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Speech to the National Trust Breakfast

Members, Officers and Staff of the National Trust, Guests and fellow speakers.

I would like to commence my talk today by acknowledging that we are meeting this morning on the traditional lands of the Gadigal people of the Eora nation.

I would like to pay my respects to their elders past and present and to acknowledge their important and ongoing contribution to this land, to our natural and built environments and to our cultural, environmental and urban heritage.

I would also like to acknowledge the work of the National Trust, which has made a substantial and ongoing contribution to the heritage of this state.

It's worth taking a minute to reflect on why heritage is important because that is often a fiercely contested proposition.

Probably the best brief description comes from the National Trust itself, which identifies its vision as:

"to live in a community which understands, values and enjoys its heritage; a natural, built and cultural heritage that creates our unique Australian character... The Trust's role is to safeguard our natural, built and cultural heritage and to encourage Australians to appreciate that each generation has a responsibility to preserve our Nation's heritage for the next generation."

Heritage then is not just about old buildings. It is about the natural, cultural and built treasures that have made and continue to make a unique contribution to defining who we are and where and how we live. These unique treasures have been handed to us by previous generations in safekeeping for future generations.

The preservation and enhancement of our heritage is a central component of the Greens' philosophy because the protection of our natural, cultural and built environments is a central tenet of ecological sustainability, a principle that underlines our approach to all policy.

Many people disagree with this approach. The history of Sydney is littered with examples of individuals, companies, groups and governments that have taken the view that progress trumps all and that heritage must give way when jobs are needed and profits are to be made.

That battle of ideas has played out throughout Sydney's history and the battle has not always been restricted to ideas. From Juanita Nielson through to Jack Munday and a myriad of local resident and environment groups, people have shown their willingness to put themselves on the line to defend our important sites in the face of unsympathetic development or wanton destruction.

Many of our current heritage buildings and areas have been threatened with destruction, from the colonial buildings of Macquarie Street to the houses of the Rocks and the riverfront setting of Kelly's Bush. Yet their protection did not bring the economy to a grinding halt, despite the prophecies of those who believe that any restriction on development is an economic crime.

The Greens recognise that heritage protection is a balancing act. Human societies must not only respect and learn from their

past, they must also continue to evolve to stay healthy and to thrive in both social and economic terms.

It is important therefore that heritage assessment is rigorous and that heritage sites meet that general broad definition of having a significant contribution to make to our understanding of ourselves and from where we have come. But, once a rigorous assessment has been made, the protection we give to our heritage sites must be strong although tempered with a suitable degree of practical flexibility.

There is no point, for example, in keeping old buildings in a state of permanent vacancy and long-term neglect and decay. Adaptive re-use is an important part of any heritage system and we must be willing to consider how best to achieve a balance of maintaining heritage values while allowing heritage sites to continue to be a living part of the society.

We should also recognise that, far from being a financial negative, heritage listing and sympathetic treatment can significantly enhance the value of privately held assets.

The period from the late 1970s to the 1990s saw some significant steps forward in strengthening both planning and heritage protection in this state.

Unfortunately, in recent years we have seen heritage policy turn away from protection and back towards “streamlining” and “efficiency” and the elimination of “red tape” to which the Minister referred earlier – sentiments most beloved by people who know the cost of everything and the value of nothing.

Most of the recent changes in legislation and policy have been designed to make it harder to protect our heritage and easier to destroy it. To a large extent, I suggest, heritage protection in this state is now illusory, perhaps even “debauched”.

Steps to emasculate heritage commenced with the passage of the Redfern-Waterloo Authority Act in December 2004. That Act nullified the operation and protections of the Heritage Act in Redfern and Waterloo and left exposed some 205 parks and buildings that were listed on the National Trust Register as well as heritage conservation areas identified by the Trust and comprising some 43 % of the total area of those suburbs.

Six months later, in June 2005, Part 3A of the Environmental Planning and Assessment Act was introduced. Part 3A overrides the protections of the Heritage Act and grants to the Minister for Planning the virtually unchallengeable power to “call in” major developments and to remove the Heritage Council and local government as consent authorities.

In 2006, the NSW Heritage Office became the Heritage Branch and was absorbed into the Department of Planning, with the result that Heritage staff are no longer independent of the

Department and the focus on heritage protection is now secondary to the priorities of the Department of Planning. The former Executive Director of the Heritage Office was sacked and replaced by a Director of the Heritage Branch who had virtually no heritage experience.

In 2008, the government initiated a review of the Heritage Act. The Review report recommended making it harder to get items heritage listed and easier to get them de-listed. It also recommended expanding the power of the Minister to de-list items including the power to de-list without a recommendation from the Heritage Council. The recommendations of that Review are gradually being implemented.

So, where do we stand today? There are approximately 1,500 items listed on the State Heritage Register. There are, however, an estimated 5,000 – 10,000 items of state significance that are not listed, including the Museum of Contemporary Art, the Queen Victoria Building, the

Commonwealth Bank's 'Money Box' building in Martin Place, and St Patrick's theological seminary and grounds at Manly, all of which are considerably older than the Opera House which, as the Minister reminded us earlier, took 30 years to appear on the list.

Currently, about 30 items are added to the Register each year, although in one year when Frank Sartor was Minister that figure dropped to only four. At the present rate, it will take somewhere between 175 and 350 years to list the outstanding items.

As I indicated earlier, Part 3A of the Planning Act turns the Heritage Act off. Admittedly, the Minister seeks the views of the Heritage Council when items on the State Register are affected, but there is no requirement to seek the Council's opinion about developments that impact on items of state significance that are not on the Register.

And even if those views are sought, the Heritage Council is not a consent authority and its recommendations can be ignored. One must also remember, the Heritage Council is scarcely what you'd call an independent body, because it gets its advice from the Heritage Branch, which is part of the Department of Planning.

On 15 December 2008, a new State Environmental Planning Policy -- the Repeal of Concurrence and Referral Provisions SEPP 2008 -- came into force. Until that time, Local Environment Plans and some Regional Environmental Plans required that the proposed demolition or partial demolition of items of State or potential State Significance be referred to the Heritage Council. That referral no longer required.

But, you might argue, local heritage studies are the cornerstone of heritage protection and local councils are required to prepare a local heritage study. Leaving aside genuine anxieties about the ability of cash-strapped councils to

afford to fund adequate studies, the real concern is that councils are neither required to identify items of potential state significance nor to notify the Heritage Council of them. The proposal that it should be mandatory for councils to do this was deliberately removed from the template to which each local environment plan must conform.

But there's more. In February this year, the government introduced new housing and exempt and complying development codes. These codes will have the effect of ensuring that historic buildings or structures, and cultural or natural sites that have not yet been assessed for heritage listing or protection can be destroyed without notification to anyone whatsoever. Under these new codes a tick from a private certifier will allow a 150-year-old building or a site of cultural significance that has not yet been listed to be destroyed or demolished without any notification to neighbours let alone any opportunity for a proper assessment of heritage significance.

Finally, in the case of projects funded under the federal government's recent infrastructure grants program, the state government in March pushed new legislation through the parliament to extend to the Co-ordinator-General, a new unelected, infrastructure csar, the power to override environmental and heritage protections by simply declaring that a project is no longer subject to the Planning or Heritage Acts.

So what does it all mean?

If an item is on the State Heritage Register, then any heritage protections it might enjoy can be stripped away by either the Redfern-Waterloo Authority Act if relevant, or Part 3A of the Planning Act, or the *Nation Building and Jobs Plan (State Infrastructure Delivery) Act 2009*. And if it's not on the State Register, as the overwhelming majority of state significant items are not, then any protection is illusory at best.

What we have witnessed, ladies and gentlemen, over the last five years is the systematic dismantling of heritage protection. This State no longer has a coherent, let alone comprehensive, system of heritage management, and we and future generations will be all the worse for it.

I would like, at this stage, simply point to two prominent recent examples: Catherine Hill Bay on the Central Coast and Sandon Point in the Illawarra. I was intending also to refer to Currawong on Pittwater, but the Minister's announcement this morning that Currawong will be added to the State Register makes that unnecessary. Needless to say I welcome the decision and congratulate the Minister. But I also applaud the Friends of Currawong, the National Trust, and Pittwater Council for their tireless campaigning for Currawong to be listed. Without that we would doubtless not be congratulating the Minister and applauding today's outcome.

In the case of Catherine Hill Bay the government used its part 3A powers to approve massive residential subdivisions on a site listed on the local heritage register and recommended for state heritage listing.

At Sandon Point in the Illawarra, the government used its part 3A powers to approve a large residential development on a site with significant Aboriginal heritage values, despite it being the location of an Aboriginal burial ground, despite it being declared a significant "Aboriginal place" by the Department of Environment and Climate Change, and despite the site having been occupied by an Aboriginal tent embassy and a community picket.

What then has led to this emasculation of heritage protection, particularly as it was a Labor government in 1977 that put in place many of the protections that have now been removed?

While the government now argues that its development obsession is driven by the imperative to preserve and create jobs in the face of the global economic meltdown, you can see that the move away from protection began some years ago, during a period of unprecedented economic prosperity.

I believe that the move away from protection, in part, reflects a mistaken belief that heritage and environmental protection costs jobs, a belief unsupported by experience.

The view of the Greens is, however, that the government's pro-development stance is far more a reflection of the growing and disproportionate influence of the property development industry on planning, environment and heritage policy in NSW.

It should be noted that in the cases I referred to previously, the proponent is a significant financial contributor to the NSW ALP.

The weakening of heritage protections has coincided with, and resulted from, a pro-development re-writing of the state's planning system over the last five years.

In that same five-year period, the NSW Labor Party received financial contributions of more than \$9 million from the property development industry.

To put that in context; those donations exceeded the total contributions to all NSW political parties over the same period from the gambling, tobacco, alcohol, hotel, pharmaceutical and armaments industries combined.

In those same five years the NSW Liberal Party received over \$5 million from the development industry.

Our heritage will always be in danger when it is pitted against those with deep pockets and powerful political friends.

I note that on the three recent occasions when the Greens introduced legislation to end the scandal of corporate donations, the Liberal, National and Labor parties combined to defeat the Greens' initiatives.

[Time ran out and the speech as delivered ended here.]

One of the biggest obstacles to heritage protection in this state is the conflicts of interest that are now entrenched in the NSW planning system.

From the largest residential subdivision to the smallest neighbourhood development, the balance of rights between development proponents and development objectors is often determined by someone who has a financial relationship with one of the sides.

What then are the Greens proposing for heritage policy?

First, in our view, the time has come to genuinely reform the planning system so that development decisions are made on the basis of the public interest, not who made the biggest payment to the ruling party.

Accordingly, the Greens continue to call for the banning of political parties or candidates accepting donations from the property development industry. The Greens have put our policy principles into practice for many years by refusing to accept donations from the property development or any other industry. But a voluntary policy is not good enough. Refusing to accept corporate donations should be mandatory and should apply to all parties and politicians at all levels of government.

Unfortunately, as I said earlier, on each of the three occasions that the Greens have moved in parliament for such a ban, the

Labor and Liberal parties have combined to defeat it, despite their stated commitments to banning donations.¹

We will, however, put the proposal up again and again until the Labor and Liberal parties vote in line with their rhetoric. Only then will we be able to remove the corrupting influence of political donations from the development process once and for all.

Second, we believe that it is time to recognise that the community values its heritage and its environment more than it values the profits to be made from unrestrained development.

Accordingly we will push for a clear and publicly supported set of heritage rules that are impartially and uniformly enforced, rather than the current mess of multi-layered rules that can be overridden at will by Ministers and bureaucrats and that are more often breached than they are observed.

¹ Lee Rhiannon's private members Bill 2004, Sylvia Hale's private member's Bill 2008, Sylvia Hale's proposed

To give effect to these rules we will continue to pursue the repeal of Part 3A of the EP&A Act and the limiting or removal of the powers of the state government to override environmental and heritage protections in order to approve large projects that breach the existing rules.

Third, we will pursue changes to the housing codes and the exempt and complying development codes to ensure that proper assessment is made of the heritage significance of a site before it can be destroyed.

Fourth, we are calling for the Heritage Office to again be made independent of the Department of Planning and in this context we support the Opposition's proposal for a Minister for Heritage to be appointed and for that position to sit within the Environment portfolio. The Office must also be adequately funded and resourced if it is to fulfil its purpose.

Ladies and gentlemen, I commenced my presentation today by talking about the importance of respecting our past and the role our heritage plays in defining us as individuals and as a society. Our heritage is about both where we have come from and where we want to go.

The Greens vision is to put in place a heritage system in this state whose prime objective is to accept and meet the responsibility that we have to future generations to protect and hand on to them the natural, built and cultural treasures that were left for us by our forebears.

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