

**SUBMISSION TO PRODUCTIVITY COMMISSION**  
**re**  
**HERITAGE INQUIRY**  
**Conservation of Australia's Historic Heritage Places**

Thank you for the opportunity to contribute to this process.

I am joint owner of two State Heritage properties in South Australia and have qualifications related to strategic planning for human settlement design & development and eco-social sustainability.

Due to time constraints I will limit this submission to drawing your attention to some of the things I feel should be emphasised.

My principal concern is that I believe your major recommendation of voluntary negotiated conservation agreements is misguided and apparently aimed at solving a number of 'straw man' problems. A tightly planned and transparent management system might be appropriate for government-owned properties, as this should be the case for any such property in the normal course of asset management, but for private, especially domestic properties, this is bureaucratic overkill.

The system you propose is bound to result in the very 'market failure' against which the whole present system was painstakingly built to protect.

I make some strong pleas:

- That the Commission recognise obvious 'market failure' in the area of heritage up to the time that the current system was set up, and the current system's substantial positive achievements. You say yourselves that "States and Territories have the power to use voluntary conservation agreements, but they have rarely been used" (page XXIX). One might pointedly ask why that is.
- That the Commission resist the ideology of the vested financial interests that your Draft Report appears to channel: you are advocating a case for the fox to be given custody of the chickens.
- That you acknowledge and accept the wisdom that even those critical of the functioning of the present system are in nearly every case NOT ASKING FOR ITS REMOVAL, but are offering you many excellent suggestions as to how it can be further improved and better implemented, especially sensitive to different categories of ownership.
- That the Commission please listen to the hearts and minds of the many who have taken the time to reach out to you, sharing their ideas and practical knowledge, challenging the apocryphal political advice 'Don't set up a Royal Commission for which you Don't Know the Findings' (ie *with respect*, the Draft Report looks as if the brief has been set up in order to 'discover' an ideological finding that the present heritage arrangements should be scrapped and a market-based, voluntary system be installed, notwithstanding myriad facts and experiences many well-informed and thoughtful stakeholders submit to the contrary).
- That you consider the differences between the needs of public and private ownership and recommend financial and procedural assistance accordingly, at each scale (retaining the scales). You mention making government ownership more accountable and transparent (7.5), with which I agree. The private owners need many more carrots and encouragement.

- That you reconsider your recommendations so as to propose a coherent suite of amendments that both preserves the present concept and system of Heritage listing AND collects up and honours the hundreds of suggestions sent by your stakeholders for systemic improvement, properly costed and Cost-Benefit-Analysed, consistent across scales of governance and fair and realistic in implementation.
- That you start from a position of ‘How can we best celebrate the remnants of our wonderful heritage and encourage everyone to join us?’ rather than from a contorted and parsimonious problem-solving position. A core attractor of cooperation, delight and celebration rather than competition and grim profit would generate an appropriate set of carrots, sticks and education opportunities, and better facilitate much of what the present system is trying to achieve.
- The people out to profit from development say they need certainty. They always say that, as it is a business reality. However the certainty they need is not a new system that releases most currently protected properties into their hands for demolition. What they need is pre-purchase, pre-design and pre-planning conversation with public, planners and heritage, and actual, fair and consistent enforcement of current rules, with clarification of these where necessary - COMMUNICATION. They do not need or deserve to be gifted with a new system that favours their self-interested, pseudo-communitarian and destructive tendencies.

## RE VALUE OF HERITAGE-LISTED PROPERTIES

Those with a vested interest in tearing down heritage buildings to make room for the manifestation of supposed progress (usually ecologically unsustainable, short-term structures generating personal profit), are fond of appealing to an urban myth level fear that “the value will go down”.

Many of your submissions demonstrate that this is by no means necessarily so, the opposite often being the case. This is very clear in heritage neighbourhoods, which are valued well above nearby newly developed properties, eg Paddington. I have seen new developments in Canberra where the developers have sought out local history and put about little brass plaques commemorating various past events, intending to add value by giving the impression of historic relevance to pretty ordinary, brand new estates.

Mandating specific lump sum compensation for loss of value is inherently inaccurate, intuitively appraised and subject to change according to local real estate conditions and market ephemera. We had one of our two heritage listed properties valued two years ago, and the valuer had extreme difficulty in putting a figure on it, as this sort of property is a special market, and few such properties are sold.

Financial impact analysis and anti-disadvantage strategies should be the next stage of improving the current system so that heritage ownership is cost-neutral. Any concessions towards running costs of such properties should distinguish between ordinary maintenance and conservation of heritage values. If painting a heritage house (as required by our State Development Act for State listings only) requires development consent (as distinct from locally registered places), then this anomaly needs fixing, and if paint colour is thought to be a heritage value, not just a maintenance issue, repainting should be tax-deductible and GST-free. People who benefit from improved values should not be penalised, as the extent of the improvement is impossible to assess fairly, and it would discourage people from acting in the heritage interest. Much needs to and could be done financially to help owners improve heritage conservation standards and maintain value (eg see UK examples quoted in other submissions).

## RE LISTING

You claim that 'There is little effective restraint on the desire to have listed and protected, by regulation, all those properties identified with significant heritage values, irrespective of the degree of significance' (page XXIX).

This is absolutely not the case in SA. If anything I would say that the Branch is too reluctant to list things or to insist on involuntary listings: we have lost many important buildings in North Adelaide recently and the rate of demolition seems to have sped up lately. The process for becoming heritage listed is very carefully and slowly considered here, in two main stages, with ample discussion and opportunity for stakeholder input. This is far from *ad hoc* or intemperate desire-driven.

## RE DEVELOPMENT APPROVALS FOR HERITAGE-LISTED PROPERTIES

Our State Development Act is reasonably clear as to the development and building control rules in a heritage context. In our area there is a cooperative accord and calm working relationship between our LGC planners and the State Heritage Branch, which is kindly and courteous to us as owners as well as fair and objective in applying the rules.

I do not see anything wrong with a partnership between local government and State in heritage planning approvals, so long as neither sits on the paperwork, causing delays. This speaks for the need to ensure each end is properly funded, and if your recommendation 9.8 means what it appears to, local government in particular would need a great deal more funding, and should not be expected to take on yet another unfunded burden.

A one-stop shop is not necessary where there is good communication (and heritage decisions of any size should be carefully made, not in a rush): please look to the system of communication rather than trying to make heritage experts of planners or vice versa. As it stands, local government in my experience appreciates the authority of the Heritage Department as a resource and as a counter to litigious developers. In my experience (outside my own Council), local government tends to be terrified of litigation and tends to cave in to those with the ability to fund court cases. It is good to have a *Big Brother* available to head off disputes.

As heritage objectives are similar at all scales, the rules should also be similar under the Act, and fees should be waived (ie community funded) for all heritage development applications for listed properties. In-principle advice and information is available to me by a phone-call. There is not reason why developers, who are fine about clear rules but don't like being messed around with after their plans are laid, should not be required to consult with local government, stakeholders and Heritage Branch BEFORE their plans are set in stone. Other submissions note the success of this simple strategy.

## RE CONSERVATION AGREEMENTS

Your suggested system of easily-cancelled, voluntary agreements would result in a massive decrease in numbers of significant places saved, reverting to the market failure mentioned above. It is likely that because of the financial aspects of the tie-down, access to listing would become more difficult or restricted to the numbers thought to be affordable by the community, rather than supporting conservation values. Your scheme would weigh especially heavily on private owners with modest incomes. One big advantage of prescription is that at least buildings can be saved from demolition for very little cost. Strategies to pay for conservation can be worked out later.

It beggars belief that the massively-increased bureaucracy implied by voluntary conservation agreements would encourage enrolment of anyone not altruistically committed. Having a tight contract is likely to create a need for a new type of heritage performance police. But listing that only persists as long as the owner stays signed up opens a gate to demolition. And to have only a cost-effectiveness criterion attached to the 'last resort' of compulsory acquisition (9.4) is really inappropriate. There are far more reasons for being forceful than cost-effectiveness, especially socio-cultural. Knowing the former owners of our property, there is no way it would still be standing if they

had been able to fulfil their wishes. As it happens, pre-listing, on those occasions the building was saved not by heritage listing but by rigid zoning.

I think you are correct to say that responsibilities of owners are often not clear: an easily accessed checklist would help. However in SA we were provided with information including a clear description of the conservation value, and we receive regular general news, and free regulatory, general conservation architectural and other advice on request.

You say on page xxi that “Any appraisal of a role for government should consider the costs of government intervention in relation to the additional benefits expected to be generated.” I do not see any detailed CBA provided by the Commission in recommending your new schema. No new types of alternative funding strategies appear to have been canvassed either.

## RE ECO-SOCIAL SUSTAINABILITY

Our heritage house was built in 1884 and designed to be ‘driven’ through a series of passive and active solar and other strategies in response to climatic changes: thermal mass, verandahs, cooling tower, semi-underground/‘geo-thermal’ etc. When used as designed, and viewed as a system, it needs little external heating or cooling. Any attempt to heat or cool using ‘modern’ air conditioning or electric heating costs a fortune. An enormous underground water storage tank could be waterproofed to achieve self-sufficiency in water with our huge roof area. In the past, with nearly an acre of land, we have been easily able to recycle organics and produce most of our food and firewood from this excellent resource.

Modern housing can no longer afford to be anything like as solidly built or large as old buildings, so it makes sense to appreciate the embodied materials, energy, artisan skills and special choices this extra space gives us - to retain the old structures, and perhaps allow more flexibility with respect to usage (eg explicitly allow internal, heritage-sensitive subdivision of an enormous house in an R1A zone. There are actually many precedents for this.

This approach is inherently resource-sparing.

In addition, from our experience of shortage of skilled tradespeople, an opportunity exists for a very satisfying employment stream. We find that most of the tradespeople we discover are European – they are a type of heritage themselves in the skills they possess. We need to turn our attention not just to the buildings, but to the skills and materials that go hand-in-hand with conservation. One of the great advantages we have from our cordial relationship with State Heritage is that they can often direct us to tradespeople they trust, and we can contribute in kind.

## RE CONSTRAINTS ON CHOICE IN USAGE

In fact, the constraints (such as inability to subdivide into apartments, or in the case of past owners, to pull down the house and replace it with flats) in our case are not related to the heritage status, so much as to the R1A zoning. It is interesting that nobody is complaining about the impact zoning has on ability to ‘use one’s property to its optimum’ – there are many ways in which we are constrained in usage which could be freed up, but we accept them as we need as a community to accommodate to each others’ presence in a range of ways. There is no an argument for replacing a not-broke system.

## WHAT WOULD REALLY HELP US AS PRIVATE HERITAGE LISTED BUILDING OWNERS

- Assignment of a heritage mentor/counsellor to each heritage listed property at the time of listing, so that an ongoing, intermittent conversation is facilitated, and owners do not feel isolated in a sea of responsibility; small changes can be painlessly and immediately OKed and recorded briefly in a file kept much like a medical record.

- Templates and assistance available free from heritage departments, for self-development of Heritage Development Plans: the 'huge' expenses come from needing to use private architects to assess buildings. This is an education opportunity.
- Subsidised rates and land taxes: basic property-value-assessed rates from local government and water authority. Maybe all rates collected from heritage properties could go directly to a special heritage fund which could be set up by a large grant, supplemented by lotteries and then interest distributed in a fair way? Similar to public Housing Association arrangements in Europe.
- Tax deductions for approved heritage work (as distinct from normal maintenance, certified by heritage departments); extra help for those who do not pay tax (pensioners and low fixed income owners); GST-free arrangements for conservation work.
- Far greater availability of realistic amounts of funding as grants and very low or no-interest loans.
- Access to any scale of assistance: I have been advised that we are not eligible for any potential local government assistance as we 'belong' to the State register. I am grateful for a \$4500 1 for 1 grant from State, after 3 years' annual applications. This was a lot of work for an outcome that only covers one of many tasks. There should be one national list only, with scale of responsibility noted in the citations.
- Waiver of council and State fees prescribed for heritage development or restoration applications on the grounds that this is for community benefit, but applications for bigger projects are still needed so as to keep all stakeholders in the loop.
- Tax deductibility and some sort of intervention with insurance companies re special insurance demands such as door and window bars for residential heritage properties: our house could not be protected in the standard modern way, nor affordably .
- Better definition of the areas of Planning or Heritage Acts that prescribe what is and is not considered likely to impact on heritage values: rethinking any clauses that may tempt councils to unnecessarily engage in infuriating and expensive nit-picking exercises such as 'where I can put my picture hook'. Criteria relating to painting should be spelt out clearly, and repainting should be in consultation with Heritage Department, not the subject of development application.
- Reliable and consistent implementation of current rules.
- Clear no-go rules for developers. As above. quite a lot of flexibility is possible if developers and planners communicate and include the public in detail BEFORE detailed plans are writ in stone. There is a serious situation going on at the Quarantine Station in Sydney which has so far seen long-term delays in development, the removal of close oversight of natural heritage by real rangers, an irreplaceable heritage building burnt to the ground and the exclusion of a large community of modest income venue regulars which had been funding a successful low-profile operation for years - all in favour of bigger money under the 'we can't afford not to develop' banner.
- The 'stick' of demolition taxes would provide a systemic constraint and encourage sale and reuse of materials.

Thank you

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