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TRANSCRIPT OF PROCEEDINGS

PRODUCTIVITY COMMISSION

INQUIRY INTO THE CONSERVATION OF AUSTRALIA'S HISTORIC BUILT HERITAGE PLACES

DR N. BYRON, Presiding Commissioner,
MR T. HINTON, Commissioner

TRANSCRIPT OF PROCEEDINGS

AT CANBERRA ON MONDAY, 15 AUGUST 2005, AT 9 AM

Continued from 12/8/05 in Hobart

DR BYRON: Good morning, ladies and gentlemen. Welcome to the public hearings, the Productivity Commission's inquiry into the Conservation of Australia's Historic Places. Thank you very much for coming today. My name is Neil Byron and I'm the Presiding Commissioner for this inquiry. My fellow Commissioner is Tony Hinton. This inquiry stems from terms of reference that the Commission has received from the Australian treasurer, with the endorsement of all state and territory governments. It covers the policy framework and the incentives in place to encourage the conservation of heritage places, including built heritage.

We've already talked to a large number of different organisations and individuals with interest in heritage conservation in most states and territories, including some fascinating rural and regional visits in Tasmania, Victoria, New South Wales and Queensland. Submissions have been coming into the inquiry, following the release of our issues paper about two months ago. We now have about 140 submissions, all of which are on our web site, or will be as soon as we can handle the flood of them coming in lately. The purpose of hearings like these is to provide an opportunity for any interested parties to discuss their submissions with the Commission, and put their views on the public record. We've been holding other hearings progressively over the past few weeks in all states and territories, and following these hearings today we will be reconvening in Sydney on Thursday and Friday.

We're planning to produce a draft report for public comment about the end of November or early December. Then there will be another round of hearings and opportunities for feedback in February, when we'll be looking for comments after people have had time to read, digest, think about our proposed recommendations.

The Productivity Commission always tries to conduct public hearings in a very informal manner, but we do take a full transcript for the record. We can't run them as if they were just a public meeting. The transcription service wouldn't be able to pick up who was talking. We always try to make an opportunity for anyone in the room who wants to come forward and put something onto the public record to come and do so at the end of the day. The transcripts will also be put on the Commission's web site as soon as they've been checked for accuracy of transcription, and also will be available in hard copy to anyone who wants them through public libraries or directly from the Commission.

To comply with Australian Government occupation health and safety legislation, I have to inform everybody in the room that in the very unlikely event of an incident, the alarms will sound, and we'll go out through the door, and straight down to the right and down into the street and assemble out there. The other bit of housekeeping is that the toilets are at the end. If you just turn right as you go out this door, they're just in front of you there. I think that's all the housekeeping I need to explain this morning.

that particular proposal has implications for a heritage characteristic, whether it be a heritage overlay for the building or the street or whatever. Do you think the systems handle that sort of inherent tension between the heritage conservation objective and development or redevelopment or development authorities?

MS DE CHASTEL: I think there's probably mixed views on that as well. I think where there's very clear guidelines in that local government for the protection of heritage areas it works a lot better than where there's some ambiguity, where particularly perhaps the views of the local government elected representatives might have sort of particular interests, which may be able to override the particular planning instrument or planning scheme operating in that area, but I think where there are very good guidelines, good controls, good statements, for protecting those areas that that works a lot better.

MR HINTON: Do you think that the guidelines, the controls, the system, that you're referring to, should be established at the local government area or is there a role for the state government to set up a state-wide system that applies to each of its statutory authorities called local governments?

MS DE CHASTEL: I guess, generally speaking, we would probably be of the view that the state government should articulate its view, its criteria, but those policies should be incorporated into local government planning scheme at that local level, so there's not this layering effect that's happening in some areas, so that there's certainties within the local government planning scheme itself, which may contain the state government criteria within the scheme. Yes, the state government should have its own criteria of what it wants preserved, but those type of issues should be then laid into the local government planning scheme. It should be very clear to somebody coming into the local government, wanting to do work, what they need to do.

MR HINTON: Discretion would be reduced. Flexibility would be less. Certainty would be more, with regard to development.

MS DE CHASTEL: Yes, I think certainty should be more both for the community and the developer and the person that owns the building. If there is any discretion, we would go for the referral system where the local government refers the application on to the state government for its input into that decision. But where possible, we believe that there should be almost a one-stop shop, if you like, system, so it's up-front. Everybody knows what's going on. It's all sort of set out in the local government's planning scheme.

MR HINTON: That raises the question of the tiered system of ranking. You've got national significance, state significance.

MS DE CHASTEL: Yes.

MR HINTON: And those buildings or whatever that have local significance. Do you see your system operating equally across those three tiers, or may be you don't like the three tiers?

MS DE CHASTEL: No, I think they can all be brought together. I think there should be national criteria and state government criteria but they should be made available and acknowledged within that local government planning scheme. So there can be the different levels of significance outlined in that particular scheme. Yes, and that is actually happening in - some of the states are actually moving towards that sort of planning system as well. It's not just for heritage type of issues; it's for a whole range of issues as well.

DR BYRON: That brings me back to something that was in your opening comments, too. You seem to be implying, to me, that there was a question of getting the scale right, that controls that were focused on individual building may not be appropriate when you want to talk about a whole precinct. Others have suggested to us that there's a whole sort of nested hierarchy of - you can look at the landscape for the precinct or a building within that or even the corners within the building et cetera, sort of zooming in, zooming out; and that most of the statutory system as it exists now focuses on heritage listing of a building, when in fact there's now a pressure to talk about precincts or a row of buildings or even a whole town, as we'll get to later.

MS DE CHASTEL: Certainly the planning schemes around Australia at the moment can incorporate the precinct approach by having particular - you, sort of - or almost, if you like, mini-scheme for those particular areas. They can incorporate that layering effect quite effect.

DR BYRON: But it seems to me then that how the planner control intersects with development becomes really important, because if a precinct is listed in order to preserve a streetscape or the appearance as somebody drives down the road, then the listing is basically about preserving the visual appearance of the streetscape, the frontages of the house on returns and so on. But that shouldn't necessarily impinge on what you can do in the kitchen or the bathroom or adding a sunroom out the back, as long as it preserves the streetscape. And yet the development controls often assume that everything in each building had to be controlled and therefore it seems that people whose house is listed simply as part of a streetscape tend to get much more intrusive, prescriptive regulation. They're treated as if their house was - - -

MS DE CHASTEL: Yes, really unique.

DR BYRON: - - - a Vaucluse house or something that was an extraordinary individual property where all the internal elements were important, and so they can't change anything internally without development consent. Is the level of development control for a precinct, should it be substantial different to if it's an outstanding individual house?

MS DE CHASTEL: Definitely, yes, definitely.

DR BYRON: But is there a problem that people are being caught up in the wrong net?

MS DE CHASTEL: Yes, look, I don't know. I haven't sort of come across particular examples of that but obviously it's happening by what you're saying. But a plan for a particular precinct would have controls to deal with the street frontage, parking or signage or whatever. So I'm surprised that individual buildings then get caught up with what happens at the back of them. In our view you can do both. You can preserve the precincts but not require particular attention on each specific building as such. It should only really apply to what's to be preserved in that particular precinct. So it can be done.

DR BYRON: My understanding was that the citation for a property was listed; would ideally explain what the values were that were special about that place, the reasons that it was listed, and then go on to say, and therefore you can't do A, B and C without permission but you could do X, Y and Z. But we're not actually seeing the state listings - not in the ACT but in other places. They don't seem to tell me anything like that at all. It just says, "Number 42 is listed." The owner has no idea what this means. Then it's up to the discretion of the individual officer in the local government, some of whom will say, "Do what you like as long as you don't touch the front appearance," and others will say, "You can't hang up a painting or change the toilet roll without permission."

MS DE CHASTEL: Yes, clearly that's the failing of - the way the planning schemes are actually written and the interpretation which comes back to the skills of the people operating the system, if you like. If you've noticed some failings in that, that sort of comes back to our point for the need for the training, for skills in that area and also, from what you're saying, in the actual writing of the documents themselves as well as how they're being interpreted.

DR BYRON: I think Tony was getting at the level of discretion even between two different officers in the same local government, the terms of how they - what activities they require a development consent for and how they react to it. How light-handed or heavy-handed they are can be a matter of discretion. That's one of the things that seems to be creating a lot of concern in parts of the community.

MS DE CHASTEL: Yes, we'd advocate that the planning schemes themselves should be as clear as possible, and minimise discretion particularly in the heritage area. Those sort of issues are brought up in relation to other things as well, not just heritage. I guess our view is that the scheme should be as clear as possible and the officers dealings with those schemes should have as much training, as much knowledge and background as possible as well, to make those interpretations.

DR BYRON: Was I right in reading into your comments and the submission that there would be an element of appeals process in that - the reason for the decisions would be very explicit. But I got the impression you were talking about sort of the democratisation of the process of people knowing where they stood and what they could and couldn't do.

MS DE CHASTEL: Yes, it should be made clear. Generally speaking, most states do have the appeal rights within the system. In some cases they don't have the third-party appeal rights in some states. So that means that someone else from outside the person making the application to the council can come in an appeal against that decision. Some states do have that system, and others don't. But we would certainly recommend that the appeal system should stay in place for the person making the application if they are agrieved by the decision. We would strongly support that system stay in place. The third-party one is the one that some states are grappling with at the moment.

MR HINTON: And with the appeal body being at the state level, not the local government level.

MS DE CHASTEL: Yes, that's a pretty strong foundation in most state-planning legislation. There hasn't been any move to change that.

MR HINTON: I had one more question, probably not directly related to your submission so you might not want to try your hand at it, Liz.

MS DE CHASTEL: That's fine, yes.

MR HINTON: One important category of a building that's certainly arisen in our inquiry so far is: those buildings that have heritage characteristics but are owned by the government, not just private individuals or commercial buildings. Do you have any views on where governments have been going with regard to their own buildings with regard to the heritage objective?

MS DE CHASTEL: I've spent some time working as a planner in Queensland so I don't know that has changed recently. I think generally most state governments are pretty aware of the need to acknowledge and preserve the heritage character. As you say, there are a quite a lot of number of buildings in government ownership. Mostly, I think they find it's within their interest to preserve them for whatever reason. That's a pretty broad statement. But we would say that state government should comply with the heritage legislation of the day. In some states the planning legislation is moving towards the state government complying with the local government planning scheme as well, in which case they would have to then go through that system and comply with whatever criteria is around for that area.

DR BYRON: Because many of the submissions have suggested to us that the Australian Government and state governments and then local governments should show leadership themselves before requiring that the public, householders, businesses and so on, incur the costs of heritage conservation for the public good. They themselves should show the way of being exemplar owners of heritage properties.

MS DE CHASTEL: We'd certainly support that, yes, support that view very strongly.

DR BYRON: I guess I'm just reminded we've had a number of submissions from organisations like the churches, who say, "We've got a lot of buildings which are of local and sometimes state heritage significance, that we consider a surplus to requirements, that we can't afford to maintain." Is that a special class of problem where the buildings on one hand have community, heritage and cultural value but on the other hand are falling apart because the owners see them as redundant?

MS DE CHASTEL: Yes, that's always been an issue, hasn't it? Just the economics of restoration and also the type of use of that building. For instance, in Brisbane those old buildings along the river there in North Quay, now used as a casino, there was a lot of debate at the time about, is that an appropriate use for a historic building?

DR BYRON: The old treasury building.

MS DE CHASTEL: Treasury building. I think we have to be also realistic in that we can't - we have to find another use for some building that may not be the original use, or it may be a lot different from the original use. But I think we also have to be realistic in how we preserve these buildings and the incentives for people to actually do that.

DR BYRON: But some buildings, I guess particularly special-purpose buildings, it's very hard to find - - -

MS DE CHASTEL: Another use.

DR BYRON: - - -an adaptive reuse.

MS DE CHASTEL: Yes, it is. That's why it's going to be a hard call for the government, I think, whether it steps in and gives the people money or whether it tries to help another use for the building. That's why it's going to be a hard call, I think, yes.

MR HINTON: Thanks. I think that takes care of my questions. Was there anything else you wanted to say by way of summarising, Liz?

MS DE CHASTEL: I don't think so, no. I think the message that we were getting from some of our members is that it's the people on the front line, the local government planners, I guess, they're having the issues with some of these things. Whether it's because of a lack of resources, lack of time, their attention is in other areas within the council, the skill levels of those people. I think if there's any support that we can give - our organisation can give to them, or others can give to that, that will be really useful.

MR HINTON: Thanks very much.

DR BYRON: That you very much. I think you've raised most of the relevant issues that we're grappling with in the whole environment. Thanks for coming, Liz.

MS DE CHASTEL: Thank you, Mr Byron.

DR BYRON: Next we've got Save Braidwood Inc, John Mathias. Thanks for coming, John. If you'd just like to take us through the major points in your submission. Thanks for that.

MR MATHIAS: I'm John Mathias. I'm a resident of Braidwood and a member of the steering committee of the Save Braidwood Incorporated Group. We're very grateful for the opportunity to speak today, so grateful, in fact, and so concerned am I that I say the rights things, that if you don't mind, I will read what I have to say.

I represent Save Braidwood, with a membership approaching 300 people, who have serious concerns about the policy framework and the incentives for the conservation of Australia's historic built heritage. We believe this to be a most important matter and so I'm going to read it. Save Braidwood believes there are flaws in the New South Wales listing process as it relates to the preservation of a whole town and its setting.

This is of great significance not only to Braidwood, but also other small towns in Australia, as this is the first time that such a model of listing has been proposed and the NSW Heritage Council has already expressed its intention to apply this model to other towns. We believe that significant social damage has already been done to Braidwood and that significant economic damage will result from the application of this particular model to any town. And so it is in the best interests of the people of New South Wales and indeed Australia for the Productivity Commission to consider the appropriateness of both the policies and the processes associated with listing a whole town and its setting.

I would like to begin with a thumbnail sketch of Braidwood socio-economic structure and examine the processes that have preceded - and some might say precipitated - the proposed listing of the town and its setting. Then I'll outline the NSW Heritage Office proposal for Braidwood and comment on the questions and difficulties it raises and the likely impact of that proposal. Some of these concerns may be groundless but whilst the questions have been asked, they've not been answered. My closing recommendations will be a few things that the Productivity Commission might like to consider including in their report to the federal government.

Braidwood lies about halfway between Canberra and Batemans Bay on the New South Wales south coast and enjoys considerable patronage from the traffic that travels between those centres. According to the Bureau of Statistics census data of 2001, the average weekly income in Braidwood is less than half that of nearby Canberra and the average is only $16,000 a year. More than 25 per cent of the population is over 60 years of age, and this helps to account for the high unemployment figure of 40 per cent. Although drought affected for a number of years, Braidwood's agricultural industry is still the major economic contributor the town. Agriculture and forestry accounts for about one-third of the employment and more than one-third of the town's income.

The annual turnover from the monthly stock sales is in excess of $10 million. It's worth noting at this point that, although the Heritage Office has proposed that most of Braidwood be listed, only about 25 per cent of the buildings to be included in the listing meet the criteria for the state heritage listing. This means 75 per cent of the buildings would not normally even be considered. This needs to be remembered by the state when the budget for heritage grants is being considered, or is it the Heritage Office intention to subject those houses to heritage regulations but deny them access to heritage funding?

A recent survey by the Palarang Council found that more than 70 per cent of the Braidwood residents desired growth in the town, growth that would make it feasible for Braidwood to develop the services and infrastructure that many Australians expect. Braidwood does not have a visiting dentist, a full-time daycare facility, a caravan park, a purpose-built library or a designated light industrial area. Whilst there's no time to discuss the library and caravan park in detail, suffice it to say that heritage issues have been a part of delays that have lasted several years, delays that may mean the funding set aside to build the library will now to be enough, even if agreement could be reached.

Braidwood is a working-class town that has grown out of and still relies heavily upon the primary producers that surround it. Interest in Braidwood's heritage goes back many years and is shared by most people in Braidwood, but the current Heritage Office process could be said to have begun in March 2003 when the deputy premier for New South Wales, supported by the local member, Mr Won, announced that Braidwood be considered for heritage listing and that community consultations begin. While some discussion took place with the then Talaganda Council, the people of Braidwood were not engaged in the process until two years later, in April 2005, only one month before the close of submissions relating to the listing.

By so restricting the time to respond, by saying at the information sessions that the Heritage Office brief was only concerned with the heritage value of the built environment and was in no way concerned with the social and economic implications to the community, and by failing to make available the full extent of their intentions for Braidwood, the Heritage Office began a process of community division between those who whole-heartedly supported the listing proposal and those who initially were concerned about the speed of the process and the lack of information. This initial concern grew quickly, as the Heritage Office declined to answer questions relating to their own nomination documents during the information sessions, and then declined at the end of those information sessions to offer any more to answer outstanding questions.

During this two-year period, from March 2003, the Talaganda Shire had been forcibly amalgamated and become a part of the Palarang Shire. The amalgamation was accompanied by a state government requirement to develop regional planning strategies, particularly in the Canberra to Sydney corridor, of which Palarang forms a part. The state required that these regional strategies be developed before the development of a new local environment plan for the new local government area, and then deriving the necessary development control plans that would be sympathetic to the state's regional strategic guidelines and reflect the policies described in the LEP.

The NSW Heritage Office of its own volition drafted a DCP in isolation from the state government planning policies and has now asked the Palarang Council to adopt it in the absence of any state and regional strategies or an appropriate LEP. This puts the people of Braidwood in the invidious position of having to consider a proposal for listing the town and its setting without the benefit of any of the regulatory and planning documentation that will be used to administer it, and could reasonably be expected to give a clearer picture of the social and economic ramifications of such a listing. Something like this should not happen to any other town in Australia.

Fortunately for the people of Braidwood, the Palarang Council, with the encouragement of a large and ever-growing group of concerned citizens, agreed to undertake an impact study into the social and economic ramifications of the Heritage Office proposal. This study has not yet been undertaken and will not have access to even a draft LEP or a draft DCP, so we'll be unable to reach a carefully considered view based on the regulatory and planning documentation with which the people of Braidwood will have to deal for the rest of their lives. This will significantly reduce its value and still not permit an informed decision on the possible social and economic ramifications of the listing of Braidwood and its setting.

This lack of information has not deterred the Heritage Office from setting a new October deadline for submissions regarding the listing, nor has it restrained the Heritage Council from announcing it will considering the listing proposal at its November meeting. It would be easy to support an argument that the Heritage Council has already made up its mind to list Braidwood, regardless of the unsuitability of the model, regardless of the concerns of the local people and regardless of the possibly disastrous social and economic consequences, and in spite of the lack of appropriate planning documentation required by the state government.

At the request of the community, the Palarang Council has distributed the

Heritage Office proposed DCP as a heritage discussion paper and it contains many blanks and incomplete sections and so is unlikely to make a transition to a DCP before the submission deadline in October. The nomination documentation considered by the Heritage Council when making the decision to propose Braidwood and its setting for listing clearly indicates that consideration to listing Braidwood and its setting was the result of what was seen as pressures on the heritage values of the town from two development proposals: one for an assisted aged-care facility adjacent to the hospital; and the other for a housing subdivision on the last large blocks within the village boundaries.

The New South Wales Heritage Office has made it clear on several public occasions that they would prefer neither of these developments proceed. Yet at the first meeting of what was to become Save Braidwood Inc, the major concern of the people of Braidwood was that they get that aged-care facility and that there be somewhere for people to build houses. Had the Heritage Office been involved in a community consultation process at this time, they would have known how important this was to the community.

Those same nomination documents clearly stated that should the Palarang Council approve the two developments, then consideration be given to the use of statutory means to prevent them. The threat of a statutory solution - an interim heritage order - was carried out after the Palarang Council approved the two developments. That threat galvanised more than 400 people over one weekend to fax their objection to the local member, the Planning Minister and the Heritage Office. And there are about 650 adults in Braidwood.

Although the interim heritage order was not imposed, the developers and the Heritage Office were required to consult, but the Palarang Council - the consenting authority - was not a party to these discussions. There is to this day no announcement from the New South Wales Heritage Office or the developers that these two developments are free to go ahead without further Heritage Office restrictions. The Heritage Office nomination documents also clearly state that after the town and its setting are listed, the Heritage Office will seek amendments to the LEP - which, of course, is still unwritten - in order to create an environmental protection zone around the town and curtilage already proposed.

The extent of, and the restrictions inherent in such a zone have not been clearly explained by the Heritage Office despite repeated requests. The New South Wales Heritage Office stance on this point appears to be that responsibility for the development of an LEP is held by the Palarang Council. But the responsibility for the development for a DCP is also the province of the Palarang Council, and the Heritage Office has submitted a draft of that document already. So why should the Heritage Office not have a go at the LEP as well? The Burra Charter requires that the Heritage Office manage each of its listed items, so it is difficult to see the Heritage Office not wishing to contribute to the development of the LEP that will govern land use around the township of Braidwood and its setting.

Restrictions placed on rural 1A land, the land that surrounds Braidwood, may significantly devalue that land, as its valuation is based on its possible future use. This could create financial hardship for those who have borrowed or planned to borrow against the value of their land to build a home or develop and diversify their farming activities. When seeking revaluation of land, it may be so devalued as to not permit its use as collateral to support another venture, and in an extreme case, could see the owner have to take a loss on the sale of such land. A number of parents have already expressed their concerns that, whilst much is made of the future of heritage tourism in Braidwood, not all of the young people in Braidwood may wish to work in the hospitality or retail trades.

Where will there be an opportunity for apprenticeships if the town is prevented from growing? How will the school be able to expand its curriculum if there is not a growing number of students to cater for? In proposing to list a town and its setting, there is a clear need for extensive and lengthy consultation with the local community, as well as clearly stating the regulatory and planning changes that will accompany such a decision, in order to reassure the community that their social and economic well-being will not be damaged. The director of the New South Wales Heritage Office acknowledged that he would have preferred to provide Braidwood with a full consultation process, but the resources of the Heritage Office had been tied up with, and I quote, "doing Haberfield", a suburb of Sydney, the implication being that Braidwood received, at best, second-class treatment, and this, for the first time, a town and its setting have been proposed for listing in Australia.

We hope and pray that no other small town community in Australia is subjected to such shabby treatment. At no time during this process has there been discussion or even the suggestion that an alternative model to that proposed by the Heritage Office be considered. The New South Wales Heritage Office approach has already caused significant social damage, and the current listing proposal looks like to cause significant economic damage. The Heritage Office nomination documentation says, and I will quote from their executive summary:

> The abrupt transition at the town boundary between built and pastoral landscapes highlights significant historical settlement patterns. The juxtaposition of a cohesive town set within an historic pastoral landscape on the north, east and south sides is

integral to the significance of the place.

The rural 1A abutting that has also been included in the curtilage, and with only a few building blocks available in the village, which was designed in 1839 - it's taken this long to fill - the town might normally expect to expand by subdivision of some of the adjacent rural land as required. Growth has not been fast in Braidwood. The town population has hovered around the 1000 mark for the last two decades, and it is unlikely that that rate of growth will change. The western side of town is excluded from the curtilage, but it is largely developed to the creek flood plain and the foot of Mt Gillamatong.

But it is still dealt with in the Heritage Office-proposed development control plan, which effectively prohibits development when it talks about the adverse effect of development on the north-eastern slopes of Mt Gillamatong. So with no development possible on the northern, eastern, southern and western sides of town, about 1000 acres of the surrounding farmland in the curtilage, it is difficult not to assume it is the intention of the Heritage Office to freeze Braidwood as it is. The Heritage Office proposal and approach have needlessly raised significant difficulties for both the present and the future social and economic viability of Braidwood by not seeking input from the community as to what it is that they see as special about their town, and cooperatively developing a model to preserve both Braidwood's heritage and its economic viability, whilst at the same time safeguarding the social fabric of the town.

It is a great pity that the Heritage Office did not follow the lead of the deputy premier and begin a consultation process in March 2003. This may be something the Productivity Commission may be able to prevent happening to some other town in the future. The Productivity Commission might like to consider recommending that the policies and programs used in proposing the listing of whole townships be closely examined and amended to ensure that a holistic approach is taken, which will guarantee that the social, economic, environmental and cultural aspect of a community are all considered equally, and recognition is given to the fact that towns must grow to stay economically and socially viable.

The Productivity Commission might like to consider strongly recommending amendments to the roles and contributions of the federal, state and territory governments, to ensure that a balanced, equitable and transparent approach to the listing of townships be adopted, and that it includes some sort of forum to adjudicate or facilitate the application of each Australian's right to have a voice in any major proposal that has the potential to socially, environmentally, economically or culturally affect their homes, community and livelihood. If Braidwood is listed without careful consideration of the possible social and economic consequences, it will be the federal and state governments that will have to meet the cost of failure in both human and financial terms.

Damage to the fragile social and economic viability of the community that is Braidwood, caused by an ill-conceived and poorly implemented listing, will more surely place the preservation of our heritage at risk than taking the time to make sure we are doing it right.

The Productivity Commission might also like to consider the cost to communities of complying with the requirements of the Heritage Acts, and also consider what the cost might be to the Australian community in general, given that heritage conservation is supported on the basis that it is of significance to all Australians, and should be preserved for future generations. Perhaps all Australians need to contribute more to preserve their heritage in the future.

In closing, I would like to say in defence of the NSW Heritage Office, that the NSW Heritage Act appears to be written in a punitive, rather than in a consensus, style, and that the NSW Heritage Office staff have by their own admission neither the training nor the resources to manage the complex and far-reaching changes associated with the listing of an entire town and its setting. This is no way diminishes the responsibility of the federal and state governments to ensure that the viability of every small country town is not needlessly and irreparably damaged. Thank you so much for your patience, and the time.

DR BYRON: Thank you very much, John. I guess I should start by emphasising that the Commission is not in a position to buy into, let alone resolve, any one specific controversy, but as we've been saying since the issues paper, we are very interested in specific cases that highlight the particular issues in our terms of reference, and I guess the case of Braidwood does deal very clearly with most of our terms of reference.

The consequences of this listing of the whole town is obviously what concerns you, and others, but I think from your submission and from what you've said this morning you would agree that the consequences depend almost entirely on what "listing" means - on how it's implemented, and by who it's implemented. You don't actually know that, and that's part of the frustration, is it?

MR MATTHIAS: That's certainly part of the frustration. We have no idea what it means for us, and no idea of how they intend to go about it and we are unable to get those answers.

DR BYRON: So it's possible that you might be, you know, startled by shadows and ghosts and things, but the problem is that you can't actually get an answer to the concerns that you've raised.

MR MATTHIAS: I don't think is in fact the case. I think there are some real dangers there in what the Heritage Office has said thus far. They have said thus far that there can be no subdivision, no demolition and no new building built anywhere in Braidwood without their approval. That's what it will mean. They have said that all the rest will be given to the Palarang Council. I'm not sure what "all the rest" is. If you want to put on an extension, you have got to knock a little bit of your house off to do it, so you have to have Heritage Office approval. If you want to build a new house, you've got to have Heritage Office approval.

DR BYRON: So they become a sort of super regulator of the whole thing?

MR MATTHIAS: They would be the super regulator, yes.

DR BYRON: I have been through Braidwood hundreds of times myself, but I'm thinking about the reasons for listing. Has there been discussion of who or what is supposed to benefit from the listing activity? Not of Braidwood's existence - I don't think that's in doubt, but what difference does the actual listing make? Is the argument that the residents and the community of Braidwood themselves will benefit greatly from this, or that the benefits will flow from people in Batemans Bay and Canberra as they commute through it, or to the broader public of NSW, or is it a concern with the built fabric of historic buildings in Braidwood?

MR MATTHIAS: The main argument that is used to support the listing of Braidwood is that it will bring tourism to Braidwood. Now, in the survey - in the most recent survey done, which I believe is three years old, 2 per cent of our income was attributed to heritage tourism. That is a huge growth, and it's very difficult for us to see that growth when most of the buildings that are listed in Braidwood you can only drive past. You can't go in them. You can go into one and have a coffee. You can go into another that has a museum.

MR HINTON: John, thanks very much for your submission and your appearance here today. We know that that sort of participation is not costless, and so thank you very much. As Neil commented, it does add to our understanding of how the system is working, particularly in New South Wales, by getting the details of the very particular case of Braidwood. So thank you very much. I had two sort of preamble questions, seeking detail rather more fundamental - then I had a more fundamental question. The first one is to get a better understanding of the shire. There was an amalgamation and aggregation with Talaganda that came with Palarang. Is that - - -

MR MATTHIAS: That's right, yes.

MR HINTON: What does that make Palarang look like now? Which are the largest towns in that shire?

MR MATTHIAS: It essentially combined Bungendore and Braidwood, and a small part of Yarralumla shire. So if I could answer it this way - Braidwood has five of the nine councillors.

MR HINTON: That's what I'm after, thanks. The second question was in relation to the two proposals, development proposals, that were knocked back; that is, the aged care facilities and the development sites for new houses. I assume, if I heard you correctly, there were no demolition aspects involved in either of those? They were vacant land, or were there buildings to be demolished?

MR MATTHIAS: They were vacant land, and I'm glad you asked that question because it gives me a chance to tell you a little more about them.

MR HINTON: Please.

MR MATTHIAS: Both of the developers involved in that had a number of meetings. If I had to guess, I would say five or six meetings with the heritage council prior to submitting their plans to the Palarang shire for approval. The Heritage Office doesn't seem to operate on pieces of paper. They give approval by phone, and they deny things by phone. Both of the developers believe that they had satisfied the Heritage Office when they went to the council, and then when the council approved them and the interim heritage order was threatened, I rang Minister Beamer's office, and they said yes, the Heritage Office had been happy with what was submitted by the developers, but the council hadn't done what they'd told them to do when those two developments appeared on the table. That was why they introduced the interim heritage order, we assume, because they can't do anything to the council but they can apply an interim heritage order to the developers.

The aged care facility was built on rural 1A land under a state government planning policy that requires it to meet particular standards for an aged care facility that exempts it from having the area rezoned, but in order to encourage building for - it's part of the senior's living policy. But in order to be allowed to do that, there's a certain minimum size, and the state government minimum size is 70 units. For some period of time, the Heritage Office wanted that developer to reduce the number of units below 70, so that their impact on the village would not be as great. It took a long time for them to understand that it was a state government requirement that they couldn't go below 70, because otherwise it wasn't economically viable, and it was really a patent demonstration of their failure to understand the big picture of what happens in a country town. They understand the heritage issues only, very clearly.

MR HINTON: John, you also said that most of the buildings are listed by the entire town approach, but less than 25 per cent would qualify for heritage. You also then subsequently said in response to a question from Neil that the approval would be needed for any demolition. That doesn't say that no demolition would be approved? That suggested to me that prima facie there would be scope for a development within Braidwood that involved demolition of something that didn't have heritage characteristics, but the fact that approval is required doesn't necessarily mean that you'd always get a "no". Is that overstatement?

MR MATTHIAS: I believe from what the Heritage Office have said that yes, that is an overstatement. Braidwood has some fibrocement homes, and old weatherboard homes, and in the proposed DCP they talk about the point that you made earlier, Neil, about - they want to save the streetscape, all of the streetscapes in Braidwood, but they've gone the whole way in their DCP in that they want control of the backyard, and the internals, and the whole house, and yet what they have said is they want to preserve the streetscape. So it's that degree thing, and it's the degree to which they will go that we don't understand, and because of their reluctance to explain that degree, we tend to think on the dark side, not the bright side.

MR HINTON: So where does this take us, John? Braidwood - say if Braidwood incorporated, its view would as an organisation representing the community would be happy to have significant retention of the heritage characteristics of Braidwood, if I read you correctly. That's not in doubt. It's the issue of having the entire town designated that seems to be constraining what you of the body would argue would be reasonable development that wouldn't be empathetic to the heritage objective. Is that your preferred line?

MR MATTHIAS: It would be, yes. If we close off the north, the east, the south and the western sides of the village, there is nowhere to grow. What we don't understand is why they have to have everything; why they can't leave one part of the town, and leave the town a direction to grown in, any direction. If you take the town in its little block, and a thousand acres of land around it, and you are saving this land because of its pastoral landscape and its views, you're not going to let a subdivision occur in your pastoral landscape and your views. There is no room left in the village for more houses.

Anecdotal evidence in the UK suggests that where they've done this in the UK, they have listed whole villages. What the government has done then is they at some considerable expense have created an alternative town. I can't see the state or the federal government creating an alternative to Braidwood, and it would have to be some kilometres away from Braidwood - at least six or seven kilometres away from Braidwood, to get over the ridge of the pastoral land that they want to preserve to that ridge. The impression that we get is that the Heritage Office would like people to be able to drive over the hill, and see this big empty valley, with the village nestled in the bottom. It would look wonderful, but the people might not be able to survive in it.

MR HINTON: That's because of the intersection of rural village development up against pastoral land. They see that as a prime example of how rural Australia developed.

MR MATTHIAS: It's that boundary that they wish to keep, that fence. We would like to think that some of it could be kept, and some of it could be left for Braidwood to grow.

DR BYRON: I was trying to think of other places in New South Wales that had heritage overlays for many years, like Canowindra and so on, but they're only on the main street. They don't constrain the entire village, so that's actually quite different. I was going to suggest that there are people who probably would have been very opposed to that overlay 20 or 30 years ago, when it was done, who now would say they're very happy with it, but I realise now that that is actually a different case, because it's only the historic main street, rather than the entire perimeter and 1000 acres surrounding it.

MR MATTHIAS: I think if you walked down the street and tried to sell the overlay model now, you'd not have a lot of trouble.

MR HINTON: Does the Heritage Office in Sydney - have they been informed of that community view?

MR MATTHIAS: They won't discuss it with us. They won't discuss it with us. They ran four information sessions back in April that were limited to 25 people each, and they would not run any more. We have written many letters, and had replies to very few. It would appear that they have this model set in their sights, as they have said here, and they wish to - we believe that - they're not using the word "freeze" but that, we believe, is what they want. They believe Braidwood is precious enough to be kept exactly as it is now.

DR BYRON: As a time capsule?

MR MATTHIAS: As a time capsule, and that's wonderful for its heritage value, but it's not looking really good for the people who have to live and work there.

MR HINTON: As we've learned in many hearings, the best way to conserve/preserve a building is to have it occupied. Presumably the same concept applies to a village.

MR MATTHIAS: One would imagine, yes.

DR BYRON: I got the impression reading through your written submission a few weeks ago that there's probably a great deal in that that both the NSW Heritage Office and other people in Braidwood, who have the opposite point of view to yours, would still agree with. You're not totally going in the opposite - - -

MR MATTHIAS: No. I believe that there's a common ground, but we need a forum, which is why we mention the need for such a forum with such a big thing as this. It's important that somebody create or provide such a forum.

MR HINTON: It's the process issues?

MR MATTHIAS: It's the process.

DR BYRON: Did you hear my comment earlier this morning about the suggestion of, you know, voluntary heritage listings, where those whose properties were going to be covered by an individual listing, or part of an overlay, would actually be consulted about - are they happy with it, or if not what would it take to make them happy with it, so that we end up with heritage properties where everybody's a volunteer, not a conscript?

MR MATTHIAS: I did hear you say that, and if the little piece of paper down there hadn't said that I shouldn't interrupt proceedings because of the sound recordings, I would have clapped.

DR BYRON: That's not why I said it, but it's an issue that has come up repeatedly - just from basic observation, trying to force people to do something that they see as against their own interest is always going to be pushing something uphill, and if you could contrive of a situation where people were not only happy to have their place heritage listed but actually wanted to have their place heritage listed, we might see a great deal more of it. I guess one of the things that many people have said to us is that, "Let's try and get voluntary heritage conservation, rather than forcing it on people who are reluctant or hostile."

MR MATTHIAS: I agree entirely. I thought another valid point you made, that I would be very happy to support, was the point about identifying more precisely what it is that we

hear that coming out of Canberra but that's what we believed.

Obviously, as we say, heritage is community driven, but there should be consistent high level one-only legislation that surrounds it. The management of heritage should be at the community level and at the state and territory level, but the legislation and the regulations that sit under it should be consistently in a national perspective; in other words, there should be consistent over-arching national legislation and it should be managed at the local and state level under that. It would, I imagine, create some problems for local government and state planning bodies, but such is life. It can happen and I think that the Commonwealth government should take a much bigger role in their responsibility for the national heritage.

All you really have to do is go and look at other countries of similar wealth and structures as Australia has, in Europe and in America, and Australia frankly looks a joke, the way it treats its heritage. If the high country huts, for example, were in France or America or just about any other Western country, they would have been protected 50 years ago. They wouldn't be being pulled down because they were a damage to the environment, and I really think the Commonwealth government has a major role to play and get serious about its heritage protection.

As I think we've seen in the last speaker an example of how lists can be used the wrong way, and this we feel really has to be addressed and hopefully through your Commission. I'd just like to raise two examples. One is Braidwood, where my understanding of the Braidwood situation is that, with the amalgamation of council areas in southern New South Wales, there has been a very large council area created by the state government and it's very stretched for resourcing in the planning area, and I think an easy way has been found out to solve planning problems in the Braidwood instance by suggesting that heritage be used to override planning problems. That's to put it very simplistically, but I think it's an example where a big stick of heritage legislation they think can be used to solve smaller-level planning problems. That should never happen. The planning problems should be worked through.

The other rather outstanding example is where the Commonwealth minister, under his abilities, decides for political purposes to place the whole of the Victorian alps on the National Heritage List. This is just disgusting and to use heritage in such a way just demeans the whole quality of heritage itself. I won't go further into that, but there really has to be some sorting out of the legislation so that those sorts of activities can't occur in future. So I suppose to sum that up with the lists and legislation, we believe it should be it should be managed at the national level by the Commonwealth government and managed at lower levels.

About assessing Australia's heritage, in the issues paper it also suggests - or it asks the question whether there should be a survey of heritage places. I assumed that this means that it might be useful for a group of heritage experts to wander round the country and find as much heritage as they can and then sort of assess it as to what its value is. It probably has its merits, a suggestion like that, but again I think it loses the point, that heritage emanates from a community. One of the problems with heritage is that it has very different meanings to different people, so the only way that you can recognise heritage, I believe, is for the community to recognise it as such, and I think once a community does recognise their heritage as such, then it becomes national heritage, whether the other 90 per cent of the population believes it or not. If it's heritage to someone, then it's national heritage.

I think the danger of a survey, it would probably pick up a lot of big buildings, many of which I think have already been picked up but still can't get on the National Heritage List, strangely enough, but it would miss a lot of the heritage that's around. The huts may get picked up probably by such a survey, which we'd be pleased about, but the odd little hut down on a coastal national park somewhere, or little huts sitting around on private land probably wouldn't because they look like piles of rubble, whereas that pile of rubble may have much more heritage value than a large 1860's building in Sydney. So there's a danger in that.

I think there's probably the need for some sort of a more comprehensive baseline data in Australia, on its heritage. I think more to the point though there is a need for more education within the community to allow them to find their own heritage. And there then needs to be a much more transparent and simple way for the community to understand listing and for them to be able to get what they consider to be heritage through a simple process to get on a list. At the moment, it's just all too hard and I think communities, as I'm sure most people in Braidwood would think, are a little bit wary of going out and finding their heritage - certainly once they've found it, to advertise the fact - because there's this feeling that it's all so complex and difficult and, "What might happen to me if I suddenly say that this is a heritage item."

So an assessment of the national heritage probably looks good on paper, but I think it's fraught with difficulties, and I think there are better ways of doing it through education and more transparency and simplification of listing processes.

I suppose that brings me to my last point, which is public information and education. I think this is an imperative for government. It must have become obvious to you by now that heritage is an area where there is much confusion about what it actually is, what it means, how to manage it, so a public education strategy, I think, is sorely needed. And touching on tourism, which you did earlier I noticed, tourism has a place in heritage, but tourism should be a consequence of good heritage management. It shouldn’t be the reason for heritage management.

Also, tourism must be properly managed, particularly in a national park setting as we are. The national park, understandably, is short of funds, and probably sees tourism as a possible way to get more funding, but I think that misses the point. I think heritage is something that exists in its own way, and to tie tourism to it as a way of funding is inappropriate to why heritage exists in the first place.

There are many examples overseas, where tourism sits very well with heritage, and the two marry well together. That can be done in Australia, but I must say in my experience where it's been tried, it hasn't been done well and it's probably become a disaster for tourism and a disaster for heritage. There are clever ways of doing these things, and in the Australian context I think a lot more effort needs to be put in to innovative and clever ways of managing heritage and tourism than is going on at the moment. Again, I think that would probably happen if there was a much greater and appropriate commitment to heritage by our national governments and state governments than there currently is. I think that probably wraps up how I'd like to sum up our submission.

DR BYRON: Thank you very much, Mark. I think in the submission, as in your comments this morning, you've given us another illustration where perhaps heritage is in the eye of the beholder, and I've appreciated for decades the park managers saw the huts as an eyesore, rather than as a treasure. Just before I get into the substance, when you mentioned risk management strategies, and the fires of a couple of years ago, and the destruction of many huts in the bushfires - just out of interest, are there now strategies in place to protect the remaining Kosciusko huts from the event of the next bushfires? You don't have to go into great length on that.

MR CLEGHORN: No. I think firstly we've got to realise that fires like that, unfortunately, are a part of the landscape, and if there are huts there they are going to get burned down. If it's going to happen, it'll happen again, and in those sorts of fires I don't know that there are many risk management strategies you can put in place. That said, the national parks services do have management of fire in terms of the huts in their plan of management, although I don't think there is a great deal of clearing around huts going on, for example. Frankly I don't think we'd agree with that anyway. I think we're more on the side of the heritage is there in its landscape; fires are a natural part of the landscape, and it all sits together. That's how it is.

DR BYRON: So the volunteers are happy to work on the places, even knowing that their work could be undone in a couple of years time, and they'll have to come back and do it again?

MR CLEGHORN: Within the national park, I think they probably understand the issues. Outside the national park, of course, it's a much different situation as I'm sure you know. The land holders adjacent to the park would certainly agree that there needs to be a lot more clearing, but within the park there is some minor clearing on. Most of our huts actually have burned down by fires being left burning in fireplaces within the huts, until 2003. 20 in one day was a bit much, but we've probably lost more than that over the years by fires being left alight in the huts, and over many years the national parks service have been considering closing off the fireplaces within the huts. This may answer your question, this example.

Some of our members would probably disagree with this, but I think overall the committee and certainly the majority of our members have a policy of leaving the fireplaces in the huts, because that's part of their heritage; to have a bit of iron over the top of the fireplace is not exactly heritage management of a hut. However, it's a management issue, so the huts don't have to have fires in them. We believe that the national parks should be not allowing fires to be lit in the huts. They're heritage buildings. They're not accommodation. They are there for shelter, as a happy coincidence in times of blizzard, and a fire would be nice if you're sheltering in a hut in a blizzard. However, we certainly see them as heritage buildings, and so it's a management issue in that way. But I don't think we'd go so far as to say that there should be a one kilometre radius of cleared ground around them.

DR BYRON: In the written submission, there's an emphasis there that potential costs of conservation should never be included in listing criteria. "Options for management should arise from the list, and be prioritised, but not form part of the list." Is there a two-stage process there, that the list is based on assessments of significance, and given that subsequently somebody else thinks about management options, taking into account costs? Because in one of the hearings, somebody said to us if costs are not considered somewhere in the process, you end up - there is a risk that we could end up with a list of things we wish we could have been able to save, rather than a list of places that we have actually saved.

So could you just spell out a little bit more, recognising that somebody's going to have to the costs of maintaining heritage buildings and places - at what point in the process do we figure out, having assessed that something is significant, who's going to do it and how is it going to be paid for?

MR CLEGHORN: It's a good question, and the "never" was my emphasis I should point out, as you know. We certainly won't come back from that, that the list should be a list of heritage value. It's as simple as that. The cost - I can't understand how the cost of conserving the heritage value should get on a list of heritage value. I take the point that that probably means that - well, it certainly would mean that everything on a list is not going to get conserved, and it might disappear. That's the way it is, and if that causes problems for bureaucrats measuring outcomes because, "Oh dear, we've got eight items on our list which are now gone," that's not a heritage value issue. That's a management issue.

So what I'm saying is that in those cases, those places should have worked their way up the priorities for management and for funding, because they were becoming more vulnerable. I think the first thing you need is a straight-out list of heritage value, on which to base all the other management funding concerns.

DR BYRON: Without wanting to sound like an economic rationalist in a pejorative sense, rather than having a yes/no black/white you're on the list or you're not on the list type of dichotomy, if there was some sort of scale of significance from incredibly high to moderately interesting, and I'm now envisaging a matrix where on the other access there's, say, threat or priority for conservation - given that there's not infinite buckets of resources to look after conservation of historic and built heritage places, we might then be able to target the areas which are of very high value and are under high threat, or very high priority for conservation, for urgency. But I'm not sure that just having some things on the list and everything else not being on the list gives that sort of clarity of where to focus the conservation effort.

MR CLEGHORN: No, I think we're probably both talking the same thing. I'm probably not explaining it well enough. The matrix which you talk about should be sitting directly under the - over the top-level list of heritage value. Obviously yes, you then need to come up with a priority matrix, if you like, which would combine the cost on one axis maybe, and the heritage value on the other. Yes, at that stage, when you start to look at management of heritage, then yes - you need to take into account cost, and how valuable the heritage is. But over the top of all of that, the first list needs to be, "Let's just look at all of our heritage and how valuable it is." Otherwise, things will get missed off the matrix that sits underneath it.

MR HINTON: Mark, that's how you rationalise the tension between your wish to have a role for the Australian government, yet you also put enormous weight on the importance of community involvement. It's that operational aspect that picks up the second objective of community local involvement?

MR CLEGHORN: That's right.

MR HINTON: Thanks. I had a couple of questions. One, are you aware of a not-for-profit organisation in Western Australia that also has Kosciusko in its name, that seeks to protect the role that Strzelecki played in measuring the highest mountain, and naming Kosciusko, Kosciusko? Are you aware of that body?

MR CLEGHORN: Yes. I think they're called the Mt Kosciusko Association. They're concerned about Mt Kosciusko.

MR HINTON: They appeared before us in Perth. That was a little aside question, thank you. I had a follow-up question to your comments about the role for volunteer groups, and not-for-profit organisations. You referred, Mark, to the need to ease the burden on these organisations, but I was a little unclear what you had in mind there - whether there are a particular set of legislative requirements that are applying to NFPs, as well as more generally, that have scope for them not to apply to not-for-profit organisations. Is that what you have in mind? Do you have any examples of the sort of statutory imposts?

MR CLEGHORN: Yes, I do have that in mind, and I must admit that it's difficult to sensibly find ways of making it happen. Understanding, of course, that just because we're volunteers doesn't mean that we're not under the same obligations of every other Australian by law. I think where it becomes an issue, I think, is areas that sit underneath legislation. They're not legislative matters, in our case so much. They're operational matters that sit under legislation. I think what we're talking about is the ways that different government departments, different bureaucrats interpret the legislation could be made easier for us, than perhaps they would for the once-a-year to Kosciusko National Park, for example, who wants to go out and go for a walk, and do something in the park.

I think we should be recognised by managers as a responsible heritage organisation, in terms of the way they interpret legislation. That's starting to get low level and a bit difficult to make happen, I know, but maybe the legislation itself could be couched in terms of allowing some flexibility for - in particular circumstances. I've found that some of the legislation governing the management of national parks, for example, and I'm sure - that's the example I know, but I'm sure there are others in other areas - leave very little room for flexibility. Maybe this also came up earlier in your discussions about how private houses that happen to get onto lists are managed; the whole thing, or bits of it, or what have you.

There seems to be a problem here in interpreting legislation. Maybe that is because of the way the legislation is written. Maybe it's just because it's the way - what somebody had for breakfast on that day when they're a regulator, I don't know, and that's then an education issue. But if it is a case of badly written or inflexibly-written legislation, then I think that's an area that - where they could - - -

DR BYRON: I think the general point is that people who are trying to do a community service, the government shouldn't put road blocks in their way is the general point you're trying to make, isn't it?

MR CLEGHORN: Very much so, yes. I think there are other areas too, and one where the Commonwealth could perhaps take a role. We have found it incredibly difficult to obtain tax deductibility on our donations. Currently if people donate to us, that isn't tax deductable. They probably claim it, they might well get away with it, but legally it isn't tax deductable. We have spent some years going through processes with the tax office, trying to get tax deductibility for donations. There doesn't seem to be a box for us to tick as a heritage organisation. We could call ourselves an environment organisation, move our second objective up to the top and we'd have no trouble. We of course won't do that, and because we're a heritage organisation the tax office doesn't seem to be able to cope with our application for tax deductibility.

MR HINTON: This issue of funding of NFPs has come up in a number of other hearings. Once concern that has been expressed is the issue or accountability; that is, if you're going to be a recipient of taxpayer's funds, then commensurate with that comes some sort of requirement of accountability and transparency. Do you have any views on that, regarding your NFP in terms of the need for accountability and transparency, and the capacity to deliver that?

MR CLEGHORN: None whatsoever. I think you'd find that our bookkeeping and financial records would easily cope with any requirements in those lines. We have quite - yes, no, that's all I can say, yes. We've had no problems with that.

DR BYRON: Just one last point. You suggested that if you had some funding you could be more professional, and I do like the point that you made about the corporatisation of volunteers, and you could probably list many voluntary organisations that are going through that process. But I just wonder if another way of achieving the same sort of result would be if one of the staff of a national park service had it as part of his or her duties, the responsibility to be the liaison person, who could actually do organising of working visas or advertising, and that sort of thing. Is there some possibility that as friends of the park, or - the KHA got some special coordinating activity through existing officialdom?

MR CLEGHORN: That does happen. We have gone down that route, and to an extent that happens. Maybe I shouldn't have denigrated the park, I didn't want it to come across that way. They are very - we have liaison officers in the

park, but probably not at the level you're talking about. We have liaison officers, I think, to make sure that we don't go out to huts when we're not supposed to. It's that sort of level. We have ramped that up a bit. I have very, very open access to the director of national parks, which is wonderful, which has only happened in the last year or two.
It's very helpful.

The problem occurs, as I say, on the ground. It's all very well to have the liaison in place. But when it comes to the crunch, it's really given a bit of lip service. It is there, and we're working on making it stronger and at a higher level. But it certainly isn't there to the extent of providing openings for funding and those sorts of things, although I must say they are very good in the odd ad hoc cases. They'll say, "Well, yes, we'll cover you for funding for the timber needed for that particular hut," probably because they had it hanging around. It needs to be a little bit more formal and we're working away on that.

MR HINTON: Thanks. I didn't have anything else. Was there any concluding remarks that you want to make, Mark, by way of closing?

MR CLEGHORN: No, I don't think there are. I think that's covered it all. Thanks very much.

MR HINTON: Thanks very much for attending.

DR BYRON: I think we can now adjourn for a cup of tea and a biscuit outside. We'll resume with the National Trust's ACT branch at 11.30. Thank you, ladies and gentlemen.

DR BYRON: Thank you, ladies and gentlemen. If we can resume. The representatives of the National Trust of Australia, ACT. Gentlemen, if you could each introduce yourselves for the transcript. Thank you for the notes that we've received. Thanks for coming. If you can take us through the high points in 10, 15 minutes, then we can discuss it.

MR MARTIN: That would be fine. I'm Eric Martin, the current president of the National Trust of Australia ACT.

MR GRIFFITHS: I'm Colin Griffiths, the heritage officer.

MR MARTIN: What I'd like to do is just to expand on some particular issues they were mentioned in the supplementary paper, which was only delivered to you on Friday, and just to highlight some issues which makes the ACT Trust a little bit different to some of the other state and territory trusts. The key difference that the ACT Trust has: it doesn't manage any properties at all. Although we have been offered some properties in the past, we declined the offer to accept them because we were concerned about the ongoing management and maintenance of those properties and, therefore, the potential drain on our financial resources and physical resources to manage them. The ACT Trust does not manage properties and it is quite unique in the trust movement in Australia.

The other thing which is quite different in the ACT is that the ACT has got a section of it under charity, which is national land. The national land is totally controlled by federal legislation. One of the things which has occurred is that the national land - items of local significance on national land aren't able to be protected under the ACT heritage legislation. The national land tends to concentrate more on national significance. If it wasn't for the National Trust identifying items of local significance within that national land, then there's a potential threat to some of those items of local significance. The trust can actually identify and list them and therefore enact the Environment Protection and Biodiversity Conservation Act by having the fact that they do exist in there, and not overlooked. The trust, I think, is critical in respect to identifying some of those issues.

It comes also that within that national land, there are some residential properties, which is quite unique and I think quite incongruous with the whole of the ACT operation; is that there are some areas of residential land, which the National Capital Authority control, and I think is really quite inappropriate in respect to the management of those properties, given that the ACT and the heritage controls through that, the ACT Government control the rest of the residential land in Canberra.

The ACT Trust is fortunate that we do work closely to the ACT heritage.

We work with them through a number of grant programs and also work with them through - some professional advice through them. One of the advantages of working with the trust is that the trust has a number of volunteers. It has a number of professional people that are key members of the organisation. We believe that, through the National Trust that we can give really good value for money for the contributions that the trust makes to the conservation of the ACT heritage.

The other key item is that the ACT Trust promotes and produces the Heritage and Trust, which is a magazine and is the only one that promotes in an active way the conservation of ACT heritage properties, and promotes and provides education about heritage properties in the ACT in a fairly - what we believe, a professional and good-quality magazine. They deal with issues that are relevant to the region and issues that I think are important to undertake; and also provide a fairly important educative role in respect to the broader community.

It is through this process that the trust it very active in raising community awareness of heritage and planning issues. It's taken an active role in a number of key issues, particularly the Variation 200, which was called the Garden City Variation, and to try and put in place controls that protected Canberra's inner areas and the garden city. Because we believe it's of national, if not world, significance, it's important to acknowledge and recognise and protect those areas.

Also we do participate at the national level through the inquiry of the National Capital Authority. I think it's important that we are watchful or vigilant in respect to what the National Capital Authority are doing. Because it is only through the National Trust that independent review is possible of what's happening at the government level at both the local and national situations. As you're aware, the National Trust of the ACT is part of the Australian Council of National Trusts. We fully endorse the major submission that the ACNT put forward. We certainly support its recommendations and outcome.

We also believe that the process of the heritage regimes needs a much closer coordinated view throughout Australia. We believe that all levels of government, particularly at the federal, state or territory and the local government, don't necessarily harmonise and integrate appropriately at this point of time. It's probably illustrative by the fact that the Yarralumla Shire Council, up until its recent amalgamation, had no heritage study undertaken, which means that at just a local and regional level, there are gaps in respect to the protection of heritage properties. ACT is in some ways a little bit better off in the sense that it's only got two tiers. But it's really important those two tiers work the same strategy as the three tiers in the states and territories.

The trust has an enormous amount of community support, we believe. It also provides an independent view in respect to what governments are doing. But we do believe that there are partnerships available at both the national, local and territory level and that we can provide advice; we can provide support. We believe strongly that we offer value for money in the process of conserving our heritage. That's an overview of some of the issues that the National Trust of the ACT undertakes. It is supported by a more expansive document, which is only three pages, but also the content within the overall submission of the ACNT. We're more than happy to respond to any of those issues or any other issues that you may wish to raise with us.

DR BYRON: Thank you very much. Colin, did you want to add anything at this stage or answer questions?

MR GRIFFITHS: No, no, I'm right. I think we'll just take any questions.

DR BYRON: Can I start with the question of the national land and the National Capital Authority. Could you just give me an example of the sorts of things that are of local significance on the national land: how many of them and what sort of things they are, and then what happens after the trust has identified that there are locally significant places on national land.

MR MARTIN: There are a couple of things. For instance - and some of them actually of concern, but - - -

DR BYRON: Tell us some examples.

MR MARTIN: First of all, there are places like Blundell's Cottage, which is in the parliamentary zone. It's a cottage which is associated with the Campbell estate. It is not of national significance but it is of local significance. That one has been fairly well identified and it has had studies and conservation plans done of it. Therefore, it has a reasonable degree of protection, if you like. The NCA have actually been very strong in supporting that. The residential areas, which relate back to the garden city concept of Canberra - and there are some individual buildings of significance in that.

The area that's controlled by the NCA is from State Circle through to National Circuit, between the Prime Minister's lodge and through to, I think, it's Commonwealth Avenue, just across the road, basically. They border areas which are of importance, like some of the forest conservation areas, particularly the early award-winning designs and layout. But the protection of the character of the area within those residential suburbs is not afforded under NCA control, where it is provided within the ACT-controlled areas.

You get situations where buildings of importance get demolished without anybody of any recognition that it has happened. You get, in my opinion, unsympathetic developments proposed for those areas. The only voice you have is to put your views to the NCA. But they have no appeal process like other parts of Canberra. You can just make your comments made to the National Capital Authority but they have the privilege of listening to you, making their decision, and that's it. There are - - -

MR GRIFFITHS: Before you know where you are, it's been given a tick by the parliament through the committee process.

MR MARTIN: It's those key issues that come up within the national capital land that do concern us. There are also individual buildings within the parliamentary zone, which have a lower level of significance in respect to - if you like, national significance. It probably won't make the national listing, although some of them will. I think they're important to recognise. The other component of the areas is to make sure that the landscape and some of the planning infrastructure is recognised and appreciated.

Some of the things that happened within that: the trust complained, with the support of ICOMOS, in respect to the proposed fan that was going behind Old Parliament House. Really, the first there was any decent public exposure of it was really quite at the eleventh hour, when it had basically been substantially approved. It fortunately didn't go ahead. But our belief was that it would have been a major detriment to the significance of the area. It's that process that concerns us.

DR BYRON: Thanks. In your notes you talk about the role that the ACT National Trust has played in classification and contributing to the listings, and said that the ACT Trust has virtually ceased this now and we look to the ACT heritage unit to continue this role. But if the problem is that they've run out of funds, is it likely that they're not going to be in a position to continue it themselves either?

MR MARTIN: Are you talking about the trust not continuing or the ACT Government not continuing?

DR BYRON: The ACT Government heritage unit who, you say, will now have to do it themselves because you're not going to. Is it possible that they won't be in a position to either?

MR MARTIN: Look, it is possible. The trust has been very concerned for some time about the fact that there's been a lot of nominations put to the ACT Government Heritage Council that have not gone anywhere. They've got a substantial backlog, which they've tried to clear in the last 12 months and have certainly made good steps towards it. But the statutory protection is really within the ACT Government. That's where the strength will be. However, the trust was more active until the legislation came to the fore in the ACT. If the ACT Government cannot put the resources in to maintain it, then I think by default the community concern may very much come back to the trust to reactivate that process and be more vigilant in respect to its listing process.

DR BYRON: But does that create confusion? Lots of people have talked about a plethora of lists and that the idea of having a statutory list in each jurisdiction would mean that private NGO lists, including the trust list in all the jurisdictions, tend to in some ways become redundant because there are statutory lists.

MR MARTIN: The best solution would be to have a statutory list which was comprehensive; it was up to date with appropriate listings. Seriously, if you have that in place, there would not be the need for the National Trust listing. However, I think it's important that the trust, which historically has established the list, still maintains an interest in those properties. And if they don't have the level of statutory protection, then the trust has been very forthright in putting forward their views to try and maintain the appropriate conservation of those places. I think that would have to remain.

MR GRIFFITHS: But I think you're also going to get differences of view. I can think of two examples where the trust has a view about the heritage significance of a place which is different from the view within the federal government. Therefore, there is tension in that the federal government deems a place not worthy of heritage listing, and therefore conservation, whereas the National Trust from its professional perspective does. One example: the 1930 landscape elements in what was RAAF base Fairbairn, and a more timely example is the Belconnen Naval Station, which is in our view a place of undoubted national significance because of the role that it placed in the battle for the Coral Sea as an effective link in the communication chain during that battle and, since then, in military communications through the 40s and 50s.

However, the minister has recently decided on what we think an erroneous interpretation of the new criteria, that that place is not worthy of national listing. We have a different view from government and therefore we will continue to put that view. You're always going to get that. Even if you do get a harmony of listings, you're going to get different interpretations. We feel that we reflect a strong community concern about those places that isn't recognised by the statutory listing. That's going to continue, of course.

DR BYRON: I guess what I'm reacting to is the number of people who have made submissions to us saying, "But this place is listed by the National Trust in jurisdiction X and it's on the Register of the National Estate, and yet still." When you try and explain, well, actually neither of those lists confer any statutory protection or only the very weakest right, I think many members of the public are very confused about all these lists and the differences between them and what they mean.

MR GRIFFITHS: Many people are actually confused about the National Trust itself because we receive a lot of phone calls - not a lot, but a noticeable number of phone calls throughout the year at the office, asking us to help people with a particular problem, they ring what they think is a government department. When we explain that we have an office staff of three part-time people and we really can't drop everything to help them unless they are a member or unless they're prepared to pay for the research time that will be involved in answering their question, their eyes are opened. We know that confusion does exist. I also personally know, having worked in the Heritage Commission, of the difficulties that a lot of people have had in understanding the concept of the Register of the National Estate from its very earliest days in the late 1970s.

MR HINTON: There's a follow-up question to that. In your notes that you've given us, you talk about the possibility of there being a partnership arrangement between the trust and the federal government. Can you sort of elaborate what you have in mind here? What sort of relationship - - -

MR GRIFFITHS: Yes, it goes to the whole question, if I like, of the grant-in-aid that the National Trust movement receives from the federal government. That grant-in-aid goes back to the mid 70s. It originated in the recommendations of the Hope Committee report, which was the report that actually set up the whole business of a heritage commission and a register. Since, for 30 years, the National Trust has received a grant-in-aid. That now is something in the order of 70-odd thousand dollars to each of the eight jurisdictions, plus 2 or 3 hundred thousand dollars that goes to the Australian Council of National Trusts to help it in its coordinating work and also running some programs.

We discern from discussions that we've held with the new minister and his office, Senator Campbell, that grant-in-aid is a term that is no longer appropriate to government funding. It was obviously quite prevalent in the 70s and 80s. I remember picking up the old appropriation bill number 1 or 2, and there would be pages and pages of grant-in-aid: $10,000 to this organisation and that organisation. In these days of much slimmer budget documents, you tend not to see that detail.

However, our grant-in-aid has been continuing, although there has been, more recently over the last - I guess ever since the election of the coalition government in the mid 90s, although my own personal experience only goes back five years with the National Trust. There has been a much greater sense of accountability and transparency in what we do with that money and what we are required to do with that money. Back in the 70s and 80s, it was sufficient for the National Trusts to merely demonstrate to the department that they'd spent that grant on administrative purposes. You'd whack in your audited statement and provided the audited statement, show that you'd spent 30 or 40 thousand dollars or whatever the grant was on salaries or electricity or phone calls; you were okay.

Whereas what happens now is that each National Trust is required to actually compile a program of activities that will be put forward for approval by the department in order to qualify for the grant-in-aid. In our case in the ACT, we have a program of five or six activities that we have to submit to the department and we have to indicate how much of the grant-in-aid will be allocated to each of those activities. Every year we put in a half-yearly statement as to how we're going against each of those activities. We indicate how much of our own money we're putting in against those activities. At the end of the time, we produce a full report, both a written report describing what we're achieved and also an audited statement, and our auditors would produce.

The sense that we're getting is that that will actually no longer be the way in which the department or the minister wishes to proceed, and that there's going to be some sort of partnership agreement, which will introduce the concept of, if you like, mutual obligation. So that we will need to be able to demonstrate that we are carrying out activities with that grant-in-aid that will in some way complement or assist the federal government in achieving its own particular agenda.

The sort of things that we have in mind are doing more work through our publications to describe to our members and to the general readership of our journals what the National Heritage List is, what the federal government is doing about compiling a National Heritage List, developing a national heritage agenda, the sorts of places that are being considered, what are the themes coming through, what the work of the new Australian Heritage Council is about, and generally try to make our readership and membership more aware of those federal initiatives.

There will also, I'm sure, be other things that they will be asking us to do in order to complement the sorts of things that the government will be doing. For example, in 2006 has been designated as the year of the coast, and the government will be developing programs and themes around that year. We - not in our case, say, of Queensland or Western Australia, there will be a preparedness perhaps for them to do work through their own work to highlight and complement that national theme. It's really developing a way of dialogue with the federal government and with the Heritage Council, understanding what it is that they're trying to achieve, and doing what we can, particularly of course using what we hope will be ongoing grant money, to help them deliver on their objectives.

MR HINTON: Does it have - - -

MR GRIFFITHS: I'm sorry?

MR HINTON: Does it have a concept of continuation or is it an annual event or - - -

MR GRIFFITHS: No, it's - I mean, you'd have to look at the forward estimates but of course the forward estimates aren't real user-friendly these days. You can't drill down and see your grant there for the next two or three years - - -

MR HINTON: Forward estimates aren't appropriated either.

MR GRIFFITHS: No, that's right. It's a year-by-year sort of deal. What would help us in our work and in our forward planning is to get a partnership agreement that locked in some sense of three-year commitment to a particular level of funding. Because I must stress, as we hopefully did in our written notes, that grant-in-aid is absolutely vital to the financial wellbeing of, I'd say, four or five of the National Trust jurisdictions.

DR BYRON: One of the things that we have to look at in this inquiry is not only the performance of each of the levels of government and the articulation between them, but laterally the connection between sort of formal government apparatus for heritage conservation and the wider community, including not-for-profits, the corporates, individual property owners. The trust of course has a very large role in that. But the partnership arrangement that you were just talking about, Colin, that might be interpreted in some sense as the National Trust becoming a subcontractor for the government to deliver specific explicit performance outcomes in return for payment.

One of the issues that may well - a number of issues may follow from that. One is that if the organisation becomes somewhat financially dependant on those payments, is there then some loss of autonomy in the ability to take an independent advocacy position vis a vis your pay master? In some other states - certainly not here but in other states - it's been suggested to us that the National Trusts were seen as being almost indistinguishable from the government agency because it was so financially locked into it, that it lost that independent voice and therefore it lost membership.

MR GRIFFITHS: Sure, I understand that. What I'm talking about in response to your question and the concept of a partnership of mutual obligation

MR YOUNG: What would it take to make that happen? Well, commitment first - first of all the recognition of the need, then the commitment to do something about it, and following that obviously some funding at least to get it happening. Why hasn't it happened? Because this business we're in is an evolving one. I mean, I hear some of the conversation this morning and a lot of it is about - a lot of the confusion is about the fact that the heritage industry is evolving, and evolving fairly rapidly from a time when only the trust did it to now the overlapping phase, when everybody lists and there's too many, and all the rest. Let's look to the future, when there's a neater, shorter set of lists, and all of that will be fine.

I think likewise in terms of physical conservation, at the federal level in the last 20 years, there has been a lot of effort put in, and a lot of thinking put in, to what is heritage and how do we understand it, and how it should be assessed. I think that's good, and the results have been good, but there has been a complete absence of thinking in terms of the technical aspects of conservation. Partly, that's this evolutionary thing, and partly that's also to do with the fact that the former Australian Heritage Commission had little or no role in development control, and therefore no need to get involved with whether the building had termites or rising damp, or whatever.

It's the states that carried that role - still carry that role, and therefore are better equipped in the technical areas. So the reason why it hasn't happened, I think, is just partly an evolutionary one. I think it's partly also the focus on people in responsible positions at the time. The 1998, I think, National Heritage Convention, had - I think it was 12 subthemes, and I attempted from the floor to add a 13th along the lines of what I've talked about, and - well, the 12 were preordained before the thing even started so I didn't get anywhere. I think that reflects the lack of interest in the topic.
So that has to change. I mean, that's a problem, and that first has to change, then commitment to do something about it, and then the resources to make it possible.

DR BYRON: Tony, do you want to add to that?

MR HINTON: David, thanks for your written submission and your attendance today. Like Neil, I was particularly interested in the perspective you bring. While some other interested parties have touched on some of those issues, I think yours is a particular tranche of the issues that it's important that we cover, and important that we have your input on that, so thank you. I had a question about your concern about all that sort of - in fact, your confidential attachment that you describe in your covering piece as three case studies drawn from your practice, to provide specific evidence. Therefore I'm not breaching the confidence, because I’m not discussing the particular attachments, but my question really was one of concern that the examples you give seem to be much more generic in industry behaviour, industry incapacity, as opposed to specific to the heritage sector.

That is, diagnosing a weakness deficiency in a building exists whether it be heritage or not, and the treatment - the prescribed sort of medicine for that building also can be well based, or not soundly based, whether it be heritage or not heritage. The examples you touch on seem to be indicative of a wider malaise for the building and construction maintenance sector, rather than specific to the heritage sector, and I'm just wondering how that adds to our knowledge base, when in fact you're just saying something that's well understood around Australia - that the building sector does have known deficiencies, and different people are working to redress it.

MR YOUNG: I certainly think you're right, that the problems that I've identified could equally apply to a non-listed heritage place. Indeed, one of the three is, I think, probably formally not yet listed but recognised nonetheless.

MR HINTON: But even if it were heritage listed - - -

MR YOUNG: It wouldn't change - - -

MR HINTON: - - - the diagnosis of the problem is not specific to the heritage characteristics of the building, is the point I'm making.

MR YOUNG: Correct, and I think this goes back to the lack of training of practitioners, be they trade or architect, engineer professional, in understanding something about traditional building construction and practice. If people are only trained to build new and have no training in how the existing old ones went together, then how can they understand major defects?

MR HINTON: But then that takes you down a slightly different track; that is, if it is a generic problem then the solution should address the generic problem, and not focus on the heritage aspects. That is why I was a little uncomfortable with some of your recommendations that seem to be describing a wider problem, but having a narrow particular solution, and that made me a little uneasy, or is that too unkind?

MR YOUNG: I understand, but I think one can tease two separate things out about this, and that is that there is a problem in the broader building industry, but I also think that had there been greater heritage awareness brought to bear, then these problems wouldn't have come up. I think it's both, and I think that it's not solely a problem for the broader building industry. Because the broader building industry will, as indeed the builder responsible for one of the case studies, or the damage in once of the case studies, said, "Why can't we fix this by throwing a bucket of silicone at it?" which is a contemporary sort of approach, but wouldn't have fixed the problem.

MR HINTON: But in the general area of building, lack of skills, ineptitude, incompetence frequently result in some sort of legal liability, and you then get the insurance companies, the professional indemnity insurance or whatever, enforcing standards of competence and also emphasising the caveat emptor. If I'm going to make a contract with someone to do repair work on my heritage building, I will demand to see his or her heritage qualifications, a track record of what they've done before, letters of reference from people who have been satisfied with previous heritage restorations, rather than just pick somebody out of the Yellow Pages. Yes?

MR YOUNG: They should.

MR HINTON: But for whatever reasons, that's not happening yet.

MR YOUNG: Well, I think it was in case study number 1 - it's so well disguised I've disguised it from myself - where the bad practice was commissioned by a mid-sized firm of architects who claimed heritage expertise. So reasonably the client in that case might have felt comfortable in engaging them, and may well have checked out their previous work, because in fact they had done previous work for the client, so there must have been some degree of acceptance of that work.

MR HINTON: But would a big insurance claim focus the minds of people doing this sort of work?

MR YOUNG: Yes it would, no doubt, and it would be nice if one of those would happen. But I know that the first case study 1, nothing has happened, and the building continuous to be damaged, by the way. I walked past it on Thursday to make sure. I mean, not to make sure it's being damaged, but to confirm that my advice stands. Case study number 3, there won't be an insurance claim because the client found themselves on technical legal grounds to be not able to act, so unfortunately there'll be no process.

But in that case took, who do you act against? There were five parties responsible - the original architect, the original builder, the subsequent maintenance managers, the current architect and the current builder. It's quite a challenge for the insurance company to apportion blame there.

MR HINTON: On your recommendations to us about including heritage conservation practice in both trade courses, and in tertiary education and engineering, architecture et cetera, I guess I would feel personally a bit uncomfortable - even if I see the sense in your recommendation and agree with it - about a fiat from central government bureaucracy telling deans of faculties, and heads of TAFE colleges, what should be the content of their curricula, perhaps not easily. I would hope that if we've got a strongly articulated national framework for heritage conservation, the people who are responsible for curricula in all the various sorts of schools might ask themselves, what does this mean for my curriculum and should we adjust the offering in some way? There is a great opportunity out there, why aren't we taking it? Do they need to have instruction from central government to get them to have a hard look at themselves?

MR YOUNG: I understand your concern about them not being in a position to really tell them what to do in that respect, but I think several things there. One is that the heritage industry is small, and its lobbying capacity is commensurate unlike, for example, the AMA who can control pretty effectively what happens in a medical degree, Australia ICOMOS and the National Trust movement, and the national Cultural Heritage Forum have yet to be able to exert that sort of pressure.

The other side of it is that there are people who are responsible for curricula, or irresponsible for curricula perhaps - and there is no, in this day of the universities as competing institutions, there's no sense of "You'll do this, and we'll do that, and this one will do the other, and between us we'll cover the range well and we'll provide it at appropriate levels, and we'll ensure that all heritage is well done", in a training sense, at least. That doesn't happen.

Each university is out to do what it can, generally with extremely limited resources. That the University of Canberra in 2002 was able to close the only museum conservator training course in Australasia at the whim of the vice-chancellor, aided by a few stooges beneath him, without any need to justify it to anyone else, is a measure of I think the challenge that faces us all in ensuring good heritage conservation and education and training; unless the industry bodies, like ICOMOS, like the Trust movement, can exert sufficient pressure.

I think to some extent also employers - again, harking back to the UK survey, if employers are getting graduates who are trained to only build new and know nothing about existing buildings, it's not going to do them well. So there's an opportunity there as well. It's my feeling that this issue ought to be recognised as part of surveying the state of tertiary education at heritage level. That's what I've recommended and which others have recommended. I think these things should be clearly spelt out.

MR HINTON: I'll ask David Parken of the Royal Australian Institute of Architects this afternoon, perhaps, your question.

MR YOUNG: Do that.

MR HINTON: In fact, interestingly, a number of the heritage tranche of the Engineering Association also had appeared before us in Melbourne and also in Hobart. Engineers as a profession also have a particular interest in matters heritage, which picks up your recommendation 7.

DR BYRON: David, are there closing remarks?

MR YOUNG: If I can just comment back on the point that Tony asked me about, the distinction between the building industry and the heritage part of it. This issue of whether work is being done well or not and whether it's just building or whether it's actually heritage comes back to one of the fundamental tenets of the Burra Charter, and that is respect for the existing fabric. That's what makes it a heritage issue. Far too often in a non-heritage building repair situation, it's "throw out the old and fix it by putting new", which is exactly the opposite to what we're trying to achieve in heritage conservation. So I think we can fairly clearly define it as a heritage issue, as well as a broader building issue, and it comes under that: respect the existing fabric.

MR HINTON: Thanks very much, David.

DR BYRON: Your point about even getting access to the original materials - the types of stone in the heritage quarries - I think that's a valid point that need to be made. Thank you very much for that, David.

MR YOUNG: A pleasure.

DR BYRON: We can now break for lunch and resume at 1.30 with the ACT Heritage Council. Thank you, ladies and gentlemen.

(Luncheon adjournment)

DR BYRON: Good afternoon, ladies and gentlemen. Welcome back. We'll resume the public hearing. Now we have representatives from the ACT Heritage Council. Thank you very much for coming, and thank you very much for the written submission, which we're still trying to digest, given that it's probably our newest one.

DR BLAIR: We apologise for the lateness.

DR BYRON: That's all right. Better late than never. When you're settled and comfortable there, if you could just introduce yourselves for the transcript. Then you might like to take us through the highlights of the written submission.

DR PEARSON: I'm Dr Michael Pearson. I'm a member of the ACT Heritage Council. Dr Sandy Blair is the manager of the heritage unit, Environment ACT, and secretary for the heritage council. The way we'll run it: I'll lead off with the summary of the submission and the statement, and then Sandy and I will share the responses.

The submission we've put in tries to target very much the ACT issues in relation to the inquiry's scope and the series of questions in the issues paper. So we've pulled out those issues which are specific to the experience in the ACT. In setting that context, I think it's interesting to bear in mind that, together with the Northern Territory, the ACT runs both the local and the state equivalent controls. So there is no local government as such. That has some implications in that the heritage register that has developed, being tied into the land planning process, has an equivalent status to state heritage listing status, and there is often pressure to raise thresholds for the register to that equivalent state level, which means that there is a constant pressure, if you like, on recognising the local significant of heritage places in the ACT to the local community.

So the council has to go retain that perspective in its mind when it's looking at nominations and bear in mind that it's not just representing the territory-wide interests, if you like, as a state, but also the local interests in terms of the local community and suburb; and that, sometimes, is difficult.

DR BYRON: Given the size of the ACT, is there that much difference?

DR PEARSON: There can be. Rural lessees' interests, the interests of the rural villagers - Tharwa, Hall, Oaks Estate - tend to be localised interests. If the ACT didn't exist, there would probably be at least two local government areas covering ACT interests; probably a city one and a rural one, for example. So there are local interests, but certainly in relation to thresholds for listing, you have that tension between listing something which automatically has planning controls, which are planning controls equivalent to a state-level planning control, for something which has significance, which is only a local significance. So we have to sort of get that blend right in the ACT.

I'll structure the presentation by some of our major recommendations. We've pulled out I think seven recommendations in the submission. The first one targets the whole issue of protection of places in the ACT on designated land. There is a tension between the responsibilities of the ACT Heritage Council and the ACT government, in the land planning sense, and that of the Commonwealth because a fair proportion of ACT land is designated land; either national land or designated territory land. In both cases now, the Commonwealth has planning approval powers over designated land. That creates some tensions.

Our first recommendation is that the Department of Environmental Heritage initiates discussions with the National Capital Authority, ACT Planning and Lang Authority, and ACT Heritage Council to agree procedures that ensure that heritage places on designated land are effectively identified and protected under either the EPBC Act or under the ACT Heritage Act. At the moment, identification of a place by, say, the National Capital Authority in designated land does not automatically lead to its identification on the Commonwealth Heritage List. But there is no other lessor protective mechanism other than the general responsibilities under the EPBC Act for the NCA to look after those places.

Under the EPBC Act, there is certainly no requirement to promote active identification and conservation; it's very much a reactive process. As an example, as all government authorities are now forced to do under the EPBC Act to identify heritage places under their control, once they do that, and create a heritage register within the authority, there is no automatic process for nominating or taking that nomination for consideration for Commonwealth heritage listing. The act is actually silent on what happens to places that are identified by heritage agencies in their heritage registers. It says you have to identify Commonwealth heritage values, but there's no linkage between that and the Commonwealth actually recognising those values on its Commonwealth Heritage List.

Those issues mean that there is, we think, and we have some examples to suggest so, that there are places within designated land in the ACT which, if you like, falls into a gap between the Commonwealth's responsibilities and the ACT Heritage's responsibilities. Under the current arrangements, ACT Heritage Act has no effect now on designated land in terms of planning/approvals processes.

A corollary to that problem is that there's a certain amount of confusion within the ACT community about that arbitrary split between designated land and territory land in terms of what is our heritage. So until the recent amendments or changes to the heritage act in the ACT last year, the heritage council couldn't identify places formerly on designated land in its own register. So the ACT Heritage Register did not include those things which most people regard as being the icons of the ACT because they were on Commonwealth land. Under the new act, we can identify them. We just done have any input into the planning processes affecting them.

DR BYRON: But presumably the National Capital Authority, having been made aware of ACT interest in places on designated land, are not prevented from acting accordingly. It may be that they're not required or bound by that, but presumably they can still take that into account in deciding whatever they do.

DR PEARSON: There has been some recent dialogue, for example, over Acton Hotel, which is a former residential hostel. That falls into this category. It's on the Register of the National Estate, but it hasn't been identified in the Commonwealth Heritage List. So there's no automatic trigger for the preparation of conservational plans, for example. There is one for that place, but it's one of these places which falls into a bit of a limbo. NCA have been having discussions with the unit about that issue. So hopefully there is goodwill occurring there, and hopefully it will continue to occur. But there's no systemic process to ensure that it will occur and will occur consistently.

The second recommendation targets the issue of development of contextual studies and the identification survey for heritage places. It is that the Commonwealth regain a national leadership role for the development of comprehensive surveys nationally by reinstituting a grants program to support national and cross-state research and work in cooperation with the states and territories to develop policies and a program for national contextual and thematic studies. This is primarily to help support the functions of all the states and territories in identifying heritage places, and doing convincing and proper comparative surveys for those studies. We're caught in the ACT, for example, doing studies of our rural heritage, having precious little comparative material from around Australia against which to compare our rural heritage to see how significant it is regionally and nationally.

So you sometimes fall back onto self-referential assessments of places just within the boundaries of the ACT, and that's probably not an ideal situation to take for many aspects of heritage significance.

We believe there's been a loss of leadership and fostering of a national program of identification and research with the new Commonwealth heritage regime. There is no equivalent now to the national state grants program, which in the past provided a very worthwhile direct funding and seeding funding for surveys which went beyond state borders for getting contextual information. There's no parallel in this direct field for the efforts that have been put into the national environment identification programs by the Commonwealth at all. Small jurisdictions, such as the ACT, the Northern Territory and Tasmania in particular, do not have the resources to do those national context studies. So if there is no other alternative, those studies just basically don't get done.

The third recommendation is about fostering a more holistic approach to natural and cultural heritage. It is that, again, the Commonwealth provide national research and leadership to bring together the currently disparate philosophies of assessment, interpretation and management of natural, indigenous and historic heritage fields, with the aim of developing a more holistic philosophy and methodology that stresses the unity of a natural and cultural heritage, rather than its separation.

This issue has been around for decades. It's been recognised by probably every heritage agency. But there is still apparently no real national leadership in developing any new philosophy or methodological approaches to this. The states are doing what they can, but that tends to be fragmented.

The fourth recommendation is to do with reaching agreed interpretation of heritage assessment criteria. Many of us in the heritage field had thought this issue had been well and truly put to be with all the states and territories basically utilising what were initially registered national estate heritage criteria around Australia, standardisation of interpretation of criteria. But in recent times, the Commonwealth decisions in relation to a range of issues about National Heritage List has thrown this into some sort of question.

The recommendation is that the Australian Heritage Council and the Department of Environmental Heritage initiate a dialogue with the states and territories to reach mutual understanding of the scope and application of the existing assessment criteria and cooperatively develop new wording where the existing is no longer adequate. In particular, the relationship between associational values, fabric and conservation objectives should be clarified.

The reinterpretation has happened for a number of criteria. Aesthetics is one where the interpretation of what "aesthetics" means has been narrowed down to just "the beautiful"; nothing to do with the science of aesthetics. Criterion A, which is about the course and pattern of history as reflected through places, has recently been interpreted as not relating to fabric. So you can take away the things which make the places historic because the associations are still with the place; you don't need the fabric. Again, recently there has been some discussion about the role of architectural styles in relation to the criteria. These issues are coming up quite frequently now, and we think it's high time that there is some wider discussion about what the implications of this are and to try and get some standardisation on interpretational criteria.

The fifth recommendation is to do with the Commonwealth's conservation of its own heritage places. That is, that the Commonwealth clarify, through guidelines, the responsibility of Commonwealth agencies for conserving identified Commonwealth heritage values managed by them, and especially prior to and following disposal. The earlier recommendation on clarification of the criteria is central to that issue as well.

This leadership role by the Commonwealth has become very pointed in relation to both Recherche Bay and Belconnen naval station here in the ACT. And if the Commonwealth is serious about conservation of cultural heritage values and national heritage values, then it really does need to show some leadership in provision of guidelines which clearly identify for Commonwealth agencies what their responsibilities are in protecting those values.

Recommendation 6 is agreed standards for conservation management plans. Again it partly stems from the spin-offs from the new EPBC requirements. The recommendation is that the Commonwealth provide national leadership in developing national guidelines for heritage assessment and conservation management plans, based on adequate consultation and input from the state and territory heritage agencies and from key non-government bodies, such as Australia ICOMOS. In this instance, the EPBC guidelines for management plans - note, management plans, not conservation management plans, the accepted terminology otherwise nationally - EPBC guidelines set standards which differ in many ways from the pre-existing CMP standards, if you like, that have been applied.

Some states, it is understood, are also looking at revisiting conservation management plan methodologies and we think it's another issue where there needs to be some wider discussion of the planning methodologies and some agreement on some of the basic principles that will apply to them, so that there isn't a slow divergence of standards and methodology between jurisdictions. There are as yet no guidelines for assessment of places under the Commonwealth Heritage List or the National Heritage List criteria to assist in some of the conservation planning work for Commonwealth heritage places.

The last recommendation is basically about the maintenance time bomb, that the Commonwealth take a leadership in facilitating national discussion of the growing problem of inadequate maintenance of a large proportion of the nation's heritage assets. Such discussions should include, amongst other topics, the better use of incentives and government funding support mechanisms to ensure that regular maintenance occurs. This issue, as it's suggested, has been a growing one, but over the last two rounds of Commonwealth state of environment reporting exercises, it is being, in the current round, noted that even places which have received substantial government funding in the past for conservation works are falling into decline because there is no adequate maintenance funding available to them, either through the owners or through any arrangement through government funding processes.

Solutions to that might include the use of a variety of incentives to achieve maintenance by private owners, and also a re-look at the grants and assistance programs to factor in maintenance as an ongoing commitment either within the funding arrangements or by binding undertakings with owners through things like heritage agreements. In the ACT certainly we are going to be looking very seriously at the use of incentive systems such as rates, land tax relief, those sorts of things, but linking them through to heritage agreements which are now accessible to us under the new heritage legislation to target that issue of maintenance.

Some of the other issues that we've raised in the inquiry - in the submission - one I've raised, we combined both the territory and local roles. I don't have to deal with that. We have an issue here which we're dealing with, with specific government agencies, of government compliance with heritage expectations in legislation, given the increased outsourcing of provision of government services, and through that outsourcing process, the automatic seeking of the lowest cost outcomes for provision of government services.

So we're having close liaison at the moment with service delivery agencies for power, roads, road lighting, those sorts of issues, to try and find workable solutions to achieve conservation of their facilities in heritage areas, which are both cost effective but also, and more importantly from our point of view, heritage sensitive solutions, the pressure being that old heritage - for example, street light units - are deteriorating in condition. Their replacement in exact replica form is much more expensive than using modern light facilities. So there's a lot of pressure to standardise light fittings, for example, throughout the suburbs.

And finally, we, like all the jurisdictions, have development pressures which have come to bear on the ACT. Urban block intensification, some of the heritage suburbs - Forrest and Griffith, for example - which have large house blocks, the current expectation for housing seems to be something which is basically twice as big as the house that is on them, and has major pressure on not just the built form but, more importantly in many cases, the landscape form of garden city suburbs. We also have substantial urban fringe development which is impinging on rural heritage areas in the edges of Canberra, through the ACT, and trying to negotiate the retention of significant elements of rural landscape has become a major tension within the ACT which we have to work through. That's the summary of the things which we've raised in the submission, so we're open to questions.

DR BYRON: Thank you very much, Michael. Sandy, did you want to say anything at this stage or to add to that or - - -

DR BLAIR: No, happy to answer questions.

DR BYRON: Respond to questions.

DR BLAIR: Yes.

DR BYRON: Yes, you've hit lots of good points there. One of the early points you make is about the idea for a survey of significant - to identify proactively historically and culturally significant places, and it seems fairly self-evident that doing that through either staff or expert consultants could be very expensive.

I've been actually quite impressed by the body of detailed knowledge of heritage places from individual members of the public who have come forward to hearings like this one, and who have made the point that things, like on the register for the national/state web site, there's huge areas of details not known and they have the information right there, which led me to wonder whether there's some way of tapping in to that body of knowledge that's in the community, perhaps through a web site/Internet based mechanism, but to - yes, to tap into that, rather than having to engage consultants to go out and look for it.

DR BLAIR: I think you've got to do both, I guess, in my view. We've just managed to get a Web presence really, with our heritage register, which we've worked hard to catch up to some of the bigger states who have got, you know, more staffing and resources to get these tools. So we now have a Web presence and we're about to put up nominations as well as the listings, and that will enable the community to see what information we hold and where there's gaps and where they might be able to contribute. And as the council considers each proposal for a registration, there is a public consultation process - you know, the ads in the newspaper and so on - so that, if people do hold information, they're certainly encouraged to share it with the Heritage Council.

But I suppose the other aspect is that to have a consistent, robust listing, which has impact through the planning scheme on a particular owner, perhaps, that owner has the right of legal appeal to scrutinise the council's decision-making on that registration. Your council's decisions really have to be based on a very consistent application of the heritage criteria, which often does require additional research, often expert input, and sometimes even, with really contested places, quite extensive peer review. So I think you need to do both.

DR BYRON: I wasn't envisaging where any member of the public could sort of input things straight on to a list, and it may be more like a chat room, but a way of providing information which would then be moderated, quality controlled and cross-checked and all the rest of it, but as a way of sort of vacuuming up some of the information that's out there, in a way that seems to be much more cost-effective than sending out staff to look for it.

DR PEARSON: That's been done through the grants program. It actually runs a small grants program of quarter of a million dollars a year and part of that each year goes to small organisations - some of them not so small organisations - from the size of the Institute of Architects down to local community groups, to do survey work in relation to their particular interest area. So if we pick up some of that through quite modest funding support for them to do the paperwork, all the intellectual input comes from their own interest areas. So hopefully we're picking up some of that, which we can do because we're a reasonably small jurisdiction.

DR BYRON: But the National Trust of the ACT told us this morning that they used to get those grants from you to do precisely that sort of listing and classification work, but it stopped and - yes. I won't go any further.

DR BLAIR: Partly that was based on some of the experience with taking registrations through Administrative Appeal Tribunal processes and I think at one stage, you know, the registrations sort of came from community organisations, and the additional work to make the rigorous wasn't put in and I think at one stage council were in the position of not getting the support through the AAT process for registering places. So I think, you know, there was a - - -

DR BYRON: But other speakers this morning here made the point that the way significance to the community is really revealed is through that community passion. I mean, a technical expert can go and assess the fabric of a building or research the historical evidence, but the significance to the community is actually revealed by the way the community reacts and feels and articulates that. Would you agree with that?

DR PEARSON: Absolutely, but in terms of getting that value honed down into a heritage citation which will stand up against an AAT appeal, you have to really tease out what are the elements that the community values and why. Community love of a place is one element of that value but they usually love it for a reason. They love it for its historical associations, its architectural values, its aesthetic values or its indigenous associations, for example.

So you might get something through which says, "We love this place," but then staff has to do a hell of a lot of work to actually tease out those elements of significance, write them up in a way which is definitive and convincing to put it through for registration. So there is a long process, even after you know the place is important. You've got to tease out why.

DR BLAIR: And if I can just add, often you need contextual information, if some of the values are about, you know, the comparison of that place with the work of a particular architect or other examples of - you know, if you - you also often need to add to the research to get that contextual information. And sometimes, as Mike was saying earlier, it needs to be across state boundaries. So you need to know about the body of work in New South Wales or nationally to be able to make, you know, assertions that are really going to stand up when they're tested.

DR BYRON: I don't know - it's not so much a question but a reaction to your recommendation 3 about the integration of natural, indigenous and historic heritage and the somewhat arbitrary nature of that distinction. The Australian Heritage Commission and many others have made precisely that point to us. For whatever reasons, the terms of reference that we were given asks us to look at the historical and cultural built heritage, but that may well have been because the treasurer thought that somebody else had already looked at natural or indigenous. But I don't think it was intended that we would perpetuate that compartmentalisation, or we're not required to.

On recommendation 5, about the Commonwealth responsibility for conserving identified Commonwealth heritage values that are managed by them, and especially prior to and following disposal, from your observation and experience - I guess there's a many-part question - has the Commonwealth been, you know, reasonably or exceptionally responsible as an owner in sort of being an exemplar, a model, for how heritage conservation should be done? Is the requirement that each agency - would a requirement that each agency had to maintain historic assets out of its own budget - would that encourage line agencies to want to dispose of some surplus assets, and if so, is that a good thing or not and what might be done about it? We could spend the next couple of days talking about that question.

DR PEARSON: Probably yes to all the above. The Commonwealth is setting up through its new legislation, the EPBC legislation, a structure which purports to achieve good results for Commonwealth heritage values and national heritage values through its own efforts. It requires agencies to prepare management plans for places which are on the Commonwealth Heritage List, for example. At the same time, however, at the moment we have an example at Belconnen where a place is on the Commonwealth heritage list. The owner department is proposing to demolish the elements of the place which actually give it significance.

All suggestions seem to be at the moment that that will be an approved process, although it's still in the courts, as it were - not the courts, in the open discussion phase. But we're very concerned about this as sort of, if you like, one of the first - one of the earliest examples of how the act is actually going to work in relation to the Commonwealth's own commitments to Commonwealth heritage values, and it's not looking a good picture at the moment. We're also concerned, from the ACT point of view, that in this particular case, it's a block of land within the ACT.

If that land is then transferred to the ACT Heritage Council, we haven't been able to assess it in the past because it was Commonwealth land. Our act has no effect. If it's then disposed of to us, we would have to assess it on its diminished values and ensure that our own agency or private owner who takes over that property conserves the residual heritage values, which seems like a very, very poor relative role to be handed down to state and territory governments by the Commonwealth. It doesn't sound like good leadership.

DR BYRON: Well, the following question, which I've asked in other states and often of local governments too, when they've appeared, is how would you rate your own jurisdiction's performance in maintaining the assets that it itself owns and is responsible for? Is the ACT an exemplary manager of its own heritage estate?

DR PEARSON: I think it's probably a layered response to that. There are some places which - - -

DR BYRON: Sorry, it's a tough question.

DR PEARSON: There are some places which are managed very well and the ACT has government authorities who manage heritage properties. There are other properties which are government properties, which are managed well simply because they are government assets. There are some government assets which no longer have a use, such as, say, Yarralumla Brickworks, which at the moment are languishing. So there's a gradation in that. In the private arena, the new heritage legislation, hopefully we'll continue to improve the linkage between heritage assessment and the land planning process and get better outcomes in the private sector.

On the whole, I think private sector outcomes are reasonably good. There are some wins and there are some losses, but that would be the case in every jurisdiction where dealing through the land planning process to achieve your outcomes.

DR BYRON: No, I was particularly interested in the way jurisdictions manage their own assets, that a lot of the local governments that we've talked to have thought it was terrible that state government would impose on them the burden of maintaining places that were listed as state significant, and yet they didn't seem to mind too much about complying with their own local listings if it seemed expensive to them. And of course the consequences of the listings that they themselves put on local ratepayers, was the third question. So there were many different points of view of the same player depending on whether they were the perpetrator or the victim.

DR PEARSON: I suppose in the ACT it depends on whether you're talking as the Heritage Council or whether you are talking as the land management agency, having to look after the place, who is the victim or the perpetrator. But all of it is self-inflicted in the ACT.

MR HINTON: I'd like to sort of explore a little further this hypothetical case of a building on national land, responsibility of the National Capital Authority. It was judged not to be on the - of national significance, yet is judged by the ACT government and/or council, that it has ACT value.

It seems to me a case could be made that the conservation of that particular building, that would otherwise be sold off and, in fact, potentially demolished by the Australian government, if retained because of its ACT significance, local significance, it would follow then that the conservation maintenance costs should fall to the ACT. Is that a reasonable construct, as to that hypothetical building?

DR PEARSON: It might be if the ACT had control over the land planning processes involved in the place.

DR BLAIR: But we don't.

DR PEARSON: Which they don't.

MR HINTON: Are we talking about it actually being then retained because of the local significance?

DR PEARSON: Yes, but it wouldn't be subject to ACT legislation, planning legislation. So you'd be giving the money, but not having any say at all about what happens to it. It would still be national land.

MR HINTON: But the agreement could be reached with the Australian government that, "Okay, you want to retain it? It can be retained, you pay for it, irrespective of who owns the land." We're talking about conservation of this heritage building of local significance.

DR PEARSON: No, no. You're talking about paying the bills. Conservation is a land planning process.

MR HINTON: Precisely. I'm certainly talking about paying the bills.

DR PEARSON: Yes. No, the conservation is a land planning process, not just paying the bills.

MR HINTON: Then let's reverse the argument then. The ACT government, because of the local significance of the building, seeks to have that building conserved for its heritage value. Then, because it's national land, the burden of maintenance should fall to the national government. Is that what the ACT government would argue?

DR BLAIR: I think the problem is the decision about the future of the building would not be made by the ACT government, but by the National Capital Authority of the Commonwealth government because of the way the - the interception of the ACT legislation and the National Capital Plan and the new Commonwealth legislation.

MR HINTON: Yes, but that's locking it in to a statutory framework. I'm trying to take it to the next step that if there is a real world out there called - who has statutory responsibility for that piece of land. But if the objective is conservation, even though you're not going to change who's responsible for the land, there is still then the issue of who should fund it. I was trying to put to you the hypothetical construct that inevitably leads you to, if it's locally significant but not nationally, then the burden of funding should be - - -

DR PEARSON: No, I think the line of argument there is actually a false one, because places on national land that we're talking about, are not national heritage significance places. They're - if anything - Commonwealth heritage significance places. The Commonwealth - - -

MR HINTON: No, it's not Commonwealth significance, it's Commonwealth listed because they're Commonwealth owned. Because they're a Commonwealth listing, doesn't make them national, doesn't make them local, doesn't make them state significance. It just says, "Commonwealth owned, of significance".

DR PEARSON: That's right, and Commonwealth used, "of significance". In that instance, the follow-on from what your argument would be, would be that all across Australia, on Commonwealth-owned land, the Commonwealth would only be responsible for maintaining those assets if they were nationally significant. If they were of state significance or less, like, for example many of the lighthouses around Australia, the cost for the management of those would

I then turn to the point that the real benefit of heritage listing is for the community. Going back to my earlier illustration, if I preserve a house - it's not listed - do lovely things with it, and the next guy comes along and says, "Don't like that, I want it to change it completely or knock it down," no-one can say no. It's not listed. Where it is listed, because it is illustrative, because it is designed by an architect of great fame - I heard previous people talking about the price of denying the people the right to re-develop the land needs to be brought into account.

In the case of Adelaide Arcade moving to the rating system, the city of Adelaide - I think it's unique in Australia with its rating system, it's based on rental system. It means that the Adelaide Arcade rates are subsidising non heritage listed buildings; because if you take Adelaide Arcade, measure its lettable space downstairs and look to another arcade that's built in modern materials with lower ceiling heights, same lettable space, assumed same rentals, under the Adelaide City Council's rating system, the Adelaide Arcade pays a significantly more - 20, 30, 40 per cent more - in rates per square metre of lettable space than the concrete building next door. It looks very nice, the imaginary one next door.

On land tax, the state government - we're having a bit of a fight at the moment because there was a court case that said that if you've got a heritage-listed building and you can't develop it, you have to take off the cost of building the building. Our argument is that in that case, restoring Adelaide Arcade with handmade bricks and glass from Britain, it would have a negative land value for land tax rating purposes. Land tax in South Australia may be different from that elsewhere, but we're having an argument about it.

It's been substantially reduced because of the earlier court cases, but they're still saying they must find a positive value. The advice the company has received that it really should have a negative value. Then moving to the Commonwealth, I think there could be ways in which tax relief could be given and should be given to people who are preserving and maintaining - whether they make a profit out of it or not is not relevant. It needs to be seen to be a cooperative venture.

We have a great difficulty, as Ian Conrad, the secretary of the company, said in his submission, of distinguishing between capital works and just ordinary maintenance works. It may in a heritage building where you have to replace a staircase. You can't put it there back in wood or the same sort of wood; and have to more fireproof because the regulations say so. But you've got to do it in a very sensitive way to make it look as though it was still an old building. But in those circumstances that should be an immediate tax deduction.

I come back to the other point I mentioned about the fire sprinklers. I know there were a lot of people who put it in for the grants that the Commonwealth gave out of that $3 million fund. We got a very nice letter back saying, "Yes, you've got a wonderful arcade and we'd love to help you. But there were 72 others who were ahead of you and fire sprinklers are a low priority." That's what they said in the letter. That's what we're now using to justify not doing it as quickly as we could otherwise have done it. We would have liked to have done it quickly.

But the money didn't come from that. Money didn't come from a fund that the Adelaide City Council got. Adelaide City Council sets up funds and, as Ian Conrad said, there's an upper limit of $15,000 over three years. With a building the size of Adelaide Arcade, you can't make a submission for that sort of money, to make it worthwhile. We put in for a big grant, and they had big grants available. They gave a large sum of money, of the order that we were asking for, for Adelaide Arcade to put fire sprinklers into the city council's grandstand and the old Victoria Park Racecourse.

It may be that - I don't have a love affair with that one because it's a not prominent - it's great if you go there. But it's theirs and they should have been paying for it out of their ordinary funds, not out of their heritage funds. They denied that grant to Adelaide Arcade, saying that they preferred to pay for it on their building, and then said, "Look, we're doing lots for the heritage buildings." The City Council in Adelaide tend to always do to something; is painting the front, painting a wall, fixing up something that's feasible.

I've probably taken about a quarter of an hour and you want to ask questions. But I support very strongly the submission that Ian Conrad put in. I just felt that because of my personal broader interest both in the political sense and in an environmentalist sense, I wanted to come and put my views personally and hopefully forcefully to you.

DR BYRON: Thank you - both forcefully and eloquently. Tony can speak for himself. But I was certainly very interested by an impressed by the Adelaide Arcade submission that we had a few weeks ago. Both Tony and I have mentioned those issues raised in subsequent hearings because it does seem to be a very interesting example of a class of problems where there are very real and rising costs of operating out of a heritage building, which appears to provide very substantial public benefits, for which the public doesn't seem to make very much of a contribution.

We were talking about earlier this morning about a possibility that a number of people have raised in the hearings, that in effect all heritage listings, whether national, state or local, might be voluntary in the sense that if the owner was quite happy to accept any additional costs of even sought listing, that would be fine. But if the owner was in some ways reluctant because of additional development consents, processing, administrative costs because of the requirement to use more expensive materials, more expensive skill labourer et cetera because concerns about loss of development opportunity and the capital value of the site and so on; that the agency that wanted to list and sit down with the owners and say, "Well, how can we make it worth your while?"; a mutually beneficial transaction.

It could be, "We'll buy it from you and lease it back to you." It could be, "We'll offer you X thousand now as a perpetual covenant on the title, so that any future owner of this site will know what the restrictions are." It might be some combination of cash payment plus rate or land tax relief, plus access to technical advice and eligibility for - there would be a sense in which it would be a mutually beneficial outcome.

One consequence of this is that those who agree to have their properties listed would do so willingly rather than reluctantly, and there might be significant behavioural implications of that. The other is that the listing body would then become very conscious of what the costs were of making that listing. If the price went up in terms of the quid pro quo, they would then ask themselves, "Well, do we really need another example of this type of building or could we negotiate a better deal with the almost-as-significant place down the road for half the price?" Do you have any thoughts on whether voluntary listing would alleviate that problem you referred to, that the owner of the property, who has maintained it well for years, may face a sudden and dramatic loss in capital value if it is listed?

MR WILSON: That of course has happened in the local government area and I know, and I noted in your report, that the increased number of local government listings in South Australia and in municipality after municipality; there have been great numbers of people saying, "Why me?" because they know that it's having an adverse effect on their capital savings. Some of them love preserving those properties. But others of them are thinking, "Well, I want to live in it and then sell it, and sell it to the highest bidder, and the highest bidder may be someone who will come in and knock it down."

If we were starting with voluntary listing and the government was saying, "Okay, well, with voluntary listing we might have everything wiped out." But we do accept, to the extent we know there are some people who want properties preserved and are prepared to enter deals - and you create a market, and the extent of the market would depend, then, on the extent of the genuineness and the resource allocation made by government on behalf of the community.

DR BYRON: I guess my model is people who put voluntary biodiversity conservation covenants on bushland, for example, recognising that this means that that land can never be redeveloped for some other purpose, it may reduce its future value. But on the other hand it may increase actually its value if the future owner wants to have a conservation property. So that the owner could accept the listing with eyes wide open as to what the future consequences might be in terms of foregoing development opportunities or incurring higher recurrent maintenance costs. But it's then the owner's choice to enter into that contract on terms who he or she says is satisfactory.

MR WILSON: In my travels in England talking with people about it, I think this happens to some extent in some places there. Many of the owners of heritage listed or potentially heritage listable properties have other affairs with the property and for the dollars that governments, local, state or federal in our context put in, without having to say spend more money or dollar for dollar, I think the great majority of owners do more than the concessions they're given.

DR BYRON: Yes, well I guess we started off with the presumption that much of the cost of heritage conservation in Australia is being paid by governments, but I'm beginning to suspect that it might be the other way round, that the bulk of it is actually willingly paid by owners who are living in and using their properties, and the government has provided them with a top-up now and then. You'll have to try to get to the bottom of that question.

MR HINTON: Thanks very much for appearing in Canberra. Sorry, we missed you in Adelaide, but you were doing exciting things, so that's a plus for you. Yes, we had a very good meeting with the secretary of the Adelaide Arcade, Ian Conrad, and it was a good discussion. Thank you for that submission. I had one question to seek your reactions to. The example that Neil referred to, that is the category that the Arcade represents, is a very good example, and in fact identified very clearly in this category.

It led to one view being put to us that how to address it is to assess those costs that are being borne - in this case, the arcade - that flow from it being heritage listed and heritage characteristics, that are not being borne by their direct competitors, and that therefore that could provide a good conceptual basis by which you could provide a justification for government intervention, whereby some one else in the community, however defined, would also pay for those additional costs. Those costs that flow from the heritage listing, not borne by the competitor. The category we're talking about there is very direct commercial activity with a direct commercial competitor. Do you think that concept, that approach, does lend itself for a good basis for public policy?

MR WILSON: Yes. Putting aside for the moment the compensation for the loss of development rights, which I don't think that solution can happen, nevertheless achieve, to take the Adelaide Arcade, the submission that we've been putting to the Adelaide City Council and the state government is that in every shop in the Adelaide Arcade there are 20 to 24 foot ceiling heights. To paint out that shop and keep it in order probably costs 50 per cent more, perhaps double in some instances, than it would in a nearby arcade with a ceiling height instead of being 24, is 14 feet. I've talked about the fire sprinkler system. To put the sprinkler system in with all its ring mains, we're talking of a figure of 600 to 750,000.

You could do it for half that price if you could, as in a new building, just put the ring mains visibly through the open spaces around the arcade, but the heritage listing and so on says "No, you can't do that. You've got to box them in or hide them", and because it's an old building and getting into it, it's costing a lot more to do it. Similarly with the modern shopping centre, expects it to be at a comfortable temperature, both in winter and in summer. That arcade wasn't designed for energy efficiency, and you have to pump a lot of hot air in to bring it down so that people are warm on the ground floor, because its virtually got the ceiling height of four or five storeys, and yet it's only two storeys of lettable space. Similarly, at the moment, there's a problem because there are only staircases.

DR BYRON: Disabled access.

MR WILSON: And we're having little people quite rightly knocking on the door, but where do you put it? Where do you put a lift? Historically the arcade didn't have a lift; didn't have rising stairs. We're looking at being able to do it in a hide-away spot. Again, we've found and I've found in relation to the restoration of another building, you get the Adelaide City Council saying you must make this staircase safe; winders are not permitted. The staircase in that white conduit house were winder staircases. The heritage branch of the Adelaide City Council are saying you can't take it down. So I said, "Well, look, can you two lot get together and meet and tell the owner what he can do?"

So even at the government level there's confusion, but that imposes a huge cost on the person who's wanting to develop it and yet in developing it has to make it commercially viable. Going back to the arcade, there's the heating, there's the staircases, there's the lifts, there's the sprinkler system. In trying to do them and bring them up to what people would say is modern standards, you run in all the time to this conflict between the heritage, and even if you do it and you want to do it in a heritage way it's going to cost a lot more.

So the answer is yes, I believe if governments came along and said they recognise the difference in costs, it may be reasonable to say to the owners of the Adelaide Arcade if you were putting fire sprinklers into this building, that is a concrete block type building and it didn't have fire sprinklers, what would it cost. The difference will be paid for as a community contribution to protect the community aspects because that arcade is on every tourist brochure in Adelaide, people, tours come down. Yes, it might help the rental streams if we could bring some people there, but on the other hand there's a lot of other shops in Rundle Mall that people spend their money in as well.

DR BYRON: I don't have any more questions, but thank you very much for coming. Thank you very much for emphasising that fascinating case. Thank you very much, ladies and gentlemen.

DR BYRON: Mr Duncan Marshall, thank you for coming. If you could just sort of formally introduce yourself for the transcript, and take us through the highlights of your written submission, for which we thank you very much.

MR MARSHALL: My name is Duncan Marshall. I'm a Canberra-based heritage consultant - heritage architects and the like, with a number of different backgrounds and experiences, particularly related to the Commonwealth. I thought that I would perhaps not necessarily dwell too long on my submission which has a number of components, and quite a number of recommendations which you have in a written form before you. There were a couple of introductory comments that I wanted to make. I might just stress two points, and raise an additional comment, concern, issue that might be worth doing. The first point that I wanted to stress, I suppose, was one about the provision of resources for heritage conservation in Australia.

In a way, I think this is the major issue that this inquiry should address, and perhaps for the first time in a heritage inquiry, perhaps the people undertaking the inquiry are best placed to address issues of resourcing. It is, I think, the main issue which the heritage sector wants you to address. It has many dimensions. It was heartening to hear the presentations during the early part of the day which dealt quite extensively with issues of resourcing, and I was pleased to see, in your questioning and comments, that you are grappling with those issues. Two specific comments that I wanted to make about the resourcing question - first, I don't necessarily have an instant and easy answer. I do not necessarily accept the current mantra of the Australian government that the Australian government is really only focused on national things, and it will only provide funding for national things. I think there are a series of reasons to question that formulation, and the way it flows onto states funding, state heritage and local government for funding local heritage.

The second point I wanted to make was that about resourcing . I think the Productivity Commission, in its inquiry, needs to go beyond just contemplating mechanisms for delivering support - financial assistance to owners and others, to go beyond just contemplating mechanisms. Also, to go beyond reapportioning the existing and extremely tiny cake of heritage resources which is available, the subtext there being, I think, you need to think somewhat larger than the existing few million dollars that's available from the Commonwealth government, for example. The second of the major points that I wanted to make was that my submission focuses on a range of problems.

There are good news stories with regard to heritage in Australia. Perhaps there are many good stories to be told, but in the time I'd allocated for preparing a submission, I didn't attempt to give you a balanced submission in that sense. I thought it was more worthwhile to focus on the problems in this particular case. The third, and the new issue that I wanted to raise today - or the suggestion I wanted to raise, was a concern from the outside of this process, if you like, as a member of the interested expert professional community looking in. It seems as though the inquiry, while it has a core of issues which it's dealing with which relate to economics resources, industry - those sorts of things, there are in addition, a very large number of questions which touch upon technical aspects of heritage, or issues which require some expertise to understand how it is that these matters operate, how they work, fail, or otherwise.

I suppose my concern is that I don't see, from the outside, that the inquiry has available to it, in a dedicated way, the sort of high-level historic heritage expertise bolted onto the process - if only as a safety net - to make sure that those matters which relate to technical or expert matters of heritage, are adequately dealt with, or dealt with in all their subtlety and complexity. I appreciate the main thrust of the inquiry, but it seems that discussion this morning reinforced that impression, that the inquiry really is a most broad-ranging inquiry into almost every aspect of historic heritage activity in Australia, going beyond just the sort of economic industry-related - the sorts of things that I know the Commission is well expert and able to deal with. I know it's been raised with you in other ways, but I just leave that with you as a suggestion to contemplate. That was all I wanted to say by way of introduction.

DR BYRON: Thank you very much. Maybe if I can take them in reverse order. Every topic, every industry, every sector this Commission deals with, tells us how unique, how complex, how difficult it is. They're always right. One of the extraordinary things about the Commission's inquiries is, I think, the process where two people who are clearly not expert in historic heritage any more than we were in nursing homes for the aged, or medical technology, or the steel industry, through a process of very, very wide and very general consultation with all interested parties through a process of hundreds of submissions, and public hearings with cross-examination where other people hear the evidence and respond to that evidence.

It's a process that generates an enormous amount of information. We, funnily enough, don't need to start with a great deal of subject matter - technical expertise, because we rely very much on people like you, and others in the National Trust and ICOMOS, consultants and so on, and members of the public, to tell us what we need to know when we put out a draft report, if we have failed to understand fully, the nuance and details, somebody will surely tell us, and we will then correct the draft report.

MR MARSHALL: Can I respond to that. I suppose partly, I'm a great believer in, not necessarily relying on single processes to provide a good outcome, particularly whether a complexity is involved, and I, if you like, tend to believe a little bit in the belts-and-braces approach. It's not that the process that you've outlined and the process you have in train, will necessarily result in a poor outcome. I don't believe that is a necessary outcome. I've been involved in quite a number of government processes, where they really do require lots of checks and balances to ensure a good outcome.

In looking at where you might be assisted in these technical and expert ways, I have contemplated the fact that you have DEH on the one hand, you have the state territory heritage agencies on the other hand. You have the private sector. You have the non-government sector, who will all, to some extent, cast their eye across the work your produce, and hopefully if there are problems, they will highlight these and draw these to your attention.

I just wonder whether an inquiry, which is costing the sector your costs, my cost, everybody's cost - an inquiry that's costing something in the order of what, a million, $2 million.

DR BYRON: Less.

MR MARSHALL: All up for the sector? I've spent about $10,000 worth of my time so far.

DR BYRON: The clock's ticking.

MR MARSHALL: I took a week out of my professional work to contribute to another submission. This submission probably took me three days, plus some other work around the edges. DEH is strapped for expertise at the moment. They are extremely busy doing a lot of other things. They seem to have, unfortunately, failed to even get their submission to you within the allotted time frame, for reasons which perhaps aren't related to them, or otherwise. If you're relying, for example, on DEH - they're struggling with nominations, they're struggling with management plans, they're struggling with a range of things about trying to roll out this new heritage regime.

If you're relying on them, I think it just looks, from my point of view, a bit odd that there isn't plugged in at some level, some dedicated resource - some dedicated expertise, even as a safety net, just to peer review, to check, to do whatever. I don't want to labour that point for a long time, but I just lay that out for you, as somebody who has watched numbers of long government processes work their way through with few checks and balances and not the right expertise and getting things wrong. I just lay that out for you as an issue to be considered.

DR BYRON: I hope you'll be very pleasantly surprised, but we shall see, won't we? We also, of course, have the opportunity to bring in consultants, convene roundtables; if there's an area of particular need for expertise, we can bring together people at any time before or after the draft report. So we're not that constrained. Your second main point, I think, which is central to our inquiry, is to understand what's wrong, if anything, with the existing system, if indeed it can be called a system; and how well it is working at the moment and where, if at all, it is breaking down.

I think in this written submission you've given us a couple of very good examples where the system doesn't seem to be working the way it was intended to. Mawsons Huts, for example, I presume are at least on a Commonwealth heritage list.

MR MARSHALL: They're on the National Heritage List.

DR BYRON: National?

MR MARSHALL: Yes.

DR BYRON: I would have thought - - -

MR MARSHALL: They've been on the Register of the National State for a very long time. The Antarctic division has known about the heritage values, and many in the Antarctic division would agree that the place has very substantial heritage values. That's, I was about to say the tip of the iceberg for the Antarctic division's heritage.

DR BYRON: That's a point that brings into very sharp relief that in spite of all the rhetoric and statements of good intent, there are systems where governments agents, even within the responsible department - - -

MR MARSHALL: The minister's own portfolio.

DR BYRON: - - -the system is breaking down. But throughout these public hearings all round Australia, we've been given examples of where both local governments and state governments have applied heritage rules to everybody but themselves, or they're complaining about what other jurisdictions have done which didn't seem to comply with the spirit and intent of the regulations. So we seem to be getting quite a few very significant examples of where the system isn't delivering the outcomes that people expected of it, which itself is promised.

So that, I think, is very valuable. Provision of resources, I think you're right, is where the inquiry is heading, but to get there we need to understand how well existing resources are being spent before we suggest pouring a larger bucket of money into a leaking sieve, if indeed it is one, and then to - - -

MR MARSHALL: It looks like a fairly small bucket of money, at least at the Commonwealth level.

DR BYRON: Yes, but before suggesting that it should be doubled or some other larger multiple, we need to ensure that there is a system in place that those funds will be reasonably spent, in terms of delivering the outcomes that they're for. I must admit that most, probably 90 per cent, of the submissions seem to point out that the amount of government funding going into historic heritage is tiny in comparison to what has gone into natural heritage. Although we haven't got the exact numbers yet, I think they will probably bear out that impression.

MR MARSHALL: Can I just intercede for a moment, to say that I've for several years tried to understand the Commonwealth budget with regard to its heritage expenditure.

MR HINTON: Good luck.

MR MARSHALL: I think Commissioner Hinton is going to finish my comment. It seemed like the pea and the three shells trick, which shell is the pea under? If you can address the question of the Commonwealth providing transparent accounting for its heritage expenditure, which is comparable year to year, through some reasonable time frame, that would be an extremely useful outcome; at least to know what is being spent or what is not being spent, because programs seem to come in, go out, not relate. We've been told that the budget document itself is not a very useful document for tracking these things, and there doesn't seem to be anything else to help us.

MR HINTON: I wasn't going to ask about budget matters. Can I go onto another topic?

DR BYRON: As you wish.

MR HINTON: Duncan, thank you very much for your submission and your attendance today. I have a number of questions, but my first one is - it's not meant to be a cheap shot, but you particularly focus in your submission on problems at the Australian government level. Maybe you don't think there is a problem at the state and local government level, or maybe you think that's where your best value-adding is, that you wanted to focus on the Australian government role. Can you give me a reaction: is it right that you've just focused on the Australian government because that's where your value-adding is, or it's because you don't think that there's a problem at other levels of government?

MR MARSHALL: I focused on the Australian government because that's the area that I know best, and limited resources meant that I'd spend my time providing information about that area. I do work in my professional capacity in both New South Wales and the ACT to some extent, and I would have to say that my general observation is that those systems have a series of problems related to those; partly the tail end comments on my submission related to heritage impact statements and conservation management plans.

MR HINTON: I want to get onto them in a minute.

MR MARSHALL: Draws out that experience, but insofar as I make comments about the level of resourcing available to the Commonwealth's heritage agency, the level of resources and support it's able to provide to owners and others in the conservation of their properties in the fulfilling of their functions. Insofar as I make comments about the Commonwealth struggling with its activities and resources, I think despite the brave face that might be put on it by others, I think the state agencies, in my experience, are struggling as well. I think the ACT struggles along as best it can with limited resources, and New South Wales has a few chronic resourcing problems of its own. Trying to get timely responses out is sometimes a bit tricky.

Some of the burdens imposed by some of their systems seem to be quite extraordinary, or quite significant cost, if you toted them all up. I was involved in a conservation project for a hotel in Sydney subject to heritage orders. Not only did they have to produce a conservation - they started off with a heritage impact statement, conservation management plan. The development conditions ran to pages and pages and pages, and they had to produce an interpretation strategy; they had to a photographic archival record of the building. By the time you add all those things up, plus things like waste management strategies, because it's a hotel, plus all of the other things that are required for a development.

MR HINTON: As a matter of course.

MR MARSHALL: Yes, you sort of scratch your head and think, "I suppose the owner is relaxed about all these costs, and will pay them in the end and hopefully make a dollar with his refurbished hotel." I haven't seriously looked at those sorts of costs, but they look significant from the outside. I hope that they achieve a good impact.

MR HINTON: In focusing on the Australian government, you made a lot of recommendations about what they should be doing. You particularly put a lot of weight on the need for "national leadership in heritage conservation". If you pick out three main players: the minister, the department, and then the Heritage Council, where is the action needed? Where is the lacking of leadership, in your mind?

MR MARSHALL: All of them. They all have different roles to play. I think there's an interesting question about whether some of them should be playing those roles in the scheme of things. There seem to be some cracks appearing in the operation of the legislation at the moment; and I'm not quite sure who is at fault in those problems which are arising. But if you take them all as good faith players in the system, I think if they were all sort of playing the game at full tilt, then we'd probably have a system which was going pretty well. But I think at the moment - and it may be the establishment phase in the regime at the moment - it looks like it's not quite working as well as it should at any of those levels.

MR HINTON: But the message that's coming through loud and clear in the inquiry is that there is an issue here of responsibility at all three levels of government and the principle of subsidiary is alive and well, with decisions being taken at the local level because of local community interests and local community significance judgments about that. There is, it seems to me, an important constraint on what the federal government can do in this area without bringing both state and local governments forward and, even for that matter, the community more generally forward. I'm a little uncomfortable about initiatives taken at the national level that's not involving all key players in a sort of strategy that seeks to cut across responsibilities at all those levels.

MR MARSHALL: By all means. I've got no problems with the cooperative approach. But just to reflect back on ancient history, when the Hope Inquiry reported and the Australian Heritage Commission legislation was brought forward, the Commission's legislation had as it constitutional basis none of the understandings that we current have of the constitutional powers of the Commonwealth in terms of impacting on private owners of places out there in wider Australia.

What the Commonwealth did with that legislation was set up a system to try and lead the heritage debate in a variety of ways. So it wasn't relying on big sticks to achieve some good heritage outcome. It was relying on a series of carrots. The much-mourned National Estate Grants Program would be seen by many as perhaps the principal carrot that was used to achieve good heritage outcomes for many places within Australia. The Register of the National Estate, it had no statutory power over all of those private places and yet it was an extraordinarily powerful lobbying tool for many people in the community to argue the case for their heritage.

I think there are roles that the Australian government can undertake to itself to lead the debate, to nudge the envelope, to lead, encourage, cajole, do whatever, which don't necessarily rely on big sticks and don't necessarily rely on a narrow reading of the statutory powers.

MR HINTON: Do you think that the leadership should commence with funding such that the system itself is reasonably robust and that therefore additional funding coming out of Australian taxpayers through the national government would be okay, spent with reasonable robustness; or do you think that leadership requires a system to be rejigged?

MR MARSHALL: I mean, funding is a tool in part. The Commonwealth decided to kill of the National Estate Grants Program because it was shifting to some other book basis for Australia's heritage. I think that there was a great lost opportunity at that point because it just sort of turned the tap off and walked away. As far as I can tell, all the states the territories were very unhappy with that situation.

If the Commonwealth had used that National Estate Grants Program money to leverage the states and say, "Okay, we'll continue to leave this money on the table, but we want you to do X or Y. We want you to match it. We want you to life your own heritage activity up to some degree," if it had used that money - which wasn't a great deal - but if it had used that money to leverage some better outcome at the state of local government level, then that would have been, I think, a very smart play on the part of the Commonwealth. But perhaps nobody thought about it or it was sort of chopped in an NRC meeting or something like that. It all happened quickly and the decision was taken and they walked away.

If the inquiry is going to recast in some substantial way the heritage landscape within Australia, I think in contrast to what we currently have, there might be some thought given to the transition between where we are at the moment and where we might go. Maybe the funding that might be provided is an important component about - if you're providing further funding - where you turn that money on or how you turn that money on or where you put that money. Maybe it's not wise to bring it in all at once all at the start of the new process. Maybe you do use it as a negotiation with the states.

I'm not against the idea of the states making a fair contribution or local government making a fair contribution. But unless that outcome is agreed perhaps or negotiated with them, and unless perhaps the Commonwealth uses all its endeavours, including the possibility of its own funding, as a bargaining chip in that process, then maybe you'll get an unsatisfactory outcome where the Commonwealth puts up money and nobody else does: they then walk away.

MR HINTON: To use your expression, I think you said you're not against a cooperative arrangement.

MR MARSHALL: No.

MR HINTON: That suggests some sort of COAG concept, given that state governments, territory governments and the Australian government are all on volunteer to go forward with any reforms that would seem to, by definition, require some sort of cooperative agreement.

MR MARSHALL: Yes.

MR HINTON: You sound unconvinced.

MR MARSHALL: Whether COAG is the right - maybe eventually COAG is the right vehicle to achieve, about high level, some measure of agreement. But I think you'd have to build that agreement through EPHC or other mechanisms, other forums. Because COAG is a fairly blunt instrument, in my reading of things. By the time you get to COAG, the level of fine-grain, detailed, expert, technical understanding sort of disappears and it all becomes a more much political sort of activity rather than perhaps the one that's going to achieve - - -

MR HINTON: I had in mind not so much heads of the Prime Minister and premiers, but the ministers responsible from each jurisdiction.

MR MARSHALL: Yes.

MR HINTON: Just as there is an intergovernmental agreement on building regulation that's been recently renegotiated.

MR MARSHALL: Yes.

MR HINTON: Then maybe there needs to be a heritage ministers meeting across - - -

MR MARSHALL: The Environment Protection Heritage Council is presumably the vehicle to try and achieve that, although again there's cheers of enough people's which supports that activity. Maybe there needs to be some level of agreement achieved in that forum first. The idea of a national heritage places strategy which has lots of precedence - not precedence, but it's been suggested on many occasions in the past. Maybe the process needs to start with the development of that as the basis for EPAC or COAG or whoever.

MR HINTON: I had some questions on heritage impact statements but - - -

DR BYRON: Yes, but just to go back to this one, my reading - and it may have been incorrect - of your submission is that the Australian government basically stopped using a number of the policy tools and they - I may be putting a benign spin on this. Is it a possible interpretation that over the last few years the emphasis in getting legislation regulation, statutory arrangements sorted out to prevent jurisdiction shopping on issues meant that the Australian government agencies basically lost sight of or forgot about or stopped using the other measures that you point to, like the awareness raising, the education, the NGEP grants and those sorts of things.

I'm not attempting to make excuses but if you think of the whole toolbox of policy instruments it seems to me that you're saying that many of the tools have been forgotten about and they've concentrated on getting the legislative amendments through.

MR MARSHALL: I'm not sure it's just as benign as forgetting. I think there is a certain - I mean, I've worked on a regulatory side. I worked for the Australian Heritage Commission during the 1980s. There was the legislation and then there were the things you did around the edges. Quite often the things you did around the edges were just as important as the legislation itself. There's a sort of unfortunate mindset or attitude in some quarters that looks narrowly through the lens of the legislation and only sees that as the vehicle for achieving particular outcomes. Dare I say that I don't necessarily see the current department as being in a mind-expanding mode. They don't seem to be an organisation that nudges boundaries or thinks broadly, or they're not encouraged to, unfortunately.

There have been a series of internal problems, which many are aware of, and maybe that situation will now improve. But using all of those other policy instruments, I think, is something that government needs to be reminded of, and I'm not sure that it's perhaps simply good enough to say, "We've been focussing on getting the legislation right, and we'll come back to these other matters later." I think some greater thought about the need for an implementation phase, and additional resources for that implementation phase, might have been able to walk and chew gum, if you like - might have been able to do all those things at once, rather than simply scramble to do the minimum necessary.

DR BYRON: But irrespective of the reason behind it, you're saying that the educative persuasive awareness-raising activities basically have stopped, or virtually stopped, over the last couple of years?

MR MARSHALL: I think what you might be referring to is the research component, which I highlight in my submission. I haven't given much thought to those persuasive activities, but it's probably fair to say that they're operating at a lower scale than they might have in the past - - -

DR BYRON: I thought you were saying that the Heritage Commission seemed to be far more active - - -

MR MARSHALL: Yes, certainly that's the case. They seem to be out there as public champion for heritage in the past, and that now seems to have stopped and they seem to have become an internal advisory body, rather than a body that's reaching out to the community. Maybe that's the real statutory constraint they currently operate under, or maybe it is a choice that they can make in the current circumstances. I don't know.

DR BYRON: You mentioned before the idea that the Australian government would pay for nothing, other than Australian government responsibilities. (A) is that what you said, and (b) where did you get that from - I mean, what's the basis of that perception?

MR MARSHALL: It seems to be - and it flows back to COAG, that COAG agreement. It seems to be this idea that the national government - I probably could find the references for you, but the idea that the national government will deal with national heritage, state governments will deal with state heritage and local governments will deal with local heritage. I get a bit of a flavour of that in the issues paper, for example, that there might be this neat dividing up of the world, and each government will deal with each level of responsibility more or less solely, and provide resources solely for that sector.

DR BYRON: I concede it may be a tone that's picked up in the issues paper, probably not deliberately, but in the sense of being quite clear about which level of government has the responsibility for making the regulatory and statutory decisions about that, but I don't think we've taken it as meaning - and also, in funding. So I haven't presumed at all - - -

MR MARSHALL: Although the current government's, perhaps contradictory, real decisions seem to suggest that. So leaving aside the $5 million for the two cathedrals in the last - or the two churches in the last budget, the only discretionary funding, I think, was the $2.2 million for the National Heritage Investment Initiative. The National Heritage Investment Initiative - not national and state heritage initiative, not Australia's heritage initiative. That seems to be focussed on national heritage, that's the only discretionary money they've got, leaving aside that church money.

The irony is that those two churches aren't on the national list, aren't nominated for the national list, and there's probably going to be a good barney over which cathedrals get onto the national list anyway, yet we have two places where I think the minister has found that there were potential national heritage values, where maybe some of the $5 million could achieve good heritage outcomes for potentially national heritage places. So Recherche Bay, I think, a tentative decision was made that this possibly had national heritage values, and the same thing with the Belconnen Naval Station. They might require large sums of money, but sorry, these churches which aren't on the national list - haven't been nominated for the national list, nobody's found they've got national heritage value - they've got $5 million.

DR BYRON: But that seems to be a fairly good example where the - - -

MR MARSHALL: System has failed, and it'll be hard - it's sort of hard to constrain governments in a way, because - - -

DR BYRON: There are also, I believe, instances that we haven't got the details of yet, where there is direct funding from the Australian government to local government, and it may well come out - I don't know the names of all these small pockets of money that seem to be around, but like you I find reading the budget papers a bit perplexing. There are questions, yes, questions. Tony, you wanted to get onto heritage impact statements?

MR HINTON: I'd prefer not to, but I think I'm obliged to. Duncan you seem to put some weight on the usefulness of heritage impact statements, and I wanted to explore with you where you thought they might have value adding - or for that matter, where you thought that they should apply and whether or not you can see some down sides to imposing that sort of regulatory process in some areas. When do you want to us a heritage impact statement?

MR MARSHALL: As with lots of heritage, the theory looks good but often it seems to fail a little in practice. I mean, the basic idea of a heritage impact statement is to assess the impact of a given development on the heritage values of a particular place, and to provide that statement to the planning authority, the development authority, so that they can have some sense - or the heritage authority - and to provide them with some

DR BYRON: But we do need to go beyond bluestone and sandstone.

MR PARKEN: Absolutely, and that's the point that we're saying. It's evolving, and so we would believe that the Harry Seidlers of today, in our profession, are currently working on buildings. They are only a small proportion, you know. Let's get all of this into perspective. We're not talking about a large percentage of the built stock, in fact if we even talk about buildings as a class of asset, there are many, many buildings which are simply produced as if they were manufactured by a production-line situation.

DR BYRON: A commodity grade.

MR PARKEN: Yes. Housing has fallen into that and so has a lot of industrial building stock as well, so we're talking about buildings that have some cultural significance to the country. We believe they're happening right now, so that's where we're going with the evolving concept.

DR BYRON: Only a small percentage perhaps of post-1950 buildings are potentially heritage items, in that a lot of it was never intended to last anyway. I won't cast aspersions, but not all of it was unfortunately designed to last or to be kept for a couple of hundred years. Would that be right?

MR PARKEN: That would be right, but I don't think any building - we talk in terms of building lives being 50 to 70 years. There's plenty of heritage stock in this country that's way older than that. Internationally, when you stand in a 600-year old cathedral, that sort of makes a bit of a nonsense of that concept as well. I think the sort of lives that we're talking about in terms of commercial buildings is their economic life.

DR BYRON: But I imagine that a 13th century cathedral is designed and built to last for a thousand years, whereas a lot of office buildings that have been slapped up in the last 20 or 30 years in Australia were only intended to last 30 or 40 years before they were knocked down and replaced by another one.

MR MARTIN: But that's intended from an economic point of view. Physically, very often the basic structural fabric is capable of lasting a lot longer than that.

DR BYRON: Okay.

MR MARTIN: So it's an economic life that, yes, if you removed it after 40 years, then it's actually served its immediate purpose. However, the physical fabric is capable of a much longer life than that.

DR BYRON: That's a very good point that I didn't appreciate. Changing the subject, there is - - -

MR HINTON: Can I stay on the subject?

DR BYRON: Okay.

MR HINTON: I found your appendix 2 - that is, register of significant Australian 20th century architecture listing - very useful, with the listing of those criteria and the examples under each of the criteria. So thank you for that, because in some of our other hearings some interested parties have expressed concern that the architects' listing is in fact a worry, because it doesn't have rigour and doesn't have a sound basis; it's at the discretion of the views of some architects that need to be challenged.

An example being that, I think - someone put to me that there's a proposal in one local government area to preserve 50 or so houses in a development region - a sub-region of the local government - that were built in the 1960s, and they represent a prime example of that style of home built in Australia in the 1960s into the 1970s, and therefore that was a basis in itself to retain them, all of them. That was put up as an example of why we had to be careful about the architects; they're a worry. Do you have a reaction to that?

MR PARKEN: I mean, a lot of modern buildings are misunderstood, let's be clear about that. I guess what we're saying, our position is not to maintain every architect designed building post-war. What we're about is having criteria, is having rigour, and being able to have a position put forward that can be defended. But in terms of the involvement of the community, what we would say is, we encourage debate about architecture. There is no arrival, there is only the journey, and if the community engages in a debate about architecture and their opinions on it, that is a good thing, because it beats producing buildings like washing machines.

MR HINTON: I'd welcome your reaction to another submission we've got regarding Ku-ring-gai region, where some residents there have expressed concerned about conservation orders that are being imposed by the local government on residential buildings that they want to develop into, of course, high-density accommodation. If you had a reaction to what they say about the value and lack of value of retaining those sorts of buildings, we'd welcome that as part of the debate. It's a transparent process. Sorry, Neil, do want to move on?

DR BYRON: I was just wondering whether the institute would have access to any data on how much of your members' work is on greenfields site as opposed to brownfields - by which I mean demolition sites - as opposed to renovation, restoration-type of work. David Young raised this earlier today, but I was wondering if you might have any sort of survey within the institute that could shed some light on how much architects' effort, in aggregate, goes into those three categories. Is there anywhere that you can suggest where we can get some insight into that?

MR PARKEN: The survey of our members generally looks at the categories of work that they do; be it residential, commercial, institutional health, educational. We haven't actually surveyed, to my knowledge, the greenfield/brownfield situation. But clearly, our cities are - particularly our larger cities - going through immense change, and there's a lot of infill development occurring. So I think we could certainly survey our members, and I think we'd find that most of them are involved - just thinking about it, I'm sure the majority of them are involved in some form of infill or adaptive ground fill, adaptive reuse.

Just the whole concept of fit-out, for instance, which is an interior architecture, is a fairly young development of perhaps over the last 20 years; and a lot of our members are involved in that area as well. But no, I don't have any data. I've got our 2004 member survey here, and I can quickly check that, but I don't believe we have - - -

DR BYRON: It's a question on notice, you don't have to worry about it right now. It's just that many people have talked about the numerous data deficiencies when we start talking about heritage conservation in Australia, and I'm trying to think creatively about other sources of information, even if it's not very statistically precise. It would be interesting to know whether it's 50 per cent, or 90 per cent or something.

You mentioned before that there's no financial breaks for heritage buildings as an asset class, and perhaps we should try and think of ways of making heritage buildings more financially attractive to retain. I think that's a good point, and I think we've been giving quite a lot of effort to that. In fact, we can think of a number of ways that would probably achieve that result. But then trying to work out, how much would that cost, and where's the money going to come from; I don't think it's too hard to think of measures that would make it more attractive to maintain heritage buildings, whether residential, commercial, industrial, whatever. Whether the public at large would be willing to pay the price is - we need to work out what the price might be.

MR PARKEN: I think that's why we've introduced the concept of a partnership, potentially between the owners of some of those stranded assets, the commercial side. I'm thinking particularly in relation to the superannuation pool in Australia, which I believe has now just gone past the 600 billion mark. You don't have to be Einstein to work out that .1 of a per cent of that pool would solve all of the heritage maintenance issues in Australia for the next hundred years.

So we're not talking big sums of money, I don't actually think, in total terms. We're not talking an ongoing - we're not talking a Telstra $2 billion or $5 billion heritage fund. We're talking tens of millions of dollars in recurrent terms. So I think the public - as long as it's put in that sort of balance, I think that's fine. The idea of, first of all, the partnership, there are a couple of ideas that we've tried to explore.

One is the tax-break idea, about either giving accelerated depreciation to that asset class, or actually giving them an immediate tax deduction for - so rather than separating capital from maintenance, combining capital and maintenance and saying, "If you spend on a known listed heritage building on the National Estate, for instance, you get a tax deduction." That would be a start. Then there's the idea of incentifying it and saying, "You'll get 125 per cent or 150 per cent," like the film industry; or in fact, research. That's how you get breaks on spending on research as well. You still have to spend the money. You still have to have it and spend it.

It's not like you're being given - what our concern is that we don't believe that heritage should become some sort of welfare trap, where the owners of those assets are sort of holding out their begging bowls saying, "Save me." It should be something that's celebrated. That's why we go down to the other idea about corporate social responsibility. We are moving into a situation with out listed companies, and the listed property trust that they - I think if they were given some acknowledgment, particularly in a game, we talk about there being some acknowledgment and some reward, not necessarily monetary, that there are drivers at work where they would seek to invest in a responsible way, both socially, environmentally and potentially, a heritage-responsible way. There's some interesting ideas there.

MR MARTIN: There's also an issue like the process of transferable developments rights don't actually cost anything, but can actually benefit the person who owns the heritage item. That can be just by process of within one site of identifying the heritage item, and giving opportunities elsewhere on that site.

DR BYRON: Changing plot ratios.

MR MARTIN: Maybe that - that's right, or even transferring it beyond that. I think there are other avenues available without actually costing the tax payer a hard dollar.

MR PARKEN: I think the transferable plot ratio issue, or development rights

- that's just a no-brainer, in my opinion. If there's a benefit to the developer, and he does his sums, then of course he'll do that. I guess what we're trying to say is we need to go beyond that because heritage as a class of building, has an image problem. It's not an asset class that, you know, people are seeking out to hold and maintain. In fact, it's an asset class - what I'd call an OP asset class, as long as it's other people's. I can go round and enjoy it, and have my tea and scones and look at the collection of antique furniture, but as long as someone else is paying. That's where we're coming from. We want to go beyond what's just a no-brainer, to saying the community clearly values this asset class. It's got a problem. It's not attractive to where the money is, and where the big money is. The big money is in our superannuation funds and in our property trusts.

I think given the right incentives - as I said, we're not looking for a Telstra-sized fund. We're just looking at a tweaking so that we can create a self-help situation where some of those organisations who, you know, potentially and perhaps even now, are unsustainable - which is a real worry - that they are literally sinking financially, where they can partner with others. Let's plot a solution to this situation. I don't think anyone is coming here saying, "Let's just demolish it all, and build another block of flats." I don't think anyone is saying that.

DR BYRON: No, I don't think anybody has said that.

MR PARKEN: So, what are we going to do? We all like them. I'm talking of the bluestone and sandstone drop. We all like Port Arthur. How are we going to make it sustainable?

MR HINTON: Shifting the focus a bit - this morning, a view was expressed that the architects, as a profession - their training is deficient to the extent that there's insufficient focus on heritage buildings. I'd even widen further to say that the building sector, more widely defined - also the training in that sector is also deficient with regard to an inadequate focus on the heritage objective. The fact that you're here, in itself, indicates that the architects' profession itself, has an interest, and that's a substantive interest. Can you perhaps focus on the training aspect. Is there a deficiency within the profession, and I'd welcome your views also, take it more widely for the billing and construction sector training.

MR PARKEN: That is a difficult question. Deficiency is a pretty strong word. I think there's a difference between knowledge of history, if you like, and knowledge of heritage, and then developing one's knowledge of heritage into conservation knowledge, and then actually specialist expertise. I'd say that in terms of education, and we're involved in the accreditation of the architecture schools. Just for your information, we have a joint process with the Architects Accreditation Council of Australia going into the 15 schools of architecture. They are accredited under that process for the boards of architects. They are also recognised by the institute in terms of becoming a member of the institute. There's a dual process going on there. There are always issues to do with education.

To say there's a deficiency, certainly our education policy requires that. I was going to quote this here. We certainly support research. In terms of the schools - I'm just trying to look for our statement here in terms of that. We do encourage that it's taught. I think that, as I said, it's a difficult issue because basically in terms of the practice of architecture, heritage becomes a specialist area. It's something that a number of architects find that they're interested in. They do research in - they develop a skill, if you like, in that area. Then they specialise in that area. So, unfortunately, there isn't a specialist course that one can go to. You can do a postgraduate course, and choose as anyone can, a particular topic and a particular interest. There's examples of architects doing postgraduate studies, where they might see heritage as the topic for their PhD, or for their masters.

To say that there's a deficiency in the education system, would be too strong a term. I think it forms a part of the education process, but there are lots of gaps, is what I would say.

MR HINTON: Would heritage architecture be a sort of a one-semester option as part of a five-year degree?

MR PARKEN: Certainly, the history of architecture and heritage - it would vary from school t o school. Some schools would do a situation where you might have to do a measured drawing, for instance, of a heritage - of a listed building. That would be one example of an actual piece of course work, rather than just the general study of the history of architecture, starting with the Greeks.

MR HINTON: Presumably, it's a bit like medicine. Not everyone is a brain surgeon.

MR PARKEN: Absolutely.

DR BYRON: Nor should they be.

MR HINTON: Nor should they be. But the building sector, more generally, David - can you go to a position to give us some comment on that.

MR PARKEN: The building sector, as I said before, particularly - there's a number of specialist trades, and my colleagues here can probably comment on that as well. Stonemasons are a clear example of a trade that - when really, essentially, are in short supply. There are other techniques that are being used even throughout our history that are no longer available. I think that's one of the challenges - as I said, the cost of doing the work then goes up exponentially, which means no-one can afford to have their plaster and lathe ceiling, for instance. That's a good example. No-one can afford to actually have it repaired, let alone replaced in a similar style, because the few people who know what to do charge exorbitant prices, and therefore aren't accessible to the average member of the community.

MR HINTON: Perhaps your colleagues might comment on that.

MR TRICKETT: I think there's an even simpler way of looking at that - traditionally a carpenter was taught how to do a cut-framed roof, which is purlins and rafters. Today, you would get a lot of carpenters coming out of techs that wouldn't know anything about how to frame a roof like that. That's not even heritage. That's just a building knowledge that is disappearing, because domestic houses are now all trussed roofs. But if they're not trussed, there's a steel frame.

So you can see there just at a very simple level those things are being lost. Then they carry right through the whole system. Internationally, there are seminars today on how to repair concrete. Now, 20 years ago everybody, in theory, knew how to produce good concrete. Whether they did or not was another thing. But there were standards there. You could do it. Today, there is research and there are heritage studies done on how you properly repair concrete in concrete buildings. That, I think, shows you how times have changed.

Some people argue now you can't actually get competent formworkers and concrete placers to do concrete today. I don't believe that's correct, but that's an argument coming out of places like Melbourne where a lot of the architecture is now a frame structure that has a lightly-clad facade to it. That's where commercial building is progressing to. So I think there are examples, not only in stone but also in, if you like, more modern materials, where those things have been lost.

MR PARKEN: I've found the point that I was looking for. Under our principle 5 in terms of our education policy, Encourage High Standards in Architectural Development, we do say, "Ensure that conservation of cultural heritage remains part of the core curriculum in tertiary education programs." So it is clearly part of our education policy.

MR HINTON: You refer us to the submission. Your submission is a substantive one. Thank you very much. I don’t propose this afternoon to go through it because it does cover a lot of the points we were really after in terms of the view of the architects. But there was one detail I wanted to go to, if Neil will let me, and that's on page 12 about performance-based rather than prescriptive measures.

I'd welcome some sort of elaboration as to what you have in mind here for - this is Heritage Guidelines. I can see how you could have a prescriptive guideline that said, "And the refurbishment of that house shall be sympathetic and empathetic to the cultural heritage characteristics of the building." That's performance-based. Prescription might say, "You will not go above two stories." Is that an outrageous, extreme example, or is that what you had in mind behind that prescription versus performance-based?

MR PARKEN: Yes. I guess it's perhaps leading a little bit into the adaptive/re-use area as well. I think a lot of people potentially misinterpret both the profession's view on heritage - but even the Burra Charter, which is a substantive document in terms of the conservation of heritage assets. I guess what we're trying to do there is seek innovation.

In other words, in a market situation where your skills are disappearing, innovative ideas in terms of how you might either conserve a built asset or how it might have an adaptive re-use which still protects the original fabric, even though it mightn't be seen for some time - all those sorts of ideas should be on the table, rather than the just, "You shalt," and, "Thou shalt," and, "This is the rule book," or, worse, "This is the pattern book. Now, what year was your building done in? Well, these are the colours that you have to use and this is the size of timber and this is the technique you have to use on your stonework."

MR HINTON: David, you used the parallel with the building code, which clearly has a strong trend and a widespread endorsement of going down performance based rather than prescription. But even the performance based requirements there are subject to some sort of certifications that they meet, validly so, some sort of - the performance embedded in the building regulation. That implies to me that, if we go to performance based for heritage guidelines, there still needs to be some judgment that discretion is not used and is never adhered to, as in what is delivering performance based.

MR PARKEN: Certainly in terms of the building code there is always an independent certifier signing off. I can tell you that they don't do that lightly. If you propose an alternative solution, you normally have to have quite a lot of evidence to substantiate that. Normally, that would involve having a private certifier assisting the design team and the architects and their engineers to explain to the independent certifier in a way that they are comfortable with. Because at the end of the day, they're the ones that are signing off, and it's their insurance policy that's hanging on this. So they don't do that lightly.

I think in heritage what we're saying is that local councils usually have a heritage architect or a heritage officer, but generally a heritage architect who advises them on the appropriateness of, perhaps, an adaptive re-use of a local heritage item that's not on the national stage. Well, there clearly is negotiation going on there. I mean, I personally have been involved in the adaptive re-use of a 110-year-old bluestone church hall, which is now an architect's office and two two-storey apartments sitting within that envelope.

The sorts of negotiations that took place were in the roofline, for instance, to get natural light into the residences; there was the provision of Velux skylights. They're an innovative product, it's not the end of the world if in 20 or 30 years' time, there's another - or in 50 or 80 or 100 years' time, there's a change, they can be replaced, and it's another sheet of galvanised material and the roof can cover it up. So there was no long-term damage, if you like, to the integrity of that asset.

I'll give you another example, where this was a church hall and it had annexes either side, which were sort of single-storey rooms. One of those had its roof taken off and a concrete balcony put there. In fact, that creates the outdoor space for the residences, and even the concrete floor internally is a design where it doesn't bear on the external fabric of the building; it sits on its own six columns, independent - it kisses the walls, but it doesn't require support from them, because the engineers couldn't calculate whether that would work. So that's the sort of innovation that can happen if it's given a bit of an opportunity.

MR TRICKETT: I think it's important to realise that this is actually what's happening right throughout Europe, and has been for the last 20 years. In the majority of cases, they don't reproduce an extension to it or a renovation or redoing parts of it; they don't reproduce in the same style that it was done 2 or 3 hundred years ago. You now go to Portugal and Spain, and you go into the centres of their villages, and they're redeveloping those whole centres.

They are taking the fabric of those buildings, finding a new use for them, and those changes are not done in the old materials. They're done in modern, new materials, so then the people can read that building and understand what was originally there, and then they can see the changes to it. If you make changes to a building that are exactly the same materials as the existing one, it's very difficult for someone to read what was new and what was old. Sometimes it's done badly, so you can read that, but if it's done competently in a new way in different materials, then the history is conserved, people can read what was there, and then they can also then appreciate the new materials; which then cover the safety issues, the health issues, and the disabled access issues that are involved in that.

Italy has been doing that for ages, and there's a good argument to be made that you make it look the same, but there's also a good argument to say you can read the original building and the original fabric, and these are the, if you like, the changes that are being made; and that's happening all over Portugal and Spain now, given that it's the EU money, but it's happening right throughout. Places like Spain have more than half a dozen world heritage listed cities, and they make these sort of interventions within those places.

DR BYRON: I think that finishes my questions. Was there anything David or any of the other gents would like to say?

MR TRICKETT: I would like to digress a little bit with David, in that there's been discussion from a local site, as in Canberra's effects on heritage. I just would like to share with you what's gone through in Canberra in the last 10 years or so with heritage, 20th century heritage. I'd like to start with buildings that go from international significance right down through to local, because as you were told earlier today, we have a, if you like, a state level and a local level all governed by the same group.

I'll be specific, I'll name the buildings and the first one is the Cameron Offices which the Institute of Architects believes is of international significance and it has been recognised by the International Union of Architects. The history there, from a heritage point of view. is very complex because when the federal government wanted to sell that off, the Commission actually hadn't done a study on it because there was this broad understanding that important Commonwealth buildings weren't going to be sold off, wouldn't be disposed. Then suddenly this issue came up.

So the Commission came to the institute and asked did we have a citation or study on that building. We then produced one and nominated that building. It was then put on the national register. Even though it was on the national register of the state, the Department of Finance still went to the point where it said the majority of it could be demolished which lost its social and structural and architectural significance. They said that it had to be sold off with the proposal that three parts - the small part was kept, the rest had to be demolished. Whether it's today, at the beginning of this year, it was still government land.

It couldn't be heritage listed by the ACT Heritage Council. It was on the register of the national state and the institute had nominated to the National Council for listing. So it's a case in Canberra where you have national land, you have the NCA involved in land and there really isn't a good working between the two groups.

If we come down a level from there, there's a group of housing on Northbourne Avenue, which is Northbourne Housing Precinct, which was designed - and these are all designed by - except for the last one - nationally recognised architects; and Cameron Offices was John Andrews, internationally recognised. Northbourne Housing, this has been a nine-year process where the institute nominated that for heritage listing at the ACT level but because it's on Northbourne, the NCA has a role to play in that.

We also nominated to the Commission. The Commission did a study. The study was done by Robert Irving, who is a well-known heritage architect. It was placed fully on the national register, the same as Cameron Offices. That still hasn't been listed by the ACT Heritage Council. It still can't be put on the Commonwealth because the Commonwealth doesn't own it, the ACT owns it. There's a clear case of the ACT government taking leadership and listing that building. The studies have been done. It's shown to be of national significance. We have it on our national register. In Canberra there's approximately 13 places on that national register. So that's not a lot of places. That's one of them. That building sits, if you like, in limbo because the owner, the ACT government, can see a great deal of value in that land, at an academic level and a social level. And from Canberra's point of view they are really important places.

The next one is a place that was called Guardian House which was in Woden. That again was owned by the federal government. It was originally a cafeteria. It was a low-level building placed in amongst 1960s office park. It was intentionally designed to be a low-level stand-alone building because it was seen by the NCA as an important element in that urban form. That was sold off by the federal government. But again, because the Commission - it came out of sort of the blue - the Commission didn't have a study on it. So they asked us whether we had a study on it. We nominated that place to the ACT Heritage Council.

The ACT Heritage Council put it on the Interim Heritage Places Register but said in part that if another development that was, if you like, more feasible or prudent came along, then you could demolish that building and build that other development. The NCA made the decision to sell that for the government and said you could build six and eight storey office blocks on that site and on the park next to it.

As soon as the land was sold, that development process meant nothing. It then came back to the ACT level. So the site was placed on the Interim Heritage Places Register. It was appealed at the AAT. The finding at the AAT - this is the ACT AAT - was that, yes, it met a criteria, therefore it was significant. But they said for reasons of feasibility and prudence it could be demolished. It's now being demolished and it's a case where at a federal level there wasn't a study done before it was sold so that they could get the best price for it. When it was put into the ACT hands, it was heritage listed on the Interim Heritage Places Register, but it's now being demolished.

Then the next level down is the local level. This is what was talked about, I think by the National Trust this morning. There's land in the ACT that comes under the control of the NCA that the ACT government doesn't have. They're areas in Deakin and Forrest, around there. There was a house in there that was built in the 50s by a prominent local architect, owned by a prominent federal public servant who played quite a reasonable role in law in Australia, and that was of local significance. It got demolished without the ACT planning authorities knowing anything about it because it was a process through the NCA.

So Canberra is quite different from everywhere in Australia in that there are these real problems between two planning institutions. If you like, there are two heritage sections, not the three and not the one. But there's also the different layers of land owned and selling off at different times. So it's actually quite complex here where, if you look at it on a state local register, all of those buildings should have been registered. They were all shown to be significant. They were all nominated. All but one got to the point where there was an agreement that they were of great significance or strong significance. But none of those have actually got on any of the current registers at the moment, apart from the register in the national state, which, as you know, doesn't have the status.

MR PARKEN: Can I just also comment, just draw your attention - obviously in our submission we do make comment about the new Commonwealth legislation. We say that essentially it's too early to tell but what we're starting to see perhaps is emerging between criteria for significant heritage places of the natural environment being caught up and judged by the same council who is trying to identify significant heritage places of the built environment. To think about it again logically, there's some tension and there's some conflict between the natural environment and the built environment.

So we would say that we would reserve our judgement at the moment. We'll certainly be around for a long time and we'll be a player. In relation to Cameron Offices, that will be one of the key tests because that just has been declined national listing. We're just looking at still - it's currently Commonwealth owned land and it's on the national state and we would expect to get Commonwealth listing but that hasn't been declared yet. So that's going to be a very interesting case in point because that is one of the eight building that - - -

MR HINTON: When you say "Commonwealth listing", you mean listed as a building owned by the Australian government as opposed to - - -

MR PARKEN: Yes, the Commonwealth register.

MR HINTON: Which is essentially different by ownership.

MR PARKEN: Correct. I guess - I mean, in Cameron there's a whole lot of issues because there's potentially a conflict for the Commonwealth itself because it's trying to dispose of an asset. So it's not in its interest for it to be listed. But in terms of the issues that we're talking about - - -

DR BYRON: But wouldn't the Commonwealth heritage listing just evaporate if it ceased to be Commonwealth land?

MR PARKEN: No, because the new owner would be under a lease. I mean all the land is actually Commonwealth land. So it's fairly complicated. They will have to respect the listing.

MR HINTON: No, but the listing would no longer be operative because they don't own it; that is, the Commonwealth listing is an ownership driven thing. It's a necessary, not sufficient condition.

MR TRICKETT: Or managed as one of them because there are government - there's presently a federal government department in there.

MR PARKEN: Anyway, we won't bring that - that's going to be an ongoing - if you want to see our commitment to heritage, follow that one.

DR BYRON: Yes.

MR HINTON: You going to be marching in the streets?

MR PARKEN: Absolutely.

MR HINTON: You heard it here first.

DR BYRON: Thank you very much, gentlemen.

DR BYRON: Is there anyone else? Please take a seat and whenever you're ready, introduce yourself for the transcript and if you wouldn't mind just briefly taking us through the main points of your submission.

MR BAKER: I'm Keith Baker and I'm the national chair of Engineering Heritage Australia. We're a special interest group within Engineers Australia or, as you possibly know them better, the Institution of Engineers. Our interest in heritage parallels a lot of the other submissions that you would have received but we do have some differences. So I thought it would be useful to just speak to you to cover some of the things that are in my submission to just point out some of those areas where we have a different point of view or a different emphasis.

DR BYRON: Sorry, I didn't mean to interrupt. I'm just want to let you know that we also met with people from Engineering Heritage Victoria last Tuesday and last Friday Engineering Heritage Tasmania. So we've got the basic structure and the administrative elements of that I think. So that might save you a bit of time.

MR BAKER: Yes. Some of the issues that they have put forward are certainly common in other states as well. I tried to put some of the more overarching issues, I guess in the submission from the national board. One of the areas where we differ, I guess is that we are interested in both the engineering that goes into supporting heritage so that it might be that the structural strength of buildings that other professionals are interested in and architects in particular would be interested in. We are also interested - and putting modern services into buildings in a sensitive way that can involve services engineers who need to have a sensitivity to heritage - but we also have an inherent interest in the significance of engineering and of industrial processes as such.

So at times we have a different point of view to architects, for example, who may be interested in the heritage of a building and for its adaptive reuse, without much interest or understanding of the processes that originally went on in the building and so I guess there, that's one of the areas that we probably bring a different perspective to some of the other professions that are involved.

We do share a lot of the things in common though and I think some of the areas that we would say why heritage is important - and they are spelt out in my submission - would be common to other fields of heritage, so that we tend to work very closely with other heritage professionals. We follow the Burra Charter, but we do have a difference in that we're also interested in movable machinery, where it's seen as movable heritage then it's outside of your terms of reference, I guess. But sometimes machinery is an integral part of a place and so we are interested in the conservation of that machinery.

Sometimes the rules for that can be different in the safety considerations for say, a boiler that's going to be under pressure, or moving machinery to the sort of things that the Burra Charter would normally be addressing and the dividing line can be fairly grey if it's say, a historic railway system, where the rolling stock is movable but the rest of the place is fixed. But the rolling stock is an integral part of the overall place.

So some of the things that I try to bring out, where the difficulties of identifying and conserving industrial sites and what to do with them - and we see that as one of the big issues for industrial heritages, to find suitable uses for industrial heritage without losing its significance. It's easy to clean out the messy industrial part of an otherwise nice building and reuse it, but in the process you can very easily lose the heritage significance. We believe that it needs someone who has some expertise in that field to advise otherwise well-intentioned heritage professionals who may overlook either the engineering or the industrial significance of some parts of them.

DR BYRON: Yes. I say yes, because having met with Don last week in Hobart, I spent much of the weekend thinking about more and more examples of stranded or remnant industrial technology of the kind that's very, very difficult to conserve, but also very difficult to find a modern, adaptive reuse for. It's a fascinating class of problem which I don't think I'm going to be able to think of an answer to, but it's a real puzzle.

MR BAKER: I think part of it is having engineers as part of the team at the right time, so that some of the identification can be done and that's what we see our role, more than trying to tell how buildings or engineering places are to be conserved, is to be involved in the identification of the significance - because it's a volunteer organisation and we get involved with the owners of places, to try and help them to understand the significance of what they own and for them to value it. So part of our recognition through a plaquing program is to help build some of that understanding and value for industrial and engineering heritage.

DR BYRON: But there are issues of getting access to these places now because of OH and S or security or public liability insurance.

MR BAKER: There certainly are and they are adding to the cost of conservation and therefore compound the issue of conserving things. Say timber truss bridges, for example, where apart from the OH and S issues of just working on the structures, there might be lead paint, lead based paint. that will fall into the river below if it's cleaned off, and so there are - sometimes there is a tendency to try and go for a nice clean solution of demolishing what is significant by pretending it's not there, or not trying to recognise its significance.

MR HINTON: Presumably, Keith, the fact that the Engineering Institute has a branch called Engineering Heritage Australia in itself is a labelling that - a branding that does increase the chance that local governments, state governments, the federal government, when making judgments about heritage that have an engineering characteristic, that they know who to go to. They can find you. Is that a fair comment?

MR BAKER: That's a fair comment and we try and work in very closely with state and federal organisations, but it's also I think, significant that not all heritage councils around Australia have an engineer on them and we have tried at times, to bring that to their attention. Some have much more of an engineering interest or an interest in involving engineers than others do.

DR BYRON: I could imagine that there is a great deal of variation, particularly in the local government level that - areas where mining, for example, might have been very significant, the Ballarat-Bendigo area, where mining engineering is an important part of the whole heritage - but I suspect that in a lot of agricultural pastoral areas, there is less interest in engineering heritage.

MR BAKER: Yes, I guess it depends on how you define it. There are a number of areas that - it can be quite surprising how much interest the locals do take in conserving their variety of windmills; for example, at Gilgandra and places like that. And lots of reflections of farm machinery, but it tends to be enthusiasts who could do with some advice at times as to how to present their heritage and how to conserve what's most significant sometimes.

DR BYRON: The architects we're talking about sort of stranded, building - stranded assets, but - in the sense that it's physically still there but it's no longer got a commercially viable use or it's become too expensive to keep maintaining it and so on, and I suspect that there's an awful lot of examples of industrial technologies that are now obsolete or redundant or been superseded. Old gasometers, old meatworks, old brickworks, old timber bridges.

MR BAKER: There's a limit to how many can be used as museums and I guess one of the points that I made in my submission was that in the National Cultural Heritage Forum we were being told to get more private sponsorship for built heritage and I think there are lots of cases where, if a heritage site has some investment into it, to bring it up to a safe standard where a private operation might be interested in operating it, that's fine, but there aren't too many sponsors who are interested in putting the investment in, in the first place.

So that, for example, a heritage railway in Tasmania that's just had several million dollars spent on it, a commercial operator will be happy to operate the trains on it, but not to have put the millions of dollars in, in the first place and so I think that's one of the things that echoes some points that were being made I think, in the earlier submission by the Institute of Architects, that if it's for public good, then there needs to be some public investment in it, and not just left to someone else.

DR BYRON: I find it very hard to argue with you on that point.

MR HINTON: And he is argumentative.

MR BAKER: The other point, I did make some references in my submission, and I have the documents here if you wish to see them or to make copies of the relevant papers, I can leave them with you.

MR HINTON: If you could leave them with us, that would be fine. Thank you.

DR BYRON: We'll make some photocopies and get them back to you.

MR BAKER: Sure.

DR BYRON: Okay. Thank you very much, Keith. Very good to hear from you.

DR BYRON: No need to hurry. Take your time.

MS RICH: I know you must be at the limits of your listening capacity. My name is Tracey Rich and I'm working within a unit called the EPBC Unit Project. EPBC stands for the Environment Protection Biodiversity Conservation Act, which you're probably familiar with, which of course the new national heritage system comes under. I don't know if you've read my submission at all. I did put in a submission to you. So it basically outlines - my role within this unit is heritage outreach officer. It is essentially a role whereby I have a role to build the capacity of the Australian public to engage with the new national heritage system. So that' what I do.

It involves a lot of on-ground work. We run an advisory service. In the last six months I've conducted about 30 workshops on the new national heritage system with on-ground groups, as well as many other communications. So essentially my submission was confined by my role, which is this role. So it looks specifically at the national heritage system from community perspective. So what kind of messages am I getting from the