



# Conservation Council of South Australia Inc

## Response to the Productivity Commission Draft Report Conservation of Australia's Historic Heritage Places

### Submission by

The Conservation Council of South Australia Inc.  
20 February 2006

### Introduction

The Conservation Council of South Australia (CCSA) is South Australia's peak non-government community environment organisation. Formed in 1971, it is an umbrella group for around 55 of the state's diverse environment groups, representing some 60,000 individuals. It is an object of the CCSA to foster protection of cultural heritage (CCSA Constitution 2.1.5), and, for a quarter of a century, the CCSA has had considerable involvement in heritage matters in SA.

CCSA is pleased to make the following response to the major recommendations contained in the Draft Report *Conservation of Australia's Historic Heritage Places*.

### Summary of Response

1. *The key recommendation 8.1 is strongly rejected.*
2. *Draft recommendation 7.1 is strongly rejected. The Register of the National Estate (RNE) should be retained until the heritage values of all places on the list have been assessed by their own jurisdiction, and all the heritage data concerning RNE places has been made publicly available through a fully constructed Australian Heritage Places Inventory<sup>1</sup>.*
3. *Draft recommendation no 9.1 is strongly rejected.*

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<sup>1</sup> CCSA endorses this recommendation of the Australian Council of National Trusts in their submission (2006, p. 48).

## **Comments**

**Key draft recommendation 8.1** CCSA rejects unreservedly the key recommendation that historic places should only be listed after a conservation agreement has been entered into (that is, only with owner consent). Such a practice would be like leaving it to the owners of protected old growth forests to determine the allowable rate of land clearance. The result of a conservation agreement policy would be a gradual reduction in the conservation of Australia's privately-owned heritage places: the proposed process will result in reduced listings<sup>2</sup> with owners able to demolish their unlisted properties, and developers able to purchase the heritage places with a view to delisting and then developing the properties. Eventually the current stock of heritage buildings would be replaced by incompatible modern structures which would ruin the streetscapes of our older centres and neighbourhoods.

South Australia's heritage listing process was first introduced through State legislation in 1978 with the support of all political parties. It was subsequently broadened to include historic zones and local heritage and has been mostly implemented without requiring owner consent, but not necessarily with owner objections. The listing process relies on the judgement of heritage professionals to identify and assess whether places meet legislated criteria. Building owners have in the past accepted the listing of their buildings under the SA legislation and, in the case of residential heritage buildings, have benefited from listing by the increased value of their homes. Recognising commercial property owners are disadvantaged when the development potential of the property is greater than the plot ratio of the heritage building, incentives have been devised to compensate the owners.

Heritage places are too precious in the cultural landscape to be threatened in this way by a system of voluntary listing. As noted in the Draft Report (2005, p.9) 'places of cultural significance enrich people's lives, often providing a deep and inspirational sense of connection to community and landscape, to the past and to lived experiences'. Conservation agreements would endanger a process that has served the wishes of the public to preserve the historic character of their State and communities and would substitute an arbitrary process of heritage listing. If a process of negotiated conservation agreements were to result in the delisting of historic heritage places, the CCSA predicts there could be public protests of the sort experienced in the 1970s and 1980s.

The Draft Report states that, in a 2003 survey of places included in the Victorian Heritage Register, 20 per cent were found to be in poor or very poor condition (2005, p.xxv). Assuming this finding is correct, it would be folly to introduce a process that risks the loss of even more of our historic built heritage because one-fifth of the listed buildings in Victoria have not been properly conserved.

Rather than reducing government costs, the process of mandatory conservation agreements would increase the bureaucratic costs of heritage listing by requiring that governments at all levels consult with affected owners and negotiate a written agreement. According to the report, these agreements may be reviewed at the owner's request or where a new owner has bought a building and seeks a new agreement. The financial costs of this process would be much better allocated to maintenance of the 20 per cent of heritage buildings reported to be in poor condition.

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<sup>2</sup> The Australian Heritage Council outlines the problems with the process in their submission (2006, p. 9).

Heritage advisers and consultants have found that building owners have often been misinformed about the impacts of heritage listing on their properties. For example, when the Burnside Council conducted its survey to introduce a local heritage register under the *Development Act 1993*, several building owners objected initially but when informed of their responsibilities and indeed privileges as owners of heritage buildings, they withdrew their objections. As noted in the Report, there has been much confusion in South Australia as elsewhere about the effects of heritage listing on properties.

The process of negotiated conservation agreements described in the Draft Report would lead to a culling of the nation's historic vernacular architecture. The recommendation is contrary to the processes of state and most local heritage listing delineated in the *Heritage Places Act 1993* and *Development Act 1993* of South Australia which CCSA has supported.

**Draft Recommendations 7.1 & 7.2** These recommendations seek to phase out and remove reference to the Register of the National Estate (RNE). Until the development of the Australian Heritage Places Inventory (AHPI), an integrated system containing all heritage records from each level of administrative jurisdiction, it would be pre-emptory to phase out the RNE. The CCSA notes the 2003 amendment to the Environment Protection and Biodiversity Conservation (EPBC) Act requiring the Australian Heritage Council to maintain the RNE and the statutory role of the RNE as a 'trigger' under S. 26 and S. 28 of the EPBC. The CCSA supports the submissions of the Australian Council of National Trusts and the Australian Heritage Council in respect of these recommendations.

**Draft Recommendation 7.4** While the costs of heritage conservation should be part of government accountability, the CCSA objects to the way in which the report gives primacy to economic values over social and cultural values associated with heritage. As noted previously in our submission to the Productivity Commission's *Issues Paper*, the CCSA is concerned that it is a purpose of this inquiry to seek ways in which governments may reduce their financial commitment to historic heritage conservation. We would oppose any move to reduce this commitment and suggest that it should instead be increased. Government grants for heritage conservation have never been adequate.

**Draft Recommendation 9.1** The CCSA opposes the amendment of the *Environment Protection and Biodiversity Conservation Act* to introduce mandatory conservation agreements for additions of privately owned properties to the National List. For places to meet the criteria for entry on the National List, they must be of the highest heritage value, or 'extremely selective' as stated in the Report. It would be irrational for the Federal Government to assess such places as meriting entry on the National List and then to declare that they should not be protected by the Act because of owner objection. Rather, the Government should persuade owners of the value to the nation of heritage listing.

**Draft Recommendations 9.2 & 9.3** The Commonwealth Government cannot mandate that State and local governments enter into conservation agreements for heritage listing. CCSA supports South Australia's current legislation with respect to heritage and would urge the State Government not to adopt the recommendations in this report.

**Draft Recommendations 9.4-9.8** The CCSA strongly objects to these recommendations.

## **Conclusion**

Heritage buildings have been heritage listed and should continue to be heritage listed because of their architectural, technical, cultural, social and/or historic merit. At the time legislation was introduced in the 1970s to protect historic heritage places in three States, there were parliamentary debates about compensation to owners for the potential loss in value to their buildings. These debates were all resolved in favour of mandatory listing without compensation. When the City of Adelaide Heritage Register was introduced in 1987, listing was mandatory. However, when local heritage followed in 1993, after an extremely divisive period for the Adelaide City Council, listing was made voluntary as a compromise, with the resultant loss of many heritage buildings and the loss of character of many of Adelaide's Victorian streetscapes. The SA Minister of Environment and Heritage is currently reviewing the Adelaide City Council's policy. Other local governments in South Australia do not have a policy of voluntary listing.

Last year the Anglican Church expressed a wish to sell SA's oldest bishop's residence, the Christ Church Rectory in North Adelaide, because of the financial burden of certain compensation payouts. Such a large property could have enormous development potential, but surely no one would suggest it should be demolished at the whim of a new owner. Fortunately, the property is listed on the State Heritage Register which protects buildings from redevelopment and arguably should be entered with a group of similar buildings as a theme on the National List. However, its demolition could be the outcome if all heritage listing were to become voluntary. We cannot oppose such an outcome strongly enough.