

Submission on Productivity Commission Draft Report of December 2005

Conservation of Australia's Historic Heritage Places

This submission is made on behalf of the Environmental Defenders Office (SA) Inc. The EDO is a member of the Australian Network of Environmental Defenders Offices Inc.; however this submission is a "local" submission and limited to our experience as observers of and participants in heritage protection in South Australia.

1. Economic rationalism inappropriate

1.1 The Draft Report purports to have examined cultural and social values associated with historic heritage conservation, as well as economic issues, but in fact the report makes a narrow economic rationalist analysis of the impacts of heritage listing. There are some matters which cannot be measured solely in economic terms, such as justice, culture, art, some would say education, and built heritage. Historic heritage buildings form the backdrop to a community. Many have been in a community since its inception and are highly valued. That is why when the SA Heritage Act was introduced in 1978, as part of a worldwide trend and with the support of all political parties, it was agreed heritage listing would be mandatory and there would be no compensation to owners of heritage buildings. The SA Heritage Committee (now Council) from its formation affirmed the principle that 'consideration of items for the Register should not have regard for any financial matter'; that only the aesthetic, architectural, historical or cultural significance of the item would be considered. This principle has largely guided heritage conservation in South Australia for nearly three decades and is contrary to the key recommendation in the report.

1.2 The report is based upon two questionable assumptions:

- the market-oriented capitalist view that owners of buildings have an right to do as they wish with their properties, and
- the false assumption that heritage listing reduces the value of properties.

In fact, it has been found that heritage listing often increases the value of properties, particularly in residential areas. The Boyd case (p.169) was either a very unusual circumstance or they were misinformed about the financial impact of heritage listing on their home. The SA Valuer-General's Department has demonstrated the positive impact on heritage-listed properties on many occasions, and its findings are contained in a brochure distributed to owners of heritage properties by the SA Heritage Branch (see the publications page on www.environment.sa.gov.au/heritage). While admitting that some properties in commercial areas may be devalued because of loss of development potential, the brochure states conservatively that 'a house in a residential zone should not suffer any loss in value. It may even experience a rise because of the certainty of knowing its heritage character is protected, and this benefit can flow on to nearby properties because the listing helps to protect the character of the streetscape'. The

websites for the Victorian and Western Australian Heritage Councils present information which supports and enhances the South Australian findings.

- 1.3 The Draft Report lists the costs of planning approval as an additional burden on owners of heritage buildings. In fact, modifications to all buildings require planning approval at some level of local government bureaucracy. The Adelaide City Council, which introduced the first local government heritage register in South Australia, waived all planning and building application fees in relation to conservation work for heritage buildings. All local governments should be urged to waive those fees as a contribution to their community assets.
- 1.4 The EDO objects to the economic rationalist approach to historic heritage conservation as inappropriate for the protection of community assets. The report concludes that ‘if the costs of conservation are not considered when listing and protection occurs, there would be a tendency to conserve too much and/or an inappropriate mix of historic heritage places’ (p.173). There is no evidence for this finding, but we are certain there would be an inappropriate mix of heritage-listed places in a random protection system in which developers and building owners would determine which places were listed.

2. Negotiated conservation agreements – key recommendation

- 2.1 The key recommendation (p.xliii) that all heritage listed properties should be subject to conservation agreements for privately owned heritage buildings, effectively introducing a system of voluntary listing, is rejected by the EDO. The SA *Heritage Places Act 1993*, with criteria and regulations for listing of places and areas on the State Heritage Register, and *Development Act 1993*, with criteria and regulations for historic (conservation) zones and for local heritage, do not provide for voluntary heritage listing. Places are accepted for listing because they meet the legislated criteria, not because the owner has consented to the listing. The Commonwealth cannot impose such a change to heritage practices on state or local governments. The EDO will urge the South Australian government not to adopt amendments to its heritage legislation to incorporate conservation agreements.
- 2.2 The recommendation that owners who purchased their properties after listing should have the option of refusing to negotiate an agreement is highly objectionable. In effect, a purchaser could knowingly buy a heritage property with the encumbrance, have it de listed and then demolish it. Such a process would make a mockery of the South Australian heritage legislation.
- 2.3 Unlike other local governments in South Australia, the City of Adelaide adopted a policy of voluntary listing in 1993 during a divisive period in its planning politics. The policy has resulted in the loss of several properties which were recommended for heritage listing, but because their owners objected, were not entered on the local heritage register. Century-old stone buildings have been demolished and replaced by modern glass and steel structures which detract from the cohesiveness of their streetscapes. The Minister for Planning is now questioning the Council’s policy of voluntary listing and seeking justification for its failure to recommend 54 properties which were recommended by experts to be entered on its local heritage register.

- 2.4 A majority of heritage-listed buildings are in prime locations in older suburbs of cities, or in agricultural and mining communities of regional areas. Voluntary listing would result in the gradual loss of those properties because, if they are not valued by their owners and therefore not subject to a conservation agreement, they are valuable for redevelopment. As a streetscape or area is altered by the loss of a former heritage building, other owners in the neighbourhood might seek to redevelop their properties for profit, or sell them to developers. This would indeed be a very random process of heritage conservation, which would not result in an 'appropriate mix' of heritage protection.
- 2.5 Adelaide and its inner suburbs have a considerable stock of 19th and early 20th century buildings which form the character of its historic areas. Governments have to consider whether the contemporary owner of a great house built in the 1880s, designed by a prominent architect and built by skilled tradesmen, has the right to demolish that house four generations later after it has contributed significantly to the environment of the community. The report proposes that the current owner should have the right to demolish the building if she or he did not enter into a conservation agreement, but we assert that the owner should have an overriding duty to history and to posterity to preserve the building. As Judge Roder found in the 1985 Kingsmead case in the City of Adelaide Planning Appeals Tribunal, 'to demolish "Kingsmead" ... would be a private advantage [only] and not be of advantage to the common weal according to the evidence put before me'. In that case the owner rightly lost the appeal.

3. Third Party Right to Appeal

- 3.1 The EDO supports the right of third parties to appeal against any attempt to remove heritage-listed buildings from a register.

4. Current practice has not resulted in overlisting

- 4.1 The report states the current listing process without cost to the community results in 'over (or non-selective) listing' (p.168). The community does not list buildings on heritage registers, the South Australia government does by applying rigorously the criteria entering places on heritage registers contained in the *Heritage Places Act 1993* and the *Development Act 1993*. The concept of overlisting in this context is subjective and is not supported by evidence.
- 4.2 The majority of buildings in South Australia are not heritage listed. If individuals and developers wish to buy property for redevelopment, we recommend that the Productivity Commission urge the redevelopment of areas which are not heritage listed, such as large parts of western Adelaide. We are aware that heritage buildings are targeted often because they are in prime locations where new buildings will attract a high purchase price. The Productivity Commission should urge the establishment of incentives for redevelopment of the blighted areas of each capital city.
- 4.3 The suggestion that buildings should be ranked (p.195) would be likely to result in funding allocated to iconic buildings rather than the humbler cottages and factories and migrant quarters which form part of a community's history. This could result in the loss of the important working class and migrant contributions to the social and economic life of an area. The owners of the iconic buildings are usually better able to

afford conservation of their heritage, while those in cottages may not. Funding should be allocated where it is most needed rather than to those buildings ranked as having the most aesthetic significance.

5. Costs of Heritage Listing

- 5.1 The costs of heritage listing are exaggerated in the report, as noted in paragraphs 1.2 and 1.3 above. Private owners have a responsibility to maintain their properties whether or not they are heritage listed. The costs of owning a heritage building should only cover conservation work additional to normal maintenance. The community has paid for heritage listing through rates and taxes, and it is up to governments to allocate taxpayers' funds for conservation of heritage to an adequate level.
- 5.2 The report assumes there are benefits to the community that are measurable in dollar terms (pp.173-74). It also asserts that heritage listing has gone beyond 'accepted iconic buildings' to those listed for esoteric reasons not obvious to the wider community. This suggests governments should engage in educational campaigns to explain the significance of its built heritage to the wider community rather than reduce heritage registers to iconic buildings only.

6. Administration of conservation agreements

- 6.1 If implemented as recommended in the report, conservation agreements would result in an increased and ongoing bureaucratic workload at considerable cost. The EDO recommended that the funds for negotiating agreements would be far better spent in incentives for heritage conservation and educational programs about the heritage in local communities.

The EDO(SA) opposes recommendations 9.1 – 9.8 in the report and regrets the waste of public funds allocated to this exercise. We believe the Productivity Commission should focus on better ways to reduce pollution, greenhouse gas emissions and land erosion, improve transportation systems, waste disposal and water safety and distribution, and provide environmental justice for all Australians rather than introduce new bureaucratic systems to subvert current processes of heritage protection.

Environmental Defenders Office (SA) Inc.
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