rough sense of the magnitude of the problem, assume more than a hundred thousand sites in Sydney are protected, each foregoing over a million dollars of development per site,<sup>1</sup> then the total cost of preserving old buildings would run into the *hundreds of billions* of dollars.

We are not aware of estimates of the benefits of heritage listing in NSW (a major flaw in the process). However, [SGS Economics and Planning](#) (2018) estimate the value of Victoria's heritage stock was \$1.1 billion. Even with much more conservative assumptions, the costs of heritage protection greatly exceed the benefits.

Because benefits are not compared with costs, too many low-benefit items are listed. Appendix A gives some examples of items that do not merit heritage protection in our judgement. Many of them are eyesores that reduce neighbourhood amenity. While these examples are not typical, they demonstrate clear flaws in the process.

While extreme cases support easy remedies, the more important problem is the very many unremarkable suburban buildings that are protected. They account for much of the heritage areas shown in Chart 1. If a building is not mentioned in any book, pamphlet or other document, if it doesn't have a plaque explaining its significance, and if it is not dramatically different to others, then it is difficult to describe it as significant and deserving special protection. A flight of nostalgia is not enough. Listing unremarkable buildings is harmless when housing is abundant, but exacerbates our leading social crisis when housing is scarce.

Buildings with little heritage value are often listed by the opponents of development, when they have no other legal tools. As Councillor Luise Elsing told Woollahra Council "We are in this municipality suffering from overdevelopment and our last line of defence is heritage protection" ([Koziol](#), 2023; [Barwell](#), 2024). This fraudulent weaponisation is perhaps the clearest evidence that the process fails to honestly weigh benefits and costs. The benefits are simply fabricated.

The [NSW Heritage Act](#) requires limited consideration of costs; specifically that consideration be given to "whether the listing would cause undue financial hardship to the owner, mortgagee or lessee of the item or the land on which the item is situated." This wording prioritises direct and visible costs, while neglecting costs that are hidden because they are imposed on someone else, especially third parties. Both should matter.

There are two specific reasons why the wording is too narrow. First, costs are not just hardship but also include foregone benefits. Preventing hardship is not enough; we should not forsake prosperity or urban improvement.

Second, and more important, the list of affected parties is too short. When development is prevented, it is not just the landowners of listed sites who are affected, but the hundreds of potential residents who would move into the new apartments. They would all be better off if the heritage item were not preserved, but this is not taken into account. More importantly, extra supply would put downward pressure on the prices and rents of other properties, through the normal market forces of

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<sup>1</sup> We are not aware of a precise estimate however, "at least a hundred thousand" is consistent with Chart 1 and available estimates for some local councils. The [National Trust](#) (2022) estimates that 186,000 buildings are protected by heritage overlays in Victoria. [Knight Frank](#) (2023) estimate that the average developable site in Sydney is valued at about \$250,000 per apartment. Replacing the typical detached house in Sydney with a typical apartment building would, on average, result in 20 extra dwellings ([Jenner and Tulip, 2020](#)). That suggests a typical site for development might be valued at \$5 million, far in excess of the value of detached houses in heritage-afflicted suburbs.

supply and demand. Heritage listing exacerbates housing unaffordability and this needs to be taken into account.

We appreciate that many heritage consultants consider the effects of supply and demand to be abstract and speculative. However, a large body of strong research finds them to be important, including in the Sydney apartment market. For a summary, see [Tulip, 2024](#). The tendency of the heritage community to deny that extra supply will improve affordability reflects unfamiliarity with the evidence.

## 2. Criteria for listing do not reflect community values.

There is disproportionate emphasis placed on protecting historical architecture compared to the rest of our history.

As noted above, the cost of preserving old buildings may run into hundreds of billions of dollars. In contrast, NSW spends only [\\$586 million](#) a year on operating costs for artistic and cultural institutions, like the Art Gallery of NSW and the Australian Museum.

Whereas NSW's State Heritage Register lists about 400 residences (with many more being locally listed), only [58 items](#) are listed primarily for their importance to Aboriginal people.

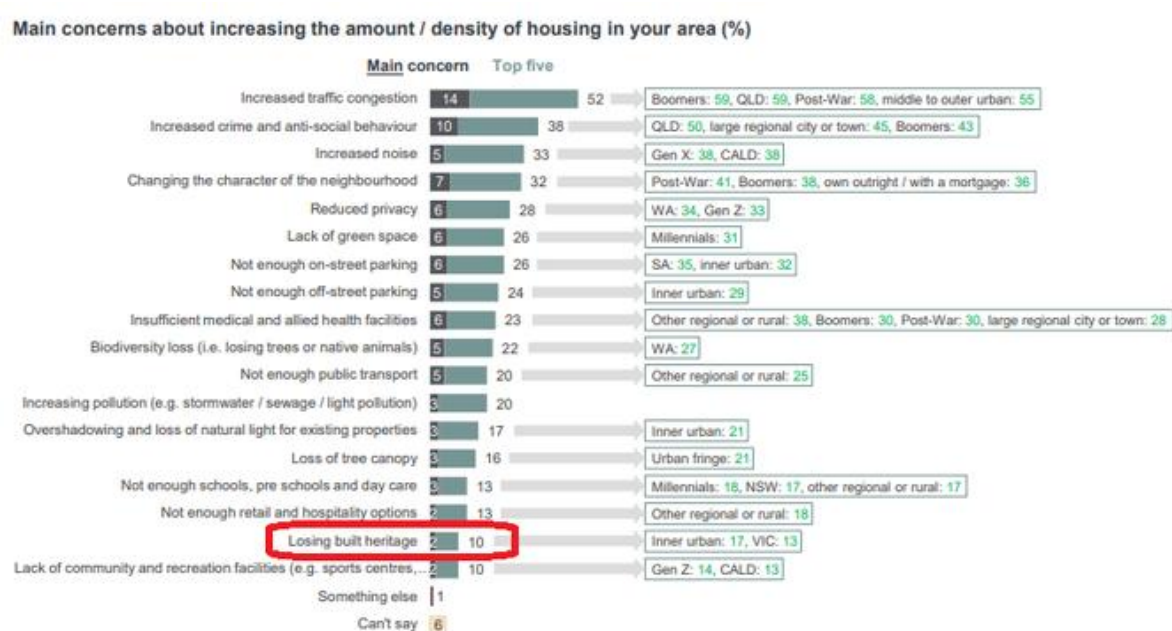
The heritage industry seems oblivious to many items of real historical significance. For example, the Honeysuckle Creek Tracking Station, the facility through which Neil Armstrong's one small step for man was broadcast, was demolished in 1992. In 2016, the ACT Heritage Council got around to registering the concrete slab that remains.

These disparities suggest that the advocates of heritage listing may not actually be interested in genuine heritage as such. Or, to be precise, they are not interested in preserving heritage for which the costs are visible or borne by them. As noted above, some users of the heritage system consider it is just a convenient tool for obstructing housing development.

Within the narrow area of architecture, criteria for listing are skewed towards the unrepresentative values of a small clique of heritage insiders. In particular, buildings of "architectural distinctiveness" are heavily protected at great cost, though it is mainly architects who care about this. The general public cares about whether buildings are attractive or old, not whether it is an unusual example of some style only architects have heard of. Preservation of eyesores (Appendix A) reduces neighbourhood amenity, lowering overall welfare, for the benefit of a small elite.

The unrepresentative values of the heritage industry are evident in opinion polls. The housing shortage and its consequent effects on affordability are at the top of voter concerns ([Yougov, 2024](#); [Olbrycht-Palmer, 2024](#); [SEC Newgate, 2025](#)). Heritage protection, in contrast, is rarely mentioned. When the Susan Mackinnon foundation asked 3,000 Australians about their concerns with increased housing density, only 10 per cent of respondents mentioned heritage in their top 5. "Losing built heritage" ranked 17<sup>th</sup> out of 19 concerns. (Chart 2)

Chart 2: Opinion polls show a low value of preserving built heritage



Source: [McKinnon, 2023](#)

The widespread and varied benefits of heritage protection, discussed in Objective 3 of the [Draft Heritage Strategy](#), are not actually the criteria for listing specified in the Act.

### 3. “Context is not a criterion”.

The quotation is from [Ku-ring-gai Council](#) (2025), which argues that if a building is listed because it is unusually old or attractive or distinctive, the characteristics of the neighbourhood are not legally-relevant considerations.

The NSW Heritage Act says an object should be listed if it is significant “to an area in relation to the historical, scientific, cultural, social, archaeological, architectural, natural or aesthetic value of the item”. Consistent with this, the government’s guide to [Assessing Heritage Significance](#) (NSW Heritage Office, 2001) gives many criteria for heritage listing, but context is not one of them. Hence, if an area surrounding a heritage item is developed, this would not change the significance of the item.

This legal interpretation is contested. More importantly, it seems wrong as a matter of policy. The Act should be amended to clarify that context is considered as relevant. Buildings are attractive when they are compatible with their neighbours and not if they aren’t. Preserving an isolated detached house in a sea of tall apartment buildings looks like a smile with a missing tooth. The opening guideline of NSW’s [Apartment Design Guide](#) leads with “Principle 1: Context and Neighbourhood Character. Good design responds and contributes to its context.”

The rationale of a ‘Heritage Conservation Area’ (HCA) is that preservation of a neighbourhood is worth more than the sum of the individual parts. Either that logic should be extended, by making context an explicit criterion, or HCAs should be withdrawn.



#### 4. Delisting is too costly.

The process of delisting a property is about as costly and difficult as for the original listing. It requires a planning proposal, comparable to a submission to modify a Local Environmental Plan (LEP), and heritage assessment from professional consultants. This is inappropriate, given that most relevant information and decisions are already available from the original listing. It will often be that only one important assumption from the original listing has changed. For example, an assumed adaptive re-use turns out to be not financially viable, or maintenance costs increase, or the neighbourhood is rezoned. A comprehensive re-examination is not necessary to consider the implications of that one change. Councils should be free to modify the listing based on a simple majority vote, requiring whatever extra information they judge to be necessary.

A special, but important, example is when there is a widespread change affecting many properties; such as a neighbourhood rezoning. The information from one suggested delisting would be similarly applicable to other affected properties. So councils should be free to consider them jointly. The current process requires that each delisting be considered individually, each requiring its own planning proposal and heritage assessment from professional consultants. This duplication is excessively costly and inefficient.

The 70 heritage-listed properties in Gordon mentioned on page 3 are an example. More information on these is available from the [Ku-ring-gai council public forum](#)<sup>2</sup>, or an [ABC interview](#) with David Tindale. As the interviewer Craig Reucassel says, "It does seem like a kind of ridiculous outcome". Ku-ring-gai councillors agree but note that remedies require changes in the Heritage Act.

#### 5. The onus of proof for delisting is on the owner of the property.

That seems unfair. If outside parties wish to reduce the value of the property, surely the onus of proof should be on them. That is, unless good reasons are given to the contrary, property owners should be able to manage their own property.

#### 6. Incentives are biased.

Decisions on listing place considerable weight on the recommendations of heritage consultants. But listing increases the demand for input from those consultants. They make work for themselves.

### The remedy: pay compensation

These flaws reflect a deeper underlying problem. The beneficiaries of heritage listing do not pay the large cost of listing, but impose it on others. As a result, there is no discipline on what is listed. If, instead, the local community were to pay fair compensation to owners of listed properties, then listing would occur if, and only if, benefits exceed costs. Given that owners of heritage items are providing a service to the community, it is fair that they be paid for that service.

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<sup>2</sup> In particular, speeches by David Tindale (20 minutes into the video), David Lane (26 mins), Ian Clarke (31 mins) and Sarah Watson (40 mins). The stranded listings in Ku-ring-gai are interesting for simultaneously highlighting several flaws in the heritage legislation: the failure to consider alternative uses and other costs, the neglect of context and the excessive costs of delisting.

## Appendix A: Examples of heritage industry excess

This Appendix provides some illustrative examples of heritage restrictions from NSW. Some of these are eyesores; others are just ordinary suburban streets. Some examples from other states are also included to illustrate the pitfalls of poor process.

The brutalist Dee Why civic centre is listed in the Warringah Local Environmental Plan as having heritage significance and has been proposed for listing in the State Register. As Northern Beaches mayor [Sue Heins](#) notes, the building is “loathed” by many residents.



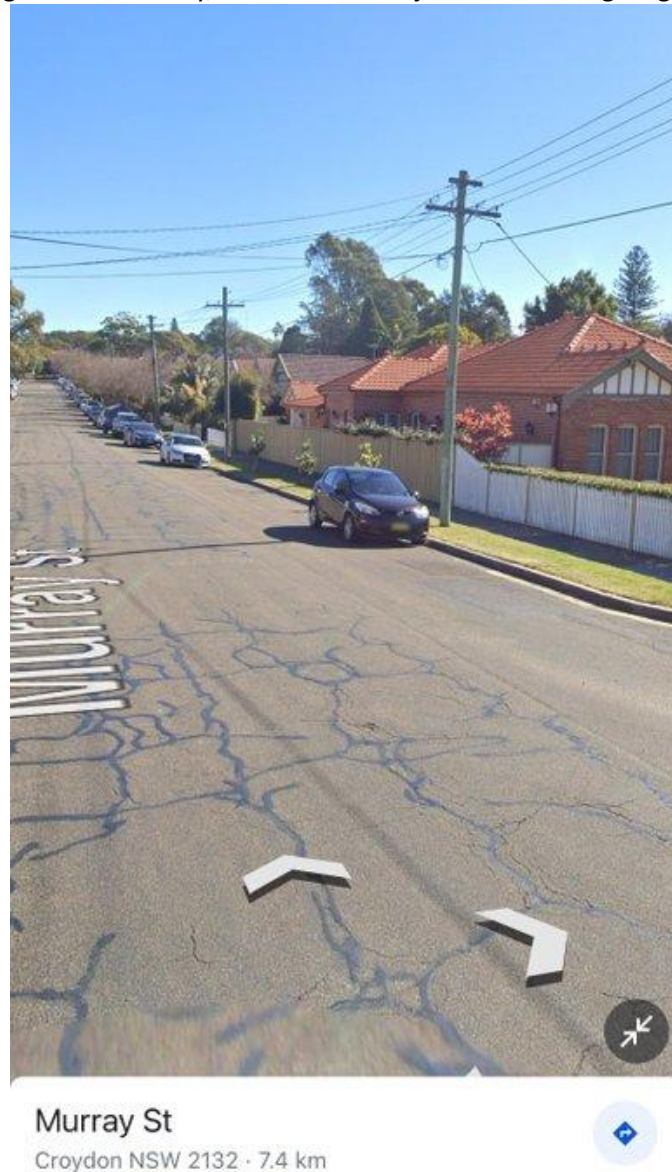
Ordinary housing on Hill St, Roseville, 300m from Roseville Station. Part of the [Grove Conservation Area](#).





Another unattractive heritage area, Murray St Croydon, near Croydon station; part of the Malvern Hill Conservation Area.

If we actually wish to improve neighbourhood amenity, burying the overhead wires and planting street trees would make much more difference to the attractiveness of the streetscape than preserving old buildings. Unfortunately, that is not an objective of heritage legislation.



Proposals for 2,500 homes in [North Parramatta](#) are opposed because they would be visible from heritage-listed sites.

[Randwick Council](#) opposes a tower because it is “visible from the Kensington Heritage Conservation Area, across Southern Cross Drive”.

In contrast, The Mint and Hyde Park Barracks on Macquarie St are a few metres away from tall office blocks, as are the Colosseum in Rome or Westminster Abbey in London. No-one suggests this significantly impairs their value.

The [MLC building](#) in North Sydney is listed on the New South Wales State Heritage Register.



Inner West Council proposes to heritage-list 15 [electricity substations](#)



An ACT resident, Graham Mannall, was denied permission by the ACT Heritage Council to install [solar panels](#) on his house, built in 2000 (!), as they would be partially visible from the street in a Heritage Area.



A brutalist carpark in [Carlton, Vic](#)



Heritage consultants in [Bayside, Vic](#) recommend listing carports as “locally significant”



Figure 6. Carport and recessed entry (GJM Heritage, November 2021)

A City of Melbourne council report recommended listing a [service station](#) due to its “rarity, aesthetic and technical significance to the city”.



The 1977 Cameron Offices in Belconnen, ACT are listed on the Australian Register of the National Estate as “a significant example of late 20th-century structuralism and brutalism”. Whether they are ugly and reduce neighbourhood amenity is not legally relevant.

