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AUSTRALIAN ASSOCIATION OF CONSULTING ARCHAEOLOGISTS INC

Callum Crofton
Department of Planning, Lands and Heritage
PO Box 7479 Cloister's Square PO
WA 6850

Friday 25 September 2020

Dear Mr Crofton

Submission on the Proposed Amendments to the Planning and Development (Local Planning Schemes) Regulations 2015

The Australian Association of Consulting Archaeologists Inc. (AACAI) is a national representative body for professionals working in all fields of contract and public archaeology. AACAI promotes professional standards and strong ethics in archaeological and heritage practice, advocates for heritage protection, and aims to bring recognition of, and respect to, our profession.

AACAI is the peak professional body for archaeological consultants in Western Australia. Its members hold a wealth of knowledge and have a vast array of experience in heritage matters. The members of the AACAI Western Australian Chapter work closely with stakeholders to assist in managing heritage and with industry and Government to bridge the divide between commercial and community needs.

AACAI WA Chapter's vision is to:

- Live and work in a vibrant, modern Western Australia that values and respects its heritage;
- Support balanced and sustainable development in Western Australia by considering heritage early in the planning process as a fundamental element of community identity and wellbeing. We strive to have heritage recognised for its important role in economic growth and tourism; and
- Work with stakeholder communities, Government and industry to find the best outcomes to manage our heritage and support development and economic growth.

In the context of our vision, which is shared by many members of the Western Australian community, we do not agree with a proposed change to the *WA Planning and Development (Local Planning Schemes) Regulations 2015* to make Local Heritage Lists optional.

A Local Heritage List is derived from and based on a Local Heritage Survey. A Local Heritage Survey was formerly named a Municipal Inventory – they are the same thing, but

now with a new name. This proposed amendment refers to the Local Heritage List, which provides the protections for places in the Local Heritage Survey. If a place in the Survey is not also on the List, it has no statutory heritage protection. That is why the List is so important.

We refer to the *Planning Regulations Amendment Regulations 2020 - Consultation Draft*. The parts that most concerns us are clauses 7 and 8, Part 3 Heritage Protection, Schedule 2 – Deemed Provisions for Local Planning Schemes.

Section 7

AACAI recommends replacing the references in section 7 and elsewhere to 'the *Heritage of Western Australia Act 1990*' with 'the *Heritage Act 2018*' and adjust the numbering of sections accordingly. This change is necessary for accuracy.

Section 8(1)

ACCAI strongly advises that Section 8(1) retains the current wording:

*The local government **must** establish and maintain a heritage list to identify places within the Scheme area that are of cultural heritage significance and worthy of built heritage conservation. (our emphasis)*

AACAI strongly objects to, and does not support, the proposed amendment to replace 'must' with 'may'. Although such a small change of only one word, the implications and consequences could be significant. We consider this a risk not worth taking.

The value of local heritage is as follows:

- Local heritage is cherished by local communities, as the type of heritage that most people come into frequent contact with and are most connected to. They may only articulate those connections when that heritage is threatened.
- Local heritage is a tangible, physical link for a community with its past and present, it strongly contributes to a community's sense of place and a sense of social security, especially in troubled times. Many local heritage places can be of intense emotional and cultural significance as repositories of shared understandings and touchstones of common knowledge about a place.
- Local heritage places contribute to the local character of an area, help distinguish one place from another and define 'home'. This value also has an economic value in attracting visitors to a place and offering experiences that are shared between residents and visitors.
- Once a local heritage place is lost, it is lost forever. No pictures, re-creations, facades, or interpretive public artworks can substitute for an authentic heritage place imbued with local social, cultural and emotional values. Local heritage is part of the soul of a community, and exploring its shared stories is part of how a community successfully adapts and grows.
- Local heritage places are inherited, valued by current generations and passed on to future generations. That sharing process is part of why they are collectively valued by local communities, and the planning system should respect and support that process.

The proposed amendment to make Local Heritage Lists an optional extra to local planning schemes will not help to support and maintain such local heritage values. Our concerns about this amendment are expressed as follows:

1. Local heritage protection is already very limited

- The minimal protections that currently exist for local heritage places are only provided through the heritage provisions of a local planning scheme, for which a Local Heritage List is essential.
- The proposed amendment will facilitate, even encourage, the abandonment by local governments of Local Heritage Lists and any responsibilities for local heritage, especially as the proposed amendment contains no requirement for existing Local Heritage Lists to be maintained.
- The management of Local Heritage Lists already varies widely across local governments, and making Local Heritage Lists optional will only increase inconsistency in approach, even between neighbouring local government areas.
- Allowing local governments to abandon Local Heritage Lists will mean decisions about local heritage places will increasingly be made elsewhere by people not accountable to local communities, which is inherently unfair and undemocratic.

2. The proposed amendment will create uncertainty

- If a Local Heritage List exists, but might be suddenly abandoned, or alternately does not exist but might suddenly be created, either way at the whim of the local government, there can be no planning certainty for any place identified in a Local Heritage Survey or any owner/investor.
- Making Local Heritage Lists optional may have the perverse effect that the Local Heritage Survey may become a target list for a local council to actively neglect places in its ownership, and rapidly approve demolitions of other places, in some erroneous belief that omitting or failing to maintain listings will encourage development.
- Making Local Heritage Lists optional may also increase the risk that communities will have to return to open public conflict with local (and State) governments and developers to try and protect local heritage places. The supposed benefits from 'streamlining' or 'red tape cutting' arising from weakening this clause are likely to be illusory.

3. Supporting information for the proposed amendment is totally inadequate

- There is no reference of any sort to this proposed amendment in any of the three fact sheets on the website, nor in the document 'alternative feedback form', nor in the Online feedback form. There is no justification or rationale provided anywhere in the consultation documents for this proposed amendment. No case for the amendment has even been attempted, let alone adequately argued. No problem has been identified for which the proposed amendment is the solution.
- Who benefits? No-one who will benefit from the proposed amendment has been identified. Nor has anyone who will be disadvantaged by the amendment been identified. No mitigation measures have been identified.

Section 8(2)

AACAI recommends that section 8(2) be amended to the following:

A heritage list established under subclause (1) must

(a) set out a description of each place; and

(b) the reason for its entry on the heritage list the statement of cultural heritage significance for the place as set out in the Local Heritage Survey entry for the place.

Reason: Referencing the statement of cultural heritage significance for the place will be consistent with current usage and the *Heritage Act 2018*. The statement will provide clear justification, supported by the evidence in the Local Heritage Survey entry, for the place's entry on the heritage list. It is critical that the Local Heritage Survey statements of cultural heritage significance are included in the Local Heritage List for each place. The proposed wording is outdated, vague, and not linked to any analysis or evidence to support a reason for listing or otherwise assist in decision making. The Local Heritage Survey provides the necessary analysis and evidence, and the statement of cultural heritage significance provides the connection for decision-makers with the rationale for the inclusion of a place on the Local Heritage List.

Section 8(3)(b)

AACAI recommends that section 8(3)(b) be amended as follows:

invites each owner and occupier, and each identified stakeholder, to make submissions on the proposal ...

Section 8(3)(c)

AACAI recommends that section 8(3)(c) be amended as follows:

carries out consultation with communities having a cultural or social interest in the place, and any other consultation the local government considers appropriate.

Section 8(4)

AACAI recommends that section 8(4) be amended as follows:

(a) the Heritage Council of Western Australia; and

(b) each owner and occupier of the place; and

(c) each identified stakeholder; and

(d) any communities having a cultural or social interest in the place.

Reasons: Local heritage has value to more than just owners or occupiers, as is clear from the processes outlined in Guidelines for Local Heritage Surveys. No reason is advanced in any of the documents as to why the current exclusionary approach should be retained. The amendments suggested by AACAI address this by outlining a more inclusive process for input into the decision-making processes, and for receiving advice of the outcomes. Local communities must have opportunities to be involved in proposals to remove places from Local Heritage Lists, and to be advised of the outcomes of such proposals.

If you would like any further clarification or require further detail, please contact the AACAI WA Chapter Secretary JJ McDermott by email (jagemcdermott2@gmail.com) or phone 0458 608 786.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Jo Thomson', written in a cursive style.

Jo Thomson
AACAI WA Chapter Chair