

# OUR LOCAL HERITAGE UNDER THREAT

**Defending gains made in Local Heritage  
protection over 40 years**

## **A Critique of the DPTI Local Heritage Discussion Paper**

**by Norman Etherington, President of the National Trust of South  
Australia, on behalf of the Cultural Heritage Advisory Committee**

Under the guise of reforming and 'improving the ways we recognise heritage places in South Australia', the Department of Planning, Transport and Infrastructure threatens to set our system back forty years.

The damage could not be undone. It would be a crime as well as a blunder to proceed without widespread consultation of councils, community organisations and the general public. This should include a series of public forums at which the proposed changes can be debated and recast.



## A flawed process

A cover letter dated 9th August 2016 accompanying the paper posted on 11th August asks for oral consultation within 10-15 days and written responses within a month. If new legislation is so important there should be at least 6 months allowed for public debate.

Public consultation should have come ahead of this paper. Representatives of the National Trust and other groups were invited to a seminar on heritage planning reform at Roma Mitchell House 18th June 2015. Despite promises of further meetings, nothing happened. The result was a process fatally flawed by a lack of prior public consultation.

**Why the rush?**

## No transparency

Who wrote this flimsy paper? Who identified the 'issues warranting reform'? Who made the judgments on 'best practice'? We are not told. Representatives of the National Trust who participated in community assessment of the Expert Panel on Planning Reform fiercely disagree that this list of bullet points bears any resemblance to the conclusions of those discussions. The most important – an end to interference in Local Heritage listings by the Minister – is not mentioned. Another big issue – failure to establish adequate historic conservation zones – is entirely absent.

What was the Port Adelaide Enfield study mentioned on page 4? Where are references to the interstate legislation mentioned on page 3? The relevant documents, including local heritage reviews and statutes from other states should be put up on the DPTI website so we can compare our analysis with yours.

**Who says so?**

In the absence of other information, we will hold the Minister for Planning responsible for the flawed process, the inadequate paper and the lack of transparency.

## What's wrong with South Australia's Local Heritage protection?

This discussion paper fails to make a case for changing the system that has served our state well over many decades. Many of the problems set out in the bullet point 'key issues', such as the lengthy and unpredictable processes are the fault of a state department of planning that has failed over a long period to deal quickly and positively with recommendations from local government authorities. This problem can be dealt with by internal administrative reform. Others, such as the requirements for extensive study and documentation of proposed local heritage places, came from the property industry which steadfastly refused to recognise any place as worthy of protection until proved to be so beyond a shadow of any doubt.

Confusion between 'heritage and character' is the fault of a generation of planners who tried to evade responsibility for protecting heritage by insisting on protection of 'character' rather than the historic fabric valued by the community. Most of the public couldn't care less about what the planners call character. Nor do they care much about individual architectural achievement. The experience of the last 40 years shows decisively that the community wants legislation to protect the pre-colonial natural environment and buildings dating from before World War I – especially domestic architecture that makes so many suburbs and towns special.

**What's your problem?**

The paper cites no evidence that the public at large, as opposed to vested interests, thinks there is anything seriously wrong with the existing system. Judging from the consistent stance of resident groups over the decades, they want more rather than less protection for the places they love.



## Best practice

There is a good deal of muddled talk in the paper about ‘best practice’ interstate and the alleged need for hierarchy and consistency in heritage listings across jurisdictions. Let’s be clear on one point: best practice is what you see on the ground, not what you read in the statutes. Looking around Australia we see best practice in Fremantle, Salamanca Place, Petrie Terrace, the City of Sydney, Ballarat and several inner suburbs of Melbourne and Adelaide. ‘Applying lessons learned’ from interstate means replicating the tough historic preservation measures that kept those places vital and vibrant. Strange to say the City of Sydney’s fine-grained controls within designated historic conservation zones are not mentioned in the paper. In fact there is no mention of best practice conservation zones at all.

A comparison of Fremantle and Port Adelaide would be especially revealing. Instead the paper refers vaguely to ‘lessons learned from similar reforms’ in some jurisdictions. In fact the paper tells us nothing about lessons learned, only about legislative investigations and changes. The big lesson learned from the success of Fremantle and the abject failure of Port Adelaide is that rigorous control over redevelopment and demolition delivers big dividends in property values, community satisfaction, growth and jobs. Wholesale clearance at Port Adelaide killed the goose that formerly laid golden eggs.

### Where’s the beef?

Where you find a buzz in the air, gaiety on the streets and cash registers ringing is where the old buildings are (as shown by the pictures accompanying the discussion paper). Arguably until just a few years ago South Australia was best practice in local heritage. The rot set in when Ministers began to knock back community recommendations and approving demolition ‘in the public interest’.

The paper makes a great fuss over consistency for reasons that are not altogether clear. Back in the 1970s and 1980s the purpose of local heritage regulation was to allow variation among councils, because historic environments vary and so does public opinion. Given what we now know about what Australians want to keep, it makes no sense to spend a lot of money on heritage surveys of vast areas comprised of 20th and 21st –century buildings. As Emerson remarked, ‘a foolish consistency is the hobgoblin of little minds’. Protection of local heritage should be absolute whatever the council area but the nature of local heritage is bound to differ widely.

The introduction of a hierarchy of significance in local heritage protection would be a backward step.

It was abandoned in most places around the world precisely because developers invariably argued that they should be free to demolish anything but the top class of historic places. While national, state and local heritage differ in geographical scope there is no reason they should differ in the protection afforded them. As one heritage professional has remarked:

- The distinction made between items of supposed local, state and national importance has often rested upon a logical fallacy — namely the conflation of hierarchical issues (how important is this building?) with geographical ones (how closely does this item relate to the history of this locality, region or nation?).

Something deemed to be worth keeping is worth protecting. There is likewise no problem with overlap of national, state and local significance. Anything of national significance is going to be of state significance. State heritage places will also always be local heritage places, while the reverse is not the case.



## Local Heritage listing criteria

We agree that the same criteria should apply to heritage evaluation whether national, state or local. The only variation is that the local heritage places need not prove their significance beyond the council area.

On the other hand, some obvious absurdities arise when the words 'local' or 'locally' are mechanically inserted, as shown by the examples used in the paper. ***To say that heritage places must prove they are 'locally rare' rather than just rare would devastate inner-city council areas*** where very early buildings – rare in Australia and the world at large – are common. It is the rarity of these extraordinary collections as groups that is beyond question.

The absurdity of the proposal can be shown by applying it to well-known international examples. To require that to qualify for protection 17th-century waterside 4-storey buildings in Amsterdam be '**locally** rare' is as daft as applying the rule to Cotswold stone villages, half-timbered houses in Stratford-upon-Avon or medieval buildings in the Marais district of Paris.

**How dumb is this?**

If we allow our unique collections of pre-WW I buildings to go, we will have lost precisely what makes us special.

It is likewise stupid to apply the adjective to the understanding of history. There is absolutely no reason to limit heritage significance to places that merely 'contribute to our understanding of local history'. Almost all heritage places can contribute to our knowledge of history in a more general sense. Why insist their significance be limited to the subcategory of local history?

The same goes for demonstrating that a place is 'comparatively significant in representing a class of places of **local** significance'. Imagine a stone villa in St Peters picked out for representing a class of places of local significance, as is undoubtedly the case. If it were the only one accorded protection and others of that class were allowed to go, it would eventually no longer represent that class of significance.

There is not a single criterion on the list a. to g. that is not rendered meaningless or absurd by inserting the words local and locally.

## Use and misuse of Historic thematic frameworks

As the lead author of the Australian Heritage Commission's pioneering Historic Themes study in 1995 I speak with some authority on the subject. The National Themes formed the basis for Victoria's historic themes which are cited in the paper. Historic themes are used to categorise heritage places in a way that allows better interpretation of the stories they tell. Thematic frameworks are emphatically not a shopping list or a template for a collection policy. They are stated in a way that allows themes to be applied to every building or place in Australia, not just heritage places. The themes categorise places according to the historical forces that brought them into being, rather than by style or typology.

It goes without saying that it is impossible to use thematic frameworks to determine the quantity of places it may be thought desirable to protect. 'Housing Australians' is a single theme but to illustrate it with a specified number of examples would be silly. Our heritage registers are not a Noah's Ark where each species is represented by a single pair.

The concept of 'over-representation' used in the DPTI paper is a novelty previously unknown to heritage practice in Australia and must be resisted. On the other hand, there is no harm in searching for themes unrepresented by any examples.

It would be a good idea to bring South Australian heritage themes into line with the national framework, but do not expect the process to help in establishing hierarchies of significance, quality or quantity. To quote from the Principal Australian Historic Themes report:

**Thematic frameworks will never tell you how many places to protect.**

***"It is not readily apparent that the identification, delineation or elaboration of any number of historic themes can help determine what is 'important', 'outstanding', 'rare', 'special' or 'accomplished'."***

***"Can themes help to distinguish places of national significance from places of state, local or international importance? The overwhelming response from people we asked was, no, they cannot. Furthermore, most responses claimed that it was impossible to make such distinctions at all."***

All these considerations lead us to conclude that the use of themes cannot help to sort heritage places into clearly delineated, non-overlapping local, state and national registers.



## Streamlining the listing process

We agree that the process involved in getting local heritage places listed has been unduly lengthy and cumbersome. The blame rests squarely with the Minister for Planning and the property industry. The Minister has sat on local council recommendations for years, only to reject them late in the day on flimsy, unsupported grounds. From the beginning the property industry has insisted on over-elaborate documentation.

Given the dilatory and slipshod processes within DPTI, we would certainly not entrust the process to that department. The reason for assigning local heritage to local government in decades past was to prioritise community feeling over experts or bureaucrats. It would be a grave mistake to exclude local councils from the assessment process.

**Give DPTI a kick in the pants**

What we urgently need is to give DPTI a kick in the pants to get them moving on recommendations from councils. We require the Minister to adhere to a clear set of agreed guidelines rather than whimsy and developer pressure. Heritage listing should proceed automatically in the event the Minister does not deal with council recommendations within 180 days.

DPTI as currently constituted lacks both the expertise and the personnel required to make good decisions. Moving the whole process of local heritage assessment to the department would most likely replicate the present under-resourced situation of the State Heritage Council where the listing process has slowed to a snail's pace.

Removal of interim heritage protection for properties under consideration for local heritage listing would, as universal experience demonstrates, spur many owners to demolish first and argue later. Interim protection must remain part of the process.

The paper asks whether 'recognition of the heritage value' should be consigned to 'accredited professionals'? The National Trust says no. Experience going back thirty years and more shows that accredited professionals do not agree. It is always possible to find an accredited hired gun to discredit the significance of a given place by saying things like

- There are better examples elsewhere
- The interior has been altered
- The exterior no longer reflects the original appearance
- Previous permission to upgrade has compromised its integrity

Regrettably, we fear with good reason that under the current government DPTI would fill its appointed panels with precisely that kind of accredited gun for hire.

## **Improving how we record local heritage places**

We have for years been advocating the construction of a single internet portal that will provide access to documentation on all heritage places: national, state, local and National Trust listed. The sooner this is done the better. A DPTI portal on local heritage would be an inferior substitute.

## **Clarifying the difference between character and heritage**

Believing as we do that the only character valued by the community is historic character, we support the substitution of the phrase historic character for character in legislation. Retention and expansion of historic conservation zones where demolition of historic fabric is tightly controlled is preferable to protection of selected individual buildings. Attempting to dictate character through style or materials promotes mediocrity without preserving what is truly heritage.

## **Streamlining our Development Assessment Processes**

We agree that the handling of 'minor, low-risk works to heritage places' can be streamlined and the requirement for a full DA dropped. We do not agree that the documentation for existing local heritage places should be 'brought up to date'. That would be a foolish allocation of scarce resources.

The very worst recommendation in the little paper is that people should be able to argue for 'demolition of local heritage places on merit'. We can see no merit in demolition of a place that has been through our tough local heritage assessment process. This recommendation would insert a new and damaging uncertainty to the planning process. For years the property industry has been crying out for certainty. Why introduce uncertainty now? What possible 'merit' can be seen in demolition of irreplaceable community assets?

**No more demolition of pre-WWI historic buildings**

## **Windfall profits for some. Damage that can't be undone**

In areas of high development pressure, the introduction of 'demolition on merit' would deliver windfall profits to owners who bought property at prices reflecting the dollar value as a protected heritage place. That windfall is manifestly unfair, both to the community and people who sold in good faith. Inevitably those with deep pockets would spend money arguing and litigating to reap those windfall profits. A demolition derby would ensue, as we have seen many times before, with people racing to clear allotments for speculative gain. Inevitably many of these lots would remain empty for years, scars on our cityscape like the notorious Makris site in North Adelaide.

**'Demolition on merit' would deliver windfall profits at the community's expense.**

Once certainty is removed from local heritage, it will be impossible to restore integrity to the system. The hard-won gains of the last forty years and all the money expended on local heritage will have been thrown away.

## **Jobs, growth and liveability**

The paper is uni-directional. It suggests nothing that will enhance heritage preservation. All the suggestions point to heritage destruction and gains for one segment of the economy, the property industry, to the detriment of other sectors. One of Adelaide & South Australia's significant points of appeal and advantage over other cities and states in Australia is our relatively intact stock of historic character stone houses and commercial buildings, which are the envy of other states. The building/house renovation market constitutes a larger portion of the state's GDP than the new home market, however it is comprised mainly of SME's (small-medium enterprise businesses) who do not generally have the ear of Government. Renovation of old buildings creates many more jobs than new building with industrialised components. Every renovation of historic fabric employs two people for every one involved in new construction. The economic benefits extend beyond construction to tourism and a lively café/ small bar culture that has voted with its feet in favour of historic buildings. Once a big building is completed its capacity to generate new employment is finished. The benefits of retaining historic buildings are ongoing. The gains accrue to an ever more liveable city.





## Where do we go from here?

The National Trust is appalled by a paper which in the name of 'reform' does nothing whatever to advance the cause of heritage preservation and opens the door for uncertainty and corruption of all kinds.

What needs to be done immediately is to extend the period of community consultation for at least six months. The consultation should be launched at a well advertised public forum with the Planning Minister in attendance.

In the longer term it is high time we moved towards best practice by following New South Wales in banning property developers from making donations to political parties and campaigns.

## Contact

To show your support for protecting our local heritage contact us by emailing:  
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