

DR CHRIS MCCONVILLE  
FACULTY OF ARTS AND SOCIAL SCIENCES  
UNIVERSITY OF THE SUNSHINE COAST  
MAROOCHYDORED.C.  
QLD 4558  
cmconvi@usc.edu.au

23/2/06

Dear Productivity Commission

Thankyou for the opportunity to comment on the *Draft Conservation of Australia's Historic Heritage Places Report*

My responses follow your *Draft Report* structure and relate to the critical RECOMMENDATIONS of the Draft.

There are two key aspects to these recommendations

1. The need for Conservation Agreements
2. The need for Incentives to equitably assist owners of heritage properties maintain their structures in an appropriate fashion

These may be worthwhile aims. The Commission does deserve credit for seeking an expanded role for government in heritage management and in attempting to enmesh this with a greater role for owners. It is important that the Commission has re-emphasised the essential role of state revenues in sustaining public, shared good. However as presented here I doubt that the proposals would work effectively, either for the broad public good of retention and access to heritage places, or in simplifying the obligations of property owners under the law. Agreements and incentives can only add another layer of complexity to the processes already used. As an alternative I would argue that more emphasis on area conservation and less focus on individual structures would erase some of the problems seen as central to the matter. I think the Report is heading in this direction in useful comment about the need to better integrate heritage matters with wider planning matters.

The probable inadequacy of some recommendations derives directly from problems in the methodology and empirical depth of the *Draft Report* itself. The somewhat tautological title of the Report 'Historic Heritage' suggests some of the underlying intellectual difficulties in the analysis.

I detail the key problems I see below.

1. The Report's authors at times complain about the dearth of research on heritage processes and sites and appear to have relied heavily on survey questionnaires as a basis for analysis. There is a difference between opinion as expressed in questionnaires, and fact. Had the authors searched further through data bases and print collections of

state and federal heritage bodies they could have placed a quite different emphasis on some of the discussion. Australia's heritage is, if anything, an over-researched subject area. From the references listed in the *Draft Report* it seems that the authors did not engage with much of this readily available work. A case in point is the truncated and Sydneycentric discussion of the history of the heritage movement. There is a lot of discussion of this theme by which the record could have been made straighter.

2. The report relies on a straightforward and insufficient assumption about 'subjectivity' in heritage listings and interpretations. This is contrasted to otherwise 'objective' readings of buildings and sites. Perhaps in land valuation theory for example. Yet heritage analysis rests on a wide body of theory and well-tested practical processes. Certainly within this framework judgements have to be made, just as they are in any aspect of land management. But these are made against carefully tested criteria. An owner can object to a judgement made about listing a property. This does not make the judgement 'subjective', any more than the judgement of any legally constituted body becomes subjective once objected to. In point of fact heritage assessment may turn out on close examination to be far less subjective than say an economist's reading of the causes of interest rate falls or of the consequences of tariff reductions in the motor industry. It is entirely inadequate to begin a discussion of heritage issues with a simple reading of subjectivity. The *Draft Report* itself goes on to contradict this assumption by talking about the empirical data associated with buildings: their materials, date of construction, scale,

cost, ownership history. Etc. These are the very matters which are dealt with at length in assessments.

3. The assumption of subjectivity is linked tenuously to an account of heritage as a highly problematic area. The report uses highly selective boxed quotations which tend to paint a negative picture of the consequences of listings and the difficulties of owners. They appear to have persuaded the authors about some deep-seated crisis in heritage management and listing. There are obviously heritage disaster stories. I tend to see these as the exception and not the rule. Anyone who deliberately lets a heritage building rot away in defiance of some authoritarian listing agency is hardly the economists' rational profit-seeking individual and not really a good starting point for any analysis of the problems or opportunities of the vast majority of Australia's property owning citizens. In any case such examples hardly make for good law making. The vast majority of heritage building owners do not seek to destroy their own property. There is an implication at times in the *Report* that listing actually hastens the disintegration of heritage items. One example, and a highly contentious one at that, cannot prove this point. The *Draft Report* lists proportions of heritage-listed buildings in the various states which are in poor condition. This is of interest but does not get us far. We might expect that the same rates if not greater rates of deterioration would be the case with unlisted properties. In any case the state of these buildings would have to be compared to the rate of demolition amongst unlisted structures to arrive at the gross number of buildings against which the listed structures could be set.

4. A similar problem occurs with the frequent asides in the *Report* which allude to the role of private owners as custodians of heritage: asides such as those which state that the buildings listed would not exist were it not for the custodianship of the owners. This avoids the fact that there were many potentially listable structures which have vanished precisely because owners placed no value on them and there was no overriding legislation to prevent their demolition. The *Draft Report* relies centrally on some notion of property-owners being forced into costly repairs on buildings against their wishes. No doubt there are examples in which this occurs and these need to be addressed. However sometimes the antagonism with which a few owners approach listing agencies has more to do with their enthusiasm for notions of untrammelled property rights regardless of the logic which might lie behind the listing agencies' research. Such owners ought not be the ones determining law. When heritage listing was something of a novelty some thirty years ago there may well have been examples of such conflicts. Now the critical municipalities in Australia have conducted heritage surveys and have created lists of buildings as have state authorities. These exist for all to see and there is no longer the difficult transitional process which LGAs faced in the 1980s:- drawing up lists and explaining why one building was in and another not. That process has been completed for many parts of Australia. The information is available for all to consider and the shock of finding a place suddenly listed is not as common as someone reading this report might think. To highlight the tensions between owner and listing agency makes for a poor starting point. Indeed many heritage items do not even need maintenance and thus cannot become

- sites for potential conflict; they may be landforms, ruins, locations rather than private homes or industrial sites.
5. The *Draft Report* attempts to work through the economic aspects of heritage listings; much of it is focussed on the private home, not necessarily the best example for such an analysis. However since this is the chosen ground of the report it might have been explored a little more thoroughly. The authors note and then pass over the rising values easily demonstrable in heritage areas. They use an example from one Sydney municipality of a valuation on a home which purports to show decline in value through heritage listing. Leaving aside the subjective aspects of the process of property evaluation, the *Draft Report* does not make much use of the wider body of evidence available. Real estate agents as noted in the report think heritage listing is irrelevant to value. Even in the municipality from which the one example considered in any depth is taken, there is contrasting evidence available. A survey of properties in this municipality suggested that heritage listing actually increased value and what's more the higher the heritage ranking then the more gains accrued to the owner. Such examples make nonsense of claims about equitable sharing of costs as recommended in the report. If owners are making windfall gains through heritage listing then perhaps they ought to be compensating other owners who can demonstrate [objectively] the existence of loss through listing.
  6. The Report interestingly introduces the notion of equity in heritage. This is laudable and if some system could be devised whereby the Commonwealth picked up some of the burden born by local government in heritage assessments and by owners on lower incomes

then the process of heritage assessment and management might work more smoothly. Quite possibly the owners of whom the *Draft Report* appears to have taken most notice would gain the least compensation, since they seem to own highly valuable properties. An equitable distribution of heritage funds would begin with those with the least resources. Of course there are many models for such processes of equitable fund distribution in heritage as in other aspects of housing. The Draft report does little to acknowledge these.

7. Nor does it draw much attention to the existing opportunities for conservation agreements. Many state and local jurisdictions prefer to work through this process. Several case studies relied on in the *Draft Report*, because of the fundamental objection of owners to any notion of heritage control, would never come to such a process of agreement; that is why there are hearings. And legal sanctions. Australia does have some generally wealthy land owners who somehow keep on imagining that their homes are still castles unregulated by any law. Conservation agreements are fine things. They are already available. They will not work if the owner is given power of veto. Courts ought to be able to compel a process of agreement. Listings ought to still stand on the merits of the case. The heritage structure generally existed before purchase by the current owner and more than likely will outlast the current ownership. It would be silly to have a system in which an owner made an agreement about heritage only to then sell the building and the entire process have to be renegotiated. This *Draft Report* takes heritage in a sensible direction in seeking greater Commonwealth funds for heritage, in looking to more equitable distribution and in trying to find common ground between owners and

- listing bodies. However the report really needed to more completely explore existing incentive schemes and the current opportunities for Conservation agreements.
8. There is a final aspect of the report on which I would seek to comment. The report acknowledges the significance of area conservation and its generally positive impact on property values. This leads to a further possibility not explored here. If all heritage listed structures were to have broad supportive zones around them and to be the core of a zone rather than standing as an isolated site then many of the problems suggested in this Report would simply vanish. In attempting to enmesh heritage with wider planning processes [an activity in which a lot of progress has already been made], zone and precinct conservation makes a good starting point. For it is simply not the case as the report claims that planning controls, heritage apart, are to prevent negative impact. Current planning practices seek to improve rather than simply prevent loss of amenity. Planners have long been aware of the place of heritage in local amenity value. One answer to the perceived difficulties identified in the report may lie in simply creating Conservation Zones for at least all of the urban heritage sites placed on local, state and federal lists.