

9 March 2006

Heritage Inquiry  
Productivity Commission  
PO Box 80  
Belconnen ACT 2616

Dear Sir or Madam

**CONSERVATION OF AUSTRALIA'S HISTORIC HERITAGE PLACES  
COMMENT ON DRAFT REPORT**

I accept your invitation to provide my 16 February submission in an alternative form.

▪ **Market Failure**

Outcomes in heritage conservation are measured over decades or centuries. This cannot be accommodated by the short-term commercial imperative of quarterly accounts. Protecting places valued by the community is a common good. I don't know of any business model which is underpinned by the common good rather than private profits.

There are just over 380,000 rateable properties in the City of Brisbane. There are around 2500 individual heritage places, for listing at local and state levels, in the city. If the economy can't operate with this tiny fraction of places unavailable for demolition, then the market system is definitely a failure.

▪ **Substitution**

It was suggested that if a voluntary conservation agreement cannot be negotiated for one place, you simply look around for another one with the same values (pxxxiii). This economic concept of "substitution" is not applicable here. Historic heritage places are unique in space and time. They are not a renewable resource and cannot be simply manufactured again on order. Eventually, you can run out of heritage places and the cupboard is bare.

For instance, in Queensland we have two sites where Captain Cook landed. The landing site at Agnes Waters / Town of 1770 is now covered by a car park ramp. If no-one wants to enter into a conservation agreement for the Endeavour River site, what is the point of putting out a tender? There is nothing to be had.

▪ **Government knows best**

The thought that governments, because they are representatives of the wider community through the political process, are able to make 'sensible' decisions on which government owned places to conserve (pxxxvii), is a worry. Currently governments seem to confuse themselves with a business, rather being elected representatives. Governments can, and do, go off the rails. A lot of damage can be

done before things are set back on the straight and narrow. It is not enough to argue that if you don't like what they do, you can vote them out next time you get a chance. By then many heritage places may be irretrievably lost. The next elected government can't bring a demolished building back.

Reference is made in the draft report to the new National Heritage List. This scheme is still unproven, and as such this experiment should not be taken uncritically as a model. When the new national regime was announced, the headline was that Gallipoli was to be first cab off the rank. It is not yet listed, which is just as well for some. This way there will be no prosecutions for the roadworks which have mutilated the steep cliffs which are the whole point of the overwhelming odds encountered by the ANZACs, and which also trampled their bones. This development, against advice, has resulted in doubt that the current Australian government can be trusted in heritage matters, as is evidenced in the following graphic comment –



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- **The bad old days**

Community interest in heritage conservation is not something which was simply popular with activists in the 1970s. Resulting heritage protection legislation meant we have been able to leave the bad old days of public protest and site vigils behind. Table 2.1 in the draft report amply demonstrates that extremely strong feelings continue throughout the community today. If governments withdraw from heritage protection, people are left with few alternatives besides civil disobedience. This arises from the BIIMBY effect – “because it’s in my back yard” – as people actually care about their community.

This kind of action has its monetary costs. The Green Bans in Sydney in the 1970s would have been very expensive but I haven't seen any figures. To take a more recent example, the Queensland government is reported to have spent around \$140,000 policing protesters at a development site at Maleny. What would be the cost if there is

community protest about demolishing the 2500 odd heritage listed places in Brisbane? Let's put policing and magistrate court costs conservatively at \$100,000 per place. I don't know how much the fine might be for obstructing a footpath, but I don't think it will offset this figure significantly. Thus we might have costs of some \$250,000,000—a quarter of a billion dollars, in just one city.

And who pays this? Taxpayers of course. Additionally, there would be private costs to other members of the community such as through disruption to traffic and business, or additional holding costs to developers. I don't see any attempt to estimate these kinds of costs in the draft report. I suspect such an exercise would show that it is likely to be infinitely cheaper for everyone, if governments simply performed the functions expected of them by the community who, in the end, are the reason for their existence.

- **Private property rights**

Private property rights in Australia have never been unrestricted. There are always reservations in Deeds of Grant, and terms and conditions are imposed in leases over public land. Any private property rights are always subject to termination if a government decides to compulsorily acquire them.

Governments also regulate land use through town planning. Every one of these provisions affects private property rights. For instance, on my current home site I am unable to build or operate an abattoir, brothel, chicken farm, dental practice, electroplating works, fireworks factory, glass washing plant, horse sale yard, ice making plant, jazz ballet school, karaoke bar, laboratory, metal scrapyards, nursery, ostrich farm, paper mill, quarantine station, rope making factory, shooting range, tannery, used goods salesroom, vitamin manufacturing plant, waste recycling yard, x-ray clinic, yabby farm, zinc plating plant—and much more besides.

I, and my neighbours, are not complaining about these extensive restrictions, and in fact we expect them. They accord with the established Australian legal principle that private property rights do not dictate town planning. Otherwise we would all be clamouring to sell our homes as skyscraper sites. Why single out heritage protection as being something extraordinary?

Town planning measures to address potential disadvantage to owners of places entered onto a heritage register have been worked out over time. The transfer of development rights is the main reason why we still have heritage buildings left in the Brisbane CBD. Prior to the 1992 state heritage legislation, the Brisbane City Council entered into such agreements with owners of CBD heritage properties. These owners were able to realise the redevelopment potential of their CBD site elsewhere; the community bore costs in the form of intensive development which otherwise would not been allowable; and to this day enjoys the benefit of the heritage places. Another town planning measure is to allow development of a heritage place which would not normally be permitted. For instance, a suburban house may be converted into a restaurant to generate income to maintain the property.

Although these and other successful measures are mentioned, the draft report suggests they should be banned; and local government prevented from even considering heritage in any planning decisions (p204). Now, this would be extraordinary.

If it is thought that voluntary heritage listing is simply acknowledgement of private property rights, then why don't owners have a right to veto listings on a contaminated land register? This has far, far greater implications in terms of lower property values and monies to be expended, on site remediation, than heritage listing.

- **Unsung heroes**

Just about every owner is confronted if their property becomes heritage listed, even if are they are listed for features which attracted the owner in the first place. Many are quite willing to care for their property with the community's interest in mind, but are then astonished to discover there is little or no help. They struggle on, to become another category of unsung heroes. Australians are fair minded people. They expect to pay for community facilities, including the conservation of heritage places. The community also expects governments to attend to such collective interests by applying the tax dollars they supply for such activities.

However after a record stretch of economic growth and records amounts of taxes, rates, excise, etc. handed over, we are told repeatedly that governments can't afford very much. Apparently they have to be careful how taxpayer's money is spent so that we can afford roads, education, police, health. Well, money is cut from heritage and other sectors but we don't seem to notice improvements in such nominated areas. Instead we witness an impoverishment of the Australian way of life, while being encouraged to embrace some sort of commoditised 'lifestyle' instead.

- **Burra Charter**

I remember a time when the term 'world's best practice' was constantly on government lips. Regards heritage conservation in Australia, we have a world's best practice guide in the form of the ICOMOS Charter for the Conservation of Places of Cultural Significance (the Burra Charter). Its principles can be applied to the full range of historic heritage places all over the country; just the kind of national approach the Australian government seems to currently favour. This Charter must remain central to all heritage conservation pursuits in Australia. Without it, we will end up with heritage parodies (see figure above).

Australian historic heritage places now celebrate up to two centuries of endeavour, innovation and achievement. The recommendations in the draft report, if implemented, will assuredly result in their loss. "Bread and circuses" as alternatives to foster cultural identity are shallow offerings indeed.

Yours sincerely

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Annabelle Stewart-Zerba