

Response to the Productivity Commission's Draft Report, *Conservation of Australia's Historic Heritage Places*

Submission by the ACT Heritage Council

Comments on the draft findings and recommendations

The ACT Heritage Council is very disappointed by many of the findings and recommendations of the Productivity Commission's draft Report on Australia's system of heritage places protection.

Recommendations NOT supported by ACT Heritage Council

Conservation agreements and listings

The ACT Heritage Council does not support the Commission's key draft recommendation 8.1, as follows, and a number of other consequential and related recommendations (9.2, 9.3, 9.4, 9.5, 9.6, 9.7, 9.8).

Draft Recommendation 8.1 Privately-owned properties should be included on a national, State, Territory, or local government statutory heritage list only after a negotiated conservation agreement has been entered into and should remain listed only while an agreement is in force with the owner.

The implications of this recommendation are that heritage places would no longer be listed on the basis of reaching a threshold of heritage significance supported by the community, but rather a private owner could veto such listing and protection at any time. Many iconic places on current heritage registers, including in the ACT, would not be protected under this regime.

Further, it is envisaged by the Productivity Commission that each time the property changes hands, when the existing heritage agreement lapsed, the new owner could veto any previous agreement reached. Not only does this introduce total uncertainty, but it is likely to lead to development speculation on heritage properties and tie down significant administrative resources to negotiate agreements each time a property is sold.

In the ACT, for example, the iconic Melbourne and Sydney Buildings would have uncertain protection and may be subject to inappropriate development and even demolition. The Melbourne Building has 18 separately-owned blocks and the Sydney Building has 29 different owners, so that protection using the voluntary conservation agreement model proposed by the Commission would require 47 voluntary conservation agreements to be negotiated and kept up-to-date. This would be a highly uncertain, inefficient and resource intensive process.

The new ACT Heritage Act provides for heritage agreements to be made with owners of property, whether they are listed in the Heritage Register or not. However, the opportunities to use this mechanism for the provision of major funding to support conservation works is severely limited. Largely as a result of this reality, there has been only one request for the creation of a heritage agreement to date. The ACT Heritage Council would welcome discussion about the options for the provision of

funding and other forms of assistance to help make heritage agreements desirable to owners, as well as effective and targeted in achieving good conservation outcomes.

It is worth pointing out that relatively few owners object to the registration of their properties, even though they may take this matter at little financial cost to the Administrative Appeals Tribunal. The heritage issues related to listed properties, if they arise at all, usually do so in relation to proposed development, often many years after listing. The ACT Heritage Council has in place statutory heritage guidelines to provide a level of certainty to owners about what they can and can't do, and these apply at the development approval stage. Heritage matters are dealt with as part of the integrated planning approvals process in the ACT.

Draft Recommendation 9.8 State and Territory Governments should remove the identification and management of heritage zones, precincts or other similar areas from their heritage conservation legislation and regulation, leaving these matters to local government planning schemes.

This recommendation is of particular concern in relation to the protection and conservation of the ACT's internationally important 'Garden City' heritage precincts. The heritage significance of these 9 areas is the demonstration of early twentieth century 'Garden City' planned subdivisions, including a distinctive pattern of housing types and landscape associated with Federal Capital planning philosophy. If the Commission's recommendation is followed and development controls are transferred to the planning scheme as general land use zoning arrangements, many of the intrinsic features of heritage significance of these iconic areas would be eroded over time.

In the ACT, heritage is fully integrated into the planning system such that there is a single development application and approval process administered by the ACT Land and Planning Authority. This system avoids duplication and provides certainty to owners.

Recommendations generally supported, or not contentious

Draft Recommendation 3.1 All levels of government should put in place measures for collecting, maintaining and disseminating relevant data series on the conservation of Australia's historic heritage places.

Draft Recommendation 7.4 The Australian Government should implement reporting systems that require government agencies with responsibility for historic heritage places to document and publicly report on the heritage related costs associated with their conservation.

Draft Recommendation 7.5 State, Territory and local governments should:

- produce adequate conservation management plans for all government-owned statutory-listed properties; and
- implement reporting systems that require government agencies and local governments with responsibility for historic heritage places to document and publicly report on the heritage-related costs associated with their conservation.

In general terms, the ACT would have no difficulty agreeing to these draft recommendations and the *Heritage Act 2004* sets up procedures to achieve Draft Recommendation 7.5 in relation to government owned heritage assets.

The remaining draft recommendations are minor, and are either not relevant to the ACT, or not controversial.

Issues

Scope of inquiry

The major issue many heritage bodies hoped to see addressed in the inquiry is the challenge faced by all levels of government in Australia of conserving the wide range of historic heritage with constrained resources.

The expectation was that the inquiry would analyse the needs related to the conservation of historic heritage in a broadly based way, and explore innovative policy and funding mechanisms that could be applied to the conservation of historic heritage places, with cost sharing across all levels of government and strong community engagement.

Major concerns

Instead, based on very limited research, the inquiry has recommended what amounts to the impost of a substantial and un-costed financial burden on States and Territories to fund the conservation of all privately-owned heritage property. This would happen through voluntary conservation agreements with private owners, without which listing and protection would not occur.

At present Commonwealth protection and funding of historic heritage conservation is disappointingly limited and narrowly focused. For example, little Commonwealth funding has been applied to heritage places in the ACT in the last two years, despite many worthy funding applications from private owners and community groups.

The Commission's research into levels of public funding does not adequately reflect the disparity of resourcing levels in other comparable parts of the environment and planning sector, across all levels of government. This needs to be addressed much more fully.

Gaps in the draft report

A key issue that has been under discussion by National Heritage Chairs and Officials is the urgent need for a coordinated national heritage policy, this is cursorily addressed in the inquiry.

Last year, all States and Territories agreed to set up a working party to report to the Environment Protection and Heritage Ministerial Council later this year on developing a national heritage strategy/policy for improved co-operation and consistency in heritage matters across all levels of government. This work is already underway and needs to be considered by the Commission.

Lack of balance

A major concern expressed by members of the ACT Heritage Council is the potential for real damage to Australia's relatively mature and sophisticated heritage system by these recommendations.

In the ACT, as in other States, historic heritage is largely protected through an integrated planning system where a balance is reached among competing interests and views.

If implemented, the Commission's key draft recommendations would give undue emphasis to private property rights over community interest. Heritage conservation would be at the centre of controversy between the development interests and community activism.

The ACT Heritage Council believes that heritage incentives are a key part of the heritage system but should not be linked to voluntary listing systems, which are ineffective and a wasteful use of limited resources.

Conclusion

As the report is a draft, there is an opportunity for the Commission to reconsider its draft recommendations as a result of further hearings and submissions. The ACT Heritage Council strongly recommends this approach.