

D&E SLC
Phone 4974 2785

6 March 2006

Mr Neil Byron
Heritage Inquiry
Productivity Commission
PO BOX 80
BELCONNEN ACT 2616

Dear Mr Byron

**PRODUCTIVITY COMMISSION INQUIRY - CONSERVATION OF AUSTRALIA'S
HISTORIC HERITAGE PLACES**

Thank you for the opportunity to provide comment in relation to the draft report on the Productivity Commission's inquiry on the conservation of historic places.

Newcastle City Council is charged with the responsibility under NSW Local Government Law (Local Government Act and Environmental Planning and Assessment Act 1979) to identify, protect, conserve and regulate cultural heritage values, within its local government area.

As identified in Council's initial submission (Sub 78), Newcastle City Council includes over 620 statutorily listed Heritage Items and six Heritage Conservation Areas in its Local Environmental Plan. The Council owns and is responsible for the care, control and maintenance of just over 120 of these heritage items. As such, Council is both owner and regulator of heritage assets. Council's current responsibilities are also reflective of the local community's desire to protect its heritage.

Newcastle City Council plays a major role in the practical implementation and delivery of its environmental planning responsibilities. This includes bearing the costs associated with maintenance of its own heritage assets, as well as having to fund the ongoing identification and planning framework with which to manage heritage properties. In this respect Council is no different to the private heritage property owner because it is also subject to market forces in relation to the costs of conserving heritage listed places.

Having regard to the range of issues addressed by the Inquiry and Council's initial submission (sub 78), there appears to be insufficient evidence presented to the Inquiry in support of the key recommendation regarding the use of Voluntary Conservation Agreements.

With respect to this issue, heritage listing does not in itself "restrict" land use or permissibility of an activity in the sense that a land use zoning would restrict or curtail certain development activities. The purpose of heritage listing is to trigger an assessment process for the purpose of testing whether a given development would impact on the heritage significance of a place. It is to be considered by the consent authority when determining whether a development application is satisfactory having regard to its environmental planning objectives.

Page 2
Heritage Inquiry
Productivity Commission
6 March 2006

Heritage listing in itself cannot be said to impinge on an individual's property rights because it does not impose blanket restrictions on the use of the land. In fact nomination of a heritage item may in fact increase the range of permissible land uses which would otherwise be prohibited. The process simply triggers the consent authority to assess heritage issues within the context of development assessment

Moreover, if it is accepted that conservation of heritage values and significance is a bona fide 'environmental' issue administered under a state's relevant environmental law, it should be afforded the same administrative provisions as any other environmental issue. It should be understood that the removal of heritage listings from an environmental planning instrument will not exclude heritage from the environmental assessment framework. The fact that a property of heritage significance is not recognised on an official list could in fact lead to greater uncertainty regarding development potential and conservation objectives.

To this end we believe there is a role for Voluntary Conservation Agreements but it is within the context of the existing environmental planning framework. Upon the statutory listing of a place as a heritage item the VCA could be used as a tool to exempt certain minor development works in accordance with the terms of the agreement, thereby minimising the red tape burden identified in the draft report. A VCA could also be used to negotiate an on-going restoration agreement between owner and council, including agreed milestones. It is to be emphasised that the VCA should be internalised within the statutory listing of a heritage item as a management tool.

In relation to additional cost burden of heritage ownership, Council has no power to enforce minimum standards of maintenance and repair which could be said to inflate restoration costs. Council as the consent authority can assess the nature and type of restoration activity proposed, but again this is in the context of development assessment – the Council can use its discretion regarding the economic implications of a development application.

Having said this, we agree that government spending on heritage should be increased and that structural reform should occur so that it favours local government management of heritage matters. In addition local government should contribute to the setting of spending priorities at both commonwealth and state levels; a role from which it is currently excluded.

I trust that these comments are of assistance to the Inquiry and that the matters raised can be addressed in the final report to government.

Yours sincerely

Janet Dore
GENERAL MANAGER

Page 3
Heritage Inquiry
Productivity Commission
6 March 2006