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Engaging for Reform



The Hon. John Rau MP
Minister for Planning
GPO Box 1815
Adelaide
SA 5001

5th October 2016

Dear Minister,

Re: Local Heritage Reform Discussion paper

The Community Alliance SA Inc. is an umbrella organisation for resident and community groups from across Adelaide and other areas of South Australia. Our goal is a planning and development process that is accountable, transparent and sustainable, and that guarantees genuine community consultation. The aim of the Community Alliance is to:

“Put the people back into planning and development in SA”

The Community Alliance appreciates the opportunity to make a written submission about the Local Heritage Discussion Paper (Discussion Paper), but asserts that the consultation period was far too short to allow proper consideration and feedback from all community groups. For this reason the Community Alliance submission reflects the considered views of its Committee, but unfortunately could not incorporate feedback from all our member groups.

Consultation Period

Apparently the Discussion Paper was released on August 9th 2016 on a limited basis to twenty three organisations, but not received by Community Alliance until nearly a week later. The original consultation period was to 9th September 2016 but later extended twice, to 7th October 2016.

The Community Alliance has distributed the document to all its member organisations but points out that these groups then have to disseminate information to all their individual members and seek their views. Committees of community organisations need to make arrangements to meet and share their comments and decide what action they propose to take after consulting their membership. This takes time as it is dependent on meeting cycles.

The Community Alliance general membership meets every three months, and with the next meeting scheduled for November there has been no opportunity for member groups to discuss their response to the Discussion Paper.

Place Local Heritage on Renewed Foundations

In South Australia, built form heritage is split between two pieces of legislation, with two ministers, two departments, two separate statutory committees and two separate listing processes served by two separate sets of statutory criteria (“The Planning System We Want - on Planning Reform” South Australia’s Expert Panel on Planning Reform, December 2014, SA Government. Adelaide).

The Community Alliance notes that many of the Expert Panel’s recommendations have not been adopted in the Discussion Paper. The Community Alliance made a number of submissions to the Expert Panel on Planning Reform and attended several community reference group workshops. It was therefore disappointing for Community Alliance representatives who attended the DPTI consultation in August to be informed that the Expert Panel’s recommendations were not relevant and the Department was working to the Government’s Response document, which was the basis of the Discussion Paper on Local Heritage. The Community Alliance also notes that there are some inconsistencies between the Government’s Response and the Discussion Paper.

The Expert Panel considered submissions on heritage and recommended in its final report that ‘heritage laws should be consolidated into one integrated statute’ and that ‘the new heritage framework will also include sustainable funding models’ (The Planning System We Want, 66-67)

Both of these important recommendations have been ignored and local heritage is being addressed without any reference to the existing provisions of, or processes under, the Heritage Places Act. The once in a generation opportunity to resolve existing deficiencies and inconsistencies in heritage listing and management has not been addressed. The current process of heritage listing through Development Plan amendments has been cumbersome, costly and slow. Local heritage listing should be the responsibility of Councils not State Government but there should be a simpler process, similar to that for State Heritage Places which allows public nominations and provisional listing.

The Community Alliance considers that heritage listing should be separate from the development process so that it cannot be compromised. Ideally the Heritage Places Act should contain provisions for assessment and listing for both State and local heritage places, entirely separate from development processes under the Development Act. The Heritage Register is established under the Heritage Places Act and the proposal to create a Register under the Planning Development and Infrastructure Act is not supported.

Rationale for change

The Issues ‘identified as warranting reform’ in the Discussion Paper are listed but with no supporting evidence to justify statements made. It is a major concern that we are asked to comment on vague principles without knowing what changes are actually proposed or the assumptions on which they are based, which seem to be that SA must copy other States. Why?

The Government’s lack of support for heritage

The Discussion Paper alleges that there is much inconsistency and confusion in the present system and states a need to streamline existing processes, but does not present any concrete examples of supposed problems. The Community Alliance is concerned that

this obfuscation is an exaggeration of a minor issue to distract attention from the real issue – the potential for heritage places to be delisted and demolished more easily in future. This anti-heritage attitude will destroy one of SA's competitive and economic advantages in the pursuit of more development. Jobs and growth can also be achieved through conservation and adaptive reuse of our existing buildings and the tourists they attract.

One of the main issues identified by our members has been the difficulty and delays in local heritage listing due to DPAs being blocked by the Minister or DPTI or even the refusal of the Minister to list all the recommended local heritage places (LHPs). A prime example was the City of Adelaide, where many of the recommended LHPs no longer exist and have been replaced by unremarkable new developments.

The Community Alliance is alarmed that 'the listing of local heritage places will also need to be considered in balance with the broad strategic objectives of the State'. This would potentially provide the Minister with discretionary powers to veto proposed or provisional listings and even to review and remove existing listings. The Union Theatre, Glenside Nurses Home and Maughan Church were victims of such discretionary powers and demolished, despite their cultural and social significance and potential for ongoing use and adaptation. Consistent with this alarming direction are the references to periodic review of listings and statements of significance and the need to keep the register up-to-date.

There may be 'over 8,000 local heritage places, almost four times as many as there are state heritage places' but this seems to be presented as a problem as 'the numbers of listings and objections is increasing'. The concerns are that this apparent problem is used as a justification for the focus on local heritage in isolation and under the Planning, Development and Infrastructure Act rather than the Heritage Places Act.

The Discussion Paper specifically avoids any consideration of funding for heritage or addressing the financial recommendations made by the Expert Panel, which was an essential element of their proposal to 'place heritage on new foundations'.

Contributory Items

The Discussion Paper is silent on Contributory Items (CIs) but the intention to remove them has been flagged previously and we understand that this will be addressed in the Design Code. If Councils have to review CIs against the new local heritage criteria, this will be a costly exercise. The removal of CIs would jeopardise the protection of local heritage areas or Historic Conservation Zones identified by Councils.

Demolition 'on merit'

Local Government argued for demolition control for listed properties and State and local heritage places are currently protected where demolition is 'non-complying' development. The Community Alliance does not support demolition of LHPs 'on merit' as this could occur on the recommendation of a planner and not be referred to the Council Development Assessment Panel (CDAP). The Councils who originally approved the listing and the community will be powerless as their heritage is destroyed for profit in the guise of 'progress'.

Accredited Heritage Professionals

The Community Alliance has concerns that 'accredited heritage professionals' will have decision-making powers and influence in heritage listing rather than the elected body of councils and the communities they represent. This seems at odds with findings by the Expert Panel.

The Expert Panel noted views that conservation has become an elite activity that ignores community views as it is based on architectural and historical criteria and assessed by heritage practitioners ("Our Ideas for Reform – on Planning Reform" South Australia's Expert Panel on Planning Reform, August 2014 p67).

Accreditation processes are costly to establish and costs are passed on to the professionals and their clients. There is also the potential for subjective assessments to be seen as a 'gun for hire' approach to heritage. Social significance is represented in the criteria, but best determined by those for whom a place has meaning.

Natural justice provisions and community engagement

Provisional listing is essential as it protects places from pre-emptive demolition while allowing owners and the community to support or object to listing. Councils should have a role in considering objections and deciding whether a local heritage listing is confirmed or rejected, not State Government or a Planning Commission. Objections to listing should not be a matter for the ERD Court as the costs and stress for owners can be considerable and a lawyer's picnic.

The Community Alliance is concerned at proposals to reduce timeframes for consultation and considers that the current timeframes should remain.

Thematic Framework for heritage listing

The State Heritage Register was developed following identification of a thematic framework that influenced both heritage surveys and individual listings to ensure that they were grounded in state or regional or local history when assessed against the criteria. South Australia was well ahead of the other States in this regard. Themes are useful in identifying gaps in the Register, but there is a danger in using them for 'comparative analysis' to identify 'over representation of listings within specific themes'. There are many nineteenth century residential buildings in the city because it had a large residential population. This should not be used as a reason not to list these early cottages if they meet the criteria.

Nominations for local listing

The Community Alliance supports the proposal to allow nomination of individual places and hopes the nominations will be dealt with by Councils with a simplified process for listing on the Heritage Register. The Register should remain under the Heritage Places Act and not be transferred to the Planning, Development and Infrastructure Act, although there could be a link to the Planning Portal. The reference to 'consideration of appeals to nominations' being considered by the ERD Court is a cause for concern, if this means they will be prevented from proceeding to assessment.

New Criteria

The Community Alliance supports introduction of uniform HERCON criteria with a threshold to distinguish between State and local significance, providing places do not fall between the cracks, and there are sensible guidelines to indicate how the thresholds can be applied. The introduction of new criteria should not be used to discredit existing listings or justify the re-assessment of listed heritage places against the new criteria. Removing heritage listings sets a dangerous precedent that discredits heritage surveys and past listings.

Conclusion

The Community Alliance rejects the State Government's Heritage Discussion Paper as a flawed document that fails to recognise:

1. the unique value of South Australia's heritage;
2. the economic and cultural contribution of heritage to the life of present and future South Australians;
3. the valuable contribution made on heritage by our local councils.

We demand:

1. that the people of South Australia and their elected representatives on council make decisions about South Australia's heritage and NOT a faceless, unelected, remote and unaccountable board appointed by Minister Rau;
2. that the present system for nominating state heritage places continue and be extended to local heritage nominations;
3. the retention of existing heritage places and contributory items as well as areas of heritage character;
4. that our heritage is conserved and protected and not destroyed by political or economic agendas.
5. that heritage impact statements that properly assess the social and environmental impacts are mandatory for redevelopment of heritage places

Heritage belongs to all of the citizens of South Australia. It is ours, Minister Rau, not yours.

The Discussion Paper confirms that the reform of local heritage processes is complex and the concerns expressed by the South Australian community, both individuals and groups, indicate that this is a topic of great importance for present and future South Australians. The Community Alliance hopes that the responses to the Discussion Paper will receive full consideration and that further consultation will occur before any legislation is drafted to address heritage listing and management in South Australia.

Yours sincerely



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