29 November 2010

Ms Gabrielle Kibble
Chair
Heritage Council of NSW
Locked Bag 5020
Parramatta NSW 2124
heritage@planning.nsw.gov.au

Dear Ms Kibble

RE: REMOVAL OF WAMBO HOMESTEAD COMPLEX AND KNUCKEY’S STORE FROM STATE HERITAGE REGISTER

Australia ICOMOS is aware that the NSW Heritage Council is currently considering applications from the owners of two properties currently listed on the State Heritage Register (SHI) to have these properties removed from the SHI. The properties in question are the Wambo Homestead complex near Singleton and Knuckey’s Stores at Wellington. We understand that in both cases the proposed mechanism for removal of the properties is the 2009 amendment to the NSW Heritage Act which enables a place to be removed from the SHR on the basis that its long term conservation is not necessary and the place is incapable of reasonable or economic use and/or undue financial hardship is being caused to the owner (Section 38(1)).

Australia ICOMOS has previously made submissions to the NSW Heritage Council expressing its concerns about both the amendments to the Act and the guidelines prepared for their application. Australia ICOMOS remains opposed to the principle of including economic considerations among reasons for listing or delisting heritage items. In our submission to Parliament on the draft legislation, Australia ICOMOS commented:

In the opinion of Australia ICOMOS, the proposal to include consideration of economic use and financial hardship among the reasons for listing items on, or removing items from, the State Heritage Register is a serious and fundamental flaw in this legislation. It is inconsistent with accepted principles of heritage conservation, and will result in NSW relinquishing a flagship position in heritage conservation in this country.

In a further submission following the adoption of the Heritage Act amendments, Australia ICOMOS urged that they be applied with great caution where items of State significance are concerned. We noted that the (sometimes temporary) financial difficulties of a particular owner or lessee should not be given undue weight when the Council or the Minister is making decisions about the future of items of State significance. We are also aware that the very nature of heritage significance requires that a long term view be taken in regard to these properties, given that during their relatively long history
they are likely to have already survived a range of adverse economic or functional circumstances in achieving their acknowledged contribution to the history of New South Wales.

It is clear that the removal of these properties from the SHR is intended to facilitate their demolition (notwithstanding that partial relocation and reconstruction may be considered as an outcome in at least one of the case studies in question). In the context of our previous submissions regarding the Heritage Act amendments intended to allow financial considerations to be a consideration for delisting an item on the SHR, we submit that the Heritage Council has an obligation to be absolutely satisfied that there is no reasonable alternative to the delisting option, and that the circumstances of a particular owner at a particular time should be treated with extreme caution before agreeing to a proposal for delisting that will (almost inevitably) lead to the loss of the property in question. The process must be absolutely exhaustive and must demonstrate that there are no potential viable uses, lessees or purchasers of the property.

Notwithstanding that the time frame for submissions for one of the matters has already closed, Australia ICOMOS also suggests that there are a number of additional considerations that the NSW Heritage Council should take into account before finalising its position in regard to the Wambo Homestead complex and Knuckey’s Stores.

The Heritage Council should take into account in their decision whether the owner purchased the property in the knowledge that they were heritage listed or protected and whether they subsequently cared for the property in the manner they were required to under the Act i.e. in regard to the minimum standards of maintenance and repair, and in the case of Knuckey’s Store, in regard to the prevention of and the protection of the building from damage or destruction by fire.

In addition, in the case of Knuckey’s Store, ICOMOS understands that there are currently potential purchasers and/or lessees, as there have been since 1999-2000 when the Wellington Soldier’s Memorial Club first proposed to demolish the Store, but which the Club has refused to pursue. If this is the case, it is not appropriate to utilise the new provisions of the Act to allow delisting. The provision should only be used as a last resort and not as a reason for delisting for demolition.

If the Heritage Council were minded to approve either of these de-listings, it is suggested that very careful attention should be paid to the wording of the approval, as these will be seen as test cases. Even if considered to be justified, it is imperative that these cases are not used as a precedent for a plethora of similar applications and thereby contribute to the undermining of the NSW Heritage System.

Thank you for your consideration of the views of Australia ICOMOS in this important issue for New South Wales. Please contact us if we can clarify any of the views expressed above.

Yours sincerely

DR JANE HARRINGTON
PRESIDENT