

## PART 2 – RESPONSE TO QUESTIONS PUT BY THE COMMISSION

### 1.0 The Central Issues of the Inquiry

#### 1.1 Key Questions

**Question 1 - *What is the rationale for government involvement in historic heritage conservation and what principles should guide that involvement?***

This question is answered at length in Part 1 to this submission. In broad terms the rationale for government involvement in historic heritage conservation is as follows:

- an unregulated market will not deliver an optimal heritage outcome, providing the greatest benefit to society, because it will not recognise the non-economic values of historic heritage;
- the principle of inter-generational equity applies to historic heritage and government intervention is required to overcome what would otherwise be a myopic market view;
- government regulation is therefore required to deliver the optimal outcome;
- heritage management and conservation is legitimately part of public sector land use and planning systems;
- where heritage regulation gives rise to economic consequences for individuals, it is appropriate in many instances to use economic instruments to provide incentives/compensation;
- government intervention can ultimately lead to heritage outcomes that delivers both a public good and a favourable economic outcomes – the historic Rocks district in Sydney is an example;
- government is the only institution able to gather data and monitor the condition of Australia's historic cultural heritage on a broad scale;
- government itself depends for its legitimacy and acceptance on the heritage and history of the development of Australia and its political system, and more broadly on the

community's understanding and appreciation of this history. Cultural heritage places play a vital role in this appreciation and understanding;

- government has an important role as property steward of public assets – the values of these assets includes intangible values such as cultural heritage significance;
- for some places which are of great importance (nationally, to the state or locally) government ownership/stewardship is the only effective means of ensuring that heritage conservation occurs;
- government has an important leadership role in setting an example for heritage asset management;
- the principle of subsidiarity, where responsibility for heritage management/regulation is devolved to the lowest practical level of government, should apply to heritage regulation.

The following principles should apply to government's role in historic heritage management:

- as a community "inheritance", historic cultural heritage is a joint societal responsibility;
- good heritage management means making well informed, balanced decisions. It does not involve conservation at all costs;
- effective government involvement will require a package of initiatives including regulation, economic instruments, suasive measures, asset stewardship and leadership;
- regulation is essential and the Commonwealth has an important leadership role, but there is scope for better definition in the respective roles of government, and better integration between them;
- statutory lists are an important tool, but would benefit from greater rigour, clarity and reduced duplication;
- a range of economic instruments, particularly tax relief and direct financial assistance through grants or loans are critical to effective historic heritage conservation; such initiatives are warranted to put historic heritage on par with the natural environment or the Arts sector;
- government is the only institution able to achieve the leverage provided through seed funding and similar economic instruments;

- suasive measures including government wide policy provisions, education and information sharing can function effectively by reducing the need for regulation or economic instruments;
- government has an important role as steward to major heritage places whose conservation depends on public sector care, control and management;
- government should also manage the heritage value of assets under its control, through preparation of registers and heritage asset management strategies. One key way in which government can fulfil its leadership role is through setting an appropriate example in the conservation of its own historic heritage assets.

### ***Question 2 - How does the policy framework for historic heritage conservation currently operate and what are its strengths and weaknesses?***

This is a very large question encompassing many issues dealt with in the other questions raised in the *Issues Paper* plus others, not specifically addressed. We assume that the descriptive portrait of the current system will be provided to the Inquiry by Governments and by the Heritage Chairs & Officials of Australia and New Zealand.

In commenting on the framework for historic heritage conservation, Australia ICOMOS wishes to focus on some of the broader relevant themes including:

- leadership;
- the low status of heritage within Australian government activities at all levels;
- issues arising from the jurisdictional framework; and
- key strengths and weaknesses.

The issue of the adequacy of the national policy framework is dealt with at Question 36.

### **Leadership**

One of the key issues for an Australian Government inquiry is the issue of national leadership. There are many individuals and organisations with an interest in and commitment to Australia's historic heritage. This includes governments, the non-government sector and private sector.

There are many systems, programs, legislation, policies and standards, which are relevant. However, a common point of agreement is the important leadership role that the Australian Government and the State and Territory Governments have played in the past, and which they should continue to play in the future. This leadership has many dimensions but includes things such as:

- leading the intellectual development of heritage through research and supporting the work of other organisations;
- leading practical heritage conservation through a variety of novel policies and programs;
- leading the public debate about heritage matters;
- leading through the application and support for professional and technical standards of historic heritage conservation; and
- leading Australian heritage conservation by fostering networks of various stakeholders including government agencies and non-government organisations.

A large part of this leadership is tied to the credibility of statutory agencies and the heritage councils, including the Australian Heritage Council. In this context credibility relates to the expertise of these bodies. These organisations must maintain high levels of expertise in order to effectively engage with the rest of the heritage community in Australia, and the general community. While the picture is complex, Australia ICOMOS is aware that the expertise available within historic heritage agencies is not sufficient in all Australian jurisdictions. The commitment and involvement of the relevant government ministers and in particular the Australian Government Minister is also highly relevant to this issue.

### **Low status of heritage within Australian Government activities**

Historic heritage has a very low status in government activities. This is reflected in many different ways including:

- the low level of funding support provided by the Australian Government (see also Question 49) and the State and Territory governments (although this varies considerably);

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- as discussed in Part 1, this funding situation has occurred in an extended period of good general economic growth and budget surpluses;
- by contrast, other environmental expenditure is both dramatically larger and seems to have increased substantially, at least at the Australian Government level (see Question 49);
- the operations of the Department of the Environment & Heritage and the Australian Heritage Council seem to be struggling (see Question 35);
- the Australian Government Minister for the Environment & Heritage has apparently not met with a single national historic heritage NGO since taking up the portfolio from July 2004 to date; and
- the Minister has also not held a meeting of his National Cultural Heritage Forum in the same period.

The Productivity Commission Inquiry into heritage may be a singular exception to this pattern. Australia ICOMOS welcomes the Inquiry and hopes there will be substantial improvements. If the Inquiry is to be effective it is important that it delivers positive outcomes for historic heritage.

### **Jurisdictional framework**

The Australian jurisdictional framework of local governments, State and Territory governments, and the Australian Government is the source of a great deal of discussion across a wide range of issues.

Heritage has been part of this perennial national debate, albeit with less fanfare than some areas such as healthcare, industrial relations and the natural environment. The 1997 COAG outcome expresses one model for how the jurisdictional framework might operate, and the new national heritage system has been designed around this. The concern apparently driving this outcome has been the perception of duplicated processes and ‘jurisdiction shopping’, which sometimes lead to conflict, and the desire to rationalise activities and allocate public resources more efficiently.

An alternative view suggests that while excessive duplication is wasteful and pointless, in some cases overlapping heritage systems have allowed stakeholders to use one system to press for a good heritage outcome where another heritage system has seemingly failed. For example, in the

past, the Register of the National Estate was regularly invoked, and assistance sought from the Australian Heritage Commission when State processes were judged to be insufficient. Clearly, a number of the recent emergency nominations to the National Heritage List have resulted from public perceptions of the same failure of State processes. The nominations of Recherche Bay (Tasmania) and the Alpine National Park appear to be such cases. A famous example of the importance and complex interaction of a multi-layered system of checks and balances is the Franklin Dam case where the Australian Government was able to use its 'external affairs' power to counteract the outcomes of an inadequate state system. If good heritage outcomes are the objective, perhaps the overall heritage system needs to accommodate some measure of potential overlap in order to deal with possible system failures.

### **Key strengths and weaknesses**

The key strengths of the Australian heritage systems include:

- high and growing public interest in and commitment to Australia's heritage, partly reflected through NGO activities;
- an integrated appreciation of Australia's heritage which includes the interplay of natural, Indigenous and historic heritage throughout the landscape;
- legislative and government systems established to identify, protect and conserve Australia's heritage at all levels;
- the skills, expertise and commitment of practitioners and professionals working in the field;
- the philosophy and standards of conservation practice, such as the Burra Charter and the conservation management planning method which are world leading and internationally respected; and
- the layered approach to heritage in Australia, whereby the interest of several levels of government may be needed to ensure a good heritage outcome.

Key weaknesses include:

- lack of national leadership, including partial or complete failure to:
  - lead the intellectual development of heritage through research;

- lead practical heritage conservation through a variety of policies and programs;
- lead and support the public debate about heritage matters;
- lead Australian heritage conservation by fostering networks of various stakeholders.
- Problems relating to:
  - the level and extent of historic heritage expertise in many statutory authorities;
  - variations in levels of commitment, pressures, resourcing and integration with planning and development systems at the local level;
  - lack of integration and national standards in regulation of heritage conservation across Australia;
  - lack of integration of heritage outcomes in planning, economic and environmental policy and legislative provisions (these are often in direct conflict with one another);
  - levels of support provided by governments, including funding, incentives and technical support for identification and conservation - in particular, the low level of resources provided for the implementation of the Australian Government heritage system;
  - understanding of and support for fostering public access to heritage;
  - skills development and training;
  - comprehensive national inventory of heritage places;
  - support for NGOs; and
  - support for international activities.

### Recommendations

While many of the following recommendations are picked up in response to other questions, they are repeated here as a form of higher level summary.

1. The following key strengths of Australian heritage systems should be fostered:
  - public interest in and commitment to Australia's heritage;
  - legislative and government systems established to identify, protect and conserve Australia's heritage at all levels;

- the skills, expertise and commitment of practitioners and professionals working in the field;
  - the philosophy and standards of conservation practice, such as the Burra Charter; and
  - the layered approach to heritage in Australia, whereby the interest of several levels of government may be needed to ensure a good heritage outcome.
2. The following key weaknesses in Australian heritage systems should be remedied, especially those that relate to the Australian Government:
- lack of national leadership, including partial or complete failure to;
    - lead the intellectual development of heritage through research and supporting the work of other organisations;
    - lead practical heritage conservation through a variety of novel policies and programs;
    - lead and support the public debate about heritage matters;
    - lead Australian heritage conservation by fostering networks of various stakeholders including government agencies and non-government organisations.
  - insufficient level and extent of heritage expertise in the Department of the Environment & Heritage;
  - low levels of support provided by governments, including funding, incentives and technical support for identification and conservation - in particular the resources provided for the implementation of the Australian Government heritage system;
  - inadequate understanding of and support for fostering public access to heritage;
  - insufficient and poorly targeted skills development and training;
  - lack of a comprehensive national inventory of heritage places;
  - inadequate support for NGOs; and



- inadequate support for international heritage activities.

**Question 3 - *What are the current pressures and emerging trends influencing the conservation of historic heritage places and, in light of these, how can the policy framework be improved?***

### **Current pressures**

The best overview information on the issue of pressures seems to be that related to National State of the Environment (SoE) reporting. A 1995 study for National SoE found that,

*With regard to the better assessment of priority pressures, the review to identify the range of pressures on the historic environment resulted in a large number of pressures being noted.*

*However, it is clear that very little quantitative documentation exists on these pressures. The analysis of pressures to establish the most significant is based largely on an accumulation of qualitative information, and in some cases even this is not sufficient to allow a preliminary assessment of the likely significance of the pressure.*

*Given this background, it is desirable that further research be undertaken to establish the level of significance of those priority pressures... (M Pearson & D Marshall 1995, State of the Environment Report, Culture and Heritage, Historic Environment)*

The priority pressures identified were as follows.

- National Economic State
- Changing Demography
- General Government Policy and Programs
- Absence of Urban and Regional Planning incorporating Heritage Identification and Conservation
- Urban Development and Expansion
- Major Development involving Demolition
- Urban Consolidation
- Re-Zoning

- Lack of Basic Knowledge/Inventory of Places
- Lack of Systems to Monitor Change
- Lack of Funding for Conservation
- Lack of Appropriate Management
- Misconceptions/Misunderstanding regarding Heritage Values
- Lack of Heritage Expertise in Local Government
- Lack of Heritage Advisers/Planners

The recommended further research was never undertaken.

This work illustrated the complexity involved in understanding pressures on historic heritage. Often multiple pressures apply, and it can be difficult to isolate and quantify the most relevant pressures.

The 1996 and 2001 National SoE reports both contain information about real or apparent pressures and emerging trends. However, there are still no measurable pressures indicators for historic heritage and no national data sets. It is suspected these findings are often based on limited data.

### **Improving the policy framework**

There is no shortage of suggestions about how the Australian heritage policy framework could be improved. In particular, explicit and implicit suggestions can be found in the:

- 2001 National State of the Environment report;
- 2004 Vision for Australia's Cultural Heritage prepared by the National Cultural Heritage Forum; and
- 1998 Key Outcomes from the National Heritage Convention.

There have been many reviews and many reports over the years, and occasional commitments but a surprising lack of action.

### **Recommendations**

3. The Productivity Commission should be cautious in identifying specific current pressures unless there is a sound basis for doing so.

- Research should be commissioned by the Australian Heritage Council to identify key pressures, if any. The engaged cooperation of State/Territory heritage agencies will be an essential ingredient.
4. The Productivity Commission should consider the range of suggestions for improving the Australian heritage policy framework found in the:
- 2001 National State of the Environment report;
  - 2004 Vision for Australia's Cultural Heritage prepared by the National Cultural Heritage Forum; and
  - the 1998 Key Outcomes from the National Heritage Convention.

## 1.2 How are Historic Heritage Places Recognised?

*Question 4 - Do current lists adequately recognise degrees of cultural significance of historic heritage places? If so, are the factors which determine degrees of cultural significance appropriate?*

At the broadest level, existing statutory heritage lists do adequately recognise levels of heritage significance, and the factors considered are appropriate. Australia ICOMOS expects that the practical operation of these systems will be described in detail by the submissions to the Inquiry prepared by government heritage agencies and the Heritage Chair & Officials of Australia and New Zealand.

In general Australia has a tradition of a high level of expertise in developing tools for recognising degrees of cultural significance. This expertise has arisen to an extent from the work of the former Australian Heritage Commission in establishing the Register of the National Estate. Over time, listing processes have become more professional, and have included more comparative material and thematic analysis. At the systems level, these assessments have stood the test of legal challenges relating to significance, including cases going as far as the High Court. The integrated

values assessment work undertaken for the Regional Forest Assessments is a good example of the high quality of much of this work.

In turn, the States and Territories have to a large extent used the listing criteria and processes pioneered by the Register of the National Estate in their legislation, and to varying degrees have developed systems for analysing thresholds of cultural significance.

However, another interesting and fundamental question, the subject of much debate within the heritage community, concerns how effective this practice is in the identification and conservation of Australia's heritage.

The arguments in favour of such an approach include that it:

- facilitates a rational division of responsibilities between the various levels of government;
- mirrors the legitimate interests of the various levels of government;
- facilitates a rational apportionment of resources on the basis of the level of significance; and
- reflects the 1997 COAG agreement on roles and responsibilities for heritage.

On the other hand, this approach:

- appears to require greater resources to administer because of the need to research and assess levels of significance;
- fails to adequately recognise that the whole of Australia is to some degree a cultural landscape, the value, richness, and meaningful endurance of which depends on conservation at a landscape/precinct scale, in which all cultural heritage places (whether 'National', 'State', or 'local') play an important part, and contribute as an integrated whole to our national cultural heritage, and the community's appreciation and understanding of it. The comparison could be made here between the cultural and natural environment -- in natural environment policy development, threatened species lists are backed up by strong and legislated attempts to conserve habitat and biodiversity. The new regime must take this approach to provide similar integration throughout Australia;
- potentially creates within the one locality or even a single place a fracturing of the heritage picture, with different levels of government interested in different places or

aspects of places (for example, a reading of the different statements of significance for the World Heritage listed Royal Exhibition Building and Carlton Gardens illustrates this point);

- potentially creates a disaggregated approach to Australia's heritage which is out of step with community views; and,
- potentially suggests an erroneous basis for establishing priorities for conservation and the allocation of resources, with 'lower' levels of heritage seemingly demeaned (this was the problem with the earlier versions of the National Trust lists and many municipal heritage studies which ranked places A, B, C, etc);

These potential shortcomings are exacerbated by the tradition of 'buck passing' and mutual recrimination between governments, which is very common in our federal system.

These problems centre around potential areas of mis-use of listing and assessment processes, and a misunderstanding of the implications of listing. These factors need to be counteracted by careful and skilful heritage practice and administration, and good public information.

In addition, there is widespread concern that at the Australian Government level, the all-consuming focus on National Heritage has meant the Australian Government has abandoned the important role it used to play with regard to all levels of Australian heritage and research.

It is our current impression that despite the many exceptions, 'local' heritage – which informs the character and identity of every Australian community and regional economy – is the least well/consistently understood, protected and managed.

### Recommendations

5. The Productivity Commission should consider the means of ensuring the effectiveness of current systems of determining levels of significance for the identification and conservation of Australia's heritage.

### 1.3 What is the Current State of Historic Heritage Places?

**Question 5 - *Is there a need for a comprehensive survey of historic heritage places in Australia? If so, who should fund such a study and how would its findings be used?***

As mentioned in Part 1, there are limitations associated with current heritage lists. Due to the level of funding available and perceptions about what heritage is, studies from which listings are drawn are focussed on the most obvious built aspects of our historic environment. Archaeological sites, gardens, collections, industrial and vernacular heritage, intangible customs associated with places and broader landscapes and networks of sites suffer as a result. Development processes that fail to identify the full range of heritage values of a place as a result of the gaps in listing also suffer as a result.

A “comprehensive” survey is an impossibility for a number of reasons. Some places only become apparent as result of disturbance, land use change, or revelation by their traditional owners or users. The significance of places and the degree of their significance is not static. In a country the size of Australia with the resources and skills available, it would seem only logical and prudent to prioritise the survey of historic heritage places, by analysing elements such as geographic knowledge gaps, historic themes and their representation on lists, the degree of threat, and the needs and aspirations of communities.

Comments made earlier about the integrated nature of Australia's heritage, are applicable here. What is required is not so much a survey aimed at identifying every place with cultural significance in Australia, as a philosophy, policy and methodology which recognises Australia as a cultural landscape, and seeks to identify, in an integrated way, the key components of this rich cultural environment and to ensure an integrated conservation response.

This is not to say that survey and identification of our cultural heritage places is not a priority. There are many areas, historical themes and place types for which the survey coverage is inadequate, and there are very few resources available for redressing this in the immediate future. While some States/Territories have ongoing programs of survey (including both area-based and thematic studies), there is an urgent need in many jurisdictions for the provision of more funding for regional survey work.

Another related question is the need for regular periodic surveys of the condition of historic heritage places, as implied in the Issues Paper. In developing effective policies and programs for heritage conservation, knowledge of the condition of heritage places is a vital component. This has been recognised as the key indicator in National State of the Environment reporting for historic heritage. Surveys should be funded by the Australian Government through State of the Environment reporting and the States and Territories should be encouraged to contribute.

A final area of urgent need is the provision of funding and encouragement for local communities to identify their cultural heritage environment, and to be involved in its conservation. Funding for community survey work is urgently needed, similar to the funding provided for natural environment programs such as Landcare. This 'Heritage Care' proposal has been vigorously promoted to the Commonwealth Government by the National Cultural Heritage Forum for the past two years.

### **Reduced investment into historic heritage research**

Support for historic heritage research is a closely related issue. Very low levels of resourcing and support for research (particularly in contrast to the natural environment) endangers historic heritage conservation and limits the capacity for strategic approaches and solutions.

One of the criticisms made of historic heritage practice is that it lacks strategic research direction. This is partly because a large component of the work in this area is directly related to the 'salvage' of information, both architectural and archaeological, from places under immediate threat of physical change.

Private enterprise and government agencies do not usually consider 'research' to be core business or as an integral part of heritage conservation (even 'applied' research such as understanding visitor pressures, the long-term effectiveness of conservation treatments, visitor responses to site interpretation, community attitudes to heritage, the effectiveness of different funding or policy approaches, or monitoring of the condition of historic heritage places).

Research is generally dismissed as the province of universities, but increasingly universities are also reducing resources for the disciplines that train and educate heritage practitioners. In recent time, major funding bodies such as the Australian Research Council have also strongly favoured

research that generates ‘inventions’ and marketable discoveries, the applied sciences, and new technologies.

In such a context long term and strategic research into historic heritage does not occur and is continually seen as a luxury ‘extra’ and someone else’s responsibility.

Information ‘salvaged’ from the bulk of historic heritage activity, which focuses on servicing the building industry exists as largely unprocessed data and is not interrogated or integrated into our understanding of the history of the nation. A large amount of information is held in unpublished materials, unavailable to others and unable to effectively contribute to the cumulative acquisition of knowledge. This is an obstacle to the development of well-targeted and implemented heritage research programs, and the cause of wasted resources (eg. the same work is done again because the previous research is unknown and/or unavailable). For this reason, Australia ICOMOS has for some years urged the Australian Government to adequately resource the Australian Heritage Bibliography (formerly called HERA), but to little avail.

### Recommendations

6. Targeted regional and thematic heritage identification programs, as outlined above, should be supported by government funding and policy development.
7. A generous community grants program should be initiated which allows for the identification by the community of its own heritage, and which is backed up by funding for appropriate listing, planning and conservation.
8. A periodic sample survey of the condition of Australia’s historic heritage places should be undertaken. The survey should be funded by the Australian Government through State of the Environment Reporting, and the States and Territories should be encouraged to participate through the development of an agreed standardised method of data collection.
9. Adequate resources should be provided for the continued development of the Australian Heritage Bibliography (held by the DEH Library). All governments should support the entry of historic heritage work in the Bibliography.



## 2.0 Assessing the Policy Framework

***Question 6 - Are market failures present in the conservation of historic heritage places? If so, do they differ in significance or scope from those, which may exist in other forms of conservation (such as conservation of natural heritage)?***

This is addressed in Part 1 of this submission. The principal market failure that affects the conservation of historic heritage places derives from the fact that they are “real property” and often valued, in an economic sense, on the basis of their potential development. Therefore, in the absence of effective regulation, the market would fail to deliver an appropriate heritage outcome that recognises non-economic values and potential bequest value to future generations.

The government role as regulator is therefore critical, but must be augmented by a further package including economic instruments and suasive measures, asset stewardship and leadership. Similar principles apply to the natural environment, although historically, many areas of the natural environment are already accommodated within the public estate. As discussed elsewhere, the Commonwealth Government in particular has taken important policy and program measures aimed at resolving market failure in the natural environment.

***Question 7 - To what extent does historic heritage conservation generate benefits for the community? How do these community-based benefits compare to the personal benefits, which owners of heritage places would receive through conservation?***

These issues have been addressed in Part 1 of this submission.

***Question 8 - How well do existing government regulations or activities specifically address market failures that are directly relevant to conservation of historic heritage places?***

Heritage legislation, including statutes and regulations and subsidiary policies apply at Commonwealth, State and local levels throughout Australia, although not all local government agencies have separate planning instruments or controls for historic heritage. In theory, this suite of provisions addresses the overall market failure created by the non-financial, intangible value of historic heritage assets – that is, the fact that they would not be conserved in an unregulated market. However, the existing regulations are not well and consistently applied. There is significant

duplication as well as significant gaps in the protective structures, with some types of heritage sites having no protection in some jurisdictions and, in some states, direct inconsistency with land use and planning statutes. This direct regulation is poorly supported by resourcing for economic instruments and incentives.

An example of the positive impact of legislative controls for conservation is the former Commercial Banking Company (CBC) Headquarters building in Sydney, which houses an exceptionally fine 1920s banking chamber lined in Australian marbles. The majority of the marble and bronze teller counters also survive. The bank (then National Australia Bank) moved out of the space in 2001. A Conservation Management Plan was prepared to guide any adaptive re-use works. The building was owned by a large superannuation fund which needed to find a new tenant to ensure a financial return. The Virgin Megastore has taken on the lease and has adapted the space in an elegant and responsible manner. The significant fabric, including the marble counters, has been retained with only those identified as altered or of lesser significance removed. However, when they (and others) first viewed the space, they asked that all the counters be removed. It was only by means of the State Heritage Register listing that a solution was negotiated, which achieved an excellent conservation outcome. In the best case studies, heritage regulation can be the stimulus for a more carefully considered and realised design solution, with multiple benefits.

***Question 9 - Does government involvement in heritage conservation displace private sector involvement which would otherwise occur? If so, to what extent?***

Because an unregulated market will not, of itself, deliver an optimal heritage conservation outcome, government involvement as regulator does not displace any private sector involvement. In its role as asset owner and manager, government owns two types of heritage place: Historic Sites which are acquired or managed in government control, principally because of their heritage values and heritage assets which are retained and utilised for operational reasons.

The government's involvement as steward/manager of operational assets does not affect or displace private sector involvement. The government's role in care, control and management of Historic Sites generally occurs because there is no other agency available to take on such places, which are usually unsuitable for unsubsidised other uses. There would be a relatively small number of examples where an alternative owner or agency (such as a local historical society or

National Trust) could also take on this role – but such possible displacement is not considered significant in the context of this Inquiry.

In some jurisdictions, government agencies also provide professional services related to heritage conservation management and work. An example is the NSW Government Architect's office, which operates a heritage consultancy practice. While this activity does represent government involvement in a predominantly private sector industry, the relative scarcity of such services and resources across the nation means that the demand for such input generally exceeds supply and therefore alternative providers are effectively not displaced. In addition this practice is specifically targeted at adding value to government activity by focusing only on providing services to other NSW government agencies.

**Question 10 - *What are the costs of government involvement in the conservation of historic heritage places and who bears them?***

Australia ICOMOS does not have access to data regarding these costs. It is assumed this will be provided through State and Territory government submissions.

**Question 11 - *Have these costs changed as a result of economic trends? For example, have pressures on government finances limited the amount of resources available for public heritage conservation?***

It is beyond the expertise of Australia ICOMOS to comment on the costs of government involvement such as those associated with raising funds.

However, we believe there is no specific connection between pressure on government finances and resources for heritage conservation, apart from the general and ever present competition amongst policy and program areas for government funding.

Our perception is that the levels of funding are partly a result of historical momentum (eg funding having been pegged at a certain level tends to remain around this level through time), and partly a reflection of the low political value of historic heritage despite its obvious benefits to the community. To the inexpert economic analyst, the financial situation in Australia over the last decade would

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appear to have been ideal for more resources being provided for heritage conservation by government (see Question 2). For example, a review of the 2005 Federal Budget shows:

- growth in Australian Government expenditure of 5.7%
- growth in whole of government environment expenditure of 17%
- growth in DEH expenditure of 11.6%
- growth in whole of government heritage expenditure of 23% (including natural and Indigenous heritage)

and yet:

- the only funding for non-government heritage conservation work is the \$5 million for two cathedrals and the new National Heritage Investment Initiative at \$2.2 million; and
- core funding for the Heritage Division of DEH has actually decreased by 7%.

With regard to costs to property owners, while Australia ICOMOS has no hard evidence, it is believed there has been no specific cost change as a result of economic trends.

### ***Question 12 - How do these costs vary depending on the nature and extent of conservation?***

#### **Government costs**

The costs of government involvement in heritage vary depending on both the nature and extent of conservation. This will also depend somewhat on the funding mechanism, and the control sought by government over the proposed works.

For example, grants programs have certain associated administration costs, including a process for selecting suitable grant recipients, and monitoring acquittal. On the other hand, tax incentives or rebates may not involve the same level of administrative resources.

The degree of control sought by government over proposed works is a factor. If assistance is part of a program which involves either a high degree or special form of government control, then the costs will be greater than if the assistance involves little or no control of this kind.

One example where little or no control may be necessary is in the case of maintenance work. If government assistance is provided for maintenance work, this may be undertaken without a high

degree of government oversight and/or control (eg the lodgement of a Development Application). Identifying and applying the right mechanisms and level of government control are important.

Costs can also vary depending on the extent of conservation. A large and complex conservation project can require substantial government involvement and resources, compared to maintenance works to modest historic buildings. On the other hand, an assistance program with many small projects can consume more resources than a similar program with just a few projects.

### **Property owner costs**

The costs of government involvement in conservation projects can also vary for property owners depending on the nature and extent of the project.

Taking again the case of maintenance, if an owner is undertaking routine maintenance then the costs associated with government involvement are likely to be small, if any. For example, in NSW there are standard exemptions for certain works which do not require approval under the *Heritage Act*. These include building maintenance, minor repairs, alterations to certain interiors or areas, and change of use. (NSW Heritage Office 2004, *Heritage Information Series, Standard Exemptions for Works Requiring Heritage Council Approval*)

However, if an owner wishes to undertake major changes to a historic building, the costs will be greater. The owner may need to engage the services of a conservation professional, a conservation management plan and heritage impact statement may need to be prepared, and there may be a series of negotiations with heritage and planning authorities. Generally, these costs tend to be higher for commercial properties than for residential properties.

Such costs can vary greatly but might start at a few thousand dollars and for large and complex sites can involve costs of the order of \$100,000 or more. The median range would probably be \$10,000 to \$50,000 but we are unaware of any collated data on such costs, and there are many variables which make generalisation difficult.

## 2.1 Capturing the Benefits of Historic Heritage Conservation

**Question 13 - *Are there any regulatory barriers, which prevent private organisations from capturing benefits from the conservation of historic heritage places?***

The principal regulatory barrier applying to historic heritage places in Australia is duplication of effort and regulation, although as noted elsewhere there are also benefits to this multi-layered approach. While a cogent argument may be made that highly significant places warrant identification on statutory lists maintained by more than one level of government, it is currently inappropriate and impractical that there are three separate regulatory regimes that are not well integrated.

This situation is exacerbated in some jurisdictions (such as Tasmania), where there is a lack of integration between the land use and planning legislative processes and the heritage management legislative processes – the result being that a private sector applicant can receive consent from one agency (on heritage grounds), but refusal from another agency (also on heritage grounds).

Consistent with the principles underlying the 1997 COAG Agreement, it would be appropriate for resources to be made available to implement the clarity in roles of respective spheres of government.

While regulation in some jurisdictions is considered to fall well below the desired standards, there is also a view that some of the more developed State/Territory heritage and planning regimes are too regulated in some aspects. There may be insufficient differentiation between approvals processes - for example where all approvals are required to go through a rigorous process regardless of the level of significance of the place, or the scale of the work proposed (ie. process-oriented rather than outcome-oriented arrangements).

### Recommendations

10. The different roles of the three tiers of government should be clarified, integrated and better resourced.
11. Regulation at State and Territory levels should carefully consider the desired outcomes and tailor approvals processes accordingly.

**Question 14 - *What are the benefits from government involvement in the conservation of heritage places and to whom do they accrue?* Question 15 - *How do these benefits vary depending on the nature and extent of conservation?***

There are multiple benefits from government involvement in historic heritage conservation.

In its role as regulator, government protects a social good and provides nett benefits to society through ensuring intangible cultural values are maintained, where an unregulated market would not provide them. Regulation also has the local effect of providing benefit to some individual parties (for example, other owners within a conservation area, where an inappropriate development is refused by a consent authority on heritage grounds). Limited though they are, the current range of economic instruments and incentives provide direct benefit to private owners of historic heritage places, including grants and loans, and in some states, land tax relief.

Existing suasive measures, including public education programs, websites, events, information and access to heritage advice, benefit various sectors within the community ranging from students, to property owners, interested individuals and specific interest groups. Government as steward of public assets, benefits the Australian community by retaining and conserving intangible cultural significance, as well as economic asset value – although there is substantial opportunity for improvement.

**Question 16 - What are the benefits to tourism from heritage conservation, and what impact does heritage tourism have on the conservation of heritage places? What are the benefits to tourism from heritage conservation?**

Cultural tourism, which can be loosely defined as the whole range of experiences gained when one travels to a place away from one's normal place of living (see ICOMOS Cultural Tourism Charter), is regarded as one of the fastest growing sectors of tourism.

Historic heritage conservation has a profound positive impact on tourism. There are many places around Australia where historic cultural heritage is the cornerstone for a thriving tourism market: the City of Fremantle, Tasmania's historic towns and convict sites, The Rocks, Victoria's central goldfields, the Queensland mining heritage trail and Norfolk Island, to name a few.

While there is relatively little “hard” economic data that can accurately measure such value, some useful information is provided by a 2004 report on Port Arthur. This report shows that in simple economic terms, the site made a contribution in 2003 of \$25.1m to Tasmania, \$8.8m of wage income and 286 jobs. This report also looks at the value of the site using a range of methods, including analysis of visitor-willingness to pay and bequest values, concluding that the site has extremely high heritage value (c\$465million - c\$1billion), depending on the discount rate applied. Importantly, the report recognises the pivotal role of the site in Tasmanian tourism noting in particular that a 1% increase in grant allocation engenders a 0.14% growth in visitor numbers. (Symetrics, 2004, Contribution of the Port Arthur Site to the Welfare of Tasmania, Report prepared for the Port Arthur Historic Site Management Authority).

Overseas, the PICTURE project in Brussels, is examining the role of cultural tourism in the economic regeneration or sustainability and quality of life of small to medium sized European cities. Many of these cities are suffering from post-industrial decline and regard tourism as a clean, green and labour intensive industry that can provide a way forward for declining cities. Other cities with a more developed tourism base are looking to manage their tourism levels to ensure that both the historic environment and the quality of life of the residents are protected. Tourism now represents some 5% of all consumer expenditure in Europe and 5% of all economic activity. This figure is expected to increase dramatically in the coming decades.

At the first level, natural and cultural heritage provides the regional distinctiveness on which all tourism marketing relies. Heritage conservation retains, protects and manages the urban cultural landscape imagery and presentation of historic towns and cities. It is this imagery, with its human scale, rich traditional textures and complex network of urban spaces that provides the basic source of tourist attraction in numerous historic towns and cities world wide. Those places where conservation has not been effective in retaining the depth, integrity and spread of their historic imagery are not as successful as tourism destinations. The same goes for rural cultural landscapes. Individual historic buildings or other heritage places add to the overall effect achieved by the general conservation of a precinct, a town, city or landscape.

Heritage conservation essentially protects and sustains the core attraction asset that is the basis of this form of tourism. Even for those whose primary motivation is recreational tourism, or other



forms, such as business tourism, or visiting friends and relatives will spend some time absorbing and enjoying the character of the place that is being visited.

The hundreds of cultural sites included on the World Heritage List, including the Parthenon in Athens, Borobudur, the Taj Mahal, and the temples of Angkor are major centres of international and domestic tourism. Borobudur, the major temple complex in Indonesia attracts 2.5 million visitors, of which only about 150,000 are international. Angkor in Cambodia has seen the development of some 8,000 hotel beds in the nearby town of Siem Reap since the site was made available for tourism within the last 10 years. If these sites are not protected and conserved, they will not continue to attract visitors in the same numbers and the impact of tourism on the sites will ultimately degrade their values and attraction.

There are some 200 listed World Heritage cities, which are members of the Organisation of World Heritage Cities. Listing almost automatically results in an increase in tourism. In September 2005, the issue of tourism management in listed historic cities is the main theme of the bi-annual Symposium of this organisation, demonstrating the high degree of concern about the dynamics of the relationship between conservation and tourism.

Heritage conservation includes the re-use of historic buildings and other places for cultural or other functional uses that provide functions or attractions upon which the tourism industry is based. The Louvre (a former Palace) and the Quay d'Orsay Museum (a former railway station), which are both at the core of the cultural attractions in Paris, illustrate the contribution of heritage conservation to tourism. There are hundreds of examples of this around the world, including many local examples, such as the re-use of the former Forbes Railway Station (NSW) as a Tourism Visitor Information Centre, and Sydney's Powerhouse Museum.

Equally the re-use of historic buildings for tourism accommodation provides a major example of this relationship. There are hundreds of thousands of examples worldwide of historic buildings converted to hotels, guest houses, restaurants and other tourism services. The Spanish and Portuguese government policies of converting disused monasteries for the "parador" hotels, the re-use of the old forts in northern India as historic hotels, the re-use of the old Grace Bros. Building in Central Sydney as the Grace Hotel and the emerging re-use of the North Head Quarantine Station

and Point Nepean are all examples. Any historic town or city in Europe, the Americas, Asia and Australia contains historic buildings that now house hotels, shops or restaurants.

In summary, it can reasonably be said that the historic heritage conservation industry holds the keys to a major portion of the world's tourism assets. If these assets are not protected and sustained through proactive heritage conservation and good tourism management the tourism industry will suffer, as tourists move to other destinations that have not been ruined or excessively exploited.

### **What impact does heritage tourism have on the conservation of heritage places?**

The impacts are both positive and negative and are the subject of numerous international and national studies and projects around the world.

Positive impacts include the generation of economic activity that can boost the local economies of destinations, providing opportunities for local investment, local revenue capture, training and education for employment, small business opportunities and the ability of local communities to communicate their heritage to visitors, thereby enhancing their own self esteem. Investment in heritage conservation will often provide funds for the conservation of historic buildings, rural cultural landscapes or historic towns and cities in order to ensure that they remain attractive for visitors. Investment in the re-use of historic buildings as cultural venues or tourism accommodation generates local expenditure and employment. Conservation and re-use of historic buildings is typically labour intensive, requires a high level of trades skill, and often uses local materials. Conservation and presentation of local crafts and traditional handicrafts, known as the intangible heritage, can sustain and enhance traditional skills and traditions.

Negative impacts include congestion, unbalanced competition for local resources, leakage of locally generated revenue, displacement of local services or population by higher earning tourism related activities, fluctuating demands on local infrastructure and resources, reducing the traditional complexities of use with singular tourism focussed uses, loss of privacy and dignity related to traditional activities or spaces, physical impacts and degradation, inappropriate re-uses and the imbalance generated by excessive tourism focus when the tourism activity declines and moves elsewhere.

In both cases the impacts can be substantial. The Spanish Island of Majorca, for example has upgraded its airport to a capacity that can handle 600,000 arrivals and departures in a single mid-summer week. Sections of the island have been over-developed for sun and sea recreational package tourists. However, the main town of Palma de Majorca has 23 major art galleries and museums, vast numbers of conserved and re-used historic buildings, wonderful parks and gardens, complex medieval streetscapes and vibrant commercial/retail activity, all substantially funded from locally generated taxation and expenditure.

The possibility that some places are so fragile, ephemeral or unable to be easily exploited and interpreted and yet might be of the highest significance and therefore worthy of conservation investment is often overlooked. For example an archaeological site in a relatively remote area may be of immense scientific or historic significance but might not be in a position suitable for a tourist destination. Such a place is unlikely to attract conservation focus or research funds from either government agencies or private enterprise.

Some examples of ways in which the international community has tackled the relationship between tourism and heritage conservation can be found in the following publications:

- ICOMOS: International Cultural Tourism Charter
- World Tourism Organisation: Handbook on Tourism Congestion Management at Natural and Historic Heritage Sites
- World Tourism Organisation: Indicators for Sustainable Tourism Development
- UNESCO Bangkok: Models for Cooperation between Stakeholders in Tourism and Conservation
- World Heritage Convention: Management Criteria for Listed Heritage Sites
- Organisation of World Heritage Cities: Cusco Symposium, September 2005

**Question 17 - *Do governments and public funding bodies use benefit–cost analysis in allocating funds between heritage conservation projects? Are any types of benefits or costs commonly omitted from these analyses? Are alternative approaches used, such as cost effectiveness?*** **Question 18 - *Can the benefits and costs of the conservation of heritage places be satisfactorily quantified to aid decision making?***

Australia ICOMOS has no direct information about internal processes used by governments and other funding bodies. The Symetrics Report relating to Port Arthur (cited above) is considered an innovative best practice analysis of the direct economic benefits and also an approach for value assessment for historic heritage places.

It is difficult however to satisfactorily assess the value of heritage, partly because of the complexity of such an analysis, and partly because of the nature of some of the factors. What price do you put on the evidence of history, a sense of identity and the enjoyment of an environment developed by successive generations?

It may be possible to argue that the market will readily value Federation architecture but the market seems ill-disposed to Brutalist architecture and will write down its value. Yet each style is of value in demonstrating the development of architecture in Australia. The market may be willing to pay a premium for an historic site associated with a famous figure (eg the Patrick White house) yet is likely to downgrade the value of a massacre site. Yet each may be of similar historical value in one sense.

The factors seem complex though it may be possible to analyse the benefits and costs to some extent. While such a task may be possible on a case by case basis, it seems unlikely this will be a worthwhile analysis in every case requiring some decision given the effort required. None the less some broad and useful conclusions may arise from examining a range of cases, if the methodology proves to be robust.

**Question 19 - *How should tangible costs (such as repair costs) be compared with intangible and diffuse benefits (such as educational benefits and ‘sense of community belonging’)?***

In a general and theoretical sense, tangible costs probably cannot be compared to intangible and diffuse benefits. In practice and in specific cases, such costs and benefits are weighed up every

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day as property owners/ managers face the challenges of conserving heritage places. This is a challenging task due to the large number of variables, including:

- the level of significance can sometimes determine the outcome but not necessarily so;
- the resources and predisposition toward heritage of the owner/manager are major factors;
- the availability of free or subsidised expert advice and conservation information can greatly affect the capacity of owners to take appropriate conservation actions;
- community expectations can sometimes play a substantial role;
- the level of costs can be a major factor; and
- the level of the benefits, sometimes related to the use of the place, can also be a major factor.

As with Question 18, it may be possible to explore this issue through the careful investigation of some case studies. But it seems doubtful that any general and useful lessons or rules will be found except to confirm the range of factors, their great variability and variable influence on the outcome. Great care should be taken in trying to compare tangible costs with intangible and diffuse benefits given the apparent range of factors, their great variability and variable influence on conservation outcomes.

## 3.0 Current Responsibilities for Historic Heritage Conservation

### 3.1 Private Sector - Individuals and Businesses

**Question 20 - *What proportion of historic heritage places are owned by the private sector?***

Australia ICOMOS does not have data on the ownership of listed and unlisted heritage places, and it is assumed that the submissions to the Inquiry from Governments and NGOs associated with property owners will address this question. However, there is no doubt that the majority of heritage assets are in private ownership, and that substantial resources are contributed to the conservation of Australia's historic heritage by private owners.

**Question 21 - *What are the strengths and weaknesses of private ownership of historic heritage places?***

Australia ICOMOS is not able to respond to this question at this time.

**Question 22 - *How is the private sector contributing to the conservation of historic heritage places?***

Australia ICOMOS is not able to respond to this question at this time.

**Question 23 - *Are there impediments to commercial conservation activities (for example, perception by owners that conservation costs are prohibitive compared to benefits to them)?***

There are many examples of the failure to achieve conservation as a result of perceptions that costs are high.

Large development groups usually have open tender processes and award sub-contracts to the lowest price. Frequently, these sub-contractors have little knowledge of conservation-related trades and when problems arise, rectification is required with responsibility falling back to head contractor. It thus becomes a time and cost impediment, which is then considered for the next project. Hence, the perception that "it is cheaper to replace with new than repair the existing."

Another frequently raised issue is that of over-regulation, as raised elsewhere in this submission. Some developers consider that the complexity of heritage conservation requirements is a direct impediment. Some of these problems reflect a lack of willingness to recognise heritage conservation responsibilities, or a lack of expertise in dealing with the processes. A tendency to overlook heritage issues until late in the planning process augments this problem.

However, there are also examples of system failures. With large developments, gaining consent for proposed treatment of historic elements can be complex and time consuming. There are sometimes disagreements or inconsistencies in the advice and decisions of consenting authorities (for example the City Council and the State Heritage agency), and occasionally, heritage experts can give impractical or over-zealous advice. The ability of regulators to monitor works carried out post-approval and to assist with expertise where necessary is also a factor. Reviewing and streamlining some aspects of the system has proved beneficial in the past and should be an ongoing process.

### Recommendations

12. Continue streamlining the system to avoid over over-regulation;
13. Sufficiently fund regulating bodies to be able to provide follow up support to private and commercial owners post-approval.

**Question 24 - *Have shortages of skilled tradespeople acted as an impediment to historic heritage conservation? If so, to what extent do these shortages reflect economic cycles in the building industry?***

Yes. Though Australia ICOMOS is unaware of any data which directly addresses this question, poor workmanship, leading to unnecessary damage and loss of integrity has occurred to many heritage places.

There are several aspects to this question, including the shortage of specific specialist skills, inadequate provision of training in the identification and repair of historic building fabric for the trades and professions, insufficient application or use of the required skills and materials (ie. through cost cutting or knowledge gaps), and poor specification of the needed skills by architects.

The impediment is to good conservation practice and hence the long term retention of heritage significance or value.

Examples of poor workmanship include:

- lack of sensitivity to the task (commitment, knowledge);
- lack of understanding of conservation philosophy (knowledge);
- unwillingness to read specifications leading to poor result (commitment);
- poor understanding of and treatment of rising damp (knowledge);
- re-pointing masonry joints with inappropriate mortars (knowledge);
- re-pointing masonry joints with incorrect application (manual skills);
- insistence on “industry standard” application, even when inappropriate.

There are identified shortages of particular trades and skills, and it is anticipated that these will be identified in the submissions to the Inquiry by heritage agencies, professional organisations and training institutions.

These shortages have acted as an impediment to heritage conservation, particularly in commercial projects and many private ones. Here there is less flexibility to wait for the skilled tradesperson to become available and thus less skilled or inappropriately skilled persons are engaged with often very damaging results. Contractors and owners are often tempted to ‘forget’ the conservation side of the project or simplify it by replacing those elements that need repair (e.g. removing lime plasters and replacing with cement render; removal of timber windows in many private homes and replacement with inferior modern copies). This leads to a loss of intactness of the fabric and thus impacts adversely on the significance of the place.

These shortages of skilled tradespersons do not generally reflect the economic cycles in the building industry.

It must be noted that most of the tradespersons who are skilled in conservation, have acquired these skills over a much longer period of time/training than many other sectors of the building industry. For example, a traditional plasterer acquires his/her skills over a number of years whereas general plasterers now know only ‘drywall’ or ‘gyprock’ construction. This can be learned



in a matter of weeks. Likewise, a traditional joiner (who makes and repairs traditional doors and windows) acquires skills over many years of working for a master tradesperson. Modern carpentry and joinery practice does not include learning to make or repair a box-framed window or a panelled door.

Roof plumbers traditionally made elements from sheet metal with soldered joints. Modern plumbers use prefabricated elements of material that cannot be soldered, only pop riveted with silicon to form the seal. They are not sufficiently skilled to enable them to repair traditional rainwater goods or make a new element to fit. They rely only on silicon to provide waterproof junctions and this has a very limited life.

Examples of actual cases are:

- The use of cement mortars to replace lime mortars is a widespread problem, related to the change-over from lime to cement in the 20th century. Current tradespeople have all been trained in the cement era and consequently lack understanding of lime and its use. The issue is not limited to tradespeople, but applies equally to specifiers (architects, engineers, etc.).
- A stonemason was observed 're-pointing' mortar joints that were in good condition! The original mortar was intact, the new was simply being added over the top, producing a very inappropriate appearance. The work was unnecessary and a waste of money. Again, the issue is broader than the tradesperson — someone commissioned this work.
- A specialist tradesperson criticised proposed repairs on the grounds that the "industry standard" (depth of re-pointing) was sufficient and that contractors should not be expected to re-point to a greater depth. This was despite investigations proving that the water penetration problem was in part due to the lack of sufficient mortar in the joints of the walls.

During peaks in the building industry cycles, many new people join the building trades but they do not receive thorough training nor do they have time to practice the skills required for conservation work.

The whole training system for building trades has been dumbed down and shortened to cater for these short-term demands and the easy fixing of modern materials.

Another and more recent factor contributing to the shortage of skilled tradespersons may be the recent substantial increase in insurance, particularly that which covers personal and professional liability. In NSW, there is anecdotal evidence suggesting that a number of highly experienced tradespersons in many of the key conservation trades have gone into early retirement because of these increased costs.

The NSW Government launched a heritage trades training program in 1999 to attempt to address this problem. One of the most successful and long running programs of traditional skills development is the NSW Government Centennial Stonework program. This not only cares for public buildings, but the skills of the stonemasons at the NSW Department of Commerce stoneyard are in high demand from private projects. This is a need that is not met by the private sector.

In Victoria, these issues have been addressed through a variety of measures, including the development of a degree course in the built environment at Holmesglen TAFE, the establishment of a Certificate IV course for building conservation, and a range of specific measures developed by the ISS Institute, such as the DEST funded overseas fellowships for the acquisition and recognition of specialist trades skills. These activities are all broadly supported by Australia ICOMOS.

### Recommendations

14. Though focused on modern construction, all trade courses should have a component on traditional construction techniques so that all tradespeople are aware of traditional practice and heritage related issues.
15. Specialist post-trade courses and programs should be developed to meet the need for higher order skills in the heritage industry.
16. Courses in architecture, building and engineering (whether at university or TAFE) should also have components on traditional construction techniques and heritage issues.
17. The Productivity Commission should recommend to government that these issues are pursued as part of a proposed national review of current education and training. In doing so, a degree of national coordination and information sharing would be desirable.

**Question 25 - *Are there constraints on the availability of finance or insurance for historic heritage buildings?***

Industry sources suggest that adding another layer of approval to a development project, that is a heritage approval, increases to some degree the risk associated with a project. This, in turn, adds to the cost of finance and increases the risk of finance being approved.

With regard to insurance, mechanisms like the *Building Code of Australia* dispensations can lead to higher insurance assessments because of increased risks, and therefore higher costs. For example, a dispensation allowing the continued use of a timber stair as a fire escape might lead to such an assessment based on the perception of a higher risk compared to a steel or concrete stair. Reinstatement costs are also likely to be higher, and this increases the insured sum and the premium. But in many cases the perception of risk is not reflective of the actual risk and is caused by a lack of understanding within the insurance industry of the practice and impacts of heritage conservation.

Another question is whether historic buildings are more expensive over their life compared to modern buildings providing similar accommodation. Australia ICOMOS does not have the answer to this question, nor the expertise and resources to address it. However, there have been some attempts to explore it, and to quantify the so-called “heritage factor”, being the additional cost factor, if any, related to historic buildings. The Australian Council of National Trusts did some work on this in the early 1990s as did the NSW Heritage Office in its study on the Economics of Heritage listing in 2000.

In regard to access to government funding, there have been numerous reports and reviews which have been undertaken into heritage, many of which deal with the issue of resources. In one example, the report of the Built Heritage Conservation Resources Working Party in 1998 called *Heritage: The Cinderella of Cultural Funding*, recommended a substantial increase in heritage funding. This has not happened.

**Australian Government assistance**

This issue is addressed at Questions 49, 76 and 78. In summary, historic heritage gets a pathetic level of funding support from the Australian Government – less than \$8 million.

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It is assumed that government submissions to the Inquiry will detail the historic heritage expenditure in each jurisdiction, including recent and longer term trends. Our own perusal of this expenditure highlights the low and/or decreasing levels of funding for grants programs. For example:

Commonwealth Government expenditure:

Program	2003-04	2004-05	2005-06
Conservation of Rural and Regional Historic Hotels	\$572,000	\$0	\$0
Cultural Heritage Projects Program	\$3.0 million	2.2 million	\$100,000
Sharing Australia's Stories Gifts to the Nation GIANT	\$1.5 million	1.8m	1.8m
Federation Fund/St Pauls Cathedral	\$50,000	\$0	\$0
Restoration of St George's Cathedral in Perth and St Paul's Cathedral	\$5.5 million	\$0	\$0
St Mary's Cathedral and the Church of St Mary's Star of the Sea – restoration	\$0	\$0	\$5 million
National Heritage Investment Initiative	\$0	\$0	\$2.2 million

Selected State/Territory Government programs:

Program	2003-04	2004-05	2005-06
ACT Heritage Grants Program	\$239,000	\$240,000	\$262,000
NSW Heritage Incentives Program	\$2.4 million	\$2.4 million	\$2.4 million
Queensland Community Cultural Heritage Incentive Program	\$115,000	\$0	\$0
SA State Heritage Fund Grants Program	\$200,000	\$200,000	\$200,000
SA Heritage Cemeteries Fund	\$50,000	\$50,000	\$50,000

**Question 26 - Have technological trends improved the ability of the private sector to undertake heritage conservation (for example, by increasing opportunities for adaptive reuse)?**

It could be argued that technological trends have made heritage conservation more difficult. It is now easier and often faster to replace an element than to repair and retain it. With faster assembly techniques, cheaper materials and mass production coupled with higher labour costs, most commercial operators will replace rather than repair.

**Question 27 - *What have been the impacts of social and demographic trends (such as population growth in inner city areas)?***

Australia ICOMOS is not able to respond to this question at this time.

**Question 28 - *Are there specific issues for certain groups who own or manage historic properties (such as churches or universities)?***

Australia ICOMOS is not able to respond to this question at this time.

### **3.2 Private Sector - Non-Government Organisations**

**Question 29 - *How do non-government organisations contribute to the conservation of historic heritage places?***

This analysis will focus on Australia ICOMOS as an example of a non-government organisation that makes a significant contribution to the conservation of historic heritage places.

It is acknowledged, that many NGOs in Australia make a significant contribution. There are many regional and community-based organisations, which provide care for a large number of heritage places and collections. They are representative of community support for heritage conservation and achieve broader goals such as education, lobbying and standards development as well as achieving conservation on particular sites. Australia ICOMOS is aware that a number of the national bodies representing this community-based contribution are making submissions to the Inquiry regarding their activities and issues.

As outlined in Part 1 of this submission, Australia ICOMOS is an association of some 300+ professionals in cultural heritage conservation, the Australian branch of an international organisation. The work of our members has been at the heart of the development of heritage standards and practices in Australia. This includes development and refinement of the Burra Charter. The heritage management principles in this document have become the cornerstones of heritage management systems across Australia and are now accepted as the benchmark for

heritage conservation practice. They are also internationally recognised. The *Burra Charter* has been translated into French, Spanish, Mandarin, Indonesian and Tagalog, and soon, Arabic. A number of countries have developed their own version of the Charter and foreign governments often send practitioners to Australia to study our heritage management principles in action.

Despite being a membership-based organisation, the scale of our contribution far outweighs the ability of our members to financially support. Many members donate a great deal of time to the work undertaken by our organisation as outlined below. We would not be able to operate effectively without government funding and struggle to survive on the current level of funding we receive, which is currently \$10,000 per year (via the GVEHO program) plus \$5,000 per year for providing the Secretariat and Chair for the National Cultural Heritage Forum (and occasional one-off grant funding which supports specific projects, publications and/or conference themes).

### **The Contribution of Australia ICOMOS Volunteers**

Our members contribute voluntary time to assist the organisation both here and overseas, and in the process contribute to knowledge, understanding and international best practice in cultural heritage conservation.

The following estimate of volunteer time is based on the ICOMOS Annual Report for 2003-04 and responses by five members to a request in the weekly E-Mail News. The estimate covers only time spent on ICOMOS activities; many members of Australia ICOMOS also contribute voluntarily to the work of their professional institutes (such as the RAIA and AAA) and to the work of expert committees set up under government heritage bodies such as the NSW Heritage Office, or non-government organisations such as the National Trust.

The Executive Committee has 15 members. Each member normally attends 3xtwo-day meetings and 1xone-day meeting each year. In addition, each member spends at least one or two days a year on duties between meetings, with office-bearers such as the President and Treasurer spending considerably more than this. An average of 9 days per 'ordinary' committee member per year would be a reasonable estimate, giving an approximate total of 144 person days per year.

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In a typical year there will be around half a dozen matters on which selected members will prepare submissions. Each involves at least two or three members (often more) and occupies each person for at least 1 day, so in total, perhaps 18 person-days per year.

A number of members contribute voluntary time towards other national activities such as the National Cultural Heritage Forum. This activity alone occupies five ICOMOS members, with the time spent in the order of 3 to 8 days per member per year, or approximately 22 person-days.

Australia ICOMOS has representatives on 14 ICOMOS scientific committees. While the level of activity varies from one of these committees to another, on average these representatives may spend between 5 and 12 days per year each in correspondence with their committees and attending annual meetings. Allowing an average of 8 days, this results in a total time of 112 person-days per year. In addition to the formal representation, there is a wider contact group associated with some committees that assists in information gathering and research. One such member of a contact group estimates he spends about 5 days per year; over all of the committees the total time for the contact group members could be a further 70 person-days per year.

Australia ICOMOS also supports an Australian member of the ICOMOS International Bureau/Executive Committee, and supports the participation in the International Advisory Committee, and commentary on matters relating to World Heritage. The time demand for elected member of the International Executive Committee is substantial, approximating over a year something in the order of one week per month of voluntary contribution (including travel).

It is important to emphasise that the individuals contributing voluntarily to the cultural heritage work of Australia ICOMOS (both nationally and internationally) are people with high levels of professional expertise and knowledge. A common rate mentioned by respondents to the survey was \$1,000 per day plus GST. At this rate, the monetary value of the voluntary time spent by Australia ICOMOS members would be at least \$600,000 per year. The value to the continual development of the heritage system is far greater than this.

### Recommendations

18. Government should recognise the substantial contribution made by Australia ICOMOS and other NGOs.

19. Increased funding should be made available to NGOs commensurate with this level of contribution and commitment.

**Question 30 - *What are the strengths and weaknesses of the involvement of non-government organisations in historic heritage conservation?***

This has been covered by Part 1 of this submission and in the response to Question 29. Non-government organisations, including both professional associations and community groups are vital components of any vibrant and effective system for historic heritage management in Australia.

**Question 31 - *How do these organisations establish priorities for conservation, and measure and report on their activities and performance?***

As Australia ICOMOS focuses on standards and processes in heritage conservation we do not directly participate in practical heritage conservation activities as an organisation.

**Question 32 - *What are the impediments to the conservation activities of volunteer organisations. For example, are there implications for conservation activities of an ageing volunteer community, and concerns about the health and safety and insurance of volunteer workers?***

Australia ICOMOS is not able to respond to this question at this time.

**Question 33 - *Can the activities of these organisations be improved or expanded?***

Australia ICOMOS is not able to respond to this question at this time.



### 3.3 Public Sector - Public Administration of Historic Heritage Conservation

#### 3.3.1 The New National Heritage System

*Question 34 - To what extent has the new heritage system reduced unnecessary duplication in heritage laws and processes between governments? Question 35 - Has the new national system reduced the level of community confusion over heritage laws and processes?*

Australia ICOMOS has no hard evidence to indicate whether confusion has increased or decreased. While the national system is driven by a strong and relatively simple ideological division of responsibilities between the levels of government, anecdotal evidence suggests:

- the community does not really care which level of government should be looking after which bit of heritage – rather, it is the proper role of government regardless of level or jurisdictional issues;
- the new national system has added two new heritage lists and a series of complicated processes which are more likely to create confusion rather than clarity; and
- the current apparent problem of many National Heritage nominations being provided from the community for places which are not of National Heritage value suggests a poor level of understanding in the community about the system (and in particular, the application of a national significance threshold).

Australia ICOMOS has always understood that a central plank of the new heritage regime was to be increased cooperation between the Commonwealth and States to remove duplication, to publicise the new regime, to fill in protection gaps, and to reach agreement on minimum standards for identification, significance assessment and management in each jurisdiction. This has not eventuated, leaving the possibility that the new regime will contribute less to heritage conservation in Australia than its predecessor.

Throughout the process to develop the new national system, Australia ICOMOS raised concerns about the complexity of the system, and the need for substantial and ongoing government efforts to help a range of stakeholders understand the system.

There have been some efforts to promote an understanding of the system, including a series of professional briefing workshops conducted by Australia ICOMOS in close collaboration with the Department of the Environment & Heritage, early in 2004. These seminars were run on a voluntary basis by members of the Australia ICOMOS Executive Committee. However, these early efforts seem to have largely stalled or disappeared. The Department and the AHC are apparently devoting nearly all their resources to the assessment of National Heritage nominations, and little or no effort can be put into:

- seeking simple effective responses to the legislative objectives, noting there may be unforeseen difficulties which have arisen as the system is implemented;
- promoting a better understanding of the system, especially amongst potential nominators;
- dealing with approvals and monitoring requirements associated with the new system; and
- promoting an understanding of Australia's natural and cultural heritage.

### Recommendations

20. DEH and/or the AHC should put in place a mechanism to review the ongoing operations of the national heritage system with a view to seeking simple effective responses to the legislative objectives especially in cases where difficulties arise. This mechanism and the solutions generated should be adequately resourced.
21. DEH should consider an ongoing program to promote a better understanding of the system, especially amongst potential nominators.

### ***Question 36 - Has it provided the overarching national policy framework which was sought by the Australian Government?***

While the national heritage system has provided some elements, which might be regarded as part of such a policy framework, it falls far short of being an adequate comprehensive framework.

The process for developing the system began in the mid-1990s and from about 1996-1998 there was discussion about a National Heritage Places Strategy. This was noted as a major issue in the report of the National Heritage Convention in 1998, run by the Australian Heritage Commission. Such a strategy was understood to be the overarching national policy framework. As the system

was developed further, attention focussed on legislation, and the concept of a National Heritage Places Strategy disappeared from view.

In recent years a form of strategy has re-emerged through the Environment Protection and Heritage Council with the development of an Integrated National Heritage Strategy. However, this seems a rather narrowly focussed exercise, which concentrates on inter-governmental roles and responsibilities and/or several issue-specific task forces, and no over-arching strategy has emerged. The system has not yet encouraged a consistent approach between all States and Territories and its focus on nationally significant places (while welcomed by the heritage sector) isolates the bulk of heritage places that we, as a nation, want to keep in our local environments.

We are still waiting for an adequate, comprehensive, overarching national policy framework for heritage.

### Recommendations

22. An adequate, comprehensive, overarching national policy framework for heritage should be developed.

### ***Question 37 - Are the roles and responsibilities of each level of government clear, appropriate and mutually supportive?***

While in theory the roles and responsibilities are clear and complementary, there are a range of issues:

- in practice, there often appears to be a lack of integration in the planning approvals process involving local government and State government agencies;
- there is often a tension between heritage and planning and development control, with the latter being more favourably disposed towards development at the expense of heritage, and planning and development control having greater power to achieve its objectives (particularly in the case of large developments);
- there are numerous gaps in State and Territory heritage legislation, which prevent the achievement of a seamless, well-integrated national system;

- the national leadership role of the Australian Government is not clear except in a few narrow functions;
- the Australian Government is not perceived to be adequately supporting the work of other levels of government; and
- there are gaps apparent in the range of heritage activities undertaken or supported by governments (eg research, funding for conservation, training, standards and technical advice).

### Recommendations

23. The Australian Government, together with State and Territory Governments, should develop a model approach to the:

- integration of heritage in the planning approvals process; and
- the relationship between heritage and planning/development control which deals with the relative power of each, including the special case of large developments.

This model should have as a central principle a fundamental respect for heritage values, and should be developed in consultation with the range of stakeholders at various levels of government and the non-government sector.

24. The Australian Government should adopt a broad leadership role with regard to heritage matters, and this role should be articulated in a national policy framework for heritage. This role should include support for other levels of government and deal with research, funding for conservation, training, standards and technical advice.

### 3.3.2 The Australian Heritage Council

**Question 38 - *Are the roles, responsibilities and powers of the Heritage Council appropriate for the Australian Government's primary advisory body on heritage matters?***

The difficulty in answering this question partly arises because the Council is relatively new and it appears to be still in a start-up phase.

Key issues may be the:

## Part 2 – Questions

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- degree to which the AHC can operate independently of DEH, including access to and control over resources;
- role of the AHC beyond providing advice on heritage assessments;
- transparency of the AHC's role; and
- expertise of the Council.

The functions of the AHC as defined in the legislation (section 5 of the *Australian Heritage Council Act 2003*) seem suitably broad and adequate. However, it is not clear whether the AHC has access to and control over the necessary resources to enable it to play the broad role envisaged. For example, while there is a large notional allocation of funding to the AHC, the Council does not actually control these funds - DEH does - and the resources seem largely allocated to funding DEH staff working on a narrow range of functions (eg nomination assessments). (See for example the Hansard for the Senate Estimates consideration of the Heritage Division of DEH on 26 May 2005 which included discussion of the support provided to the AHC)

The AHC's current role seems largely confined to providing advice on nominations, and it is not clear to what extent it is willing or able to play a broad role, even if it had the resources. This may be just a perception issue related to transparency. However, by way of example, in the recent Senate Committee inquiry into Gallipoli, the Australian Heritage Council made no submission ([http://www.aph.gov.au/senate/committee/fapa\\_ctte/gallipoli/submissions/sublist.htm](http://www.aph.gov.au/senate/committee/fapa_ctte/gallipoli/submissions/sublist.htm)). If the AHC is the Australian Government's primary advisory body on heritage matters then it seems odd that it was apparently silent on this major heritage issue.

The AHC's legislation requires members to have substantial experience or expertise (section 7 of the *Australian Heritage Council Act 2003*). Given the role of the AHC as the Australian Government's primary advisory body on heritage matters, this really means experience or expertise of the highest order. Members must be the best available experts at a national level. This qualification must be constantly kept in mind.

The AHC has currently two members with substantial experience or expertise in historic heritage. However, if it is struggling to fully perform its range of functions, the AHC should seek to have appointed associate members to supplement the current range of experts, or establish other expert advisory mechanisms and engagement with expert organisations.

### Recommendations

25. The AHC should have clear access to and control over the necessary resources to enable it to play the broad role envisaged.
26. The AHC should embrace the full range of statutory functions defined, and provide information about the work it actually does. In particular, the AHC should play an active role in major heritage issues.
27. The government should adopt a policy of appointing the best available experts at a national level to the AHC.
28. The AHC should seek to have appointed associate members to supplement the current range of historic heritage experts, or establish other expert advisory mechanisms.
29. The Australian Government should seek to use the Council of Australian Governments and/or the EPHC to achieve the genuine co-operation and consistency in standards and approach that was always envisaged as a central tenet of the new Commonwealth heritage regime.

### 3.3.3 State/Territory Policy Frameworks

**Question 39 - *Does legislation in each State/Territory, and its implementation (for example, monitoring and enforcement), provide for efficient heritage conservation outcomes and, if not, why not? Are objectives clear, measurable and consistent with other legislation?***

The heritage system is largely delivered at State and local levels. It is clear in comparing the historic heritage legislation in each State and Territory that the scope and level of protection of our heritage places varies widely. Given that the majority of activity occurs in these jurisdictions, this lack of consistency is a key concern. Queensland, Victoria and NSW have the most comprehensive coverage of heritage issues. While all States and Territories have mechanisms for listing heritage places, they provide varying levels of protection for those places, and not all have requirements for minimum standards of maintenance for heritage listed places.

There are gaps in State/Territory heritage legislation – for example, most do not adequately cover cultural landscape values, significant objects and collections, and Aboriginal historic places are often a ‘grey area’. Protection for historical archaeological resources varies greatly, with some

States having no protection at all. This problem is exacerbated by the fact that very few systematic surveys have been initiated, and very few archaeological sites are listed in State registers in any part of the country, leaving a vast percentage of sites with no protection. Many are therefore destroyed.

A comprehensive analysis of each Act is not included here, but given the national basis of our organisation and our membership, a more detailed comparison could be provided if requested. Many of our members have participated directly in recent State and Territory legislative and strategy reviews.

Enforcement (or lack of) is a common problem. There are some obvious factors that contribute to this lack of enforcement. The first is lack of funding. Many heritage agencies struggle to fulfil their statutory approvals role and compliance monitoring and enforcement are lower on the list of priorities. The costs of gathering evidence to the standard needed and paying for legal representation are prohibitive in these circumstances. Unlike environmental protection agencies, heritage agencies also have no ability to issue on the spot fines. The need to always go to court to have a penalty applied clearly reduces the ability of the agency to enforce its legislation.

Historically, heritage agencies tend to take a co-operative and educational approach to breaches of heritage legislation. The lack of litigation is partly due to this extensive negotiation and compromise when conflicts arise between development and heritage outcomes. When for example, the Tank Stream was severely damaged by Australian Water Technologies (a subsidiary of Sydney Water) in 1998, there was ample evidence to mount a successful case within the required six months. However, the Heritage Office was reluctant to prosecute another arm of government and chose a co-operative approach to rectify the damage. This co-operative approach is also reflected in broader environmental protection systems. In jurisdictions where breaches of heritage legislation are pursued however (such as Victoria), it is recognised that negotiation in such circumstances is only effective if the very real threat of prosecution exists. This requires an active enforcement program where cases are investigated and brought before the court where necessary.

The objectives of heritage legislation in all jurisdictions are clear. The same cannot be said regarding the relationship between heritage and non-heritage legislation, particularly that governing

land-use planning, taxation and environmental protection/conservation. This lack of consistency has been fairly well examined in regards to planning systems. Common problems include:

- land-use expectations set up in planning instruments, particularly issues to do with intensity of use, are often in conflict with heritage conservation outcomes;
- while planning systems can successfully incorporate and support the aims of heritage legislation, this does not always happen in practice;
- where provisions for heritage conservation do exist, this is often seen as a starting point for negotiation rather than a standard to be met;
- the planning system deals with tangibles and does not deal well with character or intangible values attached to places. Difficulties dealing with maintaining the character of a place have already been outlined in Part 1. The distinctions between heritage, character and amenity are also a source of community confusion, and conflict within planning processes;
- heritage conservation as a negotiable element or a luxury in the development process is a common attitude amongst developers. This is a difficult attitude to combat;
- variations in the degree and availability of expertise available to local government authorities to implement the heritage identification, protection and management responsibilities arising from planning mechanisms;
- heritage listing under local government planning instruments is often seen as an end in itself rather than a management tool;
- there are often difficulties with the practical application of precinct or area-based heritage controls;
- decisions to list heritage places are often confused by issues to do with specific development proposals, when they should be separated.

Conflicts caused by expectations set up about land use in tax assessments have already been discussed in Part 1 of this report. A case study highlighting conflicts between cultural and natural heritage conservation management aims is contained in Part 3. These inherent conflicts are somewhat of a sleeping problem, but it is a problem that deserves close attention. Effective heritage conservation will never be achieved if these sorts of conflicts are not addressed.



### Recommendations

30. State and Territory regulations should be consistent to achieve a national and integrated system;
31. Agencies should be sufficiently resourced to fully implement and enforce their legislation.

### Question 40 - How *might the current, or recent, State/Territory reviews improve outcomes?*

Australia ICOMOS is not able to specifically address this question at this time, although it is noted that the reviews have all been aimed at improving rather than scaling back heritage regulation. It is important that future reviews continue to facilitate and foster the co-operation and consistency in standards and approach, as well as establishing clarity in the respective roles of the Commonwealth, State and local governments.

### Question 41 - *Will recent changes to Australian Government legislation affect the way State and Territory legislation is implemented and outcomes for heritage conservation?*

Changes may occur in regard to National Heritage places, but these are small in number, and this is likely to be the only impact.

In theory, National Heritage listing might reinforce or override State and Territory heritage legislation and bolster heritage conservation. The listing of Port Arthur might be seen as a case of reinforcement, while the emergency listing of the Alpine National Park is motivated by a desire to over-ride State decisions. In addition, National Heritage listing might be invoked in cases where a State or Territory declines to heritage list, or declines to list an adequate area. However, it must be acknowledged that there are constitutional issues which add considerably to the complexity of this question.

National Heritage listing is ultimately a political decision by a Minister and there is no guarantee that all places with National Heritage values will be protected. The Minister does not have to list places even if the AHC finds they have National Heritage values. In addition, there are certain possible exemptions from listing (eg for defence and security reasons, see section 324L(1)(b) of the EPBC Act) which may achieve the same result.

**Question 42 - *Do all States and Territories manage heritage places within an explicit strategic framework? How can existing strategic frameworks be improved? How important are well developed frameworks for facilitating historic heritage conservation?***

These issues have been touched on in Part 1 of this submission and in responses to other questions in Part 2.

**Question 43 - *Are there major differences in legislation, and its implementation, between States/Territories and, if so, do these differences affect historic heritage conservation?***

Yes, there are major differences as highlighted elsewhere in this submission. This does affect a consistent approach to historic heritage conservation. See the answer to Question 39 for more detail.

**Question 44 - *How does interaction between various Acts, and between State/Territory legislation and local planning regulation, impact on heritage conservation outcomes? Is there scope for improvement?***

This issue of integration has been variously addressed through other parts of this submission. This multi-layered approach can have benefits, particularly in regard to addressing loopholes in one layer by applying the other. But the system has rarely been static for long and constant changes in regulations and the relationship between different layers of regulation can be confusing. In some states (such as Queensland and Victoria), local and state planning and heritage/environmental regulation are more closely aligned in their goals and implementation. In other states, particularly NSW, the piecemeal approach can create loopholes.

Resourcing at local government level is also particularly difficult in the face of increasing devolvement of responsibility. This leads to an inconsistent application of State heritage policy at local levels.

**Question 45 - *Are State and Territory heritage councils (or authorities) producing efficient outcomes for heritage conservation? Are their functions appropriate? How well do they balance private and public development needs with historic heritage conservation?***

### **Efficient outcomes**

It is beyond the resources of Australia ICOMOS to respond in a detailed way to this question. In general terms, heritage council processes appear to operate in an efficient way although there is always scope for review and possible improvement. It is worth noting that State and Territory processes seem to be subject to periodic review - the aim of which is invariably improvement. For example, there have been reviews in recent years in at least the ACT, NT, SA, Tasmania and Queensland, a major consultative program to develop a new heritage strategy for Victoria, and a review foreshadowed for WA.

It is worth noting, for example, that the heritage listing process in the ACT has recently been overhauled with the intent of streamlining what was a very cumbersome process and bringing it closer into alignment with general practice in other jurisdictions. While this is a welcome change, the ACT still lags behind other jurisdictions in having an online heritage database and there seems little prospect of this being achieved in the foreseeable future. The lack of such a database impedes the heritage effort in the ACT. The ACT is also an example of where overlapping jurisdictional responsibilities can result in administrative complexity and community confusion (in this case, arising from the designation of 'Territory' land and 'Commonwealth' land).

The answer to Question 2 is also relevant.

### **Appropriate functions**

In general terms, the functions of heritage councils are appropriate, although they vary. The key issue is whether they are adequately resourced, and in general terms they are not. This is a major issue, which the Productivity Commission should consider. Resourcing questions are closely linked to whether the Councils are able to carry out their statutory responsibilities with independence and expertise.

### **Balancing development needs with historic heritage conservation**

It is difficult to respond to this question without some detailed research, but we are unaware of any pressing issues in this area. Invariably the councils should err in favour of conservation, and this is only reasonable given their statutory objectives and community expectations.

### **Recommendations**

32. The Productivity Commission should consider the adequacy of resourcing provided to State and Territory heritage agencies.
33. Through the National Heritage Strategy process, governments should cooperatively develop and prepare model functions for heritage agencies which might form the basis of a national standard.

### **Question 46 - How does the relationship between heritage councils and State/Territory government departments/agencies function, and are their respective roles clear and mutually supportive?**

Australia ICOMOS does not have detailed information on this question, nor the resources to investigate it.

It is difficult to generalise, but we understand that the relationship varies between excellent and poor. Some agencies are fully supportive of heritage matters, and work hard to achieve good heritage conservation. Others are hostile, and some attempt to ignore heritage issues. Many agencies perceive their core agency function as being primary and over-riding all other matters including heritage.

The situation has probably improved over the last few decades but it is far from ideal. Financial pressures (including funding cuts) on agencies as well as heritage councils has meant the agencies are less able to undertake heritage conservation and at the same time the heritage councils are less able to support and encourage other agencies. This has occurred at a time of increasing community expectations that agencies will be good citizens and look after public heritage places.

This issue also arises at the Australian Government level.

### Recommendations

34. The Productivity Commission should investigate the resources available to State/Territory government departments/agencies to undertake heritage conservation, and also investigate the resources needed.
35. The Productivity Commission should investigate the resources available to heritage councils to support and encourage State/Territory government departments/agencies, and also investigate the resources needed.
36. The Productivity Commission should investigate the resources available to the AHC and DEH to support and encourage Australian Government departments/agencies, and also investigate the resources needed.
37. The new system for dealing with Commonwealth Government heritage responsibilities should be monitored to ascertain its usefulness as a model for State and Territory government heritage activities. If found to be a useful model, this should be promoted to State and Territory governments.

### 3.3.4 Policy Framework Efficiency

**Question 47 - *To what extent (if at all) are current heritage approaches that separate conservation of historic, Indigenous and natural heritage places impeding conservation of historic heritage places?***

This separation does not occur at the Commonwealth level. The integration of natural and cultural heritage values has always been one of the great strengths of Commonwealth legislation and practice, and has led to the development of holistic and integrated policy, research methodology and significance assessment.

In many ways, this separation is a bureaucratic rather than a natural division, and artificially divides what is a continuum. All natural places and many historic places have Indigenous significance and many natural places have significant historic heritage values. Bureaucratic division splits these places unnaturally, fractures our understanding of them and makes the integrated conservation of all their values more difficult. This division does not exist in the hearts and minds of the community, and causes unnecessary bureaucratic mystification and red tape for the community.

Another consequence is that there is a tendency for natural heritage managers to disregard or downplay cultural heritage values within their jurisdiction, and vice versa.

### **Funding constraints, inequities and inefficiencies.**

Clearly funds available for heritage conservation will always be constrained. In many cases identification, assessment and conservation of heritage could be maximised if projects and government programs were designed to ensure a dialogue between the heritage streams, leading to a more integrated approach to identification and conservation.

Funding grant sources for historic heritage available to land managers, communities, researchers and other stakeholders have been significantly reduced. Grant funds for natural heritage research and conservation remain, but are not able to be accessed for historic heritage projects even where these could be logically undertaken as an integrated aspect of landscape and environmental management. It is very counter-productive to have different community groups, and different State agencies working separately on the natural and historic values of a particular landscape.

**Inefficiencies in assessment and conservation approaches in environmental impact assessment, land use planning and protected area management** due to the streaming of funding into separate areas and the independent project management within these areas.

Environmental Impact Assessment and development-related investigations are one of the major catalysts for historic heritage investigation. In many areas, particularly outside the large urban centres, historic heritage is only included in such studies at a 'desktop study' level. Generally investigative studies are streamed, and natural and Indigenous heritage studies are undertaken in isolation to each other, and to any consideration of historic heritage.

It would in many cases provide a better heritage outcome if there was more dialogue between consultants carrying out the various assessments, and ideally project briefs should be designed to ensure that this occurs.

**Separate agencies dealing with strands of environmental heritage rather than a ‘whole of government approach’.**

It is still common for different agencies to deal with the various strands of the environment. Not only is this confusing for the public it often results in inconsistencies in approach and overlapping policies. For example in NSW, the separation of the Heritage Office of NSW which has responsibilities for establishing policy for environmental heritage operates under one minister and the Department of Environment and Conservation which has a similar responsibility for aspects of environmental heritage (i.e. natural and Indigenous) exists under the oversight of a different Minister. It is common for these elements to be separately located within government structures, and it is also common for heritage agencies to move when there are restructures or shuffles of responsibilities.

Protected area management agencies control large areas of the Australian environment. In many States this land has not been surveyed or assessed for its historic heritage resources. Consequently it can be managed with less regard to the conservation requirements of the historic heritage and sometimes to its detriment. A clear understanding of what parts of our historic heritage are included within protected area reserves, and a commitment to its long term conservation would assist in strategic attempts to identify a focus for ‘off park’ or private investment and/or regulation in regard to historic heritage.

The Inquiry may wish to consult the Australia ICOMOS report outlining a series of case studies of recognition and protection of cultural/historic values in natural areas (Jane Lennon & Associates 1999, *Conserving the Cultural Values of Natural Areas: A Discussion Paper*).

**Recommendations**

38. Provide incentives or requirements for government agencies with heritage responsibilities to undertake and promote strategic and long term research in historic heritage and to invest in and maintain ‘in house’ expertise in relevant historic heritage skills.
39. Protected Area Management agencies should instigate a program of survey and assessment of historic heritage resources in nature conservation areas; develop clear policies and strategies for the conservation of this resource where such are not already

in place; and to invest in appropriately qualified staff to ensure the long term investigation, interpretation and conservation of the resource and the integration of its management into the overall management of the protected area reserve system.

**Question 48 - *Are there conflicts between public policy in historic heritage conservation and in other forms of conservation (such as natural or Indigenous heritage)? If so, how are these conflicts resolved?***

A case study is included in Part 3 of this submission that highlights conflicts between regulatory requirements for natural and cultural heritage conservation.

Public policy for all types of heritage conservation generally applies the same principles and the same aims. In practice however, there can be conflicts where different heritage values in the same place require different management regimes. As noted in Part 1 of this submission, assessments for balancing competing significance values that are commonly undertaken for historic heritage are often not applied to make decisions about conflicting natural and cultural values. A case in point is the basic assumption amongst many National Park staff (who are often expert in natural heritage conservation) that natural heritage values should automatically be given precedence in management when a conflict arises. This has led for example to a widespread policy of revegetating areas that may have historic heritage values, without considering first if that is always appropriate (this is an issue of ongoing discussion in relation to the Castlemaine Digging National Heritage Park in Victoria – a place included in the National Heritage List).

Separation of policy makers in each area between different government agencies can exacerbate this problem. Approvals processes are also separated in these cases.

The Burra Charter process requires the recognition of all the heritage values of a place. Australia ICOMOS has developed a Code of the Ethics of Co-Existence of multiple and potentially conflicting values (Australia ICOMOS, 1998). Practical examples are given in the *Illustrated Burra Charter* (Walker and Marquis-Kyle, 2004).



## Recommendations

40. Awareness of potential heritage impacts needs to be raised amongst policy makers and regulations in non-heritage sectors. This may assist to avoid conflicts in the first place. Policies are needed outlining an assessment process for managing conflicts that do occur.

*Question 49 - Are government incentives for private participation in historic heritage conservation comparable to those offered for participation in other forms of heritage conservation? If not, what does this imply for the level of private sector participation in historic heritage conservation?*

An extract from the *Environment Budget Overview 2005-06* follows. This relates to the major natural heritage conservation programs, many of which appear to provide incentives for private participation. These programs total about \$815 million for 2005-06.

QuickTime™ and a  
TIFF (LZW) decompressor  
are needed to see this picture.

By comparison, the incentives provided for historic heritage in the same Budget amounts to about \$8 million (see Appendix 1 of the *Environment Budget Overview 2005-06*), or a mere 1% of the natural heritage incentives.

By any measure, historic heritage gets a pathetic level of funding support from the Australian Government. With almost no Australian Government incentives for historic heritage conservation, and relatively few and varied incentives provided at the State or Territory level, the private sector largely achieves conservation for the public good at its own expense.

### Recommendations

41. The Australian Government should provide substantially greater ongoing financial incentives for private historic heritage conservation consistent with the public benefits achieved through such conservation.

## 3.4 Public Sector Heritage Lists

### 3.4.1 National Lists

**Question 50 - *Have the recent legislative changes by the Australian Government improved the administration of national lists and the overall conservation of historic heritage places?***

It is too soon to answer this question. There are clearly certain problems with the establishment phase of the new Australian Government heritage system including the National Heritage List.

These may just be “teething” problems. The problems include:

- many poor quality nominations being provided, requiring DEH to expend substantial resources to assess them; and
- on the other hand, too few good quality nominations are being provided.

Problems may also exist with the provisions for heritage strategies and management plans, and the protective provisions. The purpose and operation of the retained Register of the National Estate is still unclear. Australia ICOMOS is also aware that the introduction of the new national heritage

system has resulted in additional workload for State and Territory heritage agencies, especially in relation to the timeframes required by emergency listing procedures.

Most of the time of the DEH staff and the AHC appears to have been taken up with dealing with emergency nominations, brought forward by community groups and other interested parties when a particular site is threatened and when it appears that there is no way of protecting it at state level. While some of these sites are undoubtedly of national importance, many are not, and illustrate the community's dissatisfaction with state and local practices rather than their interest in or understanding of National Heritage listing.

Ironically, this situation is made worse by the fact the National Heritage Strategy has not been implemented and there are often gaps in state or local heritage protection which the sponsors of emergency nominations to the national list seek to overcome. Apart from this, nomination work has concentrated on the 'flagship' sites which are already national icons, and which are often already provided with extremely high levels of protection via State and Territory regimes.

At least in the initial operation of the new legislation this situation has had the effect of severely limiting the amount of time being spent by staff and the AHC in developing thematic and regional tools for National Heritage assessment.

DEH/AHC needs to monitor this phase and develop solutions if the problems prove to be structural. This may require legislative amendments and/or the provision of more resources, especially staff or consultant resources and heritage expertise.

### Recommendations

42. DEH/AHC should monitor the establishment phase of the new heritage system and develop solutions if the problems prove to be structural. This may require legislative amendments and/or the provision of more resources, especially staff or consultant resources and heritage expertise.

**Question 51 - *Are the criteria and thresholds for listing on the registers administered by the Australian Government appropriate?***

The suite of criteria currently used is the result of a long evolution of criteria in Australia. Accordingly, they have benefited from a long process of development and use. They have generally been found to be comprehensive and robust.

The unavailability of national significance assessment thresholds, and the limited number of thematic studies conducted on a national basis are current impediments which could be addressed.

There are two further problems that need to be fixed. These relate to the understanding of the term 'aesthetics', and also possibly National Heritage criterion (a).

**Aesthetics**

The use of this term is constrained by the Ascot Chambers decision, which limits it to that which is beautiful. The definition needs to be broadened to something which is more sensible and includes the range of meanings commonly ascribed to this term.

**Criterion (a)**

An attempt was made recently to emergency list the RAN Transmitting Station, Belconnen on the NHL. It failed. In the statement of reasons, Minister Campbell has stated,

*I noted that the potential historic values identified under criterion (a) rest with the place's association with the story of the defence of Australia. NHL criterion (a) is the criterion of events and processes, one that acknowledges historical associations of outstanding heritage value to the nation. It is a criterion related not so much to values inherent in the physical evidence of a place, but to its intangible qualities. The elements of the Royal Australian Naval Transmitting Station that reflect outstanding heritage value to the nation under criterion (a) are: the three 600 ft aerial masts and earth-mat, elements of the aerial farm including the Rhombic and Omni Vector aerial arrays, the transmitter hall and 44 kHz transmitter, the guardposts and guardhouse, the planning and layout, and the village site.*

And,

*Given that the values of the place under criterion (a) reflect its historical association, rather than rest*

*implicitly with the extant fabric, the decommissioning strategy proposed by Defence preserves the values of the place.*

The decommissioning strategy involves,

*the removal as scrap of all but part of one of the VLF towers, the part to be retained for possible future interpretation on site; removal of some equipment for reuse at other Defence sites; and the removal as scrap of all but one good condition example of each other type of antennae...*

By this reasoning, no fabric has any meaning under criterion (a). This is clearly a mistake, and needs to be fixed.

Criterion (a) has been used in a number of National Heritage listings with the clear indication that fabric at these places embodies the values, and such fabric is listed as the attributes relevant to the value. A similar wording to this criterion also applies to the Commonwealth Heritage List and Register of the National Estate (and in the legislation for all States and Territories).

### **How are the terms ‘significant’ and ‘outstanding’ interpreted in practice?**

With regard to the term ‘significant’, this has a long history of use in Australia, dating back to at least the 1970s. ‘Significant’ is a synonym with value, and is shorthand for cultural or heritage significance. In general contexts, significance merely denotes some level of heritage value. In statutory contexts, it can mean that a certain level of value has been identified.

The term ‘outstanding’ is relatively new in general practice in Australia, and it is probably fair to say that its interpretation is still evolving. To some extent though, there is some experience with the term through World Heritage matters which uses the key phrase *outstanding universal value*.

With regard to the National Heritage List, it is probably too early to look at how the term ‘outstanding’ is being interpreted.

### **Recommendations**

43. The definition of *aesthetic* needs to be broadened to reflect current practice and to include the range of meanings commonly ascribed to this term.
44. Criterion (a) is applicable to fabric as well as intangible aspects in the national heritage system. Clarification is needed to reinstate this long-standing assumption.

**Question 52 - *Should the potential costs of conservation be included in listing criteria to better target scarce government resources?***

It is a fundamental and long-standing principle of Australia ICOMOS that identification (significance assessment) and management issues should be separated. This is a basic tenet of the Burra Charter, and of heritage conservation methodology internationally.

This does not mean that the potential costs of conservation are not taken into account. In a second step (following significance assessment), it is crucial to carry out a realistic assessment as to whether a significant place can be preserved, to what extent, at what cost and with what compromises. In practice, the objective decision about the degree of significance is not automatically followed by a 100% conservation solution, since management, community and financial decisions are regarded as valid considerations in the process. At issue here is transparency: this two-step process makes the reasons for conservation decisions clear.

In any event, a process which incorporates the costs of conservation within the significance assessment stage would involve considerable expense. The process would require an assessment of what conservation works were needed (generally via a conservation management plan and condition survey) in addition to the input of a quantity surveyor (for example). So, in this scenario, listing would involve two substantial costs: a conservation management plan and the work of a quantity surveyor, and could cost between \$10,000-\$60,000 or more.

The question of setting priorities is also addressed at Question 53.

**Recommendations**

45. The potential costs of conservation should not be included in listing criteria.

**Question 53 - *Given that the lists are expanding and government conservation resources are scarce, is there need for further prioritisation such that some on the lists are able to receive more conservation activity than others?***

This questions contains two substantial and disputable assumptions:

- that resources will remain as scarce as at present; and
- there is a justifiable prioritisation possible on the basis of a certain form of listing, eg National Heritage listing.

Resources remain scarce because of government decisions, and the level of resourcing could change if governments are persuaded otherwise. At the Australian Government level, the low level of current funding for conservation activity makes it almost pointless to contemplate setting priorities. The level of resourcing must be increased.

It is interesting to reflect on the last Federal Budget where the largest funding for private conservation activity was provided for two churches apparently on the basis of individual, one-off approaches to government. The \$5 million was provided outside of any policy, program or strategic approach. There is no sense of priority setting tied to any listing. And this is not the first occasion of such one-off Australian Government munificence.

The other flawed assumption in the question is the link between priority setting a certain form of listing. A blunt example would be that funding should just be provided to National Heritage places. However, a certain level of significance is no indicator of need. There may be nationally significant places which are in reasonable condition and do not really need conservation funding, compared to other significant places which are in poor condition and really need conservation funding.

Priority setting for conservation funding is more complex than just level of significance, and must be related to the specific needs of the place. (See also our comments above on the methodological problems with the process of creating and prioritising lists.)

## Recommendations

46. The Productivity Commission should not perpetuate the assumption that resources for conservation activity will remain scarce, and indeed the Commission should address the level of resourcing (see Question 11).

47. The Productivity Commission should examine the policy, program or strategic approaches, if any, behind recent Australian Government conservation funding decisions such as those contained in the 2005 Budget. If no sound strategic approach is found, the Commission should recommend a suitable approach.
48. Priority setting for conservation activity should not be based on certain forms of heritage listing nor levels of significance. Rather, priorities should be established on the basis of the specific needs of a place including significance, condition, ability to undertake necessary works, and other available resources for the works.

***Question 54 - How do existing lists link with other heritage conservation policies and programs, including funding?***

Australia ICOMOS is not able to answer this question at this time.

***Question 55 - How do listing criteria for the World Heritage list compare with criteria for national lists? Given the existence of national lists, what additional benefits does World Heritage Listing provide?***

Australia ICOMOS is unable to provide a response to this question at this time. However it is noted that there is very strong legislation to protect World Heritage, and strong Commonwealth financial support of it. World Heritage Listing provides an important level of recognition. It is noted that there is a lack of historic nominations (until recently) and a persistent failure to develop an indicative list -- a situation in which the Commonwealth government should take a leadership role.



### 3.4.2 State and Territory Lists

#### **Question 56 - *What are the listing criteria for State and Territory heritage registers?***

These vary and the criteria can be easily obtained from the relevant State and Territory authorities. In general however all the criteria are based on the four heritage significance values set out in the Burra Charter, being: historic, social, aesthetic and scientific significance. [Note that since 1999, this list has been augmented to include ‘spiritual’ significance, although this has not yet been specifically taken up across Australia’s jurisdictions.]

In general, the criteria established by the former Australian Heritage Commission for the Register of the National Estate are the most widely accepted and used. These have essentially been adapted for the National and Commonwealth Heritage Lists. They also closely resemble the criteria used in most State/Territory Registers, with various small deviations (which are not especially helpful in reducing community confusion).

#### **Question 57 - *How does inclusion on a State or Territory register protect historic heritage places?***

Australia ICOMOS is not providing a response to this question as it assumed it will be well covered in submissions from the State and Territory governments.

#### **Question 58 - *Given that registers keep expanding, and the scarcity of government conservation resources, is there prioritisation such that some historic heritage places are able to receive more conservation activity than others? What options are there for prioritising heritage places (for example, use of threat/value assessments)?***

This issue is substantively addressed at Question 53. The suggestion is made that priorities should be established on the basis of the specific needs of a place including significance, condition, ability to undertake necessary works, and other available resources for the works. Weighing up these various factors is essentially the daily work of the professional staff of heritage agencies throughout the country.

**Question 59 - *Is there adequate opportunity for public input in the listing process? Are the review and reporting requirements adequate?***

Yes. Ample opportunities are provided for the public and owners of heritage properties to participate in listing processes at all levels. This listing process is perhaps the most publicly accessible aspect of our cultural heritage management systems. Conversely, the general public is much less able to comment on works to listed places and the way they are interpreted and managed in the long term.

**Question 60 - *Are there differences between States and Territories regarding breadth of coverage, list size and content, and processes for listing (such as criteria and extent of community consultation)? If so, do they affect conservation outcomes?***

Some of the limitations of listing including breadth of coverage and the focus on individual places and tangible values have been discussed elsewhere in this submission.

Australia ICOMOS does not however have the resources to outline the precise nature of differences between jurisdictions at this time. In general however, listing is one of the strongest and most well established parts of the heritage management process, and is strongly recognised and supported by the community. It is noted however that there are still significant gaps and current heritage lists do not give us a good understanding of Australia's heritage places.

As discussed earlier, there are gaps in the protection regime of numbers of the States. Previously, people tried to have such areas protected by nominating them to the Register of the National Estate. The National Estate Register in fact provided little protection at State level but it served as a flag for places not otherwise protected. One of the key issues raised by Australia ICOMOS in its negotiations about the new legislation was the necessity to protect places which currently fall through gaps in State legislation.

While there has been a moderate and ongoing effort to identify and adequately document Australia's heritage places, resulting in extensive lists of places, there are still backlogs of nominations to many heritage lists. At the national level, the number of historic place nominations currently undergoing or awaiting assessment are:

- 5,016 for the Register of the National Estate;

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- 47 for the National Heritage List; and
- 23 for the Commonwealth Heritage List.

We are aware that there are substantial backlogs of nominations at State and Territory levels also, and there are many local government heritage studies which have not yet been incorporated into local planning instruments.

In addition, other relevant issues include:

- there are still gaps in the coverage of basic local heritage surveys. For example, the draft strategy, *Victoria's Heritage 2010* (Heritage Council 2004) identifies 6 local government areas in Victoria where there have been no basic local surveys, and this is 20+ years since such surveys began;
- much of the survey work which is the basis for most heritage registers may now be quite old and possibly out of date, especially given the evolution of heritage ideas, standards and practice;
- there are gaps in our thematic understanding of Australia's heritage; and
- even where surveys have been completed, it is not clear how the results have been transferred into heritage registrations.

It is beyond Australia ICOMOS' resources to examine this issue further.

## Recommendations

49. The Productivity Commission should examine:
  - the extent of backlogs of nominations to statutory heritage lists;
  - the extent of gaps in basic local heritage surveys;
  - the adequacy of data on heritage places derived from local heritage surveys;
  - the extent of gaps in thematic surveys;
  - the rate of transfer of survey data to heritage lists; and
  - the adequacy of resources to address these issues.

### 3.4.3 Local Government Lists

#### **Question 61 - *How does local government recognise and protect historic heritage places?***

Most local councils around Australia have the capacity to list heritage items on schedules attached to local planning instruments and to have heritage management clauses in these instruments. Many councils also have heritage management committees and incorporate heritage issues in education and tourism programs.

In NSW for example all local government areas have been directed, via section 117 of Environmental Planning & Assessment Act to do heritage studies. The NSW Heritage Office also put out a 'Model Heritage Local Environment Plan' to enable consistent adoption of basic local heritage protection measures. Similar provisions exist for Victoria, resulting in a standardised approach to municipality-based studies and the incorporation of their results into planning schemes via the 'Heritage Overlay' control. However, in other States/Territories, local government planning controls are optional and/or individually or idiosyncratically applied, with little State government guidance or oversight.

Again whilst fine in theory, application of a heritage study or LEP is highly reliant upon education, experience and willingness of staff and councillors to commit to ensure retention of heritage values and implementation of heritage management best practice.

The system can fail because of a break down between a requirement 'to do heritage studies' and put management regimes in place, and personal decision making and political interference. When there is no commitment the local government system for heritage protection is very vulnerable.

#### **Recommendation**

50. Local Councils require sufficient resources and in-house heritage expertise to effectively deliver their component of the heritage management system.

#### **Question 62 - *What criteria do local governments use to list historic heritage places and how do these relate to those used by other levels of government?***

As already noted, criteria used by different levels of government are all slightly different but are all based on the major significance values outlined by the Burra Charter.

It is worth noting however that sometimes, when pursuing the listing process after the consultant has done the work according to the established criteria and best practice, outcomes solely depend upon a Council's attitude.

At the local level, development approval assessments of heritage values remain very fabric based and highly dependant upon an assessing officer's education and commitment. The level of community support for retention can also play an important part in the outcome.

**Question 63 - *How well do local governments resolve conflicts between protecting private property rights and achieving legitimate heritage conservation objectives? Should governments (at any level) be required to compensate for their actions, which infringe on the property rights of private owners?***

Australia ICOMOS is not providing a response to this question at this time.

**Question 64 - *To what extent do local governments provide clear guidance about the rights and responsibilities of owners of heritage-listed properties?***

Australia ICOMOS is not providing a response to this question at this time.

**Question 65 - *How do local government regulations designed to protect historic heritage places relate to more general planning regulations?***

Australia ICOMOS is not providing a response to this question at this time.

### 3.4.4 Non-Official Lists

**Question 66 - *What criteria do non-government organisations use to list historic heritage places?***

Australia ICOMOS does not list heritage places. We are, of course, aware of a number of other NGOs that do compile lists. Most follow the standard significance assessment guidelines contained in the *Burra Charter*.

**Question 67 - *How do the lists maintained by non-government organisations relate to those maintained by governments?***

The non-government lists derive from either community or expert organisations (eg the National Trust or Royal Australian Institute of Architects). These lists have in the past played a formative role with regard to statutory lists. Currently, such lists play at least three important roles in relation to statutory or government lists:

- the NGO lists may recognise heritage value in situations where governments are reluctant to do so;
- the NGO lists may lead in expanding the definition of heritage, as has happened in the past; and
- NGO lists may continue to provide the basis for nominations to statutory lists.

In addition, the NGO lists may prove a useful vehicle for engaging people in heritage issues. On the other hand, the implications arising from listing by NGOs can be a source of community confusion (particularly in relation to the lists maintained by the National Trusts).

The questions arising are what future role NGO listing activities should play, how they might relate to statutory lists, and what support should be provided.

Clearly there is a case to argue that if governments are effectively listing heritage places then NGOs might better spend their energies on other activities. However, the NGO lists may continue to play the three roles mentioned above even if governments are listing places themselves. This might be viewed as targeted listing by NGOs rather than broad-scale programs of listing.

Australia ICOMOS is not able to research the level of support provided by governments for NGO listing activities but it is suspected the level of support is very low. Even if the NGOs continue to play just a targeted role, the level of government support might be considerably enhanced. This might include funding but importantly it should also include assistance to develop on-line, publicly accessible databases. Ideally, governments should be looking to enhance the Australian Heritage Places Inventory to include all reputable heritage lists including those from NGOs. A single integrated database of heritage lists would be a major step forward for heritage conservation in Australia which would be of considerable benefit to a wide range of stakeholders. This is

something that can only happen with government leadership and support, especially from the Australian Government.

Ultimately, the future for NGO listing activities is a matter for the organisations themselves.

### Recommendations

51. Non-government listing organisations should be encouraged to review the purposes of their listing activities and, if appropriate, consider targeting their activities to include:
  - recognising heritage value in situations where governments are reluctant to do so;
  - playing a leading role in expanding the definition of heritage, as appropriate; and
  - continuing to provide the basis for nominations to statutory lists where appropriate.
52. The level of government support for NGO listing activities should be considerably enhanced. This might include funding but importantly it should also include assistance to develop on-line, publicly accessible databases.
53. Governments, especially the Australian Government, should be looking to enhance the Australian Heritage Places Inventory to include all reputable heritage lists including those from NGOs.

## 3.5 Government Ownership and Management of Heritage Properties

**Question 68 - *Is there greater scope for adaptive re-use for publicly owned heritage places than for those in private ownership?***

As discussed throughout this submission, publicly owned heritage places fall into two broad categories: those held in public ownership in order to conserve heritage values, and those which are other (generally operational) assets which happen to have historic heritage values.

In relation to outstandingly important historic places that are held in public ownership in order to retain and conserve their heritage values, it is usually the case that their intactness, integrity, fragility and/or the demand for public access, community use or interpretation means that they are unsuitable for substantial adaptation and are generally presented as Historic Sites or museums.

By contrast, governments at all levels also own and/or manage a wide array of historic heritage places in operation. Many of these, such as defence facilities, airports, lighthouses, hospitals or schools, necessarily undergo adaptation and change processes as part of their working role. While it is true that there may be different approaches adopted to development consent (particularly where issues of critical public infrastructure or capabilities are concerned), the philosophical approach to managing change is the same for heritage places in both public and private ownership: the Burra Charter provides a simple, logical, balanced approach for values-based decision making.

**Question 69 - *Do management plans efficiently meet the objectives set out in the gazetted heritage principles?***

The method and use of conservation management plans is well established in Australia. These are well linked to the principles and processes of the Burra Charter, and to heritage legislation throughout the country.

Specifically, in relation to the new national heritage system, there are significant problems with the way in which “management plans” are currently administered pursuant to the Regulations in the *Environment Protection Biodiversity Conservation Act*.

The problem is that, even for places which are on the Commonwealth Heritage List, there is no statutory requirement or obligation that such plans are “endorsed” by the Commonwealth Minister or Department of the Environment and Heritage. While consultation/referral must occur, the agency responsible for ownership/management of the listed asset can ultimately determine the content of such plans.

At present, this arrangement is serving to have some practical benefit, as the Department of Environment and Heritage is seriously under-resourced in terms of its capacity to participate in the preparation of management plans in a meaningful and value-adding way.

The Regulations themselves are problematical and out of step with contemporary national and international best practice, which Australia ICOMOS submits is represented in the Burra Charter.



Finally, in spite of the requirements of the Commonwealth legislation and timeframe imposed, relatively few management plans have been prepared (and even fewer published), notwithstanding that there are now more than 400 places on the Commonwealth Heritage List.

Australia ICOMOS has been pleased to participate in some discussions and one workshop with the Department of Environment and Heritage, but believes that there is substantial scope to improve the manner in which management plans are used as tools for effective historic heritage conservation, in the Commonwealth context.

Similar issues arise in relation to state jurisdictions. However, the requirement for preparation of “conservation management plans”, using well established principles, such as those contained in the Burra Charter or J S Kerr’s *Conservation Plan* (Published by the National Trust of Australia, NSW) are now well established.

Australia ICOMOS has continued to encourage the development of national management plan requirements which do not unnecessarily complicate the planning documentation required for a heritage place.

### Recommendations

54. The regulations to the EPBC Act should be brought into line with national best practice in heritage conservation as outlined in the Burra Charter;
55. DEH should use existing management plan models to create a single approach, avoiding duplication of effort on the part of owners to comply with varying requirements in different jurisdictions.

### *Question 70 - How useful and appropriate are the management principles in guiding management plans? Can they be improved?*

This is another good question and again it is probably too early to address it. However, there is an issue about the overall complexity of requirements provided for management plans. At present, requirements for management plans can be found in:

- the EPBC Act;

- three sections of the Regulations which specify criteria, management principles and management plan requirements; and
- draft management plan guidelines.

In addition, practitioners are also guided by such industry standards as the Burra Charter.

All of this looks too complex and efforts should be made to simplify the guidance if possible. We are still waiting for the management plan guidelines to be finalised by DEH.

Another issue is the possible proliferation of guidelines for management plans, with each jurisdiction issuing its own slightly different version. A strong and coordinated effort should be made to have a single set of national guidelines.

### Recommendations

56. Efforts should be made by DEH to simplify the guidance provided for management plans.
57. DEH should finalise and distribute the management plan guidelines.
58. An effort should be made to have a single set of national guidelines for management plans.

### ***Question 71 - Are there issues related to the management of historic heritage places of importance to Australia, but located in other countries?***

The apparent recent failure of processes to adequately identify and protect places such as historic war sites at Gallipoli and in Asia suggests there are important issues.

Australia ICOMOS has limited experience of involvement in places significant to Australia, but located in other countries. A submission has been forwarded to the Department of Prime Minister and Cabinet regarding the situation at Anzac Cove (and also to the recent Parliamentary Inquiry). The principles that emerged from this issue are firstly that Australian involvement in places within other countries requires a cautious and collaborative approach. The second principle is the same as applying to all other cultural heritage management: good decisions must be founded on a proper understanding of the cultural heritage values of the place. Australia's conservation planning

expertise is highly regarded, and can be offered as a resource in specific bilateral discussions about these issues.

### Recommendations

59. The reasons for recent failures of processes to adequately identify and protect places such as historic war sites at Gallipoli and in Asia should be examined, and systems put in place to avoid future failures.

### *Question 72 - Does State ownership result in better conservation outcomes than private ownership? Is State/Territory ownership of these places necessary or could alternative arrangements be envisaged?*

State and territory governments, like the Australian Government, own heritage places of two general types: those retained in the public sector in order to conserve the heritage values and those needed for operational purposes. In cases where historic places are in public ownership because of their outstanding significance and integrity/condition, it is generally the case that public stewardship is required, because alternative arrangements would not serve to retain identified heritage values.

In many cases, the significance of the heritage place resides in its tradition and continued use. Transferring places, which have always been private (such as houses, workshops, factories, pastoral landscapes, etc) to public ownership runs a risk of damaging their significance by preventing their continued traditional ownership and use. While public ownership is often appropriate it is certainly not a solution for the vast majority of heritage places which need to continue to be cared for by their owners and communities.

Operational assets, which have historic heritage values, may be equally well managed (in a heritage sense) by other owners. Critical factors to be considered here include the need for a comprehensive understanding of heritage significance as part of decision-making, and ensuring that in any proposals for change (including disposal), heritage conservation considerations are properly taken into account.

**Question 73 - *Do State and Territory government agencies follow best practice, such as the use of performance indicators, and if not, how can management practices be improved?***

Current heritage assets management practices in the public sector in Australia generally do not conform with “best-practice” including matters such as use of performance indicators. There are many areas for improvement. These include:

- adequate resourcing;
- preparation of comprehensive heritage registers by public sector agencies;
- preparation of heritage asset management strategies;
- identification and use of performance indicators for asset management, which include heritage considerations;
- integration of heritage considerations into other asset management programs;
- inclusion of heritage considerations in State of the Environment reporting.

**Question 74 - *Are the agencies currently responsible for historic heritage conservation on State and Territory land the most appropriate?***

Generally, yes. Although in some jurisdictions there are false divisions in management of different types of heritage places, created by splitting these responsibilities among different agencies. Where possible these values should be managed concurrently and in the context of broader environmental management frameworks.

### **3.5 Funding and Other Assistance**

**Question 75 - *Are these the only ways in which governments can encourage greater private involvement in historic heritage conservations? How effective are these policies at increasing private conservation activities? What are the costs and benefits of each of these policies?***

**Why should governments provide assistance for heritage conservation?**

Governments have accepted the principle that they should provide financial assistance for heritage conservation for over 30 years.

The arguments in favour of government assistance vary depending on the circumstances but include:

- the public sector should provide incentives to the private sector in recognition of the public benefits deriving from heritage conservation by private owners. These benefits include conserving heritage places for the community both now and into the future. Heritage registrations impose real additional moral and statutory obligations on owners. While there may also be private benefits, there are private sector costs. Some level of assistance seems only reasonable; and
- some heritage properties are unable to be managed to raise sufficient revenue to achieve the good conservation of the property. Often this is the case with churches or other community, non-profit organisations.

These arguments are in many ways analogous to the situation with nature and other environmental conservation activities on private property. Governments at all levels allocate large sums to assist with these activities for very similar reasons (eg Landcare, Bushcare, etc).

In a broader public policy context, it is interesting to contemplate the potential application of the concept of mutual obligation which is widely used in social and welfare policy realms. In the case of historic heritage, private owners of heritage properties bear a substantial burden on behalf of the community, but rarely is the burden shared through a community contribution.

### **Principles related to financial assistance for heritage conservation**

In addition to the comments made above, there are also several more suggestions to raise.

The first of these relates to the possible different levels of incentive that might be provided, by whatever means, to different classes of property and owner. These levels could be accompanied by a sliding scale of incentives, including for commercial properties, private residential properties, local government properties, non-government properties (such as churches and National Trust properties), privately owned places of national significance, and government properties of national significance (and so on).

This scheme is just an example but demonstrates a principle, which might be suggested for future incentives for heritage conservation.

The second suggestion regarding financial assistance relates to land rates or taxes. In some situations it seems possible that land rates or taxes might reflect maximum development potential rather than the conservation use of a property. As the valuations attached to each might differ widely, so the rates or taxes would differ. Land rates or taxes should be structured to reflect the conservation use of a property where this has been designated through a heritage listing.

### Recommendations

60. The Productivity Commission should consider establishing principles for different levels of incentive that might be provided, by whatever means, to different classes of property and owner.
61. Land rates or taxes should be structured to reflect the conservation use of a property where this has been designated through a heritage listing.
62. The Productivity Commission should endorse the principle that governments should provide financial assistance for heritage conservation, perhaps invoking the concept of mutual obligation.

### ***Question 76 - Does international experience offer any guidance to policies, which might be effective in Australia?***

Yes. Some of these have been referred to in other parts of this document.

It should be noted however, that in many instances international heritage managers have turned to Australia for guidance, particularly in terms of heritage management philosophy and practice. For example, the Australian Heritage Commission was invited by the Chinese State Administration for Cultural Heritage, and the Getty Conservation Institute to advise on the creation of heritage methodology standards for China, based on the Burra Charter. This has been a very successful five-year program (supported by the Australian government), which has resulted in the development of the China Principles.

Another example: Jim Kerr, one of the principal architects of the Burra Charter, and of conservation planning in Australia, was invited by English Heritage to give the keynote address on their heritage planning conference, at which the adoption of a Burra Charter like model for heritage planning was proposed and endorsed.

### ***Question 77 - How effective and efficient have grant programs, tax deductions and concession programs been (past and current) in conserving heritage places?***

#### **Grant programs**

At the Australian Government level, we are aware of only one substantial review of a grants program for historic heritage places. That was the 1989 *Review of the National Estate Grants Program* by Gerard Early. While now a long time ago, some of the findings and lessons are still relevant. In addition, the situation with the then Australian Government grants program was further discussed in a 1991 report by the Australian Council of National Trusts, *A Vision for Australia's Heritage*.

This 1989 review considered a range of issues. However, it did not consider the crucial question of the adequacy of the program. The review did note:

- the NEGP was a very successful example of Australian Government/State cooperation in the field of heritage conservation; and
- the enormous differential between the value of applications and the funds available.

The review also made a series of recommendations to improve the grants program.

Following this report, the Australian Council of National Trusts undertook a survey to compare demand for NEGP funding with that available. In summary it was found that for the 1990/91 program there was \$14,443,105 worth of historic environment applications. Of this the NEGP only funded \$1,690,770 or only 12% of the historic applications. (ACNT 1991, p. 18)

A more recent but similar indicator is the overwhelming unmet demand for grants within the Australian Government's *Sharing Australia's Stories* program. In the most recent round, 980 applications to the value of \$24.42 million were received, and \$725,223 was allocated across 22 projects.

An important use of NEGP funds in the historic environment was for the maintenance and conservation of historic buildings. However, these conservation costs are normally substantial and the NEGP was unable to cope with large applications. The large value of historic environment applications in 1990/91 no doubt reflects the substantial costs of heritage conservation work at the time, and the situation is unlikely to have changed since then.

It was obvious to the ACNT that the overall level of funding was far too low and it recommended the proportion of funding should, as a matter of priority, be raised to adequately address the demand for funding. This was never done.

The history of Australian Government funding support for historic heritage conservation has recently had a rather sad ending. The Australian Government provided grant funding for a broad range of historic heritage projects from 1973. In the 2005 Budget, no such broad ranging funding was provided for the first time since 1973. Funding was given for two churches and for currently unspecified National Heritage initiatives which might also include natural and Indigenous heritage – and the actual amounts of funding were very small, totalling \$7.2 million. For the first time in more than 30 years the Australian Government has stopped providing funding support for a broad range of vital historic heritage activities.

### *Tax incentives*

There has been a long campaign to achieve tax incentives for heritage conservation. As the 1991 ACNT report noted, incentives have been recommended by the:

- Hope Inquiry into the National Estate, 1974;
- Review of the Commonwealth Government's role in the conservation of the National Estate, 1986;
- Australian Heritage Commission, 1985;
- Australian Council of National Trusts, from the early 1970s;
- Council of Capital City Lord Mayors, 1986;
- Australian Council of Local Government Associations;
- Australian Labor Party, 1986;



- Planning Ministers Council, 1986; and
- House of Representatives Standing Committee on Environment and Conservation, 1986.

Eventually, in 1994, the Australian Government created the *Tax Incentives for Heritage Conservation* scheme. This extremely modest scheme attracted a moderate amount of interest – enough to expend the available allocation for each of the three years it was funded.

There was concern in government about the slow completion rate though this may have been partly as a result of the complex administrative process that applicants had to complete.

Unfortunately, this modest scheme was discontinued by the Australian Government in 1997. The reasons for this decision are not clear. It may have partly been because of the complex administration of the scheme – albeit this was developed by the government in response to self-imposed constraints. However, it is suspected the scheme was really terminated because of the Treasury's well-known antipathy to tax expenditures. The scheme was replaced with a grants program, which probably did not achieve the equivalent multiplier effects of the tax scheme, and this grants program has now been terminated as well.

At various times the government has been asked to provide whatever review report was prepared analysing the tax scheme which justified its demise. No report has ever been provided, and it is suspected no such report exists.

The government's brief adventure with providing tax incentives has failed. The reasons for this are unclear and there is a mindset against this vehicle in some government quarters. Whether this mindset is well-founded is not established.

On the other hand, it is suggested the tax scheme was never really given a chance, and the administration proved too inflexible to adapt to experience.

Another important issue, which is sometimes recognised, is that the tax scheme was not a solution for all situations. Significantly, it would not provide assistance to people or organisations who pay no or little tax. A tax scheme must be seen as part of a package of incentives.

Before leaving the set of issues concerning taxation measures, it is worthy of note that, with the exception of the National Trusts, cultural heritage NGOs are currently ineligible for gift tax

deductibility. This is at odds with the arrangements in place for environment and arts NGOs. Allowing cultural heritage NGOs to attract tax deductible donations to assist in their heritage conservation work should be part of any package of reform of government incentives and financial mechanisms.

### Recommendations

63. The Australian Government should reinstate a grants program or programs to achieve a range of objectives including:

- research;
- training;
- the provision of technical advice/expertise;
- development of philosophy, practice and standards;
- national database developments;
- international heritage activities;
- property acquisition; and
- conservation work.

In some cases, such funding may be provided in conjunction with funding made available by others, such as the State and Territory governments.

64. The Productivity Commission should consider recommending a tax incentives scheme for heritage, and it should carefully scrutinise arguments against tax incentives which might be based on the failure of the former scheme.

65. Tax incentives must be considered as one possible form of incentive in a package of measures which address the range of situations affecting owners.

**Question 78 - Have the criteria and priorities for funding been transparent and consistent, and what improvements could be made?**

Over successive years, Australia ICOMOS has sought to understand what Australian Government funding is being provided for heritage activities, and how this compares to previous years. This has proved all but impossible to do. The reasons appear to include:

- budget statements are not suited to this purpose;
- programs change from year to year, some disappear and others are created;
- sometimes funding can be provided in one year but be forward committed;
- funding for Departmental heritage activities seem impossible to track.

As a result, it seems impossible to independently gauge whether heritage funding is increasing, decreasing or staying the same. While government statements routinely announce increases and major new funding, the strong perception is that the overall funding situation is poor, with some erosion of the value of funding or programs.

The suspicion is that there is no interest in providing transparent, comprehensive and comparable figures from year to year as this may expose problems.

**Question 79 - Can aspects of the funding/assistance processes be improved (for example, prioritisation, transparency, and scope for more innovative approaches)?**

At the Australian Government level there are two apparent/virtual assistance schemes which assist or may assist with actual conservation works:

- the new National Heritage Investment Initiative; and
- the continuing series of one-off assistance packages provided to places such as churches.

The National Heritage Investment Initiative is brand new and there are no current guidelines available to explain what it is for or how it will run. It is too early to evaluate this initiative or to consider improvements.

With regard to the one-off assistance packages, there is no process, no apparent prioritisation and no transparency. These simply appear to be decisions made at the political level without input from either the Department of the Environment and Heritage or the AHC.

While Australia ICOMOS has no problems with worthy major historic buildings obtaining funding assistance for conservation, these one-off packages appear to come forward with no strategic context concerned with the good conservation of Australia's heritage. Australia's heritage needs a lot of help, and what it needs is a comprehensive package developed in response to a strategic framework. One-off assistance may solve one problem on one occasion but such an approach fails the long-term and widespread needs of Australia's heritage.

Tinkering with these two schemes should not conceal the larger problem that the complete package of Australian Government assistance is frankly pathetic.

In addition to assistance for conservation works, the Australian Government also provides assistance for other aspects related to conservation. This includes:

- grant in aid funding for the National Trusts;
- grants to heritage organisations, including Australia ICOMOS (the Grants to Voluntary Environment & Heritage Organisations); and
- the Sharing Australia's Stories program.

There are aspects of these programs which could also be reinforced or improved:

- the GVEHO should remain a program providing support for organisation's operations and administration, and should not become project oriented;
- the GVEHO application processes could be simplified, reducing the volume of material sought;
- the level of funding available in the GVEHO should be substantially increased to reflect the large costs borne by the organisations compared to the modest contributions from government; and
- the time taken to assess the Sharing Australia's Stories applications should be dramatically reduced, as applications closed on 15 October 2004 and the outcomes were only announced in July – more than eight months later.

### Recommendations

66. The Australian Government should develop a comprehensive package of assistance in response to a strategic framework for Australia's heritage. While this may include the

possibility of one-off special assistance, the package should address the long-term and widespread needs of Australia's heritage.

67. The GVEHO should remain a program providing support for organisation's operations/administration, and should not become project oriented.
68. The GVEHO application processes could be simplified, reducing the volume of material sought.
69. The level of funding available in the GVEHO should be substantially increased to reflect the large costs borne by the organisations compared to the modest contributions from government.
70. The time taken to assess the Sharing Australia's Stories applications should be dramatically reduced. While a thematic approach to this program is generally supported, the huge unmet demand for funding under this program is indicative of the scale of need throughout the community, and should not be entirely swept under the carpet.

**Question 80 - Are heritage agreements an effective way of protecting the State's heritage, and can the process of developing agreements be improved (for example, is there adequate consultation with owners)?**

Australia ICOMOS is not providing an answer to this question at this time as it is presumed that it will be well covered by State and Territory government submissions.

**Question 81 - What is the nature and extent of coordination and/or partnerships between the private and public sectors for conserving historic heritage places? Are these partnerships effective means of encouraging private involvement in heritage conservation?**

Australia ICOMOS is not providing an answer to this question at this time as it is presumed that it will be well covered by State and Territory government submissions.

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