



AN INQUIRY INTO
HERITAGE REFORM

1st Report of the
**ENVIRONMENT, RESOURCES AND DEVELOPMENT
COMMITTEE**

"Heritage matters"

Tabled in the House of Assembly and ordered to be published 30 April 2019

First Session, Fifty-Fourth Parliament

PRESIDING MEMBER'S FOREWORD

Heritage is an issue that seems to polarise people. It can be perceived as an economic burden or barrier to development, or a precious asset that can benefit the whole community. Either way, it is undeniable that everyone wants the same thing from the government agencies that have responsibility for our built heritage; simple and timely processes to nominate and list heritage, and certainty and consistency in whether, and how, they can develop their properties.

The Committee received 144 written submissions and heard from many witnesses about the difficulties experienced in navigating the planning and development process in trying to protect the properties that were important to them. The Committee also experienced, first-hand, the challenges in trying to find a balance between protecting what is important to people, but allowing people to develop and maintain those places without unnecessary economic and bureaucratic expense. Finally, it was clear to the Committee that everyone had different solutions to the multitude of challenges of how the state can best go about protecting its heritage assets and financially assisting owners in maintaining those assets.

This inquiry has taken place in the midst of the most significant planning reform South Australia has undertaken for twenty years. The Committee heard from the Department of Planning, Transport and Infrastructure and the State Planning Commission about the proposed changes to the legislation (that protects local heritage) with the implementation of the *Planning, Development and Infrastructure Act 2016*. Further, during the final stages of completing this report the Planning Minister gazetted the State Planning Policies and released, for public consultation, Phase One of the Planning and Design Code.

The issues of built heritage and the processes to protect assets are highly complex with no easy, one-size-fits-all solution. In its deliberations, the Committee tried to ensure that the outcomes that people were keen to see were included in the recommendations, but without being too prescriptive on what those processes should look like. The Committee felt that a staged approach to heritage reform, taking into account the planning reform process currently being undertaken, would be most appropriate for the agencies involved to work collaboratively and with flexibility towards achieving desired outcomes.

I wish to thank all those who gave their time to assist the Committee with this inquiry. In particular, I'd like to thank the City of Adelaide, Department of Planning, Transport and Infrastructure and SA Heritage, Department for Environment and Water, for assisting in the organisation of the Committee's two heritage tours. I commend the members of the Committee, Mr Nick McBride MP, Hon John Rau (former member for Enfield), Mr Michael Brown MP, Hon John Dawkins MLC, Hon Tung Ngo MLC and Hon Mark Parnell MLC, for their contributions to this report. All members have worked cooperatively on this report. Finally, I thank the Committee staff for their assistance.



Adrian Pederick MP

Presiding Member

29 April 2019

EXECUTIVE SUMMARY

On 30 July 2018, the Environment, Resources and Development Committee (the Committee) resolved to conduct an inquiry into the current state, and potential for reform, of local, state and national heritage in South Australia.

The Committee considered a wide range of evidence from 144 submissions, 29 witnesses and published literature. The Committee also visited state and local heritage places and areas in the City of Adelaide council area and in the Adelaide Hills.

This inquiry has taken place at a time when the Department of Planning, Transport and Infrastructure (DPTI) is in the process of transitioning from the *Development Act 1993* to the *Planning, Development and Infrastructure Act 2016* (PDI Act) as part of the biggest planning reforms undertaken by the state in 20 years. Future regulation and management of local heritage will be in accordance with the new Planning and Design Code, informed by the State Planning Policies legislative and policy framework.

The Committee heard that:

- Heritage is important to the community and the community expects state and local heritage to be protected from demolition and the impacts of undesirable development;
- The community wanted a legislative framework that was simple and efficient and that enabled economic benefits to arise from protecting and investing in the state's heritage assets; and
- The community was also generally unhappy with the confusing and cumbersome sectoral approach to the protection and management of heritage and was desirous of change.

In particular, the Committee heard that the challenges and uncertainties about whether transition to the Planning and Design Code would result in improvements to processes were expressed by local councils, who unanimously called for greater clarity, consistency, efficiency and responsiveness from the new policy and legislative framework.

The Committee concluded that:

- A strategic and statewide reform of heritage processes and legislation was necessary, and that reforms to the nominations, assessment and listing processes for state and local heritage must result in places and areas that are protected by appropriate policy and legislative tools;
- Collaborative implementation of reforms is important in providing a future for the protection of heritage in South Australia;
- Clarity, simplicity, transparency and accountability were important outcomes to achieve to increase community and stakeholder confidence in the processes for nominating, assessing and listing state and local heritage, and certainty in development outcomes;
- A stable, long term funding base for management of heritage that results in a 'carrots' rather than 'sticks' approach to compliance; and

- A review or audit needs to be undertaken, using a statewide, collaborative approach to address gaps in the state's heritage listings.

The recommendations in this report highlight the principles and themes expressed in the submissions that called for improvements to the current legislative frameworks. These recommendations are made in the context of providing support to the significant amount of work currently in progress as part of broader planning reforms in South Australia.

The Committee therefore recommended that:

- State government commences a statewide, collaborative and strategic approach to heritage reform through development of a staged process and that any reforms undertaken must result in streamlined, clear and responsive processes and transparent and accountable decision making;
- A statewide, strategic approach to identifying heritage of local and state significance, involving the community and interested stakeholders, which is appropriately funded by state government;
- An audit or review be undertaken of local and state heritage places and contributory items, with the aim of working collaboratively with community and local government;
- A suitable long term funding base (that incentivises management for heritage and disincentivises deliberate neglect of heritage) for the management of heritage be identified and secured; and
- Sub-sections 67 (4) & (5) of the *Planning Development and Infrastructure Act 2016* should be repealed in order to ensure that planning policy is determined by proper planning principles through broad community consultation, rather than through a selective vote of property owners.

COMMITTEE'S FINDINGS

The Committee found that:

1. Heritage is important to the community (including non-government organisations, industry bodies and local councils) and the community expects state and local heritage to be protected from demolition and the impacts of undesirable development.
2. The community was generally unhappy with the current sectoral approach to the protection and management of heritage and was desirous of change. There was a clear call from the community for:
 - a. One set of processes for local and state heritage nomination, assessment and listing;
 - b. One heritage legal framework;
 - c. One independent, expert body to assess, against one set of criteria (with differing thresholds for state and local); and
 - d. One 'heritage' Minister.
3. The community desired reform of current heritage policy and legislation (in particular, local heritage) and called for better clarity, efficiency, transparency, consistency and accountability of processes and decision making.
4. The adversarial nature of the current processes to nominate, assess and list local heritage would likely be moderated by a more strategic, statewide and collaborative approach to identifying heritage, and that the community expected to be involved in the nominations of all heritage.
5. Many in the community were concerned and uncertain about how local heritage would be protected under the changes to the *Planning, Development and Infrastructure Act 2016*; including, specifically, whether existing protections for contributory items and historic conservation/policy zones/areas would be maintained.
6. Community perceptions were divided about whether owning heritage-listed items added value to those properties or whether it is burdensome and can block potential development of a site. The community showed a strong desire to change attitudes towards heritage and a number of submissions provided possible solutions to this.
7. Heritage provides a whole of community benefit in providing desirable areas in which to live, work or visit, and that management and maintenance of heritage should be supported appropriately by the state, in collaboration with local government, through provision of funding and expert advice.
8. Providing incentives for appropriate management of heritage properties and discouraging or disincentivising inappropriate management of properties is likely to mitigate against perverse outcomes, such as neglecting properties until they are deemed suitable to demolish.

COMMITTEE'S RECOMMENDATIONS

The Committee recommends that:

1. State government commences a statewide, collaborative and strategic approach to heritage reform through development of a staged process; commencing in 2019 and reporting to the Houses with a plan on how a staged approach might work in early 2020;
 - a. Any reforms that are adopted must result in:
 - i. The protection and future management of heritage and historic places and areas that are important to people (including initially transferring all items that are registered on existing heritage and planning databases to the Planning and Design Code);
 - ii. Simple, efficient and responsive processes for the nomination, assessment and listing of local and state heritage places and state heritage areas, which arise from a single piece of 'heritage' legislation, in accordance with the authority of one 'heritage' Minister (including the provision of interim protection during the nomination and assessment stages);
 - iii. Nominations of local heritage places or areas being initiated by local councils, property owners, state heritage bodies or non-government organisations. The ability to nominate places or areas for heritage listing should be widely advertised;
 - iv. New heritage legislation operating in an aligned and streamlined manner with planning and development legislation allowing timeliness and cost efficiencies in processing applications for development of heritage places and areas;
 - v. Consistency, transparency and accountability in decisions that are made relating to heritage listing from a single, expert, independent decision maker (or body of decision makers), with transparent and accountable Ministerial oversight of decisions;
 - vi. Certainty in outcomes with respect to heritage listings, development and planning;
 - vii. Better clarity and consistency of heritage terminology used across planning and heritage, including that criteria for local and state heritage are aligned with differences in respect of thresholds against which heritage is assessed; and
 - viii. Better community involvement in the decisions that affect them; facilitated by earlier consultation with community, as well as the provision of interim protection for local and state heritage during the nomination and assessment phases;

- b. That the model for assessment, listing and management of state and local heritage that is proposed by government takes into consideration the expectations of the community, as raised by this report, and also the reforms that are already in process as part of the broader state planning reforms; and
 - c. That state agencies and local government work on inter-agency instruments to streamline processes for nomination, listing, assessment and regulation of compliance as part of the staged approach for the implementation of reforms;
 2. A statewide, strategic approach to identifying heritage of local and state significance, involving the community and interested stakeholders, be appropriately funded by state government, developed and commenced in the year 2020;
 3. An audit or review be undertaken of local and state heritage places and contributory items to commence in the year 2020, with the aim of working collaboratively with community and local government, on:
 - a. Providing information on the heritage values of currently listed places to be captured into a publicly-searchable database;
 - b. Assessing places listed prior to 1993 that may require re-attributing from state to local significance (providing this does not reduce their heritage protection);
 - c. Reviewing protected local items and zones or areas that were transferred to the Planning and Design Code against new local heritage criteria;
 - d. Reviewing, against new local heritage criteria, places that were recommended for inclusion as local heritage places in development plans, but weren't; and
 - e. That such projects be appropriately funded by state government;
 4. A suitable long term funding base (that incentivises management for heritage and disincentivises deliberate neglect of heritage) for the management of heritage be identified by state government, in collaboration with local government and other stakeholders, and secured, in recognition of the value that heritage provides to the community, and to reduce the financial burden on owners maintaining and managing heritage properties; and
 5. Sub-sections 67 (4) & (5) of the *Planning Development and Infrastructure Act 2016* should be repealed in order to ensure that planning policy is determined by proper planning principles through broad community consultation, rather than through a selective vote of property owners.

TABLE OF CONTENTS

PRESIDING MEMBER'S FOREWORD.....	I
EXECUTIVE SUMMARY	II
COMMITTEE'S FINDINGS	IV
COMMITTEE'S RECOMMENDATIONS	V
TABLE OF CONTENTS.....	VII
LIST OF FIGURES	VIII
ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE	IX
FUNCTIONS OF THE COMMITTEE.....	IX
REFERRAL PROCESS.....	X
TERMS OF REFERENCE.....	X
1 INTRODUCTION	1
1.1 REASON FOR THE INQUIRY	1
1.2 SCOPE OF THE REPORT	1
1.3 DISCLOSURE OF EVIDENCE.....	1
1.4 CONDUCT OF THE INQUIRY.....	1
2 DISCUSSION	3
2.1 HERITAGE IN SOUTH AUSTRALIA	3
2.2 TERM OF REFERENCE 1: HIGHLIGHTING THE DIFFERENCES IN, CONSISTENCY OF, PROCESSES AND CRITERIA BETWEEN LISTING AND ASSESSING LOCAL, STATE AND NATIONAL HERITAGE.....	7
2.3 TERM OF REFERENCE 2: HOW HERITAGE SHOULD BE MANAGED IN THE FUTURE.....	15
2.4 TERM OF REFERENCE 3: WHAT IS THE DISTINCTION BETWEEN 'CHARACTER' AND 'HERITAGE'	23
2.5 TERM OF REFERENCE 4: HAVE THERE BEEN UNEXPECTED OR PERVERSE OUTCOMES	25
2.6 TERM OF REFERENCE 5: ANY OTHER RELATED MATTER	29
3 CONCLUSIONS.....	36
REFERENCES	44
ABBREVIATIONS AND DEFINITIONS.....	47
APPENDIX A: FACT FINDING TOURS	48
APPENDIX B: LIST OF WITNESSES	49
APPENDIX C: LIST OF SUBMITTERS	51
APPENDIX D: LIST OF CRITERIA.....	57
APPENDIX E: CHARACTER VALUES.....	59

LIST OF FIGURES

FIGURE 1. O'CONNELL STREET, NORTH ADELAIDE, SHOWING THE INCONSISTENCIES IN LOCAL HERITAGE LISTING (WILKINSON, 2018, P. 34), (WILKINSON, ERDC INQUIRY ON HERITAGE REFORMS FOR SOUTH AUSTRALIA, 2018, P. 4 & 15).	10
FIGURE 2. THE ERD COMMITTEE ON KENTON AND CARDWELL STREETS, ADELAIDE, DISCUSSING INCONSISTENCIES IN LOCAL HERITAGE LISTINGS. NEARLY IDENTICAL ADJOINING PROPERTIES WERE TREATED DIFFERENTLY; WITH SOME LISTED AND OTHERS NOT. LEFT TO RIGHT: MR ADRIAN PEDERICK MP; MR RICK HUTCHINS, CITY OF ADELAIDE; MR SIMON WIEDENHOFER, CITY OF ADELAIDE; HON TUNG NGO MLC; HON MARK PARNELL MLC; HON JOHN RAU (FORMER MEMBER FOR ENFIELD).....	11
FIGURE 3. MCLAREN STREET, ADELAIDE. AN HISTORIC CONSERVATION ZONES THAT ALLOWS FOR DEVELOPMENT THAT IS SENSITIVE TO THE HERITAGE VALUES OF THESE COTTAGES (CITY OF ADELAIDE, 2018(b), P. 6).	12
FIGURE 4. SITE PLAN FOR THE LOBETHAL WOOLLEN MILL (SHP 26414) (SA HERITAGE, DEPARTMENT FOR ENVIRONMENT AND WATER, 2018, P. 4).....	26
FIGURE 5. DAVAAR HOUSE, SOUTH TERRACE, ADELAIDE. A HIGH-DENSITY DEVELOPMENT SITS BEHIND THE LOCAL HERITAGE-LISTED BUILDING, IMPACTING UPON THE AESTHETICS.	27
FIGURE 6. THE COMMITTEE DISCUSSES DEVELOPMENT IMPACTS TO THE LOCAL HERITAGE-LISTED DAVAAR HOUSE WITH Ms DITTER, CITY OF ADELAIDE. FRONT LEFT TO RIGHT: Ms NADIA GENCARELLI, DPTI; MR SIMON WIEDENHOFER, CITY OF ADELAIDE; MR NICK MCBRIDE MP; HON JOHN DAWKINS MLC; HON TUNG NGO MLC; Ms KIRSTEEN MACKAY (BACK OF PHOTO), OFFICE FOR DESIGN AND ARCHITECTURE SA; Ms SHANTI DITTER, CITY OF ADELAIDE; MR ADRIAN PEDERICK MP; HON JOHN RAU (FORMER MEMBER FOR ENFIELD).....	27
FIGURE 7. THE FORMER ASSAY HOUSE, AUSTIN STREET, ADELAIDE. THE FAÇADE OF ASSAY HOUSE, A LOCAL HERITAGE LISTED BUILDING, HAS BEEN RETAINED, BUT THE REST OF THE BUILDING HAS BEEN DEMOLISHED FOR HIGH DENSITY ACCOMMODATION.	28
FIGURE 8. BEFORE AND AFTER PHOTOS OF THE FORMER OUR BOYS INSTITUTE, 219-223 WAKEFIELD STREET, ADELAIDE (CITY OF ADELAIDE, 2018(b), P. 8). AN EXAMPLE, OF SENSITIVELY-COMPLETED ADAPTIVE REUSE.	31
FIGURE 9. BALHANNAH RAILWAY STATION AND SIGNAL CABIN (SHP 12854) – AN OPPORTUNITY FOR HERITAGE BUILDING CONSERVATION TRAINING? (SA HERITAGE, DEPARTMENT FOR ENVIRONMENT AND WATER, 2018, P. 2).....	33
FIGURE 10. THE COMMITTEE VISITED MT TORRENS, A STATE HERITAGE-LISTED AREA. LEFT TO RIGHT: MR CHRIS BARRY, MR KERRY CLARKE AND MR ROSS LECKIE, MOUNT TORRENS AND DISTRICT COMMUNITY ASSOCIATION; MR NICK MCBRIDE MP; HON JOHN DAWKINS MLC; MR ADRIAN PEDERICK MP; HON TUNG NGO MLC.	34

ENVIRONMENT, RESOURCES AND DEVELOPMENT COMMITTEE

The Environment, Resources and Development Committee (the Committee) was established pursuant to the *Parliamentary Committees Act 1991* on 3 December 2003.

Its membership for the duration of this inquiry was:

Mr Adrian Pederick (Chair)

Hon. John Dawkins MLC

Mr Nick McBride MP

Hon. Tung Ngo MLC

Hon. Mark Parnell MLC

Hon. John Rau (former member for Enfield) (until February 2019)

Mr Michael Brown MP (from February 2019)

Parliamentary Officer to the Committee: Ms Joanne Fleer

Research Officer to the Committee: Dr Merry Brown

FUNCTIONS OF THE COMMITTEE

Pursuant to section 9 of the *Parliamentary Committees Act 1991*, the functions of the Committee are:

- (a) to inquire into, consider and report on such of the following matters as are referred to it under this Act:
 - (i) any matter concerned with the environment or how the quality of the environment might be protected or improved;
 - (ii) any matter concerned with the resources of the State or how they might be better conserved or utilised;
 - (iii) any matter concerned with planning, land use or transportation;
 - (iv) any matter concerned with the general development of the State;
- (b) to perform such other functions as are imposed on the Committee under this or any other Act or by resolution of both Houses.

REFERRAL PROCESS

Pursuant to section 16(1) of the *Parliamentary Committees Act 1991*, any matter that is relevant to the functions of the Committee may be referred to it in the following ways:

- (a) by resolution of the Committee's appointing House or Houses, or either of the Committee's appointing Houses;
 - (b) by the Governor, or by notice published in the Gazette;
- or
- (c) of the Committee's own motion.

TERMS OF REFERENCE

Pursuant to section 16(1) (c) of the *Parliamentary Committees Act 1991*, the Committee is inquiring into the existing arrangements and desirable reforms for local, state and national heritage listings, with particular reference to:

1. Highlighting the differences in, and consistency of, processes and criteria between listing and assessing local, state and national heritage
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;
 - b. Who should have the right to be heard in relation to listings;
 - c. Who should be the decision maker for listings and review; and
 - d. What processes should be in place for the review of listings;
3. What is the relationship and distinction between 'character' and 'heritage';
4. Have there been unexpected or perverse outcomes; and
5. Any other relevant matter.

1 INTRODUCTION

1.1 Reason for the inquiry

On 30 July 2018, the Environment, Resources and Development Committee (the Committee) resolved to conduct an inquiry into the current state, and potential for reform, of local, state and national heritage in South Australia. The Committee considered the inquiry timely because it would be undertaken ahead of the release of the first parts of the Planning and Design Code by the Department of Planning, Transport and Infrastructure (DPTI) to implement significant planning reform in South Australia. The Committee believes that the recommendations from this report will have greater impact if they are made prior to policy being decided and approved, and legislation being implemented.

As it transpired, no legislative changes are proposed by the government until after mid-2020, however a draft of Phase One of the Planning and Design Code was released for public comment in February 2019, with submissions closing at the end of March 2019, and expected to be finalised and implemented around mid-2019. Phase One of the Code applies to outback areas, outside of local government boundaries, and coastal waters. None of the three development plans to be replaced by the Code include any local heritage, however the draft Code does include planning policy that will guide heritage into the future.

DPTI also published and implemented its State Planning Policies on 31 January 2019. Of particular interest to this inquiry are State Planning Policies #3 (Adaptive Reuse) and #7 (Cultural Heritage). The Committee was referred the State Planning Policies in accordance with s.74 of the *Planning, Development and Infrastructure Act 2016*.

The Committee believes that this is a singular opportunity to provide a bipartisan perspective on all heritage legislation and policy in South Australia.

1.2 Scope of the report

This report addresses rural, regional and metropolitan built heritage. It addresses neither Aboriginal heritage, nor maritime heritage. Further, intangible heritage is not specifically addressed.

1.3 Disclosure of evidence

The Committee resolved on 3 September 2018 that evidence received would be published on the Committee's website as soon as practicable following receipt of the evidence. This report will also be made available on the Committee's website upon tabling in the Houses on 30 April, 2019.

1.4 Conduct of the inquiry

The Committee considered a wide range of evidence from submissions, witness statements and published literature. The Committee visited heritage places in the City of Adelaide council area and in the Adelaide Hills (set out in Appendix A); heard from 29 witnesses (as per Appendix B); and received 144 submissions (listed in Appendix C).

The Committee met on 13 occasions for the purpose of considering evidence and deliberating this report. The procedural meetings of the Committee and hearings were held in Adelaide.

All views expressed by the Committee in this report are based on the evidence presented before it.

2 DISCUSSION

2.1 Heritage in South Australia

2018 marked the 40th anniversary of heritage protection legislation in South Australia. During this time, thousands of pieces of South Australia's history have been protected for the future benefit of South Australians. Such an achievement is to be celebrated, but, as this inquiry demonstrates, the sectoral approach to the protection and management of South Australia's heritage has become cumbersome and confusing for people wishing to protect places and areas that are important to them.

South Australia's current heritage policy and legislative framework has received significant media attention, coinciding with this inquiry, with front page headlines in state and local newspapers:

Thousands of historic buildings across the state may be at risk of demolition because a complex and confusing heritage system is leaving them unprotected, an inquiry has heard.

Heritage advocates, councils and government agencies want an overhaul of how historic properties are managed and protected, arguing the current system, particularly for local-heritage properties, is not working.

(Castello & Nunn, *Inadequate heritage laws leave historic buildings facing the ... wrecking ball*, 2018, p. 1), see also (Castello, *Celebrating our heritage*, 2018(a)), (Castello, *Give history a solid future*, 2018(b))

The importance of heritage to South Australians is evident from the 144 written submissions the Committee received in response to this inquiry, with the community keen to be involved in decisions made about development and heritage (as evidenced by the number of submissions received concerning the proposed demolition of the Newmarket Hotel in the west end of the city).

The Committee heard that heritage was important to South Australians because it holds a value that goes beyond just aesthetically-pleasing, old buildings:

Our heritage is one of our most important assets. It is both our inheritance and our future. It contributes to community pride and confidence and links people with their past and each other. Heritage is a living thing. It describes our origins and informs our understanding of who we are today. Heritage helps to define for a community a sense of place, an identity. It can contribute to feelings of connectedness, community pride and confidence.

... Heritage places that reflect important aspects of our state's evolution may not be grand in nature and, to some, considered ugly and their value and relevance for protection questionable. However, they are living demonstrations of our journey as a society and as a state established on the premise of free settlement and tolerance of religious views.

Voigt, DEW (Angas, Pope, Voigt, Wells, & Schulz, 2018, p. 72)

Our [LGA] members have consistently told us about the strong connection that communities have with local heritage and the value that heritage contributes to the streets, towns, rural areas of those communities.

Teburea, LGA (Brown, Gannon, Levinson, Smith, & Teburea, 2018, p. 63)

The Committee also heard that conserving and managing heritage was of economic importance to the state and that perhaps the economic value has not been fully realised:

Built heritage contributes economically, culturally, historically, aesthetically and environmentally to the city and the state of South Australia. South Australia has a proud history of acknowledging the value of heritage. Our [City of Adelaide] submission has identified research undertaken by council and others that clearly quantifies the value of heritage. We know that for every \$1 invested in conserving heritage fabric there is a financial return of \$1.68, a figure considered a good return on investment by economists ...

... This study identified a direct benefit by tourism expenditure of \$375 million per year that can be attributed to cultural heritage. International research also identifies that older buildings are more operationally carbon efficient when compared to newer construction.

Ditter, City of Adelaide (Ditter & Hutchins, 2018, p. 48)

Yet, support for heritage in South Australia is countered by a perception, amongst some, that heritage is an economic burden to owners and a barrier to development. For example:

Previous funding through the Heritage Advisory Service was \$350,000 p.a. servicing 50% of local councils in the State. Reduction in funding has impaired heritage expertise, impacting understanding and goodwill. SAHC [SA Heritage Council] believes it has led to deterioration of heritage values in development decision making. The additional burden of development application fees and independent consultants put onto property owners has led to poor development outcomes in an environment of no 'carrots', only 'sticks'.

(South Australian Heritage Council, 2018(b), p. 12)

The approach to heritage in our legislation, really since its inception, has been a fairly, by today's standards, outdated paradigm. It's a system that's all about regulating and controlling. It's not a system that is about unlocking the value in heritage. It's a system that is directed largely to socialising the benefit of heritage but making individual landowners bear the brunt of the cost of heritage maintenance and retention.

In other words, can we make it easy, can we make it attractive, and can we align our values so that the values of those who walk about the streets and enjoy heritage are moving in the same direction as those who are owning and maintaining it? We believe that that is possible.

Levinson, Botten Levinson Lawyers on behalf of the Property Council (Brown, Gannon, Levinson, Smith, & Teburea, 2018, p. 56)

A number of factors have likely contributed to the dichotomous paradigm of cherishing heritage, whilst simultaneously perceiving heritage as a burden and a barrier. The complexity of the processes of nominating, assessing and listing (particularly local) heritage, has also likely resulted in uncertainty for owners and developers, and contributed to a negative perception of owning and maintaining heritage:

I don't know how we change the public's view of heritage. In my opinion, it hasn't changed in the 40 years that we have had heritage listing. People still think if they've got a heritage place, they won't be able to do anything to it. A lot of the objections to listing are on that basis. When people find that they can in fact change their buildings or alter their buildings, as long as they respect the heritage values, then I think a lot of the angst disappears.

Wigg, Management Committee Member, Community Alliance SA (Gibbs, Matthews, Wigg, & Wilkinson, 2018, p. 100)

There have been a number of conversations about the best way to proceed with reforms to heritage policy and legislation in South Australia. Recommendations from the Expert Panel on Planning Reform, on proposed heritage reform, were that:

- 8.1 Heritage laws should be consolidated into one integrated statute.
- 8.2 Terminology for heritage should be reviewed and updated as part of this new statute.
- 8.3 There should be an integrated statutory body, replacing existing multiple heritage bodies. It should include links to the state's cultural institutions.
- 8.4 The new body should administer a single integrated register of heritage sites, including state and local listings, and have the power to add special landscapes and historic markers to the register.
- 8.5 Legislation should provide for a heritage code of practice to outline how listed properties should be described, maintained and adapted.
- 8.6 The legislation should allow accredited heritage professionals (similar to private certifiers) to provide advice and sign-off on changes to listed properties that are consistent with the code of practice.
- 8.7 Existing heritage listings should be audited to accurately describe their heritage attributes.
- 8.8 Financing of heritage should be placed on a stable, long-term footing, with discounts on property-related taxes and a heritage lottery providing the basis for heritage grants.

(Hayes QC, Boujenko, Fogarty, Hains, & Maras AM, 2014, p. 64)

The government's (DPTI's) response to the proposed reforms from the Expert Panel was to further discuss a wider view of heritage, funding options, and better links with SA's cultural institutions. The government's discussion paper (Department of Planning, Transport and Infrastructure, 2016), focussing on local heritage reforms, agreed, in principle, with the Expert Panel's proposed reforms. The paper discussed opportunities around new local heritage criteria and history themes, streamlining processes, improving the spatial representation of heritage places and clarifying the definitions of 'heritage' and 'character'.

The government's discussion paper generated a significant response from the community, with DPTI receiving 183 written submissions (National Trust of South Australia, 2018, pp. 17, Appendix 2 of the submission). Specific local heritage reforms were not pursued by the government immediately following this consultation and subsequently became subsumed as part of the broader planning reform process.

Submitters to the Committee's heritage inquiry have commented on the timeliness of the inquiry and expressed concerns that the future of local heritage policy and processes remain unclear. For example:

[The City of Port Adelaide Enfield] ... considers that the Inquiry is particularly timely and important in the context of the SA Government's current planning reform implementation program in which a number of significant issues with respect to heritage conservation are yet to be resolved.

(City of Port Adelaide Enfield, 2018, p. 2)

DPTI is in the process of transitioning from the *Development Act 1993* to the *Planning, Development and Infrastructure Act 2016* (PDI Act). Future regulation and management of local

heritage will be in accordance with the new Planning and Design Code¹, informed by the State Planning Policies.

In accordance with the PDI Act, the Planning and Design Code should implement State Planning Policies by identifying areas and places of national, state and local heritage value, and may include the identification of places, including the extent of their cultural heritage significance. The State Planning Policy on cultural heritage was gazetted by the Minister on 31 January 2019.

After submissions to this inquiry had closed, and after the Committee had heard from witnesses, the Government released the first draft of Phase One of the Planning and Design Code; initially covering areas that are outside local councils, primarily outback areas and coastal waters. These areas include state heritage places, but no local heritage. The draft of Phase One of the Planning and Design Code was published for public consultation in February 2019, with feedback invited up to the end of March 2019.

The proposed State Heritage Area Overlay, in the Planning and Design Code, provides that all forms of development, including demolition, are subject to a right of veto or 'direction' by the Minister administering the *Heritage Places Act* 1993. There is currently no overlay or policy to cover any future local heritage listings. Local heritage is expected to be included as part of Phase Two of the Planning and Design Code which will expand to regional areas, and ultimately Phase Three which will include greater metropolitan Adelaide.

In the transition from the 'old' Act to the 'new' Act, the State Planning Commission has committed to retaining all current state and local heritage places in the Planning and Design Code.²

The challenges and uncertainties about whether transition to the Planning and Design Code would result in improvements to processes were expressed by local councils, who unanimously called for greater clarity, consistency, efficiency and responsiveness from the new policy and legislative framework:

As the planning and design code has not yet been formulated it is not clear what processes and policies will apply to heritage identification and protection (at all levels) in the future.

(City of Norwood, Payneham & St Peters, 2018, p. 2)

... the current process is cumbersome and adversarial and an alteration to such a process is warranted. This comment is however made in the context that the *Planning, Development and Infrastructure Act, 2016* (PDIA Act) which is largely a replication of the process described in the *Development Act, 1993* with the addition of quantitative measures for a qualitative problem (Section 67(4)).

(Light Regional Council, 2018, p. 2)

¹ See here:

https://www.saplanningportal.sa.gov.au/planning_reforms/new_planning_tools/planning_and_design_code.

² See here: State Planning Policies, p. 47:

https://www.saplanningportal.sa.gov.au/data/assets/pdf_file/0009/528507/State_Planning_Policies.pdf

The recommendations in this report highlight the principles and themes expressed in the submissions that called for improvements to the current legislative frameworks. These recommendations are made in the context of providing support to the significant amount of work currently in progress as part of broader planning reforms in South Australia.

2.2 Term of Reference 1: Highlighting the differences in, consistency of, processes and criteria between listing and assessing local, state and national heritage

2.2.1 Current status

In South Australia, there are several pieces of legislation protecting our national, state and local heritage. National heritage is protected primarily in accordance with the *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBC Act); state heritage is protected in accordance with the *Heritage Places Act 1993* (Heritage Act); and, local heritage is protected in accordance with the *Development Act 1993* and soon to be transitioned to the *Planning, Development and Infrastructure Act 2016* (PDI Act). The Planning and Design Code will set out criteria for the assessment of the suitability of local heritage to be protected, in accordance with the PDI Act.

In addition, there is separate legislation covering historic shipwrecks, Aboriginal Heritage and natural heritage (in the form of Heritage Agreements in accordance with the *Native Vegetation Act 1991*).

National, state and local heritage is assessed in three different ways, using three different sets of criteria, by three different authorities; and authority to regulate heritage is carried by three different Ministers.

The National listing process is most similar to the process for listing state heritage. The Federal Minister with authority for national heritage publishes an invitation for people to nominate places and may determine themes to be given priority during the assessment period. There is an 'early no' provision to allow the Minister to reject nominations which do not meet the regulations as set out in (s324JA(4)) of the EPBC Act. The Minister provides the Australian Heritage Council (AHC) with a proposed priority assessment list and a timeframe in which the AHC must make its assessment. Public consultation is undertaken by the AHC during its assessment period. The Minister considers the AHC's assessments and makes a decision to include places, or parts of a place, on the National Heritage List. The Minister must publish a decision to list in the Gazette and advise the owner and the nominator. The Minister must also publish a decision not to list and advise the nominator³.

A further point of difference in the processes of national, state and local heritage is the development process. Development within South Australia that may impact upon national, state or local heritage is managed by the Department of Planning, Transport and Infrastructure (DPTI) and/or local councils, depending on the size and nature of the development project. Triggers for

³ See: <http://www.environment.gov.au/heritage/about/national/national-heritage-listing-process>

referral for further assessment by the Federal or State Minister with authority for heritage are part of South Australia's development application and assessment process:

Approval under the EPBC Act is required for any action occurring within, or outside, a National Heritage place that has, will have, or is likely to have a significant impact on the National Heritage values of the National Heritage place.

(Department of the Environment, Water, Heritage and the Arts, 2013, p. 19)

Significant impact criteria, in accordance with the EPBC Act, are defined as:

An action is likely to have a significant impact on the National Heritage values of a National Heritage place if there is a real chance or possibility that it will cause:

- one or more of the National Heritage values to be lost
- one or more of the National Heritage values to be degraded or damaged, or
- one or more of the National Heritage values to be notably altered, modified, obscured or diminished.

(Department of the Environment, Water, Heritage and the Arts, 2013, p. 19)

Referrals for state and local heritage are undertaken in accordance with the *Development Act 1993*:

A development proposal for a state listed heritage place is referred to the Minister responsible for the Heritage Places Act for consideration and must be approved under the Development Act if it:

- directly affects a state heritage place or area
- affects the context of the place or area, including adjacent or nearby sites.

Local councils have their own requirements for development affecting local heritage places or contributory items. The requirements are identified in each council development plan.

(Department of Planning, Transport and Infrastructure, 2018)

Current processes for development that may impact upon heritage will change in accordance with the PDI Act, Regulations and implementation of the Planning and Design Code.

Despite its original inclusion in the terms of reference, the Committee subsequently determined that listing for national heritage is not a process that this Committee can influence and therefore has not been considered further in this report.

Similarly, this report focusses upon built heritage. Other aspects of heritage, such as shipwrecks, natural heritage, Aboriginal, cultural and intangible heritage were felt to be outside the scope of this inquiry.

At the state level, the listing of state and local heritage in South Australia is managed by two state government agencies; with state heritage managed by the Department for Environment and Water (DEW) and local heritage managed by the Department of Planning, Transport and Infrastructure (DPTI). This has led to the development of two very different processes for listing state and local heritage.

In relation to state heritage, anyone can nominate a place; or a place may be nominated by the SA Heritage Council⁴, or may be identified during a heritage survey. Once a place has been identified, and assessed against the relevant criteria, the SA Heritage Council may provisionally list the place on the SA Heritage Register⁵. A three-month community consultation period takes place, during which the Minister for Environment may direct the Council to remove the place from provisional listing. If the SA Heritage Council is satisfied that the place meets the criteria for listing, it will be entered into the SA Heritage Register and only the SA Heritage Council may alter the listing.

Local heritage can only be nominated by local councils, who then seek to list places, heritage areas, conservation zones or contributory items through a development plan amendment (DPA). Consultation with the community follows assessment of places against the criteria and gazetting of the proposed plan amendment. Assessment is undertaken by the State Commission Assessment Panel (SCAP) (or a SCAP sub-committee), who makes a recommendation about listing to the Planning Minister. If appropriate, the Planning Minister will approve the amendment to the development plan. The ERD Committee will be referred the development plan amendment from the Planning Minister and will consider the approved amendment.

Historically, changes to local heritage lists through the DPA process have been undertaken using the 'interim operation' provisions of s.28 of the Development Act. This ensures that the DPA comes into operation immediately in order to avoid heritage places being demolished during the consultation period.

Establishment of state heritage areas is also undertaken through the DPA process; initiated by the Minister for Planning in accordance with the *Development Act* 1993 at the request of the Minister for Environment.

In South Australia, assessment for listing of heritage places is carried out in accordance with criteria set out in legislation for state (*Heritage Places Act* 1993) and local (*Development Act* 1993) listings. Each criterion differs between state and local levels; although both capture values for heritage that are beyond simply the aesthetic and technical qualities of buildings (see Appendix D for a list of state and local heritage criteria).

All listings are entered into the SA Heritage Register, which is an online database⁶.

Other online spatial databases are available to view national, state and local heritage⁷.

2.2.2 Challenges with the current status: local heritage places

Witnesses and submitters highlighted a number of challenges with (mostly) local heritage nomination and assessment processes.

An obvious concern appeared to be the lack of community involvement in nominating listings of local heritage, and some spoke of the undesirable situation of owners not being involved in the

⁴ See: <https://www.environment.sa.gov.au/topics/heritage/sa-heritage-council>

⁵ See: <https://www.environment.sa.gov.au/topics/heritage/sa-heritage-register>

⁶ See: <http://maps.sa.gov.au/heritagesearch/HeritageSearchLocation.aspx>

⁷ See: <https://www.environment.sa.gov.au/topics/heritage/sa-heritage-register>

nomination process until the development plan amendment was in the public consultation period:

There is no formal process for individual or group nominations of items or places for local heritage
(Beresford, 2018)

Others suggested that the nomination of local places and zones for listing correctly resided in councils:

The initiative in nomination rightly rests with local councils, who are best placed to decide what their communities wish to preserve ...

(National Trust of South Australia, 2018, p. 13)

Witnesses and submitters also pointed out the lack of consistency across councils in nominating local heritage. For example, some councils have not listed any local heritage; others listed local heritage places, contributory items and/or historic conservation zones or policy areas:

... some greater metro councils have no local heritage registers at all, like Salisbury and the Adelaide plains. Most regional councils have no heritage register.

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 40)

... many councils have never commissioned local heritage surveys, particularly in regional areas, and some who have commissioned them have failed to act on the consultants' recommendations.

(National Trust of South Australia, 2018, p. 13)

Further to the evidence put to it (Figure 1 below) by Mr Wilkinson of inconsistencies in listing of local heritage in North Adelaide, the Committee was shown first hand evidence while on a tour of heritage in the City of Adelaide council area.

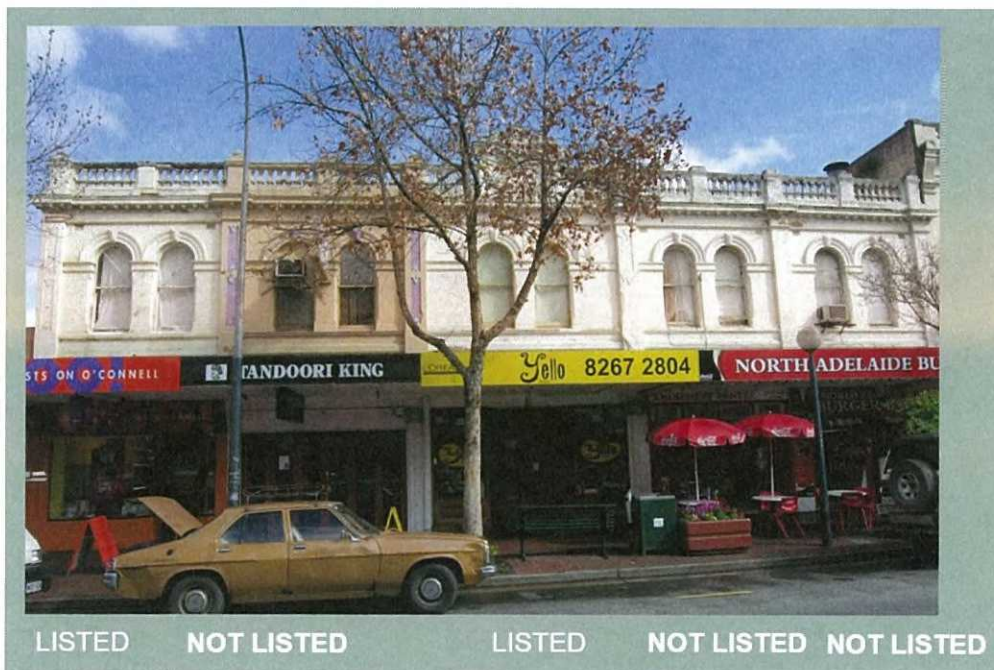


Figure 1. O'CONNELL STREET, NORTH ADELAIDE, SHOWING THE INCONSISTENCIES IN LOCAL HERITAGE LISTING (WILKINSON, 2018, p. 34), (Wilkinson, ERDC Inquiry on Heritage Reforms for South Australia, 2018, p. 4 & 15).

For example, the listed and un-listed row cottages on Kenton and Cardwell Streets, Adelaide, reflects the differing and evolving heritage listing processes (Figure 2). The treatment of nearly identical adjoining properties was explained as a quirk of political history, rather than processes that included evaluation against objective criteria.



Figure 2. The ERD Committee on Kenton and Cardwell Streets, Adelaide, discussing inconsistencies in local heritage listings. Nearly identical adjoining properties were treated differently; with some listed and others not. Left to right: Mr Adrian Pederick MP; Mr Rick Hutchins, City of Adelaide; Mr Simon Wiedenhofer, City of Adelaide; Hon Tung Ngo MLC; Hon Mark Parnell MLC; Hon John Rau (former member for Enfield).

The inconsistencies in listings viewed in Kenton and Cardwell Streets were in contrast to the housing on McLaren Street, Adelaide (an historic conservation zone) (Figure 3), which allows for development of the back half of properties and sympathetic infill development.



McLaren Street, SLSA B 63323-15A c.1961



McLaren Street today

Figure 3. McLaren Street, Adelaide. An historic conservation zones that allows for development that is sensitive to the heritage values of these cottages (City of Adelaide, 2018(b), p. 6).

Many witnesses and submitters pointed out that the development plan amendment process for listing of local heritage was lengthy and difficult to negotiate, with little certainty about the outcome:

The current DPA process, for instance, for local heritage listing, I think you will have heard already, is cumbersome, protracted, politicised and expensive. That is in addition to highly subjective criteria, limited guidelines for their application and establishment of thresholds. It has resulted in a range of inconsistencies in local heritage listings.

... Some [councils] have even gone through the process of doing heritage DPAs and then pulling back. Some have nominated properties that have previously been rejected. Adelaide is an example, and Charles Sturt.

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 40)

In terms of the listing process, a significant concern for our member councils has been the fact that the listing process is done through a development plan amendment under the Development Act. This is a lengthy process. It often takes years, and it is cumbersome and costly. Some councils in South Australia as a consequence have either never undertaken or are overdue to undertake a review of heritage places because of the costs involved and the resources required to undertake a DPA.

Teburea, LGA (Brown, Gannon, Levinson, Smith, & Teburea, 2018, p. 63)

[City of Adelaide] Council's experience has been of changing processes between different DPAs in application of local heritage criteria in the Development Act 1993 (SA). This has involved moving goal posts midway through an agreed DPA process, a transparency deficit regarding no access to the information being provided to the body making the decision, and of variable and limited heritage expertise at the State planning level.

(City of Adelaide, 2018(a), p. 8)

Finally, a number of submitters and witnesses critiqued the criteria that is used for assessment of local heritage; i.e. that the current criteria were not aligned with state and national criteria:

... when you look at the criteria that we currently have, we have a commonwealth system and a state system in the Heritage Places Act that are relatively aligned in terms of the criteria. The

criteria for local heritage places in the Development Act are not aligned and there is no consistency. As a matter of public policy, it's our submission that the criteria in the Development Act, and translated into the PDI Act, are problematic because of that misalignment and are nonsensical, in simple terms.

Levinson, Botten Levinson Lawyers, on behalf of the Property Council (Brown, Gannon, Levinson, Smith, & Teburea, 2018, p. 57)

However, a number of submitters spoke of their fears that local heritage would have reduced protection, not only along with proposed state planning reforms, but also if criteria for the assessment of local heritage were to be changed:

... it's our concern that if these buildings were reclassified or declassified, and the restrictions against the development were released, that would significantly impact upon the character of the suburb, not just its historical significance.

Caldwell, Kensington Residents' Association (Caldwell & Dyson, Heritage Inquiry, 2018, p. 112)

2.2.3 Challenges with the current status: heritage areas, historic zones and contributory items

The philosophical challenges of the dichotomy between:

- a. state and local heritage places and state heritage areas; and
- b. local historic zones and contributory items;

is perhaps largely to do with clarity over exactly what needs to be protected. In the case of state and local heritage places (and usually state heritage areas), what needs to be protected, and why, is often reasonably obvious; whereas with historic zones and contributory items what needs protecting and, more particularly, why, tends to be much less obvious. It also alludes to the challenges of terminology, such as 'character' and 'heritage', and which is worthy of what sort of protection. This has led to some contention about which state agency should have responsibility for regulating and managing areas, zones and contributory items; planning or heritage.

Currently, responsibility for local heritage places, in addition to state heritage areas, historic zones and contributory items is within the planning system, which is undergoing broad policy and legislative reforms with the implementation of the PDI Act. Irrespective of which agency has responsibility, it was clear there was a desire for clarity, consistency and an appropriate level of protection for historic areas, zones and contributory items:

In the interests of consistency, fairness and equity it is vital that the forthcoming Planning and Design Code explicitly recognise the heritage significance of both locally listed places and Contributory Items. Removing Contributory Items from council lists would practically denude some historic neighbourhoods of heritage buildings. Rebadging all Contributory Items as Local Heritage would create invidious distinctions among areas of equal heritage value.

(National Trust of South Australia, 2018, p. 15)

In particular, the Committee heard that reforms to historic areas and zones and contributory items are necessary because different councils have responded to the challenges of protecting historic areas in different ways; leading to inconsistent applications of protection across the state, and sometimes even amongst councils with similar built form. Contributing to the

perception that owning and developing heritage is a burden, inconsistencies across councils has made it difficult for developers and owners of these properties to determine what can and can't be done.

Unlike Historic (Conservation) Zones and Areas, Contributory Items are not described with the *Development Act 1993*. However, as with Historic (Conservation) Zones and Areas, *the Planning Bulletin – Heritage*, provides guidelines for identifying Contributory Items and the identification process occurs through a DPA ...

... Despite these items being identified through a Development Plan Amendment process, as there are no set legislated criteria for identifying and establishing Historic (Conservation) Zones and Areas or identifying and listing Contributory Items, the approach and 'test' for their identification, has differed across Local Government Areas, even amongst councils which have a similar context and built form.

(City of Norwood, Payneham & St Peters, 2018, p. 4)

Submitters expressed concern over the uncertainty created by the proposed planning reforms, and that local historic zones and contributory items would lose their status and protection with the implementation of the PDI Act:

As the broader planning reforms progress, the uncertain policy framework for local heritage and especially the status of Historic (Conservation) Zones and Contributory Items, remains a significant obstacle to resolving the transition of current planning policy into the new planning system and balancing this with the objectives relating to urban infill.

(City of Norwood, Payneham & St Peters, 2018, p. 2)

We strongly recommend that the system continues to recognise of [*sic*] all currently listed local matters and the important role of contributory items.

(Environmental Defenders Office (SA) Inc., 2018, p. 7)

Another concern raised was the proposed criteria (in accordance with the new PDI Act) for heritage areas (s.67 (4)&(5))⁸ only being implemented if 51% of owners were in agreement:

We think that there should be repeal of the Planning, Development and Infrastructure Act 2016 amendment that required 51 per cent of landowners to approve an historic conservation zone listing.

Morgan, National Trust of SA (Ellis, et al., 2018, p. 31)

While it is appreciated that the intent of the '51% test' is to obtain community support, this could lead to inconsistencies between the listing of different areas of equal merit ... The application of this legislative 51% support test, is expected to be impractical to implement and does not reflect the listing process as having a broader support or value than those of the directly affected property owners.

(City of Norwood, Payneham & St Peters, 2018, p. 5)

2.2.4 Regional areas and heritage protection

Finally, the Committee was reminded that heritage protection in regional areas of SA is distinct to the ways in which metropolitan councils approach heritage protection.

⁸ See here: http://www.austlii.edu.au/cgi-bin/viewdb/au/legis/sa/consol_act/pdaia2016415/

For example, as City of Burnside points out, local heritage sometimes doesn't make sense unless it is within the context of its urban setting:

- HCZs [Historic Conservation Zones] tell the historic story of settlement and development in the 'village setting'.
- HCZs reveal the similarities and differences within the society in that locality.
- HCZs reveal the relationships and interplay of a society's living, working and social life.
- HCZs show the history of society and the interaction of the participants within that society

...

(City of Burnside)

But, for regional councils, and areas outside councils, a single building can mean a great deal without its neighbours. Therefore, historic conservation zones (or similar types of protection) may not be suitable for protecting local heritage in regional and outback areas:

[Copper Coast] Council's local heritage areas (Historic Conservation Areas not located within a State Heritage Area) span a significant area, including areas to which the historic significance has long diminished. It is considered that a more appropriate approach would be to reduce the extent of such areas to reflect specific spots which contain existing buildings of historic significance. This will then assist in focusing consideration and funding into these specific areas. Whilst broad historic areas may work within a metropolitan context, the rural nature of the Copper Coast presents greater financial implications.

(Copper Coast Council, 2018)

2.3 Term of Reference 2: How heritage should be managed in the future

There was an almost universal call from submitters for heritage processes (particularly local heritage) to become clearer, more transparent and provide more certainty in outcomes:

... importantly, the trust [National Trust] contends that the current heritage system is overly complex with a cumbersome and inefficient administration, leading South Australians to experience uncertainty, confusion, frustration and much wasted effort. It is our submission that an effective heritage protection system should deliver in three ways: a clear, open and transparent listing system for all types of heritage; an efficient administration, and good governance; certainty and consistency that will serve to promote investment in our state.

Morgan, National Trust of SA (Ellis, et al., 2018, p. 30)

The processes that are associated with local heritage listing need not be identical to those of the state, but we believe reform opportunities are available that would provide a streamlined, cost-effective nomination, assessment and public consultation process for local heritage, and a significant reduction in red tape and costs associated with that listing. They would also help with increasing community engagement and understanding local heritage listing processes and, of course, there would be a reduction in uncertainty for both the community and the development industry.

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 40)

Even further, it was argued that heritage protection was the collective responsibility of owners and multiple agencies at state and local levels, and that heritage policies and processes that were considered strategically, or holistically, could result in better outcomes:

We don't have a strategy for heritage in this state. There is no council-wide strategy, there is no statewide strategy.

Things like public realm upgrades—footpaths and street furniture—are ways in which you can enhance the amenity of an area and potentially tie it to historic themes or historic buildings. We are not dealing with that strategically and we are not looking at the investment that the state or local governments might make in the public realm. But if you look at an example such as Leigh Street, you see the way Leigh Street has transformed over the last 10 years or so. In part, it's the public realm upgrades and the work that the city council has done and, in part, due to a relatively cohesive ownership of the properties, and you see the benefit to the vitality of that street and that precinct.

Levinson, Betton Levinson Lawyers on behalf of the Property Council (Brown, Gannon, Levinson, Smith, & Teburea, 2018, p. 58)

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

Almost all submitters and witnesses called for reforms to the nomination, listing and assessment processes; particularly of local heritage.

2.3.1 Reform of nominations process

In particular, it was argued that the process for nominations be reformed to allow for the community to be able to nominate local heritage places and areas. For example:

New places should be proposed by local government and members of the public ...

(McDougall & Vines, 2018)

... the role of the community in the listing process needs to be improved. Local heritage nominations should be community driven not the sole province of local government. Communities know what they value. Individuals and community organisations should be able to submit nominations for assessment by local councils at any time.

(Environmental Defenders Office (SA) Inc., 2018, p. 8)

Care is needed, however, because currently, there is no provision for interim protection for local heritage until the Planning Minister has approved the DPA for public consultation, which may leave properties vulnerable to undesirable development or demolition.

2.3.2 Reforms to criteria for assessment of heritage

An important reform that many witnesses and submitters argued would create better consistency and clarity was of the criteria against which local heritage is currently assessed:

There ought to be clear and consistent criteria that apply at the national, state and local levels which differ only in the significance or importance of the relevant place ... Notably, the criteria under the EPBC [Environment Protection and Biodiversity Conservation] regulations for national heritage places are substantially similar to the criteria in section 16 of the South Australian Heritage Places Act.

(Property Council of Australia, 2018)

Regarding the question of whether the current local heritage listing criteria require modification, the City of Adelaide has formed a view that yes, they do need to be modified.

Ditter, City of Adelaide (Ditter & Hutchins, 2018, pp. 49-50)

Further to the reform of local heritage criteria, were arguments that consistency in assessment would also be achieved if state and local criteria, against which heritage is currently assessed, were aligned with HERCON criteria. For example:

- That heritage protection in South Australia adopts and aligns to the HERCON^[9] model towards a more consistent approach across Australia.

(Department for Environment and Water, 2018, p. 1)

Some submitters, however, pointed out the risk of changing criteria for local heritage due to concerns that some local heritage may not meet the new criteria and therefore fall into a gap making it vulnerable to undesirable development or demolition:

It would risk the removal of existing local heritage places which may not meet new criteria and failed to acknowledge that the value of a Local Heritage Place lies more intrinsically in its context, within, and contribution to, a local area.

(City of Norwood, Payneham & St Peters, 2018)

Submitters also pointed out later alterations or additions to buildings should not disqualify them from listing:

... that shrouding and superficial alterations of items otherwise compliant shall not act to disqualify the building from listing ... In addition, the fact that the item cannot be seen from the street because of some, for example, later added brick wall, shall not disqualify a building for listing which would otherwise qualify.

(Hamilton, 2018)

Finally, the Local Heritage Discussion Paper released by DPTI in 2016 proposed an opportunity to develop 'new local heritage criteria', amidst a broader change-framework to contemporize and streamline processes, and provide more certainty to stakeholders (Department of Planning, Transport and Infrastructure, 2016, pp. 3-4).

2.3.3 Reforms to heritage legislation

Many submitters and witnesses argued that a single piece of legislation for listing and assessment of both state and local heritage would provide efficiencies and reduce complexity in current processes.

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.

(Australia ICOMOS Secretariat, 2018)

⁹ "In 2006, Australia's intergovernmental Environment Protection and Heritage Council (EPHC) agreed to initiate work on nationally consistent heritage assessment criteria, which became known as HERCON, and thresholds were developed as part of the Cooperative National Heritage Agenda project" (Department for Environment and Water, 2018, p. 1).

- Merging of the local heritage listing and identification of historic conservation zone/areas into the existing state heritage listing processes. This merging can be enabled through adjustments to the current Heritage Places Act 1993 (SA) and removal of local heritage listing criteria from the Planning, Development and Infrastructure Act 2016 (SA).

(City of Adelaide, 2018(a), p. 11)

However, experts did recommend caution in placing all listing and assessment within the planning system:

In my view, the risk that needs to be considered if combining all these elements in a single system within the planning legislation, which is what the expert panel required, is that you would, by definition, remove the advocacy and conservation ethos of those state items because, by definition, you would need to have a broader-range assessment. I simply put that on the table, because there is a logic to the separation that has been built up by parliament over the years.

Lennon, Member, State Planning Commission (Allen, Hayes QC, Lennon, & Maras AM, 2018, p. 23)

The Committee heard that an additional argument for a single piece of heritage legislation for the listing of local and state places was that:

- a. Alignment of local heritage nomination and assessment processes with the state heritage processes would create interim protection for local heritage while being assessed, and thus earlier consultation with owners and a less adversarial process; and
- b. It would make it easier to assess and list nominations as local heritage if a place or area fails to meet the criteria for state significance. For example:

In 2015, the South Australian Heritage Council received a public nomination for Fishermen's Wharf at Port Adelaide for consideration for state heritage listing with significant political and community support for the building. The Heritage Council resolved that it did not fulfil the criteria for state listing and, while it clearly demonstrated it met local heritage value, there was no simple mechanism to afford it immediate heritage protection under the current system.

Voigt, DEW (Angas, Pope, Voigt, Wells, & Schulz, 2018, p. 72)

Finally, evidence was also received by the Committee that the South Australian distinction between local and state heritage is a legacy of legislative separation, rather than any real philosophical distinction:

Nowhere in this country or overseas is local heritage treated as something capable of being defined by experts. It is not a lesser category of heritage than national or state heritage. As far as the National Trust, ICOMOS (International Commission on Monuments and Sites) and other professional organisations are concerned, heritage is heritage. It is not something broken down into categories. It is legislation rather than philosophy that creates distinctions between state and local heritage.

(National Trust of South Australia, 2018)

2.3.4 Reforms to the management of heritage

Heritage management is the critical decision-making processes about what changes are allowed to happen to heritage buildings and areas.

Ditter, City of Adelaide (Ditter & Hutchins, 2018, p. 49)

A number of submitters and witnesses argued that the management of heritage (or policy on development that may impact upon heritage) was best placed in planning and development legislation:

... we [SA Heritage Council] would suggest maintaining legislative separation between heritage listing, say, under the Heritage Places Act, and management under the planning and development act.

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 42)

There was, however, disagreement; with some wanting all heritage matters to be dealt with within one dedicated heritage (rather than planning) portfolio. For example:

- Consolidate SA's Heritage laws into one Act, and combine the current two-part state and local heritage system in SA, under a heritage rather than a planning portfolio
- Local heritage (and other SA heritage matters) should be managed by an appropriately dedicated Cultural Heritage Department rather than by DPTI, in partnership with local government and cultural institutions.

(History Council of South Australia, 2018, p. 2)

B) Who should have the right to be heard in relation to listings

Aside from the call to broaden the base of people who are able to initiate local heritage listings, the Committee heard that involving stakeholders early in the listing and assessment processes would be less adversarial. For example:

There was also a real push to use a better community engagement mechanism, whereas if you just put the listing on top of somebody without them knowing that that is about to happen, it often causes a really adversarial relationship.

Allen, DPTI (Allen & McKeegan, Heritage Inquiry, 2018, p. 4)

The Committee also heard that involving community stakeholders in the decision making and even the appeals processes may result in improved decision making; although there were pros and cons to this argument:

There is a school of thought which says that third-party rights could actually improve decision-making. You've got local historical groups, you've got a wealth of expertise in the community, people who understand what's important in their neighbourhood and, at present, they've got very few rights. They don't have the right, in the local system, to get places listed. If a decision gets made that they don't like, they've got no right to go to court and no ability to go to court to challenge it.

Hon. M. Parnell, ERD Committee (Allen & McKeegan, Heritage Inquiry, 2018, p. 8)

I think it has to be clearly defined and identified as to the extent of that role, but I don't have a problem with third parties being involved in an appeal process at all, because very often that can result in a better decision, but it can also result in delays, and that is where there have to be constraints on it, and cost constraints put on it as well.

Hayes QC (Allen, Hayes QC, Lennon, & Maras AM, 2018, p. 20)

You have to find that fine line between somebody who has no ownership, responsibility or care and control of that property being able to influence and make decisions for somebody else who has purchased that.

... and I guess the other balance of that is that if a community right has an impact on the person who owns that property and what they can and can't do, it adds additional imposts on how they might maintain and manage that ... You would have to have some really strong criteria around what expertise that third party comes to to make a decision that that should happen, because you could actually frustrate a whole lot of planning processes because a third party likes the building more than somebody else does or sees a particular merit in it.

McKeegan, formerly of DPTI (Allen & McKeegan, Heritage Inquiry, 2018, p. 8)

The Committee heard an alternative model to engaging stakeholders, which was to collaborate with the community more strategically prior to the nomination stage:

Because we do draft up a DPA and it goes out for public consultation and interim operation, you have not really canvassed those views at the early stage before you even identify the listings in the first place. So, even though I understand there is a risk of not using interim, what it does mean is you could have a more genuine engagement up front to identify what are the themes of heritage in our local area, what are the themes that are of value to the community members and the other groups? Then you can start to go, based on those themes, what are the places that reflect those themes? Then you have a really genuine conversation about heritage and then people can start to argue the points of detail.

Without having that first conversation, which is what the gap is at the moment, there is often not that conversation to identify what it is that the community as a whole values. It is done in a very behind closed doors kind of way, and then you go out and list it and defend it. There are pros and cons to both options.

Allen, DPTI (Allen & McKeegan, Heritage Inquiry, 2018, p. 9)

C) Who should be the decision maker for listings and review

2.3.5 Decision making

Having a robust process for decision making is likely to lead to greater levels of community trust and confidence in the process. Importantly, the Committee heard that there was a need for independence in decision making; with some of the witnesses and submitters critiquing the current nature of regulatory capture:

The council [SA Heritage Council] endorses legislative and ministerial separation between the heritage listing process and its management under the PDI Act. This legislative and ministerial separation promotes a robust and independent decision-making process and we think it will strengthen community trust in the heritage assessment and listing process.

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 42)

Having the listing of local heritage matters undertaken by the planning department and the Planning Minister creates a fundamental problem of regulatory capture. This is a form of government failure which occurs when a regulatory agency, created to act in the public interest, instead advances the commercial or political concerns of special interest groups that dominate the industry or sector it is charged with regulating. In this case the planning department has responsibility for listing local heritage but also promotes development including in some instances the demolition of such heritage.

(Environmental Defenders Office (SA) Inc., 2018, p. 6)

No one would now accept that the same Minister or government department oversee both environmental protection and mining; the potential conflicts of interest are obvious. The same holds for development and heritage protection.

(South East City Residents Association (SECRA), 2018, p. 3)

In particular, it was pointed out there was a lack of transparency and objectivity around decision making of places of local heritage significance:

Where nominations have been made ultimately many have been refused without adequate explanation. A prominent example of this is the Planning Minister's decision in 2011-2012 to reject all but 78 of more than 400 nominations made by the Adelaide City Council. The reasons for decision making are scarce.

(Environmental Defenders Office (SA) Inc., 2018, p. 6)

When making the decision the Minister [for Planning] is entitled to form an opinion based on the expert report supplied to them and in relying upon that expert evidence the Minister's assessment is likely to be regarded as reasonable. It is the Minister's satisfaction based on an opinion which will determine whether a place qualifies for local heritage listing. It is not necessary for the Minister to be informed of the base facts upon which the expert opinions are expressed.

(Environmental Defenders Office (SA) Inc., 2018, p. 5)

A number of submitters pointed out that, for places of state significance, there are no guidelines, criteria or public consultation for the Minister's intervention 'in the public interest', and therefore a lack of transparency in that aspect of the decision making process. For example:

... there is currently no formal mechanism or requirement for the Minister to consult with other parties including the community (with the exception of the Heritage Council) prior to making a decision which may cause bias to the owner of the place. Determining what and how community opinion should be viewed and measured is also complex in that when does a number of vocal individuals constitute the broader community?

(Department for Environment and Water, 2018, p. 21)

The Environment Minister can request the SAHC [SA Heritage Council] to remove a provisional entry if the Minister is of the opinion that its confirmation would be 'contrary to the public interest'. However, this process lacks transparency as there are no guidelines as to what is meant by this phrase and the Minister is not required to provide reasons for their decision.

(Environmental Defenders Office (SA) Inc., 2018, p. 4)

Finally, the Committee heard from one witness that he believed the timing for political intervention in the decision making process was misplaced:

Sometimes we have political interference at the end of the process whereas the political interference should be at the beginning of the process ...

Maras AM, Expert Panel on Planning Reform (Allen, Hayes QC, Lennon, & Maras AM, 2018, p. 15)

2.3.6 Appeal

Submitters pointed out that for places of state significance, options for appeal were limited to owners of places, who can appeal to the Environment Resources and Development Court against decisions about entry onto the heritage register:

Only owners of places and objects can appeal to the Environment, Resources and Development Court (ERD Court) against a decision to confirm or not to confirm the provisional entry. Nominators do not have a right to appeal against listing decisions but they can apply to the ERD Court to be joined as a party to the appeal. Landowners and the SAHC [SA Heritage Council] also have appeal rights to the Supreme Court. No appeal lies against the removal of a provisional entry at the direction of the Minister.

(Environmental Defenders Office (SA) Inc., 2018, p. 4)

Options for appeal against decisions made for places of local significance were even more limited:

Unlike the position with respect to state listed places there is no right to appeal by either owners or third parties as to the merits of such decisions.

(Environmental Defenders Office (SA) Inc., 2018, p. 5)

D) What processes should be in place for the review of listings

The Committee heard that it is important to describe heritage values accurately and append the information to the listing, in order to give owners and developers certainty about the types of development that can be undertaken:

The audit of existing places was recommended to better describe the heritage attributes. What I think they mean by that was looking at each individual place and identifying what was of value within that place. That was intended to provide greater certainty to proponents or landowners about what they could and couldn't do to that property to provide them greater clarity and certainty.

Allen, DPTI (Allen & McKeegan, Heritage Inquiry, 2018, p. 3)

We think that any review of heritage places should be based on clear criteria and that the process should be about making sure that what is listed is adequately described. So the description of 'heritage place' is essential in guiding future improvements or development as it helps all parties to clearly understand what needs to be retained and respected in order to maintain the integrity and heritage value of a place.

... The problem we have observed is that, if you go through development plans at the moment, there might be an address, and the description of that place is 'house 1940s'. It doesn't really give you much to go on in terms of why that particular property is listed and, if you were wanting to do some improvements to it, develop around it or put an addition on, how to do that.

What is it that we need to retain about this 'house 1940s' to maintain the heritage integrity of it? Those descriptions become incredibly important because they do send a signal to the property owner about, 'What is the implication of my property being listed and what will it allow me to continue to do?' They shouldn't become museum pieces. They are places where people live, they are places where people work, and they need to be evolving and adapting.

Teburea, LGA (Brown, Gannon, Levinson, Smith, & Teburea, 2018, p. 65 & 68)

It was suggested that review, particularly of older listings, was an appropriate means by which to ensure that lists remain accurate and up-to-date, including reviewing items against new and amended criteria. Many submitters also expressed concern that reviews should not be used to lessen heritage values and protections.

A review of local heritage listings is supported (e.g. every 10 years for Local Heritage). Reassessment against relevant criteria at that time is appropriate. Council agree that review should not be intended to remove heritage listings.

(Mount Barker District Council, 2018, pp. 2-3)

Further, the Committee heard that the review of some places that were listed as being of state significance prior to 1993 should be re-visited. The Committee heard this was largely because protection of locally significant heritage was not available prior to 1993:

We have ended up with all sorts of anomalies from the past where, when we originally state-listed places, we didn't have such a thing as local listings. There are a lot of things that are now on the register that we have inherited from pre-'93—1,800 places were listed before 1993—and maybe a few hundred of those are more local than state.

Pope, DEW (Angas, Pope, Voigt, Wells, & Schulz, 2018, p. 76)

The Committee heard from several witnesses that listing decisions over many decades have been inconsistent, as different councils and ministers grappled with objections from property owners. Therefore, any review of currently listed properties should be balanced by a review of properties that were nominated, but not listed.

Finally, a review of the technical (spatial) information associated with listings and land titles may be required. For example:

Kangaroo Island Council ... has encountered issues with listings containing incorrect land data which puts the validity of the listing in question, in one instance it may have proven to be inaccurate listing as [at] the time of the relevant Heritage DPA [Development Plan Amendment], however in another instance, it appears that land parcel details have altered (though Council could not evidence by what process it occurred) and in turn the legal description details of the land and its item's location does not align with current land title records.

(Kangaroo Island Council, 2018)

2.4 Term of Reference 3: What is the 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 Secretariat, 2018, p. 3)

'Character' has been used to control and manage development in South Australia in certain areas (i.e. the Barossa and McLaren Vale districts) through Character Preservation Acts¹⁰. The 'character' values (see Appendix E) defined in these Acts are particular to the districts that the legislation was formed to protect. The Acts are administered by DPTI and 'recognise the special

¹⁰ *Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Vale) Act 2012*

character of these districts and provide statutory protection from inappropriate urban development' (Department of Planning, Transport and Infrastructure, 2017, p. 1).

Outside these two Acts, there are few mechanisms or tools to help protect character. Therefore, councils have inconsistently applied the tools available, or not used them at all. For example:

Sometimes councils prefer designation of Contributory Items to heritage listing when their primary objective is preserving the historic character of a neighbourhood rather than the protection of especially significant buildings. Anomalies arise when ordinary people have difficulty seeing the difference between locally listed places and Contributory Items. It is also the case that not all councils treat Contributory Items in the same way. Some subject even proposed minor changes to a rigorous assessment prior to approval; others readily permit major alterations and demolitions.

(National Trust of South Australia, 2018, p. 13)

The challenges arise with the use of policy tools such as contributory items and conservation zones (of varying names) to protect character (or heritage) because these tools lack clarity in their definitions and consistency in their uses. There are no objective criteria and no legislative mechanisms for assessing locally significant areas or contributory items to help decide whether, what and why an area or item may merit protection.

At present, there are no legislative mechanisms for the assessment and identification of areas of historic character, or potential local heritage value. The SAHC [SA Heritage Council] believes that specific legislative mechanisms for identifying areas of local heritage value will help with the current confusion around heritage v character.

As noted in our submission, zoning mechanisms under the Development Act have been used to establish Historic (Conservation) Areas (H(C)Zs). These zoning mechanisms were not, however, specifically written or tailored to assess historic character or areas of Local Heritage value. As a result, there are no criteria or thresholds under the Act for their assessment and establishment. This lack of criteria and thresholds has led to notable inconsistencies in the quality and historic character attributes H(C)Zs across Councils.

(South Australian Heritage Council, 2018(a), p. 6)

Over time, because the issue of local heritage has been dealt with in the planning and development process without specific tools to clearly define local heritage value of areas or precincts, the distinction between heritage and character has become confused.

(McDougall & Vines, 2018)

Therefore, there was an almost unanimous call from witnesses and submitters for greater clarity around the terms 'character' and 'heritage', and greater consistency in the use, and rigour in the design, of policy tools to meet community expectations for locally significant places and areas:

Just to touch quickly on the difference between character and heritage, we recognise that there is a clear distinction with character being about the look and feel of a place and the relationship between the built form, vegetation and topography; whereas heritage is different from aesthetics and should encompass the history of an area and the identity of a place, not just the external appearance of the building. This distinction needs to be supported through community by guidelines that are available to all decision-makers and the public, and we need to be very clear

about the distinctions between what might come together as a heritage system and that difference between what is dealt with through the planning system. So we have a system for heritage, and we have a different system for design and character that comes through the planning assessment process.

Teburea, LGA (Brown, Gannon, Levinson, Smith, & Teburea, 2018, p. 65)

I think character and heritage get very conflated. It is difficult to have the conversation with the community at times to define the difference for them. When neighbourhoods are not clear about how to protect the character of their areas, they can move to heritage processes because they are not clear about the processes to protect their character. Some of that comes from poor design outcomes in some areas which have led people to feel discomfited about the process, and the policy, that is getting good outcomes.

Allen, DPTI (Allen & McKeegan, 2018, p. 5)

2.5 Term of Reference 4: Have there been unexpected or perverse outcomes

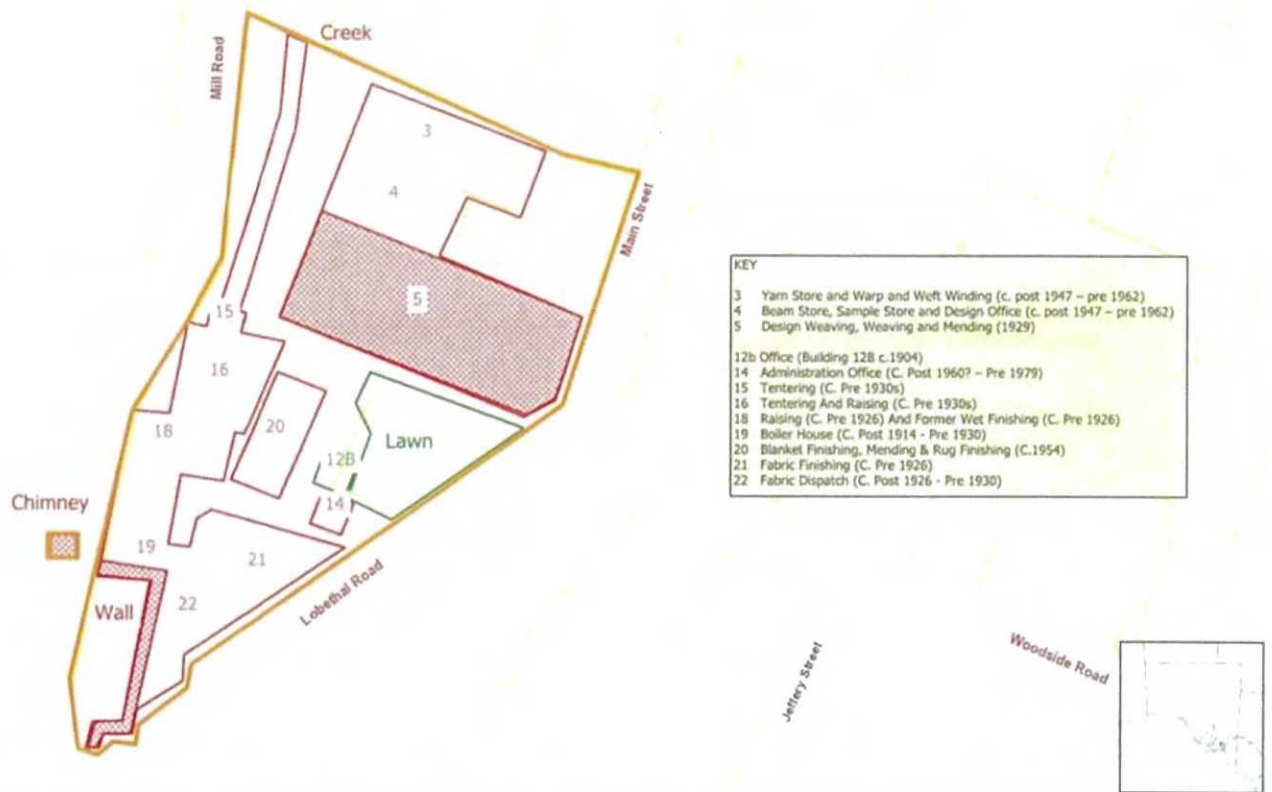
The Committee heard of many examples of perverse or unexpected outcomes from submitters and witnesses.

2.5.1 Legislative constraints

Multiple registrations currently exist in the South Australian Heritage Register with no legislative or policy framework to consolidate them; e.g. the Lobethal Woollen Mill, which the Committee visited on its regional heritage tour, has three registrations of individual sites from 1996 (SHP 16192) and, more recently, the whole site in 2014 (SHP 26414) (Figure 4). There is currently no mechanism to merge these registrations.

Current limitations or interpretation of the Heritage Places Act 1993 have resulted in the perverse outcome of having layers of State heritage listing. That is, there are earlier State Heritage Places located within later State Heritage Places. For example the Burra Historic Mine Site, Brompton Gasworks, Royal Adelaide Hospital and Lobethal Mill are all State Heritage Places and include a number of other individual State Heritage Places within them, without the legislated ability to merge them into the one listing.

(Department for Environment and Water, 2018, p. 20)



- Components of State Heritage Place 16192 are shown in red with diagonal hatching.
- Components of high significance are outlined in red.
- Components of moderate significance are outlined in green.

Figure 4. Site plan for the Lobethal Woollen Mill (SHP 26414) (SA Heritage, Department for Environment and Water, 2018, p. 4)

Once a place has been nominated it can only be listed as a whole parcel; currently, there is no policy or legislative provision to remove part of the listing. For example:

... the Minister has no discretion and cannot currently direct the Heritage Council to remove only part of a provisional entry – the whole entry must remain or be removed. In the example of the 2013 nomination for the Islington Railway Workshops, there may have been a better heritage outcome for that site and owner if part, instead of the whole Workshop complex, was removed from provisional entry in the Register. Subsequent nominations were received for individual buildings on the site and were accepted by the Heritage Council, but at great inconvenience to the owner.

(Department for Environment and Water, 2018, p. 21)

2.5.2 Processual constraints

Amendments to development plans have not always taken impacts to heritage into consideration. For example, Davaar House and the former Assay House in the city (Figures 5-7 below):

Unfortunately, when the 2012 amendments were made to the [City of Adelaide Council] development plan, which increased both development potential and facilitated over-height development ... one of the considerations that could have been in that policy[,] that wasn't[,] was around heritage.

Ditter, City of Adelaide (Ditter & Hutchins, 2018, p. 52)



Figure 5. Davaar House, South Terrace, Adelaide. A high-density development sits behind the local heritage-listed building, impacting upon the aesthetics.



Figure 6. The Committee discusses development impacts to the local heritage-listed Davaar House with Ms Ditter, City of Adelaide. Front left to right: Ms Nadia Gencarelli, DPTI; Mr Simon Wiedenhofer, City of Adelaide; Mr Nick McBride MP; Hon John Dawkins MLC; Hon Tung Ngo MLC; Ms Kirsteen Mackay (back of photo), Office for Design and Architecture SA; Ms Shanti Ditter, City of Adelaide; Mr Adrian Pederick MP; Hon John Rau (former member for Enfield).



Figure 7. The former Assay House, Austin Street, Adelaide. The façade of Assay House, a local heritage listed building, has been retained, but the rest of the building has been demolished for high density accommodation.

Further, the lengthy process to list State Heritage Areas has been a deterrent to nominating areas; with the result that some areas have been nominated as State Heritage Places, perhaps to the detriment of future management strategies. For example:

In 2011, the Heritage Council considered the state heritage significance of Arkaroola in the Flinders Ranges by either listing it as a state heritage place or a state heritage area. Because of the uncertainty of creating a state heritage area through a lengthy DPA process requiring the planning minister's approval, the Heritage Council chose to list the approximately 600 square kilometre Arkaroola as a state heritage place. If Arkaroola was a state heritage area, many of the decisions relating to future development of heritage features could have been managed through development plan policy, minimising uncertainty and also time taken to discuss proposals with our [the DEW] office. Similarly, if the Adelaide Parklands, which is currently under consideration, was listed as a state heritage place and not a state heritage area, it could become very cumbersome in its management.

Voigt, DEW (Angas, Pope, Voigt, Wells, & Schulz, 2018, pp. 72-73)

The process for listing heritage or historic conservation zones has removed community from inputting into the development process; with the result that councils have used the heritage process to achieve public consultation outcomes to protect areas of character. For example:

... the current DPA process affords property owners quite limited consultation in the establishment of such areas. That's resulted in some councils, such as the City of Adelaide, in the case of North Adelaide, utilising mass local heritage listings to try to control areas of historic character. As we understand it, the process was used as it provided public consultation mechanisms. The council, we think, were trying to provide public consultation, and that was a way of doing it.

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 42)

2.6 Term of Reference 5: Any other related matter

2.6.1 Demolition

Issues around demolition were of some concern for submitters and witnesses; in particular the inconsistencies in demolition policies across the heritage hierarchy and across councils:

Currently, demolition control policies differ between the tiers of heritage listing, which is warranted, however there is also significant variation *between* council Development Plans, in respect to the policies which govern the proposed demolition of buildings for each tier of the heritage 'hierarchy'. This has occurred through the absence of a robust leadership and oversight mechanism, which is a role which the State Government must play in providing direction and maintaining the consistent approach to policy.

By way of example, in the City of Norwood Payneham & St Peters Development Plan, the policy states that a State Heritage Place must be '*so seriously unsound as to be unsafe and irredeemable*' and in some zones, demolition of State Heritage Places is listed as non-complying development, whilst demolition is treated 'on merit' in other zones, reflecting the scope of previous amendments, or the listing philosophy of the State Government of the time.

(City of Norwood, Payneham & St Peters, 2018, p. 3)

The Committee heard that the demolition 'on merit' principle in the development process has resulted in land that sits undeveloped for years, and can lead to neglect of local heritage places. Witnesses were keen to impress upon the Committee that principles for demolition of heritage places should be modified to prevent misuse:

We must set an extremely high bar for any property to be delisted and that delisting process should not create any incentive for the wilful neglect of a heritage place.

Treburea, LGA (Brown, Gannon, Levinson, Smith, & Teburea, 2018, p. 65)

At present there is an undesirable trend for some owners of local heritage places to allow their properties to just fall away into disrepair to enable demolition ultimately under uneconomic provisions in the development plan. That can result in derelict places within a suburb or a town, and nobody is happy with that; it's actually a danger.

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 41 & 42)

However, some submitters believed that the demolition 'on merit' principle is an important part of the development process:

The UDIA believes that reform of heritage processes should always include consideration of demolition 'on merit'. This approach already exists across a majority of Councils, and furthermore where it is in place it successfully enables a more pragmatic discussion around the individual circumstances. Such an approach does not necessarily open up local heritage to demolition as applications are still assessed on their merits.

(Urban Development Institute of Australia (SA) Inc., 2018)

2.6.2 Compliance

Compliance was also a concern for submitters and witnesses. The current legislative and policy framework for state heritage places has not been sufficient to ensure the maintenance and/ or restorative actions from owners. For example, Bell's Plumbers Shop in College Park, which suffered significant damage through an explosion and, several years later, a fire:

Despite the legal action which has been undertaken to date, no restorative or active maintenance action has been undertaken and the building remains at significant risk of further deterioration.

(City of Norwood, Payneham & St Peters, 2018, p. 8)

2.6.3 Adaptive reuse of heritage

It was evident to the Committee that there was strong community support for adaptive reuse of heritage buildings; not only to conserve South Australia's history, but also to provide energy savings and cost efficiencies. For example:

The South Australian Heritage Council (the SAHC) supports planning and development reform that recognises and celebrates the value and potential for South Australia's heritage portfolio to contribute to the State's development. Conservation and adaptive reuse are a priority if we are to realise this potential.

(South Australian Heritage Council, 2018(b), p. 2)

The support of heritage owners, we believe, should include clearly worded planning policy that supports and promotes the adaptive reuse of buildings ...

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 43)

... factories, industrial buildings or large manufacturing plants, such as Tonsley Park in South Australia, would not typically be considered as having architectural merit. However, in such building stock the advantages of adaptive re-use can be linked to memory and cultural value rather than built heritage. These buildings have typically helped to form the identity of a place – often acting as a landmark or a way to describe, or to know that place.

(Office for Design and Architecture SA, 2014, p. 2)

There has always been this tug-of-war between heritage and development. In my opinion, heritage conservation is development; it's a very important part of development. I am certainly in favour of keeping not just heritage buildings but looking at whether any existing building can be adapted before one makes the decision to demolish it.

Wigg, Management Committee Member, Community Alliance SA (Gibbs, Matthews, Wigg, & Wilkinson, 2018, p. 99)

... Old turn of the century stone houses such as Adelaide's cottages and villas would conservatively cost upwards of \$5,000/m² to build today, due to their quality, ceiling heights, materials, detailing and workmanship.

... New townhouses, which I design, typically cost \$2-\$2,500/m² to build and this is at the upper end of the residential development spectrum. Project homes typically cost half that again, only \$1200-\$1500/m².

... Yet the cost of renovating the existing houses is typically \$1000-\$1500/m², which yields a building that would cost upwards of \$5,000/m² to build.

(Wilkinson, ERDC Inquiry on Heritage Reforms for South Australia, 2018, p. 17)

Stuart [Gifford] considers that the inherent energy saving features of many European heritage places, such as the insulating properties of thick stone walls, make them easy to save and reuse. 'It's really basic,' he says. Make the most of north-facing areas. Use radiant, localised heating. Evaporative cooling can also be very energy efficient when combined with insulation, and using blinds to take advantage of the sun and breezes. Equally important is the huge savings of resources, energy and emissions with existing building reuse.

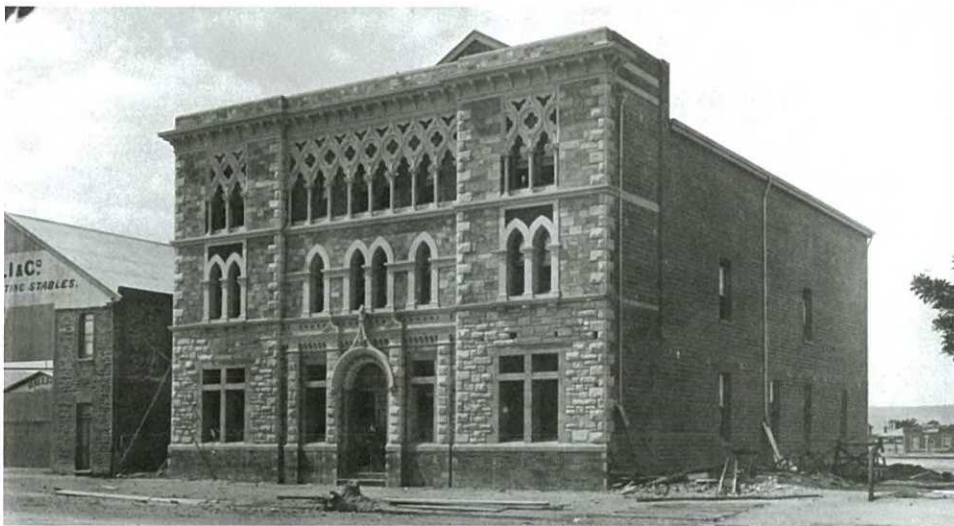
(Baxter, 2009, p. 13)

However, the Committee recognised there were some challenges to adaptive reuse of heritage buildings in making such buildings compliant with the Building Code of Australia:

There are a lot of factors contributing to the challenges for adaptive reuse. They include statutory compliance such as equitable access or earthquake resistance; limitations of working with existing structures on site and their potential impact on yields; the suitability of existing structures for reuse; and potential additional costs associated with repairs and maintenance of such a heritage asset.

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 43)

Nevertheless, the Committee was shown excellent examples of adaptive reuse of heritage buildings on its tour of the City of Adelaide. One such example was the state heritage listed Adabco Boutique Hotel on Wakefield Street (formerly the Our Boys Institute built in 1896) which was successfully and sensitively converted to hotel accommodation in 2007 (Figure 8).



Former Our Boys Institute, SLSA PRG 631-2-1443 c.1897



Adabco Boutique Hotel today

Figure 8. Before and after photos of the former Our Boys Institute, 219-223 Wakefield Street, Adelaide (City of Adelaide, 2018(b), p. 8). An example, of sensitively-completed adaptive reuse.

2.6.4 Heritage education and trades

An issue that was raised by submitters was the gap that currently exists in education of traditional methods of construction. The future ability to maintain and manage heritage in South Australia is reliant upon knowledge, skills and experiences of a suite of tradespersons. However, the Committee heard that South Australia's future heritage construction needs may not be suitably met unless some investment is made in the trades' education sector¹¹.

... to the best of my knowledge, in South Australia there is currently no specific educational support available for students looking to move into the heritage architecture field. There of course are a number of courses and opportunities available for research in archeological and curatorial/archival studies but nothing specifically related to architectural matters ... As a student of architecture who is primarily interested in this aspect of the architectural field, a topic that is increasingly important to South Australia's cultural identity and the development of tourism, this has been both surprising and frustrating. During all of my studies, heritage architecture has never been acknowledged or addressed as a career option so I have mostly had to explore opportunities under my own initiative, which has been quite a journey so far.

(Henderson, 2018)

I searched 'heritage course' online and there isn't one in South Australia. A lot of the heritage courses are academic and heritage isn't being taught generally at a vocational level. I see that as a huge lack at the moment because I am seeing it on the other side. Things like landscaping aren't being addressed, and heritage and character isn't being understood.

De Backer (Caldwell, De Backer, Dyson, & Iwanicki, 2018, p. 125)

It recently came to the Committee's attention, however, that the Construction Industry and Training Board (CITB) offers subsidised training in heritage trades¹². Recent projects included the Glencoe Woolshed:

The CITB in partnership with the HSR Group conducted heritage building conservation training with 17 trades participants at the historic Glencoe Woolshed shearing facility in the south-east of SA.

(CITB, 2017)

Projects earmarked for 2019 include: a) Boolcoomatta Shearers' Quarters, Bimbowrie Conservation Park, in March; b) Jacka House, Hampton Village – Stage 2, Burra, in April; and c) Cordillo Downs, Birdsville, in June.

The Committee visited Balhannah Railway Station and Signal Cabin on its regional heritage tour. The Committee discussed with representatives from SA Heritage and DPTI the potential for this site to be used as a heritage trades training opportunity (Figure 9). The important take-home message for the Committee was that partnerships needed to be developed and maintained in order for such schemes to occur.

¹¹ See: <https://www.environment.sa.gov.au/topics/heritage/heritage-trades>.

¹² See: <https://citb.org.au/news/heritage-trades#>



Figure 9. Balhannah Railway Station and Signal Cabin (SHP 12854) – an opportunity for heritage building conservation training? (SA Heritage, Department for Environment and Water, 2018, p. 2)

2.6.5 Funding for heritage management

One of the biggest issues for witnesses and submitters was concerns around securing funding for heritage management. The reasons for investment in the maintenance of heritage were numerous, but many witnesses and submitters suggested that a more judicious approach to the provision of incentives and disincentives for the management of heritage was a better approach to compliance than punishment.

Places that are entered into the SA Heritage Register remain the property of the owners and therefore the responsibility of owners to maintain into the future. The City of Adelaide offers its ratepayers an incentive scheme to help maintain heritage places, and there is some advice available from DEW on maintaining heritage items¹³.

At least one witness suggested that funding for heritage was a matter of equity, with the community paying for what the community derives benefit from:

I think you should also take this opportunity to look at equity, and what is a community input into this because, everywhere else in the world, if you want to have heritage for the benefit of the community, there has to be a contribution by the community towards heritage.

Maras AM, Expert Panel on Planning Reform (Allen, Hayes QC, Lennon, & Maras AM, 2018, p. 20)

A number of models for funding were suggested, with the UK model of a heritage lottery being amongst the most popular. The LGA pointed out that funding the management of heritage should not be an economic burden for individual councils to have to manage:

While we support state and local government working together on this, we would not support a legislated approach that requires councils to fund particular activities or offer prescribed rebates or concessions. The resourcing approach that would be taken by individual councils must remain

¹³ See: <https://www.environment.sa.gov.au/topics/heritage/owning-a-heritage-place>.

discretionary and be based on the community input during the setting of annual business plans and budgets at the local level.

Teburea, LGA (Brown, Gannon, Levinson, Smith, & Teburea, 2018, pp. 65-66)

The Committee visited Mt Torrens, a state heritage area, and discussed with the community (representatives from the Mount Torrens and District Community Association) funding for heritage management and maintenance (Figure 10). The community was keen to inform visitors to the town that they were entering a state heritage area and the Committee hopes that the Mt Torrens community has been able to access information about the recent heritage grants program from the state government¹⁴. Applications for the first round of funding is now closed however, there will be a second round opening late in April 2019.



Figure 10. The Committee visited Mt Torrens, a state heritage-listed area. Left to right: Mr Chris Barry, Mr Kerry Clarke and Mr Ross Leckie, Mount Torrens and District Community Association; Mr Nick McBride MP; Hon John Dawkins MLC; Mr Adrian Pederick MP; Hon Tung Ngo MLC.

2.6.6 Landscape

The Committee received an interesting submission that raised the issue of landscape as heritage; see (Lothian, 2018). He pointed out that the conservation of landscape, aside from its importance to conserving biodiversity, was important to the community.

Currently, there is no legislative framework to protect landscapes in South Australia outside the reserve system; and even within the reserve system, the primary role of reserves is to conserve and manage their biological and ecological characteristics, and not particularly heritage

¹⁴ See: <https://www.environment.sa.gov.au/topics/heritage/heritage-grants>

(although the recent state government proposal of Glenthorne National Park¹⁵ through the reserve system is arguably protecting heritage as much as biodiversity).

2.6.7 Protecting the Newmarket Hotel

At least 40 submitters expressed concern over what they believed was the proposed demolition of the Newmarket Hotel in the west end of the city. Although outside the Terms of Reference for this inquiry, the number of submitters who raised this concern highlights that conservation of heritage is a priority for the community.

¹⁵ See <https://www.glenthorne.com.au/>

3 CONCLUSIONS

Our South Australian heritage is of both intrinsic and economic value that cannot be underestimated when making future planning and development decisions. The established process to identify and list our heritage places is important, as it clearly identifies what is of value, what is significant and what is worthy of protection.

Voigt, DEW (Angas, Pope, Voigt, Wells, & Schulz, 2018, p. 74)

Clear messages were received by the Committee from the community about the challenges and issues with the current status of listing and assessment of local heritage places. Community focus was on local heritage processes, rather than state heritage processes. Submissions in relation to local heritage were broad-ranging; encompassing the nominations process up to the final decision making process and appeal avenues. The Committee heard that the community was unhappy with the current cumbersome and confusing sectoral approaches to heritage protection and management within the state.

The Committee heard that the community wanted a legislative framework that was simple and efficient and that enabled economic benefits to arise from protecting and investing in the state's heritage assets, e.g:

- Enables the full economic, tourism, cultural, community and sustainability of our built heritage to be realised
- Provides for consistent and transparent decision making based on merit that meets community expectations
- Enables the appropriate conservation, adaptation, sensitive re-use and development of heritage assets

(City of Adelaide, 2018(a), p. 1)

The Committee concluded that a strategic and statewide reform of heritage processes and legislation was necessary, and that reforms to the nominations, assessment and listing processes for state and local heritage must result in places and areas that are protected by appropriate policy and legislative tools.

Heritage should be a statewide process ... It's not about what some local council without resources is going to do. As a government, if you are going to be serious about heritage, get serious about it and let's get it done properly at a statewide level.

Maras AM (Allen, Hayes QC, Lennon, & Maras AM, 2018, p. 16)

The following principles have been developed by the Committee in response to the expectations the community stated in response to this inquiry:

3.1.1 Collaboration between state agencies and other stakeholders to plan proposed reforms

The Committee concluded that collaborative implementation of reforms is important in providing a future for the protection of heritage in South Australia. The Committee heard evidence on suitable forums in which to hold inter-agency discussions on the implementation of recommended reforms:

A heritage round table could be convened with all relevant stakeholders to progress further open discussion and gain a clear consensus regarding heritage listing processes ... There was a

commitment to establish a heritage round table after the former Lord Mayor had held discussions with both the Minister for Environment and Water and the Minister for Transport, Infrastructure and Local Government about exploring one statute for heritage listing, which was a recommendation of the Expert Panel on Planning Reform in 2015 and supported by government. I was tasked to progress the idea of a heritage round table prior to this heritage inquiry, which I have now put on hold until recommendations from this inquiry are tabled.

Voigt, DEW (Angas, Pope, Voigt, Wells, & Schulz, 2018, p. 73)

The submission by the Department for Environment and Water flags a round table with cross sectoral skills as a way ahead. A round table is a matter council has been suggesting and we recently received correspondence from the Minister for Environment and Water on this. We look forward to the round table as enabling many of the suggestions to be worked through in a mature, collaborative partnership.

Ditter, City of Adelaide (Ditter & Hutchins, 2018, p. 49)

3.1.2 Clear, simple, efficient and responsive processes for the nomination and assessment of state and local heritage places and areas

The Committee heard that the community expects nominations of state and local heritage to be clear, simple, responsive, and cost and time efficient.

The Committee concluded that clarity and simplicity of processes could be achieved if state and local heritage nomination processes were better aligned. It would reduce confusion over differing processes and promote the status of local heritage if it was nominated, assessed and listed in much the same manner as state heritage. In aiming to align processes, there are some issues that may be improved, such as the consultation process, which is currently of an adversarial nature because of a lack of interim protection for local heritage during the nomination phase. Aligning processes could potentially address the risk of vexatious nominations for properties that have already been assessed and approved for development because of an 'early no' provision that already exists in the state heritage assessment process.

Retrospective listing has three costs: the first one is time and delay. That's a big cost. The reason that is a big cost is developers normally try to get a development happening on the basis of an option. When that time runs out, you either walk away from it or you have to put money up for it. To put money up for something that is totally uncertain is something where the community does miss out on a lot of good things happening. Eventually, there are those who are stubborn and fight their way through the process and yes, they get approval because it wasn't worthy of listing in the first place.

Maras AM (Allen, Hayes QC, Lennon, & Maras AM, 2018, p. 1)

The Committee noted the frustration of developers, which arises in part due to the inability of the heritage identification and nomination system to identify in advance every item or area deserving of protection. It is often only when a developer comes along with plans to demolish a building that the community focuses any attention on whether or not that building deserves protection. When nothing adverse is proposed, nobody pays much attention. The Committee was of the opinion that it may be possible to achieve better alignment of processes with the use of inter-agency policy instruments. The Committee was also of the opinion that responsiveness would be achieved if the community was better involved in the nominations process for local heritage places and areas. This was a well supported idea across councils who were concerned about the adversarial nature of the nomination process of local heritage.

The Committee heard that the community expects assessment of state and local heritage to be objective, evidence-based and done by experts. This led the Committee to conclude that the current processes of evaluating heritage values against criteria by a panel of experts is likely to satisfy the expectations of community. There are numerous advantages to having an independent body of experts assess all heritage, including consistency in assessment, certainty and transparency. Once again, it may improve the status of local heritage if it is assessed in the same manner as state heritage against objective, evidence-based criteria (but with different thresholds).

There was evidence before the Committee that suggested alignment of criteria for state and local heritage would fit community expectations. The Committee also agreed that if criteria were to be aligned, that it would be best aligned with the national agreement in accordance with HERCON.

Heritage protection in South Australia should adopt and align to the HERCON criteria model, leading to a more consistent approach across Australian jurisdictions and the support of the national heritage listing process.

Voigt, DEW (Angas, Pope, Voigt, Wells, & Schulz, 2018, p. 73)

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 Secretariat, 2018, p. 2)

The community expects that assessment will be undertaken by experts and that the assessing body is independent of political influences. In order to address the identified confusion between the listing of individual heritage items and the listing or zoning of historic conservation areas, it makes sense for both tasks to be undertaken by the same independent body of experts.

3.1.3 Consistency, transparency and accountability in decisions that are made relating to heritage listing

The Committee heard that the community expects decisions to list to be transparent and accountable and that it expects to be consulted at appropriate times of the process. Because the community expects consistency in decisions, the Committee was of the opinion that decisions should be made on the recommendations of an independent, expert, body of assessors, and made publicly available. The Committee heard evidence that Ministerial decision making is appropriate because it is accountable, but that transparency, consistency and objectivity needed to be improved:

- Ministerial power to remove provisionally listed properties on public interest ground should be reviewed to include criteria for exercising this power and a requirement to make reasons publically available.

(Environmental Defenders Office (SA) Inc., 2018, p. 9)

The Committee saw first-hand examples in the City of Adelaide council area of decisions that had previously been politically- rather than evidentially-based (e.g. Kenton and Cardwell Streets).

Also, the Committee heard that the community expects an appeals process that is cost effective, efficient, time limited and available to property owners and expert stakeholders.

If we are going to have heritage legislation, it has to be evidentially based. It has to be properly investigated and justified.

That has to be transparent so that the community can see that, and equally they can see that those that are not in that category are not heritage listed, or do not deserve to be heritage listed ... So it is really important to be evidence-based, transparent and set out, and then the community are better informed in order to make a decision, so they won't make it on aesthetics, they won't make it based on nostalgia and the rest.

Hayes QC (Allen, Hayes QC, Lennon, & Maras AM, 2018, p. 19)

Although the Committee heard that a solution to more simple, clear and consistent processes is to streamline all heritage into a single piece of legislation, the Committee was aware that this may be difficult in the short term, given the present rollout of the PDI Act, which assumes that local heritage items, areas and zones will continue to remain part of the planning system.

However it is an important part of a staged approach to state and local heritage reform.

The alternative to moving local heritage into the state heritage policy and legislative framework would be to do the reverse and move state heritage wholly into the planning system. There were concerns expressed about this. For example:

In my view, the risk that needs to be considered if combining all these elements in a single system within the planning legislation, which is what the expert panel required, is that you would, by definition, remove the advocacy and conservation ethos of those state items because, by definition, you would need to have a broader-range assessment. I simply put that on the table, because there is a logic to the separation that has been built up by parliament over the years.

Lennon, State Planning Commission (Allen, Hayes QC, Lennon, & Maras AM, 2018, p. 23)

As such, the Committee was of the opinion that inter- and intra-agency policy instruments may still achieve desirable outcomes and meet community expectations in the short term. Particularly where nothing was 'lost in translation' between the old and new planning systems.

The Committee also noted that the 51% property-owner vote in s.67(4)&(5) in relation to Historic Conservation Zones is placing current historic conservation zones and areas at risk because of a quirk of the implementation of the Planning and Design Code via phases. Phases Two and Three of the Planning and Development Code are amendments to Phase One and therefore all historic conservation zones and areas are subject to re-evaluation against s.67(4)&(5).

3.1.4 Certainty in outcomes with respect to heritage listings and development

The Committee heard that certainty in outcomes with respect to listing and development applications was critical for economic investment in South Australia. The Committee interpreted this to mean the community sought better clarity over what development is acceptable and unacceptable in individual circumstances.

Clarity of terminology; i.e. character and heritage, needs to be addressed in the reforms because using heritage processes to try and protect character reduces certainty in outcomes. The Committee was of the opinion that, to the community, character is important to protect, but is not necessarily the same as protecting heritage as it applies to individual buildings.

The Committee heard calls for removal of contributory items, etc. from the listing process, but also heard the fear some people had in losing protection for contributory items, which were in many cases, indistinguishable in merit from listed local heritage items. For example:

We have plenty of examples in Kensington itself, where Andrew [Dyson] lives in a house which is [local heritage] ... —and the neighbouring house, which is the same house, is a contributory item. It is the same building, it is the same dwelling, built by the same person with the same architecture, but apparently it has different levels of historical value.

Caldwell, Kensington Residents' Association (Caldwell & Dyson, Heritage Inquiry, 2018, p. 114)

The Committee recommends appropriate tools that provide protection and certainty for contributory items and historic areas be developed as part of the proposed reforms.

There were many proposed solutions to increase certainty in outcomes for listing and development. Options for protecting contributory items were to add them all to the list of local heritage, for example:

Contributory Items should be re-classified as Local Heritage Items without going through the complex and time consuming DPA process.

(Ellenbroek, 2018)

Or, alternatively, to identify them as part of broader conservation areas:

The establishment of local heritage areas should be considered as a solution to addressing the issue of 'Contributory Items' in Historic Conservation Areas. Local heritage areas will provide better clarity for the community than the existing HCZ/HCPA/HCA [Historic Conservation Zone/Historic Conservation Policy Area/Historic Conservation Area] labels. Local heritage areas should have their own Statement of Heritage Value as part of their definition, focusing on 'what the community wants to keep'. Consequently, development proposals would need to be tested against the Statement of Heritage Value for the local heritage area, without the need to identify individual Contributory Items. The creation of local heritage areas would also recognise the heightened property values and social economic value of these precincts ...

(Department for Environment and Water, 2018, p. 15)

Suggestions were also made of a grading system, similar to the UK, in place of contributory items, zones, etc. For example:

A possible way to deal with all local heritage matters is to use a graded system of local heritage conservation similar to the English system. Grade I buildings would comprise places of outstanding individual heritage significance. Only a small number in each council area are likely to qualify for this designation, which would require development approval for any changes to the exterior – front, rear and sides. Grade II buildings would comprise all other places currently listed as Local Heritage, which would continue to enjoy the present level of protection. Grade III buildings would comprise all places currently listed as Contributory Items. All areas where geospatial mapping shows clusters of Grade II and Grade III Local Heritage should be designated as HCZs. HCZs represent an important way to protect heritage and prevent perverse outcomes where identical buildings are treated differently as one is listed and the other is not. Councils

which have never identified contributory items should review previous heritage surveys to identify groups of buildings which deserve a Grade III classification.

(Environmental Defenders Office (SA) Inc., 2018, p. 8)

Irrespective of how contributory items are categorised, assessed and listed, the community expects contributory items to have some protection.

Reforms to the establishment of state heritage areas should also extend to include local heritage areas. With clear criteria, with thresholds, with guidelines, local heritage areas would likely replace historic conservation zones within the planning system, and they would provide an opportunity for greater consistency between local councils and they would give much greater clarity on this vexed issue of heritage versus character.

Conlon OAM, SA Heritage Council (Ellis, et al., 2018, p. 42)

There are other tools state agencies could implement to help increase certainty; e.g. provision for assessors to make recommendations for either state or local heritage. It is a limitation that heritage that appears before the SA Heritage Council cannot be simultaneously assessed for state and local significance.

Also, increased certainty is likely to be achieved by implementing a single (spatial and publicly-available) heritage register (for national, state and local places and areas) that integrates with state and local government planning and development databases, along with clear notes on the heritage values of each item or area.

Finally, a strategic and proactive approach to identifying and nominating heritage is likely to reduce the risk of uncertainty in outcomes and increase economic investment.

3.1.5 Audit or review

The Committee formed the opinion that an audit of local and state heritage places and areas is needed in order to provide further information about the heritage values of these places. Such an audit is likely to provide much-needed information that will assist the community, planners and developers in determining precisely why various places are protected and what opportunities are available in developing heritage properties, whilst retaining their heritage values.

Also, re-assessment needs to be undertaken of places that were listed prior to 1993 to determine if re-registering some properties as being of local significance is appropriate.

We need a process for doing the audit and then moving them from state to local or wherever and doing the appropriate consultation. That is a big process, but I think it would be of benefit in having this clarity and having the places that are most important protected rather than a bit of a hotchpotch.

Pope, DEW (Angas, Pope, Voigt, Wells, & Schulz, 2018, p. 76)

The Committee was concerned that its recommendations for auditing or reviewing heritage should be with the aim of maintaining protection for heritage properties, and that state listed properties being re-registered as local heritage should not cause protection to be lessened.

The Committee, on its tour of the City of Adelaide, heard from witnesses that subjective decision making for local heritage listing resulted in inconsistencies in listing of nearly identical adjoining properties. It therefore made sense for the Committee to recommend that a review be

undertaken of local heritage properties to consider some of those inconsistencies and to review items against newly established and better aligned local heritage criteria.

The Committee further determined that a review of places that had been assessed as being suitable for local heritage listing, but weren't, should be considered following reform to the local heritage assessment and listing processes.

3.1.6 Management of heritage

Heritage management is not development control, there is far more to it than that.

(Bell, 2018)

The following conclusions and recommendations have been formed to attempt to change the current paradigm for heritage to make owning heritage more attractive and to give the community a sense of pride in, and collective responsibility for, South Australia's heritage assets. The Committee felt that the belief that owning heritage makes development difficult and that ownership is encumbered by expensive maintenance should be addressed by policy and legislative reforms that include financial incentives.

You can't freeze buildings forever and a day. You can recognise their importance, but then you must also be able to recognise that changes can be made in a way. This is where the planning side comes into it. A good design, a good clear code as to what is expected in that area, what is expected in terms of the heritage, should be there.

Hayes QC, Expert Panel on Planning Reform (Allen, Hayes QC, Lennon, & Maras AM, 2018, p. 16)

Development of state and local heritage is currently managed in accordance with the *Development Act 1993* and, in the near future, the PDI Act. Robust planning and development tools that have heritage matters at the heart must be developed in accordance with the PDI Act, with appropriate triggers of referral for development that impacts upon heritage.

Although there is an evident desire to change people's negative attitudes towards heritage, they are unlikely to change unless a stable funding base, that is supported by the broader community, for the management of heritage is implemented¹⁶.

3.1.7 Compliance

Although much of the community's focus was on the challenges provided by the front-end of heritage processes (i.e. nominating, assessing and listing), issues of compliance were raised.

The Committee found that deliberately or wilfully allowing heritage properties to deteriorate was a problem that requires a public interest response. Mandating maintenance or repair is certainly possible whilst buildings are being used (e.g. *Housing Improvement Act 2016*), but it is very difficult in relation to vacant buildings unless they become a public health issue; through infestation by vermin, or other public health concerns.

¹⁶ Although, in 2019, state government has made available \$500,000 in grants as a heritage incentive (Thomas-Wilson, 2019, p. 10); also, see here for further information on heritage grants: <https://www.environment.sa.gov.au/topics/heritage/heritage-grants> .

Compulsory acquisition powers should be investigated in some cases of deliberate neglect, however, care should be taken to ensure that the State does not become the buyer of last resort of degraded heritage properties. Consideration should also be given to amending the *Land Acquisition Act 1969* to ensure that the likely cost of restoring heritage buildings to a safe and sanitary standard is reflected in compensation payments made under the Act.

3.1.8 Reducing the risk of unexpected outcomes

The Committee heard of numerous perverse outcomes that had arisen from current processes for nominating, listing and assessing state and local heritage. For example, improvements could be made to the processes for listing state heritage places would reduce the risk of perverse outcomes for some heritage places:

- a. Reducing the need for multiple layers of registration;
- b. The ability to partially list nominated places;
- c. The ability to assess and list places for state and local heritage simultaneously; and
- d. Simplifying the listing process for state heritage areas so that state heritage areas can be managed more easily.

3.1.9 Other matters

During the course of this inquiry, DPTI released:

- a. The draft Code of Conduct for Accredited Professionals in accordance with Schedule 3 of the PDI Act; and
- b. Phase One of the Planning and Design Code for public consultation.

The Minister for Planning also gazetted the State Planning Policies for South Australia and referred these to the Committee.

REFERENCES

- Allen, A., & McKeegan, A. (2018, September 3). Heritage Inquiry. *Hansard Transcript*. Adelaide, SA.
- Allen, A., Hayes QC, B., Lennon, M., & Maras AM, T. (2018, September 17). Heritage Inquiry. *Hansard Transcript*. Adelaide, SA.
- Angas, H., Pope, A., Voigt, B., Wells, P., & Schulz, J. (2018, November 12). Heritage Inquiry. *Hansard Transcript*. Adelaide, SA.
- Australia ICOMOS Secretariat. (2018, September 14). Inquiry into Heritage - Australia ICOMOS response. *Submission*. Burwood, Victoria.
- Baxter, L. (2009). Heritage and Sustainability. (Department for Environment and Heritage, Ed.) *Newsletter(#34)*. Retrieved January 4, 2019, from https://www.environment.sa.gov.au/topics/heritage/Heritage_News_and_Events#40thanniversaryevents
- Bell, P. (2018, September 14). Heritage Inquiry. *Submission*. SA.
- Beresford, M. (2018, September 11). Heritage Enquiry. *Submission*. Torrens Park, SA.
- Brown, T., Gannon, D., Levinson, J., Smith, S., & Teburea, L. (2018, November 5). Heritage Inquiry. *Hansard Transcript*. Adelaide, SA.
- Caldwell, S., & Dyson, A. (2018, December 3). Heritage Inquiry. *Hansard Transcript*. Adelaide, SA.
- Caldwell, S., De Backer, A., Dyson, A., & Iwanicki, I. (2018, December 3). Heritage Inquiry. Adelaide, SA: Hansard.
- Castello, R. (2018(a), December 12). Celebrating our heritage. *The Messenger (city and fringes)*.
- Castello, R. (2018(b), December 12). Give history a solid future. *The Messenger (all west and beaches)*.
- Castello, R., & Nunn, L. (2018, December 10). Inadequate heritage laws leave historic buildings facing the ... wrecking ball. *The Advertiser*.
- CITB. (2017, June). *Heritage Trades Glencoe Woolshed*. Retrieved March 25, 2019, from CITB: <https://citb.org.au/news/heritage-trades-training>
- City of Adelaide. (2018(a), September 14). Inquiry into Heritage. *Submission*. Adelaide, SA.
- City of Adelaide. (2018(b), October 27). Inquiry into Heritage. *Bus Tour, City of Adelaide*. Adelaide, SA.
- City of Burnside. (n.d.). Heritage Conservation Zone Rationale. Tusmore, SA. Retrieved 2018
- City of Norwood, Payneham & St Peters. (2018, September 14). Heritage Inquiry. *Submission*. Norwood, SA.
- City of Port Adelaide Enfield. (2018, September). Heritage Inquiry. *Submission*. Port Adelaide, SA.
- Copper Coast Council. (2018, October 9). Heritage Inquiry Submission. *Submission*. Kadina, SA.
- Department for Environment and Water. (2018, September 20). Heritage Inquiry. *Submission*. Adelaide, SA: Government of South Australia.

- Department for Environment and Water. (2018, September 20). Heritage Inquiry. *Submission*. Adelaide, SA.
- Department of Planning, Transport and Infrastructure. (2016). *SA Planning Portal*. Retrieved August 13, 2018, from Renewing our Planning System: Placing Local Heritage on Renewed Foundations:
https://www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0010/283843/Local_Heritage_Discussion_Paper_final_consultation_version_10.8.16.PDF
- Department of Planning, Transport and Infrastructure. (2017, October). *Review of the Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Vale) Act 2012 Discussion Paper*. Retrieved August 16, 2018, from SA Planning Portal:
https://www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0006/362625/Discussion_Paper_-_Character_Preservation_Acts_Review.pdf
- Department of Planning, Transport and Infrastructure. (2018, March 16). *Development Applications Heritage Listed Properties - Heritage and Development*. (Government of South Australia) Retrieved February 22, 2019, from Information and services for South Australians:
<https://www.sa.gov.au/topics/planning-and-property/land-and-property-development/building-and-property-development-applications/heritage-listed-properties>
- Department of the Environment, Water, Heritage and the Arts. (2013). *Significant Impact Guidelines 1.1 - Matters of National Environmental Significance*. Retrieved February 22, 2019, from Australian Government Department of the Environment and Energy:
http://www.environment.gov.au/system/files/resources/42f84df4-720b-4dcf-b262-48679a3aba58/files/nes-guidelines_1.pdf
- Ditter, S., & Hutchins, R. (2018, October 22). Heritage Inquiry. *Hansard Transcript*. Adelaide, SA.
- Ellenbroek, T. (2018, September 17). Heritage Review - State Government. *Submission*. SA.
- Ellis, D., Morgan, D., Peacock, D., Conlon OAM, K., Schulz, J., & Voigt, B. (2018, October 15). Heritage Inquiry. *Hansard Transcript*. Adelaide, SA.
- Environmental Defenders Office (SA) Inc. (2018, September 10). Heritage Inquiry. *Submission*. Adelaide, SA.
- Gibbs, M., Matthews, T., Wigg, C., & Wilkinson, S. (2018, November 26). Heritage Inquiry. *Transcript*. Adelaide, SA.
- Hamilton, M. (2018, August 29). Submission to Heritage Inquiry. *Submission*. Adelaide, SA.
- Hayes QC, B., Boujenko, N., Fogarty, S., Hains, S., & Maras AM, T. (2014). *South Australia's Expert Panel on Planning Reform: The Planning System We Want*. Adelaide: Government of South Australia. Retrieved August 13, 2018, from
https://www.saplanningportal.sa.gov.au/__data/assets/pdf_file/0019/360352/Expert_Panel_-_The_Planning_System_We_Want.pdf
- Henderson, K. (2018, September 14). Inquiry into Heritage. *Submission*.
- History Council of South Australia. (2018, September). Heritage Inquiry. *Submission*. Adelaide, SA.
- Kangaroo Island Council. (2018, August 20). Heritage Inquiry. *Submission*. Kingscote, SA.
- Light Regional Council. (2018, September 13). Inquiry into Heritage. *Submission*. Kapunda, SA.

- Lothian, A. (2018, August 8). Inquiry into Heritage. *Submission*. Unley, SA.
- McDougall & Vines. (2018). Inquiry into Heritage. *Submission*. Norwood, SA.
- Mount Barker District Council. (2018, September 10). Environment, Resource and Development Committee Heritage Inquiry. *Submission*. Mount Barker, SA.
- National Trust of South Australia. (2018). Heritage Inquiry. *Questions on Notice*. SA.
- National Trust of South Australia. (2018, October). Inquiry into Heritage. *Submission*. SA.
- Office for Design and Architecture SA. (2014, July). *Adaptive Re-use*. Retrieved January 17, 2019, from ODASA Design Guidance Note 1.2.1: https://www.environment.sa.gov.au/our-places/Heritage/conserving-our-heritage/Adaptive_reuse
- Property Council of Australia. (2018, September 20). Inquiry into South Australia's Heritage System. *Submission*. Adelaide, SA.
- SA Heritage, Department for Environment and Water. (2018, November 20). ERDC of Parliament - Inquiry into Heritage. *Regional Bus Tour, Adelaide Hills*.
- South Australian Heritage Council. (2018(a), November). Heritage Inquiry Responses to Additional Questions. *Questions on Notice from Hearing 15th October 2018*. Adelaide, SA.
- South Australian Heritage Council. (2018(b), September 14). Inquiry into Heritage. *Submission*. Adelaide, SA.
- South East City Residents Association (SECRA). (2018, September 14). Heritage Inquiry. *Submission*. Adelaide, SA.
- Thomas-Wilson, S. (2019, January 14). Cash boost to save SA heritage. *The Advertiser*.
- Urban Development Institute of Australia (SA) Inc. (2018, September 14). Heritage Inquiry. *Submission*. Adelaide, SA.
- Wilkinson, S. (2018, September 14). ERDC Inquiry on Heritage Reforms for South Australia. *Submission*. North Adelaide, SA.
- Wilkinson, S. (2018, November 26). Parliamentary Inquiry into Heritage. *Powerpoint presentation submission*. Adelaide, SA.

ABBREVIATIONS AND DEFINITIONS

AHC	Australian Heritage Council
Committee	Environment, Resources and Development Committee
DEW	Department for Environment and Water
DPA	Development plan amendment
DPTI	Department of Planning, Transport and Infrastructure
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i> (Cth)
HCZ	Historic Conservation Zone(s)
HERCON	The Heritage Convention (criteria)
Heritage Act	<i>Heritage Places Act 1993</i>
HPA	Historic Policy Area(s)
LGA	Local Government Association
PDI Act	<i>Planning, Development and Infrastructure Act 2016</i>
SA	South Australia(n)
SCAP	State Commission Assessment Panel (independent body that assesses and determines certain development applications)
	https://www.saplanningcommission.sa.gov.au/scap/what_is_scap
SPC	State Planning Commission (planning advisory and development assessment)
	https://www.saplanningcommission.sa.gov.au/about_the_commission

APPENDIX A: FACT FINDING TOURS

22 October 2018 – Adelaide City Council

Former City Mission Hall, Light Square

Murrays Lane cottages, Murrays Lane

Former Royal South Australian Deaf Society, South Terrace

Former TPI Building (Davaar House), South Terrace

McLaren Street (Historic Conservation Zone)

Kenton and Cardwell Streets

Adabco Boutique Hotel, Wakefield Street

Former Adelaide Fruit & Produce Exchange, Union Street

Former Assay House, Austin Street

20 November 2018 – Adelaide Hills region

Rose Park (Historic Conservation Zone)

Hahndorf State Heritage Area

Balhannah Railway Station and Signal Cabin, Junction Road

Lobethal Woollen Mill, Adelaide-Lobethal Road

Mount Torrens State Heritage Area

APPENDIX B: LIST OF WITNESSES

<p>3 September 2018 – Kingston Room, Old Parliament House</p> <ol style="list-style-type: none"> 1. Anita Allen, Manager, Planning Reform, DPTI 2. Andrew McKeegan, Chief Development Officer, DPTI
<p>17 September 2018 – Kingston Room, Old Parliament House</p> <ol style="list-style-type: none"> 3. Brian Hayes QC, Expert Panel on Planning Reform 4. Theo Maras AM, Expert Panel on Planning Reform 5. Michael Lennon, Member, State Planning Commission 6. Anita Allen, Manager, Planning Reform, DPTI
<p>15 October 2018 – Kingston Room, Old Parliament House</p> <ol style="list-style-type: none"> 7. David Ellis, Member, Cultural Heritage Advisory Committee, National Trust of SA 8. Deborah Morgan, President, National Trust of SA 9. Darren Peacock, Chief Executive Officer, National Trust of SA 10. Keith Conlon OAM, Chair, SA Heritage Council 11. Jason Schulz, Member, SA Heritage Council 12. Beverley Voigt, Manager, Heritage SA, DEW
<p>22 October 2018 – Kingston Room, Old Parliament House</p> <ol style="list-style-type: none"> 13. Shanti Ditter, Associate Director, Planning and Development, City of Adelaide 14. Rick Hutchins, Manager, Spatial Planning and Heritage, City of Adelaide
<p>5 November 2018 – Kingston Room, Old Parliament House</p> <ol style="list-style-type: none"> 15. Torie Brown, SA Deputy Executive Director, Property Council of Australia 16. Daniel Gannon, Executive Director, Property Council of Australia 17. James Levinson, Principal, Botten Levinson Lawyers 18. Stephen Smith, Director, Policy, LGA of SA 19. Lisa Teburea, Executive Director, Public Affairs, LGA of SA
<p>12 November 2018 – Kingston Room, Old Parliament House</p> <ol style="list-style-type: none"> 20. Hamish Angas, Senior Heritage Officer, Heritage SA, DEW 21. Anna Pope, Program Manager, Heritage and Maritime, Heritage SA, DEW 22. Beverley Voigt, Manager, Heritage SA, DEW 23. Peter Wells, Principal Conservation Architect, Heritage SA, DEW 24. Jason Schulz, Member, SA Heritage Council 25. Beverley Voigt, Manager Heritage SA, DEW
<p>26 November 2018 – Kingston Room, Old Parliament House</p> <ol style="list-style-type: none"> 26. Michael Gibbs 27. Tom Matthews, President, Community Alliance SA 28. Carolyn Wigg, Management Committee Member, Community Alliance SA 29. Sandy Wilkinson, Alexander Wilkinson Design Pty Ltd

3 December 2018 – Balcony Room, Parliament House

- 30. Stuart Caldwell, President, Kensington Residents' Association Inc.
- 31. Andrew Dyson, Secretary, Kensington Residents' Association Inc.
- 32. Iris Iwanicki, Heritage Planner, District Council of Yankalilla
- 33. Alison De Backer

11 February 2019 – Kingston Room, Old Parliament House

- 34. Anita Allen, Manager, Planning Reform, DPTI
- 35. Nadia Gencarelli, Team Leader, Development Plan Amendments, DPTI

APPENDIX C: LIST OF SUBMITTERS

No.	Submitter
1	Gabrielle Drinkwater
2	Andrew Lothian
3	Wattle Range Council
4	Kangaroo Island Council
5	SA Housing Authority
6	Naracoorte Lucindale Council
7	Dave Walsh
8	Roslyn Black
9	Laurence Bowmaker
10	Mark Gilbert
11	Suzy Ramone
12	Allen Tiller
13	Daphne Baldock
14	Joanna Richardson
15	Aileen Doleheguy
16	Brett Allen
17	Lauren McAleer
18	Jill Cooke
19	Daniel Davis
20	Robert Mounsey
21	Andrea Budiman
22	Meredith Whitford
23	Cathy Chua

No.	Submitter
24	Debbie Williams
25	Aubrey Waye
26	Chris Rumere
27	Candida van Rood
28	Robbie Porter
29	Kimberley Kingsborough
30	Leigh Hoffrichter
31	Robert Stainsby
32	Julie Neilson-Kelly
33	Ray Smith
34	Susan Brame
35	Lucy Chesser
36	Brenda Polglase
37	Beverley Harvey
38	City of Holdfast Bay
39	Matthew Rice
40	Michelle Richards
41	David Ness
42	Lisa Mortimore
43	Mark Hamilton
44	Karen Lawson
45	Julian Rutt
46	George Allen
47	Sarah List
48	Erica Harrington

No.	Submitter
49	Antonio Cocchiaro
50	Janelle Brown
51	Bruce Hogben
52	Berri Barmera Council
53	Ray O'Farrell
54	Samela Harris
55	Carole Whitelock
56	Cheryl Moore
57	Colin Murray
58	Peter Donovan
59	Environmental Defenders Office (SA)
60	Prospect Local History Group
61	Anne Wharton
62	Robin Donaldson
63	Mount Barker District Council
64	Patricia Sumerling
65	Michael Gibbs
66	Jan Madsen
67	Peter and Chris Holmes
68	City of Charles Sturt
69	City of Port Adelaide Enfield
70	Regional Council of Goyder
71	Roger Helbig
72	Carol Williams
73	Light Regional Council

No.	Submitter
74	Ros Islip
75	City of Unley
76	Geoff Reynolds
77	Mount Barker and District Residents' Association
78	District Council of Grant
79	Marcus Beresford
80	Jill Amery
81	Residents for Environment and Character Conservation
82	Peter and Leonie Duffy
83	Christine Francis
84	Eric Mott
85	Bunty Parsons
86	Friends of the City of Unley
87	Alison De Backer
88	Kjell Genborg and Vivienne St John-Robb
89	Adelaide Hills Council
90	City of Onkaparinga
91	Adelaide Plains Council
92	Local Government Association
93	Urban Development Institute of Australia (SA)
94	Art Deco & Modernism Society of Australia, Adelaide Chapter
95	Barossa Council
96	Iris Iwanicki
97	Kenan Henderson
98	South East Residents Association (SECRA)

No.	Submitter
99	Mid Murray Council
100	Christel Mex, Councillor, Kensington/East Norwood Ward, City of Norwood, Payneham and St Peters
101	History Council of SA
102	Kensington Residents Association
103	Dr Peter Bell
104	Charles Gilchrist
105	Deane Kemp
106	City of Adelaide
107	District Council of Yankalilla
108	Andrew and Elaine Dyson
109	City of Burnside
110	Port Adelaide National Trust
111	Chris Holmes
112	Australia International Council on Monuments and Sites (ICOMOS)
113	City of Prospect
114	City of Mitcham
115	City of Tea Tree Gully
116	St Peters Residents Association
117	South West City Community Association
118	SA Heritage Council
119	Val Nairn
120	McDougall and Vines Conservation and Heritage Consultants
121	City of Norwood Payneham & St Peters
122	Hahndorf National Trust
123	Sandy Wilkinson

No.	Submitter
124	Margaret Dingle
125	Australian Civic Trust
126	Project Management Group of the Mount Lofty Ranges World Heritage Bid Project Consortium
127	Gail Casey
128	Elaine Dyson
129	Theo Ellenbroek
130	Bart Van der Wel
131	Prospect Residents Association
132	Unley Museum
133	City of Campbelltown
134	Uniting Church (SA)
135	Department for Environment and Water
136	Property Council
137	Community Alliance
138	National Trust Robe Branch
139	Norwood Residents Association
140	National Trust of South Australia
141	Copper Coast Council
142	Harold Gallasch
143	South Australian Tourism Commission
144	Paulene Thomas

APPENDIX D: LIST OF CRITERIA

HERITAGE CONVENTION (HERCON) CRITERIA (1998)

- a) Importance to the course or pattern of our cultural or natural history.
- b) Possession of uncommon rate or endangered aspects of our cultural or natural history.
- c) Potential to yield information that will contribute to an understanding of our cultural or natural history.
- d) Importance in demonstrating the principal characteristics of a class of cultural or natural places or environments.
- e) Importance in exhibiting particular aesthetic characteristics.
- f) Importance in demonstrating a high degree of creative or technical achievement at a particular period.
- g) Strong or special association with a particular community or cultural group for social, cultural or spiritual reasons. This includes the significant of a place to Indigenous peoples as part of the continuing and developing cultural traditions.
- h) Special association with the life or works of a person, or group of persons, of importance in our history.

EXISTING STATE HERITAGE CRITERIA

Heritage Places Act (1993) Part 4 – Registration of places

Divison 1 – Criteria for registration

16 – Heritage significance

- (1) A place is of heritage significance if it satisfies one or more of the following criteria:
 - a) It demonstrates aspects of the evolution or pattern of the State's history.
 - b) It has rare, uncommon or endangered qualities that are of cultural significance.
 - c) It may yield information that will contribute to an understanding of the State's history, including its natural history.
 - d) It is an outstanding representative of a particular class of places of cultrual significance.
 - e) It demonstrates a high degree of creative, aesthetic or technical accomplishment or is an outstanding representative of particular construction techniques or design characteristics.
 - f) It has strong cultural or spiritual associations for the community or a groups within it.
 - 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.

EXISTING LOCAL HERITAGE CRITERIA

Development Act (1993) s.23(4)

- a) It displays historical, economic or social themes that are of importance to the local area.
- b) It represents customs or ways of life that are characteristic of the local area.
- c) It has played an important part in the lives of local residents.
- d) It displays aesthetic merit, design characteristics of construction techniques of significance to the local area.
- e) It is associated with a notable local personality or event.
- f) It is a notable landmark in the area.
- g) In the case of a tree (without limiting a preceding paragraph) – it is of special historical or social significance or importance within the local area.

PROPOSED LOCAL HERITAGE CRITERIA

Local Heritage Discussion Paper (2016)

- a) It is important to demonstrating themes in the evolution or pattern of local history; or
- b) It has qualities that are locally rare or endangered; or
- c) It may yield important information that will contribute to an understanding of local history, including its natural history; or
- d) It is comparatively significant in representing a class of places of local significance; or
- e) It displays particular creative, aesthetic or technical accomplishment, endemic construction techniques or particular design characteristics that are important to demonstrating local historical themes; or
- f) It has strong cultural or spiritual associations for a local community; or
- g) It has a special association with the life or work of a person or organisation or an event of local historical importance.

APPENDIX E: CHARACTER VALUES

Character Preservation (Barossa Valley) Act 2012 and Character Preservation (McLaren Vale) Act 2012

S.7—Character values of district

(1)

- a) The rural and natural landscape and visual amenity of the district;
- b) The heritage attributes of the district;
- c) The built form of the townships as they relate to the district;
- d) The viticultural, agricultural and associated industries of the district;
- e) The scenic and tourism attributes of the district.