

**Scanned copy of original submission**

**MUNICIPAL ASSOCIATION OF VICTORIA**

Friday, 24 February 2006

Secretary  
Productivity Commission  
PO Box 80  
BELCONNEN ACT 2616

Dear Sir

**Supplementary Submission to the Productivity Commission's Draft Report on the Inquiry into the Conservation of Australia's Historic Heritage Places (Dec. 2005)**

The MAV would like to make a supplementary submission in response to the draft report on the Inquiry into the Conservation of Australia's Heritage Places.

As highlighted within the Draft Report, heritage places provide important cultural benefits to the wider community, and governments at all levels have a legitimate role in contributing to their conservation, as owners, regulators, funders and through their relative roles in statutory processes.

The report rightly recognises that the conservation of heritage places contributes significantly to our cultural, social and economic environment within both urban and rural communities. The MAV is pleased that the Commission's draft report recognises that local government plays an important role in implementing, managing and ensuring heritage conservation objectives are achieved. The table on page xxiii shows that in Victoria the number of properties on statutory lists is significant (estimated at 100,000). This reflects the well developed and established system of planning controls in Victoria, of which heritage controls are a part.

The report also acknowledges that local government involvement varies significantly nationally, reflecting different approaches at State level, differing community values, and the various capacities of councils.

However the report's key recommendation that, "*Privately owned properties should be included on a national, State, Territory, or local government statutory heritage list only after a negotiated conservation agreement has been entered into and remain listed only while an agreement is in force*" causes significant concern for the MAV and councils in Victoria and is not supported.

The MAV believes that this would be a backward step for Victoria and would detract from current policy and management of heritage places and that such a recommendation should not form part of your final report.

The MAV does not accept that sufficient evidence or justification is provided to support the introduction of conservation agreements in lieu of the protection currently provided through the planning system in Victoria. The report's draft finding 3.1 emphasises that there is a lack of statistical information about the number and nature of heritage places, and the cost and effectiveness of conservation measures.

The MAV has concerns that the Productivity Commission's draft report appears to overly rely on market mechanisms to achieve socially optimal heritage outcomes. In addition the report places an over-reliance on the cost to an individual owner, through the constraints imposed on the property's potential uses and the conservation costs themselves. A number of recommendations in the report suggest that heritage controls impose restrictions on owners' rights unlike other planning controls. This suggests a limited understanding of the Victorian heritage and planning legislation, and the processes of administration.

In Victoria heritage controls are often highly valued and sought after by residents and property owners, with fewer than 5% of owners contesting registration and less than 1 % of owners appeal permit decisions for state heritage listing.

Discussion at a local government heritage advisers workshop in Melbourne in January 2006, attended by Commissioners Neil Byron and Tony Hinton, confirmed high levels of acceptance and support at the local level for heritage protection through the planning system.

That workshop also found that

- 'benign neglect' or 'wilful damage' are real problems, but only occur to a small proportion of heritage properties in Victoria.
- There are strong inter-relationships between land use planning, development control and heritage. The Victorian planning system needs to remain internally consistent and heritage cannot be dealt with in isolation.
- There are statutory processes in place to protect owner's rights and provide for transparency, fairness and justice in administration. A great deal of negotiation already occurs within this system, and there are statutory rights to be heard (eg Planning Panels) for any proposed heritage listing.
- Most Victorian heritage places already have statements of significance.
- There are too many unanswered questions about the proposal for voluntary agreements. How would they ensure that the most valuable heritage assets were retained? How would they relate to the Victorian planning system? Would they be public or private? When would they be negotiated? How would Council find the resources to negotiate and administer the system? How would the agreements be enforced?
- Separation of the process of listing a place and negotiating a conservation management plan or permit approval is seen as a fundamental of sound heritage practise.

The workshop concluded that "the present planning and heritage system in Victoria has tools available, or that can be readily adapted, to achieve improvements in relation to the fundamental aims (or criteria) that underpin the Productivity Commission's draft report. The Victorian system applies the lessons of thirty years of practical experience in heritage legislation. The Commission's proposals would bring radical change to this system. Any change needs to be carefully framed to ensure that more is gained than lost, compared to the present system - the benefits of the proposals must demonstrably exceed the costs. The draft report does not meet this criterion."

Nationally, there may be an over-reliance on listing as a tool to protect heritage, without enough attention to other policy instruments. The MAV believes that the system in Victoria is comprehensive, based on solid and transparent methodology, has broad public awareness and support with listings generally positively perceived. Heritage controls are 'part and parcel' of planning controls designed to deliver optimum community benefits and are a broadly accepted component of the operation of the planning and property market in Victoria.

The concept of conservation agreements may well provide a useful tool for negotiating improvements to a heritage place that is at risk or of particular significance. The agreements may provide a complementary tool enabling owners to progress a schedule of agreed improvements over a longer timeframe without the need for planning approval for minor works, or may be useful to them in pursuit of grant funding assistance.

The MAV believes that the benefit of these agreements is as a management tool for improving the conservation of heritage properties, subsequent to listing, for both individual properties within and outside of heritage precincts

The Commission implies that the community benefit associated with heritage controls is at cost to an individual owner. However the Macquarie Economics Research paper, 'Does the Housing Market Value heritage?', and anecdotal experience suggest otherwise.

The MAV is also concerned that Conservation Agreements would require significant resources in terms of the skills required and time to support negotiated Conservation Agreements, noting that existing listed properties are not intended to be affected.

The MAV understands that the Trust for Nature has a system of conservation agreements but believes that to draw direct comparisons with this model is simplistic. The trust for nature conservation agreements, are a broad market focussed policy instrument that generate public support and conservation outcomes, but do not readily apply to built heritage as these places are often valued for their uniqueness, particular social or geographic context and the particular heritage outcomes sought often vary.

The 'listing by negotiation' would see a reduction in the heritage outcomes in Victoria and would overly protect development rights.

The MAV believes that the recommendations of the Productivity Commission's draft report would not improve heritage conservation in Victoria.

Should you require further information regarding this submission, please contact (03) 9667 5585.

Yours sincerely

CEO

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<sup>1</sup> V.Deodhar 2004, Does the housing Market value heritage? Some Empirical Evidence