

FUNDING PRIVATELY-OWNED CULTURAL BUILT HERITAGE UNDER AUSTRALIAN JURISDICTIONS

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The aim of this paper is to investigate current mechanisms within heritage planning frameworks in Australia in order to understand the uptake and effectiveness of such mechanisms upon private owners of CBH (Cultural Built Heritage). Using NSW as the primary focus of the investigation, the aim would be to evaluate and prescribe improved policies for a better funded and better incentivised HMS (Heritage Management System).

BACKGROUND

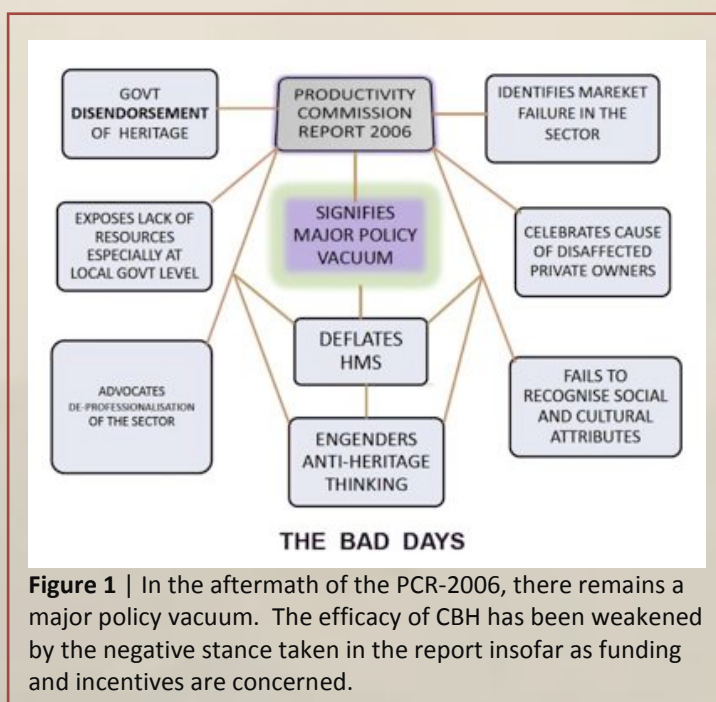
The efficacy of cultural built heritage (CBH) in Australian society has been in steady decline since mid-1990s. Privately owned CBH accounts for 90% of Australia's historic heritage places – approximately 135,000 items nation-wide (Conservation of Historic Heritage Places, Productivity Commission Inquiry Report 2006 hereinafter referred to simply as PCR-2006). Private owners shoulder the lion's share of the costs to maintain heritage properties. Government funding is scant and irregular. The community gets the benefit of heritage listings but at no direct cost to it.

Such a predicament may be unsustainable over the long-term. Planning frameworks especially at local government level fail to balance the cost burden placed upon private owners with policies that incorporate incentives or compensation. Theoretically, were more funding and incentives available, the needs and

expectations of private owners would be better addressed. The PCR-2006 indicates that government is withdrawing from the heritage sector especially from the privately owned component. The PCR-2006 indicates that market failure pervades the heritage sector but that it is not necessary for governments to apply any brakes to curtail it.

In the aftermath of the PCR-2006, a policy vacuum has formed. Currently, in Australian planning jurisdictions a number of issues have been noted as follows:

- Heritage lists have stagnated if not completely frozen as a result of a lack of funding made available for CBH by either government incentives or privately funded innovations;
- Front line councils and state governments are under-resourced and ill-equipped to deal with heritage planning issues, the concerns of listees (heritage owners) and the economic issues arising as a consequence of listing;
- Despite the lack of resources, mechanisms for de-listing are mired in



legislative red-tape. This paper does not advocate delisting as a solution, it simply means that listees feel trapped on both sides – unable to gain financial assistance for maintenance and upkeep and unable to escape from under a listing which is perceived by them to devalue their properties and limit future development;

- A general indifference by governments to privately owned CBH has engendered attitudes of pessimism, frustration and disregard on the part of owners, developers and managers of privately owned CBH;
- The range of incentives and policies for funding of CBH in Australian planning jurisdictions continues to decline. This paper canvasses potential schemes that may assist in reinvigorating the sector.

4. SEPPs – various State Environment Planning Policies - no *compensation built in for plight of private owners.*

There is a concern that due to the lack of funding and incentives for privately owned heritage in NSW, the sector may become unsustainable. Listings will decrease or stagnate. Governments will not have the resources to support the sector. Maintenance will decline. Regulation will become weak and ineffective. The stock of heritage buildings will dwindle because demolitions will become easier under the amended economic hardship provisions under S38 of the Heritage Act, NSW - gazetted in 2010. Prior to the PCR-2006, the efficacy of heritage as a public good in society had reached an apotheosis around the

mid-1990s. However, due to legislation introduced into NSW in the late 1970s (namely three key acts: Heritage Act, 1977; Environmental Planning and Assessment Act, 1979; and the Land & Environment Court Act, 1979) respect for CBH gained steady momentum and politicians were able to rally behind the mantra of heritage especially in the period between the Tasmanian Dams case in 1975 and the Australian Bi-centennial in 1988 (Figure 2). The momentum for the protection of CBH reached its highest point in the mid-1990s in NSW when Hazel Hawke (ex-wife of past prime minister Bob Hawke) became the chair of the Heritage Council, Dr Refshauge was the NSW Planning Minister and Rosalind Strong was the head of the Heritage Office. This triumvirate presided over the management of CBH in NSW when the movement was at its strongest. This paper suggests that due to the increasing influence of neoliberalism upon traditional forms of governance, corporations have progressively taken control of the delivery of infrastructure and

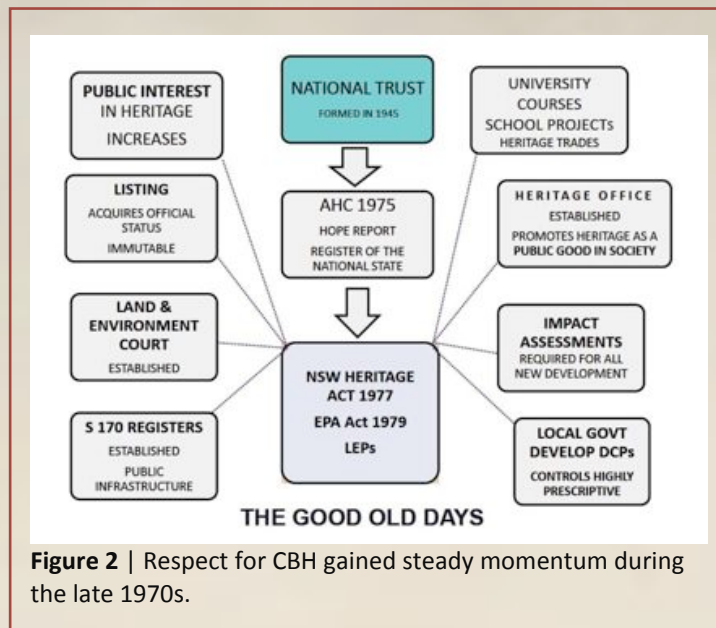


Figure 2 | Respect for CBH gained steady momentum during the late 1970s.

The policy vacuum discussed above gives rise to radical overhauling of current HMS (heritage management systems) (Figure 1).

GOVERNANCE

NSW administers CBH through four key planning instruments:

1. Environmental Planning & Assessment Act, 1979 – locally listed items attached to LEP within each LGA (approx. 26,000 items in NSW) – *very few incentives other than change of use in a zone normally prohibiting such.*
2. Heritage Act (NSW) 1977 – administers State-listed items (approx. 1,700 items) – *heritage agreements like VPAs.*
3. Land & Environment Court Act, 1979 – deals with disputed heritage decisions as Class 1 matters. *Traditionally do not factor in the notion of compensation of offsets for private owners – decisions do not integrate economic factors – cultural significance only.*

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governments have become weaker in the role of administration. Under the corporate model of neoliberalism, public goods such as health, education, transport and heritage suffer.

The trend of underfunding and under-resourcing is not only NSW-bound, but affects all Australian States. The trend has been felt by other jurisdictions as well, including Ireland, USA, Italy, Germany, France, Spain, Portugal, Holland, Sweden, the UK and USA. The trend amounts to a depletion in efficacy of CBH giving rise to a culture in which planning decisions, fettered by economic and political concerns, negatively and irreversibly impact CBH.

Unlike the protective legislation dealing with natural heritage in which errors of management can be corrected, with CBH, there are no second chances. What is demolished cannot ever be returned. CBH as a cultural good in society has suffered under a swathe of neo-liberal style policies which include: demands for smaller government concentrating on core activities; the

development of a user-pays philosophy; recognition of the significance of the tourism dollar for business and regional development; the emergence of public-private partnership; and greater limitations on government expenditure (Figure 3).

Listing, originally conceived as a means to protect CBH, may have generated unintended consequences insofar as the inequitable cost burden placed upon private owners is concerned. Additionally, management of the listed stock in the so-called 'post-

listing episode' i.e. after listing, is poor especially in respect of monitoring and auditing incremental change.

OBJECTIVES FOR IMPROVED POLICY MECHANISMS

The primary objective with respect to future policy for CBH would be:

1. To articulate and situate the fiscal crisis of heritage within a broader context of state retreat and scale-back from direct intervention in conservation and management of CBH.
2. To analyse how funding and incentive schemes for privately owned heritage currently operate/have declined in relative significance/have been cut back. To document and interpret the nature, scale, context and manifestation of the problem in the NSW heritage management system (HMS).
3. To compare funding and incentive schemes across Australian States and Territories – to note the scale of the crisis and responses to it nationally.
4. To ascertain what innovations for funding and incentivising privately owned heritage places are taking place in selected overseas countries such as UK, Sweden, Holland, Germany, Israel and USA.
5. To explore alternative and innovative funding and incentivising schemes for privately owned heritage in NSW.

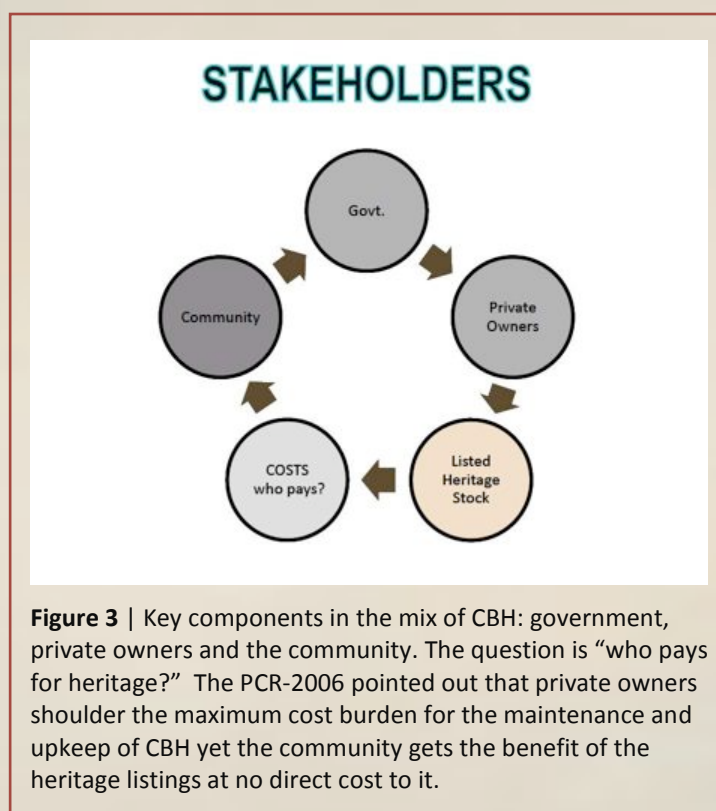


Figure 3 | Key components in the mix of CBH: government, private owners and the community. The question is “who pays for heritage?” The PCR-2006 pointed out that private owners shoulder the maximum cost burden for the maintenance and upkeep of CBH yet the community gets the benefit of the heritage listings at no direct cost to it.

In October 2007, the Australian Federal government convened a national workshop titled ‘Integrating the Costs and Benefits of Heritage into Government Decision Making’. The background paper stated that the Productivity Commission (PCR-2006: 149) made the finding that current methods of identifying

historic heritage places for statutory listing focus on the benefits expected to accrue to the community. Typically, there is little, if any, consideration of the costs imposed either on the owner or the community more generally. Cost-benefit analysis of heritage decision-making options requires not only quantification of intangible benefits, but also consideration of costs.

The administrative costs of government intervention are reasonably easy to determine. Compliance costs are less clear. They are usually associated with the use of regulatory policy instruments (such as statutory listing) and can be explicit costs or implicit opportunity costs. Explicit costs imposed by heritage listing can include the requirement to carry out additional maintenance works in consultation with heritage professionals as well as a greater administrative burden. Opportunity costs are those opportunities (usually potential developments of properties) that must be forgone to keep the heritage property in its present form. They are incurred by the community as well as by private owners as the opportunity forgone may have had wider social impacts.

A clear objective of the workshop was to refine the approaches used to measure the costs and benefits of heritage protection. In particular, how they might be applied to specific policy scenarios and how they might meet the information needs of central government agencies. A major impediment to their application is the lack of comprehensive and

consistent data on CBH. What data is needed for cost-benefit analysis of CBH? How is it to be collected? How can cost-benefit analysis be integrated into decision-making processes? When is a quantitative approach appropriate and when and how should it be combined with qualitative assessment?

Principles of policy formation for CBH¹

1. Cultural Built Heritage (CBH) is a *public good*.
2. CBH needs funding to remain viable.
3. *Market forces* alone are incapable of sustaining CBH
4. Governments need to regulate CBH.
5. Planning frameworks need to build in flexibility and choice for owners.
6. Compensation to owners needs to form the basis of future policy for the management and auditing of privately owned CBH.
7. Incentivising heritage through innovative schemes can work.
8. TDRs and other transferring of private goods in exchange are available for use.
9. Failure to incentivise the sector will result in the ultimate depletion of the stock, which cannot be regained after permanent loss.
10. Government endorsement and private investment in the sector can generate sufficient funds required in the form of local tourism and business – BIDs.

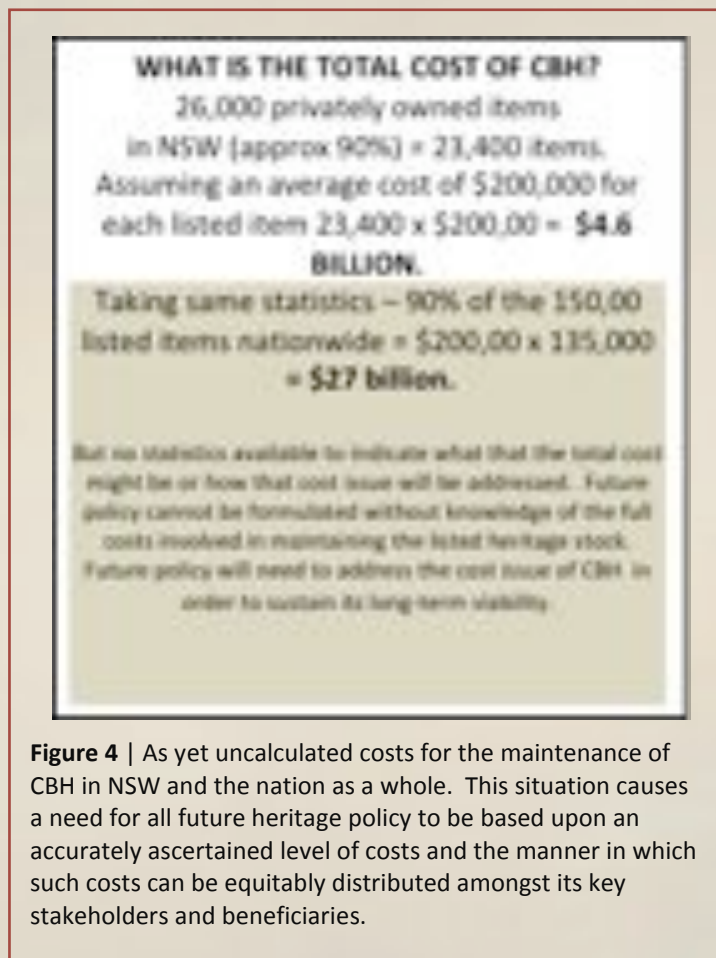


Figure 4 | As yet uncalculated costs for the maintenance of CBH in NSW and the nation as a whole. This situation causes a need for all future heritage policy to be based upon an accurately ascertained level of costs and the manner in which such costs can be equitably distributed amongst its key stakeholders and beneficiaries.

¹ There is a range of policy innovation that can be applied to the sector. The private provisioning of public goods is the key to a suite of radically overhauled planning policies. Incentivising CBH encourages investment in local areas, which in turn stimulates local tourism and business.

Since most CBH exists within the jurisdiction of local government, the feasibility of conducting cost-benefit analysis at the local level needs particular attention. The valuation techniques canvassed in the workshop all require more resources than can be justified for each decision. One solution under examination in the field of environmental economics is benefit transfer, whereby the values of one non-market good are transferred to another good with similar attributes. The workshop found that given the lack of heritage valuation studies in existence, there is limited scope for the implementation of incentive schemes for CBH generally.

In its submission to the PCR- 2006, the Australian Council for National Trusts stated that the Commission should acknowledge that market failure has occurred in the area of heritage conservation, especially with regard to the NFP (not for profit) sector, and therefore should:

- Establish the community's preparedness to fund the conservation of its heritage through the commissioning of a consumers' 'willingness to pay' survey;
- Seek to establish the value that 'heritage' has for the community through the commissioning of a community survey as broad ranging in scope as the Power of Place study conducted by English Heritage in 2000;
- Commit to completing the national heritage framework to provide seamless protection to heritage places nationwide;
- Ensure that the Environment Protection and Heritage Council (EPHC) implements the agreed Integrated National Heritage Policy incorporating best-practice elements from all jurisdictions and finalise all necessary intergovernmental agreements;
- Recognise that owners of places identified as having heritage significance have a duty of care

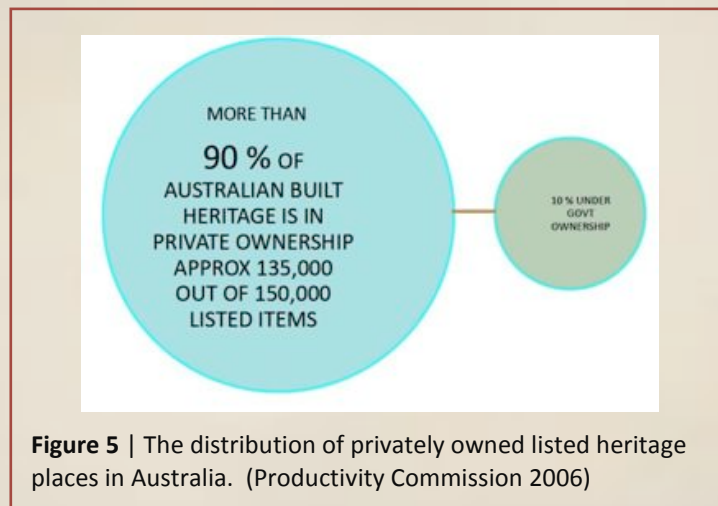
for such places and government owners in particular must commit adequate resources to conserve places in their care;

- Ensure that funding is provided to address those areas of market failure, in particular for education, conservation, research and professional development;
- Acknowledge that the NFP sector is an effective and efficient group for delivering heritage conservation services to the community and in future, could be used more by government to provide services to the community and owners of historic heritage places; funding support should particularly be directed towards the NFP sector and private owners of heritage places where market failure can most be observed;
- Allocate funds on the basis of which activities can offer the greatest returns (in terms of key criteria established as part of the overall historic heritage policy framework) relative to the funds requested; and

▪ Provide a variety of approaches to funding heritage conservation activities, including tax/rate rebates, grants, market auctions and revolving funds.

CBH is under threat from a number of extraneous sources. As building technology

evolves, the small scale and fine fabric nature of earlier construction methodologies gives way to rationalised systems in which new materials are used to create bigger scaled buildings. While progress cannot be stopped, if not properly administered, the larger scale fabric begins to overwhelm the buildings of yesteryear. In a different dimension, the social patterns of our behaviour have begun to change. Historic towns in which the open square or the public street in Australia was the traditional place of social interaction, new media and technology have evolved such that much social interaction is today taking place in cyberspace on Facebook and similar mediums. This in turn affects the physical



environment because it means that fewer people congregate in physical places. Abandonment of streets, squares and traditional meeting places causes those places to become unused and hence not maintained. Additionally, CBH becomes gentrified because of the high maintenance costs associated with maintaining fragile heritage places, only the wealthy can afford to live or work in them. This causes the sector to become privatised and gentrified with the result that the public gains less and less access to the stock. Ironically, this works against the very purpose of heritage listing which is to afford all people in society a share of their mutual historical significance. On a separate level, CBH within historic centres is continually placed under threat by new development and infrastructure. Historic centres could be better managed if infrastructure such a good working public transport system including VFT made it possible for people to work and live outside the developed areas. However, a lack of funding in public transport in most Australian urban centres over the last 20 years has simply caused an inundation upon the historic fabric which in turn has placed it under threat.

WHO PAYS FOR HERITAGE?

Methodological approach

The Australian Council for National Trusts stated in its submission to the PCR-2006 that cognisance ought to be taken of potential benefits generated by heritage conservation as private goods—that is, the benefits are captured by private property owners. Values of heritage properties have grown at a faster rate than for properties in general because of the positive impact on local amenity (although this conclusion is disputed in some cases where the additional costs and restrictions associated with

heritage protection are claimed to devalue the property). The non-private benefits extend to those in the neighbourhood, local community, region and nation, comprising benefits accruing to other parties such as income from tourism or increase in property values, arising from the existence of the asset; tangible value placed on the asset by the community, recognising its

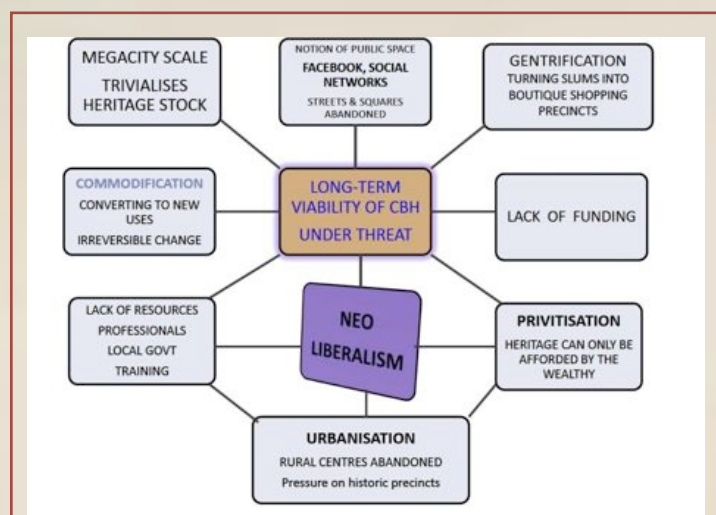


Figure 6 | Heritage under threat from many different sources. Future CBH policy needs to understand and address such disparate sources of peril and formulate ways of protecting, contextualising and interpreting the remnant historic fabric.

existence and opportunity for future use and; intangible value resulting from the increase in social capital through its contribution to development of shared values, enhanced community cooperation and better social cohesion.

Because of the ‘public good’ characteristics of these benefits, owners tend to provide less than is considered desirable from the wider community’s perspective. They provide heritage conservation only to the point where the extra benefits to them of providing more equals the additional costs incurred. The ACNT stated in its submission that this has

implications for estimating the impacts of regulatory intervention to preserve heritage places, and for determining the extent and type of intervention that may be warranted and who should pay for it.

The total economic benefits from heritage conservation are significant, warranting government intervention and funding. However, as the Commission stated in its report that just because total benefits may be large does not automatically mean more conservation services are required. What are required for policy purposes are a comparison of the extra benefits generated and the additional costs of supplying extra conservation services. Also, to ascertain if more services have the effect of promoting community welfare and how that would be ascertained. The Commission recognised the difficulty of measuring the benefits of additional conservation services. It discussed various approaches to and limitations of estimating consumers' 'willingness to pay'. While the Commission was required to measure the benefits of conservation and suggest where the optimal level of that provision might lie, it concluded that a major requirement for a policy intervention to be efficient is one that recognises and explicitly identifies or has a process in place for revealing and making transparent, the cost-benefit trade-offs. It is the purpose of policy intervention to encourage a socially optimal level for the provision of heritage conservation services in society. Policy interventions need to be targeted at areas of market failure, and need to provide a transparent process for revealing the cost-benefit trade-off.

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Funding and incentive models

New policies for the funding and incentivisation of CBH, would endeavour to provide consistency and dependability for owners and developers. They

would seek to provide capital for maintenance, repairs and upkeep and stimulate investment in the heritage sector. Through the creation of employment in the sector, it is conceivable that CBH would be promoted as a positive public good in society. This would entail any new HMS to become less dependent upon governments for funding by encouraging the private sector to engage in the provisioning of public goods and services under normal market forces but actively regulated by government. It follows that under this scenario, local tourism would be promoted and local businesses such as cafes, restaurants and associated retail within heritage precincts would flourish. In so doing, communities would become engaged with their heritage (shared or acquired) in

more meaningful ways. Private owners need to be brought into such policy schemes as willing participators so long as it is financially worthwhile for them to do so. If successful, there would be a much higher level of curatorial governance by private owners. Lastly, by shifting the emphasis away from

government funding towards the promotion privately funded mechanisms, it is conceivable that cultural heritage management could become radically de-politicised.

Some of the models worthy of further investigation include:

- Lotteries as managed under English Heritage
- BIDs - a *business improvement district* (BID) is a defined area within which businesses pay an additional tax or fee in order to fund improvements within the district's boundaries.
- Public Administration - in which government agencies acquire management over historic areas such by the Sydney Foreshore Authority (SHFA) in The Rocks or Port Arthur Historic Site Management Authority which has complete

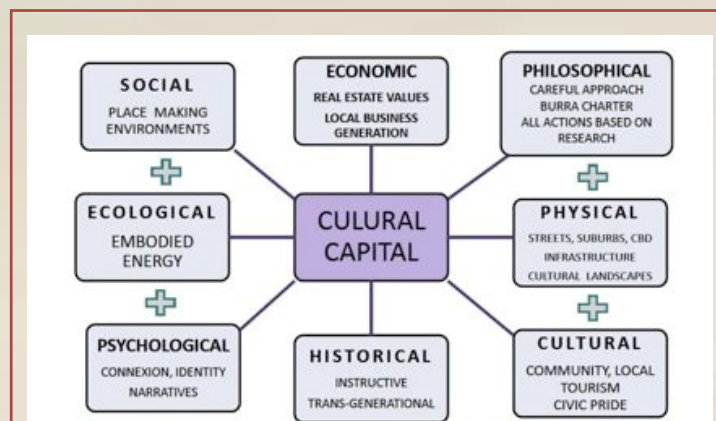


Figure 7 | The benefits of heritage conservation in society.

management of the historic Port Arthur site in Tasmania

- Heritage Agreements
- Transferrable Development Rights (TDRs) such as those practiced mainly in the USA
- Easements – visual and cultural easements comprising a formal of rental by owners to communities of privately owned heritage places
- Preservation Trusts as practiced both in the UK and USA
- Provision of information by governments to raise public awareness of CBH
- Tax rebates, stamp duty exemption, rates rebate
- Grants; dollar for dollar funding
- LGA rates increase to pay for CBH
- Heritage Impact Bonds – like Medicare
- Sinking funds via establishment of owners' corporations based on Strata Title law and 'Landcare', 'sovereign wealth fund', 'Future Fund models' etc.

Each one of the above funding types would need to be assessed on the basis of the following criteria:

- Uptake
- Cost to implement
- Resources required to implement
- Likely coverage
- Likely effectiveness
- Probable usefulness
- Positives
- Negatives
- Overall evaluation

CONCLUSION

Funding pressure on CBH has affected the manner in which heritage conservation and management operates. While much heritage literature has focused on the values of heritage, relatively little attention has been given to the attendant costs. The community exercises choices regarding the quality and nature of heritage conservation. Such decisions entail costs which are either directly imposed

(private owners) or indirectly imposed (governments and the community). Heritage regulation provides an opportunity to introduce a range of controls over public and private properties of which 'listing' is one type. In the longer term, economic viability of CBH dictates that a commercial rate of return will always be sought. If capital cannot be applied to achieve a return on equivalent applications, the opportunity cost of heritage conservation will decline.

In the current political climate there is clearly a threshold on how much government, whether local, state or national, will continue to subsidise heritage conservation activities or restrict private sector activities without there being an adequate return to either directly the government stakeholders or indirectly to the wider community. Under neoliberal governance, the future viability of privately owned CBH will be found in a search for policy tools and mechanisms that facilitate the provisioning of public goods by the private sector. CBH is by nature a public good yet public funding for it has diminished over the last 15 years in NSW. The way forward will therefore be constituted by a search for innovative ways of funding the privately owned component of the sector – ways drawn mainly from successful examples implemented in other sectors of public goods provisioning such as those in health, education and the environment. Adaptive re-use for policy application in the heritage sector taken from successfully operated schemes used in other sectors such as Medicare (Health), Solar Feed-in Tariffs (Energy), Fair Trade (Employment), Social Impact Bonds (Community), Disability Insurance Tax Levies (Financial) etc. would constitute a starting point in a search for better targeted and more flexible policies governing future funding opportunities and incentives for Australian CBH.

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AUTHOR BIOGRAPHY

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