

NATIONAL TRUST



AUSTRALIAN COUNCIL OF NATIONAL TRUSTS

Submission responding to the Draft Report of the Productivity Commission Inquiry into the Conservation of Australia's Historic Heritage Places

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PART A

OVERVIEW OF THE ACNT RESPONSE TO THE DRAFT REPORT

The preservation movement has one great curiosity. There is never retrospective controversy or regret. Preservationists are the only people in the world who are invariably confirmed in their wisdom after the fact.

John Kenneth Galbraith¹

¹ Quoted in Rypkema, D.D. (2005), *The Economics of Historic Preservation: a community leader's guide*, 2nd edition, National Trust for Historic Preservation, Washington p. 10.

1 Introduction to the Submission

This is the submission of the Australian Council of National Trusts responding on behalf of the National Trust Movement to the draft report of the Inquiry into the Conservation of Australia's Historic Heritage Places.

This submission should be read in conjunction with the original ACNT submission into the Inquiry (submission 40), and its associated recommendations.

It will be supported by the ACNT presentation at the hearings and tour of North Adelaide heritage conservation areas in Adelaide on 10 February, and by separate representations by some of the S/T Trusts.

The purpose of this submission is to present the views of the National Trust Movement on the Commission's analysis of the issues and problems associated with the current system, to outline our agreements and disagreements with the findings and recommendations in the draft report, and to make our own suggestions as to the findings and recommendations which we believe would lead to a more effective and better managed system for conserving Australia's heritage places.

The ACNT is the national representative body of the National Trust, responsible for national policy development, for coordination of national programs, and for representing the position of the National Trusts to the Commonwealth government.

The ACNT would like to thank the Commissioners and the staff of the Commission for the opportunities they have provided over the period of the Inquiry for discussion, for clarification and for information sharing.

We particularly welcome the Commission's assurances that the draft report is intended to be a vehicle for testing propositions and for eliciting responses and counter proposals, in order to ensure the final report and its recommendations are soundly based, and are able to provide the basis for a more effective, efficient and equitable framework for the conservation of Australia's heritage.

This Inquiry, the first national inquiry into the system which identifies, protects and conserves Australia's heritage places since the Hope Inquiry of 1973, is of critical importance to the future conservation of Australian heritage places.

The National Trust, alongside other voluntary and government organisations, has welcomed the opportunity the Inquiry has provided to consider the operation of the heritage system, and to reflect on ways in which it could be improved. We, along with many others, have expended considerable time and resources informing the Inquiry, and so are committed to seeing the best possible outcomes achieved from it.

1.1 Making Inquiry data available

At its conclusion, the Inquiry will have gathered information from all sectors involved in heritage identification, protection and conservation, an exceptionally valuable resource into the future.

The National Trust believes that ensuring this data remains available beyond the life of the Productivity Commission Inquiry would be in and of itself a great benefit to heritage conservation, and so we recommend that the Commission consider making a CD available to interested parties of all Inquiry material.

2 Summary of the ACNT response to the draft report

The National Trust supported the idea of a Productivity Commission Inquiry as a means of reaching a better understanding of the strengths and weaknesses of the current system of heritage conservation nationwide, and of achieving a stronger policy framework for the management of places of heritage value.

We had expected that the Inquiry report would acknowledge the benefits heritage confers to the community, articulate the costs of heritage conservation, and identify problems in the current system.

We therefore had hoped that the solutions recommended would improve and enhance the operation of the system within a national policy framework that would be acceptable to all sectors and tiers of government.

It would be fair to say that while the draft report meets some of these hopes and expectations, it disappoints in many substantive ways.

2.1 Draft report findings

The report identifies ‘market failure’ in the provision of heritage services (see Chapter 7), and strongly endorses some important principles – that heritage does contribute value to the community, that there is a strong case for government intervention, and that governments at all levels should assist in meeting identified costs for heritage conservation (see Chapter 10).

Much of the analysis and some of the formal findings and recommendations provide coherent and cogent statements as to why and how governments (and especially the Commonwealth) should responsibly engage with heritage conservation nationwide.

The draft report accepts that conservation of heritage places provides benefits that are not captured in the market, and acknowledges that this may justify government intervention. But although the analysis implies a significant increase in government expenditure for heritage places, it does so without stating this explicitly or addressing the cost of its recommendations.

The Commission analysis gives particular emphasis to the property rights of individuals, which it sees as unacceptably constrained by

heritage listing, and refers recurrently to the principle of subsidiarity, which governed the COAG agreement of 1997 (section 6.1). Most of its argument is structured around these two concepts, together with ensuring that not only is there a positive cost benefit outcome from government involvement, but that there is sufficient rationale for any government involvement.

2.2 Draft report recommendations

The Commission asserts that the heritage system is over reliant on regulation, ‘over lists’ with abandon, especially at local government level, and should therefore be disciplined by the requirement that places should only be listed if owners voluntarily enter into a conservation agreement with the listing authority, prior to the place being listed (see Chapter 11).

The Commission’s narrow focus on this one issue – the claimed ‘overlisting’ at local government level and its adverse consequences on private owners – seems to distort their analysis of the operation of the whole system. Their reliance on only one policy instrument, the voluntary conservation agreement as the remedy, then skews the report recommendations dramatically, in our view (see Chapter 13).

As a consequence, the ACNT can agree with only 11 of the draft report findings, and endorse only 3 of its recommendations. The National Trust preferred set of findings and recommendations is set out in Part B of this submission.

2.3 The role of the National Trusts

While the Commission acknowledges the substantial role the Trusts have played in heritage conservation historically, and recognises the significant contribution they continue to make in harnessing community goodwill in the interests of conservation, no ‘finding’ or recommendation is recorded concerning the National Trust, except Recommendation 7.3: that legislation governing the operations of any Trust should be repealed.

As we argue in Chapter 8, not only would this be an exceptionally costly and lengthy process, but it would deprive Trusts of vital taxation and other benefits, and for little evident public gain. Communities, in our experience, understand very well that the National Trust is a community-based organisation, carrying out its advocacy and conservation independent of government, irrespective of its statutory or non-statutory base (see Section 5.7).

2.4 Voluntary listing and conservation agreements

The Key Recommendation in this draft report – draft recommendation 8.1 – is a radical proposal to base heritage protection on voluntary listing, managed through conservation agreements. This proposition is untried and untested as the cornerstone of a heritage system anywhere except in New Zealand, where it has failed (see Section 13.3). It is advocated without examination as to how conservation agreements or voluntary listing actually work in the historic conservation arena, and without any attempt to quantify either the transactional costs or benefits of the proposal.

No evidence is provided of how voluntary listing or conservation agreements are utilised for historic heritage in Australian or international jurisdictions, no suggestion is offered as to how *net community benefit* might be assessed within this proposed new system, and no analysis of the practical and financial implications of the key recommendation is provided.

This is perhaps understandable, given that the Commission provides no references in the report to international heritage law or to international best practice. Australian heritage practice is widely respected and widely influential internationally, but this is not recognised anywhere in the draft report.

It seems extraordinary to us that this radical proposition – setting up an untested tool as the cornerstone of a national heritage system – should be proposed without a single example of its effectiveness in the historic environment being examined.

Furthermore, in making this recommendation, the Commission pays scant attention to the possible benefits of other policy options and instruments. As a result, less radical, and we suggest, more immediately beneficial policy options such as improved administration, increased incentives (including tax based incentives), enhanced services, especially better provision of information, education and training, are barely explored or considered in the draft report (see Chapter 12).

The report advocates the use of a cost/benefit equation to determine which places to list and conserve. It expounds the view that, despite the difficulties of measuring costs and especially benefits with any accuracy, that an assessment of net community benefit should be the key determinant of what is listed.

However, there is no practical and agreed means of ensuring that, in considering the net community benefit, the long term community

interest in the protection and conservation of heritage values is able to be clearly represented against the more quantifiable private owners' conservation costs.

The draft report is silent on how this might be achieved.

2.5 Consequences of implementation of the Key Recommendation

If implemented, we believe the system advocated in the draft report would undermine the very essence of the system of heritage protection which has been developed in Australia over decades.

It would so violate the principles underpinning the present system as to destroy its capacity to identify, protect and conserve places of heritage value with integrity.

Such a system would fail the Commission's own test – it would be neither equitable, efficient nor effective – and could not provide net community benefit to present, let alone future generations.

Nowhere in the world has the proposal outlined in this report been used successfully as the basic element in conserving historic heritage places.

The proposal appears to be based on a misunderstanding of the basis on which listing decisions are made – the recognition of heritage value. This appears to arise from a failure to understand and respect the substantial intellectual and professional underpinning of the heritage assessment system in Australia.

The Commission seems to us to be considering 'heritage' in a vacuum, assessing impacts of the heritage system in isolation from contemporary land-use, planning and environmental regulation.

This in turn appears to distort the assessment of the actual impacts of the current system of heritage protection on private owners of heritage listed places, and leads to the unbalanced analysis and recommendations in the draft report.

2.6 Consequences of implementation on the National Heritage System

We see this analysis of the national heritage system and its problems as deeply flawed, and regard the proposed solution as not just inappropriate, but as perverse. The problems identified by the Commission are not systemic flaws, but administrative failings.

Australia is not 'over-heritaged'; rather, the heritage system is under resourced.

The administrative failings identified need redress through improvements to the administration and management of the present system, not through the dismantling of the present structure.

The present system is under-resourced at all levels, but most particularly at local government level. It is clear that there is insufficient funding to provide the incentives to ensure that conservation occurs at optimum level, or to provide the information, training and education necessary to ensure maximum community support for heritage conservation.

We do not see how the Commission's proposals will redress the problems identified, or improve the present system.

Rather, we believe the system advocated by the Commission would bind itself in a morass of regulatory and administrative detail, consume systemic resources just to manage itself, with no positive outcomes for the conservation of Australia's heritage places.

We are profoundly disappointed that the Commission appears to have been so focused on achieving a single, simple 'solution,' to one specific problem, that they have dismissed the whole system as flawed, rather than considering other causes for the issues and problems they have identified. Instead of considered analysis and measured responses, they have simply dismissed Australian heritage practice without regard for its grounding in international law, or analysis of the principles upon which it is based.

There is little consideration in the draft report of the possible advantages of greater use of different kinds of policy instruments. We believe the Commission needs to delve more deeply into the impacts of the sustained under resourcing of heritage management, especially at local government level.

Much greater consideration needs to be given to the benefits which might accrue through a more balanced usage of all four categories of policy intervention – informing, spending, providing services, and regulating² – each of which should be utilised in an appropriate way to ensure optimal functionality in any system.

² The Allen Consulting Group (2005), *Thoughts on the 'when' and 'How' of Government Historic heritage Protection. Research Report 1*. Prepared for the Heritage Chairs and Officials of Australia and New Zealand, Sydney, p. 22.

2.7 Summary of the ACNT overview of the draft report

We believe that if the draft report recommendations were to be implemented, heritage protection would become discretionary, transient, and recurrently open to reassessment and renegotiation. Perhaps, most importantly, the proposed solution is as likely as the current system to generate perverse consequences.

Should the draft report not be substantially altered, heritage will suffer a double loss because there will be no beneficial economic outcomes to heritage conservation from the Inquiry, and the heritage sector will have lost the opportunity to advance its cause within the Inquiry's economic frame.

Inquiries like this, and their associated consultative processes, assist to bridge the conceptual gap between the cultural and economic sectors, and help to provide a shared vocabulary to describe the intangible concepts and values we must grapple with in order to achieve policy change.

However, this has not occurred in the instance. Most notably, while the key policy objective enunciated throughout the draft report is the necessity of ensuring *net community benefit* from any government intervention, there is no suggestion as to how the intangible, hard to quantify benefits heritage confers could or should be calculated in order to be able to measure them against the more readily quantifiable costs of heritage conservation.

Thus, no means are provided or suggested as to how *net community benefit* should be calculated theoretically, let alone how it could be determined by a lone part-time heritage adviser somewhere out in rural Australia.

Heritage deserves better than this. The National Trust rejects the Commission's key recommendation as too blunt an instrument, and urges the Commission to reconsider its analysis, and its recommendations in the long term interest of conserving Australia's heritage places.

Heritage is about conserving the past for the future. Timescales are critical. It is, as the draft report enunciates, based upon balancing the value of the public good in relation to private benefit, but measured over generations.

This draft report privileges the individual over the communal interest, and seems to base its judgements on securing the tangible short-term interests of individuals, rather than securing the less tangible, but equally important, long-term interests of the community.

As John Kenneth Galbraith recognised, there is much value in the precautionary principle. He acknowledges something the Commission does not, that not only is it not always possible to recognise value in the present, but that we must trust means other than the quantifiable in order to secure value for future generations.

The issue of course is how best to achieve this in an efficient, equitable, and effective way?

The National Trust suggestions follow in Part B of this submission.

3 ACNT comments on the approach and methodology adopted by the Commission to this Inquiry

3.1 Inquiry terms of reference

We question whether the Commission has fully addressed its Terms of Reference.

Our key concern is the narrowness of approach to the stated objective of the Inquiry – *to undertake an Inquiry into the policy framework and incentives for conservation of Australia’s historic heritage places*³.

Although the Commission was asked to examine and recommend ‘incentives’ in the ToR, there is little assessment of the many kinds of incentives available, nor of their effectiveness in differing circumstances, nor assessment of their potential impact if applied in the current system. Instead, complete reliance on only one instrument, conservation agreements, is recommended.

Similarly, the Commission was asked to examine both the costs and the benefits of heritage conservation. While there are many assertions regarding the excessive costs of heritage conservation, and some recognition of the benefits, there is no serious attempt to quantify either.

This is somewhat surprising given the academic consideration being afforded to developing agreed ways to quantify these kinds of intangible values and benefits (see Section 6.2).

The only reference in the draft report to quantifying ‘values’ refers to the natural environment.⁴ We believe the Commission needs to extend its research, even if just to establish if the system it is advocating is currently working or would be able to work in practice in the historic environment.

The lack of specific information is surprising, given the availability of ABS and other data, which could have been utilised by the

³ Productivity Commission (2005), *Conservation of Australia’s Historic Heritage Places*, Issues Paper, p. 5.

⁴ Productivity Commission (2005), *Conservation of Australia’s Historic Heritage Places*, Draft Report, December.

Commission to demonstrate the more tangible benefits that heritage confers, where attempts have been made to quantify it. But no sources for this kind of information are referred to. The benefits of heritage tourism for example, or the contribution that retention of the 'embodied energy' contained in heritage places makes to environmental sustainability; these and other such examples could have been cited.

Equally, we are puzzled that in considering 'emerging trends,' the Commission did not point to changes taking place in planning and land use regulation, and the impacts this may be having on considerations of private/public property rights and responsibilities.

For example, increased land use and planning regulation for environmental and amenity considerations incorporate heritage protection, and the changing focus of urban planning to broad-scale impacts and approaches, similarly incorporate heritage considerations, rather than isolating them.

3.2 Focus on built heritage

The Inquiry ToR are limited to 'historic heritage places,' and while the definition of historic heritage is quite broad, referring to complex historic sites such as cultural landscapes and archaeological sites, no reference is made in the bulk of the report as to how the heritage values of sites other than buildings should be conserved.

It is very difficult to contemplate how the values of a 'cultural landscape,' for example, or an archaeological site, could be protected through the mechanism of a conservation agreement, yet complex heritage places such as these are more likely to need to be protected and managed at local government, rather than at any other level of government.

We would also suggest to the Commission that they should more directly recognise the integral importance of archival and documentary resources to heritage practice. Heritage practitioners rely on this material when researching the history of a place, and critically when they are assessing the significance of a place vis a vis other similar sites.

The other issue which arises from the limitation of the Inquiry to only historic heritage places is that with jurisdictions increasingly adopting a holistic approach to heritage management (already at World and National heritage level) the import of these recommendations needs to be considered in relation to indigenous and natural heritage identification, protection and conservation.

3.3 Inadequate research base

It is striking to us that the only international example cited of conservation practice is that of New Zealand, and the information provided is not accurate.⁵ It would seem that the Commission has not sought to inform itself as widely about heritage practice and principles internationally as we would have expected.

There are only a few references to conservation practice in OECD countries, in Europe, or in North America, and the majority of the examples or research cited relates to the conservation of the natural rather than the historic environment.

This is doubly disappointing given the strong support provided to the Inquiry by the heritage community generally, and the fact that not only is heritage management an international issue but Australia is recognised internationally as a leader in heritage practice.

It would have seemed eminently sensible therefore, to have sought out multiple examples of heritage practice to inform the Inquiry, and to have tested the proposed solutions against international practice.

Australian heritage practice is grounded in international heritage law and international best practice, and we suggest the Commission's understanding of this could and should be better informed.

This, in turn, would assist the Commission to re-assess their apparent disrespect for Australian heritage practice and principles, enabling them to distinguish between essential principles, and the deficiencies which occur in practice.

They could then more accurately consider what we contend to be the major cause of the majority of problems identified in this draft report – the profound under-resourcing of the system at all levels of government, most notably at local government level.

The fact that the proposed remedy to the deficiencies identified in this report is not currently utilised as the basis for any comprehensive heritage management system anywhere should demonstrate its potential deficiencies. That the one jurisdiction where voluntary listing was widely practised – New Zealand – has now abandoned it, surely

⁵ See Attachment 3 – Comments on New Zealand's Heritage Protection system under the Town and Country Planning Act 1977 and the Historic Places Act 1980 for the Australian National Trust by R McLean, NZHPT, 23 December 2005.

indicates there are major problems, and that further investigation is warranted.⁶

3.4 Incomplete financial and other data

The draft report data on heritage finances, whether from government or from some other source, is extremely thin. We query whether or not this is the only data available, and question why, if this is the only data available, the Commission did not commission further studies and strengthen their recommendations concerning data gathering (see Section 7.5).

Many of the assertions and conclusions in the draft report appear to have no evidentiary basis. This makes it difficult to deal with the arguments rationally, and to separate out assertions from fact.

We appreciate that the Commission did commission a study of local government, but query why there was no comparative analysis of the relative 'success' or 'failure' of heritage conservation in the various councils surveyed, checked against matters such as the provision of incentives and availability of heritage advice.

We suggest a key question to investigate would be: to what extent is the level of complaint to local government from owners of heritage listed places related to levels of resourcing and support from the Council for those owners? We wonder why this kind of analysis was not done, given the focus of the Commission's argument. We urge the Commission to review its data and see if any conclusions can be drawn.

We commend the HCOANZ for commissioning the two studies by The Allen Consulting Group.⁷

These papers add considerably to the store of knowledge and understanding about the value of heritage to the community, and ways to assess and measure that value, something essential to the Commission's design. They also provide a clear analytical framework against which current government support for heritage can be measured.

⁶ See Attachment 3.

⁷ The Allen Consulting Group (2005), *Thoughts on the 'when' and 'How' of Government Historic heritage Protection. Research Report 1*. Prepared for the Heritage Chairs and Officials of Australia and New Zealand, Sydney; and The Allen Consulting Group (2005), *Valuing the Priceless: The Value of Historic Heritage in Australia. Research Report 2*. Prepared for the Heritage Chairs and Officials of Australia and New Zealand, Sydney.

Despite the lack of its own research or other research cited, the draft report is quite dismissive of these substantial research papers. We urge the Commission to more fully assess and analyse the methodology, data and recommendations from these papers, and then if it still disputes their methodology or findings, to do so by citing their own evidentiary argument.

While we recognise that the two papers were submitted to the Commission quite late in the Inquiry timetable, we believe their findings should be used to inform the final report more directly.

3.5 Report recommendations and findings

The National Trust supports a number of the findings and recommendations in the report, which we believe, if implemented, would improve the administration, accountability and transparency of the heritage system.

However, we reject the key recommendation (no 8.1) as the cornerstone of the national heritage system, and have strong reservations about many others.

There seem to us to be large gaps in both the 'findings' and the 'recommendations'. In particular, there are no recommendations relating to provision of services such as education and training, no recommendations focused on improving the administration (as opposed to the regulation) of the system, and not a mention of the need for better financing and resourcing of the present system.

In particular, we note that although in the first several chapters of their report the Commission acknowledges the value heritage contributes to the community, finds much that is supportive of government financial intervention in heritage conservation: and identifies that market failure occurs in the provision of heritage services, little of these valuable findings is acknowledged formally in their 'findings' or 'recommendations'.

There also seems to us to be inconsistency in the formal designation of 'findings', and in the determination of consequent recommendations from 'findings'.

It is not clear what determines that conclusions or acknowledgment should be designated as 'findings', and why it is that only some 'findings' have resulted in 'recommendations'.

We believe there are a number of conclusions which are articulated in the report, (particularly in the 'key points') which should be formally

designated as 'findings,' and that these should then result in 'recommendations'.

We also believe that the current set of recommendations are not adequately nuanced or focused, and in some cases not sufficiently clear in their intent as to be able to be effectively implemented, or to achieve improvements to the system.

No timescales are suggested, no assessment is offered of the costs of implementation, no directions are provided as to the best order of implementation.

The final report would be considerably strengthened through attention to these issues. We have developed a National Trust preferred 'findings' and 'recommendations' set out in Part B of this submission.

PART B

NATIONAL TRUST PROPOSALS

4 Best practice heritage principles

The principles set out below have been developed by the ACNT, and are similar to those articulated by Australia ICOMOS and other members of the National Cultural Heritage Forum in their *Vision for Australia's Cultural Heritage*⁸.

We believe these principles define the essential elements of a 'best practice' heritage system and, as such, can be used as the model against which to test existing systems, and proposals for new systems.

They are as follows:

1. The decision to enter a place on a heritage list should be based on a professional assessment of its heritage significance. This decision should be made separately from management and conservation decisions affecting the place.
2. Each jurisdiction should appoint an independent, statutorily based heritage council, which is to be responsible for compiling the heritage list and advising the government on heritage issues generally, including the allocation of financial assistance. The heritage council is to manage and conduct its business according to the principles of public accountability and transparency.
3. Owners and others affected by a listing decision should be provided with a clear statement regarding the decision to list, including a statement of the heritage significance of the place and a clear statement relating to the implications of listing. They should be given the opportunity to comment before the final listing decision is taken. Ideally the statutory protection of the place should begin at the same time that the affected persons are advised of the intention to list
4. Owners should have ready access to heritage advisors within the listing agency who are able to provide professionally informed advice and support.
5. There should be in place within the jurisdiction a statutory review process regarding the decision to list, separate from the agency responsible for the original decision. This tribunal

⁸ Submitted to the Inquiry as Submission 126.

should be able to confirm, replace or amend the original decision concerning heritage significance.

6. The listing authority should be provided with sufficient human and financial resources to allow it to carry out its functions. These resources should include sufficient funding to allow a comprehensive program of financial assistance measures to be available to owners etc of listed buildings.
7. The system should be administered with an appropriately balanced mix of policy instruments relating to regulation, information, expenditure and the provision of services.

The ACNT is of the view that heritage systems in Australia generally comply with these principles.

We are also of the view that the system based on voluntary agreements, proposed in the draft report, would violate the first and most important of these principles, that relating to the primacy of significance as the sole criterion for heritage listing.

As such, we believe that the system proposed by the Commission is itself flawed and will, if implemented, produce outcomes that will not serve to adequately protect our national heritage, and will not be in accord with the views and professional judgement of the majority of heritage stakeholders.

5 National Trust findings and recommendations

In its original submission to the Productivity Commission the ACNT came to 8 conclusions and made 10 recommendations. We have now reviewed those conclusions and recommendations in the light of the draft report.

Few of our findings and recommendations appear to have been accepted by the Commission. As we believe that each of these conclusions and recommendations is still valid to the progression of the issues under examination by the Commission, we have recast them in the light of the draft report findings and recommendations.

This set of National Trust findings and recommendations presented here is a combination then of

- our original ACNT findings and recommendations,
- those draft report findings and recommendations we do endorse,
- the arguments which we believe are represented in the draft report text which are but not acknowledged as formal findings, but which we believe should be, and
- our own set of recommendations as to how we believe the National Heritage system could be improved.

Where a National Trust Finding or Recommendation is from the draft report, the draft report number is included.

5.1 Findings and recommendations

National Trust finding	National Trust recommendation
Value of Heritage to the Community and Evidence of Market Failure	
NT Finding 1 Historic heritage places provide important cultural benefits to the community and governments at all levels carry out regulatory and non-regulatory activities to support and enhance these benefits.	NT Recommendation 1 The EPHC should commission further research into the value of heritage to the community, and the assessment of the benefits and costs of heritage conservation.
NT Finding 2 The conservation of Australia’s historic heritage places can generate a number of benefits. These range from commercial benefits to more intangible community benefits (including a sense of history, belonging and community, educational and research values, and spiritual values). Conservation activities also provide a benefit for future generations.	The work should be commissioned as a matter of urgency to build upon the findings of the studies undertaken by the Consulting Group for the HCOANZ. NT Recommendation 2 Funding must be provided to address areas of market failure, and in particular for education, conservation, research and professional development Funding support should particularly be directed towards the NFP sector and private owners of heritage places where market failure can most be observed.
NT Finding 3 The existence of the wider community benefits provided by heritage provides a case for government involvement in the conservation of historic heritage places.	
NT Finding 4 The Commission has concluded there is a prima facie case for some level of government intervention in historic heritage conservation.	
NT Finding 5 There are significant areas of market failure in historic heritage conservation that warrant government intervention in order to achieve broad social benefits not taken into account in private decision making.	
NT Finding 6 Community based benefits of historic heritage conservation will not be amenable to easy quantification because of their intangible nature.	

National Trust finding	National Trust recommendation
National Heritage System	
NT Finding 7 There is merit in having a national framework for the conservation of historic heritage places that is compatible with the framework for natural heritage.	NT Recommendation 3 Governments should commit to completing the national heritage framework to provide seamless protection to heritage places nationwide.
NT Finding 8 (PC 7.1) The three-tier legislative framework is an appropriate model for government involvement in heritage conservation. It delineates the responsibility of each level of government for historic heritage conservation and management.	NT Recommendation 4 The Environment Protection and Heritage Council (EPHC) in consultation with the HCOANZ and the NCHF should implement the agreed Integrated National Heritage Policy, incorporating best-practice elements from all jurisdictions and finalising all necessary intergovernmental agreements to provide for minimum standards and address resourcing requirements.
<i>Government Owned Heritage Places</i>	
NT Finding 9 (PC 4.2) The commitment to identify, conserve and manage publicly-owned historic heritage places varies considerably between States and Territories.	NT Recommendation 5 The heritage system operating in each jurisdiction should be evaluated regarding the extent to which it meets agreed principles for a best practice heritage system, including the extent to which each system is based on an appropriate combination of regulation, financial incentives and provision of information and services.
NT Finding 10 The majority of iconic historic heritage places are owned and managed by governments. It is necessary for governments to ensure that individual government agencies with responsibility for these heritage places do not have incentives to neglect or unnecessarily dispose of their properties in order to avoid heritage conservation obligations and the related costs.	NT Recommendation 6 Governments should intervene to address the identified market failure in heritage conservation using the full suite of policy instruments including provision of incentives for heritage conservation, and programs of community education and training in heritage skills.
NT Finding 11 (PC 4.3) The level of expenditure on government owned heritage places is difficult to calculate since no jurisdiction requires explicit budgetary recognition of such expenditure.	NT Recommendation 7 The Australian Heritage Council should be funded and resourced so it can fulfil all its functions under the Act, especially the promotion, identification, assessment, conservation, monitoring and reporting on heritage, the carrying out of independent research and investigations, and the provision of independent advice and reports.
NT Finding 12 (PC 7.3, PC 7.4) State, Territory and local governments do not have a systematic framework for the management of, and expenditure on, the conservation of government owned heritage places. Management of government owned places could be improved through the introduction of conservation management plans and transparent reporting of expenditure on conservation.	
NT Finding 13 Governments also have a role in conserving places with little private use value, including bridges, industrial sites, sewage sites etc.	

National Trust finding	National Trust recommendation
<p><i>Historic Heritage Places Data</i></p> <p>NT Finding 14 (PC 3.1) Little statistical information is available on the conservation of Australia’s historic heritage – the number, quality and composition of listed places; the nature, source and types of expenditures on historic heritage conservation; or the effectiveness and cost-effectiveness of those expenditures.</p> <p>NT Finding 15 The Commission has been unable to derive an accurate assessment of the mix and condition of historic heritage places, and of trends in condition/quality. Nor has it been able to establish the overall expenditure on the conservation of historic heritage places by government or by the private sector, in any jurisdiction, nor any reasonable breakdown of type of expenditure. There is a need for all governments to address the current gaps in data coverage-as well as its reliability and comparability-in the historic heritage conservation area.</p>	<p><i>Government Owned Heritage Places</i></p> <p>NT Recommendation 8 (PC 7.4) The Australian Government should implement reporting systems that require government agencies with responsibility for historic heritage places to document and publicly report on the heritage related costs associated with their conservation.</p> <p>NT Recommendation 9 (PC 7.5) State, Territory and local governments should:</p> <ul style="list-style-type: none"> • produce adequate conservation management plans for all government-owned statutory-listed properties; and • implement reporting systems that require government agencies and local governments with responsibility for historic heritage places to document and publicly report on the heritage-related costs associated with their conservation.
<p><i>Heritage Information and community education</i></p> <p>NT Finding 16 Where private costs and benefits are affected by a lack of information or high costs of information, there may be a role for government in improving education and the dissemination of information.</p>	<p><i>Heritage Information and community education</i></p> <p>NT Recommendation 10 (PC3.1) All levels of government should put in place measures for collecting, maintaining and disseminating relevant data series on the conservation of Australia’s historic heritage places.</p> <p>NT Recommendation 11 The Register of the National Estate should be retained. The Register of the National Estate is a significant public resource and an invaluable repository of comprehensive heritage information professionally compiled over a 20 plus year period. This data must not be lost but must be speedily converted into an accessible and properly maintained data base available to all heritage agencies and organisations.</p> <p>NT Recommendation 12 Governments should improve the scope and substance of information provided about heritage listed places and the way it is provided to heritage stakeholders.</p>

National Trust finding**National Trust recommendation**

NT Recommendation 13 Governments should recognise the integral importance of research to heritage identification and interpretation through the formation with all governments of a National Heritage Research Council to audit existing heritage data and bibliographic information, establish a national heritage research program, and ensure public availability of consolidated national data about Australia's heritage places.

The National Trust

NT Finding 17 The National Trust in each jurisdiction plays an important role in the conservation and management of historic heritage places. They harness the goodwill and voluntary resources of their members and the wider community to undertake activities that might not otherwise be undertaken.

NT Recommendation 14 Governments should acknowledge that the NFP sector is an effective and efficient group for delivering heritage conservation services to the community and should be used more by government to provide services to the community and owners of historic heritage places.

NT Recommendation 15 Governments should partner with the not-for-profit sector and assist them to deliver heritage services to the community and to owners of historic heritage places. Sufficient funding from all levels of government should be provided to facilitate this objective.

Property Rights

NT Finding 18 There are a number of misconceptions in respect of the impact of heritage listing on property rights. Diverse views were presented on the matter of property rights.

NT Finding 19 (PC 5.5) Many property owners do not fully understand the effect heritage listing has on their property. This is not simply a reflection of a lack of awareness by owners of the implications of listing, rather it flows from unclear legislative requirements and inconsistent administrative actions. More specifically it is a direct result of the failure of all State heritage Act to specifically require a statement of significance for heritage listing at the local level.

NT Recommendation 16 In the light of the considerable debate regarding the connection between heritage listing and property values, work should be commissioned to consolidate existing studies on property rights and their relationship to heritage conservation, to planning and to land use regulation.

Where necessary new work should be undertaken under the aegis of the EPHC, to develop policy guidance to assist State, Territory and local authorities to better balance private and public interests in their statutory and regulatory frameworks.

National Trust finding**National Trust recommendation**

NT Recommendation 17 A thorough evaluation should be carried out of the way in which owners of heritage properties are informed of listings that affect them and of the capacity of heritage agencies to provide adequate levels of advice and information to affected parties. The evaluation should focus on statutory and administrative practice and evaluate the adequacy of existing arrangements with particular reference to resources and funding.

Conservation Costs and Funding

NT Finding 20 There has been a decline in public sector budgets for historic heritage conservation in recent years, with much of the remaining funds being swallowed by administration of the system. . This decline is in contrast to the funding levels for natural heritage programs under the Natural Heritage Trust.

NT Finding 21 The lack of meaningful incentives can undermine support from property owners and as a result opportunities for private investment in heritage properties can be missed. Certainly the current level of assistance available for owners is not in any systematic way related to the level of community benefits or associated costs generated by the historic heritage place in question.

NT Finding 22 A soundly based system with the right incentives is more likely to be capable of continuing to be robust to the face of changes in the pressures on heritage places and in response to the evolving nature of the community's judgements about heritage values.

NT Recommendation 18 The decline in public sector budgets available for historic heritage conservation occurring in recent years should be reversed. The Commonwealth should work through the EPHC to establish a Cultural Heritage Trust Fund comparable to the Natural Heritage Trust. This should provide incentives for heritage conservation and fund new programs such as a Heritage Stewardship Fund and a Heritage Care program.

Heritage Listing

NT Finding 23 (PC 5.2) While statements of significance are recommended in state guidance material, no State requires its local governments to include a statutory statement of significance in their local heritage lists. The absence of such statements seriously impairs subsequent decision making about listed properties.

NT Recommendation 19 Subject to the outcome of Recommendation NT5, Statements of Significance and other relevant information should be provided to owners of listed properties as a matter of course. See also recommendation NT5

National Trust finding**National Trust recommendation**

Local Government

- NT Finding 24** Policy options that give property owners an incentive to protect heritage values may deliver better outcomes than regulation that merely prohibits certain actions such as development and neglect.
- NT Finding 25** Heritage places play a vital role in enhancing a community's cultural capital and in school and community education. They make an important contribution to local economies and assist in building stronger and more diversified rural economies and skills base.
- NT Finding 26** Unlike at the Australian, State and Territory government levels, there is no requirement for local governments to identify and conserve its own historic heritage apart from its own willingness to do so.
- NT Finding 27** (PC 5.1) There is a high level of discretion for decision-making on heritage matters at the local government level, derived in part from limited state government guidance and this has resulted in inconsistent outcomes within many local governments.
- NT Finding 28** (PC 6.6) There is significant scope to improve the management of heritage conservation by local governments in their systems and processes for land use and planning.
- NT Finding 29** The administration of current heritage systems at the local government level suffers from a number of problems especially in rural areas, including a paucity of heritage resources, both human and financial, and variable policies and practices between councils that make it difficult to build a professional network between councils. This is at a time when rural councils in particular have a reduced capacity to fund heritage conservation due to demographic and economic shifts.
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- NT Recommendation 20** In recognition of the important role of local government in heritage protection, the EPHC, with the full participation of ALGA should conduct a review of the role of local government in planning and heritage protection, focusing particularly on human and financial resourcing issues.

PART C

ANALYSIS OF ISSUES ADDRESSED IN THE DRAFT REPORT

In this part of the submission we examine in detail a number of the key issues raised in the draft report.

- 6 Heritage Value and the Evidence of Market Failure
- 7 The National Heritage System
- 8 De-Coupling National Trusts from their statutory base
- 9 Property Rights – Balancing the Public and the Private Interest
- 10 Costing and Funding Conservation
- 11 Heritage Listing – is it the principle or the practice which is the problem?
- 12 Heritage at the local level – is it a problem of regulation or administration?
- 13 Why voluntary listing based on agreed conservation agreements will not provide a solution

The ACNT is in broad agreement with the mapping of the various elements of the present heritage system in the draft report, including the appropriateness of the tripartite government management of heritage, with the caveat that strong inter-jurisdictional cooperation and collaboration is essential for an effective national heritage system to work well.

We strongly support the evidence of market failure in the provision of heritage services, and the necessity of government commitment to the conservation of its own heritage.

We recognise the substance of many of the issues raised by the Commission in the draft report, including questions regarding the need to:

- balance public and private rights and responsibilities
- acknowledge the costs of conserving heritage places
- ensure conservation costs are shared equitably within the community
- support heritage conservation through the full range of policy instruments
- improve the administration of heritage related issues within the planning system.

But we take issue with the draft report's

- recommendation concerning the National Trusts
- ascription of assumed 'property rights' to private property owners,
- narrowness of approach to addressing the costs born by these private owners
- understanding of the conceptual basis for, or the intellectual rigour and professional regulation of, the statutory listing process
- failure to distinguish between administrative and regulatory issues as a way of simplifying and clarifying the source of community frustration regarding planning and heritage at local level,

and we

- dispute the efficacy of their recommended solution – voluntary listing governed by conservation agreements with private owners.

6 Assessing the value of heritage and addressing market failure in the provision of heritage services

The assessment of the value that heritage contributes to the community, and the determination of the extent to which there may be market failure in the delivery of heritage services, are central issues to this Inquiry.

These are critical issues because determining public good, and establishing market failure, provides the basis for government intervention.

The ACNT therefore particularly welcomes the Commission's recognition in the draft report that indeed heritage does contribute significant value to the community, and that there is evidence of market failure in the delivery of services (see NT Findings 1, 2, 3.4.&5).

Having established that heritage contributes value, and that market failure occurs, the Commission then proceeds to argue that:

Governments should become involved only if the benefits (both tangible and intangible) exceed the costs of intervention. Since public assistance should be directed towards projects which are not commercially viable, and would not otherwise be undertaken by the private sector, the case for government involvement will normally be based on considerations of the more intangible benefits of heritage conservation.⁹

So, despite the recognition that heritage does contribute value, and that market failure does occur, the Commission does not explicitly recommend government intervention, or suggest that consideration be given to using any of the possible suite of policy instruments to remedy this market failure.

Rather the Commission raises the bar for government intervention higher still, and recommends not improvements to the heritage system, but radical changes to it. Listing should be voluntary, and should only occur following agreement with the owner, to be managed by the application of only one policy instrument, the conservation agreement:

⁹ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December, p. 119.

The Commission's argument for the radical change they are proposing is based on their assessment that:

- the current system is undisciplined because it is reliant primarily on regulation
- the current system unreasonably imposes costs on private owners
- government intervention (ie, support for the conservation costs unfairly born by private owners) should be based on an assessment of net community benefit.

But this begs a very large question: how is net community benefit to be assessed?

6.1 Assessing net community benefit

The Commission suggests that each decision to protect a historic place should be preceded by an assessment of the value the conservation of the site will provide to the community, balanced out by the future costs of conservation.

It suggests that in order to be able to make this determination, the heritage system should be reconfigured so it is able to make these individual determinations about the heritage value, ie, the potential community benefit, able to be provided by each place under consideration for listing. Thus, the Commission believes:

It is imperative that the (heritage) system include mechanisms for assessing and weighing both the benefits and costs, and for ranking candidate places in terms of the net social benefits arising from their conservation¹⁰.

Leaving aside the massive resource implications this kind of determination would require, the implication of the Commission's argument is that it is equally possible to weigh up costs and benefits.

And of course, it is not.

As the Commission itself acknowledges:

Assessing the extent of cultural benefits to the wider community is difficult as they are noteasily quantified (and) in contrast, the

¹⁰ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December, p. 107.

costs to the community of their conservation are individually incurred and directly measurable.¹¹

Therefore, as it is so difficult to quantify heritage benefits, and much easier to quantify heritage costs, how does the Commission suggest the quantification should be done? And at the level of detail required to assess the benefits from a particular place vis a vis others? And in particular, how should it be done at the local level, of individual places?

And if the quantification of benefit cannot be readily achieved, how then should net community benefit be calculated? Even the calculation of costs is complex: see Chapter 10 for a discussion of the Commission's view that costs should include foregone development rights.

We have searched the draft report for advice as to how this critically important assessment should be made, but to no avail. No where is there advice as to how it might be possible to assess the often intangible benefits heritage confers, in the public as well as to the private domain.

If this cannot readily be achieved, how then we ask, can the balance between private and public benefit, between externalities and internalities, between public good and private benefit, between private owners' rights and the public interest, be determined, and if this is not readily managed, then how is net community benefit to be established?

And if a place is only to be protected based on this assessment, and this assessment is so difficult, how is the Commission's proposal to be implemented? How can something so complex in concept and practice improve conservation outcomes for Australia's many thousands of heritage places?

It is our contention that the difficulties assessing the value of heritage indicate that if the Commission's system is adopted, the odds will be stacked against heritage value – the public good – being given proper weight in any assessment of heritage costs and benefits. Reaching a balanced judgement between costs incurred and benefits conferred is essential to informed decision making regarding possible government intervention, so we suggest there is a major flaw in the Commission's argument.

¹¹ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December, p. xxi.

This is precisely the equation which should be used to determine whether or not government should seek to enter into a conservation agreement with an owner to list and conserve a heritage place. And it is also this equation which will then be used to determine the individual conditions to be negotiated between the owner and the listing authority.

Therefore, ensuring there is a clear, transparent and comprehensive process for assessing the benefits as well as the costs of heritage conservation is essential to the policy success of the radical system proposed by the Commission.

However, the only discussion concerning mechanisms for quantifying heritage benefits refers to environmental values¹². There is no discussion in the draft report as to how to assess heritage benefits in the historic environment, simply an acknowledgement of the difficulty of doing so.

We cannot see then how this proposal recommended by the Commission can possibly ensure that heritage value will be fully conserved for the community into the future.

6.2 Assessing heritage value

The Commission is very critical of the considered and detailed study provided for HCOANZ by the Allen Consulting Group on assessing heritage value, which seems to us to provide substantive data, and some very useful methodological approaches.

Unfortunately, the draft report provides no alternative or preferred method, no suggested way to 'value' heritage benefit, or other means to gather the required data. Instead, it simply acknowledges the complexity of the task, and the requirement that it be achieved.

Heritage advocates and researchers are acutely aware of the difficulty of assessing the value heritage contributes to the community.

The respected Australian academics, Prof David Throsby, and Dr Jane Lennon AM¹³, are both participants in an innovative research program, currently being conducted by the Getty Institute¹⁴.

¹² Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December.

¹³ Dr Jane Lennon AM is also one of the two members of the Australian Heritage Council representing historic heritage.

¹⁴ See www.icomos.org/us/icosomos/Symposium/SYMP99/delatorre.htm

This project has been developed in recognition of the difficulties of assessing heritage 'value' and is seeking new approaches to bridge the gap between the quantifiable and tangible costs of heritage conservation, and the intangible, and difficult to quantify benefits heritage conservation confers.

We commend the Getty Heritage Values Project to the Commission. In particular, we suggest that before recommending radical changes to the Australian heritage system in the final report, reliant as these changes might be on an agreed method for assessing heritage value, that consideration of the work of this project would be useful.

Given the Commission's acknowledgement that heritage confers community benefit and the occurrence of market failure in the delivery of heritage services, the ACNT would support consideration of a system for determining the appropriate extent of government intervention based on an assessment of net community benefit, but only if there was a practical, agreed means of quantifying the benefits as well as the costs.

So far, however, certainly in this draft report, the means to quantify benefits as well as costs has not been established sufficiently well within the economic framework the Commission is advocating, for the Trust to be confident that benefits as well as costs would be able to be fully considered within the proposed system.

There are other ways of ensuring that benefits outweigh costs in the listing process. One is by public enquiry as in the Victorian planning process. Whilst it is not yet applied to heritage issues, assessment of net community benefit is an explicit requirement of the planning scheme amendment process for shopping centre expansions and designations. While this could possibly be extended to the heritage domain, we have concern regarding the difficulties of fully capturing heritage value in ways which would ensure long term conservation benefits did accrue (see Chapter 10).

6.3 Other policy instruments

Given the difficulties of establishing net community value, we suggest the Commission should be considering the use of other policy instruments to address the market failure identified.

The Commission's recommendations do not utilise the full range of policy instruments as described by Allen consulting in their Research

Report No 1¹⁵ in which the four categories of policy intervention are identified – informing, spending, providing services, and regulating – all of which they suggest, should be utilised in a balanced and appropriate way to ensure an optimally functioning system.

Neither does the Commission properly consider the range of incentive instruments examined in the EPHC Report, *Making Heritage Happen*.¹⁶

The Commission’s failure to fully explore these policy options in the draft report is of great concern to us. It is our contention, strongly supported by all sectors of the heritage industry, that the key issue for heritage conservation is the lack of appropriate funding.

It is evident to us that the key problems the Commission has identified in relation to the conservation of historic heritage places would be considerably relieved, if not solved, by additional and well targeted government funding.

National Trust findings and recommendations

We regret that the draft report statements quoted at the beginning of this section have not been formally cast as ‘findings’ in the draft report, and would urge the Commission to designate these statements of their own as ‘findings,’ and consider making formal recommendations in the final report as we suggest below.

Findings

NT Finding 1

Historic heritage places provide important cultural benefits to the community and governments at all levels carry out regulatory and non-regulatory activities to support and enhance these benefits.

NT Finding 2

The conservation of Australia’s historic heritage places can generate a number of benefits. These range from commercial benefits to more intangible community benefits (including a sense of history, belonging and community, educational and research values, and spiritual values). Conservation activities also provide a benefit for future generations.

¹⁵ Allen Consulting Research Report No 1 p. 22.

¹⁶ EPHC (Environment Protection and Heritage Council) (2004), *Making Heritage Happen: Incentives and Policy Tools for Conserving Our Historic Heritage*, April, Adelaide, <http://www.ephc.gov.au>

NT Finding 3

The existence of the wider community benefits provided by heritage provides a case for government involvement in the conservation of historic heritage places.

NT Finding 4

The Commission has concluded there is a prima facie case for some level of government intervention in historic heritage conservation.

NT Finding 5

There are significant areas of market failure in historic heritage conservation that warrant government intervention in order to achieve broad social benefits not taken into account in private decision making.

NT Finding 6

Community based benefits of historic heritage conservation will not be amenable to easy quantification because of their intangible nature.

Recommendations

NT Recommendation 1

The EPHC should commission further research into the value of heritage to the community, and the assessment of the benefits and costs of heritage conservation.

The work should be commissioned as a matter of urgency to build upon the findings of the studies undertaken by the Allen Consulting Group for the HCOANZ

NT Recommendation 2

Funding must be provided to address areas of market failure, and in particular for education, conservation, research and professional development. Funding support should particularly be directed towards the NFP sector and private owners of heritage places where market failure can most be observed.

7 The national heritage policy framework

The ACNT, in concert with members of the National Cultural Heritage Forum, supported the idea of a Productivity Commission Inquiry. We saw such an Inquiry as a way to provide a more robust policy framework to take to government in support of increased resourcing for cultural heritage.

The Trust believes that such an agreed national heritage policy is still required in order to ensure the heritage system is operating at maximum effectiveness and efficiency.

The Commission's analysis of the national heritage system recognises a 3-part framework for heritage conservation which should operate at all 3 levels of government, and endorses the strong role of government within that:

- Government conservation of its own heritage places
- Government heritage identification, regulation and protection of heritage places
- Conservation of heritage places by private owners.

Through this analysis, the draft report makes a strong case for much greater government support for heritage nationwide, a finding the National Trust strongly supports, and which we would like to see formally recognised as a 'finding' in the final report.

Where we disagree with the Commission's analysis is in their application of the subsidiarity principle to absolve the Commonwealth from any responsibility for the conservation of heritage places nationwide, as distinct from their agreed responsibility for places listed on the National Heritage and Commonwealth Heritage Lists.

7.1 The National Heritage System

The new National Heritage System is still in the very early days of its development. The Commission endorsed particular elements of its design in the draft report, and suggests these should form a model for the improvement of S/T and local heritage management.

The limited constitutional 'heads of power' available to the Commonwealth over the built environment are responsible in large part for the elements of the national system which appeal so strongly to the Commission.

The National Trust supported the design of the National and Commonwealth List systems in principle, because of these very particular requirements. However, we do not support the extension of those elements universally, because both the National and the Commonwealth Lists are very selective, ie highly representative lists, unlike most other S/T and local statutory lists.

One aspect of the national system however, which the National Trust strongly endorses, the import of which has not been recognised by the Commission, is that heritage is now managed holistically at the national level. Heritage is defined as part of the environment in the EPBC Act. This holistic approach to heritage management is increasingly being incorporated in other jurisdictions, so separating out elements of natural, historic and indigenous heritage management will become increasingly confusing and inappropriate.

The national system is dependant on the achievement of strong commitment to integrated heritage management nationwide. The Commonwealth needs, but has not yet achieved, strong agreements with S/T governments in order to conserve and protect places on the two new national lists.

The Commonwealth Heritage List

The ACNT supports the management arrangements now being applied to Commonwealth heritage places, and does see the requirements for the identification, conservation and protection of these places through publicly available conservation plans as a model for the management of government owned places in other jurisdictions.

However, the fact that this conservation is to be funded (with the exception of some Defence costs) from agency funds, with no special allocation or capacity for other support, is of concern to the National Trust. Heritage conservation is not core business for most of these agencies, and we would prefer to see a system operating which requires agencies to identify their conservation costs, and for there to be additional funding available for identified conservation costs.

The National Heritage List

Inadequate funding is a key problem impeding the development of the National Heritage List.

The new Australian Heritage Council has no independent resource or research base. Therefore, the AHC cannot properly carry out a number of its functions. It cannot commission independent research, and so far, has not been able to provide professional leadership to the heritage community as their predecessor, the Australian Heritage Commission, did so well, and for so long.

It is also very telling that there have been no conservation agreements negotiated concerning any one of the 23 places now listed. As we argue in Chapter 13, conservation agreements can be a useful conservation tool, but only if both partners have something they each wish to trade off with the other, and something they are prepared to give to the other in order to achieve an agreement.

From the perspective of S/T governments, the Commonwealth has not yet brought sufficient funds to the table to warrant the making of an agreement.

And in terms of protection of these nationally significant icons, not all is as positive as it might seem.

Several of these places were not nominated and/or listed until their heritage values had been compromised – the MCG and the Opera House, for example, had each been redeveloped prior to being listed (the curtilage of the Opera House being severely curtailed), and only a part of the forest was listed for protection at Recherche Bay.

Some places of undoubted national significance have not yet been able to be listed because their government owners will not compromise their own interest in these places – the Burrup Peninsula for example – where the WA government will not compromise mining revenues to protect the world's largest set of Aboriginal rock carvings.

The National Heritage System was expected to provide 'best practice' heritage conservation of NHL places, to provide state of the art education programs, to inform and engage the community's interest in heritage nationwide, to lead by example.

It would be fair to say little of this has occurred, and the key reason is lack of resources and lack of clarity as to how these roles should be enacted.

Without 'best practice' heritage practice at the Commonwealth level, improving the quality of heritage practice nationwide, and maximising cooperation across jurisdictions is not possible.

7.2 The subsidiarity principle

The report strongly endorses the principle of subsidiarity in its finding 7.1:

The three tier legislative framework is an appropriate model for government involvement in heritage conservation. And, consistent with the principle of subsidiarity aligns the scale of heritage significance with its level of government decision-making

While we support this principle as a means of clarifying responsibility, we take issue with the Commission's practical application of it, for it appears from the Commission's analysis and recommendations that they consider that the subsidiarity principle requires the level of government providing the service to also be responsible for funding that service.

Our understanding differs.

We understand that the principle of subsidiarity is designed to ensure efficient and effective service delivery, but that equity considerations often require that the service be funded by a higher level of government than that which is delivering the service.

So, we dispute the assertions and implication throughout this draft report that local government should be responsible entirely for the conservation of locally significant places in their jurisdictions.

The question of who should pay for heritage services is the key question, given the Commission's focus on issues arising from the local government sector, for the changes they recommend will impact most severely on that sector. Yet local government is the least well financed and resourced sector, and arguably therein lies the nub of the problems the Commission has identified in that sector.

Extraordinarily then, the 'solution' proposed by the Commission – voluntary listing following conservation agreements – will impose extra transaction and conservation cost burdens on local government, with no consideration in the draft report as to where the extra financing should come from, and without analysis of either the financial costs or benefits of the proposal.

And yet, we note, the Commission wants no cost-shifting as a result of its recommendations!

7.3 National Heritage Policy

The HCOANZ has finally commenced development on the long-sought, and much needed National Heritage Policy, something which the ACNT and our colleagues in the National Cultural Heritage Forum have long advocated.¹⁷

For, although theoretically there is agreement on the alignment of responsibilities nationally through the COAG Agreement of 1997, the policy framework which is necessary to guide national collaboration across jurisdictions on essential issues has not yet been agreed.

For example, agreement has not yet been reached on matters as critical as:

- funding arrangements for shared responsibilities,
- the establishment of national standards and best practice models for heritage identification, protection & conservation,
- the gathering and public availability of consistent and consolidated national data sets on heritage places,
- management arrangements for places with multiple heritage values
- the alignment of S/T heritage protection regimes (especially regarding the holistic management of places of multiple values).

7.4 Commonwealth leadership

The ACNT strongly believes that achieving such an agreement requires Commonwealth leadership, and Commonwealth commitment to resourcing and supporting the development and management of this policy framework. Without this, little can and little will proceed.

The vehicle is the EPHC, and its heritage support agencies, organised through the HCOANZ, with the support of the non-government sector, including of course, the National Trust, Australia ICOMOS and other members of the National Cultural Heritage Forum.

The issue for the Inquiry is to assess whether it is in the interests of national heritage conservation to allow the role of the Commonwealth government to be limited only to managing places of National and Commonwealth significance.

¹⁷ See Submission no 126, National Cultural Heritage Forum, Vision for Australia's Cultural Heritage.

Heritage is a public good, and should be equally available to all citizens. That is, all citizens, wherever they dwell, should be sure that the places significant to them will be able to be conserved for future generations.

Local heritage places contribute benefits to us all. Whether we travel, work, reside or dwell imaginatively in those places, we are all enriched by them. It is the strong belief of the National Trust Movement that our national government has a responsibility to ensure that the national heritage system is able to ensure effective, efficient and equitable conservation of places of heritage significance across the nation.

7.5 National heritage data collection and dissemination

The Commission's Finding 1 and Recommendation 1, concerning the absence of and the need for consolidated and consistent national data gathering, can only proceed through an agreed national heritage framework, which in turn will only succeed with Commonwealth support and leadership.

The availability of broad-scale typological data about heritage places is critical to the rigour of the assessment of significance, and therefore to the development of heritage lists, at any level of significance (as we argue in Chapter 11).

This is a leadership role the Commonwealth abdicated a decade ago when it ceased funding the National Estate Grants Program, which had provided funding nationwide for broad-scale heritage surveys for twenty years.

Since the Commonwealth ceased NEGP funding, many S/T jurisdictions have failed to support such surveys, and there is no designated source of funds for national typographical or other surveys or research. As a result, every Commonwealth State of the Environment Report has noted the lack of data about Australia's historic heritage places as a key finding. Yet little so far has been done to remedy the situation.

While the Commonwealth is now indicating it intends to realise previous commitments to providing a platform for national heritage data collection and dissemination (the Australian Heritage Places Inventory), major resource commitments are now required to fund the research to fill the many data gaps which now exist, and which the Commission has correctly identified in its draft report as a key issue impeding the conservation of Australia's historic heritage places.

Ironically, one perverse consequence of the Commission's proposals for radically changing the way heritage is conserved and protected, would be an extraordinary growth in the collection of data concerning Australia's heritage places.

This is because the Commission's key recommendation requires not only that a full Statement of Significance be developed for each place listed, but that sufficient detailed information be available to rank each place against other heritage places, in order to determine priority listing and net community value.

How absurd, if the consequence of the Inquiry were to be an abundance of information about places no longer protected!

7.6 The Register of the National Estate

The RNE remains the most complete source of data about heritage places in Australia, data much too precious to lose.

The RNE data was always intended to be used as the base data for the Australian Heritage Places Inventory (AHPI), which remains under development. However, the transfer of data is extremely slow, and the fields and data availability on the APHI are still very restricted.

The Commission should note also that the RNE does still play a statutory role, as it can act as a 'trigger' under s 26 and s 28 of the EPBC and the Australian Heritage Council is charged with maintaining it as a statutory list, so legislative change would be required to dismantle it.

The RNE, being an holistic list, covers thousands of natural and Indigenous places which would have no identification, no protection under their own S/T regime if the RNE was dismantled, and so we urge this not be done until every place listed has been assessed and registered for protection on appropriate S/T and/or National Lists.

See attachment one – The Future Role for the Register of the National Estate, written by the National Cultural Heritage Forum for the Minister for the Environment and Heritage in December 2003, for a detailed and considered judgement about the best future cause for the RNE.

The ACNT strongly supports the retention of the RNE until the heritage values of all places on the list have been assessed by their own jurisdiction, and all the wealth of heritage data concerning RNE places has been made publicly available through a fully constructed AHPI.

National Trust findings and recommendations

We urge the Commission to designate these statements of theirs as ‘findings,’ and consider making formal recommendations in the final report as we suggest below.

Findings

NT Finding 7

There is merit in having a national framework for the conservation of historic heritage places that is compatible with the framework for natural heritage.

NT Finding 8

(PC 7.1) The three-tier legislative framework is an appropriate model for government involvement in heritage conservation. It delineates the responsibility of each level of government for historic heritage conservation and management.

Government Owned Heritage Places

NT Finding 9

(PC 4.2) The commitment to identify, conserve and manage publicly-owned historic heritage places varies considerably between States and Territories.

NT Finding 10

The majority of iconic historic heritage places are owned and managed by governments. It is necessary for governments to ensure that individual government agencies with responsibility for these heritage places do not have incentives to neglect or unnecessarily dispose of their properties in order to avoid heritage conservation obligations and the related costs.

NT Finding 11

(PC 4.3) The level of expenditure on government owned heritage places is difficult to calculate since no jurisdiction requires explicit budgetary recognition of such expenditure

NT Finding 12

(PC 7.3, PC 7.4) State, Territory and local governments do not have a systematic framework for the management of, and expenditure on, the conservation of government owned heritage places. Management of government owned places could be improved through the introduction of conservation management plans and transparent reporting of expenditure on conservation.

NT Finding 13

Governments also have a role in conserving places with little private use value, including bridges, industrial sites, sewage sites etc.

Historic Heritage Places Data

NT Finding 14

(PC 3.1) Little statistical information is available on the conservation of Australia’s historic heritage – the number, quality and composition of listed places; the nature, source and types of expenditures on historic heritage conservation; or the effectiveness and cost-effectiveness of those expenditures.

NT Finding 15

The Commission has been unable to derive an accurate assessment of the mix and condition of historic heritage places, and of trends in condition/quality. Nor has it been able to establish the overall expenditure on the conservation of historic heritage places by government or by the private sector, in any jurisdiction, nor any reasonable breakdown of type of expenditure. There is a need for all governments to address the current gaps in data coverage-as well as its reliability and comparability-in the historic heritage conservation area.

Recommendations

NT Recommendation 3

Governments should commit to completing the national heritage framework to provide seamless protection to heritage places nationwide.

NT Recommendation 4

The Environment Protection and Heritage Council (EPHC) in consultation with the HCOANZ and the NCHF should implement the agreed Integrated National Heritage Policy, incorporating best-practice elements from all jurisdictions and finalising all necessary intergovernmental agreements to provide for minimum standards and address resourcing requirements

NT Recommendation 5

The heritage system operating in each jurisdiction should be evaluated regarding the extent to which it meets agreed principles for a best practice heritage system, including the extent to which each system is based on an appropriate combination of regulation, financial incentives and provision of information and services

NT Recommendation 6

Governments should intervene to address the identified market failure in heritage conservation using the full suite of policy instruments including provision of incentives for heritage conservation, and programs of community education and training in heritage skills.

NT Recommendation 7

The Australian Heritage Council should be funded and resourced so it can fulfil all its functions under the Act, especially the promotion, identification, assessment, conservation, monitoring and reporting on heritage, the carrying out of independent research and investigations, and the provision of independent advice and reports

Government Owned Heritage Places

NT Recommendation 8

(PC 7.4) The Australian Government should implement reporting systems that require government agencies with responsibility for historic heritage places to document and publicly report on the heritage related costs associated with their conservation.

NT Recommendation 9

(PC 7.5) State, Territory and local governments should:

- produce adequate conservation management plans for all government-owned statutory-listed properties;
- and
- implement reporting systems that require government agencies and local governments with responsibility for historic heritage places to document and publicly report on the heritage-related costs associated with their conservation.

Heritage Information and community education

NT Recommendation 10

(PC3.1) All levels of government should put in place measures for collecting, maintaining and disseminating relevant data series on the conservation of Australia's historic heritage places.

NT Recommendation 11

The Register of the National Estate should be retained. The Register of the National Estate is a significant public resource and an invaluable repository of comprehensive heritage information professionally compiled over a 20 plus year period. This data must not be lost but must be speedily converted into an accessible and properly maintained data base available to all heritage agencies and organisations

NT Recommendation 12

Governments should improve the scope and substance of information provided about heritage listed places and the way it is provided to heritage stakeholders.

NT Recommendation 13

Governments should recognise the integral importance of research to heritage identification and interpretation through the formation with all governments of a National Heritage Research Council to audit existing heritage data and bibliographic information, establish a national heritage research program, and ensure public availability of consolidated national data about Australia's heritage places.

8 De-coupling National Trusts from their statutory base

Whilst the National Trust is referred to at various places within the report, the very real financial pressures affecting its work receive scant attention.

The Commission acknowledges the distinctive role of the National Trust within the national heritage framework, but without consideration of the pressures under which the Trusts are carrying on this work:

The National Trust in each jurisdiction plays an important role in the conservation and management of historic heritage places. They harness the goodwill and voluntary resources of their members and the wider community to undertake activities that might not otherwise be undertaken¹⁸.

While references to the Trust are positive, there are no positive recommendations regarding the Trust conservation activities and needs.

In part this is because the Commission uses the term 'private sector' in an untidy and unhelpful way. The National Trust is considered alongside other private sector owners. In fact of course, the respective circumstances, motivation, and philosophy of a not-for-profit owner like the National Trust, are totally different from those of most other private owners.

The Trusts hold and manage property in order to protect and conserve those places in the public interest, and most particularly to educate and inform the community about heritage, and to engage community support for wider conservation activities.

We suggest that the Commission should recognise this critical difference in the purpose of property ownership, and should expand the set of categories of private property owners on pp. 182–186 of the draft report to include owners of historic places held in the public interest.

¹⁸ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December.

It would then be possible to identify the particular community value of and pressures upon these community owned places, and to distinguish between those places open to the public for educative purposes, those places of conservation value but not open to the public, and to make recommendations concerning their conservation and support.

8.1 PC Recommendation 7.3 Repeal of legislation establishing National Trusts

We dispute the Commission's assertion that the retention of statutory status may be confusing to the general public.

The Commission comments that:

This creates confusion as to the role of the Trust, particularly in relation to the Heritage Council in each State and Territory. In addition, statutory status may diminish their effectiveness as an independent advocate for heritage conservation, and reduce their capacity as membership-based organisations, to pursue their own objectives.

There is little discussion in the report as to why this recommendation is made. It follows a discussion concerning the roles and responsibilities of various players in the heritage framework, and within the context of an analysis of public uncertainty about the various lists, so we presume the reason for the recommendation is that the Commission believes that removing the Trusts from the statutory framework would clarify that Trusts are actually independent of government, and can clearly be seen to be acting independently of government.

We would like the Commission to note that the majority of International Trusts are statutory based, including the National Trusts in the UK which are all statutory bodies, with little apparent community confusion as a consequence.

While the Trusts agree that it is important for there to be clarity as to their community base, their independence from government, and their not-for-profit status, uncoupling the 6 Trusts that are established under statute from their statutory base would be costly and cumbersome, and not necessarily in line with the best interests of those respective Trusts and their members.

The NSW Trust, for example, advises that because of its legislative status, it is able to participate in the NSW Government's insurance arrangements, and take advantage of their economy of scale pricing.

We are of the view that it makes little difference to Trust members whether their particular Trust is a statutory body or a company: most members would not be aware of this as an issue.

In addition, the fact that some Trusts are statutory does little to constrain them from criticising governments when necessary. On the other hand, removal of their statutory base would deprive them of substantial benefits such as taxation relief, which assist them considerably in their conservation work.

The Trusts have indicated in various ways their willingness to partner with government to provide more efficient delivery of heritage services, as was suggested in the first ACNT submission. We note however, that the Commission makes no recommendations in this regard.

We would like the Commission to note that each of the 9 Trust bodies, however they are constituted, either as a company limited by guarantee or via statute, is managed through strong public accountability and governance measures.

National Trust findings and recommendations

The ACNT urges the Commission to consider acknowledging its findings on the important role of the National Trust in the conservation of Australia's heritage places as a formal finding, and also agree to the suggested recommendation, as suggested in the text below:

Finding

NT Finding 17

The National Trust in each jurisdiction plays an important role in the conservation and management of historic heritage places. They harness the goodwill and voluntary resources of their members and the wider community to undertake activities that might not otherwise be undertaken.

Recommendations

NT Recommendation 14

Governments should acknowledge that the NFP sector is an effective and efficient group for delivering heritage conservation services to the community and should be used more by government to provide services to the community and owners of historic heritage places.

NT Recommendation 15

Governments should partner with the not-for-profit sector and assist them to deliver heritage services to the community and to owners of historic heritage places. Sufficient funding from all levels of government should be provided to facilitate this objective.

9 Property rights—balancing the public and the private interest

In our view, the draft report’s analysis of the national heritage system is skewed because the report focus is directed at one group in one sector – the private owner and their ascribed property rights, and the disproportionate share of costs the Commission asserts they bear for conserving local heritage places.

The report ascribes a set of private property rights to individual owners with no evidence as to where these have arisen in law, or exactly what they comprise. It then contends that listing of heritage places is indiscriminate because listing at S/T and local level does not need to take account of the costs born by the owner of conserving listed places.

For example,

costs include the extra operating and maintenance costs of maintaining the original fabric of the property and forgone development opportunities¹⁹

and later,

Owners suffer an erosion of property rights and potential loss of value²⁰

This generalised assertion regarding property rights is different from the Commission’s approach in other reports, where definitions are provided. For example, in the Productivity Commission Staff Research Paper, *Cost Sharing for Biodiversity Conservation: a Conceptual Framework*, the definition provided on p11 is:

Property rights comprise the bundle of ownership use and entitlement rights that a user has over a good or resources such as land, and include any responsibilities the user may have to others ... These rights and responsibilities are given expression through law (common law or legislation) custom or tradition. The rights and responsibilities implied by property rights may change over time as community expectation change.

¹⁹ Productivity Commission (2005), *Conservation of Australia’s Historic Heritage Places*, Draft Report, December, p. xxviii.

²⁰ Productivity Commission (2005), *Conservation of Australia’s Historic Heritage Places*, Draft Report, December, p. xxiv.

Is this what the Commission is referring to? It would be helpful for this to be clarified.

Even so, this still leaves open the question as to what exactly these rights are, and how exactly these responsibilities to others should be defined.

According to this same Commission paper, the development of these rights is dynamic, evolving, determined within a changing social context. It would seem exceptionally difficult to define them at a point in time without some qualification.

Equally, as they would be determined within the evolving understanding of the appropriate balance which should be struck between private rights and public responsibilities, it would seem that constructing an argument based on an undefined set of rights and an undisclosed set of responsibilities, could be seen as problematic.

Given the above definition, we are very surprised that the Commission appears to reject the interpretation of property rights as a qualified entitlement as argued by many Inquiry respondents, including the Chairman of the ACNT in the first Public Hearing in Victoria, as quoted in the draft report²¹.

Most particularly, we are puzzled that they do not consider the constraints perhaps imposed on private owners of heritage listed places as kindred to the increasing sets of planning, zoning, and land-use constraints imposed on all property owners in the public interest, to prevent harm, and to ensure public good.

We suggest that a key aspect of assessing the impact of changing trends (as required in the Inquiry ToR) should be to assess the pressures which are driving this changing community understanding of the appropriate balance which should be struck by regulatory authorities between public and private rights.

A major part of that consideration should be to assess carefully the growing number of ways in which land use regulation, environmental and urban planning, amenity and character protection are increasingly being utilised to provide public benefit over private use, with little recompense for affected owners.

²¹ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December, p. 143.

9.1 Development rights

The Commission ascribes ‘usage’ rights as well as what could loosely be called ‘development’ rights, and then appear to confuse them, as it refers to both sets of ‘rights’ as *costs* which must be considered in assessing the consequences of heritage listing.

This ascription of ‘development rights’ – or as the Commission refers to them, ‘foregone development rights²²’ – is at the extreme end of the scale of possible property rights, so for the Commission to then equate ‘usage’ and ‘development’ rights is in our view a distortion of the general use of the term ‘property rights’.

There is an ongoing community debate about balancing development and conservation. Every Australian city, and now most coastal areas readily accessible to urban populations, are concerned about assessing and providing the proper balance between individual and community rights, between the enjoyment of private benefit and the provision of public good, especially in relation to the use of property²³.

The Commission’s presumption that the balance should lie firmly with the rights of the private owner, and that these rights include the rights to benefit from any possible ‘development’ which may be constrained by regulation, tips the balance much too severely away from the public good to be considered a reasonable position in most discourse.

In many jurisdictions such rights are not acknowledged at all. That is, the capacity to undertake ‘higher and better’ development of a site is not an innate right but something that is granted by the community, at its discretion, in line with the current planning policies. These so called ‘rights’ are often extinguished without compensation, for example, when properties are ‘downgraded’ from multi unit development sites to single dwelling sites.

If, notwithstanding these arguments, the Commission is to persist with the concept of development rights as the foundation concept for its key recommendation, it should remain consistent with this discipline. It should recommend that where public intervention results in the upgrading of development rights on individual properties, the uplift in property value should at least in part be captured by the government in question, to help fund the compensation for the diminution of

²² Productivity Commission (2005), *Conservation of Australia’s Historic Heritage Places*, Draft Report, December, p xxviii.

²³ See the Managing Sea Change report issued recently by the Sea Change Task-Force http://www.usyd.edu.au/research/news/2005/mar/29_seachange.shtml

property value suffered by owners of heritage listed properties and other properties which are 'down-zoned' by local regulations.

The Commission is encouraged to examine the system of 'change of use charges' in the ACT as a model for this type of approach.

In the Territory, proponents of higher and better uses must pay the Government for these rights – 75% to the government, 25% to the lease holder, ie, they do not rest automatically with the property holder. Conversely, the Government is required to compensate property holders if conditions on the use and development of their land is tightened, as may occur with heritage listing.

While the ACT system is linked to the leasehold tenure arrangements in Canberra, these principles of capturing betterment and compensating for 'worsenment' can be readily applied in freehold systems. It would ensure efficient outcomes, as a net community benefit would be served if betterment payments exceeded 'worsenment' payments on marginal transactions.

These issues are critical, not just to heritage but to planning and land regulation generally, and we urge the Commission to be more informative as to the basis for its assertions and its arguments.

National Trust findings and recommendations

We suggest the Commission designate these statements of theirs as 'findings,' and consider making formal recommendations in the final report as we suggest below.

Findings

NT Finding 18

There are a number of misconceptions in respect of the impact of heritage listing on property rights. Diverse views were presented on the matter of property rights.

NT Finding 19

(PC 5.5) Many property owners do not fully understand the effect heritage listing has on their property. This is not simply a reflection of a lack of awareness by owners of the implications of listing, rather it flows from unclear legislative requirements and inconsistent administrative actions. More specifically it is a direct result of the failure of all State heritage Act to specifically require a statement of significance for heritage listing at the local level.

Recommendations

NT Recommendation 16

In the light of the considerable debate regarding the connection between heritage listing and property values, work should be commissioned to consolidate existing studies on property rights and their relationship to heritage conservation, to planning and to land use regulation.

Where necessary new work should be undertaken under the aegis of the EPHC, to develop policy guidance to assist State, Territory and local authorities to better balance private and public interests in their statutory and regulatory frameworks.

NT Recommendation 17

A thorough evaluation should be carried out of the way in which owners of heritage properties are informed of listings that affect them and of the capacity of heritage agencies to provide adequate levels of advice and information to affected parties. The evaluation should focus on statutory and administrative practice and evaluate the adequacy of existing arrangements with particular reference to resources and funding.

10 Costing and funding conservation

The report asserts that heritage listing is excessive because the regulators do not need to consider costs in making their listing decisions.

This ‘unfair’ imposition of a cost burden on private owners is central to their argument that the heritage system needs to be radically changed, yet they provide no estimate of the extent of these costs, as they might apply to individual property owners, or in quantum.

Calculating these ‘costs’ becomes prohibitively difficult when it is considered that for the Commission, private owners’ conservation ‘costs’ include the costs of ‘foregone development opportunities’.

The National Trust recognises there can be costs in the conservation of a heritage place. We are, after all, the owners of the largest set of non-government historic heritage places in the nation.

Not only do we recognise there are costs, for we ourselves bear them constantly, but we advocate strongly that because Trust properties provide a public benefit, we should not be burdened with excessive conservation costs for our properties which we hold in the public interest.

Equally, the National Trust believes private owners of heritage-listed places should not have to bear the full costs of conservation: they should be assisted using the most effective incentives and support mechanisms available.

10.1 Capturing the heritage factor

However, accurately capturing the actual costs of conservation, vis a vis maintenance on a historic property, is difficult.

Australia ICOMOS refers to this as assessing the ‘heritage factor.’ Despite many attempts by heritage professionals over the decades, no simple formula for estimating the additional ‘heritage factor’ costs has yet been agreed.

Some conservation costs, such as those related to the upkeep of particular kinds of original materials and finishes are readily apparent, and can be calculated, but these are the exception not the rule, for the maintenance of most heritage places does not require exceptional materials or skill.

Similarly, as the draft report acknowledges, costs associated with compliance with regulation governing access, OH&S and similar contemporary regulation may impose higher costs on heritage property owners, and these are again quantifiable.

But separating the broad, life-cycle maintenance costs of caring for a heritage place compared to the costs of conserving the heritage values, is difficult.

As far as we can ascertain, no government agency has yet been able to provide clearly identified sets of costs as to the amount spent on conserving a building over and above the amount required to be spent in a given period simply to maintain it. The Commission's findings and recommendations related to government owned properties recognise and seek to address this lack of quantified costs.

Yet the Commission still uses these unquantified costs borne by individuals, including of course the impossible to estimate foregone development opportunities, as the cornerstone of their findings, and especially of their key recommendation.

We challenge the Commission to devise a simple methodology which would enable the local p/t heritage adviser and the local property owner of a late 19C timber cottage to estimate into the future – say just the next 20 years – the costs of conserving the identified heritage values of the property, over and above the costs of simply maintaining that place.

10.2 Balancing the regulatory stick with the incentive carrot

The National Trust believes that while owners of places identified as having heritage significance do have a duty of care, governments should commit adequate resources to assist them to conserve these places.

They should be assisted in our view by the full suite of potential incentives and support mechanisms, as we suggested in our first submission:

Funding must be provided to address those areas of market failure, and in particular for research, education, conservation and professional development. Funding should be provided through a

variety of approaches, including tax/rate rebates, grants, market auctions and revolving funds.²⁴

The Commission recognises in the draft report that heritage budgets for all governments have been declining in relation to funding for the natural environment, and that the lack of incentives undermines the individual capacity to undertake conservation activities.

It is striking to us that the Commission, recognising this, and while acknowledging the value of incentives to induce conservation, makes no recommendation of any kind regarding increased funding for conservation.

We do not accept the Commission's argument that it is unable to make such a recommendation in the absence of more complete information about current government funding levels, and spending on conservation activities.

It is our view that even without such information, the levels of funding are patently inadequate, measured against the demand for conservation services.

Ironically, of course, the inadequate data sets which leave the Commission unable to properly recommend increased funding, are themselves the direct result of inadequate funding.

We believe therefore that a Cultural Heritage Trust should be established complementing the Natural Heritage Trust.

- It would then be possible to establish programs to support conservation very broadly through the community. We particularly suggest that priorities for this CHT should be
- a Heritage Stewardship Fund, which would be established by the Commonwealth with the support of S/T governments to assist jurisdictions around the nation support the owners of heritage places to care for these places
- a Heritage Care Program, designed to encourage similar community conservation activities in the historic environment as those which have been produced so effectively in the natural environment by the NHT community programs
- a National Heritage Research Council to fund heritage research, and to ensure the public availability of consolidated data about Australia's heritage places.

²⁴ ACNT Submission No 40.

National Trust findings and recommendations

We urge the Commission to designate these statements of theirs as ‘findings,’ and consider making formal recommendations in the final report as we suggest below.

Findings

NT Finding 20

There has been a decline in public sector budgets for historic heritage conservation in recent years, with much of the remaining funds being swallowed by administration of the system. . This decline is in contrast to the funding levels for natural heritage programs under the Natural Heritage Trust.

NT Finding 21

The lack of meaningful incentives can undermine support from property owners and as a result opportunities for private investment in heritage properties can be missed. Certainly the current level of assistance available for owners is not in any systematic way related to the level of community benefits or associated costs generated by the historic heritage place in question.

NT Finding 22

A soundly based system with the right incentives is more likely to be capable of continuing to be robust to the face of changes in the pressures on heritage places and in response to the evolving nature of the community’s judgements about heritage values.

NT Finding 24

Policy options that give property owners an incentive to protect heritage values may deliver better outcomes than regulation that merely prohibits certain acts such as development and neglect.

Recommendation

NT Recommendation 18

The decline in public sector budgets available for historic heritage conservation occurring in recent years should be reversed. The Commonwealth should work through the EPHC to establish a Cultural Heritage Trust Fund comparable to the Natural Heritage Trust. This should provide incentives for heritage conservation and fund new programs such as a Heritage Stewardship Fund and a Heritage Care program.

11 Heritage listing—is it the principle or the practice which is the problem?

We challenge the argument that the country is ‘over-heritaged’.

Each heritage place is unique. Each has its own distinctive set of values, which gives it unique character and which makes it significant and meaningful to different sets of people within the community.

Although ‘over-listing’ and ‘non-selective’ listing are referred to many times throughout the draft report, no evidence is presented to support the view that ‘too many’ places are listed, nor is any indication provided as to how many items or places would be an appropriate number in the Commission’s view.

11.1 How much heritage is too much heritage?

The draft report acknowledges that the heritage system is very similar across all state and territory jurisdictions and that a common set of practices and principles/criteria can be identified, broadly conforming to the principles and process as set out in the *Burra Charter*.

This has resulted in a total of some 150,000 places being listed, out of a very crudely estimated 15 million structures nationwide, ie about >1%. Unreasonable? We would suggest the problem is being under-resourced to conserve the heritage places, not overstocked with them.

Despite this nation wide approach, and a system that has developed over at least 30 years, based on international best practice, the Commission believes this is a situation that cannot continue: there is a *reservoir of hostility* (p174) towards heritage conservation, as a result of what it calls a *disconnect* between listing on the one hand and the *adverse financial consequences of listing* on the other.

The Commission believes that too much property is currently listed as heritage, or at risk of inclusion, and that the heritage system plays fast and loose with private owners’ rights, particularly at the local government level, because it is unrestrained by cost implications.

However, it is not the actual numbers of heritage places which are at issue, but the Commission’s assertion that rigour is not an essential part of the assessment process, and that the significant costs of listing

fall disproportionately within the community, ie, to those private property owners whose properties are heritage listed. These costs the commission argues, should be considered as part of the assessment process. Not to do so is irresponsible.

They seem to be arguing from their experience of natural heritage conservation, and to have not fully considered the conceptual differences between cultural heritage conservation and bio-diversity conservation for example, or the difference in model or template which governs 'heritage' conservation from environmental conservation.

For example, they assert that the proper degree of prioritisation is not occurring in the listing of historic heritage places, and seem to believe that what is lacking is the rigour applied to the determination of priority in natural environmental management.

The model is different however, because every element (each species, habitat, eco-system) has a proper place in the natural environment, but only 'heritage' places are the focus in cultural heritage. So, while there is acute awareness in historic heritage management of the context and setting of the place, it is the place itself that matters, whereas in environmental management, the conservation objective is to ensure that the whole natural system, and each element in it, is functioning optimally.

Determining conservation priorities then in the natural environment is relatively easy compared to the historic environment, because the assessment concerns what is not working optimally: what species is most threatened, what habitat is most endangered, what eco-system is in most trouble, or conversely, what is the best example of this, the most necessary habitat for that?

These are not the primary questions used in heritage assessment. There, the primary question of a place, for example, is does it have heritage value? Is it significant in some particular way? And only after that has been established, might questions be asked as to the best way to conserve it, and an assessment made as to the level of threat it is facing for example.

So it is not that 'heritage' conservation cannot be prioritised, it is that the context in which the priority is determined is different from that in which a priority might be established in the natural arena.

The other key difference of course is that the founding basis is radically different. Each heritage place is unique, however similar they may all appear. Once gone, unlike many kinds of habitats for example, they cannot be successfully recreated, whereas, it is possible to create or artificially form a habitat for bio-diversity conservation (the Werribee

Sewage Farm, for example, now classified as a wetland of international significances, or regrowth 'old' forest).

So, it is not possible, to have 'too many' sandstone banks on a heritage list, as the Commission suggests, just as it's not possible to have too many of an artists works on the list of that artist's works. A place has heritage values, or it does not; this painting is by Munch or it is not.

Or to refer directly to the Commission's own example, each 'sandstone bank' on a local heritage list will have been assessed as of heritage value to its own community, and will be valued for the contribution its own distinctive character makes to a particular streetscape.

Furthermore, it would be likely that several banks represented on local heritage lists because of their local significance to particular communities, would be designated as of 'state' significance perhaps because of their particular architectural integrity.

It could also be determined that one of those banks is of outstanding significance to the nation because for example, it was the first bank built in Australia.

But none of these designation of sandstone banks as of a particular level of significance or the incorporation of several banks in one list, would have any bearing at all as to whether or not a school, or a church, or a lighthouse, would or should be listed – the listing recognises the heritage significance of the particular place, it does not indicate, as the Commission suggests it should, a notional allocation of the right number of heritage places as determined by the prospective cost of their conservation.

To do so would be to violate a central principle of heritage management.

But that does not mean that heritage professionals cannot or do not prioritise the identification, assessment and particularly conservation and protection of heritage places. It's just that it's not a matter of counting places, it's a matter of first assessing their significance, then listing them if appropriate, and then determining their vulnerability and needs.

11.2 Assessment of significance

The assessment of significance is a rigorous, considered, reflective and generally a many layered process incorporating research, peer review and community consultation.

As the Commission observed, here in Australia the universal practice is to follow the *Burra Charter*, which is the Australian version of a UNESCO charter.

Australian heritage practice, and the *Burra Charter* in particular, are so respected they have become widely influential internationally. The recently published *China Principles* which now govern the assessment and management of heritage places in China, is based on the *Burra Charter*, and a similar instrument is now under development in India.

A key principle of the *Burra Charter*, indeed a universal principle in heritage assessment, is that heritage values are assessed independently of any management considerations: in other words, the assessment of heritage significance is made entirely upon the heritage values themselves.

Once that assessment is made, then decisions are made regarding listing, conservation and management (usually through a Conservation Management Plan).

This principle is identical to the assessment of the values of any other cultural object. The assessment of the cultural value of a work of art is not made with regard to considerations other than its inherent significance. Once the assessment of its significance is made however, then decisions follow regarding its protection, management, and use.

For example, the assessment of the significance of a work of art is based entirely on the values inherent in the piece. If it is a Munch painting, then it goes on the list of Munch paintings – period. It is only after the determination is made as to whether or not it is a Munch, what kind of condition it in, and how significant a Munch piece it is, that decisions can or should be made regarding its future management.

The assessment of significance of a heritage place according to the *Burra Charter* follows exactly this principle.

A set of criteria will have been agreed, and as the Commission itself describes²⁵, an assessment will then be made against those criteria. So, while ultimately, after consideration of all evidence, the decision is a 'yes/no', it is 'yes/no' in the same way as an expert will decide, based on considered evaluation of the accumulated evidence, whether the work of art he/she is considering is or is not by Munch.

²⁵ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December. See Box 3.1, the *Burra Charter*.

This, however, is hardly the simplistic ‘yes/no’ so decried by the Commission in its introduction.²⁶

Key problems in the heritage system in our view, lie not with the principle of significance assessment or the primacy of heritage values, but with the often poorly resourced and inadequately funded systems responsible for conserving and managing heritage listed places.

11.3 Heritage lists

We believe the Commission has conflated the two types of heritage lists, or is perhaps confused about their differing purpose.

Broadly speaking, lists of heritage places, that is places assessed for their heritage significance, can be

- *inventory lists* of all the places (or types of places) of heritage value within a given area – a local region or a nation, or
- *representative lists*, of the best set of a particular kind of place, or the most representative example of a type of building for example.

It will be immediately evident that a representative list must be based on an inventory, a survey, of some kind, and so the primary kind of lists are inventory lists, whereas the lists of places of a particularly high level of significance, such as World or National, and some S/T lists are representative lists, based on inventory lists.

Two elements are critically important here:

- where these are statutory lists, all the places have been assessed as holding heritage value; and
- assessing the significance of a place, especially at high heritage threshold requires comparative data

So, the Commission’s comments that lists are ‘over-subscribed’ in some jurisdictions for particular types of place, and conversely under subscribed for less charismatic places (p 165) is erroneous.

There may well be a situation in some jurisdictions where the lists are not complete because resourcing is lacking, but to suggest that a dozen sandstone banks on a list, and no lighthouses, indicates ‘over listing’, as implied in finding 7.6 is absurd.

²⁶ Productivity Commission (2005), *Conservation of Australia’s Historic Heritage Places*, Draft Report, December, p. xxii.

It's as silly as suggesting that because there are 20 species of birds listed as endangered, no more can be added until a survey is done of all frog species.

As with the determination of threat, or the endangerment of species, so assessment of heritage value is an assessment, and a carefully considered one.

The draft report²⁷, also introduces the concept of public acceptability as a criterion to be used in a listing decision. This is misguided. It is obviously a consideration, but more for the politicians than the Heritage Councils. If public opinion were to achieve criterion status, we would have little of value left by now other than grand mansions.

Again, the obvious comparison is the natural world – how much public support is there/would there be for the listing of a species of mosquito or a fly as endangered compared to that of a species of whale or koala? And to what extent is that/should that be considered in any assessment?

To suggest that decisions regarding heritage value can be made on such a basis is errant nonsense.

11.4 Hierarchical lists

The Commission argues that for net social benefit to be achieved through heritage conservation,

It is imperative that the (heritage) system include mechanisms for assessing and weighing both the benefits and costs, and for ranking candidate places, in terms of the net social benefits arising from their conservation²⁸

The Commission here is proposing a radically different kind of assessment and listing of heritage places than that which applies in any statutory system here in Australia and indeed anywhere else we are aware of.

This hierarchical ranking of places, within a list, would require more detailed research and assessment than would ever be undertaken for a local heritage assessment, a far greater level of consideration of the values of the place than would normally be documented in a Statement of Significance.

²⁷ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December, p. 130.

²⁸ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December, p. 107.

The Commission is here, knowingly or unknowingly, requiring the kind of meticulously considered research and consideration which is normally undertaken only to determine extremely high threshold values – of World or National Heritage List value for example, where the assessment of values is highly comparative.

The determination of World or National values is a complex comparative process because the threshold is so high, therefore the places under assessment must be compared to many other similar places. However, once the place is assessed as holding World or National heritage values, it is not then ranked against all other World or National heritage listed places – it is listed for its designated values.

Places may well then be prioritised for their conservation needs, but not for their actual values. But this is what the Commission's approach would require in every jurisdiction, with regard to every statutory list, in order for a reasoned and informed decision to be made about whether or not to list and conserve a particular place.

The Commission's proposal requires that each jurisdiction be able to prioritise its listing of heritage places by ranking them one against another. This must be done in order to determine if the heritage benefits that place may provide would justify negotiation with the owner concerning possible listing, and must also be done in order to decide if a owner seeking listing is in possession of a sufficiently significant place for it to be considered.

This would require each jurisdiction to complete a full inventory list of all places of heritage value, then carry out a comparative study of each similar type of place, or perhaps even compare different places (banks vs lighthouses?) in order to then be able to determine what the listing priorities should be. The priority for the list should be, for example, a 19C cottage, and of those 19C cottages assessed as having heritage value, the best would then need to be selected for negotiation for listing, always with a fallback position of other possible candidates in mind.

It is like trying to determine if Kakadu is of greater value to the world than Uluru? Or the Opera House is more significant to the nation than the Exhibition Building? Or if town A's sandstone bank is more important to the Shire than town B's bank? Or if cottage A is better than cottage B?

The amount of work required would be boundless for this kind of ranking to occur in a rigorous way, but of course much of the effort would be pointless.

If this approach were to be adopted, we would have heritage data in such abundance we would not literally know what to do with it, for the places it related to would not be being protected, they would be being argued and negotiated about, so that the fewest possible of them could be protected.

Such a system would monstrously consume resources – research, assessment and professional judgement would be required in abundance – and where would it all come from?

All this in the theoretical interests of demonstrating net community benefit in every heritage transaction.

The ACNT believes that these recommendations, if implemented, will result in a wholesale change to the basis on which lists are compiled; this system would eviscerate S/T and local statutory lists.

They would no longer be inventory or representative lists compiled against the criterion of heritage significance. Instead they would become loose collections of places that it is convenient to conserve.

And this, whilst removing what the Commission sees as the financial uncertainty of the current situation, will introduce a more uncertain and equally open ended financial arrangement, in which the owner would be inspired to push for the most advantageous financial deal from the government for putting his/her signature to an agreement.

There is much that is wrong-footed about the Commission's proposal, and we urge re-consideration of it.

The Trust agrees there are inconsistencies in listing, shortcomings in planning and development approval processes in some jurisdictions, and certainly a dramatic shortage of heritage (and planning) professionals especially at local government level, but overall we believe that the assessment of significance process is a well considered, professional practice, grounded in clearly defined principles, based on international best practice.

The systemic problem is lack of resources – for training, community education, provision of heritage advice and support – not the system itself.

National Trust findings and recommendations

We suggest the Commission to designate these statements of theirs as ‘findings,’ and consider making formal recommendations in the final report as we suggest below.

Finding

NT Finding 23

(PC 5.2) While statements of significance are recommended in state guidance material, no State requires its local governments to include a statutory statement of significance in their local heritage lists. The absence of such statements seriously impairs subsequent decision making about listed properties.

Recommendation

NT Recommendation 19

Subject to the outcome of Recommendation NT6, Statements of Significance and other relevant information should be provided to owners of listed properties as a matter of course.

12 Heritage at the local level—is it a problem of regulation or administration?

The Commission states in the media release of 9 December 2005:

There is a disconnect between those who decide on which places should be listed and regulated and property owners who bear the costs of the listing

Elsewhere in the report there are expressions concerning ‘community frustration’ and a ‘reservoir of hostility’.²⁹

However, the draft report also notes:

The vast majority of government and private conservation effort is expended to enforce a relatively small number of involuntary listings³⁰.

Whilst it is reasonable to assume that there will always be some people who are frustrated or disgruntled about government decisions, and will take any opportunity to express their point of view, an objective examination of the current heritage system operating in 9 separate jurisdictions deserves better than being judged as fundamentally flawed based on assertions and unattributed views.

Would it have not been more productive for the Commission to obtain and examine statistics about the avenues open to people to express their dissatisfaction? More objective to have sought details from each jurisdiction as to the appeals, objections and expressions of dissatisfaction within their system?

Then, to have used the information from their survey of local government to analyse the source of complaints – is it the listing, regulating, constraining process per se, or is it the lack of financial incentives, absence of comprehensive information, inability to access a professional heritage adviser, poorly resourced planning departments, which are causing whatever community angst the Commission believes it has uncovered.

²⁹ Productivity Commission (2005), *Conservation of Australia’s Historic Heritage Places*, Draft Report, December, p 174.

³⁰ Productivity Commission (2005), *Conservation of Australia’s Historic Heritage Places*, Draft Report, December, p. 167.

What precisely is it which is causing the confusion, delays, and other irritants which the Commission asserts are impacting on private owners of heritage places, and how related are these complaints to general dissatisfaction with planning and other local government regulatory issues generally?

And how is the Commission so certain it is 'heritage' which is the culprit? In most local government jurisdictions, there is increasing convergence between planning, land use regulation, and provision of amenity and quality of life. These elements are increasingly being managed holistically, from the broad perspective – the streetscape, townscape, neighbourhood perspective. Heritage contributes strongly to all these approaches and is increasingly integral to them.

The ACNT does not have easy direct access to 'complaints' data, but we can report, based on discussion with state heritage authorities, that at state level at least in Qld, Victoria, NSW and Tasmania, objections are absolutely the exception, not the rule. The heritage advisers' networks are auditing their information too to provide hard evidence to the Commission that this is so.

It seems to us that the most significant factor in ensuring community support for heritage listing and conservation is the provision of readily accessible heritage advice. Where professional heritage staff are able to speak with property owners at the time of assessment, and when development proposals are under consideration providing informed advice in a timely manner, satisfaction rises all round.

In Tasmania, we understand from the recently retired chair of the State Heritage Council, Peter James, that 'the great majority of heritage property owners do not find listing an impost. They either maintain their buildings as part of the domestic or business activities and/or because they see a clear financial benefit in doing so'.³¹

12.1 Provision of heritage information

There are a number of best-practice elements that should form the basis of the nationally endorsed heritage and development regimes (see Section 3.2, Best Practice Heritage Principles).

It is essential that the community value of heritage is communicated effectively to the community.

³¹ Peter James – personal conversation, January 2006.

Hence, ensuring that staff are knowledgeable and well trained concerning heritage, that owners are well informed about the heritage values and heritage status of places, and that such information is readily available are all critical elements in an effective heritage system.

However, nowhere in the draft report is there acknowledgement of the critical importance of training and support for staff, especially at local government level.

12.2 Statement of significance

While we support the intent of the draft report's recommendation that a Statement of Significance in plain English should be provided for each heritage listed place, and that this should also be made available publicly, we do so with a caution to the Commission.

We urge the Commission to check carefully the terminology they are using. A statement of Significance can be a technical document, one which might contain rather more detailed information about the place than the owner needs, and not enough of the kinds of information the Commission believes should be provided.

Rather, we would suggest an information pack containing similar information to that suggested by the Commission for Conservation Agreements³² should be developed as a best practice model, for use in all local government areas.

This should inform the owner as to why their place had been listed, any constraints this might impose, and include a package of advice, support and incentives available to assist with the conservation of the place.

12.3 Demolition by neglect

The Commission has formed the view that the system, as currently structured, has perverse effects with outcomes departing profoundly from those intended. It makes numerous references to 'demolition by neglect'.

In support of this view they provide several examples sourced from submissions and transcripts, but no detailed and informed data is provided as to how many places are damaged and under what circumstances.

³² Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December, Box 9.1.

We suggest the Commission search out some hard data, even by individual jurisdiction, if it wishes to sustain this claim.

12.4 Rural Heritage Places

The issue of abandoned rural heritage places however, we believe is a much more complex issue.

We refer the Commission to the research paper on Queensland's Rural Heritage by Dr Jane Lennon AM (attached as attachment 2)³³. Even a brief perusal of her analysis and recommendations would suggest the depth of the problem, and the need for multi-faceted solutions.

Dr Lennon comments:

There is currently a lack of knowledge about the extent and significance of the places there is a lack of incentives for owners and custodians to conserve them, a lack of local skills to assist the owners in their conservation work, and a lack of monitoring of the condition of isolated and remote places entered in the Queensland Heritage Register ³⁴

She outlines 9 possible areas for improving this situation:

1. Awareness raising
2. Recording and documentation
3. Funding
4. Advice and specifications support
5. Training
6. Conservation repair
7. Integration of places into local community programs
8. Advocacy
9. Adaptive re-use assistance

We invite the Commission to consider how their proposed remodelling of the heritage system would achieve positive outcomes in these kinds of complex circumstances.

If funding was available to meet each of these identified areas of support in a cohesive and effective way to assist, encourage and enable communities and the property owners concerned to understand the

³³ *Rural Heritage Places Issues* – This discussion paper for the Queensland Heritage Council was prepared by Jane Lennon, June 2003.

³⁴ Lennon p. 2.

value of these places and to be informed about avenues of support and assistance, these most vulnerable of places would survive.

However, in our view, a heritage system reliant on voluntary listing and dependant on voluntary conservation agreements, would not effectively assist the majority of these rural owners to conserve these places, rather, it seems to us, such a system would exacerbate many of the problems if applied.

We commend Dr Lennon's paper to the Commission.

12.5 Heritage and planning

The relationship between heritage and planning is more closely analysed in the draft report than any other issue. The Commission devotes a great deal of its draft report describing what it regards as the inappropriate intrusion of heritage into the planning scheme:

there is a fundamental difference in the approach to heritage and non-heritage development³⁵

We are puzzled as to why the Commission asserts this so strongly.

'Heritage' is isolated in this Inquiry, but is it really so separate within the planning scheme as asserted in the draft report?

Is heritage really so separate in the way it is identified, practiced, regulated and managed in relation to property ownership and land regulation compared to environmental management?

It is curious for example, that there can be such scathing references to the costs and complexity of the requirement to provide a Heritage Impact Statement, without referral to the Environmental Impact Statement process. Is a HIS so different in its cost and complexity from an EIS?

Broadly speaking, from our considerable experience, heritage listing tends to be non-controversial, as statutory listing authorities, including Councils, are well aware of the implications for property owners.

There clearly are issues in some jurisdictions regarding the DA process for heritage places, compared to non-heritage places, but we would assert that before the system is radically altered, the administrative stresses and pressures afflicting local government in many jurisdictions

³⁵ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December, p. 87.

should be assessed. We would support that kind of investigation, and would welcome a recommendation from the Commission to that effect.

The fact that listing processes are already negotiated to some extent supports the contention that in most jurisdictions, the existing system may well be producing a socially efficient level of designation and protection, albeit that the distributional consequences may be unsatisfactory to owners in some cases.

So, how useful we wonder is it to examine heritage in isolation from all other land use, planning and amenity regulatory and management issues?

Much more useful we believe, would be to recommend a thorough review of planning and heritage at the local government level which can determine what, if any matters are systemic, and related specifically to heritage regulation per se, and what are administrative and management issues which could be addressed through increased levels of professional and professionally supported staff at local government level (especially heritage advisers), and improved provision of information and incentives for heritage owners.

12.6 Heritage precincts

From a planning point of view the report contains some inconsistencies.

The draft report argues that precinct wide protection need not be the subject of voluntary agreements, because they are akin to general zoning or amenity regulations. But, in principle, the effect on property owners can be just as 'onerous' in terms of costs and 'foregone' development opportunities.

While the Commission argues that restrictions in a precinct or zone are more equitable because they apply equally, we would suggest that if equity issues were the key determinants of the appropriateness of planning and land use decision-making, all planning would cease.

Fortunately, most citizens do not spend their time working out the ways in which they are fairly or unfairly contributing to the public good through their contribution to right-of-ways, access provisions, transmission lines, fencing, set backs and so on.

It is not clear to us why enlargement of the spatial scale of protection should render the arguments in such a different light, and why the Commission's solution to a perceived inequity should be the creation

of a dual system likely to quickly be perceived as rampantly inequitable.

12.7 Heritage and environmental values

We struggle to see how damage to, or destruction of, the heritage values of a heritage place is different from the destruction of a critical habitat or damage to part of a threatened species. Both actions are destructive of an identified public good. In obverse, the protection and conservation of the heritage or the environmental values of a place, are surely, equally a public good.

Just as owners are restricted from damaging a public good in the natural environment, so equally, they should be prevented from damaging a public good in the cultural environment. Why should the conservation of a heritage place be considered differently from being obligated by a Tree Preservation Order for example?

It seems to us the Commission is again separating 'heritage' from the environment in ways which are not only unreasonable, but increasingly untenable.

'Heritage' is defined as part of the environment in the EPBC Act. Increasingly, in all jurisdictions, the whole environment – with all its historic, indigenous and natural values – is being regulated, protected and conserved holistically.

We appreciate the fact that the commission is constrained by its ToR regarding the scope of the Inquiry. However, our view is that historic heritage is part of this wider paradigm that embraces all values holistically, and we suggest the Commission could and should seek to position its solutions to the historic heritage issues within this broader framework, or they will not be able to be effectively implemented.

12.8 Conclusion

We do not believe the Commission has made a clear case at all for the essential unfairness of statutory listing, but we do believe there are administrative problems in under-resourced local government areas.

As the Commission itself notes;

Many owners are willing to bear the costs of conservation as part of their normal maintenance regime...their main concern was about the cost of the additional 'red-tape' associated with a listed property.

This did not mean that they regarded the administrative requirements as undesirable in themselves, only that the cost was unfairly placed on the owner.³⁶

The 'cost' in this case appears to be the imposition of 'red tape'. That being the case, we just do not understand why the Commission's key recommendations do not focus on remedying these administrative deficiencies.

The ACNT urges the Commission to investigate more thoroughly the circumstances at local government administrative level, to distinguish between issues relating to the regulatory process itself, and issues related to the administration of the system.

We believe this would clarify what is reported to be a source of considerable community frustration regarding planning and heritage at local level.

National Trust findings and recommendations

We suggest the Commission designate these statements of theirs as 'findings,' and consider making formal recommendations in the final report as we suggest below.

³⁶ Productivity Commission (2005), *Conservation of Australia's Historic Heritage Places*, Draft Report, December, p. 183.

Findings

NT Finding 25

Heritage places play a vital role in enhancing a community's cultural capital and in school and community education. They make an important contribution to local economies and assist in building stronger and more diversified rural economies and skills base.

NT Finding 26

Unlike at the Australian, State and Territory government levels, there is no requirement for local governments to identify and conserve its own historic heritage apart from its own willingness to do so

NT Finding 27

(PC 5.1) There is a high level of discretion for decision-making on heritage matters at the local government level, derived in part from limited state government guidance and this has resulted in inconsistent outcomes within many local governments

NT Finding 28

(PC 6.6) There is significant scope to improve the management of heritage conservation by local governments in their systems and processes for land use and planning.

NT Finding 29

The administration of current heritage systems at the local government level suffers from a number of problems especially in rural areas, including a paucity of heritage resources, both human and financial, and variable policies and practices between councils that make it difficult to build a professional network between councils. This is at a time when rural councils in particular have a reduced capacity to fund heritage conservation due to demographic and economic shifts.

Recommendation

NT Recommendation 20

In recognition of the important role of local government in heritage protection, the EPHC, with the full participation of ALGA should conduct a review of the role of local government in heritage protection and planning, focusing particularly on human and financial resourcing issues.

13 Why voluntary listing based on agreed conservation agreements will not provide a solution

The Commission suggests that a public good heritage outcome should be able to be purchased from owners. This would involve the public funding of heritage conservation. Their suggested mechanism is the conservation agreement, which they suggest would be negotiated with private owners prior to a place being listed.

In Commissioner Byron's words, 'we want willing volunteers not unwilling conscripts caring for Australia's heritage places³⁷'.

While we would support his sentiment, we dissent strongly from his proposal that listing should be voluntary, and should be dependent on the negotiation of a conservation agreement between the owner and the listing authority covering management of the place including the covering of the conservation costs.

It cuts to the essence of the heritage system based as it is on the principle of heritage value.

Under the Commission's design (State and local) governments could only include a building on their heritage lists after the conclusion of a formal 'conservation agreement' with the owner.

- The conservation agreement would be designed to offset the costs incurred in conserving a heritage building, and in some cases, the constraint imposed on its development potential
- the agreements would be time-limited.
- If ownership changed, a new agreement would need to be negotiated

In the Commission's view, this approach would be so attractive that rather than trying to avoid listing as of now, individuals would be actively seeking to have their properties included on a heritage list.

We have a number of serious concerns about this proposal:

³⁷ Discussion with the ACNT, January 2006.

- Conservation Agreements are an untried tool in the historic environment
- Voluntary listing undermines the integrity of heritage principles and practice
- This is a ‘one size fits all’ solution
- lack of international research
- the problem of the monopoly owner
- excessive transaction and compliance costs
- National Heritage List – why no conservation agreements?
- What about inter-generational equity?

13.1 Conservation agreements are an untried tool in the historic environment

Conservation agreements are a specific kind of policy instrument which are highly effective for specific purposes.

As the Commission note, they are widely used in the conservation of the natural environment, and appear to be successful in achieving important conservation outcomes.

But are the circumstances obtaining between the natural and the historic environment so similar that this instrument could, and should, be universally applied?

We do not believe so.

Conservation agreements have been used in the natural environment for some 30 years, and so considerable practice has developed concerning their negotiation, monitoring and usefulness.

For all their ‘success’ however, no-one, not even the Commission is suggesting they should be the only policy instrument used to conserve the environment.

As the Commission notes³⁸ – citing another of its reports, on Native Vegetation and Biodiversity – ‘there are many policy options for achieving conservation, including Direct Payment Options, Fixed Rate

³⁸ Productivity Commission (2004), *Impacts of Native Vegetation and Biodiversity Regulations*, Inquiry Report No. 29, p. 179.

Payments for a Standard Service, Individually Negotiated Agreements, and Auctions’.

Why then is only one option sufficient for historic heritage?

And what do they themselves say about Conservation Agreements?

They give a very qualified assessment of their value:

Administrative costs of assessing, negotiating and preparing agreements, as well as monitoring and dispute resolution can be high for governments. This approach may be suitable for remote locations, or for land with unique features where subjecting landowners to competition for provision of conservation services is not feasible³⁹.

In advocating the universal usefulness of conservation agreements as a means of ensuring effective efficient and equitable conservation outcomes, the only example the Commission cites is that of their use by Trust for Nature.

Trust for Nature does not offer financial incentives to landholders for adopting a covenant other than covering the legal costs of registering the covenant (around \$3500 per property).Trust for Nature estimates that covenanters provide approximately \$1m of in-kind habitat care ...

This sounds almost too good to be true, but of course ‘there’s a rub’. In fact there’s a very large carrot supporting all of this altruistic behaviour of land-owners – money, and a great deal of it.

Conservation and covenanted activities such as those supported by Trust for Nature attract tax credits and both the land-owners and the organisations themselves, can apply for very substantial funding support through the programs of the Natural Heritage Trust and numerous other Commonwealth and state government environmental programs.

Where is the equivalent funding for the historic environment?

Historic heritage conservation is not eligible for funding under the Natural Heritage Trust, there is no equivalent Commonwealth fund, no Cultural Heritage Trust for example. There are no programs for cultural heritage similar to Landcare, Watercare, and so on which have been so successful in engaging communities in conservation action,. Why not a Heritage Care for example?

³⁹ Productivity Commission (2005), *Conservation of Australia’s Historic Heritage Places*, Draft Report, December.

There is no National Heritage Education Council funding research and educational programs like the National Environment Education Council is able to do. There is no equivalence!

So the question must be asked, how much of this efficient effective and no doubt equitable conservation would be occurring without these major sources of funding to support it?

Indeed as the Trust for Nature submission to the Productivity Commission's Inquiry into the Impacts of Native Vegetation and Biodiversity Regulations⁴⁰ comments,

We believe that a regulatory framework is important but fundamentally flawed if not supported by extension and incentives such as those represented by the Trust's Covenant and Stewardship programs.....

The submission goes on to state:

regulations do seem to have established a framework and legitimacy for private land conservation....In this way legislation does not hinder the work of the TFN but instead provides an outline of the most basic responsibilities of the landholders

In other words without the balanced use of regulatory and incentive mechanisms, as we are advocating for historic heritage, conservation agreements would be for the natural environment what they are now for the historic environment, but one tool, just one of the minor means whereby specific conservation outcomes might be achieved.

13.2 Voluntary listing Undermines the integrity of heritage principles and practice

As indicated in Chapter 5 of our submission (Best Practice Heritage Principles) the principle that the degree of heritage significance should be the only criterion for listing a place on a statutory list is paramount.

This proposal violates that principle.

The principle of course is not unique to 'heritage'. The same principle applies to works of art, to manuscripts, to any form of cultural value. The significance of the work is assessed separately to any other considerations, but will then inform them. After all it makes little difference to the significance of a Munch painting whether it is in the hands of a thief or hanging in the National Gallery, but the actions

⁴⁰ Taken from the Trust for Nature's website.

which may arise or be required following its assessment will differ – actions would be taken to protect the Munch which would not be taken were it not a Munch.

In a similar way, a place needs to be assessed for its heritage values first, and then decisions need to be made about its management and conservation. If a place has heritage value then it has heritage value, that is, it should go on the list of places of heritage value, in the same way as the Munch painting is listed as by Munch, whether it hangs in the National Gallery or the thief's house.

13.3 A 'one size fits all' solution

The Commission comments on p 131 of their draft report that there is clearly a range of heritage places and the need for government involvement to get the balance right will vary significantly between them. They do not see value in 'a one size fits all' solution. Yet that is what they have suggested.

It seems to us like a 'one size fits all' solution that gainsays the heterogeneity of heritage places and the complexity of likely solutions.

We consider that the Commission should have explored the many other kinds of approaches and policy instruments – such as those being used with increasing success in the conservation of natural environment – to address what is acknowledged as market failure and the need for government funding intervention.

It is striking to us that, in contrast to other recent Productivity Commission reports on the conservation of the natural environment, few options and policy instruments are considered and explored in this report.⁴¹

Similarly, although the report references Making Heritage Happen, the report on Heritage Incentives of the EPHC Taskforce, they do not analyse the potential suitability of the many possible kinds of incentives which are analysed there, unlike the Allen Consulting Research Report No 1, which sets out 2 pages of possible policy instruments and incentives which could be applied in differing circumstances to encourage heritage conservation.⁴²

⁴¹ See for example, Productivity Commission (2001), *Harnessing Private Sector Conservation of Biodiversity*, Commission Research Paper, AusInfo, Canberra.

⁴² The Allen Consulting Group (2005), *Thoughts on the 'when' and 'How' of Government Historic heritage Protection. Research Report 1*. Prepared for the Heritage Chairs and Officials of Australia and New Zealand, Sydney.

13.4 Lack of international research

The ACNT is critical of the fact that the Commission has had such little regard for international comparisons regarding statutory heritage systems. The only reference to international experience relates to New Zealand. We recommend that the Commission examine international experience more closely, especially in OECD member countries before finalising its report.

With respect to New Zealand, which the Commission suggests demonstrates the success of its proposal, we attach a report to the ACNT by Robert McClean of the NZ Historic Places Trust of 23 December 2005 (attached as attachment one).

In this report Mr McClean states that:

- A review was conducted in 1988 into the operations of the Historic Places Act 1988 and the Town and Country Planning Act 1977. The review provided an insight into the failings of the former heritage protection system under these 2 acts
- The review concluded that the rate of loss of heritage buildings was unacceptably high
- Under the old system private rights heavily outweighed public rights
- The main failing of the heritage listing process under the old system was the strong reliance on compensation provisions in the TCP Act. These issues of compensation resulted in many listed buildings being lost in the 1970s and 1980s.
- The new legislation, the Resource Management Act of 1991, provides for minimal compensation. Whilst the level of heritage incentives designed to accompany the new legislation has proved to be inadequate, the majority of local governments in NZ do provide some form of incentive grant scheme.
- The NZ system is not based on voluntary listing

With respect to the UK, we have been advised as follows:

From Emma Brown, policy advisor with English Heritage

At present in England, if a building meets the statutory criteria, of being of national architectural or historic interest, then it will be listed, regardless of the owner's opinion ... Owners and local authorities are given the opportunity to have their say-however, issues such as development cost of up keeping a listed building are not valid reasons for not listing a property.

From Dr Ian Dungavel, Director of the Victorian Society, London

We don't have conditional listing here. Buildings are listed for their historic and architectural importance and what the owner thinks is irrelevant ... listing is a permanent marker of importance; economic cycles change rapidly and what appear uneconomic one year may be perfectly feasible within a few years.

13.5 The problem of the monopoly owner

Apart from compulsory acquisition, we wonder what government may have in its toolbox to ensure a fair and equal negotiation under the proposed design?

The report does not deal adequately with the monopoly position held by heritage property owners in the voluntary listing process.

To say that Councils can rely on compulsory acquisition as the stick to discourage self interested gouging is impractical.

- their system, as designed, will itself be open to 'rorting' and 'gaming'. All manner of threats will be made if a particular property is not/not given heritage listing and a financial package. The results will be perverse and not reflect rationale heritage priorities. Rather the ability to negotiate and blackmail Government will decide outcomes.
- there is no description of the funding levels needed under the scheme nor suggestions as to where the money should come from nor how it should be raised.
- again, as presented, there would be nothing to prevent a new owner from immediately bulldozing a heritage property, no ongoing covenant or restraint with a shift in ownership
- whatever the rationale, 'compensation', once accorded, should be a one-off event not subject to subsequent renegotiation, particularly with a change in ownership. Anyone buying a property, subsequent to heritage listing, buys it with the economic consequences of that listing known and able to be defined by them. Recurrent compensation is both unnecessary, and is invalid both in societal and individual terms.
- similarly with individuals actually bargaining and bidding to secure the funding of an agreement, the less you actually need such funding (or the more Government wants a property listed) the more you are able push (a local Council) for it. In practical administration the process would be highly disputatious. The

equation would not run on financial need but nerve and negotiating skill.

- and of course, the bulk of owners now conserving their places would expect to be compensated too – why would they not?

13.6 Excessive transaction and compliance costs

The Commission makes a lot of the cost of enforcing the current ‘regulatory system’. But wouldn’t voluntary agreements be just as difficult to monitor and enforce?

The draft report contains no information relating to the practicalities and costs of negotiating such an agreement.

Arrangements governing conservation agreements, covenants, property caveats etc vary between Australian jurisdictions, with no simple single legal model universally available, so each jurisdiction would need to develop its own approach under this proposal. This would add even further to the complexity and cumbersome administration of their proposed system.

And of course, all S/T heritage legislation would need to be amended, and all associated planning and environmental legislation would need to be checked to conform with the new arrangements, and all administrative arrangements (including complaints tribunals), would need to conform, and then there’s all the changes at local government level.

What would all of this in and of itself cost?

We are of the view that the application of funding to develop conservation agreements is not an efficient use of what will certainly be limited government funds.

The Mechanics of a Conservation Agreement

The Commission sets out a conservation agreement in Box 9.1:

1. An agreed statement of the place’s heritage values
2. Outline of allowed works, development and uses
3. Outline of specific disallowed works or uses
4. Establishment of an agreed system where works, development or uses that are not covered above can be assessed against the agreed heritage values

5. An effective dispute resolution system
6. Outline of assistance to be provided
7. Mechanism of review

No responsible authority, and certainly no sensible owner would enter into such an arrangement without expert professional and legal advice.

These issues listed above, could only be properly considered following a detailed planning process that results in a conservation management plan for the property. A CMP is generally prepared by heritage experts and defines the nature and components of the place's cultural significance and prescribes a policy for future management in terms of the elements that must be preserved, the elements that can be changed, and the processes and constraints for this preservation/change.

We contend that it is unreasonable and imprudent for a long term agreement for a property to be developed until this detailed work has been done. This CMP will set the bounds for the future management and use of the property. It is therefore unreasonable and imprudent for it to be concluded until the owner of the property has been given ample and continuing opportunities to be party to its preparation and to be able to comment on its implications for him/her and the future use of the property.

All this will take time, expertise and above all, funding.

We see nowhere in the report an acknowledgement that these 'transaction costs' have been considered by the Commission or that the Commission has a full understanding of the processes and costs inherent in the system that they are proposing. There is no finding or recommendation relating to the provision of extra funding by governments to allow the key recommendation to be implemented.

Coase's Theorem

The work of the Nobel Prize winning economist, Ronald Coase⁴³ is quoted in the draft report. We believe that the observations he made at the time regarding transaction costs are still widely respected and influential, and are most relevant to consideration of this proposed solution.

Coase's theorem 'shifted the focus of economic analysis from imperfections in the allocation of resources (externalities) to transaction

⁴³ 'The law and economics of copyright, contract and mass market licences' by David Lindsay for the Centre for Copyright Studies.

costs, including the bargaining costs of private parties and the costs of establishing and enforcing entitlements’.

This is because if transaction costs are greater than the benefits of a bargain there will be no exchange, in which the initial allocation of rights becomes important.

Coase explained this in the following terms:

In order to carry out market transactions it is necessary to discover who it is that one wishes to deal with, to inform people that one wishes to deal and on what terms, to conduct negotiations leading up to a bargain, to draw up the contract, to undertake the inspection needed to make sure that the terms of the contract are being observed, and so on. These operations are often extremely costly, sufficiently costly at any rate to prevent many transactions that would be carried out in a world in which the pricing system worked without cost.

How does this relate to the Commission’s key recommendation?

It is the view of the ACNT that if the Commission is aiming to create the ideal system, (as indeed it should be) the prospective parties to a conservation agreement would prudently want to be in command of a great deal of information before entering into a conservation agreement. The necessary information would include the sorts of issues emerging from a conservation management plan and a clear picture in the mind of the owner of what he/she wanted to do with the property over the life of a potential agreement.

To obtain this information would necessarily involve the owner in obtaining professional architectural, legal and financial advice. It would require the government agency to commission the preparation of a conservation management plan for the property and to obtain its own advice in order to engage in negotiations with the owner.

We believe that the transaction costs of such an agreement would be considerable, so that the condition outlined by Coase above preventing many transactions due to this cost would be satisfied.

The draft report makes no attempt to quantify these transaction costs. The ACNT would have expected the Commission to have carried out some work with, say, a State heritage agency, to obtain information about use of conservation agreements for historic heritage places, and to have gathered at least indicative costs of such transactions, and then to factor these costs into the findings/recommendations.

For its part the ACNT is able to provide the following information:

The WA National Trust advises that its costs in preparing a conservation covenant to protect a place of natural heritage significance range from \$4000 to \$10 000. This is for the Trust's own costs, and does not include costs incurred by other parties, including their legal costs.

The EPHC Heritage Incentives Taskforce Report comments that the WA Heritage Council had ceased carrying out conservation agreements because of excessive costs.

The Victorian Trust has had statutory authority under the *Heritage Act 1995* to negotiate and manage conservation agreements for historic properties for 25 years.

Their experience with these agreements has been most salutary, and they are now extremely reluctant to enter into such agreements because of the costs, expenditure of staff resources and professional input required.

Their massive files documenting each separate conservation agreement demonstrate the enormous transactional costs and the difficulties monitoring and enforcing such agreements.

The Commission's simple assertion that such a negotiated approach would be beneficial, and remove what it perceives as the current problems with the heritage system, is at best naive.

13.7 National Heritage List

It is somewhat ironic that the report holds up the National Heritage List as the benchmark for best practice in terms of the processes to be followed in terms of listing and the development of conservation agreements.

It is worth noting that even with the considerable resources of the federal government, not one negotiated agreement for a nationally listed place has been concluded, even though at the time of writing there were only 22 places on the National List. How much harder then will it be for the States, Territories and local governments to negotiate agreements as a pre-requisite for listing?

13.8 What about inter-generational equity?

The Commission has not considered the wider property market within which the voluntary agreements process would work.

The implications of its recommendations include the proposition that as property prices escalate, the amount of heritage that the community might afford will diminish, because the opportunity cost potentially suffered by the listee is increased, or those districts in different stages of the property market, or with prices in a generally lower regime, will enjoy comparatively more heritage protection.

This is of concern for two reasons:

- Heritage protection should be for the long term. It should respect long term community willingness to pay (including that of future generations), rather than short term cycles. What is lost now cannot be regained later
- The wider property market is subject to tax distortions (documented by the PC itself). Consequently the opportunity cost which figures in the deliberations of listee property owners may not be able to be directly compared to the foregone heritage value.

The report also argues, that in extremis, a State Government (but not a local council directly) could choose to compulsorily acquire a property. However,

- Governments are highly unlikely to compulsorily acquire, and that threat is not credible leverage to bring to play in negotiations. Cost is one reason. More importantly, if the Commission's design is adopted, such an action would be seen to be a transgression of private property rights, whose protection is implicitly an overriding Commission concern.
- The PC design gives Government no means or realistic leverage to secure a listing (at a fair price).

The Commission acknowledges that as a last resort, acquisition – even compulsory acquisition – is an acceptable policy outcome. This is an approach with major legal and financial implications. These would need to be carefully assessed in the reality of government appropriations for heritage, especially at local government level, and particularly when the ongoing management costs of acquired properties is taken in to account.

One particular point of major ambiguity is that it is not clear how the proposed system would sit together with the existing State

Government regulatory approach, ie, how does the Commission see a state government or a local council ensuring that a potential heritage property is not bulldozed while negotiations are in train, or don't they care? What of Emergency listing provisions?

13.9 Conclusion

The Commission claims at the conclusion of Chapter 4 of this draft report,

There is little doubt among participants that focussing on conservation by agreement would result in more beneficial outcomes.

How could one disagree that willing volunteers would be better for heritage than unwilling conscripts? The issues are not so simple.

Under the system of voluntary listing managed by conservation agreement advocated in this draft report, the protection and conservation of heritage places would be dependent on short term private interests, rather than being managed for the long term public good.

The ACNT would enter willingly into discussion with government regarding the Commission's proposals if we believed the outcomes would be positive.

But, unless government intention was to provide sufficient funding to pay for not just the actual conservation costs over the lifetime of the place, but also any foregone development opportunity for each site, we would only be negotiating about depleting heritage protection, reducing conservation, and emptying our communities of heritage places to pass to future generations.

Time gives a perspective which nothing else does.

We urge the Commission to reflect on this.

PART D

ATTACHMENTS, GLOSSARY AND BIBLIOGRAPHY

Attachment 1 National Cultural Heritage Forum: the future role for the Register of the National Estate

The RNE and the new heritage regime

Throughout the debate leading to the passage of the heritage bills there was strong community and NCHF member support for the retention of the RNE, and that support was finally translated into a political commitment to retain the RNE.

Consequently, the RNE is now part of the new regime.

But what part should the RNE continue to play in national heritage identification and protection?

While the incorporation of the RNE into the new heritage regime poses certain dilemmas, the Forum believes that the strong support for its retention indicates a perception of major deficiencies in the statutory protection provided for heritage places across the nation.

The Forum therefore endorses its continuance, and advocates that its retention be utilised:

- to encourage the EPHC and the Heritage Chairs & Officials to commit to redressing identified statutory deficiencies (such as the fact that some States and Territories have no capacity to register natural or Indigenous heritage sites), and
- to form the core of a truly complete database of all places of value to the nation, the Australian Heritage Places Inventory (AHPI).

AHPI already contains summary information about places listed in State, Territory and Commonwealth Heritage Registers, and it is intended that this be further extended with the inclusion of other registers, government and non-government.

What is the purpose of the Register under the new regime?

While the AHC Act 2003 is silent regarding the purposes of the Register, certain functions have been designated for the RNE under the new heritage regime. The *Explanatory Memoranda* provides the following:

The Register will be an information resource for the purposes of heritage promotion and education. Furthermore, the Minister for the Environment and Heritage will be required under a new provision (Item 37 of the Environment and Heritage Legislation Amendment Bill (No. 1) 2002) to consider, where relevant, information in the Register when making decisions on the impact of an action on the environment under the Environment Protection and Biodiversity Conservation Act 1999.

Why was there such strong community support for the retention of the RNE?

The RNE was the first, and remains the most complete register of heritage places nationwide. It remains the only national list which attempts to cover places of most value and meaning to communities across all jurisdictions and thresholds of values.

As such, it provided and continues to provide recognition that local heritage places are part of the national set of places of value. While listing a place on the RNE provided little substantive protection, it did, and it still does, carry considerable moral suasion.

- While it pre-dated effective State/Territory and finally Commonwealth statutory protection for heritage places, the RNE did, and does still, have the following virtues:
- It covered all 3 environments, and allowed for the registration of places with multiple and shared values across those 3 environments;
- It registered and provided recognition of the value of places not necessarily well protected by their respective State/Territory legislation, especially natural and Indigenous places;
- It provided a level of statutory protection for the registered places where Commonwealth actions were concerned, and allowed for the registration of significant Commonwealth owned and managed places. Neither function, except in the case of Australia Post, was provided by State/Territory legislation. This allowed for the Commonwealth story to be told;
- It provided the first picture of heritage places nationwide, and continues to contain the most complete set of data concerning heritage places assessed to a consistent standard and criteria across the nation. This facilitated research, informed management and decision-making, and provided data for activities such as State of the Environment reporting;
- It provided registration for nationally significant places, allowing for the national story to be told.

What role/function is the RNE currently providing?

The community continues to value the RNE, and will continue to value the national recognition and moral suasion brought by RNE listing, regardless of its actual statutory powers, until they are absolutely certain that their special places can be, and are actually being fully protected by State/Territory and local jurisdictions.

Therefore, there will be a continuing role for the RNE to provide a 'safety net', until effective statutory protection across all 3 environments, down to places of local significance, is provided in all jurisdictions.

Equally, until there is a fully effective schema for ensuring that data concerning all heritage places from statutory and non-statutory lists is fully captured and made available, ideally through a publicly accessible database or similar 'one-stop-shop' arrangement, the RNE will continue to be a vital research tool regarding the state and condition of heritage places nationwide, especially with regard to State of the Environment reporting.

What then should be the long-term vision for the RNE?

Until Australia has seamless and fully integrated effective heritage protection legislation across all environments, the RNE should continue as a statutory register, able to provide a safety net for places of State/Territory and local value which have inadequate statutory protection within their own jurisdictions.

Once that standardised and seamless heritage protection has been achieved across the nation, the RNE will still need to be retained as an essential database filling the gap between State/Territory and the new national registers, unless the RNE data has all been formally accepted into other appropriate statutory databases.

This will require:

- Reformation of State/Territory and local statutory protection (through the EPHC and Heritage Chairs and Officials) so that all natural and cultural (including Indigenous) heritage places across the nation are able to be adequately protected within their own jurisdiction;
- Standardising of thresholds across jurisdictions so that levels of significance accord nationwide, and agreement that places from all 3 environments will be protected within their jurisdictions;
- Consolidation of all statutory and non-statutory lists into one readily accessible meta database, the AHPI.

Until these measures are completed, the RNE should continue to be developed:

- as the core of the development of a national heritage places database – the platform for the *Australian Heritage Places Inventory*;
- as the place to record the National or Commonwealth Heritage values of places which the Minister declines to register on the National or Commonwealth Heritage Lists;
- as the place to record the values of NHL nominations which arise in the context of thematic studies which document the values of a range of places, few of which are likely to end up on the NH List itself;
- as the list, to be used in hopefully fewer instances as national standardisation of State/Territory registrations and more comprehensive and wider integration of protection occurs, to list places of National Estate value when a relevant jurisdiction declines or is unable to recognise the place;
- for State of the Environment reporting, as it is the only list able to provide a national and consistent overview of information about the state and condition of heritage places nationwide.

Attachment 2 *Rural Heritage Places Issues*

[This discussion paper for the Queensland Heritage Council was prepared by Jane Lennon, June 2003.]

Summary

Because of the current organisational shifts and rates of change in rural property management, there is a very real risk of losing a large amount of Queensland's rural heritage, particularly homesteads, in the near future. These heritage icons are part of Queensland's rural identity.

There is currently a lack of knowledge about the extent and significance of the places, there is a lack of incentives for owners and custodians to conserve them, a lack of local skills to assist the owners in their conservation work, and a lack of monitoring of the condition of isolated and remote places entered in the Queensland Heritage Register.

This paper outlines 9 possible areas for improving this situation:

- i. Awareness raising
- ii. Recording and documentation
- iii. Funding models
- iv. Advice and specifications
- v. Training of tradespeople
- vi. Undertaking conservation repairs
- vii. Integration into local community programs for heritage tourism, festivals
- viii. Advocacy
- ix. Reuse policy for redundant rural heritage places.

The recommended action is:

1. Advocacy – immediate priority

The Queensland Heritage Council should become a champion for redundant rural homestead complexes and take a strong role in raising awareness of the issue with rural organisations in particular, and in advocating the project across all sectors. The Cultural Heritage Branch

is to advocate the project across government, including EPA's role in Landcare and associated conservation programs of assistance to farmers.

2. Awareness raising – immediate priority

Increase knowledge of the significance of the rural homesteads complexes through local government – by direct contact, by using Local Government Association of Queensland channels, by regional radio and media commentaries.

3. Pilot projects – medium priority

i. Undertake a pilot project to record, document and undertake conservation works on several rural homesteads in a partnering local government area in 2003–04.

ii. Arrange some training courses for hands – on heritage conservation repairs so as to test the most efficient means of delivering the needed skills for this work in rural and remote locations in 2003–04.

4. Project officer – medium priority

Appoint dedicated staff resources and a project officer to implement this initiative.

5. Establish a rural heritage rescue program from 2004 involving systematic survey and hands-on conservation repairs to rural homesteads.

1. Introduction

The aim of the Rural Heritage Places Issues Paper is to understand the range of issues and investigate opportunities for owners of rural places, particularly homesteads, to obtain assistance to maintain, conserve, manage and use their heritage-registered places.

The Issues Paper is Stage 1 of the project and the expected outcomes of this Stage are to:

- Review information on rural homesteads/places of cultural heritage significance, including those entered in the Queensland Heritage Register;
- Identify common key issues of conservation and management;
- Research models of management of rural homesteads/places used by heritage bodies in other states or overseas; and

- Prepare a discussion paper to outline the existing situation, conservation issues, management issues, management options and a preferred option.

Rural homestead complexes for this project include the main house, staff housing, stables, woolsheds, yards, gardens, stock routes, outstations and other associated features discussed in Chapter 2.

Project Background

Following their meeting of 30 November 2001, held in the Kilcoy Shire Council Chambers, the Queensland Heritage Council visited Kilcoy Homestead, Kilcoy, and Cressbrook Homestead, Esk, and met with the owners.

In response to the issues raised during that visit, Malcolm Middleton (Heritage Council member 2001–2002) drafted a paper in December 2001 for discussion by the Heritage Council.

Points raised by Mr Middleton's paper included:

- Early rural homesteads and complexes are characterised by innovative construction techniques using local materials. As complexes they supported extensive populations and, as well as the homestead, provided ancillary buildings for accommodation, working facilities and social purposes.
- Many of the ancillary structures are now redundant, yet remarkably many of these structures still survive.
- Changes in land use, economy, climate and rural work practices have resulted in private property owners, as custodians of important cultural heritage places, no longer being adequately resourced to conserve them.
- Discussions with some of these property owners suggest that the situation has reached crisis level. Apart from maintenance and conservation, other issues include insurance and the role of the statutory agencies.
- The Rural Heritage Homesteads Project should investigate new state-wide approaches to funding and managing the maintenance and conservation of these rural properties.

In November 2002, Christine Campbell (current Heritage Council member appointed in 2002) added some thoughts to those in Malcolm Middleton's paper. Points raised by Christine include:

- Understand the problem, including searching the register and talking to owners;
- Gather information, including other models;
- Formulate a proposal, including a task force that represents rural and regional interests; and
- Random thoughts such as equity, pilot program, isolated or abandoned places, skilled workers, and partnerships.

In February 2003, the Queensland Heritage Council recommended the appointment of a consultant to prepare an issues paper. It is envisaged by the Heritage Council that the Rural Heritage Places Project will consist of several stages, with Stage 1 reviewing the known rural homesteads/places and models of management in use elsewhere. Future stages will be guided by the recommendations of this first stage.

The project complies with the Queensland Heritage Council's Strategic Directions for Queensland Heritage (1999), in particular in endeavouring to foster best owner outcomes.

Other background information

Homesteads as Australian architectural icons have been of interest since the 1970s and publications (see bibliography), the National Trust of Queensland's heritage list and the Register of the National Estate have recognised the significance of and promoted the conservation of this rural heritage. In Queensland the work of Peter Forrest and Richard Stringer in recording a range of homesteads in the late 1970s was the first baseline work which resulted in these places being entered in the Register of the National Estate.

Australia ICOMOS obtained National Estate Grants Program funds in 1992/3 to undertake a study of Pastoral Technology and the National Estate. It was recognised that the RNE contained many pastoral homesteads and shearing sheds – “big and obvious structures appreciated for their architecture, and in many instances for the use of local materials and vernacular building techniques” – but beyond these are many structures and other evidence of technology that influenced the spread of pastoralism and the character of operations and landscapes produced (Walker, 1995:8). The study was nation-wide and contained An Outline History of Australia's Pastoral Industries – Technology and Settlement by Peter Forrest, questionnaire reports from each State, workshop findings and a strategy for studies addressing the knowledge gap about pastoral heritage.

The National Trust's 2003 Endangered Places List includes 'Rural Homesteads' as a category.

This paper concentrates on rural homestead complexes in private ownership – individuals, family trusts and companies. Company-owned properties also face the same range of issues as single or family owners, but have different financial resources and operational structures to call on in the solutions. Significant rural homesteads are in public ownership managed as part of national parks and conservation reserves like Bladensburg homestead complex in the national park of the same name south of Winton. Other complexes like the Boondooma clearing dip, near Wondai in the South Burnett district, were constructed privately about 1919 but became a government facility in 1922 when the surrounding land was subdivided. Other significant homesteads are managed by local groups, often under the aegis of the local municipality as a sub-committee, on land now reserved for historical or tourist purposes such as the recently restored *Glengallan* homestead near Warwick, *Greenmount* near Mackay or significant industrial structures like the Blackall Wool Scour.

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Kerry Herron of Herron Todd White property advisors, Malcolm Middleton, and Stephen O'Connor provided advice on recent rural property and condition changes. Penny Cook of the National Trust of Queensland and John Hoysted, Arts Queensland supervisor of some rural restoration projects for the Queensland Heritage Trails Network discussed issues in organizing work crews for restoration works in remote locations. The Australian Heritage Commission provided the information on the Register of the National Estate listings. Mme Sophie Jevakhof of the French Ministry of Culture discussed their programs of assistance to rural heritage property owners and staff at English Heritage – in particular, Kate Clark, John Fidler, Jenifer White and Steve Trow, were very helpful discussing issues and providing material about technical approaches to rural conservation and programs such as Countryside Stewardship. Christine Campbell of the Queensland Heritage Council, Stewart Armstrong and Fiona Gardiner of the Cultural Heritage Branch provided wise direction to my enthusiastic scope for the issues.

2. Audit and historical context of rural homestead complexes

A slab-house, with or without deal-floors and glass-windows, and covered with bark, costing from £5 to £50, according to its size and conveniences, will afford sufficiently comfortable accommodation for any family for a few years in so mild a climate as that of Queensland;

(J.D.Lang, 1861. *Queensland, Australia*: 278)

With the exception of the ACT with its distinctive shepherds’ huts and outstations, pastoral technology places were not considered to be adequately represented on heritage registers (Australia ICOMOS, 1995:70). The common technological evidence such as fencing, dams, and the pattern of paddocks, is unlikely to meet the thresholds for heritage listing without association with other places, like stock routes, bores, mills and yards. This is also the case in Queensland.

Appendices 1 and 2 show the total number of rural places listed by various heritage agencies; the statutory registers of the State and Commonwealth and the alerting register of the National Trust of Queensland. The following table summarises the number of listed rural heritage properties:

Qld Heritage Register	RNE-Commonwealth	National Trust of Qld
Total – 99	Total – 60	Total – 53
Permanent – 76	Registered places – 28	
Reported – 23	Indicative places – 29	
	Destroyed/removed – 3	

These registers have been constructed over a very long period with different recording standards and so are not totally comparable. For example the RNE which commenced in 1975 lists for Queensland homesteads, homestead complexes, homestead outbuildings, ruins, dips, farms, a farmhouse, detached kitchens, slab barns, slab huts, a dam, sheep wash ruins, ruins of a mill, a vineyard, cow bales and yard, a fort, stone walls, site of former station; whereas the more recent Queensland Heritage Register has more rigour in its permanent listings nomenclature and typologies and records 69 homesteads, 3 ruins and 4 former homestead sites. See map 1 for their distribution.

These homestead complexes are located across the State and vary from those now on the outskirts of expanding cites like Rockhampton, Toowoomba and the metropolitan sprawl of SE Queensland to the remote (Thallon) and very remote (Birdsville). While approximately 100 have been identified with heritage values, this is an underestimate as nominations usually flow on from local government area or theme studies across a region and much of outback Queensland has not been surveyed. Many of the homesteads listed on the QHR came from the National Trust lists and others come from nominations from those concerned with the threat of development. There are also many places with a richly layered history but the physical heritage values are no longer intact due to relocation, abandonment, fire, vandalism and ultimately decay.

Pastoralism has left a physical heritage from the initial squatting period of the 1840s to the present day – 160 years. Regional differences in pastoral technology relate in part to drainage systems, rainfall patterns, soil and vegetation types, distance from markets and supply centres. Historical pastoral regions with distinct technologies are:

- Western Queensland and the channel country
- Central west Queensland
- Cape York and the Gulf rivers
- Atherton Tableland.

The wool industry is centred on the central west and Maranoa, overlapping into the Warrego. The beef cattle industry has historically occupied the north and west of the State – the Georgina, channel country, Gulf rivers and Cape York regions. Beef and dairying combined along the coast, southeast Queensland and Atherton Tableland, although that is rapidly changing with dairy deregulation. Historically, the Queensland cattle industry was closely associated with the Northern Territory and Kimberley through stock routes, railheads and store cattle markets (Pearce, in Australia ICOMOS, 1995:136)

There are regional styles in construction related to the availability of materials at that time and structures illustrate the changes in working methods on rural properties and in staff housing as well as the ethnicity of workers such as Chinese and Germans. There are variations depending on whether the construction was vernacular or industrial and/or architect designed. The most common structural materials used in central west, west and north Queensland were rough-shaped stone, bush timber, sawn timber, concrete, steel and corrugated iron. These materials have survived where other more ephemeral materials have disappeared such as brushwood, grass and reed thatch, crude stones in ant-bed matrix and upright saplings with mud infill. There is some project work here for EPA to see whether the places currently on the QHR adequately reflect the regional building styles and ethnicity of these districts, and also how these places relate to the bioregions of Queensland with their associated resources of vegetation, timber and earth/stone. The natural heritage values may also be significant in the particular locality and their use in rural homestead complexes may highlight rare examples.

Homesteads and woolsheds have been the subject of detailed architectural studies (Freeman, 1980, 1982 and Sowden, 1979). As well as the main homestead building, the following structures/places are associated with the rural property complex:

For shelter and food:

Dog kennel
Stock camp
Fortified hut
Aboriginal worker kitchen or cookout
Aboriginal stockman housing
Aboriginal station camp
Camps of doggers, shooters and trappers
Boundary riders' huts
Single men's quarters
Married couples' cottages
Shearers' quarters
Jackaroos' bunkhouses
Kitchen
Laundry
Butchering hoist
Meat house
Cellar or dug-out room
Bake oven
Shade house
Fowl house
Vegetable garden
Office
Weather recording station

For water supply and storage:

Timbered soakage
Shadoof well
Stock trough
Salt licks/troughs
Bore and mill
Bore drain
Whip well
Windlass well
Overshot weir
Turkey nest tank
Ground tank, Chinamen's dams
Elevated (rain water) tank and stand
Below-ground tank

For industry activities and processing:

Woolshed and woolstore
Woolscour or woolwash
Ram shed
Station abattoirs/slaughter yard
Boiling down works and fellmongering

Power and electricity generation
Fuel shed
Pumping plant engines and boilers
Stock dip
Stock race
Fencing and gates
Saddle shed
Hay shed
Grain and feed stores/silos
Blacksmith shop/shed
Horse yards
Timber stockyards and bronco yards
Brushwood and portable sheepyards
Stake yards
Brumby trap yards

For transport and communications:

Access track/road and mailbox
Camel yards
Stables
Wagon shed
Workshop
Garage
Railway trucking yards
Airstrip
Radio aerials/ transmitters

For cultural activities:

School room
Tennis court
Swimming hole or pool
Garden
Graveyard/burial ground

From the historical landscape:

Clearing and felling areas
Plantings of introduced and exotic species
Overstocking erosion and drift
Rabbit proof fences
Dingo fences
Stock route and its brush breaks
Aboriginal trade route (adapted from Pearce in Australia ICOMOS,
1995:134-5)

Historical context

The European settlement of Queensland was initiated by pastoral expansion. Land hungry squatters in NSW overlanded herds to the Darling Downs following the Leslie brothers' tracks and by 1844 there were 30 squatting stations occupied by pastoralists who became a "privileged, closely knit and self-interested group" with a dominating influence on the colony's policies until well into the 1870s (Fitzgerald, 1986:132ff). The Moreton Bay and Burnett district squatting stations were well established by 1853 and squatters pushed north into Port Curtis district soon after; by 1859 one quarter of the colony was occupied by 3,500,000 sheep and 500,000 cattle.

Following separation from NSW there was a rapid expansion west into the Maranoa and Warrego, then north into Mitchell and Burke districts. After retreat in the late 1860s, the pastoral frontier continued to expand in a second major wave until by the mid 1880s, occupation of the land was complete. Increased efficiency occurred in the 1870s with widespread introduction of wire fencing to replace post and rail around stations and shepherds; between 1871 and 1881 the number of pastoral employers rose from 1911 to 2,335 but the number of employees fell by almost half to 5,978 (Fitzgerald, 1986:146-7). Between 1868 and 1878 the number of sheep in Queensland fell by three million to 5,632,000 while the number of cattle trebled to reach 3,163,000 – this had ramifications for the physical development of station complexes in terms of changing structures.

The early settlements of the rural districts of Queensland from 1842 were characterised by innovative construction techniques using available local materials and techniques learned elsewhere – in the 1860s R.G. Suter's introduction of "outside studding" being one key example. Timber houses in North Queensland were referred to as "square wooden boxes on long legs" (Bell, 1987:18). And despite the apparent absence of architectural design in these high set timber houses, architects were practising in colonial Queensland from the outset – there were three in Rockhampton by 1862 and 1400 individual architects and firms have been identified practising in 87 towns to 1940 (Watson, 1994:1).

In the second wave of settlement in the 1870s and after a period of progress, the original stations of slab and bark, stringybark and greenhide gave way to pit-sawn timber and more permanent construction. However, despite the grand stone homesteads like *Jimbour* (1873), *Talgai* (1868) and *Glengallan* (1867-68), the majority were of local materials – timber slabs with bark or hardwood split shingles for roofing, then sawn and sometimes pre-cut timbers from mills like Pettigrews in Brisbane (from 1853, although by 1865 there were 19 steam sawmills in Queensland) (quoted in Riddell, 1994:50), or bricks

from local clays or pise and mudbrick. Analysis of census records for the century from 1861 show that outer wall materials of Queensland occupied dwellings were predominantly timber – 88% in 1861 and 75% in 1961, although from 1921 until 1947 it ranged from 81% to 85% (quoted in Bell, 1987:15).

In south-west Queensland where little suitable timber was available, the pise building with thick rammed earth walls was preferred. New stations built in the 1870s were characterized by two new features: stilts supporting the houses common in flood-prone valleys like the Burdekin, and the veranda, where one could escape the formality and oppressiveness of inner rooms – partitioned sections of the veranda for the ‘sleep-out’ became important features of most northern stations (Fitzgerald, 1986:148). From 1903 the problems of lack of local timber were overcome by settlers purchasing prefabricated timber houses such as Campbell’s Redicut Homes which had catalogue names such as “The Longreach,” “The Hughenden” and “The Mitchell”, all with wide verandahs and overhanging roofs and the latter two with detached servants’ quarters and kitchens.

The period 1884–1915 was one of mixed fortunes: resumption by the provisions of the 1884 Land Act of stations for agricultural subdivision, sinking of artesian water bores following the 1884–86 drought, rabbit plague in late 1880s, severe economic depression of the 1890s, tick fever and the great drought (1893–98), shearers strikes – 1891 and 1894. Sheep numbers rose to 21,700,000 in 1892 – with three stations – *Wellshot*, *Bowen Downs* and *Milo* shearing 1 million between them, while between 1894 and 1901 nearly 3,000,000 cattle were lost. A more realistic approach to pastoral use followed in the 1900s and sheep numbers stabilized at between 15 and 20,000,000 and cattle rose to 3,900,000 (Fitzgerald, 1986:149–154).

The following table gives the number of surviving heritage listed places by decade:

Period	Number of rural homesteads	
	National Trust list	Qld Heritage Register
1840s	6	5
1850s	8	1
1860s – colony of Qld	7	9
1870s	9	8
1880s	4	5
1890s	3	1
1900–1921	6	3
1920s–30s	0	3
Post WW2	0	0
N/A	10	10

This table shows the concentration on early colonial buildings – *Cressbrook, Tarong, Gracemere, Nindooindah, Burrandowan, Eidsvold, Boobyjan, Kilcoy, Canning Downs, Mount Abundance* – then the second wave, turn of century, but then no listings after World War I when new building techniques, especially in light weight prefabrication, and materials obviously had an impact on rural homestead maintenance and new designs. Interestingly, the tradition of slab building continued because of the shortage of manpower and materials during World War I as illustrated by the sawn timber slab construction of *The Glebe* homestead near Taroom in the Dawson River district from 1915 using timber available on the farm (QHR file no. 601774).

This concentration on the early colonial structures is due to our lack of knowledge of the complete extent of the heritage resource of rural homestead complexes. For example, the earliest survivors seem to have been adequately documented (property histories, measured drawings, historic and contemporary photographs, oral histories) but not the representative or biggest at different periods such as *Oakwood* on the Nive River, east of Augathella which was the largest woolshed complete with huge wicker baskets for the wool pieces ten years ago but allowed since then to just fall down in sections, or *Isis Downs*, which had the biggest woolshed with electric shearing stands, and which has had its stone and rammed earth workers quarters bulldozed in the last few years as staff numbers reduced from the 40 homestead based staff and those at two outstations at its peak in the 1970s. Abandoned homesteads from the 1880s still remain such as *Eulolo* on the Gilliat River with its separate cookhouse and many outbuildings or *Nelia Ponds* on the Flinders River – both main homestead buildings prefabricated and shipped out there by bullock drays. *Rockvale* has buildings from every period, while some components like wool bins

were moved to different properties as occurred with those from Peak Downs in the 1860s going to *Cubaroo* (S.O'Connor, pers.comm.).

The associated stock routes between these properties also need recording and protection of their remaining *in situ* heritage such as cast iron stock route signs, yards, bores, mills and tanks. Margaret Pullar described the historical evolution of stock routes and referred to the cultural significance of their features, names and remnant vegetation (Pullar, 1995: 31–40).

Many of the early squatting stations became the nucleus for adjoining township or village development, while the history of each individual property is part of the regional environmental history of occupation, clearing, transformation, utilisation of local resources and response to changing seasons and climate induced events.

3. Key conservation management issues and threats to sustainability

Stringybark and greenhide, that will never fail yer!
Stringybark and greenhide, the mainstay of Australia.

(quoted in Freeman, 1987:37)

Regional variation, a range of materials but predominantly timber, and a 160 year time span underlie the conservation considerations for the rural homesteads complex heritage category. But other socioeconomic issues also affect conservation of these heritage places.

In 1995 an Australia ICOMOS workshop came up with the following list of issues affecting the pastoral industry:

- Shift from labour intensive operations to capital intensive/labour minimising
- Reduction in pastoral businesses – including stock agents
- Decline in family attachment with sale of long term family occupancy
- Loss of family/station records
- Familial and other personal links between the city and the bush are breaking down
- Abandonment of some traditions
- New water technology – capping of artesian bores
- Trying new breeds/animals

- Conversion of buildings/machines to innovative uses – diversifying
- Transport and communication changes – large trucking of herds
- Closure of some travelling stock routes (TSRs) – recognition of their nature conservation values
- Impact of drought on markets
- Land degradation is causing problems with feral animals and weeds
- Pastoral technology – especially old machines – now a collectible commodity for museums
- Growth of tourism in rural areas from urban dwellers (back to the bush)
- Despite establishment of Stockman’s Hall of Fame – which has a selective emphasis – many aspects of technology (both simple and complicated) not interpreted
- Acquisition of pastoral lands for national parks, leaving substantial evidence of old technology
- Acquisition of land by Aboriginal groups undertaking both tourism and pastoral activities
- Impact of ‘green’ ideas on land management.

These issues are still relevant in 2003 with drought and salinity being particularly serious at the present time, and farmers in some districts are having to cut down mulga to feed stock (*Courier-Mail*, 28 May 2003).

i. Changing rural economy

Agri-businesses and land holding amalgamations are replacing traditional rural farms at an accelerating rate especially over the last five years. One result is less disposable income for activities such as maintaining redundant historic structures as it goes to share holders rather than for use by individual farmers, for example, the Australian Agricultural Company now owns 20 large properties in Queensland. Amalgamations also lead to redundant buildings as shown in Hughenden Shire where this year already of the sale of eight wool producing properties, seven have gone to adjacent owners expanding their holdings resulting in seven redundant complexes of buildings (K. Herron, pers.comm.). There are changes in land use with new impacts and loss of physical evidence of traditional rural patterns as has happened with cotton farming taking over sheep country in the 1990s,

and in the further rangelands cattle predominate where once sheep were agisted as far as the Gulf as in the 1930s.

Beef cattle production dominated Queensland's livestock industry. The Queensland beef cattle herd, with 10.4 million head, represented 45% of the total Australian herd and was nearly twice as large as the next biggest State's herd (NSW with 5.8 million head). The Queensland beef cattle herd has grown by 1.8 million head since 1989, an increase of 20%. There were 18,682 establishments with cattle at March 1999 (Australian Bureau of Statistics, 2001). Despite this drought has taken its toll and 1892 farming families were receiving Commonwealth income support in March 2003, while nearly 3000 were eligible in south-eastern and central coastal areas where the severe lack of rain since 2000 will lead to further rural income decline in 2003–04 (*Courier Mail*, 12 April 2003). Clearly there is little income for routine maintenance which will be deferred for as long as possible, and no income for maintenance of redundant historic rural structures which form part of many rural property complexes.

ii. Changing rural work practices

Workers live in towns and commute to work or are employed as contractors across a range of properties. Less staff housing is required and not as many staff can be employed at current minimum wage rates. Very few properties still have gardeners and maids but most retain a cook. New managers are employed from outside the district and do not have the collective knowledge of the area and its history. An example of change is seen at Headingly station near the Queensland/Northern Territory border where 2.5 million acres carries 50,000 cattle and 25 people, but 30 years ago it could have had 300 people as the ratio was 1 family per 1,000 cattle (K. Herron, pers.comm.).

With the rapidity of change there is a loss of material before its worth is recognised and loss of intangible heritage, such as work practices that are not visible. This is followed by loss of collective memory but there is a need to record as oral histories the specific terminology of such rural work practices so that the language of redundant bush work is not lost. Some of this terminology has been captured in bush poetry and song.

Children do not want to return to rural properties after secondary schooling, and jackaroos only stay on average for two years. There is sadness and emotions of loss when families move off to the coast or city (K. Herron, pers.comm.).

iii. Changing personal priorities and attitudes

Most rural property owners, managers and workers are committed to learning new skills like use of computers and associated technologies and have no time for pastoral histories or maintenance of old crafts, despite being generally proud of rural heritage and folk-lore associated with it.

The prevailing attitude is that “we’ve been looking after this for generations” and those property owners know and love their pastoral history. Some want to share their knowledge; others prefer to act as ‘lord of the manor’ and eschew any offers of assistance. They are often very active in local historical societies but do not want outsiders to know about the physical heritage remaining on their properties. Some also have a valuable holding of written records and photographs about the history and operation of their properties and the existence of these needs to be recorded – as part of the national distributed collection of historical collections of archives. However, many property owners fear the accountability if their properties are included on the Queensland Heritage Register or other registers and fear the interference of regulators – the “heritage police.”

Common threats to the conservation of pastoral complexes have been suggested as: intentional destruction, clearing and tidying up, lack of recognition or awareness of the cultural significance of features, indifference and lack of concern for redundant technology, and neglect. Redundant machinery is seen as a nuisance and handed over to ‘folk museums’ thereby losing its working context.

Pastoral technology is often invisible to the public and its heritage therefore has a low level of recognition. It may include processes that are not specific to a place and the social value or social history may be the primary significance of a place and not its fabric. There may also be conflicting interests in relation to the future care of rural places – heritage, Aboriginal and green.

iv. Changing rural technologies

The more sophisticated methods of computerized machinery used now require less physical labour. In the Channel Country there is still one property using bronco yards, but an amazing number of properties do not run horses – stock work is done from quad bikes or helicopters (K. Herron, pers. comm.).

Ancillary structures have been abandoned, fallen into disrepair or collapsed, eg detached kitchens/cookhouses, laundries, slaughterhouses and meat hanging sheds, creameries, milking cow bales, dips, wool scours, kilns, forges and blacksmith’s shops, stables, coach houses, slab barns, shearer’s quarters. Computers replace tally

boards. There is an associated loss of traditional skills and knowledge of use of tools and implements for the different tasks such as splitting timber posts and rails for fences.

v. Changing construction methods

Traditional skills are no longer required for carpentry, fencing etc as new products are pre-cut or erected with different methods, such as nail guns compared to hammers. Getting tradespeople to tender for any repair and maintenance jobs in the outback is a current problem much less those with specialised heritage trades skills. In addition, there are fewer apprentices in building trades and even fewer are located in rural areas because of the closure of businesses of potential employers.

vi. Taxation disincentives and deductions

Tax incentives were most effective before GST. They only apply to private houses not company owned houses/structures. Maintenance to yards or employee housing is tax deductible but not for owners house which might have a large (50 m²) corrugated iron roof requiring traditional methods of ridge capping etc.

Other forms of assistance such as local government rate relief is not looked on favourably as the local government areas have such a small population for the rate base that property owners do not like seeking exemptions as they will be denying the whole of community effort (view expressed by Beryl Kennedy of Kilcoy to QHC, 2002).

vii. Occupational health and safety issue

Post and rail fencing failing around stockyards can be dangerous to those working with stock. Dips have chemical contamination in the soils surrounding them and more recent methods such as jetting sheep to prevent fly strike have resulted in large areas contaminated by the arsenic sprays and these have to be fenced off. Power tools although faster can be more dangerous than manual methods if used carelessly or by untrained operators.

There is always an element of risk in working with horned stock and horses. The sheer remoteness of some places is also an occupational safety issue because of poor road access and distance from emergency assistance.

viii. Local community difficulties

Difficulties encountered in rural heritage conservation projects are well known:

- volunteers are overstretched,

- new uses for buildings are hard to find,
- tourism is not keeping up,
- demolition by neglect is occurring,
- it is difficult to sustain projects (even if funded),
- most of the people who care are city based therefore there are not workers on the ground,
- places are isolated, the distance from support is long and people do not have the skills,
- local government has the greatest responsibility but not necessarily the skills,
- the heritage system (NT/AHC/State) is not engaging community and the approach is disjointed (Camilla Macrae, National Trust conference, April 2003).

ix. Adaptive reuse

Some of the heritage listed rural complexes have found new uses. Some have been set aside by local communities for museum uses as a means of conserving their cultural significance (that is, their history, stories, records, artefacts) as well as their heritage fabric, for example, *Glengallan*, *Jondaryan* woolshed, *Greenmount*, and *Blackall Woolscour* were all supported by the Queensland Heritage Trails Network program of capital works funding. The ongoing sustainability of the QHTN projects will be monitored with great interest.

On the Darling Downs, where there is a tourist circuit and a flow of weekend visitors from the city especially in the non-beach season, bed and breakfast stays are a possibility. *Talgai* homestead, near Allora, has been successful for the last decade; other non-listed but historic properties in the district are also offering B&Bs in renovated buildings on the property, such as the cheese factory managers' cottage on *Mount Prosper* near Ramsay. (This property has been in the same family ownership since the late 1860s but only one son of three in this generation has equity in it now.) Other properties like *Jimbour* have diversified into wine grape production and some of their outbuildings have been adapted for visitor centre-wine displays.

Tourism provides owners and managers of heritage properties with income to manage and maintain these assets. Some properties have redeveloped shearers' quarters and the staff housing for tourists – *Wrotham Park* is one example. Farmstays, with guests involved in active farm operations, were also popular especially in more remote outback areas such as at *Lorraine* station and *Abbeycourt* in the Longreach district but expensive insurance premiums have forced them to close.

Obviously large structures can be reused for storage; at *Franklin Vale* the slab barn now stores farm machinery. But there are other examples of destroying sections of the original structure to fit in new uses, or demolition the structures totally so as not to have a maintenance liability as at *Isis Downs*. (Note: The significant *Bimbah* homestead complex, north east of Longreach and built of timber and tin in 1898 in the early Federation style in contrast to the stone homestead of its parent station *Mt Cornish* at Aramac, was demolished in 1991 as a result of the fear generated by the introduction of interim heritage legislation.)

x. Grants and government assistance

Since the National Estates Grants program of the Australian Heritage Commission commenced in the late 1970s the priorities have usually been for community owned heritage places such as those owned or managed by the National Trusts, local historical societies or other incorporated heritage bodies. Private owners have rarely been eligible. There were equity concerns about private owners getting a benefit from the public purse. Conversely, the heritage designation can be seen as a public imposition and some technical advice and /or financial assistance is to compensate for such – despite the property valuation rising in cities now because of such heritage designation.

However, under the various State heritage programs assistance to private owners has been granted subject to a deed allowing for example, public access several times a year during say Heritage Week or some local festival, with the proceeds if there is an entry charge going to some local group – CWA, Red Cross or local historical society – who may have assisted with the open day.

There was a short lived Tax Incentives for Heritage Conservation Program (1994–2000) through which private owners of heritage-listed properties were able to apply, through a competitive selection process, for income tax rebates of 20 cents in the dollar. Preference was given to conservation works on heritage places that were visible or accessible to the community (often in heritage precincts in towns) and valued at \$10,000 or more, had conservation plans, had legal protection under State/Territory legislation, would have significant impact and encourage others to take conservation works and could be expended within 12 months of approval. In 1996–97 there were 80 successful applicants for \$1.9 million foregone tax revenues. Anecdotal evidence suggests that no homesteads in Queensland received tax relief for conservation works under this scheme.

Heritage advisors attached to local government planning departments do not operate across rural Queensland, although heritage advisors have been successful in Victoria and NSW in advising property owners

on repairs, obtaining funding, specialist advice and workmen for derelict and redundant structures like the Cow Plains homestead in the Mallee district of Victoria. In Victoria for 2003–04 the heritage grants fund available has been increased to \$8,000,000 as the government views assistance to heritage property owners for conservation of the historic assets as a wise investment especially in regional areas where the expenditure on restoration stimulated the local building economy so that repairs and restoration equals new construction.

In comparison, Queensland has only expended \$141,619 in 18 grants on rural homestead conservation projects as part of its Community Heritage Grants since 1989–90; of these the largest was \$20,000 for *Boondooma* homestead, the smallest was \$545 for termite treatment at *Argyle* homestead and there were only five grants above \$10,000.

xi. Attitudinal problems in Commonwealth and State government towards heritage

The National Heritage Trust ‘captured’ the heritage name but it only applies to natural heritage and at the same time, during the second half of the 1990s, cultural heritage increasingly referred to either Indigenous heritage – places, artefacts, traditions, language – and material heritage – as in museum collections. These two categories are related to Indigenous development and sometimes Native Title and to arts and cultural program portfolios. Historic heritage appears to have fallen between the cracks. Only selected iconic places of historic heritage will be protected in the proposed new National List of the revised and fundamentally different Commonwealth heritage legislation currently before the Commonwealth parliament.

Despite the condition of cultural heritage being reported on in the Australia State of Environment Report 2001, no cultural heritage indicators were used in the *Headline Sustainability Indicators for Australia* (Environment Australia, 2001) which reported on national performance against the core objectives of the National Strategy for Ecologically Sustainable Development.

In a more recent study funded by the Queensland Government, CSIRO and university partners – *Social and Community Dimensions of Natural Resource Management* (Aitken, 2001), cultural heritage was only mentioned once in a table on key research priorities for Australian rangelands: improved integration of cultural heritage considerations within regional planning. Yet the conclusions regarding critical considerations were the importance of regional integration, collaboration and integration, sequencing, and linking with larger initiatives and policy. In a department committed to environmental protection, the conservation of rural heritage which constitutes a

baseline from which to measure change does not rate a mention or priority.

xii. Attitudinal problems in local government towards heritage

Despite the requirement in the *Queensland Integrated Planning Act* to consider cultural heritage in local government planning schemes, and the availability of excellent toolkits for local planners and their advisory committees – such as the Australian Heritage Commission’s *Protecting Heritage Places – Information and Resource Kit*, and the EPA’s *Guidelines for Cultural Heritage Management to help local government*, the results are very patchy and inconsistent.

- There is a lot of anecdotal knowledge but very limited systematic knowledge; local historical societies and local library archive collections contain information but many locals are not willing or able to translate this information into heritage values for assessment and incorporation into planning scheme protection for the identified places.
- Only 32% of local government authorities in Queensland are known to have conducted historical cultural heritage surveys (40 of 125). (See map 2.)
- Only 22% of all local government areas have integrated the findings of these into their planning schemes (28 of 125).
- Of the 40 that have conducted historical cultural heritage surveys, only 68% of them (25) covered 75–100% of the local government area (from draft 2003 Queensland State of Environment report). The more remote sections of the local government area presumably were not surveyed and that is often where the redundant rural heritage is found.

Summary of problems:

- Lack of knowledge of the extent of the issues and opportunities and therefore of the materials and skills required;
- Lack of funds to maintain redundant but culturally significant structures on private properties;
- Lack of heritage professionals in rural areas to prepare specifications for heritage conservation works and to supervise local tradespeople;
- Lack of skills in the bush for heritage repairs/restoration;

- Opposition of property owners to government assistance for heritage conservation;
- Lack of understanding of the intangible value of rural heritage as symbolic of settlement, part of regional identity and social wellbeing;
- Lack of integration of government policies for rural and regional support where heritage is part of regional identity and not an asset on which to make a return for investment;
- Lack of 'public good' or community benefit policy as part of both cultural and regional policies of Government dominated by the Treasury view that there should be an economic return on any investment;
- Lack of a champion to advocate for and focus attention on the issue of rural heritage.

The Australia ICOMOS study of pastoral technology came up with 30 issues at its workshop and arranged these into six groups with common themes:

- i. Inventory and assessment issues;
- ii. Practical implementation issues;
- iii. Community/industry involvement;
- iv. Administrative implementation issues;
- v. Broad conceptual issues;
- vi. Awareness /visibility issues.

These issues have mostly been incorporated in the above summary of problems.

4. Possible solutions

As the problems span a range of areas, not just repairing redundant rural buildings, a structured sequence of activities needs to be undertaken.

i. Awareness raising

An urgent program of awareness raising about the significance of rural heritage properties is required. The program should target property owners and managers, play on the pride of tradition and survival and be politically bipartisan; it should involve the CWA, 'the font of all local knowledge.' The heritage lobby have talked about such a program for some time but formulated no plans – for example, The

National Trust Endangered Places list and their 2003 NSW conference on rural and regional issues, the Australia ICOMOS study with projects to address threatened rural technology. In 1998 the Historic Houses Trust of NSW designed and curated an exhibition called *Bush Lives, Bush Futures* which examined the increasing number of rural buildings threatened by change and the forces creating that change. The exhibition, book and video travelled around the State taking the conservation message to a wide audience.

These heritage groups with their associated experts could provide speakers in conjunction with heritage agencies for a 'hearts and minds' campaign on ABC regional radio – country hour, ABC TV on Landline, other regional media. Other groups like Agforce, QFF (Queensland Farmers Federation), CWA (Country Women's Association), Landcare should all be invited to participate as many of the memberships crossover. The LGAQ (Local Government Association of Queensland) should also be a major partner and help drive this awareness of rural heritage as an asset not a liability.

The program could be run in conjunction with Heritage Week or the local agricultural show or arts festival. It would aim to compile lists of people with knowledge about pastoral life, local pastoral heritage places and materials. A local display and exhibition on pastoral history could be staged and local visitors invited to add to it.

ii. Recording and documentation

There is an urgent need for a program of inventory – what exactly is out there? This needs to be done for comparative evaluation before its cultural significance can be assessed. It also needs to be undertaken before all the evidence decays at some remote and abandoned rural properties – at the very least the State should record this pioneer phase of Queensland settlement. The 'romance of ruins' is as justifiable as the conservation effort for the most significant of them and so much the better for future generations if there are archival records of these ruins.

In the USA, the HABS (Historic American Building Survey) and HAER (Historic American Engineering Record) programs of the federal National Park Service, underway since the 1930s depression as rural recording projects employing out of work new graduates in architecture and engineering, have built up a vast archive of documents about types of rural properties and their construction. From this priorities can be drawn for funding for urgent repairs, maintenance, restoration or adaptive reuse.

The Canadian Inventory of Historic Buildings (CIHB) offers another model for recording across the countryside in a short time; teams of recorders were sent out in summer with pre-coded sheets to fill in and

detailed instructions for building measurement, photography etc and a nation-wide survey with the same standards was undertaken over a few summers.

In Queensland this sort of program should be trialled through local government – the key partner as in England. Local government officers are also often best placed to assist in addressing the fear of owners and managers that recording processes lead to heritage listing processes and perceived restrictions. Teams could work for a short time in conjunction with the local shire engineer and planner to record the number of rural properties, their history since first settlement, remaining buildings, those historic structures most at risk because of redundancy and lack of maintenance, record/document them and apply for funds for urgent works – assuming that a funding mechanism is found.

Teams of university students could be assembled to undertake the work as part of professional practice; EPA cultural heritage branch could oversee the recording – with HO drawing up the process and regional staff liaising with local government to implement it. In Queensland the work would need to be undertaken in winter as summer rains in the north make roads near impassable.

In Victoria, summer schools of skilled volunteers recorded farm buildings, machinery, artefacts and archives at key sites as part of conservation planning. The Day's Mill and Farm study was published in 1990 as an exemplar for future schools.

Another model could follow on from festivals and displays: a local community facilitator could assist in arranging some field days inviting those on the local pastoral heritage list to undertake a range of pilot projects depending on skills and interests, such as identifying on-ground evidence of rural technologies, recording and documenting this evidence, photography, recording oral histories and stories. These workshops would be conducted by conservation specialists with the local facilitator – as happened with the museum development officers in regional Queensland with workshops on cataloguing, conserving artefacts and display techniques.

Some of this training for recording and documentation could use the training programs suggested in 4.iv below.

iii. Funding – other models

During the years of the Commonwealth/State partnership for the National Estate Grants Program (1981–96), there were no grants to homesteads in Queensland. The replacement Cultural Heritage Protection Program was focused on nationally significant places. The

Queensland Community Heritage Grants program has similarly decreased – see case studies in section 3.x. A case could be made to Gaming Benefits fund for a share to go to rural heritage programs.

See Appendix 3 for European models and how historic heritage in rural areas is regarded as a fundamental part of the landscape and funded accordingly so that most applicants in the UK are successful as they have advisors to assist them in their applications. The UK Lottery Fund aids heritage listed buildings in rural areas.

Appendix 4 details the US grants, tax credits and other technical assistance like preservation briefs for historic barns.

The Committee of Review-Commonwealth Owned Heritage Properties in 1996 examined the financial environment for heritage conservation. It examined accrual accounting, running costs and the 'efficiency dividend,' operation and maintenance costs, environmental framework, asset valuation, 'whole of life' costing/depreciation, grants programs, tax incentives, restoration programs, partnerships and marketing. Although the report was aimed at managers of publicly owned heritage properties many of the issues are relevant to private owners.

In 2002 the Environment Protection and Heritage Ministerial Council (EPHC) established a task force to examine incentives and tools for conserving our historic heritage. The taskforce analysed tax incentives such as property tax, rate and stamp duty abatement schemes with exemptions, freezes and deferment, rebates or credits for conservation work and Commonwealth tax deductibility. It also looked at financial assistance through grants (entitlements, performance and discretionary) and loans, heritage agreements and revolving funds. More work is being done on these issues.

Heritage agreements are a potentially useful tool to encourage conservation especially if there are incentives attached to them. There are parallels in the nature conservation field – through the National Heritage Trust grants system.

Covenants are a similar tool – landowners who enter into covenants with state and local agencies such as state parks departments are now (April 2003) eligible for income tax deduction for any subsequent fall in land value after they entered conservation covenants to conserve native vegetation. More than 2000 covenants covering nearly 1 million hectares have already been registered.

iv. Advice and specifications

Specialist advice must be used in preparing conservation management plans (CMPs) and works specifications. Some of this is from conservation professionals and some from local experts in vernacular materials. Whilst CMPs are fundamental to good management, there will be occasions when scarce funds would be better spent on urgent reversible repairs.

Brochures are readily available for very general advice – eg *Twelve Tips on Caring for Old Buildings* (National Trust and Australia ICOMOS, 1995). A specific one for rural places could be prepared and notes with specifications could be prepared for rural property components (outlined in section 2) as heritage type exemplars with generic guidance – there are many already available that could be tailored to suit specific local conditions and materials such as cypress pine slab or rammed earth or gidgee twig and pug. Conservation architects who have worked on a range of such properties should be asked to give examples of specifications from their own work which would be duly acknowledged.

Videos of ‘how to and how not to’ could be used as well as training days at rural centres.

One of the most effective programs across Australia has been that of heritage advisors to local government. Initially these were paid for by the Commonwealth through the Australian Heritage Commission, then on a cost share basis. (In 1999, there were 152 local government areas served by advisors of which six were in Queensland.) Victoria has a very active scheme with a paid coordinator of the advisors who have their own chat room in which they post problems in conservation, such as how to clean copper edging to stairs or arguments to put for adaptive reuse of buildings in historic precincts, and ask fellow advisors and staff to contribute solutions; it is very effective in getting quick results. This model could work well for dispersed workers such as in remote and rural areas.

v. Training of tradespeople

Queensland has currently many avenues for delivering training. It is up to Cultural Heritage Branch of EPA to devise a program and seek a suitable set of partners to deliver this training; for example, through TAFE with its current museum accreditation type courses or ranger training, through rural groups such as Agforce.

Training and skills development have become increasingly important tools for effective, successful rural producers, although training fatigue has also been reported – “oh, not another field day!” AgForce sees training as an important service for members. AgForce offers access to

a range of training programs such as rural leadership, managing farm safety, first aid, and computer and office skills. It could be approached to offer training in bush carpentry and traditional skills need for maintenance of historic rural structures. Some training courses are eligible for *Farmbis*, which offers assistance of up to 75 per cent towards the cost of training activity. As *Farmbis* have regional coordinators and referral networks this is a useful partner.

This could be an avenue for Cultural Heritage Branch to investigate and there are many rural locations at which to deliver training packages – for recording, assessing the problems, specifying repairs etc. Currently Longreach Pastoral College only covers agricultural courses; TAFE at Emerald has trades training.

Creative Volunteering No Limits refers to a series of university accredited day-long workshops developed by Regional Arts Australia and funded by the Commonwealth Department of Communications, Information Technology and the Arts and the Department of Family and Community Services. This unique workshop series is designed to meet the needs of everyone who works as a volunteer for any community support organisation in regional Australia, cultural or not. Topics offered include Network within Communities, Carry Out Business Planning, Develop Funding and Resourcing, Undertake Marketing, Work with Collections and Plan and Program Events. Again this is a possibility for Cultural Heritage Branch to use in delivering regional advice to rural heritage property owners.

QHTN, in conjunction with TAFE and Museums Australia (Qld), prepared a training CD for basic object/artefact conservation and for tour guiding. It should be possible to provide a similar one for recording and for basic conservation works for rural homesteads.

vi. Undertaking conservation repairs

Given the scarcity of trained tradespeople and conservation architects in rural and remote areas there is a case for developing a *roving works team* to implement agreed schedules of repairs to historic buildings and structures. Indeed this was meant to be one of the spin-offs from some of the Queensland Heritage Trails Network projects such as the Blackall Woolscour where extensive timber and machinery restoration were undertaken by local trainees under the supervision of a Sydney based specialist who worked with them. However, the group did not remain as a works team once the works were completed.

A team like the regional Q-Build teams is not what is needed but a small core – 2 or 3 with locals who can be called in to assist and share knowledge of local conditions, suppliers etc and who will benefit by skills transfer from the roving team. This model has been used in

Victoria for the former Historic Places Branch works team (now in Parks Victoria); however, they basically worked on publicly owned historic places.

In South Australia the State Heritage Branch of the Department of Environment and Planning organised and conducted annual works camps to remote heritage places since 1990. A team was put together to undertake the conservation works following an appraisal of what was needed for works on structures in that specific locality; materials were ordered and equipment prepared then the intensive effort was undertaken in one event. In this way, key places now abandoned or on former leasehold have been repaired, such as structures at The Peak, Dalhousie Springs, Cordillo Downs and overland telegraph stations.

Victoria also has a program called *Hands on Heritage* in which volunteers under professional supervision undertake simple stabilisation techniques and maintenance and repairs. It is in partnership with Conservation Volunteers Australia, similar to Green Corps. There is also a training component and some of the participants have found full time jobs in this field of employment. For further details see (www.heritage.vic.gov.au/Hands_on_Heritage.html). There has been some interest shown in bringing this program to Queensland.

There may be interest in forming a *Hands on Outback Heritage* – similar in operation to the volunteer teachers who are retired but travel to the outback in winter and stay on properties as tutors to students of School of the Air to assist them face to face with their learning. Our volunteers could be retired tradespeople who like travelling and would be willing to participate under some remote supervision to undertake a schedule of repairs and maintenance that has already been agreed to for the heritage place component. A retired mechanic from Brisbane volunteered his services to the Blackall Woolscour machinery restoration team and was a very valuable addition.

Maintenance has to be regarded as part of asset management – ‘a stitch in time saves nine’ approach as well as a process of adding value. Maintenance costs should be associated with "added value". A typical historic house that is poorly maintained is a fraction of the value of a well maintained historic house. A poorly maintained building will be penalised with a discount in value. In Geelong for example, the added value of a good quality historic house can be up to 6 times the value per sq metre of a poorly maintained house. So while one argues maintenance costs, there are the benefits of maintaining a house in a reasonable condition. The real issue here is whether following conservation practice (whether “forced to” by heritage controls, or through the desire to conserve) is more expensive than if a “least cost/ “satisfier” approach is taken. So, for example what is the difference in

refurbishing a derelict roof in corrugated iron versus replacing the original slates? Iron was (and still would be) cheaper. The use value of both would be similar (ie, both keep out the rain), but the “cost value” would be significantly different. In the Maldon heritage area of Victoria grants were made to assist in addressing the discrepancy.

How this ‘added value’ analysis translates for rural areas is unknown. Recent property sales illustrate that buyers are seeking the land not the heritage associations of a well established pastoral property or its heritage buildings.

Just as Bushcare has shared responsibility so too could a proposed Heritagecare or similar – 1:1 materials-labour/wages. Heritage conservation works could become a sub-component of Landcare and NHT programs as in the English examples in Appendix 3.

There are other examples of youth based conservation works programs where students work in their summer breaks – Young Canada Works and in France Jeunesse et Patrimoine.

vii. Integration into local community programs – heritage tourism, festivals

History is the story; heritage is the remaining physical relics – places and objects, plus the intangible heritage of stories and language. Together these are the basic ingredients for people in rural areas to use in their promotion of their district as a tourism product. For rural Queensland see the following:

- QHTN – see www.heritagetrails.qld.gov.au for links to the network heritage attractions and resource guides.
- QTTC – Tourism Queensland and its regional tourism groups for promotion of Drive heritage trails, farmstays and B&Bs

There are currently two federal programmes through which funding for regional tourism ventures may be available. These are the Regional Solutions Programme and the Regional Assistance Programme. However, funding through these programmes is only available to incorporated not-for-profit organisations and local governments. (see details on <http://www.regionalsolutions.gov.au/index.htm> and <http://www.dotars.gov.au/regional/rap/index.htm>).

Department of Industry, Tourism and Resources administers a regional tourism programme. For information about a wide range of grants see <http://www.grantslink.gov.au/>

The annual calendar of rural events like festivals, shows, etc can also offer opportunities for promotion of rural heritage.

viii. Advocacy

Agforce and National Farmers Federation need to be harnessed into supporting the rural heritage of their members. It is not just the task of National Trust and historical societies – the former have alerted the nation through their annual Endangered Places list but have the lobbyists for the rural community supported them? No, when one considers the topics advanced on the websites of both the farmers groups and the environmentalists.

The 2003 National Landcare Conference in Darwin has as its theme – "Respecting Values – Working and Learning Together." The conference will provide discussion and debate on the wide-range of Landcare issues facing Australia today in an evolving social, environmental and economic climate – but historic heritage is not on the published agenda.

The various organisations involved in the National Cultural Heritage Forum which advises the Commonwealth Minister for Environment and Heritage have seen the need to form a regional cultural alliance which will have its inaugural conference at Broken Hill later this year to discuss mutual issues across regional heritage conservation, tourism, arts and training. The fate of rural heritage properties will be on the agenda.

ix. Reuse policy for redundant rural heritage places

Government employee housing could use historic buildings and give them a new lease of life and maintenance. This was the policy in Victoria in the National Parks Service in the 1980s when the park estate expanded and redundant police and railways houses became available as at Chiltern and Corryong. In remote areas redundant buildings were repaired and used seasonally as fire fighting and fire protection bases as well as for research groups undertaking field studies. This policy might be suitable on rural properties where there are nearby government projects.

Friends of *such and such* homestead complex – descendants of former workers on some big properties could be invited to form a group to assist with maintenance tasks in return for an annual camp there.

Nearest school partnership – to encourage young people to assist in documenting and maintaining their local heritage.

Industry sponsor – as a community based obligation; some city based companies (galvanized iron manufacturers, Stanbroke Pastoral, RM Williams etc) might have an association with a property in their pre-merger histories; these links could be used to promote being a good corporate citizen by sponsoring works or materials for necessary

repairs. Stanbroke has restored the stone buildings at St Anne's in Nappa Merri Paddock, near the SA border. With amalgamations the bigger companies can afford to undertake some restoration just as they have appointed environmental officers to undertake Landcare activities and land rehabilitation as part of their 'whole of farm' management.

Pastoral leases – a new range of incentives has to be examined; for example, when pastoral leases expire, their renewal could be tied into heritage conservation agreements and greater consideration could be given to length and terms of lease renewals if the historic buildings and features were conserved. Water is becoming a scarce resource and access to water is therefore a bargaining tool; as part of a Landcare plan for a property or for a pastoral lease, historic heritage has to be factored in as rural homesteads were often suited in relation to water points.

Incentives are urgently needed – like the tax credits being investigated (see section 4 iii) and in long term plans for sustainability of the property, of the whole catchment and drainage basin.

5. Preferred Actions

Immediate action:

- a. The Queensland Heritage Council should continue to lobby for rural heritage issues and become the champion for redundant rural homestead complexes.
- b. In conjunction with the Cultural Heritage Branch of EPA, it should ensure integration of historic heritage considerations into the programs of EPA especially those dealing with regional and catchment management programs.
- c. In conjunction with the Cultural Heritage Branch of EPA, it should engage in awareness raising through press releases and meetings with Agforce, NFF, CWA, LGAQ, DPI and Office of Rural Communities and using regional radio and newspapers – about the plight of loved but redundant and threatened rural heritage. (Note the two different aspects of redundant and threatened).

The immediate actions can be taken by the Queensland Heritage Council and EPA without waiting for government funding on a large scale.

Medium term actions – initiated this year: Pick winners – one per each ROC – regional organisation of local government areas.

- a. EPA Cultural Heritage Branch and regional staff should arrange to survey the extent of rural heritage (using the categories of property components listed in section 2) in one local government area (preferably in central west) where the Councillors and staff will be sympathetic and helpful. This could be undertaken by a consultant with local input. Use the results of this to extrapolate the size of the statewide recording task and potential training required for partners in the total *rural heritage rescue program*.
- b. Conduct several pilot training programs for volunteers in rural areas – say for recording property components and for simple stabilisation. These might be held concurrently with museum development officer organised training for collections management programs such as care of farm machinery or with oral history recording programs.

Longer term – next year as a result of the pilot programs:

- a. Queensland Heritage Council to continue advocacy for the *rural heritage rescue program* and ensure that government funds are available for the surveys, works assistance and publicity in conjunction with partners. This will also involve working with the EPHC on their nation-wide initiatives for tax reforms and revolving funds.
- b. EPA Cultural Heritage Branch will arrange commencement of systematic surveys of rural heritage by local government areas by the best range of methods tested in the pilot survey.
- c. EPA Cultural Heritage Branch will arrange a program of hands-on conservation works to rural homesteads.

These three actions would build immediate partnerships with groups who usually see the Queensland Heritage Council as a Brisbane based body caught up in stopping city high rise development. Making the moves, even if all the suggested programs do not result, will generate interest that some group cares about this forgotten category of heritage at a time when attention will be fixed on the new Commonwealth regime with its national icons.

The medium and long term actions will not be achieved without dedicated staff time allocated. As the current EPA CHB staff are fully occupied, appointment of a project officer to oversee this initiative is essential for its implementation. This could be funded through a grant in partnership with the other interested stakeholders in rural heritage properties. The project officer would also have to ensure the marketing/public relations segments of the project are continually

implemented as part of winning ongoing support for this conservation program.

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Appendix 1: Commonwealth Register of the National Estate— Farming Places in Queensland

Legal Status	Database Number	File Number	Name	Area	Distance	Direction from	Town
Indicative Place	008645	4/01/076/0044	Leitchs Homestead				Albany Creek
Registered	009201	4/10/130/0002	Talgai East Homestead Complex		5.00	WSW	Allora
Registered	008811	4/03/180/0002	Greycliffe Homestead		15.00	NE	Banana
Registered	014739	4/02/121/0003	Kanaka Wall - Mon Repos		1.00	NE	Bargara
Registered	008810	4/03/180/0001	Kilburnie Homestead		17.00	N	Biloela
Registered	009174	4/08/222/0003	Carcory Homestead Ruins		75.00	NNE	Birdsville
Registered	017937	4/08/204/0002	Blackall Wool Scour	10.00	4.00	NNE	Blackall
Registered	008786	4/02/114/0001	Taromeo Homestead		9.00	NE	Blackbutt
Indicative Place	008920	4/05/241/0005	Mossvale Station Old Homestead				Bowen
Indicative Place	008621	4/01/076/0020	Nolans Homestead Complex				Brendale
Destroyed	008638	4/01/076/0037	Eatons Homestead				Brendale
Indicative Place	008646	4/01/076/0045	Johnsons Homestead				Brendale
Indicative Place	008609	4/01/076/0008	Wrights Homestead Complex				Brendale
Registered	009202	4/10/131/0001	Eton Vale Homestead Complex Ruins		5.00	E	Cambooya
Indicative Place	017783	4/03/209/0002	Old Peak Downs Homestead				Capella
Indicative Place	019970	4/01/071/0020	Krugers Farm	12.14			Carbrook
Indicative Place	102079	4/05/243/0035	Dotswood Station Homestead Complex	2.00	50.00	N	Charters Towers
Indicative Place	008606	4/01/076/0005	Cattle Dip				Dayboro
Indicative Place	008648	4/01/076/0047	Nugents Detacheds Kitchen				Dayboro
Indicative Place	008626	4/01/076/0025	Slab Barn				Dayboro
Registered	008737	4/02/103/0001	Eidsvold Homestead		4.00	W	Eidsvold
Indicative Place	008465	4/01/001/0135	Slab Hut Farm Complex				Enoggera Reservoir

Australian Council of National Trusts

Legal Status	Database Number	File Number	Name	Area	Distance	Direction from	Town
Registered	008829	4/03/184/0002	Gracemere Homestead		1.50	WNW	Gracemere
Registered	008594	4/01/075/0008	Franklin Vale Homestead Group		10.50	S	Grandchester
Removed from Register or IL	009162	4/08/206/0001	Kelso Homestead (former)		6.50	NW	Ilfracombe
Indicative Place	016596	4/08/206/0004	Twelve Mile Dam		20.00	S	Ilfracombe
Registered	009163	4/08/206/0002	Beaconsfield Station Sheep Wash Ruin		18.00	NNE	Ilfracombe
Registered	009258	4/10/149/0001	Jimbour Station Homestead		2.00	E	Jimbour
Registered	009222	4/10/139/0004	Jondaryan Homestead Outbuildings		4.00	S	Jondaryan
Registered	009218	4/10/139/0001	Jondaryan Woolshed	4.85	3.00	SW	Jondaryan
Indicative Place	102929	4/08/220/0006	Maxvale Station		4.00	N	Jundah
Registered	008697	4/01/087/0002	Kilcoy Station Homestead		1.00	NE	Kilcoy
Registered	008755	4/02/109/0003	Taalinga Homestead		11.00	ENE	Kumbia
Registered	008756	4/02/109/0004	Wylarah Homestead		21.00	W	Kumbia
Indicative Place	008644	4/01/076/0043	Todds Homestead				Lawnton
Removed from Register or IL	009165	4/08/208/0001	Bimbah Homestead (former)		20.00	NE	Longreach
Indicative Place	019076	4/04/233/0006	Old Richmond Mill (Ruins)		8.00	NE	Mackay
Registered	009166	4/08/208/0002	Darr River Downs Homestead		15.00	NE	Morella
Registered	009044	4/06/255/0002	Gunnawarra Homestead		30.00	S	Mount Garnet
Registered	009157	4/08/200/0001	Mount Cornish Homestead		5.00	ENE	Muttaburra
Indicative Place	014225	4/01/001/0226	Toombul Vineyards	2.10			Nudgee
Indicative Place	008629	4/01/076/0028	Murrumba Homestead Site				Petrie
Indicative Place	008622	4/01/076/0021	Slab Barn				Petrie
Indicative Place	015074	4/07/285/0004	Mud Hut Lammermoor Station				Prairie

Australian Council of National Trusts

Legal Status	Database Number	File Number	Name	Area	Distance	Direction from	Town
Registered	008835	4/03/186/0005	Glenmore Homestead Complex (former)		5.00	NNW	Rockhampton
Indicative Place	009188	4/09/163/0002	Mount Abundance Homestead		5.00	W	Roma
Indicative Place	008623	4/01/076/0022	Bradleys Slab Barn, Cow Bales and Yards				Rush Creek
Registered	008869	4/03/202/0001	Rainworth Fort		8.00	S	Springsure
Indicative Place	009281	4/10/191/0002	Hornet Bank Homestead		40.00	WSW	Taroom
Registered	100069	4/09/160/0004	Bullamon Homestead Complex		1.00	SW	Thallon
Indicative Place	102058	4/10/147/0030	Culliford Stone Wall				Toowoomba
Registered	009242	4/10/147/0006	Smithfield				Toowoomba
Indicative Place	103799	4/10/150/0028	Braeside Homestead and Outbuildings	8.00	28.00	S	Warwick
Indicative Place	103792	4/10/150/0027	First Tulburra Head Station Site	3.00	14.00	W	Warwick
Registered	009200	4/10/130/0001	Glengallan Homestead		13.00	N	Warwick
Registered	009220	4/10/139/0003	Westbrook Homestead		8.00	W	Westbrook
Indicative Place	008620	4/01/076/0019	Hydes Homestead Complex				Whiteside
Indicative Place	102004	4/01/071/0027	Laurel Hill Farmhouse				Willowvale
Indicative Place	014584	4/08/224/0004	Oondooroo Station		26.00	ENE	Winton
Registered	009178	4/08/224/0001	Elderslie Station Homestead		60.00	WNW	Winton

Appendix 2: Farming Places in Queensland Heritage Register

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Registered	008811	4/03/180/0002	Greycliffe Homestead		15.00	NE	Banana
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Indicative Place	008609	4/01/076/0008	Wrights Homestead Complex				Brendale
Registered	009202	4/10/131/0001	Eton Vale Homestead Complex Ruins		5.00	E	Cambooya
Indicative Place	017783	4/03/209/0002	Old Peak Downs Homestead				Capella
Indicative Place	019970	4/01/071/0020	Krugers Farm	12.14			Carbrook
Indicative Place	102079	4/05/243/0035	Dotswood Station Homestead Complex	2.00	50.00	N	Charters Towers
Indicative Place	008606	4/01/076/0005	Cattle Dip				Dayboro
Indicative Place	008648	4/01/076/0047	Nugents Detacheds Kitchen				Dayboro
Indicative Place	008626	4/01/076/0025	Slab Barn				Dayboro
Registered	008737	4/02/103/0001	Eidsvold Homestead		4.00	W	Eidsvold
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Registered	009258	4/10/149/0001	Jimbour Station Homestead		2.00	E	Jimbour
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Registered	009218	4/10/139/0001	Jondaryan Woolshed	4.85	3.00	SW	Jondaryan
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Registered	008755	4/02/109/0003	Taabinga Homestead		11.00	ENE	Kumbia
Registered	008756	4/02/109/0004	Wylarah Homestead		21.00	W	Kumbia
Indicative Place	008644	4/01/076/0043	Todds Homestead				Lawnton
Removed from Register or IL	009165	4/08/208/0001	Bimbah Homestead (former)		20.00	NE	Longreach
Indicative Place	019076	4/04/233/0006	Old Richmond Mill (Ruins)		8.00	NE	Mackay
Registered	009166	4/08/208/0002	Darr River Downs Homestead		15.00	NE	Morella
Registered	009044	4/06/255/0002	Gunnawarra Homestead		30.00	S	Mount Garnet
Registered	009157	4/08/200/0001	Mount Cornish Homestead		5.00	ENE	Muttaburra
Indicative Place	014225	4/01/001/0226	Toombul Vineyards	2.10			Nudgee
Indicative Place	008629	4/01/076/0028	Murrumba Homestead Site				Petrie
Indicative Place	008622	4/01/076/0021	Slab Barn				Petrie
Indicative Place	015074	4/07/285/0004	Mud Hut Lammermoor Station				Prairie

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Indicative Place	008623	4/01/076/0022	Bradleys Slab Barn, Cow Bales and Yards				Rush Creek
Registered	008869	4/03/202/0001	Rainworth Fort		8.00	S	Springsure
Indicative Place	009281	4/10/191/0002	Hornet Bank Homestead		40.00	WSW	Taroom
Registered	100069	4/09/160/0004	Bullamon Homestead Complex		1.00	SW	Thallon
Indicative Place	102058	4/10/147/0030	Culliford Stone Wall				Toowoomba
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Indicative Place	103799	4/10/150/0028	Braeside Homestead and Outbuildings	8.00	28.00	S	Warwick
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Indicative Place	008620	4/01/076/0019	Hydes Homestead Complex				Whiteside
Indicative Place	102004	4/01/071/0027	Laurel Hill Farmhouse				Willowvale
Indicative Place	014584	4/08/224/0004	Oondooroo Station		26.00	ENE	Winton
Registered	009178	4/08/224/0001	Elderslie Station Homestead		60.00	WNW	Winton

Appendix 3—European practice regarding conservation of historic rural structures

A. ENGLAND

The 1998 Monuments at Risk Survey showed that since 1945 agriculture had been the biggest cause of unrecorded loss of archaeological sites. Changes to farming practices have also led to large-scale loss of traditional countryside features like walls, hedges and ponds as well as to redundancy and dereliction of many traditional farm buildings – for example, between 1984 and 1993 one

third of English hedges were lost and one-third of dry stone walls were derelict in 1994. In 1992, 17% of listed farm buildings were 'at risk' and 24% were 'vulnerable,' and a 1997 study of unlisted field barns in the Yorkshire Dales National park showed that less than 60% were intact (Trow, 2002: 4-5).

To address economic, social and environmental needs the **England Rural Development Programme** (ERDP) has been established with 10 coordinated grant-aid measures totalling £1.6 billion between 2000 and 2006. The 10 schemes are: Countryside Stewardship, Energy Crops, Environmentally Sensitive Areas, Farm Woodland Premium, Hill Farm Allowance, Organic Farming, Processing and Marketing Grants, Rural Enterprise, Vocational Training, Woodland Grant. There are specific policies relating to landscape and the historic environment including:

- Conservation and repair of ancient monuments and landscapes at risk;
- Repair of rural historic buildings at risk, appropriate adaptive re-use of functionally redundant buildings and maintenance of the diversity of local vernacular features;
- Maintenance and repair of traditional man-made and semi-natural features such as hedgerows and dry stone walls.

There is also an emphasis on collaborative management of cultural and historic features and the values landscapes and habitats of commons as a national resource. The grants are open to those who have had management control over suitable land for 10 years – farmers, non-farming landowners and managers, voluntary bodies, local authorities and community groups. The following landscape types and features are eligible: arable farmland, chalk and limestone grassland, coastal areas, countryside around towns, field boundaries, historic features, lowland heath, new access, old meadows and pastures, old orchards, uplands, waterside land. There are also specific targets for landscape types and features in each county. (See www.defra.gov.uk/erdp for more details).

i. Agri-environment schemes provide major benefits to the historic environment through the **Environmentally Sensitive Areas** (ESAs) programme and the **Countryside Stewardship Scheme** both of which have the following:

- Farmers and landowners can enter voluntary 10 year agreements to undertake certain farming practices and capital works to maintain and enhance the rural environment;

- Agreement holders are compensated for undertaking the work by payments calculated on the basis of payments foregone (into which can be included a small incentive element, up to 20% of the total);
- Capital works are grant-aided up to a maximum of 80% of the total costs.

Under the schemes the historic environment is protected by two ways: by cross-compliance whereby all agreement holders are obliged to prevent damage to historic assets such as historic and archaeological features, and by proactive works. Cross-compliance is assessed through on-site monitoring of land-use changes (resulting from say of the Organic Farming Scheme or Hill Farm Allowance) on individual monuments recorded in baseline surveys. Results suggest that monuments are better protected on ESA agreement land than on land not under any agreement. Proactive works include reversion of arable land to permanent grassland, scrub clearance, boundary restoration and fencing for grazing management, as well as site specific measures under ESA Conservation Plans and Countryside Stewardship Scheme Special Projects which permit restoration of a wide range of individual sites, from Bronze Age barrows to World War II airfield buildings.

There are provisions in both schemes for restoration of traditional farm buildings – essentially pre World War I buildings in traditional materials. Under these provisions authentic materials must be used, with replacement on a like-for-like basis. Although grant-aid does not dictate the post-repair use of the building, the fundamental structure of the building cannot be changed.

These programs have been expanded as part of the ERDP and business data about the rural property is now included in the applications for grant-aid so that environmental actions are related to the ability to undertake management action. The environmental data including sites and monuments register information is collated and synthesised and priorities identified; for archaeological remains in need of management action, a payment is available for 'Restoring historic features in upland landscapes.' This approach has also been adopted by other agri-environmental schemes aiming for sustainable new farming while maintaining and restoring historic features – the Welsh Tir Gofal and the Scottish Rural Stewardship Scheme (Middleton, 2002: 16–18).

ii. Historic farm buildings – abandon, repair or convert?

English Heritage grant aids the repair of particularly architecturally significant structures listed as Grade I or II; ESA projects can contribute up to 80% and Countryside Stewardship Schemes up to 50% of eligible

costs to land managers undertaking restoration of traditional farm buildings.

The **Redundant Building Grant Scheme**, operated by the Regional Development Agencies, is designed to support the conversion of redundant farm buildings to business use, particularly in Rural Priority Areas. The funds can contribute up to 25% of the cost of necessary building works and can be combined with other public funding, such as the new **Rural Enterprise Scheme** (RES) a part of the ERDP. The RES can assist with the conversion of rural buildings, including historic farm buildings, to alternative business or community use. Where projects will have a minimal economic return for the applicant, funding can vary between 50% and exceptionally 100%. Where an economic return is likely, grant is paid at a rate between 30% and 50%. RES is administered on a regional basis with each region having its own priorities. Farmers considering the future of their farm buildings are eligible for the cost of a day's advice from a planning consultant in order to help them apply for a grant under the RES. It is hoped that this new flexible scheme will have a major potential for finding new uses for traditional rural buildings – as traditional farm buildings are often unsuited to the demands of modern commercial farming (Trow, 2002:24–25)

Identifying priorities:

Domestic conversions tend to be the most damaging to historic fabric and character and potentially the most intrusive in sensitive landscapes. They also tend to attract inward migration to the countryside rather than serving local communities.

What historic, social and economic criteria should be adopted in order to determine whether conservation or conversion is the most appropriate option for a building? How can the landscape contribution of individual buildings be evaluated? How important are individual farm buildings in encouraging tourists to visit particular landscapes? Because there are an estimated 1.2 million farm buildings dating from before 1914 in England and Wales, English Heritage conducted an audit through local government. Over 62% do not monitor changes to the listed resource; only 12% who have kept a Buildings At Risk register have updated it annually. The outcome shows the need for the most basic guidance on regional character and acceptable levels of adaptation with refinement at county and regional level.

There is considerable appreciation of the value of historic farm buildings among the farming community and DEFRA officials and practical advice was welcomed where it had been provided at the right time.

B. FRANCE

The Ministry for Culture only spends funds on its own buildings, the 'monuments historique'. Local authorities – and there are 36,000 mairies – can decide to protect rural villages through designation of 'secteurs sauvegardés' and then national incentives apply through a tax rebate equivalent to the amount spent which is deducted from the total tax payable. Funds come from the Ministry of Works – over the last 20 years up to 50% of the costs of toilets, insulation and heating have been eligible to encourage reuse of buildings.

The Ministry for Culture has been trying a quality approach to such works compared with the strictly technical. Artisans are generally only available for historic monuments and not for general rehabilitation in the countryside so they have published a lot of small tools to protect and help private owners undertaking works, such as guidelines for new quality designed agricultural buildings; they also fund writers of brochures about history and design features of rural towns through the *Villes et Pays d'art et d'histoire* program which was established in 1995.

(Mme Sophie Jevakhof, Ministry of Culture, 8 Rue Vivienne, Paris).

In regional parks which are similar to English national parks with stricter planning controls much restoration and rehabilitation was evident. In the *parc naturel regional du Luberon* many villages belong to the 'prettiest villages in France' designation and are thriving tourist attractions. Surrounding working farms may offer restored *gites* in old farm buildings; these are popular with hikers crossing the countryside on long distance paths.

Appendix 4—US grants, tax credits and assistance with historic places

See <http://www.cr.nps.gov/helpyou.htm>

Attachment 3 New Zealand's Heritage Protection System

Comments on New Zealand's Heritage Protection System under the Town and Country Planning Act 1977 and the Historic Places Act 1980 for the Australian National Trust

R McClean, NZHPT
23 December 2005

The basic New Zealand heritage protection framework from 1977–1991:

Historic Places Act 1980: NZHPT Powers:

- Classification of buildings having historic significance or architectural value. Classified as A, B, C, or D.
- Classification of historic areas
- Declaration of traditional sites
- Register of archaeological sites
- Protection for all pre-1900 archaeological sites (archaeological authority procedure)
- Heritage covenants
- Protection Notices (decision made by Minister on recommendation by NZHPT)

Town and Country Planning Act 1977: Local government powers:

- Special Zoning or historic character areas within district schemes
- Designations of land
- Identification and listing of property for preservation within district schemes under section 36 (generally regulated alterations, relocation, demolition, signage and subdivision).

Failings of the system

In 1988, the Government carried out a 'Historic Places Legislation Review'. The Review papers provide an insight into the failings of the

former heritage protection system under the Historic Places Act 1980 and the Town and Country Planning Act 1977. The comments below are limited to the role of listing by local governments and compensation issues.

The Review was initiated by the Government in December 1988. The Review took place within the context of general public service and legislation reforms associated with the 4th Labour Government and was associated with the larger Resource Management Law Reform process (RMLR). The key issues of the Review include protection measures and procedures, central and local government role in protection, and incentives and compensation.⁴⁴

After a process of public submissions, the Historic Places Legislation Review Working Group submitted its report to Government in June 1989. The effectiveness of the existing protection system and compensation issues were key issues with the report. With regard to protection of buildings, the report stated:

157 classified buildings have been demolished or lost since 1981, out a present total of 4347... The loss of 11 A and B buildings (1.2 per year) is reasonably small. On the other hand, 146 other classified buildings were lost, or 16 per year.

Overall, the loss was 17 per year, or 1.4 per month. This rate of loss is unacceptably high. Some of these losses have been high-profile incidents, such as the demolition of His Majesty's Theatre in Auckland. The State Insurance Building in Wellington where the Trust has withdrawn a protection notice in the face of likely compensation claims, is also likely to be demolished. These typify cases where heavy development pressures operate against preservation.

The protection notice provisions do not provide absolute protection... Section 125D empowers the Tribunal to order the Trust to acquire the land if the notice prevents its use for any purpose otherwise allowable. Section 125D is heavily weighted in favour of land ownership rights with little recognition of community values. If this balance is to be retained, and if government is serious in wishing to protect important historic properties, then it must provide adequate finance to back up the legitimate actions of the Trust.

In the present Act, private rights heavily outweigh public rights. A more appropriate balance is needed if preservation is to have a better chance. This would require a review of compensation and incentives.⁴⁵

⁴⁴ DOC, *Historic Places Legislation Review, Issues for Public Comment*, December 1988.

⁴⁵ DOC, *Report of the Historic Places Legislation Review Working Group*, June 1989, p. 7.

The Report went on to state that incentives rather than compensation was to be a key factor in achieving successful preservation.

The Planning Tribunal was also strongly in favour of compensatory provisions under both the Town and Country Planning Act 1977 and the Historic Places Act 1980. It was often stated by the Tribunal that:

Where the owner of a listed building, wishes to make major alterations or carry out demolition and can prove financial loss because of the restrictions...then the Council and/or community must compensate the owner either by the purchase of the building and/or property or in some other way must withdraw or modify the restriction in such a way as to avoid loss to the owner.⁴⁶

Or:

Where a district scheme imposes restrictions for preservation purposes, then the community must either compensate the owner or withdraw or modify the restrictions in such a way as will avoid loss to the owner.⁴⁷

The move away from a compensation-based planning and historic law as outlined in the Review Report, reflected the direction of the RMLR. As stated in Working Paper 14:

Provisions in a district scheme may expropriate certain rights of ownership and may cause detriment to the value of land but as we have seen not all injurious affection is compensatable. If no land of the owners is taken and the injurious affection is not compensatable in terms of the Public Works Act practice and philosophy, why should "bars to compensation" such as those contained in Section 126 [Town and Country Planning Act 1977] be enacted. If there are no powers to take or acquire land for planning purposes in the Town and Country Planning Act, the doctrine of injurious affection would have no chance to operate in planning sphere unless: 1. The limited circumstance prescribed in section 63 applied or 2. Land was taken for a Public Work. In both cases, entitlement would accrue under the Public Works Act and not through planning legislation.

As previously stated in my opinion Section 126 has given the doctrine of injurious affection a bad name...The doctrine of injurious affection obviously has little or no room to operate in the planning sphere.⁴⁸

On this basis, it was recommended that the 'scope for the operation of the doctrine of injurious affection in planning worsenment may be so

⁴⁶ *Consumer Co-op (Manawatu Ltd) v Palmerston North City Council*, W102/86, 1980.

⁴⁷ *B.H. Dickson and B.J. Lonergan v Wanganui City Council*, C1432, 1980.

⁴⁸ RMLR, *Compensation, An Examination of the Law*, Working Paper No. 14, MfE, Wellington, 1988, pp. 95-96.

limited that reference to it may not be warranted in planning legislation.'

The RMLR then resulted in the new Resource Management Act 1991 which provides for minimal compensation provisions, integrated local government decision making, and public participation. With regard to historic heritage provisions, the intention that the new regime would be complimented by a strong heritage incentive scheme at both central and local government level. While, the level of heritage incentives remains inadequate, the majority of local governments in New Zealand do provide some form of incentive grant scheme (the NZHPT is currently carrying out of national survey of local authority incentive schemes).

In summary to answer the three questions from Australian National Trust:

What were the failings of the heritage listing processes prior to 1993 which gave rise to the need to introduce the new and so current heritage listing processes in NZ?

The main failing was that there were strong compensatory provisions within the Town and Country Planning Act 1997. This meant that NZHPT and local governments did develop listing systems but were restricted by enforcing protective provisions such as stopping demolition. The result was that listed buildings were demolished on a regular basis. This situation did give rise on the need to introduce new heritage protection processes under the Historic Places Act 1993 and the Resource Management Act 1991.

To what extent did the pre-1993 system embroil government (especially at the local level) in disputes regarding compensation, in circumstances where private property was proposed to be heritage listed?

It appeared that the NZHPT and local governments did list historic buildings. However, compensation issues did embroil government and restricted its ability to protect and save historic buildings under threat.

If that was the old system, is that the reason why in the 1970s and 1980s New Zealand lost so much of its historic heritage?

Yes, it appears that compensation issues was one of the main reasons why so many listed historic buildings were lost during the 1970s and 1980s.

Attachment 4 Errors identified in the draft report

- Page xix – The reference to obligations on Ministers under the former Australian Heritage Commission Act is misleading as it is written. The sentence reading ‘They could not make any decisions that would threaten or endanger the heritage values of any place or item listed on the RNE.’ should be amended to add the following words to the sentence ‘unless in the opinion of the Minister there was no feasible or prudent alternative to taking such action’. As written, the sentence gives an incorrect analysis of the powers of the former AHC Act. The reference to ‘item’ should also be removed.
- Page xviii – It is incorrectly stated here that four National Trusts are statutorily based. This is incorrect. There are 6 National Trusts established by State/Territory legislation. They are the National Trusts in NSW, Queensland, Northern Territory, South Australia, Tasmania, Western Australia
- The table at p. 27 shows incorrect figures for the National Trust of Queensland. Replace the figures 24, 11 and 11 with 15, 14 and 9 respectively.

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