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Heritage Inquiry
Productivity Commission
PO Box 80
Belconnen ACT 2616

Dear Commissioners

Thank you for the opportunity to discuss issues relevant to this inquiry at the recent hearings in Canberra.

During other presentations, there were two issues which I wanted to offer some comment on, these being:

- the concept of voluntary listings; and
- compensation for heritage listings.

Voluntary Listings

I gather this is an idea which appeals to the Commission, or at least one you consider worth testing. I can understand how this idea might have some appeal – in some ways it is merely an extension of the heritage agreement path. However, based on my current understanding of the proposal I can see many problems.

Firstly, given the extensive existing listings it is not clear how the concept would be applied to these. Revisiting all of these thousands of listings would consume vast resources, even leaving aside the assistance owners might seek as part of the listing deal. These numerous listings suggest we are well past the point where such a proposal could be reasonably contemplated. If we were at the start of creating lists then the idea might have more appeal.

Secondly, given the likely limited resources available to both negotiate listings and provide the assistance sought by owners, the listing process itself is likely to be extremely and unreasonably constrained.

Thirdly, the proposal seems to tie identification and management together in a way which might breach one of the fundamental precepts of heritage conservation practice. It has been a strong article of practice that identification and management should be treated quite separately because of the problem of management issues influencing identification decisions.

Fourthly, I am not sure this is really a necessary step to take. While there are some grumbles about heritage listings, there seems much more acceptance than rejection. I

would take a lot of persuading that the voluntary listings option is a superior option to a range of other methods to provide incentives to owners.

Overall, my estimation is that the voluntary listing option is more likely to cripple listing activity than achieve some overall better outcome for heritage. In addition it seems complex, possibly more expensive than other incentives options, and it would take a long time to implement given existing listings. I can see little to recommend it in practice.

Compensation

In various submissions and evidence presented at hearings there has been mention of compensating owners for listings. I wish to speak strongly against this idea.

There is some legal complexity to this issue, and I am not a legal expert. But my limited understanding is that constraining property rights is a quite different matter to the wholesale removal of such rights to the extent that no reasonable use is possible for a property.

Heritage constraints are normally similar to a range of other constraints that might affect an owner such as planning/zoning, OH&S, BCA, access, etc. Each of these constrains an owner but some reasonable use continues to be possible. Accordingly, compensation is not appropriate. I would urge the Commission to be extremely careful in considering the question of compensation.

However, this is not the same as offering or providing incentives, and I have argued strongly elsewhere that incentives should be provided.



I hope these comments may be of use to the inquiry.

Your sincerely

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