

Dear Sir,

We have just received a letter from the Department for Environment and Heritage in South Australia telling us that they propose to list our property as a State Heritage Place, and have therefore only become aware of these issues in the last week.

In principal we are totally in favour of the care and preservation of heritage places but there are serious financial implications in the South Australian legislation which could destroy our lives and even bankrupt us.

I would like to direct your attention to the following section of the South Australian Heritage Places Act 1993:

Part 7—Miscellaneous

36—Damage or neglect

(1) A person who—

- (a) intentionally or recklessly damages a State Heritage Place; or
- (b) engages in conduct knowing that it will or might, or being recklessly indifferent as to whether it will or might, destroy or reduce the heritage significance of a State Heritage Place,

is guilty of an offence.

Maximum penalty: \$120 000.

(2) A person who undertakes any action that—

- (a) damages a State Heritage Place; or
- (b) destroys or reduces the heritage significance of a State Heritage Place,

is guilty of an offence.

Maximum penalty: \$50 000.

(3) A person who—

- (a) fails to take reasonable care of a State Heritage Place; or
- (b) fails to comply with any prescribed requirement concerning—
 - (i) the protection of a State Heritage Place; or
 - (ii) the state of repair of a State Heritage Place,

is guilty of an offence.

Maximum penalty: \$25 000.

My wife and I are musicians. We have limited means and no prospect of changing that situation. It will always be our aim to maintain our property to the best of our financial ability, and in accordance with heritage principals as far as we can.

Our property has five buildings. Three constitute the main house, which we maintain as well as we can afford to.

The other two buildings are part of a mid 19th century Tannery. They were in a ruinous state when we bought the property and were sold to us on that basis. We always knew that we would never have the money to restore or maintain them. Further, the area on which they stand is subject to flooding and the Tannery is regularly inundated, sometimes as high as the first floor. The river bank adjacent to the smaller building has been eroded by the floods and there is a real possibility that the building will be undermined.

In our view these two buildings cannot be rescued in the long term and any money spent on them will be thrown away.

These are the buildings in which the Department seems to be most interested.

There was never any suggestion from our searches and contacts with the planning authorities at the time we bought the property in 1990 that there would ever be a requirement on us to maintain these buildings.

Now however, under Part 7 36 of the South Australian Heritage Places Act 1993 in Part 7 36 (1) (b), the Department for Environment and Heritage can decide either that we have failed to take reasonable care, or it can instruct us to carry out repairs and if we fail to do so we can be fined \$25,000.

If we knowingly do not undertake work on the Tannery (and there is no prospect that we could ever afford to undertake such work) then under the South Australian Heritage Places Act 1993 Part 7 36 (1) (b) the Department for Environment and Heritage has the power to fine us \$120,000 for engaging in conduct (i.e. failing to maintain) knowing that it will or might reduce the heritage significance of a State Heritage Place.

In effect this section allows the SA Department for Environment and Heritage to make a compulsory acquisition of significant ownership rights over our property without taking on equivalent responsibilities, or providing any measure of compensation such is normal in other compulsory acquisition situations.

I note from various submissions that it is clear that the value of a property diminishes when it is listed. Quite apart from the significance to us – our property represents a life time of savings and investment effort – this clearly shows that there is a general perception that owning a heritage property has financial problems.

This is a double whammy for the private owner. At one stroke the capital value is reduced and the cost of ownership is increased.

We support the principal of protecting the heritage of this country. But if it is not to produce disaster for individual owners and a reluctance in the community to become involved because of the financial implications, these laws need to be changed to ones based on reasonable equity for all concerned.

Yours sincerely,

Nicholas Braithwaite