

HERITAGE VICTIMS

MR AND MRS CREASY, OWNERS OF THE CLIFFE, BINDARRANG ROAD, PEPPERMINT GROVE, PERTH WESTERN AUSTRALIA

WA's FIRST DE-LISTING OF A HERITAGE LISTED BUILDING ON THE STATE HERITAGE REGISTER VOTED AND AGREED TO BY WA PARLIAMENT

Background

Mark and Sharon Creasy purchased The Cliffe in 1995. They paid full market rate for the property, which was \$2.7 million. It is located in a Perth suburb called Peppermint Grove on the Swan River. Peppermint Grove is renown as the most expensive suburb in Perth. Long established blocks of land there tend to be super-sized. Many are subdivide into 2, 3, 4 or more still respectable sized lots. Many buyers acquire a property in this suburb in order to demolish, sub-divide the land, which is where the bulk of the property value tends to lay. They then build their dream home or if they have sub-divided to fund this project, they sell the other either as vacant land or with new building on it as well. The Creasy's paid full market price and purchased this property with the sole object of demolition and redevelopment.

The Cliffe was subjected to a lawful but highly controversial statutory heritage order by the WA state government's heritage body - the Heritage Council of Western Australia - in 2005 ie., 10 years after it was purchased by the Creasy's for full market price [see media statements about this from Cottesloe MP Colin Barnett and other WA MP's, and other media noting the fact that this property was not heritage listed till after the Creasy's purchased it <file:///C:/Users/margaretmayo/Documents/Heritage%20WA/Creasy-gets-house-off-the-heritage-list-F822U.htm>].

According to Giz Watson WA Green MP "the former owners were aware the property was being considered for heritage listing but did not advise the current owners." The Creasy's had purchased the property from a Dr Harold McComb, the father of an obscure WA band called the Triffid's founder David McComb. Clearly, the father was not so nostalgic about The Cliffe's role in his late son's musical life that he wanted it preserved as a museum in his son's honour, otherwise he would have done this himself.

Over 10 years before the Creasy's purchased it, in 1984, this property has been heritage "classified" by the National Trust of Australia, likely on recommendation from members of their WA branch members, who are not obliged to make heritage classifications on strictly applied heritage criteria. Despite the official sounding title, the National Trust of Australia (WA) heritage "classifications" carry no legal weight at all - they have zero effect on an owner. They also do not appear on any land title searches that a prospective purchaser's conveyancer undertakes, so there is no standard legal notice or 'warning' that a buyer can access as a matter of course to find this out. In this case the allegation from the Greens Party MP is that the sellers were well aware of the heritage classification and also knew about the proposed state heritage listing nomination, but elected not to inform the purchasers about it.

It is SoHONSW's position that that the National Trust of Australia and any of its various state sub-entities should be prohibited by law from purporting to heritage "classify" any privately owned property at all times.

In June 2008 the WA Parliament voted to de-heritage list The Cliffe from the WA state heritage register. It was an historic vote. Both the government and the opposition were in agreement on this. The consensus appeared to be that the WA heritage listing authorities had been utterly unreasonable with this family, refused to accept any compromised they suggested and that after close inspection, they could not see any justification for maintaining its state heritage listing. WA's Liberal leader Mr Collier, a history teacher, said he had visited The Cliffe's 25 times and concluded it was not worth saving because it was "falling down and uninhabitable" noting it would cost the owners over \$3 million to restore. The financial loss to the Creasy family without the heritage order lifted was said to be well over \$20 million.

Due to the sums involved, The Cliffe is one of the more extreme examples in Australia of a meritless heritage listing staged managed by heritage fanatics with total disregard for the actual state of the item or the severe financial losses imposed on one family - allegedly in the 'public interest.' It took 14 years, a lot of money and an historic vote by WA Labor and Liberals to right this wrong perpetrated on this family. Unfortunately, throughout Australia there are many owners of items current listed heritage in the same position as the Creasy's but without their resources and fortitude to challenge meritless heritage listings. This is despite the fact that standard propaganda from fanatical heritage organisations repeatedly claims a heritage listing does not result in a loss of value and in fact, many claim it leads to increases in property values.

Offers of compromise made by the Creasys to WA Heritage Council rejected

The owners offered to move the house at their expense and relocate it on publicly owned land. The WA Heritage Council, the state listing authority, said this was "unacceptable" and refused.

The former Chair of the WA Heritage Council for 27 years, Mr Tom Perrego, admitted to the Productivity Commissioners inquiry into Conserving Historic Heritage that over-listing was a problem in WA. His comments cover the period which affected the Creasy's.

Heritage 'over-listing' is a practice where heritage fanatics make highly exaggerated claims of importance about marginal or even non-genuine heritage items in order to ensure they are heritage listed. It is a precautionary or 'just in case' approach to heritage listing which SoHONSW says constitutes heritage fraud. The practice of precautionary or heritage over-listing was soundly condemned in the 2006 Productivity Commission Report, as was the practice of failing to take into account the reality of the condition of the building and financial losses accruing to the owners prior to an item being listed.

Cost of challenging the heritage listing

The Creasy's spent well over \$225,000 applying to have the heritage order lifted on this derelict house. Many millions of their money was tied up from 1995-2008 ie., for 14 years, leading to vast lost opportunity costs. They also had to fund alternative accommodation for 14 years as the property was in derelict condition. There was also the incalculable stress this situation placed on the family for an entire generation.

What were the alleged heritage features that led to the statutory heritage listing?

Alleged heritage features:

- Built in 1894;
- Built using jarrah timber; and
- Residence from 1962-1992 of the lead singer Mr David McComb from a one-hit wonder Australian pop group called The Triffids [their single was called Bury Me Deep in Love]. Mr McComb died aged 37 in 1997 of a heroin overdose and rejection from a heart transplant he had some years earlier.

The pop historian from Sydney

Mr Bleddyn Butcher, a Sydney based former music journalist named released a book about The Triffids, wanted The Cliffe to be turned into a Music Museum “celebrating West Australian song” and as a “memorial” to McComb’s “achievements.” He argued The Cliffe was “ a sanctuary and source of inspiration” for the band, which recorded between 1978 and 1981 ie., a 4 year period. He also wrote letters opposing Peppermint Grove Council’s support for removing The Cliffe from the state heritage register. Mr Creasy the owner made the point that it was not John Lennon who lived at The Cliffe or any important historical figures like John Curtin. Butcher also said the Creasy’s should “donate the house and site” to the state government and also be forced to pay additional money to restore the building.

Mr Butcher’s bizarre scheme to promote an obscure band he wrote a book about would amount to an overall loss to the Creasy’s of a staggering \$23.7 million plus.

Such interventions from individuals such as Mr Butcher are common to owners of properties where someone gets a notion that because the site is important to them, the owners who disagree with their assessment must be forced to be out of pocket for tens of millions in order to satisfy another citizens hobby or interest.

SoHONSW says this purported historical importance is not sustained, but is typical of the harassment property owners experience when fanatics of one type or another decide your property, investment plans and finances should be sacrificed to whatever extent they wish in order to feed their obscure hobby.

Age of the building

Age of itself should not be sufficient to support a state heritage listing. In cases in which the fabric of a privately owned property is seriously degraded or derelict, then the state of the property and the cost of restoration are equally relevant issues. These considerations were strongly recommended for inclusion by the Productivity Commission report. SoHONSW finds however that one-eyed heritage fanatics and their representative organisations repeatedly claim these issues to be irrelevant and that they should not be taken into account.

SoHONSW rejects this was a highly irresponsible approach, based on strict ideology. It is heritage fraud to heritage list a privately owned property in a derelict state. It is a way of the state trying to force an owner to redirect their finances to restoration - in the case of The Cliffe’s in excess of \$3.5 million. By any citizen’s estimates, that is not reasonable way to treat fellow citizens in a modern democracy.

Jarrah timbers

If the Heritage Council of WA had accepted the Creasy's generous compromise offer to move the building on to public land, then the jarrah timber features would have been preserved. The intransigence of the WA Heritage Council has resulted in the current situation where these jarrah timbers could potentially be lost forever. This is the end result of heritage fundamentalism - heritage listings falling into disrepute and any genuine heritage features being lost for good.

The professional heritage consultants from Perth

Ian Hocking said "I think The Cliffe decision certainly sets a precedent for demolition by neglect."

SoHONSW notes that this type of defamatory claim is regularly made in by heritage fanatics against owners in the same situation the Creasy's found themselves. The fact is the Creasy's had the house for 10 years before it was seen fit to be heritage listed by the WA Heritage Council. The National Trust of Australia (WA) had heritage classified the property in 1984, so it took them 20 years of lobbying to get it listed statutorily. The item had fallen into dereliction during that period it was owned by the Creasy's they had always intended to demolish it. This was a perfectly lawful thing to owners to do. To cast public aspersions on them for this is an outrageous slur, but a typical one.

Once the statutory heritage listing was in place, the Creasys' then spent another 10 years working through the legal channels to have the listing lifted. They believed the heritage listing was not valid and ultimately the WA parliament agreed with them and de-listed it. It is not reasonable to expect owners who dispute the validity of a heritage listing and who intend to demolish an item to spend 20 years, expect to win their case to spend many millions of dollars on its upkeep. SoHONSW also notes that if the Creasy's had done this, then they would have been undermining their strongly held convictions that the item should be de-listed and it would have played into the hands of those arguing in favour of a continued heritage listing.

Heritage Perth Executive Director Richard Offen formerly a Director at the UK National Trust claimed most of the owners of the 1200 buildings on the WA state heritage list "were happy their properties were protected" and expressed concern that there now existed a precedent to have a building taken off the register. He claimed in this case it was de-listed "at the owner's request." SoHONSW considers this last statement to be disingenuous in the extreme. First, an owner should as a matter of right when living in a modern democracy, be entitled to challenge a government decision that affects their property so profoundly. Casting aspersions on an owner's right to do this is outrageous but typical of heritage fanatics. Second, the entire WA parliament agreed the owners in this case had been maltreated by the heritage listing bureaucracy in WA and as elected representatives, overturned this injustice. Mr Offen appears to view this as interference - any fair minded person would regard it as an example of democracy working effectively. Why should an unelected rabble of heritage fanatics views reign supreme over parliament? This is an example of the arrogance of heritage fanatics who consider their views are the only ones meriting taking into account.

Finally, this is typical heritage fanatic propaganda. In all the reports conducted by those independent of heritage fanatic individuals or organisations, such as the 2006 Federal

Productivity Commission report into Conserving Historic Heritage or the 2007 Expert Panel reviewing the NSW Heritage Act, owners of heritage listed properties overwhelmingly reported being unhappy with their heritage listing. SoHONSW challenges Mr Offen, who appears to run a private heritage consulting business which presumably would be adversely affected if heritage owners enjoyed some rights, to prove that most owners of heritage listed properties in WA are “happy with” the listing.

Heritage consultant Rosemary Rosario said she was sad that The Cliffe was to be demolished “its a pity more people do not appreciate that it’s a great privilege to have a heritage house and value them..” At least Ms Rosario is at least admitting she knows there are owners of heritage listed properties who are less than happy about what she terms a “privilege” and not engaging in the bald-faced heritage propaganda common to many heritage consultants. What needs to be asked is why more owners fail to appreciate and value owning a heritage listed item, and then, if we genuinely believe that heritage is a social good, what policies can be put in place to ensure owners do value it. SoHONSW has a list of positive heritage incentives appearing on the FAQ page which, if implemented, would change the current, punitive forced heritage listing system that involves part nationalisation of private property with drop in value that occurs with heritage listings with a vibrant, cooperative system based on incentives.

The punitive, owner-hating model favoured by many heritage organisations and consultants is well past its use by date. That approach is evidence of limited thinking where heritage is a form of coerced public charity imposed on resentful owners, often dubious about the legitimacy of the listing.

The historical society chap

Freemantle Society President Ian Alexander said “there were serious fears for other historic buildings” in private ownership as a result of The Cliffe’s decision.

SoHONSW considers this a chicken little fantasy. One de-listing does not signal wholesale loss of historic buildings. What it does signal though is the Heritage Council of WA and the fanatical heritage organisations need to radically rethink their old paradigms and their appalling attitude towards owners of heritage listed properties. There will be more cases if they continue to mistreat citizens like they mistreated the Creasy’s.

The Greens MP

Giz Watson said lifting an existing heritage order “has the potential to set a very bad precedent.”

SoHONSW says de-listing this property was acknowledge by WA parliamentarians as being the right thing to do. What WA now needs to do is to independently investigate their heritage listing systems within the state to reform them to ensure decent procedures apply. In particular, they must implement the Productivity Commission recommendations about including an assessment of the costs to the owner as a factor to take into account as well as decent appeal systems for owners which is independent of heritage fanatics.

