

**John Toon Pty Ltd**  
**Town Planning & Urban Design Consultants**

The Secretary  
Heritage review  
Productivity Commission  
Canberra.

6 February 2006

Dear Sirs,

I am a practicing town-planner with some 50 years experience having recently retired from my position as Director of The Planning Research Centre and Head of The Department of Urban and Regional Planning at The University of Sydney. My submission follows.

1. In my opinion there is a fundamental conflict between the claims made in The Burra Charter that only those with heritage training committed to heritage conservation are entitled to determine which buildings should be listed on the one hand and the expectations of the community with respect to the conservation of items of heritage significance on the other. I consider The Burra Charter to be one of the most self-serving documents that I have ever encountered in a long career in planning and public service. It purports to legitimize a process that gives carte-blanche to its adherents. In my opinion there is every reason to replace this document with something that better balances the interests of conservation with the values of the community.
2. This is not to deny the value of heritage conservation but rather to ensure that places of worth to the community are correctly identified and evaluated prior to being placed on some schedule. I have been intimately involved in many cases where worth is asserted but not substantiated. In many cases I have seen claims made for significance that are at best speculative and at worst simply untrue. Yet to question the worthiness of a proposal leads to being branded as a philistine or banished as a pariah. Those who make proposals for heritage listing are often quite indiscriminating (it is sufficient simply to be old or of a particular style) arguing that the item is unique in some way or other. The fact is that every place is unique, every building is 'designed' for a purpose (whether or not by an architect) and is expressive of some human activity. It is relatively easy to prepare a citation for conservation based on the uniqueness of any particular item. The central question is what benefit will conservation of an item achieve for a/the community. The benefit has to be the direct

experiencing of the actual item. But this is rarely the case with domestic buildings which remain as private domains. A criteria for conservation should surely be that the conserved items are accessible to the public; this need not be every day access but should be a minimum number of days per year. The alternative to physical access is access to records of items; the fact is that most of us experience items of heritage significance every day through the media, sometimes as backgrounds to entertainment and sometimes as the focal point of a documentary presentation. This is for most of the community perfectly satisfactory and often very rewarding. Current media technologies enable 'walk-through' and 'walk-around' images to be created. Indeed some of the created images of places showing their evolution through time, for instance the maturing of great gardens or the progressive build-up of a town or village or urban place such as St Marks Square in Venice, better illuminate the heritage qualities of a place than can a one moment in time view. A strong argument can be made that a well assembled record of a place would make it more accessible to more people through the internet than the saving of it alone. Some places, because of the materials used and the significance of the activity embodied in them, should be conserved because it is only through conservation that the place can be felt (examples include Experiment Farm, Parramatta, some War Memorials and the Fortifications at South Head, Sydney).

3. The matter of curtilage is also an issue. The current philosophy is the a conserved item needs to be set in a curtilage that reflects its original setting. This is very problematic in Australia when many early buildings were set in wide open settings, often with expansive vistas from the building, less so in terms of vistas to buildings. The consequence of this approach is that properties in the vicinity of an item can be very adversely affected without any off-setting compensation. This approach denies the time-honoured mechanism of recognizing that both the item and the context are in a dynamic equilibrium; that is each changes in response to the other. This is the case in many of the great urban places that are both conserved and adapted. St Marks Square, Venice, St Pauls Precinct, London, Independence Hall, Philadelphia and The Parliamentary Triangle, Canberra are all examples of precincts that are both conserved and adapted. This is how great places evolve; they keep the essential buildings/characteristics and weave new elements into the context to achieve a deeper and more meaningful built environment. The pursuit of curtilage is, in my opinion, both destructive of the place as a continuum and diminishes the worth of the conserved items by divorcing them from the dynamics of place evolution. In my opinion the cost burden placed on adjacent properties is excessively burdensome and highly inequitable. Where concepts such as view corridors are proposed on heritage grounds then it is desirable that properties affected be compensated in some manner. One method that warrants wider use is transferable development rights (TDR's). To date, at least in Sydney, the use of TDR's has been

- confined to buildings that are to be conserved and the development rights attaching to the site of the heritage item are transferred elsewhere. To my knowledge this has worked quite well in the Sydney CBD; also in North Sydney.
4. A significant number of redeveloped sites in the Sydney region have been required to retain buildings that are claimed to have heritage significance on site. Many, but not all, of the retained buildings are of dubious heritage value. Developers, keen to get a consent, have acquiesced to demands to retain items because they are unable to afford the long delays that seem inevitable if the claims are contested. In my opinion this is not good practice. In many instances it is not easy to find uses for the retained (heritage) item. Retaining the item often severely constrains the site so that the outcome is sub-optimal in site usage terms (it is not unusual to see a retained item sitting on top of an island whilst the balance of the site is excavated to provide underground car-parking, the layout of which is also often severely compromised in efficiency terms. In most cases there is no public access to the retained item. Of course it is retained so that when, and if, the project reaches its used-by date the item might be seen in a different light and either given more prominence or be demolished. This is another situation where an adjustment needs to be made to compensate the developer for retaining the item.
  5. I agree with the general proposition that you are advancing which I take to be a serious benefit-cost analysis of all heritage conservation proposals. In my view the need for this is more widespread than you appear to warrant in your draft report. I welcome the initiative because I think it will lead to a more focused approach to heritage conservation and will lead to those items that are to be conserved being more highly valued. I also think it will lead to better outcomes in terms of the dynamics of urban development *incorporating heritage items*. I consider this will yield better quality outcomes in terms of both urban design and urban development economics.

I trust these comments are of value to the Commission. I can be contacted at the above if you require further elaboration.

John Toon.