

Productivity Commission Draft Report – Conservation of Australia’s Historic Heritage Places

Warringah Council welcomes the opportunity to provide comment on the Productivity Commission’s Draft Report titled Conservation of Australia’s Historic Heritage Places, December 2005 (“the Draft Report”).

The purpose of this submission is to:

- Highlight the main issues and problems that Warringah Council faces in the area of heritage conservation in relation to the Productivity Commission’s Draft Report findings and recommendations regarding conservation agreements for privately owned heritage places; and
- Provide alternative and revised recommendations to the Productivity Commission.

Issues faced by Warringah Council

Heritage conservation is not regarded as one of the core responsibilities of Warringah Council. Located along Sydney’s Northern Beaches, the Warringah LGA is approximately 10 to 29 kilometres from the Sydney Central Business District, with an urban area of 150 square kilometres. Warringah is situated on the traditional lands owned of the Guringai people, and comprises mainly urban suburbs and rural areas settled in the last 50 years despite being officially proclaimed a local government area one hundred years ago.

Warringah Council has over 120 individual places listed as locally significant heritage items and another 20 heritage conservation areas throughout the Warringah Local Government area (LGA) in the Warringah Local Environmental Plan 2000 (“the Warringah LEP”). The majority of these places and heritage items are privately owned residential dwellings considered of cultural and heritage significance for a number of reasons (probably in the order of 95%). A small percentage of these items are owned by either Warringah Council or the NSW Government. Many of Warringah’s Heritage Listings in the Warringah LEP arose as a result of a 1995 Heritage Study undertaken by Heritage consultants, and then nominated as the result of the Warringah Heritage Inventory undertaken in February 1998. This inventory of heritage items will be reviewed during the next three years as part of the development of Council’s new Local Environmental Plan (LEP) and in line with the NSW Department of Planning’s new LEP template.

Nevertheless, heritage conservation and protection of heritage items consumes significant resources in terms of staff and community time and specific resources. Particularly, heritage conservation involves the management of Council and private owned heritage items, as well as ‘protecting’ community assets via their listing as heritage items in the Warringah LEP 2000.

Heritage conservation is a subjective and expensive area of work for Council as it involves the engagement of heritage consultants and resource intensive community consultation to input into the significance of various sites. As well, Warringah Council employs a panel of four specialist heritage consultants to provide Council with specialist advice on particular development applications where referral is required under provisions of the Warringah LEP 2000 – mainly, if there is development of a locally listed heritage item (clause 79) or in the vicinity of a heritage item (clause 82).

Heritage training is also costly as it involves specialist input. Warringah Council does not employ a full-time heritage advisor and mainly refers to the expertise of outside heritage consultants. Council budgets up to \$10,000 per annum on heritage consultancy advice, and approximately 30% of a full-time planning officer’s time to organise a variety of cultural and

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heritage related matters. During the 2004-2005 year, there were 23 heritage referrals, and Council estimates it spent approximately \$9000 on outside heritage consultancy advice.

By virtue of a heritage listing in the LEP, heritage items (and those in the vicinity of heritage items) are ‘protected’ from adverse development that would compromise their heritage significance at a local, regional or state level.

Productivity Commission’s draft Recommendations

Warringah Council is concerned about the impact of the Productivity Commission’s Draft Report recommendations concerning conservation agreements for privately owned heritage places.

Council believes that Draft Recommendation 8.1 will create enormous resource difficulties to ensure that privately owned properties are included on a 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. Council does not have sufficient resources to enter into agreements with some 120 private property owners of locally listed heritage items in Warringah. Such agreements would be costly to implement; and if agreements were mandatory, the costs would ultimately be passed on in terms of higher property development costs for heritage items.

Council agrees with the Productivity Commission (Chapter 8) that ‘if left solely to private action, too little conservation is likely to occur, particularly of certain types of heritage places’. As the majority of places listed in the Warringah LEP are privately owned as locally significance heritage items, it is believed that few would be protected or regarded as heritage items if such decisions were left solely to private owners.

However, Council is mindful of the additional development cost impacts that may arise for property owners as a result of having their property listed as, or ‘in the vicinity of’ a heritage item in the Warringah LEP. Heritage development assessments are expensive also for Council as additional qualified resources need to be secured to undertake a proper and thorough assessment as required by NSW planning and development regulations.

Also, Warringah Council is not sufficiently financed to ‘compulsory acquire’ places of local heritage significance in line with Draft Recommendation 9.4 and would seek funding assistance from other levels of government should this become mandatory.

Revised Productivity Commission Recommendations

Warringah Council believes that the NSW Heritage Act, the forthcoming NSW model local environmental planning provisions and their required legislation would have to be substantially modified to take into account the Productivity Commission’s draft report recommendations regarding conservation agreements for privately owned places.

As well, there are few public and private ‘incentives’ available for Council (via the NSW or Commonwealth government) to properly resource costs associated with heritage conservation, as well as acquiring properties, offering grants or other local rebates and incentives for heritage items. This area of the Productivity Commission’s draft report needs further attention, and greater consideration and investigation of the ways in which local Councils can acquire heritage properties, as well as provide incentives for the community to bear a greater proportion of the costs of heritage conservation. As well, the negotiation of private heritage agreements, and financing of qualified planning and legal staff will impose additional and significant costs on development and re-use of heritage items.

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Therefore, Council agrees with Draft Report Recommendation 9.6 that states that if listing occurred prior to the purchase of that property, it should remain covered by the existing package of restrictions and concessions, and that these arrangements would be reassessed at the time of any substantive development application.

Council recommends that the Productivity Commission proceed with its recommendation for negotiated conservation agreements for private and publicly owned State listed heritage items, and encourage greater heritage development incentives (for example, tax and rate rebates both for local government and private owners) that private owners of locally listed heritage items enter into heritage agreements with local governments only at the time of a substantive development application for their property.

The impact of this recommendation is that there needs to be sufficient private benefit (in terms of development cost reductions) for private owners to undertake heritage agreements, and a reduced burden on local government to negotiate heritage agreements with all private property owners for locally listed items. As a result, local government lists of heritage items would not change until a heritage agreement was negotiated – neither delisting or new listings of heritage items would occur until this takes place. The NSW Government (NSW Heritage Office and the NSW Department of Planning) would also need to draft outlines of heritage agreements to standardise the various terms and conditions to meet alternative legislative requirements for the protection of heritage items.

Conclusion

While Warringah Council supports the concept of ‘heritage agreements’ as described in the Productivity Commission’s draft report, it is concerned regarding the lack of resources available at Local Government level to support a greater role in heritage – particularly, negotiating heritage agreements with private owners, standardising such conditions and legal arrangements.

There are also few ways in which Council can itself acquire heritage properties or encourage greater local heritage conservation of existing or new heritage items (apart from rate rebates). Listing items in the Warringah LEP, and ensuring development applications consider listed heritage items – either the subject of, or in the vicinity of a heritage item – appears to be one of the main ways in which heritage properties can be protected now and for future generations.

Council is concerned that if private owners have a choice to have their properties listed, and encouraged to enter into conservation agreements, there may be many fewer properties listed to the detriment of the intergenerational conservation of heritage items in the Warringah area.