**Mind the Gap: Aligning legislation, values and risk management for the preservation of utilitarian heritage**

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**Abstract**

Australia’s utilitarian (industrial and engineering) heritage is a significant resource. Keeping it operating maintains community engagement and preserves intangible heritage aspects of skill, culture and affective experience, but requires a creative, collaborative approach to maintaining safety without destroying heritage values. Differing disciplinary contexts and a challenging legal environment, however, make this difficult. Bringing together heritage specialists, lawyers and engineers this project will help multi-disciplinary teams to integrate their understandings of value and risk, and will identify spheres of influence in the evolving legal and regulatory environment that heritage practitioners can use to promote the needs of operating utilitarian heritage.

**Project Description**

Australian legislation caters fairly well to the preservation of traditional categories of heritage. Static artworks and elite and domestic built heritage fit well within the accepted canon of heritage value Smith (2006) and have a number of shared features: most of them are beautiful (or at least impressive), most of them are a single, clearly bounded object or entity, and most of them are static (not intended to be functional or changeable in an active way).

Industrial, engineering and science focused heritage items – utilitarian heritage - mostly do not fit these categories. Utilitarian heritage items can be, but are often not, beautiful, they often consist of multiple components, and their significance is strongly associated with functionality and changeability. Their potential to be activated to perform a task and to change in some way during that activation is extremely significant (Wain and Sherring, SIC in press), as is the intangible heritage of skills, culture and affect that attends that activation. It is these qualities, and their continued participation in the life of the community that they were built for, that gives them the significance, connection and relevance that protects them from being abandoned and dismantled (see Management Principle 7 in Heritage Council of New South Wales, NSW Heritage Office, 2005) and that supports preservation of the intangible heritage of skills and knowledge required to understand and operate them, the culture of caring for them, and the affect associated with experiencing them (Baker, 2005). They are not relics of the past but essential componentsof our present and future wellbeing.

The legislative frameworks that dictate the management of active utilitarian heritage include both dedicated heritage protection legislation and diverse areas of legislation and regulation that impact heritage through unintended consequences, such as Work Health and Safety legislation, vehicle registration regulations and steam boiler maintenance requirements. Written for current technologies, these laws and regulations either fail to make discretionary provision for obsolete technologies, or mandate training, procedures or products that are actively damaging or dangerous when applied to utilitarian heritage. The interweaving of multiple statutes also results in confusing and even contradictory requirements for active utilitarian heritage, such as the requirement for historic aircraft to have a flight engineer aboard when flying, which cannot be met because – with the advent of computerised flight control – there is no longer a process for certifying human flight engineers (Neil Hogg, Engineering Heritage Australia, pers. comm., 18 August, 2020).

Informal conversations with people connected with utilitarian heritage preservation in a variety of ways (including as a professional, volunteer or private technology owner) and with a variety of disciplinary and community of practice backgrounds (heritage managers, conservators, engineers, mechanics, architects etc) have identified the need for new decision-making frameworks to help disparate heritage communities of practice evaluate their different values and exposure to regulatory penalties through common lenses, and a need for tools to educate them about the spheres of influence available to them to influence the development of the legal environments that affect their work in heritage.