

In my original submission I made the following comments;

...We have a system today where both private and government bodies list heritage, but we must all work with the consent authorities that apply where we reside. As mentioned before, these will vary from place to place, some local government authorities are more sensitive to heritage than others and some are open to community consultation while others are not.

There are many places across Australia, both in urban and rural areas, feeling the pressure of change. Desirable cities, towns and villages are naturally where people want to live and conduct their business. Many such places are increasingly subject to applications for re-development. Too often the desirable area containing a number of Heritage Listed places is compromised and no longer has the same character or ambience that led to the actual choice of the area for development in the first place; with change it becomes just another city, suburb, town or village.

.....Communities are made up of people, who like to feel they are entitled to have a say in what happens within their immediate environment. This consultation usually takes place, but not always, at Local Government level. On occasion the single letter from a homeowner asking for consideration will not be given the same weight as a report from a consultant employed by the applicant. The power, or money, to employ another to research and present an argument on behalf of their employer should not get more consideration, just because it is in easy to read terms. Full credence must be given to the resident who writes a letter from a personal perspective – after all they have to live with the outcome.....

.....An informed discussion on a proposal can often bring about a good compromise and save the proponent time and money before lodging a Development Application. This has a benefit to both the community and the applicant, often avoiding the matter deteriorating into litigation. While this discussion can take up a considerable amount of the time for a Council or local authority officer, it can in the longer term be a financial saving for both applicant and local authority, who no longer take the matter to court. A consultant at local level should be available and recommended, especially where it is likely contentious issues could arise (end of extracts from original submission)

I have now read the Draft report and wish to make the following observations.

Comments on Draft Report: Dec. 2005

Draft Recommendations

8. Getting the Incentives Right

8.1 *That privately owned properties should only be included on a register after a negotiated conservation agreement has been made, is a good concept*

HOWEVER my comments include the following;

The idea that this agreement should only remain in force for a current owner, presents problems as I see it. The system could be circumvented by quick change of ownership.

This also gives any property owner with good intentions for conservation the outlook that 'all their restoration work – done at some expense' may be negated or destroyed by a subsequent owner. Why then would owners take the time and money to do anything?

Conservation agreements for privately owned heritage places

9.1 – 9.2 – 9.3 – 9.4 have merit

I have a problem with the following:

9.5 &

9.6 *Where listing occurred prior to the purchase of that property, would remain covered by the existing package... These arrangements would be reassessed at the time of any substantive development application etc....*

This renegotiation could allow for major changes or demolition – I am not naive enough to believe that a persuasive argument could not be made to break/downgrade the value of previous agreements. I have been in court to hear clever lawyers persuade authorities to allow development, against the wishes of the community and local council.

This outcome could mean a considerable loss of time and effort, plus funds - including possible funding that had been achieved from a public source to assist in doing necessary maintenance or restoration of a property.

What would be the mechanism to take previous ownership, good stewardship, money spent etc. into consideration when an agreement was renegotiated; this would need to be well 'spelt out' before such agreements were put in place.

(Note: your ref. page 180 Box 8.2 Victoria, Land for Wildlife Trust: *Covenants are entered into voluntarily, but are legally binding on current and future owners of the land.*)

There are 2 sides to this type of agreement, as the draft report shows.

There must be a good outcome in a negotiated agreement, as it has been said in many different ways in the draft report.

There should also be some method for arbitration when there is a disagreement or deadlock on getting a successful agreement in place. This could be best achieved through either a state or territory body – even a federal body – but there must be somewhere for discussion and arbitration to ensure problems do not go to litigation. Individuals and Councils cannot afford these costs on top of what is recommended.

There must also be a reasonable outcome for heritage, otherwise the whole issue about agreements is a useless exercise as over time we will see so many challenges to these documents that more damage will be done, than heritage saved.

It has to be well planned, consulting people 'in the field' before any agreements are worded. I am wary of the person who sits in an office, to make decisions like this.

9.7 This recommendation; *State and Territory Governments should modify their planning legislation and regulations to remove any requirements to take heritage considerations into account in relation to any individual property other than those requirements relating to zoned heritage areas.*

Removing such requirements seems to me to be counter-productive to the idea of heritage listing. It puts the whole onus for heritage protection onto the local government authority, who are hard-pressed enough now. There is no authority to offer back-up advice to heritage decisions.

Local governments would need a major injection of funds to support their planners in dealing with development applications in many areas, specifically relating to heritage listed properties. My local council would need a large injection of funds as we have high content of heritage properties.

Would it be mandatory for councils to have a heritage assessment team of planners? Many councils could be unwilling to accept this role. Many have no Heritage planners at all now. Remote areas would be most vulnerable as well as financially poor councils, what funding is envisaged to assist them? Would Heritage planners be prepared to go to remote areas? What would the final role of Heritage offices be, in each state & territory? Would local Councils be empowered with the same opportunities to impose legal sanctions as State and Territory governments, if so who would fund these costs?

Draft recommendation 9.8

.....should remove identification and management of heritage, zones, precincts or similar from their heritage conservation legislation, leaving these matters to local government planning schemes.

As with the above comments, would councils be willing or able and who would fund the additional costs involved?

P.30 3.2

Subsidiarity ... as pointed out : is the principal that suggest *the responsibility for a function should be assigned to the lowest level of government that is able to exercise it effectively, thus as close as possible to the consumer, to allow them choice as to the services they receive.*

I agree and have mentioned the importance of local level contact in my submission.

But who is the authority in those areas where ‘the lowest level of government’ is unwilling or unable to deliver this effectively?

Would the authority become a region – would this benefit those in places further away?

P 60 4.1 *State and Territory become the de facto planning authority....*

It is so in my state and while the lowest level (council) is the ideal authority the above concerns are real – I am a member of my Council’s Heritage Advisory Committee and see the problems regularly, often requiring the expert support from my State Heritage Office – I see they still have a role to play in this area. But what is that role under the recommendations in this report?

Availability of information on listing, expenditure and condition.

A lot is said in this section of the draft report and I agree this is the desirable for all authorities to have good information about heritage listed properties.

Who, how and where is this done?

Are the Commissioners aware that much of the material relating to heritage properties, in my experience, was collected up to 30 years ago. This is often based on non primary source material, but on local beliefs etc. This can include well preserved and believed publications, newspaper articles etc. held by reputable historical organisations.

This sometimes erroneous material is accessed and used repeatedly by many who produce reports on Heritage Listed properties. Documents prepared by ‘others’ often contain much of this material which has been ‘reused’ by some preparing statements of significance that should contain the facts.

Much is now being done to solve this problem. It is time consuming and I, like many other volunteers in community organisations, am unable to do it all at once, given that I need to address many listed properties in my area.

Volunteers are not always the people with the skill or desire to do it all – and community organisations do not have the financial resources to get outside assistance for all these research projects.

I address this issue in some detail primarily because it is vital for the proposed changes the report recommends.

I often find that professionals fall into the trap of sourcing their material from that most easily available. They also make incorrect assumptions, based on experience elsewhere, that certain facts apply to a particular property, when a local situation is very different.

I spend much time talking with and acquiring information from accredited LOCAL historians, who know ‘fact from fiction’. Local information, taken from a primary source, such as archived documents held in state libraries or elsewhere is often the best source. Documents held by residents can also be vital, also well researched family history. But sourcing these requires time and effort, it’s easier to sit in the local library or historical society rooms and make notes.

I wish to emphasis here that material within my local library and historical society is excellent and very valuable and is not to be dismissed, but it needs to be read in conjunction with other primary source material.

Draft finding 3.2

At a local level I find a lack of funds is the reason that my council do not have the relevant data to support all their heritage listings. There is currently no funding available to assist with this work or prepare a statement of significance if it were required to support listings. My council area is inherently rich in historic material as the area was developed early in our colonial history.

Even with the recommendation to reduced the number of listing, my council would still have a large number of properties both they and the local community would want retained. All areas are different, yet there would have to be some ‘method’ of allocating funding.

I believe this situation applies in many other areas and should be taken into account, as considerable funding may be required to get good research done for listings as recommended in the Commissions Draft Report.

I see this as a very important issue that should be addressed by the inquiry.

Realising Property Asset Potential

This is an issue that is referred to in many areas of the draft report. This is a valid statement, as it is the perception of many that it should be possible to realise on an asset.

I have difficulties with this in one area.

I accept fully that some owners of private property can be adversely affected by the limitations placed on what they may or may not do with their own home if it is a listed property. I also know there are many who are willing to accept these limitations, but would be glad of support financially to allow them to retain and maintain their property.

I believe some of these owners would however benefit from an opportunity to renegotiate their listing, as recommended in the draft report.

I have a problem with the idea that the same opportunity could be made available for speculators, who wish to develop sites for financial gain, but then object to the fact they are listed or wish to challenge the listing on the property or wish to ignore that it is within a heritage zone. I know this does happen.

I believe that these situations should be seen as quite separate issues.

Relief could be given to the homeowner, in the way of greater assistance for maintenance. Even removal of the listing, if the property is just one of many similar in their area.

The developer however falls within a different category, they have made a calculated decision to purchase a property that is listed, or within a heritage zone. Then there is the owner who wishes to 'jump on the bad waggon' when they are offered a high price contingent to development being approved.

This is not dissimilar to purchasing (or owning) a property with the likelihood that - say a major road could go past the boundary at a future date. The purchaser/owner accepts the risk, therefore they must accept the ultimate outcome. There are many properties with a potential problem, that will affect the land value, heritage issues are not the only ones to affect property and its potential for realisation.

Funding & Costs

As mentioned above there would need to be great consideration given on the use of direct funding to all local authorities (Councils) if they were to become the final decision makers on all planning issues, especially regarding Heritage.

Relief to home owners must also be taken into account – possible subsidy for council rates and regular maintenance grants.

Access to grants is also another issue I feel should be looked at clearly, as not all home owners are familiar with the ways to access this money. Education would be necessary to inform all those who do enter into your recommended agreements, as to what they can expect, where to source it etc.

Preparation of Heritage Studies or Statement of Significance documents can be quite costly for the property owner. I have recently been contacted by a concerned resident in my area, about this issue. His comment to me was that it could cost him some \$6000 for preparation documentation etc. This was more than he was prepared to pay, given he has a young family. However he is caring enough to want to preserve an old settlers cottage on his property. He said he sometimes wished he had allowed it to fall into ruins.

Conclusion;

It would seem on reading the Draft Report that there have been many similarities in the original submissions.

I have taken the time to read many of the submissions, though not all, and feel comment is weighted toward those who believe preserving our heritage is a burden to either themselves, or the community.

The heritage that we have in Australia, from our colonial past is small, compared with other countries. But it is there and it is valuable and it should be given great consideration by any and all planning instruments.

While the draft recommendations are, that all heritage planning issues should be dealt with at a local government level – I do have reservations about the implementation of this. This recommendation does however follow my own thoughts about property owners needs to be able to negotiate at a local level.

I also feel strongly there must be some other body put in place who can act as mediator/arbitrator on heritage, otherwise disputed planning issues will continue to go to litigation – and those that can afford to, will certainly take their grievances to court. This already happens and is an unnecessary financial burden on both Councils and home owners.

Thankyou

I wish to thank the Commission for the opportunity to put my own thoughts forward. I wish you well in your deliberations and can only hope the outcome will be to the greater benefit – preservation of our heritage, without disadvantage to others.

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