

SPEAK UP FOR SECTION 106

Talking Points to guide landscape architects in preparing meaningful federal public comments.

The American Society of Landscape Architects (ASLA) is encouraging all members to submit individual comments during the notice of proposed rulemaking (NPRM) opposing the Advisory Council for Historic Preservation's (ACHP) recommendations that weaken Section 106 review.



Credit: Architect of the Capitol

KEY CONCERNS RAISED ABOUT THE REWRITE INCLUDE:

01

Making consultation with State Historic Preservation Offices (SHPOs), Tribal Historic Preservation Offices (THPOs) optional.

02

Making public participation discretionary rather than mandatory.

03

Changing which types of projects trigger Section 106 review.

04

Narrowing the scope of impacts that may be considered adverse effects.

ASLA's Historic Preservation Professional Practice Network leaders have provided some talking points that may be used to "guide" your comments. For this notice of proposed rulemaking (NPRM), landscape architects should take care not to copy language verbatim but should submit individual and personalized comments about why this issue matters to you and your projects.

DESIGN AND HISTORIC PRESERVATION

- Landscape Architects are Leaders in Historic Preservation
- Section 106 Prevents Irreversible Harm
- Proposed "Geographically Compact" Requirement is NOT Appropriate
- Consultation Leads to Good Design

ENGAGING COMMUNITY VOICES

- Tribal Voices are Critical
- Community Engagement Leads to Better Projects

ECONOMIC BENEFITS OF PRESERVING HISTORIC PLACES

- Historic Preservation Makes Economic Sense
- Historic Preservation Helps Small Businesses
- Section 106 Review is Responsible Permitting

SECTION 106 TALKING POINTS FOR LANDSCAPE ARCHITECTS

DESIGN AND HISTORIC PRESERVATION

Landscape Architects are Leaders in Historic Preservation

- Landscape architects are leaders in identifying, evaluating, and preserving historic and cultural treasures embedded in our communities.
- Cultural landscapes often embody the history, identity, and lived experience of communities. Landscape architects bring specialized knowledge of the relationship between people, place, and landscape and can help incorporate that perspective into a seamless Section 106 process.
- Landscape architects play a pivotal role in the Section 106 review process because historic properties are rarely just standalone buildings—they encompass broader settings, viewsheds, spatial relationships, and designed or vernacular environments.

Section 106 Prevents Irreversible Harm

- Historic places aren't renewable resources. Once they're destroyed, they're gone forever.
- Cultural landscapes are complex resources whose historic significance can be diminished or irreversibly damaged when they are not properly identified and understood. Ensuring that qualified professionals are involved in their identification and evaluation helps federal agencies make informed decisions, avoid unnecessary harm, and consider appropriate alternatives early in the planning process.
- Shifting the goal of Section 106 from *avoiding damage* to simply *paying for damage after the fact* misses how spatial sites actually work. You can't build over a historic trail, clear a public park, or disrupt a river corridor and fix it later with off-site compensation. Once a physical landscape is broken apart or its surrounding views are ruined, that historical context is gone forever.

Consultation Leads to Good Design:

- Consultation is most effective when the appropriate expertise is brought into the planning and decision-making process early. Landscape architects with historic preservation expertise can help project teams recognize and respond to the character, history, and significance of cultural landscapes and identify approaches that meet project needs while avoiding or minimizing adverse effects.

- Replacing early face-to-face consultation with static one-off reports makes good site design almost impossible. Cultural landscapes aren't just buildings on a grid, they're living spaces shaped by topography, mature trees, water flow, and aesthetic viewsheds. You can't capture how those pieces work together in a prepackaged document. Bringing landscape architects into the conversation early lets us spot spatial conflicts and solve them on the drawing board before money and time are wasted on costly redesigns.
- Rather than strengthening cooperation between federal agencies and the states, the proposal centralizes nearly every substantive decision within the federal agency while reducing the meaningful role of states, Tribal governments, local governments, and the public. Under the proposed framework, states would largely be cut out of the process. Although consulting parties may submit comments, federal agencies would no longer be expected to meaningfully resolve those concerns before proceeding.
- The proposed approach reduces transparency and accountability by concentrating nearly all decision-making authority within a single federal agency. Good government depends on meaningful checks and balances, particularly when federal actions affect resources that belong to the people. Congress assigned SHPOs an active role in advising federal agencies and consulting on undertakings because local expertise strengthens federal decision-making—not because it delays it.
- Allowing applicants to run optional consultation with SHPOs and THPOs on their own behalf—when their stated goal is to accomplish their proposed project—is a conflict of interest that discounts any real meaningful consultation that could lead to a better, more considerate project.

Proposed “Geographically Compact” Requirement is Not Appropriate:

- The term “geographically compact” is very vague. A country is geographically compact relative to the rest of the globe. The Mississippi watershed is geographically compact relative to the USA.
- Requiring historic properties to be geographically compact fundamentally fails to comprehend linear and regional landscapes. Historic trails, battlefields, agricultural districts, river corridors, and park systems span miles. And watersheds are not “compact.” Artificially shrinking Area of Potential Effect (APE) boundaries to fit a project footprint ignores hydrological connections, visual corridors, and contiguous open spaces, carving up intact cultural landscapes piece by piece.

ENGAGING COMMUNITY VOICES:

Community Engagement Leads to Better Projects

- Community engagement can reveal unknown or marginalized histories that can contribute to a more meaningful outcome for all stakeholders.
- Communities deserve a seat at the table before action—local voices matter.
- Section 106 consultation is one of the few processes by which ordinary Americans can directly influence federal decisions impacting their communities.
- By narrowing “adverse effects” to only physical damage, the draft allows federal agencies to ignore indirect environmental and visual harms and bypass review for major infrastructure, energy, and AI data center projects.

Tribal Voices are Critical:

- Tribal Nations have deep and continuing cultural relationships with landscapes that may not be fully understood through conventional approaches to historic preservation. Meaningful consultation with Tribal Nations is essential to understanding the cultural significance of these places. Landscape architects with appropriate preservation expertise can support that consultation by helping identify, document, evaluate, and protect the landscape characteristics and resources identified through the consultation process.
- Tribal knowledge is expertise and evidence; it is not supplemental information that is optional to consider.
- Current Section 106 review ensures protection of ancestral sites, sacred grounds, and culturally significant landscapes that would otherwise be bulldozed or degraded. The proposed rewrite threatens sacred grounds, historic neighborhoods, and living cultural landscapes across the country.

ECONOMIC BENEFITS OF PRESERVING HISTORIC PLACES

Historic Preservation Makes Economic Sense:

- Historic preservation is also an economic issue. Historic places support tourism, strengthen local businesses, create jobs, attract investment, and preserve the character that makes our communities attractive places to live, work, and invest.
- Historic preservation is not simply about protecting the past. Cultural landscapes can contribute to community vitality, tourism, economic development, and long-term investment by preserving the distinctive character and history of a place. Ensuring that these resources are evaluated by appropriately qualified professionals helps communities make informed decisions that protect both their cultural value and their potential economic benefits.
- Historic preservation and restoration can revitalize local economies, create jobs, and enhance quality of life.

- The stated objective of the proposed rule is to improve efficiency. However, eliminating meaningful consultation does not eliminate disagreement; it simply shifts disagreement later in the project life cycle, when options are more limited and costs are significantly higher. Early consultation allows concerns to be identified while alternatives remain available, reducing the likelihood of project redesign, litigation, permitting delays, and public opposition after major investments have already been made. Regulatory certainty is achieved by resolving issues early—not by limiting participation in the planning process.
- Historic preservation protects neighborhoods, battlefields, sacred places, burial grounds, main streets, parks, and cultural landscapes—not just famous landmarks.

Historic Preservation Helps Small Businesses:

- Small landscape architecture firms with historic preservation expertise are an important source of specialized knowledge.
- Preserving a town's distinct character fuels heritage tourism—a sector where travelers tend to stay longer, visit more small local shops and businesses, and spend significantly more per trip than standard leisure travelers.

Section 106 /S Responsible Permitting:

- Responsible permitting is needed to ensure safe, cost-effective infrastructure projects, but any reforms should not come at the expense of our nation's irreplaceable historic, cultural, and archaeological resources.
- Responsible permitting should facilitate safe, cost-effective projects and activities while ensuring that historic and cultural resources are properly identified and considered. Efforts to improve the efficiency of the Section 106 process should not come at the expense of the professional expertise needed to identify, evaluate, and appropriately treat cultural landscapes and other historic properties.
- Exempting projects or narrowing what counts as a federal undertaking ignores how infrastructure interacts with land. Public works, transportation corridors, and stormwater projects almost always alter physical site context even when staying within existing rights-of-way. Skipping Section 106 early on creates a blind spot for hidden cultural landscapes, historic grade changes, and mature planting patterns, leading to severe project delays and costly design changes when historic features are inevitably uncovered during construction.
- Developers will not be relieved of accountability to local, state, and Tribal authorities, not to mention community organizations and advocates, if sites are damaged. So even though they may receive a fast-track review and/or approval through federal historic preservation review, the developers will still be open to significant risk from other entities that could bring additional financial impacts to

projects, which could be avoided if communities were simply involved in the planning process for the project.

Note: A special thank you to the following ASLA members who provided these thoughtful talking points to help others with submitting comments:

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