

Natalie Goode

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NG/ng: A/163

Heritage Inquiry
Productivity Commission
PO Box 80
BLENNONEN ACT 2616

Dear Sir/Madam

DRAFT REPORT ON THE CONSERVATION OF AUSTRALIA'S HISTORIC HERITAGE PLACES

I refer to your correspondence dated 14 December 2005 seeking comments on the draft report on the Conservation of Australia's Historic Heritage Places by 24 February 2006. I apologise for the late reply. The City's comments are as follows:

VOLUNTARY LISTING

One of the draft report's main conclusions is that properties should be statutorily listed only after a conservation agreement has been negotiated with the owner. This has significant implications for how the statutory listing process in Western Australia (WA) currently operates.

There are five types of heritage listings in WA that include:

1. State Register of Heritage Places;
2. Local Government Scheme Register;
3. Local Government Municipal Inventory;
4. The Register of the National Estate; and
5. National Trust (WA) Classification.

The three listings that local authorities generally deal with in a statutory capacity is 1, 2 and 3. Generally places that are of state significance are listed on the State Register of Heritage Places whereas places that are of local significance are generally listed on a Local Government Scheme Register.

The decision to enter a place in the State Register follows a strict statutory process of assessing its cultural heritage significance that is determined through the assessment of aesthetic, historic, scientific or social value, rarity and/or representativeness. The decision to enter a place on either a Local Government Scheme Register or Municipal Inventory are based on similar principles to the State Register listing process.

Whether a place is of state or local cultural heritage significance should not depend on whether the owner consents to the listing or not, as this is not a defining factor in determining a place's level of cultural heritage significance.

It is considered that statutorily listing properties only after agreement with the owner is reached would lead to a significant proportion of places of cultural heritage significance potentially being lost which is a highly undesirable outcome.

CONSERVATION AGREEMENTS

The use of conservation agreements is similar to the development application process and statutory listing process that the City of Subiaco currently employs. The references in the draft report to "statutorily listed places" refers to the properties that are included in the City of Subiaco Town Planning Scheme Register of Places of Cultural Heritage Significance (the Register). The Register is different to the City's Municipal Inventory of Heritage Places which is an information resource only and is not used as the determining factor as to whether a place is of cultural heritage significance in assessing development proposals.

Currently the Register includes properties that were requested to be listed by the landowner on a voluntary basis. The process for listing a property of the Register has previously been as follows:

- a development application is submitted concurrently with the listing request;
- in negotiation with the City development approval is granted that includes conditions that detail the extent and timing of conservation works and concessions granted.

This process is effectively the same as a conservation agreement with the exception of funding. The development application process does not directly address funding arrangements however direct funding is addressed by the City's Heritage Assistance Program that allocates funding to provide financial assistance to landowners who have undertaken conservation works. The Program allows for a designers fee subsidy (up to \$2000 for residential properties and \$5000 for non-residential properties on the Register) and the waiving of development application fees provided that certain conservation objectives are met.

Funding is indirectly provided by the development application process through development standard concessions which may include, but not be limited to, variations to open space, plot ratio, setbacks, height, car parking and land use. Land use variations generally provide the greatest financial incentive as often the use of a building for non-residential purposes yields a greater revenue than if the building was used for residential purposes. The variation of land use however is not supported by the draft report. The report states that:

"...any conservation agreements would need to be consistent with the general zoning of the property. That is, it should not allow any activity that is prohibited or restricted by the existing zoning regulations." (pXXXV) and

“Where the zone restrictions on use and development are consistent with heritage restrictions, problems typically do not arise. Problems do arise where heritage restrictions lead to different requirements for, or different assessment procedures” (p84)

The report however does not justify in detail why land use concessions should not be considered. Although it is acknowledged that non-residential uses in a residential area may have the potential to result in land use conflicts, the Scheme requires that in the determination of an application for development approval, Council is to have regard to, amongst other things:

- The orderly and proper planning of the locality;
- The conservation of the amenity of the locality; and
- The design, scale and relationship to existing buildings and surrounding of any proposed building or structure.

On this basis it is considered that land use concessions for heritage listed properties in appropriate circumstances will not necessarily cause problems and provide a significant incentive for the retention of significant places. This is an issue that should be seriously reconsidered.

Should you wish to discuss the matter further please contact Natalie Goode on telephone (08) 9237 9209.

Yours sincerely

GEOFF GLASS
DIRECTOR DEVELOPMENT SERVICES