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submission

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**Heritage Inquiry
Productivity Commission
PO Box 80
BELCONNEN ACT 2616**

Dear Sir/Madam,

RE: Submission to draft report on Productivity Commission Inquiry into Conservation of Australia's Heritage Places.

I wish to submit the following in response to the draft report of the Productivity Commission Inquiry into Conservation of Australia's Heritage Places.

Heritage controls are merely a form of planning control. Planning controls regulate an owner's property rights in the public interest. The controls have been built up over many decades in recognition that the unfettered exertion of the perceived rights of a property owner may not be in the public interest and can impact upon the rights of other persons and the community in general. The quandary is to strike the right balance between an individual's rights to do what they want with their property and protection of the community's rights from the potential negative impacts of such use. As society has become more industrialised, more urbanised, more technologically based, so have the potential impacts of the use of one person's land on others grown and planning controls have developed in response to this. Individuals have become more subject to the community's laws in order for society to function. Constraints on the use of a property impinge on the potential economic realisation on the property.

The perceived difference is that heritage values are individual to the property. All the properties in a street might be in a residential zone and not be able to be used for industry to protect the amenity of all. But if only one has an historic building on it why should this property owner not have the same rights as the rest of the street to demolish or alter the building? Planning controls are only applied to land with the relevant characteristics. All the properties are residential and are zoned accordingly just as heritage controls are only applied to the property with heritage significance. The rules applied are the same. It is not a matter of one property owner having restrictions on the use of his/her property when that property is no different from the others in the street. That would be unfair discrimination. The pertinent decision is whether the heritage values justify the heritage control singling out the individual property.

Heritage values can be both personal values and community values. A heritage building is part of the history of a locality and the community. An historic building therefore has value to the owner and to the community beyond the individual. The rights of the community should not be automatically subverted by the rights of an individual. Neither should the rights of the individual be automatically subverted by the rights of the community. That is why society has laws. Heritage controls are merely part of this system. If it is demonstrated that a property has heritage values that justify protection with heritage controls what is pertinent is the process of this appraisal, the process of the implementation of heritage controls and what compensation (if any) should accrue to the property owner due to the community interest in their land.

It is considered that the current heritage controls operating in Victoria strike a reasonable balance between the potentially competing interests in a heritage property. There is room for improvement but so is there in any system.

The Productivity Commission seems to be taking the question back beyond this to the somewhat archaic limited issue of raw economic impact of property value and maintenance/restoration costs for the individual without any real consideration of community values and esoteric principles such as sense of place and history. Whilst the latter can be difficult to place an economic value on for comparison purposes such is not the point. This is only one element of the appropriate broader question above. To decide that the perceived tangible economic impact and therefore the rights of the property owner should rule is highly simplistic and regressive. Real estate values clearly recognise that heritage values can actually increase property value. The problem is that this applies largely to comparing apples with apples. Generally a single dwelling with heritage values is likely to be worth more than a single dwelling without heritage values but a single dwelling with heritage values is worth less than its being demolished as a site for multi dwelling units. Maybe this epitomises the Commissions concerns.

Conclusion

Heritage controls come about as a reflection of community values. Their implementation is based on a wide range of considerations and should not be just focussed on one of these, being the economic considerations of the property owner. The current processes take all relevant issues into consideration, provide recourses for the property owner to input the process and seek review. The analysis of the Commission does not indicate depth of understanding of the issues or an appreciation of broader philosophical values.

Yours faithfully

Senior Statutory Planner