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Heritage Inquiry
Productivity Commission
PO Box 80
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Dear Sir/Madam,

Submission to the Productivity Commission's Inquiry into the Conservation of Australia's Historic Heritage Places – Draft Report

The Planning Institute of Australia (PIA) is the peak professional organisation for urban and regional planners and related professions in Australia. We have around 4300 members, with PIA Divisions operating in each state and territory in Australia. Around half of our members work in local government, 30% for the private sector and the remainder in State and Commonwealth Governments and universities.

Our response to the draft report focuses on the proposal for negotiated agreements and suggestions for alternative recommendations. PIA believes the recommendations generally have taken a narrow perspective to the Inquiry's Terms of Reference and have missed the opportunity to address the wider issues around heritage preservation (such as financial models and incentives to assist property owners).

In summary PIA does not support the key recommendation for introducing negotiated agreements with support from the owner for the following reasons

- Under this recommendation the preservation of heritage values in a community are at the discretion of individual property owners, with little impetus for the property owner to enter into an agreement. In addition the owner may withdraw from the agreement process at any time, even if the local government has already committed substantial resources in good faith that the agreement will be finalised. This recommendation places the heritage values of a community at considerable risk.
- The report loosely refers to the curtailment of development rights of heritage listing properties. PIA believes that legal advice should be sought on this contention as development rights are often not acknowledged in Australian planning legislation; that is the capacity to undertake higher and better development is not an innate right but something that is granted by the community (through local government) in line with current planning policies. Conversely there is no mention in the report of the government “recapturing” increases in property prices where public intervention results in the upgrading of property rights.
- One of the justifications for negotiated agreements is the contention that places are listed on local government heritage lists on an ad hoc basis. PIA believes that this is not generally the case and that local governments undertake expert assessment and consultation with the community when preparing a heritage register. Furthermore elected local government councillors take the views of their constituents (including property owners) into consideration when deciding heritage policy.
- This recommended approach places considerable pressure on the resources of local governments, which are already limited, to negotiating detailed agreements rather than the more beneficial activities of heritage research, training or planning activities. Each negotiated agreement would require legal resources for both the owner and local government and if each agreement (whether successful or not) costs a local government a minimum of \$5000 in staff time and legal fees, in WA alone for the existing 16800 listed local government properties this would cost a minimum of \$84M. This does not include legal costs and advisers that the property owners would have to engage to ensure their interests are represented and enshrined in any agreement or the cost of any legal challenges to the decisions (this aspect is not discussed or acknowledged in the report).

- Compulsory acquisition for all heritage properties where the owner does not agree with either commencing an agreement or the terms of an agreement is not desirable for either the local government or property owner as it would occur under duress and is likely to be a protracted process. (Local governments are not currently required nor can afford to acquire properties affected by other planning constraints such as overland flooding or mining so why single out heritage properties for acquisition?). Cost shifting to local government has been identified as a serious issue¹ which would be exacerbated by this recommendation.
- There is no evidence provided of where this system has worked elsewhere or details of how it may work if introduced in Australia. In fact voluntary agreements would appear to require the same amount of effort to formulate, enforce and monitor as the current heritage regulations which the report maintains are costly to enforce. The outcomes would potentially be a reduction in current levels of heritage protection which arguably are not always meeting community expectations now.

Despite the disagreement with the main finding, PIA generally agrees with many of the observations about the present shortcomings of the heritage listing system particularly acknowledging the costs that can be borne by individual owners of conserving heritage buildings. However the economic benefits to communities, particularly smaller and regional centres of having strong cultural heritage values around the built environment are also well documented. The recommendations of this draft report strongly support individual property interests over the long term interests of the community. A better balance between individual and community interests needs to be explored.

Other shortcomings of the heritage system that PIA acknowledges are inconsistencies in applying heritage requirements, lack of resources and training for heritage advisers and lack of heritage studies.

However despite the discussion on concerns with the current heritage system there are few recommendations in the report that address the recognised deficiencies especially the role that could be played by the Commonwealth and state governments in heritage conservation, with the report focussing primarily on the role of local government.

PIA believes that there may be other ways of achieving a more balanced approach (ie protecting the community interests and private interests) by proposing a raft of initiatives, rather than focussing on one main action at the local government level.

Such recommendations could include:

Greater Commonwealth involvement by:

- Assistance to property owners through tax incentives, direct payments, direct grants
- Assistance with training of heritage advisers in local governments to ensure consistency in application of heritage regulations
- Increased funding for studies and heritage investigations

¹ House of Representatives Standing Committee on Economics, Finance and Public Administration (2003) *Rates and Taxes: A Fair Share for Responsible Local Government*

Greater State/Territory involvement by:

- Assistance to local governments with training and support
- Working with local governments to mediate community and property owners interests
- Developing model planning provisions and guidelines

PIA thanks the Commission for the opportunity to comment on the draft report. If you require any further information on this submission please contact the Policy Co-ordinator on telephone 02 6262 5933.

Yours sincerely

Chief Executive Officer
17th February 2006