

**PRODUCTIVITY COMMISSION INQUIRY  
INTO THE POLICY FRAMEWORK AND INCENTIVES  
FOR THE CONSERVATION OF AUSTRALIA'S  
HISTORIC BUILT HERITAGE PLACES**

**Initial Submission by the Australian Heritage Council**

5 August 2005

## Table of Contents

Executive Summary .....	3
1. Introduction.....	4
2. Definition of Heritage .....	5
3. The value of heritage .....	8
4. Operation of the Australian Heritage Council .....	12
5. Pressures and challenges.....	15
6. The future role for AHC .....	16
7. Funding for heritage –now and in the future .....	18
8. Recommendations.....	19
ATTACHMENT 1: Opening Address to the National Heritage Convention.....	22
ATTACHMENT 2: Functions of the Australian Heritage Council.....	27
ATTACHMENT 3: Criteria for the National Heritage List .....	28
ATTACHMENT 4: The AHC Listing Process.....	29
ATTACHMENT 5: Australian Heritage Places Principles .....	33

## Executive Summary

The Australian Heritage Council has an integrated view of heritage, which reflects the changed definition of 'environment' in the 2003 amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC). Importantly, the environment embraces the natural and cultural heritage values of places - having aesthetic, historic, scientific or social significance, or other significance, for current and future generations of Australians. The Act also defines the Indigenous heritage value of a place meaning a place of significance to Indigenous persons in accordance with their practices, observances, customs, traditions, beliefs or history.

By sharing core values and respecting heritage values, social cohesion will result as well as economic returns.

We recommend that the Productivity Commission consider the following:

1. The importance of integrating all aspects of heritage at all levels of government in both legislation and policy;
2. The Australian Government build the National Heritage List as a central plank of its heritage policy;
3. A strengthened Commonwealth leadership role in fostering national identity through the identification and interpretation of nationally significant heritage places and stories and through historic themes;
4. The need to lift standards for conservation works in the built environment and to develop consistent standards in assessment;
5. The need to close the legislative gaps in protection of the historic environment;
6. The development of education curricula incorporating knowledge and appreciation of Australia's heritage and supporting training programs in heritage conservation;
7. The development, especially for regionally disadvantaged places, of an appropriate shared formula between governments for funding conservation works where the private sector cannot provide resources;
8. The development of a mix of grants and incentives to support sustainable use of heritage places, including the imaginative use of programs not specifically addressing heritage issues, such as tourism and regional development programs;
9. The development of new mechanisms for co-ordination and co-operation between governments, especially Commonwealth-State/Territory cooperation in building the National Heritage List.

## 1. Introduction

The Australian Heritage Council welcomes the opportunity to make a submission to the Productivity Commission Inquiry into the Policy Framework and Incentives for the Conservation of Australia's Historic Built Heritage Places.

The central issues of the Inquiry raised in your discussion paper will be examined in this initial submission from our nation-wide perspective:

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

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

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

The past eight years have seen major changes to the management of Australia's cultural heritage. These changes were driven by the need to better define the roles and responsibilities of the various levels of government for heritage protection.

Over the last 20 years legislative and management regimes designed to protect heritage developed, so that now, in the Commonwealth and all states and territories, there is legislation - in various forms - which seeks to protect natural, Indigenous, and historic heritage. This growth greatly increased opportunities for legal and physical conservation of our heritage. But despite the positive developments of that period, there are many areas needing improvements.

Recognising this fact led the Council of Australian Governments, or COAG, in 1997 to a review of Commonwealth / State roles and responsibilities for the environment which also incorporated consideration of management of heritage places (Hill, 1998: 3, 33). In order to provide improved processes and protection for places of heritage significance, it was considered necessary to reduce the level of duplication existing between different jurisdictions in a way that led to greater transparency, seamlessness and certainty for all stakeholders.

In so doing, each jurisdiction has to have the capacity to protect those places that fall within their responsibility. This was a particularly relevant issue for the Commonwealth which maintained the Register of the National Estate of some 13,000 places that include sites of local, State and national significance. While the identification of those places, in itself, provides some protection to those sites by alerting the community and decision makers to their significance, the Commonwealth had no real capacity to conserve those places.

COAG decided to redefine the role of the Commonwealth to focus attention on places of national heritage significance and provide the legislative capacity to offer some real protection to those places. In that context, COAG decided the National Heritage Places Strategy would provide for the establishment of a list of places of national

heritage significance which the Commonwealth, in co-operation with the States, would establish and maintain. The other key decision of COAG was to ensure that the National Heritage Places Strategy identified criteria, standards and guidelines for the protection of heritage by each level of government. (See Attachment 1 for Minister's speech).

Legislation was introduced into the Commonwealth Parliament in 2000 to reform the heritage system at the national level but it took until September 2003 for the bills to pass. The legislative changes resulted in amendments to the Commonwealth's new *Environment Protection and Biodiversity Conservation Act 1999* (EPBC), in which actions 'likely to have a significant impact on a matter of national environmental significance,' require Ministerial approval. The matters of national environmental significance were: World Heritage properties, Ramsar wetlands of international importance, listed threatened species and communities; migratory species protected under international agreements, nuclear actions, and the Commonwealth marine environments (see <http://www.environment.gov.au/epbc>).

The 2003 amendments to the *Environment Protection and Biodiversity Conservation Act 1999* broadened the definition of 'environment' to embrace the heritage values of places. These values include its natural and cultural environment having aesthetic, historic, scientific or social significance or other significance for current and future generations of Australians [section 528, (47)]. The Act also defines indigenous heritage value as a heritage value of the place that is of significance to indigenous persons in accordance with their practices, observances, customs, traditions, beliefs or history [section 528 (48)].

From 1 January 2004, amendments to the EPBC Act 1999 came into effect to create a new National Heritage List of natural, Indigenous and historic places with outstanding heritage value to our nation. Under the new system, National Heritage joined the other six matters of national environmental significance already protected by the EPBC Act. The primary purpose in managing National Heritage places is to identify, protect, conserve, present and transmit to future generations the National Heritage values – a similar approach to that used for World Heritage values. (<http://www.deh.gov.au/heritage/law/heritageact/distictively/index.html>).

The Australian Heritage Council was appointed under the provisions of the *Australian Heritage Council Act 2003* in March 2004 following the coming into force of the amendments to the EPBC Act on 1 January 2004. The Council is an expert advisory body with 10 functions outlined in section 5 of its Act (See Attachment 2).

## **2. Definition of Heritage**

Our heritage, the surrounding landscape layered with places and associated objects, tells the story of who we are, what we have done over time in Australia and our relationship to the environment. We have shaped that landscape and it has shaped us and how we have lived, and formed our cultural identity. Our heritage is a living record of places, objects, events, associations and memories which define and sustain our natural and cultural history. It is central to our wellbeing and our sense of identity as Australians. It is for us, the present generation, to nourish and nurture this inheritance for future generations.

Indigenous people have always maintained the totality of environment –the indivisibility of earth-land-sea-sky and that the whole landscape is sentient, a living being nourishing their lives. This nation-wide belief is now enshrined in the Australian legal definition of environment. Given the long sweep of the history of this ancient continent, we have a shared heritage as immigrants –the Indigenous peoples since the land bridge from Asia and seafaring Europeans, Asians and Americans over the last three hundred years. Heritage can provide the glue that links recent immigrants to this culturally diverse nation.

Australia in the 21st century is a complex and diverse nation composed of Indigenous and immigrant peoples from nearly 200 countries. Although this diversity brings many benefits it also poses challenges to social cohesion and to maintaining a shared commitment to national values and goals. Awareness of and attachment to our heritage motivate us to protect, conserve and celebrate it. This inheritance has been under increasing threat as economic restructuring, and social and technological changes, have dramatically altered neighbourhoods, pressured urban centres, and emptied the countryside. The consequences of these dramatic changes and their adverse impacts on cultural heritage need to be addressed in this Inquiry.

Pressures on this heritage result from inadequate understanding, lack of effective legislation and protection programs, lack of skills and resources, and developments which impinge on its integrity. Understanding these pressures is required so as to respond with improved programs for heritage conservation.

The Australian Heritage Council believes in an integrated view of a shared heritage, both tangible and intangible, and therefore a broad and encompassing definition. This is also reflected in the regulations to the amended EPBC Act 2003 which direct us to consider all heritage values present at a place when undertaking our assessments of national heritage values (regulation 10.01E). Attachment 3 gives the criteria to be used by the Council in making their assessments. However, we note that this Inquiry is primarily concerned with the historic environment. We believe that your Terms of Reference should be read as broadly as possible, to include the whole place and its layers and that includes Indigenous and contact heritage places, effectively only excluding those Indigenous heritage places that are valued solely for spiritual purposes, such as sacred sites.

The *Australia State of Environment 2001* report outlined the emerging issues for historic heritage (p.4), and these have accelerated in impact since then.

**Loss of historic heritage places** continues at an uncertain pace due to:

- urban redevelopment – main street redevelopments and loss of functions due to shopping centre constructions,
- urban consolidation impacting on the heritage character of older suburbs,
- abandonment of rural structures–due to changing technology and new markets/products,
- public building redundancy due to movement of client population especially in rural areas, asset rationalisation and mergers,
- loss of cultural landscapes through changing rural use patterns.

This historic environment is also broad in type and distribution from first settlement sites to grand public buildings, from vernacular buildings to complex industrial sites. At the end of 2000, there were 13,101 places entered in the Register of the National Estate, 75 % of which were historic places and New South Wales dominated with nearly one third of all places. From 2001 to 2004, only 342 places were added to the Register of the National Estate reflecting the slow-down in consultation procedures, dealing with the existing back log of nominations, revision of citations particularly for Commonwealth owned heritage places and much of the listing activity being undertaken in the States and Territories as part of their expanding land use planning regimes.

However, it is the disparity in funding for identification and protection of historic heritage that is so noticeable when compared with that for natural heritage. This will be examined in section 7 of this submission.

Market research undertaken for the Council to inform its communication of the new national heritage system indicated a multi-faceted understanding of Australian identity, constituted by both tangible and intangible elements that can be grouped into three key 'themes' or ideas: "*our values*", "*things that make Australia unique*" and places that "*we feel connected to*". However, the discussions suggested that this understanding of an Australian identity was not fundamentally stable, that is, there was a sense that Australian identity was in transition, in the process of being re-drawn or recreated from something "*old*" and familiar to something "*new*" which was for some "*stimulating*", for others, unsettling (Colmar Brunton, 2004:1).

The research revealed a surprisingly complex understanding of the concept of heritage:

Firstly, heritage was generally defined to include both tangible and intangible elements. Tangible elements included "*original things*" that have been, or should be, preserved for the future such as "*old*" or "*beautiful*" buildings and national parks. Intangible elements, our "*collective memories*", were felt to include poetry, songs and indigenous oral histories such as the stories of the Dreamtime. Secondly, a smaller number of participants felt that heritage was importantly a 'dynamic' process: the ongoing act of "*claiming things from the past*" that we are helpful to us in defining who we were and who we want to be.

Many participants made an explicit link between heritage and self-image, or identity: that is, heritage was a collection of "*ways of remembering*" that "*keep alive a sense of belonging*" to a particular place or people. However for teenagers and some of the younger participants there seemed to be another dimension to the concept of heritage: for many of these participants, if heritage was about feeling "*connected*" to a place or culture, it was a "*problem*". Many of these participants indicated that they came from backgrounds that included either multiple heritages, or in which their connection with a sense of heritage had been lost (as for some of the younger indigenous participants). These participants wanted to feel connected to something, but were not sure if this was even possible for them: "*if you don't know your background, which parts do you grab onto?*"(Colmar Brunton, 2004:2).

The complex understanding of heritage illustrates the wide-ranging values inherent in heritage as well as the economic value underpinning the reasons for this Inquiry.

### 3. The value of heritage

i. Values are at the traditional core of conservation –values attached to an object, building, place or landscape because it holds meaning for a social group due to its age, beauty, artistry or association with significant persons or events or otherwise contributes to processes of cultural affiliation (Mason, 2002:11). Values are the characteristics attributed to heritage objects and places by legislation, governing authorities, owners and/or other stakeholders. These characteristics - aesthetic, historic, scientific, social, spiritual, biological diversity and geodiversity values - are what make a place significant. Any place will have a range of values. These may be assessed against criteria to determine whether the values are important enough for the place to be listed for heritage protection (Lennon, 2003:120). It is then regarded as a heritage place. In Australian conservation practice following the terminology and principles of the Burra Charter, the heritage values of a place are also known as its cultural significance.

ii. The cultural values or cultural capital of heritage has been increasingly studied, especially in urban planning. English Heritage has been at the forefront most recently in this field:

The publication of the Power of Place (2000) report, and the government's response in The Historic Environment: a Force for Our Future (DCMS/DTLR, 2001), were seminal moments in the development of public policy for the historic environment in recent years. The reports crystallised a new way of thinking about the heritage all around us, in terms of the different ways in which the historic environment adds social, economic and environmental value to people and communities. Both reports helped to raise the profile and understanding of the historic environment within government and with wider stakeholders (*Heritage Counts*, 2004).

There are excellent lessons for us in these responses of the public to the power of place. Many associated reports are found at: <http://www.english-heritage.org.uk/sher/>

In 1998 the Getty Conservation Institute in Los Angeles embarked on a 'Values and Economics Project' to expand knowledge about economic values, to provide tools and methods to conservators and allied professionals for assessing values and for applying the results to sustainable conservation and management solutions. The project had two streams. The Values stream explored the role of values, or heritage significance, in conservation in broad terms, in order to articulate the ways in which values influence what and how we conserve, and thus to emphasize the need for greater rigor in this area of conservation assessment and planning. The Economics stream looked specifically at methods of valuing, which have traditionally emerged from the economics field, to explore how they might be adapted for conservation purposes and to what extent they could measure the full range of values associated with cultural heritage and its conservation. Each track resulted in the publication of a report, *Values and Heritage Conservation* (2000) and *Economics and Heritage Conservation* (1999), respectively.



The two streams merged to explore more directly issues regarding the assessment of cultural significance and the relationships of such assessments to other aspects of conservation planning and management. Drawing on the methods of economists as well as those of anthropologists, environmentalists, and others, their efforts demonstrate how the tools and principles of other disciplines could enhance heritage conservation assessment and planning. This work was published in 2002: *Assessing the Values of Cultural Heritage*. Information about the values research project can be found at: <http://www.getty.edu/conservation/activities/values/index.html>

The fourth and final phase of the project involved compiling and examining past experiences and existing approaches in conservation planning through the development of analytical case histories from Canada, US, UK and Australia. 'Real life' analyses of this aspect of heritage planning complement the theoretical research and provide conservation and allied professionals with a set of references for the assessment of values/cultural significance in their work. The Australian case study chosen was Port Arthur Historic Site in Tasmania. The case studies can be found at <http://www.getty.edu/conservation/resources/reports.html>.

iii. Heritage is a capital asset that yields a flow of economic, social and cultural services now and into the future. As such it can be compared with natural environment capital. It is now accepted that we have a duty as a society to manage our natural resources for the benefit of present and future generations; the same duty can be asserted for the cultural capital that we have inherited from the past and want to pass on to future generations. In addition, the goal of sustainable development, now clearly understood in regard to the management of natural capital, is just as relevant in its application to cultural heritage - the nation's development will be unsustainable in cultural terms if we neglect to look after our heritage.

The funding that governments in Australia devote to taking care of our cultural heritage is far less than the amount they allocate to safeguarding the public interest in conservation of natural resources.

Cultural capital involves reinforcing or rediscovering national and regional identity as well as issues of shared heritage and social cohesion. This has implications for social arrangements like education, community activities like festivals, marketing distinctive traits of the historic and natural environment and job creation.

The World Bank has finally recognized that 'cultural resources are important as sources of valuable historical and scientific information, as assets for economic and social development, and as integral parts of a people's cultural identity and practices.' It now has an operational policy on Cultural Property whose objective is 'to avoid, or mitigate, adverse impacts on cultural resources from development projects that the World Bank finances.' In June 2005 the Bank endorsed a policy of community driven development to increase social accountability and control over cultural resources [[Inweb18.worldbank.org/ESSD/sdvext.nsf/52ByDocName/CulturalProperty](http://web18.worldbank.org/ESSD/sdvext.nsf/52ByDocName/CulturalProperty)].

The Heritage Lottery Fund in England commissioned research to measure the contribution of heritage to social and economic activity. This suggested that cultural

value is based on a framework which shows how the benefits of heritage can be considered in terms of:

- the contribution of heritage organisations to the stewardship of the public realm and of assets that matter to everyone
- the contribution to well-being that is made by creating safer spaces for exercise, leisure and enjoyment
- the creation of new spaces for learning through the conservation of heritage assets
- the contribution heritage makes to strengthened local communities, by encouraging new skills, providing new social opportunities, and raising awareness of what makes a community unique, distinctive and special
- the promotion of equity and fairness through emphasising the importance of breaking down social, economic or physical barriers to heritage
- the value created by improving the way heritage organisations deliver on the ground by enabling others through sharing expertise and generating self-confidence
- the value for money that public institutions and their business processes offer, not least given that demand for grants frequently outstrips the available funding
- the trust engendered in the public's mind through the adoption of high standards, through fair and transparent grant-giving processes and through a strong regional and local presence.

By being more closely attuned to the way in which people value the history around them, heritage organisations help to generate the 'cultural value' described by the Secretary of State and contribute to the wider public good (*Heritage Counts*, 2004).

The English National Trust commissioned research to examine the role of the historic environment in making a significant contribution to social regeneration and community wellbeing. Analytical techniques for understanding the way in which people interact with the historic environment were developed and a range of indicators to measure whether or not they benefit were devised. The objective is to help the historic environment sector 'to put heritage to work where it is needed most' and to move beyond the 'regeneration rhetoric.' The results of the first stage which show that engagement in heritage activities increases social capital and community social benefits such as health, wealth and education can be found at:

<http://www.archaeologists.net/modules/icontent/inPages/docs/pubs/soccont.pdf>.

ICOMOS UK has also suggested that as the historic environment is an irreplaceable asset, there are universally applicable principles to protect it. The four key principles are:

- The historic environment contributes to the distinctive character and value of a place. It incorporates diverse cultural, artistic, scientific and associational values. The recognition of the historic environment helps present and future generations to understand their own history and cultural values, and the history of a place.
- The physical features of the historic environment are a non-renewable resource. For its use to be sustainable, it must be managed so that it meets

present-day needs, and also allows it to meet future requirements in ways which do not unduly reduce its historic or cultural value and significance.

- Because the historic environment provides the setting, in which people live and work, it is subject to natural and human impacts. In responding to people's needs and aspirations, it may be subject to pressures for change. Understanding the values and significance of the historic environment is therefore essential if we are to conserve that significance, and if we are also to manage the processes of change in ways which maximise benefit and achieve sustainability. Interpretation, presentation and education promote such understanding.
- The historic environment is an asset conserved for both public and private benefit, and may be protected through local custom or legislation. Adapting to change will therefore require early consultation with local stakeholders, and with the appropriate local or national authorities (ICOMOS, 2004).

Whilst acknowledging that there are difficulties in gaining community agreement as to what constitutes heritage, it has been shown how heritage is not a good or service in isolation but rather is an attribute of a number of goods which have other attributes or uses – a shared heritage. For example, for historic buildings used for residential or commercial purposes, the heritage aspect of these is consumed as a ‘secondary good.’ ‘Consumption’ of heritage is often a shared experience as more individuals ‘consume’ or ‘use’ heritage goods, or as they use them to a greater intensity, the greater is the collective benefit these goods contribute to the common heritage value in a community. Heritage can also be a ‘merit good’ when the community as a whole desires and benefits from a higher output of the good than would be supplied by the private market.

The intrinsic values of heritage can also be invoked in their own right alongside the instrumental benefits as a justification for government support. We have recognized this in Australia as ‘existence value’ in the *Australian Natural Heritage Charter* (1996, 2002). But this argument for cultural heritage is beginning to be taken more seriously overseas. A UK report entitled *Capturing Cultural Value* (2004) by John Holden ([www.demos.co.uk](http://www.demos.co.uk)) discusses cultural value and says we need a ‘new language’ to incorporate it into cultural policy. The 2003 conference on “Valuing Culture” in London discussed this at length (see discussion paper by Adrian Ellis in conference proceedings at [www.aeaconsulting.com](http://www.aeaconsulting.com)). Tessa Jowell (UK Secretary of State for Culture) in a major speech entitled ‘Government and the Value of Culture,’ ([www.dcms.gov.uk](http://www.dcms.gov.uk)) acknowledged that politicians need to address the fundamental values of culture more openly and directly. A US report, *Gifts of the Muse*, also argues that the intrinsic values of the arts and culture need to be recognised in the policy-making process (McCarthy, 2004).

These overseas studies and local research reinforce the Council view that there are both market and non-market values of historic heritage places to Australian society and that there is a ‘public good’ argument for historic conservation that justifies government intervention. Australians have supported heritage conservation since the enactment of federal legislation for this purpose in 1975 and the subsequent passage of complementary legislation in all States and Territories, yet the level of government support for and understanding of the multiple benefit roles at both policy and operational levels is far, far below that in the overseas examples referred to above.

## 4. Operation of the Australian Heritage Council

### i. Assessments:

The key role of the Australian Heritage Council is to provide the Australian Government with advice on the places of *outstanding heritage value to the nation* and their protection. This primary task is undertaken by assessing nominations and advising the Minister on conserving and protecting places included on or being considered for inclusion in the National Heritage List or the Commonwealth Heritage List. (Attachment 4 discusses how the listing process works currently and the research required to underpin detailed nominations). Other tasks include promotion of heritage, maintenance of the Register of the National Estate, research and reporting. (See Attachment 2).

The creation of lists of places identified and assessed as significant heritage places has been a very effective policy instrument- maybe the most effective - for discharging the Australian Government's heritage responsibilities over the last 30 years.

Listing has been an effective tool because it assists in setting the following:

- Priorities by place
- A focus
- Presentation
- Protection
- Leadership by exemplars.

Listing must be supported by adequate resources and provide fairness to owners through compensation or other support mechanisms such as technical assistance. However, it is not the whole heritage process, as there need to be grants or other incentives to owner/managers for conservation maintenance, research and interpretation.

As COAG agreed, the current three-tier system of lists is appropriate for each jurisdiction taking responsibility for its own level of heritage protection. The Commonwealth and National Lists have their own rationales and appear to be working despite some 'teething problems' discussed below. The future of the Register of the National Estate (RNE) requires more discussion but it is seen as an asset compiled with State and Territory assistance since the 1990s and the input of many thousands of individual owners and managers of heritage properties across Australia. It is variable in content despite a prolonged upgrading of information in the database entries regarding the values and description of places, but it represents a useful catalogue for those jurisdictions compiling their own lists.

It also has a role for the AHC in alerting non-successful nominators of places to the National List to consider the identification of values inherent in the nominated place which require protection but do **not** meet the threshold for *outstanding heritage value to the nation*. If these places are not already listed on the RNE (and 13, 000 are), the AHC has been listing them on the RNE to signal to the owners and State/Territory authorities that there are significant heritage values existing but at a lower threshold. We believe that the RNE should become the multilevel database containing the

complete inventory of Australia's heritage places, which have been identified on a statutory heritage list, and accessible to all through its web links.

ii. Advice and policy formulation:

As well as the new legislation, heritage Ministers from all States and Territories have an agreed National Heritage Protocol and a new Environment Protection and Heritage Ministerial Council meets regularly to discuss high level issues such as policy formulation, financial incentives, heritage tourism initiatives. These arrangements are intended to inform and ensure the clarification of roles and responsibilities for a three-tier system of heritage protection. The Australian Heritage Council, as an adviser to the Commonwealth Minister, has input into policy and program development, such as grant programs like *Sharing Australia's Stories*, and monitoring this.

The Council is a member of the Heritage Chairs and Officials Committee of Australia and New Zealand and regards this forum as extremely important for discussing the tools needed to implement an effective three tiered heritage system such as an overarching heritage policy incorporating sustainable development, common documentation standards and data collection, funding partnerships, tourism partnerships, education and publicity programs. Currently administration of heritage systems across all Australian jurisdictions is inconsistent and this forum offers support and leadership to those implementing the National Heritage Protocol.

We also have a key role in advising the Minister on issues concerning the management of the Commonwealth's own heritage properties. We note also that Commonwealth agencies now build maintenance of their heritage assets into their operational budgets, and see this as an exemplar which government agencies at all levels should follow as part of good asset management.

iii. *Distinctively Australian* program:

The Department of the Environment and Heritage and the Australian Heritage Commission prepared the *Distinctively Australian* proposal and the Prime Minister supported it as a new policy response to the new legislation. In December 2003 the Prime Minister launched *Distinctively Australian* in Sydney.

The plan encapsulated two major directions:

1. identifying and protecting those places that are distinctively Australian under the requirements of the new heritage legislation which details the Commonwealth heritage responsibilities;
2. celebrating our nationally significant heritage places, stories, anniversaries and people as a highly effective way of enhancing national cohesion.

The plan proposed a *Distinctively Australian* initiative over four years covering the following components:

- An identification and assessment component;
- A management planning component;
- An actual management assistance component; and
- A promotion component to inform, educate and celebrate national heritage.

Outcomes of the plan were seen as the following:

- Social benefits by using national heritage places to enhance cohesiveness and helping Australians to recognise, value and celebrate the diversity of their national inheritance.
- Economic benefits in the form of employment in tourism, service and infrastructure industries.
- National leadership in the identification and promotion of Australian natural and cultural identity in partnership with relevant government initiatives (World Heritage, movable cultural heritage and the shipwreck protection).
- Heritage conservation benefits by identifying, protecting and promoting Australia's unique heritage assets, particularly highlighting our National Heritage List places as icons for both domestic and international tourism.
- Opportunities to bring all levels of government, industry and the community together in celebrating those things that are Distinctively Australian.

#### iv. The First Year

During its first year, to March 2005, the Council focused on establishing its own operations and completing the assessment of places nominated for the National and Commonwealth Heritage Lists by the public:

- The Council established new procedures for the assessment of places against the National and Commonwealth Heritage Criteria.
- 335 places were assessed as meeting the Commonwealth Heritage Criteria and were added to the Commonwealth Heritage List by the Australian Government Minister for the Environment and Heritage.
- The Council assessed 8 places as meeting the National Heritage Criteria and all were added to the National Heritage List by the Australian Government Minister for Environment and Heritage.
- A further 68 places are currently under assessment for the National Heritage List.

For nominations to the National Heritage List in particular, research must establish how a place compares to other heritage places in Australia to help the Council make a determination of whether the place is of *outstanding heritage value to the nation* according to the heritage criteria outlined in the Regulations to the EPBC Act.

The assessment process for a place nominated to both the National and Commonwealth Heritage List typically follows the following stages:

- Stage 1 :        Nomination
- Stage 2:        Public advertisement and comment on nominations
- Stage 3:        Preliminary assessment against the National or Commonwealth Heritage Criteria by the Australian Heritage Council, and research into values of the place undertaken
- Stage 4:        Consultation with landowners and affected parties for places which are assessed as potentially having National or Commonwealth Heritage values.

- Stage 5: Further research and final assessment against the National or Commonwealth Heritage Criteria.
- Stage 6 Australian Heritage Council recommends the assessment to the Minister
- Stage 7: Decision by the Minister for Environment and Heritage on the listing of the place on the National or Commonwealth Heritage List.

In its first year the Council also provided input to a number of other initiatives being implemented by the Department of the Environment and Heritage including providing statutory advice to Commonwealth Departments and Agencies and initiatives under the Distinctively Australian Program including:

- The *Sharing Australia's Stories* grants program which received 1000 applications;
- An Australia wide program of information sessions and workshops on the new heritage system; and
- Public engagement activities.

## 5. Pressures and challenges

i. There have been many operational challenges in creating, communicating and delivering on a new national heritage system since January 2004. Some important issues that the Council wishes to address in the future are:

- A more expansive approach to our legislative obligations, other than assessment of public nominations and advice to Commonwealth agencies, which can use the assessment and advice functions as springboards for a sustained strategic program of protection and celebration;
- Specialist staff and the involvement of a range of experts to assist in assessments of the values in nominated places and the development of a proactive thematic program of research, nomination and assessment;
- A sustained Australia-wide community education program about the intent of the three tiered system of responsibilities for heritage protection;
- A publicity campaign centred around each National Heritage listing which should create multipliers in State, regional and local communities for understanding the significance of the new listing and celebrating it in many ways some of which will generate revenue to the communities involved.

ii. A particularly difficult area to resolve is the challenge of public nominations. In launching the new system and generating hoped for support across the nation, public nominations were called for. (See facts sheets at <http://www.deh.gov.au/heritage/publications/factsheets/index.html>).

Many nominations received in the first year were for places affected by current development proposals where the nominators were aggrieved with current local government processes and sought some Commonwealth intervention. This is because

they did not understand or want to understand the changed roles and responsibilities agreed upon by all levels of government.

However, the inappropriate nominations arriving for our assessment must be conducted in accordance with the statutory time frames required under the Act. This ties up staff resources in work which is essentially negative in output but complies with the provisions of the Act.

A better balance is required to cater for nominations to include places of genuine national heritage significance. Some of these will be Australian icons; others will arise from carefully researched thematic surveys. This balance also requires better and widespread publicity about the nature of national heritage places.

The challenge given to the AHC by the new legislation is to create a credible National Heritage List. Regulations established a set of nine National Heritage Criteria (see Attachment 3) against which nominations to the National Heritage List are to be assessed to see if they meet the threshold for National Heritage listing against one or more of the criteria. The listing process and the research required to underpin detailed nominations also involves input from State and Territory heritage agencies as outlined in the National Heritage Protocol. A new mechanism for this is required and the US system of State Historic Heritage officers is a worthwhile example of tiered systems working. The involvement of all levels of government in creating a credible National List is vital if Australians are going to realise the richness of their heritage places.

## **6. The future role for AHC**

In the next year our priorities are to:

- i. continue building a credible National Heritage List – including Australian icons, places identified by thematic surveys and reviewing the national heritage values in World Heritage listed properties;
- ii. develop a nation-wide communications strategy for public engagement that will
  - ensure that the new National Heritage System is understood by the community; and
  - extend the public understanding and appreciation of what is Australia's National Heritage.

As part of this communications strategy we are developing a Distinctively Australian Partnerships Initiative (DAPI) to build capacity for promoting our national heritage and telling Australia's story through places of outstanding heritage value to the nation. These partners include documentary makers, the arts and entertainment sector, national travel and tourism operators, publishers and the media. The initiative will identify and support a strategic set of projects that will engage the general public with Australia's National heritage. Partner organisations will be selected according to:

- their commitment to telling Australia's National Heritage Stories;
- their capacity to reach the Australian public;
- their ability to develop creative and innovative ways of presenting and promoting Australia's heritage.
- their ability to leverage existing resources.



We also have an obligation to list and monitor the protection of places on the Commonwealth List to protect the heritage values of the Commonwealth's own heritage places.

We have an obligation through the National Heritage Protocol to work collaboratively with the State and Territory heritage agencies that are part of the Environment Protection and Heritage Ministerial Council. This means taking a leadership role in the fora of the Heritage Chairs and Officials of Australia and New Zealand with discussion papers, support and advocacy for conservation initiatives.

We support the vision of the National Cultural Heritage Forum whose members advocated so strongly for the new heritage system and who have contributed a Vision Statement for the conservation of Australia's cultural heritage places and collections. This has five major strategic directions:

- Government leadership
- Recognizing the value and condition of Australia's cultural heritage
- Community engagement
- Best practice
- Telling the stories.

As part of the context for introducing the new heritage system, the then Commonwealth Minister in 1998 outlined the need for a national heritage places framework in which to embed national heritage principles and national standards - a key issue to be considered by all levels of government is a consistent form of reporting on an annual basis on the number and condition of their historic heritage assets. (See Attachment 5).

This policy framework has not been developed, yet is an essential tool for implementing a three-tiered heritage system. It should:

- address the distribution and type of historic heritage assets in each jurisdiction and reported in each State of the Environment reporting system;
- ensure the provision of funding for local governments and communities comparable to that for protection of natural heritage provided by the Australian government;
- ensure the adoption and use of common standards across Australia for cultural heritage conservation practice;
- advocate the appointment of heritage advisers to work in local government planning departments to assist in heritage asset protection and enhancement; and
- address the shortage of skilled workers by a variety of means.

We want to see education curricula use our research into the significance of national heritage places to engender a wider appreciation of our diverse history among children. This means having a better appreciation of the historic built environment around them and understanding the cultural landscape in which they live.

We want to see our research into the significance of national heritage places underpin the interpretation programs offered by tourism providers across the country.

We want all Australians to be more aware and proud of those places that are Distinctively Australian, those places which tell the story of what it has meant to be an Australian through successive generations occupying and shaping this continent over 60,000 years.

## **7. Funding for heritage –now and in the future**

It has long been the claim of heritage stakeholders that there are insufficient funds for the multilevel and cross-disciplinary tasks of historic heritage conservation. The National Incentives Taskforce in their 2004 report, *Making Heritage Happen: Incentives and Policy Tools for Conserving our Historic Heritage*, [p.40] provided a table on expenditure by Commonwealth, State and Territory governments for 2001-2. However, it failed to acknowledge that these figures often represented a one-off payment as part of a previously agreed funding formula, for example, the Queensland government's \$36 million contribution to the Centenary of Federation Heritage Trails network which was mostly for new capital works, while currently there is no grants scheme to assist owners of State registered historic places and at local level, protection through heritage overlay provisions in the planning schemes are voluntary.

There is a stark contrast between the funding provided by governments in Australia for the conservation of natural and historic heritage. For example, the \$2.7 billion Natural Heritage Trust represents the biggest financial commitment to environmental action by any Australian government. Yet the Act which established the Trust in 1997 specifically excluded historic heritage from being considered –despite the indivisible nature of heritage values expressed in the one place –natural, Indigenous and historic. There is a case to be made for widening the use of the National Heritage Trust mechanisms to include cultural heritage. This was mooted in the paper supplied by the Queensland Heritage Council to HCOANZ on the plight of rural heritage places (Lennon, 2003a).

Current operating Australian government grant funding programs for historic heritage through the Department of the Environment and Heritage, in common with State and Territory programs, are heavily oversubscribed. These programs are:

- a. Cultural Heritage Projects Program; (no further rounds funded in last Budget)
- b. Sharing Australia's Stories (\$1million per year over 3 years – 04/05; 05/06; 06/07)
- c. Annual funding provided to the National Trusts across Australia, in 2004-05 this was \$822 000, increased to \$842 000 in 2005-06.
- d. Annual funding to the States and Territories under the Historic Shipwrecks Program, in 2004-05 this was \$391 000.

As outlined in 5 (i.) above the *Distinctively Australian Program* has provided an additional \$14 million over 4 years to identify, protect and promote Australia's national heritage places. The Council has provided suggestions on the *Gift to the Nation* which accompanies each National Heritage List announcement. For the 14 places listed to date, these gifts have mostly been for education through provision of interpretive materials or infrastructure such as web sites.

A new grants program for nationally significant places, the *National Heritage Investment Initiative*, was announced in the recent Budget. It provides \$10.5 million over four years to restore and conserve historic heritage places, with a focus on places on the National Heritage List.

In carrying out the Council's components of the *Distinctively Australian* program in providing national leadership in heritage conservation, the Council finds that stakeholder expectations far exceed the level of funding that governments provide.

In particular there is a real need for an ongoing research program dedicated to historic heritage to allow comparative studies in national place nominations and to allow this research material to be further applied in education and promotion activities – an internal flow-on benefit.

Specific programs for capacity building, interpretive planning and on-ground conservation works would be highly desirable. For example, National Heritage List places should exemplify the very best practice in planning, management and presentation to the public of their outstanding national values. There are quite a few different government funding programs administered by different departments and affecting heritage places which in turn are often the rationale and focus for the funding. At the Commonwealth level, these include Regional Partnership grants (DOTARS) and museum development funds (DOCITA). It is important that, where applied to heritage places, these grants be underpinned by sound heritage conservation practices so that the application of the grant does not have deleterious consequences.

Ideally these grant programs should involve staff from DEH who can provide a conservation framework for the grants to ensure that inappropriate works are not performed that later require costly repair and reversal to reinstate heritage values.

## **8. Conclusion and Recommendations**

The Australian Heritage Council has an exciting role as chief adviser to the Australian Minister for the Environment and Heritage and to any body/agency requesting advice on heritage conservation in accordance with section 5(h).

What is the asset value of heritage? By sharing core values and respecting joint values there will be a greater return than concentrating solely on economic returns. The value of heritage will increase as education, income and understanding increase. There are market failures in heritage, and because the stream of values produced will increase, these will continue to some degree.

Australia has a strong regulatory framework reflecting global, national, State and local requirements but it is not substantially supported by programs assisting this outside the listing and development approval process.

We have commenced the process of building a credible National List; we have created the initial Commonwealth List to protect the Australian Government's own heritage properties. But we need stronger financial mechanisms supporting this listing framework. A parallel can be seen with Indigenous art where there was no market

twenty years ago, or with the investment in Australia's natural ecosystems now compared with a decade ago.

This submission represents our first public reporting – in accordance with those provisions in our legislation – and we look forward to working out new ways to more effectively deliver protection to Australia's heritage, particularly its historic heritage through policy leadership, partnerships, grant programs and education.

We recommend that the Productivity Commission consider the following:

1. The importance of integrating all aspects of heritage at all levels of government in both legislation and policy;
2. The Australian Government build the National Heritage List as a central plank of its heritage policy;
3. A strengthened Commonwealth leadership role fostering national identity through the identification and interpretation of nationally significant heritage places and stories and through historic themes;
4. The need to lift standards for conservation works in the built environment and to develop consistent standards in assessment;
5. The need to close the legislative gaps in protection of the historic environment;
6. The development of education curricula incorporating knowledge and appreciation of Australia's heritage and supporting training programs in heritage conservation;
7. The development, especially for regionally disadvantaged places, of an appropriate shared formula between governments for funding conservation works where the private sector cannot provide resources;
8. The development of a mix of grants and incentives to support sustainable use of heritage places, including the imaginative use of programs not specifically addressing heritage issues, such as tourism and regional development programs;
9. The development of new mechanisms for co-ordination and co-operation between governments, especially Commonwealth-State/Territory cooperation in building the National Heritage List.

## REFERENCES

Australian Heritage Commission, 2001. *Australian Historic Themes, A framework for use in heritage assessment and management*, Australian Heritage Commission, Canberra.

Colmar Brunton Social Research, 2004. Research findings to inform communications for the *Distinctively Australian* initiative, unpublished report to the Department of Environment and Heritage.

English Heritage, 2004. *Heritage Counts 2004—the State of England’s Historic Environment*, <http://www.english-heritage.org.uk/heritagecounts/>

Hill, Robert, Senator the Hon., 1998. *Reform of Commonwealth Environment Legislation, Consultation Paper*, Australian Government Publishing Service, Canberra.

ICOMOS UK, 2004. *Management of the Historic Environment*, ICOMOS UK, London.

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

Lennon, Jane, 2003. Values as the Basis for Management of World Heritage Cultural Landscapes, in *Cultural Landscapes: the Challenges of Conservation*, World Heritage papers no.7, UNESCO World Heritage Centre, Paris, pp.120-126

Lennon, Jane, 2003a. *Rural Heritage Places Issues*, Discussion paper for the Queensland Heritage Council, July 2003.

Mason, Randall, 2002. Assessing Values in Conservation Planning: Methodological Issues and Choices, in de la Torre, Marta (ed), *Assessing the Values of Cultural Heritage*, The Getty Conservation Institute, Los Angeles, pp. 5-30.

McCarthy, Kevin *et al.*, 2004. *Gifts of the Muse*, RAND Corporation, Los Angeles

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

### Attachments:

1. Opening Address to the National Heritage Convention by Senator the Hon. Robert Hill, 6 August 1988.
2. Functions of the Australian Heritage Council, section 5 of the *Australian Heritage Council Act 2003*.
3. Criteria for assessment of the outstanding national heritage value of places.
4. The AHC Listing Process.
5. National Heritage Principles –from National Heritage Convention, 1988.

## **ATTACHMENT 1: Opening Address to the National Heritage Convention**

**by Senator the Hon. Robert Hill  
Leader of the Government in the Senate  
Minister for the Environment**

Peter King, Barry Jones, ladies and gentlemen.

It gives me a great deal of pleasure to be here today to open this convention hosted by the Australian Heritage Commission.

At the outset, I wanted to acknowledge and congratulate the chairman of the Commission, Peter King. This convention is very much Peter's initiative and, if your presence here today is any indication, it is an initiative that those with an interest in our heritage have embraced.

The convention is the first of its kind. It is a significant milestone as it comes at a time when major effort is being made to significantly improve the coordination of current heritage arrangements and devise best practice models and legislation for the next century.

Australia is a land of outstanding heritage value:

- It is the only developed country in the world whose biodiversity is defined as megadiverse;
- It is home of the oldest continuous culture on earth, having been occupied by aborigines for more than 60,000 years;
- It has a rich and varied history of European settlement over the last 200 years;
- And it has become the home of people from every culture in the world, with a consequent richness of tradition and cultural diversity.

Caring for this heritage is the privilege and responsibility of all Australians and the governments they elect.

From the Commonwealth's perspective, those responsibilities have largely been undertaken through the Australian Heritage Commission.

Since its founding in 1976, the Commission has played an essential role in identifying and promoting the protection of our heritage, and in pioneering good practice in its conservation.

There have, of course, been many changes during the 20 years of the Commission's existence.

For example:

- There is a rapidly growing local community interest in heritage conservation;
- There are changes of attitude occurring, for example in the way in which many in the private sector are responding to heritage issues through adaptive re-use of buildings, or the restoration of damaged landscapes;
- There are new strategic alliances developing between heritage interest groups, government and industry; and

- There is growing commitment to an integrated approach to our natural and cultural heritage places.

In other words, while problems remain, many sectors of society are striving vigorously to work together and solve problems in a way that provides greater protection for our heritage.

At a government level, in the last 20 years there has appropriately been a growth in legislative and management regimes, designed to protect heritage, so that now, in the Commonwealth and all states and territories, there is legislation - in various forms - which seeks to protect natural, indigenous, and historic heritage.

With the growth of these systems have come greatly increased opportunities for legal and physical conservation of our heritage.

But despite the positive developments of that period, there are many areas where governments can do better.

It was recognition of this fact that led the Council of Australian Governments, or COAG, to initiate a review of Commonwealth / State roles and responsibilities for the environment which has also incorporated consideration of the way that we manage our heritage places.

The product of that review in relation to the Commonwealth's environment legislation is currently before the Parliament and is the subject of a Senate committee process which will allow for widespread community input.

In relation to heritage, COAG gave in-principle support to the development of a National Heritage Places Strategy which will be designed to determine the way that the Commonwealth and States fulfil their heritage responsibilities well into the next Century.

As an important contribution to the development of the Strategy, the Australian Heritage Commission as the Commonwealth's chief advisory body on heritage, began a wide consultation and review process. This convention is part of that process.

From the Commonwealth's perspective, there are a large range of issues that we will be seeking to ensure that the Strategy addresses.

Fundamentally, we want to ensure that Australia has an improved heritage regime that reflects world's best practice and provides improved processes and protection for places of heritage significance.

Within that context, we want to reduce the level of duplication that currently exists between different jurisdictions in a way that leads to greater transparency, seamlessness and certainty for all stakeholders.

In so doing, we also want to ensure that each jurisdiction has the capacity to protect those places that fall within their responsibility. This is a particularly relevant issue for the Commonwealth.

At present, the Commonwealth maintains a register of some 12,000 places that include sites of local, State and national significance.

While the identification of those places, in itself, provides some protection to those sites by alerting the community and decision makers to their significance, the Commonwealth, none-the-less has no real capacity to preserve those places.

Leaving aside the constitutional limitations that face the Commonwealth in this area, in most cases it would be inappropriate and administratively unmanageable for the Commonwealth to do so.

Inappropriate because, within our federation, State and Territory governments correctly should hold principal responsibility for managing and preserving heritage places that are of State and local significance.

Unmanageable simply because of the sheer volume of sites involved.

It is also worth noting that the positive developments of the last 20 years have seen, to varying degrees, the States enact heritage legislation that provides for the identification and protection for many of those places in a far more effective way than that currently provided through Commonwealth legislation.

What we do believe, however, is that the Australian community expects their national government to show leadership and provide protection for places of national heritage significance.

An essential role of the National Heritage Places Strategy will therefore be to redefine the role of the Commonwealth in a way that allows us to focus our attention on places of national heritage significance and provides us with the legislative capacity to offer some real protection to those places.

In that context, COAG decided the National Heritage Places Strategy would provide for the establishment of a list of places of national heritage significance which the Commonwealth, in co-operation with the States, will establish and maintain.

The other key decision of COAG was to ensure that the National Heritage Places Strategy identified criteria, standards and guidelines for the protection of heritage by each level of government.

The Commonwealth believes that the establishment of principles and standards which are endorsed by governments at all levels and by the community, are essential to the development of a comprehensive and seamless heritage protection and management system for Australia. This system should allow for improved and appropriate heritage protection at all levels of government.

Therefore the development of common, best practice principles and standards is absolutely crucial.

The draft principles and standards for heritage identification and listing which will be discussed at this convention have been derived from standards and practices in use in Australia, and which form part of international best practice.

Nonetheless there are a number of major challenges which face delegates in their work on principles and standards.

While in many jurisdictions there are different laws and standards for the protection of natural, indigenous and historic heritage, this separation is not one which is generally welcomed or indeed understood by the community.

Australian landscapes are the result of 60,000 years of indigenous, and 200 years of “European”, management. As such, they are cultural landscapes that can only be managed



and understood effectively if the interactions between cultural and natural components are recognised and valued.

Recognition that landscapes result from the interaction between culture and nature is fundamental to the goals of ecologically sustainable development. Eliminating the opposition between nature and culture makes the achievement of a durable 'stewardship' among land managers far more likely.

In international best practice, unification of criteria and protection mechanisms across the natural and cultural divide is gaining increasing favour. For instance, the World Heritage bureau, at its latest meeting, endorsed a unification of the cultural and natural criteria for World Heritage listing, and for monitoring of World Heritage values.

This is a unique national gathering of specialists and stakeholders in the natural, indigenous and historic area.

Any work that you do should, while acknowledging the particular needs of different types of heritage, aim at producing a unified national set of principles for all Australian heritage.

You will be aware also that different jurisdictions have varied types of protection. For instance, while most states now have statutory lists of cultural heritage, they do not by and large have such lists for places of natural heritage. Once again a major task of the convention should be to find innovative ways of developing principles and standards in these differing circumstances.

Ladies and gentlemen,

One of the issues of concern to many in the community, who are considering the suite of reforms which the government is putting forward, is the perception that these reforms will in some way mean that the Commonwealth will abdicate from its leadership role in relation to the management of Australia's heritage.

I wanted to assure you that this will not be the case.

While we want to rationalise the division of responsibilities between the different levels of government we do recognise our responsibilities, in the ways that I have already outlined, to maintain an active and improved role in relation to places of national heritage significance.

The government also recognises its responsibilities in relation to Commonwealth-owned heritage places and I am pleased that my colleague, Senator Alston, will shortly be announcing the Commonwealth's response to the Schofield report.

But beyond that, we also intend to maintain the role that the Australian Heritage Commission has established in promoting community awareness, education, training and world class conservation practices.

It is also why the development of national standards are so important.

We believe that, in relation to identification, listing and conservation the Commonwealth has, through the Australian Heritage Commission, been somewhat of a trail blazer.

We will expect that the standards developed through the National Heritage Places Strategy to embrace best practice and not simply represent the lowest common denominator.

Such an outcome will be essential if the Commonwealth is to reform its current involvement in the identification and listing of places of State and local significance.

In conclusion, I wish you well in your two days of deliberation. I look forward to receiving the outcomes of the convention, as they will play a major role in guiding governments as we seek to improve the way in which heritage places, which are of such importance to all Australian's, are managed and conserved.

## **ATTACHMENT 2: Functions of the Australian Heritage Council**

- (a) to make assessments under Divisions 1A and 3A of Part 15 of the *Environment Protection and Biodiversity Conservation Act 1999*;
- (b) to advise the Minister on conserving and protecting places included, or being considered for inclusion, in the National Heritage List or Commonwealth Heritage List;
- (c) to nominate places for inclusion in the National Heritage List or Commonwealth Heritage List;
- (d) to advise the Minister on:
  - (i) promotional, research, training or educational activities relating to heritage; and
  - (ii) national policies relating to heritage; and
  - (iii) grants or other financial assistance relating to heritage; and
  - (iv) the monitoring of the condition of places included in the National Heritage List or Commonwealth Heritage List; and
  - (v) the Commonwealth's responsibilities for historic shipwrecks; and
  - (vi) other matters relating to heritage;
- (e) to promote the identification, assessment, conservation and monitoring of heritage;
- (f) to keep the Register of the National Estate under section 21;
- (g) to organise and engage in research and investigations necessary for the performance of its functions;
- (h) to provide advice directly to any person or body or agency either of its own initiative or at the request of the Minister;
- (i) to prepare reports in accordance with Part 5A;
- (j) to perform any other functions conferred on the Council by the *Environment Protection and Biodiversity Conservation Act 1999*.

(Source: *Australian Heritage Council Act 2003*, section 5).

### **ATTACHMENT 3: Criteria for the National Heritage List**

- (1) The National Heritage criteria for a place are any or all of the following:
  - (a) The place has outstanding heritage value to the nation because of the place's importance in the course, or pattern, of Australia's natural or cultural history;
  - (b) The place has outstanding heritage value to the nation because of the place's possession of uncommon, rare or endangered aspects of Australia's natural or cultural history;
  - (c) The place has outstanding heritage value to the nation because of the place's potential to yield information that will contribute to an understanding of Australia's natural or cultural history;
  - (d) The place has outstanding heritage value to the nation because of the place's importance in demonstrating the principal characteristics of:
    - (i) a class of Australia's natural or cultural places; or
    - (ii) a class of Australia's natural or cultural environments;
  - (e) The place has outstanding heritage value to the nation because of the place's importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
  - (f) The place has outstanding heritage value to the nation because of the place's importance in demonstrating a high degree of creative or technical achievement at a particular period;
  - (g) The place has outstanding heritage value to the nation because of the place's strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
  - (h) The place has outstanding heritage value to the nation because of the place's special association with the life or works of a person, or group of persons, of importance in Australia's natural or cultural history.
  - (i) The place has outstanding heritage value to the nation because of the place's importance as part of Indigenous tradition.

*Environment Protection and Biodiversity conservation Amendment Regulations 2003  
(No.1)*

## **ATTACHMENT 4: The AHC Listing Process**

The National Heritage List is intended to comprise natural, historic and Indigenous places that are of “*outstanding heritage value to the nation*”. National heritage defines the critical moments in our development as a nation and reflects achievements, joys and sorrows in the lives of Australians. It also encompasses those places that reveal the richness of Australia's extraordinarily diverse natural heritage.

The intent of the legislation was that the threshold of heritage significance for the National Heritage List was meant to be very high, second only to World Heritage. Places on the World Heritage List must be of “outstanding universal value”, not merely important from a national viewpoint, but recognized internationally as being a critical part of the inheritance of all humanity. Similarly, a place on the National Heritage List must be of “outstanding heritage value to the nation”, to distinguish between places that would properly be regarded as places of State or local significance compared with those that are of national significance.

The Explanatory Memorandum for the Environment and Heritage Legislation Amendment Bill (No. 1) 2002 quotes the *Consultation Paper on the Reform of Commonwealth Environment Legislation* issued by the then Minister in 1998, which stated the need for “the preparation of a national list of heritage places of exceptional value and importance to the nation as a whole”.

In contrast, the registration criterion for the Register of the National Estate required in the *Australian Heritage Council Act 2003* is that the place has a “significant heritage value”, a much lower threshold. Accordingly, the Register of the National Estate includes more than 13,000 places of national, State and local significance.

While no specific limit has been set for the number of places on the National Heritage List, the high threshold implies a much smaller number of places than are in the Register of the National Estate. Other countries have been developing national heritage lists for many years. The United States of America, for example, has about 78,000 National Register of Historic Places of which 77% are historic buildings and structures but fewer than 2,500 of these are National Historic Landmarks, that is, the places which have a similar level of significance to Australia's National Heritage List. So only about 3 % are on the equivalent of our National Heritage List.

### **Application of a National Heritage List Criterion:**

Each of the National Heritage criteria contains two related elements: a descriptive element and a threshold. For example National Heritage criterion (a) is that “the place has outstanding heritage value to the nation because of the place's importance in the course, or pattern of Australia's natural or cultural history”. The descriptive element of the criteria is that the place is important in the course of pattern, of Australia's natural or cultural history. The threshold requirement, which is the same for all of the National Heritage criteria, is that because it satisfies the descriptive element of the criteria the place has “outstanding heritage value to the nation”.

“Heritage value” is defined as including “the place’s natural and cultural environment having aesthetic, historic, scientific or social significance, or other significance for current and future generations of Australians.”

The assessment as to whether a place meets a National Heritage criterion involves a two stage inquiry as whether the place meets the descriptive element and the threshold. There is a degree of overlap between the two inquiries and some evidence might have a bearing on both the descriptive element and the threshold. However the inquiries are separate and involve different questions. A place must satisfy the descriptive element of the criterion if it is to satisfy the threshold. However, the fact that the place satisfies the descriptive element will not be sufficient, by itself, to establish that the place satisfies the threshold.

The first part of the inquiry is whether the place satisfies the descriptive element of the criterion. For example in the case of National Heritage criterion (a) the first inquiry is whether the place is important in the course or pattern of Australia’s natural or cultural history. A positive assessment would need to be supported by evidence. For National Heritage criterion (a) the second part of the inquiry is whether the place has outstanding heritage value to the nation because of the place’s importance in the course or pattern of Australia’s natural or cultural history. A conclusion that the place has outstanding heritage value involves a relative assessment of its heritage value. The *Macquarie Dictionary* relevantly defines “outstanding” to mean “prominent, conspicuous, striking.” A place may be important and yet fail to meet the threshold.

The conclusion that a place has outstanding heritage value could be based on a comparison of the place with other broadly comparable places, or a finding that the place is unique and meets the criterion. A wide range of material might support that assessment including the extent to which there was evidence that the place was regarded as being significant by the community generally. However an objective assessment of the place’s relative heritage value is required. Places that are not well known may meet the criterion if there was evidence of their particular significance.

### **Assessment Issues:**

Work has been progressing on developing guidelines using indicators to assist in applying the National Heritage criteria in a rigorous, repeatable fashion.

Assuming that the right criterion has been selected against which to assess the place based on the descriptive element of the criterion, a two step process has been found useful in determining whether the threshold of significance is met.

Step 1 in the assessment process is to use the indicators and thresholds to determine if a nominated place has a high degree of significance and can be considered as a credible candidate for the National Heritage List.

Step 2 in the assessment process is to determine if these places have *outstanding heritage value to the nation*.

## **Thematic research:**

To undertake rigorous and credible assessments, research is required to underpin the investigation. This has been achieved so far by building on work previously undertaken by the Australian Heritage Commission on principal national historic themes.

Typologies of places and a thematic framework assist in comparative analysis of places in the assessment of significance. Using themes assists in thinking more widely about historical processes and also highlights the values exhibited at places rather than only assessing the fabric of the place. It also enables comparisons with other places exhibiting a similar theme and at different scales –local, regional, national and international (AHC, 2001:2-3).

The Australian Historic Themes Framework comprised nine principal themes, which are linked to and elaborated by a network of more specific sub-themes:

1. Tracing the evolution of the Australian environment
2. Peopling Australia
3. Developing local, regional and national economies
4. Building settlements, towns and cities
5. Working
6. Educating
7. Governing
8. Developing Australia's cultural life
9. Marking the phases of life

The framework was designed to be generic for Australia as a whole and was endorsed by Commonwealth, State and Territory heritage agencies in March 2000. New sub-themes may be developed, or existing themes may be linked to the framework as required, according to regional variations or particular historical processes. The framework can be applied to places at all levels of significance from local through to national. It deals only with historic values although it recognises that natural, social, scientific and aesthetic values may also reside in a place. A national framework of historic themes offers links between the different regional stories in Australia's history, and the heritage places that help to illustrate that history. We are the only nation to occupy a whole continent and the diversity of our experience of our landscapes and their component places can be linked through a thematic framework – comparing like with like in heritage assessments.

The role of themes as an organizing tool in the assessment and subsequent interpretation of historic places developed as mainstream practice during the 1990s.

The Australian Heritage Council, in testing out the heritage significance of a place, is determining what places contain *outstanding heritage values to the nation*. We must show the diversity of Australia's heritage, not just the familiar and the places that are immediately recognised. The early listings must establish the rigour of thresholds that are explicable to the general community not just the heritage professionals. We need to establish beyond doubt the methodology of using values to define what it is to be protected and ensure the rigour of the management plans that are adopted. We must

ensure that the National List is derived from many sources not just the insiders, hence the public nomination process.

*Distinctively Australian* was launched by the Prime Minister in December 2003 and outlined a number of themes through which to populate the List: Wide and Ancient Land, Building a Nation, Australian Spirit.

The Council prioritised these themes for a strategic approach to assessments of nominations as follows:

- An Ancient Country - with focus on fossil sites and geomorphology, and to progress Indigenous creation stories at the same time, linking the stories and science.
- An Island of Natural Diversity- Unique Flora and Fauna, Biodiversity Hotspots, with Indigenous connections.
- Building a Nation – studies of “Australians at War”, “Creating an Australian Democracy”, “Australia’s Transport and Communications 1788-1970”, “A Great Southern Land”-maritime exploration.
- Inspirational landscapes.

Publicising this thematic research will hopefully lead to nominations of places already studied and found to possess outstanding national heritage values.



## **ATTACHMENT 5: Australian Heritage Places Principles**

### **Preamble**

Australia's heritage, shaped by nature and history, is an inheritance passed from one generation to the next. It encompasses many things, the way we live, the traditions we hold dear, our histories, stories, myths, values and places. The diversity of our natural and cultural places helps us to understand our past and our relationship with the Australian landscape. Heritage recognises the indivisible association of culture-nature-country-place-religion for Aboriginal and Torres Strait Islander peoples.

### **Vision**

Recognising the diversity of country and cultures in Australia and the unique relationship of Aboriginal and Torres Strait Islander peoples with country, Australia should act as a community that respects, sustains and celebrates its diverse heritage, which connects us to the past, present and country for all generations.

### **Principles**

#### **Principle 1**

Recognising our responsibilities to past and future generations, the Australian community will conserve its heritage through cooperation and respect between all communities and governments.

#### **Principle 2**

All levels of government and government agencies must demonstrate leadership in protecting, conserving, promoting and managing heritage values.

#### **Principle 3**

Recognising that Indigenous peoples are owners and custodians of their heritage and have consequent obligations, the heritage of all Australians should be managed in accordance with evolving traditions, customs and laws.

#### **Principle 4**

Communities should be actively involved in all processes of identification, protection and use of heritage places, other than where this would be inconsistent with the conservation of heritage values.

#### **Principle 5**

There should be a comprehensive inventory of heritage places accessible to the general public, subject to confidentiality to protect heritage values or customary rights.

### **Principle 6**

Identification and assessment should be based on the full range and diversity of heritage values.

### **Principle 7**

Determination of significance should be based solely on heritage values and be separate from management decisions.

### **Principle 8**

The fundamental aim of conservation is to sustain heritage value with the least possible intervention. Where the use of a place involves a risk of significant irreversible damage to heritage values, lack of scientific certainty should not be used as a reason for allowing that use.

### **Principle 9**

The uses of heritage places should, as far as practicable, be limited to those which are compatible with the heritage values of the place. Where there is a conflict between heritage and other values, prudent and feasible management options must be sought and considered.

### **Principle 10**

The effective identification and conservation of heritage places is dependent upon relevant research, education and presentation which respects the heritage values of the place and the sensitivities of communities.

### **Principle 11**

Conservation of heritage should be adequately resourced, recognising the rights, responsibilities and capabilities of governments, owners, custodians, communities and interested parties, and respecting cultural and gender requirements.

### **Principle 12**

Planning processes and decisions must include conservation management planning for heritage.

Agreed to at the National Heritage Convention , 8 August 1998.

([http://www.environment.gov.au/heritage/environments/current\\_issues/nhc/5\\_principles.html](http://www.environment.gov.au/heritage/environments/current_issues/nhc/5_principles.html) )