

## **Glen Eira City Council**

3<sup>rd</sup> February 2006

Heritage Inquiry  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

Dear Sir,

### **SUBMISSION BY CITY OF GLEN EIRA TO HERITAGE INQUIRY PRODUCTIVITY COMMISSION**

I would like to take this opportunity to begin Council's submission by explaining the importance of heritage and heritage protection to Glen Eira and the application of a 'tried and tested' system which to date has worked extremely effectively in reconciling community heritage objectives with private property owners aspirations and desires.

It is in this context that Council expresses concern regarding the recommendations of the Commission, namely that the problems are not with the heritage controls that exist in Victoria but the way that they are administered. To this end, Glen Eira has been instrumental in implementing and discussing streamlining initiatives aimed at improving the processes associated with heritage controls.

#### **Heritage in Glen Eira**

The City of Glen Eira is located in Melbourne's south east suburbs and is essentially an inter-war municipality founded on the development of Melbourne's electric tramway system and the electrification of its suburban railways. Important examples of nineteenth and early twentieth century housing and commercial development add interest to the City. At the national level, it remains today as a rare, surviving, middle-distance, middle class municipality of the inner-war era, retaining its system of tramways.

Since adopting a Heritage Management Plan in 1998, Glen Eira has successfully introduced planning scheme heritage controls for 18 heritage areas and 130 individual properties (3042 properties in total). This means that approximately 5% of the City's properties are now protected by heritage controls.

Overall, Council has been effective in acting to protect those heritage assets that are valued by the community, educating the community on what and why heritage places are important and; striking a suitable balance between conservation and facilitating appropriate and sympathetic development.

Other heritage initiatives that have been introduced by Council include the commencement of the Heritage Advisory Service in 1999. This is a free architectural and technical advice service to residents and property owners. Council employs a qualified heritage architect who is available to provide advice to residents and traders who are proposing to extend or demolish a heritage property. This service is supported by Heritage Victoria. The Heritage Advisor, has in Council's opinion acted as an effective "bridge" between the expectations of the community, council and designers in altering heritage places and designing new buildings in heritage precincts.

In addition, Glen Eira is one of the few Councils to have prepared specific guidelines for individual heritage areas which provide guidance for anyone who is proposing to extend, alter or demolish a heritage property. In total, 18 sets of area specific guidelines have been prepared for each of the designated heritage areas within Glen Eira.

Glen Eira has always attempted to take a practical approach to heritage control. Extensive use of the Heritage Advisory Service and heritage guidelines has resulted in an ability to develop solutions to problems which can often arise during a planning process.

Since the introduction of the Heritage Overlay progressively since 1999, Council has received approximately 577 planning applications for changes to properties within heritage areas.

The number of applications received each year since 1999 has steadily grown with 2002 experiencing a peak in applications. Since 1999, 514 applications (89%) have been approved, with only 49 (8%) refused. Of this 49, only 11 were refused on heritage related grounds. It can be deduced from these figures that in general, the heritage controls (in conjunction with the Heritage Advisory Service and Heritage Guidelines - appear to be working effectively in facilitating appropriate development within heritage areas and are widely accepted by the community and the development industry alike.

Glen Eira is also currently investigating ways of streamlining the heritage approval process. Heritage controls should be about protecting what is important and not catching everything in the planning "net". Some initiatives have included:

- Council officers believe that the need for a planning permit triggered by the heritage overlay should not be an excuse to start applying other scheme requirements unrelated to heritage (e.g. Res Code requirements). Glen Eira has written to DSE suggesting changes to the Victoria Planning Provisions.
- Glen Eira is also about to write to DSE seeking changes to the heritage overlay to create more exemptions and remove the need to advertise certain types of applications.
- Glen Eira is also exploring introducing a "fast track" planner to more quickly process minor heritage applications.

These changes have the potential to reduce time, cost and frustration experienced by designers, applicants and the council and will allow everyone to focus on what is really important - protecting heritage.

Council strongly believes that the current system in Victoria coupled with Council's like Glen Eira's attempts to streamline and improve the system, are working effectively. It is in this context, therefore, that Council expresses concern and makes its submissions on the recommendations of the Productivity Commission.

#### **The Draft Productivity Commission Report**

The issues raised by the draft report need to be placed in perspective - the 'bulldozer in the night' and 'demolition by neglect' are real problems, but they only occur to a small proportion of heritage properties in Victoria. These few examples should not be used to conclude. that 'heritage listing is a disastrous policy'.

1. Heritage must not be dealt with in isolation

Neither the principles of town planning, nor the fundamentals of the Victorian planning system, appear to have been sufficiently understood by the Commission. The Commission needs to understand that there are strong inter-relationships between land use planning, development control and heritage. The Victorian planning system needs to remain internally consistent and to this end heritage cannot be dealt with in isolation.

2. Voluntary Conservation Agreements

In relation to the need for 'heritage negotiation', the Commission fails to recognise that a great deal of negotiation already occurs within the current system and there are statutory rights to be heard (eg Planning Panels) for any proposed heritage listing. That is, there are already statutory processes in place to protect owner's rights and provide for transparency, fairness and justice in administration.

In relation to the proposed voluntary conservation agreements recommended in the report, there are just too many unanswered questions. Such as; How would they ensure that the most valuable heritage assets were retained? How would they relate to the Victorian planning system? Would they be public or private? When would they be negotiated? [Problems were identified with combining this either with listing or at point of sale.] How would Council find the resources to negotiate and administer the system? [For example, the small rural Shire of Indigo estimates it would need to negotiate 600 agreements, in Glen Eira's case it would be 130.] What about 3<sup>rd</sup> party rights? How would the agreements be enforced? Would wealthier owners, able to pay for their own specialist and legal advice, be able to negotiate less burdensome agreements than poorer owners? Is there a danger that owners would defer the kinds of routine maintenance that every property requires, and use this as a bargaining tool in negotiations?

There are potentially enormous cost implications for local government of preparing agreements, administering the system and potentially assisting property owners in the maintenance or repair of their property. If agreement cannot be reached and a Council wanted to protect a property, it would have to compulsorily acquire it. There would also be potential for the system to be abused with property owners delaying normal maintenance on their properties until agreement can be reached with Councils to pay for it.

Introducing voluntary agreements as the mechanism for protecting heritage properties would lead to a situation where heritage controls will only exist based on the ability for municipalities to pay.

3. Heritage Areas and Conservation Agreements

The proposed sharp distinction between heritage areas (continue with present planning scheme system) and individual properties (voluntary agreements) will create a two tier heritage system that is open to abuse (eg Councils may amalgamate individual properties into precincts wherever possible).

4. Concern over the loss of heritage properties

Under the recommendations in the draft report, there is a high likelihood that a great number of important local heritage places may be lost because owners do not consent to an agreement, and it would be difficult for local governments to justify the purchase of every property in this situation. This situation would be most critical for smaller and rural municipalities who may not be able to afford to enter into such agreements for a large number of places.

5. Lets improve the system we have got

The report is predicated on the assumption that regulatory control is at the root of problems suffered by heritage property owners. Therefore, the Commission concludes, get rid of the controls, rather than tackle the area which probably causes the most grief to owners of heritage properties - how planning controls are applied. Surely a better way to deal with this would be to improve planning approval processes relating to heritage properties. The City of Glen Eira has been instrumental in discussing such 'streamlining' initiatives with the State Government and implementing its own system improvements (see above).

## Scanned copy of original submission

In addition, the report fails to acknowledge that there are genuine benefits associated with heritage protection such as:

- Increased property values over time due to protection
- Ability for the planning system to allow otherwise prohibited uses
- Access to grants
- Access to free heritage advice
- Benefits to local economies e.g. tourism

A more balanced approach would be to require Council's proposing heritage controls to go to further lengths to justify:

- The significance of the place and;
- The ability of the Council to support the owner through - an efficient planning system, access to advice etc,

To this end, Councils with existing heritage controls could be required to conduct periodic reviews of the controls to demonstrate the above.

### **Conclusion**

In conclusion, the present planning and heritage system in Victoria has tools available, or can be readily adapted, to achieve improvements in relation to the fundamental aims (or criteria) that underpin the Productivity Commission's draft report. The Commission's proposals would bring radical change to this system. Any change needs to be carefully framed to ensure that more is gained than lost, compared to the present system - the benefits of the proposals must demonstrably exceed the costs. The draft report does not meet this criterion. It foreshadows the dismantling of a system that has been built up over half a century and a legislative regime which in Victoria is over 30 years old. Don't throw the baby out with the bathwater! The problem is not with the controls but the way that they are administered.

I thank you for the opportunity to make a submission on this very important issue and look forward to hearing from the Commission in response to the submissions made.

Yours sincerely

**DIRECTOR CITY DEVELOPMENT**