

## **Introduction**

The Real Estate Institute of South Australia (REISA) is the peak professional real estate body in SA and proudly represents more than 2000 members across the State.

Our members have daily contact with clients buying, selling and renting property and it is not uncommon for issues relating to heritage to be raised.

South Australia is fortunate to have some spectacular heritage properties which form a rich tapestry of our history. The story is no different in other States.

In centuries to come, we want Australia to be respected as a nation with great heritage and it is for this reason that a comprehensive framework for heritage preservation is required.

The Institute regards heritage preservation as extremely important, but to ensure heritage preservation occurs, changes need to be made.

Currently, there is a myriad of guidelines relating to development and this has created a situation where developers will push the boundaries and test the rulings. The result has been the destruction of some unique architecture which can never be replaced.

REISA supports the introduction of a system that gives very clear boundaries with little scope for exemption on properties built prior to the 1920's. Rather than a list being formed of properties with heritage value, all properties built prior to the 1920's would automatically be protected for heritage value. As such, the owner would need to show just cause to be able to seek an exemption and develop a site with a property of this vintage.

A similar system operates in South Australia to protect significant trees. Trees of a certain size cannot be removed without consent. As real estate agents, it is not uncommon to have a potential purchaser come to the property, take measure in hand, to assess whether the property could be developed. If the tree exceeds the limit, the developer simply moves on. The system is easily understood and it is easy to administer.

REISA is concerned about the suggestion to voluntarily register properties on a heritage list and doubts that this would be an effective system. Property owners do fear the repercussions of a heritage listed property and feel that constraints on the property could affect sale value.

However, if the automatic inclusion of all properties circa 1920 were to be introduced, the need for inclusion on a list may not be required.

Further details on REISA recommendations are contained herein.

For ease of reference, REISA has responded to each recommendation from the draft report.

### Key recommendation

*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 should remain listed on while an agreement is in place.*

REISA is deeply concerned about the effectiveness of such a system to maintain heritage properties. Currently, owners are worried that heritage listing may place limitations on the property which could in turn affect its value.

Rather, REISA supports the introduction of a system which automatically protects properties which were originally constructed prior to the 1920's. Should owners wish to develop the site, they need to apply and go through the appropriate planning regulations with their local council.

In South Australia, several of the inner city councils have placed a ban on development of properties with a pre 1920's construction and the result is beautiful suburbs, rich in history and aesthetically pleasing. These suburbs are extremely sought after and the value of the properties has increased through this carefully and deliberate planning.

Naturally it is expected that some properties may require substantial improvement because of the structure's age, however with the appropriate planning, these improvements can be in character with the home's original heritage. Several councils are even offering residents substantial financial grants to assist with renovations which tastefully restore the original heritage of properties and this is an avenue REISA recommends the Productivity Commission consider further.

#### Recommendation 3.1

*All levels of government should put in place measures for collecting, maintaining and disseminating relevant data series on the conservation of Australia's historic heritage places.*

REISA supports this recommendation, but suggests that resources in these Government organisations could be better utilised if they were operating in reverse to the current proposal - that is, working with people to maintain their buildings and tastefully renovate if required.

By introducing a system of consistency, the relevant organisations could be more freely streamlined and provide valuable services to owners who are considering or undertaking restoration or renovations of pre 1920 homes.

#### Recommendation 7.1, 7.2 & 7.3

*The Australian Government should phase out the Register of the National Estate for historic heritage purposes, beginning with the closure of the Register to any new nominations.*

*State and Territory governments should remove any reference to the Register of the National Estate from their planning and heritage legislation and regulations.*

Should a system of automatically protecting all properties with structures built prior to the 1920's be introduced, the need for such a register would be eliminated.

However, public places holding historic value would still need to be maintained by the relevant authority and any current information on these properties needs to be tracked across to any new system of recording.

#### Recommendation 7.4 & 7.5

*The Australian Government should implement reporting systems that require government agencies with responsibility for historic heritage places to document and publicly report on the heritage related costs associated with their conservation.*

*State, Territory and local governments should:*

- *produce adequate conservation management plans for all government-owned statutory-listed properties; and*
- *implement reporting systems that require government agencies and local governments with responsibility for historic heritage places to document and publicly report on the heritage-related costs associated with their conservation.*

These logical recommendations would allow more information to be freely shared about the processes and costings associated with maintaining heritage properties.

Consistent standards need to be introduced and adhered to for heritage conservation and by establishing a system which allows for information to be accessed and shared, this could be achieved.

Recommendation 8.1

*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 should remain listed only while an agreement is in force.*

Once again, deferring back to REISA's key recommendation, the automatic listing of pre 1920's properties would eliminate the need for an agreement.

Recommendation 9.1, 9.2 & 9.3

*The Australian Government should implement processes whereby any additions of non-government owned properties to the National List occur only after a conservation agreement with the owner has been entered into, and that the property remain on the list only while an agreement is in force. Consistent with its stated preference of relying on agreements for the management of world and nationally significant historic heritage places, the Australian Government may wish to make this a statutory requirement under the Environment Protection and Biodiversity Conservation Act.*

*State and Territory governments should modify heritage legislation to ensure that any additions of non-government owned properties to their statutory heritage conservation lists occur only after a conservation agreement with the owner has been entered into, and that the property remain on the list only while an agreement is in force.*

*State governments should require their local governments to add non-government owned properties to a local heritage conservation list only after a conservation agreement with the owner has been entered into and remains in force.*

The proposal to automatically protect structures built prior to the 1920's covers this recommendation.

Recommendation 9.4

*State governments should put in place systems for their local governments to request compulsory acquisition in cases where this becomes the only way to ensure cost-effective conservation of places of local significance.*

Compulsory acquisition should always be an option for government and should be used if deemed necessary.

However, the Institute has reservations about whether compulsory acquisition could be used by the property owner as an avenue of sale if they feel frustrated by heritage conservation limitations.

REISA suggests that this recommendation requires more debate.

Recommendation 9.5 & 9.6

*Private owners of already listed properties, where the listing occurred after purchase of that property, should be able to apply for a negotiated conservation agreement and for listing to continue only if an agreement is reached.*

*Private owners of already listed properties, where the listing occurred prior to the purchase of that property, would remain covered by the existing 'package' of restrictions and concessions (if any). These arrangements would be reassessed at the time of any substantive development application when negotiations for a new conservation agreement would occur and listing would continue only if an agreement is reached.*

A system of protecting all structures built prior to the 1920's would also eliminate potential problems as properties are bought and sold.

#### Recommendation 9.7

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

All legislation must be consistent throughout the three levels of Government to ensure that the limitations are clear and there is no confusion.

#### Recommendation 9.8

*State and Territory governments should remove the identification and management of heritage, zones, precincts or similar areas from their heritage conservation legislation and regulations, leaving these matters to local government planning schemes.*

Under the proposal to automatically protect older properties, it is envisaged that the local council would be the natural choice to deal with development applications and manage exemptions.

For many years, local councils have administered planning by-laws and on the whole, the system is effective and works efficiently. Of course there are cases where by decisions have been challenged in a court of law or the negotiations have become protracted, but on the whole, the system is effective as local people are making the decisions in consultation with the local community.

Most of the protracted and difficult applications have been fuelled by a myriad of conflicting regulations and precedents and by establishing a very clear rule, most of this could be overcome.

It is acknowledged that the local council may need additional resources to manage an increased work load from a new system, however the efficiencies achieved within State and Federal planning authorities could easily offset this.

#### Conclusion

Maintaining Australia's heritage is of utmost importance.

Through a cohesive and networked approach by the three levels of Government, a more streamlined system of management could be achieved in Australia.

Introducing a system whereby structures built prior to the 1920's are protected would provide simplicity and could easily be adopted nationally.

REISA believes that the general community is very supportive of heritage properties and place great value on them being properly conserved. However, in recent years, lengthy disputes have taken the spotlight in the media which has negatively impacted on the true value of heritage properties.

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Through adopting a new system with clearer guidelines, REISA believes this negative perception can be overcome and Australia can introduce an effective system for maintaining our valued heritage.