



NATIONAL TRUST

# NATIONAL TRUST MAGAZINE (NSW)

Amazing stories, every moment

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Charting Our Future  
2020 Strategic Plan

Meet your new  
Board of Directors

# Heritage at risk

by **Sylvia Hale MLC** – Greens Spokesperson on Planning

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.

Unfortunately most 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 heritage protection in this state is now illusory.

Steps to emasculate heritage commenced with the passage of the Redfern-Waterloo Authority Act in December 2004 which 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.

In June 2005, Part 3A of the Environmental Planning and Assessment (EP&A) Act was introduced. It 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, thus losing its independence.

In 2008, the government-initiated review of the Heritage Act 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 irrespective of any recommendation from the Heritage Council.

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.

Part 3A of the Planning Act turns the Heritage Act off. Although the Minister seeks the views of the Heritage Council when items on the State Register are affected, 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.

On 15 December 2008, a new State Environmental Planning Policy 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 is no longer required.

In February 2009 the government introduced new housing and exempt and complying development codes. These codes will have the effect of ensuring that in some areas 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.

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 timely notification to neighbours let alone any opportunity for a proper assessment of heritage significance.

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.

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## Heritage at Risk (continued from cover)

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

The weakening of heritage protections has coincided with, and resulted from, a pro-development re-writing of the state's planning system that reflects a mistaken belief that heritage and environmental protection costs jobs, a belief unsupported by experience. As the planning laws have changed over the last five years 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 all other sources.

In those same five years the NSW Liberal Party received over \$5 million from the development industry. As Labor's electoral fortunes decline, developer donations are now flooding into the Liberal Party.

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

What then are the Greens proposing for heritage policy?

First 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. We welcome former Premier, Nathan Rees' announcement of donations reform, but we are concerned that the parameters of the proposed scheme are so narrow as to allow continuing large donations from developer interests.

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.

The Greens will push for a clear and publicly supported set of heritage rules that are impartially and uniformly enforced.

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 support the Heritage Office again being independent of the Department of Planning. Independence will mean little, however, unless the Office is guaranteed adequate funding and resourcing so that it may fulfil the role the community expects of it.

### 2009 Membership Holiday Draw Winners

Congratulations to the winners of The National Trust of Australia (NSW) 2009 membership holiday draw. Mr Derek & Mrs Jill King of Lane Cove, NSW have won a holiday to Ireland valued at \$12,000. For details of our new holiday promotion draw to Australia's Remote Corners please see page 18.