

**Response to the Productivity
Commission's Draft Report *Conservation
of Australia's Historic Heritage Places***

Submission by the Chairs of the Heritage Councils of Australia
and New Zealand

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Productivity Commission Inquiry Into the Conservation of Historic Heritage Places

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Introduction

This is the third submission provided to the Productivity Commission's inquiry into heritage place conservation on behalf of the Chairs of the Heritage Councils of Australia and New Zealand.¹ It specifically addresses the Commission's Draft Report entitled *Conservation of Australia's Historic Heritage Places*.²

This submission is made by the Australian and New Zealand Heritage Chairs and does not necessarily reflect the views of the Australian, State or Territory governments.

¹ In addition the Heritage Chairs and Officials of Australia and New Zealand has provided the Commission with two commissioned research studies: Allen Consulting Group 2005a, *Thoughts on the 'When' and 'How' of Government Heritage Protection*, Research Report 1, Heritage Chairs and Officials of Australia and New Zealand, Sydney; and Allen Consulting Group 2005b, *Valuing the Priceless: The Value of Historic Heritage in Australia*, Research Report 2, Heritage Chairs and Officials of Australia and New Zealand, Sydney.

² Productivity Commission 2005, *Conservation of Australia's Historic Heritage Places*, Draft Report, AusInfo, Canberra.

Chapter 1

General observations

The Heritage Chairs of Australia and New Zealand are pleased that the Productivity Commission has recognised that:

- historic heritage places are valuable and their conservation is beneficial to the community and to their owners both private and government and to future generations;
- it is appropriate and necessary that government has a role in historic heritage conservation;
- the current three tier government management arrangement is appropriate and consistent with the principle of subsidiarity;
- regulation is appropriate to manage heritage conservation;
- listing is at the core of the regulatory system; and
- it is not necessary to start afresh, only to build on the many strengths of the existing system.

These statements would be suitably identified as findings in the Commission's Final Report as they underpin the Commission's findings and recommendations.

This chapter addresses a series of broad issues that underpin the Productivity Commission's analysis of the system of heritage conservation in Australia, but that in our opinion, need clarification, rethinking and/or additional research. Subsequent chapters consider the Productivity Commission's key recommendation — the idea of a voluntary listing system achieved through individually negotiated heritage agreements.

1.1 Community support for heritage conservation

The survey of community attitudes commissioned by the Heritage Chairs and Officials of Australia and New Zealand clearly demonstrates the community's strong support for (more) heritage place conservation. This attitude is not explicitly acknowledged by the Commission (possibly because of unfounded concerns about the methodology — see section 1.2). Notwithstanding the Productivity Commission's view of the extent of the value identified, the survey outcome clearly identifies Australia's heritage, including local heritage, to be held in high esteem.

In particular, the Commission has failed to acknowledge that the public's willingness to pay for additional heritage protection through increased government expenditure is considerably higher than existing expenditure levels.³ This demonstrates that the community values increased public expenditure on heritage conservation. The Productivity Commission however, has implicitly argued for public expenditure on heritage to remain static and simply to be redirected in its focus.

³ See Allen Consulting Group 2005b, *op. cit.*

Furthermore, the survey identified that about 10 per cent of people had volunteered or made a financial contribution to heritage activities in the past 12 months. This was treated dismissively in the Draft Report, and understates the commitment that a rate of 10 per cent reflects. Indeed, volunteer rates (i.e. not including financial contributions) are below 10 per cent in the following areas:

- health;
- arts and culture;
- environmental and animal welfare;
- emergency services;
- business, professional, union;
- law, justice, political; and
- foreign and international.⁴

This suggests that the level of volunteering/support for heritage conservation is on a par with, or at least near to, these other public issues.

HCANZ Response

The Commission should acknowledge the importance that the community places upon heritage place conservation, and the community's willingness to contribute finances individually and collectively (through government) to improved heritage outcomes.

1.2 Quantifying the community's willingness to pay for heritage conservation

The Heritage Chairs and Officials of Australia and New Zealand commissioned the Allen Consulting Group to use a 'choice modelling' technique to value the public's willingness to pay for heritage conservation outcomes. This was considered the most appropriate way to quantify the value of non-use benefits from heritage places. The research approach and scope were discussed in broad terms with the Productivity Commission prior to the survey's commencement.

Although the Draft Report includes some results from the choice modelling, discussions subsequent to its release indicate that the Commission is dismissive of the choice modelling methodology and the resultant findings.

Given the Commission's avowed preference for market based instruments it is insightful to reflect upon Bennett's observations (in an environmental conservation context) about the value of choice modelling as a complement to the development of market based instruments, and scepticism about the technique's worth:

For both efficiency and cost-effectiveness to be achieved, market-based instruments need to be founded on information regarding the marginal costs and marginal benefits of supply. In most cases, the issue of estimating marginal costs is uncontroversial. Most costs relate to the use of resources for which there are markets that operate within acceptable boundaries of 'failure'. ... Economics has well established and well accepted set of tools for the estimation of these 'market' costs.

⁴ Australian Bureau of Statistics, *Voluntary Work, Australia*, cat. no. 4441.0, AusInfo, Canberra.

More problematic is the estimation of the benefits side of the ledger. Here, the goods and services involved are often not bought and sold in markets. The high transaction costs associated with their exchange preclude the formation of property rights and hence trade.

Estimating such non-marketed values is less straightforward because the information on peoples' values is not revealed directly through their actions in markets. Reliance must be placed on techniques that infer values either through indirect market revelations of values (revealed preference techniques) or through questioning people directly about their preferences (stated preference techniques) (Garrod and Willis 1999).

The revealed preference techniques ... are generally regarded as conceptually robust but are limited in the scope of values they are able to estimate. Because they rely on peoples' actions in related markets, they are not able to be used to estimate non-use values.

The stated preference techniques — such as contingent valuation and choice modelling — have been consistently challenged by both economists and non-economists on the basis of their technical capacity and ethical justification. So whilst providing the flexibility in the valuation task to address the full spectrum of value types, doubts have been expressed as to the conceptual rigour of the techniques and even if society should be trying to estimate such values.

Hence, economists have developed techniques specifically to aid in the task of providing transparent information on the relative magnitudes of marginal costs and benefits. However, frustrations remain in their application (Bennett 2003). Policy makers and their advisers remain, to a large extent, unconvinced as to the merits of using non-market valuation techniques. ...

This is despite non-market valuation techniques being subject to a level of investigation well beyond that applied to most economic — and indeed other social science — techniques. Critics of non-market valuation techniques appear to be comfortable with other social science techniques such as public opinion surveys that rely on the expression of peoples' views yet refuse to accept willingness to pay as a legitimate expression of preference. Value estimation techniques that rely on surveys of producers' and consumers' actions in markets are rarely questioned for accuracy and yet the prospect of strategic responses is real. The reliability of statistics collected from market transactions can also be called into question.

Put simply, non-market valuation techniques are subject to many of the same types of data difficulties that face market valuation techniques. However, non-market valuation techniques are called into question more frequently, are subject to more critical comment and are less accepted than are market-based techniques.

One explanation for this 'special treatment' is that policy makers and bureaucrats are unwilling to enter into a process that affords transparency in the setting of overall goals or caps for market-based instruments. To do so diminishes their prospects for enjoying the spoils associated with rent-seeking behaviour. Allowing non-market valuation exercises to demonstrate the extent of the benefits enjoyed by the public from intervention removes a degree of freedom from the decision makers' task. Similarly, vested interest groups are likely to be vocal in their criticism of any form of analysis that sheds objective light on the extent of social values because it presents the danger of a diminished level of influence on decision making.⁵

Despite Bennett's pessimism about the acceptance of choice modelling as a legitimate technique, it is close to being the *de facto* standard in consumer product analysis, and a broad range of Australian governments and their various departments and agencies also use the technique. For example:

⁵ J. Bennett 2003, 'The importance of targets and values in market-based instrument development', presented at the 6th National AARES Symposium on Market-Based Tools for Environmental Management, Canberra, 2-3 September, pp. 6-7.

- the Department of the Environment and Heritage and Land & Water Australia have explicitly acknowledged the usefulness of choice modelling as a technique to inform biodiversity policy,⁶
- CSIRO has sponsored work using discrete choice modelling to look at customer service standards after national water reform,⁷
- Victorian Environmental Assessment Council (VEAC) is in the process of undertaking a ‘Valuation of non-consumptive values associated with existing land-uses and recommended changes in land-uses ... to estimate the value that the community places on the protection of areas for their biodiversity and scenery etc.’ Clearly, these are similar issues to those that the HCANZ sought to address with respect to heritage places. VEAC notes that ‘Following a review of the literature and lengthy discussions with DSE [Department of Sustainability and the Environment], VEAC is of the view that Choice Modelling is probably the most appropriate methodology to be used in the proposed study.’⁸
- Australian Market & Social Research Society notes that ‘Matt Waugh, the manager of corporate relations at the Wollongong City Council, says the [choice modelling] technique has been very effective in helping the council understand the service/rates trade-off the community would be prepared to accept.’⁹

Furthermore, the use of choice modelling in recent analysis of historic heritage places in Australia and overseas — e.g. for Greek and Australian aboriginal heritage places — demonstrates the relevance of the technique for the Commission’s inquiry.¹⁰

Indeed, before commissioning the choice modelling research the Heritage Chairs and Officials considered previous economic valuation methodologies and were unable to identify an alternative approach that provided a value of heritage on a more holistic scale.

It would be ironic if the Commission, which is known for advancing the quality of research through the use of modelling, were to dismiss choice modelling even though it is an accepted analytical tool and the right one for inquiring into non-use benefits of heritage (and for which the Commission has itself failed to quantify through any alternative technique).

⁶ Department of the Environment and Heritage and Land & Water Australia 2005, *Making Economic Valuation Work for Biodiversity Conservation*, Canberra.

⁷ D. MacDonald, M. Barnes, J. Bennett, M. Morrison and M Young 2005, ‘Using a choice modelling approach for customer service standards in urban water’, *Journal of the American Water Resources Association*, vol. 41, no. 3, pp. 719-728.

⁸ Victorian Environmental Assessment Council 2005, *Brief — Study Into Non-Consumptive or Non-use Values of Public Land*, Melbourne.

⁹ Australian Market & Social Research Society 2003, ‘Choice modelling: the method more are choosing’, Available at <http://www.mrsa.com.au/index.cfm?a=detail&id=1160&eid=89>, Accessed 25 January 2005.

¹⁰ A. Apostolakis and S. Jaffry 2005, ‘A choice modeling application for Greek heritage attractions’, *Journal of Travel Research*, vol. 43, no. 3, pp. 309-318; J. Rolfe and J. Windle 2003, ‘Valuing the protection of Aboriginal cultural heritage sites’, *Economic Record*, vol. 79, Special Issue (June), pp. S85-S95.

HCANZ Response

The Commission should acknowledge that choice modelling is an appropriate method to seek to measure people's willingness to pay for complex outcomes such as heritage conservation.

1.3 Heritage's part in an integrated planning system

The Productivity Commission has argued that heritage listing is quite different from other planning controls. The Heritage Chairs believe this is incorrect as:

- Land use planning allows for positive externalities (e.g. tree preservation, and amenity issues such as overshadowing, privacy and aesthetics).
- Core land use planning such as height restrictions and floor space ratios also provide positive externalities to others by protecting amenity. The same duality is provided by heritage listing.
- Planning occurs at local and state levels to address issues of wider community benefit.
- Planning controls can and do impose costs. For example restrictions on development of rural lands, height restrictions and the like all forgo development profits for public good.
- Heritage conservation contributes to the rough reciprocity of benefits that the town planning system provides.

Rather, heritage is just one element of an integrated planning system that constrains development in a myriad of ways to achieve a number of ends.

Given the integrated nature of planning it is surprising that the Commission has advocated a separation between:

- planning — to deal with heritage precincts/zones; and
- conservation agreements to govern individually listed places.

A key goal of an integrated planning system is certainty (in process, substantive rules, etc), which is undermined by such a stark separation between planning and listing, which identifies heritage items and is a key heritage conservation tool.

If certainty is such an imperative then it is important to also reconsider the role of local government in an integrated planning system. The principle of subsidiarity suggests that it is appropriate for local government to have a role, but to do this effectively (i.e. to address some of the Commission's concerns about the potential for local government to act 'capriciously' and/or inconsistently) there is a need to provide:

- sufficient resources to councils such that they have more detailed knowledge about the heritage characteristics of places within the boundaries, and a sufficient range of policy instruments with which to tailor incentives to property owners; and
- sufficient guidance and support to local councils to enact consistent and robust decision making. This may take the form of training, but may also require more consistent direction from state governments.

HCANZ Response

The Commission should acknowledge that heritage protection is part of, and should remain part of, an integrated planning system and not as a separate additional regulatory regime, and that heritage conservation produces externalities akin to other environmental and amenity-related restrictions

1.4 The scale of the perceived ‘problem(s)’

Key heritage conservation issues identified in the Productivity Commission’s Draft Report focussed on problems associated with private owners of individual heritage places (particularly residences) in local government areas, and especially the:

- inequity of the requirement that private owner provide public good at own expense (i.e. the existence of cross-subsidies); and
- risk of demolition/abandonment (especially in rural areas) as a result of regulatory restraint on development.

Cross-subsidies

The Productivity Commission has been very concerned to minimise any cross-subsidies associated with heritage place conservation.

Cross-subsidies are an almost ubiquitous element of living in a community. For example, Australia has a progressive tax system, many regulatory arrangements impose actual or opportunity costs on third parties,¹¹ and so on.

The aim for governments is to be aware of such cross subsidies and to reduce them where practicable.

In this case, the ‘problem’ of cross-subsidies is exaggerated.

Firstly, the number of development applications that are refused by state and territory governments because of heritage concerns is trivial, and estimated at only 1 to 2 per cent. This low figure reinforces the view championed by heritage bodies, that adaptive reuse is an appropriate means of heritage conservation to secure a viable use and thereby sustain a heritage place. Examination of the last 5 year’s appeals to the NSW Land and Environment Court (where appeals against local government decisions are heard) identified heritage to be one of the key issues in only approximately 1.5 per cent of cases.

Secondly, the vast majority of property owners subject to heritage listing are not opposed to having their property listed. For example, where a state or territory government refuses a development application on heritage grounds only about 1 to 2 per cent of applicants appeal the decision.

Although no comprehensive data exists at local government level listing, at the state and territory level it is the result of considered research, comparative analysis and detailed consultation. Table 1.1 demonstrates the extent of owner consent in state and territory listing processes over the last three years.

¹¹ As a simple example: speed limits may restrict the ability of some people to drive at a more efficient (i.e. less costly) speed, but this is done because of both: the need to establish clear rules (i.e. it is more cost-effective for the law to set a limit than to have performance based standard), and to minimise any safety related negative externalities.

Table 1.1

STATE AND TERRITORY HERITAGE LISTING STATISTICS (2002-03 TO 2004-05)

	NSW	Vic	SA	WA	Qld	Tas	ACT
Places listed on the jurisdiction's Heritage Register	104	116	18	253	173	363	49
Places not recommended for listing	62	87	21	79	43	n.a.	1
Places provided with significant exemptions	20	22	0	0	7	98	0
Places where listing is opposed	7	12	3	83 (est.)	62	34	4
Listings appealed	1	20	0	n.a.	17	n.a.	4

Notes: At the Commonwealth level there have been no formal appeals against inclusion in the National Heritage List; Tasmanian figures are for 2003-04 to 2004-05

Reinforcing the view that the cross-subsidy is not pervasive is the observation that owners of heritage places use those places because they provide shared experiences, with both private and public benefits being generated. Presumably an owner continues to own a heritage place because the owner captures sufficient private benefits.

In part, the perceived scale of cross-subsidy is exaggerated because of the use of selective and unrepresentative examples in the Commission's Draft Report. In particular:

- statements made in some submissions appear to have been accepted uncritically and given considerable/disproportionate weight in the Draft Report; and
- the analysis of the literature regarding the potential impacts of listing is piecemeal and biased towards the evidence of negative impacts.

Given these problems, it is not surprising that the Draft Report provides a very critical view of Australia's heritage regulatory system particularly at local government level. In so doing, there is inadequate recognition of the positive effects for owners of listing as distinct from the general potential benefits of conservation.¹²

HCANZ Response

The current system of heritage conservation involves a degree of cross-subsidy by owners of heritage places to the community at large. There is no evidence that this cross-subsidy is pervasive or large. There is also insufficient recognition of the private use value of heritage in the Draft Report.

¹² See, for example: NSW Heritage Office 2004, *Heritage Listing: Benefits for Owners*, Available http://www.heritage.nsw.gov.au/docs/heritagelisting_benefits.pdf, Accessed 26 January 2005.

Demolition by neglect

In a number of instances the Commission's Draft Report asserts that regulation is the cause of significant instances of demolition by neglect (or benign neglect) when insufficient resources are devoted to the maintenance of the property.¹³

It is difficult to see what evidence the Commission has relied upon as a basis for forming this opinion given its repeated acknowledgement that it found little information on the condition and integrity of Australia's historic heritage places.¹⁴

While demolition by neglect is largely a maintenance issue rather than a regulatory issue, there can be instances when a regulatory regime can be an influencing factor in terms of maintenance work and subsequent building condition. The degree to which this is evident can be discerned from international experience in:

- the United Kingdom — research in the central conservation areas of three North Cornish towns found that:
 - listed domestic buildings were in a significantly worse general condition than non-listed buildings of a similar age; but
 - listed commercial buildings were in a similar condition to non-listed buildings of a similar age.¹⁵

The study found that levels of occupancy were a deciding factor in shaping building condition and that unoccupied listed buildings were generally found to be in a significantly worse condition than unoccupied non-listed buildings.¹⁶ It suggested that if regulation was to overly prevent alterations to listed buildings for new purposes, it may discourage adaptive reuse and eventually lead to decay and neglect. While the study found that restrictions on listed buildings can influence poor maintenance outcomes, the 'solution to improving listed building condition does not, therefore, lie with removing the restrictions' but with provision of improved incentives. It is also worth noting that the grants system run by English Heritage does not provide for maintenance works and the Value Added Tax (VAT) exemptions operate for new building works and not repair and maintenance. Both these factors create a disincentive for owners to maintain their properties.¹⁷

- New Zealand — the third national House Condition Survey indicates that the condition of older houses is improving because of improvement works:

The first survey [1994] had indicated a general deterioration with increasing ages of houses, while the next survey [1999] should a slight improvement in the condition of older houses in the Auckland and Wellington regions. This survey [2005] shows further signs of improvement resulting from renovation, this time over all regions. The average condition of the oldest group of houses is now similar to that of houses more than 50 years younger. ...

As older houses have become more popular over the past decades (as illustrated by the increase in building valuations of this group), many have been repaired, modernised, and upgraded; in

¹³ Productivity Commission 2005, op. cit., pp. 124 and 152.

¹⁴ Ibid., p. 36.

¹⁵ S. Goodhew, B. Pilkington and D. Wilkinson 2003, Has the listing of traditional, vernacular buildings been detrimental to their condition?, Royal Institution of Chartered Surveyors, UK, Available at http://www.rics.org/Builtenvironment/Buildingtypes/Historicbuildingsandancientmonuments/Listedbuildings/Listing_of_traditional_20030124.html, Accessed 24 February 2005.

¹⁶ Ibid.

¹⁷ Ibid., p. 45.

some cases to the extent that their condition becomes comparable to that of a much newer house (particularly in the interior components). These houses now more than counteract the effect of those houses that continue to deteriorate, the net result is that the average condition shows an upward movement.¹⁸

In comparison, the Australian *State of the Environment Report*¹⁹ indicates that:

- Australian listed buildings have higher rates of occupancy than in England; and
- the substantial majority of Australian listed buildings do not suffer from ‘demolition by neglect’ issues (particularly given the renovation boom that we have seen over the past decade).

Perhaps hearsay and the nature of a limited number of submissions have led to the Productivity Commission’s view that this is a major problem in the current system. In our experience demolition by neglect can be an outcome of an unwelcome listing but it is the exception rather than the norm. Data collected over 2001-2005 from a sample 22 local government areas in NSW, whilst not comprehensive, indicates that the number of listed properties destroyed was less than 1 per cent of the total number of listed properties.

The Heritage Chairs suggest that these outcomes are a direct result of regulation that promotes adaptive reuse changes and that aims to ensure continued occupancy. Conversely, where demolition by neglect issues do arise this is most likely because of economic and social factors such as downturns in the rural economy, as acknowledged by the Commission,²⁰ rather than specific regulatory controls.

Notwithstanding the fact that demolition by neglect can occasionally occur, the solution is not with deregulation. Rather, the solution is support, guidance and incentives for owners. Local government has repeatedly requested the same powers as certain state government heritage agencies to manage this problem through the introduction of minimum maintenance standards for listed heritage items. The HCANZ recognises the Productivity Commission’s reluctance to suggest additional regulation at local government level, however such cases clearly demonstrate that these owners would be unprepared to enter into a voluntary listing and these properties would probably be demolished.

HCANZ Response

There is no evidence to assert that demolition by neglect as caused by heritage listing is a substantive problem.

1.5 The level of public expenditure on heritage conservation

As the Productivity Commission correctly notes, it is difficult to precisely identify the current level of government expenditure applied to historic heritage conservation.²¹ This is demonstrated most clearly by the differing estimates identified by the Heritage Chairs and the Commission. However, it is important to articulate between expenditure on government-owned assets and specific

¹⁸ S. Clark, M. Jones and I. Page 2005, *New Zealand 2005 House Condition Survey*, Study Report No. 142, BRANZ, pp. 1 and 17.

¹⁹ J. Lennon, M. Pearson, D. Marshall, S. Sullivan, P. McConvell, W. Nicholls, and D. Johnston 2001, *Natural and Cultural Heritage*, Australia State of the Environment Report 2001 Theme Report, CSIRO Publishing on behalf of the Department of Environment and Heritage, Canberra.

²⁰ Productivity Commission 2005, op. cit., p. 184.

²¹ *Ibid.*, p. 33.

expenditure arising and monies available for the administration of the system. Inconsistencies across jurisdictions will make the latter difficult to compare.

While the Commission has been eager to identify alternative arrangements for government protection of heritage places (discussed in detail in chapters 2 and 3), the Commission has not been as forthcoming with any observations in respect to the complementary issues of:

- what level of public funding should be allocated to heritage protection; and
- from which levels of government such funding should originate.

The Heritage Chairs of Australia and New Zealand consider that heritage conservation in Australia is relatively under-funded by Australian governments. In this light, the HCANZ would welcome any specification as to the required level of government spending, and the source of that spending, required to support whatever arrangements the Commission recommends. It is recognised that the Productivity Commission may be unwilling to identify a dollar value or administrative arrangements, however, given that one of the Inquiry's key aims is to examine the current incentives, it is surprising that there are no recommendations on this subject.

HCANZ Response

The Productivity Commission needs to comment on the adequacy of the level of public funding for the existing and proposed systems of heritage conservation and identify whether this is contributing to the identified problems in the current system.

1.6 Specific issues requiring additional research by the Commission

In general terms the HCANZ is disappointed at the level of original research beyond the survey of local governments. The absence of such research, and the particular issues identified below, undermines the credibility of the Commission's 'one size fits' all voluntary agreement model (as discussed in subsequent chapters).

Historic sites and archaeological sites

On the basis of the Terms of Reference which refers to 'historic heritage places', the Draft Report states:

The inquiry should not be limited to built heritage, rather it should encompass all historic heritage places. Accordingly, the Productivity Commission inquiry focuses on the system for the conservation of historic heritage places and therefore covers:

- buildings and structures (such as bridges, cemeteries, churches, factories, houses, monuments and roads);
- physically-created places demonstrating ways of life, customs, land use or designs that are no longer practised (such as gardens and stock routes);
- physically-created landscapes with evidence related to particular activities (such as fishing areas, mining sites and sawpits); and
- other places of historic significance (such as archaeological sites, Captain Cook's landing place at Botany Bay and the Leichhardt Tree in Taroom).²²

²² Productivity Commission 2005, op. cit., p. 4.

Given this acknowledged inquiry scope, it is disappointing that the Productivity Commission's Draft Report is dominated by built heritage issues and gives inadequate attention to other types of heritage including historic sites and archaeological sites.

The analysis, findings and recommendations of the Draft Report are dominated by built heritage issues. For example, Chapter 8 discusses heritage incentives and, in particular, the proposal of purchasing heritage conservation. In this regard, the Draft Report states that 'there is clearly a range of types of heritage places and the need for government involvement to get the balance right will vary significantly between them'.²³ The Draft Report then goes on to discuss incentive issues with regard to a number of categories of heritage places being residential buildings, commercial buildings, and industrial buildings. The discussion ignores heritage places that are not buildings. In particular, it fails to consider issues relating to non-built heritage such as gardens, stock routes, historic landscapes, archaeological sites, and places of historic significance. For these places, the standard assumptions about built heritage-related benefits and costs (including regulatory costs) may not apply.

Indeed, the need for a broader focus is evident from observations from the Commission's own survey of local government. For example, highlighting the need for analysis, one New South Wales local council stated that current legislation is 'geared towards built items and offers no real management solutions for significant landscapes, trees and archaeological sites'.²⁴

HCANZ Response

As required by the inquiry's Terms of Reference, the Productivity Commission should provide some guidance as to how current heritage conservation legislation and practices can be adapted to offer enhanced management solutions for historic landscapes, trees and archaeological sites.

The Productivity Commission's Draft Report contains very little analysis of the scale of heritage-related tourism and the drivers that shape the costs and benefits associated with such tourism. This is somewhat surprising given the availability of Australian Bureau of Statistics and other data that was provided in the Heritage Chairs' second submission and the associated research reports. Cultural heritage tourism has also been identified in various national and state tourism forecasts as an emerging market.

HCANZ Response

Heritage tourism offers considerable opportunities, both in terms of contribution to national wealth and as a mechanism for increased private funding of heritage place conservation. The Productivity Commission should provide detailed analysis of the market for heritage tourism and identify any barriers to its development.

International practice

The Commission's Draft Report gives inadequate recognition of and attention to international law, trends, jurisdictions, and practice.

²³ Ibid., p. 182.

²⁴ Productivity Commission 2005, op. cit., p. 243.

The Heritage Chairs have previously highlighted the importance of the international context, stating:

Australian legislation, policy and practice has been derived and developed from international models, and the ability to further develop and improve the policy framework through understanding of the international context and practice needs to be sustained.

The Draft Report does not include a comprehensive analysis of international law in heritage conservation. In particular, the Draft Report has not fully outlined the requirements of the *Convention Concerning the Protection of the World Cultural and Natural Heritage* (the World Heritage Convention). This Convention requires each State Party, including Australia, to:

- recognise the duty of ensuring identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage (Article 4); and
- ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory.... This can include general policy, services, research, legal, scientific, technical, administrative and financial measures and training (Article 5).

The Draft Report also lacks adequate consideration of international best practice and trends. Where international practices are referred to:

- they are very brief and selective (e.g. to some documents from international sources such as the OECD, US Conservation Reserve Program (CRP) and the New Zealand Business Roundtable). Furthermore, many of these references are concerned with natural heritage preservation and have limited value in terms of historic heritage; and
- they are in some cases inaccurate. An example is the Commission's reference to the New Zealand heritage protection regime and rights to compensation for owners.²⁵ This example gives the impression that under section 198 of the *Resource Management Act 1991* owners are able to seek compensation because of restrictive of heritage regulation. This provision, however, is very limited since section 198 only applies to heritage orders. These orders are used very sparingly under the *Resource Management Act*. In fact, the New Zealand Historic Places Trust has issued only two heritage orders under this provision since 1991. Instead, the main vehicle for heritage protection is via listing and rules within district and regional plans prepared under the *Resource Management Act*. There is no provision for compensation to owners with regard to regional and district plan rules.

HCANZ Response

In order to make a fully informed judgement the Productivity Commission needs to have a better understanding of Australia's international heritage commitments and of international best practice in government administered heritage protection.

²⁵ Ibid, p. 201.

Chapter 2

Conceptual problems with the Productivity Commission's preferred approach of negotiated agreements

The Productivity Commission's Draft Report emphasises perceived negative effects of listing and regulation and, as an alternative, places an emphasis on the role of negotiated agreements. This chapter outlines some of the conceptual problems with such an approach, with the following chapter (Chapter 3) considering the practical implications of such an approach in more detail.

2.1 Equity implications

The Heritage Chairs' second submission stated that listing:

needs to remain a mandatory process (i.e. owners of properties should not be provided with discretion as to whether their property is listed). Ownership is transitory, but the permanent nature of heritage characteristics means that a degree of permanency and compulsion is required.

The permanency is required to ensure that intergenerational equity is maintained.

The concept of intergenerational equity and its importance is one well understood by the community. It is also at the heart of heritage conservation. For example, the Allen Consulting Group notes that its national survey found that 'All groups supported the need to protect heritage for 'our children' and future generations.'²⁶

However, the concept of governments' role in ensuring heritage conservation for future generations is given little acknowledgement in the Draft Report and indeed the concept is implicitly questioned.

Indeed, the Commission's support of negotiated agreements as the principal mechanism for government control of heritage conservation is inconsistent with the principle of intergenerational equity. This is a fundamental concern to the Heritage Chairs of Australia and New Zealand.

While the Commission acknowledges that reliance on market forces will provide less than optimal heritage conservation across generations,²⁷ the limited life of a negotiated heritage agreement means that such a model cannot provide sufficient or equitable protection for future generations.

Instead, the Commission places at its core the concept that equity exists when there are no (or at least minimal) cross-subsidies associated with the provision of heritage conservation (i.e. private owners should not be relied upon to support broader heritage outcomes that benefit the community more generally).

In effect, the approach advocated by the Commission would see a shift from the current equity position 'A' in Figure 2.1 to 'B' if there is no change in the level of funding available for heritage conservation (when the aim should be to move closer

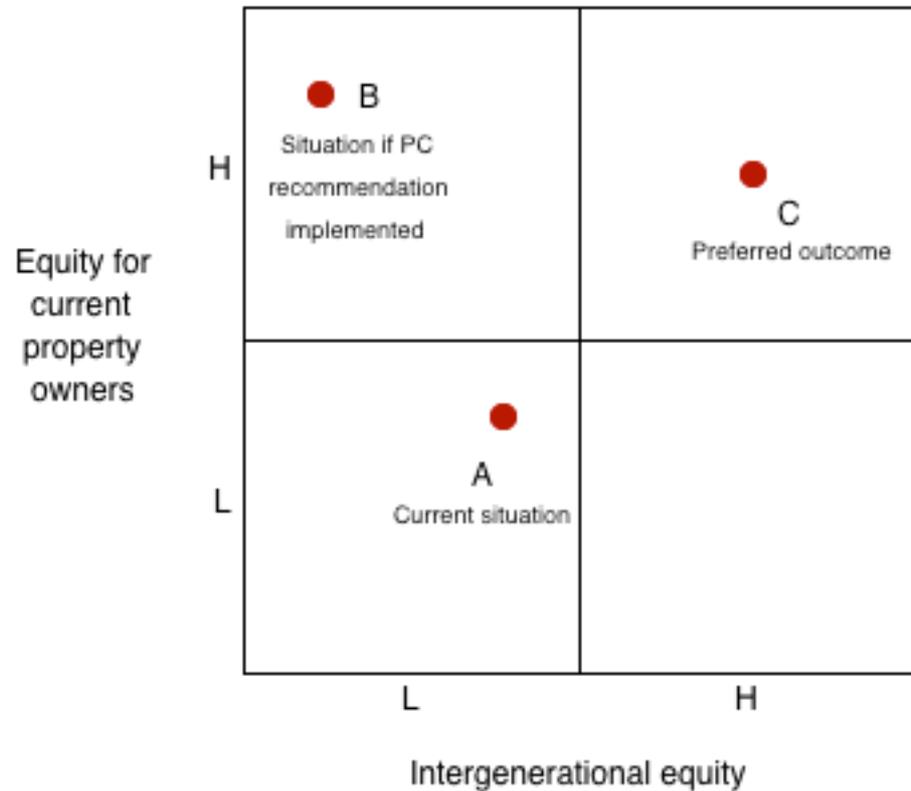
²⁶ Allen Consulting Group 2005b, op. cit. p. 41.

²⁷ Productivity Commission 2005, op. cit., p. 117.

to C). That is, the Commission’s approach seeks to enhance equitable outcomes for existing property owners at the expense of future generations. This is inconsistent with the fundamental rationale of heritage place protection.

Figure 2.1

THE TRADEOFF BETWEEN PRESENT AND FUTURE EQUITY OUTCOMES



HCANZ Response

Inconsistent with all heritage place frameworks, the Productivity Commission places financial equity of existing property owners significantly above the conservation of historic heritage places for future generations (i.e. intergenerational equity) and the current community.

2.2 Efficiency implications

The Productivity Commission advocates a shift to the use of negotiated agreements rather than listing.

In recommending this change the Commission specifically refers to the work by Ronald Coase (i.e. what has become known as the ‘Coase theorem’).²⁸

While there is no single specific statement of the Coase theorem, a general statement is that: provided that property rights are allocated, a fully informed rational agent involved in an inefficient situation will ensure through negotiation

²⁸ R. Coase 1960, ‘The problem of social cost’, *Journal of Law and Economics*, vol. 3, no. 1, pp. 1-40.

that there are no unexploited gains from trade and hence an efficient outcome is obtained. In its strongest formulation, the Coase theorem is interpreted as guaranteeing an efficient outcome regardless of the way in which property rights are assigned and whenever the potential mutual gains exceed the necessary bargaining costs. In effect, bargaining must be efficient.

The Coase theorem is fine as an abstract concept but tends to break down under real world conditions:

Private negotiations can be expected in some cases to deal efficiently with these apparent market failures, as described by Coase (1960). But the conditions for the Coase Theorem — complete assignment of property rights and negligible transactions costs — often are not satisfied. The activities creating the negative externalities often are located far away geographically from the parks. In many cases, the number of economic agents involved in those activities is large enough to make transaction costs non-negligible. If private negotiations cannot be expected to internalize the negative externalities, then government intervention is justified.²⁹

The major problem³⁰ with adopting the Coasian framework in this instance is the scale of the transaction costs involved. If the recommendations of the Draft Report were implemented, experience tells us that a large amount of resources would be tied up negotiating a small number of agreements and we would suspect that many negotiations for agreements would not be successful. For example, in Western Australia:

- only 55 Heritage Agreements have been signed in the 15 years of the Heritage Act; and
- only two agreements have been signed at the local government level (i.e. for Town Planning Schemes) in the past 10 years.

The more significant the transaction costs the less likely it is that bargains will be struck, and the less likely that the outcome will be efficient. This would channel existing monies or require considerable existing monies into the front end of the conservation process (identification), rather than on achieving conservation outcomes. Experience suggests that the costs of such agreements would be considerable.

The second problem is one of knowledge. The Commission suggests that people clearly know whether their property is or is not worthy of heritage protection, and that they can get a heritage assessment prior to purchase. This ignores:

- the lack of comprehensive baseline assessment of all the heritage characteristics of all places;
- the fact that a heritage assessment is rarely undertaken as a pre-purchase task; and
- in any case, a heritage assessment is not done as easily as a structural property inspection.

²⁹ R. Turner 2002, 'Market failures and the rationale for national parks', *Journal of Economic Education*, Fall, pp. 347-356, p. 353.

³⁰ For some critiques of the universal application of the Coase theorem see: D. Usher 1998, 'The Coase theorem is tautological, incoherent or wrong', *Economics Letters*, vol. 61 pp. 3-11; and R. Cooter 1982, 'The cost of Coase', *Journal of Legal Studies*, vol. 11, pp. 1-33.

Given that the two critical assumptions of the Coase theorem are not satisfied (i.e. sufficiently informed bargainers and low transaction costs) it is not proper to assume that any allocation of property rights is appropriate to achieve an efficient outcome. Thus it is necessary to see who should have control of development rights associated with heritage properties. In this case the issue may best be described in terms of risks — is the community-wide risk greater by:

- giving the owner of a heritage place complete control and risk losing some or all of a property's heritage characteristics; or
- giving the public some rights (i.e. controls on development) and risk losing some personally beneficial private development?

Where there is uncertainty over the extent of the costs and benefits of an activity (i.e. the degree to which the risk of inefficient outcomes is significant), it can be argued that a policy decision should have the goal of minimising public risk (i.e. that heritage characteristics will be lost) over industry risk (i.e. reduced profits due to developmental controls).³¹

This suggests that, on efficiency grounds, there is a reason to err towards tightening obligations on owners to ensure that the broader heritage benefits are captured. This suggests that the Commission's approach of negotiated agreements, which increases the public risk, is unlikely to be efficiency maximising.

HCANZ Response

While negotiated agreements are likely to be suitable complementary policy instruments, the existence of significant transaction costs and information asymmetries suggests that sole reliance on bargained outcomes is likely to be inefficient as the mechanism for heritage protection and impractical.

2.3 Effectiveness implications

General effectiveness concerns

The more significant issue arising from the Productivity Commission's suggested approach is the resultant scale of heritage place conservation.

Implicit in the Commission's Draft Report is that the scale of heritage protection (i.e. the number of places protected) is excessive and the system should be wound back by placing a financial cost on government and reducing cross-subsidies.

While the Allen Consulting Group survey indicates that the community is willing to pay for enhanced heritage conservation outcomes, the Commission:

- appears to believe that governments will not be willing to pay on the community's behalf; and
- knows that the transaction costs arising from the negotiated agreement mean that individuals cannot easily individually pay and protect heritage in a systematic way.

³¹ K. Shrader-Frechette 1998, 'Uncertainty and the producer strategy: The case for minimizing Type II errors in rational risk evaluation', in *A Reader on Regulation*, eds R. Baldwin, C. Scott and C. Hood, Oxford University Press, Oxford, pp. 270-87.

If there is not a substantial increase in public funding associated with the introduction of the Productivity Commission's bargaining model then the conservation of the number and range of heritage places will be dramatically curtailed (see section 3.1).

A particular concern with an emphasis on conservation agreements is that the analysis assumes that such agreements will operate in the context of built heritage as they do for natural heritage. Conservation agreements are more likely to be effective in a natural environment context than a built environment context because built heritage:

- usually has non-heritage use benefits in addition to the heritage benefits. Therefore it is more clear cut if the conservation agreement is likely to be needed (i.e. land may have no other economic use and so be attractive to an agreement, but it is less certain for built heritage); and
- is likely to be more unique than natural heritage, which creates potential problems from a bargaining/valuation perspective.

In addition the natural heritage covenants, which have provided the Productivity Commission's model, do not replace regulatory controls, but rather are an adjunct to such controls which are integrated into the planning system. Existing models for such heritage agreements or covenants also come with incentives to encourage an owner to enter into such an agreement. Such a system would be reliant therefore on the introduction of significant incentives to be effective.

The effectiveness of the Productivity Commission's preferred model is further questionable in that the Commission's Draft Report does not fully acknowledge the limited alternatives for governments if owners refused to negotiate an agreement:

- one option suggested is that agencies could seek the 'availability of other properties offering similar characteristics'³² — this comment ignores the uniqueness and individuality of many heritage places such as a landmark Town Hall (as opposed to places within a historic area or precinct) and that somehow another similar place in the same area may be found. In addition heritage studies already include some comparative information to ensure that the most worthy properties are listed; and
- the other option is that negotiated agreements are restricted to only certain parts of the property in an attempt to gain agreement with the owners. For example, the Commission noted that certain parts of a property could be excluded such as 'developments at the rear of the property'³³ — these provisions could undermine an overall and holistic management of a property which provides for the assessment of all development activities (including the construction of new structures and subdivision) to ensure heritage values are not compromised, including values relating to setting or curtilage of the property.

It would be likely that many owners, as the Commission suggests,³⁴ would 'walk away' from the negotiations and the range of alternative options being purchase or

³² Productivity Commission 2005, op. cit., p. 200.

³³ Ibid., p. 197.

³⁴ Ibid., p. 200.

compulsory acquisition would be unavailable to governments due to financial constraints.³⁵ The result would be the loss of integrity and comprehensiveness of State, Territory and local government lists as properties are removed or not added due to a reliance on the need for successful agreement negotiations.

Overseas experience

Globally, the listing of heritage sites, places and areas within national, state, or local government plans is the most common method of heritage protection. For example, throughout Europe every country has a listing system, which protects a large number of heritage sites, places, and areas. These listing systems are of three main types:

- centralised — regulatory system run by a national heritage body in which the local authority has no role in the process;
- shared responsibility — regulatory system that involves both central and local government decision-making; and
- local responsibility — regulatory system run by local government with some input and advice from central government.

The Heritage Chairs of Australia and New Zealand have been unable to identify any national heritage protection regime that is totally reliant on individual agreements with owners without a listing regulatory regime. Importantly, there appears to be no international models in existence where individual owner agreements alone have been able to achieve positive heritage protection outcomes. Thus, the approach suggested by the Commission would see Australian heritage conservation sailing into uncharted waters or returning to the well-worn path of the pre legislation era, which makes the effectiveness of the preferred model untested on a sustained large scale.

However, the effectiveness of the Commission's preferred approach can best be discerned by consideration of a similar compulsory acquisition and compensation model that previously existed in New Zealand.

Under the former *Town and Country Planning Act 1977*, there was the ability for local governments to identify and list property for preservation. However, the effectiveness of heritage protection under the Town and Country Planning Act was limited by compensation claims as section 67 of the Act provided that an unreasonable refusal for consent could be subject to a compensation claim. Also under section 126 of the Act, potential compensation claims could include:

The owner of a property listed for preservation under the district scheme, where the listing prevents the owner altering the use to another use permitted in the zone for other properties which are not listed.

A claim by the owner of a building listed for preservation for loss following refusal to allow alterations or additions which would not detract from the amenities of the neighbourhood.³⁶

This resulted in a situation where many local governments did list historic properties for preservation, but would rarely decline consent for activities such as demolition. This regime was tested during the 'building boom' of the 1980s when

³⁵ This is particularly the case for local government because of its relatively more limited tax base from which it could fund the required increase in expenditure on the conservation of historic heritage places.

³⁶ K. Palmer 1984, *Planning and Development Law in New Zealand*, Vol II, Law Book Company, p. 743.

many listed heritage buildings were demolished and there was widespread public outcry and dissatisfaction. This outcry contributed towards the development of new legislation for heritage in the form of the *Historic Places Act 1993* and the *Resource Management Act 1991*.

Now under the *Resource Management Act 1991*, local governments can enforce district plan provisions for protection of historic heritage without fear of compensation claims and this regulation has meant that demolition of listed heritage places is now rare.

The New Zealand experience (see Box 2.1, next page) indicates that regulatory protection should not be compromised by strong compensatory provisions. Instead, regulation should be supported by proactive incentive schemes. While agreements can be useful tools, they should not be treated as ‘the tool’ or the ‘only tool in the tool box’ of heritage protection measures and incentives. Agreements are no substitute to regulation via listing by the State, Territory or local governments.

By restricting this list to another list of negotiated agreements, the list becomes limited to properties, which have ‘friendly owners’ and the integrity of the list is undermined. The robustness of the list is compromised as criteria for listing changes from one of heritage significance to ‘agreeable owners’.

The State, Territory or local government list selection must be based on good practice guidelines and criteria which ensure the range of heritage places and areas are identified and protected. This listing system is based on international best practice and principles that include public transparency and provision for public input. As heritage values reflect public values about what is ‘significant and important’, public input is critical and necessary. By providing for public input and the views of agencies and the owners, State, Territory and local governments can consider the full range of issues and factors when listing heritage places and areas.

If individual negotiated agreements were to replace listing as the primary regulatory tool, the public and other affected parties would be effectively excluded from both the negotiation process and the outcomes. It is critical that as historic heritage is a ‘public good’, the interest and participation of the ‘public’ are retained and enhanced in any protective measures.

HCANZ Response

Under a voluntary negotiation model the level of heritage conservation can be expected to decline considerably, counter to the majority of the community’s wishes.

Box 2.1

NEW ZEALAND EXPERIENCE WITH NEGOTIATED HERITAGE AGREEMENTS

In New Zealand (NZ) negotiated agreements between the New Zealand Historic Places Trust Pouhere Taonga (NZHPT) and property owners are known as heritage covenants. Heritage covenants, as provided for under section 6 of the *Historic Places Act 1993*, are an agreement between the NZHPT and property owners concerning the future care and management of a property. Covenants are restrictive contracts that provide a greater level of protection than is generally available by listing within a local government district or regional plan. The covenants do sometimes outline the form of assistance the NZHPT may offer to a property owner such as assistance with repairs and maintenance. They do not explicitly state sums of funding assistance available.

There are currently 86 heritage covenants in NZ covering a wide range of historic heritage including: buildings, archaeological sites, a hydro village, rock art site, kiln, and factory complex.

Generally, most places subject to a heritage covenant are also registered under the *Historic Places Act* and protected by listing within a local government district plan under the *Resource Management Act 1991*. The existence of a heritage covenant on a heritage property does not alter any registration status or processes under the *Historic Places Act* or any listing processes and protection under the *Resource Management Act*.

The NZHPT experience with heritage covenants finds that negotiated agreements are a positive form of heritage protection and conservation. However, a range of factors can hinder the effectiveness of negotiated agreements:

- Generally support by owners for covenants is not widespread. Some owners see them an unwanted interference into the management of a property and wish generally to be 'left alone'. It is also the case that many owners do not apply for grant incentive assistance for similar reasons.
- Despite generally little support for agreements, many owners are familiar with local government listing processes and the owners often expect that a listed or registered property is protected via listing. In addition, the majority of proposed listings of historic properties within local government district plans are not opposed by owners and often actively supported in order to obtain access to rates relief and incentives.
- The process of preparing and negotiating an agreement can be expensive and time consuming. In addition, as owners change, attempts at renegotiation of existing agreements can be time consuming and protracted.
- It is difficult to fix assistance or incentive mechanisms within agreements. Generally an agency cannot promise the delivery of future funding assistance beyond that of the existing annual year subject to funding availability and budget constraints. If such provisions or promises are made within covenants, agencies may be faced with extensive and costly liabilities in the future.
- At the time of agreement negotiations, owners often do not have defined and detailed plans for future repair and maintenance work or this work cannot be anticipated. As result, it is often more practical for the onus to remain with individual property owners to seek financial incentives via the normal grant channels and processes on a case by case basis.
- Issues of building condition and neglect may not be solved by agreements. Some buildings that are the subject of agreements can be in a decayed or deteriorated state. This is because actual repair and maintenance work still requires the proactive and supportive action of the individual owner. An agency such as the NZHPT can only offer incentive support to any owner, but it still requires the owner of any property to take up offers for support and to undertake or at least allow repair and maintenance work. As part of the NZHPT Heritage Covenant Review, it was stated:

'The heritage covenant does not give immunity for the most common problem encountered in the preservation of heritage buildings generally — continuing viability. If use is not made of a covenanted property, it can still become subject to demolition by neglect if it is not rigorously monitored and supported. This in turn can place a great deal of pressure on the Trust. There is a substantial loss of face likely to be associated with the removal of a heritage covenant to enable the heritage values of a place to be diminished or destroyed, as this mechanism is supposed to protect those values in perpetuity.'
- Monitoring of agreements can be costly and time consuming and any breaches of agreements can be difficult to enforce.

Source: New Zealand Historic Places Trust Pouhere Taonga 2000, *Heritage Covenant Review*, September

Chapter 3

Specific consequences of the Commission's recommended approach

There are two scenarios that would follow if the Productivity Commission's recommendations were adopted, depending on the level of financial support provided by governments for heritage conservation.

3.1 Implications with no increase in government expenditure

If there is no increase in public expenditure on heritage conservation the consequences of the Productivity Commission's recommendations will be:

- no (or limited) new listing — with no new resources there will be little scope for listing agreements to be formed;
- loss of existing listing/protection (as agreements are renegotiated);
- no improvement in the level of information available to the market — while far from perfect, listing signals which places have particularly important heritage characteristics that may be worth conserving;
- no harnessing of economic development — the decline in heritage conservation will undermine some tourist developments that rely on the positive externalities associated with heritage conservation in precincts and broader regions;
- uncertainty of investment — because voluntary agreements may be limited in duration there is a real risk that heritage conservation agreements cannot put in place a certain long-term management programme with associated planned investment, and governments would be unwilling to provide incentives.

The community's view of heritage is such that the proposed system would not prevent ongoing community pressure on government and owners to conserve places where a negotiated agreement was not achieved. This leaves owners and the development sector in an ongoing state of uncertainty.

3.2 Implications with an adequate increase in government expenditure

If there is a substantial increase in government funding for heritage conservation and the Productivity Commission's recommendations are adopted then there will be significant number of negotiations undertaken with owners of places with heritage values.

This negotiation-based approach to heritage conservation will incur significant transaction costs, including:

- legal costs for governments and the property owners — experience with current negotiation processes suggests that such legal costs alone could, on average, equal about \$5000 for each party (i.e. a total of \$10 000);
- costs for specialist heritage reports, which will vary dramatically with the complexity of each place's heritage characteristics; and

- costs associated with government officers' time — while this may generally be in the order of \$5000, more complex heritage issues may result in significantly higher costs.

The transaction costs are a dead-weight cost to society in that they provide no added benefit to heritage outcomes, instead only propping up a larger public bureaucracy and a specialised legal and supporting consulting industry.

In addition to the transaction costs there will also be costs associated with the actual payment provided to the owner of the property. Such costs have the potential to dwarf the transaction costs.

The biggest cost driver, however, is likely to be that such negotiations will not be one-off exercises. They may have to be undertaken each time a property is transferred, and when agreements lapse or when large developments are negotiated.

There are a number of information related problems that will also arise in this bargaining environment:

- with greater resources committed by government to supporting heritage through such negotiated agreements there is an increased risk of a 'moral hazard' occurring. That is, the government representatives in the bargaining process may have difficulty determining the degree to which the owner has a private benefit that is sufficient, without government support, to maintain the heritage values associated with the place (i.e. there is a real risk that bluffing may become common in order to extract payment from governments); and
- there is the potential inequity in bargaining if there is inadequate information about the heritage value of particular places. That is, people unaccustomed to bargaining with government may be placed in a less remunerative position than others.

The voluntary negotiated agreement therefore does not guarantee an improvement in the system, regardless of whether sufficient funds were provided to implement it. It is the view of the HCANZ that it would have severely detrimental impact as described above. Given the Commission has found listing to be an appropriate central tool of the heritage management system, it is therefore surprising that the principle recommendation is to make listing a voluntary process.

Chapter 4

Summary and comments on the draft findings and recommendations

4.1 General summary

The Heritage Chairs of Australia and New Zealand are very disappointed in the lack of rigorous research and absence of sound data leading to many of the findings and recommendations of the Productivity Commission's Draft Report on Australia's system of heritage place protection.

The Productivity Commission's suggested approach (i.e. reliance on conservation agreements and compensatory policy instruments) is extreme, and neither promotes efficiency (i.e. transaction costs will be overwhelming and more than transitional), effectiveness (i.e. there will be reduced heritage outcomes) nor equity (unjustifiably puts the interests of a small group of existing property owners above the community more generally, and specifically future generations).

The one-size-fits-all approach suggested by the Productivity Commission is not justified on its own evidence (i.e. there are classes of heritage places for which broad rules are more effective than individual negotiations).

In reaching its conclusion the Commission has failed to appreciate that Australia has 'flexible' listing heritage regulations³⁷ which allow for adaptive reuse solutions and appropriate changes to heritage properties, and so means the property rights of owners are not overly restricted or compromised by listing regulation. In fact, most listing regimes ensure that decisions on approvals consider the effect of a refusal in terms of its impact on the reasonable or economic use of a place, or whether undue financial hardship would be caused to the owner.

Furthermore, the Commission has failed to adequately recognise that government heritage agencies currently provide a suite of services as additional incentives (e.g. low interest loans and grants), but this is limited because of financial constraints. The Heritage Chairs acknowledge the overly strong reliance on listing as a regulatory mechanism, but stress that the key to a more efficient regulatory regime is the use of a more balanced set of policy instruments that necessarily involve considerably more public funding as argued previously.

Unfortunately, the conclusions reached by the Commission have failed to meet the standards expected for evidence-based analysis and instead appear to have been built upon a misapplication of natural environment policy and simplistic economic theory. Furthermore, in failing to tackle the issue of the required level of funding the Commission has sidestepped the biggest question mark over its own preferred model for government involvement to protect heritage places.

If the Productivity Commission intends to proceed with a voluntary listing model then the Heritage Chairs suggest that the final report must include a detailed cost benefit assessment of the arrangements sufficient for inclusion in a regulatory

³⁷ For a review of the Australian heritage protection system from an English perspective see *Context: Institute of Historic Building Conservation Journal*, vol. 87, November 2004.

impact statement, and such an assessment must show a net benefit for current and future generations.

To prepare such a cost benefit assessment, the Heritage Chairs of Australia and New Zealand suggest that the following findings be acknowledged and actioned by the Productivity Commission as it prepares its final inquiry report.

- The Commission should acknowledge the importance that the community places upon heritage place conservation, and the community's willingness to contribute financially (through government) to improved heritage outcomes.
- The Commission should acknowledge that choice modelling is an appropriate method to seek to measure people's willingness to pay for complex outcomes such as heritage conservation.
- Heritage conservation should be seen as part of an integrated land-use planning system rather than a separate additional development regime.
- The current system of heritage conservation involves a degree of cross-subsidy by owners of heritage places to the community at large. There is no evidence that this cross-subsidy is pervasive or large.
- There is no evidence to assert that demolition by neglect as caused by heritage listing is a substantive problem.
- The Productivity Commission has failed to address the issue of the level and adequacy of public funding for the existing and proposed systems of heritage conservation.
- As required by the inquiry's Terms of Reference, the Productivity Commission should provide some guidance as to how current heritage conservation legislation and practices can be adapted to offer enhanced management solutions for historic landscapes, trees and archaeological sites.
- Heritage tourism is an area of considerable interest and opportunity, particularly as it is a mechanism for increased private funding of heritage place conservation. The Productivity Commission should provide detailed analysis of the market for heritage tourism and identify any barriers to its development.
- In order to make a fully informed judgement the Productivity Commission needs to have a better understanding of Australia's international heritage commitments and international heritage place best practice.
- Inconsistent with all heritage place frameworks, the Productivity Commission places financial equity of existing property owners significantly above the conservation of historic heritage places for future generations (i.e. intergenerational equity).
- While negotiated agreements are likely to be suitable complementary policy instruments, the existence of significant transaction costs and information asymmetries suggests that sole reliance on bargained outcomes is likely to be an inefficient protection mechanism.
- Under a voluntary negotiation model the level of heritage conservation can be expected to decline considerably, counter to the majority of the community's wishes.

Furthermore, the Heritage Chairs reiterate the recommendations provided in the earlier submission as requiring reconsideration by the Commission:

1. The National Heritage Framework should be reinvigorated and agreed by the Environment Protection and Heritage Council. The approach needs to be developed and supported by all levels of government, with the Australian Government providing leadership and support.
2. The National Heritage Framework should include a number of specific policy agreements encompassing issues such as (but not excluded to):
 - agreed roles and responsibilities between the Australian Government and State and Territory Governments on policy issues;
 - nationally agreed listing criteria and thresholds for all three levels of government;
 - national guidelines for the conservation, development and management of heritage places;
 - the framework for the collection of data and the development of reliable estimates of the economic impact of heritage tourism activities, at both national and regional levels;
 - the establishment of nationally agreed measures for state of environment reporting on historic heritage that can be used by all levels of government and resources to monitor these measures; and
 - a comprehensive and sustainable incentives program across all jurisdictions in accordance with the recommendation in *Making Heritage Happen*.
3. *State of the Environment Reports* should be confirmed as the key ongoing performance monitoring mechanism for the conservation of historic heritage places, with appropriate financial support provided to match their status to facilitate this by all levels of government.
4. Recommendations identified in the National Tourism and Heritage Taskforce's *Going Places: Developing Natural and Cultural Heritage Tourism in Australia* should be advanced without further delay through the Environment Protection and Heritage Council and the Heritage Chairs and Officials of Australia and New Zealand.
5. A sustainable and comprehensive historic heritage incentives programme, in accordance with the recommendations and potential actions identified in the National Incentives Taskforce's *Making Heritage Happen: Incentives and Policy Tools for Conserving Our Historic Heritage*³⁸ should be advanced without further delay through the Environment Protection and Heritage Council and the Heritage Chairs and Officials of Australia and New Zealand.
6. The National Tourism and Heritage Taskforce should investigate the findings of the research, commissioned by the Heritage Chairs and Officials of Australia and New Zealand, which indicates that the relationship between cultural heritage and tourism is not well recognised in the public realm and develop an action plan to address this finding.

³⁸ National Incentives Taskforce 2004, *Making Heritage Happen: Incentives and Policy Tools for Conserving Our Historic Heritage*, Environment Protection and Heritage Council, Adelaide.

4.2 Specific responses to the Commission's draft findings and recommendations

Data collection

Draft finding 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.

Comment:

- HCANZ have argued there is little centrally coordinated statistical data on the number and condition of historic heritage in Australia. This is agreed and has long been recognised. Funding schemes, however, are well articulated.
- Data on government expenditure on assets is variable but sometimes difficult to articulate where 'heritage conservation' expenditure starts and general maintenance of government infrastructure stops (see DF 7.4).

Draft recommendation 3.1

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.

Comment:

- HCANZ agree, although it is not clear what the Productivity Commission means by this specifically.
- HCANZ have argued previously for the establishment and funding of practical systems for establishing credible State of the Environment reporting and ongoing data collection; national leadership is needed to achieve this.

Register of the National Estate

Draft recommendation 7.1

The Australian Government should phase out the Register of the National Estate for historic heritage purposes, beginning with the closure of the Register to any new nominations.

Comment:

- HCANZ agree, but the idea of a comprehensive data base of heritage places managed by the Department of the Environment and Heritage remains a useful concept modelled on, for example, the Canadian Heritage Places Initiative.

Draft recommendation 7.2

State and Territory governments should remove any reference to the Register of the National Estate from their planning and heritage legislation and regulations.

Comment:

- HCANZ agree, see 7.1 above.

The National Trust

Draft recommendation 7.3

Those State governments that have specific legislation governing the operations of the National Trust should repeal such legislation.

No comment

Government management and expenditure on government owned assets

Draft finding 4.2

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

Comment:

- Agreed

Draft finding 4.3

The level of assistance provided to non-government owners of historic heritage places varies considerably between States and Territories. The level of expenditure on government-owned heritage places is difficult to calculate since no jurisdiction requires explicit budgetary recognition of such expenditure.

Comment:

- Agree. Funding is variable between states, as is the case with all government expenditure due to variations in population and government priorities.
- Finding needs to recognise that maintenance of assets may be required regardless of whether a place is a heritage item (see DF 7.4).

Draft finding 7.3

The current arrangements for (i) agreed management plans and (ii) heritage protection on the sale of property provide a sound basis for the conservation of Australian Government-owned heritage properties. However, clearly identifying expenditure on conservation would improve accountability and provide more incentives for government agencies to better conserve listed heritage places.

Comment:

- Agree that management plans are a useful tool to ensure that Australian Government properties are appropriately managed and their significance identified in the event of sale.
- See DR 7.4 below.

Draft finding 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.

Comment:

- The concept of whole-of-government heritage management is enshrined at the national level in the relevant provisions of the *Environment Protection and Biodiversity Conservation Act 1999* and the concept has been pursued in various ways by the States. For example, NSW has recently established a comprehensive system for managing state assets which could provide a useful model. The Productivity Commission should recognise this system.
- The Productivity Commission needs to recognise that many heritage assets are part of infrastructure and therefore do not have additional requirements by virtue of being a heritage asset.
- This would not produce comparable assessment data due to differing levels of resources, variations in accounting systems and varying interpretations as to what constitutes a heritage-related cost.
- See DR 7.4 below.

Draft recommendation 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.

Comment:

- HCANZ do not support this recommendation.
- The Productivity Commission may be suggesting here that a cost benefit analysis should be completed before expenditure on a heritage asset. A cost benefit system would be welcomed by HCANZ. However, the Productivity Commission has not been able to identify such a system that is recognised as credible. Therefore owners of heritage places, including governments, should not be expected to attempt this on a case by case basis.

Draft recommendation 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.*

Comment:

- HCANZ partially support this recommendation.
- Certain government jurisdictions have systems in place that require Conservation Management Plans where that is appropriate. It is idealistic and impractical to require this in all cases and where this is unnecessary the monies could be better directed to the place's care. The Productivity Commission should recognise the existing system.
- See DR 7.4 above.

Interface between heritage and planning

Draft finding 4.1

The listing of properties onto a State or Territory Heritage Register results in the relevant Heritage Council becoming the de facto planning authority. This differs significantly from the approach to non-heritage places where the local council is generally the planning authority. This can result in the need for dual approvals for any proposed development.

Comment:

- This is incorrect for all States. Heritage Councils are not a planning authority but rather governments' expert bodies on heritage matters — one of the considerations in planning.
- State governments are involved in planning of state significant development and assist in setting strategic planning frameworks for regional development. In NSW, for example, state significant approvals are integrated to ensure the relevant government expert agency is checking local government implementation.

Draft finding 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.

Comment:

- There is no evidence to suggest that heritage represents a disproportionately high level of inconsistency when measured against other planning matters (see Section 1.4).
- Agree additional guidance could be provided and this has been recognised by HCANZ who have committed to providing improved policy on this matter.
- However, many heritage areas are much better served with guidance than are non-heritage areas.
- Training for local government would also be of assistance.

Draft finding 5.6

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

Comment:

- Agree. Additional resources are needed to allow State heritage agencies to lead and support local government at a strategic level. There is a role at the national level in the development of nation-wide policy.

Draft finding 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, consistent with the principle

of subsidiarity, aligns the scale of heritage significance with its level of government decision-making.

Comment:

- Agree. However, the three-tier heritage system could be strengthened by an overarching and agreed integrated national heritage policy. This would provide coordinated leadership between all three tiers of government and improve the nature and focus of support provided.
- This finding is inconsistent with recommendations 9.7 and 9.8 that suggest that States should not deal with development matters of state significance.

Draft finding 7.8

At the local government level, the management of heritage conservation under local planning schemes is not working well, primarily because of:

- *the imposition of unclear and uncertain restrictions on property owners;*
- *the failure to prepare a statement of significance for each place listed on a local list;*
- *inconsistent use and interpretation of heritage controls; and*
- *the application of heritage controls to places that have little, if any, heritage significance in order to achieve other planning objectives.*

Comment:

- In general, local government heritage management is variable and is not working ideally in all jurisdictions but is far from ‘broken’ — in some areas it is working well.
- The planning system in most states is rigorous and there is public review built into almost all systems. The disputes are few in comparison to the number of listings made.
- Agree that the lack of comprehensive authoritative guidelines is problematic in some local council areas, but others have very good guidance and consistent administration and it works well. Comprehensive guidance from a national and state policy level would improve this.
- Some jurisdictions do require statements of significance.
- As councils change it is true there are, in some instances, inconsistent approaches over time as with any planning decisions.
- Use of heritage controls to deal with amenity issues is in some cases problematic but not the norm. Better guidelines, statements of significance, complete heritage lists and consistent implementation of guidelines would improve consistency and reduce subjectivity.

Draft recommendation 9.7

State and Territory governments should modify their planning legislation and regulations to remove any requirement to take heritage considerations into account in relation to any individual property other than those requirements relating to zoned heritage areas.

Comment:

- HCANZ do not support this recommendation and are concerned that the Productivity Commission has misunderstood the planning system.
- This is the antithesis of requests from local councils and owners, as adjacent properties can have significant detrimental impact on a heritage place and destroy its significance.
- On the premise that heritage is valued by the community and should be regulated, to regulate only the item and not the cause of the potential damage does not result in an effective system.
- This sets heritage outside other land use planning generally and creates uncertainty for owners of heritage properties.
- If heritage is a public good then the removal of assessing the impact on context retains the responsibility entirely with the owner (an example of impact would be a 40-storey building complex in front of Uluru or in front of the Three Sisters in the Blue Mountains) and it is the antithesis of environmental and land use planning.

Draft recommendation 9.8

State and Territory governments should remove the identification and management of heritage zones, precincts or similar areas from their heritage conservation legislation and regulations, leaving these matters to local government planning schemes.

Comment:

- HCANZ do not support this recommendation.
- Some precincts, zones or conservation areas are of state significance and as such need to be appropriately managed with State Government involvement. The distinction between places and precincts, zones or areas is arbitrary.
- State governments already have a role in planning and managing places within the state and this would be inconsistent with other state significant development.
- State government is better placed to provide expertise than local government on state significant or strategic matters. It is appropriate therefore for States to provide leadership and guidance in setting strategic frameworks for management of local areas for local government to then manage.
- State government works closely with local government to coordinate these matters.

Heritage listing

Draft finding 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.

Comment:

- Incorrect in a general sense, although this is not standard. Statements of significance are the norm in most jurisdictions, in some cases they are set through planning guidance. For example NSW requires this in model briefs and to comply with best practice, although this is not a legislative requirement. This addition could be helpful in improving rigour in the system.
- In discussion with the Productivity Commission it is apparent that it envisages that statements of significance would include principles based and specific conservation guidance on what is appropriate for the listed place and that this would be included with the negotiated agreements. This idea is laudable but would have significant resource implications. Such information could not anticipate all scenarios, so would need to be broad and therefore is probably more appropriately and efficiently dealt with in planning guidelines at the local government level.
- Codes in place that accompany heritage listings often provide better guidance for decision makers and owners than for non-heritage areas.

Draft finding 5.3

Heritage conservation areas impose less stringent restrictions on the ability to demolish and redevelop properties than do individual heritage controls.

Comment:

- In some respects this is correct and an appropriate measure, with controls managing demolition and infill.

Draft finding 5.4

Heritage controls can be applied to properties that have not been individually listed or contained within a heritage conservation zone. Typically, the owner is informed only upon seeking development approval.

Comment:

- Incorrect. Conservation area controls are implemented under planning controls that are advertised and owners notified as part of the statutory process. New owners are alerted through other processes in place in all jurisdictions on purchase of property.
- If the Productivity Commission is talking about draft listings or provisional lists held by some local councils, then it is agreed this can be problematic.

Draft finding 5.5

Many property owners do not fully understand the effect that 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 Acts to specifically require a statement of significance for heritage listing at the local level.

Comment:

- Statements of significance are required in some jurisdictions, and are the norm in most.
- Agree that many owners do not understand implications of listing. Therefore, HCANZ argue, the solution is to provide further guidance, training and information rather than to deregulate (information asymmetries).

Draft finding 6.1

While under some circumstances (particularly where neighbourhood amenity is to be preserved) heritage listing can have a positive impact on property values, the constraints on development potential associated with listing can have a significant negative impact on the prices of individual properties. The potential for owner detriment arising from development controls may differ significantly between properties.

Comment:

- HCANZ research has not been able to state this categorically. Does the Productivity Commission have additional evidence to support this claim?
- Agree this is variable and dependent on other interrelated factors.
- Finding needs to more accurately reflect reality from known research or expand research to provide evidence for statement.

Draft finding 6.2

Current methods of identifying historic heritage places for statutory listing focus on the benefits expected to accrue to the community. Typically, there is little, if any, consideration of the costs imposed either on the owner or the community more generally.

Comment:

- Incorrect. Some jurisdictions' legislation does provide for owner costs. This is a frequent issue resulting from discussions with owners, and it is taken into account.
- At local government level it is one of the reasons that not all listings proceed.
- However, this is not undertaken as a sophisticated economic study, any more than the economic reasons often argued for a specific level of development are.
- Likewise zonings of areas of land are not undertaken in this manner. For example the implications of zoning for medium density adjacent to an area not zoned can be loss of amenity and therefore economic value. There is no fully developed basis for this in environmental legislation generally — except for heritage to a certain degree. Why is heritage different?

Draft finding 7.2

Negotiated agreements are desirable as they facilitate voluntary conservation and ensure the costs of conservation are considered alongside the community benefits.

Comment:

- Negotiated agreements can be a useful tool when negotiating extraordinary situations. They are costly and resource-intensive to pursue and would not be

usefully, efficiently or effectively applied in all cases. No planning regimes have such a requirement universally applied.

Draft finding 7.5

At the State, Territory and local government levels, there is an over-reliance on prescriptive regulation to achieve heritage conservation objectives. In many cases, this has led to poor outcomes, through for example, inappropriate listing imposing unwarranted costs (such as denial of redevelopment opportunity) and possibly perverse effects (such as destruction to avoid maintenance costs).

Comment:

- HCANZ agrees that other forms of policy tools are needed to augment regulation. What evidence is there for the claim that in many cases this has led to inappropriate outcomes? In many cases it has resulted in buildings being retained that are held in high community esteem and sustainable outcomes being found. There is tangible evidence to illustrate the benefits of the 30 years of heritage legislation across Australia.
- Heritage listing may not preclude development potential which is also reliant on zoning and other controls.

Draft finding 7.6

The current listing process does not provide a mechanism for rigorously identifying the costs and benefits of conserving a place. Typically, the assessment process does not prioritise places according to heritage significance or conservation need, and little or no account is taken of the added costs of conservation when the decision is made to list a place and impose regulatory controls. As a consequence:

- *the community has an incentive to over-list (or be non-selective) as they do not bear the costs of conservation; and*
- *property owners can suffer an erosion of property rights and loss of value. As a result, they are unlikely to actively conserve heritage values and may, in some cases, have an incentive to degrade or destroy the heritage place.*

Comment:

- Quantifying the economic benefits and costs of conserving a place has been the subject of various studies over the years — none of them identifying a suitable methodology for achieving this. Indeed the Productivity Commission report has not been conclusive about this. How this could therefore be achieved for each heritage item seems an impossible burden to place on owners when the Productivity Commission has been unable to address this issue.
- This concept has not been applied to any other form of environmental regulation, so why is it appropriate for the historic heritage sector, given that the Productivity Commission has agreed that heritage is valued by the community and should be regulated?
- Some attempt is made in some jurisdictions to consider the economic implications of listing where it is raised.
- What evidence is there to support the statement that the community has a tendency to over-list places?

- The scenario of demolition by neglect is not necessarily an outcome of listing and data has been collected to illustrate that this is a rare occurrence. There are many more cases where conservation is achieved.
- This scenario could be fixed by mirroring NSW state legislation's minimum maintenance standards at local government level.
- Listing does not necessarily result in loss of property value and in many instances could result in improved value.

Draft finding 8.1

Conservation of historic heritage on privately owned heritage property could be more effectively achieved through negotiated conservation agreements between governments and owners.

Comment:

- HCANZ do not support this recommendation.
- This is one useful tool that may be useful in some instances but far too expensive and resource intensive to implement universally, nor is it always necessary. Blanket adoption would be inefficient.
- The idea of renegotiation as each owner changes reduces certainty for the community in the system and denies intergenerational equity.
- This would result in the removal of heritage protection in many cases and be a regressive step in heritage management.

Draft recommendation 8.1

Privately-owned properties should be included on a national, State, Territory, or local government statutory heritage list only after a negotiated conservation agreement has been entered into and should remain listed only while an agreement is in force.

Comment:

- See comment for DR 8.1 above. HCANZ strongly disagree with this as a blanket approach is not an efficient, effective or appropriate use of government resources.
- This would have a negative impact on the community's social wealth embodied in its cultural heritage and is inimical to the concept of intergenerational equity.
- This would substantially increase the administration costs of managing Australia's heritage.

Draft recommendations 9.1

The Australian Government should implement processes whereby any additions of non-government owned properties to the National List occur only after a conservation agreement with the owner has been entered into, and that the property remains on the list only while an agreement is in force. Consistent with its stated preference of relying on agreements for the management of world and nationally significant historic heritage places, the Australian Government may wish to make

this a statutory requirement under the Environment Protection and Biodiversity Conservation Act.

Comment:

- Not supported by HCANZ. See comment for 8.1 above.

Draft recommendations 9.2

State and Territory governments should modify heritage legislation to ensure that any additions of non-government owned properties to their statutory heritage conservation lists occur only after a conservation agreement with the owner has been entered into, and that the property remains on the list only while an agreement is in force.

Comment:

- Not supported by HCANZ. See comment for 8.1 above.

Draft recommendation 9.3

State governments should require their local governments to add non-government owned properties to a local heritage conservation list only after a conservation agreement with the owner has been entered into and remains in force.

Comment:

- Not supported by HCANZ. See comment for 8.1 above.

Draft recommendation 9.4

State governments should put in place systems for their local governments to request compulsory acquisition in cases where this becomes the only way to ensure cost-effective conservation of places of local significance.

Comment:

- Not supported by HCANZ. This can be a useful tool in limited circumstances, as history has shown, but is not a solution as part of a deregulatory package, particularly without a significant ongoing increase in resources.
- Experience has demonstrated that this tool is infrequently applied.
- A better solution would be to establish revolving funds in Australia as recommended to the Environment Protection and Heritage Council in 2004–05.

Draft recommendation 9.5

Private owners of already listed properties, where the listing occurred after purchase of that property, should be able to apply for a negotiated conservation agreement and for listing to continue only if an agreement is reached.

Comment:

- Not supported by HCANZ. See comment for 8.1 above.
- This redirects government resources from other conservation actions towards managing the process part of the system, is a poor use of resources, creates no certainty for owners or the community and provides a poor return for government investment in heritage.

- This provides no certainty for the community that heritage will be appropriately managed.

Draft recommendation 9.6

Private owners of already listed properties, where the listing occurred prior to the purchase of that property, would remain covered by the existing 'package' of restrictions and concessions (if any). These arrangements would be reassessed at the time of any substantive development application when negotiations for a new conservation agreement would occur and listing would continue only if an agreement is reached.

Comment:

- Not supported by HCANZ. See comment for 8.1 above.
- This negates the whole purpose of listing.
- The practicability of renegotiating agreements is such that it would make it resource intensive and costly.
- Negotiation with owners as part of the DA process already occurs, but is targeted on the basis of need rather than with ownership as the trigger.
- This could create a market for heritage profiteers based on government incentives.

Incentives

Draft finding 7.7

The assistance available to private owners of heritage properties is poorly targeted, and in some cases, falls well short of the additional costs of obligations imposed on owners as a result of listing. In these circumstances, property owners will not have an incentive to actively conserve heritage values.

Comment:

- Disagree that funds are poorly targeted. The funds are strategically targeted and very carefully assessed.
- Agree that funds fall short of need, as documented extensively in *Making Heritage Happen*.
- Property owners may have other incentives to conserve but it is agreed that they may not be financially 'incentified' in all cases. HCANZ have made the case for additional funding and more comprehensive package of incentives.

It is noted that there are no recommendations in relation to incentives in the Draft Report. This is disappointing considering that the Inquiry is about the framework and incentives for heritage.

Appendix A

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