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**Subject: Submission to Federal Productivity Commission Interim Report on
“Housing Supply Regulation”**

The three terms of reference for this Federal Productivity Commission inquiry (approval processes, availability and use of land for housing and frameworks and processes to deliver new and utilise existing housing infrastructure) implicitly involve heritage however heritage is not explicitly mentioned in the report. This has led to a failure to consult any heritage organisations as part of this inquiry. The list of organisations involved in Public Consultation for the Interim report involves many development companies and housing organisations but is completely lacking in consultation of heritage organisations such as Australia ICOMOS, the National Trust, the Australian Heritage Council or state government-based heritage organisations such as Heritage NSW. The interim report shows a resulting lack of understanding of the benefits and processes of heritage planning control protections.

There has also been a failure to undertake comprehensive consultation with local government organisations (very few of which were consulted). As local government is overwhelmingly responsible for the protection of the majority of Australia’s heritage, this is also a severe failure of the inquiry process.

The report relies heavily on reports by Peter Tulip an economist who is employed by the IPA (Institute of Public Affairs, a far-right wing Melbourne based think tank), and AI has been relied on to some extent in its production.

The interim report is clearly an attack on heritage planning protections, particularly on Heritage Conservation Area listings. The report contains misleading statistics and incorrect assertions relating to heritage conservation areas and the impact of heritage planning controls, detailed with our responses below.

Statement (p7 overview) ; ‘For example, heritage protections cover at least 50% of residential land in 50 suburbs across greater Sydney (NSW PEC 2024, p. 42).

Comment : This is a grossly biased statement phrased to exaggerate heritage protections. There are 658 officially designated suburbs in Sydney. This means this statement only applies to 7.7% of Sydney’s suburbs, even if it is taken as accurate. So what about the other 92.3% of Sydney’s suburbs where heritage protections are presumably negligible to non-existent?

Reform direction 2.1: Allow up to 3-storey developments across most residential land.

Comment: 3-storey development across most residential land would:

- diminish housing diversity. Australian families seek after detached houses with gardens if they can afford it, not residential flats. 3-storey residential flat development will drive families out of the residential areas affected. In Burwood LGA, in the 2021 census detached housing was only 28% of the housing mix and this will get smaller due to the rezoning of the Burwood North Precinct from a low to a high density residential area. The heritage conservation areas within Burwood LGA preserve low density housing as well as streetscapes of heritage significance.
- destroy low scale heritage significant streetscapes within Heritage Conservation Areas, where 3 storey development is completely out of character with the existing built form and would detract from the existing built form, as well as resulting in wholesale demolition of the existing heritage significant buildings.
- interfere with housing energy efficiency/sustainability measures. For example 3 storey development would potentially overshadow solar roof installations on roofs of existing low scale houses.

Replace broad heritage protections with more targeted heritage listings with cost-benefit analysis and review processes.

Comment: This statement is an attack on Heritage Conservation Areas in particular. It would sweep away heritage protections except for the odd individual heritage listed site, and put housing supply ahead of the preservation of the historical built environment.

This is an attack on heritage conservation areas in particular because the whole built environment within heritage conservation areas has heritage planning protection: what you see in the streetscape is what you get when you buy a property in these areas. A heritage conservation area is the visual representation of the “open air museum” that Peter Spearitt wrote about. Property owners within heritage conservation areas have certainty that wholesale demolitions and rebuilds will not happen within these areas, which is one of the reasons these areas are valued by existing property owners and residents. This is also why houses within Heritage Conservation Areas are worth more (have a price premium) when compared to similar houses outside heritage conservation areas. In NSW, many heritage conservation areas have been protected since the 1980s and 1990s. The removal of heritage planning protections would undermine the existing housing values in these areas. By advocating such a policy is the federal government therefore considering compensation for the subsequent loss of value to the existing property owners in these areas?

There is also a severe lack of understanding of the variety of the built environments within heritage conservation areas (HCAs). Some HCAs are very uniform, resulting from a tight historical development period, and very intact, with little opportunity for the construction of any new infill housing due to the significance (contributory status) of the existing housing and subdivision pattern. Other heritage conservation areas have diverse housing and diverse subdivision patterns, and provide infill opportunities to replace, for example, 1950s-1980s houses among earlier houses, with new townhouses without any adverse impact on the built environment provided the new townhouses are designed in an appropriate manner. For example in The Appian Way Burwood (gazetted 1983) and the Malvern Hill Estate Heritage Conservation Area Croydon (gazetted in 1986) the subdivision pattern itself is significant as well as the majority of existing buildings: as a result there is very little opportunity for new development.

In contrast, the C1 The Peninsula Heritage Conservation Area in Hunters Hill contains housing dating from the 1850s to the present day including a large number of heritage listed houses, and the subdivision pattern is generally not significant as it results from a pattern of subdivision and re-subdivision over time and the area includes mid to late 20th century housing, the majority of which is not significant and is capable of replacement. However the overall height of buildings within the C1 The Peninsula HCA is 1-2

storeys and anything above that height would have an adverse impact on the overall significance, and also heritage planning design controls are important to ensure new development blends with the existing built environment. The C1 The Peninsula HCA is capable of accommodating 2-storey townhouse developments within those constraints, where the Appian Way Burwood and Malvern Hill Croydon heritage conservation areas provide very few opportunities for infill development of any kind due to the high integrity of the historical built environment within these areas and in the case of Malvern Hill any new development needs to be constrained to single storey due to the existing historical built form of the area.

Again, in contrast, some Heritage Conservation Areas within the City of Sydney Council area include multi-storey early 20th Century warehouses which are capable of adaptive reuse into residential flat buildings.

“heritage protections are grounded in protecting history and community identity for the benefit of current and future generations (Heritage Council Victoria 2023).”

Comment: This is the case, and heritage protections should therefore remain in place where they currently apply, in order to preserve Australia’s built heritage. Local Councils can, however, be requested to identify heritage conservation areas such as the Hunters Hill one mentioned above, which can accommodate some new medium density housing. Heritage does act to prevent development and to prevent some types of development (depending on the heritage conservation area involved), however the preservation of the heritage built environment is the purpose of heritage planning protection: the purpose of heritage conservation areas is not the prevention of any development. The prevention of development or certain types of development results from the primary purpose of protecting the historical heritage-significant built environment within HCAs.

2.2 Heritage protections are accused of limiting housing supply

Comment: This is the case in some (but not all) heritage conservation areas (as outlined above some heritage conservation areas are capable of accommodating 2 storey townhouses or other types of new residential development).

However, heritage conservation areas preserve housing diversity. Within the Burwood Local Government Area, the 2021 census identified that only 28% of housing as detached housing, well below the Sydney average (which is 50%). Detached housing, which is concentrated within Heritage Conservation Areas in Burwood LGA, is primarily occupied by families – if the percentage of detached housing in Burwood LGA falls further, the percentage of families living in the Burwood LGA will fall. (Note: this will be able to be tracked in future, as the high density development of the Burwood North Precinct will replace an area of low density housing without heritage significance).

even where land is zoned for high or medium density, overlays such as heritage controls can constrain the amount of housing that will be built and limit density.

Comment: It is not appropriate to zone heritage conservation areas for densities above what is represented in the existing built environment, as the purpose of heritage planning protection is to preserve the existing historical/heritage significant built environment. Therefore constraining new development within heritage conservation areas is the actual purpose of heritage protections, not a fault.

Heritage Conservation Areas are also frequently tightly held (as owners infrequently sell) therefore there are few sites available for purchase by developers at any given time. This is a result of the high residential amenity and the “sense of place” experienced by property owners in many heritage conservation areas.

The extent of heritage overlays in Australian cities likely exceeds the benefit they provide.

Comment: This statement is not founded in any analysis of the actual benefits heritage conservation areas provide in terms of residential amenity, preservation of history/heritage, preservation of housing diversity, and increased land values for existing land owners within these areas.

Within the Burwood LGA, as the Burwood Town Centre has been developed for high rise residential development of over 20 storeys since 2000, the heritage conservation areas in Croydon have also experienced an increase in wildlife (birds and possums) driven out of the Burwood Town Centre by the development activity and reduction in tree cover.¹

Housing diversity is also under threat: if everywhere in the greater Sydney region is developed for flats over 3 storeys, where are families supposed to live?

Private schools such as PLC Croydon also take up valuable large land sites in desirable locations close to railway stations– why is the Productivity Commission not suggesting those sites for rezoning and redevelopment for high rise housing?

Conclusion

The Interim Productivity Commission report shows a failure to understand heritage planning controls, the benefits of heritage planning protections and the heritage listing processes for Heritage Conservation Areas. The report is biased to the development industry and shows a failure to consult with any heritage organisations despite the report constituting a blatant attack on Heritage Conservation Areas (HCAs) and the heritage planning protection of HCAs.

The report also fails to understand or even mention the current crisis in the building quality of high-rise residential buildings (according to the latest NSW Building Commissioner figures 50% of all high-rise residential buildings constructed in the past 5 years have major defects – major defects relate to structural, water proofing and fire safety issues). With this level of quality issues, and publicity around this, recently constructed high-rise residential apartments are understandably increasingly unpopular with potential buyers and there is a resultant crisis of confidence in this form of residential development.

The interim report is aimed at facilitating the construction of more high rise residential apartments in particular, the very form of development where there is a crisis in building quality and consumer confidence. Surely the building quality crisis needs to be fixed first before advocating the construction of more of the same type of housing. Just last week there was publicity about another high-rise residential building in Melbourne with structural defects so severe that the Owners Corporation is considering whether demolition and rebuilding is more cost effective than remediation.

Meanwhile this report is advocating the removal of heritage conservation areas and their heritage planning protections, which would lead to the destruction of housing which is in many cases over 100 years old and still in good structural condition. Housing which is desirable and which has high occupancy rates (mostly occupied by families). Housing which represents the built heritage of Australia. This destruction advocated in the report is aimed at facilitating the development of high-rise residential housing in particular, the very form of residential development which has a crisis of building quality and a resulting lack of consumer confidence.

¹ Data from the Centre for Urban Research at RMIT University and Greener Spaces Better Places found the Burwood (-6 percentage points,) and two other council areas lost the most urban forest cover between 2013 and 2020.

Clearly the costs of the policy changes advocated in the report (loss of built heritage in favour of high rise residential development of questionable building quality and unpopular with consumers, where 50% of the buildings have major defects and many buildings are unlikely to be capable of reaching their originally envisaged building life) are not worth it.

Yours sincerely,

Chery Kemp

President

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