6 January 2006 8:33 PM

Subject: Conservation of Australia's Historic Heritage Places--- Productivity Commission Draft Report

Introduction

This submission is made in response to the Draft Report of the Productivity Commission. It is made by me as an individual rather than as a representative of Godden Mackay Logan Heritage Consultants or any other body with which I am affiliated. My qualifications and experience in making this submission are summarised immediately below.

Qualifications and Experience

David Logan—BArch (Hons) MBEnv (Bld Cons) MPIA, Director of Godden Mackay Logan Pty Ltd, has qualifications in architecture, heritage conservation and town planning.

David is a member of the Heritage Council of NSW, the Parramatta (SEPP 65) Design Review Panel, the Architectural Advisory Committee of the National Trust of Australia (NSW), the NSW Property Council's Planning Committee, and the City of Sydney Business Forum.

He is a former Vice President and National Executive Committee member of Australia ICOMOS and was a member of the Burra Charter Working Party. David has over 25 years experience in heritage management in both the public and private sectors.

David has specialist skills in heritage-related masterplanning and design projects, CBD development and urban planning issues. His consulting expertise includes heritage advice on major development projects, heritage impact assessment, preparation of DCPs and conservation area studies, expert witness work and heritage training.

Summary of Submission

I state at the outset that I am a strong advocate of the concept of procedural fairness and equity in the planning and land ownership systems and acknowledge that the Commission's recommendations are aimed at addressing what it considers to be in equities within the the current heritage management systems operating throughout Australia. My comments are primarily related to the New South Wales heritage management system with which I am most familiar.

I support the finding of the Commission in relation to the need for all heritage listings to be accompanied by a clear Statement of Significance. Contrary to the implications within the Draft Report, the vast majority of the places listed by local government within New South Wales already have Statements of Significance within their respective Heritage Inventory forms, which would enable property owners to understand why those properties have enlisted. That is not to say that this information should not be improved and expanded upon if/when resources are made available.

I am **strongly opposed** to the Commission's key recommendation that privately-owned properties should only be statutorily listed after a negotiated conservation agreement has been entered into, and should remain listed only while an agreement is in force. The reasons for my opposition to the recommendations are summarised below.

The heritage management system that we have in place in New South Wales is the result of an iterative process that has evolved through trial and error over the last approximately 25 years. The listing of heritage places in statutory instruments is an essential part of that process to identify to the community (and, importantly, potential purchasers) that these places have heritage significance. In my experience, the de-listing of heritage properties through opposition by the then owner, has led to in- equitable situations arising for subsequent owners.

My primary concern is that implementation of the recommendations in the Draft Report would inevitably result in only a handful of places of heritage significance being listed in statutory plans. Further, the vast majority of places that are already statutory listed would, inevitably, be de-listed if the current recommendations were to be implemented. I submit that this would ultimately not be in the best interests of property owners, nor would it be a responsible outcome for heritage places throughout Australia. I say this because it is my firm view that (human nature being what it is) if property owners are given the choice of being subject to additional planning controls they will inevitably choose not to be controlled even while acknowledging that there may be no additional cost or other impact to them directly.

The public now accepts that heritage is managed as part of the planning system. I take issue with the Commission's suggestion that heritage listing is somehow different to other forms of planning control. I do not believe that heritage restrictions are any different in their effect to, say, height or FSR controls, which can apply to individual properties or building groupings for valid planning reasons. Such restrictions are not removed simply because a particular owner might not wish them to apply.

The process that has evolved in New South Wales has, in the main, been supported in by the property industry, which has consistently advocated for comprehensive heritage lists as a means of achieving a degree of certainty for property owners. Voluntary lists, as would appear to be encouraged by the Draft Report, have been rejected as a means of responsible heritage management on the basis that they ultimately create uncertainty and confusion.

It is my opinion that the introduction of voluntary listings would be a regressive step that would return the New South Wales heritage management system to where it was approximately 20 years ago. In those days, heritage battles over possible listings in the face of development proposals opposed by the community, were an everyday occurrence, placing enormous pressure on local government councillors and State government planning ministers. The non-listing or, worse, de-listing of places that have heritage significance, would inevitably result in the regular re-occurrence of these battles with the (now educated) community strongly agitating for protection of places in the face of perceived unsympathetic

development. These battles are now relatively rare in New South Wales, largely because the vast majority of places that should be listed have been listed, and are adequately controlled.

While I do not believe that the de-listing of existing properties, would necessarily result in their demolition, given their inherent value, there is strong evidence that the absence of statutory listing would lead to a diminution of their heritage value over time through lack of adequate control over unsympathetic alterations, additions and new development within these properties. I do not believe that the Commission has recognised some of the more positive effects of heritage controls over the years in preventing the destruction of heritage buildings through inappropriate alterations and additions. The involvement of a heritage practitioner, whether it be the council's heritage adviser or a specialist engaged by the applicant, can lead to a better design outcome through consideration of alternative options. These need not impose additional costs on the owner but at the same time can often add value to the property.

In the vast majority of development proposals involving heritage-listed properties a negotiated solution is achieved, often with valuable input provided at pre--DA stage by the council heritage adviser. In that the vast majority of cases, the heritage listing does not hinder the achievement of a good design outcome, but rather assists it. The Draft Report acknowledges that in the vast majority of cases (96%) heritage-related development applications are approved with less than 4% refused. It would therefore seem that heritage listing, per se, does not necessarily hinder development proposals, but rather can actually help to achieve better design outcomes than for non-listed properties often for no other reason than the involvement of an architect in the process.

While, I would acknowledge that owners of heritage-listed buildings are generally faced with additional costs when preparing Development Applications for their properties, because of the need to obtain some form of heritage impact assessment this is, in most cases, nowhere near as expensive as is suggested in the Draft Report. Further, the Draft report acknowledges that in the vast majority of heritage listed properties (ie houses located within low-density zones) this additional cost is the only additional burden for owners of heritage-listed properties.

Why, then, did the Commission not suggest possible ways of addressing this perceived burden through a more equitable Council rates system etc? My suggested solution in this regard is (through state legislation) to adjust the current rating system to enable councils to charge or levy every property within each local government area a small heritage rate (say, $10 per property), which would then be re-distributed to pay for the rates of each heritage - listed property. Such a benefit, amounting to, say, between $500 -- $1000 per heritage-listed property would, in my opinion, be adequate compensation for the additional cost burden associated with the need for owners to prepare heritage impact assessments, engage heritage specialists, etc.

It is unlikely that property owners would lodge a Development Application more than, say, every 10 years. Over that time, the owners of heritage-listed properties would have accrued a rates saving of $5,000 -- $10,000, which would thus adequately compensate for the cost of any additional heritage services, etc required as part of the DA.

This particular incentive would be relevant for all listed dwellings, ie the vast majority of heritage-listed properties, and possibly other property types as well. Similarly, other financial incentives can be introduced to balance any financial disadvantages associated with other property types, such as commercial properties within a commercial centre etc. Indeed, in the Sydney CBD this has been addressed through a heritage floor space system. While this system, itself, needs to be reviewed to make it more equitable, such a system is capable of compensating for foregone development potential, one of the concerns raised by the Commission.

Having regard to these and other potential options that might be introduced, I believe that the Commission's key recommendation for a negotiated conservation agreement as a pre-requisite for any statutory listing is a 'one size fits all' solution that is both unnecessary and counterproductive. I strongly urge the Commission to re-consider the recommendations in its Draft Report.

I look forward to the opportunity to appear before the Commission in Sydney on 31 January to discuss the contents of my submission. If possible, I would like to show the commission, a small number of slides (approximately 20) to illustrate the difference between development outcomes achieved through heritage listing and those achieved without it

Thank you for your consideration of this submission.

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