



NATIONAL TRUST
SOUTH AUSTRALIA

DISCUSSION PAPER

LIVING HERITAGE VISION 175



**IDEAS FOR BUILDING ON 175 YEARS OF SA HERITAGE
TO CREATE A RICHER, MORE DIVERSE AND
SUSTAINABLE BUILT ENVIRONMENT**

A contribution to celebrate the 175th anniversary of European settlement in SA

The National Trust of SA (NTSA) owns 56 built heritage places, 18 natural heritage and open space reserves, and manages (mostly through its 46 Branches) a further 55 private and government owned heritage places. Its other primary activity has long been public advocacy on heritage matters, the principal purpose of this document.

The document is issued by the NTSA as part of a seminar *Activating Our Built Heritage*, on 5 October 2011. It is intended solely as a polemic, to promote wide public discussion in finding new approaches to built heritage. It has been collated by the Cultural Heritage Advisory Committee of the NTSA but is not necessarily NTSA policy.

Your comments and suggestions are welcome

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Foreword

Changing understandings of heritage

A dictionary definition of "heritage" is "anything that is or may be inherited, inherited circumstances, benefits etc."¹ Heritage has also come to mean more narrowly "a nation's historic buildings, countryside etc. especially when regarded as worthy of preservation"², a meaning which became particularly current in post-war Australia, with the foundation of bodies such as the NTSA.

By the 1980s this had come to include areas of native vegetation, with the introduction of heritage agreements over them under the *Native Vegetation Act 1991 (SA)*. The *Heritage Places Act 1993 (SA)* defines heritage through ten detailed criteria³ including cultural, technical, spiritual aspects, and archaeological, palaeontological, geological or speleological places.

Now the meaning of heritage is moving to an even wider sense, as the community values heritage in the form of wider phenomena, including landscapes; perceived "character"; and a range of human crafted materials.

The NTSA "Vision" and "Mission" refer to "conservation of Natural and Cultural Heritage". The *National Trust of South Australia Act 1955-75 (SA)* does not define heritage. Its preamble states that the legislation is to "provide for the preservation and maintenance of places and of chattels of any description of national historical artistic or scientific interest or natural beauty, and for purposes incidental thereto". This rider leaves the prospective operations of the Trust wide open. Section 5 sets down four purposes for the Trust, to promote:

1. *the preservation and maintenance for the benefit of the people of South Australia of land and buildings of beauty or historic, scientific, artistic or architectural interest and as regards lands, the preservation (so far as practicable) of their natural aspect features and animal and plant life;*
2. *the protection and augmentation of the amenities of such lands and buildings and their surroundings;*
3. *the preservation of furniture, pictures and chattels of national, historic, artistic or scientific interest;*
4. *the access to and enjoyment of such lands, building and chattels by the public.*

Words in the Act such as *beauty, historic, scientific, artistic, national, land, surroundings, interest, natural aspect* and *features* indicate an intention to give the Trust a wide choice in its concerns.

There seem grounds for the National Trust adopting wider contemporary understandings of heritage. However, some new concepts of heritage might be insufficient on their own, rather forming part of a mix of reasons, which together justify conservation.

While a great deal has been achieved and learnt about heritage since 1955 when the NTSA was founded, two matters are central in the future of heritage conservation – *adequate funding and other resources for heritage conservation, and appropriate adaptive re-use of heritage places*. The by now significant lists of heritage buildings for conservation must not go into suspension due to lack of resources, lack of commitment to an adequate heritage assessment and implementation process or other inability to meet preservation expectations.

NEW APPROACHES TO HERITAGE AND THE BUILT ENVIRONMENT

Introduction and executive summary

Colonel William Light created the first planning vision for Adelaide (and indeed SA), but the SA environment 175 years later is radically different, and exciting new visions are needed.

While an aim could be to build upon the rich heritage of the past, heritage conservation must also empower contemporary life, being open to new interpretations, and making old buildings relevant to present-day living. Heritage conservation must not be perceived as a roadblock.

A new vision of **Living Heritage** is proposed, in which there is development *with* heritage, rather than development *versus* heritage (through demolition). The government's *30-Year Plan for Greater Adelaide*⁴ refers to heritage, but clear actions and initiatives are needed to translate its aims in practice

South Australia could become **The Heritage State**, exploiting the fact that a majority of tourists are attracted by SA heritage⁵, and exporting SA heritage conservation skills, techniques and approaches.

Bodies representing the building construction industry regularly put forward views, which currently dominate the public discourse on what happens to built heritage

in SA. This document attempts to address this perceived imbalance.

SA has a *Heritage Places Act 1993* (which embodies concepts dating from decades ago) to protect *State* heritage, and provisions in the *Development Act 1993* to protect *Local* heritage. Both can now be seen to have shortcomings, and their administration and enforcement are (increasingly) under-funded, allowing some heritage places to suffer demolition⁶ or fall in to a state of disrepair⁷.

If financial resources are a key issue, skills development and training in heritage conservation are also inadequate.

The following pages seek to identify:

- A possible **new vision for the built environment** (page 5) including:
 1. *Preservation of the unique character of SA with heritage buildings forming a prominent part of the mix;*
 2. *An economically prudent and environmentally sustainable building and construction economy involving the four Rs: Restoration, Re-use, Re-locating, and Recording of built heritage;*
 3. *Contemporary buildings of high architectural merit, long projected life and low environmental impact.*

- Potential **guidelines for adaptive re-use of heritage buildings** backed up by legislation (page 8), requiring optimum adherence to the Burra Charter for places of cultural significance, including:
 1. *Minimal feasible change to the building, site and environment, with a similar use or one compatible with its character, careful design and planning, and consideration of intangibles (associations, spirit) related to the building;*
 2. *Alterations or additions that do not destroy aspects that characterise the historic building, that are compatible in mass/scale and architectural features, but legibly differentiated from the old, and capable of removal without impairment of essential form and integrity.*
- Weaknesses in existing legislation controlling heritage and redevelopment and **possibilities for legislative reform** (page 11) including:
 1. *Either removal of power of Ministerial intervention to prevent registration as a State Heritage Place, or creating a right of either House of Parliament to disallow such Ministerial intervention;*
 2. *New listing criteria to reflect contemporary heritage concepts (e.g. 20th century architecture);*
 3. *Automatic interim protection upon nomination of heritage places/items while consultation processes occur;*
 4. *Requirement of Conservation Management Plans or Strategies for listed places/items with provision of funding;*

5. *A public complaint process where heritage is deteriorating;*
6. *A single authority to consider State and Local nominations and a formal process for public nominations of local heritage*

- A possible **Public process for optimum use or disposal of public land and buildings** through (for example) a *Public Lands Disposal Act* (page 17) which includes:
 1. *Regular reporting upon the status and mandatory maintenance of unoccupied public buildings;*
 2. *Distinction between Public land (with a presumption for retention) and Government land (potentially available for disposal) as under Local Government legislation;*
 3. *Assessment of non-financial public values of land being considered for disposal;*
 4. *Full and transparent investigation of options for future use with public participation.*
- **Other new initiatives** (page 19) including:
 1. *Development of a system of **Commonwealth taxation benefits** for expenditure by owners on properties containing places of documented historic or other heritage importance;*
 2. **Voluntary Private Heritage Agreements** (registered on the titles as binding covenants) over properties containing such places;
 3. **Voluntary Private Conservation Management Plans** over such places;
 4. **Voluntary Land Management Agreements** over properties containing such places as provided for under the Development Act.

A new vision for the SA built environment

A vision for Adelaide and other built centres in SA could include:

1. A built environment reflecting the **unique character of SA** in which history and heritage form a prominent part of the mix. Beautiful cities of the world (such as Venice, Paris or Vienna) carefully manage new development in conjunction with heritage conservation, and this approach could become more firmly entrenched in SA, making it the Heritage State.

The unique character of SA includes:

- Above all **a government planned approach**⁸, beginning with Edward Gibbon Wakefield's systematic approach to colonisation and the settlement plan of 1834, Colonel Light's plan of 1837, government creation of over 370 townships from 1860s, the government-sponsored Charles Reade Garden Suburb at Colonel Light Gardens, Whyalla industrial township, Woomera township with its corridors of parkland, the satellite city of Elizabeth, Leigh Creek South with its arid zone pebble gardens, to newer government-partnered suburbs like West Lakes, Golden Grove or Mawson Lakes (all introducing new town planning elements).
- **Parkland belts** around urban centres such as the Adelaide Parklands and the Hills Face Zone, and parklands around many country/regional towns and centres.
- Urban centres characterised predominantly by a suite of **fine, mostly 19th century public buildings, corner hotels, and churches**, with mostly

unexceptional individual commercial contributions (but which often make a collective contribution when in similar styles).

- Extensive use of **local stone, and brickwork** from the late 19th century to about the 1970s (due to lack of native timber and durable stone) making SA arguably the brickwork capital of Australia⁹.
 - Relatively **low density suburbs, with very significant tree plantings** to beautify and help cope with the climate.
 - **Architecture tending to be conservative** and English influenced, while a less productive environment and fewer natural resources than other states has led to economical, stripped-down versions of new architectural movements right up to the present. There is less boom-style building in SA, with more consistency and frugality of decoration on nevertheless quality buildings.
 - A lower-gear economy has led to a less rampant building development industry, **a large stock of older buildings** and (partly by serendipity) more heritage conservation.
2. An **economically prudent and environmentally sustainable building and construction economy**, where the business case for retaining existing buildings is recognised and the wealth, energy and greenhouse gases/carbon they embody are dealt with according to the "four Rs" below. The latter could be embodied in the state-wide provisions of the Development Plan as guidelines for planning

authorities (and indeed the building development industry) to refer to in assessing or preparing development applications.

Over a decade ago the UK government agency *English Heritage* showed that:

- conservation-led regeneration encourages private-sector investment;
- most historic buildings are fully capable of economic use (the investment return on listed office property was 11.9%, compared with 11.4% for unlisted property);
- conservation creates long-term, sustainable jobs (more than new construction because the main input in conservation is labour (70%) rather than materials (30%): and
- conservation expenditure is paid into the local economy (while the situation for new construction is generally the reverse)¹⁰.

Other studies have shown it is 35% more efficient in terms of greenhouse gas use to retain, reuse and refit existing buildings, and 53% more energy efficient¹¹.

3. Following the “four Rs” of building resource conservation:

(based on the Burra Charter mantras of Conservation, Preservation, Restoration, and Reconstruction)

- **Restoration:**

Some buildings with particularly handcrafted elements (such as most 19th century buildings) are restored as precious human heritage, but may include new elements or additions to make them relevant to contemporary needs (e.g. *attached houses at 321-5 Wakefield St, and the 73 mostly*

residential properties recommended for listing in the southern City of Adelaide but not yet so protected).

A small proportion of historic buildings will be so important, exceptional or have so much original integrity as to warrant preservation as time capsules.

- **Re-use:**

1. Adaptation of existing significant buildings to new uses, with sympathetic modifications where necessary (e.g. *modification of Eastwood Lodge the former Nurses’ Home at Glenside to a boutique hotel or apartments*).
2. Sensitive redevelopment of character sites that include heritage elements, with restoration and reconfiguration of existing buildings plus carefully situated and designed new buildings that complement pre-existing elements (e.g. *sympathetic redevelopment of Murray Bridge Road, Railway & Wharf precinct*).
3. Retrofitting of significant pre-existing structures rather than complete demolition; since concrete embodies 5 gigajoules of energy per cubic metre, steel a staggering 85 gigajoules/cu m¹² (e.g. *gutting of buildings and reconstruction for a new use such as apartments as with the former ETSA building*)

- **Relocating:**

As an absolute last resort, moving significant buildings to a new site rather than demolishing, a technique already widely used overseas¹³ (e.g. *moving La Eurana Convent at Naracoorte or Adelaide University Union Hall, both economic options*).

- **Recording:**

Thorough documentation, photography, making film/video, taking oral histories of former

users, of any building before it is substantially modified, partially or wholly demolished, so that cultural values are not lost.

4. **Contemporary buildings** that have:

- **High architectural merit** that attempt to create and develop a regional style, rather than non-descript clones of northern hemisphere design that are ill-adapted to the SA climate. This will be the heritage of the future. The Government's *Integrated Design Commission* initiative could play a major role here.
- **Long projected life** with materials used able to be readily recycled if eventually demolished. The existing *Development Act 1993* could play a role here through a Ministerial Development Plan Amendment.
- **Low environmental impact** in both their construction (e.g. *sustainably produced materials*) and ongoing operation (e.g. *passive solar design, energy and water efficiency, stormwater and grey water re-cycling*). Again, the *Development Act 1993* could have a role here with a Ministerial Development Plan Amendment.

Adoption of guidelines for adaptive re-use of heritage buildings

Introduction

Adaptive re-use of buildings can empower owners of heritage buildings, but care must be taken about compromising building character or integrity and avoiding creation of what are essentially fakes, by following clear principles as outlined below.

Reasons why the community may wish to promote adaptive re-use of existing buildings include:

- Retaining community identity;
- Promoting quality built environment outcomes;
- Recognising "significance" – both as an artefact and as context
- Promoting environmental sustainability (including retention of existing materials and embodied energy)

It has been said "The predominant vision of a sustainable built future is of state of the art buildings utilising energy efficient design and materials. In reality, this vision should consider the 200 years of European built heritage that stands in tandem with the green structures we rightly seek to create."¹⁴

Key Adaptive Re-use Principles

- If a building is to be adapted, it is important to clearly understand the significance of the building through investigating its history and stating why it is significant (referring to the Burra Charter or state-based criteria).
- It is also important to understand whether the building is significant according to these criteria or whether it is of contextual (heritage area) significance.

- Another key principle for adapting and conserving places of significance is to "do as little as possible and as much as necessary."¹⁵

Planning

The preparation of a Conservation Management Plan is advised. Engaging a suitably qualified architect conversant with heritage principles can assist with the long-term development of the place through the preparation of a clear framework that understands the aims and objectives of the adaptive re-use and the implications for its significance.

Principles/policies

Continued use is one of the most important ways of conserving a significant or any other building. It is important that continued use is encouraged, and for this to occur, alteration may be required.

When considering new uses for the building, it is important that they are compatible with the existing spaces.

As a heritage item, a site or building should be considered as an artefact as well as a working space. Any alteration or intervention should be reversible.

Interpretation of the significance of the place should be included in the adaptation programme.

An assessment of the long-term impact of adaptation should be undertaken. This should form part of a conservation management plan. New work should be readily identifiable from existing fabric, but should remain sympathetic.

Likely issues

A number of issues commonly arise in relation to adapting heritage or older buildings that have potential implications for the significance of the place.

Updated services

Requirements for electrical and hydraulic (plumbing) services have changed dramatically and introducing wiring and other service runs related to things like computer networks and security systems and integrated controls often have major impact on existing fabric. Chasing of wiring runs within walls and new plumbing runs should be carefully considered in planning for adaptive re-use.

New openings and accessibility

In parallel with matching new uses to existing spaces, the introduction of new openings should be minimised and avoided where possible. Accessibility standards may require ramped or other complying modes of vertical access.

Building Code, regulatory and standards compliance

Regulations and standards governing the development of buildings and the built environment in relation to safety and amenity have changed dramatically leaving many older and heritage listed buildings in non-compliance. Aspects such as stairways, fire resistance and detection, handrail and balustrade design, lighting levels, glass thicknesses, earthquake resistance, vertical circulation (lifts) all form part of the current development framework. They also have potentially negative impacts on the significance of the place if not managed sensitively.

In some cases dispensation on heritage grounds could be considered. Again, it is necessary to establish the significance of the place as well as its intended use.

Proposals

Regulations under heritage legislation (the *Heritage Places Act* and *Development Act*), or in the case of the latter a Ministerial Development Plan Amendment, could set down clear guidelines for reconfiguration, redevelopment and reuse of heritage buildings and areas.

There could be objectives and principles of development control on preferred ways for adaptation of heritage buildings, redevelopment of heritage areas or precincts, and re-use of sites.

Subject to economic and technical feasibility, these could include:

- Optimum compliance with the Burra Charter (The Australia ICOMOS charter for places of cultural significance) 1979;
- Prior evaluation/assessment of the historic building, appraisal of its potential or suitability for re-use, diagnosis of possibilities, and preparation of a plan using high quality design skills and a carefully conceived design programme;
- Preference for a similar or parallel use to require lower levels of intervention;
- Careful consideration of intangible dimensions such as the historical associations, "spirit" or "feeling" of the building, and avoidance of manifestly clashing uses¹⁶;
- Minimal change to the defining characteristics of the historic building, its site and environment;
- Retention and preservation of historic character, and avoidance of removal of historic materials or alteration of features or spaces that characterise the building;
- Avoidance of changes that create a false sense of historical development (such as adding conjectural or architectural elements from other buildings);

- Retention and preservation of changes over time of historical significance;
- Preservation of distinctive features, finishes, construction techniques or examples of craftsmanship that characterise the building;
- Repair rather than replacement of deteriorated historic features, and where replacement is necessary, use of matching qualities (as supported by evidence);
- Avoidance of chemical or damaging physical treatments and preference for the gentlest means feasible;
- Protection of significant archaeological resources, and if disturbed, mitigation;
- New additions, alterations or construction should not destroy materials that characterise the historic building and new work should be differentiated from old, but compatible in massing, scale and architectural quality of the building and its environment;
- New work should be undertaken in a way that its removal will leave the essential form and integrity of the historic structure unimpaired¹⁷.

Legislative reform

State Heritage legislation issues

While current legislation (the *Heritage Places Act 1993(SA)*) has led to listing of a very impressive number and range of heritage places, some important places fall through the gaps and there are significant inadequacies.

- A key issue is the **adequacy of funding for State Heritage and dissolution of the former Heritage Branch** into a reduced unit with redirection of staff into other administrative areas. Loss of such a strong heritage focus and clear reduction of status and resources can only have negative outcomes overall.
- Registration of heritage places has tended to concentrate on individual buildings and failed to protect their **context** *e.g. The listing of Torrens Island Quarantine station includes most buildings but not the cemetery, original natural features or adequate curtilage. Torrens Park House (1853, now Scotch College) is listed but its context as an "estate" through its grounds, some outbuildings, boundary hedges and gardens is unprotected.*
- The **integrity** of registered places is poorly protected. *e.g. the State Heritage listed Bells Plumber's shop is falling down.*
- **Existing criteria are dated** and fail to take account of restorable heritage buildings which (subject to an owners consent) could satisfy criteria if inappropriate additions of modifications were removed; consideration of environmental heritage factors such as greenhouse gases and energy embodiment as part of a qualification for heritage listing; registration of landscapes of contributing items individually not sufficient, but together of overall heritage significance; or registration of unprotected native vegetation remnants and other features of natural or biodiversity significance. *e.g. remnant native vegetation in the Adelaide Metropolitan area is excluded from protection under the Native Vegetation Act and significant tree provisions under the Development Plan are (increasingly) weak.*
- The Heritage Council established under the Act is subject to **executive intervention** *e.g. the Minister can and does order the Council not to confirm a heritage listing and remove any protective designation.*
- The lack of true independence of the Heritage Council and power of ministerial intervention means there may be an unavoidable **conflict of interest where the government owns a property** proposed to be registered.
- The provisions establishing the Heritage Council do not include any **conflict of interest** provisions, which could lead to serious issues in the listing process *e.g. the Chair or any member of the Registration Committee could be associated with the owner of a property recommended to be listed.*
- There is no **timetable** prescribed for consideration of a nomination, so a building nominated could be demolished or become degraded while listing is being determined, and years could pass before any decision is made. This is most likely a resources issue, but without any timetable government has no incentive to ensure adequate resources *e.g. Eastwood Lodge, the former Nurses' Home at Glenside was nominated in May 2009, provisionally listed in June 2010, yet to be confirmed in 2011.*

- Of itself **nomination offers no protection** even though a building may be under threat. There are powers to intervene, but this may tend to occur when damage is already underway, and is not necessarily preventative. Immediate protection could create an incentive to properly resource assessment.
- The registration process **lacks other detailed prescription** as to whether a nominator or owner should be heard by the Register Committee and under what circumstances. *e.g. the University of Adelaide and nominators were heard by the Register Committee in consideration of the external nomination of Union Hall, effectively the hearing process set down by statute to be conducted by the Heritage Council. The university was represented by legal counsel, but no argument on points was allowed at the hearing.*
- There is no **right of appeal** open to nominators on a decision not to confirm listing. However the owner of a place registered (rightly) does have a right of appeal. This is iniquitous and contrary to the principles of natural justice. *e.g. there is no statutory right of appeal against the Minister's direction to the Heritage Council not to confirm the registration of Union Hall.*
- There is no right of appeal for any **administrative reconsideration** available to either nominators or owners, again contrary to the principles of fair decision-making and natural justice. Although the Minister is supposed to furnish written reasons for a direction not to confirm in the public interest, there is no requirement for reasons for other decisions to be furnished. *e.g. nomination of the Nuriootpa Railway Station was rejected by the Heritage Council and nominators have no right to reasons or any administrative reconsideration.*
- When a place is listed there is no statutory process for preparation of any appropriate **conservation management plan or strategy**, mandatory or otherwise. *By contrast the NSW legislation provides for both, the former a detailed document the latter more general¹⁸.*
- There is no power of **private intervention where a registered place is deteriorating** other than through the courts (which is itself significantly curtailed). This lack allows inadequate government resources for policing to go unchecked *e.g. there could be a statutory administrative process for individual complaint which requires the government Heritage unit to investigate and act, or provide reasons for not so acting.*

Issues with Local heritage under the Development Act

Again the provisions have led to a large number of locally listed heritage places, but the pattern over the state is inconsistent and the effect of listing is open to question.

- A major issue with the provisions is **adequacy of financial resources to implement** them. Local government receives declining revenues from State government in this connection, with a trend nevertheless to devolve listings from State to Local. There are insufficient funds for Local heritage studies, preparation of costly Development Plan amendments, or on ground conservation at a Local heritage level.
- It appears completely **inappropriate for legislation to facilitate building construction and re-development to also assess places for heritage protection**. *e.g. Council staff in*

charge of preparation of local heritage lists are also in charge of promoting efficacious, orderly and economic development of their region, arguably responsibilities that are at cross-purposes.

- There is **no timely and straightforward process prescribed for public nomination** of local heritage places. Members of the public must contact the local government body and suggest listing, but in the absence of any study by the Council or decision to amend the Development Plan, there may be not action arising from such contact. In any case a local heritage Development Plan amendment is a costly process and may take 2-3 years in which period the place is lost. *e.g. an attempt to nominate the one teacher school at South Hummocks for heritage listing was referred to the local council who advised they had conducted a study some years ago and although that did not consider the school, it had no plans to do another study or Development Plan amendment*
- **Existing criteria are dated** and fail to take account of restorable heritage buildings which (subject to an owners consent) could satisfy criteria if inappropriate additions of modifications were removed; consideration of environmental heritage factors such as greenhouse gases and energy embodiment as part of a qualification for heritage listing; registration of landscapes of contributing items individually not sufficient, but together of overall heritage significance; or registration of unprotected native vegetation remnants and other features of natural or biodiversity significance. *e.g. remnant native vegetation in the Adelaide Metropolitan area is excluded from protection under the Native Vegetation Act*
- The provisions to protect local heritage **lack in public accountability**, are unclear, and too open to interpretation. This can lead to demolition of local heritage places on the decision of Council staff under delegated authority. *e.g. Bradey cottage (1840s), a quarry worker's residence, the oldest building in Mitcham Council area and local heritage listed was demolished following a decision by a staff member that it was unhealthy, termite and salt damp affected, (notwithstanding that these could be rectified and a local member of the public was interested in purchasing it to that end)*
- Councils are **not mandated to conduct heritage studies nor related Development Plan amendments** either initially or at regular intervals, and this can lead to failure to protect local heritage even if identified under State based studies. *e.g. some councils have no local heritage list, others have not updated them in 2-3 decades.*
- When a place is heritage listed there is again no statutory process for preparation of any appropriate **conservation management plan or strategy**, mandatory or otherwise.
- Local Heritage listed or contributory items in Historic Conservation Zones are subject to demolition control, but there is **no requirement of public advertisement and comment**. *e.g. the local listed Bradey's cottage in Mitcham was demolished without public notice or formal opportunity for comment.*
- There are **no statutory details of what may constitute a contributory item** in Historic Conservation Zones. This means it is a discretionary matter, leading to inconsistencies and anomalies.

- Many **local heritage places are not listed** for a range of reasons and this can mean demolition is uncontrolled *e.g. owner objection, failure by Council to update or even prepare a list*
- There are no provisions to avoid a **conflict of interest** between Council plans or proposals and listing or other treatment of a Local heritage place. *e.g. Nuriootpa Railway Station is Local heritage listed but under threat because the Council has other plans for the site.*

Options for legislative reform

The following suggestions seek to address the above issues and could be implemented by amendments to both the *Heritage Places Act* and *Development Act*.

- Amend the *Heritage Places Act* to include **detailed prescription of how registered places are described**, to include as appropriate the whole site of any building and its contextual elements, including ornamentation (interior or exterior, e.g. wallpaper, fountains) all structures (e.g. fences, rails, steps, paving, routes) and remnants (e.g. graves, archaeological deposits) and natural elements (planted exotic or indigenous vegetation, geology, landscape views).
- Amend both acts to allow the **Heritage Council to determine registration of both State and Local heritage**. However responsibility for management could remain with owners and administration remain divided between Local or State agencies. This could remove the conflict of interest between promotion of development and consideration of heritage at the local level, but there would need to be new levels of expertise appointed to the Heritage Council a more democratic process for nomination and registration to balance the loss of the local role.
- Amend the *Heritage Places Act* to make the **power of ministerial intervention in registration subject to disallowance by Parliament**. The Minister could be required to furnish a report to Parliament giving reasons for a proposed intervention to prevent registration of a heritage place, with opportunity for democratic oversight through disallowance by a majority of either House of Parliament. This already applies to other Executive actions such as the making of regulations under Acts.
- Include in the *Heritage Places Act* detailed **conflict of interest provisions** regarding decision-making and ownership or other vested interest.
- Amend the *Heritage Places Act* to prescribe a **new registration process** including immediate interim protection of the place upon nomination, a timetable within which nomination, research and consideration must be undertaken, and a detailed hearing process which encompasses Committee(s) and Council roles with rights of different parties to discuss perspectives presented and rights of reply to all parties.
- **Amend the criteria for registration** under *Heritage Places Act* to allow registration of restorable heritage buildings (subject to an owners consent) which could satisfy criteria if inappropriate additions of modifications were removed; to allow consideration of environmental heritage factors such as materials, carbon, greenhouse gases and energy embodiment as part of a qualification for heritage listing; to allow registration of landscapes of contributing items individually not sufficient but

- together of overall heritage significance; and to register unprotected native vegetation remnants and other features of natural or biodiversity significance.
- Amend the *Heritage Places Act* to provide **two rights of appeal to either nominator(s) or owner(s)** of a heritage place; one right to appeal to the administrators of the process based on reasons for registration/non-registration supplied by that administrative body with its decision, to be conducted by an independent mediator; a second right of appeal of parties to the Environment, Resources & Development Court.
 - Amend the *Heritage Places Act* to **require preparation of a Conservation Management Plan or Strategy** for each place registered with two years, with provision for grant assistance to be made where appropriate. What is to be included in such a plan or strategy should be prescribed to an effective level in the Act, with less complex plans required for some types of places than others.
 - Amend the *Heritage Places Act* to provide for a **public notification/complaint process** where registered places are being allowed to deteriorate, which sets down the requirement for a certain level of investigation, what is or is not required and furnishing of material reasons to both complainant and owner.
 - Put local and state heritage registration under one body, or amend the *Development Act* to include a process for **public nomination of Local heritage places** (including contributory items, Historic Conservation or Character Zones) with immediate interim protection of the place, a timetable within which nomination, research and consideration is to occur, and a detailed hearing process involving nominator(s) and owner(s).
 - **Amend the criteria for Local heritage registration** under the present *Development Act* to allow registration of restorable heritage buildings (subject to an owners consent) which could satisfy criteria if inappropriate additions or modifications were removed; to allow consideration of environmental heritage factors such as materials, carbon, greenhouse gases and energy embodiment as part of a qualification for heritage listing; to allow registration of landscapes of contributing items individually not sufficient but together of overall heritage significance; and to register unprotected native vegetation remnants and other features of natural or biodiversity significance.
 - Amend the *Development Act* to **require local councils to establish a Local Heritage Committee** following public advertisement for nominations. This committee to oversee consideration of nominations for Local heritage places, preparation of Development Plan amendments, conduct public hearings in connection with the above or any re-development proposals concerning to heritage items, and make advisory recommendations to Development Assessment Panels on applications to re-develop Local heritage places¹⁹.
 - Amend the *Development Act* to require **public advertisement and opportunity for comment on any proposal to demolish a Local heritage place** or contributory item, with a hearing before the Local Council Heritage Committee
 - Amend the *Development Act* to **mandate preparation of studies and Development Plan Amendments on Local heritage** every four years with a requirement

- of State government funding assistance.
- Amend the *Development Act* to require a **Local heritage place Conservation Management Plan or Strategy** to be prepared within two years of registration. This amendment could include requirement of a grant fund to assist needy proprietors in this process and implementation.
 - Amend the *Development Act* to **define what may constitute contributory items** in a Historic Conservation Zone or Character Zone.
 - Amend the *Development Act* **limiting the capacity of a Council to make decisions on redevelopment or demolition of Local heritage items in which they have ownership, planning or other close interests** (such as related or adjacent development proposals in which they have an interest), requiring such matters to be referred to the State Heritage Council (with power to make mandatory recommendations) and the Development Assessment Commission as Category 3 development.

A new process for optimum use or disposal of public land and buildings

As identified earlier, public buildings are often a key part of the heritage character of many SA urban centres.

However, government often has a conflict of interest in relation to preservation of these at the cost of re-development or other aims.

Currently the potential of many redundant public sites is being lost through short-term, largely financially driven decision-making, which is often lacking in rigor, logic and transparency²⁰ *e.g. most of the former Infectious Diseases Hospital at Northfield (Hampstead Centre) has been sold by public tender without public reconsideration of preservation of heritage buildings such as the Nurses Home or hospital wards, and their possible adaptive re-use.*

State government also has a long record of allowing unused public buildings to deteriorate, inviting vandalism, leading to lost value, wasting opportunities for adaptive re-use and sometimes ultimately leading to demolition *e.g. the Islington complex of railway workshops and former munitions factories*

There is a need for a defined and legislated public process for public asset maintenance and disposal at the State level of government *e.g. land at Glenside Hospital campus has been made available to the Chapley Retail Group without proper public scrutiny. The partly heritage listed public land at Torrens Island is subject to planned subdivision for industry redevelopment without a proper Conservation Management Plan in place.*

The existing *Crown Lands Management Act 2009 (SA)* gives the Minister

completely unfettered powers to dispose of the unwanted land of a public agency²¹.

In sharp contrast, a process already exists for public consultation and disposal of municipally held "community" land under the *SA Local Government Act 1999*²².

The benefits to government from adopting a more formal and appropriate disposal process are numerous:

- Such a process allows a genuine basis for disposal where public values are not significant.
- Poor property management by agencies exposes them to accusations of demolition by neglect, or creates a risk of graft and corruption.
- Current selective interference in the planning system damages the legitimacy of government by indicating its inability to abide by its own rules.
- Decisions made prior to assessment studies result in delays, cost blow-outs, wasted resources and lost goodwill for governments, consultants, planners, developers and the public.
- Blocking the access of the public to the decision-making process for the future use of public land assets is not only undemocratic but also increases conflict unnecessarily.
- Full public participation would result in increased credibility of government; better decision making from the uncovering of important local information; easier project implementation due to community involvement and commitment to agreed outcomes and potential government-

community partnerships which promote shared responsibility for public assets.

A new Public Lands Maintenance and Disposal Act is one option that could provide for the following:

- Adequate management and maintenance of both operational and surplus public assets;
- Annual reports to Parliament by all Departments and other government agencies which include an inventory of unused public land, structures and buildings, stating their present condition, reporting on actions for their maintenance in fair condition and outlining future plans for their maintenance, use or disposal;
- Full knowledge of the heritage significance of public assets;
- Full assessment of all non-financial public values (environmental, social/cultural, economic potential) of public sites. (Such assessment of buildings and places could occur partly through the process discussed later under tax benefits);
- A strategic approach to what should be retained;
- A categorisation system to distinguish between sites with significant public value (categorised for example as 'public land') and non significant public sites ('government land') which can be freely disposed of on the market;
- A comprehensive central register of all assets which flags the category, features and values of each site;
- Full investigation of all options for future use;
- A coordinated and centralised approach to disposal which incorporates the accommodation needs of other agencies balanced with any need for retention by the public and any constraints on future use because of heritage or other value;
- Full participation by the public in all these steps; and each of these steps must be taken in the appropriate order;
- Only after following all these steps should final decisions about the future use of surplus public sites occur.

Other possible new initiatives

Initiatives already exist overseas and in other areas in Australia which could be translated into the heritage area with very positive, cost-saving effects.

Tax benefits

The USA has a system of federal government Historic Tax Credits, which has created over 1.8 million jobs in 36,481 projects over 30 years²³. A Rutgers University study has found 60-70% of the costs go to labour, three quarters of the economic impacts remain local and in 2008 alone there were 58,000 jobs created. The tax credits scheme is concluded to be the richest source of historic preservation in the country - \$69.5 million in 2009 alone. Similar studies on tax credits at the state level have also produced such positive findings²⁴.

A system of Commonwealth tax benefits for conservation work on heritage places (including preparation of conservation management plans) could produce similar results in Australia and investigations could be undertaken to consider the range of benefits, a possible form and how it might be implemented.

Such a proposal is not without precedent in other environmental and cultural connections in Australia *e.g. there have been tax offsets available to primary producers in relation to Landcare and Water facility activities. Tax deductibility exists for private donation of works of art to museums.*

There is a Register of the National Estate established and collated through the former Australian Heritage Commission, the statutory effect of which was repealed by the Howard Government, but which remains as a source for information and research. This Register of the National Estate could be reinstated, and combined

with State, Territory and Local government lists as a basis for properties for which tax credits could be available.

The Register of the National Estate could be updated through future nominations as discussed below. One lower cost option for administration and management of this process could be through State and Territory National Trusts, which already exist but could form specific committees with federal funding to assist in such a new undertaking.

What *new* places might be registered under this scheme?

(1) Buildings, structures or locations not listed by state or local authorities despite heritage values identified in studies. (Based on State criteria listed in the *Heritage Places Act 1993(SA)* Local criteria under the *Development Act 1993 (SA)* and to a lesser extent National Criteria under the *Environment Protection and Biodiversity Conservation Act (Cw)*). *Examples* might *initially* include buildings identified in local council or regional heritage studies, but not listed because of the owner's objections, state government or local council reluctance to act. *Later* work could address buildings otherwise identified as of importance by community groups in published research or documentation. (Contributions could be actively solicited from community groups (e.g. the Institute of Engineers (SA)), building wider community support in the process).

(2) Buildings identified as original works of SA architects in books or articles.

The criteria here could be State or Local criteria overlaid by

- (a) Local authorship of designs;
- (b) Representative of the life's work of the architect;
- (c) An interesting degree of aesthetic or technical accomplishment.

Examples might include buildings by SA architects identified by the Australian Institute of Architects (SA), or in publications such as: *M Page Sculptors in Space*; the monographs on architects published by the Architecture Museum of University of SA; or other research projects.

(3) Structures, places, sites, landmarks, monuments, or significant trees identified as of heritage importance by appropriate community bodies

Items identified as of heritage significance in a systematic and authoritative manner by professional or other community bodies with appropriate knowledge, skills or expertise.

Examples might include industrial heritage identified by the Institute of Engineers or a University academic/faculty, natural landscapes identified by scientific or other professional associations, significant trees identified by the National Trust or local government committees or botanists associated with the Waite Arboretum.

(4) Restorable heritage places

Places which could fulfil criteria of the State or Local listing or be contributory to a heritage area or historic conservation zone or landscape, but which have

- (a) Been modified by construction of unsympathetic facades or additions, replacement of windows; or
- (b) Been modified by rendering or painting of original surfaces; or

- (c) Been modified by removal of original decorative elements (such as iron lace, decorative carpentry, finials, stucco ornament) or addition of unsympathetic elements; or
 - (d) Deteriorated significantly through neglect or other processes such as vandalism, fire, water or wind damage, salt damp, wood rot or termites, rust, or cracking; and
 - (d) Are capable of sympathetic restoration at an acceptable cost; and
 - (e) Include a sufficient original component and otherwise meet the Burra Charter requirements.
- It is felt that for this category to be workable, the *owner's agreement* is a necessary element.

(5) Unprotected cultural or natural heritage landscapes

Specific geographical locations or groups of buildings/structures, some of which have heritage values according to State or Local criteria, others that contribute to the overall value of the landscape. The context of heritage items may be an important part of their heritage value but currently unprotected by listing. *Contributory items* are currently designated in Historic Conservation Zones under the *Development Act 1993*. Criteria for these are not published but seem to include:

- (a) Sympathetic or complementary style or design (such as similar materials or gable roof design in 19th century precincts);
- (b) Approximation in time (e.g. same century/period);
- (c) Buildings themselves of aesthetic or historic interest if not qualifying for listing (e.g. a 19th building with art deco facade adjacent to other 19th century buildings).

Examples might include Intersections such North Tce/Payneham/Magill/Fullarton Rds; the Adelaide Hills Face, Brownhill Creek former market garden and quarrying area, Coastal areas such

as Semaphore foreshore, Murray Bridge Railway Precinct.

(6) Heritage landmarks

Specific locations or buildings/structures which are valuable landmarks are allowed for in the Local heritage criteria under the *Development Act*.

The landmarks may be

- (a) Natural; or
 - (b) Human made; or
 - (c) Otherwise resulting from human activities; and
 - (d) Constitute a valued contribution to the locality for reasons relating to aesthetics, politics, history or association with individuals or groups
- Examples* might include lookout areas such as Brown Hill, or the sculptures on Port Wakefield Rd, Dublin.

(7) Unprotected native vegetation remnants and other features of natural or biodiversity significance

While many important remnants of native vegetation are protected as National Parks, Heritage Agreement areas and under other protective mechanisms, there are many unprotected areas that are of high natural heritage (biodiversity) significance. While there is some protection of such areas from active clearance under the Native Vegetation Act, the Act does not provide protection against ongoing degradation through weeds, pest animals, inappropriate fire regimes and, in many instances, grazing by stock. In addition, the Act does not apply in parts of Metropolitan Adelaide.

Examples might include remnant native vegetation patches in highly cleared landscapes, wetlands (eg Fleurieu Swamps, mound springs in the Far North) and coastal and other remnant native vegetation in the Metropolitan Adelaide area.

Private heritage agreements

Government could enter into voluntary agreements with private property holders for conservation management of places determined to be of heritage significance (an expanded National Register of the kind described above would form a good basis for these).

They would require an appropriate legal agreement to be prepared and upon signature, noting as a binding covenant upon the title.

Already government enters into heritage agreements for cultural heritage places and the *Heritage Places Act 1993* provides for it²⁵. However these provisions currently apply only to places on the State Heritage Register. By contrast under the *Native Vegetation Act 1991* a heritage agreement may be entered into over almost any area of native vegetation deemed appropriate by the Native Vegetation Council²⁶.

The *Heritage Places Act 1993* could be amended to allow more generically based heritage agreements based on properties meeting the sorts of criteria discussed above in relation to taxation.

Another option would be for the National Trust to undertake such a heritage agreement program with government funding assistance.

Private Conservation Management Plans

Again, voluntary Conservation Management Plans for properties in addition to those on the State Heritage Register could be widely promoted as a mechanism for protecting and enhancing properties of heritage

significance. These could be prepared through government, private or National Trust channels, preferably with government funding assistance in the case of the latter two.

Tax deductions or a grant scheme for the costs of preparation of such plans would be both reasonable and an effective way of promoting them

These Plans could include at least the following elements²⁷:

- Definition of the place in question;
- A thematic history based upon comprehensive investigation and analysis of the place and its context, identifying surviving physical fabric that demonstrates each theme, with documentary and oral sources;
- The physical evidence or identification of the existing fabric, internal and external materials, movable aspects, the plans, landscape, actual or potential archaeological sites and other elements.
- Analysis of the physical evidence including time periods, unusual or representative elements, repairs, styles, vernacular elements, archaeology, and comparable examples;
- Assessment of cultural significance through a statement of significance addressing any relevant criteria, the significance of the place as a whole as well as its individual aspects,

definition of the curtilage, and comparative analysis;

- Identification of constraints and opportunities including the owner's requirements, proposed continuing or new uses, any legislative requirements including from listing, and the Burra Charter guidelines;
- Development of conservation policies and guidelines that are appropriate to the range of conservation options, ranking them in terms of desirability (including reasons) and including policies or guidelines for significant elements and the site as a whole, for movable aspects, for the curtilage, for uses, interpretation, recording, and review of the plan itself.

Land Management Agreements

Section 57 of the *Development Act 1993* allows the relevant Minister or a local Council to enter into an agreement for the management, preservation or conservation of land with its owner. Such agreements become binding on present and future owners when noted on the title of the land.

This facility could be used to put conservation management plans into effect.

¹ B Moore (ed) Australian Oxford Dictionary (Oxford University Press South Melbourne 1999) p616

² As above

³ *Heritage Places Act 1993 (SA)* s16:

(1) A place is of heritage significance if it satisfies one or more of the following criteria:

(a) it demonstrates important aspects of the evolution or pattern of the State's history; or

(b) it has rare, uncommon or endangered qualities that are of cultural significance; or

(c) it may yield information that will contribute to an understanding of the State's history, including its natural history; or

(d) it is an outstanding representative of a particular class of places of cultural significance; or

(e) it demonstrates a high degree of creative, aesthetic or technical accomplishment or is an outstanding representative of particular construction techniques or design characteristics; or

(f) it has strong cultural or spiritual associations for the community or a group within it; or

(g) it has a special association with the life or work of a person or organisation or an event of historical importance.

(2) An object is of heritage significance if—

(a) it is an archaeological artefact, or any other form of artefact that satisfies 1 or more of the criteria set out in subsection (1); or

(b) it is a geological, palaeontological or speleological specimen that satisfies 1 or more of the criteria set out in subsection (1); or

(c) it is an object that is intrinsically related to the heritage significance of a State Heritage Place or a State Heritage Area.

⁴ www.plan4adelaide.sa.gov.au

⁵ SA Tourism Commission survey results

⁶ E.g. the local heritage listed Nuriootpa Railway station is to be demolished despite a community appeal to the Environment Resources & Development Court

⁷ E.g. Bells Plumber's Shop & Residence on Payneham Rd College Park or Knox Memorial Church (1856) and School (1870), Morphett Vale, which although State Heritage registered have lost all windows and doors, flooring, ceiling, and other fittings with the walls severely cracked and leaning, parapets falling down, large holes in one wall, and fire damage despite Heritage Branch expression of concern to the owner.

⁸ See Hutchings A & Bunker R *With Conscious Purpose* (Wakefield Press Adelaide 1986)

⁹ Brick production peaked at 188 million bricks p.a. in December 1976: see Iannou N *Ceramics in South Australia* (Wakefield Press Netley 1986) p226. See also Willington CM "The Brick Manufacturing Industry in south Australia" *Mining Review* no.94 Dept of Mines 1953 p100; Callen J *Forgotten Industries: The Brick-works of Eden Hills* (Butterfly Press Blackwood 2005)

¹⁰ English Heritage *Power of Place* 1998 www.english-heritage.org.uk/publications/power-of-place

¹¹ H Bennetts & S Pullen *Historic Dwelling and Improvement Design and Resources Audit* (Sustainability House Edwardstown 2010)p24-5

¹² Crawford R "Greenhouse Gas Emissions Embodied in Re-inforced Concrete and Timber Railway Sleepers" 43 *Environment Science and Technology* (Journal) pp3885-90; Professor Ralph Hercu, see also Lamb G "Concrete evidence of Gains" in www.insidewaste.com.au, May/June 2009

¹³ Refer Mathew Manifold, Mammoth Movers Pty Ltd, 4 page proposal for relocation of Union Hall which documents US examples. www.mammothmovers.com

¹⁴ Commonwealth of Australia, *Adaptive Reuse*, Heritage Division, Department of the Environment and Heritage Canberra 2004

¹⁵ Australia ICOMOS, The Burra Charter, 1999.

¹⁶ Points 3-4 drawn from Stella Maria Casal *The Adaptive Reuse of Buildings: Remembrance or Oblivion* at www.international.icomos.org/Victoriafalls2003/papers/B1

¹⁷ Points 5-14 based on US Department of Interior Standards for Rehabilitation (1977, revised 1990)

¹⁸ *Heritage Act 1977 (NSW)* s38A

¹⁹ In some instances Councils do not establish Heritage Committees despite community requests, e.g. City of Onkaparinga 2010

²⁰ Helen Gilbert's excellent discussion in "Public lands, process and public policy: The links between government asset disposal programs and planning for redeveloping urban areas - Is something missing" University of Technology, Sydney *Governance* 15 (email Helen.Gilbert@uts.edu.au) is drawn on heavily here and forms the basis for the points below.

²¹ *Crown Lands Management Act 2009 (SA)* Section 14

²² *Local Government Act 1999 (SA)* ss193-5 (community land and its revocation) ss196-9 (Management Plans) s200 (Business use) ss201-2 (Alienation of community land) s207 (Public register of community land)

²³ Klostermann A *Forum News* May 2010, Vol 16 no 9 "Preservation = Jobs: Findings from Groundbreaking Rutgers University Report" National Trust for Historic Preservation <http://www.preservation.org/forum/resource-center/forum-library/public-articles/preservation-jobs-finding.html>

²⁴ *First Annual Report on the Economic Impact of the Federal Historic Tax Credit* National Trust Community Investment Corporation, conducted by Rutgers University Center for Urban Policy Research www.preservationnation.org/issues/community-revitalisation/jobs

²⁵ *Heritage Places Act 1993* ss32-36

²⁶ *Native Vegetation Act 1991* ss23-23C

²⁷ Based on the suggested contents of a Conservation Management Plan issued by the NSW Heritage Council under its Act