



**Malcolm Garder**  
**FAPI, Dip TCP (Syd)**

### **Abstract:**

With many more properties being affected by heritage schemes and demolition control, Valuers have to be able to identify heritage issues. The author uses an example where a local Council purchased an industrial building for demolition and was prevented from demolition by its own heritage study.

# **Advising on Heritage**

## **Broadening the role of the Valuer**

**W**ith many more properties now affected by heritage provisions Valuer's must now be able to identify potential heritage problem areas as well as possible areas of advantage. Valuers must be able to indicate when heritage advice is required. Advising on heritage is now as important as advising on the more familiar matters.

Valuers have traditionally advised when additional property searches are necessary whether the searches are for copies of existing documents i.e. easements, covenants, plans, approvals, surveys etc or whether new searches and documentation is required i.e. environmental audits, additional surveys, zoning certificates, engineering certificates.

Many valuations now require that further searches and enquiries be undertaken. A Valuer with the hint of a heritage problem in an unfamiliar area should commission an appropriate Heritage Consultant. The biggest problem is of course to recognise when further heritage enquiries are required.

Heritage and Town Planning enquiries have to be made verbally to Council Planners and other property professionals in the area. Many of the enquiries have to be made verbally as Councils interpret the various State Environmental Policies (SEPP) quite differently. For example in NSW, SEPP 10 which was designed to protect low-income housing, is ignored by many Councils. Councils in affluent areas will

often allow old blocks of flats to be strata titled and sold as strata titled units. In other areas, particularly low income areas, strata title conversion of old flats is not permitted under SEPP 10 and tenants cannot be ejected from old boarding houses for their restoration and reconversion back to a single dwelling.

Getting the wrong interpretation of the affect of SEPP 10 could halve the value of a block of units or an old grand home.

Councils in NSW now have demolition control and a Development Application (D A) is now required before demolition. Council's can now even list a building on a heritage list identified during the consideration of a D A for its demolition. In other words the client makes all the right enquiries prior to purchase and there are no listed Heritage Items on site, demolition approval can be denied if subsequently a heritage building is identified on site.

A Valuer should have enough heritage knowledge to know when a building could be considered significant. It is not sufficient to rely on the Estate Agent saying the building is not listed - "its old rubbish and of course the Council would be pleased if you pulled it down and improved the area." Apart from this brash sales type approach many estate agents just cannot identify significant heritage buildings, particularly if they work in an area surrounded by old buildings.



The old developers ploy - "I bought the site as a redevelopment site and will lose money if I cannot demolish and develop" will not wash in the Courts any more.

The Land & Environment Court supported Woollahra Council when it amended its heritage list to save a house that had heritage significance. A developer had already bought Leamington at 48 Darling Point Road with plans to demolish all improvements and redevelop the site. Council only amended its heritage list to include Leamington when Council was considering the development application.

The case was run by Jeremy Bingham, Woollahra Council's legal advocate and a partner in Deacons, Graham & James, who stated: "The attitude to heritage criteria has changed over the past 20 years and heritage lists are being updated constantly."

"The best advice [is] to keep checking the list before any significant plans are made." Mr Bingham went on to say: "There are obvious buildings that are heritage items, but only 20 years ago the Queen Victoria Building was not one of them and there were applications lodged to demolish it."

Having an understanding of local Council's heritage scheme and its aims and objectives is essential for developers and Valuers. Leichhardt Council has recently (1998) brought out a policy to conserve weatherboard worker's cottages (Development Control Plan No 20).

The Leichhardt Council has always tried to provide for a mix of housing types and sizes to preserve the diversity of the area. Council Planners and residents were concerned that the character of the area was changing as good modest weatherboard housing was being replaced by large homes for the well off. It was considered that these cottages, many of which were



Weatherboard workers cottages protected by DCP 20





Photo — Before and after Jaques Street, Balmain

built last Century, would fast disappear if their demolition continued at the rate it had over the last few years.

Many of these weatherboard cottages were purchased as small redevelopment sites over the last five or so years. The weatherboard cottages were particularly popular with developers as many were run down, they were cheap and could easily be demolished. Often they were also on large lots and could be replaced with a pair of two storey semi-detached cottages (town houses). The site FSR's were increasing 3 or 4 times.

Developers are still buying these cottages with the hope of redevelopment. The cottages are usually not grand and do not appear to be of

significance; they also are not listed individually on the Heritage Plan.

A Valuer would therefore have to have knowledge of the existence of Development Control Plan No 20, Conservation of Small Detached Houses, to advise a client buying cottages for redevelopment purposes.

If the Valuer valued a site as a development site when the improvements were a weatherboard cottage he would be overvaluing and the client would have a legitimate claim against the Valuer and his Professional Indemnity Insurance.

As noted before demolition is now considered to be development and a D A has to be approved by Council.

Council would most likely refuse demolition of weatherboard cottages.

Heritage conservation does not only apply to attractive old buildings with a commercial or residential use. It may apply to a landscape with old barns and a hay shed, a convict built road, a mining works or old factory.

## Case Study

An old tramway depot in the back streets of Rozelle, NSW was saved from demolition by Council recently after having been purchased by Council for demolition.

As Leichhardt Council's Valuer, I was asked to place a value on the Rozelle tramway depot for purchase from the Public Transport Commission.

The depot, located in Hancock Street Rozelle, was quite small and had been vacant for many years. The depot had been identified by the local Chamber of Commerce as a suitable site for shopper parking on the southern side of Victoria Road just off Darling Street.

The shopping centre in this area has in recent times been very depressed particularly when compared to the booming Balmain strip shopping centre. The Chamber of Commerce believed the lack of parking was the problem. Because of the high residential density and the narrow streets there was only one site suitable - the old tramway depot. The Chamber of Commerce and Council were keen to purchase this site particularly as it did not require the demolition of any cottages. The site was to be purchased with the shopkeepers parking contribution funds.

My instructions were to value the site on a highest and best value basis, which would have been residential redevelopment or an alternative use of the buildings.

On inspecting the site it was obvious that the buildings were unique in this



area and that they could have social significance. They had been built early this century as part of the first tramway system.

The buildings were built in the Federation style with Marseilles tile roofs and red brick walls. The depot consisted of a brick workshop with mechanical pit to the lower storey, lunchrooms, changing facilities and a small caretaker's cottage.

In the Valuation I recommended that Council's Planning staff be consulted prior to purchase in regard to heritage concerns, and as the site was an old industrial site I also recommended an environmental audit be conducted prior to purchase. My Valuation was qualified as a highest and best use basis presuming a clean site and on the basis there were no heritage controls.

Despite the advice, Council purchased the site without a heritage study or environmental audit. After settlement the planners recognised that the buildings had historic significance and then conducted a heritage study. The result was that the majority of the buildings had to be saved. The area of the site remaining could only accom-

modate a small number of cars and the continued use of the buildings would require those spaces.

The Chamber of Commerce, an influential organisation and very vocal, was appalled. The local papers had a field day and ran the story for weeks accusing the Council of incompetence and still demanding the buildings be demolished.

Council had no use for the recently acquired tramway depot and resolved to sell the depot with heritage restrictions in place. The sale went to tender and an artist purchased the whole property, fortunately at little loss in value to Council. Luckily real estate had been appreciating fairly well at the time.

However the final irony was the site was polluted and Council also did not find this out until after the settlement of Council's purchase. Council then had to have the site decontaminated and resealed before they could settle the resale. All these delays added to cost and the condemnation of Council.

A Valuer who had failed to advise on heritage and contamination would have been an excellent scapegoat for Council. It would have been easy to

blame the Valuer particularly in deflecting the press criticism. The Valuer might find it hard to get work locally after it hits the press. Additionally these mistakes are liable to be raised when the Valuer is giving evidence on some other local matter. There are also the Professional Negligence claims. I might add Council has appointed a Property Office since this affair.

It is particularly important for Valuers working in inner city areas to keep themselves up to date with heritage issues, to be able to identify heritage problems and therefore know when heritage experts should be consulted.

## Gaining Experience

Experience can obviously be gained by working in the field with heritage professionals studying and reading. However much experience can also be gained by being involved with local heritage issues through a resident group or precinct committee. Once some knowledge is gained it may be possible to serve on a local Council Town Planning Committee, or business groups such as Chambers of Commerce. Action brought by these groups often leads to attending Court where evidence is given by residents as well as by expert witnesses. Residents and committee members are often involved in briefing Barristers and Solicitors at the Land and Environment Court or at the Local Government Commissions of Enquiry.

Other volunteer committees and organisations to be involved with are National Trust of Australia Committees, or becoming a member of ICOMOS (International Commission Of Monuments and Sites).

ICOMOS, the heritage arm of UNESCO, has regular conferences throughout Australia and is concerned with world heritage listings and the proposed listing of the Sydney Harbour Bridge



Old tramway building now protected from demolition.



and Opera House. ICOMOS is perhaps best known as the body responsible for producing the "Burra Charter", the guidelines for the conservation of places of cultural significance. The charter is used universally in Australia and has also been adopted by many overseas countries.

The National Trust is known for its listing of historic buildings but it also has a landscape committee which lists landscape items such as Old Bar Airport, basically a disused historic airport on the coast east of Taree; Hill End, an old mining area and town close to Bathurst; Cabins in the Royal National Park, 30's style depression cabins south of Sydney; Wingecarribee Swamp, the largest peat marsh in NSW etc.

This experience gives the confidence and skills required to value and advise on heritage and town planning matters as well as being able to advise clients on which consultant they may require.

There are also a number of small tours conducted by the National Trust and other specialist travel groups which will give a grounding in heritage. I recently travelled to England with a study tour organised by the Historic Houses Trust of New South Wales a NSW Government Body concerned with the conservation and presentation of historic properties in NSW. Dr James Broadbent, one of Australia's foremost authorities on early colonial architecture guided the tour. The focus of the tour was the architectural and historical connection between early Australian buildings and the buildings

of England including the influence of early architects such as Francis Greenway and John Verge on the development of architecture in Australia.

## Conclusion

Some Valuer's find heritage and heritage concepts difficult to cope with and can only see the negative side - after all doesn't heritage hold up progress, interfere with property rights, stop new buildings being built?

Yes it does but: We have nothing without our roots, our sacred sites and buildings. Australians are becoming more concerned about heritage and they are prepared to pay to preserve and visit historic buildings and sites.

The Rocks Heritage Area (saved by Jack Munday's green bans) is Sydney's most visited tourist destination with some of the highest rents paid per sq metre in Sydney.

Many of the most popular overseas tourist locations are controlled heritage sites. Heritage is popular, the sites bring in the largest share of the tourist dollar and provide a huge amount of employment, for example, the most expensive cup of coffee or glass of beer you will consume could be in one of these heritage locations:

Piccadilly Circus London - no high rise allowed, heritage restrictions.

Venice Italy - all height controlled and materials controlled.

Rome - no high rise in central city.

Tuscany Italy - rural height limits, original materials, window size restrictions.

Country towns England - many historic towns with strict controls, even paint colours.

Mykonos Island Greece - all small scale, low rise and whitewashed.

While other countries are cashing in on heritage there is relatively little interest in the Australian property industry. The participation of Valuers in the heritage field is just as important and possibly more progressive than Valuers being involved in the more traditional groups such as Building Owners and Managers Association (BOMA - now known as the Property Council of Australia).

Valuers are very underrepresented in the heritage field and it is in this field that they can contribute so much to the community. By contributing they will broaden their role in the community, gain an understanding of heritage and the respect of other professionals in the field. ■

## Biography

Malcolm is a self-employed valuer, town planner and heritage consultant practising in the inner western suburbs of Sydney. He is particularly concerned with inner city issues of medium density development and heritage conservation. As a consultant to Government he undertakes compulsory acquisitions, estimates for public works as well as general valuations and property consultancy.

## Garland Hawthorn Brahe

SOLICITORS & ATTORNEYS

Level 10, 31 Queen Street, Melbourne 3000 Australia  
DX 327 Melbourne  
telephone (03) 9629 5551 facsimile (03) 9629 2472  
email ghbrahe@ghb.com.au

## Valuation, Land Acquisition & Compensation Law Planning Law

Contact David Brahe or Carolyn Viney (ph: 03 9617 8804)