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Bennett House: Aboriginal Heritage as Real Estate in East Perth

When I was a child I lived just up the road. My mother worked in this house. You are taking away a part of me. I've been here almost all my life. Almost sixty years. I'm always coming back (Nyungah elder Judy Jackson).¹

It was like a second death of Bonnie when the house was knocked down. Like she died again. When they knocked down Bennett House, a part of my history was gone...it was like our monument to her was desecrated (Nyungah elder Helena Pell Pritchard).²

In the early hours of Sunday morning, 25 October 1998, Nyungah elder Robert Bropho received a telephone call from a resident of East Perth informing him that Bennett House, a registered Aboriginal site of particular significance to the Stolen Generations, was being demolished. He immediately alerted the media and made the trip from Eden Hill to East Perth to witness the destruction. When he arrived there at approximately 8 am, the dozer driver was knocking off and all that remained of Bennett House was a mound of rubble, the dust still settling. The driver stated that the demolition team had been contracted by the East Perth Redevelopment Authority (EPRA).

At that point in the history of Bennett House, many Aboriginal elders had not been informed that the controversial proposed exchange of EPRA owned lands for the WA Aboriginal Affairs Department's land holding body, the Aboriginal Lands Trust (ALT) Bennett House land, had been formally enacted. No definitive consensus amongst the wider Aboriginal community had occurred regarding the land exchange, nor had demolition of the premises been an agenda item at meetings, therefore the sudden destruction of Bennett House came as a shock

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Abstract

As the mansions materialised in refurbished East Perth on the Swan River, a battle between the East Perth Redevelopment Authority and Perth's indigenous community over a land swap culminated in demolition of a heritage building significant to the Stolen Generations. This case study unravels the complex relations and practices underpinning Bennett House's demolition, resonant of other planning decisions involving Aboriginal sites in Western Australia.

Key words

*Bennett House
East Perth redevelopment
Stolen Generations
urban planning
Aboriginal heritage
bureaucratic procedures*

even to those who had agreed to an exchange of lands. This sense of shock and dismay continues to reverberate throughout the Aboriginal community today.³

Until demolition, Bennett House occupied the corner of Bennett and Royal streets in the heart of East Perth, the newly revamped inner suburb serving as a model for several metropolitan redevelopment schemes. Today the Bennett House block, re-parcelled to feature the former East Perth State

FIGURE 1: Aerial View of East Perth Redevelopment in Relation to Perth City



Source: East Perth Redevelopment Authority, *Annual Report*, 1999 (manipulated by Vivienne Hillyer, 2001).

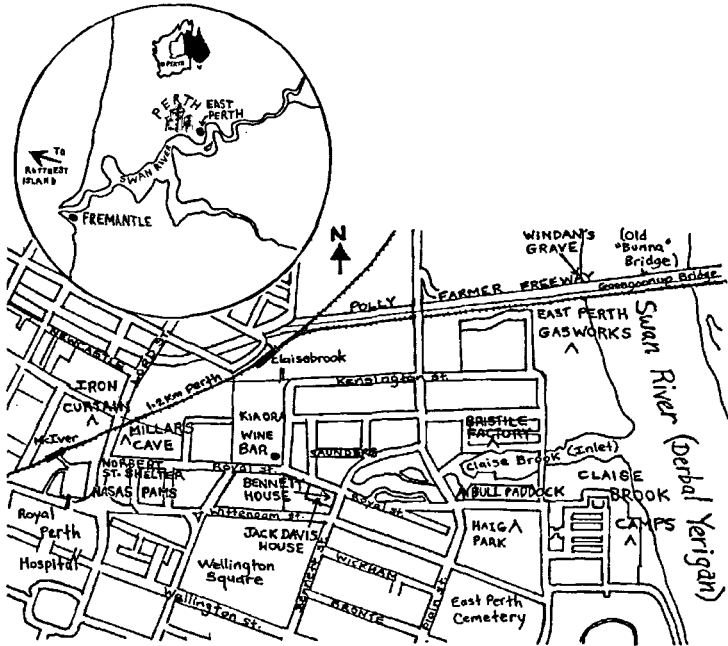
School's infants wing, better known as the Jack Davis Hostel (named in the 1980s after the Aboriginal poet and playwright), huddles between the new and architecturally disparate and within the vicinity of the 1980s metal-clad education facility known as Silver City and its younger cousin, the Advanced Manufacturing Technologies Centre of TAFE. Claisebrook Cove, the refurbished focal point of the multi-award winning East Perth redevelopment, is a short stroll downhill through a maze of scaffolding, Tuscan styled edifices, limestone retaining walls and strips of green turf. The rows of government railway housing and the engine turnaround back to Fremantle, the factories, tanneries, brickworks, gasworks and the numerous Aboriginal camping sites have all been swept away to enable the new and salubrious housing and commercial developments, such as a waterside art gallery owned by Janet Holmes à Court and former Minister for Planning Graeme Kierath's exclusive frockery in Royal Street.⁴

From 1992 to 1994 the EPRA undertook a \$17.5 million remediation (of which \$15,000 was financed by Alinta Gas, formerly the State Energy Commission WA, who initially were to undertake works) and refurbishment of the highly contaminated Claise Brook, once a freshwater stream linking a chain of lakes extending from Mongers Lake eastwards to the Swan River. The former gasworks and other industries had led to the leaching of polycyclic aromatic hydrocarbons, ammonia and heavy metals into the Claise Brook and the Swan. While much self-congratulatory publicity has centred upon the environmental friendliness of the remediation works, particular issues remain subject to speculation, such as the site location(s) and method of disposal of the hazardous waste which was removed, the long-term effectiveness of the on-site containment strategy for remaining contamination, and a spillage of 340,000 litres of raw sewerage into the inlet and the Swan from a collapsed pipe in November 1999.⁵

South of the Bennett House site lies Wellington Square which continues to be a meeting place for rural and metropolitan Aboriginal people, despite efforts by the police (*on direction of the EPRA*) to have them removed. Helena Pell Pritchard, a welfare officer for the Noongar Alcohol and Substance Abuse Service who provides daily meals for the people in the park, described how public toilets had been deliberately closed, leading to arrests for indecent behaviour.⁶ Aboriginal people occupied the East Perth area prior to colonisation and continued to live there up until the current redevelopment which placed private and rental accommodation beyond the means of people on low to middle incomes. The EPRA failed to provide a substantial affordable public housing component, and Aboriginal hostels and emergency accommodation such as Boomerang Hostel were relocated. Up into the 1980s Aboriginal people were able to find places along the Swan River and Claise Brook secluded from public view to build camps, but no

such place could now exist. Today the landscaped gardens and public parkland are virtually the back and front yards of the overwhelmingly affluent commercial and residential developments. Other registered Aboriginal camping sites such as the Bull Paddock (Haig Park) and Millars Cave have been erased and built over. Many places memorable to former residents have long since gone, such as the Native Welfare Department on Wellington Street, the Bristle factory where people bedded down near the kilns in winter, the infamous Kia Ora wine bar and the houses where people lived for many years. As a former Nyungah resident remarked: 'In the old days all you needed was two bob in your back pocket to live in East Perth. Now you need two million dollars.'⁷

FIGURE 2: Aboriginal Heritage Sites in Redeveloped East Perth



Drawn by Vivienne Hillyer and Mark Jeffery (2001).

The failure to protect Bennett House can be seen as consistent with a continuum of past poor planning practice regarding Aboriginal heritage in East Perth, as this paper hopes to show. Contributing factors are also embedded within the processes of consultation concerning the land swap, which constituted endorsement of a pre-set agenda. Unprecedented legal powers granted to large state and federally funded development corporations like the EPRA place further pressure on land-holders and tenants, including Aboriginal organisations intending to maintain holdings in redevelopment target areas. Powers to resume Crown lands, including Aboriginal reserves, reduce limited Aboriginal land holdings. However, this does not explain why both the EPRA and the ALT appear to have evaded their legal obligations under the *Aboriginal Heritage Act 1972* regarding alteration, damage, destruction or removal of a known registered site.

This paper aims to both draw attention to the significance of Bennett House and to unravel the motivations and objectives of the parties involved

FIGURE 3: Aboriginal Camp at Claise Brook



Source: Photograph by Alan Rowe, *West Australian*, 11 June 1981. The author apologises for any unintended offence caused to the families of people who may have passed away.

in the land transfer which led eventually to an apparent evasion of Aboriginal heritage law. Problems arising from the application of the interpretive discipline of anthropology to assess the status and management of Aboriginal heritage sites within stages 1 and 2 of the East Perth area (excluding but having bearing upon Bennett House) will be discussed, as will issues arising from the practice of land management and planning which informed and was applied by the parties involved in the transfer of lands. Through focusing upon the illegal demolition of the Aboriginal site Bennett House as a case study, the paper hopes to illuminate a planning and development practice that has repeatedly failed to address the needs and will of Perth's indigenous community(s) and which has been commonplace, particularly in contested prime real estate areas of the river and foreshore. Such sites include Heirisson Island, the old Swan brewery, the development of Rottnest Island prison as a tourist complex, and the Court government's proposed siting of a women's prison at Pyrton at Eden Hill on the Swan River, adjacent to the Swan Valley Nyungah community.⁸

While a diversity of positions, needs and will within Perth's indigenous community exists for numerous reasons, the Bennett House case study encapsulates a divisive moment whereby communities were split into winners and losers when encountering a redevelopment project concerned primarily with a marketing image (albeit encompassing a simulated notion of multiculturalism and community) and profit margins (from the sale of cheap, predominantly government land) and which was backed by a powerful bureaucratic and legal apparatus. Such divisions can have negative repercussions for communities. The fracture lines may not follow the apparently distinct groups, being the government funded health services requiring property for premises, and members of the wider Aboriginal community with a will to protect their heritage, but overlap, forming new divisions prescribed by the narrow economically driven parameters.

History and Significance

This here Bennett House was the original, this square building on the corner here; it was the foundation stones. As years went on they built in, doing it up, brought it up to where it is now. It was some sort of junction. Girls stayed here; it was run by Native Welfare. Old Bonnie Morrison, twenty-five years of devoted input here as a cook. Cleaning odds and ends about the house. That was in the 50s and 40s. I saw her, in my youth existence here; I used to sit with Bartley Morrison around there in the park. Bonnie was a devoted woman. All the womans here. Mrs Willaway. Lifetime in New Norcia. Rose Willaway, her daughter. Going a long, long time. A lot of blackfellas come here when they had no food...I came in from Eden Hill. Kathleen Moore was staying at Bennett House. They took her away from South Guildford reserve. She passed through

the Native Welfare to Bridgetown. At the time she was at Bennett House she'd see me over at the park and say, 'Want to come down on Saturday, come down and I'll shout you to the pictures'. Black men also work there, and Bonnie. Beautiful old woman. White fellows criticise her, rub shit into her...white fellows next door being nasty to blacks. There was a write-up in the paper about her killing sheeps, hanging out the hides in the back yard. The *Daily News*, the *Mirror*, the *Truth*, sticking their boots into the old woman. This ran on for a long time (Robert Bropho).⁹

As to bringing the half-caste girls into the city, unfortunately they are already in the city, and have been so for years. All we are seeking to do is to give them a chance in life and have them under better control and from our point of view the institution has been a complete success (A. O. Neville).¹⁰

Amidst protests from the Education Department, Bennett House was first opened in 1931 by A. O. Neville, Chief Protector of Aborigines from 1915 to 1940, as the East Perth Half-Caste Girls Home (known also as the Native and Half-Caste Girls Home). The Chief Protector had been looking for premises since 1929 to house around twenty 'girls' – many of them mature women – in his department's care who were working as domestic servants. Housing arrangements were also required for a number of 'native domestic servants' being accommodated in Perth by a Mrs Mulvale, dismissed due to complaints of her unsuitability. The run-down former headmaster's quarters of the East Perth State School, no longer occupied by teaching staff because of damp conditions, were vacated by the Unemployed Relief Branch and granted temporarily and free of rent to the Aborigines Department by Public Works. Furniture and household equipment were gleaned from the Immigration Home in Fremantle, the Lunacy and other government departments. This may also have been an example of another land exchange, as it has been said that the building was given to the Aborigines Department when the present Heirisson Island (Reserve Mattagerup, or ankle-deep river crossing) was taken away from Aboriginal people.¹¹

Education Department opposition to the establishment of the home was centred upon the notion that housing Aboriginal girls in East Perth would bring a bad element to the school located beside the home. Nonetheless, in 1933, Neville successfully had the land proclaimed a reserve (31431) for Aborigines under s. 10(1) of the *Aborigines Act 1905*, to be used for the purposes of the Aborigines Department (later renamed the Department of Native Affairs).¹²

It is now common knowledge, supported by extensive academic research, that the majority of people sent to both government and church institutions and missions throughout Australia were subjected to removal

policies, either as stolen 'half-caste' children themselves or the parents and grandparents of children. Several generations from one family might be affected by the removal practice. People were separated often forcibly by police, granted powers to do so by government, from their families, homelands and camps on the outskirts of white townships and stations, for their own supposed protection from the ill-effects of the expanding white society.¹³ All aspects of people's lives were subject to surveillance and policing by the state Aborigines Departments – from the clothes they wore and rations they received, to permission to have toothpaste or new underclothes in special circumstances, grants of travel and work permits, whether they were sufficiently white to enter city zones forbidden to others, and with whom they were to associate and wed.

Each year several hundred Aboriginal women and children passed through the East Perth Half-Caste Girls Home. They came, amongst other places, from government settlements such as Moore River (renamed the Mogumber Methodist Mission in 1951) to complete their so-called domestic training¹⁴ to become servants for white people and, as children of mixed parentage, were boarded there for days or weeks between their journeys to and from their birthplaces and homes, settlements and foster homes. According to Matron G. Campbell of Moore River native settlement, the intention was to provide a non-institutional, 'real, home atmosphere' for girls on holidays and travelling between employment positions and settlements, 'having to remain in there for medical treatment and other purposes'. While many settlement and mission residents received only a most rudimentary education in accordance with evolutionary racism of the time, a small number of the settlement residents regarded as exceptional were boarded at East Perth to attend the state school.¹⁵

Located near Royal Perth Hospital, Bennett House is also known to have been the main place where Aboriginal women pregnant to white station owners, homesteaders and labourers were sent from native reserves, mission homes, settlements and townships throughout Western Australia to have their babies. The 'half-caste' babies were routinely removed to white foster homes or taken back into the settlements, returning to Bennett House when they, too, were old enough to train for domestic service and go out to work.¹⁶ According to Sister Eileen Heath of the Moore River native settlement, this was the fate of most of the women who went out to work.¹⁷

Young women boarding at Bennett House for educational purposes also became pregnant. White *bungie* men (men who pursue Aboriginal women for sexual favours) regularly scouted the area. Helena Pell Pritchard recalls wealthy white men from Claremont and Nedlands cruising in expensive cars with leather interiors, enticing young girls with wine and lollies. If those who found themselves in such a predicament tried to leave the home, they

were arrested and taken back to Moore River; if they were 'half-caste' and the father of their baby was white, the baby would be taken from them and placed either in white foster care or with Sister Kate's Home for Quarter-Caste Children, where the fairest children were sent, preferably under six and including 'babies in arms'.¹⁸ Established in 1935, the home complemented Neville's objective of absorption and eventual disappearance of Aboriginality into the white race, an objective granted further powers for implementation in 1936 when amendments to the *Aborigines Act 1905* were passed through parliament.¹⁹ Invariably white fathers denied paternity, partly to avoid paying maintenance to the department.²⁰

Both boys and girls were held at Bennett House before they were transferred elsewhere, and consequently it is known by Aboriginal people today to have been a 'holding pen'.²¹ As in the missions and settlements, conditions were sub-standard. While the matron had two front rooms, funds were insufficient to construct adequate ablutions, despite the working women paying 25 shillings per week. The building was overcrowded with inadequate facilities, and there were constant complaints by Matron Campbell to Native Affairs about electrical faults, insufficient beds and bedding, bad odour, girls with bad eyes, parts of the roof blowing off, exposure to wind and rain etc., and requests for repairs and additions, many of which remained unattended indefinitely. Expenditure by the department was kept to an absolute minimum, thus the home was found to be much cheaper than boarding the women and girls elsewhere.²² Judy Jackson, who spent her childhood and much of her adulthood in East Perth, recalls her mother both working at Bennett House and providing accommodation at her own home in Chipper Terrace to cope with the overflow of women and girls.²³

A 1945 medical inspection found the premises unsuitable because of the rundown condition and limited space. However, the inspector's objection to the home's inclusion of people other than those for whom it was intended, in the belief that 'the culture contacts so formed are definitely harmful to any uplift policy',²⁴ rather than reflecting concern for the welfare of residents exposed to surrounding skid-row conditions such as poverty, alcohol abuse and *bungie* men, indicates the Native Welfare Department's objective and power to remove 'half-caste' children and segregate them from full-blood Aboriginal families, suitors and others to ensure the progressive dilution and absorption of Aboriginal blood into the white race.

Also found faulty was the location, 'the drabness of which is not conducive to giving a pleasant outlook on life, nor are the surroundings nice, both of which qualities are so essential in any effort to raise the standard of civilisation of these girls'.²⁵ Only necessary repairs and alterations were recommended, a search for other premises having been advised. The multicultural, working-class, semi-industrial suburb of East Perth,

where many Aboriginal people lived in private and government housing, hostels and numerous camps along the Swan River and Claise Brook, represented to some authorities an unsatisfactory location for implementing an 'uplift' policy. Contact with other Aboriginal people undermined absorption or assimilation, implemented through the practices of miscegenation, segregation and acculturation. In accordance with the prevailing social Darwinist ideology whereby Aboriginal people were widely regarded by the invading white Christian society as a 'child race', the residents at Bennett House who had undergone domestic and educational training were considered to be 'in danger of reverting' if allowed to mix with their families and peoples, who were deemed beyond 'salvation'.²⁶ Despite the department's harshness and extensive policing, people still found ways to break through those constraints and maintain links with their Aboriginality, as they did in Moore River native settlement.²⁷

Evaluating Heritage

While the above may provide a glimpse of the conditions that Aboriginal people throughout Western Australia were forced to endure while under the 'care' of their so-called Government Protectors, the undoubtedly inadequate and ill-equipped structure of Bennett House has no bearing in terms of gauging the level of significance and meaning(s) for the numerous people with associations there. The social, historical and cultural meanings exist, not so much irrespective of the physical condition of the building, but as having arisen in part from those conditions.

In terms of its European heritage, the former headmaster's quarters had been removed from the National Trust of Australia and Heritage Council of Western Australia's assessments of the East Perth State School in 1984 due to its run-down condition, but reassessment could have resulted in preservation due to its significance to Aboriginal people.²⁸ The remaining school buildings had been nominated by the Trust to be recorded on the Register of the National Estate. Although a file record was held with the Heritage Council, and approval for inclusion on the Register of Heritage Places had been granted, it was deferred until a conservation and management plan for the EPRA was completed. This plan (Kevin Pallasis Architects: 1996) found the former teachers quarters and infants school (Bennett House/Jack Davis Hostel) to be significant to the Aboriginal (Nyungah) community of Perth and, under Criterion 5, Bennett House was an example of a 'rare, uncommon or endangered aspect of the cultural heritage of Western Australia' for its history as a hostel providing accommodation to country Aboriginal medical transit patients from the 1930s to the recent past.²⁹

Reviewing the plan in an internal assessment, the EPRA reiterate how the value of the original 1895-96 red brick and iron roofed house had been

downgraded due to brick and asbestos additions. The review recommended that these additions be removed in any restoration of Bennett House and other school buildings, to form a complete heritage complex representative of one of Perth's oldest and well utilised turn-of-the-century state schools. However, while not a recommendation, 'clearance' of the site, despite removing 'one of the original elements of the school', was highlighted as presenting a 'brilliant new opportunity to enhance the corner environment of the site and to resolve the unhappy juxtaposition between the house and the infants school', an opportunity the EPRA did not hesitate to pursue. Although the interior walls of Bennett House were painted with large landscape murals by Aboriginal artist and former resident Michael Chimney, documented in the above plan, the EPRA review makes no reference to this nor to any of the reported significance for Aboriginal people; no overlapping of Aboriginal and European past usage was considered.³⁰

The overall approach to Aboriginal heritage issues in the Greater East Perth Redevelopment Project can, amongst other factors, be seen to have been influenced by prior and ongoing disputes. A major protracted battle between the Western Australian government and Aboriginal constituents, played out on site and in the courts over Goonininup, a well documented yet politically contested sacred site located at the old Swan brewery, remained unresolved when anthropological, ethnographic and archaeological studies were being compiled for East Perth. The reports conducted for Landcorp and the State Planning Commission to be utilised by the EPRA, during and immediately after the brewery case, refer to findings from the brewery consultations and court cases. The anthropologists appointed were perceived by some elders with concerns in East Perth to have been antagonistic to their beliefs and culture with regard to other sites, and not impartial as their position demands.³¹

The method by which the anthropologists arrived at the conclusion that Aboriginal sites with spiritual associations did not exist in East Perth (with particular emphasis on Claise Brook) deserves consideration here. Combined with the Statement by the Karlkarniny Regional Council,³² the studies served as the material assessed by the Museum's Sites Department and resulted in conditional ministerial approval for development involving damage and alteration to sites within the Trafalgar and East Bridge precincts. In a preliminary report for Landcorp, the following is stated:

The author has never encountered any suggestion of the association of Claise Brook with a Waugal. However, this specific question has not yet been researched. Given its association with the Swan River and recent precedent, it is not unlikely that such an association exists.³³

In an earlier study, the same author (O'Connor) wrote:

Waugal beliefs are widespread throughout the southwest and refer to a water-creative force with a serpentine physical manifestation...The Waugal is not *just* a totemic ancestor. The Waugal is not *just* a spiritual being, a semi-deity. The Waugal is indeed all of these things but is, more fundamentally, a personification, or perhaps more correctly, animalisation, of the vital force of running water. As such, the question 'does this permanent river (or creek, or spring, or other water source) have (or belong to, or be associated with) a Waugal (or the Waugal)' becomes, from an Aboriginal view point, meaningless and condescending. The presence of 'living water' bespeaks Waugal imminence.³⁴

However, a later study conducted for the State Planning Commission quite emphatically refutes claims of a mythological significance, for example:

One prominent Perth Nyungar has claimed in the media that Claise Brook is a significant mythological site. This claim is certainly not supported by the findings of this research. Any such claim which is presented for consideration in decision-making regarding the status of the site would have to be rigorously tested. All the informants who reported that the brook had a significance pointed to its ethnographic importance and not any mythological, ceremonial or ritual significance.³⁵

Aside from the absurd notion that spiritual belief can be quantified through scientific investigation – a proposition which is never applied to determine the existence of a Christian god within a church – particularly of an area degraded through white occupation and intense industrial activity, the actual methodology utilised for assessing an informant's reported Nyungah belief of Waugal presence near the old Bunbury railway bridge by the same anthropological/ethnographic report is highly questionable:

Another informant (#17) reported that she had been told stories about an Aboriginal man being killed by the Waugal near the Bunbury Railway Bridge. She referred the consultants to a number of other Aboriginal people whom she thought would know something about the matter. Unfortunately, attempts to contact these individuals were not successful. However, the story was not referred to by other informants. A number of Aboriginal people are known to have died in the area around the railway bridge and the Claise Brook camping area. One death was reported to have been a drowning while the individual was drunk. This might be the same death as referred to by informant (#17).³⁶

A decision has been made that an area is not of mythological significance according to a limited number of investigations of informants over and above other informants, combined with an absence of archaeological materials due to prior industrial and other development in the area. In terms of the stated requirement that claims such as that made by the 'prominent Perth Nyungar' be subject to rigorous testing, it would seem that the discounting of the above informant (#17) as evidence, the failure to engage informants who may have corroborated her story, and the unsubstantiated proposition that a reported death from drunkenness could have been the same death that informant (#17) had referred to, are evidence of a most unsystematic 'testing', and moreover could be perceived as an attempt to discredit informant (#17) and any other likeminded claimants daring to believe in the Waugal, by inviting readers to consider an incidence of Aboriginal death through rumoured drunkenness as the foundation of the information.

It is also significant that information included in a report for Capital City Development by Nyungah consultant Richard Wilkes was not included in the above study, being that the same site beneath the old Bunbury railway bridge was a burial site. Windan, a Ballaroke, was one of the two wives of the tribal leader Yellagonga (or Yallgunga) who, with the people of the tribal district Mooro, was custodian of the area north of the Swan River, including the Claise Brook/East Perth area. She is known to have been buried in the vicinity of the bridge in the mid-1800s.³⁷ Although no remains were found during subsequent works for the new railway (Goongoongup) and traffic (Windan) bridges, possibly due to construction of the old Bunbury bridge, the site has since been acknowledged by a plaque commemorating Windan by Main Roads WA.³⁸

Considering the inability to engage particular informants, the tension surrounding the brewery and other metropolitan Aboriginal heritage disputes, the discrediting of an informant and the evidence above, it was not possible to conclude the non-existence of mythological significance in the area. McDonald, Hales and Associates' conclusion also undermines their own discussion of Nyungah attachments to land, particularly their support of the idea that new spiritual associations can develop for individuals and their kin with sites through conceptions, births and deaths.

With the whole East Perth area found to be of social/ethnographic significance and not mythological/ceremonial (itself an evaluation containing a hierarchy of site-importance with bearing upon development approval), the study also concluded that, while some informants believed the whole area to be significant, others believed that specific sites did not require protection under the *Aboriginal Heritage Act 1972* because of their 'skid-row'

FIGURE 4: Monument to Yellagonga's wife Windan
Willy wagtail or *chitty chitty* perched on top.

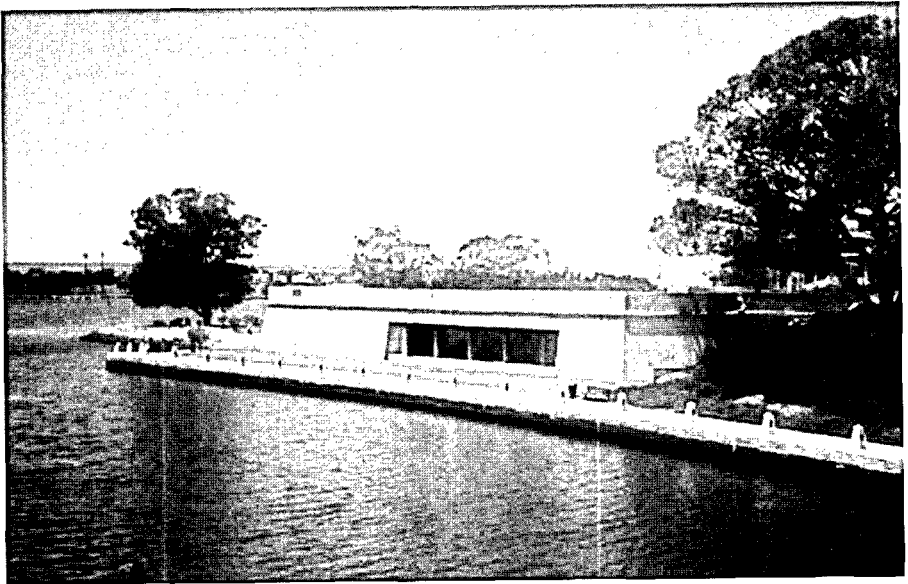


Photograph by Vivienne Hillyer (2000).

connotations, a view not supported by elders who did not trust being consulted by the appointed anthropologists, instead making their own submissions on the East Perth project to the Aboriginal and Torres Strait Islander Commission. McDonald, Hales and Associates recommended that the project proceed, and the Minister for Aboriginal Affairs subsequently gave the required consent under s. 18 of the act for development involving disturbance, damage and alteration of all sites located in the Trafalgar and East Bridge precincts, on three conditions: that consultation with Aboriginal people continue throughout planning and development; that as much as possible of the Claise Brook and Bunbury bridge camping sites be included in public open space; and that further consultation occur for recognising Aboriginal heritage through public art, information programs and nomenclature.

For the general observer this is apparent, with a number of public art commissions by both Aboriginal and white artists integrated into

FIGURE 5: Housing (Ralph Drexel) and Mural (Joanna Lefroy Capelle)



Photograph by Vivienne Hillyer (1999).

landscaped parklands under the 1% for Art scheme. The specific was therefore transformed into a general symbolic expression intended to evoke prior Aboriginal presence through monuments, murals and nomenclature (for example, the naming of a riverside park as Mardalup, meaning place of the small marsupial). However, there was limited representation of Aboriginal people's lived experiences and history post-colonisation, and consultation with the wider Aboriginal community regarding selection and appointment of artists was also limited.³⁹ While some projects at least intended to create a dialogue with the public – for example, Nola Farman's proposed soundscape/underpass – others such as the showcase mural by Joanna Lefroy Capelle, a Fremantle based artist influenced by the heroic figuration of Third Reich painting and sculpture, present a teleological, social Darwinist progression of historical developments. Housed within a cave-like shelter designed by architect Ralph Drexel to disguise a sewerage plant, the mural containing grotesque representations of Aboriginal people continues to cause offence to some members of the Nyungah community and others. Found objectionable is the evolutionary narrative that embraces the notion that, for achieving the common goal of 'progress', dispossession and assimilation are inevitable and acceptable.⁴⁰ More Miocene than the purported historical scene of two hundred years of developments culminating in East Perth's 'renewal', this mural could just as readily be passed off as a crude rendition of the popular 1970s film and television production, the post-holocaust *Planet of the Apes*.

The anthropological studies and conditional ministerial s. 18 approval did not, however, encompass Bennett House, which was recorded as an Aboriginal site with the Western Australian Museum's Department of Aboriginal Sites, and was listed with the Aboriginal Affairs Department (AAD) as ethnographic site no. SO2793, type camp/reserve. The site refers to twenty perches of land that Neville had proclaimed a reserve for Aborigines, no. 31431, which included Bennett House.⁴¹ The issue of whether it was or was not a site was raised by the AAD following demolition, due to its status of being listed on the department's 'Interim' register, meaning it was still awaiting assessment according to AAD policy. The 'Interim' register does not exist as a legal entity according to the *Aboriginal Heritage Act 1972* because, once reported, a site must be registered by the Registrar, who must also maintain the register (s. 39). In practice, site evaluation and categorisation does not occur until s. 18 development applications are made; consequently, thousands of registered sites are still awaiting assessment. This does not exclude their protection under the act which stipulates that, if a developer suspects that a place might be a site, they must apply for s. 18 approval, which may involve the appointment of anthropologists and archaeologists or consultants to

conduct studies and present reports to the developer and to the AAD. If a developer destroys a site without s. 18 approval, they have committed a breach (s. 17), whether the site has been recorded or not.⁴² Following assessment at an Aboriginal Cultural Materials Committee (ACMC)⁴³ meeting (December 1998) after demolition, Bennett House was found to constitute a site of significance. However, both the EPRA and the AAD had been aware for several years of its status as a registered Aboriginal site and its significance to many people state-wide.⁴⁴

The recognition of Bennett House as a significant site was undoubtedly based upon the many years of indigenous associations with the buildings. In the 1950s the former infants school was structurally connected to Bennett House, and the complex became a joint facility. It was run as a private boarding house briefly in June 1953, then was handed back to Native Affairs in September and run by an Aboriginal woman, Miss J. Davis.⁴⁵

Jack Davis Hostel (infants school) was used as a facility for Aboriginal people from all over Western Australia requiring medical treatment at Royal Perth Hospital. The East Perth Girls Home, renamed Bennett House, under the Child Welfare Department was leased to the Aboriginal Child Care Agency, which until they became insolvent in the late 1980s operated both as an office and as emergency accommodation for street kids and young adults seeking their extended families.⁴⁶

Both buildings therefore had more than a half century of occupation, associations, attachments and memories for Aboriginal people throughout the state. Reserve 31431 (Bennett House) was vested with the AAD and managed by the ALT for the use and benefit of Aboriginal people. As with other institutions (for example, Moore River native settlement, Carrolup, Sister Kate's),⁴⁷ for the many people removed from their families and homelands and sent temporarily to Bennett House who boarded there for extended periods or had any associations there, the relationships formed therein – amongst one another, with some staff and amongst people residing around the local area – unsurprisingly are regarded as highly significant, as the recollections of elders in this paper reflect. Institutions for many came to constitute a home of sorts, for however long and in spite of terrible conditions. People drew upon their resources and inventiveness, endured adversity and survived; some went on to become prominent community leaders.

While being reminders of ethnocentric government practices, the buildings embody evidence for Aboriginal people of the social and cultural history prescribed for so many, and as such provide meaning for present lived experiences, including the difficulties people today face. Just as people return to places of trauma and loss in order to reconcile the past – for example, the Jewish people to concentration camps throughout Europe,

Australian prisoners of war and soldiers to the Kokoda trail and Vietnam – so too do Aboriginal people return to Moore River and other sites. Historian Shirley Fitzgerald describes perhaps the most important function of public acknowledgement of previously suppressed histories as being a form of empowerment, in that for the subjects of those stories it opens a way to ‘finding a context in which to act now’. In spite of the regrettable governmental practices, the buildings and places themselves continue to be the locus points for a multitude of deeply personal, individual memories held collectively. Protection, maintenance and acknowledgement of ethnographic heritage sites, as evidence of lived experience, assists in a healing process of the damages wreaked by colonial practices. As Robert Bropho has pointed out: ‘You only have to look at the war monument in Kings Park to realise that white people pay tribute to their dark times. So why shouldn’t we?’⁴⁸

Real Estate Versus Aboriginal Heritage

Real estate signage on Bennett House block for sale, 1999: ‘Bringing together the history and future of East Perth.’

EPRA: ‘The reality is, this building is laying idle.’

Judy Jackson: ‘If it’s still here its doing something. It’s a part of us’.⁴⁹

A key contributing factor to the necessity perceived by the EPRA and the ALT of a transfer of Aboriginal land for land held by the EPRA, which resulted in demolition of a registered Aboriginal site, is a planning practice that is not inclusive of the existing community in the critical formative stages. While existing communities within an area targeted by government funded and legally empowered redevelopment corporations may have opportunity to comment upon a scheme, with some private residents acquiring properties elsewhere of similar value, the scheme itself is planned by a small team of consultants and superimposed over the area in question, with ultimate decision making power regarding incorporation of existing features remaining with the redevelopment authority, most of whose members are appointed by, and all of whom are answerable to, the Minister for Planning. With the *East Perth Redevelopment Act 1991* having been passed by parliament, the EPRA was formed in July 1992.⁵⁰ Consultation with Aboriginal constituents over Bennett House, located in precinct 4 (Silver City), began only after the creation of the East Perth Redevelopment Scheme and when the EPRA works were well advanced.

The fundamental objective of the three stage redevelopment scheme was to group together separate holdings in the predominantly state government

owned 146 hectares of 'under-utilised and run-down industrial land', clean up environmental degradation and make saleable parcels available for investment, in accordance with a schematic arrangement of land-use purposes, concepts and design guidelines.⁵¹ As discussed earlier, while attempts have been made by both Aboriginal and white artists to represent Aboriginality via public art and monuments within landscaped parkland, in accordance with conditional ministerial approval to damage, alter or destroy Aboriginal sites in the Trafalgar and East Bridge precincts, local Aboriginal residents, organisations and the people they operate on behalf of were not initially included in decisions about where they wanted them to be located, nor had they any input into other land use in the formative stages of planning. Other than public art and nomenclature, no economic and housing incentives, as recommended in the report by Karlkarniny Regional Council, were incorporated into the redevelopment.

In accordance with their role as redevelopers of a sizable area of land whose past usage was now deemed inappropriate for a modern 'urban village' styled schematic, the EPRA had somewhat predictably germinated plans for the relocation of the remaining Aboriginal services. Research undertaken for the project in 1989 documents the location of all Aboriginal organisations in the area and includes suggestions for relocation, for example, of Boomerang Hostel to somewhere 'isolated' along the river towards Bassendean. A proposed site for a mixed purpose complex was marked out away from the hub in Parry, Newcastle and Pier streets.⁵²

While consolidation and rationalisation of Aboriginal land holdings did not unfold according to any precise plan contained in the Scheme Text where government funded Aboriginal groups were concerned, the EPRA did not veer from their objective to obtain the Bennett House/Jack Davis Hostel sites which had been earmarked from the outset as a 'gateway' into the salubrious heart of the waterside redevelopment.⁵³

Poor planning, years before the formation of the EPRA, also contributed to the tone and the terms of determining Bennett House's future. When the Jack Davis Hostel was made available to the Native Affairs Department to be utilised in conjunction with Bennett House (a move which sparked a public protest meeting of 200 non-Aboriginal residents), formal vesting did not occur. Nor was it formally vested along with Bennett House in 1986 with the AAD's land holding body, the ALT. Despite its proclamation as a reserve in 1933, formal vesting of Bennett House with the Native Affairs Department had not occurred either, but it was eventually excised from school reserve 1146 and vested with the Community Welfare Department in 1972 for community welfare purposes (changed in 1980 to 'hostel' in order to lease to Aboriginal Hostels Ltd). Vesting of Bennett House was then transferred to the ALT with the purpose retained as 'hostel', the Native

Welfare Department having been replaced in 1972 by the Aboriginal Affairs Planning Authority (AAPA). The buildings continued to operate as a joint facility for Aboriginal organisations and in 1986 the Minister for Community Services appealed to the Minister for Education and Planning to have the Jack Davis Hostel site (part 1146) excised from the Educational reserve and included in the Bennett House reserve.

Although the East Perth State School had closed in 1974, the Minister for Education and Planning rejected transferral of the former infants school to the ALT on the grounds that, due to redevelopment, the building may be required for future childcare or school purposes. Instead, a five year peppercorn lease was issued to the ALT, who intended to let it to Aboriginal applicants.⁵⁴

Not requiring the building after all, the Education Department had the reserve revoked in 1987 and it was revested for the use and purposes of the EPRA in October 1992. On 23 November 1993, the reserve was cancelled, vested in the Crown as vacant Crown land and granted to the EPRA in fee simple.⁵⁵ In 1994 both the ALT and the AAPA protested that the EPRA obtained vesting of part 1146 with no consultation; after all, consultation was a condition set by the Minister for Aboriginal Affairs for the continuation of the East Perth project.⁵⁶ The AAPA informed the EPRA that Bennett House would be cleaned, repaired and renovated, to be retained for use by Aboriginal people, and they sought from the EPRA for Jack Davis Hostel to be returned to the ALT for community purposes which would 'serve to keep the Aboriginal community a central part of the redevelopment of East Perth'. A further offer to clean up Jack Davis Hostel was not followed up by the EPRA⁵⁷ and negotiations regarding an application by the Noongar Alcohol and Substance Abuse Service (NASAS) to lease the whole complex for emergency accommodation were put on hold. The requests by the AAPA followed a letter from the EPRA's CEO, Michael Ratcliffe, to the Minister for Planning, Richard Lewis, requesting his approval for resumption of the Bennett House land under the *East Perth Redevelopment Act 1991* and consideration of the ALT's acquisition of another property in the area.⁵⁸ Thus the tone was set for the Bennett House proceedings.

Following formalisation in 1995 of discussions instigated by the EPRA with the AAD concerning a proposed three way land exchange, the EPRA were advised by the department that they must consult with the Aboriginal community over their relinquishing Bennett House to avoid a possible backlash due to the ill feeling caused by the resumption with no consultation of the Jack Davis Hostel. Two blocks of land were requested by the ALT to redress the prior lack of compensation for the hostel and other pockets of land in East Perth such as the Bull Paddock (on the south-east bank of the Claise Brook) and Millars Cave (along the train line east of Lord Street).⁵⁹

The EPRA responded to the AAD's warning to proceed sensitively by employing a Nyungah consultant, Richard Wilkes. For the lump sum payment of \$20,000 and over a four week period,⁶⁰ he was to deliver their proposition with supplied promotional materials, explain their function and past good works concerning environmental clean-up and representation of Aboriginal heritage in public art, nomenclature etc., gain the widest possible community perspective in response and provide the EPRA with a report of his findings.⁶¹

Underpinning all subsequent consultations regarding Bennett House was the threat of possible resumption of the land, possibly without compensation to the Aboriginal community. Although the EPRA, having heeded warnings by the AAD and the ALT, announced they preferred not to go down that path, it was asserted that it was within their legal rights and powers to resume or revest lands under their act. Aboriginal organisations and the wider community had of course already lost a number of sites to redevelopment in East Perth.⁶² This pressurised climate must not be underestimated for, as consultations proceeded, it contributed to the notion that no alternative solution to the transfer was possible. The Perth Aboriginal Medical Service (PAMS) already owned one block of land in Norbert Street which was too small for their requirements, and the NASAS in Wittenoom Street required a new location to open a detoxification/rehabilitation centre. The fact that one of the properties involved in the proposed transfer was a registered Aboriginal site appears to have been regarded by both the EPRA and the ALT, operating on behalf of the community, as an obstacle to the successful transfer of lands, which as pressure increased became a matter for urgent resolution. Two distinct issues which should have been addressed separately – the proper submission of a s. 18 development application according to the *Aboriginal Heritage Act 1972*, and a need by the PAMS and the NASAS to secure land to build new premises – became embroiled and reduced to a single economic issue.

One of the flaws of the consultation process itself, which consisted of two meetings held with separate metropolitan based Aboriginal groups and an individual meeting with the late Jack Davis, forming the basis for Wilkes' recommendation to proceed with the land swap, was that demolition was not raised as an item for community input. At the ACMC meeting of December 1998 following demolition, members from the Goldfields, Murchison/Gascoyne and Southwest commented on the omission of consultation prior to demolition:

There was strong condemnation that a section 18 application had not been lodged. This reaction was even stronger when members became aware that the information now available revealed there were more options than demolition of Bennett House and that the community members previously consulted had not

had an opportunity for input when the decision to demolish was made. It was noted that the report prepared for the EPRA identified that Bennett House was a listed site.⁶³

Elders have objected that key people were not consulted at all, not only on Bennett House but on any of the sites in East Perth, while the views of the Swan Valley Nyungah community and members of the Nyungah Circle of Elders who opposed the transfer were disregarded.⁶⁴ Following the second meeting organised by the consultant in liaison with the AAD, which key members of the Swan Valley Nyungah community and Nyungah Circle of Elders were unable to attend because they were overseas, the Circle requested another independent meeting with the EPRA. Although those present at the following meeting maintained their decision to oppose the land transfer, their recommendation was still not considered.

Also of note is the emphasis placed upon one elder's point of view, the late Jack Davis, who was cited in the consultant's report as having expressed the opinion when interviewed (privately, due to illness) that the transfer should be approved in accordance with spiritual belief, being that if something bad happens somewhere it is traditional for the Nyungah people to see that place as representing a bad omen and to move on. Recognition of the historical significance in the form of a plaque was recommended.⁶⁵ This view has been cited numerous times by the EPRA over and above other elders for whom Bennett House is significant and who were deeply offended by the demolition. Although it is likely to have reflected the views of some other people, apart from the consultant himself and board members of the PAMS⁶⁶ who had a direct interest in the transfer, this is not otherwise substantiated, and it would appear that one recorded point of view was being privileged for convenience.

The Wilkes report for the EPRA, consisting of brief summaries of a meeting with Jack Davis and two group meetings with pre-set agendas whereby substantial time was devoted to the EPRA, PAMS and NASAS presentations (all with a vested interest in the land transfer's success) and a brief, largely subjective 'ethnographic' section, does not constitute a comprehensive ethnographic study. It is also evident from this report that, despite the fact that the EPRA informed the meetings that the property was wanted for road widening, demolition was not a specific item for community discussion and recommendation.

While the wider Aboriginal community were not fully informed or provided with the opportunity to give their views regarding demolition, the Minister for Aboriginal Affairs, the Planning Ministry, and the ALT/AAD all knew about the EPRA's plans to demolish Bennett House.⁶⁷ The Wilkes report concluded approval of the transfer of Bennett House for blocks

owned in Norbert Street, despite a recommendation by Ken Colbung which proposed that a delegation of Aboriginal representatives meet with Premier Richard Court and Minister for Aboriginal Affairs Kevin Prince to discuss making land available at Norbert Street for the PAMS and the NASAS on which to build new premises, without any transfer of Bennett House.⁶⁸ This proposal was rejected when delegates met with cabinet ministers in August 1996, and an agreement in principle was made between the parties to transfer only one EPRA block in Royal Street, with the EPRA gaining Bennett House, and for the EPRA to sell another block in Norbert Street to the PAMS. The Aboriginal organisations were to make up the difference in funds to the EPRA. The PAMS were in danger of losing funding if they did not build before 30 June 1998; they subsequently received funding from the Health Department and the AAD to purchase one of the Norbert Street blocks from the EPRA (whose lands consisted largely of resumed government lands) to build a medical facility. The proposed complex at Norbert Street was to enable the establishment of a strong Aboriginal presence in East Perth, which had been eroded by previous development.⁶⁹

It is questionable whether, on its completion, the Wilkes report was sent from the AAD on to their ACMC department according to the proper processes under the *Aboriginal Heritage Act 1972*. The EPRA did not follow up the notification attached to the report of the area being a registered site by applying for s. 18 approval to damage, alter, destroy or remove an Aboriginal site; it is not unlikely this was by arrangement with the AAD because of the land transferal agreed to at the above meeting.

In 1996 it came to light that Commonwealth Native Title law might present an obstacle and, in order for it to proceed, all claimants were required by law to agree to the land transfer. The Department of Premier and Cabinet requested the Native Title Tribunal to mediate discussions already begun about the excision of reserve 31431 from the five claimants' claims.⁷⁰ While records vary in reporting the outcome of meetings, the result that two of the five claimants opposed appears to be the most consistent.⁷¹ Although Native Title remained an uncertain issue until 1998 and thereby delayed the transfer, the Department of Land Administration (DOLA) had informed the AAD on 24 December 1996 that Native Title was considered inconsistent due both to a past grant in fee simple in 1854 and to its later usage as a school site.⁷²

The AAD received a letter indicating some frustration from the Minister for Planning on 21 April 1998 advising that the normal (compulsory) resumption processes would be utilised if the transfer of land at 26 Royal Street for Bennett House land was not finalised within a month. The EPRA were to record a grant to the ALT of the outstanding \$680,000 in its accounts.⁷³ The transfer was fast-tracked, with Native Title issues and other

details of tenure transfer cleared by the DOLA.⁷⁴ Consultation with the claimants who opposed transfer ceased to have currency, though claimants were not informed of the past tenure findings, nor of subsequent developments. The voices of those Native Title claimants in opposition, representing many others in their community, thereafter were completely disregarded, as though they had no relevance at all in the area.

With no perceived additional obstacles, and no further community consultation, Planning and Aboriginal Affairs ministerial approval was obtained,⁷⁵ and the ALT passed the resolution (8/98) agreeing to the exchange.⁷⁶ The ALT signed the EPRA's Development Application for the purpose of demolition on 3 July 1998, and approved the EPRA's early possession of the site.⁷⁷ The ALT vested reserve was cancelled to the DOLA on 28 July, and the EPRA received certificate of freehold title on 16 October. Disregarding the requirements of the *Aboriginal Heritage Act 1972*, the building was demolished for the EPRA on 25 October 1998, days before they had received the demolition licence from Perth City Council, issued on 29 October. Acting as the local authority, the EPRA were exempt from the usual council approval under s. 373 of the *Local Government Act 1995*.⁷⁸

The Deed between the EPRA and the ALT to transfer EPRA Lots 1-16, 27-19, and Part Lot 533 and 26 Royal Streets for use by the NASAS was signed by both parties and processed on 23 March 1999, with a caveat placed to maintain land within public ownership. The new freehold ALT property was then transferred to the NASAS with the same caveat placed by the EPRA, meaning, if the NASAS in future want to sell the property they must have the approval of the Minister for Aboriginal Affairs. They must also indemnify the ALT and the state against claims brought in relation to the land transfer, in particular those brought by Native Title claimants. In terms of their purpose and ability to represent Aboriginal communities, this is an unrealistic and unreasonable position for the NASAS to be placed in.⁷⁹

The EPRA, in accordance with their statutory requirements, were not prepared to diverge from their economic objectives and compensate the Aboriginal community for past resumption; the state government saw no need to make provisions for two health-based essential services without the wider Aboriginal community having to forfeit a registered heritage site. Consequently the EPRA could potentially profit from the transfer, for although the Bennett House block was valued less than the block to be exchanged at 26 Royal Street, and although they eventually had to record a grant to the ALT in their accounts, once freehold the Bennett House land could be subdivided/regrouped and resold, in addition to the block sold to the PAMS in Norbert Street.

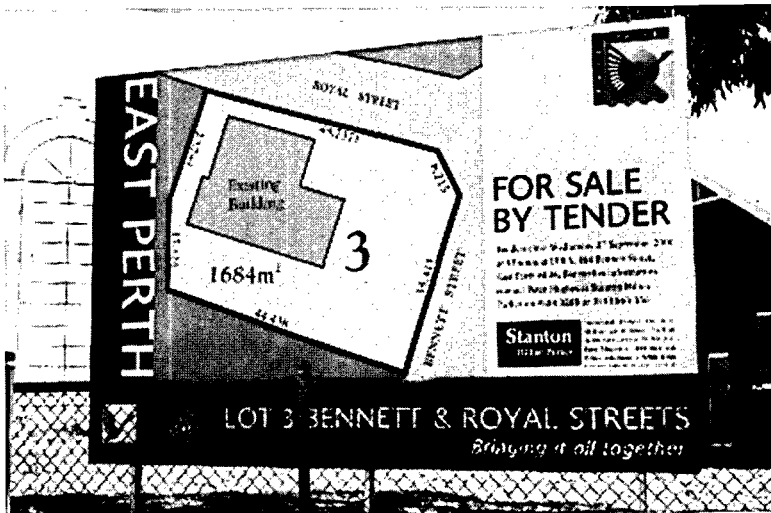
The EPRA placed former reserve 31431, now combined with the Jack Davis Hostel site, on the market. Due in part to unfavourable media coverage

and concern expressed by members of the Aboriginal community prior to and after demolition of Bennett House, the EPRA and the Heritage Council WA placed a conservation order to prevent demolition by subsequent owners of the old hostel.⁸⁰ This is now party to an incongruous architectural juxtaposition in the form of a three storey tilt-up slab monolith rearing up directly behind. Two years on from demolition, the condition of the transfer, as recommended by one of Australia's best known Aboriginal writers – that an on-site plaque/monument commemorating the thousands of Aboriginal people who lived in and passed through Bennett House/Jack Davis Hostel be installed – has not been fulfilled. With deregistration by the ACMC of Bennett House from the Register of Aboriginal Sites due to its demolition, the above condition of transfer may never be fulfilled.⁸¹

Legal Matters

Despite the fact that their consultant Richard Wilkes had provided the EPRA with evidence of the site's significance in 1996, they did not make a

FIGURE 6: Re-parcelled



The Bennett House and Jack Davis Hostel blocks re-parcelled and placed on the market by the EPRA. Photograph by Vivienne Hillyer (2000).

s. 18 application under the *Aboriginal Heritage Act 1972* as is required of all developers prior to development involving disturbance, alteration or destruction of an Aboriginal site.⁸² As raised earlier, the Wilkes report may not have been received by the ACMC and, in addition, it falls short of being a comprehensive ethnographic study.

Following demolition, the Swan Valley Nyungah community requested the Minister for Aboriginal Affairs Kim Hames to initiate prosecution of the EPRA for a breach of s. 17 of the act. A number of meetings followed within the AAD, and the ACMC recommended that the minister proceed with prosecution.⁸³ The minister deferred a decision pending further information. ACMC meetings in February and March 1999, the latter at which Ken Colbung (Chairperson, ACMC), following discussion at that meeting with Haydn Lowe (CEO, AAD),⁸⁴ agreed to request that the ACMC settle for an apology from both the ALT and the EPRA. In a subsequent meeting of 13 and 14 April 1999, the ACMC's decision to prosecute was reversed. The CEO of the AAD was Acting Chairperson of the ACMC at this time. As the building had been demolished, the ACMC accepted a pre-prepared written apology from the ALT. The EPRA were also requested by the ALT to apologise to the ACMC for failing to abide by the regulations of the *Aboriginal Heritage Act 1972*.⁸⁵ The EPRA letter was not an apology and made no admission of having committed a s. 17 breach of the act, but rather claimed they would have applied for s. 18 approval had the ALT informed them of this requirement. The ALT's position echoed the EPRA's, being that it was the ALT who were guilty of signing the Development Application form which indicated demolition was to take place. This is contrary to the *Aboriginal Heritage Act 1972* which states that the owner of the land must inquire themselves as to whether they are required to make a s. 18 application. Most startling of all is that application to the local authority for development approval (that is, the EPRA, with the applicant signing same as owner, in this case technically the ALT at time of signing) has been wrongly substituted, or considered interchangeable, with the *Aboriginal Heritage Act 1972* in the Bennett House situation. With the ALT shouldering the blame and their apology accepted by the ACMC and the Minister for Aboriginal Affairs, the matter was closed.

The Swan Valley Nyungah community received legal advice that, according to s. 51 of the *Justices Act*, the time lapse following the alleged offence eliminated the possibility of prosecution under the *Aboriginal Heritage Act 1972*; this, however, has never been tested in a court. The matter has been examined by the Ombudsman who was satisfied that the Minister for Aboriginal Affairs made his decision not to prosecute the EPRA according to proper and full briefing. While acknowledging that no s. 18 application had been made, he expressed his own satisfaction that the ALT

had acknowledged its 'error'. The Ombudsman therefore endorsed the erroneous assumption that the two distinct legal requirements were interchangeable.⁸⁶

Conclusion

One possibility for this alarming oversight by all parties involved is that the AAD acquiesced to the EPRA in not going through the proper process according to the *Aboriginal Heritage Act 1972*. Had s. 18 approval not been granted to the EPRA, the Ministry for Planning may have overridden the Minister for Aboriginal Affairs and the land could have been compulsorily resumed. There may have been no gains for the Aboriginal organisations, other than the block purchased by the PAMS. As has been shown elsewhere, the ALT, members of the AAD and the Minister for Aboriginal Affairs were aware of the EPRA plans to demolish Bennett House. The only people who were not informed were some members of the ACMC and the wider Aboriginal community, whom the AAD is supposedly operating on behalf of (see the *Aboriginal Affairs Planning Authority Act 1972*). Furthermore, the EPRA did not ask the ALT to provide information about the significance of Bennett House as they had paid good money to a consultant who had already given them this information which they chose to ignore. This paper proposes that it was in the interests of the EPRA and the ALT under the circumstances to sidestep Aboriginal heritage law, as it represented an obstacle to a transfer of lands. The failure of the transfer, while of significance to the EPRA, would have had serious ramifications for the PAMS and the NASAS, as there was a risk of losing not only the ALT vested Bennett House reserve through compulsory resumption, but also the opportunity to obtain sufficient land to build new premises. The interests of those who value the Aboriginal heritage site Bennett House, including members of the community who made applications to the AAD to run it as an Art and Culture Centre and who now believe it should have been preserved as 'a monument of man's inhumanity to man and for its value of wickedness',⁸⁷ were subordinated to the needs of the above organisations, who in turn claimed the facilities were for the benefit of the wider Aboriginal community.

If the Western Australian government, including the AAD, had a genuine concern for progressing Aboriginal community affairs and welfare, the profit driven interests of the EPRA would not have determined the future of a cultural and historical Aboriginal site. Funds could have been made available to acquire land for the PAMS and the NASAS, both being health providers, without the forfeiture of a heritage site. Bennett House then could have been retained by the Aboriginal community and preserved for its contemporary social, cultural and historical significance. With the

demolition of the building and the removal of Bennett House from the Register of Aboriginal Sites, an important link and chapter of Western Australia's Stolen Generations has been erased. The mural paintings on the walls, the meanings, associations and sentiments connected with the physical presence of the building, have all been devalued and negated.

While poor publicity for the the EPRA resulting from a potential prosecution for a s. 17 breach of the *Aboriginal Heritage Act 1972* may have been undesirable – considering the resources injected into public relations exercises such as carnivals and advertising devoted to community development, Aboriginal themes in public art, promotional videos paying lip service to reconciliation, and slogans of bringing the past and future together – the project had more or less achieved its aims of refurbishment and land sales and was winding up operations. Apart from the minor threat of poor publicity, the laughable \$500 fine for a s. 17 breach of the act, applicable for a first offence, had as much bite as a whitebait to a white pointer.

The low penalties for breaches of the *Aboriginal Heritage Act 1972* reflect an attitude that Aboriginal heritage is less important than an item of European heritage, for example, a school building. Had Bennett House been registered under the state's *Heritage Act 1990* and demolished without the necessary approvals, the fine would have been \$5,000 with a \$500 daily penalty. However, as has been shown, even with stronger penalties, enforcement does not necessarily follow.

This paper has not set out to condemn the land exchange per se for, while being subject to a variety of opinions, the new health complex may be a positive development for many Aboriginal people, though by no means all. The objective has been to point to the conditions and context which set the stage for the land transaction to be played out and to demonstrate a deeply flawed, totalising system of fast-track planning in terms of protecting Aboriginal heritage sites, highlighting the ad hoc treatment of Aboriginal heritage laws by government and developers in Western Australia. While consultation occurred, it was less than balanced, being prejudiced by a predetermined process against particular groups while privileging others. The case indicates just how far away the state government was from effective reconciliation and justice, when the shadow of a major developer's legislative power to resume AAD vested Crown lands prevails, telescoping perceived and actual courses of action.

In order to address present inequalities, it is essential that all levels of the governing culture work towards dismantling a collective amnesia regarding the manifold repercussions of colonialism on indigenous Australians. In the reconciliation process, public apology should be substantiated by meaningful action, for example, provision of adequate health and housing services,

programs to reunite families separated by government policy, compensation and protection of heritage, including sites such as Bennett House, of contemporary social and ethnographic significance with direct relevance to indisputably destructive government practices. A philosophical shift in developer and government values is required, away from purely economic and market image concerns towards accommodating existing community interests, beliefs and needs through a process of dialogue, as distinct from a current practice of 'consultation' whereby the recommendations of those consulted can be ignored. Although there are no simple solutions, as Iveson has argued, at least debates supporting communicative planning processes start from a point that is better able to address cultural imperialism than are scopic or monolithic practices.⁸⁸ Legal review and reform, provisions for cultural awareness training of developers and administrators, increased ability of indigenous people to appoint anthropologists, consultants and mediators of their own choice: these may all facilitate more equitable and inclusive planning. In contrast, the experience in redeveloped East Perth – from closure of hostels, dividing of people, failure to compensate, the unfulfilled condition of the land transfer to commemorate a heritage site, to the absence of new Aboriginal housing and the removal of people from Wellington Square – indicates an inflexible and begrudging attitude and a fundamental lack of commitment by the EPRA and the former Liberal government to indigenous people.

The abundant symbolic representation of Aboriginal spirituality and pre-colonial presence, imbuing the East Perth project with a manufactured archaic flavour no doubt catering to tourists' and new residents' desire for a sense of history and relationship to land, must therefore be viewed and weighed against the real heritage losses and comparative lack of gains for the contemporary Aboriginal community in East Perth.

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- 1988 'Park people at end of line', 11 June.
- 1990 'Aboriginal site threat to revamp', 3 Oct.
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Endnotes

- 1 Judy Jackson, 10 Dec. 1996, minutes to meeting of EPRA, Swan Valley Nyungah community (SVNC) and Nyungah Circle of Elders (NCE) (SVNC Archives).
- 2 Helena Pell Pritchard, interview, 5 Oct. 1999. Bonnie Morrison (Nyungah) worked at Bennett House for many years.
- 3 SVNC Archives contain the following AAD documents obtained under FOI: letters from Minister for Aboriginal Affairs Kim Hames (21 Dec. 1998, 11 Jan. 1999, undated draft copy) in response to letters objecting to Bennett House's demolition from elders Daryl Stewart (23 Nov. 1998), Patricia and Noel Morich (7 Dec. 1998) and Ken Colbung (9 Nov. 1998); letter from SVNC (20 Nov. 1998) to Hames urging prosecution of EPRA. Also Attachment 2, extract from minutes of the ordinary meeting of AACC, 15 Dec. 98.
- 4 Butler (2000). Kierath's purchase for \$160,000 in Feb. 2000 was tabled in the Legislative Assembly, 15 Nov. 2000. Opposition spokesperson Alannah McTiernan said the minister's move was curious and unwise, and that he should absent himself from decisions relating to EPRA, otherwise his impartiality would be questioned.

- 5 In October 1992 the Environmental Protection Authority (1992a, 1992b) recommended that the state government initiate a process of identification and creation of a new environmentally acceptable site for the disposal of hazardous waste, as none existed. Red Hill was created some time thereafter; however, it has been recorded that waste was used as landfill in an almost completed golf course at Bellevue (Lee Bell, PhD candidate, Environmental Sociology, Murdoch University, interview, Oct. 1999). Letter denying access to information regarding location of waste disposal, Peter Lynch (Director of Operations, EPRA), 10 Dec. 1999.
- 6 Helena Pell Pritchard, interview, 5 Oct. 1999.
- 7 Helena Pell Pritchard, interview, 5 Oct. 1999. Also, Clarrie Isaacs, telephone conversation, 25 Oct. 2000. Clarrie Isaacs' cousin Henry Isaacs, Henry's father Harry and mother Pauline Isaacs lived opposite Bennett House/Jack Davis Hostel on Bennett Street. Also, line of semi-detached houses on Saunders Street. See also Annual Reports (1997: 21, 1999: 36), retrospective EPRA booklets. Only two lots were subsidised and made available to Perth Inner City Housing Collective.
- 8 The Labor cabinet has overturned the former Court government's plans to site the prison at Pyrtton (Tickner 2001). A decision on what to site there has not been made. At time of writing, Federal Minister for Environment and Heritage Robert Hill has not announced any decision to grant protection under s. 10 of the *Aboriginal and Torres Strait Islander Act*. Planning decisions for Rottneest Island, where the bones of hundreds of Aboriginal men incarcerated there between 1838 and 1903 remain, are unresolved (Austen 1998). On the Swan brewery, see Jacobs (1996), Ansara (1990) and Mickler (1989).
- 9 Robert Bropho, interview on site in East Perth, 24 June 1998.
- 10 'Half-Caste Girls Home East Perth', letter from A. O. Neville to Undersecretary for Works, 2 March 1933 (State Library Archives, 993, 41, 1933).
- 11 'Establishment of East Perth H. C. Girls Home', letter from Deputy Chief Protector to Acting Undersecretary to request Public Works Department to find other premises ASAP, 1 Sept. 1932 (State Library Archives, 993, 13, 1929). Clarrie Isaacs, interview, East Perth, 29 May 1998. Philip Gibbs, architect and resident of East Perth, interview, 11 May 1998.
- 12 'Half-Caste Girls Home East Perth' (State Library Archives, 993, 41, 1933).
- 13 The benchmark Cubillo/Gunner versus the Commonwealth case did not dispute the existence of the Stolen Generations, despite defeat by the Commonwealth of the claim for compensation (ABC Radio National, 11 Aug. 2000). See also Haebich (1988, 2000).
- 14 'Establishment of East Perth H. C. Girls Home' (State Library Archives, 993, 13, 1929). See also Maushart (1993). Inmates and staff both claim that there was no such thing as domestic training at Moore River, just work to be done and disciplinary measures taken by staff if not done to their satisfaction.
- 15 'East Perth H. C. Home: Matrons Reports' (State Library Archives, 993, 335, 1932).
- 16 Wilkes (1996b: 5).
- 17 Maushart (1993: 66).
- 18 Letter from S. G. Middleton (Commissioner of Native Affairs) to C. R. W. Webster (District Officer for Native Affairs, Narrogin): the four principles governing the selection of suitable children for transfer to Sister Kate's Home. 'Sister Kate's Home for Quarter-Caste Children', *Native Affairs Record*, 1949 (State Library Archives, 993, 77, 1949).
- 19 Jacobs (1990: ch. 11).

- 20 Maushart (1993: 66, 271).
- 21 Clarrie Isaacs, interview, East Perth, 29 May 1998.
- 22 'East Perth Girls Home' (State Library Archives, 993, 335, 1932).
- 23 Judy Jackson, interview, 12 June 1998.
- 24 L. A. Musso (Medical Inspector), inspection, 8 March, *Native Affairs Record*, 13 July 1945 (State Library Archives, 993, 1218).
- 25 L. A. Musso (Medical Inspector), inspection, 8 March, *Native Affairs Record*, 13 July 1945 (State Library Archives, 993, 1218).
- 26 Commissioner of Native Affairs, 7 July 1943, 'Training Native Girls as Nurses and Teachers' (State Library Archives, 993, 678, 1943).
- 27 Maushart (1993: 167-78).
- 28 Julia Ball, National Trust of Australia WA, letter, 24 Aug. 1998.
- 29 Kevin Pallasis Architects (1996: 101). They were also contracted by EPRA to conduct a photographic record immediately prior to demolition in Oct. 1998.
- 30 EPRA 1996, files: Jack Davis Hostel and Bennett House. Robert Eggington, Dumbartung Aboriginal Corporation, telephone conversation, 23 Oct. 2000. Robert Eggington worked for the Aboriginal Child Care Agency at Bennett House in the 1980s when the murals were painted. Michael Chimney is from the Alice Springs area.
- 31 See, for example, the discussion concerning the issue of consultation in McDonald, Locke and Murphy (1991: 7-8).
- 32 *Statement by the Karlkarniny Regional Council Regarding the East Perth Project*, June 1991.
- 33 O'Connor and Quartermaine (1989).
- 34 Giblett and Webb (1996) quote from O'Connor (O'Connor, R., Quartermaine, G. and Bodney, C. 1989 *Report of an Investigation into Aboriginal Significance of Wetlands and Rivers in the Perth-Bunbury Region, Western Australia*, Water Resources Council in chapter, 'Living water or useless swamps?').
- 35 McDonald, Locke and Murphy (1991: 35).
- 36 McDonald, Locke and Murphy (1991: 35).
- 37 Wilkes (1996a). If Yellagonga was a Didaroke from a hills family, as recorded by Grey (1838), he possibly held land through his wives who were from the coastal plains (Hallam and Tilbrook 1990: 320, 348-53).
- 38 Main Roads Department, telephone interview, Dec. 1999. The burial site was not registered as such with AAD, but only within an open 'camping site' (gasworks site). Telephone interviews with Heritage and Culture section, AAD, Dec. 1999.
- 39 Judyth Watson (Minister for Aboriginal Affairs) to Michael Ratcliffe (CEO, EPRA), 30 Dec. 1999. Also, Irene Stainton, former resident of East Perth, interview, 5 Oct. 1999. Irene Stainton commented that the exclusion of last names on a public fountain by Marcel George rendered it meaningless for Aboriginal people, who depend upon last names to understand an individual's identity within the community. She thought that public art could potentially be meaningful in terms of representing Aboriginal heritage, but did not find this was the case in East Perth. Clarrie Isaacs, whose first name is on the fountain, said it gave him a feeling of having a sense of place in East Perth.
- 40 Clarrie Isaacs and Robert Bropho, interviews at East Perth, 24 June 1998. Philip Gibbs, interview, 11 May 1998. Many people associated with the writer have objected to the mural (Joanna Lefroy Capelle, interview, 22 May 1998).
- 41 Haebich (n.d.).

- 42 Evatt (1996: 330-8). A letter from Murray Allen (Ombudsman) to Robert Bropho, 12 Oct. 2000, confirms that there is no formal requirement under the *Aboriginal Heritage Act* that a site must be recorded to be a site under the act. Kevin Palassis Architects (1996) were incorrect in reporting that the site in question was not registered (see note 29 above).
- 43 The advisory body established for the purposes of the *Aboriginal Heritage Act*, consisting of members appointed by Minister for Aboriginal Affairs and ex-officio members.
- 44 Correspondence from a number of elders to AAD inquiring about the site status of Bennett House in 1998, initiated after hearing rumors of EPRA plans for demolition, does not appear to have been acknowledged (SVNC Archives).
- 45 Native Affairs Annual Reports, 1953-55 (State Library Archives). A connection with the late Jack Davis has not been confirmed.
- 46 Robert Eggington, telephone conversation, 23 Oct. 2000.
- 47 Maushart (1993); Anderson, Little and Wolfe (1993).
- 48 Fitzgerald (2000). Robert Bropho, *Community Guardian Express*, 4 Jan. 2000.
- 49 Extract from SVNC minutes for meeting between AAD, EPRA and NCE, 10 Dec. 1996 (SVNC Archives).
- 50 EPRA could compulsorily resume lands under s. 21 of the *East Perth Redevelopment Act 1991*. Although each situation is examined case by case by the minister, in the case of Crown Lands generally no compensation is made. Further complications arise with privatisation of government services (Richard Walsky, Regional Manager, Metropolitan Land Administration Services, telephone conversation, 25 Oct. 2000).
- 51 *Corporate Objectives and Strategies, EPRA 1997 Annual Report*. 9; Richard Wilkes' brief, *Public Consultation of Aboriginal People Regarding Possible Land Transfers in East Perth*, 28 Dec. 1995, EPRA, Bennett House file.
- 52 Report from Verity Allen (Executive Officer) to Michael Ratcliffe (CEO, EPRA), 12 Jan. 1989, EPRA files, SE 3597, vol. 1.
- 53 SVNC files; AAD file 95/0530, AAD internal memorandum from Mike Collins to Cath Nesus, 14 Sept. 1995. At a meeting between EPRA, AAD and Aboriginal organisations involved in discussions concerning transfer of lands, Mark Hedges (Acting CEO, EPRA) advised that EPRA wished to obtain Bennett House on a freehold basis, and that the building would probably be demolished and the site redeveloped, but could not advise what other developments were proposed. Also, EPRA inter-office memo, 18 March 1993, EPRA JDH file.
- 54 Letter from Cedric Wyatt (Commissioner of Planning, Aboriginal Planning Authority) to Michael Ratcliffe, 24 June 1994, EPRA JDH file.
- 55 Benson (1999); letter from Hammond Worthington Provost to Carolyn Tan (Dwyer Durack), 5 Nov. 1998.
- 56 Letter from Cedric Wyatt to Michael Ratcliffe, 24 June 1994.
- 57 Letter from Craig Somerville (for Commissioner for Aboriginal Planning) to Michael Ratcliffe, 24 Aug. 1994.
- 58 Letter from Michael Ratcliffe to Richard Lewis (Minister for Planning), 20 Apr. 1994, EPRA JDH file.
- 59 Advice of CEO, ALT/AAD to Richard Lewis for meeting of 22 Aug. 1995; letter from EPRA to Cedric Wyatt, 21 Aug. 1995, AAD file 95/0530; letter from Mark Hedges to Cedric Wyatt, 21 Aug. 1995, AAD file 95/0530.
- 60 Raised from \$10,000; the use of a 4WD for one month added. Draft contract, and signed contract of 29 Dec. 1995 (EPRA, SVNC Archives).

- 61 *Public Consultation of Aboriginal People Regarding Possible Land Transfers in East Perth*, sent to Richard Wilkes, 28 Dec. 1995, EPRA Bennett House file.
- 62 Native Title has not been raised with regard to the sites known as the Bull Paddock and Millars Cave.
- 63 Attachment 2, extract from minutes of the ordinary meeting of APMC, 15 Dec. 98, AAD file 97/1085-02.
- 64 Helena Pell Pritchard, interview, 5 Oct. 1999. For example, neither John Harris (Perth City Mission) nor Rosie Pell were consulted. See also letters to AAD and meeting of 12 Dec. 1996 with SVNC (minutes, SVNC Archives).
- 65 Wilkes (1996b: 23).
- 66 Letter from PAMS to Robert Bropho, 6 Feb. 1996.
- 67 For example, Minister for Planning requested Minister for Aboriginal Affairs' support for EPRA's resumption of 31431 under s. 12 of the *Public Works Act*, and the acquisition by the ALT of another property, and stated that Bennett House was required to be demolished for the proposed realignment of Bennett Street (date obscured by memo). See also undated draft letter from Minister for Planning to Minister for Aboriginal Affairs containing reference to Minister for Aboriginal Affairs' prior approval of transfer and demolition, EPRA Bennett House file.
- 68 Wilkes (1996b: 12).
- 69 Briefing notes from AAD to Minister for Aboriginal Affairs, 11 Feb. 1998, AAD file 97/1085 (SVNC Archives). See also advice from CEO, AAD, to Minister for Planning, 22 Aug. 1996, EPRA files.
- 70 Letter from Hugh Chevis (Native Title Tribunal) to Robert Bropho, 2 Dec. 1997, SVNC files. Not all meetings were mediated; some were between AAD and individual claimants.
- 71 AAD Ministerial Briefing notes, contentious issue, Metro/Wheatbelt, transfer; 28 Oct. 1998, AAD file 97/1085, SVNC files, 'East Perth'.
- 72 Cliff Uren (DOLA) to Mike Collins (CEO, AAD), 24 Dec. 1996, AAD file 96/0994, SVNC files.
- 73 Letter from Minister for Planning to Minister for Aboriginal Affairs, 16 Apr. 1998, AAD file 97/1085, SVNC. However, at time of writing, the issue of the consistency of lands with tenure histories such as Bennett House with Native Title 'Future Acts' has not yet been resolved by a court.
- 74 Letter from Christopher Williams (Director, Government Land Services, DOLA) to John Unkovich (Principal Legal Officer, AAD), 22 Apr. 1998, AAD file 97/1085, SVNC.
- 75 Minister for Aboriginal Affairs Kim Hames to Minister for Planning, 4 May 1998, AAD file 97/1085, SVNC; letter from Wally Cox (CEO, EPRA) to Minister for Planning, 30 June 1998; EPRA Bennett House file.
- 76 Letter from Mick Gooda (CEO, ALT) to Executive Director, DOLA; AAD file 97/1085, SVNC.
- 77 Schedule 1, Form 1, s. 40, *East Perth Redevelopment Act 1991*; John Unkovich to Peter Lynch (Director of Operations, EPRA), 23 June 1998; AAD file 97/1085, SVNC.
- 78 Although the demolition licence from the City of Perth was actually granted to DOLA, EPRA had title at time of demolition. According to the Ombudsman (letter to Robert Bropho, 12 Oct. 2000, SVNC files), EPRA is exempt from requiring formal demolition approval by the city under s. 373 of the *Local Government Act 1995*.

- 79 Deed between EPRA and ALT signed 23 March 1999, SVNC files, AAD file 97/1085-03; also, caveat, ALT, SVNC files, AAD file, 97/1085-03; letter from John Unkovich to NASAS, 8 Sept. 1999.
- 80 Martine Potter, Property Officer, EPRA, 15 Oct. 1999.
- 81 Letter from the Ombudsman to Robert Bropho, 12 Oct. 2000. Although a site is a site under the *Aboriginal Heritage Act 1972* whether it is registered or not, once demolished Bennett House was considered by the APMC to no longer be a site and was removed from the Register on 13 June 2000. Today this is not uncommon practice.
- 82 *Aboriginal Heritage Act 1972*: 11-12.
- 83 Extract from minutes, APMC, 15 Dec. 1998, AAD file 97/1085-02.
- 84 Labor government Minister for Indigenous Affairs, Alan Carpenter, dismissed Lowe.
- 85 Letter of apology from Clem Riley (Chairperson, ALT) to Acting Chairperson, APMC, 29 March 1999; letter from W. J. Cox (CEO, EPRA) to Acting Chairperson, APMC, 1 Apr. 1999; SVNC AAD file 97/1085-02.
- 86 Ombudsman to Robert Bropho, 12 Oct. 2000, SVNC files.
- 87 Clarrie Isaacs, interview, 24 June 1998, telephone conversation, 25 Oct. 2000. Clarrie believes that a statue of an Aboriginal woman, commemorating the suffering of all the women and children, should be made for the site.
- 88 Iveson (2000: 231, 234). Iveson refers to Michel de Certeau's comment on the 'scopic drive of planners', a fictional belief that they can imagine or read space; however, everyday life continuously evades or contradicts such planning.