Australian Council of National Trusts

SUBMISSION TO THE AUSTRALIA'S FUTURE TAX SYSTEM INQUIRY

October 2008

Executive Summary

1. The focus of the current inquiry into the tax system is not on how the system might help or hinder heritage conservation in Australia. None the less, the tax system currently plays a modest role in supporting heritage conservation, and it could play a much greater role. On the other hand, changes to the system could undermine the current modest supporting role it plays in heritage conservation.

2. The Australian Council of National Trusts is passionately concerned for the future of Australia's heritage. This heritage is fundamental to Australian identity and history, it is a major element in our multi-billion dollar tourism industry, and an important part of the property market.

3. While the concerns of the ACNT and issues related to Australia's heritage may not feature prominently in the tax system inquiry, it is hoped the inquiry will:

- recognise the tax system does play a modest role in supporting heritage conservation;
- recognise there should be a variety of approaches to funding heritage conservation activities, including tax incentives;
- recognise the potential to achieve greater heritage conservation benefits through the tax system, for example, the Commonwealth Government should make a commitment to utilising taxation measures to support cultural heritage conservation by providing:
  - a package of innovative tax measures to ensure the sustainability of heritage places presented to the public;
  - substantial incentives for private owners of heritage property to conserve their properties;
- recommend further investigation of recognising the embodied energy in heritage buildings and a related tradeable carbon credit scheme as part of an overall response to Climate Change; and
- not make any recommendations without considering the impact on those measures which currently support heritage conservation.

Introduction

4. The National Trust of Australia is the largest community-based, non-government organisation committed to promoting and conserving Australia's indigenous, natural and historic heritage. It achieves this through its advocacy work and custodianship of heritage places and objects. The Australian Council of National Trusts (ACNT) represents the interests of the National Trust at the federal level. Collectively the organisation owns or manages over 300 heritage places (the majority held in perpetuity), manages a volunteer workforce of 7,000 while also employing about 350 people nationwide.

5. The focus of the current inquiry into the tax system is not on how the system might help or hinder heritage conservation in Australia. None the less, the tax system currently plays a modest role in supporting heritage conservation, and it could play a much greater role. On the other hand, changes to the system could undermine the current modest supporting role it plays in heritage conservation.

6. Relevant extracts from the inquiry terms of reference include the following.

> The review should make… recommendations to enhance overall… social and environmental well being…
>
> The review will also incorporate consideration of all relevant tax expenditures

7. It is important to note that Australia's heritage is an integral part of the environment, and this is recognised through the *Environment Protection and Biodiversity Conservation Act 1999*.

8. The Australian Council of National Trusts is passionately concerned for the future of Australia's heritage. This heritage is fundamental to Australian identity and history, it is a major element in our multi-billion dollar tourism industry, and an important part of the property market.

9. While the concerns of the ACNT and issues related to Australia's heritage may not feature prominently in the tax system inquiry, it is hoped the inquiry will:

- recognise the tax system does play a modest role in supporting heritage conservation;
- recognise the potential to achieve greater heritage conservation benefits through the tax system;
- make appropriate recommendations to enhance the role of the tax system in achieving good heritage outcomes for Australia; and
- not make any recommendations without considering the impact on those measures which currently support heritage conservation.

10. This brief initial submission begins with a discussion of the forms of government support for heritage conservation, including tax measures. It then considers the impact of current taxation measures on heritage conservation, especially the use of tax deductible appeals run by the National Trusts. This is followed by some general background information about the Trusts. The submission concludes with a summary of recommendations.

11. The ACNT is willing to make a further and more detailed submission if this would assist the inquiry.

Government Support for Heritage Conservation

12. The ACNT recognises that many governments across the country provide modest funding support for heritage conservation. This funding can be categorised broadly in the following areas:

- funding for government heritage and planning departments and agencies (including within that the costs of various education, research and promotion schemes);
- costs of operating and maintaining government-owned or managed cultural facilities and heritage properties;
- grants to community groups and individuals for conservation and interpretation;
- land tax/rate relief for owners of heritage property; and
- taxation subsidies to community organisations as deductions for donations (including for gifted heritage places and objects), or exemption/relief from certain property charges and taxes (including GST).

13. However, there are effectively no national funding programs or tax incentives focused on conserving Australia's historic heritage places, in contrast to the very substantial funding and incentives provided to conserving the natural environment.

14. During the 1990s a small tax rebate scheme was trialled by the Commonwealth, however it was discontinued. While there were criticisms of the scheme, there was no apparent consideration to adjust and improve it. The demise of the scheme seems to reflect more of a congenital antipathy to tax expenditures than a serious effort to make tax incentives work for heritage conservation.

15. It was widely agreed that the 1990s scheme was doomed to fail due to the associated overly burdensome administrative arrangements. The consequential inordinate delays with Departmental processing acted as a huge disincentive. Further, the very low maximum cap on the funds available nationally for the rebate meant that the rebate offered a very small percentage in the dollar. Once the national cap was expended, thereafter the benefit was not available, thus becoming inequitable in its application. The ACNT is firmly of the view that the potential benefit of utilising the tax system to support heritage conservation ought not be judged by the flawed 1990s scheme which could have been improved in many ways, thus making it potentially successful.

16. The ACNT believes there is no one preferred means of allocating funds to support historic heritage conservation. There should be a variety of approaches to funding heritage conservation activities, including tax/rate rebates, grants, market auctions and revolving funds. This reflects the widely differing circumstances of heritage properties. Tax and rate rebates are an important and direct way of targeting support at the private and commercial property owner. This recognises the community interest in listing such properties, and provides some community contribution towards the stewardship obligation undertaken by owners.

17. Such a view is fully consistent with the findings of the National Incentives Taskforce of the Environment Protection and Heritage Council (2004).

> Measures which provide effective support for owners of heritage places, provided either by the Commonwealth or States independently, or in partnership with Local Government, including:
>
> - Tax deductions for donations to approved funds;
> - Tax concessions for owners that enter into Heritage Agreements or other conservation covenants;
> - Tax rebates for qualifying private expenditure;

- Land Tax remissions;
- Local government rate rebates;
- Grants;
- Loan subsidies; and
- Revaluation provisions for heritage listed places, based on the NSW and Victorian model.

18. It is important to note that tax incentives have been widey used and highly successful in many other countries to achieve heritage conservation benefits, especially the United States of America, United Kingdom and Europe. One recent authoritative American study (Rypkema 2006) contains an elegant discussion of the connection between heritage protection and economic considerations, and the use of various economic measures to assist heritage protection including the use of taxation policy.

19. The ACNT commends the relevant recommendation about financial incentives in the *2020 Communiqué to the Prime Minister by the National Brains Trust Forum* (8 May 2008),

- Review opportunities for financial incentives and instruments for heritage conservation, e.g. heritage land tax valuations, grants and tax rebates.
- Tax incentives would demonstrate that heritage is a vital part of our intellectual capital.
- There should be a tax system review to study how to encourage and reward private conservation initiatives e.g. conserving embedded energy by adaptive re-use of buildings and materials rather than wasteful demolition.
- Review the extent and nature of financial support given to community groups involved in heritage conservation education and research.

20. The ACNT also strongly supports a complimentary proposal of the former National Cultural Heritage Forum, as follows.

> The Commonwealth Government should make a commitment to utilising taxation measures to support cultural heritage conservation:
> - A package of innovative tax measures to ensure the sustainability of heritage places presented to the public is urgently required…
> - Substantial incentives should be provided for private owners of heritage property to conserve their properties.

21. The issue of tax incentives for heritage conservation has been considered in a number of major reports including:

- *Conservation of Australia's Historic Heritage Places* (Productivity Commission 2006);
- many submissions made to the above Productivity Commission inquiry, including that by the ACNT;
- *Thoughts on the 'When' and 'How" of Government Historic Heritage Protection* (Allen Consulting Group 2005); and
- *Making Heritage Happen, Incentives and Policy Tools for Conserving our Historic Heritage* (National Incentives Taskforce for the Environment Protection and Heritage Council 2004).

22. A select bibliography of these and other sources is provided at the end of this submission.

23. A final and important emerging option to note relates to the embodied energy in heritage buildings. This embodied energy equates to stored carbon and the conservation of heritage buildings retains this stored carbon (a similar argument has been made about forests). To the extent that building conservation avoids the need for new building this

also avoids energy use through construction activity. This situation might be recognised within the broader tax and other frameworks which are currently being developed to address Climate Change. One option might be the provision of tradeable carbon credits. The ACNT believes this overall issue deserves serious investigation.

Impact of Current Taxation Arrangements on Historic Heritage Conservation

24. The inclusion of a heritage place on any list is a declaration of public interest in a private property. Ownership of such a property brings with it a duty of care for the property, reflecting its significance and importance to the community. In many cases, this uniqueness will result in a greater increase in value than if it was not so special; in others, it may reduce the value relative to other options that might theoretically be available.

25. The impact of taxation arrangements on conservation of historic heritage places is difficult to identify, because of the range and different impacts of such measures. For example, taxation deductibility of expenditure is relevant to businesses but not private individuals or non-tax-paying organisations; certain exemptions from taxes (eg. GST, land tax, rates) apply differently to alternative classes of ownership; and donations to certain organisations are treated as tax deductible (the case of tax deductible appeals run by the National Trusts is discussed separately below). The overall and differential impact of such arrangements is difficult to determine, as to whether or not they introduce distortions in the market.

26. This difficulty is compounded by the diversity of participants in the historic heritage market: from governments that fully fund the operation of certain places, through community subsidised operations, to private activities either as a business or for private consumption. The funding, taxation and rebate arrangements impact differently on each historic heritage place; and the lack of special treatment in the income taxation area may be offset elsewhere by access to rate rebates or grants.

27. Focusing specifically on the private owners of historic heritage places, it is possible to provide a generalised observation that there are only very limited special taxation provisions that support heritage conservation activities differently from general business and property maintenance expenditures. The only areas of difference are where there are (generally local) arrangements for rate reductions. Overall, therefore, there would appear to be minimal market distortions caused by the current taxation arrangements.

National Trust Tax Deductible Appeals

28. The Trusts provide public benefit outcomes to community organisations by supporting tax deductible appeals for conservation of heritage sites such as churches. These appeals are a major conservation tool utilised by the Trust for public benefit. The appeals are conducted by the not-for-profit association responsible for the heritage site in question through the good offices of the Trusts, utilising their tax deductibility status.

29. All Trusts conduct appeals and, as an example, the WA Trust was supporting 45 appeals in 2005. In addition, it has also been actively involved in the establishment of the City of Perth Heritage Conservation Fund. This fund will garner and direct tax deductible funding and sponsorship towards conservation projects within the City of Perth.

Summary of Recommendations

30. The Australia's Future Tax System inquiry should:

- recognise the tax system does play a modest role in supporting heritage conservation;
- recognise there should be a variety of approaches to funding heritage conservation activities, including tax incentives;
- recognise the potential to achieve greater heritage conservation benefits through the tax system, for example, the Commonwealth Government should make a commitment to utilising taxation measures to support cultural heritage conservation by providing:
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- not make any recommendations without considering the impact on those measures which currently support heritage conservation.

Select Bibliography of Sources for Further Reading

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National Incentives Taskforce, Environment Protection and Heritage Council, *Making heritage happen : incentives and policy tools for conserving our historic heritage* 2004

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HM Revenue & Customs *The UK's Heritage - The Conditional Exemption Tax Incentive*
http://www.hmrc.gov.uk/heritage/terms.htm

H.R. 952: Heritage Homes Tax Incentive Act of 2007 (To amend the Internal Revenue Code of 1986 to provide for an enhanced deduction for qualified residence interest on acquisition indebtedness for heritage homes.)
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National Trust for Historic Preservation *State Tax Credits for Historic Preservation : A State-by-State Summary* 2007
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http://www.rics.org/NR/rdonlyres/2F544CB1-BB2A-4AF1-B8D3-CB283CA2581B/0/39309FiscalFiBRE2.pdf

Rypkema, D 2006, *The Economics of Historic Preservation*, National Trust for Historic Preservation.