

Built Heritage Management Systems: Australia and Germany Compared

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A recent, unreported, focus group of international heritage practitioners from academia, urban planning, land use management and urban design, found interesting similarities and differences between Australian and German cultural built heritage (CBH) management systems. For validation, a literature review provided a methodological framework and is reported in this paper. Its objective is to confirm the principal themes elicited by the initial work, being: assessment standards, transferable development rights, heritage conservation incentives and private property rights' management thereby contributing enhanced clarity to the broader relationship between built heritage and stakeholder roles in heritage conservation. This paper is a precursor of more detailed planned empirical, in-country study seeking further insights into stakeholder interests and value systems based on a recent developed analytical approach known as Cultural Heritage Discourse (CHD). It is recognised that this empirical component is a limiting feature of the current research but anticipated as inevitable due to the preliminary stage of enquiry.

Keywords: Conservation of built heritage; cultural heritage discourse; heritage management systems; transferable development rights; Germany and Australia.

Introduction

In many parts of the world, in order to ensure the effective and efficient conservation of built heritage, the heritage sector has implemented management systems at different levels of government, aligned with international standards. These management systems include preservation, restoration, adaptation and reconstruction, while each management system responds to culturally framed values attached to the authenticity and integrity of built heritage (Australia ICOMOS, 2013), their implementation often varies or is restricted by perceptions of independent stakeholders. As a result, planning policy and regulatory frameworks are being adapted to deliver developments that are sympathetic to the unique character of the built environment. The scale of new developments and the arguably increased preference for contemporary architecture poses challenges for efforts to conserve irreplaceable heritage assets. Di Giovine and Majewski (2018)

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note that one solution – from an ethical point of view – is for stakeholders to incorporate multicultural and intercultural paradigms into innovative frameworks to guide the increasingly tumultuous conservation process.

The paper aims to understand the current systems in two countries, Australia and Germany, by examining each country's legislative and regulatory frameworks and gathering findings to address the challenges faced in the governance, planning and management of built heritage needed to achieve a sustainable built environment amidst significant pressures for growth and change. These two countries were chosen for three reasons. Firstly, both countries experience continual social, economic and environmental shifts that have resulted in pressure to deliver new development within the already existing fabric. Secondly, their management systems have vastly different organisational and hierarchical structures – Australia has a decentralised three-tier structure while Germany has a more centralised conservation framework (Amar, 2017; Holtorf, 2007). Thirdly, both countries, like many other countries around the world, are seeking a sustainable framework that can bridge the gap between the micro-level (perceptions) and macro-level (legislative and regulatory) factors for built heritage conservation (BHC) (Mualam and Barak, 2019).

Within this contextual frame, a review and analysis of heritage literature has been undertaken to evaluate how Australia and Germany can achieve sustainable BHC. The direction and structure of the literature review are influenced by a recent, unreported, focus group of international heritage practitioners from academia, urban planning, land use management and urban design, which noted interesting similarities and differences between Australian and German cultural built heritage (CBH) management systems. The literature confirms and expands on four principal themes elicited by the initial work – assessment standards, transferable development rights, heritage conservation incentives and private property rights management – thereby contributing enhanced clarity to the broader relationship between built heritage and stakeholder roles in heritage conservation.

The paper proceeds as follows: The following section gives a brief overview of each country's background in the context of geography, demographics, history and the protection of heritage assets; the third section undertakes an initial comparison of the Australian and German BHC with the aim of scoping some similarities and variations of policy and practice, as each country presents an integrated management system which reflects heritage continuity; and the fourth section discusses Australian and German culture and the role these play in delivering a sustainable legislative and regulatory framework for BHC. The final section comprises the conclusion.

An Overview of BHC Management Systems in Australia and Germany

Background to Case Studies

Australia is the sixth largest country on Earth, occupying one-fifth of the world's land mass. However, most of this landscape is classified as desert, which

is distributed throughout the western plateau and interior lowlands (Amar, 2017). Despite a sparse average overall density of 3.3 people per square kilometre, most of Australia's population is concentrated in coastal cities, with 86% of its 25.6 million population living in major cities (ABS, 2020). These cities have a footprint of medium to high density development extending from inner-city districts to urban infill areas as well as outer suburbs with low-density housing (Cresswell and Murphy, 2016). However, the history of the Australian cultural environment reflects both the remnants of over 60,000 years of non-urban settlement by Aboriginal and Torres Strait Islanders (Armitage and Yau, 2006) and the European and non-European settlements established during the century or so either side of the federation of former British colonies as the Commonwealth of Australia in 1901 (Amar, 2017). The Commonwealth of Australia is made up of six states and two territories.

The present-day Federal Republic of Germany (commonly referred to as Germany) was formed in 1990 with the reunification of the 16 states (the so-called *Bundesländer*) of East and West Germany (Schmidt, 2008). Germany is located in Western Europe and had an estimated population of 83.5 million in 2019 (UN Population Division, 2019), of whom 77.3% live in urban settings, particularly in the west of the country. The population is tightly packed together, with an average density of 237.8 people/km²; in June 2018, Berlin, Hamburg and Munich had population densities of between 2,367 people/km² and 4,672 people/km². Due to this situation, Germany's urban spatial planning policies have set restrictions on urban density coverage (Krehl and Siedentop, 2019), which facilitate the development of 'new centres' – urban edge densifications of commercial and service sectors – away from the historical places of the inner cities. These historic places include medieval and Romanesque structures of the Germanic tribes, an Indigenous group from Northern Europe, as well as contemporary architecture (Krehl and Siedentop, 2019).

An Overview of Australian BHC

From the second half of the 19th century, Australian cities and towns became increasingly urbanised. This urbanisation was combined with failing infrastructure and environmental problems in the 1880s, prompting stakeholders to establish town planning schemes to transform and improve urban amenities (Hussein *et al.*, 2014). As a result, heritage assets were either demolished by neglect or refurbished to pave the way for modern buildings equipped with technology (Amar, 2017). This continued until the 1950s, when BHC was of special interest for two groups: the private sector and community groups. The private sector focused on the commodification of grand colonial architecture and self-efficacy (Freestone, 1993), while community groups, such as the Royal Australian Historical Society and the National Trust, focused on conserving the authenticity and integrity of the historic fabric (Hussein *et al.*, 2014). Due to their differing aims, there were often conflicts between the private sector and community groups. Resolution of the conflict sometimes required unusual alliances; for example, the Builders' Labourers Federation (BLF), an environmentally activist labour union, teamed

with more conservative stakeholders like the National Trust in Sydney in the 1970s, creating the Green Bans movement to protect significant heritage assets from destruction (Amar, 2017).

Historically, a limited range of BHC decisions were carried out under the *Australian Heritage Commission Act (1975)*, which was repealed and replaced by the *Australian Heritage Council (Consequential and Transitional Provisions) Act 2003*. This was followed by the introduction of state and territory heritage acts as follows: Victoria in 1974, New South Wales in 1977, South Australia in 1978, Queensland in 1992, Tasmania in 1995, Australian Capital Territory in 2004 and Northern Territory in 2011. Since their implementation, these laws have been amended and/or repealed in response to changing management goals for the identification, assessment and interpretation of heritage values of significant places in the face of development pressures and evolving community perceptions. In addition to the state and federal heritage acts, BHC plans are integrated into local governments planning schemes. The current national framework for heritage conservation integrates BHC alongside nature conservation and Indigenous cultural heritage recognition in the *Environment Protection and Biodiversity Conservation Act 1999 (Cth) (EPBC Act)*. The Commonwealth's role in BHC remains limited, however, and the States are the most significant players.

This three-tier heritage management system provides statutory criteria and thresholds which differ widely (Heritage Division, 2008). For instance, the National (Commonwealth) Heritage List inscribes places of outstanding heritage value to the nation such as the First Government House Site, built in 1788 and representing a tangible link with the foundation of European administration and settlement in Australia (Kelso, 2017). The State and Territory Heritage Registers stress the broader context of the evolution and development of the jurisdiction. For example, in Queensland, the Albert Bridge crossing the Brisbane River between Indooroopilly and Chelmer, Indooroopilly, built in 1894, was entered in the State Heritage Register for its contribution to the railway system linking the capital with southern and western Queensland and for its riverscape setting. Local government heritage listings are designed to portray socioeconomic and historical character of local areas. For example, Adelaide's Historic (Conservation) Policy Area 3 protects 1880s bungalows or villas with grand architectural quality representing the special historic residential character of Medindie, Adelaide (Government of South Australia, 2016).

The federal government plays a critical role in conserving heritage assets with *outstanding universal value* inscribed in the World Heritage List in accordance with the UNESCO World Heritage Convention (Heritage Division, 2008). The register is linked integrally to Sections 12-15A of the EPBC Act 1999, which requires international best conservation practice in preserving, restoring, adapting and reconstructing outstanding heritage places. By June 2019, there were around 47,403 heritage assets that had been thoroughly researched, documented and inscribed in statutory heritage lists administered by the three levels of government. In addition to these, community and professional organisations – such as the National Trust, the Royal Australian Institute of Architects and Engineering Heritage Australia (Productivity Commission, 2006) – maintain

heritage lists generally consistent with the Australia ICOMOS Burra Charter but provide no legal protection. Each tier of government employs some BHC initiatives, ranging from grants for conservation works to legal and (limited) financial incentives to compensate heritage-owners for foregone development opportunities. Yet, despite these protections, the illegal demolition of built heritage and loss by neglect have increased in Australia over the last two decades (Amar and Armitage, 2019).

An Overview of German BHC

Present-day Germany has over 2,000 years of remarkable history, including ancient civilisations from Germania to Francia and the Holy Roman Empire. Swenson (2013) states that the practice of BHC was introduced in Germany by architect Karl Friedrich Schinkel in 1815 with the institutionalisation of the *Memorandum zur Denkmalpflege* (Memorandum on the Preservation of Monuments). Schinkel's actions were prompted by the French Revolution and the British Industrial Revolution in the late 18th century, both of which prompted political unrest and iconoclastic crusades in Germany (Blackbourn, 2012) and led to the demolition of the oppressive built forms associated with aristocratic and ecclesiastical symbols of the feudal system (Swenson, 2013). In recognition of the impact of iconoclasm on Gothic architecture (Denslagen, 2009) and the disappearance of ancient buildings, monuments and sites, antiquities conservator societies began campaigning actively for the preservation of built heritage (Glendinning, 2013). Subsequently, the *Memorandum zur Denkmalpflege* established a state organisation for the country's inventory of built history and BHC was formally assigned to the *Kultusministerium* in 1835 (Swenson, 2013).

Between the 1830s and 1900, BHC movements in Germany shifted from antiquarian nostalgia to overlapping conservation philosophies riven by Viollet-le-Duc's restoration approach and Ruskin's preservation principle (Glendinning, 2013). The sharing of discourses on the history, use and aesthetics of monumentalism nevertheless contributed to the widespread popularity of Gothic revival styles (Weiler and Gutschow, 2016). This BHC approach was inspired in part by the Romanticism of national identity after the Napoleonic Wars, as argued by the art historian Wilhelm Lübke in the 1860s (Denslagen, 2009); the 1850s Cambridge ecclesiological movements of the Anglo-Catholic church which brought refined structure with Gothic revival architecture (Glendinning, 2013); and the Jugendstil movement in the mid-1890s, which strove to design a new vision of medieval architecture in the industrialised built environment (Swenson, 2013). These three approaches facilitated the modernisation of the built environment and the destruction of built heritage nationally, leading to the *Heimatkunst* movement – a socialist system for the protection of natural and cultural heritage – in the 1890s, as publicised by Adolf Bartels, who argued for a reconceptualised BHC.

The *Bund Heimatschutz* association was established in 1904 following mass protests against construction and development projects impacting historical townscapes in 1903 (Jõekalda, 2019). The protests occurred in response to the *Tag*

für Denkmalpflege (Preservationists Congress) held in 1900, which stressed the continuity of pre-industrial national monuments (Carughi and Visone, 2017) in line with enactment of two comprehensive Monument Acts: Hessen-Darmstadt in 1902 and Duchy of Oldenburg in 1911 (Swenson, 2013). More specifically, heritage legislation prohibited the alteration or destruction of listed historic assets under private and public ownership without an approval from the Council of Historic Monuments (*Denkmalrat*). According to Von Trützschler (2016), the protection of historic assets was embedded in the planning legislation and tax laws as well as the Constitution of the German central government as part of a broader BHC movement between 1914 and 1933. This, however, had little impact on BHC during the Nazi regime. As Veltman (2015) shows, nearly 90% of listed German monuments had been destroyed by 1945.

The post-war split between East and West Germany impacted BHC significantly. In conformity with the international BHC movement, the German Democratic Republic (in East Germany) adopted the Regulation for the Conservation and Maintenance of the National Cultural Monuments in 1952, with each *Länder* (state) formulating legislation for effective BHC between 1971 and 1980 (Von Trützschler, 2016). This period (1965 to 1980) embraced the State Conservation Authorities' responsibilities to conserve built heritage, from classical and biblical through to colonial and national. However, Petzet (2002) found that conservation authorities lacked incentives and funds, resulting in the rapid deterioration of the historic fabric until 1990. However, after unification and based on West German laws (Von Trützschler, 2016), the Regional Office for the Preservation of Monuments (*Landesdenkmalamt*) was established to manage BHC programs related to the federal and *Länder* levels (Haspel, 2011). The *Landesdenkmalamt* is responsible for supervising the implementation of BHC initiatives in planning and development legislation at the local level. Today, over one million historic buildings, monuments and sites are listed under Germany's centralised heritage management system (Ringbeck, 2017).

Similarities and Differences of Australian-German BHC Management Systems

At first glance, both Australia and Germany appear to have similar management systems for BHC as both are federations with power sharing at different levels of governance *viz* local, state or territory and national (Amar, 2017; Geppert and Meller, 2015). This means that each jurisdiction has its own protection and development of a legal framework for historic buildings, monuments and sites for BHC. However, Germany is a republic *bundestag* and Australia a constitutional monarchy. The analysis of similarities and differences between the countries' heritage management systems for BHC will now be discussed under the four principal themes: assessment standards, transferable development rights, heritage conservation incentives and management of private property rights. These four themes emerged from a focus group of key informants and heritage stakeholders, conducted at the start of what will be a larger collaborative research project

comparing BHC management approaches in the two countries and is currently in progress.

Assessment Standards

The current BHC systems in Australia and Germany grew largely out of national and, later, international heritage movements that were putting pressure on each country's government to protect heritage assets from destruction associated with the modernisation of their respective built environments. However, their BHC systems have since travelled in opposite directions since the inception of value-based system assessment criteria. As observed by Mason and Avrami (2002, 24), the concept of a value-based system evokes a hybrid-built environment that arises from '*maximising one type of value and minimising other types of value.*' Interestingly, Amar (2017) observes that the perception of heritage is evolving from a static, protectionist, view to one which recognises and incorporates the dynamic nature of cultural continuity and contemporary innovations in architecture, materiality and technology. (Jackson, 2017). The following section discusses assessment criteria in the context of Australia and Germany.

The Australian government's current approach to assessment criteria is the EPBC Act 1999, which aims to facilitate the cultural continuity of heritage assets of national significance. As noted earlier, the EPBC Act sets out frameworks acknowledging the power of state Heritage Councils to conserve built heritage deemed significant by the local, state/territory, national and international communities to varying degrees. A similar approach is underpinned in the two legal systems – the *ipso jure* system and registration system – responsible for the conservation of German Länder's built heritage (RICS, 2007). The former automatically protects heritage assets on the basis of outstanding significant values (Maennig and Just, 2017) and the latter focuses on listed heritage places by virtue of the values they represent at the *Länder* and district levels (Haspel, 2011).

The Australian and German governments operate assessment standards for BHC very similarly. The noticeable deviation is in finding the middle ground between cultural continuity and heritage modernisation. The *Baugesetzbuch, BauGB 2004* (German Federal Building Code) is founded upon its warrant for cultural continuity, so if (re)development projects threaten heritage values, they may be required to be located on the urban fringe away from historic inner-cities and heritage landscapes, as can be seen in Berlin (Rode, 2016). Australian BHC assessment standards, in contrast, tend to attract heritage modernism at the expense of cultural continuity (Amar and Armitage, 2019). For example, in recent history there has been an increase in development approvals which permit new construction to 'hang over a heritage-listed building' – such as the Quest Hotel which is cantilevered over the heritage-listed Charsfield Mansion constructed in 1886 at 478 St Kilda Road in Melbourne – and, taken to extreme, illegal overnight demolition of listed buildings as a consequence of central business district plans such as the Kurilpa riverfront renewal initiative operating under the Brisbane City Centre Master Plan 2014.

Transferable Development Rights

Transferable development rights (TDRs) refer to a town planning zoning approach used to mitigate the interaction between property law, land-use planning policy and tradable rights (Shahab *et al.*, 2019). Traditionally, TDRs have been used to preserve ecologically sensitive areas, conservation zones and farmland. The main focus thus far has been recognition of development restrictions faced by *place entrepreneurs* (Logan and Molotch, 2007). In the heritage sector, place entrepreneurs are stakeholders who purchase the rights to intensify the use of heritage assets in order to guarantee their preservation and sustainable development (Logan and Molotch, 2007). Thus, place entrepreneurs are ubiquitous to the TDR schemes which are an option available under both Australian and German BHC management approaches.

The *Sydney Local Environmental Plan (SLEP) 2012* is an example of NSW planning policy. Heritage Floor Space (HFS) is awarded to heritage owners for their commitment to BHC which could otherwise lead to the loss of profit due to the 'financial burden' of ownership and maintenance of historic buildings (Freestone *et al.*, 2018). Its TDR schemes facilitate infill development by moving from a zoning-based to place-based conservation plan. According to Freestone *et al.*, (2018), the HFS schemes have protected over 150 heritage-listed buildings and supplied 174,379 m² of development potential to infill sites between 2004 and 2019. However, TDRs are perceived as encouraging architectural façadism (Amar, 2017) and, as detailed by Kyriazi (2019), façadism is associated with destruction of the heritage values attached to the structural authenticity and integrity of heritage assets. This is clearly evident in a 2018 case (Lenaghan, 2018), where the Brisbane City Council approved the merging of two heritage-listed buildings at 155 Charlotte Street and 150 Mary Street, allowing the development of a 42,000 m² premium commercial tower Brisbane's TDR scheme, Transferable Site Area (TSA), has provided much less incentive for heritage conservation since building height restrictions were removed in the Brisbane City Centre Master Plan 2006.

Although Germany does not use TDR for BHC, it has been operating a pilot TDR scheme for reducing urban sprawl, known as the *Flächenausweisungs Zertifikate* (FAZ) (Tradable Development Certificates), since 2009. Under FAZ, the reduction of natural land is compensated by the conversion of brownfield/infill sites into transferable floor area for inner-city development (Proeger *et al.*, 2018). In this way, Germany can fulfil the national land consumption limits (30 ha/day in 2020), as demonstrated by a case study of the implementation of FAZ in eleven municipalities in the Hanover region (Henger, 2013). The BHC plan does not enforce FAZ, despite growing interest from German municipalities. TDRs have an impact on heritage assets and Australian and German BHC systems respond to TDRs in different ways. The Australian approach promotes efficiency and profitability in private property rights (Freestone *et al.*, 2018), while the German method aims to create a balance of conservation and development (Proeger *et al.*, 2018).

Heritage Conservation Incentives

The effort to conserve heritage assets has been supported by integrated land use planning policies. Although land use planning policies appear to be a powerful tool for ensuring sustainable development, the heritage sector has had little success in using these in conservation areas due to associated challenges and TDRs are one example of this. While on the one hand, TDRs focus on the capacity of heritage assets to meet the growing demand for urban intensification and the release of enhanced inner-city land values, on the other hand, TDRs have required individual owners to raise funds for the long-term maintenance needs of heritage assets consistent with conservation plans. Consequently, there is an increasing number of cases of demolition by neglect of built heritage, particularly those with limited development potential as found in non-central locations (Amar, 2017). To mitigate this, different countries, including Australia and Germany, have promoted other BHC initiatives – including conservation incentives and heritage exemption certificate – which are discussed below.

In Australia, the implementation of conservation incentives has been via a succession of often short-lived programs, including: a 20% tax-credit under the Tax Incentives for Heritage Conservation program (discontinued in 1999) operated by the Cultural Heritage Projects Program (CHPG) 1999 (discontinued almost immediately); AUD 21.4 million conservation grant linked to the Australian Heritage Grants Program; and ongoing AUD 77,000 conservation subsidies given to the state and territory offices of the National Trust via the National Trust's Partnership Programme.

In Germany, there are also three primary BHC incentives. Income tax law allows a 100% credit spread over ten years for the loss of profit related to heritage maintenance costs and fabric decay. Public grants play an important role, for example the *Städtebaulicher Denkmalschutz* (Protection of the Urban Architectural Heritage) program has funded the preservation in over 300 historic towns and cities. State subsidies are also offered, such as the *National wertvolle Kulturdenkmäler* (Nationally Valuable Cultural Monuments) that has funded conservation projects worth €280 million for the restoration and rehabilitation of heritage-listed assets owned by the private sector.

Both Australia and Germany provide a system of conservation incentives to strengthen and reward the participation of heritage owners in sustainable conservation which, in turn, fosters a whole-of-life management BHC system reflecting the consideration of cost/benefit analysis. However, a demand and supply gap persists in the heritage sector (Pickard, 2001) and, over decades, this has created an environment where demolition by neglect is a common strategy for many place entrepreneurs (Fouseki and Nicolau, 2018). Brisbane is an extreme case example, with McCosker (2018) reporting that over 140 pre-1946 historic buildings were demolished between 2014 and 2018. The same has occurred in Germany. A recent example is the demolition of 180-year-old listed building called *Uhrmacherhäusl* also known as the Watchmaker's Cottage of Giesing in southern Munich. A recent decision on appeal has resulted in the owner being

required to reconstruct the property with the same cubature (The Local Europe 2017)

To achieve sustainable BHC, while taking into account development pressures, raises the need for incentives in conservation areas and Australia and Germany both issue heritage exemption certificates (HECs). In Germany, the HEC system is connected to the federal Income Tax Act. Following the inspection of the heritage asset, the Conservation Authority issues a tax exemption certificate relieving the heritage owner from paying either property, land or inheritance tax (Maennig and Just, 2017). In practice, if a heritage asset has been owned by the same family for at least 20 years or serves the public interest through education, it is granted full tax exemption. Australian heritage acts manage a different HEC system: for example, authorising the carrying out of development for the purpose of meeting building codes or planning overlays such as flood zones if there is minimal impact on the heritage significance of a place. Recently, HECs have delivered positive results. For example, Victoria approved 917 HECs in 2017/18 with successful conservation work valued at just over AUD 977,145,012 (Heritage Council of Victoria, 2018). Yet, HECs can also facilitate heritage destruction; for example, the conversion of the 1870s Brisbane Irish Club into a ‘heritage cinema’ (Hinchcliffe, 2015). Therefore, more attention should possibly be directed towards developing BHC mechanisms that conserve heritage whilst taking into account the nature of ownership and the financial burden for maintaining heritage assets. Like Germany, Australian HECs should pay more attention to actively managing conservation areas.

The Management of Property Rights

The challenges the heritage sector faces in achieving sustainable conservation are the result of an increasingly *laissez-faire* economy and the consequential management of private property rights attached to built heritage (Rappoport and Freestone, 2011). The establishment of tradable allowances can be used to incentivise owners of private property to deliver sustainability in the built environment. This concept is an attempt to mitigate the ‘tragedy of the commons’ – essentially economic self-interest, resulting in overconsumption (Hardin, 1968). So, the determination of property rights is significant in designing strategies for the development, conservation and accessibility of the built heritage. However, BHC legislation is often viewed as an interference in private property rights; for example, the German *force majeure* system automatically registers places over a certain age as built monuments (RICS, 2007), while Heritage Councils in Australia may inscribe places in heritage registers. This has led to longstanding tension between the public, private and community sectors as heritage owners are not willing to forego their rights to dispose or redevelop heritage assets since such rights are viewed by many as being fundamentally constitutional (Jora *et al.*, 2019; Lubens, 2007).

To this end, in many parts of the world, coercive sanctions such as fines, total bans and even imprisonment (Pickard, 2001) have become a pragmatic necessity in heritage sectors to prevent private owners from destroying built heritage. The

key principle of coercive sanctions is not to deprive these owners of economic opportunities but rather to manage adaptive reuse through mechanisms such as TDRs and HECs in a way that conserves heritage values, integrity and authenticity. However, such conservation tools have been argued as undermining broader efforts to safeguard built heritage (Macdonald and Cheong, 2014) as coercive sanctions generate negative publicity and do not bring back the lost heritage. In a limited number of celebrated cases, Australia has used this tool to impose hefty fines for the destruction of heritage assets as a deterrent. For example, there was wide media coverage in Australia in 2019 when a private developer was fined AUD 600,000 for the demolition of the Melbourne Corkman Irish Pub heritage listed building. Some critics argue that such fines fail to be paid or are reduced on appeal – as was the case here – and owners who criminally destroy built heritage are subsequently given planning approval (Lane 2018).

In both Australia and Germany, the demolition or damage to historic buildings, monuments and sites in a conservation area without approval from the responsible authority is deemed a criminal offence (Pickard, 2001). Germany's coercive sanctions, under the *Historic Preservation Act of the GDR* (1975), are similar to those used in Australia; however, in contrast, their application is considerably stricter (Von Trützschler, 2016). For example, when failure to conserve built heritage becomes evident in Germany, the offender is required to pay a fine in addition to re-erecting the destroyed built heritage and, in extreme circumstances, may be sentenced to two years' imprisonment. In the case of *Uhrmacherhäusl* in Giesing in southern Munich referred to earlier, the heritage owners are expected to be charged a hefty fine of up to €250,000 and must rebuild the 180-year-old protected building brick-by-brick as per Bavarian heritage laws (The Local Europe, 2017). These contrasting examples illustrate that cohesive sanctions as conservation tools for the management of private property rights in these two countries are aligned in principle but vary in practice, being responsive to the local political and social context.

Discussion: Comparative Reflection and People-centred Models for BHC

Essentially, the Australian and German systems for BHC are more similar than they are different, and their goals are congruent — to preserve, restore, manage and conserve the built heritage of their communities. In the light of the above discussion, however, Australia has a greater opportunity to learn from Germany than *vice versa*. Of the two, Germany has a more robust BHC system embedded in 17th and 18th century values. This may explain why Germany has been able to deliver and sustainably carry out its conservation activities even after experiencing the traumas of many wars, including the Napoleonic Wars, World War I and World War II, as well as during West and East German separation and subsequent reunification. Perhaps Germany's historical belief in cultural monumentalism has sustained its system of BHC and it is no surprise there are over a million listed-heritage places in Germany. This cultural monumentalism

deserves careful study by the Australian heritage community to reduce the gap between BHC policy and practice, as this may help to curb the currently accelerating demolition of Australian heritage assets.

Australia and Germany must both learn ways to limit the intercultural gap in their BCH systems. Croucher *et al.* (2015, 71) define interculturalism as the ‘*communication between individuals from different national cultures.*’ Over many decades, both countries have witnessed cultural changes and increasing pluralism. For example, during much of the 20th century, communities in both countries supported BHC for the purpose of national identity, social justice and diversity and inclusivity while, in the late 20th and early 21st centuries, both have experienced a resurgence of efforts to create a modernised landscape to display technological advances and economic prosperity. In different ways, these generations have created a unique path for BHC that can never be reduced to a single management system with some subcultures proving supportive and others creating challenges for the sector. So, the fact that discussion of perceived generational subcultures in BHC is limited in the Australian heritage literature lends weight to its emerging contribution to the ongoing processes of change with respect to heritage theory, practice and policy.

In the case of the management of property rights, it is evident that owners of heritage assets have the upper hand in Australia due to the lax implementation of sanctions relating to BHC failures. It is unhelpful that land use planning tools are aligned with new development to further the expansion of the built environment to meet social and economic demands rather than also encouraging the conservation of existing built heritage. For example, the Hobart City Council Planning Committee issued development approval for the construction of townhouses at a 55 Mount Stuart Road site where an 1890-era heritage-listed building had been illegally demolished and the developer fined AUD 225,000. This poses the question of whether coercive sanctions really do protect built heritage under private ownership, even though these assets are considered as a public good (Hosier, 2019). However, it might be easier for Australia to adopt a more stringent regime as characterised by the more strict German approach, which is very effective. The lessons drawn can be moulded to fit the Australian BHC system without requiring total restructuring, as both countries operate similar heritage policies for property rights’ management. It is in the implementation and enforcement that the differences are greatest between the two countries’ BHC systems.

Nonetheless, BHC is undoubtedly complex, especially within the urban spatial structures representing the distribution of human activities in the built environment. In other words, the world is becoming a global village where trade barriers are lessened, and borders are opening up, notwithstanding the temporary impact of the Covid-19 pandemic in 2020-2021. Both Australia and Germany should take the opportunity to learn about BHC systems from other regions of the world. No country is superior in all areas of BHC and, while each country’s socio-cultural, political, economic and environmental needs evolve, many basic approaches to BHC flow in parallel. This will facilitate other cultures to easily participate in more effective BHC, particularly now when the world is

experiencing extensive displacement and migration. For example, Amar (2017) indicates a lack of multicultural awareness within Australian BHC which facilitates the destruction of historic fabric in places (such as Hurstville in New South Wales) where heritage legislation tends to favour Eurocentric built heritage as opposed to that of more recent non-European migrants. In Germany, some efforts to protect inner-city heritage may stimulate unsustainable suburbanisation and loss of non-urban landscapes, putting increasing pressures on the land's resources and suggesting the need for increasing residential density in the expanding suburbs.

In this context, a people-centred model would be the most appropriate to reconcile the values, authenticity and integrity of built heritage with the divergent aspirations and experiences of people within the built environment. Perhaps it is more important, in terms of Australia and Germany, to understand how this people-centred model would intricately connect these elements into their current multi-tiered BHC systems and open up a new interdisciplinary and community-led growth perspective. As Chitty (2016, 34) states:

There are changing demands on, and expectations of, cultural heritage in society and a need for approaches that are built on greater consensus and collaboration to ensure objectives are met in a sustainable way. Improving the relevance and effectiveness of contributions of those already involved in conservation and management of heritage, as well as facilitating the engagement of new audiences, has become a priority for many countries in the twenty-first century.

The concept of people-centred BHC (also referred to as *people-centred preservation*) was first introduced in 2017 by the National Trust for Historic Preservation (NTHP, 2017) in the United States. This concept was crafted with democratisation in mind so that the more BHC policies offer recognition by identifying the different ways which diverse stakeholders use to value built heritage, the less resistance to BHC is likely to arise. But firstly, Australia and Germany share the assumption that the discussion is about how a neutral BHC system – one associated with *laissez-faire* policies and the other conservative policies respectively – should treat the values of their people, especially in a time where multiculturalism, interculturalism, liberalism and nationalism have become defining features in the planning and development of the built environment.

Conclusion

From this introductory comparative analysis of the BHC systems of Australia and Germany, the need for such systems to be sensitive to the dynamic nature of their societies, whose perceptions of the role of BHC continue to evolve in sympathy with broader international trends, has become apparent. The many strengths, and some weaknesses, of both systems have been identified and further empirical work is in hand to more fully investigate these evolving themes with a view to enhancing and strengthening the systems of both countries through mutual exchange of perspectives for the greater benefit of the management and protection

of these assets for long-term community benefit. Further stages of the comparative research will include a more detailed empirical, in-country study seeking further insights into stakeholder interests and value systems based on the recently developed analytical approach known as Cultural Heritage Discourse (CHD) (Amar, 2017).

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