

# The Australian Heritage Commission: A vain hope?

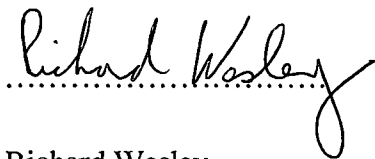
The role, function and operation of the Australian Heritage  
Commission 1975 -1995

Richard Wesley, BA, Dip Mus Stud.  
Submitted in fulfilment of the requirements for the  
degree of Master of Arts.

University of Tasmania, October 1996.

## Declaration

This Thesis contains no material which has been accepted for a degree or diploma by the University of Tasmania or any other institution, except by way of background information and duly acknowledged in the Thesis. To the best of my knowledge and belief this Thesis contains no material published or written by another person except where due acknowledgement is made in the text of the Thesis.

A handwritten signature in cursive script, reading "Richard Wesley", written over a dotted line.

Richard Wesley  
10 / 10 / 1996

# Acknowledgements

In preparing this thesis I would like to acknowledge the considerable moral and practical support provided by my three supervisors, Dr Ralph Chapman, Dr James Warden and, in particular, Dr Marcus Haward. It has been greatly appreciated and made completion of this thesis possible. The support of my wife and family has also been critical to this enterprise.

I would like to acknowledge the University of Tasmania for assisting me financially by making available a Post graduate scholarship for much of the time I spent writing the thesis.

Richard Wesley.  
October 1996.

## Copyright

This thesis is not to be made available for loan or copying for two years following the date this statement was signed. Following that time the thesis may be made available for loan and and limited copying in accordance with the Copyright Act 1968.

# Contents

ABSTRACT		vi
INTRODUCTION		1
CHAPTER I	<b>The development of the contemporary Australian conservation movement</b>	12
	An historical perspective	13
	Impact of the Lake Pedder controversy	16
	Formation of conservation groups	20
	The adoption of conservation policies by the ALP 1969 - 1972	22
CHAPTER II	<b>The origins of the Australian Heritage Commission</b>	27
	ALP Environmental Policy and initiatives in Government 1972-1975	27
	Recommendations of the Hope Inquiry	31
	Initial planning for the AHC	35
CHAPTER III	<b><u>The Australian Heritage Commission Act 1975 and the establishment of an authority</u></b>	41
	The powers and authority of the Commission under the Act	41
	Challenge and continuity 1976 -1979	45
	Establishment of the organisation	50
	The first major listing - Fraser Island	54
CHAPTER IV	<b>The AHC and the Fraser Governments 1975 - 1982</b>	59
	A changing climate for conservation organisations	59
	Development of a Register of the National Estate for the nation	62
	The level of compliance by Commonwealth agencies with Section 30 of the Act	67
	The AHC, states' rights and sectional interest groups	71
CHAPTER V	<b>The Hawke Government 1983 - 1986 - a time of turbulence</b>	78
	A new government with new priorities	79
	The AHC and the Gordon below Franklin dispute	83
	The struggle for the forests and the role of the Commission	89
	The Helsham Inquiry and its significance for the AHC	95

CHAPTER VI	<b>Challenges for the AHC and a change of approach by the third Hawke Government</b>	105
	A deteriorating economy increases criticism of the Commission	105
	A further review of the AHC	110
	A new rival for the AHC - the Resource Assessment Commission?	116
	Changes to the <u>Australian Heritage Commission Act 1975</u>	123
CHAPTER VII	<b>The AHC in the post - Hawke era</b>	129
	A new chairman for the AHC	130
	The AHC and the Wesley Vale Pulp Mill dispute	135
	The AHC and the Resource Assessment Commission inquiry process	139
	Ecological sustainability as a challenge	143
CHAPTER VIII	<b>Conclusion</b>	
	<b>The Australian Heritage Commission 1975 - 1995</b>	149
	The evolution of the AHC as an organisation	150
	The contribution of the AHC to the changing face of Commonwealth environmental policy	156
	The AHC as adviser to Cabinet	161
	The AHC and the establishment and maintenance of the National Estate	161
	The AHC as an environmental advocate	163
BIBLIOGRAPHY		167

## Figures

1	Map of Register of the National Estate (Source AHC Annual Report 1991-92)	p viii
2	Graph of National Estate Grant Program Expenditure (Source AHC internal document 1996)	p 36
3	Listing Process for the Register of the National Estate (Source AHC Annual Report 1991-92)	p 55
4	Cartoon 'The end of Paris End' (Source AHC Annual Report 1978-79)	p 70
5	AHC Organisational Chart (Source AHC Annual Report 1990-91)	p 137
6	Graph of AHC fulltime staff (Source AHC Annual Reports 1976-93)	p 134

## Abbreviations

ACDO	Australian Cultural Development Office
ACF	Australian Conservation Foundation
ALP	Australian Labor Party
AHC	Australian Heritage Commission
AMIC	Australian Mining Industry Council
DURD	Department of Urban and Regional Development
DASETT	Department of Arts, Sport, Environment, Tourism and Territories
EIS	Environmental Impact Statement
ESD	Ecologically Sustainable Development
ICONE	Interim Committee of the National Estate
LCP	Liberal Country Party
RAC	Resource Assessment Commission



## Abstract

### THE AUSTRALIAN HERITAGE COMMISSION: A VAIN HOPE? THE ROLE, FUNCTION AND OPERATION OF THE AUSTRALIAN HERITAGE COMMISSION 1975-1995

Created in 1975, the origins of the Australian Heritage Commission (AHC) lay in two decades of community concern about the perceived degradation of the Australian cultural and natural heritage.

The Australian Heritage Commission has provided advice to the Commonwealth on all major environmental issues during the period under analysis. Despite possessing considerable intellectual resources to carry out its work, the AHC has been the subject of intense criticism both from within and without the government service. Despite the obvious importance of the organisation in a growing area of government policy, there has curiously been little if any independent academic evaluation of its operation and assessment of its performance.

This thesis argues that the AHC has been unable to effectively fulfil the original expectation of the Hope Committee of Inquiry into the National Estate; that is that the timely collection and analysis of environmental and historical data would reduce the level, complexity and number of national environmental disputes. Through the establishment of the AHC, it was also believed the Australian Government could better coordinate a national response to any given conservation issue. While largely succeeding in its primary task of gathering, interpreting and presenting data relevant to the National Estate, these actions alone have not prevented long running and acrimonious land use conflicts.

Entrenched opposition to the AHC as a visible representation of environmentalism in government has caused destabilisation of the organisation and reduced its effectiveness. For much of its life, the AHC has also had insufficient resources to carry out its statutory workload. These circumstances encouraged the Commonwealth to develop new approaches to resolving environmental issues including the formation of the Resource Assessment Commission (RAC).

This thesis outlines the development and impact of a single agency, which has been required to operate in the turbulent and uncharted waters of Australian environmental politics and policy for two decades. It traces the evolution of the AHC as an organisation, adopting a framework using the key recommendations of the Hope Inquiry which led to its establishment. The thesis examines the role of the AHC as an adviser to Cabinet on environmental policy emphasising the importance of scientific research and data collection; and its responsibility for the establishment and maintenance of the National Estate. The relationship between the AHC and other Commonwealth Government bodies providing advice or information to Cabinet forms an important part of the thesis, as does an assessment of the AHC's contribution to the changing face of Commonwealth policy over two turbulent decades.



Figure 1

## Introduction

It is now over twenty years since the Australian Heritage Commission Act 1975 was passed by the Whitlam Government. This thesis traces the organisational history of the Australian Heritage Commission (AHC) between 1976 and 1995 and evaluates its performance as the principal Commonwealth Government advisory body on the National Estate. The AHC has operated during a period of rapidly expanding interest by Commonwealth and State Governments in the area of environment policy and management. The impact of this expansion on the AHC is also considered.

Between 1972 and 1975 the Whitlam Government created three key environmental organisations; the Australian National Parks and Wildlife Commission, the Great Barrier Reef Marine Park Authority, and the Australian Heritage Commission. The origin of these statutory authorities can be traced to the emergence of an Australian environmental movement during the 1960s and arguments for a greater commitment from all levels of government to the protection of the nation's natural and cultural heritage. Major disputes, including the damming of Lake Pedder and the threat of oil drilling on the Great Barrier Reef, also convinced environmentalists and sections of the Australian Labor Party (ALP) that the Commonwealth should play a leadership role in heritage policy. For this to be achieved new heritage legislation, the creation of specialist management bodies<sup>1</sup> and a reinterpretation of Section 51 (xxix) of the Australian Constitution was necessary.

In 1973 the Whitlam Government commissioned Justice Hope to head an Inquiry into the National Estate. The subsequent report detailed a wide range of policy options available to the Government.<sup>2</sup> These options included the creation of a powerful new statutory authority to provide high level advice on all aspects of government activity which impinged on the administration of the National Estate. With a large board of influential conservationists and senior Commonwealth official, it was envisaged the new body would perform two central functions. The first

<sup>1</sup> The passage of the Environmental Protection (Impact of Proposals) Act 1974 dramatically enhanced the role of the Commonwealth Government in environmental disputes by requiring developers affecting Commonwealth land or assets to submit an Environmental Impact Statement (EIS) prior to approval being granted.

<sup>2</sup> Committee of Inquiry into the National Estate, 1974, *Report of the National Estate*, (Justice. R. M. Hope, Chairman), AGPS, Canberra.



function was to act as an environmental advocate within government to advise Cabinet on specific issues as required. By so doing it was hoped that conservation considerations would become central to the Commonwealth decision making process. The AHC's second function was to develop a Register of the National Estate (the Register) by identifying areas that possessed significant cultural or natural heritage values. The intent of this Register was to alert both government and non government agencies to locations which required considerable sensitivity when preparing development proposals. It was also proposed that areas placed on the Register should form the focus of new Commonwealth conservation strategies. These strategies were identified as land acquisition schemes, heritage research projects, financial assistance to community conservation projects and public awareness programs. It was anticipated by the Committee of Inquiry that the National Estate Commission would play a major coordinating role in many of the above areas and also manage a generous grants program.<sup>3</sup>

The translation of these objectives into draft legislation was jointly undertaken by the Department of Urban and Regional Development (DURD) and the Department of the Environment. The Australian Heritage Commission Bill 1975 received broad bipartisan agreement when tabled in parliament. In particular, the need for a register, was accepted. Parliament supported the new Commission possessing the power to compel both Ministers and Departments to consider the adverse impact of development proposals effecting the National Estate.<sup>4</sup> Despite such support for the establishment of the AHC, there appeared less consensus outside Parliament on the level of resources which should be made available to the new organisation. This led to differences within the Commonwealth bureaucracy which Lloyd and Troy highlights.

The department wanted the Australian Heritage Commission to be a small and expert body with DURD responsible for the negotiation and administration of agreements with the states. Some of the members of the Interim Committee on the National Estate wanted the Commission to have rather more staff than the Department would accept. DURD was

---

<sup>3</sup> The possible function, structure and role of the new Commission along with interim strategies are contained in Chapter 10 of the *Report of the National Estate*.

<sup>4</sup> This applied to all stages of the Bill as it passed through both Houses of the Commonwealth Parliament.

concerned that additional staff would provoke aspirations within the Commission to engage in program administration. At one point the staff numbers proposed for the Heritage Commission were comparable with the staff of the department.<sup>5</sup>

Despite such manoeuvres over resourcing, the Australian Heritage Commission Act 1975 created an independent statutory authority with broad powers to identify and protect the National Estate, overseen by a large, representative, board of up to eighteen Commissioners. Thus, in general, the legislation conformed with the recommendations and spirit of the Committee of Inquiry. The issue of staffing and the appointment of commissioners had not been resolved by the time the Whitlam Government was defeated in December 1975.

A major review of the Act was subsequently undertaken by the Fraser Government in line with its broad ideological commitment to reduce the size and scope of government. The Australian Heritage Commission Amendment Act 1976 saw a significant reduction in the organisation's capacity to influence government policy. This was achieved by the removal of all references to the AHC's role in providing advice on Commonwealth funded development projects. The number of potential Commissioners was also reduced to seven. These changes were combined with a policy of providing minimal staff for the Commission throughout the Fraser years.<sup>6</sup>

In 1990 minor amendments to the Australian Heritage Commission Act 1975 were passed. No attempt was made, however, to return those powers removed by the Fraser Government or provide new ones despite the rapid expansion of environmental issues in the 1980s. This can be principally explained by the fate of the Register of the National Estate, the subject of unrelenting criticism by industry groups since its inception. Originally promoted as an 'alerting' register by its proponents, organisations such as the Australian Mining Industry Council have consistently claimed the Register is a de-facto land management regime, stifling economic development by encouraging opposition to development from

---

<sup>5</sup> C.J. Lloyd & P.N. Troy, *Innovation and Reaction, The life and death of the Federal Department of Urban and Regional Development*, George Allen & Unwin, Sydney, 1981, pp. 184 - 185.

<sup>6</sup> 14 permanent full time staff commenced in 1976 and this number rose to 17 by 1982.

environmental groups.<sup>7</sup>

The Commission has been the subject of fierce attack over procedures in processing National Estate applications and the methodology used to define the heritage significance of a given area. The AHC has further antagonised vested interest groups and individual State Governments with its provision of advice to Cabinet on national conflicts including the Franklin Dam dispute, the Lemonthyme and Southern Forests Inquiry, Kakadu and the National Forest Industry Policy. This endemic criticism led to the AHC being the subject of four major reviews which, arguably, have reduced its overall effectiveness. The subsequent establishment by the Commonwealth of the Resource Assessment Commission (RAC) in 1989 and sectorally focussed Ecological Sustainable Development (ESD) working groups in 1990 reflected a lack of confidence in the Australian Heritage Commission model as a means of resolving national environmental issues.

These circumstances led to an effective displacement of the Commission as a key source of strategic policy advice in favour of new bodies such as the RAC and specialist units within the Department of Primary Industry and Energy and elsewhere. The period 1985-1987 was marked by relatively static funding despite a substantial increase in demand for technical data on the National Estate following a number of proposals related to broad scale forestry.

A desire to remain relevant as a policy body, and political pressure to place greater emphasis on resolving environmental conflict, subsequently led the AHC to adopt and promote the concept of Regional Assessment. The Commission argued that, by placing the emphasis on determining the existence of heritage values on a regional and not simply a local level, it was feasible to negotiate meaningful land use agreement with individual State Governments. Following the satisfactory negotiation of an agreement with the Western Australian Government over the future management of the South West forests, the AHC was able to mount a successful claim for a substantial increase in staffing and a new role in helping to broker national land use arrangements. This breakthrough revitalised the Commission and helped update the concept of the National Estate.<sup>8</sup>

---

<sup>7</sup> Opposition was encouraged by the rapid listing of areas. Within five years of the Register commencing over 6500 places were on the Register.

<sup>8</sup> The development of the Regional Assessment concept enabled the Commission to successfully argue for more staff. Between 1989 and 1993 permanent full time staff numbers increased from 50 to 73.

## Methodological issues

This thesis examines a single government instrumentality established at a time of expanding Commonwealth Government interest in environmental policy. There are acknowledged methodological problems in drawing broad conclusions from a single case or example. Comparative analysis is also problematic given the lack of an appropriate basis of comparison. The framework and analysis, therefore, is drawn from the report of the Committee of Inquiry into the National Estate chaired by Justice Hope.

The examination of the Australian Heritage Commission also raises important issues relating to the role of individuals in the policy process. While a number of individuals have had a significant influence in shaping the work of the Australian Heritage Commission, it is also clear that policy development is an impersonal process involving numbers of players. Policy is the intereraction between ideas, individuals and institutions, and thus the understanding of the policy system as a whole is more important than the activities of an individual.<sup>9</sup> Policy in areas such as the environment may also develop reactively as a consequence of events rather than as a planned response to a particular problem.<sup>10</sup>

A traditional historical approach is adopted in tracing the major events which have significantly shaped the organisation over the last twenty years. This method allows the relationship of landmark events, such as the election of the first Hawke Government and the subsequent administrative changes to the AHC to be seen in context.

An evaluation of the Commission's work is made within the framework of the objectives set for the organisation by the Hope Inquiry and the aspirations of the Hon. Tom Uren MHR who had initial carriage of the Act through Parliament. As indicated above, this thesis focuses firstly on the evolution of the AHC as an organisation and secondly on its contribution to Commonwealth environmental

<sup>9</sup> These are discussed, for example in, P Mouzellis, *Organisation and Bureaucracy, An Analysis of Modern Theories*, Aldine De Gruyter, New York, 1967, pp. 66 to 77.

<sup>10</sup> A particularly good example is Wesley Vale where no effective policy on pulp mill development existed prior to the dispute.

policy. This work utilises criteria derived from the Hope Inquiry recommendations as a framework. The thesis considers the AHC in relation to its role in

- (a) advising Cabinet on environmental policies;
- (b) being responsible for the establishment and maintenance of the National Estate; and
- (c) acting as an environmental advocate.

While it is understandable that the passage of time and events guarantees the form adopted by the Commission would substantially differ from that originally envisaged, it is reasonable to gauge performance against the aims and objectives set down in the original Act.

### **Significance of the thesis**

Despite the obvious importance of the AHC to those seeking an understanding of Australian environmental politics, the author is only aware of two substantial academic works which attempt to evaluate different aspects of the Commission's performance.<sup>11</sup> This thesis represents the first comprehensive attempt to research the origins of the Commission, describe its administrative role as an environmental agency and explore the extensive public comments made about the organisations performance. The varying political views of the protagonists involved in environmental disputes and the perspective of the Commission is captured through the extensive use of media releases and daily newspaper reports as source material. The ever-shifting views of politicians on environmental issues is contrasted with the consistency of advice given by Commission staff. This approach lends an immediacy and freshness to the presentation while highlighting the ideological divide which separates the key players.

Because the Commission has now operated for some 20 years, the organisation represents a yardstick against which the performance of newer agencies, including

---

<sup>11</sup> D. Rosacur, *Conservation of Forests: the changing role of the Australian Heritage Commission*, a report prepared for Senator Chamarotte under the inaugural Australian National Internships Program, November 1993 and  
G. Davies *The Australian Heritage Commission : A Thing We We Want to Keep?*, unpublished MA thesis, University of Canberra, 1992.



the now defunct Resource Assessment Commission, can be assessed. An investigation of the AHC also highlights the capacity of specialised government structures to diverge over time from the principles upon which their legislation was based. Indeed the Commission represents a case study of the corrosive effect that long term policy conflict can have on the capacity of a government body to fulfil its charter.

More generally this study makes a significant contribution to furthering an understanding of the interplay between public interest groups, organised political parties and government agencies in the protection of natural and cultural heritage values.

### **Premises and Proposition**

The AHC has been unable to implement the substance of the Hope Inquiry recommendations with respect to protecting the National Estate. This was initially due to the decision of the Fraser Government (1976-1982) to remove significant powers contained in the original legislation and to limit resourcing. The election of the Hawke Government in 1983 did not reduce broad resistance among development interests and commercial land use groups to a core Commission function; the compilation of a Register of the National Estate. As a consequence, any hope by Commission supporters that a change of Government would enable the organisation to operate as originally envisaged by the Committee of Inquiry was quickly dissipated.

The major proposition advanced in this thesis is that the failure of the AHC to function effectively as an environmental advocate within Government arose from the dominance of the National Estate process in its work. The proposition will be evaluated by examining the AHC's role in environmental policy making and management decisions in the period 1976-1995. This examination notes that an important impact flowing from the establishment of the Resource Assessment Commission in 1989 was to increase the relevance of advice from the AHC. As senior political figures struggled to respond to forestry and mining industry requests for resource security in the late 1980s, the AHC was able to clarify critical conservation issues as part of the debate over resource security. An important

outcome for the Commission from this process was a substantial increase in Government funding and status.<sup>12</sup> The thesis concludes that the Commission, for the first time, is able to more freely fill the strategic role envisaged by the Hope Inquiry as emphasis has moved from defending the integrity of individual National Estate listings to the incorporation of heritage values into wider regional resource management strategies.

### **Scope and Limitations**

A study of the Commission offers an opportunity to reflect on the difficulty of developing a bureaucratic entity which can respond effectively to the new political force of environmentalism. It also illustrates the difficulties faced by a policy-driven statutory authority constrained by a service delivery function that is the subject of intense criticism from vested interest groups

A lack of analytical literature on the Commission has required the author to rely primarily on annual reports, departmental correspondence, media releases, newspaper coverage, party policy documents and literature prepared by peak industry and conservation organisations. This provides an opportunity to interpret the sometimes daily responses from Ministerial offices to rapidly moving environmental disputes involving the National Estate and the AHC.

In assessing the role and performance of the AHC, the thesis concentrates on describing and analysing the public policy pronouncements of the Commission followed by an assessment of their impact over the medium to long term. This discussion is placed in the context of contemporary political events to assist in understanding the environment in which key decisions were made. The author has not, however, attempted to detail the origins of individual policy initiatives given that it is not only difficult to achieve but adds little to the debate about the performance of the organisation. How policy is formulated and processed internally in the AHC is also outside the scope of the thesis, despite the obvious importance of such processes.

Preparation of the thesis has not required a review of internal administrative

<sup>12</sup> The AHC was able to secure nearly 20 additional staff between 1992 - 93 to manage a new Regional Assessment section.

processes such as the assessment of National Estate applications except when these processes have been the subject of public criticism. No comment has been made on the quality of Commission management in general, nor individual officers in particular. A detailed economic analysis of the Commission's expenditure of funds has not been carried out although reference is made to staffing and budget figures as a means of demonstrating the level of government commitment and organisational growth over an extended period.

## **Outline of thesis**

The contents of this thesis and the history of the Australian Heritage Commission have been broken down into four distinct phases. Phase one illustrates the relationship between the emergence of new community aspirations for the protection of the nations environment, the absorption of these sentiments into the political process and their translation into legislation. This process is set against an extraordinary period of political history which saw the end of 23 years of conservative government and the beginning of a brief, turbulent period of ALP administration.

Between 1976-1982, the Commission operated in a climate of government fiscal restraint. Limited resources and a reduction in the level of legislative responsibility encouraged AHC staff to focus on establishing a viable Register of the National Estate. Intense criticism of the Register by special interest groups prompted both a review of the organisation by the Fraser Government and strenuous efforts by staff and Commissioners to promote greater understanding of the National Estate concept within the community. At this time the AHC provided strategic advice to the Commonwealth concerning the future of the Franklin River which brought the organisation into conflict with the Tasmanian Government.

The election of a new Labor Government and a surge in large scale resource development proposals during the years 1983 to 1989 resulted in turbulent times both for environmental politics and the AHC. A willingness by Commonwealth Environmental Ministers Barry Cohen and Graham Richardson to intervene at a State level on resource management issues, and the creation of new World Heritage areas, encouraged a string of national environmental disputes. These factors, combined

with a desire by the forest industry to obtain resource security, encouraged the Commonwealth to develop a range of new environmental policies which attempted to find common ground between conservationists and industrial groups.

Faced with the distinct prospect of being sidelined as a principal adviser on environmental policy, the Commission entered its fourth phase of development through the introduction of the Regional Assessment process. This new process was designed to help the Commonwealth and the WA Government reach agreement over the future management of Kauri forest areas. It placed greater emphasis on consultation with stake holders and used a wider range of heritage criteria than was used in the National Estate process. Commenting on the process and the challenge it posed to the traditional operational culture of the Commission, Professor Haigh Beck noted:

In trying to balance the needs of the timber industry and the preservation of heritage the Commission carried out a regional assessment. Over 200 criteria relating to the natural, historical and Aboriginal environments were applied.

The stake holders included not only the timber industry and conservationists but also the local population, many of whom farmed land on which were places of national estate value. They too had to be consulted. This was a new experience for the Commission which was then still more accustomed to dealing with other experts.<sup>13</sup>

This current change of approach has undoubtedly increased the opportunity for negotiation between the AHC and commercial interests over the predicted impact of development proposals on National Estate values. In so doing, the number of policy options that could be made available to Cabinet has also expanded. The range of powers possessed by the AHC, however, remains limited and its capacity to wield influence outside National Estate issues is dependent on ever changing political circumstances and the capabilities of senior staff and Commissioners.

The mere survival of the Commission is testament to the enduring values enumerated

---

<sup>13</sup> H. Beck, 'Social & Aesthetic Values: New assessment methodologies for involving the community', *In Place*, 1995, Australian Heritage Commission, p. 16.

in the Hope report and its current renaissance is a testament to the resilience of the organisation and its staff. The Regional Assessment process may begin a period when the AHC will be relatively free of endemic criticism and achieve the objectives which were laid down in the original Australian Heritage Commission Act 1975.

## CHAPTER 1

### THE DEVELOPMENT OF THE CONTEMPORARY AUSTRALIAN CONSERVATION MOVEMENT.

In May 1972 the Hon. Peter Howson, Minister for the Environment, Aborigines and the Arts described the previous decade of public agitation on environmental issues '... as a lively public conscience on this important issue.'<sup>14</sup> As the following chapter reveals, an identifiable and vocal environmental movement had emerged onto the Australian political landscape by the early 1970s. It was an event which led irreversibly to a resurgence of policy development in the dying days of the Liberal-Country Party administration and the creation of a new environmental - urban and regional planning bureaucracy during the subsequent Whitlam years. As evidence of this linkage, the antecedents of two key pieces of Whitlam Government environmental legislation, the Australian Heritage Commission Act 1975 and the Environmental Protection (Impact of Proposals ) Act 1974, can be found in the Howson ministerial statement.

Major disputes in the previous decade such as the damming of Lake Pedder, revealed inadequacies in government decision making procedures at both a Federal and State level. The need to integrate environmental concerns into the planning process was acknowledged by Howson when he announced

...the Government has decided to introduce a system of 'impact statements' designed to protect the environment. That is to say that when a Commonwealth Minister prepares a submission to the Cabinet on any proposal that has some relevance to the environment that submission must be accompanied by a statement setting out the impact the proposal is likely to make on the environment.<sup>15</sup>

In making the statement Howson acknowledged the national implications of this new approach by confirming State Governments would be required to provide assurances that environmental considerations had been taken into account where Commonwealth funds were sought for a given project. To act in tandem with this initiative a 'Land

<sup>14</sup>Australia, Parliament 1972, *Australian Environment, Commonwealth Policy and Achievements*, Statement by the Minister for the Environment, Aborigines and the Arts, The Hon. Peter Howson, MP. 24 May, 1972, Commonwealth Government Printing Office, 1972, p. 3.

<sup>15</sup> *ibid*, p. 4 -5.

Use Advisory Council' was proposed. This body was to provide advice where Commonwealth decisions could conflict with such 'environmental assets as national parks in Commonwealth Territories'.<sup>16</sup> Minister Howson believed an important objective for this new body was to receive referrals from Cabinet and correspondingly to provide independent advice. This proposal was to be incorporated in the Australian Heritage Commission legislation.

The Howson Statement confirmed that by 1972 the formulation of national environmental policies had become both legitimate in a bureaucratic sense and necessary from a political perspective. Formation of national pressure groups such as the Australian Conservation Foundation (ACF) in the late 1960s reflected a maturity in the conservation movement which could no longer be ignored by the political parties. Rapid changes to the inner urban environment and the suburbanisation of city fringes without sufficient concern for quality of life issues had begun to disturb increasing numbers of Australians.

This chapter details the emergence of an Australian conservation movement in the 1950s and 1960s. It highlights the importance of the Lake Pedder campaign in raising political consciousness about environmental issues, as well as demonstrating the failure of traditional bureaucratic techniques to achieve acceptable outcomes. The chapter also argues for a link between community activism and major policy development within the ALP. As the Howson statement demonstrates, however, the formation of new bureaucratic structures concerned with protection of the environment by either a LCP or ALP administration had become inevitable by 1972.

### **An historical perspective**

Concerted government action to protect popular Australian native flora and fauna by creating recreation reserves outside the large cities began in the 1860s. A desire to establish recreation areas and to 'scientifically' manage forested areas led to the creation of a number of national parks and reserves in all States. Well known examples include the Royal National Park (NSW, 1879), Ferntree Gully (Victoria, 1887), Lamington National Park (NSW, 1915) and Cradle Mountain - Lake St Clair National Park (Tasmania, 1921). In a similar manner to arguments proposed for protection of wilderness zones today, the creation of a National Parks was seen as

---

<sup>16</sup> *ibid*, p.5.

the best way of excluding developments likely to damage the natural and scientific values of a locality.

Throughout the nineteenth century the dominant land management ethic was the need to efficiently convert flat or undulating forested areas into grazing lands for sheep and cattle or growing areas for wheat. The gradual development of national parks and reserves during the late nineteenth and early twentieth century, while significant, was of secondary importance in a conservation sense to the creation of a commercial forestry industry.

By the turn of the century official thinking at a state government level began to recognise the need to manage uncleared crown land for future wood production. The expanding requirements of the domestic building industry for milled timber alone necessitated some prudence. As Bolton points out:

Gradually a more constructive attitude was emerging towards Australia's native forests. Commissions of inquiry in Tasmania and Victoria in 1898 and in Western Australia in 1903 stressed that forests could not be regarded as in the past as a limitless resource, but should be managed, and harvested so as to allow for renewal and regeneration.<sup>17</sup>

These inquiries led to the formation of Forestry Commissions in all States except Queensland during the following twenty years. Overseas foresters with experience in other areas of the British Empire were recruited to advise on Australian forests and a Commonwealth School of Forestry was established in the 1920s.

The emergence of a 'wise use' water in the United States further reinforced a role for government in the land conservation arena. During the 1930s dam construction and irrigation works helped form the backbone of capital works projects in rural areas which further entrenched this trend. These projects also reinforced the application of technical expertise to 'new' and emerging problems such as soil erosion. In 1938, the New South Wales Soil Conservation Service was formed in response to a perceived decline in soil standards in the western and south western regions of the

<sup>17</sup> G.Bolton, *Spoils and the Spoilers, Australians make their environment, 1788 - 1980*, George Allen and Unwin, Sydney, 1981, p. 105.



State. Similar initiatives were developed in South Australia and elsewhere as the economic implications of soil degradation became more widely understood.

The contradictions inherent in the push for ongoing economic development, particularly the tension between the exploitation of natural resources and their long term sustainability, was articulated by an emerging group of technically proficient public servants. As Fawley confirms

... the newly established forestry profession put forward proposals for forestry reservations nationally and also argued against continuing alienation of forest lands for farming. Queensland Director of Forests, E.H.F. Twain (1918-32) advocated an economic - scientific ordering of land development policy and opposed in particular the rapid opening of northern rain forest lands for small farmers.<sup>18</sup>

During the early part of the twentieth century a range of non-economic, purely conservation-based, measures were adopted to ensure the preservation of Australia's natural beauty spots, flora and fauna. The Tasmanian Government passed the Scenery Preservation Act 1915, the first of its kind in Australia, which set up a series of permanent reserves for areas of outstanding scenic merit.

Massive expansion of farming during the 1920s and 1930s saw great pressure on native vegetation with some species of wild flowers becoming scarce. In 1926, the NSW Parliament passed legislation to protect native plants and similar legislation was enacted by the Commonwealth and States, with the exception of Tasmania, over the next 13 years.

The end of the Second World War was accompanied by an aggressive immigration policy in Australia and the initiation of a number of major resource and development projects such as the Snowy Mountains Hydro-Electric Scheme. These schemes heralded unprecedented threats to extensive natural areas and familiar urban space. In 1960, the Australian author Robin Boyd produced a landmark urban social commentary The Australian Ugliness. He described the fruits of a booming post war economy on the urban landscape as

<sup>18</sup> F. Fawley *The Role of Social Sciences in Natural Resource Management*, Proceedings of Symposium, ACT Conservation Service, Conservation Series No 5, Canberra, 1990, p. 8.

...the modern world of wires and poles, service stations and soft drink signs, cut outs, whirles, flags, fairy lights and mutilated trees, as functional but as artistically heedless as an anthill and as accidental as a rubbish dump.<sup>19</sup>

This scene was far from the popular image of Australia depicted by the nation's artists and writers. The link between economic growth and quality of life concerns were again being made as they had a century before. With the suburbs of Sydney and Melbourne expanding, the ease by which Australians could have direct physical contact with the natural beauty of the Australian bush was diminishing.

### **Impact of the Lake Pedder controversy**

A central feature of South West Tasmania was a small isolated lake of some three square kilometres in size and located in the Serpentine Valley. The unsuccessful campaign to preserve this feature from inundation by a new hydro electricity scheme was a defining moment in the struggle to create an effective community based conservation movement. It also heralded the need for national environmental guidelines for large scale land use programs.

In 1972, after a bitter five year campaign to save Lake Pedder, Sir Garfield Barwick, Vice President of the Australian Conservation Foundation, summarised the need for improved government land management procedures.

The tragedy of Lake Pedder - tragic because of a failure to give proper weight to values not expressed and perhaps not expressible in money terms - will, I hope, stimulate the establishment of proper land-use authorities throughout the Commonwealth, where these do not already exist, with the necessary knowledge, expertise and authority to determine the proper use of land before it is committed to any development or exploration.<sup>20</sup>

---

<sup>19</sup> Quoted in a speech given by the Hon Barry Cohen MP to the National Conference of Landscape Architects, 25 August, 1984.

<sup>20</sup> G. Barwick, *Pedder Papers: Anatomy of a Decision*, Australian Conservation Foundation, Melbourne, 1972 quoted in A. Gilpin *The Australian Environment, 12 Controversial Issues*, Sun Books, Melbourne, 1980, p. 203.

The conclusions drawn by Sir Garfield Barwick resonated throughout a subsequent Commonwealth Report on Lake Pedder commissioned by the newly elected Labor Government.<sup>21</sup> This report was tabled in Parliament during September 1973 and had a number of objectives, one of which was to examine the feasibility of reversing the damming of Pedder. Another was to document the decision making process '... with the aim of drawing lessons appropriate for future schemes involving the Australian Government.'<sup>22</sup>

The conclusion subsequently drawn from the report had a direct relationship to the passing of the Environmental Protection (Impact of Proposals) Act 1974 and the Australian Heritage Commission Act 1975. Throughout the debate over Lake Pedder, the conservation movement made two fundamental criticisms of the Tasmanian Government and the Hydro Electric Commission. The first was that the Government withheld vital information preventing an informed public debate. The Hydro Electricity Commission's (HEC) failure to reveal early planning and to give timely warning of its intentions was, for example, seen as grossly undemocratic, a move designed simply to circumvent public discussion.

A second line of criticism (which was more fundamental, but equally alarming) was that a faulty decision making process was followed by the Hydro Electric Commission and the Tasmanian Parliament itself. Conservationists believed three grounds for supporting the retention of Lake Pedder, public recreation, scientific values and aesthetics, were not fully explored by Government. The consequence of this was a one-sided debate focusing solely on economics. The Tasmanian Government's Scenery Preservation Board played no formal role in the debate and the State's National Parks and Wildlife Service was not formed until 1971.

Arguments focusing on public recreation and environmental values were aired only by conservationists. As no effective bureaucratic advocate for the pro-environmental perspective existed at either a Federal or State level, the Lake Pedder issue was fought out primarily at a political rather than a policy level. No government evaluation of arguments to preserve the Lake on aesthetic grounds was carried out

<sup>21</sup> Australia, Parliament, 1973, *Committee of Inquiry into the future of Lake Pedder*, 1973, Interim Report, Commonwealth Printing Office, Canberra.

<sup>22</sup> *ibid* p. 10.

despite procedures and methodologies existing overseas.

When scientific research was commissioned by the HEC through two Tasmanian museums, their work was seen as inadequate by conservationists. In turn, those recommendations which called for further research were ignored by the HEC and the State Government despite significant discoveries made by independent researchers immediately prior to flooding.

The Tasmanian Government agreed in mid 1967 to establish a Select Committee of the Legislative Council to review the decision to proceed with the dam as a means of capping debate and confirming appropriate procedures had been followed. Considerable criticism was, however, levelled at the operation of the Committee. Criticism was directed at the Committee's terms of reference, its guidelines and its expertise. The Committee did discover that two confidential alternative schemes to flooding Pedder had been explored by the HEC but had not been publicly revealed. The Committee also accepted that the decision making process was, to some degree, faulty.

Commenting on the findings of the Tasmanian Select Committee, the Commonwealth Inquiry noted:

It is not our intention, in this Report, to suggest what organisational structure might have been appropriate. It appears sufficient, now, to note that some witnesses suggested that the organisation was such as to allow doubts that it would produce a properly balanced decision.

We accept that there are grounds for such doubts.<sup>23</sup>

The view of the Commonwealth Inquiry was, therefore, that the Tasmanian Government had not discharged its responsibility to arrive at a decision which could stand critical analysis.

Gilpin suggests that the perceived failure of government decision making with regard to Lake Pedder led to the introduction of environmental impact legislation at both a State and Commonwealth level. He notes:

---

<sup>23</sup> *ibid*, p. 11.

Much of the correspondence between the Australian Conservation Foundation and the Tasmanian Government, during the campaign, was not solely with Lake Pedder but also with the prospective improvement of procedures.

... The Lake Pedder case obviously gave some impetus to the development of the environment impact statement procedure in respect of environmentally significant or controversial projects.<sup>24</sup>

Certainly following Lake Pedder, two extremely significant developments occurred in 1974 which were to guide the management of development projects to the current day. In NSW, the Liberal State Government adopted new guidelines prepared by the State Pollution Control Commission for assessing the environmental impact of development projects commissioned by Crown authorities. At a Commonwealth level, the new Labor Government passed the Environmental Protection (Impact of Proposals) Act 1974. Described by the Commonwealth Minister for Environment, the Hon. Moss Cass, as '...one of the most significant pieces of legislation ever passed', the Act required an environmental impact statement be prepared for not only Commonwealth projects but those funded by or requiring Commonwealth approval.

The early seeds of both this legislation and the Australian Heritage Commission Act 1975, if not sown, were certainly fertilised by the Lake Pedder debate. To perceptive observers like Sir Garfield Barwick the real issue or situation was a profound lack of protection for environmental assets, '... the case of Lake Pedder emphasises the lack of any national power to protect what are in truth national assets'.<sup>25</sup> Despite the loss of Pedder, the struggle changed the political debate by highlighting for the first time the existence of a sizable group in the national community willing and able to articulate a pro-environmental line which crossed party boundaries.

Liberal Premier Angus Bethune ultimately argued that Pedder should be flooded because Tasmania needed additional hydro-electric capacity to support industry and that this resource should be generated at the cheapest possible price. Even at the time these views were put forward in the Tasmanian Parliament, they were being

---

<sup>24</sup> A. Gilpin *The Australian Environment, 12 Controversial Issues*, p. 211.

<sup>25</sup> G. Barwick, *ACF Pedder Papers, Anatomy of a Decision*, p. 63.

challenged nationally. At a Commonwealth level, for example, Liberal policy in the run up to the 1972 election was quite different. As part of a call to 'preserve the gifts nature has given us' it was argued that

... it is a fact of recent history that while the technological revolution of the 60s and 70s has brought great benefits... it has also had by-products which are despoiling our land and polluting the air and water around us.<sup>26</sup>

In 1972, both the Federal Liberal and Labor Parties were promoting policies which would, and eventually did, lead to some degree of statutory protection of such areas as Lake Pedder from uncontrolled development. Few serious observers dispute that Lake Pedder had outstanding scenic qualities which alone could justify its preservation. In addition to the normal political imperatives, there was also a sense among contemporary observers that, if Lake Pedder could be flooded by a determined State Government, what other assets however 'priceless' could be lost?

### **Formation of conservation groups**

Governments, perhaps appropriately, rarely lead but rather follow public opinion. Conservation policy in Australia is no exception. In its submission to the Hope Inquiry, the Department of Urban and Regional Development (DURD) argued that the proposed Government action in the National Estate area followed over 10 years of vociferous debate on conservation issues. This agitation had created circumstances whereby Government legislation was both necessary and appropriate.

In recent years, however, there has been a remarkable change in attitude generally throughout the physical environment... It appears that we are now at a threshold position, with the need to formulate Government policies to encourage and even anticipate this awakening national interest.<sup>27</sup>

The direct antecedents of the contemporary conservation movement, both in the built

---

<sup>26</sup> Federal Liberal Party election pamphlet quoted in *Committee of Inquiry into Lake Pedder, Interim Report*, p. 21.

<sup>27</sup> Department of Urban and Regional Development, *The National Estate- Principles and Policies, a submission to the task force on the National Estate*, Commonwealth Printing Office, Canberra,, 1973, p. 1.

and natural environment, lie in the first three decades of the twentieth century. Until recently the tendency of published works was to focus on conservation issues dating from the 1960s. Major writers in this category include Gilpin (1980) and Seventy (1988). In 1901, however, the Royal Australian Historical Society was formed in Sydney, followed by other State bodies over the next twenty years. These organisations, although primarily focused on the production of semi-learned journals, were concerned with the preservation of historic sites. In 1932, a community-based National Parks and Primitive Areas Council was formed in NSW. Its aim was to promote the creation of new national parks. Such societies were encouraged by an increasing interest by the Australian Academy of Sciences during the 1940s and 1950s in the preservation of representative natural ecosystems throughout Australia.

A new stirring of community concern for conservation issues was reflected in the development of the National Trust of Australia from its formation in 1945. Its subsequent growth illustrates the emergence of a relatively small but organised group willing to question the prevailing development at all cost orthodoxy of the 1950s and 1960s. In 1960, the Trust had a national membership of just under 5,000. During this period, the Trust's endeavours dwarfed those of government and other organisations. It was noted by the Hope Inquiry that voluntary bodies had made a singular contribution.

It is doubtful if any government in Australia has, for example, made a contribution toward conservation of the built environment to match the voluntary work of the National Trust. Similarly, many of our national parks have been set up on the broad basis of proposals developed by National Parks Associations many years before.<sup>28</sup>

Between 1960 and 1970, the number of conservation bodies in Australia doubled totalling some 584 in 1973.<sup>29</sup> These ranged from ad-hoc committees concerned to save a section of bushland to national conservation organisations. Perhaps the most significant of those formed was the Australian Conservation Foundation (ACF) created in 1965. Far from being an overtly political, let alone radical, organisation,

<sup>28</sup> *Committee of Enquiry into the National Estate Report*, 1974, p. 136

<sup>29</sup> The figure is quoted in a variety of reports but was originally drawn from a directory of conservation organisations prepared by the Australian Conservation Foundation in 1973.

the ACF represented the emergence of a conservation group with mainstream political and social credentials. The foundation President was a former Liberal Attorney-General and then current Commonwealth Chief Justice, Sir Garfield Barwick. This new organisation also exhibited a range of new characteristics which distinguished itself from other bodies at that time. From its establishment, it strove to mobilise national public opinion behind both specific environment conflicts and more general concerns such as forest protection.

The failure of the Lake Pedder campaign demonstrated to the ACF that conservation issues had to be fought on a national basis with emphasis placed equally on mobilising public opinion and developing new policy options. The inadequate nature of government procedures exposed by the ACF undoubtedly encouraged both political parties to address the new public concern with environmental issues in the lead up to the 1972 election.

Bolton suggests that a long term impact of Lake Pedder was to encourage various State Governments to introduce environmental planning legislation in the late 1960s and early 1970s.<sup>30</sup> Lake Pedder also radicalised the ACF which subsequently aggressively pursued a range of issues including protection of the Great Barrier Reef in the mid 1970s.

### **The adoption of conservation policies by the ALP 1969 - 1972**

Following the landslide defeat of the ALP in the 1966 election, Mr E G Whitlam assumed leadership of a party both small in Parliamentary numbers and in need of organisational reform. Over the next eight years, Whitlam successfully transformed the electoral standing of the Labor Party through the systematic development of new and appealing policies designed to attract voters in the vital outer urban seats of Melbourne and Sydney. Freudenberg records that, prior to the promotion of Whitlam as leader, the ALP policies in key areas such as urban affairs, health, education and foreign affairs were either 'vague or silent'.<sup>31</sup> As such '... the task was not to alter policy but to create one'.<sup>32</sup>

---

<sup>30</sup> G Bolton, *Spoils and Spoilers, Australians make their environment 1788 - 1980*, p. 159.

<sup>31</sup> G. Freudenberg, *A Certain Grandeur, Gough Whitlam in Politics*, Penguin Australia, Melbourne, 1987.

<sup>32</sup> *ibid*, Introduction, p. xii.



Central to Whitlam's thinking was the belief that all Australians should have access to the essentials of a well-organised suburb, a school, a good sewerage and water supply system, a community centre, a neighbourhood park and adequate roads. He argued that a function of an ALP Government was to ensure that all Australians should have equal access to these facilities. As early as 1961 Whitlam linked provision of services to equality.

This concept of equality - what I call positive equality - does not have as its goal quality of personal income. Its goal is greater equality of the services which the community provides. This approach is based on this concept: increasing a citizen's real standard of living, the health of himself and his family are determined not so much by his income but by the availability and accessibility of the services which the community alone can provide.<sup>33</sup>

The ALP entered the 1969 election with a set of policies based on the premise that suburban Australia deserved a greater share of Commonwealth resources and access to better Government planning. This strategy is credited with causing a remarkable swing to the ALP, creating a situation whereby the Party only required a net gain of four seats to win Government. The 1969 election result also confirmed that the Party had to substantially improve its performance in the outer Sydney and Melbourne electorates to win in 1972.

With the emergence of urban quality of life issues as critical to ALP electoral success, Whitlam began to focus on environmental issues to increase the differentiation between their party and the LCP. Inspiration for a new policy framework was to come from a 1963 speech by United States President, John F Kennedy, who argued for an expanded role for Government in environmental protection.

We must expand the concept of conservation to meet the imperious problems of the new age. We must develop new instruments of foresight and protection in order to recover the relationships between

---

<sup>33</sup> *ibid*, p. 74

man and nature and make sure that the national estate we pass on to our multiplying descendants is green and flourishing.<sup>34</sup>

Not only did the ideas contained in this speech resonate with Whitlam's own but they contained a key phrase to describe elements of the cultural and natural environments which demanded preservation for future generations, the 'national estate.' By adopting this phrase as his own from 1970,<sup>35</sup> and broadly promoting the notion that the nation's heritage was imperilled, Whitlam laid the political foundation for the Australian Heritage Commission.

A major theme for Whitlam and other key ALP spokesmen in the area of the environment and urban affairs was the necessity for Commonwealth powers to be expanded. This action would enable a national conservation strategy to be devised and implemented. Whitlam placed emphasis on utilising Section 96 of the Constitution which empowered the Australian Parliament to '... grant financial assistance to any state on any such terms and conditions as the Parliament thinks fit'.<sup>36</sup> The identification of these powers was essential to the implementation of ALP policy between 1972 and 1975 as it allowed both the assumption of new government powers and the internationalisation of Commonwealth responsibility.

In his 1972 policy speech, Whitlam promoted the view that the Australian community under successive Liberal Governments had alienated the community from the operation of government and involvement with the preservation and utilisation of the nation's wealth. The National Estate in this context was used to describe what he saw as a quasi-spiritual dimension in Australian life, emanating from the natural environment and those man-made features of singular aesthetic or cultural importance. Support for the preservation and exploration of the National Estate by the community was seen as a technique to achieve a central objective of a Labor Government, '... to liberate the talents and uplift the horizons of the Australian Community'.<sup>37</sup>

---

<sup>34</sup> *Report of the Committee of Inquiry into the National Estate Report*, 1974, Preface.

<sup>35</sup> *ibid.* In 1970 Whitlam was quoted as arguing '[The Australian Government] should see itself as the curator and not the liquidator of the National Estate'.

<sup>36</sup> G Freudenberg, *A Certain Grandeur, Gough Whitlam in Politics*, p. 72.

<sup>37</sup> E.G. Whitlam, *On Australia's Constitution*, Widescope, Campbell, Victoria, 1977, p. 267.

Another Whitlam assumption was that Australia's major cities were facing a crisis caused by rapid growth and that the quality of life for ordinary Australians was therefore under threat. In the 1972 election campaign, the ALP promised '... a deep and direct national involvement in Australian cities'.<sup>38</sup> In a perceptive and popular move Whitlam linked a mainstream concern of Australians, their own home, to that of the environment. Through the establishment of a Land Development Commission, he promised the Commonwealth would acquire land for the dual purpose of providing cheap land for housing, and for national parks, coastal reserves and the preservation of historic sites. He described it this way.

A Labor Government will have two over-riding objectives: to give Australian families access to land and housing at fair prices and to preserve and enhance the quality of the national estate of which land is the very foundation.<sup>39</sup>

The establishment of a Land Development Commission had an added benefit. Whitlam believed the Commonwealth could assume a new and dominant role in the protection of sensitive areas through such a Commission. The Commonwealth Government, it was proposed, could use its expertise and financial resources to select and acquire land of national importance. Once this acquisition was completed, the land could then be transferred with proper safeguards to State and Local Government as well as with conservation bodies. Particular reference was made to the Blue Mountains, a major recreation area for hundreds of thousands of people located in the outer suburbs of Sydney.

Whitlam further proposed the establishment of a new national parks service which would oversee the development of new parks in the ACT, Jervis Bay, the Northern Territory and a 'Central Australia Wilderness area', all areas under direct Commonwealth jurisdiction. Central to these proposals was the philosophical position held by Whitlam and Uren that city dwellers, as a matter of equity, required areas for leisure activities in relatively close proximity to where they lived. Improved holiday conditions and a reduction in the working week led Whitlam to argue that the constructive use of leisure had become an important issue. In the 1972 policy speech

---

<sup>38</sup> *ibid* p. 281.

<sup>39</sup> *ibid*, p. 281.

he declared: 'There is no greater social problem facing Australia than the good use of leisure'.<sup>40</sup>

This view was set against a background of a buoyant economy which expanded throughout the 1960s. Unlike the environmental movement, Whitlam believed growth was a panacea, the fuel which would power the ALP reform program. Whitlam claimed '.... socialists no longer have to ration for scarcity but plan for abundance'.<sup>41</sup>

The 1972 ALP policy speech argued that, with even a moderate growth in the economy, there would be an automatic growth in Government revenue producing \$5,000 million over three years. These funds would be sufficient to finance a range of key Labor proposals. The 1972 'It's Time' campaign was a manifestation of the ideas and concepts which the ALP (and Whitlam as leader) had promoted in the three years leading up to the election. In essence, Australia and Australians were asked to throw off the past and embrace the future. The famous 'It's Time' song captured this mood. The ALP attracted sections of the community which had been awakened politically by the environmental debate and by the emphasis placed on 'quality of life' issues by Whitlam and ALP spokesman Tom Uren. The result of the election in December 1972 was a gain of eight seats for the ALP, giving it a Parliamentary majority of nine over the Opposition. The big gains were in the suburbs of Sydney and Melbourne where these issues had become part of the political agenda.

The emergence of a vigorous, politicised environmental movement in the late 1960s assisted the election of a reformist government concerned with improving the social and environmental conditions of urban Australians. The flooding of Lake Pedder and the unchecked destruction of familiar historic buildings proved to a growing section of the community that existing government mechanisms to protect the environment were inadequate. Chapter Two will discuss the translation of the ALP environmental policy mandate concerning the National Estate into the Australian Heritage Commission.

---

<sup>40</sup> *ibid*, p. 295.

<sup>41</sup> G. Freudenberg, p. 77.

## CHAPTER II

### THE ORIGINS OF THE AUSTRALIAN HERITAGE COMMISSION

Justice Hope, in his landmark Report of the Committee of Inquiry into the National Estate, referred to the subject of his report as the 'crystallisation of an emergent but hitherto almost unfocused idea'.<sup>42</sup> This chapter will also argue that the emergence of both the Australian Heritage Commission and the concept of the National Estate did not directly spring from the ALP election manifesto, but rather the consequence of an intense period of environmental policy formulation in late 1973 and early 1974, set against a background of administrative jousting between the Department of Urban and Regional Development and the Department of Environment and Conservation.

The election of a Labor Government did, however, draw together leading conservationists, government policy makers and key Ministerial figures such as Tom Uren and Moss Cass. It was this coalition that translated a broad commitment by the ALP to an expanded role for government in protecting the environment by legislation. In so doing Whitlam and Uren were later able to legitimately claim for Labor an outstanding environmental record between 1972 and 1975.

#### **ALP environmental policy and initiatives in Government 1972 - 1975**

The first 12 months of the Labor Government was a period of tumult as the new administration introduced a range of fresh ideas and new directions. The zeal with which the new Government took power is best illustrated by the decision of the new Prime Minister to establish a 'two man government'<sup>43</sup> immediately the election outcome was known. This unusual step enabled the new Prime Minister and his deputy, Mr Lance Barnard, to implement immediately a number of election promises including the abolition of conscription.

During 1973, a record 254 Bills were introduced into Federal Parliament which greatly exceeded the highest previous figure of 169 Bills in 1968. The outcome of 39

<sup>42</sup> *Report of the Committee of Inquiry into the National Estate Report*, page 20.

<sup>43</sup> This was a popular phrase to describe the period when Whitlam and Barnard carried out a range of executive functions prior to the appointment of the full Cabinet. A discussion of this period is contained in S. Reid, & C.J. Lloyd, *Out of the Wilderness*, Cassell, Melbourne, 1974.

inquiries instigated by the new Government were also reported to Parliament during the same period. As part of this whirlwind of activity, the number of Government Departments increased from 27 to 37.<sup>44</sup> As Whitlam pointed out, the direction of Government was to seek new mechanisms by which Government could implement the philosophical and practical aspirations of ALP policy.

Our changes and reforms did not end with the restructuring of Government Departments. We armed the administrative machine with new functions and organisations to deal with the increasingly complex and difficult problems of planning for the needs of a growing industrial society. Some of the organisations were given permanent statutory form, such as the Schools Commission: ...others had their statutory charter utterly transformed, such as the Grants Commission, and the Cities Commission.<sup>45</sup>

In this context the Department of Urban and Regional Development (DURD) and the Department of Environment and Conservation were established. Political controversy surrounded the formation of the latter as it was perceived by many as a ploy to ensure there were sufficient positions in Cabinet for senior backbenchers. It was also suggested that the functions of the department of Environment and Conservation could have sat easily within DURD. Creation of the Departments reflected a major redirection of the machinery of Government. Under the previous Government, there had been only a one person Office of the Environment within the Prime Minister's Department in 1971.

The task of the new Department of the Environment and Conservation was to implement key policies listed in the ALP policy speech. They included the drafting of Environmental Impact Statement legislation, the formation of an Australian National Parks and Wildlife Service and the creation of a Great Barrier Reef Marine Park Authority. Head of the Department of Environment and Conservation, Dr Don McMichael, reiterated the status of the speech when he stated: 'What you have to remember is the importance of the ALP policy speech, if it was in the policy you were right.'<sup>46</sup>

---

<sup>44</sup> *ibid* page 82.

<sup>45</sup> G. Whitlam, *The Whitlam Government, 1972 -75*, Viking, Ringwood, Victoria, 1985, p.83.

<sup>46</sup> Dr Don McMichael made this observation to the author in a taped interview in December 1990.

Whitlam, as a long-standing internationalist, was also keen for the new Department to raise Australia's profile in the world conservation community. A major step in this direction was taken when Australia, as a consequence of work carried out by the Department, became the seventh nation to ratify the UNESCO World Heritage Convention in August 1974. Whitlam reflected later that his action ensured

.. the Federal Parliament could exercise its jurisdiction over external affairs to preserve sites of outstanding universal value such as the Tasmanian Wilderness, the Great Barrier Reef and areas of tourist and aboriginal significance in the Northern Territory.<sup>47</sup>

A reading of the Department of Conservation and Environment's first annual report confirms the importance of the World Heritage Convention and describes the preparation of the Environmental Assessment (Impact of Proposals) Bill 1974. Building on concepts explored by the previous Liberal minister, the Department drafted legislation which made it mandatory for Commonwealth Departments to commission Environmental Impact Statements (EIS) for major building or land use proposals. Such statements were to be made public. Additional procedures were also formulated whereby environmental considerations had to be taken into consideration where Commonwealth funds were to be used to assist State Government projects. Other areas of concern for the Department in its first eighteen months included the development of an Australian National Parks and Wildlife Service, the definition of new pollution criteria and standards and an increased profile for Australia in the international conservation arena.

In addition to these initiatives, the new Department of the Environment and Conservation's first eighteen months saw it establish its own identity and consolidate its role in the protection of the natural environment. The Department's struggle to establish its own bureaucratic territory was assisted initially because, as Lloyd and Troy recall,<sup>48</sup> a number of the political advisers in the rival DURD believed that too great an involvement with 'environmental fire-fighting' would distract DURD from its urban responsibilities.

---

<sup>47</sup> E. G. Whitlam, *The Whitlam Government, 1972 - 75*, p. 530.

<sup>48</sup> C.J. Lloyd, P.N. Troy, *Innovation and Reaction, The Life and Death of the Federal Department of Urban and Regional Development*, p. 53.

Despite this, conflict emerged between the two Departments over responsibility for the conservation of natural areas during 1973 and 1974. Although the central focus of DURD was urban planning issues, the Department was recognised within the Commonwealth Public Service as an aggressive organisation which sought to maximise its responsibilities.<sup>49</sup> This expansionist policy was assisted by a broad brief as defined in its own annual report.

Our responsibility is to encourage collaboration and cooperation in all aspects of urban and regional developments, and to stimulate public debate on both narrow and broad issues. <sup>50</sup>

A second factor which encouraged a blurring of responsibilities between DURD and the Department of Conservation and the Environment over protection of the natural environment was the contrast between the two responsible Ministers, Dr Moss Cass and Mr Tom Uren. The former had no background in environmental matters and, as O'Connell and McLean argue,

..on becoming Minister it would appear he had no specific political program he wished to implement and no precise (or even general) strategy to deal with the mighty counter forces his administration would inevitably deal with.<sup>51</sup>

In contrast was Tom Uren's broad vision had for the preservation of Australia's built and natural heritage. Uren believed comprehensive action was necessary because 'Australia's national estate is under threat, and we are forced to mount expensive programs to defend it'.<sup>52</sup> This commitment was reflected in the almost immediate decision by Uren to establish a National Estate Grants Program to assist State and Local Government along with community groups to preserve historic buildings and

---

<sup>49</sup> *ibid* page 92.

<sup>50</sup> Department of Urban and Regional Development, *Third Annual Report, 1974-75*, Parl. Paper No. 230, 1975, p. 7.

<sup>51</sup> M.A. O'Connell and N. McLean, 'Moss Cass: An Interview', *Dissent*, No. 34, Winter 1976, p. 33.

<sup>52</sup> Australia, Parliament 1975, *Department of Urban and Regional Development, Urban Land, Problems and Policies*, Parl. paper 15, AGPS, Canberra 1975, Foreword.



areas of great natural beauty. In the 1973 Budget, despite opposition from Treasury, a fund of \$2.5 million for preservation of the National Estate was established.

This early initiative was both a tangible and a symbolic commitment by the Government to the environment, a commitment which received considerable acclaim. Further inter departmental conflict emerged, however, over the allocation of grants. Final responsibility for decision making rested with DURD although many of the grants were designed to assist with the preservation of the natural environment. Furthermore, the grant program did not address areas of major environmental conflict such as Lake Pedder and the clear felling of native forests, areas in which the Government was receiving considerable criticism.

While the ALP's reform agenda during 1973 focused unprecedented attention on environmental issues, a clear philosophy within government towards preserving the National Estate had not emerged. The establishment of a coherent approach towards this important goal and the design of appropriate bureaucratic structures was to be the task of the Hope Committee of Inquiry into the National Estate. The implementation of this approach is discussed in the next section.

### **Recommendations of the Hope Inquiry**

On May 17 1973, the Prime Minister announced to Parliament that Mr Justice Hope had been appointed to act as Chairman for a 'task force' into the National Estate. By way of explanation he stated to Parliament:

The task force will be asked to advise the Australian Government on any additional policies which should be applied to preserve and enhance the national estate and the role the Australian Government can play in assisting the implementation of these measures and policies.<sup>53</sup>

Under the Committee's terms of reference, a key task was to define the nature and condition of the National Estate and to assess both existing and potential measures for its protection by the Australian Government. King cynically suggests that the creation of the Committee was necessary to enable Whitlam to actually define what

---

<sup>53</sup>Australia, House of Representatives, Weekly Hansard, 15-18 October, 1973, p. 2264.

he meant when using the nebulous term 'National Estate' in his election speech.<sup>54</sup> In this context the Committee of Inquiry into the National Estate could be viewed as no more than a sop to the environmental movement which had supported the ALP in the election.

Whitlam's own review of the achievements of the Committee of Inquiry does, however, provide a key to understanding the Government's broad objectives in supporting the task force. First, there was a need for the Government to define in detail those areas of the nation's built and natural environment truly worthy of preservation. Without such a process it could be argued that almost any area cherished by a community should be protected.

The second concern of Whitlam was that government receive independent bi-partisan advice on individual environmental problems. In 1973 the primary source of pro-conservation advice on issues such as Lake Pedder was from two (not disinterested) sources, the Department of Conservation and Environment and community based organisation such as the ACF.

Both issues relate to the complex issue of successfully resolving conflict over the environment, a task which previous Governments at both a Federal and State level had been largely unable to achieve. It was in this area that Whitlam had high hopes for his own Government, and for this reason he described the achievements of the Committee of Inquiry in the following terms.

Two recommendations were central to the report, first, to set up an AHC on a broad and representative basis...and...secondly, to establish and maintain a Register of the National Estate.<sup>55</sup>

McMichael argues that the impetus to establish the Committee came from Uren and senior public servants in DURD. The aim was to gather arguments that would justify a rapid expansion of its role in the financing and administration of environmental protection.<sup>56</sup> McMichael points out that, although the Committee of Inquiry into the

---

<sup>54</sup> Ross King, 1975, 'Hobbies, The National Estate, and Equity', *Meanjin* vol. 34, No. 1, p. 63

<sup>55</sup> E.G. Whitlam, *The Whitlam Government 1972-5*, p. 548.

<sup>56</sup> Information contained in personal communication on a tape forwarded to author by Don McMichael, December 1990.

National Estate was promoted as a joint project, it was DURD and not his own Department that played the senior role.

A review of the 1973-74 DURD Annual Report and the general approach of the Department to conservation confirms that the formation of the Committee was seen as justifying a course of action already commenced. DURD had established a large scale National Estate grant program and begun to develop a clear statement of objectives for it. The central thesis of the program was the need to rapidly acquire land and properties of National Estate value. DURD argued strenuously that

... the National Estate must emerge fairly quickly as a nucleus of tangible body of property if it is to catch the imagination of the Australian people.<sup>57</sup>

The establishment of the grant program itself could not provide the philosophical underpinning for protecting the National Estate, define its boundaries or confirm the most appropriate structure for administering government assistance. This was to be the task of the Committee of Inquiry. The administrative drive of DURD was, in turn, combined with the political imperative of the Labor Government to demonstrate its superiority in managing environmental issues.

The eight member Committee of Inquiry into the National Estate under the Chairmanship of Justice Hope represented a cross section of individuals in the community deeply involved with the conservation movement including Milo Dunphy, Judith Wright and David Yenken. Over a 16 month period the Committee received 650 submissions from individuals, community groups and government agencies from throughout Australia.

The 415 page report produced by the Committee remains the definitive statement on the National Estate. As a document it is a model of comprehensive research which also provides a range of persuasive arguments for a demonstrably greater role for government in protection of the nation's heritage. Significantly, both the findings and the recommendations are based on the central premise that the current Australian

---

<sup>57</sup> Department of Urban and Regional Development, 1973, *The National Estate Principles and Policies*, submission to the Committee of Inquiry into the National Estate, Chapter 5, p. 5.

Government had

... inherited a National Estate which has been downgraded, disregarded and neglected. All previous priorities accepted at various levels of government and authority had been directed by a concept of uncontrolled, economic growth and progress.<sup>58</sup>

This statement was interpreted by the ALP as an indictment of the previous 23 years of Liberal-Country Party Government and it naturally made great play of the report in the Commonwealth Parliament. The recommendations of the Inquiry were extremely comprehensive and covered such issues as land use planning, the purchase of key elements of the National Estate by government to ensure their long-term preservation, and the establishment of new national parks for recreational purposes on the outskirts of the major metropolitan centres. Recommendations also related to more government supervision of the mining and forestry industries, legal and taxation initiatives to encourage private restoration of historic buildings and new legislation to protect aboriginal sites. All these recommendations were based on the proposition that the Australian Government, within existing constitutional restraints, should play a leadership role in the protection of the National Estate and that this leadership should be exercised through a new organisation, the National Estate Commission.

The Committee of Inquiry believed that the Commission should support existing environmental protection measures adopted by State Governments and community conservation bodies. This was to be achieved by providing both expertise and financial resources where they were lacking, which was seen as especially relevant in the smaller States. The new organisation was also seen as possessing the ability to encourage and coordinate measure to protect the National Estate from projects initiated by Commonwealth Government departments.

It was noted that countries such as the United States and the United Kingdom had a long tradition of national government involvement in conservation policy making, with the day to day administration of historic sites and natural conservation areas left to State and Local Government authorities. This pattern was seen as desirable as it allowed the principle government conservation body to concentrate on national

---

<sup>58</sup> *Report of the Committee of Inquiry into the National Estate*, p. 334.

issues and ensure sound and timely advice could be disseminated to government agencies and elected officials.

The report further argued that the Commission should be an independent entity with its own legislation and right to recruit staff as required. Establishment of a bureau or commission within a Department was rejected primarily on the grounds that such a body would lack the independence and 'convincing' image required to 'encourage cooperation from other government agencies.'<sup>59</sup>

Significantly, the report states that 'Conservation bodies around Australia would prefer and strongly support an independent statutory body'<sup>60</sup> The question of independence was central to the proposal for, as the Report itself points out, many Government agencies provide a considerable threat to the National Estate through their development activities. By way of conclusion, the Committee urged speedy action by the Government to implement key recommendations. With particular foresight, it was predicted that positive action to preserve the National Estate would receive broad community support particularly among the young.

### **Initial planning for the AHC**

Included in the Report on the National Estate was a recommendation that an Interim Committee on the National Estate (ICONE) be formed to oversee the preparation of legislation and to play a leading role in the distribution of National Estate funds. It further suggested that National Estate funding be increased from the initial allocation of \$2,500,000 in the 1973-74 budget to \$20,000,000 in the subsequent financial year. When the Report was released, the Whitlam Government was, however, in the process of introducing new financial restraints on Government spending. As a consequence, only \$6,000,000 was allocated to National Estate tasks.

Despite the changing economic climate, ICONE was to make recommendations on the dispersal of funds under three National Estate Grant programs managed by the DURD and the Department of Environment totalling some \$17,448,000 in 1974-75 (see Figure 2). This figure shows Commonwealth expenditure on the National Estate

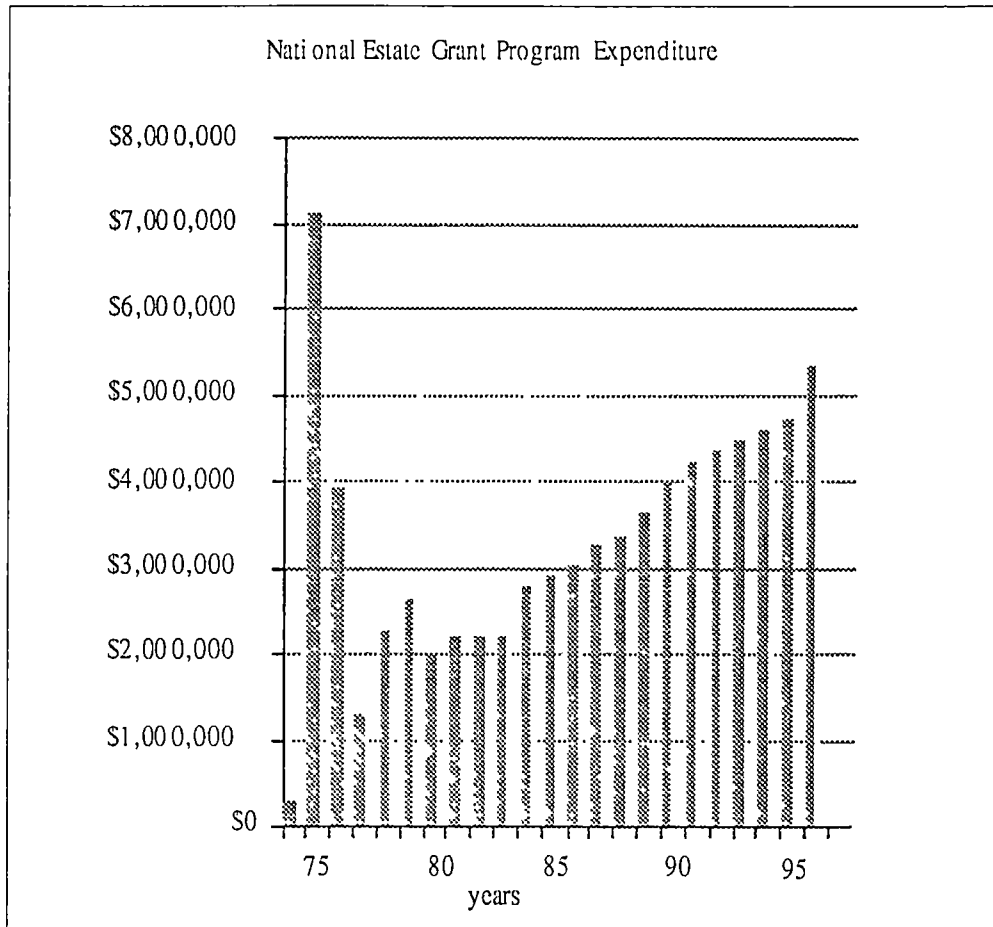
---

<sup>59</sup> *ibid* p. 285.

<sup>60</sup> *ibid* p. 278.

Grant Program over a twenty three year period, from 1974 to 1996.

Figure 2



Source: 1996 AHC internal information sheet

The strategic importance of these grant programs was considerable as they allowed both specific problems to be resolved and emerging community concerns to be identified. Long term research and advocacy projects that could not be funded through normal departmental budgets were also made possible. In 1974-75, \$410,000 was allocated to Conservation bodies and organisations which had approximately 500,000 members nationally.<sup>61</sup> The political importance of these programs in advancing the cause of the AHC was noted by Tom Uren.

The public response had strongly reinforced all the other arguments for a permanent Commission with adequate powers and resources to encourage all the actions necessary for the conservation and presentation of Australia's national heritage.<sup>62</sup>

<sup>61</sup> *ibid* p. 35.

<sup>62</sup> Australia, House of Representatives, *Weekly Hansard*, 9-11 July, 1974, p. 25.

On July 9 1974, the Prime Minister formally signalled to Parliament that '...my government proposes to establish an Australian Heritage Commission' with the role of ICONE to

...continue the work of the Committee of Inquiry and to carry out the preparatory work leading to a fully developed national heritage policy under a permanent Commission.<sup>63</sup>

The approach taken in establishing ICONE typified the strategy adopted by the two relevant Ministers, Uren and Cass, when dealing with National Estate issues. Both emphasised planning and operational control should be pluralistic in nature, with a focus on consensus, public education and inclusive decision making. These themes were to be reflected in the Australian Heritage Commission Act 1975 but dramatically circumscribed by the Fraser Government's review of the Commission twelve months later.

ICONE consisted of eighteen members, with representatives from all States, seven government agencies and the majority of scientific and cultural disciplines found in the National Estate. The Committee chairman, David Yenken, argued strongly that the make-up of this Committee led to balanced decision making and avoided deep division of opinion, a characteristic of many environmental conflicts.

The combination of a variety of public and private skills and interests under an independent chairman has, we believe, been a significant success. It has avoided the polarisation of views into separate and opposed streams of advice, it has brought the opinions of many different departments to the Committee's deliberations, and given a collective departmental imprint to the Committee's recommendations.<sup>64</sup>

The principal function of ICONE was to advise the Government on the legislative form the AHC should take. It also made significant recommendations in ten areas which reflected the conservation philosophy contained in the Hope Inquiry, the political thinking of the Government and a deteriorating economic situation.

---

<sup>63</sup> *ibid*, p.19.

<sup>64</sup> *ibid*, p. 8.

At this early stage the consensus of political opinion was that the AHC should be an advisory body which focused on policy and research outcomes. As such it was implied that the Commission could lead the conservation debate and react to individual issues in an authoritative and competent manner. Development of a bureaucratic structure was seen as an anathema to these goals. It was argued in Parliament

... the Commission should not develop into a large bureaucratic body, but should remain if possible a small, highly skilled, and issue-directed professional group. The Commission should be primarily a policy and advisory body, organising and sponsoring research, but leaving the detailed administration to other bodies.<sup>65</sup>

ICONE saw the AHC as a powerful body exerting authority through timely, top level advice. Such advice would not only be directed at Cabinet but Parliament itself. The three primary functions were, therefore, to prepare advice for the relevant Minister on National Estate issues, maintain a register and commission research.

ICONE identified three key powers for the Commissioners associated with the protection of the National Estate. The first of these was a requirement for Commonwealth Government agencies to advise the Commission of proposed works affecting the National Estate with the AHC subsequently able to submit comments as appropriate. The second source of authority was for 'Ministers and agencies' to only proceed with such controversial projects if they were able to prove there was no 'feasible or prudent alternative'.<sup>66</sup>

ICONE also argued an environmental impact statement (EIS) should automatically apply to projects effecting the National Estate and the Commission should have the power to request that its Minister hold a public inquiry under the terms of the EIS legislation. This range of proposed powers was seen as the 'teeth' of the organisation and a concrete means of linking the protection of the National Estate with those powers already available to the Commonwealth.

---

<sup>65</sup>ibid, p. 16.

<sup>66</sup> These terms are used in the Australian Heritage Commission Act 1975.



Staff operations were to be overseen by a group of Commissioners, the majority of whom (including the Chairman) would not be employed by the Commonwealth. Up to six Government agencies, however, were to be represented. This suggested all advice given would have considerable administrative weight although the potential for interdepartmental disputes was naturally increased.

To reinforce the independence of the body, ICONE also saw the AHC as having the power to independently recruit its own staff, albeit on terms and conditions acceptable to the Public Service Board. This important recommendation was never achieved as the AHC was always required to recruit staff through its portfolio agency with such staff technically being employed by that agency.

A general consensus existed between ICONE, Parliament and DURD over the majority of recommendations made concerning the proposed role and powers of the AHC. Disagreement between ICONE and DURD did exist, however, regarding the future level of staffing for the new organisation. Some members of ICONE also envisaged the AHC possessing the capacity to make administrative arrangements direct with States. This difference of perspective is highlighted by Lloyd and Troy.

The department wanted the Australian Heritage Commission to be a small and expert body with DURD responsible for the negotiation and administration of agreements with the states. Some of the members of the Interim Committee on the National Estate wanted the Commission to have rather more staff than the Department would accept. DURD was concerned that additional staff would provoke aspirations within the Commission to engage in program administration. At one point the staff numbers proposed for the Heritage Commission were comparable with the staff of the department.<sup>67</sup>

Both issues were to remain unresolved during the life of the second Whitlam Government and were to be taken up by the Fraser administration two years later.

At the conclusion of its work ICONE had successfully argued for a Commission

---

<sup>67</sup> C.J. Lloyd & P.N.Troy, p. 184 - 185.

which would operate essentially in the policy domain. The principal service delivery function was restricted to compilation of a Register of the National Estate and management of a generous grant program. Power was to be exercised through rigorous research, reasoned advocacy and control over grant funds.

As the following section reveals, the Australian Heritage Commission Act 1975 received bi-partisan support in Parliament. Opposition concerns related largely to the need to balance Commonwealth and State powers. This lack of conflict must be largely credited to the high quality and comprehensive nature of the Hope Inquiry Report.

### CHAPTER III

#### THE AUSTRALIAN HERITAGE COMMISSION ACT 1975 AND THE ESTABLISHMENT OF AN AUTHORITY.

The Lake Pedder dispute illustrated to both Labor and the Coalition the pressing need for new legislation to improve the management of environmental disputes. The following chapter argues that both sides of Parliament recognised that the absence of a comprehensive listing of the nation's heritage assets was a major stumbling block to improved decision making. Bi-partisan support existed for the creation of the Australian Heritage Commission which would prepare a Register of the National Estate. For Tom Uren, Minister for the Department of Urban and Regional Development (DURD), this function was but one element in a wider agenda which included empowerment of community-based conservation organisations and the creation of an environmental advocate within government. The Australian Heritage Commission Act 1975 was the legislative manifestation of these aspirations.

The Liberal-National Country Party Coalition government which came to power in December 1975 had a far more restrictive, prosaic view of the Commission's work. This led to the substantial revision of the Commission's original powers within twelve months. Furthermore, the commitment of funds to National Estate projects instigated by Labor was dramatically scaled back. In this economic and political environment, the challenge was to develop a comprehensive and respected Register of the National Estate and demonstrate its value as a decision making tool. An early commitment to this aspect of the new Commission's work by the Coalition Government took the form of an instruction by the Hon K. E. Newman, Minister for Environment, Housing and Community Development, to list Fraser Island. As the chapter reveals, however, consolidation of the AHC was constrained by persistent criticism of the Register by the mining industry.

#### **The powers and authority of the Commission under the Act**

When introducing the Australian Heritage Commission Bill to Parliament on May 14, 1975 Mr Tom Uren, Minister for DURD stated:

The Bill gives legislative substance to the National Estate, a noble concept which has been identified by the Australian Government and enshrined in a notable report... In broad terms the aims of this Bill are these: To set up an AHC on a broad and representative basis to advise the Government and the Parliament on the condition of the National Estate and how it should be protected; to establish and maintain a register of the things that make up the National estate; to require that the Australian Government, its department and agencies, and those acting on its behalf, respect the National Estate and do all they can to preserve it.<sup>68</sup>

The subsequent Act passed by Parliament contained forty eight sections consisting of nine parts. These parts covered preliminary interpretations, the establishment, function and powers of the AHC, the constitution and format of meetings, the Register of the National Estate, the protection of the National Estate, the National Estate Grant Program, staffing, finance and miscellaneous administrative procedures.

The AHC was given seven broad functions in relation to the National Estate.<sup>69</sup> The most important of these was to furnish advice to the Minister in three key areas either upon request or on its own initiative. These areas specifically related to proposed Commonwealth actions, the allocation of Commonwealth departmental funds and

---

<sup>68</sup> Australia, House of Representatives, 1975, Debates, May 4, pp. 2243-4.

<sup>69</sup> Section 7 of the Australian Heritage Commission Act 1975 states;

7. The functions of the Commission are-

- (a) to furnish advice to the Minister, either of its own motion or upon request made to it by the Minister, on matters relating to the national estate, including advice relating to-
  - (i) action to conserve, improve and present the national estate;
  - (ii) expenditure by Australia for the conservation, improvement and presentation of the national estate; and
  - (iii) the of financial or other assistance by Australia to the States, local governing bodies and other organisations or persons for the conservation, improvement or presentation of the national estate;
- (b) to encourage public interest in, and understanding of, issues relevant to the national estate;
- (c) to identify places included in the national estate and to prepare a register of those places in accordance with Part IV;
- (d) to furnish advice and reports in accordance with Part IV;
- (e) to further training and education in fields related to the conservation, improvement and presentation of the national estate;
- (f) to make arrangements for the administration and control of places included in the national estate that are given or bequeathed to the Commission; and
- (g) to organise and engage in research and investigation necessary for the performance of its other functions.

grants made to State and Local Government along with community groups. By providing these powers the Commonwealth had placed the AHC in a privileged position within Government. The AHC was technically able to provide separate (and perhaps conflicting) advice to that given by Departments including DURD and the newly formed Australian National Parks and Wildlife Service. The Commission was also given authority to comment independently on the actions of major service delivery departments such as the Department of Transport and Telecom. Subsequent criticism of these large departments for their often poor performance in the heritage field by the AHC generated considerable hostility towards the fledgling organisation.

The Commission was also expected to wield great influence over voluntary conservation groups and State and Local Government agencies through the provision of advice to the Minister on the allocation of National Estate grants. Actual responsibility for administering such grants remained with other departments on the basis that the Commission should avoid acquiring burdensome accounting duties.<sup>70</sup>

Of the six remaining functions, two were directly associated with improving public understanding of conservation issues. As such, the AHC was seen as an appropriate body to guide public debate on conservation issues through the provision of balanced and accurate information. Identification of the National Estate was also seen as pivotal in increasing public support for an expanded role for government in protecting the environment. Rapid development of a publicly accessible register was, therefore, seen as critical. Improving professional training opportunities for heritage practitioners was also seen as an important means of ensuring the effective execution of government funded conservation initiatives.

A Government desire for the AHC to consult widely and be inclusive in decision making is reflected in Clauses 8 and 12 of the Australian Heritage Commission Act 1975. These relate to issues of consultation and Commission membership. To ensure wide representation of Government agencies, up to six positions were reserved for permanent Heads of Departments and Chairmen of Statutory Authorities. Up to twelve other Commissioners were to be drawn from outside the Australian Public Service and were to reflect the diversity of the National Estate itself.

---

<sup>70</sup> Commission staff never fully accepted this decision and there were numerous attempts by the AHC to reverse the situation. This was eventually achieved in 1988.

Sections 8 and 9 of the Act specified that Departments and Authorities should provide assistance to the AHC when carrying out its work. The ability of the organisation to prevent actions deleterious to the National Estate lies in Sections 28, 29 and 30. The first two sections link the Commission to the Environmental Protection (Impact of Proposals) Act 1974, the centrepiece of the Whitlam Government's program to reduce broad acre destruction of significant cultural and natural locations. This was to be achieved by enabling the Commission to advise the relevant Minister on the likely impact of proposals on the National Estate. As a result, environmental impact statements produced by project proponents could be balanced by analysis provided by the AHC.

Section 30 of the Act is central to the Commission's work as it requires all Ministers to ensure that work done by Departments and Authorities under their control does not

....adversely affects, as part of the national estate, a place that is in the Register unless he is satisfied that there is no feasible and prudent alternative.<sup>71</sup>

As the most critical section of the Act, there are several key implications for Commonwealth government agencies. Most importantly, the Commission has to be made aware of development proposals by government agencies and these same agencies are required to fully disclose the nature of planned works. These disclosures must also contain a convincing explanation of why damage to the National Estate cannot be avoided. Such an explanation is open to critical scrutiny and provides an opportunity for the Commission to suggest alternatives if not satisfied.

Central to the concept of the National Estate was the Register which would list those locations deemed by the Commission or the Minister to contain National Estate values. The Act defines an appropriate general methodology for the operation of the Register but is silent on the actual criteria for determining the nature of national estate values. In this the Commission was given enormous power, controlling both the

---

<sup>71</sup> Australian Heritage Commission Act 1975 Section 30

listing and the protection of National Estate values.

To summarise, the Australian Heritage Commission Act 1975 broadly reflected the recommendations of the Hope Commission of Inquiry to establish a specialist heritage body. The relevant Ministers, Tom Uren and Moss Cass, also accepted the need for such a body to be independent of other agencies and made provision for this through the number of Commissioners and the powers of the Chairman. The Commission was also given adequate powers to identify and protect the National Estate from needless Federal Government actions. For the wider community and other levels of government, the Act placed emphasis on public education, cooperation and the simultaneous operation of the Environment Protection (Impact of Proposals) Act 1974.

### **Challenge and continuity 1976 - 1979**

When the Whitlam Government was defeated in the 1975 Federal election only the Chairman of the AHC had been appointed. The new Coalition Government came to power with an agenda quite different to that of the previous Labor administration. Its outlook was summarised by the Governor General's speech at the opening of Parliament on February 17, 1976.

...my Government believes that the Australian people have given it a strong directive to bring under control the highest unemployment for forty years and the worst prolonged inflation in the nation's history. The Government believes that excessive government intervention in the life of the nation is a major factor in economic instability. My Government's immediate objective is to bring inflation under control so that there can again be jobs for all who want to work. The Government's long term objective is to prevent the growth of centralised bureaucratic domination in Australia, the increasing dependence of individuals on the state.<sup>72</sup>

The Governor General then outlined a number of proposed initiatives to achieve these objectives which would have a critical effect on the establishment of the

---

<sup>72</sup> Australia, House of Representatives, 1977, *Debates*, 17 Feb, p. 12.

fledgling AHC. Growth in the Commonwealth bureaucracy was, for example, to be halted by the announcement of new staff ceilings, along with an across the board reduction in Commonwealth outlays.<sup>73</sup> These efforts were to be spearheaded by an Administrative Review Committee which was given the task, among others, of eliminating duplication within Departments and between Commonwealth and State agencies.

Emphasis was also placed by the new Government on reversing the trend to concentrate political power in Canberra. It was argued that new opportunities should be created for problem solving at the state, local and community level through 'historic reforms'.<sup>74</sup>

Based on this general philosophical thrust, the Fraser Government set out to review a wide range of government activities including measures to protect the National Estate. The spirit of an administrative review of the AHC Act, announced in early 1976, was captured in the following comments made by the Prime Minister to Tom Uren.

Originally, as was endemic under the previous Administration, there were somewhat extravagant proposals concerning the nature of the Commission and the way in which it might operate. There is no point in having a large bureaucracy for bureaucracies sake.<sup>75</sup>

This response, combined with a reduction of staff numbers in the new Department of Environment, Housing and Community Development, created alarm among environmental groups. Concern was further heightened when an assessment of National Estate Grant programs was also commenced. This review process delayed the establishment of the Commission and prompted a lobbying campaign to 'save' the AHC. The Bankstown Conservation Society, for example, submitted a petition to Parliament calling urgently on the Government to establish the Commission and to provide the new organisation with adequate resources.<sup>76</sup> The former Minister Tom

<sup>73</sup> An initial review promised reductions in the order of \$360 million.

<sup>74</sup> These initiatives became collectively known as 'New Federalism.' For the Commission this meant any new national conservation strategies had to gain acceptance first from the States before Commonwealth support would be forthcoming.

<sup>75</sup> Australia, House of Representatives 1976, *Debates*, 26 Feb, pp. 310-311.

<sup>76</sup> *ibid*, 4 June, p. 3028



Uren believed the whole concept of a Commission was under threat, stating '...the decision not to staff the AHC and now its foreshadowed abolition is an attack on our people, our birthright, our heritage.'<sup>77</sup>

The response of the Government to the review process and the public campaign on behalf of the Commission was the Australian Heritage Commission Amendment Bill 1976. This legislation had two stated objectives: to improve the original Act's effectiveness and to ensure the Commission operated within the overall framework of the Government's economic objectives. Mr Fraser claimed

... the amendment to the Australian Heritage Commission Act set out in the bill are designed to improve its effectiveness. They will establish it now as an efficient and meaningful advisory body, within the framework of government. ... At the same time, the amendments show the Government's desire to ensure that its priority objective of responsibility and restraint in economic management is reflected in the procedures and working arrangements adopted by the Commission.<sup>78</sup>

Mr Fraser's Second Reading speech proposed and outlined three major amendments relating to the AHC's membership, consultative powers and status of the Chairman. Each of these measures, separately and combined, diminished the overall authority of the AHC both within and outside government. Most significantly, they limited the capacity of the Commission to negotiate directly with State and Local governments without first gaining authorisation from the responsible minister.

The Hope Inquiry had argued strongly that the AHC should have a large board to ensure the broad range of interests contained within the National Estate were represented. This approach was accepted by the Whitlam Government which was particularly mindful of the need to ensure State bodies were well represented. It is also accepted that the strength of any organisation is highly dependent on the quality and number of those directing policy, especially with regard to a specialist scientific body. In the original Act, the Commission was to consist of up to nineteen part time Commissioners. This was subsequently reduced to a maximum of seven with only

---

<sup>77</sup> *ibid*, 26 Feb, p. 362.

<sup>78</sup> *ibid*, 4 June, p. 3066.

two being permanent Heads of Department.

The underlying rationale for such a substantial change was based on management efficiency and cost savings. The Government also argued that the question of gaining access to a broad range of specialists was met through amendments to Section 45 which allowed for the creation of advisory committees.

It is clear, however, that the reduction in the number of Commissioners would reduce the status of the organisation. The change also denied the original intention of the Labor Government for the AHC to have an inclusive structure which allowed representation of all key stake holders. Tom Uren saw the original Australian Heritage Commission Act 1975 as '...an example of open government and participation in the decision making process on a level unprecedented in Australian history.'<sup>79</sup>

The Labor Party believed that by reducing the number of Commissioners by at least twelve the original concept for the Commission was destroyed. Labor spokesman Les Johnson argued that because advice from the Commission would no longer be broadly representative of community, scientific and government views, it could be more easily ignored by a new Government seeking to reduce government expenditure. Johnson summarised his views on the reduction this way.

...this Act limits the range of expertise available to the Commission and increases their workload to such an extent that the program of saving the National Estate will be put back many years.<sup>80</sup>

For the Labor Party, the link between the reduction in the number of Commissioners and financing the National Estate was confirmed by the Government's decision to delete Sections 7a(ii) and (iii) which describe the financial advisory powers of the Commission. Mr Fraser also put forward the proposition that preservation of the National Estate was dependent on a change in community attitudes rather than the expenditure of 'vast sums of public moneys'. Improved decision making based on sound planning would achieve the desired results especially once the Register of the National Estate had been created.

---

<sup>79</sup> *ibid*, 18 Aug, pp. 318-319.

<sup>80</sup> *ibid*, 18 Aug, p. 323.

For the Opposition, this proposition signalled a retreat by the Government from a financial commitment to the National Estate and a capitulation to Treasury. It was noted by Tom Uren that Treasury

...has been able to influence the Government to take away from the Commission the power to make recommendations on expenditure. The Government does not want to be embarrassed by such recommendations. It wants to spend the money it has on other programs and not on the National Estate.<sup>81</sup>

These observations fitted the general Government commitment to curbing public service expenditure. The existence of numerous National Estate projects still requiring multi-million dollar funding to complete would also have provided ample evidence to the Coalition that the Commission's financial powers should be trimmed. Labor spokesmen conversely stressed the need for the AHC to possess financial muscle and partially defined the likely future success or otherwise of the Commission in terms of its budget allocation.

Crucial to the Commission's functions was the establishment of a National Estate Register and a strong case was put by the new Government that available resources should be concentrated on compiling the Register and establishing its value as a planning document. In this sense it could be claimed that the management of a large scale funding program was both premature and distracting to the main work of the fledgling organisation.<sup>82</sup> Mr Fraser also argued that the AHC still retained the ability to advise on the nature and extent of financial assistance to the National Estate even if this power was no longer made explicit in the Act.

In summary, the election of a Coalition Government committed to a reduction in government expenditure and regulation led to a substantial change to the Australian Heritage Commission Act 1975. These changes, which related to the structure and functioning of the organisation, were so substantial that the original intent of the Act was severely distorted. A simultaneous halving of the size of the AHC board and

<sup>81</sup> *ibid*, 19 August, 1976 p. 390.

<sup>82</sup> This point was put by Hon Malcolm Fraser in the second reading speech, House of Representatives, *Debates*, 1976, 4 June, pp. 3066-3067

removal of explicit references to its role in providing advice on Commonwealth funding of the National Estate broke a pattern established by the Hope Inquiry and the Interim Committee of the National Estate (ICONE). Between 1973 and 1975 Government policy relevant to the National Estate was linked to a dramatic increase in the funding of technical research and grant programs. Under the Fraser Government there was no increase in grant funding and resources were concentrated on improved documentation of National Estate issues. As a consequence, the preparation of the National Estate Register gained pre-eminence over more general functions in the amended Act.

### **Establishment of the organisation**

In reviewing the first five years of the Commission's operation, David Yenken, the initial Chairman of the AHC, painted a distressing picture.

...by the time of the appointment of the first Commissioner in 1976, the economy was depressed and the climate of decision making was changing. Because it was in these conditions that the AHC had to begin its work, the first five years have been a difficult period for the Commission. Resources of staff and money have been extremely limited.<sup>83</sup>

The inability of the Commission to rapidly expand its staff complement reflected a general downward pressure on numbers throughout the public service at that time. The Commission, although independent in a policy sense, fell within the portfolio responsibility of the Department of Environment, Housing and Community Development which had also suffered a substantial decrease in staff. Between 1976 and 1978 the Department's numbers were nearly halved.<sup>84</sup>

In these circumstances the Commission concentrated its resources on establishing the Register of the National Estate which, by 1980, had some 6,700 listings. The aim of this Register is to list

---

<sup>83</sup> Australian Heritage Commission, 1981, *The National Estate in 1981*, p.

<sup>84</sup> Department of Environment, Housing and Community Development, 1978, *Annual Report 1977 - 78*, AGPS, Canberra.

... components of the natural environment of Australia or the cultural environment that have aesthetic, historic, scientific or social significance or other special value for future generations as well as for the present community.<sup>85</sup>

In a symbolic move, the Commission's Minister requested that Fraser Island become the first item listed in the new Register. This request followed the adoption by Government of the main recommendation of the Fraser Island Inquiry, that export permits not be reissued for mineral sands unless mined below the high water mark.

During the late 1970s, a large number of areas were nominated by the public for inclusion on the Register reflected a high degree of interest in heritage conservation. The inability of the AHC to process these nominations led to criticism of the organisation's performance but conversely strengthened arguments for additional staff resources. Over an eight year period, however, staff numbers increased only modestly from thirteen (including seconded positions) in 1976 to twenty two (of which three were part time) by 1984.<sup>86</sup>

A major promotion and resource tool for the Commission did however become available to the Commission in 1980 with the launch of *Heritage of Australia*. This comprehensive publication contained nearly all areas listed in the Register and included examples of the most important categories. It subsequently became a standard research tool for both private individuals and corporations. This work was supported by a range of educational publications, a school kit, a film and a series of public lectures designed to promote a clear understanding of the National Estate concept and the work of the Commission.

The importance of these endeavours to enhance public confidence in the AHC and its work is best illustrated by the decision of the Fraser Government to request the House of Representatives Standing Committee on Environment and Conservation to investigate the operation of the AHC and the Environment Protection (Impact of Proposals) Act 1974. This inquiry was sparked by continuing criticism of the Register's operation by the mining industry and the inability of the Commission to

<sup>85</sup> Australian Heritage Commission Act 1975, Section 4(1).

<sup>86</sup> These figures were taken from the Australian Heritage Commission *Annual Reports* for 1976 and 1984 respectively.

successfully deflect or blunt these criticisms at a political level. While there was a high level of community support for the Commission's work, the nation's political and economic circumstances were less supportive. During the late 1970s a resurgence in the mining industry was seen as a key factor in improving the financial position of the nation. Thus, criticism of the Commission from this quarter had considerable weight within the Fraser Cabinet.

The decision by the Fraser Government to set up the inquiry effectively acted as a temporary circuit breaker for persistent criticism from industry. Five recommendations were subsequently made to Government to accommodate areas of concern. Fortunately, implementation of these changes did not effect the operational integrity of the organisation. With respect to the Register, it was recommended that Section 26 of the Act be changed to ensure all persons and organisations with an interest in a nominated area be notified in writing once a decision has been taken to list the area. It was further suggested that the AHC be required to advertise its intention to take action at the same time a property was listed.

These proposed changes were combined with a recommendation that any objection to a listing be dealt with within twelve months which, if not achieved, would lead to the nomination being cancelled. Clearly such suggestions were designed to overcome strident criticism that the process of listing was too lengthy and created uncertainty within the mining industry. By making these recommendations, the Committee accepted this line of argument. It did not, however, agree with industry criticism of the AHC nominating large areas. It stated

... the committee considers the listing of broad areas of land consistent with the powers of the Commission and its stated aim of listing significant areas and does not constitute a departure from the intent, or misuse of the legislation <sup>87</sup>

The affirmation of the AHC by the Committee was a considerable blow to opponents. This was particularly the case as the report also down played the role of the AHC in National Estate areas once listed. The Report noted:

---

<sup>87</sup> Comments from this report were quoted in the publication, *The National Estate in 1981*, p. 44

Despite the views of some sections of the community, the Australian Heritage Commission has a purely advisory role and has no direct authority to do anything in relation to a listed place.<sup>88</sup>

In comparison with the 1976 review, the Committee's findings were largely positive. As a consequence, only one minor amendment was made to the Act in 1982. The importance of heritage conservation work and associated costs were also identified, with the Committee requesting that additional funds be made available to government agencies possessing a large portfolio of heritage properties.

This review was a timely reminder that the AHC regularly interacted with many commercial and development orientated organisations which were more than willing to attack its work and professionalism. This dilemma was summed up by Yenken in 1982.

The need for a National Heritage body such as the Commission, and the value of its work would seem to be self evident. And yet during the last five years the Commission has been faced with constant attacks and the Government has regularly considered amendment to and possibly repeal of the Commissions Act.<sup>89</sup>

In essence, the Commission emerged from the review both strengthened and more robust. While there existed the opportunity for major changes to the Act to be initiated at this time, strong support for the AHC from the community, State Governments and Commonwealth Departments ensured this did not occur. Indeed, the Committee's published report argued there was widespread support for the amended Act after four years of operation. The Chairman noted:

The legislation was described variously by the States as 'vital', 'essential' and 'of importance'. No State Government put to the Committee any suggested amendments to the Act.<sup>90</sup>

Clearly, the AHC which had emerged by 1980 was not the National Estate

<sup>88</sup> *ibid*, p.43

<sup>89</sup> *ibid*, p. 196.

<sup>90</sup> *ibid* p. 197.

Commission envisaged by the Hope Committee of Inquiry some six years earlier. In many respects, the report's mildness could be seen by the Government as an indication that the surgery carried out on the Act in 1976 had been successful.

In the following section, the placement of Fraser Island on the Register of the National Estate is discussed. This action by the Minister for the Environment, Housing and Community Development in 1977 symbolised a commitment to the listing process if not to the organisation which managed it (see Figure 3) The new Government clearly accepted that a listing of 'the things we want to keep'<sup>91</sup> was a reasonable objective. However, it was less comfortable with the environmental advocacy and funding role proposed by the Hope Inquiry for the AHC.

### **The first major listing - Fraser Island**

Following a direction from the Minister for the Environment, Housing and Community Development, the Hon. K. Newman, the Commission placed Fraser Island on the Register of the National Estate on February 11, 1977. This step was the culmination of nearly five years of disputation between the sand mining company Dillingham Constructions Pty Ltd, Murphysores Incorporated Pty Ltd and the conservation movement. It also followed a recommendation by the Commonwealth's Fraser Island Environment Inquiry that all sand mining above high water mark should cease. The importance of this decision is described in the 1976 AHC Annual Report in the following terms.

This decision of the Commonwealth was one of the most important in the history of conservation in Australia and represents a significant precedent in Government actions. In the opinion of many scientists, it is a decision of world significance.<sup>92</sup>

The Fraser Island debate which will be described in this section was thus important in establishing a major role for the Commonwealth in resolving those environmental disputes in which it became enmeshed.

---

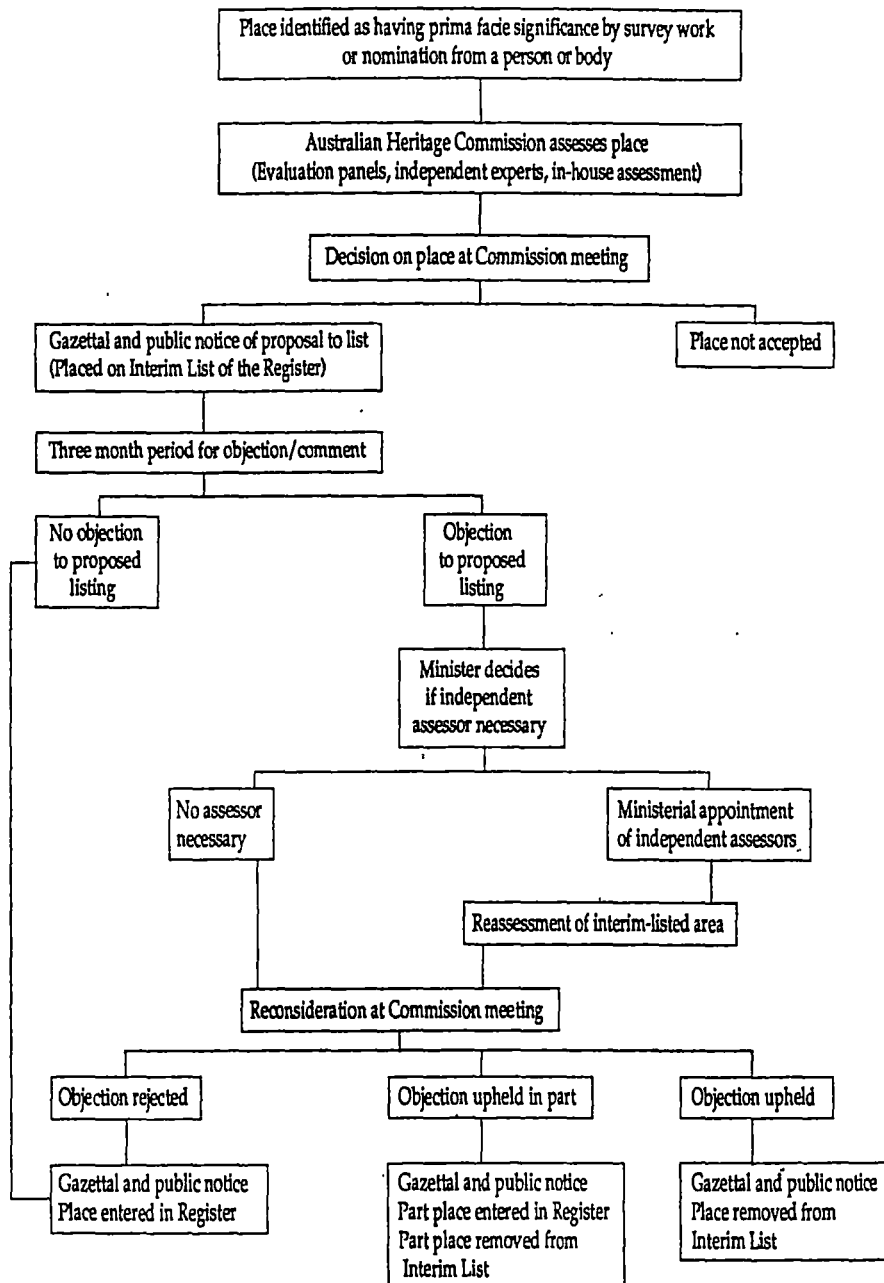
<sup>91</sup> This phrase was coined by Tasmanian Premier Eric Reece to describe areas listed on the Register.

<sup>92</sup> Australian Heritage Commission, 1977, *Annual Report 1976-1977*, AGPS, Canberra, p. 2



Figure 3

### Listing Process for the Register of the National Estate



The Commission of Inquiry into the future of Fraser Island was established under the Environment Protection (Impact of Proposals) Act 1974 and served as the first major test of this legislation. The principal recommendation of the Inquiry, which prevented mineral sands mining on the Island, underlined the potential power of the Commonwealth to decisively resolve environmental disputes utilising certain sections of the Constitution. A subsequent unsuccessful testing by the companies of both the Act and the Commonwealth's constitutional powers in the High Court confirmed the capacity of the Commonwealth to override State powers. In addition to mining industry concerns, the conservative Queensland Liberal-National Party Government was also vigorously opposed to Commonwealth intervention in the management of Fraser Island.

The disallowance of mineral exports from Fraser Island was based in Regulation 9 of the Customs (Prohibited Imports) Regulations. These regulations were not unusual in themselves but the Commission of Inquiry process led to them being tested for the first time in the High Court. In Murphyores Incorporated Pty Ltd v the Commonwealth, the High Court ruled that environmental aspects could be taken into consideration when the Commonwealth exercised its powers under this regulation. As a consequence, the approach by the Commission of Inquiry to assess the conservation impact of both exporting and not exporting mineral sands had a firm legal basis.

The Inquiry's finding that Fraser Island had outstanding natural values was also integral to its recommendation that mining cease. It found that the island '...is a component of the natural environment of Australia having outstanding social, aesthetic and scientific significance and other special value for future generations as well as for the present community'.<sup>93</sup> This finding led to a second important recommendation, that Fraser Island '...be recorded as part of the National Estate as soon as possible'<sup>94</sup>

For the Commission, this step was not simply a minor requirement to comply with the new Australian Heritage Commission Act 1975, but rather a positive step towards preserving the values they had discovered in the course of their research.

<sup>93</sup>Fraser Island Environmental Inquiry, *Final Report of the Commission of Inquiry*, Parliamentary Paper No 333 /1976, Commonwealth Government Printer, Canberra, p. 198.

<sup>94</sup> *ibid*, p. 206.

The entry of Fraser Island on the Register of the National Estate would be a pointless and sterile exercise unless it serves as a means to the wider end of encouraging the conservation of the Island in the national interest.<sup>95</sup>

The Fraser Island Commissioners believed that there were two distinct elements to the Register of the National Estate. The first of these was the identification of locations with outstanding cultural and scientific values. Through their Inquiry, a *prima facie* case had been established that these qualities existed on the Island. Consequently, they argued it was their responsibility to advise the Commonwealth Government of their findings in terms of subsection 4 (1) of the Australian Heritage Commission Act 1975 which defines those qualities which form the National Estate.

It was also recognised that listing could increase the likelihood of the areas protection as it

...facilitates the taking of action and the incurring of expenditure, by the Commonwealth Government with a view to conserving, improving and presenting that place as part of the National Estate.<sup>96</sup>

Thus, the importance of the AHC Act was recognised soon after its passage through Parliament by a key government inquiry. The *Australian Financial Review* and other business publications followed the debate with considerable interest. The position of the Fraser Government was seen as particularly surprising, as noted by the commentator 'Chanticleer'.

In taking away apparent Dillingham export approvals and then suggesting that they were not given, the Fraser Government sends a shiver down many a spine'.<sup>97</sup>

As discussed in the previous section, it was pressure from the mining industry

---

<sup>95</sup> *ibid*, p. 67.

<sup>96</sup> *ibid*, p. 62.

<sup>97</sup> Article by 'Chanticleer' in *Australian Financial Review*, 19 July 1977. Quoted in A. Gilpin, *The Australian Environment, 12 Controversial Issues*, Sun Books, Melbourne, 1980, p. 98.

which led the Prime Minister to announce a review of the AHC Act in 1979. It would be reasonable to suggest that the 'loss' of Fraser Island to mineral exploration created this counter reaction. Within the context of the Australian mining industry the Fraser Island mineral sands operation was minimal. It was also recognised, however, that the concept of National Estate listing had the potential to place new and unwelcome restraints on both exploration and mineral extraction projects elsewhere.

The legal and administrative challenge by Dillingham Pty Ltd and the mining industry to the Fraser Island Inquiry focused on the operation of the Environment Protection (Impact of Proposals) Act 1974 and the Australian Heritage Commission Act 1975. Ironically, closer attention should have been applied to the implications flowing from Australia's ratification of the Convention for the Protection of World Cultural and National Heritage in 1974. Indeed members of the Hope Committee of Inquiry drew to the attention of the Fraser Island Commissioners the link between National Estate listing and those areas such as Fraser Island which could be protected under the Convention through a successful World Heritage Listing. While in this case it was not a major factor in the protection of the Island, a significant potential Commonwealth power was highlighted. In a few short years Australia's membership of the Convention would be critical to resolving the next major environmental battleground, the Franklin River.

## CHAPTER IV

### THE AHC AND THE FRASER GOVERNMENTS 1976 - 1982

#### **A changing climate for conservation organisations**

The Whitlam Government provided generous financial assistance to conservation organisations during the full period of its administration. At a philosophical level the government argued that such bodies should be encouraged to expand their public advocacy role as a means of evening the struggle between community based pro-conservation forces and pro-development industry groups. A second proposition was that conservation organisations were able to carry out a range of research and physical conservation tasks in a more cost effective manner than government agencies. This was especially the case where organisations including the National Trust possessed a wide range of expertise which could be drawn on at little or no cost.

In the context of relations between Commonwealth, State and Local Governments, the development of a National Estate program was an important initiative. This was because it reinforced the overall Commonwealth objective of linking national policies with the expenditure programs of the second and third tiers of government. In the financial years 1974-75 and 1975-76 the Whitlam Government established a benchmark for funding voluntary conservation organisations. The National Trust received \$205,000 in 1974, rising to \$240,000 the following year. With respect to other voluntary conservation bodies, the figures were \$353,000 per annum rising to \$390,000. More broadly these organisations, along with State and Local Government, benefited from a comprehensive National Estate Grants Program which specifically funded a mix of research, planning studies and physical conservation works totalling some \$13.220,000 between 1974 and 1976.

Over the next seven financial years, the ALP and conservation organisations were to be vociferous critics of the Fraser Government with respect to National Estate funding. It was noted in the 1978-79 AHC Annual Report that a reduction in funding for conservation bodies was posing a threat to their viability.

The Commission regards these funds as an essential aid for community education and understanding of issues broadly related to the protection of the environment. Whilst it is acknowledged that commitment of government funds has been generally reduced over recent years there is a clear danger that a number of the important voluntary bodies are in danger of failing unless support is continued.<sup>98</sup>

This criticism was particularly potent as the Fraser Government argued that, through its overall reduction in the size of government, there would be an empowerment of the community and community organisations. In addition to these arguments associated with personal liberation, the Coalition also claimed that community organisations could operate in many spheres more cost effectively than government. It is ironic, therefore, that the Fraser Government defended its allocation of National Estate grant funds largely in terms of expenses associated with the creation of new government conservation agencies such as the AHC. In reply to a question from the Labor opposition, the Minister for Home Affairs and the Environment Mr Tom McVeigh, noted:

In addition to the allocations mentioned [National Estate grants and the AHC Budget], funds are also provided for other heritage activities, including for example, the Australian National Parks and Wildlife Service, the Great Barrier Reef Marine Park Authority the Supervising Scientist and assistance to Tasmania for restoration and conservation work at Port Arthur.<sup>99</sup>

This argument has some validity in a purely financial sense as, for example, the allocation for the AHC rose from an initial \$250,000 in 1975 to \$714,000 in 1982-83.<sup>100</sup> Funding of conservation projects was also a new area of government endeavour and the provision of substantial financial assistance to organisations such as the Australian Conservation Foundation had not been fully accepted by the incoming government.

The Fraser Government consistently asserted that the vast majority of powers

<sup>98</sup>Australian Heritage Commission, 1980, *Annual Report 1978-1979*, AGPS, Canberra, p. 18.

<sup>99</sup> Australia, House of Representatives 1982, *Debates*, 14-15 Dec, p. 3612.

<sup>100</sup> *ibid*, 8 Dec 1982, p. 3188

associated with land management issues resided with the States. Successful national conservation programs, therefore, required full State Government agreement and support. While correct in a legal sense and valid from a philosophical perspective, a number of States during the late 1970s and early 1980s lacked either the political will or the financial resources to address conservation issues in a positive manner. The National Estate Grant program did, however, provide a perfect opportunity for the principles of cooperative 'new federalism' as enunciated by the Fraser Government to be implemented. The Fraser Government strongly believed that State authorities were in the best position to determine heritage conservation priorities. The principal Commonwealth function was to allocate special purpose funds under Section 96 of the Constitution.

The influence of the AHC over State conservation agencies during this period was weakened because grants were made through the Urban and Regional Development (Financial Assistance) Act 1973 rather than the AHC Act. The program was also administered through the Department of Home Affairs and Environment with the Commission having a more nebulous advisory role. A consequence of this situation was that policy and practice often did not converge. The Commission noted

Under the 'new federalism' policy of the former Government, the States have major responsibility for program formulation with the Commission having responsibility for a 'national component' Consultative arrangements were to be set up in each state involving Commonwealth, State and Non Government Organisations. These arrangements have worked effectively in some States most of the time and in other States hardly or not at all.<sup>101</sup>

These circumstances had major implications for both the Commission and voluntary conservation organisations especially in States such as Queensland which had governments unsympathetic to conservation issues. Problems cited included the exercise of State vetoes over funding for voluntary conservation groups wishing to carry out research on controversial areas including old growth forests. There was also a lack of balance between funding for the natural, Aboriginal and built environments. This situation led to a 'considerable disenchantment' among many

---

<sup>101</sup> Australian Heritage Commission 1983, *Annual Report 1982-83*, AGPS, Canberra.

recipients and a general belief that the National Estate Grants program, during the late 1970s and early 1980s, was badly administered. The operation of the grants program also underlined the relative inability of the Commission to fulfil its original role as environmental advocate and supporter of voluntary conservation groups.

Despite these limitations, the AHC did exercise its right to criticise government policy between 1976 and 1982. Its main avenue was, however, limited to its Annual Report to Parliament. In the cut and thrust of public policy development the AHC was often left to report the lobbying activities of others. During 1982 the Australian Council of National Trusts managed a campaign which called for a dramatic increase in National Estate funding. The Commission itself was largely impotent and could not carry out a similar strategy as it was cut out of the decision making process concerning grants. The Commission noted in its 1982-83 Annual Report that

As in 1981-82, the Commission was not asked for advice on the grants to voluntary conservation bodies. As in last year's report, the Commission expresses the hope that this will be remedied in the current year.<sup>102</sup>

In essence, the Fraser administration believed that a well funded National Estate grants program was not appropriate during a period of economic restraint nor was it acceptable for the AHC to act as advocate within government for a change in this approach. As the following section reveals the Commission was relegated to developing an administrative classification system for heritage areas, the Register of the National Estate.

### **Development of a Register of the National Estate for the Nation.**

Lack of staff resources, inexperience and the political requirement for a substantive register to be in operation quickly contributed to early miscalculations by the Commission in producing the Register of the National Estate. Early listings were criticised on a number of grounds including that the Register was a compendium of other people's work. This claim alluded to the extensive exchange of information between the AHC and the National Trust which already possessed an extensive

---

<sup>102</sup> *ibid*, p. 22



register system. Clearly, however, the acquisition of basic data from the Trust was both sensible and cost effective.

Another related criticism was that insufficient research was carried out before areas were listed. This point reflected the Commission's acceptance at face value of research carried out in the previous twenty years by other bodies. There was no *prima facie* case to dispute this large body of work and there was a clear understanding by staff that when resources become available a process of redocumentation would be carried out. During the 1980s, 'old' listings were indeed revisited through studies funded under the National Estate Grant Program.

A third area of external criticism related to Aboriginal sites. Such listings, although small in number, were usually large in scale and contained a 'buffer' zone designed to protect a much more discrete secret/sacred location. New procedures were subsequently developed to overcome this difficulty through the creation of a confidential register.

It is ironic that both the general popularity of the Register with the public and the criticisms levelled by vested interest groups are based on a central misconception. The placement of a location on the Register does not guarantee its protection from the actions of private individuals, companies, Local, State or even Federal Governments. Large areas of Tasmania, for example, are listed as being on the Register of the National Estate but normal economic activity continues in these locations. As Yenken points out the National Estate is a protective inventory only

...in the sense that listing on it is a prerequisite for National Estate grant funding, and in the sense that actions of a Commonwealth Government Minister or authority that might adversely effect a listed place are constrained under the Commissions Act.<sup>103</sup>

The real strategic value of the Register was to act as an alerting mechanism<sup>104</sup> for would-be developers. As the contents of the Register became more well known, detailed and accessible by computer, few organisations could argue successfully they

---

<sup>103</sup> *The National Estate in 1981*, p.26.

<sup>104</sup> *ibid.*

were unaware of the heritage significance of a particular location.

The review into the AHC by Prime Minister Fraser in late February 1979 was triggered by criticism of the Register of the National Estate by the mining industry. Newspaper reportage noted that the Government had been receiving considerable criticism from the mining industry on the operation of the Act. Central to this criticism was the belief that the establishment of the Register was a hindrance to the continued wellbeing of the mining industry. The *Age* newspaper recorded that the '...Chairman of Mount Isa Mines, Sir James Foots, recently claimed that the Act reduced the likelihood of approval for mining ventures in registered areas.'<sup>105</sup>

In response, the Commission argued that establishment of the Register offered a number of benefits to mining companies. It was noted that in future there would be no necessity for mining companies to wantonly destroy sensitive areas once identified given that there existed vast alternative prospective areas outside National Estate zones. In a more pragmatic sense it was also pointed out that company interests would be best served if they were aware of heritage zones that could involve costly litigation involving conservation and Aboriginal groups opposed to mining. The Commission also stressed that many progressive mining companies had accepted these arguments by the late 1970s.

During this period, the Commission actually received strong support from both Government and a number of companies which wanted to know the exact whereabouts of Aboriginal sites of significance so as to avoid their accidental damage during exploration. Indeed, such information was routinely provided subject to the agreement of Aborigines associated with the site. The AHC saw this procedure as a vindication of their work, noting '...of course this is the whole purpose of the preparation of the Register of the National Estate.'<sup>106</sup>

As the achievements of the Commission in this field became better known criticism by the mining industry of the very charter under which the Commission operated was muted. Instead the mining industry's concerns increasingly focussed on operational issues. By the end of June 1980, while some 6,600 places had been

---

<sup>105</sup>*Age*, 23 Feb. 1979, p. 12

<sup>106</sup> Australian Heritage Commission 1979, *Annual Report 1978-79*, p.3.

nominated for entry onto the Register, a lack of staff resources meant that many nominations were taking a minimum of twelve to eighteen months to process. This in turn created a climate of frustration for both those nominating sites and affected landowners.

Approximately five hundred nominations received between 1976 and 1980 had objections lodged against them from a total of one thousand individual objectors. This level of objection forced the Commission to develop a four stage review process which included consultation with objectors, evaluation of objections by an independent expert panel, review by the Commissioners and a final provision for lodging of objections even after a place had been listed on the Register. This process led to the upholding of forty two objections or in other instances the changing of boundaries associated with a proposed listing from a total review figure of three hundred and fifty.<sup>107</sup>

For many with an interest in the development of new facilities in an area listed on the Register, or for those operating existing commercial facilities which could cause potential harm to the environment, a listing was an unnecessary burden. This was due to the scope it gave the Commission to comment on projects under Sections 28, 29 and 30 of its own Act. These Sections required the Commission to provide advice where Commonwealth Departments or agencies were planning to carry out projects in listed areas likely to diminish National Estate values. Private projects were also subject to the AHC Act if there was Commonwealth Government involvement in the provision of infrastructure such as roads and electricity. The AHC could also comment on private projects in National Estate areas where the Commonwealth had requested an environmental impact statement.

These wide powers led to a coalition of objections in 1978 opposing the entry of the Great Barrier Reef onto the Register. This was due to the proposed listing including harbours and islands which were neither controlled by the Commonwealth nor part of a National Park. The entry was consequently amended by the Commission because it was impracticable and unrealistic to include long standing port zones and residential/commercial development areas where 'harmful' activities would inevitably be undertaken.

---

<sup>107</sup> Australian Heritage Commission 1980, *Annual Report 1979-80*, p. 8.

These early criticisms played an important role in shaping the work of the Commission over the next decade. By 1981, the first stage of the Register had been completed with a broad range of significant areas listed. Phase two was to redocument the original listings and to fill in information gaps. It was quickly acknowledged, however, that a lack of specialist staff in areas ranging from geology to rain forest ecology prevented a complete geographic review of individual areas being carried out. In these circumstances, the concept of systematic assessment emerged which involved the gathering of detailed information on key subjects such as rain forest, mangrove swamps or in the historic area 'contact sites'. This approach enabled the AHC to respond in an authoritative manner in areas of high public and political interest.

The need for this reassessment of listings and additional research was summarised by Professor Julius Fabos<sup>108</sup>, an international expert on landscape assessment, who argued that a 'new reality' was emerging in landscape assessment. The first new trend he identified was an increasing number of objections and a high standard of professional challenge to listings. A second change was that more landscape architects trained in landscape assessment were now available. These two trends he claimed '...must force listing agencies into a more sophisticated game - that is to move from a simple landscape assessment technique to a parametric approach based on explicitly stated values, formal procedures and machine calculation.'<sup>109</sup>

These comments came at a time when the Commission itself was reviewing the validity of its own Register and seeking to ensure individual listings could withstand detailed scrutiny. The difficulty at a political level remained, however, as to how much value society placed on the preservation of listed areas. Did conservation values outweigh economic factors and whose values were represented by listing? As the favourably economic conditions of the 1950s and 1960s failed to reappear in the 1980s, these questions became more rather than less pressing. Compliance with the key sections of the AHC legislation, therefore, became more critical.

---

<sup>108</sup> A summary of the views of Professor Fabos and their implications for the National Estate are contained in *The National Estate in 1981*, p. 30

<sup>109</sup> *ibid* p. 29.

**The level of compliance by Commonwealth agencies with Section 30 of the Act.**

The staff and Commissioners of the AHC in 1976 had high hopes that Section 30 of the Act and the creation of a Register of the National Estate would encourage departments and authorities to '... increasingly regulate their own actions and decisions affecting the National Estate.'<sup>110</sup> Indeed, the long term credibility of the AHC was dependent on the organisation gaining compliance to the Act from large agencies such as Australia Post. It was, therefore, not surprising that the first Chairman of the Commission, David Yenken, claimed in 1981 that

...relationships with departments are now generally very good. The Commission is, for example, preparing a memorandum with the Department of Defence. There have inevitably been some problems - eg some departments have not referred proposals to the Commission - but there is increasing co-operation between departments and authorities and the Commission <sup>111</sup>

This fairly optimistic assessment belied the intense and unsatisfactory struggle between the Commission and large, property-controlling departments in the years 1976 to 1983. This all consuming battle to assert the primacy of conservation principles with Government property managers helped turn a bright and optimistic Commission into a beleaguered organisation prior to the election of the Hawke government. For Commission staff it was a fight to prevent the recurrence of such 'cause celebres' as Australia Post's defacement of an historic property in Oatlands, Tasmania. This case, highlighted in the Committee of Inquiry Report into the National Estate, involved the construction of a hideous facade on a colonial sandstone cottage in the heart of an historic precinct. A subsequent apology for the destruction included the promise of the facade's reconstruction. It was a promise that was never kept. In the 1979-80 AHC Annual Report, Parliament was advised that the '... Commission was aware that Section 30 of the Australian Heritage Commission Act 1975 is not yet being implemented by all Commonwealth

---

<sup>110</sup> Australian Heritage Commission 1977, *Annual Report, 1976/77*, p.13.

<sup>111</sup> *The National Estate in 1981*, p. 41.

Departments in all areas and as a result parts of the National Estate were being adversely affected without the benefit of professional conservation advice.<sup>112</sup>

A pressing problem which initially faced the Commission was the gap between the rapid professionalisation of conservation practices and routine estate management procedures adopted by Government agencies. Middle managers responsible for overseeing developments were often not equipped to exercise the sensitive judgments necessary when considering the future of a heritage building. An initial response by the Commission was to encourage the formulation of effective management plans for heritage properties. Such plans, often prepared by specialist consultants, were designed to provide guidelines for 'in house' departmental decision makers.

A lack of staff resources substantially reduced the ability of the AHC to fulfil its charter in this particular area. While recognising that a widespread education campaign needed to be directed towards Commonwealth departments, its efforts remained low key. This decision was based on the premise that the AHC could irreversibly damage its professional status through creating a new level of desire for advice which it could not then service. It was argued:

The Commission's ability to persuade development agencies depends on the recognised value and professional character of its advice. Hence hastily considered or tardy advice is worse than no advice. It would bring the Commission into disrepute and defeat its objectives.<sup>113</sup>

Such a proposition can either be accepted on face value or seen as self-serving. Regardless of which position is closer to the truth, it is clear that during the Fraser years the Commission largely discarded the mantle of the Hope Inquiry and its presumption that conservation advocacy would be a major role for such an organisation. The importance of such advocacy work was highlighted by the Belle Vue hotel case. In March 1979, the AHC gave notice of intent for this outstanding historic structure adjacent to the Queensland Parliament to be placed on the Register. An objection was lodged by the Queensland Government but was overruled by the

---

<sup>112</sup> Australian Heritage Commission 1980, *Annual Report, 1979 / 80*, p. 10.

<sup>113</sup> *ibid* p.11

Commission. Subsequently, in the early hours of April 21 1979 a demolition company, at the request of the Queensland Government, demolished the building.

Commonwealth agencies were unable to take such unilateral action but the AHC strongly believed withdrawal of maintenance funds was used as a method to achieve the destruction of property by stealth. Although the Commission received advice from the Attorney-General's Department that such a policy represented an effective breach of Section 30, the organisation lacked the resources and powers to pursue individual cases. It was also difficult to successfully criticise organisations such as Telecom and Australia Post who had a commercial brief. Government policy was firmly directed to reducing expenditure by these agencies and maximising profits. In this equation, the maintenance of historic properties did not fit well.

In light of these circumstances, a largely unsuccessful campaign was launched to encourage the Commonwealth to allocate to departments additional funds for maintaining heritage properties. This campaign was pursued through such venues as the House of Representatives Standing Committee on Environment and Conservation. In a submission in October 1979, the AHC suggested:

The Department of Finance, the Department of Administrative Services and the Australian Heritage Commission examine the desirability of introducing a separate item into departmental appropriations or any other means to allow the independent grouping of all maintenance and restoration in costs associated with Commonwealth properties listed on the register of the National Estate.<sup>114</sup>

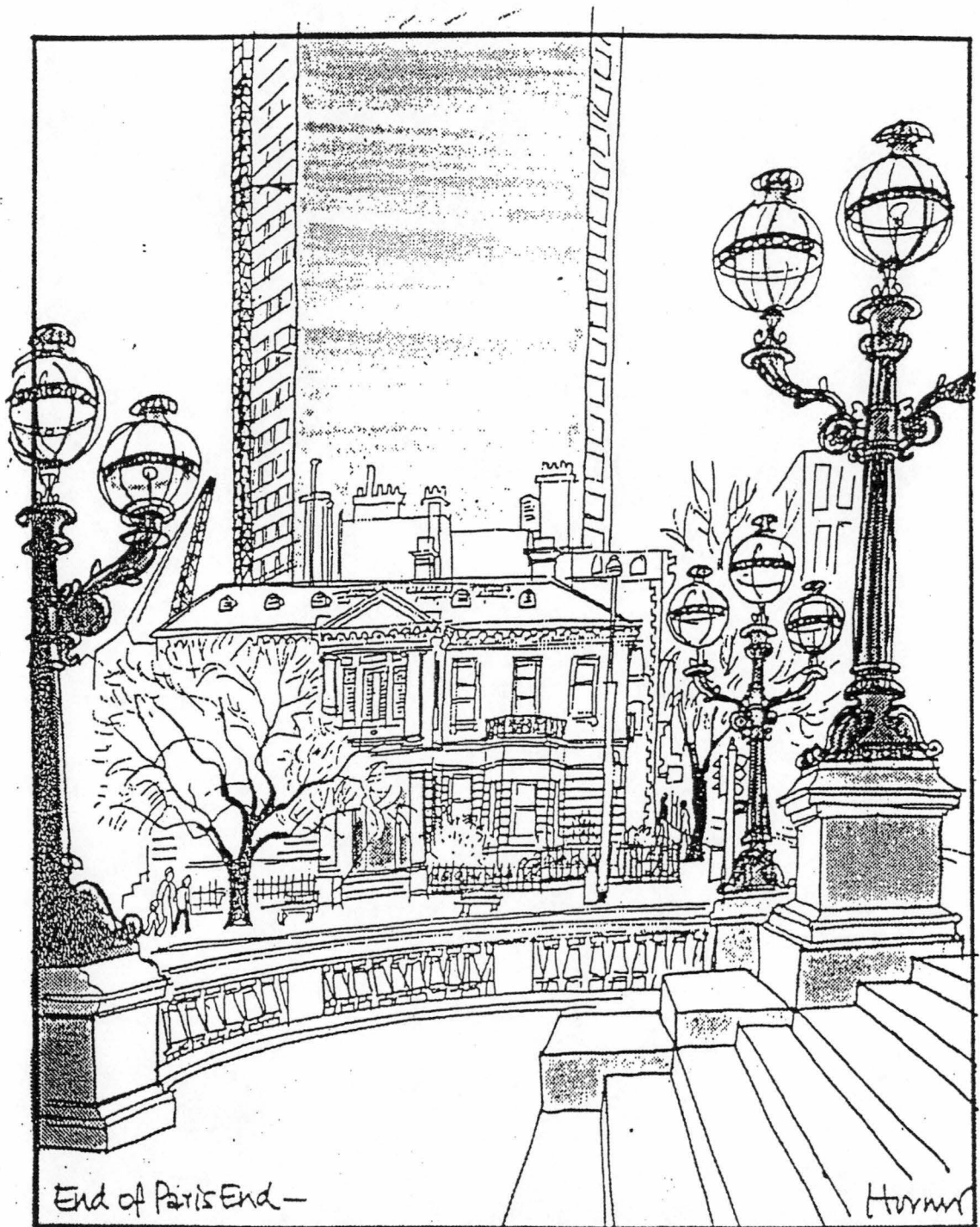
This suggestion was not accepted by the Commonwealth. The high cost of maintaining heritage properties actually encouraged both State and Federal Governments to sell off or lease such properties to developers during the 1980s.

The former Office of the Premier in Macquarie Street, Sydney is one example. This significant and highly visible property was sold to commercial interests to form part of an international hotel complex. The Commission was also unsuccessful in attempts to encourage the Commonwealth Government to provide taxation incentives to private owners maintaining or restoring heritage properties. This lack of success drew comments from critics in a diverse range of media (see Figure 4).

---

<sup>114</sup> Quoted in the Australian Heritage Commission 1983, *Annual Report 1982-83*, p. 1.

Figure 4



*The end of Paris End—we should be careful that views from and to monuments and historic areas are not spoilt—courtesy of The Age and Mr A. Horner.*



Section 30 of the Australian Heritage Commission Act is based on the premise that Commonwealth agencies, either out of goodwill or a desire to comply with the Act, would forward proposals for consideration. As a consequence, there was no provisions built into the Act which allowed for punitive punishments to be meted out to those who did not comply. Similarly, sufficient resources were not provided to enable the Commission to determine through investigation whether agencies were complying with the Act. It was not until the mid to late 1980s that the AHC was in a position to probe the activities of large Departments such as Transport. During the Fraser years the Commission was largely alerted to problems by conservation groups. The situation to 1983 was summarised this way.

Section 30 referrals have seldom been received on the National Highways program, none for about five years on water resources or flood mitigation projects. Following persistent campaigns from conservation organisations, two projects under the Australian Bicentennial Roads Development program were referred to the Commission. No routine procedures in respect of any of these programs are as yet agreed, to ensure authorities comply with the law.<sup>115</sup>

There were a number of circumstances which precluded full compliance by major departments with the AHC Act. These factors included inertia, lack of understanding and political will. In recognition of this situation, the Commission attempted to develop individual agreements or memoranda of understanding (MOU) with departments. These documents were designed to clarify areas of agreement and a proposed procedure for processing heritage issues between agencies. Most progress was made with the Department of Defence. However, as late as mid 1983 documents had not been finalised due to a lack of staff resources in the Commission. This situation symbolised the weakness of the Commission as a whole in asserting the Section 30 principle during its first six full years of operation.

### **The AHC, states rights and sectional interest groups**

The defeat of the Whitlam Government and the ascendancy of the Fraser led

---

<sup>115</sup> *ibid* p. 14.

Coalition Government in December 1975 represented a major change in the climate within which the conservation movement operated. For the previous three years a sympathetic government in Canberra had developed a broad range of conservation policies, initiatives and legislation favourable to those concerned with 'quality of life' issues. The advent of public funding for conservation groups facilitated the development of the Australian Conservation Foundation, the National Trust and similar bodies as sophisticated advocates for the environment. Public policy had also decisively swung toward increased restrictions over both public and private developments. Urban and regional planning also gained a new status and priority within the Commonwealth bureaucracy.

The change of government in December 1975 was accompanied by a broad recognition that the Australian economy was faltering. Economic symptoms of a depressed economy included high levels of both unemployment and inflation. For the conservation movement these factors led to three fundamental changes to the environment within which they operated. These were the re-emergence of 'states' rights' as a barrier to national action on conservation issues, greater credence given to pro-development arguments from sectional interest groups and the diminution of government financial assistance. The personal dynamics in the Cabinet room had also changed and were described by Frawley in the following manner, '... while Fraser himself had conservation sympathies, many in his government were ideologically opposed to nature conservation, urban planning and infringement of 'States rights'.<sup>116</sup>

Malcolm Fraser was later to point to the record of his Government in conservation with some pride. Eight pieces of significant environmental legislation were passed between 1976 and 1982. They included the Historic Shipwrecks Act 1976, the Whale Protection Act 1981, the Antarctic Treaty (Environment Protection) Act 1980 and the Wildlife Protection (Regulations of Exports and Imports) Act 1982. In addition to the banning of sand mining on Fraser Island in 1976, oil exploration on the Great Barrier Reef was also prevented. New bodies proposed by the Whitlam Government, including the Australian National Parks and Wildlife Service and the Great Barrier Reef Marine Park Authority, were also maintained and had their

---

<sup>116</sup> K. Frawley, *An historical perspective on land use in Australia and the development of ethics and traditions which guide these practices*, Paper to Symposium: The Role of Social Sciences in Natural Resources Management, University of Canberra 6-7 Dec 1990, p. 14.

funding increased.

The Fraser Government accepted the increased importance placed by the community on conservation issues. Unlike its predecessor, however, the Fraser Government was both unwilling and unable to form a partnership with activist organisations such as the Australian Conservation Foundation. This was, in part, due to previous strenuous efforts by the ALP to court the support of these bodies and the social activism embraced by their membership.

Progress in protecting the environment under the Fraser Government was to be achieved through coordinated policy development and government to government negotiation rather than unilateral Commonwealth involvement in individual disputes. In 1980, the Prime Minister announced the development of the first National Conservation Strategy and in 1982 he launched a National Tree program. Both were important initiatives that recognised the need for national leadership in the conservation field. In a similar vein, the Fraser Government with little fanfare proposed and obtained World Heritage Listing for Lord Howe Island, the Willandra Lakes Region, the Great Barrier Reef and Kakadu National Park. In all three areas, the Hawke Government was subsequently to trumpet its environmental credentials by expanding on these initiatives.

Open and intractable conflict between the Federal and State Governments, especially if they were of the same political party, was an anathema to the Liberal-National Country Party Government. This general position restricted the ability of the Prime Minister and his conservation Ministers to deal effectively with the Franklin Dam project. As this conflict between the Tasmanian Government and environmental forces unfolded between 1978 and 1981, Fraser gradually accepted that the position of the Liberal Tasmanian Government was flawed. The option of an open breach with the Tasmanian Government and overriding State powers through Section 51 (xxix), the external affairs power of the Constitution, was not available to Fraser. This was because of the commitment by the Coalition Party administration to protecting the constitutional position of the States within the Commonwealth. A high profile, public program of persuasion, aided and abetted by the conservation movement, was also not appropriate for a Government with strong industry links. A behind the scenes negotiation strategy and the distribution of Commonwealth

largesse was, therefore, adopted by Fraser. Spurred on by electoral considerations in 1982, the Prime Minister attempted to negotiate an extraordinary \$500 million compensation deal with Liberal Premier Robin Gray. The refusal of the Gray Government to halt the Franklin Dam project, despite this generous offer, symbolised the complexity and cost of modern environmental conflicts. It also underscored the failure of traditional Commonwealth negotiation techniques in these circumstances when faced with an intractable State Government.

Conservationists during the 1970s and 1980s were also faced with a general hostility in the Parliamentary arena. The fear and loathing aroused by environmentalists and their government agents among some conservative politicians was symbolised by the attitude of Sir Charles Court to the AHC educational kit launched in 1980. Entitled *Investigating the National Estate*, the kit was prepared by the AHC and Commonwealth educational authorities for national distribution to schools. In a letter written to the Prime Minister, Sir Charles Court rejected the material as unfit for WA schools because '...the publication contains many inaccuracies, coupled with a strong centralist flavour'. The Premier went on to note

An example of one inaccurate assertion relates to the claim that the Constitution can only be amended by referendum. Certain other sections of the kit take a negative approach to such matters as mining and wood-chipping.<sup>117</sup>

In addition to the above, Sir Charles Court saw the educational kit as questioning the performance of State Governments in the field of conservation and land management. While the kit was eventually distributed throughout Australia, the critical position adopted by many conservative State politicians to the AHC made the operation of joint projects more difficult. This was a particular problem where co-operation was critical such as with Register listings, land management studies and base line environmental monitoring.

The views of Sir Charles Court and others toward the AHC were at least partially shaped by the consistent criticism of its work by the mining industry, especially in Western Australia, the Northern Territory and Queensland. The central argument,

---

<sup>117</sup> *Australian*, Oct 16, 1980, p. 4.

which was repeated on many occasions, was that listing 'inevitably led to the community believing this area had high conservation values which needed to be protected'. Because of the combative nature of the conservation debate and the suspicion with which the Commission's work was held, the prestigious industry publication, the *Mining Review*, could also confidently state that 'assurances that the Commission has no wish to use the Section [30] against the industry while no doubt made in good faith are simply meaningless'.<sup>118</sup>

A series of disputes affecting building developers and the mining industry were at the core of this campaign. The most important of these concerned attempts by the Queensland company Mount Isa Mines (MIM) to prevent the listing of eleven locations associated with Aboriginal sites in the Macarthur River region in the Northern Territory during January - February 1979. Criticism of the AHC by MIM Chairman Sir James Foot were supported by Energy Ministers in both the Northern Territory and Queensland. A subsequent review by a Parliamentary Committee of the National Estate listing procedures where Aboriginal sites were located led to a dramatic reduction in the size of surrounding buffer zones. This effectively meant greater freedom for mining companies operating in sensitive areas.

Closer to Canberra, the Commission was also embroiled in a damaging conflict associated with the proposed listing of inner city suburbs such as Reid and Barton in the ACT. It was argued by the Real Estate Institute of the ACT that stricter controls over renovations and improvements to houses along with tighter planning regulations would depress house prices. Government bodies including the National Capital Development Commission and the Department of the Capital Territory also made submissions to the AHC on the basis that broad scale listings would inhibit future planning measures such as infill housing. A property developer pursued this line, arguing

...the effect of the proposed registrations would be to reinforce Canberra's sprawl and to undermine the ability of Civic to regain its natural dominance as the economic and cultural heart of the city.<sup>119</sup>

---

<sup>118</sup> *Age*, 'Ease Controls, say miners', 12 March 1979, p. 3.

<sup>119</sup> *Canberra Times*, 'Challenge planned to Heritage List', 23 Aug. 1980, p. 4

Government regulation designed to preserve natural and cultural features were a common feature in Europe and the United States by the mid to late 1970s. In Australia, it was a new and for some an unwelcome trend. The advent of a conservative government clearly provided an opportunity to roll back these initiatives of the Whitlam Government. In this climate, it was, therefore, predictable that the voice of the conservation movement would be dulled by that of commercial interests. In addition, a period of economic restraint also made it more difficult for the Commonwealth Government to give form and substance to its new range of environmental powers. It is, therefore, not surprising that Malcolm Fraser's focus in conservation matters was to consolidate old programs rather than provoke criticism by introducing new initiatives.

Fraser's difficult position was summarised in his statement announcing an inquiry into the AHC in February 1979. A press report in the *Financial Review* recorded that

... yesterday the Prime Minister was on record as saying that while the Act was under review the principles behind the Australian Heritage Commission 'would be maintained to the fullest by this Government.'<sup>120</sup>

Personally sympathetic to conservation issues, Fraser's reluctance to revoke major pieces of environmental legislation was also backed by electoral considerations. A survey of environmental bodies in 1981 revealed membership of nature conservation bodies running at approximately 250,000, with a further 120,000 individuals associated with environmental cultural groups such as the National Trust.<sup>121</sup> As the Chairman of the Australian Heritage Commission noted '... the sum total of this direct public involvement constitutes an impressive community voice.'<sup>122</sup>

On coming to power, Malcolm Fraser promised to 'take politics off the front page.' This sentiment was also behind the Prime Minister's approach to conservation issues. Wherever possible, environmental conflicts were to be massaged and manipulated outside the glare of publicity. By so doing, he hoped not to provide

---

<sup>120</sup> *Financial Review*, 'Government to Heritage Act after mining industry objects', 23 Feb. 1979, p. 5.

<sup>121</sup> *The National Estate in 1981*, p. 8.

<sup>122</sup> *ibid*

ammunition for those in conservative ranks opposed to a greater level of Commonwealth environmental management. For Fraser, this was more beneficial than openly courting the environmental vote. This set of circumstances, however, prevented the Prime Minister from successfully addressing a range of key environmental issues effectively, including the Franklin Dam dispute. As Chapter Five will reveal, the Hawke Labor Government in contrast benefited considerably from a robust and public alliance with the green movement. It was also a political environment in which the Australian Heritage Commission could exercise more freely its statutory responsibilities and expand staff numbers.

## CHAPTER V

### THE HAWKE GOVERNMENT 1983 - 1986 ... A TIME OF TURBULENCE

The election of an ALP government foreshadowed a new era for members and staff of the Australian Heritage Commission. A pre-election commitment by Labor to save the Franklin - Lower Gordon wild rivers suggested that the new Government would allow the full potential of the Australian Heritage Commission to be demonstrated. Certainly the rapid resolution of the Franklin Dam dispute by the Hawke Government gave the environmental movement as a whole reason for confidence that environmental policy would be a focus for the new administration.<sup>123</sup> As the following Chapter reveals, however, initial optimism was quickly replaced by an acceptance that the primary focus of the new Government was in fact economic reform and innovation.

Environment remained a relatively low status department outside the inner workings of Cabinet and presided over by a relatively conservative Minister. Additional staffing resources were made available to the Australian Heritage Commission which ensured it was better able to perform its statutory functions. A better resourced Commission in turn was better positioned to engage in debate with pro-development forces both within and without government. This was no more evident than in the forestry disputes in Tasmania, NSW and Queensland which dominated conservation politics during the mid to late 1980s. Crucial to these disputes was a contradiction between an Australian Heritage Commission which placed large areas of old growth forest on the Register of the National Estate and a set of Commonwealth and State Government economic policies which encouraged an expansion of the forestry industry.

This set of circumstances created an unfortunate, but not unusual, administrative paradigm for the AHC. Success in managing and refining the National Estate strengthened the hand of conservation forces. As more scientific data became available concerning the high conservation value of old growth forests, pro -

---

<sup>123</sup> This period has been widely studied with a broad range of literature produced. Key works include Papadakis, E. *Politics and the Environment, The Australian Experience*, Allen and Unwin, Sydney, 1993. and Marsh, I. (ed) *The Environmental Challenge*, Longman Cheshire, Melbourne, 1991.



development forces increasingly relied on economic and social arguments concerning the impact of restricting forestry activity. In this area the Commission had no expertise and, moreover, the Government chose not to alter the brief of the AHC to reflect these changing circumstances. Instead, the first term of the Hawke Government saw the emergence of a new strategy to resolve environmental disputes, the creation of new legislative based bodies. The first of these was the Lemonthyme and Southern Forests Commission of Inquiry under Justice Helsham. This development reflected a growing sophistication in dealing with important but bitter debates over the future use of the nation's natural resources. For the AHC it also suggested an inevitable displacement of the organisation from the very centre of environmental disputes, specifically the resolution process.

### **A new government with new priorities**

The 1980s has been recognised by most commentators as a period of intense activity in the conservation arena. Direct action campaigns such as the Franklin Dam dispute often dominated newspaper headlines and the emergence of a cogent conservation philosophy, sustainable development, occupied government policy makers. For the ALP, the concept of the 'environmental vote' and the need to cultivate this section of the electorate had been established by the early 1970s. The experience of the Whitlam Government and the continuing growth of conservation organisations during the late 1970s confirmed the need for the ALP to present strong environmental credentials.

In opposition, the ALP developed a new environmental policy which was designed to both differentiate the Party's position from the Government on key issues and critique the performance of those environmental instrumentalities created under Labor between 1972 and 1975. By 1979 the Party was in a position to include in its platform an analysis of Fraser Government programs and propose new initiatives such as the creation of the Office of Environmental Advocate. The ALP policy reiterated the importance of the AHC legislation and claimed that any shortcomings in the organisation's operation were primarily caused by lack of resources.

Consequently a Federal Labor Government will ensure that the Australian Heritage Commission is able to clear the backlog of

nominations for the Register of the National Estate and assist in promotion and education of the Australian Heritage.<sup>124</sup>

The policy also linked National Estate listing to the Convention for the Protection of the World Cultural and Natural Heritage. It stressed that an ALP Government would proceed immediately with nominating the Great Barrier Reef, South West Tasmania and Kakadu National Park. The work of the Commission in documenting such sites and focusing on their significance was seen as an important part of its function.

The Fraser Government's effective reductions of funding for conservation bodies were criticised by the ALP as a calculated program to stifle the voice of environmental groups and consequently benefit commercial interests. The ALP policy platform noted

... opposition to environmental groups is widespread in the business community, particularly amongst the mining sector. This is reflected in the attitudes of the coalition MPs and no more so than amongst National - Country Party members who almost without exception are opposed to the Government providing funds for conservation and environment groups to attack their biggest financial supporters.<sup>125</sup>

Figures were provided which suggested that between 1974-75 and 1980-81 the real value of grants had declined by 51.8%. This decline was used extensively by the Labor Party prior to the 1983 elections to dramatise a supposed lack of commitment to conserving the environment by the Fraser Government. In contrast, the importance placed by the incoming Labor Government on conservation issues and its willingness to exercise national leadership was symbolised by the first major action of the new administration, the resolution of the Franklin Dam dispute. This was achieved by the Government passing the World Heritage Properties Conservation Act 1983.

By acting decisively and further extending the role of the Commonwealth in conservation issues, Labor attempted early on to capture the environmental vote. For

<sup>124</sup> Australian Labor Party, *ALP Platform, Adelaide Conference - 1979*, ALP, Canberra, 1980, Section 2, p. 14.

<sup>125</sup> *ibid*

the AHC, the election of a seemingly activist government promised much for the future. Certainly the new Minister Barry Cohen was publicly generous in his praise for the Commission's work and optimistic for the future. He claimed '... I think it is fair to say that [the] Commission has contributed more in its eight years of existence to the preservation of our heritage than any other action by any other Government.'<sup>126</sup>

Certainly the AHC had every reason to be appreciative of the new Government. In the 1983-84 budget, the organisation received a 58% increase in funding with a further 26% increase in the National Estate grant allocation. Further assistance was provided for conservation projects through the newly established Community Employment program. The new Minister did recognise, however, that the issues facing the Commission were not simply budgetary but also concerned public perception of its work. He believed that a critical role for the AHC was to build public support for, and understanding of, Government conservation policies. A background of bitter public dispute over individual conservation issues was not seen as a positive environment for effective policy development and program management. Furthermore, as the primary focus of the Government was macro - economic reform and the stimulation of economic and employment growth, such disputes were a distraction. The Franklin Dam conflict and the Daintree Forest dispute, for example, occupied considerable media attention and inevitably raised questions about the impact of unrestrained economic growth.

In this climate it was considered important that the AHC make a major contribution to promoting a more sympathetic view of conservation issues with the general public. This was to be achieved through '...a large number of projects in 1984-85 ranging from films to exhibitions, displays, brochures and other publications.'<sup>127</sup>

Barry Cohen implicitly accepted that a great deal of AHC resources were devoted to '... dealing with the seemingly endless controversial heritage issues which seem to feature so prominently in our newspapers these days.'<sup>128</sup> By becoming a 'front line' agency required to respond quickly to emerging conservation and resource based

---

<sup>126</sup> Departmental speech notes prepared for Barry Cohen for an address to the Wyong Historical Society, 8 April, 1984.

<sup>127</sup> *ibid*, p. 14.

<sup>128</sup> *ibid*, p. 13.

conflicts, its influence at a policy level consequently diminished. In the critical area of World Heritage listing the AHC was effectively cut out the decision making chain once it had prepared a 'tentative' list of possible areas for nomination. Initial Commission research was to be considered by a specially convened World Heritage Committee. Once agreement had been reached on a draft list, discussions were then to be held with State and Northern Territory Governments. On that basis a final list would be presented by the Minister to Cabinet for endorsement without necessary reference to the Commission.

The new Minister asserted on numerous occasions he did not support a confrontationalist, 'crash through' approach to environmental issues. Reconciliation of conflicting interests and objectives was seen as the key to a sound environmental policy. This was certainly in tune with the theme of national reconciliation pursued by the Prime Minister, Mr Hawke. Such a position placed him at odds with many environmentalists who were supportive of community based action campaigns such as those mobilised to protect the Daintree. In a similar vein to conservative politicians, he argued that meaningful progress could only be achieved through cooperation with State Governments. As a Labor Minister he was fortunately less constrained by entrenched opponents of the conservation movement and more able to secure additional funds for both conservation agencies and community groups. The Minister's view of priorities and his approach was contained in a 'State of the Environment in Australia' speech to Parliament in November 1985. Cohen argued that:

From day one of the Hawke Government I have held the view that the protection of Australia's forests will be the major environmental issues of the 1980's, but that it can be achieved only by cooperation between the states and the Commonwealth. Developing a national rain forest policy and implementing it in consultation with the States will therefore be a major priority for the Government as it continues to tackle the task of conserving our natural resources.<sup>129</sup>

In establishing this priority, the Minister did not look to the AHC for leadership but rather the Department itself. Indeed the mechanism of a national rain forest

---

<sup>129</sup> Australia, House of Representatives, 1985, *Debates*, 25 Nov, page 3601.

conference organised by the Department involving both government and non government expertise was deployed to encourage a general consensus on national policy. This approach was supported by the 1984 ALP policy platform which called for a Committee of Inquiry into the timber industry to investigate management and conservation issues.

These circumstances posed a dilemma for the conservation lobby during the first term of the Hawke Government, a dilemma which prevented their total support for the ALP. On the positive side Labor had demonstrated a willingness to generously fund both Government bodies such as the AHC and community organisations. The Franklin Dam dispute had also been resolved by decisively extending the constitutional powers of the Commonwealth. In contrast, Minister Cohen had both publicly and privately appeared unwilling to move beyond a consensus mode in dealing with conservation issues. This was to be reflected in his later refusal to recommend a World Heritage nomination for the North Queensland rain forests as a means of protecting the integrity of the Daintree from a proposed road.

In 1987 the situation was resolved when Cohen was replaced as Minister for the Environment by the Hon. Graham Richardson. While there were a number of issues associated with this turn of events, including factionalism in the ALP, the perceived lack of aggression by the Minister in handling his portfolio was an important consideration in his downfall. Commentator Elim Papadakis that noted '...his refusal to nominate the Queensland rain forests in the face of opposition by the Bjecke-Petersen Government was seen as 'gutless' by the conservation movement.'<sup>130</sup>

### **The AHC and the Gordon below Franklin dispute**

Tasmanian Government recognition of South West Tasmania as a wilderness reserve dates back to 1927 when the Cradle Mountain-Lake St Clair National Park was created. Further State reserves were formed in 1939 and 1941 when the Gordon River and Frenchman's Cap National Park were gazetted. During the twentieth century, the main environmental threats posed to the region related to mining activity, forestry and hydro dam construction. Significant and large scale damage

---

<sup>130</sup> E. Papadakis, *Environmental Policy* in C. Jennett & R. Stewart, (Ed), *Hawke and Australian Public Policy, Consensus and Reconstructing*, Macmillan, Sydney, 1989, p. 339.

was caused to the hills surrounding Queenstown and the waters of Macquarie Harbour from pollution associated with mining and smelting. The inundation of Lake Pedder in 1972 was a third major visible change to the South West landscape. These events had occurred prior to the formation of an effective national conservation lobby and the passage of key Federal legislation including the Environmental Protection (Impact of Proposals) Act 1974 and the Australian Heritage Commission Act 1975. This new legislation held out the promise that areas of outstanding natural and cultural heritage including South West Tasmania would be protected.

In October 1979, the Tasmanian Government's independent statutory authority, the Hydro Electricity Commission (HEC), tested this new legislative climate by recommending that a new Gordon-below Franklin Dam be constructed. This action, if successful, would have destroyed Australia's last significant wild river in the heart of the South West wilderness area. The proposal also represented a second attempt to repeat the HEC development strategy of bulldozing aside community opposition and alternative strategies proposed by other Government agencies and State Parliament itself, an approach successfully deployed during the Lake Pedder campaign. In response, a seven year campaign to save the Franklin was launched, which was to involve an extraordinary interaction between organisations, policies, reports and individuals.

Regardless of the threat posed by renewed dam construction following Lake Pedder, by mid 1975 the future long term management of South West Tasmania had become an important concern for the Tasmanian Government. Between 1975 and 1978, a State Government Committee of Inquiry into South West Tasmania produced a comprehensive review of land management and heritage issues associated with the region. Despite criticism of the final report by conservation bodies, the report led to a State Government announcement in July 1980 that the South West Conservation area would be created. The area so gazetted became the Wild Rivers National Park which included the Franklin River. It was an event which could easily have been predicted by HEC planners but they chose to press ahead, relying on the strength of the organisation and a possible change of State Government to see the project through.

Opposition to the HEC proposal was manifested early within the State bureaucracy

and community, with a Government inspired Coordinating Committee on Future Power Development rejecting the HEC report and recommending the construction of a coal-fired thermal station with a second stage hydro scheme at an alternative location. Caught between these opposing views, the Tasmanian Government opted for a third alternative, a Gordon above Olga electricity scheme and the creation of the Wild River National Park.

A subsequent Bill implementing these recommendations was passed by the Lower House but rejected by the Tasmanian Upper House. This deadlock was seemingly resolved by a State election in May 1982 which saw the defeat of the Labor administration. A new Bill authorising a Gordon below Franklin scheme was then passed in June 1982 by a new Liberal administration. The strength of community support for a 'no dams' option was, however, reflected in a December State referendum where 32.5 percent of votes cast explicitly rejected both the Gordon above Olga and the Gordon below Franklin schemes. A decision by the Labor State Government in late 1981 to recommend to the Commonwealth that the Western Tasmanian Wilderness National Park be nominated to the World Heritage List overshadowed the impact of these local political events. This action placed the Franklin Dam issue clearly in the Federal arena and would lead ultimately to a resolution of the conflict.

In September 23, 1981 a Senate Select Committee on South West Tasmania was established. Its terms of reference were to inquire into:

- (a) the natural values of South West Tasmania to Australia and the World and;
- (b) Federal responsibility in assisting Tasmania to preserve its wilderness areas of national and international importance, ... consistent with the states development needs and options for the States energy requirements<sup>131</sup>

Such terms of reference provided an opportunity for the wealth of ecological and archaeological data available concerning South West Tasmania to be restated. The

<sup>131</sup> Senate Select Committee on South West Tasmania, 1983, *Future Demand and supply of Electricity for Tasmania and Other Matters*, AGPS, Canberra p. 4

energy requirement arguments put forward by the Hydro Electric Commission could also be tested. These terms of reference also reflected an implicit recognition that the Commonwealth could intervene to protect the South West and override state powers perhaps through the mechanism of a World Heritage listing.

The majority report submitted to the Senate in November 1982 made several key findings. These included that regardless of any international obligations a variety of other powers were available to the Commonwealth to prevent the damming of the Franklin. Among these was the Australian Heritage Commission Act 1975. The Committee pointed out that Section 30 of the Act would be activated when the HEC sought approval to borrow funds overseas for a scheme likely to harm the National Estate values of the South West. In these circumstances, the relevant Commonwealth Minister would need to be satisfied that no 'prudent or feasible alternative' to the scheme existed, a difficult case for the HEC to argue. More importantly, the report confirmed that by proceeding with World Heritage nomination the Franklin would be saved. Although recognising that the issue of World Heritage nomination was not central to the report, the document noted

...the Committee must say that nothing has emerged from the inquiry which should persuade the Commonwealth Government from proceeding with the listing which involves the Government in fulfilling its obligations and responsibilities under the provision of the UNESCO Convention for the Protection of the World Cultural and Natural Heritage.<sup>132</sup>

These findings undoubtedly paved the way for an incoming Labor administration to immediately prevent the dam proceeding through legislative fiat.

The Commission believed it played a crucial role in this chain of events and Mr Vincent Serventy, conservation advocate and AHC Commissioner, supports this proposition. He claims this was achieved by the AHC convincing the Tasmanian and Commonwealth Governments to propose South West Tasmania and other areas for World Heritage listing. He noted:

---

<sup>132</sup> *ibid* p. 223.



In the Franklin River decisions the Commission played a vital role negotiating for over four years in order to convince the State Governments concerned that the first five items should go forward for nomination to the World Heritage List. And it was its presence on the list that eventually saved the Franklin River from destruction.<sup>133</sup>

By stressing the importance of World Heritage listing in saving the Franklin, Seventy concedes that the provisions in the Australian Heritage Commission Act 1975 alone could not prevent the damming of the Franklin. The organisation's strength lay in its capacity to instigate and highlight research material on critical conservation issues for both the relevant Minister and the World Heritage Committee. Added to this was a general acceptance within government that the AHC had a legitimate role to play in environmental advocacy, whatever the political circumstances. Its effectiveness in this role was, however, largely dependent on the willingness of the Minister and Cabinet to accept submissions from the Commission at any given time. In the final analysis, the incoming Labor administration was unable to rely on existing laws and was forced to create the World Heritage (Properties Conservation) Act 1983 to save the Franklin from damming.

One perceived strength of the AHC was its relative independence and that its Commissioners could speak out, free of overtly 'political considerations'. A lack of resources and the administrative structure within which it operated between 1975 and 1983 placed considerable restraint on the effectiveness of the Commission and hence its ability provide to unfettered, measured advice. A former Chairman of the AHC, Associate Professor Bruce Davis, observed in 1987 that

... conservation is low in the pecking order of public issues and often a junior ministry within cabinet portfolios. Not only does this render it difficult for the Commission's voice to be heard but there is always the prospect of being a minor part of a larger and generally diverse constellation of agencies making up a conglomerate department.<sup>134</sup>

---

<sup>133</sup> V. Serventy, *Saving Australia, a blueprint for our survival*, Child and Associates Publishing Pty Ltd, Sydney, 1988, p. 130.

<sup>133</sup> B. Davis, *Protecting the National Estate: Issues and Practice in Australian Heritage Conservation*, a paper delivered at Inaugural Conference, Environmental Institute of Australia, Nov 1987, Sydney, p.12.

The Commission is also required to work closely with its own Department on administrative matters. Any approach taken in correspondence to the Minister can be shaped by staff knowledge of prevailing Department views. Wayward opinions could be punished by reducing available resources at budget time. In these circumstances, the AHC exercised greatest authority in its early years through meetings between Commissioners and senior political figures. In 1982, a discussion was held between Prime Minister Malcolm Fraser and the Commission because of the significance of South West Tasmania and the Franklin Dam proposal. By that time, the Commission was irrevocably and totally committed to preventing the construction of the dam and this position was strenuously put forward by individual Commissioners. While hard to determine the impact of such meetings, the size of the proposed compensation package (\$500 million) offered the Tasmanian Government to halt the dam, surprised all observers. It would appear the Liberal-Country Party Government did not seriously consider creating new legislation, an option pursued with vigour by Labor.

In their Annual Report the AHC stressed that the Franklin Dam dispute and the future of SW Tasmania was their highest priority.

Over the previous five years, the Australian Heritage Commission had consistently drawn attention to the significance of the natural and cultural values of the South West.<sup>135</sup>

Despite this sentiment, South West Tasmania was not listed on the Register until July 1980. This was most surprising as 12 months earlier the Commission recognised the region was under threat. Similarly, the Commission did not argue for the World Heritage listing of South West Tasmania in its 1979-80 Annual Report. This was despite the organisation commending the nomination of Kakadu and supporting similar action for the Great Barrier Reef. The establishment of a separate World Heritage Committee for processing such nominations by the Fraser Government limited AHC influence in a new and important policy area. Thus, while represented on the Committee, the AHC had no administrative role in listing and was bound publicly to adopt the general positions of the Committee. At an operational

---

<sup>135</sup> Australian Heritage Commission, 1984, *Annual Report 1983-84*, AGPS, Canberra, p.1.

level, the AHC did orchestrate and fund further archaeological research in the South West during 1980-81. This action was important in the subsequent findings of Aboriginal remains in the Kakadu and Deena Reena caves. Promotion of these finds added further weight to the World Heritage nomination case and sharpened public debate.

Effective resolution of the Franklin Dam dispute required the passing of the World Heritage Properties Conservation Act 1983 which drew on Sections 51(xx), 51(xxvi) and 51(xxxix) of the Constitution. Labor Environment Minister Barry Cohen<sup>136</sup> argued that ultimately new legislation was required because existing Acts could not guarantee to give effect to the 'no dams' position of the new Government. In this sense the Commission was never in a position to save the Franklin under its own Act nor did it control the World Heritage listing process. Clearly, community based conservation groups such as the Wilderness Society were also better funded and equipped than the Commission to mount the necessary political campaign to overcome the strength of an entrenched and determined bureaucracy like the HEC.

### **The struggle for the forests and the role of the Commission**

In 1988, it was estimated that the forestry industry was worth over \$3.7 billion annually with 108,000 Australians directly employed in forest production. During the 1980s, however, this sector of the economy suffered from unprecedented disruption as government policy towards Australia's forests and forest management practices underwent a far reaching review.

The Hope Committee of Inquiry recognised in the mid 1970s that there existed a pressing responsibility on both government and industry to assess the management of Australia's forests, in particular, tropical and temperate rain forests. Ten years latter Barry Cohen was to make the same observation.

[There exists an]...urgent need to manage in the most conservative manner the remaining rain forest areas of the world, including Australia, as natural or near- natural systems and to concentrate

---

<sup>136</sup> Hon. Barry Cohen, 'The Franklin Saga', Speech to World Heritage Congress, Departmental Papers, Canberra, 1983, p. 12.

By 1980, two main arguments were advanced by conservation groups concerned with the long term protection of forested areas from wood chipping and logging. The first centred around the need to preserve unique but poorly understood bio systems. It was claimed the interdependence of climate, soil, water quality and habitat was no better illustrated than in rain forests and 'old growth' forests. Public awareness of forestry issues was also raised during the late 1970s and early 1980s by international campaigns to halt the destruction of South American and Asian rain forests. A second line of argument which influenced Australian conservationists was the North American wilderness tradition where large, heavily forested areas were seen as essential havens from the debilitating and dehumanising products of the industrial revolution.

In this climate it was no surprise that Barry Cohen could predict correctly in 1983 that forests would dominate the conservation agenda for the remainder of the decade. From its inception, the AHC had also identified improved forestry management as a key policy issue and had expressed its concerns at two levels. Through debate and discussion the organisation encouraged community and scientific bodies to nominate large forested areas for National Estate listing. Commission Chairman David Yenken argued in 1981 that rain forests could best be preserved by their inclusion on the Register.

Unlike some other forest types, the rain forests are irreplaceable once destroyed. So important and fragile are they, that there is a strong case for including all the remaining rain forests in Australia in the Register of the National Estate.<sup>138</sup>

The Commission, along with other scientific bodies, believed there existed a pressing need for a national survey of forest resources which would define areas of high conservation value. Information gathered could then form the basis of a national debate on the future management of Australia's native forests. The Commission correctly argued there was a vast gap between its own views, those of other

<sup>137</sup> Quoted in a speech by the Hon. Barry Cohen on Rain forest Conservation at Cairns, 2-3 Feb, 1984.

<sup>138</sup> *The National Estate in 1981*, p. 54.

conservation bodies, and industry. Yenken pointed out that the Tasmanian Forestry Commission believed as late as 1979 that the future of temperate rain forest in north west Tasmania lay in logging.

Present use of these forests is restricted to small quantities... It is likely that these rain forests will in the future contribute significantly as sources of pulp wood for local use.<sup>139</sup>

Despite these initial warnings, changes to Commonwealth forestry policy were not driven by AHC concerns but rather a series of major resource disputes. The most well known concerned Daintree-Cape Tribulation in Queensland and Terania Creek in New South Wales. These disputes severely tested the resources of the AHC and the framework within which the organisation operated. Whilst some areas under threat were National Estate listed, comprehensive data on individual locations was often lacking. In other areas which had only been recently nominated almost no information was available. As a consequence of this situation it was possible for the Commission to be out-manoeuvred by forestry groups, with the organisation only able to call for further research. This position was highlighted in the 1986-87 AHC Annual Report.

The conflict which arose over these places highlights a constant problem faced by the Commission. Although the Australian Heritage Commission Act was aimed at identifying the national estate values of places before their allocation for particular land uses, the Commission is frequently unable to do so because of its lack of resources.<sup>140</sup>

In addition to involvement with high profile disputes, the Commission was routinely required to provide advice on the annual approval by the Commonwealth of wood chip export licenses. Unfortunately, despite the major deleterious impact of the industry on National Estate forests, the Commission's powers to regulate or modify the industry were nearly non-existent. It was noted

..the Commission has no brief or view about the wood chipping

---

<sup>139</sup> *ibid*, p. 54

<sup>140</sup> Australian Heritage Commission, 1987, *Annual Report 1986-87*, AGPS, Canberra, p. 18.

industry per se, but it does have a view about the loss of National Estate values which may be caused by intensive forest harvesting (clear felling). For the most part, the Commission has no role in decision making on these issues, which are the responsibility of the states.<sup>141</sup>

These limitations were compounded by a divergence of opinion between Minister Cohen and AHC Commissioners on several significant issues, most particularly the proposal by the Douglas Shire Council to create a road between Cape Tribulation and the town of Bloomfield. In this dispute, the Commission was totally opposed to the works under any circumstances. In contrast, Minister Cohen failed to prevent the construction of the road despite being placed under extreme pressure by elements of the conservation movement. Based on legal advice from the Attorney-General's Department, Cohen argued that the area could not be protected on the same basis as the Franklin River. It was claimed that use of the World Heritage legislation would lead to a successful challenge in the High Court from the Queensland Government. Cohen also ruled out the payment of compensation to the Council for agreeing to abandon the proposal.

A more determined and senior Minister may have been prepared to pursue the dispute in the High Court and further test the extent of Federal power over State and Local authority in the environmental arena. This approach would undoubtedly have plunged the Government into a prolonged State's rights dispute with Queensland and other conservative States when memories of the Franklin Dam dispute were still fresh. Cohen believed the accompanying odium would have killed any hope of successfully negotiating the implementation of government to government forestry management plans and other environmental agreements with conservative States. This decision not to intervene ultimately proved politically fatal to Cohen and failed to engender the cooperation he sought from Queensland and Tasmania.

Commission staff during the mid 1980s believed an expansion and upgrading of the National Estate listing system offered the best protection for Australia forests. Additional funding and staff were successfully sought to expand the Commission's native forest data base. Grant funds were also increasingly used to fund scientific

---

<sup>141</sup> *ibid*, p. 16.

studies which would assist in building support for reservation style proposals. In January 1984, funds were allocated to the Rainforest Conservation Society of Queensland to define the conservation values of North East Queensland rain forests following World Heritage criteria. This strategic use of scientific research funds to achieve a policy objective represented an emerging trend in the Commission's work.

This [project] was essential because although a certain amount of research had been carried out on the region, the information had not been sifted and collated into a single study or matched against the specific criteria for World Heritage listing.<sup>142</sup>

In a major speech to Parliament in November 1985 Barry Cohen confirmed his belief that development of a national rain forest policy in cooperation with the States was the best method of protecting the long term future of the resource. In this context, the AHC was playing a central role in clarifying the scientific if not the political issues for the Minister.

For Cohen the challenge was to balance economic objectives, conservation values and State's rights rather than to act as an aggressive environmental advocate. Much of his policy was drawn from a national seminar involving Government agencies and rainforest experts held in Cairns during February 1984. This process, in which the Commission did not play a leading role, led to a range of financial and policy initiatives being drawn up to assist State and Local authorities in their forest management practices. These incentives included financial assistance to assess areas, funds to purchase properties and projects to interpret rainforest features for the benefit of regional tourism.

A subsequent outright rejection by Queensland and Tasmania of many compensation proposals put forward by the Commonwealth Minister underscored the inability of resource conflicts to be resolved through negotiation in the absence of common aspirations. For the Commission, which had experience with both Governments, the subsequent failure of Cohen's initiatives in 1986-87 were frustratingly predictable. Furthermore, this strategy allowed unique rain forest areas to remain without significant protection. Valuable resources were also diverted to State authorities

---

<sup>142</sup> Australian Heritage Commission, 1984, *Annual Report, 1983-84*, AGPS, Canberra, p. 3.

where adequate protection was already in place. Thus, in a considered but damning commentary on the Minister's strategy as of June 1987, the Commission claimed

... those States which had already taken significant action to protect rain forests participated with well formulated and well targeted programs. Those States with the greatest need to take conservation action, however, were the most reluctant to participate. Tasmania rejected Commonwealth funding outright and Queensland was unwilling to modify plans to alienate un-logged areas. Thus, it is of concern to the Commission that the States with 90 percent of Australia's rain forests are not currently participating in the program.<sup>143</sup>

The failure of Cohen's overtures to the Queensland and Tasmanian Governments created a policy hiatus for the Labor Government. The traditional politics of accommodation which had failed the new Environment Minister (as they had the Fraser government before him) are neatly described by Papadakis.

The approach taken by Senior Cabinet members (the Prime Minister, the Treasurer and senior economic ministers) was one of avoidance, of defusing the issues. Cohen adopted a similar approach and was largely preoccupied with striking deals to appease established institutions, notably the Queensland Government.<sup>144</sup>

Intense and sustained pressure from environmental groups between 1984 and 1987 concerning forestry issues did force the first Hawke Government to turn away from a policy of appeasing State governments and other vested interest groups by the end of its term. For the Commission a policy of appeasement had never been comfortable, appropriate or tenable. Relatively free of overt political considerations, the organisation had always been able to focus on what it believed were the best means of protecting key conservation areas. In the case of old growth rainforests, World Heritage listing was increasingly seen as the only means by which the logging industry could be kept at bay.

---

<sup>143</sup> Australian Heritage Commission, 1987, *Annual Report 1986-87*, AGPS, Canberra, p. 15.

<sup>144</sup> E. Papadakis, *Politics and the Environment, the Australian experience*, p. 190.



Whilst initially sidelined in developing a National Rainforest Strategy, the work of the AHC in establishing the World Heritage value of the Queensland rain forest eventually bore fruit. By confirming beyond doubt the extremely high conservation values of the remaining Queensland rain forests, Cohen's position, as Papadakis<sup>145</sup> also argues, was largely undermined. With little or no cooperation from Queensland and continuing logging disputes focused on the Daintree, the Federal Minister was forced to announce the nomination for World Heritage listing of the State's northern rain forests on World Environmental Day, June 5 1987.

The relative political weakness of the Commission during the Cohen years was clearly symbolised by the divergent strategies adopted by the Minister. Cohen's ultimate acceptance of the World Heritage route for protecting areas, through force of circumstances, marked the beginning of a renewed engagement with conservation issues by the ALP Government. Labor was to explore new methods for coping with complex environmental issues during the late 1980s. As senior ALP Ministers became more conversant with conservation issues the status of the Commission as an experienced research, planning and public education body was to reach a new height.

### **The Helsham Inquiry and its significance for the Australian Heritage Commission.**

On May 7, 1987, the Minister for Arts, Heritage and Environment announced the proclamation of the Lemonthyme and Southern Forests (Commission of Inquiry) Act 1987. The new commission was established in the last days of the second Hawke Government to help determine what elements of the Tasmanian Lemonthyme and Southern Forests should be proposed for World Heritage listing. It was widely seen at the time as an attempt to defer decisions associated with the future management of a huge area of Tasmania's old growth forest. Such a deferment ensured the Government could enter the 1987 Federal election without any serious question marks over its environmental credentials.

The seeds of this drama lay in the December 1985 Commonwealth decision to

---

<sup>145</sup> *ibid* p.192.

increase the volume of wood chips which could be exported from Tasmania, a decision which reflected the strong support in Cabinet and the ACTU for the forestry industry. This reflected a belief that a pro-environmental position would jeopardise one in seven forestry based jobs in Tasmania. Because of this, the Tasmanian Government had some justification for believing a strong pro-logging position could be successfully defended. The Tasmanian Government was also aware that, as time passed, the environmental position of the Commonwealth was likely to harden.

Throughout 1986 the Australian Heritage Commission had been involved with providing advice to Commonwealth agencies concerned with the impact of Tasmanian Forestry Commission proposals for utilising Crown Forests adjacent to the World Heritage Area. The AHC had developed a comprehensive critique of the 'Forests Management Plan for the part of Crown Forests in the APM Concession within the south west Conservation Area 1986-87' for the Commonwealth Department of Primary Industry. These comments stressed that if the management plan was implemented it would lead to the loss of wilderness status for the Picton Valley along with National Estate values.

As it became clear that the agenda of the Tasmanian Government was to maximise access to forestry resources adjacent to the South West National Park, two central policy issues emerged for the Commonwealth. These were the likely impact of new forestry operations on the edge of the existing World Heritage areas and whether these so called 'forestry zones' and 'conservation reserves' should actually become part of an expanded World Heritage Park. In considering these issues, it became the judgment of Cabinet that no existing environmental agency had both the scientific credibility and independent status to effectively adjudicate between the conflicting claims of the Tasmanian Government and conservation organisations such as the ACF. The creation of a Commission of Inquiry by legislation was thus a studied attempt to distance the Commonwealth from a decision making process which would lead to an increase in Tasmanian forests under World Heritage Listing. It also delayed the outcome of that same process to well into the second term of the Labor Government.

By early 1986, Commonwealth agencies had agreed that only World Heritage Listing would protect key old growth forests and the boundaries of existing

conservation areas. The real question was - how much? In December 1986, at the height of conflict between the Commonwealth and Tasmanian State Governments, the Department of Arts, Heritage and Environment had requested the Commission provide advice on areas of World Heritage significance in the South West. In a subsequent document, the AHC noted that

... in this report, this Commission[ of Inquiry] stated that 'three groups of places possess outstanding universal value and are therefore suitable for inclusion in the World Heritage List'. The three groups of places together consisted of the Lemonthyme and Southern Forests, Maxwell-Denison area, Central Plateau - Walls of Jerusalem area and an area called the 'Western Extension' which lies west of the Tasmanian Wilderness National Parks and existing World Heritage area.<sup>146</sup>

In deciding to establish the Helsham Inquiry as a separate legal and legislative identity to adjudicate on this issue, Cohen recognised that existing Commonwealth policies, specifically listing large areas of South West Tasmania on the Register of the National Estate, had provoked the Tasmanian Government. As more of Australia's forests were listed by the AHC on the Register as worthy of Commonwealth protection, the opportunity for conflict with logging and wood chip interests expanded exponentially. Initially, there were significant problems associated with defining and justifying listing decisions. As Mercer<sup>147</sup> points out, industry critiques of National Estate listings centred on the inclusion of previously logged areas, the sheer size of areas listed and the use of terms such as 'unique' and 'representative'. While a series of criteria reviews and continuing research during the early 1980s resolved the majority of these technical problems, the opportunity for conflict remained. As traditional low conservation value wood production zones became less available, wood chipping companies made a greater number of applications to State authorities to utilise higher quality forested areas.

Commonwealth involvement in the timber industry was focused on the approval of

<sup>146</sup> Australian Heritage Commission, 1986, *A Report to the Minister for the Arts, Sport, the Environment, Tourism and Territories on the Cultural and Natural Heritage of South-Western Tasmania and on the Report of the Commission of Inquiry into the Lemonthyme and Southern Forests*, internal AHC report, June p. 1.

<sup>147</sup> D. Mercer, *A Question of Balance*, Federation Press, Sydney, 1992, p.84

annual wood chip export licences. In this context, the AHC was increasingly required to advise the Department of Primary Industry that wood chipping and the preservation of National Estate values were simply not compatible. The scale of the emerging problem is best illustrated in the 1985 AHC Annual Report which commented on a draft industry Environmental Impact Statement covering proposed wood chipping in Tasmania.

The proponents proposal, if implemented, would result in a significant loss of the wilderness areas remaining in Tasmania. The south-west wilderness area, the largest in south-eastern Australia, could be reduced in extent by approximately 30 percent.<sup>148</sup>

These circumstances required the Commission to focus on a large number of wood chipping proposals in Tasmania and New South Wales, at the expense of continuing work on the National Estate Register itself. New doubts were also thrown on the actual level of protection offered by such listing and the Commission itself was alarmed at the pace and scale of new resource proposals. Associate Professor Bruce Davis, then Chairman of the Commission, expressed the organisation's fears in the following manner.

Some of the hard earned gains for conservation are not assured. New pressures, quite unforeseeable ten years ago, are emerging. We are not just looking at threats to places so far officially unidentified, but a range of threats to National Estate places whose integrity we had assumed was secured for posterity. The Commission is becoming more conscious of the fact that 'wins' are but temporary and losses to the National Estate are forever.<sup>149</sup>

By adopting such language and placing itself in direct opposition to logging and wood chipping operations in old growth forests, opponents of the Heritage Commission were able to question its ability to operate in an 'even handed' manner when assisting with the license review process. In 1984 - 85, the Commission identified in Tasmania twenty two National Estate listed locations which should be

---

<sup>148</sup> Australian Heritage Commission, *Annual Report, 1984 - 85*, p. 4.

<sup>149</sup> Australian Heritage Commission, *Annual Report 1985- 86*, Chairman's letter to the Minister.

protected from proposed wood chipping. In so doing the AHC was increasingly questioning the meaning of Commonwealth protection for National Estate listed areas. Continued claim and counterclaim over the impact of wood chipping in Tasmania dominated the airwaves during this period ensuring that any decision taken would be in the full glare of publicity.

In June 1986, a Memorandum of Understanding (MOU) between the Commonwealth and the Tasmanian Government was signed which set out procedures for decision making over individual forestry coups, dispute resolution, and defining a central role for the Commission itself in preparing advice. This agreement was strengthened by a statement made by the Prime Minister concerning Commonwealth protection for listed forests.

No logging in National Estate areas will be permitted before the formal process of consultation, as set out in the Memorandum has been completed and the Commonwealth is satisfied that the National Estate values will be protected.<sup>150</sup>

Due to the scale of the issue and its importance, the Commonwealth established a Consultative Committee to advise on Tasmanian wood chip issues. A range of Commonwealth agencies and specialists with expertise in land use management, resource economics and the impact of forestry operations formed part of this Committee. Participation in this process and additional demands on AHC resources due to wood chipping proposals in South East NSW forced the organisation to review its performance. A decision was made during 1985-86 to concentrate research endeavours primarily on nominated or registered National Estate areas. Resources were also to be focused on replacing loosely defined National Estate terms with 'closely reasoned arguments' and development thresholds which defined the likely impact of proposals in forested areas.

This internal reorganisation was particularly appropriate as the process of consultation set out in the MOU between the Commonwealth and Tasmania collapsed in late 1986, in part caused by the expeditious processing of several key National Estate nominations. Conservation organisations, fearing the destruction of

---

<sup>150</sup> Prime ministerial Statement, 12 June 1986, quoted in Australian Heritage Commission *Annual Report 1985 - 86*, p. 26.

temperate rain forest in the Jackey's Marsh and Quamby Bluff regions of North West Tasmania, nominated both areas for inclusion on the Register. On 21 October 1986, the Commission agreed to list both areas. Implicit in this decision was the requirement that the Tasmanian Forestry Commission would carefully consider measures proposed by the Commonwealth to protect the environmental values of both areas as required by the new MOU. A first stage in improved cooperation was for the Tasmanian Forestry Commission to seek information on the new listing and the basis upon which it had been made. On November 11, however, Mr Cohen advised Parliament that the Tasmanian Government had failed to honour the new agreement.

The fact is that the Tasmanian Forestry Commission did not seek that information until logging, and the possible destruction of National Estate values, before the process of discussion on how these values might be protected had had a chance to run its course. The Tasmanian Governments action is preemptive and highly provocative, and shows a blatant disregard for the environment.<sup>151</sup>

The subsequent creation of the Commission of Inquiry was a final recognition by Cohen and Cabinet that Commonwealth conservation objectives and the position of the Tasmanian Government could not be resolved simply by negotiation and the deployment of existing strategies. It was also a reflection that the AHC was seen by all parties as primarily a Commonwealth advocate for the environment which did not possess the capacity to resolve conflicting economic, political, social and environmental imperatives. Thus the very success of the AHC in defending the forests and rebuffing industry claims ensured its temporary displacement from the very centre of decision making on this issue.

The Lemonthyme and Southern Forests Commission of Inquiry subsequently took one year to carry out, involved the engagement of eleven professional consultants, a wide range of public hearings and many submissions from numerous interest groups. Lawyers were used to present evidence by both conservation and forest industry groups giving the whole proceedings a legalistic flavour.

---

<sup>151</sup> Australia, House of Representatives, 1986, *Debates*, Nov 11, p. 2797.

From the start the Inquiry was engulfed by controversy as the Tasmanian Government tested those provisions in the Act which called for the 'interim protection' of the Inquiry area from a range of activities. Continued logging, road construction and other hostile acts forced Minister Cohen to apply for an injunction against the Tasmanian Forestry Commission and a private company for breaching the Act. Evidence was secured by means of aerial surveillance, dubbed at the time as the so called 'spy flights'. In response, the Tasmanian Government asked the High Court to rule on the validity of provisions within the Lemonthyme and Southern Forests (Commission of Inquiry) Act 1987. It also questioned whether the related World Heritage Properties Conservation Act 1983 itself gave power to the Commonwealth to protect areas nominated but not listed. This challenge was subsequently defeated in the High Court which further strengthened Commonwealth power to protect the environment on a national basis. Nevertheless, the Tasmanian Government officially boycotted the Inquiry for four months.

The region in question represented some five percent of Tasmania's total land resource with the Lemonthyme encompassing some 14,300 hectares and the Southern Forests, a further 270,000. An interim inquiry report produced in December 1987 released only 226 hectares for logging. The final report submitted to Cabinet in May 1988, however, presented a major conundrum for the Government, with a majority recommendation arguing only between 8 % and 10 % of the area under consideration was suitable for World Heritage listing. In contrast, a minority report recommended the reverse, namely that the whole area should be listed along with an adjoining area.

The position of the Commission throughout the Inquiry was that the whole region qualified for World Heritage listing. Such an approach perhaps contributed to a greater than normal level of antagonism in the Inquiry process. This ill feeling was manifested in a letter released with the Report which was highly critical of the AHC. In a reply to their Minister, the Commission could only refute the suggestion.

The comments made of the Australian Heritage Commission were generally ill-chosen and did not correctly reflect the considerable efforts made by our staff to assist Mr Helsham, his Commissioners,

his staff and his counsel assisting in their very difficult task.<sup>152</sup>

The Commission further asserted that, regardless of the Commission of Inquiry's findings, the Commonwealth was required to protect much of the Lemonthyme and Southern Forest as it was listed in the Register of the National Estate. The following six months was a study in decision making 'on the run' by Cabinet. The report by the AHC confirmed that the scientific position was unassailable and had been documented in a manner digestible by the bureaucracy. In contrast, the political process had disintegrated into adhoc decision making in which the AHC had been relegated to the sideline.

In August 1988, the Cabinet position was that 80 % of the inquiry area was to be saved from logging but it was not to be nominated for World Heritage listing. Continued pressure from the environmental movement and the need to reach an agreed position with the Tasmanian Government led to a new announcement in November. Under revised arrangements, it was agreed that up to 80 % of the Helsham Inquiry area would actually be nominated for World Heritage with a \$50,000,000 compensation package for the timber industry. This agreement did not, however, protect approximately one third of Tasmania's 'tall trees' in the Southern Forest and a new national conservation campaign was launched.

During this period of intense political activity, the AHC commissioned further research on archaeological sites discovered in the Southern Forests. These investigations revealed Aboriginal art dating back to the Pleistocene era making them some of the oldest in Australia. Consequently, the Commission was able to argue that on this basis alone the Southern Forests would meet World Heritage criteria.

Increasing numbers of occupation sites are being found in limestone caves within Karst systems in south-west Tasmania. These sites, with their extremely well-preserved deposits, form a unique testimony to the earliest, southern most human adaption to glacial conditions, and in the Commission's view, are of World Heritage significance.<sup>153</sup>

---

<sup>152</sup> Australian Heritage Commission, *Annual Report 1987-88*, p. 11.

<sup>153</sup> *ibid* p. 19.



These findings and their wide dissemination intensified the campaign to maximise protection of South West Tasmania. In 1989, five 'Green Independents' were elected to the State Parliament. They then formed an 'accord' with the Australian Labor Party to allow the creation of a minority Labor administration. Central to this agreement was State support for extending the World Heritage boundaries. This was achieved in September 1989 when a further 40,000 hectares of temperate forest was added to the South West World Heritage nomination.

The events leading up to the Helsham Inquiry and the controversy following the release of its report became a turning point in Commonwealth management of environment policy. Disputation between the Commonwealth Government and Tasmania over exploitation of the National Estate listed Lemnathyme and Southern Forests was the nadir of Minister Cohen's policy of maximum cooperation between Commonwealth and State Governments in the environmental arena. It underlined the need for new mechanisms to manage resource-based conflict. An initial recourse to legal techniques by the Commission of Inquiry Chairman, the Hon. Michael Helsham, QC, AO, a NSW Chief Judge in Equity, proved demonstrably insufficient.

The AHC played a significant role in the 'Helsham affair' by firstly alerting the Commonwealth to the threat posed by logging of old growth forest adjacent to Tasmania's World Heritage Wilderness areas. Its subsequent unchallenged demolition of the Helsham Inquiry majority findings was a defining moment in the organisation's development. A review of its operation in the conclusion of the Helsham Inquiry led to an expansion of its budget, authority and status. This change in circumstances can be directly related to the pivotal role scientific data and its interpretation, (much of it gathered by the Commission or its consultants), played in the rejection of Helsham's findings. Although it may have been politically opportune for the new Environment Minister Senator Graham Richardson to repudiate the findings, without the authority of the Commission behind him such a stance would have been difficult if not impossible.

While the overturning of the Helsham findings can be construed as a 'win' for the environment and the AHC, the process of government decision making embodied by the inquiry was unedifying, inefficient and divisive. A major premise in appointing

Mr Helsham to adjudicate the competing environmental and economic claims associated with logging the Southern Forests was a belief that fairness and equity were both lacking in existing procedures. Indeed, a Ministerial press statement announcing the establishment of the Committee of Inquiry noted that Mr Cohen '...was delighted that Mr Helsham had accepted the appointment as he was a person of high public standing and recognised objectivity.'<sup>154</sup>

It is, therefore, no coincidence that a second impact of the Helsham Inquiry, apart from strengthening the AHC, was the formation of a new permanent scientific body, the Resource Assessment Commission (RAC). It was to be the role of this body to consider on an industry-wide basis those economic, social and political elements of environmental disputes which were outside the responsibility of the AHC.

In retrospect, the Helsham Inquiry was the first attempt by the Commonwealth to deliberately move from ad hoc decision making on environmental issues, to a process where legal, scientific, political and economic factors formed part of the assessment process. The failure of this experiment was profound and hastened the emergence of the RAC. This new body was to address similar complex issues but utilise different personnel and replace the quasi judicial inquiry process with a more scientific, non adversarial approach.

For the Australian Heritage Commission, the Helsham Inquiry substantially increased its profile and status. Additional resources were sought and obtained to carry out intensive research. The value of the Register of the National Estate as a conservation benchmark gained further recognition within Government. The Commission also emerged as the unquestioned advocate for conservation groups and issues in Canberra. By this fact alone it was also recognised by Government that the AHC was an unsuitable vehicle for the difficult task of balancing conservation and development consideration in major public disputes.

---

<sup>154</sup> B. Cohen, 'The Lemonhyme and Southern Forest Commission of Inquiry', News Release, Statement No. 38 of 1987 p. 1.

## CHAPTER VI

### CHALLENGES FOR THE AHC: A CHANGE OF APPROACH BY THE THIRD HAWKE GOVERNMENT

The third Hawke Government (1987-1990) saw criticism of the AHC reach the highest level of Government with the Minister for Resources, Senator Cook, attacking both the professional integrity of staff and Commissioners and accusing the organisation of being hostage to the environmental movement. The basis of this criticism was a perception that the Commission was frustrating a range of major new resource projects and measures designed to restructure the forestry industry. Senator Cook, John Kerin and other Economic Ministers were also highly critical of the political alliance struck between some elements of the ALP headed by Environment Minister, Graham Richardson and the environment movement.

A review of the Commission initiated by Barry Cohen, the creation of the Resource Assessment Commission, amendments to the Australian Heritage Commission Act 1975 and increased funding for the AHC during these years were part of a wider struggle over the future shape of resource policy and the most effective means of ensuring the re-election of a fourth Labor Government. For the Commission it was an extremely bitter period of conflict with industry groups, a period which also saw the commencement of a new bureaucratic competitor in the environmental management arena. It was also a time when staff numbers almost doubled to reflect an ever increasing workload. By its very survival, it can be argued that the AHC emerged as an even stronger instrumentality.

#### **A deteriorating economy increases criticism of the Commission**

On the 14 May 1986, Paul Keating summarised his views on the Australian economy and dramatised the economic roller coaster the nation experienced throughout the 1980s.

We must let Australians know truthfully, honestly, earnestly, just what sort of international hole Australia is in ... if this government cannot get the adjustment, get manufacturing going again and keep

moderate wage outcomes and a sensible economic policy then Australia is basically done for. We will just end up being a third rate economy...a banana republic.<sup>155</sup>

The advent of a new Labor administration in 1983 heralded an unprecedented series of structural changes to the management of Australia's economy and to public administration.<sup>156</sup> Those changes included floating the Australian dollar, opening up the banking sector to foreign competition and other measures which reduced the level of direct government control over the economy. The disposal of government assets and the corporatisation of some government instrumentalities also formed part of the 'economic rationalist' agenda which dominated Treasury thinking from the mid 1980s. This series of decisions formed part of a general drive to open up the Australian market place to international forces with the aim of producing a more competitive economy. In this climate, calls for increased environmental legislation or 'green tape' met with stiff resistance both from the business community and those ministers with primarily economic based portfolios. The 1987 stock market collapse and a substantial increase in unemployment levels during 1989-90 further sharpened this debate.

In a similar manner to the Fraser government, the Hawke government saw new large scale resource development projects as critical to reversing the nation's negative balance of payments position. Projects such as a massive mining proposal at Coronation Hill in the Northern Territory and a billion dollar pulp mill at Wesley Vale in Northern Tasmania were strongly supported by senior economic ministers. Commentators such as John Hyde also argued that:

Only rich nations could afford real environmental protection and that Australia needed the equivalent of a major resource project each year just to pay the interest on its record net \$108 billion external debt.<sup>157</sup>

---

<sup>155</sup> P.Kelly, p. 196.

<sup>156</sup> An overview of the political issues associated with deregulation during the 1980s is provided in chapter one of H. Emy & O. Hughes, *Australian Politics: Realities in Conflict*, 2nd ed Macmillan Education Australia, Sydney, 1993.

<sup>157</sup> P. Kelly, pp. 539 - 540.

The condition of the Australian economy was also of concern to environmental organisations. This reflected overseas evidence that governments managing poorly performing industrial economies were less willing to adopt sound environmental policies. Eastern Europe was a much quoted example. The ACF and others argued, however, that major resource projects were not the solution to Australia's economic difficulties. An expansion of non-polluting service industries such as tourism and new energy and waste efficient technologies were seen as a more appropriate strategy.

Against this background of rapidly changing economic policy, voter polling between 1987 and 1989 revealed declining support for the ALP and potential electoral defeat for the Commonwealth Government. Into this confluence of events stepped Senator Graham Richardson who was appointed the new Minister for the Environment following the re-election of the second Hawke Ministry. His appointment was in turn pivotal to the emergence of a 'green electoral strategy' in ALP political circles. Richardson claimed that because of the Government's unpopularity, in part caused by the performance of the economy, the 'green vote' was critical to Labor remaining in office.<sup>158</sup>

Richardson believed a successful green strategy required a strong relationship between the Government and the conservation movement. In practical terms this meant an inter-meshing of funding, personalities and policies. Success also required the Government to reassert its environmental credentials on several major issues, on the scale of the Franklin River saga. Support for this strategy was, however, always limited. Senator Peter Walsh and the Hon. John Kerin among others saw Richardson as attempting to prostitute Cabinet and the decision making process for the benefit of a sectional interest group.

This intellectual and political ferment encouraged Hawke and Keating to move the government to a new policy position that attempted to bridge the anti - pro development paradigm that threatened to engulf government decision making. Thus political necessity drove them to argue that environmental considerations should, as a matter of principle, form part of the assessment process for major resource projects. Kelly claims that the decision by the Hawke Cabinet to disregard the findings of the

---

<sup>158</sup> A discussion of these issues occurs in P. Kelly, pp. 526 - 533.

Helsham Inquiry was the first reflection of this new strategy. He described the new 'highwire' act this way:

Hawke and Keating had dual objectives, they wanted to retain economic credibility but also to win the green vote. They believed that Labor could not allow itself to fall into a mutually exclusive position in the environment/economic debate and, in the end, their judgment was vindicated.<sup>159</sup>

These circumstances led to a number of major developments which impacted on all Government agencies concerned with environmental issues in the late 1980s. The first was the incorporation of the 'sustainable development' model in project assessment. This approach, at least in theory, required resource development proponents to demonstrate that natural assets would not be exploited at such a rate as to significantly reduce the long term availability of that asset. In the case of timber, greater use of plantations and value adding technology such as veneer production was seen as critical to both the future of the industry and the community as a whole.

As a consequence, the Federal Government encouraged considerable research into determining the economic value of naturally occurring assets such as clean water along with the cost of repairing environmental damage. Implicit within this new decision making model was a more inclusive approach to all sectors of the community and more intellectual rigour. Prime Minister Hawke predicted in October 1990 '...I believe that it will be even harder in the future than it has been over the past seven years to integrate effectively environmental and economic decision making.'<sup>160</sup>

This statement implicitly recognised that the traditional tools of the economist could not provide all the answers to balancing the community's aspirations for the environment and the needs of the Australian economy. As a corollary, those environmental agencies created in the 1970s such as the AHC and the Australian National Parks and Wildlife Service were also seen to be inadequate. The creation of two new statutory bodies, the Resource Assessment Commission and the

---

<sup>159</sup> P. Kelly, p. 530.

<sup>160</sup> P. Keating, Text of speech given by the Prime Minister to the RAC / CEPR Conference Dinner. "'The Economics of Environmental Policy', Canberra, 11 October 1990. p. 1.

Commonwealth Environmental Protection Agency in the late 1980s was, thus, an attempt by Government to respond to a new agenda outside the scope of existing bodies.

Simultaneously, peak environmental groups gained unparalleled access to the machinery of government, in particular, the offices of the Minister for the Environment and the Prime Minister. Green leaders including Dr Bob Brown and Mr Philip Toyne also enjoyed close personal relations with Senator Richardson and Prime Minister Hawke. Advice was regularly sought from both Brown and Toyne, most notably over Kakadu. Government funding for conservation groups also increased dramatically during the late 1980s.<sup>161</sup> This level of support reflected not only the new status of such bodies as the Australian Conservation Foundation but the desire by the Hawke Government to ensure they were in a position to participate in the policy making process.

For the AHC the simultaneous slump in the Australian economy and the rise of green politics during the late 1980s did, however, create a set of circumstances which entrenched its position in Government. As issues became more complex, public scrutiny greater and the economic stakes higher, the provision of soundly based advice on National Estate issues to Cabinet became more critical. Because the ACF, the Wilderness Society and other key conservation bodies had become totally enmeshed in the public policy process during this period, their technical and research capacity was partially compromised.<sup>162</sup> From being recognised as environmental advocates and sources of alternate technical advice, Senator Richardson and others increasingly saw these organisations solely as political barometers of community concern on issues such as proposed World Heritage listings. In this context, a strong, adequately resourced and independent AHC was seen as a vital counterweight to the 'agenda-driven' claims of both industry and conservation groups. A healthy Commission was also a rebuff to those who argued vital resource decisions were dominated by party political considerations rather than scientific and economic evidence.

---

<sup>161</sup> Two organisations, the World Wide Fund for Nature and the ACF between them gained the unprecedented sum of \$800,000 to participate in the Ecological Sustainable Working Groups. Figures quoted in an article by P. McGuiness, 'Funds, games and green propaganda', *Australian*, Aug 16, 1991, p.13.

<sup>162</sup> The Wilderness Society did however withdraw from the ESD forestry working party.

## A further review of the AHC

In February 1979, a review of the AHC was announced by the then Prime Minister, Malcolm Fraser. The review had two main elements:

To ascertain whether it would be desirable to amend the Act to prevent any duplication of existing environment protection measures.

To consider the argument that the commission has strong legal powers to prevent and impede mining developments.<sup>163</sup>

At that time it was widely believed this review was the result of extensive lobbying by a mining industry increasingly concerned that National Estate listings would reduce those areas available for exploration. Industry also claimed that National Estate listings would lead to greater environmental regulation of those projects already approved, particularly in the Northern Territory. The outcome of this review was never published and for the following five years both the mining and forestry industries sniped at the Commission's work, especially the National Estate listing process. During this same period Commission staff and board members were themselves critical of the Government for the scant resources allocated to the AHC to carry out its work. This situation created two inter linked problems. Staff were overworked and unable to respond appropriately to a high level of public interest in the Commission. As a consequence, the organisation then became open to public criticism that it was not performing its functions effectively, either as a result of inefficiency or wilful neglect.

Continuing internal pressure prompted a Public Service Board Review of the AHC in 1983, focusing on operational systems, standards of service to the public and staffing. This culminated in an agreement to create four new posts which included a Deputy Directorship and three clerical positions in the technical sections. The latter were aimed specifically at helping to overcome a backlog in the Register of the National Estate. Whilst internally significant these changes could be dismissed by critics of the Commission as 'too little to late' and not addressing significant limitations within the Act itself.

<sup>163</sup> *Financial Review*, 'Govt' to review Heritage Act after mining industry objects,' 23 Feb, 1979, p. 5.



From its inception, external criticism focused on Section 23 which deals with placing areas of heritage significance onto the Register and Section 30 which outlines the responsibilities of the Minister and the Commonwealth to protect the National Estate. With respect to Section 23, the critical issue for the mining and forestry industries was the 'narrow' focus of criteria under which properties could be listed, namely 'aesthetic, historic, scientific or social significance'. As Whitrow points out

... the Commission is not required to take into account other factors such as the use to which the place is being put, its economic value or the existence of a mining or exploration title over the property. Nor does it do so in practice.<sup>164</sup>

For the Commission, this criticism could easily be deflected by stating the obvious; that considerations other than heritage concerns did not fall within its responsibilities. Determination of the supposed economic or social impact of National Estate listings had always been the responsibility of other agencies, including its own Department and Cabinet itself. Certainly, as originally conceived, the Commission was to provide technical advice only, a proposition which was largely accepted by both the Commission and the Government of the day.

A more difficult debate for the AHC and the Commonwealth Government to deflect was the argument that the placement of an area on the Register was a defacto land use decision. Industry claimed that, by the Commission publicly identifying a location as possessing significant heritage values, it inevitably made development proposals more likely to be questioned by conservation groups than if no such action had been taken. For industry, the Register was one part of a broader Government agenda to tighten environmental legislation. This new climate of 'green tape' was identified in the early 1980s as an emerging cost to business and something which should be opposed. By 1990 environmental assessment procedures were rated number four of eight main impediments to development.<sup>165</sup> A survey prepared by the Business Council of Australia and the Bureau of Industry economics noted that

...duplication of laws and procedures, a lack of technical expertise

<sup>164</sup> D. Whitrow, 'The Australian Heritage Commission Act: Some Serious Shortcomings', *Environmental and Planning Law Journal*, Vol 2, The Law Book Company, Vol 2, 1986 p. 90

<sup>165</sup> *Sydney Morning Herald*, 'Environment laws costly - report', Dec 9, 1990, p. 2

among regulatory authorities, and uncertainty about governments' political attitudes to the environment were creating serious delays to major projects.<sup>166</sup>

These concerns were also shared by unions directly involved in the forestry and mining industries. In mid 1987, for example, a joint Forest Industries Campaign Association and ACTU report entitled 'Reform of the Australian Heritage Commission Act' was launched at the height of the Tasmanian logging dispute.<sup>167</sup> Opposition to the AHC from conservative states also intensified with the advent of the First Hawke Government. The Queensland Government in particular questioned the integrity of the organisation as a whole and the operation of the Register specifically. This antagonistic approach was based on the belief that the AHC was captive to the conservation lobby and did not demonstrate a high level of professionalism when carrying out its work. In a letter to the *Courier Mail*, the Queensland Minister for Tourism, National Parks, Sport and the Arts, the Hon. Peter McKechnie claimed that

... the problem with the AHC, under [Chairman] Dr Wiltshire's one-term administration, was its willingness to be the ready tool of single-issue groups. His complaints of secrecy are laughable, a Commission that used secret nominations by anonymous persons and groups, secret consultants - often drawn from the groups making the nominations - and which rushed items on to the National Estate for political reasons. A bitter joke in Queensland was that the best way to get an item onto the National Register fast was to object to it. Another joke was that so much of Australia was on the National Register that it would be simpler just to list the odd exceptions. The result has been a demeaning of the entire Register to the point where the Federal Minister, Mr Cohen, in response to widespread criticism, is reviewing the activities and role of the AHC.<sup>168</sup>

This antagonism to the Commission was partially echoed by the Commonwealth

---

<sup>166</sup> *ibid*

<sup>167</sup> *Forest Industries Association*, 'Forest Industries call for Heritage Commission Act Reform', Media Release, May 1987.

<sup>168</sup> P. McKechnie, 'Register is not for Pet Projects', *Courier Mail*, 15 Aug, 1985

Government decision to establish a review of the AHC at this time. By mid 1984, in response to continuing criticism, Environment Minister Cohen had reached the conclusion that a reassessment of Commission procedures was both inevitable and desirable. Cohen announced in an address to the National Conference of the Australian Institute of Landscape Architects that a key problem facing the Commission was 'concern in some circles' that the Register of the National Estate nomination process was being manipulated by pressure groups.<sup>169</sup> He went on to identify several common criticisms including the claim that nominations were being brought forward by conservation groups when a development project was proposed. In so doing, he implicitly supported the argument that areas should be nominated independently of any real or possible threat from development proposals. Such a proposition was of course clearly specious given the limited resources available to conservation organisations and the natural desire to respond to threats only as they emerged. Some twelve months later these vague generalisations were used by Cohen to justify the commissioning a major inquiry into the AHC to determine '...the scope of the Commonwealth's role in the conservation of the National Estate'.<sup>170</sup>

In June 1985, Minister Cohen announced that the AHC review would take the form of a departmental assessment, a process which would ensure a potentially explosive process was firmly in his control. This essentially closed assessment process limited the involvement of external bodies and, unlike a Parliamentary inquiry, individual committee members are not free to articulate the interests of a particular group. This restrictive approach reflected the official rationale for the review which eschewed all suggestion of a turbulent Commission history and continued industry agitation. The foreword of the completed review document recorded that Mr Cohen had asked his Department to

...review the Australian Heritage Commission Act 1975 and the relationship of the Act to other relevant Commonwealth legislative and administrative procedures for the conservation of the national estate. The purpose was to assess, after 10 years, whether these mechanisms were still adequate and appropriate, and to recommend changes where

---

<sup>169</sup> Hon. Barry Cohen, Speech at the Official Opening of the National Conference of the Australian Institute of Landscape Architects, 25-27 August, 1984 pp. 44-45.

<sup>170</sup> Australia, House of Representatives, 1985, *Debates*, 25 Nov, p. 3599.

they may be necessary.<sup>171</sup>

There were four terms of reference. These related to the scope of the Commonwealth's role in relation to the National Estate, the concept of the Register itself and the level of resources made available through government grants. An assessment of the Commission's difficult relationship with various industry bodies and the interplay with conservation groups was described as a review of the '... relations between Commonwealth, State and Local Governments and with the private sector, including business organisations and voluntary conservation bodies'.<sup>172</sup>

While there was clear pressure on the Government to undertake a thorough review of the Commission, it is also obvious from the completed review documents that major surgery of the AHC was never contemplated. The tentative approach adopted is best summarised by the rider placed on recommendations made in the report

...the report indicates in general terms the current thinking of the Department on some...issues, this thinking is not prescriptive nor has it been endorsed or ratified in any way by the Commonwealth Government or the Minister.<sup>173</sup>

The document, after initially establishing the legitimacy of the Commonwealth role in conservation, focused its recommendations on increasing the 'transparency' of Commission decision making and improving the accountability of the Register. These recommendations translated into a number of proposals to amend the Act, in particular Section 26. They included mandatory notification of affected property owners and a time limit on the hearing of objections. Should this limit be passed, it was suggested a proposal to nominate a location would lapse. It was also recommended that owners be notified when a proposal was placed on the 'Interim List' and that this term be given formal recognition. Other suggestions included the creation of a systematic review process for the Register as a means of prompting the removal of areas which had become degraded. Perhaps the most far reaching matter

---

<sup>171</sup> Department of Arts, Heritage and Environment, 1986, *Report of the Review of the Commonwealth Governments role in the conservation of the National Estate*, Canberra, p. 1.

<sup>172</sup> *ibid*

<sup>173</sup> *ibid*, part XI.

for consideration by Government was the suggestion that the AHC fall within the sphere of the Administrative Appeals Tribunal. This was seen as a means of addressing the problem that those expert staff who reviewed National Estate listings subject to complaint, had often been involved in placing the same areas on the Register in the first place.

Many of these measures were subsequently adopted in legislative amendments passed in 1988. All without exception were designed to improve the appearance of fairness in the operation of the Register. They did not, however, address the more pressing concern of industry that the whole basis upon which the AHC operated was flawed. Numerous industry submissions argued the Commission should be brought under tighter political control and have less independence. As the Review document noted:

The case for degrees of political control has been made at different levels;

that the consent of the Commonwealth heritage Minister should be required to the entry of all places on the Register or at least of those places where land use considerations are prominent;

that State Governments should be given the power to veto proposed listings, or even proposed nominations;

and that relevant local government approval should also be required.<sup>174</sup>

These arguments were based on the premise that if Federal and State Ministers were more involved with the Commission, economic, social and technical considerations would be taken into account when the organisation provided advice on conservation issues. This was the reverse of the current arrangement where these issues were put forward by competing government agencies as part of the pool of advice drawn on by Cabinet in its deliberations.

---

<sup>174</sup> *ibid* p. 41.

The review team firmly rejected this concept arguing that if implemented the integrity of the AHC would be irreversibly compromised. For example, it believed the impact of introducing non-conservation issues in drawing up the National Estate Register

...would be to abort the Register's most useful functions as a database for education, research and planning, and to severely limit the scope, quality and value of advice to the Government. It would entirely transform the concept of the Register envisaged by the Hope Committee and by all political parties in the Parliamentary debates leading up to the enactment of the Bill.<sup>175</sup>

It is unfortunate that this defence of the Commission did not extend to recommending a substantial increase in funding or an expansion of its responsibilities. Numerous suggestions were made by interested parties that the AHC assume responsibility for both the National Estate Grant program and the World Heritage Convention. The Review did not however recommend any expansion in the organisation's responsibilities and was largely silent on the issue of increased long-term funding

In summary, it appears inescapable that the Review was commissioned in response to concerted pressure from industry to reform the organisation. No Government political will existed, however, to make substantial changes to the AHC and its charter. The amendments which were eventually made to the AHC Act were minor in nature but provided an opportunity for both Cohen and his successor to claim that the Government had responded to the call for a more flexible and responsive Commission.

### **A new rival for the AHC - the Resource Assessment Commission?**

The Resource Assessment Commission Act 1989 created a new instrumentality which, in the view of its first Chairman, Mr Justice Stewart, sought 'to advance environmental decision making by government, raising it to a new level of rigour and sophistication.'<sup>176</sup> This was to be achieved through the collection and analysis

---

<sup>175</sup> *ibid*, p. 45.

<sup>176</sup> J Stewart, speech to the University of NSW Law Society, Sept 24, 1991.

of comprehensive information on resource use issues referred to the RAC by the Commonwealth. The process was to be open and transparent with public inquiries the main method of gathering information. Terms of reference for individual inquiries were to be determined by the Prime Minister and the RAC was to report directly to him. This innovation in managing complex resource management issues was promoted as part of a larger package announced by the Prime Minister (Mr Hawke) in November of the previous year.

Other elements included legislative changes to the Australian Heritage Commission Act 1975 to 'streamline its operation' and the Tasmanian Forest Accord, or Salamanca Agreement. Development of a national forest inventory and greater resources for improvements to environmental data bases were also announced at this time. The Act sets out in Schedule 1 three policy principles to guide the organisation.<sup>177</sup> These principles contain an amalgam of ideas drawn from the National Conservation Strategy and the new philosophy of sustainable development as articulated in the Brundtland Commission.<sup>178</sup> These principles had gained formal agreement from the Hawke Cabinet in November 1988 and were to guide not only the RAC but the Commonwealth as a whole when dealing with environmental matters. Schedule 1 stresses that an integrated approach to environmental and development issues should be adopted by government when evaluating all nationally significant resource development projects. The schedule states it is particularly important to ensure that benefits to the community are maximised, taking into consideration 'quantifiable and unquantifiable factors'. Within this context it was

---

<sup>177</sup> Schedule I of the Resource Assessment Commission Act 1989 reads as follows:-  
Policy Principles for Resolving competing claims for the use of resources

1. There should be an integrated approach to conservation (including all environmental and ecological considerations) and development by taking back conservation (including all environmental and ecological considerations) and development aspects into account at an early stage.
2. Resource use decisions should seek to optimise the net benefits to the community from the nation's resources, having regard to efficiency of resource use, environmental consideration, ecological sustainability, the sustainability of any development, and an equitable distribution of the return on resources.
3. Commonwealth decision, policies and management regimes may provide for additional uses that are compatible with the primary purpose values for the area, recognising that in some cases both conservation (including all environmental and ecological considerations) and development interests can be accommodated concurrently or sequentially, and, in other cases, choices must be made between alternative uses or combination of uses.

<sup>178</sup> G. Brundtland, *Our Common Future, Report of the World Conference on Environment and Development*, 1987.

clearly asserted that preserving the integrity of ecosystems and consideration of the long term sustainability of natural resource exploitation were factors which the Commission had to consider. Conversely, it was noted that on occasions a reasonable compromise between environmental considerations and development objectives would be necessary to secure resource development projects. The Schedule recognised

... that in some cases both conservation (including all environmental and ecological considerations) and development interests can be accommodated concurrently or sequentially, and in other cases, choices must be made between alternative uses or combinations of uses.<sup>179</sup>

Debate over the RAC legislation reflected widespread support for such a process. Speakers such as the Minister for Primary Industries and Energy, John Kerin, stressed that the RAC represented a quantum leap in resolving environmental disputes.<sup>180</sup> Supporters of the legislation emphasised that not to support the Bill would prevent a move away from ad hoc decision making. Furthermore it would forestall the introduction of a process whereby the Government could weigh up the competing and conflicting conservation and resource development aspects drawn up by an independent Commission.

Debates surrounding the Resource Assessment Commission Bill 1989 also highlighted increasing recognition that both State and Commonwealth Environmental Impact Assessment procedures were inadequate. In particular, these processes had been seen to have failed during the assessment of the controversial pulp mill proposal at Wesley Vale, Tasmania. Opposition member Warwick Smith argued that the preparation of the Resource Assessment Commission Bill 1989 was a recognition by Cabinet that they had failed to adequately research appropriate

---

<sup>179</sup> Resource Assessment Commission Act 1989, Schedule I, p. 20.

<sup>180</sup> The RAC has attracted considerable attention from academics. Key sources include Economou, N., 'Reconciling the Irreconcilable? The Resource Assessment Commission, Resource Policy and the Environment', *Australian Journal of Public Administration*, vol 51. no.4, 1992, pp.461 - 475. and Galligan, B., Lynch, G. 'Integrating Conservation and Development, Australia's Resource Assessment Commission and the Testing Case of Coronation Hill'. Federalism Research Centre, Australian National University, Canberra, 1992.



guidelines for pulp mills prior to the proposal gathering momentum. 'It recognises that people were going in a hundred different directions. The Bill may be an advance - it recognises a glaring gap in the development of balanced resources of the nation'.<sup>181</sup> Mr Kerin also saw in the RAC an opportunity to identify both conservation and economic opportunities in a given resource area. He claimed in-depth investigation was necessary to ensure resources were optimised in economic activity. Greater understanding of scientific resource management principles by all parties would enable the emergence of positive programs which balanced conservation and resource use considerations. In forestry, for example, increased use of tree farming techniques would improve efficiency and substantially reduce pressure on native forests.

While it was the intention of the Government for the Bill to be bi-partisan, there was considerable Opposition criticism. A focus for this criticism was the belief that the Government was simply creating a bureaucratic 'lightning rod' to draw out criticism of a given project. By this process the Government would then be in a position to stall proposals and avoid taking responsibility for controversial decisions. Furthermore, it was claimed by Opposition spokesman Warwick Smith that the origins of the RAC lay in a desire by Cabinet to minimise internal conflict within the ALP.

More and more the radical greenies seem to be saying that they want to have control of the total agenda. So, perhaps this Commission is more about trying to control the conflicting views about land use policy within the Australian Labour Party than it is about putting something in place to address these very complex issues to which the nation and industry want and need answers.<sup>182</sup>

In support of this assertion, the Liberal Party pointed to the strong support given to the concept by Ministers Kerin and Cook who had been critical of the radical green agenda. Their support, it was argued, resulted from a recognition that there needed to be a solid bureaucratic bulwark against the environmental movement and the pro-conservation views of the Department of Arts, Sport, Environment and Tourism

---

<sup>181</sup> Australia, House of Representatives, 1989, *Debates*, 4 May, p.1942.

<sup>182</sup> Australia, House of Representatives, 1989, *Debates*, 11 May, p.2559.

(DASET) led by Senator Richardson. In support of the RAC a contrast was drawn between the RAC and the Helsham Inquiry. This Inquiry was seen as expensive (costing nearly \$3 million) and overly legalistic, attempting to give black and white answers to complex problems. The Opposition, and some Labor Ministers such as Kerin, believed that a formalised Helsham Inquiry process would not solve environmental conflicts.

The Opposition also raised questions concerning the wide scope of potential inquiries suggested by the Bill. An examination of the paper manufacturing industry could for example range from the question of marine pollution created by a pulp mill to the likely future world market for unbleached paper. The sheer numbers of inquiries already undertaken in recent years in the single area of forestry was cited as a factor which undermined the value of inquiry-led decision making. Although there had been fifty five Commonwealth and State forestry enquiries since 1946, with Tasmania being involved with nineteen of these, controversy still surrounded the industry.<sup>183</sup> All Opposition spokesmen came to the view that the RAC was unlikely to operate as an independent entity which would carry on its own research and develop a consistency of approach due to lack of staff.

Despite these varied concerns, the Government confidently asserted that the Commission would be able to both conduct methodological inquiries and research while ensuring that the Commission Chairman had adequate secretarial staff. From the outset it was claimed additional staff and special commissioners would be appointed when an inquiry was initiated. The first of these was to be into the likely impact of mining on the Stage III area of Kakadu National Park.

Unlike the Opposition, the Australian Democrats were generally supportive of the RAC concept despite a concern that the new body might insulate the Government from the environmental community. The Democrats strongly adhered to the notion that the provision of 'expert advice' alone would resolve environmental problems despite evidence to the contrary provided by the Helsham Inquiry saga and the experience of the AHC. Democrat Senator Norm Sanders stated:

We are not worried about what the minerals industry or the wood

---

<sup>183</sup> *Mercury*, Editorial, Nov 3, 1992, p. 8.

chipping industry can come up with in terms of information. We believe that when the facts are evaluated in a dispassionate light, justice will prevail.<sup>184</sup>

Sanders believed the likely value of the RAC lay in its capacity to probe both the economics of major resource issues and the financial position of key players. Senator Sanders pointed out that an understanding of fundamental economic issues such as bulk power rates for major electricity users in Tasmania or the purchase price for woodchips taken out of the South Coast forests of NSW was critical to the conservation position. He pointed out that

... if we are going to frame an argument or discussion about the value of an industry in economic terms versus the environmental damage, we must have this information available in trying to come to some rational conclusion.<sup>185</sup>

The Democrats claimed that the AHC should be required under the Act to give evidence on matters relating to the National Estate and proposed this as an amendment. This was seen as a means of balancing the power of the Industries Assistance Commission and the Australian Science and Technology Council which would be involved in the selection of Commissioners. Opposition spokesmen naturally suggested this was to ensure there was an 'environmental mole' in the organisation. The Democrats successfully argued that the AHC would be able to contribute significant data in such areas as forest management and, thus, balance the input of pro-development Government and non-government agencies including Primary Industry and the National Association of Forest Industries (NAFI). Provision of financial assistance to conservationists who had been requested to provide evidence was also proposed by the Democrats in a second amendment. Both amendments were subsequently supported by the Government to allow passage of the Bill.

The political complexities of managing the environment as a public issue were reflected in the ambivalent position of the Opposition. While opposing the Bill in

---

<sup>184</sup> Australia, Senate, 1989, *Debates*, 16 June, p.4239 - 40.

<sup>185</sup> *ibid* p. 4274.

principle as another 'bureaucratic layer', their supporters in major industry bodies approved the passage of the Bill. For groups such as the Australian Mining Industry Council (AMIC), the hope was that 'outrageous' claims by environmental groups would be subject to 'proof' through scientific scrutiny. While it was acknowledged inquiries were often long-winded and inconclusive, these bodies saw the RAC as an opportunity to reduce the amount of erratic and ad hoc decision making which supposedly characterised decision making under the Hawke Government. The Wesley Vale case was seen as a prime example of this, with the Government preventing a major resource project from proceeding without having either guidelines or sufficient data. Despite this, the Opposition claimed there was a strong likelihood that the Coalition would reshuffle or even abolish the RAC on achieving government. The Australian Democrat amendments further heightened Opposition concerns about the RAC as they believed these changes had not been brokered by the Australian Democrats at all but by the ACF. Their lukewarm acceptance for the RAC was based on the support the legislation had from industry groups. Mr McGauran (Gippsland) proposed it would be the '.... the only forum where the forestry industry as well as the mining, petroleum, farming and fishing industries, have any hope whatsoever of an objective, unemotional and rational examination of proposed projects'.<sup>186</sup>

This proposition was clearly a striking criticism of previous committees of inquiry and the AHC itself. Mr McGauran was undoubtedly repeating a popular view among industry groups that they were unfairly treated when dealing with Government inquiries because of prejudice exhibited by those bureaucrats conducting them. The prevalence of such a view, whether warranted or not, placed a question mark over the value of the AHC as a link between Government, industry and the environmental movement. In this context, the considerable effort by the AHC in educational forums could be dismissed by cynics as propaganda rather than a genuine attempt to expand understanding of a complex public policy area. This dismissive approach was reinforced by the argument advanced by the Opposition that all proposals put forward by environmentalists receive little scrutiny from the Labor Government and the media. Lack of confidence in the existing processes clearly permeated Opposition thinking and, like the AHC fifteen years earlier, the RAC was seen as a potentially unbiased, vigorous and fair minded structure which could balance conflicting

---

<sup>186</sup> Australia, House of Representatives, 1989, 16 June, p. 3365.

environmental and industry considerations.

Undoubtedly, the dramatic decline in Australia's economic position towards the end of the 1980s and the need for government to urgently facilitate new large scale industrial or resource extraction projects was at the heart of the RAC and its formation. This turn of events also reflected the growing complexity of government decision making and the political emphasis placed on environmental issues by the Hawke Government. It was not a rejection of the AHC but rather a recognition of its limitations. In many respects the Commission was doing an outstanding job during the late 1980s, especially in the collection of data on National Estate areas. The difficulty for the Hawke Government was that the Commission's brief simply did not include the broad assessment of proposed resource development projects at an economic, social and environmental level. Prior to 1987-88, both Coalition and Labor Governments had considerable latitude when examining the impact of large developments. The decline of the economy from mid 1986, however, ensured that greater prominence would be given to the political, social and economic impact of environmental regulation in future.

One option the Hawke Government could have pursued in recasting the environmental bureaucracy was to graft onto the AHC a new responsibility to broaden its assessment criteria when considering National Estate listings. This would have required major changes to the AHC Act and would inevitably have created divisions at a staff level. In view of the specialised nature of the Commission's work and the long tradition of controversy associated with the body, it was also reasonable to assume that the organisation would simply not be able to manage new, complex and divergent responsibilities. With some wisdom the Government chose to create a new body unburdened by past controversies.

### **Changes to the Australian Heritage Commission Act 1975**

In May 1990 a 'confidential' letter was sent by the out-going Resources Minister, Senator Cook, to the Commission Chairman in which he claimed:

I have become disturbed about the Commission's role in our assessment of National Estate issues... Substantial questions have

been raised about the Commission's competence and professionalism... There is a growing and very disquieting perception in government, industry and scientific circles and in all the states that the Commission is behaving suspiciously like a mere client group of some sections of the conservation movement, and that its advice lacks the scientific objectivity and professional honesty that good public policy requires.

... There is a widespread concern that the Commission has simply become an advocate in the public debate over conservation and the National Estate and that its advice is tainted by that bias.<sup>187</sup>

A swift denial of these claims was subsequently issued by the Director of the Commission, Ms Sharon Sullivan, who publicly reminded interested parties that the Commonwealth received a variety of advice on the economic and social implications of any given environmental dispute.<sup>188</sup> Critics of the Commission, she argued, were claiming that the Commonwealth should not receive advice on one part of the debate, that of National Estate values. While such a response was extremely deft, it did not address the key concern of industry, that there was a seeming exponential growth in the National Estate.

During 1990, in response to a number of significant conservation disputes and continuing research by the Commission, 145,000 hectares were added to the National Estate with a further 340,000 hectares<sup>189</sup> under consideration. Critics of the Commission claimed that continued expansion of the National Estate was totally inappropriate and not reflecting the concerns of Parliament.

With a federal election due in 1990, the general level of hostility towards the Commission increased and the simmering offensive by the forest industry against the organisation once again erupted. Faced with an aggressive blockade of Parliament by log trucks, the Government agreed to seriously consider a new resource management

---

<sup>187</sup> This letter was leaked and formed the basis of multiple newspaper articles including: *Sydney Morning Herald*, 'Cook attacks integrity of Heritage Commission', July 14, 1990, p. 2.

<sup>188</sup> *Australian*, 'Heritage body defends role', August 22, 1990, p. 10.

<sup>189</sup> *Kalgoorlie Miner*, 'Heritage Commission must be made more accountable to public', May 24, 1990, p. 14.

concept proposed by the forestry industry, that of 'resource security'. Integral to this new idea was the belief that the logging industry should be guaranteed access under Federal and State legislation to adequate timber reserves. For much of 1990, support grew among resource ministers for some form of legislation to be introduced and resource security became a key policy focus for the Government.

The notion of resource security included the implicit assumption that any new proposed legislation brought forward would override the Australian Heritage Commission Act 1975.<sup>190</sup> A direct consequence was to generate a sense of crisis about the future of the Commission and change the perception by commentators concerning the relatively innocuous Australian Heritage Commission Amendment Bill 1989. A long overdue program to improve the Commission's administrative transparency had now become a last ditch effort to prevent the organisation's downgrading. Lenore Taylor claimed

... last August [1990], before the Committee [Resource Security] had even reported, the Government Minister, Mrs Kelly, headed off at the pass the plot to trim the AHC by introducing into Parliament some old and innocuous amendments to the Australian Heritage Commission Act and using the occasion to say there would be no other changes.<sup>191</sup>

At a critical Cabinet meeting in mid October 1990, it was decided that calls by industry for the Australian Heritage Commission Act 1975 to be overridden should be rejected.<sup>192</sup> By way of compromise, Cabinet accepted the question of resource security should remain on the agenda, with the Minister for Resources continuing to negotiate with industry groups on the issue.

The origins of the Australia Heritage Commission Amendment Bill 1989, which was considered by Parliament for some 18 months, lay in the Cohen review of the mid 1980s, discussed in Chapter 6. This report suggested only minor administrative changes, a view that was subsequently endorsed by Ministers Richardson and Cohen.

<sup>190</sup> R. Peake, 'Clash tipped on plan for Commission', *Age*, October 23, 1990, p16.

<sup>191</sup> L. Taylor, 'Conservation plan faced with the Axe', *Australian*, March 11, 1991, p.11.

<sup>192</sup> *Financial Review*, 'Heritage Act granted reprieve in Canberra', Oct 24, 1990, p. 6.

Opposition spokesman on the environment, Warwick Smith, during the second reading speech of the Bill astutely characterised the Government position as follows.

It is a little intriguing to see this Bill actually come to the House. It is almost as though it has picked up a few issues and been brought in, but it has not addressed the big issues which are: how far should the AHC be able to go and when will we finally sit down and sort out this issue of the economic and social impact of the listing of items in the National Estate.<sup>193</sup>

The proposed amendments were broken down into six categories, the most important of which related to the clarification of operational procedures and the extension of Commission powers to allow the organisation to administer the National Estate Grant Program. Other amendments concerned the deletion of a subsection affecting Aboriginal sites and the exemption of self-governing territories from the Act. Changes were also proposed to clause 4 of the Act which defined the National Estate. While the general definition of the National Estate was retained, a subclause was inserted which specified the criteria against which places were assessed for possible future inclusion on the Register. In a similar vein, changes to Subsections 22(5), 23(2), 23(3) and 28(4) were designed to outline more clearly the administrative procedures associated with the proposed and actual listing of properties, the procedures for a challenge and the method by which a property could be taken off the list. In essence, the Commission was required to more strenuously ensure property owners were made aware of and understood the process of listing. Conversely, greater powers were provided to objectors.

A jaundiced interpretation of the preceding amendments could present the changes as a diminution of Commission authority rather than a reasoned response to public pressure for a more efficient and fairer register. This negative view cannot be sustained as the decision to effectively reinstate original clauses of the Act concerning the provision of advice on the expenditure of National Estate funds represented a positive endorsement of the Commission. These changes were necessary following the Government's decision to allow the AHC to administer the

---

<sup>193</sup> Australia, House of Representatives, 1989, *Debates*, 23 Nov, p. 2880.



National Estate Grant Program as envisaged by the Hope Inquiry. For the previous fourteen years this responsibility had been vested with the Department following the first Fraser Government Review. The 1986 Review of the Commission had been ambivalent on this issue due to the staffing implications of such a proposal. The report noted that:

Providing staff within the Commission to administer the program would not be simply a matter of transferring positions and staff from the Department to the Commission. These positions include NEGP administration as only one of a number of duties which the Minister needs performed by a Department which is itself severely stretched.<sup>194</sup>

This issue was made redundant when Senator Richardson announced in 1989 that, along with the reform of the Act, the Commission was to have its resources '...almost doubled with the allocation of an additional \$2 million annually.' This allowed for the recruitment of twenty two additional staff. These decisions undoubtedly increased the capacity of the Commission to function effectively and was long overdue. By way of contrast, the newly created RAC reached a staffing complement of forty one within two years of its creation. For the Commission it took some fifteen years to reach a similar level.

The last significant amendment proposed in the Bill concerned the removal of places from the Register. A new Subsection 24(1) included an additional provision which would allow the Minister to direct the AHC to review listings and to determine whether they should be removed. The Government's intention in this respect was twofold. It encouraged Commission staff to both regularly revisit listings and secondly, to respond to legitimate criticism that an area has become so degraded it should be removed from the Register. By promoting the passage of this and other amendments, the Government believed it had essentially neutralised key criticisms of the Commission and avoided

....some of the kinds of obfuscations raised by those who wish to distant the purpose of the Australian Heritage Commission Act and some of the alleged difficulties with notification and publication of

---

<sup>194</sup> *Report of the Review of the Commonwealth Government Role in the Conservation of the National Estate*, p. 38.

Unfortunately, several factors compromised these attempts to revive the Commission's reputation among 'pro development' groups. The most significant of these factors was the electoral cycle. Not only was passage of the legislation through Parliament derailed by the 1990 election campaign, but the upsurge in discussions over the future shape of the forestry industry led once again to a questioning of the National Estate concept. The Australian Heritage Commission Amendment Act 1990, which finally received assent in January 1991, achieved a limited set of objectives concerning the administrative procedures adopted by the Commission. A significant increase in the organisation's authority was achieved with the AHC becoming directly responsible for the National Estate Grant Program. It was an objective which had been set by the Hope Inquiry some sixteen years previously. However, any belief that this process of review would silence the critics was dashed by the timing of the 1990 election and a consequent upsurge in forestry disputes.

---

<sup>195</sup> Australia, House of Representatives, 1989, *Debates*, 23 Nov, p. 2894.

## CHAPTER VII

### THE AHC IN THE POST - HAWKE ERA.

The inability of the Commonwealth to reduce the level of unemployment, a dramatic drop in stock prices in 1987, and the economic fallout associated with the collapse of the commercial property market in 1989-90 ensured that the focus of government policy between 1987 and 1993 was macro and micro economic reform measures. Many within Government believed every effort should be made to attract and assist large scale export oriented development projects which were preferably both labour and capital intensive. Moreover, the perfect project would have the added benefit of 'value adding' to a resource which Australia already had in abundance such as timber and minerals. The complexity of implementing this legitimate strategy and accommodating a community desire for the application of high environmental standards was symbolised by the billion dollar Wesley Vale pulp mill proposal and its ultimate collapse.

For the Australian Heritage Commission this economic environment created a new political climate which was focused less on environmental confrontation and more on resolution by discussion. The creation of the Resource Assessment Commission was based on the premise that a pro-active, industry-wide assessment of environmental concerns would reduce the potential for major disputes. The adoption of sustainable development principles further reflected a desire by the Commonwealth to downplay its role as an environmental 'policeman' who was always in conflict with developers and State Governments on one side and environmentalists on the other.

While represented as a powerful opponent of development, the statutory powers of the AHC were limited. Short of actual abolition, the options available to the Commonwealth to ensure a more accommodating Commission were limited. Between 1987 and 1993, a subtle but critical change to the corporate culture was achieved through the office of Chairman without attracting significant political odium. Chapter Seven identifies and explores this changing environment within which the AHC operated and its response to a new political agenda. It also confirms that the power of the Commission does not reside in its legislation alone but rather its capacity to consistently present an environmental perspective to economic policy

decision makers within government. As such, it was able to carry out a task which was difficult for organisations such as the Australian Conservation Foundation to perform. Furthermore, the all-embracing concept of the National Estate provided a unique platform from which the Agency could legitimately address local, state and national issues as a matter of routine.

### **A new Chairman for the AHC**

From the AHC's inception in 1976, the position of Chairman had been filled by individuals who possessed outstanding qualifications as scientists or conservationists which was both logical and appropriate given the brief of the Commission. The initial appointment of Mr David Yenken, an eminent town planner and environment advocate, as Chairman was also critical in establishing the credentials of the organisation.

In the early years of the AHC, the Chairman and Commissioners represented an important source of advice for resolving day to day issues. As the Commission became increasingly embroiled in complex conservation disputes, the range of skills required by a successful Chairman increased. In addition to a broad academic knowledge of conservation issues, the Chairman now required outstanding communication skills, political 'savvy' and a comprehensive knowledge of the Australian political and administrative system.

In late 1987 the Commonwealth broke dramatically with the past and appointed Pat Galvin, a former Head of the Department of Arts, Sport, the Environment, Tourism and Territories as Chairman. Mr Galvin brought with him an intimate knowledge of the Commonwealth bureaucracy which undoubtedly assisted the AHC gain unprecedented access to staff resources during his period of chairmanship. His undoubted administrative skills were also supplemented by a willingness to act as a forthright environmental advocate. Despite operating in a rapidly changing political and economic climate, he was prepared to articulate an independent line. In a speech to the Royal Australian Institute of Public Administration he warned

...that governments and developers who ignored the Australian people's clear desire to protect places of special value would do so at

their own peril ...The great lesson of the eighties, which emerges into the nineties, is that whilst Governments have retreated from social concerns, people have not.<sup>196</sup>

This confident style suited the aims of his Minister, Graham Richardson who maintained a high profile for environmental policy between 1987 and 1990. With the departure of Richardson and his replacement by Ros Kelly greater emphasis was placed within the Department on the resolution of disputes. It was, therefore, no coincidence that the character and qualifications of the new AHC Chairman mirrored this policy change. In announcing the appointment of Tony Fitzgerald QC, Mrs Kelly argued it was '...essential for the Commission to have a high profile Chairman.'<sup>197</sup> In addition to being someone who would 'call a spade a spade', the Minister identified his skill in dispute resolution as being of critical importance. The subsequent performance of the new Chairman and his public utterances certainly revealed his commitment to the new government agenda.

An analysis of Ministerial press releases and subsequent comments by Mr Fitzgerald reveals that the Government had an expectation that the new Chairman could change the corporate culture within the AHC and, consequently, enable the Commission to present a new image to those resource industries which had previously been so critical of the organisation. More broadly, his appointment formed part of a larger strategy to address the argument put forward by industry that investment was being restricted by increasingly stringent environmental guidelines.

Well known for his role in heading an inquiry into Queensland police and political corruption of the late 1980s, Mr Fitzgerald also possessed experience in environmental management. As chairman of a Queensland Government Commission of Inquiry into the future land use on Fraser Island, he came to the organisation with firm if not sympathetic views on the resolution of environmental disputes. In a wide ranging interview following his appointment, Fitzgerald claimed that the standard of environmental debate in Australia was poor and a more 'structured approach' to assessing disputes was required. He argued:

---

<sup>196</sup>*Australian Heritage Commission, Community Prepared to Pay for Environmental Protection*, Media Release, 7 Feb, 1990.

<sup>197</sup>*Canberra Times*, 'Fitzgerald to head Australian Heritage Commission', Oct 25, 1990, p. 3.

We need processes to pull all the threads together, and in a way which focus attention on the merits (of the issue) rather than on who has the biggest clout. In a way also, which accurately informs other general community and treats them as being possessed of some common sense, revealing to them that, whatever course is followed will have disadvantages as well as advantages instead of creating the pretence that we can follow whatever is the fad at the moment without any consequences.<sup>198</sup>

In making these observations, he also noted that difficulties would continue to arise so long as governments worked on disputes purely on a case by case basis. In addition, he believed the problem of duplicated responsibility had to be resolved.

The new Chairman did not disguise his role as an agent for change and was also unwilling to endorse past Commission policies. Fitzgerald articulated a view commonly held outside the Commission that the organisation's effectiveness was blunted by its endless involvement in environmental controversies. The answer, he argued, was partially a more 'pro-active' assessment of potential heritage areas regardless of whether they were under threat or considered for National Estate nomination.<sup>199</sup>

These views coincided with preliminary AHC planning for a regional assessment project in Western Australia and an increasingly science-based dispute resolution strategy articulated by Minister Ros Kelly. His appointment was also a public relations coup for an embattled Minister, reinforcing the notion that the guard had changed at the Commission. Much to the dismay of Commission staff,<sup>200</sup> Mr Fitzgerald introduced a mildly critical tone to the 1990-91 AHC Annual Report, suggesting 'The Commission might also have contributed to its own difficulties [through] ...some unevenness in its decision-making, especially in its initial years'<sup>201</sup> These ideas were later expanded in an address to the Mining Industry Council where he argued the Commission had suffered from a preponderance of

---

<sup>198</sup> *Australian*, 'Fitzgerald slams green debate', Nov 10-11, 1990, p. 4.

<sup>199</sup> *ibid*

<sup>200</sup> The author was advised that senior staff had not been privy to the Chairperson's comments in the Australian Heritage Commission, *Annual Report, 1991*, prior to publication.

<sup>201</sup> Australian Heritage Commission, *Annual Report, 1990-91*, p. 2.

technical staff and insufficient senior managers to support the Director.<sup>202</sup> The new Chairman also detected a management culture which was inward looking and defensive, a natural consequence of the intense criticism suffered by staff over many years. This problem was magnified, he claimed, by a failure to adequately address the issues raised by critics and correct misconceptions concerning the AHC.

His arrival added urgency to initiatives designed to solve a number of difficulties facing the organisation. These initiatives included a paper reviewing the definition of key National Estate concepts and a new process of regional assessment. Both developments were partly the result of stinging criticism of the organisation by the Carmen Lawrence Labor Government in Western Australia which accused the AHC of pre-empting WA planning laws following several National Estate listings in the State. An agreement was subsequently reached whereby a joint regional survey would be carried out to determine the heritage value of important forested areas. This ground breaking arrangement was subsequently promoted by both the Minister and Fitzgerald as a major achievement in reducing the likely number of future Commonwealth-State government disputes. It also added impetus to the restructuring of the Commission and the subsequent creation of a Regional Assessment Branch (see Figure 5). Other measures introduced to improve the administrative 'transparency' of the Commission included the development of a new corporate plan and an examination by the Attorney General's Department of various 'practices and procedures' adopted by AHC staff. The cataloguing and publication of legal advice and policy decisions received or made since the Commission's establishment was also recommended.

In summary, the new Chairman suggested the performance of the Commission was far from perfect and considerable remedial action was required. He stressed to his fellow Commissioners and staff that the organisation

...must confine itself to its statutory functions and the criteria which are material. It must encourage broad acceptability within the community so that its professionalism becomes widely known and generally accepted. I am confident that the Commission has embarked upon such a process, and that future prospects are bright.<sup>203</sup>

<sup>202</sup> T Fitzgerald, 'Overcoming the adversarial mind set in Heritage Commission issues', *The Mining Review*, June, 1991, pp.26- 30

<sup>203</sup> Australian Heritage Commission, *Annual Report 1990-91*, p. 6.

# AUSTRALIAN HERITAGE COMMISSION ORGANISATION CHART

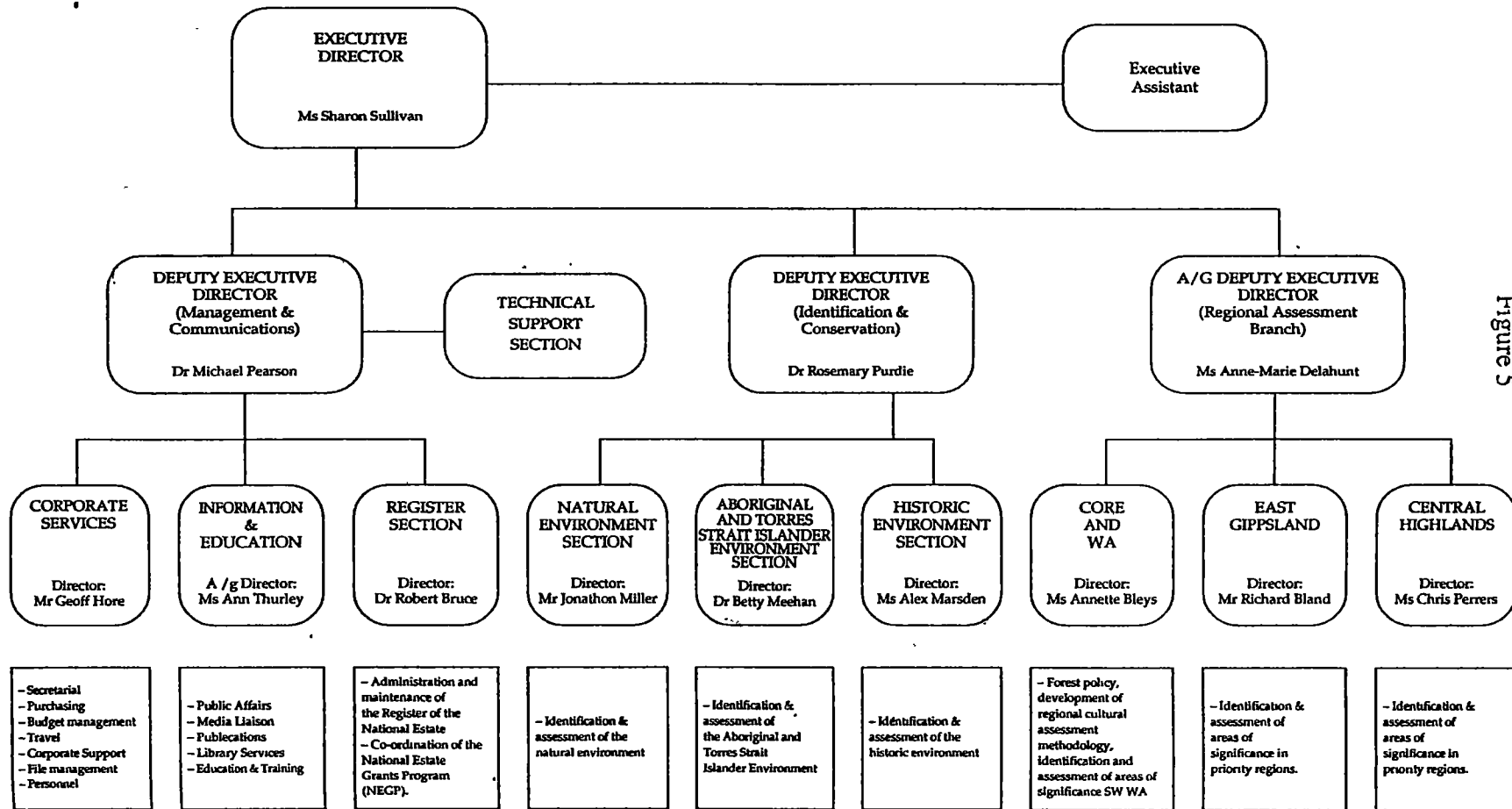


Figure 5



Ironically, this robust chairmanship was short lived. After only eighteen months, Fitzgerald resigned to take up a senior Queensland legal position. The choice of his replacement was to confirm that the 'experiment' with a new style Chairman was to continue. Ms Sonja Lyneham took up her appointment in December 1991. Lyneham possessed a strong commercial background and the perspective of a 'hands-on operator'. In her first press announcement, she referred to a 'heritage-led economic recovery' and supported the general proposition that heritage conservation and economic activity should be linked.<sup>204</sup> Lyneham's appointment confirmed a change in management style reflecting intense political pressure from the Minister for the AHC to adopt a more pragmatic and accommodating approach when working with industry.

### **The AHC and the Wesley Vale Pulp Mill dispute**

The Hope Committee of Inquiry into the National Estate had envisaged the Australian Heritage Commission as being the primary source of advice to Cabinet on environmental issues with such advice based on rigorous scientific analysis. The bitter Wesley Vale Pulp Mill dispute in Northern Tasmania confirmed the critical importance of such advice but also revealed that in the late 1980s the Commission had a relatively minor role to play in resource industry policy.

In mid 1988, North Broken Hill and the overseas paper manufacturer, Noranda Canada, proposed a 50/50 share proposal to develop a 'state of the art' pulp mill in North-West Tasmania. The project represented a potential \$1.3 billion investment in the Australian economy and a manufacturing plant capable of generating millions in export income. The ultimate withdrawal of the proposal in mid 1989 was a consequence of the partners' failure to accept environmental guidelines laid down by the Federal Government. This outcome represented a victory for a scientific based decision-making process which the AHC and others had long supported. Despite the project representing a 'perfect' value adding investment scheme, Cabinet was not prepared to accept anything less than the highest international standards for waste disposal. Commentator Paul Kelly described the outcome in the following manner:

---

<sup>204</sup> In a visit to Tasmania she responded to a request from the National Trust for financial help in restoring several properties by proposing they be leased out for a commercial purpose such as a 'bed and breakfast' accommodation.

The decision caused uproar but it was misunderstood. It was assumed wrongly that politics had prevailed. The irony is that science, not politics had prevailed... Keating declared the conditions were 'in the national interest' and were 'reasonable and achievable'...The Cabinet saw the mill die with regret, not from any courting of the green vote. The reality is the environmental gap was never going to be bridged with Noranda.<sup>205</sup>

Political activists and commentators alike condemned the decision-making process which led to this outcome. After strong initial support for the project,<sup>206</sup> the position of the Commonwealth only changed after the Tasmanian Liberal State Government demonstrated an inability to manage preliminary negotiations and the failure of North Broken Hill-Noranda to prepare a professional EIS. The strength of the conservation vote was also demonstrated by the defeat of the Tasmanian Liberal Government and the emergence of the Greens as an electoral force in that State<sup>207</sup>.

The initial involvement of the Commonwealth with the proposal was through the Foreign Investment Review Board whose task was to determine the appropriateness or otherwise of proposed overseas funded development schemes. The AHC was also routinely involved in this Foreign Investment Review Board process and provided advice on some one hundred and thirty proposals during 1988-89. While this represented an important opportunity for the Commission to express the environmental perspective on a given project the procedure was far from satisfactory. Initial proposals were often sketchy and once approval had been granted it was often difficult for the AHC to intervene.<sup>208</sup>

With respect to the Wesley Vale pulp mill proposal, the Commonwealth Government was keen to assist the project and an offer to waive tariff charges on imported equipment and to allow accelerated depreciation was made. When invited to

---

<sup>205</sup> P.Kelly, p. 523.

<sup>206</sup> Senator G. Richardson recalled 'I remember the Wesley Vale pulp mill; the first time it came up in Cabinet we voted to give it all sorts of money to the project to get it off the ground. We were offering money, we were throwing millions at it. At that time, of course, there had been no environmental investigation of it all. in G Richardson, 'Where There is a Will, There is a Way', *Canberra Bulletin of Public Administration*, No. 62, Oct, 1992, p. 13.

<sup>207</sup> M. Haward, P. Larmour. (Ed). *The Tasmanian Parliamentary Accord & Public Policy 1989-92*, Federalism Research Centre. Australian National University, 1993, p.1.

<sup>208</sup> Australian Heritage Commission, *Annual Report 1988-89*, p. 62.

comment on Wesley Vale, the Commission expressed concern about three areas: the likely large consumption of woodchips; the water required to run the plant; and the toxic waste which would be produced. The AHC was also mindful of other similar projects under consideration in Victoria, NSW and Western Australia. Combined, these would have placed enormous stress on the nation's native forests. It was estimated, for example, that a proposed mill at Grafton would require between 1,200,000 and 2,000,000 tonnes of timber annually.<sup>209</sup>

Against this background there was also the strong campaign by the Forestry Industry and some State Governments for the introduction of 'Resource Security.' In a paper to Caucus, the Resources Minister Alan Griffiths linked Wesley Vale and resource security to future economic prosperity in an effort to defeat alternative perspectives.

A high level of stability in the Government's policy framework is required if industry is to invest in high technology world-scale paper mills each requiring investment of around \$1.5 billion. Put simply, without...Commonwealth and state legislation then the investments will not proceed and the benefits of those investments will not be conferred on the Australian community.<sup>210</sup>

This proposition was generally supported by other industry Ministers including John Kerin and John Button. Based on this general strategy, the Forest Conservation and Development Bill 1991 was introduced into Parliament with the aim of encouraging investment in one or more world scale pulp mills. The Commission for its part had 12 months earlier totally rejected the destruction of old growth forest which was the very resource the proposed pulp mills would need to utilise.

As the level of local resistance to the Wesley Vale proposal became obvious to Cabinet and an increasing level of conflict over scientific evidence emerged, the need for clear government development guidelines became critical. This led to an overseas fact-finding mission by scientists from the CSIRO. The subsequent report provided Cabinet with not only assessment guidelines but a better understanding of the latest overseas technological and pollution control measures.

---

<sup>209</sup> *ibid*, p. 25.

<sup>210</sup> M. Grattan, 'Hawke looks for a way through resources forest', *Age*, March 2, 1991, p. 2.

Despite the validity of the AHC position, the organisation was not considered a key player in the outcome of Wesley Vale. Two reports prepared by the CSIRO and the Bureau of Rural Resources ultimately shaped the debate which saw Cabinet require the proponents to guarantee the highest feasible environmental standards for the mill. The failure of North Broken Hill-Norandra to produce an EIS which addressed the critical issue of waste disposal into Bass Strait also doomed the project. Graham Richardson noted

...the main thing that brought Wesley Vale undone was the absolute refusal of either the proponents or the Tasmanian Government to do any studies at all on the hydrology of the area or the meteorology prior to the project beginning. The locals who understand Bass Strait knew that the place at which we would have dumped 13 tones of organo chlorines every single day was a place at which there was no tidal movement.<sup>211</sup>

In the final analysis, a pulp mill was not built at Wesley Vale because the proponents were unable or unwilling to resolve the issue of waste disposal even though many believed the technology existed which would have enabled the joint partners to meet the guidelines set by Cabinet. The difficulty lay more in the implications for Noranda in Canada rather than any technological problem. Agreement in Australia to higher pollution control standards would have set off a train of events that could have forced the company to adopt similar standards at other mills.

From this analysis it is clear that the threat posed by the pulp mill to Tasmanian native forests as stressed by the AHC did not affect the outcome. The subsequent decision by the Government to proceed with Resource Security legislation confirmed the suspicion that Commission advice on forest resource policy at this time was not dominant. Indeed, broader conservation considerations regarding other forestry issues were also temporarily frozen as the Government conveniently awaited the outcome of a major RAC inquiry on that subject.

---

<sup>211</sup> *Canberra Bulletin of Public Administration*, No. 62, October 1990, p.14.

## The AHC and the Resource Assessment Commission inquiry process

In outlining the benefits he foreshadowed from the formation of the RAC and the creation of ecological sustainable development working groups, Prime Minister Hawke stressed the opportunity it provided for all parties to press their point of view in a neutral forum. It was hoped the very process of bringing disparate and often opposing groups together would encourage the resolution of environmental disputes. Prime Minister Hawke claimed:

These processes are designed to bring together the full range of relevant interests - developers, unions, environmentalists, and State Governments and to hear the full range of their views, so that the recommendations for decisions that emerge will be based on the broadest base of knowledge that can be assembled. Differences within the community that would otherwise, and inevitably, hamper the resolution of these issues will I trust to a considerable extent be resolved while decisions are being reached.<sup>212</sup>

This optimism was quickly placed in doubt by the early decision of the Wilderness Society not to participate in the first RAC inquiry on Kakadu. Indeed, the 'adverse' findings of the earlier Helsham Inquiry had convinced many conservation organisations that their limited resources should be concentrated on gaining public support for their cause rather than contributing costly research to well paid Commissioners. <sup>213</sup>

The Australian Democrats in the Senate were more optimistic and had fought hard to ensure the AHC was involved by statute in all RAC enquiries concerned with the National Estate. This took the form of Section 30A of the Resource Assessment Commission Act 1989, a measure designed to ensure the conservation perspective was always represented. At an official level the Commission welcomed the creation of the RAC and the Chairman was hopeful the new body would deflect much of the criticism previously levelled by industry at the AHC. In the 1988-89 Annual Report

---

<sup>212</sup> R.J. Hawke, RAC/CEPR conference dinner speech entitled 'The Economics of Environmental Policy', Canberra, Oct 11, 1990.

<sup>213</sup> The Director of the Wilderness Society Mr Alastair Graham also observed 'It's not the enquiries as such, it's the structure of the Resource Assessment Commission... We'd much rather be out in the streets talking up Kakadu as a nice place than discussing the potential values of a gold mine', *Tasmanian Wilderness Society*, Chain Reaction Newsletter, No. 60, April 1990.

he expressed the hope that

...no more should there be calls from development interests for the AHC to take economic, employment or production values into account when deciding whether to list a place on the Register of the National Estate.<sup>214</sup>

This hope was soon replaced by the most tangible impact of the RAC on the Commission, a noticeable and unwelcome increase in its workload. The AHC would also continue to be vilified by its critics as it soon emerged in the first RAC Inquiry into the proposed mining of Coronation Hill at Kakadu that the Commission's perspective was significantly different than that of the RAC. In contrast to the RAC Commissioners, the AHC submitted for the public record that mining should not proceed because the area possessed high National Estate values from both a cultural and nature conservation perspective. While it was acknowledged that some mining techniques would minimise potential damage the risk was seen as too great by the Commission. This argument was not accepted in the final report but this anti-mining position had the effect of buttressing a similar stance taken by all community-based conservation groups.

The RAC report instead placed considerable emphasis on respecting the wishes of the local Jawoyn people who did not support the project and it was this issue that was ultimately used by the Prime Minister to justify a Cabinet decision to reject mining. This outcome angered many in the mining industry and further convinced them that powerful pro-conservation elements within the Government held sway in industry policy. Consequently, the advent of the RAC did not blunt anger towards the AHC but instead exacerbated it.

The 1990 RAC Inquiry into the management of Australian forests provided a further opportunity for the AHC to pursue forcefully a pro-conservation forest management strategy at odds with the timber industry. In evidence to the Inquiry, the then AHC Chairman Pat Galvin argued there should be an immediate moratorium on the logging of all old growth forests. Furthermore, this moratorium should remain in place until all current Commonwealth conservation initiatives had been completed. In practice this would mean a complete ban, a position the Commission continues to hold. Mr Galvin also emphasised the urgent need for a national survey to identify

---

<sup>214</sup> Australian Heritage Commission, *Annual Report 1988-89*, p. 2.

those forests which had National Estate importance. By so doing he claimed the current uncertainty in the timber industry would be 'overcome.'<sup>215</sup> This proposition was of course highly optimistic as many in the industry did not accept the legitimacy of the National Estate concept itself. Others, while slightly more sympathetic, would inevitably dispute the increase in National Estate forests which would inevitably result from further surveys.

In its comprehensive submission to the Inquiry, the Australian Heritage Commission sought to confirm its credentials in forestry conservation issues. The Chairman boldly stated:

The Commission hopes that through its submission, there will be greater understanding of the rigorous process it follows in assessing places and of the implications of listing in the Register, the Commission's role in forest issues and the factors it must take into account when preparing advice for Government and the wide range of values for which forest areas in Australia are part of our national estate.<sup>216</sup>

Along with these comments the AHC ironically made the important admission that the organisation was partly to blame for uncertainty in the timber industry because the work of compiling a list of National Estate quality forests was not complete. While to some extent a public ploy to gain additional resources from Government, it was also a realistic reflection on its own role in forestry disputes.

The completed RAC Forest and Timber Inquiry report was tabled in the House of Representatives on April 2, 1992. The report was generally well received. Many of its recommendations were adopted in the Commonwealth Draft National Forest Policy Statement released several months later. Despite this response the report as a whole rejected several basic AHC assumptions. Instead of adopting the Commission's position of a total ban on logging, two possible options were proposed. The first was 'a rapid cessation' of logging operations in sensitive areas

---

<sup>215</sup> P. Galvin, *Opening comments by the Australian Heritage Commission, Mr Pat Galvin to the Resource Assessment Commission Inquiry into Australia's Forest and Timber Resources*, 22 June, 1990, p. 5-6.

<sup>216</sup> *ibid*, p.1.

and their inclusion in conservation zones. A second approach was the preparation of management plans by forestry agencies which would allow for their identification and 'ranking'. By recommending two options, the RAC had clearly moved away from the Commission's position but provided considerable room to manoeuvre for the Commonwealth.

A much broader approach to the issue of conservation management was also advocated by the Inquiry than allowed for under the AHC legislation. It was proposed that a national framework be established for assessing forested areas with National Estate and conservation values to be only part of the equation.

The Inquiry recommended that a national framework be established for cooperative and integrated regional assessments taking into account National Estate and World Heritage values, endangered species, bio-diversity, old growth, vegetation remnants, pests, diseases, water catchments and fire management as well as social and economic considerations.<sup>217</sup>

By failing to adopt the AHC regional assessment model as an effective template and proposing that future procedures should integrate non-conservation criteria, a serious question mark was placed against the AHC approach. Under existing arrangements different agencies dealt with their own area of expertise, allowing the political process to weigh up the economic, social and conservation implications flowing from a given decision. It was a proposition that had long been accepted by the AHC.

Following the completion of this report, a further RAC Inquiry into Australia's coastal zone was announced in October 1991. AHC comments focused on the substantial threats posed to the National Estate in coastal areas and argued for the integration of heritage concerns into future coastal management. This was an important area of public agreement between the two bodies and reflected a desire for closer cooperation in the long term. It was also an area with which the AHC had had less involvement.

An important function of the RAC was to demonstrate the continuing policy vitality

---

<sup>217</sup> Resource Assessment Commission, *Annual Report 1991-92*, 1992.



of the third Hawke Government, a task which it successfully achieved. Its origin in the fierce conservation battles of the 1980s and the Hawke consensus style of decision making meant its future in the 1990s under a new Prime Minister was not guaranteed. Indeed, in 1993 the decision was taken by Paul Keating to wind up the RAC, a reflection of his desire to place less emphasis on conservation issues than his predecessor.

In contrast to the RAC, the mandate of the AHC had always been limited to matters associated with the National Estate. Broader aspirations for the organisation as envisaged by Justice Hope were dashed by the Fraser Government in 1976. No subsequent Government had seen fit to revisit the Australian Heritage Commission Act 1975 with a view to significantly strengthening its policy and financial powers. Initial concern that the creation of the RAC was a threat to the AHC was proved unfounded. The willingness of the Commission to put forward a consistent conservation line at the various Inquiries was no doubt well received among conservation groups and strengthened its standing. It also reaffirmed the continued capacity of the AHC to influence, if not shape, environmental policy.

### **Ecological sustainability as a challenge.**

Initial hopes by the Commonwealth Government that the creation of the RAC would lead to a reduction in environmental disputes quickly dissipated. Critics who had previously focused on the performance of the Australian Heritage Commission now turned their attention to the shortcomings of the RAC. Within 12 months of its creation the Opposition was calling for the organisation to be disbanded. Fred Chaney identified the '...proliferation of inquiries and working groups created by the government to help solve environmental-development conflicts' as a key reason for a lack of confidence in the government decision making process.<sup>218</sup> This scepticism towards the RAC was also directed towards the AHC more generally.

Commentators noted that much of the frustration surrounding environmental policy was '...concentrated on the preparation of scientific reports - a peculiar feature of the green-development debate being an urge for both sides to commission scientific

---

<sup>218</sup> H. Lamberton, 'No faith in Government's decision - making process'. Canberra Times, 21 Feb, 1991, p.13.

reports and then argue over the results.'<sup>219</sup> The emergence of a new approach to managing economic growth, in the form of ecological sustainable development (ESD), provided an opportunity for Prime Minister Hawke to try and switch the national conservation debate from individual environmental disputes to broader issues.<sup>220</sup> It also allowed his Environment Minister Ros Kelly to encourage agencies within her portfolio to rethink the basis upon which they operated. For the AHC it led to increased pressure to shift away from a 'protect at all costs' mindset and towards greater negotiation with industry and State Governments. A direct outcome of this change was the development of a regional assessment approach to the Register of the National Estate and associated forestry agreements with State agencies.

The summary of the Resource Assessment Commission Coastal Zone Inquiry also reflects a change in language deployed by government in negotiating a balance between industry and conservation requirements.

This Inquiry contends that we must also look at our country and our resources from a new perspective. We must see our Coastal Zone as a national asset in its own right, arguably our nation's greatest prize. That is not a perception that we have properly embraced in the past. If we had, we would not have the problems we encounter today. What this Inquiry proposes is to give the Coastal Zone a new focus and new identity in the policy making system, across the nation as a whole, and at every level of government.<sup>221</sup>

This new approach to resource management had its origins in the document *Our Common Future* which had been prepared by the World Commission on Environment and Development.<sup>222</sup> The report defined sustainable development as a process which did not compromise the needs of future generations. For the discipline of resource economics and associated government policy it introduced a whole new paradigm which Redhead alludes to in the following description

<sup>219</sup> Australian Financial Review, 'Labor's each way bet on the environment'. 5 Sept, 1990, p.14.

<sup>220</sup> Hawke, R. 'Speech By The Prime Minister To The Environment: 1990 Conference', Sydney, 2 May 1990.

<sup>221</sup> Resource Assessment Commission, *Coastal Zone Inquiry, Final Report Overview*, AGPS, 1993, Canberra, p. 44.

<sup>222</sup> World Commission on Environment and Development, *Our Common Future*, Oxford, 1987.

...sustainable development involves the application of environmental economics in environmental valuation and management. Maintenance of the capital stock to be passed on to each generation involves a trade-off between natural and man made capital. This necessitates a valuation of the environment, usually in dollar terms. Conversely, it should mean that a similar process is applied to any conservation proposal or restraint so as to be able to measure it against any competing development proposal.<sup>223</sup>

Clearly sustainable development was an attractive concept to politicians and others seeking a resolution to the seemingly interminable environmental disputes which marked the 1970s and 1980s. It represented an opportunity to more effectively weigh competing aims in the resource development arena and promote a more optimistic outlook among major potential investors. Another benefit was the challenge it offered to traditional government conservation policy.<sup>224</sup> Under existing arrangements, the AHC and similar organisations established a set of standards and then attempted to police them.<sup>225</sup> The difficulty with this approach was that those groups being policed did not necessarily accept the standards devised and those who set the rules had difficulty defining the 'value' of a threatened amenity. To translate this new theory into government policies and strategies was clearly a major task and following the release of a Commonwealth discussion paper in June 1990, the Government announced the establishment of four working groups to explore the implications for forestry, mining, fisheries and agriculture.

The objective of this process was to explore the implications for individual industries and to defuse criticism made by the opposition that the initial government discussion paper was '...all things to all people'.<sup>226</sup> General agreement did exist over the concept of sustainable development, although more disagreement arose over details.

<sup>223</sup> C.L. Redhead, 'Comment on Resource Industries at Risk? (Impact of Resource Assessment Commission)', a paper delivered at the Fourteenth Annual Conference of the Australian Mining and Petroleum Law Association Limited, Sydney, 1-3 August, 1991, p. 5.

<sup>224</sup> R. Kelly, 'Clever Politics or the Clever Country', an address to the Australian Institute of Political Science, Canberra, 3 Oct 1991, p.3.

<sup>225</sup> This point is developed by Redhead when discussing the RAC in the same article, p. 5.

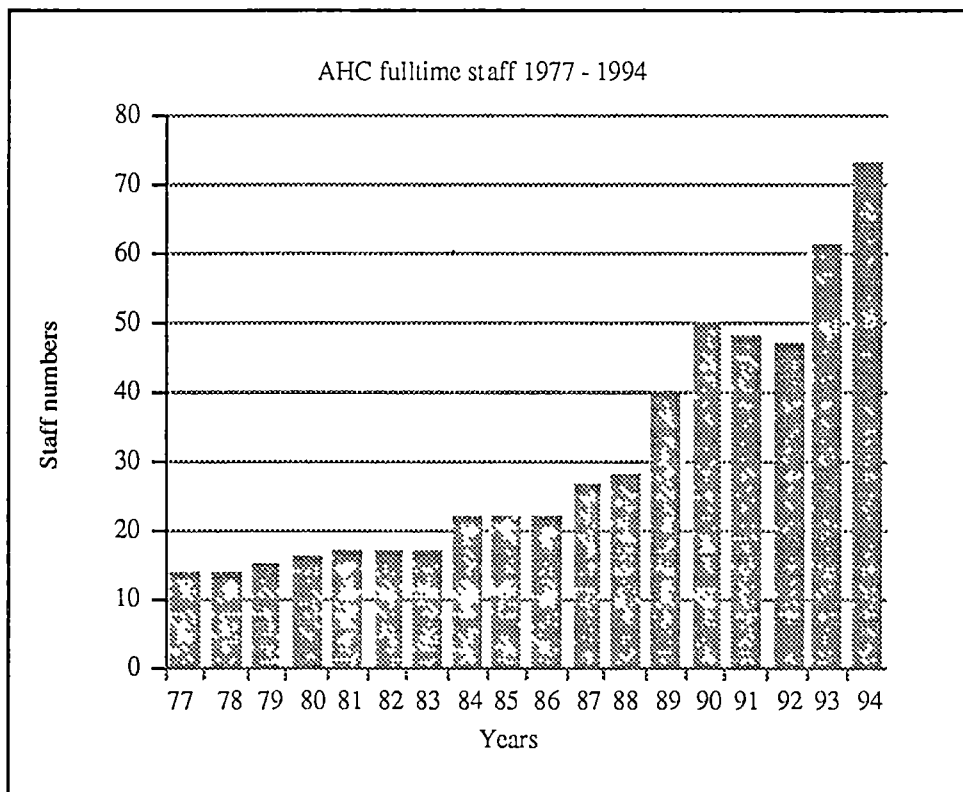
<sup>226</sup> F. Chaney, 'The alternatives - the Opposition view on ESD', an address by the Shadow Minister for the Environment to the Australian Institute of Political Science Conference, October 3, 1991, p. 3.

Some elements of business were particularly supportive as they saw an opportunity to escape the case by case conservation assessment procedure adopted by government agencies such as the AHC. The Chairman of the Institution of Engineers, Dr Bryan Jenkins, was speaking for many when he argued;

You have to take into account the ability of the resource base and the environment to absorb the development....One of the disadvantages of the current Australian environmental legislation is that it is project specific. Broader resource and environmental management issues are not looked at.<sup>227</sup>

The AHC made a variety of submissions to all the working groups through the Department of Arts, Sport, Environment, Tourism and Territories, but in particular those concerning mining and forestry. The AHC's contribution to this process was helped by the increase in fulltime staff achieved in the 1990s (see Figure 6).

Figure 6



Source: AHC Annual Reports, 1975- 1996

For the AHC, the establishment of the Ecological Sustainable Development (ESD) working groups confirmed a tangible change in the priority of government, from

<sup>227</sup> J. Arbouw, 'Hope for development - but can it be sustained?' *Australian Business*, March 27, 1991, p. 63.

protection and confrontation to 'discussion and analysis' of environmental issues.<sup>228</sup> Individuals within the organisation no doubt shared the concern of many conservation groups that the ESD process was flawed. As a small government agency with a heavy workload, there was little appeal in allowing the new sustainable development philosophy to provoke an internal or external review of procedures and outlook. It was easy to accept the skepticism of those like Chaney who claimed that

... what the Government has put in hand is essentially an academic process which may or may not produce specific outcomes. The draft reports of the nine sectoral working groups...underline the preoccupation with form rather than substance.<sup>229</sup>

The advent of ESD undoubtedly caused a significant change in the political environment within which the Commission operated and promoted a greater commitment to the effective negotiation of National Estate disputes. It did not, however, end attempts by industry to attack the AHC as Ros Kelly herself acknowledged. When discussing the contribution of the forestry industry to the sustainable development debate she was reported as saying

....the main forestry industry group's agenda for sustainable development was little more than attacking the Australian Heritage Commission and supporting 'unrestrained development'.

In this context, the release of the ESD working group reports had little impact on the Commission or its outlook. More significant had been the creation of the RAC and the level of government resources it quickly acquired. A general desire by the fourth Hawke government to resolve rather than confront environmental issues required a more flexible Australian Heritage Commission. By developing and promoting cooperative strategies such as regional forest assessment and concentrating on community education programs, the Commission again demonstrated its innate survival skills.

---

<sup>228</sup> Australian Heritage Commission, *Annual Report 1990- 91*, p. 23.

<sup>229</sup> C. Chaney, 'The alternatives - the Opposition view on ESD', p. 3.

The Commission entered the 1990s faced with a plethora of Government initiatives competing for funds and policy support. These included The Better Cities program, the One Nation Statement, a draft National Forestry Strategy, the RAC reports and a draft Bio-Diversity Strategy. While many were designed to facilitate development through streamlined assessment procedures and had a positive impact on the National Estate, an accelerated program to dispose of surplus Government assets also posed a major new threat to the National Estate.

## CHAPTER VIII

### CONCLUSION

#### THE AUSTRALIAN HERITAGE COMMISSION 1975 - 1995

This chapter draws together the central themes of the thesis, and in so doing, demonstrates the Commission has been successful in gathering the scientific and cultural information necessary to give meaning to the term 'National Estate'. By defining for both government and the wider public the nature of our cultural and natural heritage, and developing cogent arguments for its preservation, the AHC has also defined many of the battlefields over which conservationists and developers would fight. The AHC has been, as this thesis argues, less successful in achieving other aims, or fulfilling the roles envisaged at its establishment.

In drawing up the original legislation the Whitlam Government envisaged that a powerful agency would be created which would both define the nature of the National Estate and actively assist in its preservation. This was to be achieved through the provision of grant funds and high level advice to Cabinet. In style and substance it was also to fit neatly into the tradition of policy activism established by the Department of Urban and Regional Development. The Commission was, however, never to achieve these lofty ambitions due to the rapidly changing economic and political circumstances which befell Australia in the late 1970s and 1980s. In 1976 the Fraser government amended the Australian Heritage Commission Act 1975 and reduced its brief to essentially the mechanical documentation of the National Estate. Ironically, this change was to assist in the long term survival of the organisation. Under the amended Act the Commission has little formal authority to shape government policy and the almost hysterical criticism which has dogged the organisation since its inception has appeared somewhat hollow. The 'power' of the Commission has ultimately been symbolic, derived from its perceived status as the primary proponent of conservation arguments within the Commonwealth bureaucracy.

In the thirteen years of Labor Government between 1983 and 1995 no serious attempt was made to resuscitate the original aspirations of the Hope Inquiry for the Commission. Thus the Commission has been unable to deviate from the minimalist,

National Estate centred framework forced onto the Commission by the Fraser Government. Within this context the AHC has undoubtedly succeeded in gaining acceptance for the Register of the National Estate as a vital land management tool. In addition, by the late 1980s the AHC was able to expand the concept of the Register with the creation of the Regional Assessment strategy and the adoption of thematic analysis techniques.

The intense environmental disputes of the 1980s had, however, demanded that Government find alternative ways to manage and resolve conflict. Because the Commission had largely been marginalised as a policy development body by this time, the Government turned to new bodies and strategies such as the Resource Assessment Commission and the ESD process, rather than to a revitalised AHC. In so doing the Commission was further displaced from the centre of environmental policy development.

### **The evolution of the AHC as an organisation**

The current form of the Commission was shaped by the initial findings of the Hope Committee of Inquiry into the National Estate and the four distinct phases through which the organisation has passed. The years 1973 through to 1975 represents the genesis of the Commission, when the philosophical commitments of environmentalists were translated into an Act of Parliament. During this time the intermeshing of changing social values and the emergence of environmentalism as a political force encouraged the Whitlam Government to enact a range of environmental legislation, of which the Australian Heritage Commission Act 1975 was one. Passage of this Act was a principle recommendation of the 1973 Committee of Inquiry into the National Estate chaired by Justice Hope. Their report envisaged the creation of a powerful, independent and well resourced statutory authority which would co-ordinate a range of new Commonwealth initiatives designed to protect and enhance the National Estate.

Between 1976 and 1982 the AHC was forced to adopt an organisational profile and method of operation based on significant legislative changes implemented by the Fraser Government. Originally conceived as a wide ranging policy 'engine room' for all matters pertaining to the preservation of the National Estate, under the Fraser



Government a significant reduction in its scope and function occurred. Specifically, it lost any operational capacity to manage the National Estate grant program or to play the role of supervising agent for the implementation of Commonwealth National Estate initiatives as envisaged by the Hope Inquiry.<sup>230</sup>

During this formative stage the Commission had limited staff and financial resources which severely restricted its capacity to develop as an organisation. Vocal and persistent criticism from industry groups concerned at the impact the Register of the National Estate would have on their operation further diverted scarce resources from the task at hand. The fledgling Commission also suffered from the real fear that it would be abolished by such committees as the 'Review of Commonwealth Functions' chaired by the then Treasurer Philip Lynch. Conflict also existed with its parent department as the Commission struggled to assert its own independence and policy profile.

By the end of the 1982-83 financial year, eight years after the passage of the Australian Heritage Commission Act 1975, the new body had increased its staffing complement from ten permanent staff and a financial allocation of \$291,000 to a complement of 22 and an annual budget of \$1,200,000.<sup>231</sup> By comparison, the Australian National Parks and Wildlife Service (ANPWS), later to be restructured as the Australian Nature Conservation Agency (ANCA), had acquired by the end of 1982 - 83 financial year some 85 full-time and 4 part-time staff. The annual budget was nearly \$6.4 million.<sup>232</sup> This was despite the ANPWS commencing at the same time as the Commission.

Unlike the ANPWS and other environmental agencies the Commission did not acquire new administrative or legislative duties. Responsibility for the operation of the Environmental Protection (Impact of Proposals) Act 1974, for example, remained vested in the Department of Arts, Sport, Environment, Tourism and Territories along with administration of the National Estate grant program. This was despite the rapid development of staff expertise and the obvious policy and

---

<sup>230</sup> Report of the Committee of Inquiry into the National Estate, p.346.

<sup>231</sup> Figures from the 1975-76 and 1982-83 Australian Heritage Commission *Annual Reports* respectively.

<sup>232</sup> M. Hill, *A Brief History, The Australian National Parks and Wildlife Service and its successor the Australian Nature Conservation Agency*, ANCA, Canberra, 1994, p. 10.

administrative linkages. The dominant view within the Fraser Government was clearly that the AHC should operate as a specialised, science based organisation, almost entirely focused on the herculean task of defining Australia's National Estate. For this reason the Commission's single greatest achievement between 1976 and 1982 was the publication of *The Heritage of Australia*, an illustrated guide to the 6600 places accepted on the Register by 1981.

The election of the first Hawke Labor Government in 1983 ushered in a third phase in the Commission's evolution which was characterised by intense external criticism and maintenance rather than expansion of policy functions. Despite these factors the Commission did benefit from the high priority given to environmental issues by the Labor Government as it fought to assert its green credentials. In pursuit of electoral success the Government became locked into a series of decisions that involved conflict with industry groups which in turn placed the AHC in an invidious position. As the principle advisor on National Estate issues it consistently put forward conservation arguments that allowed the Commonwealth to adopt an activist environmental policy, especially in respect to the management of state managed forestry and mineral reserves. The structure and limited powers of the Commission, however, limited its capacity to manage those conflicts with which it became embroiled such as the protection of Tasmania's Lemonthyme and Southern forests during the mid 1980s.

Faced with often hostile State Governments and vested interest groups which questioned individual National Estate listings, the AHC had little room to manoeuvre. By law required to provide advice, it could not under pressure either disavow this advice, or compensate those detrimentally effected by a National Estate listing. With the passage of time it became increasingly obvious that despite the original intention of those who drafted the legislation, the National Estate process not only identified those areas which possessed heritage significance, but often defined the boundaries of a future environmental conflict. As the Register became more comprehensive and detailed the opportunity for complex land use disputes to occur increased.

In 1984 and again in 1990 the dramatic reduction of AHC powers were discussed informally at Cabinet level as the Commission was increasingly painted as an

intransigent opponent of legitimate resource development projects.<sup>233</sup> The 1984 review initiated by Minister Cohen was in direct response to a perceived lack of transparency and efficiency in the Commission's general operation and decision making process. Strong support for the Commission among conservation organisations and an unwillingness within the Departmental review team to accept the more extreme criticism ensured no significant changes were recommended. The extent of criticism did, however, largely neutralise attempts by the AHC to obtain substantial additional financial resources during the mid 1980s.

The growing complexity of conservation issues continued to create a requirement for more comprehensive information on individual National Estate listings and its dissemination. This situation provided legitimate grounds for the Commission to request additional staff and financial resources. This argument received a positive response from Cohen's replacement as Minister, Senator Richardson, and by June 30, 1990, staff numbers at the AHC had increased to forty eight full time, two part time and five temporary officers. The annual budget had also grown to some \$4.5 million.<sup>234</sup>

This expansion primarily related to a 1988 decision by Cabinet to ensure the backlog of National Estate listings was drastically reduced, thus eliminating a prime source of Commission criticism. During this period the organisation did not gain any significant new responsibilities which would justify further expansion. The transfer of management responsibility for the National Estate Grant program and a new duty to respond to RAC enquiries by the AHC was not considered of sufficient importance alone to justify significant staff increases. Both Cohen and Richardson believed, however, that the communication section of the Commission should be strengthened to enable the organisation to better participate in public debate and ensure more Australians understood the principles which guided its work. With a staff of eight it had become by 1993 the equal second largest division consuming 10% of the budget.<sup>235</sup>

The current phase of the Commission's development has been characterised by a determined endeavour to position itself as a key player in an increasingly complex

<sup>233</sup> L Taylor, 'The plot to trim the Heritage Commission', *Australian*, 2 Nov, 1990, p.11.

<sup>234</sup> Australian Heritage Commission, *Annual Report 1989-90*, p. 82.

<sup>235</sup> Australian Heritage Commission, *Annual Report 1992- 93*, p.87.

constellation of Commonwealth conservation agencies and departmental divisions formed in the late 1980s and early 1990s. These included the Resource Assessment Commission, the Commonwealth Environmental Protection Agency and the Ecologically Sustainable Development working groups. Other peripheral organisations such as the Australian Cultural Development Office (ACDO) also became involved in areas previously the sole domain of the Commission.

For the Commission there was ample evidence to suggest the organisation was being outflanked and excluded from new Commonwealth initiatives. A prime example was the administrative arrangements set in place for the tax relief scheme for individuals restoring historic structures. Despite the AHC pursuing this idea with Treasury for many years, it was the ACDO, not the Commission, which ultimately gained acceptance for the concept and responsibility for administering this important new initiative.<sup>236</sup> Similarly the Commission has never possessed a formal relationship with the National Cultural Heritage Committee or the Taxation Incentive Scheme for the Arts advisory committee despite obvious linkages.<sup>237</sup>

This reduction in influence was confirmed in a briefing paper prepared for Senator Faulkner who replaced Ros Kelly as Minister. In the section entitled Current-Contentious Issues, the document noted that

...while the Australian Heritage Commission is located within the environment portfolio, responsibility for much of the Commission's work on cultural heritage has moved to the Minister for Arts and Communications, Michael Lee.<sup>238</sup>

Of more significance was the establishment of the Resource Assessment

---

<sup>236</sup> This idea had been raised in the Hope Enquiry and promoted sporadically by the AHC since then. A tax rebate scheme was announced in the Commonwealth *Distinctly Australian* cultural policy of February 1993. Commission staff did work on the drafting of the policy. However it was ultimately an initiative of the Department of the Arts and Administrative Services who then actually administered the new program through the ACDO. This was despite the obvious relationship of the scheme to the very *raison d'être* of the Commission and its field of expertise

<sup>237</sup> Both committees were set up under Commonwealth legislation during the mid 1980's and are concerned with the protection of cultural material. The Hope Enquiry saw the AHC playing a role in this field.

<sup>238</sup> Australian Heritage Commission, Internal document entitled 'Brief for Incoming Minister', 1994.

Commission as a statutory body with agency links through the Department of Prime Minister and Cabinet. By creating this new body, the Government virtually advised the AHC that the approach taken by the Commission to its work was inadequate. Experience had demonstrated, it could be argued, that the identification and documentation of 'the things we want to keep' was not sufficient to resolve conflict. This perception was of course quite contrary to that held by those who originally framed the AHC legislation. By creating the RAC the government was also suggesting that the structure, operational culture and methodology of the AHC was not suited to developing strategies which addressed the interface between industry and a progressive land management ethos.

In this less than sympathetic environment the Commission simultaneously sought to reduce the level of external criticism and to ensure its policies harmonised more closely with current Commonwealth economic policy. This move was no doubt hastened by the replacement of Hawke by Keating as Prime Minister. To reassert the Commission's policy credentials within Government, the AHC strenuously argued that the implementation of Commonwealth-State regional assessment forest agreements would make a major contribution to resolving forestry conflicts.<sup>239</sup> By reaching agreement with State agencies over heritage assessment criteria and management activities the AHC claimed greater cooperation from individual State Governments would be possible. In this process less emphasis has also been given to interaction with community based organisations and individuals seeking to have particular areas listed on the Register. Resources instead have been directed at ensuring a new backlog of nominations did not develop. Additional research has also been carried out on areas already listed to ensure data is always current. The development of regional linkages between National Estate areas for tourism and planning purposes has also been seen as particularly useful, and less likely to attract adverse criticism than further expansion of the list.

This refocussing of policy, with particular emphasis on Regional Assessment, has not been without its critics in the green movement. Dr Bob Brown, in his capacity as a Green Independent member of the Tasmanian Parliament, dismissed the proposed Commission's 'bilateral' study of Tasmania's forests in late 1992 as a ploy to allow

<sup>239</sup> The Commission actively sought such an agreement with the WA Department of Conservation and Land Management (CALM) to jointly survey section of the South West forests as a means of preventing future land use conflict. The subsequent agreement reached with CALM was then heavily promoted by the Commission between 1981 - 1991 as a future model for other states.

'...Mrs Kelly and the Federal and State Governments to avoid the proper full-blown environmental impact assessment of the impact on Tasmania's forests of new export wood chip mills such as that proposed for the Huon.'<sup>240</sup> Dr Brown went on to argue that the employment of the more traditional environmental impact assessment procedure would protect National Estate forests but '...this set up [Regional Assessment] could well let Mrs Kelly avoid her direct responsibility to stop the broad scale destruction of forest ecosystems in Tasmania immediately.'<sup>241</sup>

The development of the Regional Assessment process within the AHC did, however, lead to a substantial increase in staff numbers with, seventy three full-time and four part-time staff employed by the Commission as at June 1994. The annual operating budget at this time had reached a record \$13,735,500.<sup>242</sup> This represented an increase of some twenty six full time officers over two years. Thus, in a final irony, the project designed to alter the manner in which the Register operated actually provided the AHC with the staffing levels necessary to effectively document and analyse National Estate data.

### **The contribution of the AHC to the changing face of Commonwealth environmental policy.**

Like many similar government organisations, the Commission has always possessed limited formal power to compel individuals to comply with its own Act. Instead the AHC has had at its disposal a limited amount of authority based on the willingness of at least some groups and individuals to comply with suggestions and requests to conserve the National Estate. This authority has been derived from its status as a statutory authority and from respect for the expertise of its staff. A personal commitment by many conservationists to the principles embodied in the notion of a national conservation body adds further to the Commission's ability to direct events.

The Hope Inquiry envisaged that the Australian Heritage Commission would be primarily a wide ranging policy driven body with sufficient authority to direct those Commonwealth strategies designed to preserve and enhance the National Estate. In attempting to evaluate the success or otherwise of the Commission in fulfilling this role it is appropriate to reaffirm the accepted nebulous nature of policy development

<sup>240</sup> B. Brown, 'Heritage Commission Warning', Media release, Nov 5, 1992 p 1.

<sup>241</sup> *ibid*, p 2

<sup>242</sup> Australian Heritage Commission, *Annual Report 1993-94*, p.72.

in government. Hughes notes for example:

No-one really knows where policies are derived from, other than through the internal political processes of governments, in which the bureaucracy is as much a political actor as are outside interest groups or politicians.<sup>243</sup>

Between 1972 and 1975 four key pieces of Commonwealth environmental legislation were enacted by the Whitlam Labor Government. This legislation was built around a central premise, namely that the natural and cultural environment of Australia was being degraded and it was the legitimate responsibility of the Commonwealth to initiate policies and programs which would address this situation. The passage of the Environmental Protection (Impact of Proposals) Act 1974 was the single most important environmental initiative of the Labor Government. By requiring Commonwealth agencies or organisations acting on behalf of the Commonwealth to state the likely impact of developments on the environment a new level of accountability for developers was introduced. Two subsequent pieces of legislation, which established the Great Barrier Reef Marine Park Authority and the Australian National Parks and Wildlife Service, emerged from related ALP policy which argued the Commonwealth should possess the capacity to professionally manage natural heritage areas under its control.

A third component of ALP policy reflected a more general concern that the Commonwealth direct a share of revenues to the protection, maintenance and restoration of Australia's heritage in cooperation with State and Local Government. By creating an Australian Heritage Commission the Whitlam Government gave substance to this notion and created a vehicle for both the identification and resourcing of the 'National Estate.' In this sense the Commission was conceived as a service delivery body rather than one concerned primarily with policy formulation.

The prolonged Franklin Dam dispute revealed to the Fraser Government the comparatively weak position of the Commonwealth in the environmental arena when dealing with a determined State Government. The traditional technique of exercising Commonwealth financial muscle to resolve differences failed spectacularly in this

<sup>243</sup> O. Hughes, *Public Management and Administration, An Introduction*, Macmillan Press, London, 1994, p. 148.

case when Premier Gray rejected a \$500 million compensation package. Labor's subsequent successful assertion of Commonwealth power on environmental issues in the High Court changed for ever the relationship between Federal and State Governments. Extended disputes with the resource industry sector however hurt the economic credentials of the Government and promoted internal divisions. By 1984 - 1985 it had become clear to the Commonwealth Government that a clear policy balance had to be struck between the 'protect and regulate' strategies embodied in the Australian Heritage Commission Act 1975 and the Environmental Protection (Impact of proposals) Act 1974 and the need to ensure the timber and mining industries had reasonable access to natural resources.

The subsequent decision in 1986 to appoint a Commission of Inquiry into the future management of Tasmania's Lemonthyme and Southern Forests was an overt acceptance that a new approach to resolving environmental disputes, in which the AHC would no longer be the leading player, was required. This signal may well have been ignored by the AHC as the organisation adopted a significantly different position to the Helsham Inquiry on the all important question of future World Heritage boundaries. For its pains the AHC was roundly condemned by the Committee of Inquiry for being less than helpful.

Ironically the position of the Australian Heritage Commission had a major impact on the political power play which followed the release of the recommendations. For party political reasons, Environment Minister Graham Richardson convinced Cabinet to reject the findings. Such a position would not have been viable if the AHC itself had not also publicly opposed the findings. Thus, in a negative sense, the organisation played a pivotal role in the outcome of an ill-fated policy initiative, the use of a quasi-judicial enquiry to adjudicate on a competing set of scientific, economic and environmental claims.

For the AHC several important issues emerged from the Helsham Inquiry. These included the need for improved research capacity, strategic planning in the collection of data and improved use of information technology in the presentation of the material gathered. Hence during the mid 1980s the Commission was in the forefront of initiatives to improve the mapping of National Estate areas, the regional analysis of forested areas and the creation of a specialist wilderness inventory. These



initiatives, whilst important in their own right, did not represent the adoption of a new function for the AHC but rather the refinement of an existing one. Their creation, however, provided an opportunity for both the organisation and the responsible Minister to appear innovative and responsive to changing environmental management needs.

The failure of the Helsham Inquiry to provide a satisfactory set of recommendations to the government proved that an unduly legalistic approach would not resolve environmental disputes if competing ideological, governmental, scientific and commercial interests were not sufficiently accommodated for a politically viable solution to emerge. From the perspective of industry representatives and government economic advisers the AHC also unfortunately made no significant contribution to the shaping of a favourable outcome. The provision of detailed technical information and the enunciation of National Estate principles had become a familiar, but unconvincing, mantra.

Perhaps most disturbing of all for industry groups and Ministers with an economic portfolio was the subsequent power play which saw Cabinet overturn the Helsham Inquiry findings. This was despite the process costing several million dollars and producing recommendations which largely had the support of the forestry industry and the Tasmanian Government. This unsatisfactory situation encouraged further policy development within the Department of Prime Minister and Cabinet which ultimately led to the creation of the Resource Assessment Commission and draft Resource Security legislation. It also galvanised those forces in government which called for either the abolition of the AHC or its sublimation under new legislation.

No serious consideration was given to broadening the narrow functions of the Commission to move beyond contributing technical scientific data on the National Estate. As a consequence the AHC remained an extremely blunt but consistent policy instrument. This situation suited an aggressive environment minister like Senator Richardson who could rely on the organisation to provide detailed and timely advice on complex scientific issues without complicating economic and social factors.

The release of *Our Common Future* by the United Nations World Commission on Environment and Development (the Brundtland Commission) which argued

economic activity should be based on the sustainable use of natural resources offered a new perspective. The opportunities proffered by the sustainable development philosophy were eagerly seized upon by a government keen to establish a balance between competing commercial and environmental considerations. Hence the emergence of ecological sustainable development (ESD) principles was used by the Commonwealth to open up debate on how the nation's extractive industries operated within the new environmental ethos. From this debate it was hoped a new spirit of cooperation would be generated where industry accepted the legitimacy of community concern over the environment. The release of the draft industry reports which discussed the implications flowing from the application of ESD principles to key industries revealed that there was no 'quick fix' to environmental disputation. A number of industries would require long term restructuring and even in forestry, where the expansion of renewable plantation timber reserves were well underway, significant problems existed.

In these circumstances government was receptive to renewed calls from the AHC for the implementation of a regional assessment process to improve the quality of Commonwealth decision making. By the early 1990s the Commission had reached the conclusion that a simple case by case analysis of threats to individual National Estate areas was inadequate because large scale projects such as the Wesley Vale Pulp Mill scheme had state wide implications. In this case the pressure on native forests to provide a timber resource would have affected reserves across northern Tasmania. Any meaningful advice tendered by the Commission would necessitate the organisation possessing not only a broad understanding of available Tasmanian timber resources but also an agreement with the Tasmanian Forestry industry over assessment methodology . Through Wesley Vale and other pulp mill proposals the AHC was able to demonstrate to Commonwealth decision makers the need for comparative national studies of endangered heritage resources, specialised resource directories for natural features, such as Wild Rivers and Commonwealth-State agreements with land management bodies. The understanding reached with the West Australian Department of Conservation and Land Management and the AHC in 1991 over forest resources in south west Western Australia was the first such agreement. This policy breakthrough prompted Commission staff to be increased by some 20 positions between 1991 and 1994 and the creation of two new divisions, the Wild Rivers Assessment Branch and the Regional Assessment Branch.

### **The AHC as adviser to Cabinet**

Over a twenty year period the Commission has made three modest but never the less significant contributions to Commonwealth environmental policy development through its advice to Cabinet. In compiling an effective Register of the National Estate it both defined a powerful concept and introduced a new rigour and environmental consciousness into departmental decision making. This was largely achieved through sheer persistence in the face of entrenched opposition. A second achievement, more difficult to define, was to focus political attention on projects which degraded or threatened to degrade the nation's heritage resources. Though lacking in direct punitive powers it functioned as a trip wire which alerted other agencies and community groups to emerging problems. The Franklin Dam dispute and the protection of old growth forests are two prominent cases where the implications of the proposal were spelt out early and persistently to the Commonwealth. More indirectly the AHC championed a number of other less known causes within government such as the provision of taxation support for individuals restoring historic properties. While the AHC's influence in such cases is hard to determine, its involvement made it more difficult for it and the issues it supported, to be ignored by government.

The principle of Regional Assessment agreements was perhaps the single most important recent contribution to Commonwealth policy development. Undoubtedly born out of AHC frustration with its marginalisation as a policy body and the continued expansion of the timber industry in the second half of the 1980s, the long term value of this concept is still to be confirmed. The successful negotiations in WA and Victoria and the financial support given to expand staffing levels bodes well. This initiative also confirmed that the AHC was capable of formulating new policy in tune with shifting economic and political circumstances.

### **The AHC and the establishment and maintenance of the National Estate**

With the dismissal of Labor in late 1975 the policy settings and priorities of the Commonwealth Government changed dramatically. For the Commission the next

seven years saw the removal of its capacity to fund conservation projects, both in a technical sense through changes to its Act and as a consequence of economic austerity. In the face of these changes the AHC was largely restricted to implementing a purely technical function, documentation of the National Estate. Force of circumstances, however, ensured that the Commission would develop a de-facto policy function that would become increasingly significant during the 1980s. As a technical advisory body which employed a range of specialists the Commission appropriately became a recognised authority on complex environmental issues which other Departments, including its own, often could not match. By merely making a technical pronouncement or expressing a view the Commission could shape a debate. A strong position on the Franklin Dam case, for example, strengthened the resolve of Malcolm Fraser to oppose the Tasmanian State Liberal Government over the issue.

Under the Commission Act the AHC was required to comment each year on the condition of the National Estate. This responsibility provided an ideal opportunity for Commissioners to articulate current concerns within the wider, non-government, conservation movement. Indeed, as one of the few Commonwealth agencies operating daily in the interface between development and conservation, the AHC inevitably developed strong links with the conservation movement at both an officer and Commissioner level. By appointing well known conservation figures such as Vincent Serventy as Commissioner's this link was both officially sanctioned and encouraged by Coalition and Labor administrations. As a direct consequence, the AHC gradually came to possess considerable informal influence in determining the importance or otherwise of emerging issues for the Government. By adopting a firm position on the protection of native forests from wood chipping in the late 1970s, for example, a clear signal was sent to government that a coherent set of national forest policies should be devised.

The early success of the Commission in developing a comprehensive National Estate Register covering some 6000 localities by 1980 also significantly affected the environmental policy climate. Listing proposals were often generated when an area was believed to be under threat from development. By the Commission accepting a nomination under these circumstances, conservation forces were able to continually argue their position was strengthened, while developers could claim unwarranted

government interference in land use disputes had occurred. While neither proposition was necessarily correct, the nomination process soon became mired in conflict. As a consequence the original bi-partisan support for the Commission gradually began to break down. In turn it became the policy of some elements within the Fraser Government and the subsequent Hawke-Keating administrations to abolish the AHC itself.

### **The AHC as an environmental advocate**

At a Colloquium <sup>244</sup> to discuss 'Australia's Heritage - Hope for the Future' David Yenken, the first Chairman of the Commission argued the '... environmental movement had an un written charter to lead the environmental debate in the public arena.'<sup>245</sup> The role of the Commission, it followed, was to take up major issues raised by such groups and pursue them within government. In this analysis the environmental movement provided a much needed mandate for the Commission's work, with the relationship between the two groups being mutually beneficial. Certainly the Hope Commission of Inquiry called on the Parliament to place the environment squarely on the agenda of Government. The flavour of those times are caught in the recollections of Max Bouke, the Commission's first Director.

Then.... there were just six staff. We all sat in one room and tried to invent the Register of the National Estate....Those were the days of the Franklin Dam, Fraser Island, the demolition of the Bellevue Hotel in Brisbane, and so on. The commission had a finger in every politico-environmental pie.<sup>246</sup>

Certainly for much of its life the AHC has been perceived by the environmental movement as its principle friend in government. Moreover the organisation has been credited as a powerful advocate which has achieved some notable conservation victories. Dr Bob Brown noted; 'It's a great organisation with a proud history and was critical to saving such places as the Franklin River and Daintree rain forests.'<sup>247</sup>

<sup>244</sup> This activity was held to mark the 100th meeting of the Australian Heritage Commission in Canberra during December 1994.

<sup>245</sup> D.Yenken, 'Issues for the future', Heritage News, vol 16, Number 1, Australian Heritage Commission, 1994, p. 10.

<sup>246</sup> *Canberra Times*, 'In the Public's Service', Aug 20, 1995. p. 17.

<sup>247</sup> B. Brown, 'Heritage Commission Warning', Media Release. 5 Nov, 1992.

Undoubtedly most Commissioners and staff have been passionate advocates for a range of environmental causes and have successfully influenced government policy outcomes, particularly during the mid to late 1980s. Throughout the Commission's existence critics have suggested that staff have lacked objectivity in carrying out their duties. In defence the AHC has consistently argued it does no more than implement its own Act and any political manipulation of events is the responsibility of others. With the passage of time this response became less credible as Commissioners and senior staff became directly engaged in the political process. As Taylor noted

...the commission's protestations of complete impartiality are evidently not true. They lobby ministers and strategically time the release of information with political skill.<sup>248</sup>

The adoption of such tactic was the inevitable result of an unwillingness by most industry groups to accept the assumptions and premises which underpin the work of the Commission. It was a difficulty which was not identified by the Hope Committee of Inquiry and has resulted in the Commission throughout its existence being continually required to refine and expound its conservation rationale and methodologies.<sup>249</sup>

The Commission's greatest success has been achieved when there has been a confluence of political need and conservation aspirations such as occurred in 1983 with the Labor election campaign and the Franklin Dam dispute. Community expectations for the Commission have always been high and for much of its life the relationship between grassroots organisations and the AHC has been self supporting. This was particularly the case when the community was encouraged to propose sites for listing on the Register. In recent years this element of the relationship has gradually diminished as less emphasis has been placed by the Commission on expanding the Register.<sup>250</sup> More importantly it has become clear

<sup>248</sup> L. Taylor, 'The plot to trim the Heritage Commission', *Australian*, Nov 2, 1990, p.11.

<sup>249</sup> *Australian Heritage Commission*, 1990, 'What Do We Want To Pass On To Future Generations?, An Overview of Criteria and Assessment Procedures for the Register of the National Estate', internal AHC document, pp. 7-8.

<sup>250</sup> Senator Coulter of the Australian Democrats highlighted this changed situation when he asked Senator Collins '...why the Australian Heritage Commission had imposed a de - facto moratorium on nominations to the Register of the National estate', *Canberra Times*, 'On the Hill', 11 Dec, 1992, p. 11.

over time that registration of sites is not a guarantee of their survival. As David Yenken commented

... the Commission needs to recognise that the environment movement may not see the Commission in quite the same light as before because it now recognises that listing does not necessarily lead to full protection.<sup>251</sup>

In addition to this disappointment, it has also become clear that as a Government agency, the Commission's agenda must largely be set by the responsible Minister and, in turn, Cabinet. From 1989-1990 and the election of Keating as Prime Minister, a widening split emerged between the AHC and voluntary conservation movement as the Commission was increasingly required to help bridge the gap between the Government's economic aspirations and its environmental responsibilities. Simmering criticism of new AHC policies were eventually given substance through the release of a critique of Commission forestry policy in the Senate by Senator Chamarette in December 1993. Entitled *Conservation of Native Forests: The changing role of the Australian Heritage Commission*, this thirty seven page document written by Daniel Rosaeur provides a critical review of Commission policies with respect to the AHC-CALM forestry agreement in WA. As well as making a wide range of methodological criticisms, the report claimed the organisation's role as an environmental advocate had been diminished in response to a persistent drive by the Keating Government to obtain resource security for a variety of extractive industries. The report argued

... the Heritage Commission has undergone a significant change of direction to fit within the Federal Government's current resources policy framework (which basically involves non-intervention in the States, and securing resource industries against ongoing environmental claims).<sup>252</sup>

---

<sup>251</sup> Australian Heritage Commission, *Heritage News*, vol 16, no1, p. 10.

<sup>252</sup> D. Rosaeur, *Conservation of Forests: The changing role of the Australian Heritage Commission*, a report prepared for Senator Chamarette under the inaugural Australian National Internships Program, Nov 1993, p. 36

This proposition was strongly rebutted by the Commission.<sup>253</sup> However, the organisation was keenly aware that Commonwealth pressure to more closely cooperate with State Governments and industry had dented its status with conservation organisations.<sup>254</sup>

Perhaps as a fitting postscript to its turbulent history, the achievement of bureaucratic consolidation by the Commission over a twenty year period has simultaneously weakened its links with community-based environmental organisations. Despite these difficulties the Commission has struggled throughout its existence to implement the policies and vision embodied in the Report of the Committee of Inquiry into the National Estate. While the AHC has not fulfilled the lofty aspirations marked out for the organisation by Justice Hope, time has never the less proved Whitlam correct when he said of the Commission's creation and subsequent performance:

My Government firmly placed the issue of the National Estate on the Australian political agenda. In so doing we went some of the way in preventing the prophecy of Kylie Tennant that 'the unborn Australian will ask for his birthright and be handed a piece of concrete'.<sup>257</sup>

---

<sup>253</sup> A detailed rebuttal is contained in Australian Heritage Commission, *Australian Heritage Commission response to the report entitled Conservation of native forests: the changing role of the Australian Heritage Commission*, Internal document, 1994.

<sup>254</sup> A major internal briefing document prepared for Senator Faulkner on his appointment as Minister entitled *Brief for incoming Minister* confirmed staff were aware of this sentiment in the conservation movement at large.

<sup>257</sup> Whitlam, G. *The Whitlam Government 1972 -1975*, p.549



## Bibliography

### Media releases, newspaper articles and newsletters.

*Age*. 'PM orders Heritage Act review'. 23 Feb. 1979, p. 12.

*Age*. 'Industry call to weaken Heritage Act'. 24 April 1979, p. 16.

*Age*. 'Three new areas in national estate'. 8 July 1980.

Albion, C. 'Time for a heritage-led recovery'. *Australian*, 20 December, 1991, p. 3.

Australian Conservation Foundation. 'Berinson discusses movement', *ACF Newsletter*, vol 7, no. 8, 1975, pp. 1-4.

Australian Conservation Foundation. 'Cairns speaks on Environment'. *ACF Newsletter*, vol.7, no. 6, 1975, pp. 1-3.

Australian Conservation Foundation. 'Destruction of Fraser Island begins'. *ACF Newsletter*, vol.7, no 5, 1975, pp. 1-3.

Australian Conservation Foundation. 'Fraser Island Inquiry ends', *ACF Newsletter*, vol.7, no. 9, 1975, pp. 1-3.

Australian Conservation Foundation. 'Labors moment of truth comes near', *ACF Newsletter*, vol.7, no.3, 1975, pp. 1-2.

Australian Conservation Foundation. 'The December 13 Election', *ACF Newsletter*, vol.7, no.10, 1975, pp. 1-2.

*Australian Conservation Foundation*. 'The way to save Fraser Island', *ACF Newsletter*, vol.7, no. 11, 1975, p. 1.

*Australian Conservation Foundation*. Media Release. 'No mining at Coronation Hill is the logical conclusion', 8 Feb. 1991.

*Australian Heritage Commission*.. Media Release. 'Call to stop logging in old growth forest', 18 Sep. 1989.

Australian Heritage Commission. 'CALM Agreement may provide model for preserving Australia's National Estate Forests'. *Heritage News*, vol. 13, no.3, 1991, pp. 1 -2.

Australian Heritage Commission 'Special Issue, Commission celebrates 100th meeting'. *Heritage News*, vol.16, no.1, 1994.

*Australian Heritage Commission*.. Media Release. 'Community prepared to pay for environment protection'. 22 June 1990.

Australian Heritage Commission. 'Minister: positive and important role for Australian Heritage Commission'. *Heritage News*, vol.13, no.3, 1991, pp. 5-6.

*Australian Mining Industry Council*.. Media Release. 'RAC report reflects lost opportunities, says AMIC'. 8 Feb. 1991.

*Australian*.. 'The art of reaching firm decisions'. 22 Feb.1991, p. 12.

Bird, M. 'Now now, girls, let's pull together please'. *Canberra Times*, 7 Feb.1991, p. 9.

Bitu, N. '\$30m cut reverses rising environment bill'. *Australian*, 11 May 1994, p. 23.

Boccabella, L. 'Heritage Commission under fire'. *Financial Review*, 8 Jan. 1979.

Bremer, J. 'Premier condemns educational material'. *Australian*, 16 Oct. 1980, p.4.

Burgess, V. 'Environmental studies need full overhaul'. *Canberra Times*, 30 March 1991, p. 2.

*Canberra Times*. 'Challenge planned to heritage list'. 23 Aug. 1980, p. 9

*Canberra Times*. 'Galvin attacks over misinformation'. 20 Dec.1990, p. 3.

*Canberra Times*. 'On the Hill'. 11 Dec.1992, p. 11.

Capp, G. 'Pressure claim in heritage row'. *West Australian*, 25 Nov. 1991, p. 20.

Carbon, C. 'Last - ditch plea on heritage revision'. *West Australian*, 23 Oct. 1990, p. 38.

Carbon, C. 'Move for pact to head off forest rows'. *West Australian*, 24 Oct. 1990, p. 14.

Centre for International Economics. 'A better way to achieve sustainable economic development for all.' *Mining Review*, March 1992, pp. 2-4.

Chaney, F. Shadow Minister for the Environment Media Release. 'Environmental New Year's resolutions for Mr Keating: Honesty and principle instead of politics and prevarication', 1991.

Crook, S., Pakulski, J. 'The changing face of environmental politics'. *Mercury*, June 17 1994, p. 21.

Davis, B. 'Heritage body has two major roles'. *Australian*, 23 Feb. 1987.

Early, G. 'Stop shooting the messenger'. *Australian*, 8 Feb. 1990, p. 10.

*Financial Review* . 'Labor's each-way bet on the the environment'. 5 Sept. 1990, p. 14.

*Forest Industries Campaign Association Limited*. Media Release. 'Forest Industries call for overhaul of Heritage Commission'. 2 June 1988.

*Forest Industries Campaign Association*. Media Release, 'Forest Industries call for Heritage Commission Act reform'. June 1987.

*Forest Industries Campaign Association*. Media release, 'Industry mounts campaign

on Forests agreement'. 29 July 1988.

*Forest Industries Campaign Association*. Media Release, 'Government fails on land - use planning says business'. 7 Nov. 1988.

Fray, P., Mahlab, B. 'Why this man has fallen out with Bob Hawke'. *Sunday Age*, 17 March 1991, p. 15.

Garran, R. 'Federal plan to give resource security but keep Heritage Act'. *Financial Review*, 25 Oct. 1990, p. 5.

Garran, R. 'Call for environment body to have power to overrule States', *Financial Review*, 5 Feb. 1991, p. 5.

Garran, R. 'RAC doubts feasibility of major pulp mill'. *Financial Review*, 24 Dec. 1991, p. 4.

Goldie, P. 'Attempt to impede mining denied'. *Canberra Times*, 21 Feb. 1979, p. 9.

Gomez, B. 'Lawyers attack RAC as a waste of time and money'. *Australian*, 6 Aug. 1990, p. 22.

Gomez, B. 'Developers face maze of green regulations', *Australian*, 29 Jan. 1992, p. 27.

Gordon, M. 'Ease controls, say miners'. *Age*, 12 March 1979, p. 3.

Graham, J. 'Don't sell our heritage', *Courier Mail*, 19 Feb 1979, p. 4.

*Greenpeace*. News Release, 'Griffiths snubs heritage advice as Government fast tracks search for oil', 1991.

Gubby, R. 'Angry Greens wrong : Hawke'. *Courier Mail*, 9 March 1991, p. 3.

Hardy, B. 'Heritage Act without sting'. *Financial Review*, 28 Feb 1979, p. 3.

Harris Daishowa (Australia). Media Release. 'Forest Workers cut polies down to size', 1986.

Harris, C. 'Taking the Government to court?'. *Wilderness News*, vol 5, no.3. 1984, p.6.

Haupt, R. 'Growth versus the Green - geld'. *Age*, 1 Aug. 1990, p. 13.

Hawke, B. Media Release, 'Government's new approach to conservation and resource development'. 18 Nov. 1988.

Hoare, J. 'MIM takes on commission on National Heritage land'. *Financial Review*, 20 Feb. 1979, p. 7.

Jacques, B. 'Business buys into the environment debate'. *Australian Business*, 21 Nov. 1990, pp. 29-30.

Keating, P., Richardson G. Treasury Press Release. 'Foreign Investment approval for the proposed Wesley Vale Pulp Mill'. 15 March 1989.

- Keating, P. 'Priorities within the Environment, Sport and Territories portfolio'. Correspondence between the Prime Minister and the Hon. John Faulkner, April 1994.
- Kelly, P. 'Hawke's Last Hand...' *Weekend Australian*, 9 March 1991, pp. 20-21.
- Kelly, P. 'Mining report creates new obstacles for PM'. *Weekend Australian*, 9 Feb. 1991, p. 1.
- Lamberton, H. 'Fitzgerald to head Australian Heritage Commission', *Canberra Times*, 25 Oct. 1990, p.3.
- Larkin, J. 'Radical Heritage Plan'. *Advertiser*, 13 Jan 1990, p. 4.
- Larkin, J. 'Angry minister denies soft line on green issue'. *Advertiser*, 16 Aug. 1990, p. 12.
- Larkin, J. 'Setback for Greens, Health factor in Richardson move', *Mercury*, 4 April 1990, p. 2.
- Larkin, J. 'Forest group's powers face axe'. *Herald Sun*, 24 Oct. 1990, p. 4.
- Lewis, S. 'Govt warns wood chip exporters to upgrade'. *Financial Review*, 5 Jan. 1993.
- Lloyd, B. Shadow Minister for Primary Industry, Media release. 'Government incompetence will prevent forestry investment and jobs'. 16 Oct. 1991.
- Lynch, P. 'Fitzgerald slams green debate'. *The Weekend Australian*, 10-11 Nov. 1990, p. 4.
- McGuinness, P. 'Funds, games and green propaganda'. *The Australian*, 16 Aug. 1991, p. 13.
- McKechnie, P. 'Register is not for pet projects'. *Courier Mail*, 15 Aug. 1985.
- McKenzie, D. 'Fitzgerald to head Heritage Commission'. *Age*, 25 Oct. 1990, p. 5.
- Mercury*. 'After all the words action is sought'. 3 Nov 1992.
- Milne, G. 'Hawke on the Rack'. *Weekend Australian*, June 22 1991. p. 25.
- Minister for Arts, Heritage and Environment*. News Release. 'Review of the Australian Heritage Commission Act 1975', 9 Sep. 1986.
- Minister for Arts, Heritage and Environment*. News Release. 'Tasmanian Logging Dispute', 30 Dec. 1986.
- Minister for Arts, Heritage and Environment*. Media Release, 'Cohen attacks Tasmanian attitude to Forests Inquiry', 18 June 1987.
- Minister for Arts, Heritage and Environment*. News release. 'Tasmanian Forestry Operations', 24 Feb. 1987.
- Minister for Arts, Heritage and Environment*. News Release. 'Lemonthyme Forests

Injunction', 28 May 1987.

*Minister for Arts, Heritage and Environment*, News Release, 'Federal - State Co-operation on Environment is essential', 22 April 1986.

*Minister for Arts, Heritage and the Environment*. News Release. 'National Estate Review', 15 Nov.1985.

*Minister for the Arts, Sport, the Environment, Tourism and Territories*. Media Release. 'The Australian Heritage Commission and the Register of the National Estate', 18 Nov. 1988.

*Minister for Primary Industries and Energy*. Media Release. 'Australia's Environmental Futures Strengthened by ACF Decision', 18 March 1991.

Mitchell, A. 'Forestry practice deserves the axe', *Sydney Morning Herald*, 31 Jan. 1991, p. 8.

*National Association of Forest Industries Limited*. Media Release. 'Forest Industries push for heritage reform', 29 July 1988.

*National Farmer's Federation*. News Release. 'NFF warns on World Heritage Listing', 12 Oct 1987.

O'Connel, M., McLean, N. 'Moss Cass: An interview,' *Dissent*, Winter, 1976.

Prismall, P. 'Canberra gets Port Arthur jolt'. *Mercury*, 3 April 1987, p. 3.

Puplick, C. Shadow Minister for the Environment, Arts and the Bicentennial, Press Statement, 'Lemonthyme Inquiry', 8 Oct 1987.

Puplick, C. Shadow Minister for the Environment, Arts and the Bicentennial. Press Statement. 'Lemonthyme Decision', 4 Sept. 1987.

Puplick, C. Press Release. 'Richardson Rules : Repudiation Reigns', 2 June 1988.

Ramsey, A. 'The wind blows cold for greenies', *Sydney Morning Herald*, 9 March 1991, p. 23.

Secombe, M. 'Federal Govt stalls on resources guarantees', *Sydney Morning Herald*, 25 Oct 1990, p. 2.

Skehan, C. 'Heritage commission accused of bias by ex- minister'. *Canberra Times*, 14 July 1990, p. 1.

Skehan, C. 'Cook attacks integrity of Heritage Commission'. *Sydney Morning Herald*, 14 July 1990, p. 2.

Solomon, D. 'Greens must learn to negotiate', *Australian*, 19 Feb.1991, p. 2.

Stannard, B. 'Dark greens at bay'. *The Bulletin*, 14 Aug. 1990, pp. 42-48.

Sullivan, S. 'Heritage body defends role'. *Australian*, 22 Aug. 1990, p. 10.

*Sun*. 'A saviour for the wild Tas rivers'. 8 July 1980.

- Taylor, L. 'Ministers split over forests legislation'. *Australian*, 24 Oct. 1990, p. 4.
- Taylor, L. 'Chaney on warpath over green policies'. *Australian*, 21 Feb. 1991, p. 5.
- Taylor, L. 'The plot to trim the Heritage Commission', *Australian*, 2 Nov. 1990, p. 11.
- The Wilderness Society / Australian Conservation Foundation*, Media Release, 'Lemonthyme and Southern Forests'. 18 Dec. 1987.
- Viscovich, M., Milne, C. 'Walsh in attack on destructive greens', *Advertiser*, 10 April 1991, p. 1.
- Walker, T. 'Keep sites off heritage list: mineral giant'. *Age*, 20 Feb 1979.
- Walsh, K. 'Ros wants out of the woods and into the city', *Sunday Sun*, 3 June, 1990, p. 19.
- Walsh, M. 'Rational policy v environmental expediency'. *Sydney Morning Herald*, 7 March 1991, p. 13.
- West Australian*.. 'Heritage fault Tas dam'. 4 May 1983, p. 37.
- Wilderness Society, National Trust*, Media Release, 'Conservationists demand no undermining of the Australian Heritage Commission', 22 Nov. 1990.
- Woodley, B. 'Funds the missing factor in research equation'. *Australian*, 19 Feb. 1991, p. 2.
- Woodley, B. 'Lobbies rich with handouts', *Australian*, 19 Feb. 1991, p. 2.
- Yencken, D. 'Time to take stock at history', *Australian*, 2 June 1978.

### **Published books**

- Allison, G. *Essence of Decision, Explaining the Cuban Missile Crisis*, Little Brown Company, Boston, 1971.
- Australian Labor Party. *Australian Labor Party Platform, Constitution and Rules approved by the 36th National Conference*, ALP National Secretariat, Canberra, 1984.
- Bolton, G. *'Spoils and the Spoiler, Australians make their environment 1788 - 1980'*, George Allen & Unwin, Sydney, 1981.
- Bonyhady, T. *Places Worth Keeping, Conservationists, Politics and Law*, Allen and Unwin, Sydney, 1993.
- Condon, C. 'Urban Pressure groups', in Lucy, R., *The Pieces of Politics*, Macmillan Company of Australia, Melbourne, 1975.
- Considine, C. *Public Policy, a critical approach*, Macmillan Education Australia Pty

- Ltd, Melbourne, 1994.
- Emy, H.V., Hughes, O.E. *Australian Politics: Realities in Conflict*, Macmillan Education Australia Pty Ltd, Melbourne, 1993.
- Freudenberg, G. *A certain grandeur, Gough Whitlam in Politics*, Penguin Australia, Melbourne, 1987.
- Gilpin, A. *Environmental Policy in Australia*, University of Queensland Press, Brisbane, 1980.
- Gilpin, A. *The Australian Environment, 12 Controversial Issues*, Sun Books, Melbourne, 1980.
- Hardman, M., Manning, P. *Green Bans, The Story of an Australian Phenomenon*, Australian Conservation Foundation, Melbourne, 1974.
- Hughes, O. *Public Management and Administration*, An Introduction, St. Martins Press, New York, 1994.
- Hundloe, T., Neumann, R.(Ed). *Environmental Practice in Australia*, Environment Institute of Australia Inc, Sydney, 1987.
- M. Haward, P. Larmour. (Ed). *The Tasmanian Parliamentary Accord & Public Policy 1989-92*, Federalism Research Centre, Australian National University, 1993.
- Hill, M., *A Brief History, The Australian National Parks and Wildlife Service and its successor the Australian Nature Conservation Agency*, ANCA, Canberra, 1984.
- Jennett, C., Stewart, R.,(Ed) *Hawke and Australian Public Policy, Consensus and Reconstructing*, Macmillan, Sydney, 1989.
- Kelly, P. *The end of certainty, the story of the 1980s*, Allen and Unwin, Sydney, 1992.
- Kouzmin, A. (Ed) *Public Sector Administration, New Perspectives*, Longman Cheshire, Melbourne, 1983.
- Lloyd, C.J., Troy, P.N. *Innovation and Reaction, The Life and Death of the Federal Department of Urban and Regional Development*, George Allen and Unwin Australia Pty Ltd, Sydney, 1981.
- Marsh, I.(Ed). *The Environmental Challenge*, Longman Cheshire, Melbourne, 1991.
- Mercer, D. *A Question of Balance, Natural Resources Conflict Issues in Australia*, The Federation Press, Sydney, 1991.
- Mouzelis, P. *Organisation and Bureaucracy, An Analysis of Modern Theories*,

Aldine De Gruyter, New York, 1967.

Papadakis, E. *Politics and the Environment, The Australian Experience*, Allen and Unwin, Sydney, 1993.

Pugh, D.S, Hickson, D.J. and Hinings C.R. *Writers on Organisations*, Penguin, England, 1983.

Reid, S. & Lloyd, C.J. *Out of the Wilderness*, Cassell, Melbourne, 1974.

Serventy, V. *Saving Australia, A Blueprint for our Survival*, Child & Associates Publishing, Sydney, 1988.

Sornarajah, M. (Ed) *South West Dam dispute: The legal and political issues*, University of Tasmania, Hobart, 1983.

Uren, T. 'Labor and Urban and Regional Policies', in Loosley, S., *Whitlam, Wran and the Labor Tradition*, Pluto Press, Sydney, 1988.

Wanna, J., O'Faircheallaigh, C., Weller, P. *Public Sector Management in Australia*, Macmillan Education Australia Pty Ltd, Melbourne, 1994.

Whitlam, E.G. *On Australia's Constitution*, Wide scope, Campbell, Victoria, 1977.

Whitlam, E.G. *The Whitlam Government, 1972 - 75*, Viking, Ringwood, Victoria, 1985.

Zarsky, L. *Sustainable Development, Challenges for Australia*, Commission for the Future, Melbourne, 1990.

#### Journal articles and speeches

*Australian Chamber of Commerce*. 'Research paper on World Heritage Listings', internal document of the ACC, Canberra, 1988.

Australian Mining Industry Council. 'A better way to achieve sustainable economic development for all'. *The Mining Review*, March 1992, pp. 2 - 11.

*Australian Mining Industry Council*.. 'Mining and the Environment', July 1992, Canberra.

Boer, B. 'The Australian Heritage Commission Act: Some Serious Shortcomings'. *Environmental and Planning Law Journal*, vol 2, 1986, p. 89.

Boer, B. 'The Australian Heritage Commission and the Register of the National Estate', *Environmental and Planning Law Journal*, vol 2, 1986, pp. 169 - 175.

Boer, B. 'Natural Resources and the National Estate'. *Environment and Planning Law Journal*, vol 6., 1990, pp. 134 - 149.

Cobb, M. 'Notes on Queensland Tropical Rain forest lockup'. personal notes of



Member for Parkes, 8 Oct.1987.

Chaney, P. 'The Alternatives - The Opposition view on ESD'. an address by Fred Chaney MP, Shadow Minister for the Environment to the Australian Institute of Political Science Conference, 3 Oct. 1991.

Chapman, R. *Setting Agendas and Defining Problems, The Wesley Vale Pulp Mill Proposal..* Centre for Applied Social Research, Deakin University, Geelong,1992.

Cohen, B. 'Australian Labor Party Policy on the Environment'. Australian Labor Party, Canberra, 1980.

Cohen, B. 'The Work of the Hawke Government in protecting Australia's heritage'. Speech to the Wilderness Society (Queensland Branch) and the Queensland Conservation Council Seminar, 30 Oct. 1983, Griffith University.

Cohen, B. 'Speech notes, Wyong Historical Society '8 April 1984, Canberra.

Cohen, B. 'Speech by the Hon. Barry Cohen, Minister for Arts, Heritage and Environment, on the occasion of tabling of the reports, Statement of Objectives, Achievements and Priorities in Environment, Conservation and Heritage and State of the Environment in Australia 1985', House of Representatives, 25 Nov 1985. Environment on Rain forest Conservation', 2-3 Feb.1984, Cairns.

Cohen, B. 'Australian Labor Party Policy on the Environment'. *ALP Secretariat*, Canberra,1980.

Cohen, B. 'Statement to Parliament by the Minister for Arts, Heritage and Environment'. *AFAR*, 18 April 1985, Canberra.

Cohen, B. 'Address by the Hon, Barry Cohen MP, Minister for Arts, Heritage and Environment to the Seminar on the review of the Commonwealth Government role in the conservation of the National Estate'. 15 Nov.1985, Canberra.

Cohen, B. 'Address by the Hon. Barry Cohen MP, Minister for Arts, Heritage and Environment to the 1985 National Environmental Law Symposium'. Hobart, 8 Nov. 1985.

Crommelin, M. 'Commonwealth Involvement in Environment Policy: Past, Present and Future'. *Environmental and Planning Law Journal*, June 1987, pp.100-110.\

Davies, G. *The Australian Heritage Commission : A Thing We We Want to Keep?*,

unpublished MA thesis, University of Canberra, 1992.

- Davis, B. 'Protecting the National Estate: Issues and practice in Australian Heritage Conservation', paper delivered to the Inaugural Conference of the Environment Institute of Australia, Sydney, 19-20 Nov. 1987.
- Department of Prime Minister and Cabinet. 'The Economics of Environmental Policy'. Speech by the Prime Minister, RAC / CEPR Conference Dinner, 11 Oct. 1990.
- Directions in Government*, 'The Forests of Contention', Aug. 1991, pp. 12 -15.
- Economou, N., 'Reconciling the Irreconcilable? The Resource Assessment Commission, Resource Policy and the Environment', *Australian Journal of Public Administration*, vol 51. no.4, 1992, pp.461 - 475.
- Erskine, J.' Integration of conservation and development: Towards implementing the National Conservation Strategy, Working Paper.' *Centre for Resource and Environmental Studies, Australian National University, Canberra*, 1987.
- Fitzgerald, T. 'Overcoming the adversarial mindset in Heritage Commission issues'. *The Mining Review*, June 1991, pp. 26 - 30.
- Formby, J. 'The Australian Government's experience with Environmental Impact Assessment', Working paper, Centre for Resource and Environmental Studies, Australian National University, Canberra, 1989.
- Frawley, K. 'An historical perspective on land use in Australia and the development of ethics and traditions which guide these practices', *The role of social Sciences in Natural Resource Management, Proceedings of Symposium, ACT Parks and Conservation Service, Conservation Series, no. 5, 1990.*
- Galligan, B., Lynch, G. 'Integrating Conservation and Development, Australia's Resource Assessment Commission and the Testing Case of Coronation Hill'. *Federalism Research Centre, Australian National University, Canberra*, 1992.
- Galvin, P. 'Protecting our Heritage - a matter of self respect', a paper prepared for the Australian Council of National Trusts Conference on Heritage and Conservation, 14 May 1990.
- Galvin, P. 'Opening comments by the Australian Heritage Commission Chairman to the RAC Inquiry into Australia's Forest and Timber Resources', internal AHC document, Canberra, 22 Oct. 1990.

- Gerritsen, R. 'Informing Wilderness Policy : Implications of wilderness conservation'. *Australian Journal of Public Administration*, vol 49. no.1, 1990, pp. 51- 62.
- Hawke, B. 'Speech by the Prime Minister to the Environment 1990 Conference', Sydney, 2 May 1990.
- Hawke, B. 'Economics and environment - getting the framework'. *Mining Review*, June 1990, pp. 3 -7.
- Howson, P. 'Australian Environment, Commonwealth Policy and Achievements, Ministerial Statement'. Commonwealth Government Printing Office, Canberra, 24 May 1972.
- Journal of the Tasmanian Wilderness Society*. 'Comments on the Report of the South West Advisory Committee', no. 10, 1979, pp. 12-13.
- Kelly, P. 'Clever politics or the clever country'. *The Australian Quarterly*, Summer 1991, pp. 352 -367.
- Kerin, J. 'Economics and the Environment'. *Canberra Bulletin of Public Administration*, no. 60, Feb. 1990, pp. 1 -15.
- Kerin, J. 'Greening and growing - the challenge we face'. *Mining Review*, June 1990, pp. 8 -11.
- McKinney, J. 'The Individual in a New Environmental Age'. *Australian Journal of Social Issues*, vol 8, no 1, 1973, pp. 3-12.
- Mills, R. 'Complex inquiries into resource uses poses challenges for industry'. *Mining Review*. June 1991, pp. 45-47.
- Puplick, C. 'Environment Policy Options'. discussion paper, Liberal Party of Australia, Canberra, Oct. 1987.
- Quinn, J. 'RAC - a waste of time and money'. *Mining Review*. June, 1991, pp. 48 -51.
- Rosauer, D. ' Conservation of Native Forests : the changing role of the Australian Heritage Commission'. a paper prepared for Senator Chamarette under the inaugural Australian National Internship Program, Canberra, 1993.
- Royal Australian Institute of Public Administration (ACT Division). 'Papers and proceedings from the National Conference on Development and Environment'. *Canberra Bulletin of Public Administration*, no. 62, Oct. 1990.
- Ryan, G. 'Cutting through the Green Tape', *Institute of Public Affairs*. vol 44, no 1, 1990, pp. 10-13.

Stewart, D. 'Speech to the UNSW Law Society'. internal RAC document, Sydney, 24 Sept. 1991.

Stokes, G. 'Conservation Consciousness and its Origins'. *Overland*, no 59, 1975.

Sullivan, S. 'The role of the Australian Heritage Commission'. a paper delivered at the ICOMOS conference, 19 Nov. 1992.

Tasmanian Wilderness Society. 'Saved'. *Journal of the Tasmanian Wilderness Society*, no. 19, 1983, pp. 2-7.

*The Mining Review*. 'Minerals survey points the way to reform', Jan 1989, pp. 25-32.

Wootten, H. 'The Australian Heritage Commission Act and the Natural Environment: A Conservation Viewpoint'. *Habitat*, vol 14 (1), Feb. 1986

Zimmerman, D. 'Let's have economic impact statements to assess red tape's growing effects.' *Mining Review*, March 1992, pp. 5-8.

### **Annual Reports, Government Reports and Legislation**

Australia, House of Representatives 1970 - 1995, *Debates*.

Australia, Senate 1970 - 1995, *Debates*.

Australian Conservation Foundation, 1973, *Annual Report, 1972-73*, Melbourne.

Australian Conservation Foundation, 1975, *Annual Report, 1974-75*, Melbourne.

Australian Conservation Foundation, 1977, *Annual Report, 1977-78*, Melbourne

Australian Heritage Commission 1977, *Annual Report 1976-77*, AGPS, Canberra.

Australian Heritage Commission 1978, *Annual Report 1977-78*, AGPS, Canberra

Australian Heritage Commission 1979, *Annual Report 1978-79*, AGPS, Canberra

Australian Heritage Commission 1980, *Annual Report 1979-80*, AGPS, Canberra

Australian Heritage Commission 1981, *Annual Report 1980-81*, AGPS, Canberra

Australian Heritage Commission 1981, *The National Estate in 1981* (D.G.D.Yencken, Chairman), AGPS, Canberra.

Australian Heritage Commission 1982, *Annual Report 1981-82*, AGPS, Canberra

Australian Heritage Commission 1983, *Annual Report 1982-83*, AGPS, Canberra

Australian Heritage Commission 1984, *Annual Report 1983-84*, AGPS, Canberra

Australian Heritage Commission 1985, *Annual Report 1984-85*, AGPS, Canberra

Australian Heritage Commission 1986, *Annual Report 1985-86*, AGPS, Canberra

Australian Heritage Commission 1987, *Annual Report 1986-87*, AGPS, Canberra

Australian Heritage Commission 1988, *Annual Report 1987-88*, AGPS, Canberra

Australian Heritage Commission 1989, *Annual Report 1988-89*, AGPS, Canberra

- Australian Heritage Commission 1990, *Annual Report 1989-90*, AGPS, Canberra
- Australian Heritage Commission 1991, *Annual Report 1990-91*, AGPS, Canberra
- Australian Heritage Commission 1992, *Annual Report 1991-92*, AGPS, Canberra
- Australian Heritage Commission 1993, *Annual Report 1992-93*, AGPS, Canberra
- Australian Heritage Commission 1994, *Annual Report 1993-94*, AGPS, Canberra
- Australian Heritage Commission Act 1975* (Cwlth)
- Australian Heritage Commission Amendment Act 1976* (Cwlth)
- Australian Heritage Commission Amendment Act 1990* (Cwlth)
- Australian Heritage Commission, 1986, 'National Estate Values of the APM Concession', internal correspondence, 26 September, Canberra.
- Australian Heritage Commission, 1987, 'National Estate Significance of the Lemonthyme area', internal AHC document, Canberra.
- Australian Heritage Commission, 1987, 'World Heritage Values of the Lemonthyme area, A submission to the Commission of Inquiry into the Lemonthyme and Southern Forests', internal AHC document, Canberra.
- Australian Heritage Commission, 1987, 'World Heritage values of the Southern Forests and other areas associated with the existing World Heritage area, a submission to the Commission of Inquiry into the Lemonthyme and Southern Forests', an internal AHC environment, Canberra.
- Australian Heritage Commission, 1988, 'A Report to the Minister for the Arts, Sport, the Environment, Tourism and Territories on the Cultural and Natural Heritage of South - Western Tasmania and on The Report of the Commission of Inquiry into the Lemonthyme and Southern Forests', internal AHC document, Canberra.
- Australian Heritage Commission, 1990, 'Forests and the National Estate, Part 4B, Protecting the Cultural National Estate Value of Forests, a submission to the Resource Assessment Commission Inquiry into Australian Forest and Timber Resources', internal AHC document, Canberra.
- Australian Heritage Commission, 1990, 'What Do We Want To Pass On To Future Generations? An Overview of Criteria and Assessment Procedures for the Register of the National Estate, internal AHC document, Canberra.
- Australian Heritage Commission, 1991, 'Summary of major reviews of the Commission', internal document, Canberra.
- Australian Heritage Commission, 1994, Australian Heritage Commission response to the report entitled Conservation of native forests: the changing role of the

- Australian Heritage Commission, internal document, Canberra.
- Australian Mining Industry Council, 1985, 'Submission to the Review of the Commonwealth Government's role in the conservation of the National Estate', August, Canberra.
- Committee of Inquiry into the Future of Lake Pedder, 1973, *Interim Report of the Committee of Inquiry into the Future of Lake Pedder*, Commonwealth Printing Office, Canberra.
- Department of Arts, Heritage and Environment, 1986, *Report of the Review of the Commonwealth Government's Role in the Conservation of the National Estate*, internal document, Canberra.
- Department of Arts, Heritage and the Environment, 1979, 'Piecing Together Environmental Impact Assessment, A guide to the Commonwealth Government's procedure for environmental impact assessment', 1979, AGPS, Canberra.
- Department of Environment, Housing and Community Development, 1978, *Second Annual Report, 1977*, Commonwealth Government Printer, Canberra.
- Department of the Arts, Heritage and Environment, 1986, *Annual Report, 1985 - 86*, AGPS, Canberra.
- Department of the Arts, Sport, the Environment, Tourism and Territories, 1988, *Annual Report, 1987 -88*. AGPS, Canberra.
- Fraser Island Environmental Commission of Inquiry, 1976, *Final Report of the Commission of Inquiry*, Commonwealth Government Printer, Canberra.
- House of Representatives Standing Committee on Environment and Conservation, 1979, *Environmental Protection, Adequacy of Legislative and Administrative Arrangements*, First Report, AGPS, Canberra.
- House of Representatives Standing Committee on Environment and Environment, 1979, *Environmental Protection, Adequacy of Legislative and Administrative Arrangements, First Report*, (J.C. Hodges, Chairman), AGPS, Canberra.
- Interim Committee on the National Estate, 1976, *Supplement to the Report of the Interim Committee on the National Estate*, Commonwealth Printing Office, Canberra.
- Marshall, D., 1993, 'Review of the effectiveness of conservation advice under the Australian Heritage Commission Act', an internal document prepared for the Australian Heritage Commission, Canberra.

- Mora, J., 1984, *A Report on Legislation to protect the National Estate*, Australian Heritage Commission, Canberra.
- O'Brien, M., 1990, 'What do we want to pass on to future generation? An Overview of Criteria and Assessment Procedures for the Register of the National Estate', *Australian Heritage Commission*, Canberra.
- Parliament of the Commonwealth of Australia, 1989, *Australian Heritage Commission Bill 1989 Explanatory Memorandum*, AGPS, Canberra.
- Report of the Committee of Inquiry into the National Estate 1974, *Report of the National Estate* (Justice R.M. Hope, Chairman ), AGPS, Canberra.
- Resource Assessment Commission, 1990, *Annual Report 1989-90*, AGPS, Canberra.
- Resource Assessment Commission, 1991, *Kakadu Conservation Zone Inquiry Final Report Summary*, AGPS, Canberra.
- Resource Assessment Commission, 1991, *Annual Report 1990-91*, AGPS, Canberra.
- Resource Assessment Commission, 1992, *Annual Report 1991-92*, AGPS, Canberra.
- Resource Assessment Commission, 1993, *Coastal Zone Inquiry, Final Report Overview*, AGPS, Canberra.
- Resource Assessment Commission, 1993, *Annual Report 1992-93*, AGPS, Canberra.
- Resource Assessment Commission Act 1989*, (Cwlth).
- Senate Select Committee on South West Tasmania, 1982, *Future Demand and Supply of Electricity for Tasmania and Other Matters*, AGPS, Canberra.