

**SUBMISSION TO THE PRODUCTIVITY COMMISSION**  
on the  
**The Productivity Commission Draft Report on the Conservation of  
Australia's Historic Heritage Places**

January 2006

**Introduction**

Thank you for the opportunity to provide comments to the second round of consultation regarding the above draft report. The draft report released for comment has filled me with dismay. The terms of reference promised a comprehensive look at how to make heritage work better for owners and the community.

The resulting report seems to focus primarily on the necessity of providing a heritage agreement prior to listing, with voluntary listing as well. But **adequate public funding** for heritage is scantily addressed outside of the ideology of deregulation and voluntary conservation agreements. This is a lamentably mean outcome of the process, and a very blinkered conclusion. I was hoping to see an analysis of a range of matters that would lead to an understanding that heritage is an extremely valuable cultural resource, which with proper management and a three tier range of Federal, state and local government incentives, education and encouragement would benefit owners, the tourism industry, communities and the economy. Instead, the draft report reads like a Scrooge having a myopic fit of the blahs at Christmas time.

A review of local government within South Australia, for example, shows that many local councils are conducting heritage surveys prior to listing places of heritage significance against sound criteria for heritage listing under the provisions of the state's planning legislation. Councils who do so generally proceed to providing a range of incentives including waiving of development fees for conservation works, free specialist advice, product discount advice, technical notes on restoration practices and financial assistance from local heritage funds for owners of heritage listed places to maintain what in many instances is a **capital asset**. The majority of the community are **supportive** of heritage and management of programs to assist owners. The **majority** of owners are supportive of heritage listing and appreciative of incentives and free advice available. A **minority** of owners who wish to demolish a heritage listed building because of greater development potential do have a number of avenues open to them to put a case to the planning authority prior to, and after heritage listing occurs. In many instances their objections are upheld. Where their objections are overruled, they look to alternatives (and do). The State heritage system assists local government with a program of contributing to the cost of heritage advisers to councils, thematic surveys and regional surveys to identify both state and local heritage places. Interestingly, on a per capita basis, the response by local government to assist owners with heritage conservation is more generous than the State Heritage Fund resources to assist owners within South Australia.

It is particularly disappointing to see no regard or thorough analysis given to federal taxation incentives for the costs involved in maintaining and conserving heritage listed properties. The taxation incentive scheme for work for heritage properties previously offered was not reviewed – such as:

- were the forms easy to fill out,
- was the criteria fair,

- was there an audit of the take up rate,
- what was the analysis of the work generated within the economy,
- were Australian products and industry benefited,
- how was the system publicized, etc .

In summary, it is submitted that the draft paper fails to adequately investigate and address the following term of reference:

4. *the positive and/or negative impacts of regulatory, taxation and institutional arrangements on the conservation of historic heritage places, and other impediments and incentives that affect outcomes*

Apart from the above, this submission comments on the following aspects of the inquiry:

1. Listings
2. Heritage agreements
3. Planning and heritage
4. Education

In confining comments to the above areas, it is acknowledged that the Commission has covered an enormous range of information related to heritage. In response to the draft report, it is hoped the Commission will reconsider the scope and fairness of the final report in reviewing submissions on the draft paper.

My comments are based upon practical experience in both heritage conservation and planning, namely heritage policy planning at state and local levels, and development assessment and policy planning at state and local levels over a period of twenty five years.

## **1 Listings**

As an historian I place great value upon the recording of history and consider that it is important to acknowledge our heritage irrespective of the condition, ownership or alternative development potential of the heritage place. Listing should be regardless of whether the place is likely to be conserved or destroyed to make way for new development. Such a list is the starting point and a valuable record of our heritage and a range of historical themes that have shaped our nation. The list in itself does not normally impose any further obligations upon owners than those that already exist under planning and building law. They are generally not obliged to carry out work. They do not lose their privacy and listing does not confer any rights of access to the public. Listing provides only limited protection to buildings in the form of demolition control. It is a very small minority of total listings that may prevent development potential. Where the condition of a structure is so expensive and impractical to repair or conserve, the recording of the structure prior to its removal can be required. And there are schemes that can offset a loss of development potential in areas of high development pressure (e.g. transferable development rights).

As a planner I am concerned how heritage lists are interpreted and applied. However, the two processes; namely that of listing, and subsequently, the management of the place, should remain distinctly separate. While this may appear somewhat simplistic, there are good reasons to maintain the distinction. A listing of a heritage place provides

information about the place, why it is important, and what the place signifies. The process of heritage listing in all Australian states is subject to an interim process during which owner representations, community and peer review may occur. The review is based upon testing the historic accuracy according to the range of criteria for heritage listing rather than based upon an objection that future development will be thwarted by the listing. The process of local and state listing is rigorous, and within South Australia an owner has the ability to object at both the state and local level during the process of amending a Development Plan to include a property on a local heritage schedule within the Development Plan.

Rather than insist upon voluntary agreements prior to listing, it is suggested that a further step is the identification of significant fabric, preferably in discussion with owners, as part of the listing description. The recommendation that owners and listing authorities enter into agreements concerning a heritage place seems an unnecessary and expensive step if listings remain fundamentally recognition of the historic, physical and cultural values of the place.

The Commission has asked:

*Is there a need for a comprehensive survey of historic heritage places in Australia?*

No, because it has been mostly done in various ways, and is regularly reviewed. However, there is a need to coordinate and simplify existing data and update the information for eighteenth and nineteenth century heritage. Each state government should be responsible for the maintenance of existing data and for surveying twentieth century heritage according to existing criteria for significance. A centralized data base at the Federal level should acknowledge all recorded heritage places at Federal, State and local levels and ensure that ongoing surveys by local and state governments are integrated and efficient. (Possibly the basis of this already exists!)

### **Multiple Lists**

The existing Federal lists and general multiplicity of heritage registers continue to confuse the public. It is submitted that there should be one list. Irrespective of ownership, heritage places should be listed on the basis of existing criteria for significance. The three Federal lists should be amalgamated, including the National Estate list and the list of government owned heritage and the 'iconic places' and form one list until State governments review earlier NE listings for the level of significance – state, local or national. The 'iconic' approach to National heritage so far has been slow and cumbersome. The database that is established and maintained at a Federal level should continue to be funded at a Federal level. The database should continue to be accessible through the existing and linked websites and through 5 yearly publications. The database assists to provide a cultural resource for communities across Australia and in fostering an understanding where we have come from, our national values and how they have been formed, and why historic places within the community are significant.

## **2 Heritage Agreements**

The above comments regarding the proposed heritage agreement have responded to the proposal in the Draft Report. Currently, a Conservation Plan for a listed heritage site is prepared in consultation (and in the majority of cases paid for) by the owners of a listed property. It generally is a pre-requisite for accessing funding assistance for substantial works to a listed property. I do not consider that it is necessary to have a

Conservation Plan for a simple listing when clearly basic methods of conservation and preservation, such as maintaining gutters and keeping a roof waterproof, are applicable and can be readily accessed.

However, where a Conservation Plan is involved, the ownership of the information should be such that it is available to subsequent owners and the local Council or relevant planning authority. On this basis there should be a process of peer review and shared funding for the preparation of a Conservation Plan if and when a Conservation Plan is required. The peer review should be undertaken to confirm the validity of the Conservation Plan's recommendations prior to endorsement and registration of the document with a planning authority. If an accreditation process were established it would assist in avoiding the clash of expert opinions when development of a heritage site is in dispute.

There are many good examples where Conservation Plans are prepared and work well. Surely the Commission was aware of these?

### **3 Planning and heritage**

Following listing, planning law does not apply until the owner proposes to carry out development. It is desirable that owners are assisted as much as possible during the process and that the system establish ways to expedite processing. Most Councils have information sheets, incentives etc to address the situation. There is difficulty in processing where a heritage adviser is available to local councils on the basis of one day a fortnight, or one day a week which leads to delays in the assessment process. This is comparable to referrals to agencies where required by the regulations and accounts for the overall complaint about the processing times associated with development assessment.

There are a number of ways in which this could be minimized. Complying procedures for conservation works can be identified by way of technical notes which would obviate the need for excessive delays, planners could undertake courses in heritage conservation as part of ongoing professional development and become dedicated heritage planners dealing with the majority of heritage applications, a referral system to a specialist prior to lodging an application for extensive works could continue to be established and regular audits undertaken in order to improve the process across councils within the state.

It should be acknowledged that as part of the listing description within a Development Plan, significant fabric is identified. The process of defining significant fabric should involve the owner as part of a two way communication process prior to authorization of the proposed amendment involving the listing of local places to a Development Plan. This can occur during the interim authorization of a heritage related amendment to the Development Plan as part of the review process during public consultation. It should not require a 'management agreement'.

There are heritage places involving structures that warrant demolition under specified circumstances. In these instances, the recording of the structure should be required prior to demolition as a standard condition of approval.

#### **4 Education**

The planning process would benefit from further education opportunities for practicing development assessment planners, and the planning profession in general.

Education also could be extended to building professions on how to design and implement methods of construction, repair and conservation that are supportive of existing heritage.

A greater understanding of the Burra Charter both within and beyond the related professions would be a positive thing also.

Most importantly, it would be good if the general public could receive more information about what heritage listing really means. There is much misconception about the implications of listing:

The draft report also posed a number of questions, including the following:

*To what extent does historic heritage conservation generate benefits for the community?*

In addition to the matters identified by the Commission, it should be acknowledged that the benefits are priceless, in the sense that it is impossible to quantify or cost how valuable a 'sense of place' or an understanding of the past benefits a community. To answer adequately, one would have to consider the mental health of a community as well as the more tangible economic benefits from tourism, renovation and building supply industries. Historic/heritage conservation benefits the community in a fundamentally non economic nature, in providing a sense of identity and placement. The reasons are aesthetic in that many heritage listed places provide examples of grace, style, a stage of history, a state of living and technology that no longer predominates. Heritage conservation helps people realize who they are and where they came from. This is probably why communities in Europe rebuilt their heritage following the bombing blitzes during the Second World War. The destruction of a loved and familiar place that represents a past can cause a distress and sense of loss within a person or a community that no economic rationalist could ever understand. This state of distress is a form of grief that is difficult to cost in terms of how it impacts upon the ongoing life and culture of the community or the deprivation it causes to future generations. It can also affect the reputation of a country internationally.

*How do these community-based benefits compare to the personal benefits which owners of heritage places would receive through conservation?*

The question can be answered simply by stating that owners are a part of the community and in addition have a capital asset that is well maintained if they undertake conservation. In the majority of cases these properties become status symbols that sell well in the real estate market.

#### **Government's role**

The following questions are asked :

*How well do existing government regulations or activities specifically address*

*market failures that are directly relevant to conservation of historic heritage places?*

*Does government involvement in heritage conservation displace private sector involvement which would otherwise occur? If so, to what extent?*

*What are the costs of government involvement in the conservation of historic heritage places and who bears them?*

*Have these costs changed as a result of economic trends? For example, have pressures on government finances limited the amount of resources available for public heritage conservation?*

*How do these costs vary depending on the nature and extent of conservation?*

It is difficult to understand what is intended by the term 'market failures'. Does a diminished or lack of profit constitute a market failure? We live in a free economy where if the profit motive is the sole driving force it would be a dangerous act for a government to take responsibility for speculative loss. Taxation applies to income and to profit. We all pay taxes. Why do we pay taxes? I thought it was partly so that good governance can apply to those areas of our society where the pursuit of profit and income may have adverse or neutral effects on society. Society's social and cultural assets need to be supported by governments – federal and state.

In the area of both natural and cultural heritage, the role of government is to ensure that our resources in these areas are not diminished. On that basis and bearing in mind that Australia has a budget surplus, the pressures on government resources should legitimately include those of supporting heritage and the communities (including owners) associated with heritage.

It is submitted that the Tax incentive for heritage should be reviewed and reinstated under the Federal Taxation Scheme, with a view to making the scheme transparent, accessible and therefore workable.

***In summary, the Draft Report appears to be negative and biased in its recommendations. It is hoped that a review of the Report redress the deficiencies of the current draft and address the following :***

- *Reinstatement of workable taxation incentives for the owners of heritage listed properties;*
- *Recognition that shared responsibilities for heritage between the Federal, state and local levels of government and private owners are appropriate;*
- *Recognition that there is a valid role for government support in the encouragement of heritage and that this support should be increased;*
- *An emphasis on an education program for owners, community, related professions on acknowledging why heritage is part of our cultural resource and how to recognize and manage same.*

- *Acknowledgement that the listing process incorporates a number of steps that allow owners a 'fair go' in making representation.*
- *Recognizing the need for distinction between listing for significance and managing change and maintenance of the place following listing.*
- *Acknowledgement of the likely outcome of the current recommendations namely, the dismantling of years of work in improving the system for heritage management and the consequent destruction of much surviving heritage in Australia.*