



City of Canada Bay Council

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Dr Neil Byron
Presiding Commissioner
Productivity Commission
PO BOX 80
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Dear Sir

The City of Canada Bay Council resolved at its meeting of 7 February 2006 make a submission on the Productivity Commission Draft Report on the *Conservation of Australia's Historic Heritage Places*.

The Council is pleased to note that the Commission appreciates the benefits of our historic heritage places to the wider community.

The Council has concerns with some of the recommendations in the draft report and asks that these be reviewed.

We note in particular the following.

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.

Comment

Determining what costs relating to heritage places are specifically related to their conservation would be very difficult to determine in many cases. While the additional cost of a Conservation Management Plan might be easily quantified, a number of heritage places under Council management would normally require a management

plan due to other government requirements so the additional cost, if any, might be difficult to quantify. Maintenance work on heritage properties would generally be expected as part of property management, whether or not the place is listed as a heritage item. Creating a separate reporting system for additional "heritage-related costs" is likely to be unwieldy and provide inaccurate figures.

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.

Comment

Refer to comment below *Draft Recommendation 9.3*.

Draft Recommendation 9.3

State governments should require their local governments to add non-government owned properties to a local heritage conservation list only after a conservation agreement with the owner has been entered into and remains in force.

Comment

The recommendation to have individual negotiated conservation agreements in force when places are heritage listed is not a workable idea in practice. If one party to the agreement can decide they are no longer happy with the agreement and the place can then be removed from the statutory heritage list, then there is little point in negotiating such an agreement.

The Draft report suggests that places are listed on local government heritage lists without adequate comparative analysis and professional consideration. This is seldom if ever true. In the case of City of Canada Bay Council, professional heritage studies by experienced consultants were the first step of developing heritage lists. These studies were followed by an extensive period of consultation including consultation with affected property owners. Existing planning controls are also taken into consideration before places are included on the heritage list.

City of Canada Bay Council's heritage controls are based on model templates provided by the N.S.W. State Government. To some extent, these already provide a conservation agreement by providing clear requirements of when Council approval for certain works is required.

The resources required by local government agencies to carry out this recommendation would require a large budget allocation. This would take away funds that Council uses to actively assist owners of heritage properties through the services of a heritage advisor. City of Canada Bay Council believes that these services are of greater value to the owners of statutory heritage listed properties than a conservation agreement.

The Draft Report suggests that, as part of a conservation agreement, owners might be compensated in some way for listing of their property as a heritage item due to a perceived loss of property value. Councils are not required to compensate property owners for potential losses due to the implementation of other planning controls, nor does it receive some of the profits an owner might receive when a re-zoning results in a marked increase in property value. Listing of places as a heritage item usually takes into consideration existing planning controls so that the owner is not unreasonably affected. Quantifying potential losses to put a value on any such reimbursement would also create a potential minefield with both parties appealing the decision of a valuer.

Draft Recommendation 9.4

State governments should put in place systems for their local governments to request compulsory acquisition in cases where this becomes the only way to ensure cost-effective conservation of places of local significance.

Comment

This recommendation is not a reasonable expectation of local government. Councils are not expected to acquire properties affected by other planning issues such as local overland flooding or mining subsidence. Heritage listing is just one of many constraints that can affect a property and it is more important that Councils have programs in place to assist property owners to understand and deal with such constraints.

Draft Recommendation 9.5

Private owners of already listed properties, where the listing occurred after purchase of the property, should be able to apply for a negotiated conservation agreement and for listing to continue only if an agreement is reached.

Comment

As noted above, the principle of negotiated conservation agreements for local government statutory heritage listings is not workable. Negotiating new conservation agreements each time a property is sold would be an unreasonable burden on Council resources.

Draft Recommendation 9.6

Private owners of already listed properties, where the listing occurred prior to the purchase of that property, would remain covered by the existing 'package' of restrictions and concessions (if any). These arrangements would be reassessed at the time of any substantive development application when negotiations for a new conservation agreement would occur and listing would continue only if an agreement is reached.

Comment

As noted above, the principle of negotiated conservation agreements for local government statutory heritage listings is not workable. It is noted that a substantive

development application is often the time when Council has the opportunity to negotiate some conservation works to be undertaken on a statutory heritage listed property.

Draft Recommendation 9.7

State and Territory governments should modify their planning legislation and regulations to remove any requirement to take heritage considerations into account in relation to any individual property other than those requirements relating to zoned heritage areas.

Comment

This recommendation does not take into consideration the effects that development in the vicinity of a statutory listed heritage item can have on the heritage item. These effects can include loss of views to and from the heritage item, overshadowing of the heritage item, effects on landscaping associated with the heritage item, potential structural effects, and the diminished importance of the heritage item on a townscape or streetscape. It is often very important that Council take such issues into consideration.

Other Comments

Many of the submissions to the Productivity Commission in regards to this inquiry raised the need for greater assistance to owners of heritage properties. This is a key issue for both government agencies and private owners of heritage listed properties and has not been adequately addressed in the recommendations of the draft report. Heritage assistance programs have proven to be of great benefit in conserving heritage places. A greater focus on ways to provide assistance to owners of heritage properties should be a major focus of the inquiry. This would be a better use of the resources of government at all levels than having mandatory conservation agreements for all statutory heritage listed properties.

We trust that the Productivity Commission will take these comments into consideration before finalising its Report on the *Conservation of Australia's Historic Heritage Places*.

y McNamara

Director Planning and Environment



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16 February 2006