14 September 2018

The Parliamentary Officer
Environment, Resources and Development Committee
GPO Box 572
Adelaide SA 5000

By email: ERDC.Assembly@parliament.sa.gov.au

Dear Committee Members

RE: INQUIRY INTO HERITAGE – AUSTRALIA ICOMOS RESPONSE

I provide this letter as a submission on behalf of Australia ICOMOS to the Environment, Resources and Development Committee's Parliamentary Inquiry into Heritage.

ICOMOS is the International Council on Monuments and Sites. We are a non-government professional organisation that promotes expertise in the conservation of cultural heritage. ICOMOS is also an Advisory Body to the World Heritage Committee under the World Heritage Convention. Australia ICOMOS, formed in 1976, is one of over 100 national committees comprising ICOMOS. Australia ICOMOS has over 700 members in a range of heritage professions. We have expert members on a large number of ICOMOS International Scientific Committees and Australian expert committees, heritage councils and boards. We are the author and custodian of The Burra Charter: the Australia ICOMOS Charter for Places of Cultural Significance, 2013, a world-renowned charter promoting best practice heritage assessment and management.

Australia ICOMOS supports the move to review and amend heritage management in South Australia through the planning reform process. We provide the following feedback on questions raised in the Terms of Reference. We welcome the opportunity for further involvement in this process.

1. Highlighting the differences in, and consistency of, processes and criteria between listing and assessing local, state and national heritage

Local, State and National Heritage listing is undertaken under three different pieces of legislation, with different processes, and with different criteria for significance assessment.

Local Heritage listing is undertaken by Local Councils under the Development Act 1993 (SA). The criteria for significance assessment are set out under Section 23(3) of the Act. The process is undertaken by Local Councils through Development Plan Amendments (DPA). The community cannot self-nominate a place of potential Local Heritage value to Local Councils.

State Heritage listing is undertaken by the South Australian Heritage Council (SAHC) under the Heritage Places Act 1993 (SA). The criteria for significance assessment are set out under Section 16 of the Act. The community can self-nominate a place of potential State Heritage value to the SAHC for assessment.

National and Commonwealth Heritage listing is undertaken under the Environment Protection and Biodiversity Conservation Act 1999 (EPBC). The criteria for significance assessment of National Heritage places are set out under Division 10.2 Section 10.01A (2) under the Environment Protection
and Biodiversity Conservation Regulations 2000, and referred to under Section 324D of the EPBC Act. The community can self-nominate a place of potential National heritage value to the Australian Heritage Council, via the Department of Environment and Energy, for assessment.

As demonstrated above, there are inconsistencies with opportunities to self-nominate potential heritage places at the State and National level, but not Local level. There are complexities and extended timeframes with the exiting DPA process for local heritage listings.

2. How heritage should be managed in the future; including, but not limited to investigating:

a. How should the process for listings (from initiation to final placement on the appropriate register) be managed, and by whom?

Australia ICOMOS supports an integrated single Heritage Register for South Australia that incorporates places of State and Local heritage value under an integrated piece of heritage legislation. The Expert Panel on Planning Reform supported this approach in 2014: ¹

Reform 8.1 Heritage laws should be consolidated into one integrated statute.
Reform 8.3 There should be an integrated statutory body, replacing existing multiple heritage bodies. …
Reform 8.4 The new body should administer a single integrated register of heritage sites, including state and local listings…

Australia ICOMOS supports the alignment of South Australia’s Local and State Heritage criteria with the 2008 adopted HERCON criteria. This alignment will allow easy, defensible assessment of the heritage value of a place against streamlined heritage criteria, with local, state and national thresholds. This is a common approach in other Australian states and would reduce contestation of heritage value by opponents based on ‘word play’ between the current mixed sets of State and Local criteria.

Australia ICOMOS supports adopting a system of self-nomination for potential Local Heritage places to Local Council, which may form part of a framework for more regular assessment of local heritage places by Local Councils. A local heritage nomination system with greater community involvement and consultation would have strong community support.

b. Who should have the right to be heard in relation to listings?

Property owners should have the right to be heard in relation to listings. The existing State Heritage assessment process involves consultation with property owners from the nomination phase. However, under the Local Heritage assessment process, property owners are not consulted on provisional listing. A realignment of local heritage processes to involve the property owner at the nomination phase is recommended.

c. Who should be the decision maker for listings and review; and

The decision maker for Local Heritage Places is the Minister for Planning following receipt of assessments and recommendations as part of the DPA process, and a review by an independent committee.

The decision maker for State Heritage Places is the South Australian Heritage Council. However, the Minister for the Environment has powers under the Heritage Places Act to defer or not confirm a provisional State Heritage listing.

As part of an integrated system and under a single piece of legislation, Australia ICOMOS supports an alignment of processes for State and Local listing and review, including the development of policy to support the existing mechanism under Section 24 of the Heritage Places Act for re-designation of State Heritage Places to Local Heritage Places.

d. What processes should be in place for the review of listings?

Australia ICOMOS supports an integrated system and single piece of legislation for Local and State Heritage place assessment and review with property owner rights from early phases and community consultation.

In principle, Australia ICOMOS supports a once-off review of existing State Heritage listings in South Australia. Prior to 1994, listings were made without a set of significance assessment criteria. Providing accurate location details, a description, photograph and potentially a Statement of Significance and defined curtilage for pre-1994 State Heritage listings is supported. Any review of State Heritage listings should be set within a framework that is directed by the South Australian Heritage Council.

3. What is the relationship and distinction between ‘character’ and ‘heritage’?

‘Heritage’ comprises individually important places that are assessed under a set of criteria to establish heritage value, whether that is at a State or Local threshold.

Historic ‘character’ is generally related to collections of places that display attributes of similar characteristics (i.e. architectural form, land division pattern, streetscape qualities).

Australia ICOMOS supports Local and State Heritage places, and Local and State Heritage Areas of historic character in South Australia, to be listed under an integrated system and single piece of legislation. Area protection is one of the most effective ways of retaining historic character, where certainty across an area about anticipated retention of heritage qualities and expectation of appropriate infill development is outlined in planning policy. A name change from the existing historic conservation areas and zones and heritage conservation areas to Local Heritage Areas is recommended.

There are currently no controls over internal alterations to local heritage places other than Building Act requirements. Australia ICOMOS strongly supports inclusion of the Burra Charter in planning policy to ensure best practice heritage outcomes.

4. Have there been unexpected or perverse outcomes?

State Heritage Areas

There have been a number of inconsistencies and complexities with heritage listing in SA, which could be construed as being ‘unexpected’. The South Australian Heritage Council cannot list State Heritage Areas – it is undertaken by the Minister for Planning. Australia ICOMOS supports the integration of creating State Heritage Areas under the Heritage Places Act.

Assessment of National Heritage Places under SA’s Development System

National Heritage places are not identified in Development Plans or mapped in state mapping systems, such as the Location SA Map Viewer. There is no process for ensuring the assessment of National Heritage values is undertaken as part of the development process in South Australia, whether through a Local Council or the State Commission Assessment Panel (SCAP). Whilst the Commonwealth Government has established a system of self-assessment for proponents of potential impacts to National Heritage values, it is our understanding that this process has not been formalised under a Bilateral Agreement between the South Australian Government and Commonwealth Government.

Australia ICOMOS supports the establishment of a process and procedure for assessing potential impacts to National Heritage places as part of the development process in South Australia. This would be aided by adding National Heritage places to appropriate Government mapping resources and by inclusion of these measures into revised Government policy.

There are no links between National Heritage places as part of State planning process and procedures, and as such the potential impact to National Heritage values of ‘development in the vicinity’ is not considered through the planning process. A process of self-assessment was established by the Commonwealth Government, but without due checks and consideration, certain developments could lead to negative accumulative impacts on the heritage values of our National Heritage places.
5. Any other relevant matter.

Streamlining the Development Assessment Processes
There have been substantial discussions as part of SA’s planning reform about streamlining the development assessment and listing system. Our response above covers some recommendations around streamlining the listing system. In terms of development assessment, the establishment of exemptions for property owners of heritage places and appropriate guidelines and mechanisms would reduce financial burden and bureaucratic red tape. An example is the Standard Exemptions for all State Heritage Places in NSW.

Australia ICOMOS supports efficient management of Australia's heritage places, to minimise owner and government expense and to ensure heritage is considered an asset, rather than obstacle within the community. We support the consideration of standard exemptions for owners of heritage places, to reduce financial burden and bureaucratic red tape. However, any exemptions and the establishment of codes of practice should of course consider how works might have an impact on a place's heritage values.

Development and Consideration of Heritage for Major Projects
The Productivity Commission investigation into Conservation of Australia’s Historic Heritage Places (2005) acknowledged that heritage designation is an ongoing process. Not all places that may be of value to the community are designated on current lists. The current process for major development in South Australia does not include a process for assessment of potential heritage value and impact for major projects. It is recommended that a similar system to that established in NSW is adopted in South Australia, where the Minister for Planning requests identification of potential issues from State Government Agencies, and within a nominated timeframe a response is received that provides Directives for developers to meet when starting project planning.

For instance, Heritage South Australia, DEW may recommend that a Heritage Impact Statement or Preliminary Archaeological Assessment is undertaken for a particular location where there are currently no heritage designations. The same may be undertaken in the vicinity of a project area, so as to identify and mitigate any potential heritage impacts upfront as part of the overall project. There may also be opportunities recognised early on in project planning to adaptively reuse a heritage place. This process supports that heritage is not just ‘places’ but also landscapes, objects, setting and the intangible.

Adaptive Reuse of Heritage Places
Australia ICOMOS supports the adaptive reuse of heritage places. Heritage places can be adapted in sensitive ways with new uses, new fabric and new additions. However, a sense of a place’s former use and retention of its heritage values is also essential. Compliance with building code regulations to heritage buildings can sometimes be seen as a barrier to adaptive reuse. However, in our experience there is always a solution that can ensure the retention of heritage values, as defined in the Statement of Significance of a heritage place.

The adaptive reuse of heritage buildings and other structures can deliver measureable environmental and sustainability benefits. Heritage buildings have a low embodied energy score, as building fabric is being reused, not constructed, saving primary resources and the energy to manufacture building products. Repair methods utilise traditional, low-tech methods, reducing carbon footprints. The environmental performance of many heritage buildings is also effective, as they were designed to suit the local environment before the advent of mechanical air-conditioning.

Heritage Advice, Funding and Guidelines
The ability for property owners to seek advice on their heritage places and apply for funding towards conservation of their heritage place has been impeded over the past decade due to the abolition of the previous Heritage Advisory System and cessation of grant funding for State Heritage Places.

Australia ICOMOS supports regular grant funding opportunities for State Heritage Place owners in South Australia. These should be overseen by appropriately qualified heritage professionals.
Australia ICOMOS encourages the South Australian Government to establish an incentives scheme for owners of heritage places, as a commitment to the management of heritage for the whole community. Such a scheme may include:

- reinstatement of a Heritage Advisory System for Local Government;
- grant funding for Local Heritage Places; and
- other incentives for heritage place owners.

Summary
In summary we support a single integrated heritage management system in South Australia with a single Heritage Register for State and Local Heritage Places, and State and Local Heritage Areas. We support the alignment of South Australia’s Local and State Heritage criteria with the 2008 adopted HERCON criteria.

As Australia’s peak NGO for heritage management, Australia ICOMOS would appreciate the opportunity to continue to provide advice on any of these matters and on the development of heritage policy. Thank you again for your consideration of the views of Australia ICOMOS in this process.

Yours faithfully

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President, Australia ICOMOS