



**TRANSCRIPT
OF PROCEEDINGS**

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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 PERTH ON MONDAY, 1 AUGUST 2005, AT 9.04 AM

Continued from 28/7/05 (video-link Darwin-Melbourne)

DR BYRON: Good morning, ladies and gentlemen. Welcome to the public hearings of the Productivity Commission's inquiry into the conservation of Australia's historic heritage places. Thank you all very much for coming today. My name is Neil Byron and I've been appointed the presiding commissioner for this inquiry, and my fellow commissioner is Tony Hinton.

This inquiry stems from terms of reference that the commission received from the Australian Treasurer, with the endorsement of all the 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 interests in heritage conservation all around the country - most states and territories - including some fascinating rural and regional visits in most states. Submissions have been coming into the inquiry following the release of our issues paper about two months ago, and we now have about 50 submissions, all of which are on our web site, except the ones that came late on Friday afternoon.

The purpose of these hearings is to provide an opportunity for any interested parties to discuss their submissions with the commission and put their views on the public record. Following these hearings here today, we'll be holding other hearings progressively over the rest of this month in all of the states and territories. We were in Brisbane last Monday and had hearings with National Trust Northern Territory on Thursday, and on Wednesday we'll be in Adelaide, et cetera, as we go around the country. We're planning to produce a draft report for public comment about the beginning of December, and then there will be another round of hearings, opportunities for feedback, in February. We'll be looking for comments after people have had time to read and digest and think about our proposed recommendations.

The Productivity Commission always tries to conduct our public hearings in a very informal manner, but we do take a full transcript for the record, so we can't run the hearings like a public meeting with interjections from the floor, et cetera. But we always make an opportunity for anyone in the room who wants to come forward and put something on the public record to do so before the day's proceedings are over. The transcripts will be put onto the commission's web site as soon as they have been checked for accuracy of transcription, and they will also be available publicly through libraries around the country or, on request, from the commission.

To comply with Australian government occupational health and safety legislation, I have to inform everybody here that in the very unlikely event of an incident, alarms will sound and we'll go out through these doors here and around to my left and out through the fire escape into the laneway. The other bit of housekeeping is that the toilets are just around to my left outside the door there. I think that's all the housekeeping I need to do.

Without any further ado, I would like to welcome first Mr Jeremy Dawkins from the WA Planning Commission, and colleagues. Thank you very much for coming. If you could each introduce yourselves for the transcript so that the transcribers can recognise voices later, and then if you can summarise in about 15 minutes the main points that you want to make - thank you very much for the written submission - then Tony and I would like to have some discussion of the points you raise. Thanks for coming.

MR J. DAWKINS: Thank you very much. I'm Jeremy Dawkins, chairman of the Western Australian Planning Commission. I've worked in the planning area and in heritage areas related to planning for a long time. I worked in Battery Point in Hobart, where the conservation of that area was a really tricky conservation problem, and wrote the appropriate planning scheme of the kind that is referred to in my submission. I went back much later, after it had been in operation for something like 18 years, and did some research on what had happened in the previous 10 years. What it demonstrated was that using what were in effect market mechanisms had a remarkable effect in Battery Point, in that I think in 10 years there had been three demolitions or something and yet there had been 970 planning approvals for development which had simply disappeared into the fabric of the place and reinforced it and sustained it.

I spent the 80s in Fremantle engaged in similar issues of development and conservation, was a member of the Australian Heritage Commission and spent the 90s at universities teaching heritage conservation. I am joined by colleagues who are not here representing the Heritage Commission but because they have had important roles in heritage in Western Australia, and can we ask them to introduce themselves now, please.

MS KIERA: Thank you. My name is Agnieszka Kiera. I am the heritage architect with the City of Fremantle. I have spent all my career, spanning 30-something years, in heritage conservation, of which 20 have been in the City of Fremantle. I think that my message would be very brief. What I have learned during that career is that heritage is about shared values, which means that it is about common good and long term, and market forces are about present and about individual interests. This is why it is essential that government provides framework within which the common good, long-term and shared values can be accommodated, so that the market forces operate within that framework with confidence and know what the standards and expectation and aspirations and the judging of the activities are.

I also want to say that, in my view, the City of Fremantle operated as a local government on its own in its own framework, with its own way of managing heritage, and this created a special character in the WA context which is not shared

by the state government, which is interesting in its own right because it simply says that, with community and level of government and operators on the market working together, it's possible to make the heritage work while the city evolves. Thank you.

MR S. DAWKINS: My name is Simon Dawkins. I'm a former adviser to the minister for heritage, and became very interested in the mixture of signals that was operating in the heritage area and the, I think, unintended consequences of some regulation which could be characterised as the fear of heritage stalking the suburbs. So I'm very interested in the exploration of different measures which would clarify those signals and integrate them into planning to achieve a result that I think is very strongly supported by the public in general but sees its application at the local level being very confusing.

I'm not talking here about grand buildings but more about suburbs and precincts and other forms of cultural heritage, including one aspect that my former minister had a passion about and that was Aboriginal history post-settlement, which has been disappearing at a vast rate. Thank you.

DR BYRON: Thank you very much. You've all foreshadowed some fascinating and very important issues in those opening lines. Thank you.

MR J. DAWKINS: Thank you. I think all of us are very encouraged by the Productivity Commission conducting this inquiry because I think we all feel that the conceptual framework and the theoretical framework for heritage is pretty unsatisfactory or pretty underdeveloped. That's the thing that I wanted to address. I haven't in my submission said anything about the institutional arrangements. I'm mainly wanting to discuss, in a sense, the conceptual framework that is most effective in this area.

The way I see it, the consideration of heritage - which I shall refer to here as assessing the cultural significance of places - is simply one of many similar considerations that the planning scheme embraces and that the planning assessment system is where the assessment and management and conservation of cultural significance properly resides. We all know, however, that the planning system is in considerable strife and probably getting worse, and probably adds a regulatory burden of billions of dollars a year to the national economy, but I'm talking about the planning system as it ought to be - for instance, as it's described in the model that my colleagues and I produced a couple of years ago while at the University of Canberra for the Development Assessment Forum - and I would like to add this as a supplement to my submission.

I am assuming that we can work towards a much better and more coherent development assessment system and I am looking forward to the day when the

Productivity Commission receives a reference on the planning assessment system. When I say heritage should be part of that planning system, I mean the way the planning system ought to become, particularly in an age of e-property and e-government and so on. The fact that heritage assessment and heritage decision-making is in fact outside the land-use planning system is one of the problems of the many layers and the many different parties that get involved in the planning system as it presently stands.

My submission begins by making the point that, for there to be an urban property market, the state needs to define property rights for each land parcel. The most important right is probably the right to develop, and what the planning system says about a parcel of land's right to develop and, more importantly, what it says about the development rights of the parcels of land all around it which have the potential to impose positive and negative externalities on it, determines what the property is worth and what it's worth for, or doing with, in the marketplace. Without a clear definition of the development potential of land and all the land around it, there simply isn't a property market, and there have been some interesting empirical case examples of that.

The planning system, in defining property rights and development potential will, willy-nilly, impact on old buildings and places of cultural significance. It may completely ignore them, which is simply another way of dealing with them, or it may explicitly deal with them, or it may deal with them in an inappropriate way, but it is unavoidable that the planning system, in defining the property rights of the parcel of land and all the parcels around it, will obviously impact on all existing places; will have an impact on them, whether it's intended, unintended, by neglect, by default or by intention. So we're not dealing with a situation where we have to decide whether or not there should be regulations concerned with places of cultural significance. There are everywhere and every place, regardless of its degree of cultural significance; it's already regulated, and the issue is integrating considerations of managing the cultural significance of the place into the other forms of managing the place.

I go on to say that heritage - and, in fact, I try not to use the term because it's a bit like sustainability; it sounds as if we all know what it means and when people use it, they use it very confidently as if we all agree what it means, when in reality it's used in very many ways and it brings with it a certain kind of - I don't know - moral flavour or set of intentions which are not necessarily there.

If we talk instead about cultural significance, then we recognise that it's all about degrees of cultural significance, and the consequences of arriving at an assessment of a level of cultural significance doesn't necessarily determine the decisions that may be made around it. I say that nothing about this area is absolute,

for various reasons; that every place possesses cultural significance of some level, including brand-new places, including this converted building and these things in here - I suppose us, as well. We all have cultural significance and the issue is assessing it rigorously, independently and then feeding that assessment into the decision-making process.

Again, separating heritage out as a distinct separate discipline I think is a mistake. I think, in a way, we've gone down the wrong path in doing that. I think cultural significance is in some sort of continuum with things like townscape and local character and amenity and so on. It's really impossible to draw a distinct line. While I'm talking about lines, I might just say lists are maybe expedient for administrative purposes but lists seem to suggest also that you can draw a line simply around something that has heritage and something that doesn't. The unintended effect of that is, in a certain sense, you're making a statement that all the things that are not on the list don't have heritage value when, of course, they are either unassessed or they have different degrees of cultural significance for different reasons.

The way that these considerations of cultural significance and townscape and amenity and so on ought to be incorporated into the planning system is through an understanding of the relationship between the planning system and the market, where you would hope the planners understand that the regulations they deal in shape the urban property market and work with the urban property market. When it doesn't - and often it doesn't - then the whole system is sending very contradictory and confusing signals. There are many cases where councils have simultaneously created a high development potential on a site and at the same time said it can't be developed. Those sorts of contradictory signals are simply a case of bad planning.

Finally, let me say that as in the Development Assessment Forum model and alluded to in my submission, this is an area that should follow the principles that the chairman of the Productivity Commission recently outlined in terms of reducing the amount of regulation, reducing the number of regulators and reducing the amount of discretion. That's what the reform of the planning system is about, and it certainly applies in this area. My submission suggests ways in which that can be done, starting from first principles. It would mean that specific heritage bodies such as heritage councils would not have regulatory powers themselves; that there would be a single decision-maker and assessment body who would bring together considerations of cultural significance along with economic, social and other considerations where they would be integrated. The role of the heritage councils would be to improve the rigour, independence and validity of the assessments of cultural significance that are made. Thank you.

DR BYRON: Thank you very much, Mr Dawkins. Maybe Agnieszka or Simon

would like to speak a bit more, then we can discuss all the points that the three of you have raised.

MS KIERA: I have to say that I didn't know that it might be expected of me to make a speech.

DR BYRON: You don't have to.

MS KIERA: What I wanted to say, following what Jeremy just presented - and I think it is important that we all understand it - is that Fremantle confirms very much that theory or that approach to heritage because success or otherwise, or failure, in Fremantle was defined by the way the city managed its heritage resources to the planning scheme. They were very little affected by a special heritage act and how this act applied to heritage places or they were managed. So planning framework definitely is critical in defining how the market understands heritage should be incorporated in their development potential. Also it defines how the community values its heritage and if it is in sync with market forces, which means there is a general culture of understanding of - if they become fighting camps - community versus developers.

I definitely agree with what Jeremy says about the confusing signals which are often given to operators in the market, which say development potential is so-and-so but you can't develop because a place is listed or something like. That continues the confusion and continues the inability for all those values to be reconciled and work in sync. Most of the successes of the City of Fremantle were on that basis, with conservation of heritage and the planning scheme and the developers and the community working together. In my submission I point to the early 1990s where the mini boom in Fremantle was created by conversion of the warehouses and factories into other new uses in a less compatible or more compatible manner. Thank you.

DR BYRON: Simon, I was particularly interested in your comments about perverse incentives and fear of heritage through the - - -

MR S. DAWKINS: I'll just do a very brief sort of statement. My history with heritage, I suppose, also includes the management of heritage buildings. Through that experience, I gained greatly from the expertise of the Heritage Council in defining what was good practice - Burra Charter sort of material - and how that could be incorporated into a building of significance like His Majesty's Theatre. I think the role of the Heritage Council has to go beyond simply nominating a place but also to advising on how that adaptation and the ideas for that particular adaptation will take place. In other words, I believe the planning schemes need to incorporate heritage more obviously and that process, I believe, is being considered at the moment in Western Australia. But in terms of making it happen, there needs to be some degree

of authority applied to the Heritage Council to achieve a good result.

I will very quickly the institutional arrangements, because I know that the WA legislation was introduced just over 10 years ago and this was well after many of the other states. But the adoption of different models is very apparent in every state and the degree of political interest also differs from state to state. I've got to say the results aren't all that different but the degree of political involvement is an indication, I think, of the perhaps confusion between planning and heritage and heritage as a planning authority. The scope of the legislation in each state is also quite different and the differences come out in different ways. The point I was making is that I think there has to be a greater degree of uniformity in that approach, just as there might well be in planning approval processes, in order that the idea of property rights is clarified in relation to this.

The incentives applied by the Heritage Council, and other states as well, are through rate relief negotiated with local councils and planning bonuses applied by themselves, I believe, or in some way applied by them. I think that to these need to be added issues of taxation - that's obviously much more a Commonwealth concern, I believe - and some recognition of the externalities. I think the Heritage Council makes a strong argument about the way in which decisions at a micro-level about demolition or otherwise do not take into account some of the externalities involved in dealing with waste and building rubble, which is a significant proportion of landfill. So I think those kinds of signals are not being properly recognised. In relation to those incentives and perhaps triggers, the whole effort may well be, as Jeremy pointed out, a move towards adaptation and renewal rather than what I think I saw somewhere referred to as "one in, one out".

DR BYRON: Thank you very much. I think we've touched on just about all of the big, thorny issues that are facing this whole inquiry there in just a few minutes. Which ones to pick up on first? Jeremy, it seems to me that one of the critical points that you're making is that heritage or cultural significance considerations should be one of a number of factors taken into consideration in planning, rather than having a veto power or rather than being administered through a parallel system. Have I got that clear?

MR J. DAWKINS: Yes, definitely.

DR BYRON: Yes, okay. The point about markets relying on clear definition of property rights, I think, is something that we're in fairly heated agreement over. Part of the sort of adverse reaction to heritage that you sometimes read about in the tabloids or the shop-jocks talk about is where individuals feel that their property rights or the value of their home and castle is in some way diminished because of a heritage listing. They feel that in some way this has diminished the value of their

asset. How do you suggest we respond to those submissions that have been put to us?

MR J. DAWKINS: In fact, the zoning of their place and the rules about whether they can go up or out or replace it with a block of flats, or whatever else is the thing, all affect their property rights. I mean, those are their property rights; what the planning scheme says they can do there. That's the part of the property rights they're most interested in.

We've seen situations where heritage has been set aside from all of that and treated as a completely distinct and separate issue as if it's not part of the market, not part of urban management, but is somehow or other linked in some magic way to some other whole sort of universe. That's a mistake, for a number of reasons. I think it generates that kind of reaction. It cuts off heritage from the sorts of mechanisms that can be used to manage it. Obviously, Battery Point and Fremantle were unusual cases where it was very easy for people to appreciate that heritage conservation would add value to the properties and not take it away, and people would want the address of a well-managed, conserved area and would like to be listed on all sorts of lists because it would confer value on the property.

I think the same considerations apply everywhere and, if heritage is part of planning, it means that all the various mechanisms of the planning system can be used to manage heritage in a sort of intelligent way. If the two are separated, you get those contradictions where the rules about development potential are simply at odds economically with the rules about heritage.

DR BYRON: Could you expand on that point? I think you said that councils in some cases have created great development potential and then in the next breath denied redevelopment approval and the tensions that that creates.

MR J. DAWKINS: They tend to define development potential by blanket rules and plot ratios, density codes and things like that, which may be laid down over whole areas or commercial centres or central business districts, and then come along and say, "Oh, but that place can't be further developed." So there is clear inequity set up and contradiction and conflict created immediately between what seems to be possible but isn't being allowed. The planning system in CBDs, where there can be a massive gap between the potential and the actual, has a whole range of mechanisms available to it, such as transferable development rights that can manage that sort of thing. If it's part of planning, then it's simply one of the ways you'd do it.

It seems to me no different to managing parking and access and requiring people to have more parking or have less parking and not allowing them to have as much parking as they want, which is what happens these days, or requiring them to

contribute towards public transport and all sorts of things of that kind which are done to make the city work. For the city to work, it needs its old buildings and so forth, but there are planning mechanisms that can do that in an equitable way instead of a way which simply generates conflict.

MR HINTON: I was particularly interested in your comment that every place and thing possesses cultural significance. That's probably implied in everyone's view on heritage itself, but the fact that you've explicitly stated it itself is of interest to me. You use the term "significance is a continuum".

MR J. DAWKINS: Yes.

MR HINTON: You also go on to say, "Identification of significance in itself is not a basis for intervention."

MR J. DAWKINS: Yes.

MR HINTON: I was quite attracted to that construct and how we should be looking at these issues. It took me to the inevitable question, "Okay, fine, I think we can all accept that," but how does one set up a system that actually determines where the line is drawn such that intervention is warranted? Intervention by government, in particular, I have in mind here. The implication of the comments this morning from all three of you is that the system itself is in some places working well but in many places not working well. I would welcome your reaction to the point about where you can draw the line or, more importantly, what system characteristics there should be for the line to be drawn.

MR J. DAWKINS: I think the line is always drawn.

MR HINTON: I'm sure it's always drawn. It's a question of whether it's drawn appropriately.

MR J. DAWKINS: Yes, that's right. One of my points is that, even if it's by default or neglect, the lines have been drawn somewhere by the rules. The planning system might draw it way over here and the heritage system might draw it over there, and that's where the conflict happens. If they're integrated, then presumably the same sorts of values are being brought into accord. On the one hand, you have a situation where every site is different, where the cultural significance of every place is subtly different or dramatically different and needs to be individually assessed and vigorously assessed. On the other hand, you want a planning assessment system where the rules are clear and explicit and where they are enunciated as clearly as possible up front. It just means that there has to be more work.

For 20 years the planning system has been going to more and more discretion and leaving the assessment to the last moment or leaving the policy-making to happen on the run because it's all too hard. There's a reform in the planning system itself where the planning system has to say more clearly what it wants, and then the assessment of the individual place has to be fed into that and become part of the assessment when proposals are made, along with things like, "This site is vitally important for a particular use," or, "This site shouldn't be used for a particular use because of the impacts it will have," or, "This site has environmental characteristics which make it particularly sensitive, for example, to some users and not others." All those things get fed in at the time, and the environmental ones are simply assessed at the time and the heritage ones could be too.

MR HINTON: If I hear your words correctly, then you're suggesting the system should have at least the following sort of criteria or benchmarks that would underpin the decision-making. You mentioned transparency.

MR J. DAWKINS: Yes.

MR HINTON: You didn't necessarily mention the word, but you implied certainty.

MR J. DAWKINS: Yes.

MR HINTON: You implied the objective of a degree of equity and you probably also implied efficiency.

MR J. DAWKINS: Yes.

MR HINTON: Are there any more that you'd like to put into the system that I can draw on and how we might reach a view about how you could set up a system that helps draw the line?

MR J. DAWKINS: In that model we took - - -

MR HINTON: An appeals process? There's equity in appeals processes.

MR J. DAWKINS: Yes. In the DAF model we took the three tests of all regulations in there as being efficient, effective and transparent. We sort of thought, well, that pretty much pulls in all the things you would be concerned about. You hope that fairness is in there as well, in terms of equity. But that's very hard to do, particularly in these areas where expectations are rising, where the valuation placed on places with cultural significance changes. So certainty is a goal, but it's something you can only ever approach and the flexibility that also people want is through a transparent process of changing the rules. The flexibility shouldn't be

achieved by policy on the run; it should be achieved by making the rules and then having mechanisms to change them.

MR HINTON: Consistency is inherent in that; consistency over time.

MR J. DAWKINS: Yes.

MR HINTON: Do you think consistency across local government areas is also, in itself, an objective here?

MR J. DAWKINS: If they all used the conceptual framework you've come up with, then there will be convergence, but every place is different. In a sense, the flavour and traditions of places are different. I think the machinery should all meet those tests you were talking about, but I think it's appropriate that communities do it in their own way. I think we should envisage a system in which the goals and the style and that sort of thing - particularly in an area of cultural significance. The culture of the place may be quite different from next door. The culture of Fremantle is different to Melville, and they're neighbouring local authority areas - quite different.

MR HINTON: But, Jeremy, a devil's advocate might say that that's one of the key criticisms of the current system, and that is the degrees of discretion at the local government area.

MR J. DAWKINS: Yes.

MR HINTON: Perhaps based upon the view that, "We are different," or, "We have our own local decision-making," which is important, yet that in itself leads to undermining the important planks that you've described, such as consistency, effectiveness - - -

MR J. DAWKINS: Even the property council, when they responded to a bit more time for business - and I forget what they called it; it was a rather clever take on "more time for business" - they said they wanted all those sorts of rules and less regulation and better regulation and more clarity and all those things, but they also said very explicitly that they recognised the rules are set by the locally elected government. They were advocating a system where the local government explicitly set the local rules, but the processes that then followed had the sort of good process characteristics we're talking about.

In the case of Fremantle and Melville, for example - or Adelaide and Brisbane or whatever it is - I think that it has to be that way. Melville says as clearly as possible what it wants and what it values, and that's about whether it wants high rise

or low rise, whether it wants density or no density, which aspects of cultural significance it particularly values versus others, and Fremantle does the same, but it's said clearly, it's said openly, and people can work to the rules that have been established and they know that there is an expert assessment system going on; that decisions will be made by a single assessment process and a single assessor based on good information that's public and contestable; that there are probably hearings processes and there's a ladder of review processes, starting with a local review that's cheap and quick going through to the Supreme Court.

MR HINTON: Could I take up a slightly different issue. It is one that seemed to be an inconsistency between your comments, Jeremy, and then your comments, Simon, and that's about the proposition that heritage should be an inherent part of planning. I can see how development applications justify that proposition; that is, someone wants to do something with the property and then integration of the heritage consideration when handling that application seems eminently sensible.

Simon referred to, I think, if I recall correctly, the case of where there's no development application because it's virtually demolition by neglect; that is, the owner has the property but it is not being conserved. That also puts forward, therefore, the proposition that there are also some issues beyond planning, beyond development. Have I verbalised Simon or appropriately represented Jeremy?

MR S. DAWKINS: No. We didn't rehearse this, by the way. I'm not suspicious of planners. I just believe there's an applicable level that, in a pragmatic way, has to be considered. I think there are issues in terms of efficiency, as you mentioned, and there are issues of scale and capacity. I can relate this to my own local government area, where the sport at the moment is getting your house taken off the heritage list. In fact, there's an incentive to do so, and the sport is an increasingly interesting game. There are just more and more of them, and the heritage advisory committee has been abolished and somehow, you know, this has got dire implications.

In terms of timing and certainty, I think the issues of scale and capacity are very important, but I don't know in detail the outcome of the Brisbane model apart from the fact that every house that you could photograph before the war is preserved, unless there's a specific application to demolish, and if there are groups of three it's much harder than if they stand on their own. So everybody knows when they buy the house what exists, but in fact in many cases the controversy which I got involved in as an adviser was where an owner had sold a house and the new owner wasn't aware of any consideration of heritage. That defining issue about an expert opinion hadn't come into play when they bought the house.

At the local level, I believe we have capacity for partnerships between the state and local government to reinforce issues and to make clear public desire for certain

cultural significance at a state level, which may include precincts, and to reinforce issues brought up to them by local government, because I think on their own they're very vulnerable, and in this context the Commonwealth and state could meet some agreements which can help also reinforce the local government aspirations. To that extent, I agree that local government identity is fundamental to this, but I'm very concerned about capacity and pragmatic stuff, and that can only be reinforced by higher authorities; higher levels of planning to reinforce.

MS KIERA: What I wanted to add to this debate is the fact that, in my perception, the planning schemes and regulations generally apply universally and they are established by a higher authority, like the state, with some input from local governments, but they are some kind of generic regulation which applies to all properties and planning then is primarily concerned with those individual properties. So when the development application is put forward, it is judged by this regulatory framework of zoning accords and things like that and also, in terms of character or amenity, it is judged by the impact on the immediate neighbours, like overshadowing and stuff.

In my experience, what is lacking from this assessment - and this is where the local government have tremendous difficulties in making planning schemes work - is the absence of the community. They all believe that they represent the community, and they probably do, but in my experience they often represent interest groups rather than the community, or represent the community to the extent individual elected members understand what the community issues are, but they do exclude really the complexities of what the community means.

This is where heritage could bring an informative basis to assist the decision-makers with making those decisions, and this is where the assessment of heritage significance is very important; not only heritage assessment of significance of individual places but heritage significance of things which the Burra Charter defines, like area, landscape, views, townscape, roofscape, and even intangible heritage values such as tradition, story, sense of place, sense of identity. Heritage areas, particularly those such as Fremantle, don't depend on a few landmarks peppered around, like in Perth, when you can argue, "You can save this place," but you don't save the place next to it, and this is where the conflict immediately arises.

When the planning schemes are adopted on heritage assessment of the area and it is ingrained in specificity of the area and then the planning scheme is based on that, this is where the community comes in and the broader basis for making wise decisions at the local government level, and the state government level as well, are possible because then the community and the local government, or decision-makers in general, will have a much greater appreciation of what they want to save in the

first place and then how to define the framework for development which conserves the values which are important and which are shared and how the proper and orderly planning takes on all aspects of development, including heritage and those broader values.

Then the decision would be wiser, and then it doesn't matter if it is Fremantle or Melville, because Melville would establish their own values and their own things which are important to the community and Fremantle would define their own, as long as they know what values they want to have and continue.

DR BYRON: Could I just take a little bit further the question of slightly different approaches between different local government areas, because in another state there are two large councils. One has listed thousands of places as being of historical cultural significance on their local planning scheme. Another one has zero - zero, zero, zero - and they have said categorically they will not list a single place unless the owner of that place consents to being listed. But when you actually look at what's happening in those two cities, the number of demolitions is about the same. The quality of the restoration, the community atmosphere, the enthusiasm for retention of built and associated heritage values and those types of things seems to be very, very similar.

Although one has taken a very sort of formal line of putting lots of things in grey-letter regulation, the other one has done it purely on the basis of, "The ratepayers in this city or region feel positive about heritage conservation, and they're doing it; just get on with it," not because of but almost regardless of whether there's anything officially written down. Does that seem strange to you or do you think that that sort of different approach in different local government areas is possible?

MR J. DAWKINS: Can I answer that? I think that's what you'd expect. If the planning system was comprehensive and took into account these considerations and if it wanted an outcome of continuity and conservation, in the sense of valuing what's there and using what's there and so on, then that's in fact what you'd expect. I think the Battery Point planning scheme may or may not have had a list. The thing was the list was not important, and the list was probably being counterproductive, because if you're not on it there's an implication that you're supposed to be replaced. If the environment - and that is the market signals and so forth created - implies that the place was valued and worked well and so forth, and they were working with what was there rather than bowling it all over, then that would explain what was happening, I think. That's in fact what you would want.

DR BYRON: So the listing process is not necessary to get conservation outcomes and good community outcomes on the ground.

MR J. DAWKINS: The listing process can do various things. It can trigger incentives - financial incentives or rate relief or being able to do things you couldn't do otherwise, et cetera - but those techniques were fairly early in the days of heritage considerations because not everyone was convinced they were legitimate planning considerations. These days, I think the best lists are very long ones that almost have everything on them, on the grounds that everything has some form of level of cultural significance, and you are in fact trying to manage the complex on the ensemble. I think we would all say that areas and precincts and those sorts of things are much more important than lists.

MS KIERA: And also, if I may add, lists would not be necessary if part of the planning process included an assessment of the heritage significance of everything prior to making decisions. It interests me - what you said - that there are local governments in which the approach is still development at the same level, even though one has thousands on the list and one not. What comes to my mind is Fremantle and Culbin, and I can assure you that Culbin City Council has a much more "development at all costs" mentality than Fremantle, for example.

When I was still involved in the National Trust, we found out that one of the market gardener's cottages survived in Culbin and it should be conserved, even though the area was to be redeveloped on a massive scale. The market garden part of Culbin was to be redeveloped for medium-density housing. As soon as that cottage was nominated for listing, the owner came and demolished it, because he obviously wanted to subdivide the land and sell it and build a number of residential units on it. In that case, the list was counterproductive, but Culbin should have had in its planning scheme a provision which said, "Before development can proceed, the assessment should be made of what already exists."

So regardless if it was listed or not, the planning decision would be much wiser because it would be more complex and more difficult, but it would be based on much more complex knowledge of what development would involve and, secondly, it would work in favour of conserving the heritage in a much more efficient way than if it just depended on lists.

MR HINTON: We're running out of time, but I have one more question. It probably doesn't lend itself to a short answer, but I'll try it anyway. There's a widespread view - not necessarily unanimous, but a strong view - that heritage conservation regulation frequently involves erosion of property rights. So there's an inherent tension there. Secondly, there's also a strong view, not necessarily unanimous, that a lot of the problems rest in local government areas - what is locally significant - and therefore actions by local governments, councils and shires are important here. If you're going to have a system - that we've discussed earlier - that sort of sets up how to handle that, that implies to me that the system should be one of

constraining what local governments can do when they are to take action that would erode property rights rather than telling them what to do.

As soon as you have a system that tells them what to do, you lose local flexibility and local knowledge, but if you have a system that's based upon, "You will only erode property rights in the following circumstances," that would seem to be much more sustainable, given the inherent tension between the objective of conservation and the objective of property rights being protected where appropriate. Any reaction to that sort of structure?

MR S. DAWKINS: I think it's quite an interesting framework, and I think that people would recognise that at the local level. The previous chairman of the Heritage Council was talking to the elected members in Cottesloe and he said, "By the way, I probably won't be talking to you in four to five years' time, because people will vote you out if you make a mistake," and I think he's right. It will always be - - -

MR J. DAWKINS: Well, they did.

MR S. DAWKINS: Yes, but they will do it in favour of probably why they value their own suburb or that active group that forces that change, so I think they understand that principle you're talking about.

MS KIERA: I wonder if I understand this principle, because property rights already operate in a regulatory environment and people can't be what they want, no matter what. Also I think that what people don't appreciate often - individual owners - is that economic rationale for property rights works over time rather than on a one-off basis, and I think that property rights here are exaggerated or are raised in the context of heritage and not planning, for example. People can't build houses as they like. They can't have as much parking as they like. They already operate in a regulatory manner, so I just wonder why property rights are only raised in the issue of heritage. Having said that, the question to you would be: if you were right that property rights would become issues only if they are being eroded, how would you define where they are eroded? If you don't have a regulatory framework within which those property rights are exercised, together with the broader good of ordinary and proper planning, how would you define that those property rights are eroded to prompt action?

MR HINTON: An example in the extreme - though I realise that the testing is in the marginal cases - is council telling a property owner, "You will replace your roof as follows." That's an erosion of property rights, where it's a council telling the owner what to do as opposed to saying, "You will not put in that six-foot fence across the front of your property, even though you make application to do it." One is saying no to a proposal; the other is saying, "Do it." That is a distinction that is not

unimportant.

MS KIERA: This is a very important point, if I may say so, because it comes to setting a framework first proactively, setting the rules proactively, and then how you set these rules matters very much. With my background and with my brainwashing, I believe that setting the rules is based on assessing values first. Assessing heritage - what it means, what is important - means that we are acting proactively, and we would automatically define the parameters for development, which would be understood by everyone, not only by the owners but also by the community and by the decision-makers. So all parties on both sides of the fence would know what standards are applied and by which criteria they will be measured. This is absolutely critical, and heritage is very important to that.

MR J. DAWKINS: Could I just respond to that issue? The planning system very seldom instructs in that way. It mainly works to assess proposals. It very seldom goes out and says, "You must do things."

MR HINTON: Yes, but the heritage system is inclining towards the other. That's the point.

MR J. DAWKINS: Yes, it may, but the place where planning schemes are used to do that or grant powers to councils to intervene in that way is where buildings are allowed to get untidy, unkempt, dangerous, et cetera.

MR HINTON: Yes.

MR J. DAWKINS: The reason that happens in the suburbs is because - and I've mentioned this in my submissions - everyone in the street knows that if a house has foot-long or metre-high grass and broken windows and iron coming off the roof, et cetera, it diminishes the value of all properties in the street. In those cases, the council is empowered to intervene to protect the interests - protect the property rights - of all of the neighbours. In places like Houston, where public planning is very weak, there's a very high premium paid in the residential property market for strict regulations because - for that very reason - they know that their property value is a function of what's happening up and down the street, not what's happening on their place.

So I do not think the term "erode" is the right term. What happens is that the property rights are being defined, and with any particular rule - whether it's, "You can have three storeys," or, "You can build a block of flats," or, "You can have a business here," or, "You can have two parking bays," or whatever it is - you could have a high front fence or no front fence - you can't tell from what they say whether they're going to enhance or diminish the value of the neighbours' properties or not

unless you look at the particular case, unless you look at what's going on in the street.

A rule that says, "You can't demolish," will add significant value to the neighbours in one street and take away in others. There's no question about that. Even in a contemporary suburb, if you allow people to do things - to exercise sort of a liberal view of their property rights - the rest of the street would be up in arms and say, "Well, that's not why we bought here. Our property rights are being infringed, because this person is running a business or is parking their semitrailer in the front yard," et cetera. The property rights that the planning protects are essentially the neighbours', so I think "erode" is the wrong word. In every case, it's defined and the tradition is it's defined to protect them in almost every case.

DR BYRON: Very good. I'm afraid we're going to have to move on. Are there any final closing words that you'd like to leave us with, or do you think we've covered the ground sufficiently?

MR J. DAWKINS: Yes, thank you.

MS KIERA: Thank you.

DR BYRON: Thank you all very much for coming. Thank you for your input.

MR J. DAWKINS: We look forward to reading your report.

DR BYRON: Draft report first.

MR J. DAWKINS: Yes, we'll respond.

DR BYRON: Next we have representatives from the Town of Vincent. Thank you very much, if you would each like to introduce yourselves. Thanks for coming.

MS EAMES: Thanks, Neil. Tory Woodhouse and myself are here representing the Town of Vincent. I come from a background of working in five or six different local governments in metropolitan Perth for 11 or 12 years. Tory has also worked regionally in heritage, in Kalgoorlie and Boulder. I have also got some regional experience with the Australian Bush Heritage Foundation. That is, briefly, our background. Our comments are fairly succinct today. We have broken them up into some fairly broad subjects. We have provided some case studies in our written submission, so we won't go into those at the moment.

I suppose just as an overall statement our aim at the Town of Vincent is very much along some of the lines that Jeremy was talking about previously, about trying to achieve a greater integration of heritage - however we want to determine what that means - into a greater planning strategic sense of how the Town of Vincent operates. Tory and myself are both permanent full-time heritage officers and we work within the planning and building structure of the local authority. We deal very much with heritage, I suppose, from a holistic point of view. We are responsible for the registered indigenous sites, making sure that those are appropriately dealt with.

We have some natural heritage issues that we get involved with. Mostly our time is spent dealing with the built environment, of which we don't have a homogenous built heritage experience. Our Town of Vincent is extremely diverse, both in people and in terms of the built environment, so we are exposed to probably every phase and description of built environment heritage issues that you can think about in terms of Western Australia's heritage.

The issues that we've brought up broadly relate to the importance of heritage management from the local government level; the issues of property rights, which obviously we've been talking about a lot today already; the dualness of the government and private sector responsibilities; the relationship which we feel is of quite critical importance of the three tiers of government - we feel that's a fairly critical point of discussion in terms of the issues paper provided by the commission - the interaction of heritage management and the town planning scheme, which we are involved with on a daily basis; and also the creation and the management of property listings. We've already talked today about whether or not the actual listing action has any critical meaning. It's rather what you do with those listed properties and what goes along with those listed properties.

I think Neil was providing earlier a description of two case studies, where you might have one local authority with a large list, one without any listings. It's what goes along with that place. You can have a place with no list, or nothing on the list,

but it doesn't mean to say that there might be a whole bunch of support mechanisms and incentives that go along with that absent list, if you want to describe it as such. That's something that we discuss to an extent with our daily business. The overwhelming majority of places, if you want to look at the nation's built environment, are obviously on the local heritage lists or are dealt with by local governments. I'd like to see that the issues paper, or the response to the issues paper, acknowledges that to some extent.

Our involvement is on a daily basis and, as I said previously, it's very much a daily debate with people at a fairly critical level. I don't underestimate anyone's interest in the issues. Their desire to discuss issues of property rights and their desire to discuss it at a detailed level is increasing, in my experience. I'm trying to summarise this and trying to make up some time.

One of the issues that we've been talking about is the relationship of heritage in a planning context. We've been talking about what mechanisms should or shouldn't be in place and how that relates to good outcomes or best practice. Our experience is that we are extremely privileged in having two full-time heritage officers. The experience in Western Australia, particularly, is that there are no heritage officers - whatever their subtitles might be - and we are relied on as planning officers, although we're not trained as planning officers. We obviously are heavily involved in that process.

So education, in terms of increasing the training of planning officers, I think is important. I mean, as in everywhere in Australia, planning officers are extremely pressured in terms of output, but the level to which we are discussing the relationship of heritage with so many other issues is not reflected in terms of the planning technical involvement, in my experience. The issues paper raised a lot of discussion about the separateness, if you like, of government and public sector responsibilities. We felt that perhaps we need to discuss that in terms of more of a partnership, rather than looking at separating these issues out. It's not one or the other.

I think Agnieszka previously mentioned that, in her 20 years' experience, it's where there was that partnership of both public and private sector cooperation that the success stories did come out; not necessarily with the success intended, but that was evident in many of her case studies, and probably in our experience as well that's how it comes out. In terms of the issues paper, we felt that that presentation of both private sector and government, as in perhaps more orientated towards an "or" issue - as in government or private sector responsibility - perhaps needed to be more meshed together.

The relationship between the three levels of government is something that we are exposed to on a daily basis, and I think it's quite interesting looking at the

restructuring or the changes in the national assessment of heritage and the new heritage lists at the national level and how that seems to be flowing on to all levels of government, both through state and through local. Whether that's an informal thing, I don't think that has really been discussed in an open forum. I think it is having an impact in terms of how people are looking at thresholds. When I talk about people, I mean in terms of professional bodies such as the Heritage Council and local governments having to provide evidence of how they apply the Burra Charter to thresholds.

I think the national change is having a filtering effect and I think that that needs to be acknowledged and understood, in that that is having a flow-on effect. It is changing people's assessment process, and I think we are feeling it in terms of our relationship with the Heritage Council and in dealing with issues which are both on state and local heritage lists, which are dealt with very differently between the Heritage Council and ourselves in terms of the structures that we have available to us to respond to development proposals. I might leave it there, because most of my case studies were provided in our written submission. I'm happy to talk about those in a verbal sense if you have any queries.

DR BYRON: Thank you very much, Hannah, and thank you very much for the time and effort that went into producing the written submission. In the submission you talk about a place that was entered permanently on the state register in 2001 and the subsequent story, because that seems to me to crystallise those issues that we're talking about; the linkages between, particularly in this case, state and local government. One of the general areas that we're trying to look at is the articulation between the three layers of government and also between each layer of government and corresponding NGOs or private commercial residential owners and so on. I'd just like to explore that question of the relationship between the Town of Vincent and state heritage as it relates to this place that was listed and then approved for demolition.

MS EAMES: Firstly, we try to be involved as much as we can wherever there is an opportunity to be involved in changes to policy discussions, where we have a strong sense that that's going to have an effect on our local councillors and their understanding of the legislation and so forth. Wherever there is an opportunity to be involved in state and national discussions, we try to do so. With regards to places which are on the state register, the increase in the number of state heritage listed properties has had an impact on our resources. It has had an impact, as I understand it would, on state resources as well, but its filtering effect and its registration process at state level does have a very practical effect on us as a local authority.

Where a property, for instance, is heritage listed at the state level, there is obviously then a greater amount of responsibility on the local authority to respond to

that level of significance and the management mechanisms that need to be put in place to protect it. The case study that we provided in terms of dealing with a property which had been left to go into neglect - to a point where an application for demolition, which had been previously refused on several occasions both by the state and the local authority, was eventually approved by the state authority and has yet to be determined by the local authority, who is the final determining authority in terms of issuing the demolition licence - provides us with a case study where there is a discrepancy in terms of threshold and in terms of understanding the evidence, or the lack of, available to the local authority to make a decision on where our responsibilities stand in relation to state legislation and to local legislation. It does provide a fairly in-depth look at where the anomalies - and the opportunities as well - are to look at that relationship.

DR BYRON: As a local government, there are places on the state register that fall into the local government area. There are places that are owned by the town, which are presumably of significance, and then there are privately owned places of local significance that are within your domain. Is it difficult, in getting the balance of resources, efforts, finances or whatever, to cater with those three different types of heritage place that fall within your domain?

MS EAMES: Yes. It's interesting, in that, from a local government elected member's perspective, their concern is obviously with the majority of ratepayers and responding to their concerns. Probably just over half of our properties are privately owned locally listed properties. The rest are either owned by ourselves, by the local authority, are state listed or are of some other description. From our council's perspective, their concerns are with that 50 per cent - or slightly more - if you like, average property owner, often residential properties. Trying to balance the resources is difficult, because that majority of privately locally listed properties only come to our attention generally when they're contentious, as in a derelict building, where there might be a social issue involved, in terms of anything from a dangerous building to other inner-city concerns, or we are responding to a development application. I think balancing that is difficult, but because we respond always only in terms of legislation - where our resources go - it is literally mostly in response to keeping up with development applications.

DR BYRON: But if you were suddenly blessed with an extra X hundred thousand dollars to put into heritage, would there be discussion about whether any of that should be spent on improving the documentation or even the physical quality of council owned property as opposed to providing more assistance to privately owned property within the area or something more about extension of state listed, state owned property within your precinct? There are 101 ways you could spend an extra dollar.

MS EAMES: Yes, and we are forced to do that. I mean, we're in the privileged position of having a council who does actually try to give us quite a lot of funding to do these things and to spread ourselves over all of those issues, in terms of giving us a grant program specifically for locally listed places which aren't covered by state or other grant opportunities; by providing a substantial amount of money to our MHI review; providing an incentives program for documentation and support information for owners of listed properties - - -

MS WOODHOUSE: And money towards conservation plans for places that are state listed.

MS EAMES: We've got a whole range of issues, but the more you generate the more it's expected to spread, which is the same with any service within a local or state government. Where you are able to provide assistance in terms of education and certainty, which is something which Agnieszka talked about to an extent - and Jeremy as well - that's certainly something that we are expected to do as administrators by our local elected members - is to provide certainty - and that's where we're hoping to go with our administration of the heritage within the town of Vincent, which would seem to transgress the political changes that occur every few years or even more so.

MR HINTON: You noted very early on, Hannah, that the town of Vincent was the exception rather than the rule by having two heritage officers in itself, and that's certainly the message we're getting loud and clear as well. A number across Australian local government areas share heritage officers - they are sort of one day a month in some circumstances - but two full-time officers is extraordinary. Can you give me a feel for the sorts of factors at work that led to that occurring in the town of Vincent? What has produced this particular circumstance?

MS EAMES: It was interesting. I was thinking about us in terms of that. For instance, the City of Fremantle has had Agnieszka for 20 years. The town of Vincent was obviously split from the City of Perth about 10 years ago. It took three or four years before they created a heritage planning position within the planning department. Five years ago that was given extra resources. I don't know whether that resulted from an expectation where currently we have a planning issue where we have leftover zonings from the City of Perth days; that is, we have very high zonings in very residential areas. We're going through a town planning scheme at the moment, but we are still dealing with very high zonings left over from the City of Perth days and yet there is an expectation, and always has been, that a degree of resources should be put into heritage conservation within the town of Vincent. The town of Vincent has within it what is probably described as a representation of the inner-city heritage of Western Australia, so we have the privilege of having that as part of our responsibilities to maintain it.

MR HINTON: Was the municipal listing inventory there before two heritage officers were appointed or was the municipal listing, in effect, the result of two heritage officers? Which was the chicken and which was the egg? Maybe they're not related.

MS EAMES: Our heritage list was created in 1995, so approximately one year after the town of Vincent came into being. It was, as with most heritage lists in WA, fairly succinct and dealt with primarily the town halls and the main identifiable buildings that you would expect to be on heritage lists. The thing with our heritage list is that it has always been defined under the town planning scheme as "the heritage list", so whatever is on our municipal heritage inventory is protected under the town planning scheme, regardless of management categories. Nothing has been excised off the MHI to be put into the heritage list. It is all there as a whole, so we treat it very much as a whole.

MR HINTON: So your fundamental role is better articulation of the inventory, either independently or as a matter of course, as well as handling individual cases for development application that impact or impinge on - or the plan impinges on - that development authority.

MS EAMES: That's right. One of the things that we have tried to do, working with the existing MHI structure that everyone is generally familiar with, is to increase the understanding and the certainty of what particular management categories might mean for people. So I suppose we're taking a halfway step towards the certainty issue in terms of, well, for those people that know they are on the MHI, what does that mean in terms of their development potential by helping to define certain management categories and the expectations of what that will mean if you propose a development.

MR HINTON: Can I pick up your comment that it's not an "or" issue - that is, there's a role of government and there's a role of private sector - and to see it as an "or" issue is not the right mindset; you're better off having some sort of relationship between the two. Can you give me a feel for the sorts of mechanisms by which that particular idea might be progressed? How could we better integrate the sort of role of government and role of individual?

MS EAMES: This issue for us became an important one in terms of reading through the issues paper in relation to a particular comment that was made on page 12. Can I quote that?

MR HINTON: Sure.

MS EAMES: "Ideally, provisions of financial assistance should be sufficiently well-targeted to ensure that commercially viable conservation projects are not recipients." This was particularly interesting for us, because we are being expected by our council to provide a lot of support for people with listed properties. Having five commercial centres within the town of Vincent, there are a lot of properties on our heritage list, which are in fairly high-profile commercial areas just like many parts of the city of Perth. A lot of those places, in partnership with us, are on the heritage list, so potentially you could say they have property restrictions on what they can do, but we provide a service to them in terms of the planning scheme incentives available to them, density bonuses, general assistance, opportunities for grants and that sort of thing.

MR HINTON: Can I be devil's advocate for a moment? You're right to quote, because we love reactions to an issues paper, thank you. The hypothetical: I'm a practising dentist in the town of Vincent, I've got a very lucrative business, I'm a very good dentist and I've got this lovely historic building, which is zoned appropriately for commercial. I maintain it, because my clients love my building as well. So in fact I have a very flourishing dentistry business in a historic building that I maintain, because that in fact is an important part of my dentistry practice. Why should the town of Vincent's ratepayers subsidise my maintenance of that building?

MS EAMES: Good question. This has come up a lot.

MR HINTON: I'm not a dentist, by the way - - -

MS EAMES: No. It's definitely relative, because what does "incentives" mean? I mean, we would not want to see a property like that, which is maintained and made the most of, being excluded for instance from a recognition program. Is giving an award and a recognition, which might give you exposure, advertising and incentive, of financial benefit or are we talking about a direct financial exchange in terms of getting access to money? In terms of wanting to provide an incentive, we would not want to see that property being excluded from, for instance, a reward recognition program, an award for conservation work or adaptation, whatever, just simply because, "He's doing well."

MR HINTON: But there's a fundamental difference in kind between recognition and transfer of financial assistance.

MS EAMES: I think that's critical when we discuss incentives, because it is so broad and the expectations of what you can do with your funding, or lack of, in most cases - when you talk about incentives, is it an encouragement program or is it financial incentives? Is it indirect or direct? I think it's critical we define that when we're talking about what individual councils are expected or wanting to do

individually as separate entities.

MR HINTON: So you're implying that incentives, broadly defined, shouldn't rule me out, but it probably does rule me out for financial assistance.

MS EAMES: Quite possibly, yes.

MR HINTON: You're being too diplomatic. You represent your ratepayers too.

DR BYRON: Just coming back to the issues paper, you sort of picked us up in your submission about the line that heritage objectives may be confused with general planning issues. We didn't mean to imply there that the local planning officials would confuse them, but the point that we were trying to make there is that it seems, from some of our earlier discussions, that in a lot of urban areas people who were concerned about the old house next door being knocked down to make way for a block of six units - and those concerns might have been based on carparking, aesthetics, overshadowing or overlooking or whatever - frequently tried to make an argument that the old house next door was actually of heritage significance when in fact their real reason for being opposed was that they didn't want a block of six flats next door.

MS EAMES: Yes.

DR BYRON: So sometimes it seemed difficult to argue, when the heritage card was being tabled, whether it was truly a heritage issue or whether it was aesthetic and then a carparking or whatever issue. So it's up to people like yourselves and planners in the councils to work out whether it really is a heritage issue.

MS EAMES: Which again comes back to consistency in education, and being clear about your terminology, just like any other profession. This goes back to, I think, some of the comments on page 23 of the issues paper, where the confusion of heritage is because we do use that word broadly, and in the town of Vincent, I don't know whether this is going to be we're trying to define cultural heritage significance in terms of the heritage list, and from a planning perspective on the other side, determining what is townscape or character areas. When we talk to people, we try to make it very clear in their conversations which one are they talking about, which is the example you're talking about.

DR BYRON: When a place is listed on the heritage directory, that is with a complete sort of citation of why it's significant, and therefore, given that these are the values we're trying to protect, A, B and C might be permissible, but X, Y and Z certainly wouldn't be. It gives some sort of guidance to the owner or prospective owner about why it's on the list and what that means.

MS EAMES: That's correct.

DR BYRON: Because we've seen some other municipalities in other states where they simply say, "Number 42 is listed," and it's not clear whether that means you can do anything as long as you don't change the street appearance and the facade and the returns, or whether it means you can't change the tiles in the bathroom without getting a development consent.

MS EAMES: Yes, that's where we're heading. That's halfway where we're at, and that's the intent, and that comes back again to - I mean, we're lucky to have the resources to try and make that a reality, and to make that an ongoing practice, but again it comes back to ideas of threshold and how you apply that, and what Agnieszka was talking about in terms of understanding what the community values are, because essentially that's where your thresholds come from - understanding all those issues. Without that you can't have all the nice descriptives and planning mechanisms to provide people with that certainty, without doing those earlier stages of understanding what it is that the community, the local government, want to protect and conserve, in the most progressive sense of the word "conserve", in that, you know, make the most of what's there and ensure that it's there for future generations.

MR HINTON: Can I explore that slightly further? It's relating to some of the points in our issues paper about what is nationally significant, what is state significant, then this large number of locally significant properties and places. There's the issue of not only identification which we've touched on a little. There's also a question of funding those that are deemed to be worthy of conservation. One view put to us is that that which is national should be funded nationally. Those which are state should be funded state. When you get down to locally significant, then judgments about that are made locally, against criteria with a local dimension, but then funding also should be local, therefore the ratepayers of the town of Vincent would pursue the heritage objective associated with those sites within the town of Vincent that are locally significant. Is that an oversimplification of an appropriate construct for funding, or is it apt?

MS EAMES: Taking into account that the local list of places may have a large number of state-listed, or a proportion of state-listed places, if we take that out of the equation - - -

MR HINTON: Yes, take that out.

MS EAMES: Yes.

MR HINTON: Particularly the town of Vincent which has, I suspect - - -

MS EAMES: A fair number.

MR HINTON: - - - a fair proportion of those which would have state significance, therefore should be subject to "state assistance" in quotes.

MS EAMES: I don't think it's an oversimplification. I think it is assuming firstly that there should be funding . I mean, that's a question in the first place. You know, if you're saying each level should have funding given to them, or available under certain criteria, you're assuming that people have a need for that funding, that conservation. So if you take that as a given, at local level that's questionable or debatable, I suppose, but I think it becomes debatable because often people can't see why places have been picked out or identified - that is, some places - I think it's because we're in a transitional stage at the moment - where you might have one house at number 1, another house at number 3, and to the general public one might look pretty much like the other, except one has been heritage listed and one hasn't. Now, maybe one has been heritage listed because an owner wants to get a \$3000 grant so that they can do their garden or whatever, and the other one is not interested - it's a rent property or whatever.

If you look at that from the outside, you've got two similar properties: one listed because the local council has not received an objection and the owner is quite willing to have it heritage listed; the other because the other owner is not interested and it hasn't been picked up in a survey. Now, from looking at it in terms of access to funding, how do you distinguish between those two? Is it just simply because one person is proactively involved in the process, and the other isn't?

MR HINTON: But that still mightn't have any implication for conservation, if neither property gets subject to a development application.

MS EAMES: That's right.

MR HINTON: But if the second one, number 3 - then he wants to knock it down and put up a set of flats, presumably that would activate - under your town of Vincent system anyway - planning approval - - -

MS EAMES: That's right.

MR HINTON: - - - which would have within that consideration a heritage factor, which would say, "Hang on here. It's not listed but it is heritage."

MS EAMES: So then presumably, if it was refused for development - - -

MR HINTON: Heritage.

MS EAMES: Yes, then they would equally have access to that funding.

MR HINTON: Yes.

DR BYRON: I think that just about exhausts my questions on the written submission. I think we've covered most of the points from your opening remarks. Was there anything else that either of you wanted to say in the way of summing up?

MS EAMES: Tory?

MS WOODHOUSE: I've been nice and quiet. That's all right, Hannah. You've done a good job.

MS EAMES: I think probably if we could see a little bit more response or debate about the relationship of the three local governments and the three tiers, I think that's becoming increasingly important. That's really important for us. I mean, you may just say we're each local governments doing our own thing, which is great, but I really believe that we can start feeling the effects of state and federal changes, whether they're implicit or, you know, direct. We really are feeling those issues filtering down and affecting general approaches and comments and awareness and - - -

DR BYRON: Some of the other local governments have said to us that they see a sort of a cost-shifting process going on, where local governments are being given the responsibility for additional heritage conservation, but not given the matching resources to go with that responsibility and accountability, so yes.

MS EAMES: We can't speak from experience, because we're privileged in having resources, but having experience in other places and with other organisations not having those resources, I'd agree with that, yes.

MR HINTON: Add my thanks to Neil's for your participation - both your written submission and your attendance here this morning, so thank you very much.

MS EAMES: Thanks for the commission. Thank you.

DR BYRON: Thank you. We'll now adjourn for about 10 minutes for a quick cup of tea. Thank you very much.

DR BYRON: Thank you very much. If we can resume now with representatives from the National Trust of Western Australia. Gentlemen, if you could each introduce yourselves in your own voices for the transcript.

MR PERRIGO: Tom Perrigo, the Chief Executive of the National Trust.

MR MITCHELL: Robert Mitchell, Manager of Community Services, National Trust.

MR PERRIGO: It is our intent this morning to briefly talk to our submission. Firstly, I'll introduce Robert who is the primary author of the submission and then towards the end of this I'd like to also speak as a private citizen, not as chief executive of the National Trust. Thank you, Robert.

MR MITCHELL: Yes, if I could just briefly review and speak to the executive summaries. From the terms of reference the Trust focused on developing concepts of social capital and the link concept of public good. Those have been developed through our presentation. The submission really seeks to identify that historic heritage conservation is an important part of our social capital and that we have the opportunity here to value that capital. We recognise that there were gaps in the research that did not permit us to fully document some of our areas of concern but we've identified those as areas which possibly could be followed up by the commission.

We feel if there is any market failure in our sector it's where direct income from our operations and admissions is inadequate to fund the basic operating costs and maintenance of heritage places. But that notwithstanding, the not-for-profit sector is, because of its community links and reliance on volunteers and ability to value-add, a very cost-effective provider of heritage services to the community. In further developing our arguments we feel that a process of voluntary compliance rather than regulatory approaches are a way - and also with community partnerships - are a way again to add value within the sector.

In identifying a number of recommendations, one of the key recommendations is to fully provide the linkages in a national heritage framework and in a couple of our case studies and recommendations we've identified where we feel there are disconnects, particularly at the state and local government level. The whole concept of using incentives is further developed in the recommendations, as is the concept of clearly opting for consistency through the separation of policy and regulatory regimes. We've used consistency rather than certainty because we realise there are many areas within property ownership and heritage conservations where - cannot provide the certainty but you can at least provide the consistency in the way the issues are developed and the regimes are followed through.

In developing case studies, the National Trust felt that it had a particular interest in doing this because although we've been involved in heritage conservation from a policy and process level for 45 years here in Western Australia, we are also directly involved in operational aspects in maintaining and presenting to the public heritage properties. The case studies illustrate some particular aspects. In particular, the long planning timeframe for many of these projects; the scale of the projects that can be undertaken to have significant community impact; the value of partnering within the sector, both with other community groups and with governments; the ability or the willingness of the public to assist in the process and this is particularly in our case study of our heritage appeals; and then also the ability of using projects to bring together environmental issues, multicultural issues within the presentation of a heritage site. So we would be happy to follow up on any of those points which we've raised in our tabled document.

DR BYRON: Thank you very much, Robert. Tom, did you want to add anything to that at this stage?

MR PERRIGO: At this stage, no. I'm happy to speak with you - - -

DR BYRON: Right. Thank you very much for the written submission and for the beautiful set of case studies, which I look forward to poring over in great detail, and thank you for the obviously great amount of work that has gone into preparing that for us. I do appreciate that and thank you. I guess I shouldn't be surprised that there is a very high degree of correspondence between the recommendations in the Western Australian National Trust submission to the Australian Council of National Trust. It's good to see that you've all got your act together, so to speak.

MR MITCHELL: Yes.

DR BYRON: Not that I'm surprised by that, of course. Now is probably not the best time to respond to the national submission from all the National Trusts, from the ACNT, but since it's the first recommendation in your submission that we should attempt to determine the value that heritage has for the community, that seems to me to be in that class of questions like how long is a piece of string. Although I've never actually attempted to quantify in dollar terms heritage values, I have I think on seven different occasions in five different countries attempted to quantify environmental or ecological values and in each case have got to a point, about two-thirds of the way through and after a few million dollars, of deciding that I couldn't come up with a number that I could myself accept as reasonable.

My conclusion as a result of all those experiences was that it's important to recognise that things have very significant value and to make decisions based on that

recognition but it may not be necessary or helpful to try and put a precise dollar number, dollars and cents, on that. Like, you know, the value of my relationship with my wife and children is extremely important but don't ask me to tell you how many dollars that's worth. The value of Australia's beaches and climate is extremely important to our national identity, our ability to win Test matches or Olympic matches, whatever, but it wouldn't be helpful to say the value of Australia's climate and all the beaches is X squillion zillion gigadollars.

Now is not the right time and place to respond to that recommendation but I guess I'm expressing a certain reservation about, you know, why do we need such a number? What is the question for which such a number would help us come to the answer? Or would it be satisfactory to simply say we recognise that there is very great cultural significance, historical, et cetera, of these heritage places and act accordingly, irrespective of how big or how many zeros after the number? Any reaction?

MR PERRIGO: Yes, thank you. It's a very good statement although I suspect we have got to recognise we - in the big "we" - that heritage does have a value. We all know that but we have very little documentation to say why it has a value, not to the amount of the value but what is the value or what are the possible values. In the argument for increased investment into any industry, one has to articulate why one needs to invest, whether it be the economic, social or environmental dividends that are returned for that investment. The heritage industry does not have such research and does not have such documentation.

Consequently, when we are trying to press our case, whether it be nationally, state or local, that one needs to invest more in the conservation and interpretation of heritage, we don't have the background material to argue that case successfully. Consequently, we're currently into a debate - a subjective decision, an emotional debate - which, quite frankly, when you're comparing the investment, why build a hospital or why save heritage; hospitals save lives and therefore most money goes to health or hospitals. I'm not necessarily saying that money shouldn't go to hospitals or more money shouldn't go to hospitals, but currently the discussion to why invest in our heritage is very poor and we need more research to show that.

Studies internationally, certainly in the UK it has very successfully - certainly in south-west England, have shown that an investment into heritage conservation returns a vast amount of social and economic dividends to the community of south-west England. Those are the sort of studies that I think we need more in this country.

DR BYRON: Yes, particularly studies that look at the question of why it has value and to whom, and how that can be increased I think is potentially very useful. But if

somebody says that the value of Sydney Opera House is X squillion dollars, that's not a terribly useful number because is the policy implication that we should therefore build one on every street corner or that we shouldn't demolish the one in Sydney? Just having a number doesn't help but if you can say an extra million dollars going into heritage conservation in the town of X would pay back Y, then that actually becomes a far more constructive sort of piece of research than just taking a snapshot at a point of time and coming up with a number, because the number will actually generate a great deal of controversy about whether it should be double that or half that.

MR PERRIGO: I absolutely agree.

DR BYRON: And you don't really need the number.

MR PERRIGO: The methodology is far more important than the initial product because that is a constant methodology that we need to continually use and develop. One of the main issues with heritage conservation, of course, is the maintenance of heritage. Whilst money for capital investment mostly is around, why should one continue to maintain Australia's built heritage. It's, again, that methodology saying, "This is a good investment."

DR BYRON: I know that the National Trust in WA works in environment heritage as well as built historic heritage. When we were looking at native vegetation and biodiversity conservation, rather than attempt to say the value of Australia's biodiversity is X, we were saying, "Well, is there a system whereby we can work out whether a particular piece of land or a patch of native vegetation - what are the additional benefits if it's - - -"

MR PERRIGO: Exactly.

DR BYRON: " - - -what are the additional costs of conserving it and who is going to pay the costs?" rather than coming up with the value of biodiversity Australia-wide is zillions of dollars.

MR PERRIGO: That's right.

MR MITCHELL: One of the intentions with the recommendation was just to signal, particularly in academic circles, that research in this area would be welcome. With some of the initial proposals through the ARC grant system, clearly the evaluators didn't understand why this was being proposed or the context of these and certainly signalling that research of the type that's being discussed would be of use. I think also that from a business case perspective we've seen within our heritage appeals there is a public willingness to respond and contribute on a voluntary basis.

It's really trying to document to what extent can that be exploited with the conservation initiatives within the built environment using the parallel of the successful exploitation of public interest in natural heritage conservation, particularly on private land.

MR HINTON: Neil has questioned your first recommendation. In my questioning of your second one I wish to give a signal that I do value your submission very much.

MR PERRIGO: Sure.

MR HINTON: Those first two questions shouldn't be taken as indicative of an overall evaluation. But the second recommendation in your executive summary referred to the commissioning of a consumers' willingness-to-pay survey. Perhaps as a devil's advocate but perhaps as a sort of very quick reaction, willingness-to-pay surveys usually are extremely unreliable in the history and research. I'm just wondering why you would wish to put forward that sort of proposition when the value you might get out of it would seem to be significantly doubtful.

MR PERRIGO: We would bow to your expertise on the use of such surveys, but one thing - we are trying to say that we do believe very strongly that there is a willingness out there to invest in the conservation of Australia's built heritage. That has been demonstrated by the number of appeals. It's also been demonstrated by the company in corporate investment. The extent of that interest is something where we're trying to signal what really is the - I mean, we ourselves have conducted market research with Morgan Gallup and it was something like 95 per cent of Australians or 97 per cent of Australian showed an interest in heritage, and 95 out of that 97 per cent were willing to invest in heritage.

That being the case signals to us that there might be an additional interest out there but which may be driven by the private sector or the taxpayers if the tools were put right; that they may be willing to reinvest or invest from the public good into heritage.

MR HINTON: There are at least two aspects of willingness to pay. One is would you as an individual be willing to pay?

MR PERRIGO: Yes.

MR HINTON: The most reliable indicator of that is the actual giving funds, and that does exist and is a very clear indication of willingness. Responding to a survey that you would be willing is seen by most researchers that I'm aware of - and I'm open to be corrected - proves to be quite unreliable.

MR PERRIGO: Sure.

MR HINTON: The second aspect is willingness to pay as a generic proposal through the tax system more generally; that is, through consolidated revenue. Now we're even getting weaker conclusions because everyone would love more money to be spent by government on X, Y and Z. It's a question of the implications of that for A, B and C. That is, you may then be spending less on A, less on B and less on C or you'll have to have higher taxation. Those sorts of calls never seem to emerge with any rigour out of surveys, so I really wanted to respond this morning to that recommendation.

MR MITCHELL: Yes. One of the initiatives which we would perhaps like to draw your attention to would be the same argument could have been used generally with respect to health promotion 15 years ago, and developments in health promotion research, particularly here in Western Australia that have been funded through Healthway, the Health Promotion Foundation, have taken and refined the techniques to get - looking at smaller - those small nuances in the surveys to see if they could get a better understanding of the community sentiment and the willingness - in that, using a generic willingness-to-pay terminology.

Again we're hoping to signal that there is an opportunity for innovation and further research to give a better understanding of the community's perceptions in heritage, and some of the methodologies perhaps in health promotion, and health promotion research would in an academic sense give opportunity for more detailed and better research outcomes in this area. Again it's an opportunity signalling that there is a need there and a potential for refinement in this area.

DR BYRON: Just continuing with the comparison with the national heritage conservation, one reading of the existence of organisations like Australian Wildlife Conservancy or Australian Bush Heritage Fund is that there's a lot of people out there who think that there should be more natural heritage conservation than what federal and state government and local government are doing with the existing taxpayers' money. So rather than - or perhaps in addition to - lobbying that the state should do more, they put their money where their mouth is. I don't know whether it was the Bush Heritage Fund that says, "We don't beat about the bush, we buy it."

There are mechanisms that reveal to me that there's a significant number of people in the Australian population who not only say they value more natural heritage conservation than what governments are doing; they're willing to actually contribute money to do that. It seems to me that National Trust is the same sort of organisation. If people look at what governments are doing and say, "We'd really like to see a lot more heritage conservation than that," they have the opportunity of

saying, "Here's a donation to the National Trust. We really like what you guys are doing. Go out and do more of it." Is that a reasonable sort of comparison?

MR PERRIGO: It is, and those - I think one of the things, however, that the recent changes - is the Trust is not trying to define itself as an organisation in its own right but in more of a vehicle for partnerships with others. I think the future directions of the Trust, certainly in this state and some others, is that these partnerships will continue to develop, and one of those most important partnerships is with the state government. As you know, in many parts of Australia there is a revolving fund for the natural environment, where properties are bought, sold with appropriate covenants.

I'm pleased to say that in Western Australia the time is almost here where the state government is partnering with the National Trust and we will have a revolving fund for the built environment. Now, once that gets into play, once that starts, I think then it will snowball into quite a significant force where places which have to be acquired to protect them will be done so through the use of this revolving fund mechanism.

DR BYRON: What the National Trust of Northern Territory told us last week is that they were sort of an owner of last resort where, if the government had some old buildings that were now surplus to requirement that they didn't want the expense of maintaining and looking after, they would give that as an asset to the National Trust and then say, "Right, now you guys look after it," but without necessarily giving them a matching recurrent fund.

MR PERRIGO: That's a consistent message across Australia, and it's also one that has been addressed worldwide. In the UK, of course, the Trust through I guess the formation of death taxes certainly in the 60s and 70s acquired great estates, obviously as a last resort. What the Trust found out in that period of the late 70s and 80s, it's the rising recurrent cost of maintenance and insurance exceeded any amount of gift or perception of gift. They introduced a thing called the Chorley formula, which says that in the future, should a property be given to the National Trust, they won't accept it without an endowment, and that endowment of course is such that it can ensure the conservation and perpetuity.

It's unfortunate that 80 per cent of the UK National Trust properties run at a deficit. The 20 per cent that do run at a reasonable price come with a large endowment. In Australia I think it would be safe to say that 95 per cent, or maybe more, of National Trust properties - I can think of only two in the 320 that are financially self-sufficient. They come with no endowment. Having said that, we are now becoming an interested party in bequests and donations, and it's something that this generation or the previous generation is now recognising: that a donation into

the conservation of built heritage is a pretty good donation. That's going to accelerate, I think, more than ever.

DR BYRON: Is there a contradiction between what you just told us and what we were discussing before? On the one hand there's a large number of people in Australia who say that they highly value historic and cultural heritage places and would be willing to contribute money, and yet the actual takings from admission fees or whatever to National Trust properties, or even other owners' properties, isn't enough to cover their costs. Why is it that people will say, "Yes, we're very interested in heritage conservation," but the visitation numbers or the amount that they're willing to pay to visit a Trust property is not sufficient to cover the costs of that property?

MR PERRIGO: Two distinctly different issues there. One is - and the Trust, I'm pleased to say, is changing. The presentation is different from the conservation. The Trust, in the days that it acquired these properties by either gift, donation or whatever reasons, conserved them. The interests of people in conserving things can only be measured when it's no longer - or the threat is real. For example, if something is going to be demolished then one can gauge the interest because in the negative it's going to be gone if you don't save it. The changing nature now and the realisation which is going to come out that the maintenance is equally as important as the initial conservation - those present two different challenges. They're quite exciting challenges for the Trust movement and others.

If you are going to conserve a place, the interpretation of that place must be taken into account for the public good but there are many other mechanisms available to conserve a place than just open it as a house museum or a public place. I'm pleased to say that the National Trust movement will not be running all its places exactly the same, nor should they. Every place is different and that's one of the great things about the Trust movement now - is our new innovative ways to maintain places without trying to masquerade them as house museums or places to visit.

MR HINTON: In your summary of the submission you pick up that example or that circumstance of museums - revenue falling well short of maintenance, education and whatever. You describe that as a clear example of market failure. In most of the literature that would then lead you to a next judgment to be made that then warrants government intervention. Market failure doesn't necessarily mean the need to intervene by government. There needs to be some other call that government should intervene.

MR PERRIGO: Yes.

MR HINTON: From your summary - it doesn't take me through that next step: it

therefore follows market failure, government should intervene. Can you give me a feel for the sort of considerations and deliberations that then would lead you to that next conclusion - which some of your recommendations touch on - that government needs to intervene.

MR PERRIGO: I don't think government needs to intervene at this point in time until the avenues are explored of what partnerships can be made with the private sector and the community. I think the market failure has been a general one of lack of information and knowledge about maintenance and the cost of maintenance and the challenges of maintaining a public good that is not factored into any sort of literature.

When and only if something is significant enough that an alternative of partnership with the local government and the private sector cannot be involved, it is then that the government may intervene by assistance or targeted investment into that product. We're not asking for the government's intervention to maintain National Trust properties, unless it is deemed to be in the state's interest or in the nation's interest to do so. I must say that there are a lot of steps in between before we take that because there are a lot of alternatives that have yet to be explored with partnerships.

In the case of most of our case studies which we have documented there it speaks very clearly of partnerships with local government and local communities. That, at this point in time, seems to be our primary interest and naturally seems to be working. It doesn't necessarily exclude the government investment into those partnerships, but we're not asking for sole government assistance to maintain the place.

MR MITCHELL: One aspect which we do bring out in the body of the study is that where there is government intervention that an aspect which should be given a higher rating is evaluating the outcomes. Too often the intervention is for capital works. It has a great fanfare, ceremony and something is put in place. The "so what" and the evaluation of the impact is never budgeted into that allocation. So if it ties back to our concept of research or closing the circle that when you are providing an intervention, unless there is a mandated requirement for evaluation as opposed to just acquittal and really looking at the impact of that investment, it really seems to be devaluing that contribution. So we have developed within the body of the proposal a concept that evaluation of the outcomes and the impact of the investment would be useful not only to the recipients but also to the donors and could be useful then in refining any future interventions.

MR PERRIGO: I might also say that we do feel, both from a National Trust and certainly from a personal point of view, that the percentages of distribution between

the industry identification and assessment and listing of heritage as opposed to the actual conservation and interpretation, is far too skewed one way or the other. It's the amount of money for actual conservation and interpretation and development of the skilled workforce, and the flow-on economic and social benefits that have been articulated in the literature from such a skilled workforce are minuscule compared to the actual investment into studies, surveys, reports, conservation plans and that whole aspect of the industry.

MR HINTON: I had another set of questions on a slightly different topic. They're to do with two points in your summary, quite separate but quite related; separate physically but quite related. The first one is that you express the view that the conservation regime should be separate but closely coordinated with planning and development, which as an aside I mentioned would conflict with some others who appeared this morning who say that it's fundamental that the two be integrated together, and the second reference I'm picking up that relates to that is that the advantages of a voluntary compliance supported by incentives for heritage conservation outcomes is the emphasis rather than regulatory regimes.

The two didn't seem to gel to me. You've got a regulatory regime, whether we like it or not, either embedded with or integrated with the planning, which is one issue, and then you've got emphasis on voluntary rather than regulatory. Can you elaborate on that apparent discontinuance?

MR PERRIGO: Certainly, and we hope that they are complementary rather than discontinuous. The first issue is one on which I also was going to talk privately, but I can raise it now. There is a clear absence of policy in the heritage industry, and one of the things we're looking for is a separation policy from regulation; policy and the determination of policy. Let's take for example a state government. Determining a policy across to state government means that that policy document is adopted by a Cabinet and it flows on through all government regulators and regimes and the government stands by that policy. Clearly in Western Australia there is no such policy, or there is a fragmented policy, and that policy decision-making process should be done by policy-makers, not by regulators.

The next point of regulation, we strongly endorse regulation and we didn't mean to suggest that we didn't. However, we must balance the role of regulation and not overplay its card. Regulation is important; it's essential and it should be targeted when needed. If all of government had a policy on heritage, that would be built into the planning regimes and as a matter of process heritage wouldn't be a walk-on part in the last chapter of the development, but in fact part of the up-front policy of development applications. Consequently, I think it would reduce much of the market confusion. A regulator then is something that we strongly recommend, and that role of the regulator should be clearly articulated, and we feel in the heritage industry it's

not. It's confused.

There are a lot of regulators because heritage doesn't necessarily fit across policy across the state, and consequently there is confusion in the market. Who is the regulator? Why is a regulator being done? If in fact there is a policy; if there are processes put in place, then the role of the regulator is to regulate the policy, not regulate the development which may affect the policy. Finally, the introduction and strengthening of voluntary incentives is of course attributed similar to the natural environment. I mean, it's just commonsense that if one comes up with an application for someone who is interested in doing something positive, one has a greater chance of success if you invest in that positive.

For example, in the natural environment, if there's so much money around for the conservation of biodiversity, a person with a land-for-wildlife argument perhaps has already shown a level of commitment, they should get a little bit more money, or certainly a better bite of the cherry, because they've already shown that commitment. Then someone comes along with a conservation covenant. They have already shown a strong commitment. Targeting that investment into that level of commitment is going to give you much greater returns on that investment and there's no reason why that can't happen in the built environment.

There are so many opportunities. Instead of a regulator demanding a heritage agreement as part of a development application when an operator might say, "If you voluntarily enter into a conservation covenant, here's so many rewards; tax or whatever and there's a grant," already you've got the opportunity to invest in that commitment, and that's what's sadly lacking in the heritage framework; that they're overlooking or perhaps they haven't even identified the voluntary commitment of the market to actually conserve heritage.

MR HINTON: That reference to incentives takes me to a query on one of your other recommendations, and this is the recommendation that relates to the sort of obligation on owners - have a duty of care and therefore must commit adequate resources to conserve and retain places in their care. You particularly make that important for governments, and I understand that, but you do not leave out the private sector, and I welcome your articulation of how you think that might work, which *prima facie* would suggest to me that that duty or obligation for conservation on privately owned building - quote, "Identified as having heritage significance" - I think could generate some significant reaction from some communities, or certainly some in some communities. So I would welcome your better articulation or elaboration that you probably do in your detailed submission, but this morning I'd welcome that comment.

MR PERRIGO: Certainly. First of all, we do believe everybody has a social

responsibility to conserve Australia's heritage. Everything has heritage value. Let's get that straight. Everything does, and it's the degrees or levels of value that we're talking about. In the case of all private landowners, all governments, all corporates, there's a duty of care to conserve their heritage, or our heritage. In the case of levels of significance or of something that is of state significance, we do believe that whilst the private owner has a duty of care regardless of what list it goes on, then if it was on a state or national level, there's additional incentives perhaps offered to that private owner to help them maintain their heritage values. But we're not particularly enlightened by the fact that just because it's on a list or it's off a list doesn't eliminate the duty of care for a social responsibility.

This is one of the great fears of the National Trust movement, that the things that don't go on a list are automatically seen as having less or no heritage values, and that whole concept then becomes one that's murky because of the issue of the lack of subjectivity on threshold and a few other things. So every property owner, every landowner, has a duty of care to maintain the heritage values of their place. What we're saying then, if there are different levels, different incentives could be offered to help that landowner look after it, but nobody has the right to irreversibly destroy the heritage values of that place, because those values relate to society in general, not just to the individual.

MR HINTON: But a key word then becomes "identified".

MR PERRIGO: Yes.

MR HINTON: Who identifies as having heritage significance? What level of significance in circumstances where everything is of significance, and I understand that construct. In fact, it was put on the table this morning at an earlier part of this public hearing. So it's a question then of, if it all has significance, it then is identified; eg, a list is one example.

MR PERRIGO: That's right.

MR HINTON: That would seem to warrant essential rigour to that identification process if you then impose an obligation on the owner to conserve it, because that would seem to have potentially very significant implications for some private individuals who might not have the resources. They might have to sell it. They might want to develop it.

MR PERRIGO: Absolutely, and I guess that clearly signals to me anyway an opportunity that the identification and assessment of heritage values, whether they be social, scientific, historical or aesthetic, and perhaps even spiritual coming into it, must be done by experts. And that identification of heritage values done by a level

of expertise who then pass that decision on to, if you like a regulator or - sorry - a policy-maker. At the moment the identification and assessment of heritage values are done by a mix-match of expertise, community consultation and everything else. So the decision that goes up to a body or a minister that has the authority to put something on a list which then signals a regulatory approach is confused with the market.

What we're arguing here is the heritage advice going forward to the decision-maker to put something on the list should be done by expertise in the social, aesthetic, historic and scientific environments. Then the process of whether or not to put that on a list for regulation, the other factors come into play, which are normally part of a planning regime; economic and the impact on the private landowner, et cetera. At the moment the whole thing is confused, and this is, I think, creating great market uncertainty, because we don't know if it's heritage value or not because of all the other factors being factored into this. For example, social significance is one of the criteria. I know of no state or even federal heritage regime that has expertise in the social significance environment.

So it's very interesting that if something is deemed to have social value, where is the expertise in determining that social value and what is the comparative analysis of that social value? You can't make those decisions unless you have expertise making the recommendations.

MR HINTON: Robert, did you want to - - -

MR MITCHELL: I just wanted to come back to the first question, sir. On the policy and regulation, one of the things that we do highlight in our detail is the whole concept of development authorities where the ability to set policy, the ability to regulate and the ability to develop are given to one entity, which is outside the normal concepts that we have of order and good government and it does introduce interesting conflicts and uncertainty within areas like local government and in communities.

So we just address that as one of the indicators of where - the bottom of page 24 - there are issues raised by this combining together, not only of policy and regulation, but also development and financial implications into one semi-autonomous authority which is beyond the normal range of controls that would be applied to municipalities, individuals or other government agencies.

MR PERRIGO: We do accept and strongly endorse the fact that developers want a one-stop shop. They want to come to a place to say, "Does it have heritage value? If so, what is that heritage value? Is it of national? Is it of state? Is it of regional?" and we do believe strongly - and we have articulated that in our submission - that that can

happen quite easily. It's the decision then of having heritage value and then adding in all those other variables - do you put on a list or you do not put on a list. Those are questions that only government in the case - whether it be local, state or federal government - have to understand the economic and other requirements of putting something on a list in perpetuity.

DR BYRON: That's very helpful. Maybe in view of the time, Tom, we could move onto the points you wanted to raise in your personal capacity, if we haven't already touched on them.

MR PERRIGO: Thank you. Very quickly, whilst this presentation is by myself I have got to articulate that it does not necessarily reflect the views of the National Trust and must neither be interpreted nor attributed as such. However I have had 20 years in the industry and I felt strongly that I wanted to make a few personal points. Firstly, if one wanted to discard the current status of heritage in Western Australia - perhaps all of Australia - I think I would use three words: confusion, controversy and conflict. It's unfortunate that that has happened because I don't think it needs to happen.

Very quickly I am just going to summarise a couple of points. I believe that the market, the community and the industry is confused in many ways and that, unfortunately, generates controversy and conflict and, unfortunately, waste as well. It is not my intent in my paper - which you will get - to articulate the activities of the past; that is neither here nor there - but rather to identify some of the key challenges for the future.

A couple of points I think I will raise. Firstly, the language is appalling. There is mass confusion on the language. Even the industry itself has a definition of "heritage" that varies. What is heritage? Heritage is about values, not about place. It's very clean in its definition, but having a consistent definition is important; having a consistent definition of "threshold" and, more importantly, a methodology of measuring threshold. At the moment the measurement of threshold is subjective, not objective. If a developer, a private citizen or anybody says, "Well, why didn't it pass the threshold?" it is simply a subjective conversation. It's emotional. It's not articulated, thus creating confusion in the marketplace. If one has these values - social, scientific, et cetera - one needs to develop an objective measurement of those criteria and then can clearly indicate, "I think it can be done." Clearly indicate what threshold, why it didn't go on a threshold, as equally as why it did go on a threshold.

I am certainly tired of seeing the arguments, "Oh, it didn't quite reach the threshold; therefore go ahead and destroy it because it's not on that list." I mean, that's just ludicrous. Until we articulate that stuff we're still going to have confusion and controversy. The issue of holistic legislation, holistic approach towards heritage,

I applaud the Commonwealth government's approach to it and I deplore state government's lack of action, not recognising that heritage is not about buildings or objects or sites, but it's about the values of place and, whether it be built, natural or indigenous sectors - they all overlap. There is no such thing as a silo mentality and, consequently, until we articulate that in legislation and actions we are still going to have mass confusion.

World heritage places in Western Australia, for example, aren't even on the state heritage register. Now, what sort of confusion that gives to the industry, to the public and to developers - and, more importantly, what role they have. Standards or lack of standards: standards need to be transparent and defensible and that means criteria and processes for determining heritage values. They're not. I mention briefly in the other thing the development and assessed by expertise. I strongly believe that heritage councils, heritage bodies, should be composed of having expertise and they deal with heritage values, identification and assessment of those heritage values. That recommendation to a decision-maker should be transparent. We believe, for example, a heritage council goes to a minister and says, "We believe this has heritage value because of X." What the minister or the decision-maker, local government, then does - could be taken into all the other variables, and one has to respect that process because there are variables. What happens now is that the two things are confused.

The questions of assessment and listings, what should be kept, why, whose responsibility - we did cover a lot of that. What should be kept? Personally we believe as much as possible. I mean, having a general comment like that isn't any more different from biodiversity - as much as possible - but the decisions of what should be kept again should be transparent and defensible; not just random ad hoc, which they currently are.

Why keep them? The question: "Why keep places?" There are two answers: (1) now, and the values of society today and, in our case studies and my experiences, for the future. Some of the reasons, keeping things today won't be transparent until the next or even further generations but, thank goodness, we kept them, and often if we use a value system today to make decisions just for the day we are missing those opportunities for the future. Whose responsibility? Again, we talked about duty of care, corporate, government investment, and it all relates to accountability of the processes.

Targeted investment. I cannot speak highly enough about this. We have to change this whole approach of incentives. It's very clear in the natural environment and, over the years, the success of the incentives programs and how they are continually evolving, even to the point of last month when we looked at different mechanisms slowly being developed now for people bidding for incentives. We

have a covenanting program in the natural environment that is a proven success winner. Why don't we have a voluntary conservation covenant in the built environment? It's simple. I think it's worthwhile and we have got to reward the people who want to do the right things.

Finally, separation. A policy - again we talked about that, but we need a better opportunity; a clear and dedicated focus on policy and policy development; for example, in Western Australia we have a very good heritage disposal policy by government and that's very, very important but, overall, heritage policies are poorly articulated and with policy comes research. I think the two relate very closely together: good research gets good policy and vice versa. At the moment we have almost no research in heritage and certainly no overall heritage policy.

The role of the regulator is important. First of all there are two options that we could use. We could utilise and strengthen the existing regulatory processes. Developers, I think, want a one-stop shop. Do we use the existing regulators? In Western Australia, for example, one might go to the Environmental Protection Agency and say, "You regulate heritage" or if we're not going to - because this reduces the confusion and reinforces the standards. When a developer goes to an existing regulator - and I am talking the government, private sector, as well - they know they have to go through the processes of regulation. Government development sometimes try to bypass their own internal mechanisms but at least they're there. At the moment we have an under funded and under resourced new regulator in the built environment, the Heritage Council of Western Australia. We either take those processes of regulation and pass them to an existing regulator and strengthen them or we strengthen the regulator as it is - the Heritage Council of Western Australia, if that be the regulator - but restrict the powers for regulation to regulation. Don't confuse the issue with policy advice and advising to ministers.

Finally, from a national point of view we must seek COAG's agreement on the delegation of responsibilities. We all know one can delegate responsibility, not accountability, but the problem is that state and federal governments are not working together for the seamless approach to manage Australia's built heritage. Having clear identified guidelines then the delegation of responsibility to states could happen but, at the moment it's confusing, and we must shift the balance of investment, as I said, from studies and surveys to actual conservation and I have articulated that in my paper. Thank you.

MR HINTON: And that's coming shortly, Tom?

MR PERRIGO: Yes, it will.

DR BYRON: That's extremely helpful. Thank you very much for coming.

DR BYRON: Next up I believe we have representatives from Mount Kosciuszko Inc. Thank you very much for coming and thank you for the submission. If you could introduce yourself for the transcript and then if you'd like to summarise the main points in your submission, we can then discuss it.

DR HABRYN: My name is Anna Habryn. I am president of Mount Kosciuszko Inc.

MR KOMOROWSKI: My name is Ludwig Komorowski, associated with Mount Kosciuszko Inc since its beginnings.

DR BYRON: Thank you both very much.

MR KOMOROWSKI: Mount Kosciuszko Inc is an organisation which has been established in Western Australia. It's far from Mount Kosciuszko as you can imagine, but Mount Kosciuszko has enormous heritage value not only to Australian people as a whole but also to the Polish people because it was named by a Polish explorer after a famous Polish patriot who fought for freedom of Poland and other countries and is world renowned. This is why we feel there is a need to bring to the attention of the commission certain developments in the past decade or two which have a bearing on the policy of this inquiry: how you view heritage, whether it is solely a state or local government responsibility in the naming of places, or does it actually require Commonwealth input since some heritage places have national value. They are national icons.

As you know, children in our schools, they want to know, "What is the highest mountain in Australia?" Of course, it's Mount Kosciuszko. "What is the longest river in Australia?" It's the River Murray. The biggest lake in Australia is Lake Eyre - and so on. So these features cannot be relegated to the individual states or the local authorities where these icons exist. In our instance here, what we want to present to the commission are historical facts of how the mountain was identified and also the concerns that we have at this moment in our relationship with the New South Wales government on the future name of the mountain.

Paul Edmund Strzelecki came here in 1839. He was a geologist and a scientist. He did a lot of exploration in Tasmania and Gippsland and also the Snowy Mountains. He carried scientific instruments in his rucksack to measure heights, distances and locations. He published books on his exploration and later, when he returned to England he became a British citizen and also helped in the Irish famine. He was coordinating the relief supplies for people in Ireland. For his work there and also for his exploration work in Australia he was knighted by Queen Victoria, so he became Sir Paul Edmund Strzelecki. To Polish people it is an honour that a Pole was knighted by the queen and it is also an honour that a mountain was named by him in

honour of a Polish patriot.

We, as an organisation are concerned that there have been intrusions to change the name of the highest mountain in Australia or give it a dual name, an Aboriginal name, that will negate the contribution of the early explorer Strzelecki and the significance of the name of Mount Kosciuszko. We have been following recent events very closely. There are actually people in various spheres who want these changes. There are Aboriginal and white people who support them. It is reminiscent of, you might remember, the Hindmarsh Bridge inquiry and the royal commission which was instigated as a result, where people were fabricating evidence to promote their own agenda. This is what we are finding now.

There are people in certain areas - there is one very prominent person who's a mayor of a shire, who owns a newspaper and has got access to all the publicity in the world - who are promoting to change the name or negate its significance. As I mentioned in our submission, Mount Kosciuszko was named in 1840. Strzelecki the explorer climbed the mountain there with James Macarthur, the son of John Macarthur the famous merino wool farmer who established the wool industry in Australia. It was accepted that Mount Kosciuszko would be the title for the mountain, and it was at that time, only Strzelecki who recognised that it could be the highest peak in Australia.

Anyone who has been to Mount Kosciuszko and the Snowy Mountains would recognise it's very difficult to distinguish one peak from the next one. The next highest was Mount Townsend and the difference is only 20 metres; 20 metres between the two mountains. So you can see, you need expert knowledge and instruments to be able to determine what is the highest peak in Australia. The local Aboriginals had no idea about this. The mountain is barren. There are no features about it which would indicate there is any sacredness about it like Ayers Rock/Uluru. There's nothing about it. The Aboriginals were in the valleys. They were like hunters and gatherers; they were looking for food there in the valleys, which is very far from the mountain itself.

But what is happening now? They're trying to identify the mountain with Aboriginal heritage. They have been trying to give an Aboriginal name to this mountain but the thing is, there is no Aboriginal name to the mountain. They have to invent a name, an Aboriginal name. They have been tossing a number of them around and they haven't come to any conclusive decision which one they would choose. But they want to challenge Mount Kosciuszko, at least to have equal naming rights, to denigrate the importance to the nation - and it has been so well established in Australian history and in Polish history, the significance of Mount Kosciuszko on Australian soil.

Polish people and people of Polish descent like myself and Mrs Habryn and others are very concerned about it. We all value our heritage, whether we're Anglo-Saxons or Poles or whatever background, and we are proud to be not only Australian but also to see the contribution that our explorers or predecessors have made to the development of this country. I came here as a young boy and I lived for two years in tents and I know the hardships of early settlement. I can imagine the early pioneers, how they had to struggle in the bush and elsewhere. Quite often we forget about the contribution of our early pioneers and explorers. The thing is, what hurts me personally, is that this contribution is being eroded. Some people don't want to give the right, to give justice to their contribution, to the legacy that they have actually given to this country.

I give you an example of what actually happened. In 1939 the schoolchildren from a number of schools in Australia made a contribution - this is schoolchildren, because children identify themselves with highest mountains - to put up a commemorative plaque on Mount Kosciuszko in honour of the 100 years of Strzelecki's climb to the mountain and naming; 100 years because 1840 - 1940 would be the centenary. So Australian schoolchildren contributed money to a bronze plaque. It was a large plaque. This plaque - I will read it for you but it is in the submission - was actually unveiled - I just refer to my document. There was a smaller plaque which states:

This commemorative plaque was originally unveiled by the consul general of the Republic of Poland for Australia, New Zealand and Western Samoa, Ladislaw Adam de Noskowski Esq, on 17 February 1940.

Paul Edmund Strzelecki ascended the peak on 15 February 1840, so there were only two days' difference. A commemorative plaque, a monument. As you see from the photographs there, there's a photo of the plaque mounted on a rock. That was taken in 1973 and yours truly is there standing beside it. Then there is actually also a photo of the enlargement of the plaque. I read to you what is actually on the plaque, which is quite significant, I think. I want the audience here to hear it:

From the valley of the Murray River the Polish explorer Paul Edmund Strzelecki ascended these Australian Alps on 15 February 1840.

A "pinnacle, rocky and naked, predominant over several others" was chosen by Strzelecki for a point of trigonometric survey. "The particular configuration of this eminence" he recorded "struck me so forcibly by the similarity it bears to a tumulus elevated in Krakow" -

this is in Poland -

"over the tomb of the patriot Kosciuszko, that although in a foreign country, on foreign ground, but amongst a free people who appreciate freedom and its votaries, I could not refrain from giving it the name of Mount Kosciuszko."

And this is what the plaque was. This was mounted in 1940 and this photograph which I took was in 1973. As you can see, it's in good condition. You can read it quite clearly. Then progressively with the new developments in Australia, and endeavours to rename historical places with Aboriginal names and so on - in 1999, the monumental tablet was removed by the park authorities and was replaced with a new one, a plastic one. What is significant about this plastic one, it tries to actually demean the contribution of Strzelecki and the name Kosciuszko and tries to highlight Aboriginal presence in that area. The plastic plaque is in two segments. I don't know whether you - this is the one I'm referring to. All right? And I was reading from the left-hand side. You gentlemen have a photograph of the plaque there. I think that's the plastic plaque, okay?

DR BYRON: Yes.

MR KOMOROWSKI: It has been since 1999. On the other side of the plaque - there's a left and a right side - it states under the heading Early Visitors:

It's highly unlikely that Strzelecki was the first person to climb Mount Kosciuszko.

It continues:

The Aboriginal people of the Monaro and the groups from the southern tablelands, south coast and northern Victoria visited these higher peaks for thousands of years to feast on the bogong moths, which gather here in summer, and to conduct trade and perform cultural and spiritual ceremonies.

It follows:

Stockmen began visiting the mountains from the 1830s in search of summer pastures and it is probable that some of them would have climbed the mountain.

Then under the heading Change of Name:

In 1997 the Geographic Names Board of New South Wales agreed to a

proposal that the spelling be changed to Kosciuszko -
the correct name, that's including a "Z" -

the spelling of the name of the famous Polish fighter. The board
accepted the Strzelecki name, spelt with a "Z".

This is very interesting. They have tried to justify Aboriginal presence and
input. First of all, if you read the opening paragraph on the left-hand side, it says:

Below is the text of the sign which was placed here in 1940 to celebrate
the centenary of the first recorded ascent of Mount Kosciuszko.

That statement itself is not really correct and it tries to minimise the importance
of the climb. It says here:

Below is the text of the sign.

In the English language the word "sign" - I'll just read to you the Macquarie
Dictionary definition which I looked up this morning:

Sign: an inscribed board, space, et cetera, serving for information
advertisement, warning, et cetera, on a building, along a street or the like.

That's a sign. There is a plaque there, as you see. It was put on a large
boulder. It was actually a monument. It was a bronze plaque - a monument - and I'll
read to you actually what "monument" is supposed to mean:

Something erected in the memory of a person, event, et cetera, as a pillar,
statue or the like.

Definition 2:

Any work, writing or the like by a person regarded as a memorial of him
after his death.

This is very far from the term "sign". So they are trying to minimise, actually,
the importance of that memorial plaque. What they proceed to do then is they state
here in this opening paragraph, on the left-hand side, where they say this was
erected:

In 1940 to celebrate the centenary of the first recorded ascent of Mount
Kosciuszko.

The plaque itself, if you remember what I read, does not state about being the first recorded ascent of Mount Kosciuszko. It doesn't state that. It's a memorial plaque of Strzelecki being there, and also the name Mount Kosciuszko. What they have done is they have created a straw man for their argument, in fact. They have misrepresented the thing. They have created a legal straw man and then they tried to destroy the straw man with the plaque. So we go to the right-hand side it says:

It's highly unlikely that Strzelecki was the first person to climb Mount Kosciuszko.

Aboriginals claim they have been there for 40,000 years - anybody could have climbed that - but he was the one who identified it to be the highest mountain in Australia, and it was important. He was a geologist. He was looking for minerals. He was the first officially recognised person who discovered gold in Australia, and that was kept a secret by Governor Gibbs. He was the man who discovered gold in Australia and this famous explorer is being denigrated as insignificant.

DR BYRON: Can I ask what you expect us to do about this?

MR KOMOROWSKI: If I may say so, sir, I'll just give you an example. This inquiry is in respect of policy - development of national policy - in relation to monuments. That is one. I'll just read to you from your web site:

Current projects: historical built heritage places include such things as buildings, bridges, monuments and physically created sites.

This is a monument, and I am trying to illustrate what is happening when monuments are in the hands of local government and state government; how people are desiring to change the significance of them. We as an organisation are keen to ensure federal involvement, particularly in Australian icons, whether Mount Kosciuszko, Lake Eyre, River Murray, the Great Barrier Reef. These are identified national icons which everybody from every state looks up to. Although most people haven't seen the River Murray but they recognise it as the longest, biggest river in Australia. They identify it with themselves, and the same with Mount Kosciuszko.

This is what we want the commission to take into consideration when they are dealing in this inquiry, to bring it to the attention of the state governments that there should be Commonwealth input; that they should not make decisions unilaterally just to satisfy local pressures or local political or state pressures for their own benefit. This is far beyond Aboriginal politics and state politics. These are national monuments and we have to protect them from the inroads of people who have all

sorts of unsavoury agendas, if I may say so. That is the reason that we are bringing this forward. I don't know whether you want me to go further. I don't know if you have further questions.

I could actually argue the case that there are fabrications here about the bogong moths. Bogong moths gather on the Bogong mountain in the alps, on the Victorian side. That's where most of them are and also in the lower valleys of Mount Kosciuszko, but far away. They would be kilometres away. There is nothing near the top of Mount Kosciuszko. There is nothing to indicate. Also this matter of cultural and spiritual ceremonies is all fabrication. They are made up to help their argument. This is what concerns me.

DR BYRON: What we have been saying in all our hearings and visits and in the issues paper that we released is that this inquiry is not set up to discuss specific individual places of heritage significance but we are interested in individual cases like this where they indicate a significant failure in the system as a whole. Our interest is in the national framework and the system for the identification and protection and ongoing management of historic heritage places.

MR KOMOROWSKI: That's right.

DR BYRON: What you have pointed out to us today seems to indicate a place where the system may not be working very well. I mean, I don't think it's within our power or terms of reference to argue the detail of the case with the New South Wales Geographic Place Names Board, but we can take this on board as an example of where places of quite reasonably argued national significance shouldn't be unilaterally adjusted by local or state authorities. That principle, I think, you've made very clearly, but other than that I'm not sure where else we can go with this. Tony, do you have a suggestion?

MR HINTON: I think it would be useful if you could record that you see this particular example as the system not working.

DR HABRYN: Yes. That's exactly what he means.

MR HINTON: And that's what I see as the purpose of your participation here today - - -

MR KOMOROWSKI: That's correct, yes.

MR HINTON: - - - at the hearing and also your written material. Thank you very much for all that. But, as Neil was saying, it is not open for the commission to reach a judgment as to whether Mount Kosciuszko, with different spelling, different

pronunciation, should or should not be changed. That will certainly be beyond our remit for this particular inquiry, but the actual case itself will enrich our understanding of how the national system is or is not working with regard to heritage sites. So we thank you for drawing it to our attention.

MR KOMOROWSKI: All right.

MR HINTON: I have one question, though. Does Mount Kosciuszko Inc have state chapters on the eastern seaboard? Does it exist in New South Wales, Victoria, Queensland?

DR HABRYN: No. We have members but we don't have a chapter there.

MR HINTON: So you have members here in Western Australia who reside in New South Wales, Victoria and other states?

DR HABRYN: Yes.

MR HINTON: It's useful for us to know that as well. It's not just the Western Australian community that has this particular view.

DR HABRYN: The issue is of much, much wider, I would say, importance than Mount Kosciuszko and our personal feelings, because, as we have noticed this year - actually, it was not instigated by us but by the West Australian. The local or rather state newspaper here conducted a poll on the change of Mount Kosciuszko's name and 93 per cent of people responding were strongly against it. Of course, I received some arguments from the community but most people do not see any reason to do such things to monuments which are of cultural and spiritual and historical value. Actually, it's not a matter of buildings. I accept that. It's a monument of - - -

MR HINTON: The site?

DR HABRYN: I don't know, the spiritual development of Australia, and for us the name itself and the presence of the plaque on the mountain - on the peak of the mountain - is of symbolic value as well.

MR HINTON: In your research and lobbying regarding Mount Kosciuszko, have you identified some similar examples where there has been a push for a name change that would have similar characteristics to the experience you have with regards to the monument on top of Mount Kosciuszko?

DR HABRYN: The dual naming policy is, apparently - it has been accepted by the

states - as policy, as far as I understand it, and it's for national parks. It's the policy for national parks.

In our opinion - not our only opinion - the Mount Kosciuszko National Park is not like other national parks. This particular park is of a unique nature. It's not only a nature heritage place. It's a culture heritage place as well, and I'm not talking only about Mount Kosciuszko and Strzelecki; I'm talking about other sites of early mining; I'm talking about the water scheme and everything; the remnants of early history of Australia. It's something which shouldn't be destroyed by the policy preserving the nature. It should be under the watchful eye of the federal government. I don't know what, but the policy-making is not our duty of course. We are just trying to stress the point.

There are some unique places in Australia which are hard or impossible to place within the existing structure of classification. Kosciuszko National Park and Mount Kosciuszko is the most prominent example of such a lack of proper policy, I would say.

MR HINTON: Both Neil and I have walked Kosciuszko National Park a fair bit.

MR KOMOROWSKI: You have?

MR HINTON: I've fly-fished most of the rivers there. That's a little aside. We're both familiar with that part of the world.

DR BYRON: But it's amazing to me that I have to come here to Perth to find out so much about the history of a place that I visited many times during my life already, so I feel very much educated today about the significance of both the place and the explorer who named it.

MR HINTON: We thank you very much for drawing this case to our attention, as to the issue of whether or not the system is working well, so thank you very much.

DR HABRYN: Thank you for - - -

MR HINTON: Is there anything you would want to add to what we've heard already this morning in discussion?

MR KOMOROWSKI: I'll just give an example of the Grampians in Victoria. You might remember the name was changed to an Aboriginal name, and there was a public outcry, and then it reverted back to the Grampians.

MR HINTON: That was behind my question of whether or not you knew of other

cases that had similar sort of issues arising - - -

MR KOMOROWSKI: You know, this is becoming possibly more frequent, and people who want to achieve their ends, they're willing to fabricate things in their presentation. It's very sad that this is happening now when for hundreds of years everybody was happy and suddenly things are not acceptable; we have to change. Just imagine if they started changing the name Sydney, Melbourne, Perth, Kings Park. Of course, Aboriginals all love to do that. They love to, some people. But, I mean, it's the same sort of situation here.

DR HABRYN: There is another issue here: the lack of proper historical education. I think this is most important in this case. People of Australia should know more about their own history. We don't have much power to change curriculum or anything like that, but there are some proposals and they've attached the National History Challenge leaflet. We are there. We are trying to do something, but it's a wider issue than that.

MR KOMOROWSKI: Can I say also we have a web site: Mount Kosciuszko Inc. We've got a lot of historical documents and also sort of covering the issues relating to this and our submissions, and also a site for children; you know, educational. So we are proud of that, of what we are doing actually. It's both in English and in Polish. But we are proud of what we are doing. As I said previously, I value the heritage of our early pioneers and explorers, and we should retain it and not degrade it but honour it. What we're finding now is there's degradation and dishonour being proposed. I came here as a boy, as I said, and I love this country and everything about it and it's hard for me to take it. I lived in the country. I lived on the farm and I understand the hardships, and it just doesn't go with me. I'm a country boy.

MR HINTON: Thank you very much.

DR BYRON: Thank you very much for taking all the time and trouble to produce the written paperwork and for coming here today.

DR HABRYN: I hope you will find something more in our submission than we managed to propose.

DR BYRON: It was very informative.

DR HABRYN: Thank you.

DR BYRON: We now have Mr Hanlon. Thank you very much for coming today. Thank you very much for the written submission, which Tony and I have both read very carefully. Could you just introduce yourself and summarise the main points.

MR HANLON: Des Hanlon. The purpose for my paper was that, on reading the issues paper, I felt that the role of the crown, in all of its forms, had certainly not been fully articulated. My experience that brought me to that is, whilst I've been a long-time member of the National Trust - an official - my views are my views as an individual. My comments arise out of my experience in Tasmania, where I've lived for 25 years - I've just returned to Western Australia - and so they are really out of the experience of dealing with all levels of government, with various issues that have arisen on properties, state owned properties and with local government.

The registration process isn't an issue for me. There are 5000 places on the register in Tasmania. The issue there is whether or not the National Trust should be involved in registering as well or whether that should be the job of the Heritage Council. The issue is what happens to a listed place and the role of the crown, whether it's state or Commonwealth, and the way in which they then make decisions about public property, the disposal of property, the transferring of their obligations to others and, from the point of obligation of transfer, they then take no further responsibility for the monitoring and management of that particular building.

When contacted, when those buildings are under threat, one tends to have to deal with middle officials who see it all beyond them. It may be less in other states - it may be much harder to argue for 20th century buildings - but in Tasmania, its wealth of 19th century buildings, most of which are of the early Georgian period, were built either by public moneys, convict labour or for a public purpose. With regard to the issues paper, in my view, comparing the owner of a private property with the crown confuses the issue, because the crown in all its forms, as the regulator, as the owner, the manager, is in a position to do one thing with its left hand and another with its right. That gives the imprimatur then, and I will provide an example of that.

If it sells a piece of property on the Hobart Domain, which was an oil depot, it sells that to the Hobart City Council and the Domain has been a public park set aside by Macquarie in 1811, long before Central Park in New York and Hyde Park in London. That piece of property, assumed by the Commonwealth under the national wartime regulations, is then disposed of on a freehold title to the Hobart City Council. The Commonwealth said it sold it on the basis that its previous use had to be maintained or respected. Well, it was a park. That reservation doesn't appear on the title, so that from the Hobart City Council's perspective this is now a piece of freehold property in the middle of the public domain, which a state act of parliament since 1854 has set aside as unalienated land for the recreation of the inhabitants of

Hobart. Parts of it are vested for its management in the Hobart City Council, other parts are retained by the state and other parts have been acquired by the Commonwealth.

All these transfers of land tend to obscure the responsibility for the whole of the Domain. There are parts of the Domain which there were World War II activities, none of which seem to be of interest, from an historical point of view, as World War II and Defence properties. In particular, there is a laboratory built in conjunction with the university known as the Waterworth Laboratory, which is where bomb sights were made. This was a first-class institution, and that laboratory still sits there. The state government recently sought to sell the whole piece of land, which we call Domain House, to which I personally objected on the grounds that they had no title to it. They issued a title for the development and within a year the government had to announce publicly that it didn't have the authority, without a decision of parliament, to sell it.

It seems to me those examples are where one arm of the crown moves on a piece of property set aside, supposedly protected by legislation, but there is no party that says does the agent of the crown have the authority to do what it wants to do and in some way have to justify that they do? One can ask, in the case of Domain House, does the public servant have a letter from the solicitor-general saying that this land can be disposed of in that manner? They will have obtained private legal opinion that says they can dispose of it and what the obligations are on the developer. I believe my paper tries to draw attention to this aspect that there shouldn't be the disposal of a piece of crown land by a department merely because it has finished with its use for departmental purposes.

You asked the previous group what would we expect to do. I would expect the committee to say that there needs to be a mechanism for the disposal of Commonwealth property so that a third party looks at this and says the public heritage of this will benefit by its disposal, not that it can be disposed of then to be dealt with in whatever form the developer chooses to use unless the local planning authority, or the State Heritage Council, objects. That's the current process. The Commonwealth disposed of a property in Battery Point. The whole of Battery Point had been an historic village since the 1970s. It has got more protection than a newborn baby and it has more abuse. My view personally would be to take it off the list, because no-one has done sufficient to protect the village atmosphere which it was designed to protect.

Stowell House is 1830s. It was the colonial secretary's house - Montague - who was Arthur's nephew. He was Arthur's financial investor, when Arthur had left the colony, for investing in Victoria and elsewhere. He rowed with Governor Franklin and had Governor Franklin removed. His house and Government House

were the two most significant buildings on the Sullivans Cove. If one wants to look at power, the relationship of power, the telling of the history and the history of the government and the governors, then from Franklin Square one could look across and see Stowell House. The CSIRO had that for some 40 years. It was then sold. A covenant was put on the house, but the extent of the land was reduced, leaving a small piece of land, which was a private roadway. A private roadway in 19th century Tasmanian law is a public road, but it's not the responsibility of the local government to maintain it.

This 1830s carriageway, subdivided in the 1890s, with eight houses on it, suddenly has a piece of land at the end of the street, which a person then decided was abandoned, gets the Commonwealth solicitor in Tasmania to agree the Commonwealth had no right over it, because when they sold Stowell House they excised the piece that the National Trust has the covenant on, and that they sold to the developer, leaving a small piece at the end of what was the public street. It overlooks the cove. A title was issued for that, planning approval was sought and suddenly two two-storey houses were to be built at the end of this street, which would mask Stowell House from across Sullivans Cove.

It shouldn't be possible, where the crown has transferred a piece of land to which it had obligations under the National Estate and it had to comply with the legislation, without somebody saying what the value of that was to the public heritage of Australia. Despite the National Trust having agreed to the use of the gardens, which were significant gardens, to protect this very fine Georgian mansion, it was never enough. So here we now have more decisions being made, an inability by the Heritage Council and the Hobart City Council to make a decision about a public street, which they didn't want and which they thought was a nuisance and either outside of their - - -

MR HINTON: Sorry, when did this occur?

MR HANLON: Two years.

MR HINTON: Thank you, sorry to interrupt.

MR HANLON: Despite the owners of the strata title, which now is this whole development, fighting this at almost every level, it was not sufficient to cause the title to be withdrawn, because of the ramifications of that. I, on behalf of the Trust, appeared at the rezoning and managed to persuade the resource tribunal to put restrictions on what could occur in this rezoning. But all sorts of experts were called, with all sorts of CVs, to justify why this was going to be possible in heritage terms. We're talking about an 1831 building on Sullivans Cove across all of that perspective, but they're very difficult concepts to persuade planning authorities about, which is the local council, despite it being in Battery Point.

I've also made submissions to the centenary of Federation celebrations about a strategic approach to the preservation and the use of heritage for civic purposes, education and the development of an alternative tourism potential to that merely of convicts. With the centenary of Federation, the funds were all directed at a municipal level, or significant numbers. State government in Tasmania appeared and were then able to influence how the municipality would spend the funds, and we're talking in terms of Hobart as the capital city. When you put it to them that by taking a strategic view over a 20-year period, to do exactly what the previous contributors were talking about, as significant anniversaries occur, you've got in place an opportunity and a vehicle to identify those which build on the previous centenaries, adding to the richness of the history, tourist potential, et cetera.

Unfortunately, the funding bodies have a criteria for those sorts of grants, which are looking for music and fireworks in the short term that coincide with their elections. It seems to me that one of the shortcomings, whether it's the centenary of Federation, the Bicentennial of Tasmania, is by supposedly taking it to the community they take away a strategic view from the whole of Australia or a Tasmanian perspective to make long-term improvements to the value of heritage, whether it's buildings, natural heritage, movable heritage or the telling of the story as the Kosciuszko group put to you in the previous submission.

I'm conscious of the time, so if there are some questions you wanted to ask me about my views on the governor and the various arms of government, because they're all in competition and nobody likes to rattle the cage of the chief justice, the governor, the executive council. But all of them on public land, and certainly in the context of Hobart, are able to do things where there ought to be another test than self-interest.

MR HINTON: I would welcome your elaboration on one particular point. You're particularly focussing on actions by governments in terms of government owned assets and, in particular, selling them off and you gave some examples of what you consider to be poor outcomes with regard to the heritage objective. I'd welcome your exploration as to the source of that problem. Is it unclear objectives within government policy? Is it a direct conflict of interest? Is it poor communication across different arms of government? Is it deliberate incompetence? Is it whatever? You know, I'm not proposing any of those, but I would welcome your going back a step, drilling down to what is the source of that sort of outcome.

MR HANLON: I could give you an example for all of those elements, so that different circumstances occur at different times. But it's very clear, from a Tasmanian perspective, that the Commonwealth government, by selling off property - particularly the Defence Department, which in the case of Tasmania and in some other states that I'm familiar with owns colonial land, buildings and locations.

They acquired those as part of the arrangements at the time of Federation. They either took over imperial responsibilities or land was transferred that had been in the self-governing colony's control, which then passed to them even if there was some element of money that passed from the new federal government to the state in justification for it.

The Anglesea barracks in Hobart had been a barracks since 1815. It should not be allowed to sell off any part of that or determine what happens to that in the context of the Defence Department. Making the decision to sell off the Brighton barracks and put it up for tender; it's made; it suddenly appears in the paper. We're talking about acres on the edge of Hobart; the 1914 war; the Second World War; the assembly points for overseas. It sold for \$300,000. The shire would have bought it off them for a million dollars but it went to public tender. The first part of the process is to say, "Is there a public use for this that will retain the heritage values?" That exercise should be carried out by someone other than the selling agent to the Defence Department. That then means you can influence its uses.

Then it brings into play whether or not it needs a subsidy, whether or not it doesn't, whether or not you can sell off the fringes of the land to finance it and keep the thing. But none of those things can be determined at the planning session where a developer now has possession of it. They've assumed the risk and that is too big a burden for either the Heritage Council, if they're dealing with it as a works application, or the local planning authority or the appeal tribunal. Where the Commonwealth is concerned, there needs to be a central body that says, "We're disposing of this." Then it must meet a public test, in my view, that this is a listed place. If we don't require it to be listed, it shouldn't be an internal treasury decision, "You finance this year's budget by disposing of this land.

MR HINTON: Isn't it incumbent upon the owner of the asset to get the best commercial return?

MR HANLON: My paper really says the crown owns it in the name of the people of Australia. The parliament has passed a law that says, "We have confirmed the heritage values of this." It needs to be determined that those heritage values will not be at risk and, if they are to be sold, there is in place a mechanism into the future that is being monitored.

MR HINTON: Yes, some sort of covenant.

MR HANLON: I also argue that the auditor-general, as the Canadian model does - in my paper I refer to that - has done a complete basis. Nobody does it. They enter a covenant with the National Trust. The National Trust then is responsible to see that

whoever has got it - so it take on the role of the investigator, the monitor, the appeals, the funds. Many of the covenants are in the Supreme Court. So we're talking about \$40,000 just to get in the door and where's the Commonwealth? It has discharged its obligation by saying, "We transferred it by covenant to the Trust."

MR HINTON: But you're happy to have adaptive re-use as part of this process.

MR HANLON: Yes.

MR HINTON: It's just a question of prior judgments about whether or not the system of when it is sold is sufficiently robust to protect the heritage value in one form or other?

MR HANLON: Yes, sir. When it comes on, it is the heritage value that is going to be maintained. Then the developer or a private owner are not arguing that all of this property should remain in the hands of the crown. I don't have a difficulty whether a moveable heritage or property is in private or public hands, as long as there is a mechanism in place that it is maintained and not degraded. If there's public finance going into its ongoing maintenance, then there needs to be some form of public access, whether it's by arrangement or by date. I'm not advocating any greater role. I don't believe there is any organisation that's capable of taking on the extent of the heritage listed buildings in Australia, to manage them in an economic way.

MR HINTON: Des, you've been particularly focusing on the Commonwealth government - the Australian government. Does your experience suggest that state government owned assets are, similarly, in a system that's less than robust?

MR HANLON: Yes. My paper also says that if the state government, the local government and the Commonwealth get together, then the public's interest will go out the door.

DR BYRON: I noted that, yes - very quotable.

MR HANLON: I also make the point in the paper about programs such as the Better Streetscapes. No local government can afford to say no to that amount of money, but then it turns into the transforming of the character of our historic streets. Whether they're 20th century or 19th century, it homogenises them. It does, in the 21st century, what the removal of the verandah post did for the arrival of the motor car in the 1950s.

DR BYRON: I was also thinking about examples of the same sort of phenomenon in Victoria with the Portsea barracks - the entrance to Port Phillip - and Point Cooke, the longest continuous air force base in the world, both of which have generated a

great deal of controversy because of those heritage values. It seems to me that they are also supportive of your case that there wasn't a prior assessment of heritage values before the decision was made to sell off these Defence properties.

MR HANLON: Once the Commonwealth decides it's going to sell, it actually transfers then all the responsibility back onto the state and the local authority. They're confronted by an outraged community who understand what it is the Commonwealth is trying to do. The state government then is forced to put its hand in its pocket or the local government finds the community funds to negotiate a deal, or creates enough angst that they don't sell the property. That's why the Commonwealth cooperative model doesn't work, because it really comes down to buck-passing and money.

DR BYRON: But to add to Tony's question, in New South Wales I believe there was a decision made that every state agency would be responsible for all of its heritage properties, but the response, I think, is probably predictable. If someone is the head of the railways and is trying to get the trains to run on time in Sydney, they don't want to spend \$2 million doing up an old railway station in some rural area which they don't see as part of their core business. If you're the head of the police force and you're trying to get cops on the beat, you don't want to spend a couple of million dollars doing up a courthouse somewhere. If you are the head of the Health Department trying to get doctors to do operations in hospitals, you don't want to spend \$2 million doing up a hospital that you think is actually surplus to requirements. So all of those state agencies immediately start selling off whatever assets they think are either less essential or are going to be high-cost to maintain. If they're doing that without any sort of heritage conservation covenants or agreements in place, it seems to me that there's potential for what you were talking about at Commonwealth level to be replicated a hundred times over at the state level.

MR HANLON: I wouldn't want to suggest that there isn't. An example I could give you is Sullivans Cove, a site well known, of superb tourist potential and great historical value. The Hobart City Council decided it was going to put a tram there. There had never been a tram in Sullivans Cove. The National Trust fought that. It cost \$50,000. We never won a round, but forced the Hobart City Council to change its mind after they'd spent several million dollars. It ran past something like 20 historic sites, including parliament. That required every site owner - - -

DR BYRON: Yes.

MR HANLON: The Commonwealth owns the Customs House right on Constitution Dock - its presence and everything about it. It transferred that to the state for a peppercorn rent. The whole process is going through while this is going on. If the Commonwealth had lodged an objection that the poles and the wires

would distort the view from the water side of the building - in my view it had the obligation to do that. It has a conservation plan for it. It sets out all of the statement of significance, its location, its view, the importance of customs, et cetera.

Where was the Commonwealth? And the state, as the landowner - the previous premier said to me, "They haven't got sufficient money. They know they've got to come to us. I'm not going to give it." They started the process without the money, didn't go to the Heritage Council for a works application, approved their own development, and it cost us \$50,000. In the process they also would cross an archaeological site financed by the Commonwealth, with very strong restrictions on it. They sit silent, that's the problem - state and federal - because they've all got other deals on, at whatever level, but at the officer level, which the individual citizen has got to deal with, you can't get them to the table to own up to their responsibilities at that operational level.

DR BYRON: Yes.

MR HANLON: I was a bit disappointed that moveable heritage got excluded.

DR BYRON: Not by us, I have to assure you.

MR HANLON: I'm not asking you to explain why. I can understand why. But when you read the auditor-general's report - of Canada - you can see the extent of the problem, because the moment you just preserve the building, you take away the significance of it. A neighbour in a building in which I lived - maybe 100 yards from me - was Dr Benjafield. A stunning house. He had two houses across the street for his servants. A great combination of buildings. The really important thing about Dr Benjafield was the orchard he had that ran over the top of the hill that wasn't subdivided significantly until the 1940s.

This is an extract from Dr Benjafield's Mount Stuart orchard, an enlargement from his account book. That's the layout of his orchard: the trees, the varieties, the date, the quantities, et cetera - 1891. This is a man who developed an apple and, because it coincided with Federation, he called it the Democrat. This document in his account book is a much more important document, to tell you something about Dr Benjafield, than his house, even though it's a fine building and worth preserving. They were about to knock over the 1880 kitchen recently, until we objected, to build an extension for 50 people to run a call centre. Without someone paying attention to the business records - because it's the most undervalued part of our heritage, this will all be lost.

Walsh's. You could have bought the building in Hobart's main street, a protected building, and on the third floor were the artefacts of the 15th oldest business in Australia: publishers, engravers, importers of the fine arts. There was a

guillotine in the basement, 150 years old, still in working order. The building has been sold, but the basement of the building has still got the original flagstones for the women's factory of the 1818 Hobart gaol. The Commonwealth or the state government could have picked that up for half a million dollars, sold the building, preserved the artefacts and come out in front with money.

Ash Bester's, a chemist's that had been there since 1830: the artefacts in four storeys of that building were all disposed of as single lots. Gould's, the chemist around the corner: you go to the third floor and there are all the business records of exactly what was bought and sold. I made 22 programs for the ABC for the centenary of Federation and we went to Gould's the chemist. We looked at Gould's the chemist, flip open this, and see - the man who wrote the Constitution - the day he bought his toothpaste. And they're sitting there on a shelf. There are all the recipes. Without the moveable heritage, we're actually being deprived of the richness of our heritage.

You're going to Hobart on the 12th. There's a building around the corner from Gould's in Elizabeth Street. It's a couple of doors up from Banjo's. On the outside of the wall you can see the word "Tribune" in the drippings that drip around the word. We're not talking about the Tribune of the Communist Party of the 1950s. We're talking about Edward O'Sullivan. We were talking about Kosciuszko before. Edward O'Sullivan was the member for Queanbeyan for 19 years in the New South Wales parliament. He was a Tasmanian. He started more newspapers and did more for Federation than anyone in New South Wales. He was responsible for the location of the Redfern central railway station. He wrote three melodramas. He was a man of enormous interest and talents. He had a newspaper in that building, and the building was the Labour in Vain Hotel. You look up there and you can see the "Tribune". There is no other record of O'Sullivan in Hobart, other than if you look at Andrew Inglis Clark's web site run by the university. Clark wrote 80 per cent of the Constitution.

He sends Clark a telegram when he's elected to parliament, congratulating him on his election in Tasmania. It doesn't tell you who Edward O'Sullivan is, and nor does the sign in the street, but it's still sitting there. Can you imagine the argument there's going to be if the new owner wants to clean the front of the building to restore the 1840 Georgian facade, is it the responsibility of New South Wales? Is it the responsibility of the Commonwealth - because he did more to get Federation than anyone else in New South Wales at that time - or is it the Hobart City Council?

It's very clear it's Australian heritage and if the criteria is it's Australian heritage we're protecting and the mechanisms are in place to do that, then it will stop becoming an argument about whose list it's on. The determination of this should be done within the states, with the Commonwealth. Whether they pick a third of the

experts and the state a third, and the public a third, but it needs to be done where those who know about it can reach them. To do something in Canberra is to deny the population of Australia a chance to influence it. To be told by the archives, "If you can't come to Canberra, we'll give you a list of people who you can pay to do it for you," it's outrageous.

DR BYRON: I don't think I have got any more questions.

MR HINTON: I'm about right.

DR BYRON: Thank you very much. It has been fascinating and informative. There are a lot of issues there that we will need to think about, particularly some of the somewhat arbitrary categorisations between levels of government and between different types of heritage.

MR HANLON: If I could just make one point, funding ought to be linked to the determination of heritage and the priorities, and there is no strategic concept. All grants are whims and fashions. To give every member of the House of Representatives \$250,000 to spend for the centenary of Federation is a disgrace.

MR HINTON: We're not inquiring into that. Thanks very much, Des.

DR BYRON: Thank you. I think we can now adjourn for lunch and resume at 1.45 with the Jaycees Community Foundation Inc.

(Luncheon adjournment)

DR BYRON: Thank you very much. If we can resume the public hearings with Mr Peter Snow. Thank you very much for coming. You're going to give us a audiovisual presentation?

MR SNOW: I am. Thank you, Mr Commissioner. Very much relevant to where we sit as an organisation, heritage incentives are a fairly important component in our future, and I guess one of the first things I should do is just introduce where our organisation evolved from. It was established in 1976. It was an initiative of the state organisation Jaycees, as it was then known, or JCI as it is now known, or Junior Chamber of Commerce or Junior Chamber International. They're some of the names in the past that you might recognise.

We're a not-for-profit organisation. We're fairly unique in the world of Jaycees, in that the organisation was formed to accommodate projects that were too big for individual Jaycee clubs or needed continuity of management. We have a voluntary board of directors, with the exception of me, and I have been based on the site in Albany for the last 18 months.

(Slides shown)

In 1980 we received a gift of Australia's last whaling station, which is an interesting story in itself. We started seeking a ship that we could put in the Swan River and raise money, charging a dollar a head for people to come and have a look, and we, by default, ended up with the whaling station, which had six houses, two whale chasers, 300 old bent harpoons and some very derelict factory plant and what was left of the processing equipment that hadn't been scrapped or salvaged and taken somewhere else.

We started in a Nissan hut and from there evolved a fairly ambitious project over the next 25 years, as it is now, that saw us move one of the whale chasers onto the site. It's a fairly large site, 50-odd acres as it was then. It's now about 15 hectares. We've used employment program grants in the past to actually do part of the restoration and the conservation and build new exhibits at that building, which is our entrance complex. We had 56 unemployed people working on that project at one stage.

To give you an idea of the magnitude of the task, this is the engine out of the ship that we actually sank as a diving wreck, and that's the engine today, which is now a working exhibit on site. It's a fairly costly exercise in terms of restoration, on an ongoing basis, as you will see from some of the slides that are now presented. In 1998, not at our behest, we were listed on the State Register of Heritage Places, and that is actually born, I guess, from some degree of fear of what our restrictions might be, but with a better understanding now that working within heritage guidelines we

can achieve a lot more.

Chains IV is Australia's last restored whale chaser. With innovation electronics and an eight-track digital sound system, people can actually relive a whale chase on board. It's open to the public. This old tin shed that you see was used as a storage building. Today it has been converted, in accordance with heritage guidelines, so that it's now a gallery of 56 photos of the last eight years of the whaling station operation. So commercial tourism can work hand in hand with conservation guidelines. Again this is part of the processing factory we inherited. This is what it is today. There are working cookers, and the next slide is the dryer, which is now operational. As part of the tour, we again use innovation such as this, which is described as a hologram unit but it's actually some old technology but uses innovation to tell us part of the heritage story of the site.

Further, we've used innovation to convert three of the oil tanks into theatres, all with different exhibits, with significant assistance at a grant level from people like FRRR, who kick-started us with a \$200,000 grant, which we then had to match, and that was achieved with assistance from the Lotteries Commission, or Lottery West, as it now is in WA, which enabled us to complete the remaining two tanks, with a fairly significant exhibit. We've got sharks in one tank; that's the bottom right picture; three projectors moving. The one on the left, where the screen is on the floor of the tank, traces the history of whaling in Australia. Both of those shows run for eight minutes, and it's a matter of circulating people through relatively quickly.

Our site actually has now got a visitation time frame of 3.2 hours average, up from about an hour and a quarter a few years ago, which shows what innovation, together with heritage supported by a grant program, can achieve. We've brought back in the old whalers. As you might recall, when the station was closed suddenly in 1978 it alienated the 106 staff that worked there. We've been able to bring them back into the fold, and it's part of their heritage that we've built on.

Our money comes from state and federal resources, as well as our own income generation and sponsorship efforts, and all the money goes back into the project at this point. Ultimately it is planned to go back into the wider community. Our visitor numbers, to give you some indication, are affected by external influences, although we've been consistently between 65 and 72 thousand visitors annually over the last 10 years.

We've adapted, because of our new exhibits, on a regular basis. We contend that most attractions should create new exhibits to generate repeat business, and through that we've been able to increase our gate revenue over that period from 529,000 to 902,000 over the last five years. Much of that goes into the restoration process, salaries and other costs of operating the business. Along the way, we've

won a number of awards, running back from 1985 through to today. This year is the first time we've been recognised at both a museum and a heritage level, with awards for our contribution to heritage in this state.

Our approach to Australian philanthropic attitudes is that we recognise we're not as advanced as the USA and other countries. From our perspective, heritage conservation is a low priority and it's certainly well behind the more emotive causes, such as human environmental causes, and therefore is in our view a special case. A simple user-friendly system is required, in our opinion, and we believe that through that attitudes to philanthropic support for the heritage conservation area can be achieved over time.

We've examined a number of publications and, in particular, the Making Heritage Happen publication, which is referred to in the hard copy submission which I'll leave with you at the end of the presentation. That's wide-ranging. Our view is that we are focusing on one particular area rather than conducting a wide-ranging review and suggestions. Our approach is based on simplicity, appeal to the public and an ease of understanding by the public to encourage their support.

The following are some key points under the grants system. This is an area which we recognise and have encountered over the last 25 years. There are a number of difficulties with that system. Firstly, it's too cumbersome generally. Secondly, in the main it's inadequate to meet the demand for the grants available or the grants sought. In the paper Making Heritage Happen it's very clear that a lot of these grant programs are oversubscribed substantially. One of the disadvantages of them is that there is usually a fairly detailed application process. That's not a difficulty in the main, where the project is appropriate but it does detract from application process. That leads to uncertainty and frustration.

There are two examples I'm going to use. Firstly, we are due to complete this exhibit on Boxing Day this year, which is our 25th anniversary. We've received an AusIndustry grant under the Australian Tourism Development Program of \$60,000. Interestingly enough, it was our third annual attempt that succeeded in getting that grant. Anybody else may have given up two bids ago. For our part, we have to provide matching funds. That's another issue. In our field of activity, it is not easy to attract private sector support to a non-emotive heritage environment.

In the case of our grant, we were one of 10 applications that were accepted. As I say, we were one of 10. There were a number of successful applications, but nine out of 10 missed out. There was a fairly extensive application process and obviously uncertainty and initial failure would normally deter potential applicants. They may also be restricted by time in terms of the activity they wish to pursue.

Example 2 is a fairly current example: tourism and conservation partnerships initiative program. In 2004, which was the first year of that program, 176 expressions of interest were received. Seventeen of those - excluding us, which did cause some angst - were invited to submit full proposals. Four of them thought it was too hard. Out of the 13 that actually submitted proposals, only six received grants. That's a one in 59 ratio, which is not encouraging for those who go to the trouble of submitting extensive submissions. As a consequence, to justify that argument, despite a national roadshow by the organisation, only 88 expressions of interest were received this year. 36 were invited, and we're in the 36. Our grant application is only for 23,000, which is 3000 above the minimum. The grant ranges from 20 to 70 thousand, and we understand that 20 to 22 may succeed. The grant announcement should have been made on 5 July, then the 13th, and it may be sometime later this month, depending on when the minister gets to review the recommendations, so again delay is an issue.

A further difficulty is that the argument for is that a competitive grant process should address the greatest need and should identify priority projects, but it could also be argued that it depends on the quality of the wordsmith and the submission presented as to whether or not a grant is received, rather than the quality of the project. This is an area where a lot of people don't have the ability to present the presentation in a manner that's likely to evoke some support at the assessor level. That again creates uncertainty and disenchantment.

The consequences of that are that priority projects may be rejected because of a desire to give a wider spread of smaller grants to satisfy the community perception of fairness. That then will mean that projects that may require greater funding and are more significant may go wanting. We've looked at it from the perspective of tax deductions as distinct from rebates and any other form of support. This may not be a conveniently accepted policy from government but it is a far simpler process from an implementation process and an understanding point of view. It gives greater certainty. It would encourage the wider community to support heritage conservation but it competes against the more emotive human environmental causes. Therefore, we say that it should get some leverage element.

The research and development deductions of the past involved a leveraged element of 150 per cent. I think it went down to 125 per cent and so on. A leveraged element would counter that emotive imbalance against the likes of human and environmental causes, in our opinion. It would enhance the prospects of private heritage conservation expenditure. Included in the formal submission is a full chart explaining this, but in the Making Heritage Happen report that middle section of tax receipts from private expenditure is reported.

Those numbers may well change because of changed circumstances since that

matrix was prepared, but what it does indicate is that 31.68 per cent of money spent in this environment would be recycled back as tax receipts from wherever the money was spent. In addition, because of the additional job creation potential, it could save 16 per cent of social security expenditure, giving a total recoup out of 100 per cent of expenditure of 47.68 per cent.

If you then move down to the shaded portion where the donor's tax saving at a leveraged rate of 150 per cent is applied, in the end column - which is the 48.5 per cent tax rate by a taxpayer, including the Medicare levy - that would mean the donor's tax saving would be 72.75 per cent which, when you look down to the bottom line, highlighted in red, the net cost to the donor of a donation or support would only be 27.25 per cent of \$1 for each dollar of expenditure. If you look at it from the revenue point of view, the next benefit or cost of the revenue in the case of an individual on that sort of tax rate would actually be 25.07 per cent, which is only 5.07 per cent more than the 20 per cent rebate system that existed.

That light blue panel explaining those three lines of donor tax saving at a leveraged rate, net benefit to the revenue compared with the rebate will not appear in the subsequent three slides, so you will actually see the effect in simplistic terms, although a detailed annexure is in our submission. If you increase that to 175 per cent, the benefit or net cost to a donor would drop to 15 per cent. We say between 15 and 25 per cent is a range that would be of great appeal to a high marginal rate taxpayer to encourage them to support such an issue as heritage conservation. Correspondingly to government, at the 175 per cent of tax rate, the additional cost of the revenue would be 17.2 per cent on that higher rate taxpayer, which is nearly double the 20 per cent rebate.

When you look at it from a company point of view and you increase it, accepting that a tax rate of 30 per cent would be used for a company - and these numbers may well vary if you apply the matrix of different rates - if a company was prepared to contribute a dollar, the actual cost to them would be 25 cents or 25 per cent of that dollar in net cost. The net cost to revenue would only be 7.32 per cent more than the 20 per cent rebate, so we're saying a marginal additional increase should attract far greater interest from companies and individuals, particularly those on a higher tax rate at the individual level.

Firstly, the higher rate taxpayer, as distinct from the lower rates, should normally have greater ability and inclination to support such a project or such heritage conservation initiatives. It should also appeal to companies, and there would be a greater inclination if the net cost to those taxpayers, be it company or individual, was in the range of 15 to 25 per cent. We believe that should attract considerable support, but our initial view is that it should only be applicable to assets listed on a federal register - on a state and territory register - or a municipal

inventory. Municipal inventories don't have the same level of assessment as state and federal registers, and I will address that in a moment. Initially at least we believe it should be limited to those assets that have some degree of listing.

As to the question of how you classify them to keep it relatively simple from an administrative point of view and an applicant's point of view, we believe that domestic residences should be of one class, commercial buildings or industrial complexes a second class and then another class as approved by the relevant Heritage Council of the state or territory in which the asset is listed. This allows flexibility and some degree of control over anything outside the norm.

You would certainly need a capping, and there is capping in other programs and has been in the past. Depending obviously on the state and the cost of consultants in those states, we believe a capping, for instance, in the case of a heritage assessment of, say, 5000 for a residence and 10,000 for a commercial building or an industrial complex should be adequate. In the case of anything above that, if the complexity dictates that a greater cost would be involved, then - as in note 1, which is included in the report - that should be an application to the relevant Heritage Council for special consideration and classification under that other category. To summarise, conservation plans, residences at 10,000, commercial industrial at 20,000 and special consideration by Heritage Council for anything outside those bounds.

In relation to quantity surveying for the cost of restoration, the going rate is around 1 per cent tops and we believe that should be applied. That would be reflected in the conservation plan and the degree of work required under the conservation plan, or heritage agreements as they now sit. Again, conservation and restoration works would be set out through the quantity surveyor and we believe that if you took that rate and allowed a 10 per cent excess - in other words, 110 per cent of the quantity surveyor quote or estimate for the work - then that should be adequate to cover time lapsed up to the time of work. Annual maintenance for residences and commercial buildings, up 5 to 10 thousand. Again - note 1 - special consideration for higher amounts should be signed off by the Heritage Council.

It comes then to the question of buildings that are actually used for other purposes, notwithstanding the fact that they're listed. They may be converted, as is the church in which the Heritage Council awards were made and actually featured as the backdrop of the certificate that I showed earlier. That has been converted into a gallery. The inside has been completely fitted out in a modern idiom, but the fabric remains the same and it is reversible, as required under heritage guidelines. In that case, we believe that special applications should be made. In the main, they would be privately owned, we would imagine, and they need special consideration and limitations to prevent abuse.

We believe that qualifying payments for the concession should only be to consultants or firms approved by the Heritage Council or if they are made to an incorporated not-for-profit deductible gift recipient listed on a register of heritage organisations. There is a register of environmental organisations, and we're an applicant for the adjoining site to our heritage attraction to build a biodiversity park, so we understand that process. We see no reason why there shouldn't be a similar register; an application process for deductible gift recipient status to cover heritage.

Items 6 to 8, which is reformatting of buildings like the church gallery, we believe should be subject to Heritage Council approval and a completion certificate to qualify for any expenditure. In the event of a private sale of a restored building - particularly those that have been fitted out differently than just purely conserved and restored - we believe there should be a recoup of at least part of the tax benefit from the sale proceeds where they're privately owned and subsequently sold. This, as we say, is really only where it's converted to an alternative format rather than preserved or conserved and restored.

The benefits of the proposed system would be relatively simple and easily understood. It could accelerate the assessment of, particularly, municipal inventories where I understand in a lot of cases it may be a one or two-page document that thinks the building should be listed and, therefore, it's listed on the municipal inventory. We believe the deduction process or principle would permit an accelerated assessment of buildings to make a decision as to whether they should continue to be listed or whether they should be removed before they go to the second stage, which is the actual conservation planning process.

It would not be dependent on a competitive program as the grant programs usually are. Therefore, you would not be limited by non-availability of funding for particular purposes, which would restrict the assessment and conservation planning work and restoration work. It wouldn't be a complicated application process. It offers certainty to the applicant in most cases and it passes responsibility for major variations to a standard to the relevant state or territory Heritage Council.

We would see it minimising federal administration. It would encourage proper heritage assessment and asset conservation and assessment and also maintenance of those buildings. The cost of the system would only be marginally above the 20 per cent rebate system previously in vogue and we see an advantage, from a selfish perspective, that the grant system can more rightly be directed to not-for-profit organisations and not to privately owned heritage assets where there is some potential commercial benefit long term to the owner. That is our presentation, Mr Commissioners. We do have a formal submission in a little more detail with supporting documentation and I would be happy to answer any questions.

DR BYRON: Thank you very much. That was extremely interesting. My initial response is in two parts, one about the experience of Whale World and lessons from that that might apply to other organisations, and then we might go into a bit more detail about your proposal for tax deductibility, et cetera. One of the first questions that occurred to me when I saw the plaque - that you're on the Western Australia state register - is how has heritage listing affected the Whale World project, positively and/or negatively?

MR SNOW: Apart from the initial reticence when it was foisted upon us, when we took a closer view - and we are, I guess, to some degree very fortunate that we have as our general manager a heritage-inclined builder, who is uniquely qualified for our particular requirements - he made it his business to find out what could be done and what the restraints were. We have worked very closely with the Heritage Council on every building on our site. Before we go down the path of doing something, we seek heritage approval, as we would be required to do, but it's working with rather than against - - -

DR BYRON: It wasn't something you initially sought.

MR SNOW: No, it wasn't, because we - certainly our board - had some degree of fear that we were going to be restricted from doing anything on the site. That turned out to be an ill-founded concern, although others do express that view to us. We encourage them to work with heritage rather than be resistant to it.

DR BYRON: Do you think the original intention was to assist in the promotion and success of the organisation in the effort or was it intended to somehow constrain or circumscribe or direct what you could do? I don't know if you're in the best position to interpret what their motives were for announcing this.

MR SNOW: Yes. It came as a bit of a surprise to us when the minister came down to tell us that it had happened, because we weren't aware of it at the time, which was a bit of a surprise. Apart from the initial surprise, we then made investigations, which we hadn't before. It depends, I guess, on who you deal with in the relevant heritage council. We have had a lot of cooperation from our regional heritage adviser, and in fact we are in the process of doing a revised submission to modify the actual heritage area to allow the next stage of our development. But, yes, I guess, greater awareness of the benefits and/or restrictions of heritage listing would have been helpful in the early stages.

DR BYRON: That may relate to what was going to be my next question about whether you think you could offer some general lessons, from your experiences, for other operators of what I think are generally called heritage tourism attractions. I

don't mean that in any sort of pejorative sense, but people who have heritage assets that are actively presenting them to the public at large. Maybe you are in a unique position because of being community based - well, maybe some of the others are also community based - but given that this seems to have been very successful over a number of years, are there any lessons for others who are just starting down the path?

MR SNOW: Yes, I think there are. One of the fundamental premises on which our organisation is based is the activities that we undertake, whilst having an altruistic aim from the proceeds, are commercially driven. Our board requires that we show returns on assets, as any other business should, and it's our view that organisations that have heritage assets should include in their number, or their management, the same management approaches that a commercial business should have, notwithstanding that the ultimate profit or loss would be at a community level. That, from our perspective, is critical.

I mean, we have certainly incurred losses in the past. We have commercially adjusted our business to cope with those and our long-term objective certainly is to make ourself fully sustainable and internally fund any future capital works. We are not quite there yet. We hope to be there in the foreseeable future, but the business must be commercially driven, and it can be commercially driven from the perspective of a not-for-profit organisation - it doesn't mean non-profit - and that's the approach we would take.

MR HINTON: You're Jaycees Community Foundation Inc trading as Whale World.

MR SNOW: Yes.

MR HINTON: Do you have in mind going down diversification to other projects?

MR SNOW: Yes, we are. In fact, at the moment we're reasonably advanced in our planning for the Albany Biodiversity Park, which would encompass part of the Albany Aquaculture Park that the minister for fisheries has been good enough to give us back; the lot from our site that was originally excised to create the Albany Aquaculture Park. We have made representations to the City of Albany and have received a favourable response, subject to the feasibility study, that they might give us 3.3 hectares of additional buffer land, together with the land which we have presently in a degraded state that can be created into an Australian fauna park of a different type to others that exist and a regional wild flower mural, which has actually degenerated down to a mosaic now, to accommodate the wishes of the purists. So we have three separately branded attractions alongside each other which would multiply the tourism intake and use economies of scale in terms of marketing and administration.

DR BYRON: Sorry, what was the third one?

MR SNOW: Wild flowers or flora - regional flora and Australian wildlife - and we have actually got the animals ready to translocate once we go through the process and satisfy ourselves that the mathematics work.

MR HINTON: Want to shift to tax matters?

DR BYRON: Certainly.

MR HINTON: I'm a bit hesitant raising questions on this topic, Peter, partly because I don't have the benefit of your written submission, but thank you very much for your slide presentation. My questions really are with that significant qualification. I'm not sure I have absorbed all that detail.

MR SNOW: Sure.

MR HINTON: You identify a difficulty with the grant system, partly because they're cumbersome; they're selective; the success rate is so low it discourages application; there may be degrees of inequity in all that; and that took you down this track of, "Let's use the tax system." But there's obvious reasons why the tax system often is not used with regard to substitutes for direct grants, and one in particular is that the Tax Act itself has gone from this high to this high in a very short period of time. Do you really want to be a driver for more complicated tax acts, legislation and regulation?

MR SNOW: No. I'd like to be a driver for more support for heritage conservation to enable a more rapid assessment and restoration of Australia's built heritage, and that's really what's driving this.

MR HINTON: That's a good answer because that really drills down from my more flippant question, which was the size of the tax regulation. If you are going to go to the tax system, it's then incumbent upon the tax system to have criteria by which one would be eligible.

MR SNOW: Sure.

MR HINTON: It's that process of eligibility that generates the regulation, that generates the complexity, because of the objectives of efficiency, equity and, we like to think, accountability and transparency as well. I'm not so sure your system can deliver criteria that will generate efficiency and equity in the tax system that has a deduction of this kind. Is that unfair?

MR SNOW: I looked at it from the point of view of what is the real cost to the revenue, and the system we propose is marginally more than the 20 per cent rebate system. What it doesn't do is it doesn't attract a high level of support. The previous system that - I think it had, what, a two-year lifespan - was discontinued because of a lack of interest and a lack of support.

MR HINTON: Sorry, maybe I misunderstand your - - -

MR SNOW: There was a previous system that was adopted, I think, two years ago that's been scrapped. In fact, going back some time there was a - - -

DR BYRON: It was a bit longer than that.

MR SNOW: Longer than 98? 10 years? Okay. Well, it's been scrapped because of a lack of support. In fact, I think there was reference in the Making Heritage Happen report that little more than two million dollars of benefit came out of that system. Therefore, there's something wrong with the system. If you can't attract people to support it, then what's the point in having it?

MR HINTON: So your comparison is the criteria for the rebate system would be the criteria for a deduction system?

MR SNOW: I think a deduction system is more understood than a rebate system by potential contributors, and I'm looking at it from a marketing perspective or promotional perspective as well as the benefit. I mean, there was a system in place for research and development which seems to have also shrunk over a period of time. I don't see a significant difference between that principle and the - - -

MR HINTON: I'm glad you raised it, because I was going to raise it myself, in that the origin of the rebate for R and D, or the tax incentive for R and D expenditure, was primarily driven by the identification of the benefits that accrue from R and D, which were much higher than alternative use of funds paid by the taxpayer. That is, government intervention for R and D encouragement produced economic activity by a very large factor relative to, say, investing in something else. That sort of underpinned that intervention through the tax system.

To my knowledge, to compare that particular use of the tax system to other alternative systems, whether it be construction or tourism, hasn't occurred - or that alternative use of funds hasn't occurred - because the return on the investment is much higher in R and D, so the research tells us. That is why I am a little uncomfortable with your formulation that R and D is there - similar concept is heritage - and I think we'd need to go back and look at what is that alternative use of

funds - taxpayer's funds - for this exercise? For example, tourism might be another possibility. You could have a deduction system for tourism investment. Well, maybe that would give a bigger return than heritage.

MR SNOW: I come back to that original chart; there we are, that particular chart. If you accept, rightly or wrongly, that according to the Making Heritage Happen report for each dollar of expenditure there is a recoup of 47.68 per cent or a saving to the system of 47.68 per cent - - -

MR HINTON: I'm not so sure I'm accepting that, but go on.

MR SNOW: I'm just saying if you presuppose that that's right - or if it isn't, apply the correct mathematics and see whether the answer comes out materially different - therefore, there must be an advantage for expenditure in that area in some form. Whether it's a higher rebate system, which I tend to feel is not as well understood by the public - and the contributing public, which is the area that I'm looking to achieve - then is the government serious about heritage incentives? Do you increase the rebate or do you bring in a tax deduction regime which people were, for many years, familiar with; a fairly straightforward system?

MR HINTON: There's no shortage of proposals around to say if we could only use the tax system to generate economic activity we would have this wonderful magic pudding. It doesn't exist, otherwise we wouldn't have private sector activity. We would have all these wonderful government interventions giving rebates all over the place, and I am always uncomfortable with presentations that say this is a magic pudding.

MR SNOW: I'm not suggesting it's a magic pudding. I'm saying that it is one avenue that we have looked at. Rather than canvass a wide range of possibilities, we felt it would be easily understood by the public; it would counter the imbalance of the human and environmental causes versus heritage conservation.

DR BYRON: Can I go back a bit just to clarify and elaborate? At the moment if someone is a deductible gift recipient, a donation of a dollar gets a dollar of deduction.

MR SNOW: Correct.

DR BYRON: And you're suggesting that if there was 150 per cent rather than 100 per cent deductibility that would elicit more contributions.

MR SNOW: Correct. Correspondingly, the expenditure of that dollar, hopefully - according to this matrix that's in the Making Heritage Happen document - would

recoup 47.68 per cent of that.

DR BYRON: I guess the thing I was coming back to is that you're arguing that, when people only get a dollar deduction for a dollar donation, there are more donations going into human and environmental - - -

MR SNOW: Absolutely.

DR BYRON: Okay. But if the government was to say, "Okay, we're now going to give 150 per cent to heritage, what do you imagine would be the reaction from the international aid agencies, the Guide Dogs for the Blind, kidney research, Medecins Sans Frontieres and all the other 200 organisations that ask me for money every week? Wouldn't they say that, "We're at least as important as heritage, so we also want 105 per cent tax deductibility," and we're back in the same situation again.

MR SNOW: I agree, and if I were the other organisations, I would be. However, balancing that, we're saying that they have the specific emotive effect that these other less attractive philanthropic appeals would have, and that is the reason. You know, you look at the amount applied to heritage conservation or donated to heritage conservation versus the other programs. You can see a huge disparity, and that's the reason.

DR BYRON: Yes, but one of the things that we're going to have to look at is if, indeed, there is a case for more taxpayer funds to go into heritage conservation somehow, spread across Australia, what's the appropriate vehicle for doing that? Should it be done through the tax system - and there are different variations on that - or should it be done through some other mechanism such as grants or contracts or who knows what else? But it's not at this stage obvious to us that the best way of putting extra resources from taxpayers into heritage conservation would be through using the tax system, one of the reasons being that it's very hard to assess how much bang for the buck you get, unless you've got a mechanism for monitoring how those funds claimed as tax deductions have been used.

The Tax Office and the treasury can work out what the cost to the national tax take has been, but there doesn't seem to be a mechanism for adding up what we have achieved through this tax expenditure. I think one of the reasons that the previous attempt at using the tax system to encourage heritage conservation was short-lived was that they found it very, very difficult to see if it was working, how well it was working, how effectively it was working and whether it was good value for money.

MR SNOW: But that would apply also to your environmental and other causes, wouldn't it? Similar issues in terms of measurement.

DR BYRON: Yes.

MR SNOW: I mean, we put this up purely as one possibility which, from the user point of view, was simpler. The back end of that is at government level. That's a different kettle of fish.

MR HINTON: But if I understand it correctly, you're seeking to increase contributions - donations, in effect - that then would be tax deductible at least 150 per cent.

MR SNOW: A higher rate.

MR HINTON: A higher rate, which would be in itself a strong incentive to give more than otherwise would be the case.

MR SNOW: Correct.

MR HINTON: Then those donations are received by third parties, eg not-for-profit organisations.

MR SNOW: Or consultants.

MR HINTON: Or consultants - - -

MR SNOW: Parties doing the work.

MR HINTON: - - - that then can use those funds under guidelines, with caps on the category of expenditure.

MR SNOW: Correct.

MR HINTON: So the robustness of the tax deduction as to whether it generates a benefit is crucially dependent upon the constraints on the entity and how they use it.

MR SNOW: Correct.

MR HINTON: Right, which would require documentation.

MR SNOW: Correct.

MR HINTON: Otherwise, you're going to have what are called tax rorts.

MR SNOW: You need your prevention of abuse, and I have covered that in more

detail in the reports.

MR HINTON: Okay, thanks.

MR SNOW: That's by capping and putting in place, for anything beyond the certain caps, a sign-off by the relevant Heritage Council in the state or territory, so that you know what the exposure is going to be, that it is reasonable and it hasn't been rorted.

MR HINTON: If I am the owner of this wonderful heritage listed house and I don't have the resources to maintain it, it doesn't matter if I don't have the money to spend on it because, if that was tax deductible, I would never get the tax deduction because I don't have the money to spend. But by your system, if I get the money via a third party - a not-for-profit organisation - my roof gets fixed with their funding.

MR SNOW: That is one way. We're certainly not focused on maintenance. It was more aimed at assessment, conservation planning and the actual work of restoration to a certain level. The private sector area is one which would certainly need special attention, as distinct from not-for-profits that actually manage and operate the particular heritage asset, which I think is where funds should be more correctly directed under that system, because they're languishing to some degree under the grant system.

DR BYRON: Coming back to the difficulties of the grant system that sort of initiated all this work on using the tax system instead, is there another possible route that, if organisations like the National Trust, for example, were somehow overnight much more successful in attracting corporate philanthropy, for example, there would then be a large bucket of money which they would then, using their expertise, disburse to appropriate worthy causes?

MR SNOW: Sure. The biggest problem is - you've hit the nail on the head - attracting funds from a philanthropic environment, which is not similar to the USA and other more philanthropically inclined environments. That's the problem that we face in Australia. It is very difficult. I mean, we've largely succeeded because of the grant system. We've had limited support from the private sector, and the reason for that is the lack of benefit to the donor for whatever he contributes, because for somebody to contribute a dollar, even on a high marginal tax rate and even with deductible gift recipient status, they're actually paying 51 and a half cents in the dollar at the 2005 tax rate, which is a fairly substantial disincentive, unless they are specifically inclined towards particular projects. As I say, heritage conservation is generally not an emotive issue in the priority order. How do you address it? I don't have the solution. This was just one idea.

MR HINTON: Your idea is to give it a higher deduction.

MR SNOW: Correct, a leverage.

DR BYRON: A differential advantage. What about corporate sponsorships? Have you attracted much of that?

MR SNOW: Yes. It's mainly in the area of goods and services in kind and sponsorship of media - we have a major regional TV media sponsor, which is a significant component of our marketing budget - but it's very limited in terms of cash donations, from our perspective. Probably you could account to them \$100,000 in total over 20 years.

MR HINTON: Coming back to your criteria, just to bring rigour to the system - that is, the criteria for the actual expenditure - does your system include transfers to potentially commercially sound organisations? That is, not just heritage conservation in its own right but, say, a shopping arcade that's operating commercially but also has this heritage value. Would it be potentially a recipient of the transfer from the not-for-profit organisation?

MR SNOW: I wouldn't see it being transferred from the not-for-profit, because I saw the not-for-profit as actually operating, not necessarily visualising a shopping arcade, but providing that the heritage body or the not-for-profit organisation maintained and maybe derived rent from it, that's one issue, but the actual transfer of a property to the private sector - - -

MR HINTON: I see. The use of the funds by the not-for-profit organisation - it stops there. It's not a transfer to others.

MR SNOW: Well, it would be. I mean, you would be retaining consultants, you'd be retaining builders for the actual conservation works and so on. I don't see it just being a simple residual pool in a not-for-profit organisation. The money would necessarily be spent, or a large proportion of it. I did allow some fee component in there, within the Heritage Council environment, for the processing and applications, should they have to go down that path, but I saw it being a cap on actual expenditure.

MR HINTON: I'm trying to get an example that fleshes out the criteria. I'm in Tasmania and I've got this wonderful bed and breakfast. If only it were heritage listed I would be able to advertise that way, so I get a heritage research officer to do the history of this wonderful old house.

MR SNOW: Correct.

MR HINTON: It determines that it really is a very valuable historical cultural piece of Tasmania.

MR SNOW: It's not listed yet.

MR HINTON: Not listed yet.

MR SNOW: Okay.

MR HINTON: But that research actually could be funded by the not-for-profit organisation on my behalf.

MR SNOW: Yes. I did say that initially we saw it only being in relation to properties that were already listed in some form, albeit on a municipal inventory with scant information.

MR HINTON: I'm trying to get the intersection with - - -

MR SNOW: You could extend it, but I would think you'd need to do that in a trial process, with the listed properties, before you embarked on a wider brief.

MR HINTON: I was trying to use the anecdote to try and get a better understanding of the area for which this expenditure would be eligible and to see how that intersects with what is actually happening today.

MR SNOW: Essentially, it would be for assessment for preparation of conservation plans, quantity surveying and the actual restoration and conservation work to bring it back to the original standard. Beyond that - and this is where I saw a large proportion would be focused at the private sector - if you want to use the building in a different form, then that would need a special approval process, hence the Heritage Council involvement.

MR HINTON: But in my bed and breakfast case, it has the potential to drive out my commercial decision to invest my own funds, because I'm going to get the funding.

MR SNOW: If you could attract some other party to contribute the funds to have it assessed, certainly.

MR HINTON: Why not?

MR SNOW: Yes.

DR BYRON: Okay. There's a lot there for us to think about and digest. I don't think we've fully digested it yet.

MR SNOW: Thank you for the opportunity of presenting that.

MR HINTON: Thanks Peter.

DR BYRON: Fascinating. I think we can pause for a couple of minutes while we disconnect the hardware.

DR BYRON: Next we have Mr Ray Hooper from the Shire of York. Thanks for coming, Ray.

MR HOOPER: No problem. I appreciate the opportunity.

DR BYRON: Thanks for the written submission, which we have read carefully. If you would like to take us through the main points and then we can discuss it.

MR HOOPER: I am coming from a local government perspective after 30 years in local government in rural Western Australia, so we are dealing with heritage at probably a lot lower level than a lot of your submission people will be doing, but it is still as important to our level, whether it is one building or a whole town, particularly with York - it is 175 years old next year, so we're older than most of the states in Australia. We have got this funny nomination of a heritage town. No-one knows what it means. It definitely doesn't translate into dollars or assistance. It is just red tape that sits over the top of us.

DR BYRON: And tour buses.

MR HOOPER: Yes, that's a real issue for us but, more importantly, it's sustainability. The towns, particularly in rural areas, aren't going to survive if they have just got a terminology or a header that says Heritage. It has to go level - than that. We don't have the expertise, qualifications, to even do an assessment, so we are forever paying out for external people to come in. They have their view. Very seldom do they talk to locals to get any local feelings into it and then, all of a sudden, another edict comes down from on-high that we are expected to comply with, and community opposition goes up and then you end up with your demotion by dereliction because no-one wants to do anything with it.

The whole idea of heritage, in my opinion - and particularly the built heritage - is that if it has a degree of importance it is too important to give to local government, which is the lowest level and least resourced tier of government, so is there reality in what is happening between the Commonwealth, the state and local government? The previous speaker made mention of municipal inventories. We do them because it's law; not because of heritage or any other value associated with them. It is simply we're told we will do them and we will review them. If you go and have a look around most of them they are, at best, two pages. Most of them are a quarter page, simply just detailing a property address and nothing else.

If it is on the state register we give it a bit more credibility, but then if it has a conservation plan over the top of it we find we're becoming the policeman or the monitors of compliance with a conservation plan because the heritage council and government agencies don't have the ability to get out into the rural areas to look at

them. As I said previously, we don't have the expertise to make qualified or unqualified judgments on whether they are going well or not.

I'll give you an example that happened last Friday. A heritage listed building that the owner has tried to give to the National Trust, the local government, anyone that will take it, free of charge - it has been through a full conservation plan process. He has tried for three years to get some grants to maintain it. A wall fell down on Thursday and, after being rejected for his grants, he sent a photo; Friday afternoon he had 27 and a half thousand dollars to do repair work.

Like he said, it's beyond repair, but the minister is still going to come up and do a presentation of a cheque, but the wall has gone. To build it without engineering certificates or anything else is a recipe for disaster now, and that is happening more and more, where you get to the last stage where it is too late, yet you have got willing players ready to go in three, four, five years ago, and are defeated by the system. I was very interested in some of the taxation things from the previous presenter: not that I understand all the figures, but there needs to be some level come in somewhere that allows that person the ability to spend the money and it may be deductible over a certain number of periods or when his turn came for the grant he got it back, less any commercial benefit or something, but there has to be something done or the building will just fall down. That is one example as recent as Friday.

DR BYRON: Yes.

MR HOOPER: I think in any rural area particularly you could go and see 50 ruins where they were willing players at one stage, got frustrated, and walked away, and now the buildings are just laying on the ground. The distinction between Commonwealth, state and local is still the most contentious area. In Western Australia particularly you find most of the heritage values have to be protected in town planning schemes because there is no other ability to do it. Now, if heritage law is correct it should stand alone and, if it did, have the backing of the various government agencies with local government possibly being an agent for monitoring and compliance rather than being the sole governing body at the moment.

You get the ridiculous things where it is included in town planning schemes. We're in York. If you want to change the colour of your roof in a heritage precinct you have got to pay a \$177 application fee; go out for public comment where your neighbour mightn't like a blue roof, so they lodge an objection and the next minute you're in an appeal process that could take eight or nine months. Again, people give up. They don't do it. The roof deteriorates and the next minute you've got water leaking through into the buildings and the whole thing deteriorates.

There was a comment before about reversible designs or work being done on

buildings. No-one can define it. I have written to the Heritage Council of WA, giving specific instances, "Can you put a flyscreen or a security screen on the exterior of a heritage building?" We cannot get an answer. Now, that was back in January. Six months later we are still waiting for a definition of what is reversible and what is not reversible. Is it a pathway that can be lifted up? Is it something that is affixed to the building by a bolt which can be undone. If it's adhesive is it reversible or isn't it?

There is no definition in the context of those types of things. If you go back to what's listing - I would argue that a town like York, 175 years old, should have a heritage listing to mean something at the federal level to give recognition of being the first inland town in WA. Now, that may translate to nothing else except a plaque or a name similar to what we have got now. At the state level the individual buildings of true conservation value would be included on a state register and the municipal inventory then picks up anything below that level.

If you are going to look at the funding arrangements that apply through there I would imagine that the Commonwealth would be excluded from much contributory funding. The state government would have to put in more to preserve it because, again, at the moment we are restricted virtually to \$25,000 per individual grant per building. If you are talking about a building that's up to 160 years old, it might have a value like the Imperial Hotel of 1.2 million; spending \$25,000 doesn't even paint over the cracks. It doesn't do anything structurally. It doesn't allow it to become commercialised or have any long-term value to the community.

The other one that came up - and I'm probably glad that I was able to rest on a lot of your submission - is the distinction that comes in between private and public ownership. Again, in York, we have got a lot of examples where people with some retirement funds, who want a lifestyle, come in and restore an old building for no commercial benefit whatsoever. They get no deductibility. They get no benefit. The house next door can be upgraded as a bed and breakfast, restaurant, or some other facility - full tax deductibility for the improvements - you know even if it's just depreciation rates - but, in the long term they get it.

They both qualify for grants - even if it is only the \$25,000 a time - but then one can sell at a massive profit and there is no claw-back of any profit arising from the grant system or any other process involved. The other person just gets older; has more trouble maintaining the building. Again, the family usually doesn't want to take on that burden. The next minute it is on the market and God only knows what happens to it in the next five or six times it changes hands.

My biggest view is that the heritage law as it stands now has no degree of sustainability in it. It's ad hoc. It jumps from state to state and from local

government to local government. There isn't any credibility attached to the system as it is now. Some of these things about the not-for-profit organisations - the City of Perth is putting together a Trust thing for conservation donations at the moment, but what is that going to do? Protect the heritage of the Perth CBD to the detriment probably of the National Trust and every other local government in Western Australia because, to be seen to be part of the heritage conservation values, you will go with the "yuppie one", which is the CBD, because that's where you'll get all the credit from.

You won't get any TV appearances because you help to restore the Mukinbudin Hall, but if it's the Perth Town Hall you will be. You'll get the gala opening and all the rest of it, so there are anomalies in the system that just aren't there to support sustainability of heritage places. The responsibilities for heritage just don't seem to have flowed through from what was proposed to respect the Australian heritage. It has gone to this ad hoc development, as I was saying before - things are blurred completely - and if you go just on the metropolitan area of Perth and ask the shires how much they contribute to heritage it will go from anywhere - from about a quarter of a percent to 2 per cent of their rate revenue.

The question has to be asked, "Should they be contributing anything if it's an Australian or state benefit?" Why are the locals having to pay through their rate system when they are already paying their taxes, which can go into a lot of high-profile buildings that they may or may not get any benefit from? It's that level of recognition. If you go to the Australian Local Government Grants Commission there is no real definition of "heritage value" or "heritage costs" in their allocation system, so every town in Australia is treated equally.

In the case of York we get a whole \$1132 a year for having a "heritage" thing associated with us. It becomes meaningless and farcical - and again it goes back to the credibility that is associated with a lot of heritage issues. The City of Perth - they don't even come into the Grants Commission system because they are on what is called "a minimum grant council", like most of the metropolitan ones, so they just get a bucket of money based on population, not on needs or assessment. In one way they are better off but, again, they are not getting due recognition through a government body in the Grants Commission of the cost or benefit for heritage.

I just need to repeat - the first one was, "Can you Trust heritage in the hands of local government?" My answer is no. It is just not practical in the long term. Where do you go with the options after that? The state government seems to be having a few disputes in Western Australia with the Heritage Council; whether they're an empowering body; whether a monitoring body, or where it's going. I imagine the other states are very similar in finding their levels of enforcement and empowerment in heritage.

It is probably a pity in one way that it becomes an emotive subject that you can't easily quantify and in your paper a lot of the things about who should do an audit - whether they should go the levels of audit and all those things - I don't think can be identified because the first question is what is heritage? Is it yesterday, is it today or is it 100 years ago? You can keep putting your brackets around eras, sections of time or whatever, but isn't heritage everything that goes on starting from foundation up to now and into the future? If that's the case, what are we going to end up with at the local government level? Municipal inventories are going to have every building that was built there eventually and again no credibility attaches to it, and it's not sustainable.

We have got issues now. If you do your planning law and you create a heritage precinct, you can't put a carport, pergola, a rose bough or anything up without going through a full planning process. You use the Heritage Act and you've got another government agency doing a study on reducing the disincentives for development in Australia to take out the red tape. Heritage seems to be the one that's introducing red tape. I think it's because of the emotion attached to it and the lack of quantification that can be applied that's causing that problem. The taxation rulings that are applied, I've had a look at the one that applies to conservation and land management grants to them, which are nearly always land grant for conservation values; but I must admit it was way beyond me, the 92 pages of it. I couldn't understand more than about three lines of it. A simple term thing that's in one paragraph that sets the rules would be marvellous and you would probably get donations.

The point that was made again by the previous presenter about the after-tax donations is one of the hardest battles and again I've got a lot of people in York who would gladly donate to the conservation of their town if they thought it was going to be sustainable in the long term and they were going to get due benefit for it. I don't know whether that's bringing their after-tax dollar back to the pre-tax dollar value or where it is, but if you're going to depend on private individuals that's probably the only way you're going to do it. The commercial operations, we just hope they have a corporate conscience and they contribute. From what I've seen in York that isn't coming to the fore.

The issues of who should own a heritage building is one that keeps coming up all the time. Is it right that if it's an iconic-type building, that it is in private ownership? Does the state or the Commonwealth have a responsibility to take on some level of ownership there? That would also give them the right to dedicate the funds to it, be more accountable in the way they're spent and what happens is this sale issue in the long term - either people get older or the families don't want it - is a real big issue waiting to bite a lot of heritage buildings. Whether that's farming property, whether the kids don't want to be farmers, or what are now bed and

breakfasts or some other form, hotels particularly, are going to disappear out of the ownership. The new person won't have the respect for the building or the interest in it and then all of a sudden you get ad hoc development or development without getting the correct approvals.

This leads me onto the enforcement side of it. If there is a breach of a conservation plan, again in Western Australia it's usually the local government that has to be the policeman that goes and serves the order on them. We don't get much support from the Heritage Council and they are underresourced quite badly, so I'm not blaming them. It's a lack of recognition on where we sit in the state context of heritage. Are we a real player? Are we so minor that we should be taken out of the equation? If so, where does that leave the bun fight between the Commonwealth and the states, because if you get disparity across borders, no-one is going to win in that one.

One that has come in is that conservation values seem to have jumped higher than heritage values, in that there are a lot of provisions to allow rating exemption or rating incentives for remnant vegetation and other parcels of land. There's very little - of anything - that applies to heritage. Again, I don't know whether there are options that could offset tax dollar contributions by doing it through some sort of rating incentive. I haven't gone down that road yet.

DR BYRON: Sorry, can I just interrupt you on that one? What you're suggesting is if there's a rebate system for natural heritage, why not one for historic heritage?

MR HOOPER: Yes.

DR BYRON: If something is classified as being heritage, whether it's for animal, vegetable or mineral reasons, then the same sort of treatment would apply?

MR HOOPER: Yes.

DR BYRON: Okay, thanks. Sorry to interrupt.

MR HOOPER: No problem. To give you an example, the hall in York which is probably one of the unique halls - it's 95 years old at the moment - has no real acoustics, no lighting, no climate control. We're spending I think at the moment about \$128,000 a year in maintenance on it. We have got a couple of grants out of the Lotteries Commission to repair it. In parts it's structurally unsound. It has no disabled access. For heritage it's iconic in the region and should be protected. More than protected, it should be upgraded so it's useful.

We have had people from His Majesty's in Perth say they would bring

productions out into rural areas and that is the hall they would put it in because of its size, location and all the rest of it, if we go and spend this money. The figures we've got are between 700,000 and 1.9 million. I can tell you the local community doesn't have the capacity to do that, whether it's on a dollar-for-dollar matching fund or paying the whole lot of it. As we go on through the next five, 10 or 15 years, the hall will fall down. Who will end up being responsible? You can bet it will be the local government. They will cop all the local flack, anyway, and probably all the state and federal flack for allowing it to happen, but where does the buck stop?

If you went to most rural shires - I've worked in Kalgoorlie-Boulder, which has a lot of historic buildings in it - again, exactly the same thing is happening. Kalgoorlie bought virtually the heritage precinct as the CBD and strata titled the shops in it, but the maintenance up there is almost killing them. I think that's it. I think most of the other issues have been included in the submission, but it was more an opportunity to reinforce the lack of sustainability, particularly in rural heritage that applies and the devolution of responsibility to local government, the level least capable of truly looking after it.

DR BYRON: That last point has come up with, I would say, just about all the rural councils that we have spoken to in all states, particularly where you have got a lot of heritage buildings, you've got a small and perhaps declining population with not a great deal of spending money. To say, well, the local ratepayers in that council should be responsible for maintaining the local heritage places, is just not going to work. From the point of view say the Australian Heritage Council - maybe you should ask them - if they have to decide whether the township of York of such national significance that it should go onto a national register and get national funding as a result of that, you know, they may well say that 90 per cent of people in the eastern states have never even heard of York.

MR HOOPER: Yes.

DR BYRON: You can predict what their answer might be in the sense of, "Well, York is hell of a long way from Canberra and we don't have any people on the ground to do things." It's a fairly difficult problem.

MR HOOPER: But it also works the other way. Is asking for that assessment and coming out and saying, "No, York isn't important in the national estate," would allow investment confidence to be improved, because at the moment investors are scared to invest because they don't know what rules are going to come down from on high. We're sitting at a 4.8 per cent growth rate only constrained by the release of land. You cannot get a block of land in York. We're only 97 K's from where we're sitting here. The tree change is affecting us. The historic significance of York attracts a certain lot of people.

Proximity is going to come in with a different lot and they're not going to be worried about heritage. They want a level playing field. They want a greenfield site and they don't really care whether the heritage is protected or not. So York could disappear with its heritage significance because the dollar will talk over the top of everything else.

MR HINTON: But presumably greenfields development, the release of land on the edges of York, could be done in a manner that did not challenge the conservation of York's heritage characteristics?

MR HOOPER: In every other state except Western Australia. We are not allowed to expand our town sites. We have so many planning rules about - - -

MR HINTON: But that seems to be a planning issue, land use issue, rather than heritage issue, or am I misreading this?

MR HOOPER: Well, it is. You're perfectly right. But the state planning policies preclude infill development. You can't create lots under 2000 square metres without sewerage connection. Then the state government changes the rules and extends the sewerage infill program out by 18 years. It just keeps adding onto itself and that's why I made the point about heritage and planning law at the moment being intertwined. I think they've got to be separated and divorced, so that you know what the rules are. Again, if you go to a place like York, it would be simpler to have 18, 20, 50 places that have heritage significance identified under a piece of legislation. Then that would allow the rest of the town to be developed in accordance with planning law.

MR HINTON: Including infill?

MR HOOPER: Yes, where at the moment we've got these heritage precincts or heritage themes which encompass great parcels of land but they're not truly relevant.

DR BYRON: Changing the subject entirely, in terms of how to raise the funds necessary to look after the place, you mention in the submission about bus-loads of people who come in, use the toilets, dump their litter and go on. Is there any way of extracting any sort of revenue for the maintenance of the assets that they come to see out of the tour operators or anything like that?

MR HOOPER: I don't think there's much. We've tried talking to the tour operators of doing it - you know, if there are 78 on the bus, it's a dollar a head to use facilities. Then they think, "We'll go to the next town where there's no cost." Most of them don't even buy food. They come with pre-packaged lunches. They use the park.

MR HINTON: So it wouldn't matter if they went to the next town?

MR HOOPER: No, they've still got to come through so we're still servicing them in some form. We're on a crossroads which goes to Wave Rock, which is one of the icons of the state, so they're always going to come through there. But again, if you go back to the issue of servicing people, I'd love to have a dollar a head for those that walk into the hall alone, because that's 81,000 people. That's half our maintenance cost each year.

If I thought I'd get away with \$2, we would have it on. But if they stop going there and it loses its heritage value, either for photographic records or whatever else, we might as well close the doors, and nothing will deteriorate quicker than a shut-up building. So it's that balancing act. You go on to the other issues of, when you attract people to look at one of these facilities, what about the parking, the street sweeping, the litter and all those other things that go in. Again, they're not duly recognised by the Grants Commission. They definitely don't come into any heritage conservation plan.

DR BYRON: Maybe the Grants Commission assumes that the township is getting enough benefit out of this visitation to cover the cost that is imposed. They may not be aware that you're not actually getting any commercial benefit at all out of it.

MR HOOPER: Yes. We've raised that issue with them. They simply go on the data that's given by the tourism commission: they have 150,000 visitors. Now, the average spend per visitor is \$10. If it's an overnight stay it's \$89 across Western Australia. They multiply that out and they think you're rolling in money. It doesn't work. We're a stopover point. We're a toilet stop on the way to somewhere else. That isn't recognised.

DR BYRON: Coming back to the question of who's responsible and who's accountable, as I said this morning, a number of local governments have told us that they feel that there's cost-shifting going on, where they're being given additional responsibility to look after heritage places but not necessarily the matching funds to do that.

One suggestion that's come up, I think in Queensland, is rather than having a state list, a whole lot of municipal or local listings, a combined list - and that would get around the problem of different criteria, different assessment processes, the lack of expertise in a lot of the rural shires to do the municipal heritage inventory. There'd be some sort of standardisation. The funding for looking after places that were identified as important would then become much more systematic and less ad hoc. I'm just wondering if you had any reaction.

MR HOOPER: I fully support that. That's where the discrepancy comes in at the moment because one local government may have an emphasis or a belief in heritage. The next door one doesn't. So you can have buildings on boundaries that get assessed differently - you know, the commitment to it. So having the combined registry would also make you think hard about the categories things are put in. Under the MI at the moment most people said, "Look, we're thinking about listing it. Do you want to be on?" The first reaction is, "No, of course I don't," because I'm going to get a conservation order or some other thing put on me; but no-one has done the audit to see what actually should be on there.

Again, if you go to a rural town, should you have one building of the 1930s, one of the 1920s, one of the 1900s, or do you want every building from that era, whether they're good or bad, included on it? That's what seems to happen at the moment.

DR BYRON: Just on the reaction of people to having their properties listed, we've also heard some examples where people rightly or wrongly are so apprehensive about the consequences of a property being heritage listed that you go out and bulldoze it or burn it or something before anybody from any branch of government finds out about it. That seems to me to be an extremely perverse outcome, where it's not just demolition by neglect, it's demolition out of fear; deliberate demolition.

MR HOOPER: If I just go back to the tie-up between planning law and heritage issues, particularly in Western Australia, that is the biggest thing, because the town planning schemes that we operate under says, "Any planning development application shall give due recognition to buildings included on the municipal inventory." It was not the intent of the municipal inventory. That was to give us a list of buildings which may or may not have a heritage value in the community and it's been jumped over into planning law. That's why people are refusing to have anything to do with it.

If there was an audit of what are true heritage buildings applied, most people wouldn't have any problem. They'd have a right of appeal. At the moment, there's virtually no right of appeal when it comes to planning law, because it may not be them. It may be their next-door neighbour who's proposing to do development not compatible with the building or the amenity of the area or some other thing. Then you get all the neighbourhood emotion that comes into it and you get all this dispute going on.

MR HINTON: So, Ray, the inventory doesn't have rigour at the moment and that's damaging the credibility of the conservation objective?

MR HOOPER: Yes, and again, we just don't have the experience, expertise or the financial resources to do a more up-scale one. Just in this last financial year I dedicated a staff person to doing it. It was virtually a six-month full-time job. So if you add on-costs, we're close to \$50,000 to do something that quite honestly isn't worth the paper it's come out on.

MR HINTON: There's a town nearby that's got full-time heritage officers.

MR HOOPER: Yes.

DR BYRON: You mentioned the fact that people have to pay applications to make any sort of changes, get development consents. There are a couple of places in another state that have said, "Look, we recognise that putting an individual's private residence on a heritage list imposes on them some extra paperwork, so the least we can do is exempt them from the application fees as a bit of a quid pro quo." That doesn't seem to be the normal practice here.

MR HOOPER: No, we did that this morning in York at our draft budget meeting. We got the motion up that there are no more planning fees associated with anything that isn't structural change to a heritage building.

MR HINTON: But if the heritage listing is lacking in rigour, that would seem to be damaging credibility even further by then waiving a fee for something that's not warranted.

MR HOOPER: That's one of the big issues with it, of what is warranted. You have your classes, 1, 2, 3 and 4. If you're going to use planning law, let's only use planning law with classes 1 and 2 and drop 3 and 4 out of the system completely, which are the lower level ones. If they qualify to come up to levels 1 or 2, good on you; you include them. But at the moment we use the blanket approach to cover everything and it's not working.

MR HINTON: Ray, is my perception right: that York's particular problems seem to be driven by your view that this a town that's state significant yet it's been treated as if it's just locally significant and therefore resources, energy, that you think would be warranted because of the characteristics of the town, coming from state level jurisdiction, is not forthcoming, hence you're a rather separate problem case relative to many other local governments in the west?

MR HOOPER: No, only because of the history of York, being the oldest inland town, that issue applies; but having worked everywhere from Morawa to Kalgoorlie to Wongan Hills, every one of them has a heritage impact at some level. Whether it's their old hall or - - -

MR HINTON: But the proportion of expenses that would be needed to conserve as a proportion of revenue base would probably be less in those towns relative to York is what I'm really getting at.

MR HOOPER: Yes, definitely. That is a big issue for York because we are not sustainable with a rate base of 1.8 million to keep spending 10 per cent of our rates on a single building. We've got eight other buildings which would qualify.

MR HINTON: One possible solution for you, then, is to get what you would consider appropriate recognition as being state significant rather than just locally significant?

MR HOOPER: I'd prefer to go the other way, commissioner. I would like the state to take over ownership and responsibility and take it away from us completely.

MR HINTON: Isn't the prerequisite step to get recognition first, then you can give them ownership?

MR HOOPER: Yes.

MR HINTON: They're unlikely to take over ownership if they haven't recognised that it's state significant.

MR HOOPER: No, but the ones that are registered at state level are still with us or in private ownership and the Heritage Council is having a real issue with the Imperial Hotel in York. The person was going broke and threatened to bulldoze it.

DR BYRON: Yes, when we were here a few months ago I read about this.

MR HOOPER: Next minute it's got an interim order on it. Now it's on the full conservation list but the doors are still closed, the building is still deteriorating, the owner is in dispute with potential clients.

DR BYRON: I think we're going to have to move on. Is there anything else you wanted to say in the way of summing-up?

MR HOOPER: No. I think the study you're doing is vital. I don't envy you your job in trying to find an answer to it, I can tell you.

MR HINTON: That's why you're here.

DR BYRON: Thanks for giving us more questions with no answers.

MR HOOPER: Sorry, commissioners.

DR BYRON: No, it's very helpful, particularly to get your experience from the pointy end of where it's all happening. It's very valuable to get that on the record.

MR HOOPER: Thank you very much for the time.

DR BYRON: Thanks very much.

DR BYRON: Next on the agenda we've got Margaret Carmody. When you're ready, Margaret, just introduce yourself for the transcript so we've got it. If you'd like to explain a bit about the background to the issue and summarise the main concerns and how it fits in with our inquiry, that would be really helpful.

MS CARMODY: Margaret Carmody, Trigg Island Beach House, Trigg, private individual. My mother is an owner, I'm the occupier. My mother is 92. This Trigg Island Beach House - I'll just quickly show you the photograph - is right on the coast. It's 15 minutes from Perth. That one with the green roof. There's the island and there's the city.

I'd like the Commonwealth to recognise this house. It's a beach house. Compared to all the other buildings that are going along Trigg Beach now and North Beach, these sort of buildings - and that's how close they are to the coast, so when you're walking along the beach you can now see lots of buildings where you couldn't before. Given that we're going to have a whole lot of this price rise in fuel and all the rest of it, people are going to want to have this isolation and they're going to come to the coast.

From the beach you can't see my mother's house at all because it's got a big hill in front of it. This house is on the state register. There was another house there as well. It was attempted to be put in as a precinct, just the three little houses. The City of Stirling, even though they were put on notice not to bulldoze the empty block that you can see there now - the house that was there - went ahead and bulldozed it. My house was put on the State Heritage Register in 2003. I'm very happy for it to be on the state register. Even now, the City of Stirling has got a Trigg Beach Master Plan and one of the questions to the public is, "In your view, is the conservation of the heritage house at Trigg Point and conversion of the adjacent lots into a public park beach outlook an appropriate use of this public land?"

They're asking this question and yet they're showing in front of the house, in front of my mum's house - part of her land - a drive-through. So what they're actually asking in the Trigg master plan are these sort of questions and that's what they're showing the public. This is pretty well it, what they're showing the public. There's the house and, I might add, the whole of the land, the whole of this block through here is registered on the state register.

MR HINTON: Is that a good thing or a bad thing?

MS CARMODY: Fantastic. I'm very happy. I must be the only person in Western Australia who's really pleased.

DR BYRON: I'm just a little bit confused that this is described as public land - - -

MS CARMODY: Exactly; so am I.

DR BYRON: - - - even though it's - - -

MS CARMODY: It's very much private.

DR BYRON: - - - very much private freehold and has been for many years.

MS CARMODY: Yes, 40-odd.

DR BYRON: Is that a simple misinterpretation? They think that because it's on the state register it's therefore government owned or crown owned?

MS CARMODY: No. In 1995 and twice in 1996, the City of Stirling and the planning commission combined. We weren't notified, nor were the two owners on either side of us, that our properties were to be put up for recreation in the Metropolitan Region Scheme. We found out purely by chance. We attended two hearings and I had it debated in parliament. It went through that far. This is the outcome now. It is now as a recreation zoning. It has lost its urban zoning, so it's zoned recreation, but it's very much private freehold, very much owned by my mother, and I'll be inheriting it.

I'm very happy that it's heritage listed, extremely happy, because I think with the onslaught of building all along the coastline, that will go. The house is protected by a major dune. From my dune I don't even see Observation City, Observation Rise. That's behind me. I've got this massive view all the way around the front and it's, I think, the only front lawn on the whole of the West Coast that you don't see the house. You just don't see the house. It's unique. It's worth a look.

MR HINTON: Are you house 26? Private house purchased for public use?

MS CARMODY: Yes.

MR HINTON: I'm puzzled.

MS CARMODY: That's the thing. That's what's been put out to the public. 30,000 brochures with that on it.

MR HINTON: What has been the response of the planning authority on that issue when you've confronted them?

MS CARMODY: I haven't yet. It's only just been put out. 15 August, that's the

time it stops, the consultation. It's only going for six weeks and there are no public meetings to discuss it. Very interesting.

DR BYRON: Do you think they meant to say, "Private house which might be purchased for public use"? But it's certainly not what it does say at the moment, is it?

MS CARMODY: No. Here:

The following motions were put to and passed by the meeting at Trigg Island Surf Club at 6.30 pm on Wednesday, 28 April 2004, attended by approximately 200 shire residents.

Point 6:

That the only development of the three lots south of Trigg Place and west of West Coast Drive be for public open space, ie parkland purposes.

Point 5:

Lots south of Trigg Place -

That's me -

and west of West Coast Drive are to be developed as a heritage park for the retention of the cottage in the centre lot and surrounding grounds as parkland, with additional parking to be provided on the southern lot.

MR HINTON: The house is occupied?

MS CARMODY: Yes, I live there.

MR HINTON: Fully occupied?

MS CARMODY: Yes.

MR HINTON: Maintained?

MS CARMODY: Yes, beautifully maintained. Well, not really. I've just gone for a heritage grant. I could easily do it myself but I want a heritage grant to just give me the impetus. But it is, yes, lovingly cared for. The grounds look okay. That's my view. This is what they did. This is what the City of Stirling did in about 1968, 69. That was all sand dune and they bulldozed it out and then they put the rocks there.

This was the old road. That's now a bikeway, which is rather nice. That's all now covered up with trees. That was an old original. That's what they did. They just cut away the dunes.

MR HINTON: Margaret, we have a problem.

MS CARMODY: Yes?

MR HINTON: Our problem is that our remit from the government is to undertake a public inquiry into heritage issues but it does not include reaching judgments about individual cases.

MS CARMODY: No, that's fine. I don't expect you to.

MR HINTON: That's good, thank you. I wanted to make that clear in this public hearing so that we don't mislead anybody in the room. I'm really glad that you appreciate that, because we nevertheless like to have individual cases drawn to our attention to the extent that that can enhance our understanding of how systems are working across Australia at the state level, the Australian level and at local government level.

MS CARMODY: Exactly.

MR HINTON: We like to hear about cases, but it has to be on the clear understanding that we will not be reaching a view on any individual case as such.

MS CARMODY: No, you can't. What I want you people to realise is that I'm on the state heritage inventory. I'm not on the municipal inventory. I would request that the house, because it is so unique in the whole of Australia - 15 minutes from the centre of Perth, outstanding views, it's an old beach cottage, goes right back to 1914, the earliest development. When they bulldozed the house next door to me, because that's not registered and that property has been bought - I'm the only private lot there now. I'm the only private lot on the west of West Coast Drive; and it is unique. When the house next door to me is bulldozed and if I go, nothing will be earlier than 1994.

MR HINTON: Can the shire compulsorily acquire your property?

MS CARMODY: No, the shire can't. I'm led to the understanding by Graham Kierath, who is a former minister for heritage, and also the planning commission now, that the ball is in my court. When we wish to sell, they will happily buy us out. But it is freehold. I can sell to whoever I like. The government can, but it's not the done thing to buy people's homes and then have an empty house there and say,

"Well, you know, heritage." Then, as that gentleman just said, they deteriorate and then they're lost.

DR BYRON: Everybody we've spoken to says that the best way to maintain a heritage property is to keep using it.

MS CARMODY: Yes, with the owner there.

DR BYRON: This seems to be another very interesting example of disconnect between state and local government in terms of dealing with heritage properties; the fact that you're on the state register.

MS CARMODY: Yes, and not on the local, and the fact that I really wanted to be on the register too. That's a bit of an anomaly considering that half the people around Perth are up in arms when that happens to them. I just thought I'd give you that as a case study.

DR BYRON: It's fascinating.

MS CARMODY: Also there are some plans here that I've got. It shows on the smart plans given out by DoPI - which is the Department of Planning and Infrastructure - that they've got my property at 800 square metres. When they start doing all these you beaut new plans, in actual fact the size of the property by the tax maps - state taxation maps - shows it only to be 784 square metres.

MR HINTON: There would seem to be much more fundamental questions in this issue than that one, but thank you for drawing that to our attention.

MS CARMODY: So you guys have to help me.

DR BYRON: You may have achieved a certain amount of prominence already. As Tony said, we don't have a magic wand to intervene on particular issues, but it certainly does seem to illustrate a few inadequacies in the way the current systems work.

MS CARMODY: I have great faith in the Heritage Council of Western Australia; great faith.

MR HINTON: And you've drawn it to their attention.

MS CARMODY: I'm on the Heritage Council - sorry, I'm not; the house is on the list.

MR HINTON: But the council itself is aware of your case.

MS CARMODY: Yes.

MR HINTON: That is, is it only going to be you making representation to the Trigg Shire or will it be others on your behalf?

MS CARMODY: Just right now, as you can see from the Trigg Surf Club - and people had smaller public meetings - people were up in arms because all of a sudden they were finding out that, "Write this down, write that down." It was like a lot of ideas were being pushed into the melting pot. We're now given a plan, this Trigg Beach Master Plan which they say is only a concept plan, but we're given that. That's been put out to 30,000 people. They had no public meetings. And that's it. In the public meeting that I went to, and I believe the further ones, there was nothing about having a drive-through bus depot right in front of the house, when the whole of the property is heritage listed on the state register.

MR HINTON: Does the beach master plan study have other major proposed work that I would only identify if I read through all those dot points?

MS CARMODY: Yes.

MR HINTON: So it's not just the bus parking area. There are other development proposals across this frontage.

MS CARMODY: Yes, the whole lot. Yes, all those little dot points. See, that's the problem. It's swamped in all of that stuff.

MR HINTON: Exactly. I haven't, obviously, read every one of those 67 annotations. You've clearly indicated to us there is one aspect that's a development proposal - the bus stuff around your place - but there are other proposals through there that may or may not generate community interest.

MS CARMODY: Totally. People really, from what I can gather, don't appreciate it.

DR BYRON: Thank you very much for drawing it to our attention.

MS CARMODY: But can you help me, though?

MR HINTON: Not directly. We have no authority whatsoever to intervene in the decision-making by local governments. In our draft report coming out later this year, we will be making comment on the general public policy framework for heritage

conservation, including the relationship between state and local governments. In that sense, we will be also referring to some examples of individual cases, how they were or were not treated. To the extent that that can help you, yes, we can help you, but in terms of actually making a call on the treatment of you and how the Trigg Shire is going about their - - -

MS CARMODY: I know you can't do anything about that, but I'm saying putting me on the national - whatever you call yourself. See, I didn't even know you existed.

MR HINTON: Well, join the list.

DR BYRON: No, we are not the ones who are responsible for deciding what goes onto the National Heritage Register, but we know who they are and we can tell you how to get in touch with them.

MS CARMODY: Thank you.

MR HINTON: This is a public hearing, with a transcript. When the transcript has been checked for accuracy, it then is placed on our web site and made available to anyone in the public, generally interested parties, to access that web site to obtain the transcript of this hearing. You may use the transcript as you see fit in drawing your issue to the attention of anyone you would wish to, but it's another matter for the commission to take up your case on your behalf.

MS CARMODY: Yes. I don't expect you to.

MR HINTON: That's the process of this public inquiry: about the broader public policy issues of how the system is working, drawing on individual cases to help get us better understanding, not pursuing individual cases on their behalf.

MS CARMODY: No, okay. That's it, thanks. Do you want the photos?

MR HINTON: I think taking them from you would be misrepresenting what we are going to do with them.

MS CARMODY: Of course.

MR HINTON: They're lovely photographs, by the way.

DR BYRON: They're beautiful photos and it looks like a beautiful place, but I think you can probably put them into somebody's hands who can do even more with them than we can.

MS CARMODY: Okay. I just saw your ad in the paper last Friday and I didn't know what format this hearing would take but I thought, okay, Commonwealth heritage. The state needed a bit of a plug because we're getting it in the neck every which way.

DR BYRON: Okay, thank you very much. I think we can now adjourn for a very quick tea break.

DR BYRON: If we can resume now with representatives from Lotterywest. Welcome. Thank you very much for coming and thank you for the written submission, which has been really helpful. Tony and I have both read it carefully. If you could each introduce yourselves for the transcript, so that the transcribers will recognise whose voice is which when we're talking later. Could you give us, say, a 15-minute overview of the main points that you wanted to raise from the submission and then there are a couple of things that we would like to discuss with you. Thanks for coming.

MS THOMSON: Absolutely. Thanks for having us here. My name is Jacquie Thomson. I am the director of grants and community development at Lotterywest.

MS OVERHEU: I am Faye Overheu. I have the program coordinator role with the cultural heritage program.

MS THOMSON: Thanks so much for allowing us to come along and for this opportunity. What we thought we would do is run this as a bit of a tag team, if you like, and perhaps I could give an overview of who Lotterywest is and why we do what we do and what brings us to this room and this conversation. Faye might talk more particularly about our different responses to heritage issues in Western Australia. Is that comfortable for you?

DR BYRON: Please. That's excellent.

MS THOMSON: Lotterywest, as you would have gained I hope from the submission we put forward, is very unique in Australia. We're a state government body; we're a state enterprise. We were established in 1933 during the Depression when funds for social welfare were non-existent, effectively, as a fundraising source for social welfare activities through the sale of lottery products. Today our main product is Lotto and we also sell Scratch'n'Win products, Cash 3 and various other minor products, all of which are sold for the purpose of raising money to return to the community to make WA a better place to live.

Last year we sold \$520 million worth of product. Of that, 65 million was returned directly to the community through our direct grants program, with other substantial amounts to the state's health, sports and arts systems. I think it was around 70 million to the state's health system and around 10 each respectively to the state's sports and arts systems, so we're talking quite substantial amounts of money.

We work very closely with the community and see ourselves as a submission based grant-maker. In the main, community organisations come to us seeking funds for whatever it is that is their passion and their dream or their need. We cut across the breadth of not-for-profit community life, and I'll talk a little bit more about that.

There are some occasions where we actually target our grants or have funding rounds, but that's more where we're trying to stimulate particular interest or manage scarce resources. In fact, it was that process that took us into the world of heritage, probably some 10 years ago.

MS OVERHEU: About 12 years ago, maybe.

MS THOMSON: Our grant-making in terms of the \$65 million is, as I said, a submission based funding model and we respond to submissions as they come to us. We have five very, very broad areas of interest which are more, for us, an attempt to be reflective of the breadth of community life rather than prioritising. We find ourselves in that lucky situation where we can be true to our traditional roots of responding to organisations and helping people who suffer severe disadvantage, and the largess of the lottery player in WA has meant that we have been also able to support participative and celebratory activities as well. It's in that context that we're involved in heritage support.

I have listed them in the submission but, for the record, our areas of priority are around extending the capacity of not-for-profit organisations themselves, so investing in the not-for-profit sector to be a viable sector; to strengthen community service delivery; to enhance our community development initiatives; value our state's heritage - and that's what we want to talk more particularly about today - and advance participation in community life.

Every year we spend around 2 and a half million dollars on heritage activity. In its broadest intent, our commitment around heritage is not only to see the preservation of our state's heritage but more than that, because we recognise that heritage is the way that many in our community develop a sense of identity or define themselves. It's the people part of heritage that really motivates us as a way of defining our place in our community. Faye might just give you a quick overview of the different areas of our activity, and we're happy to discuss any aspect of that.

MS OVERHEU: As detailed in our submission, we have at least six different ways that we support heritage projects. I suppose our biggest contribution is through the conservation of cultural heritage, and that's an annual round that we run, where we offer \$1 million as funds available and receive grants well in excess of that amount; usually around 4 or 5 million dollars worth of requests each year for that money that we have available.

Unfortunately, we do have to prioritise and one of the ways that we prioritise is around the community benefit of the project, so that the building, the site or the object that is to be conserved should have a strong community value to it. It's not about funding heritage items for heritage sake, but it's very much about that

community benefit aspect of the object, site or place. That can be very much a localised benefit. It can often be a small community or a small group that sees that item or place as being their priority. That's the biggest round we have.

We have also recognised, once those places, sites or objects are conserved, the idea of making the community more aware of those places, and through the interpretation of cultural heritage grant round we've then been able to engage communities more broadly with projects that will help explain and tell the story and communicate the value of those places. That has been a fairly recent initiative. We have only had three years of funding within that grant round. We have noticed an increased level of expertise and an increased level of professionalism around the interpretation that's available, because we've been able to make funds available not only for putting in place the interpretation but for having good planning up front so that those projects have a level of excellence about them.

By using a technical expert panel to help us with the assessment of those requests, we're able to ensure that they do meet best practice within the heritage sector and that we have the right advice. Whilst I manage the program, I don't have a particular background in heritage. Like yourselves, we learn as we go and develop that level of expertise. Given that I've been working in this area for around nine years now, I have learnt a great deal in that time. Because I'm telling a story to my board to convince them to fund these projects, that story about the community benefit is very much the one that we want to sell to them because that's what they want to see as well. I can certainly buy in the technical expertise that I need from within the sector to help with the technical side of the assessment, but certainly the in-house around-the-community benefit is what we value.

Another initiative in the cultural heritage area is supporting community histories. Where organisations or local communities want to once again tell the story - the history - of either the development of their group in its broader context within an inner community, we are able to support those sorts of projects. In both the interpretation program and the histories program, we encourage people to be creative about the way they tell their story, so it's not just about putting up signs, but it can be about installations. CD-ROM obviously is a popular way for people to tell those stories; interactive ideas.

Actually they are thinking about their heritage projects as being community development projects, so it gives them an opportunity to actually make heritage more broadly accessible within their community, but actually engage communities in interesting and exciting ways around their heritage. For instance, if you're telling the story of the rabbit proof fence, why not try and re-enact a rabbit trap and let people actually get a flavour of what that place was about, as opposed to putting up a sign that says, "This was the rabbit proof fence." It's something quite serious. We're

really thinking of people being quite excited by their heritage and engaging in really interesting ways to learn more about their own community and their own local identity through their heritage.

Because we manage those three programs as grant rounds, there are often other requests that come to us that fall outside the scope of those three areas. Because we are a fairly flexible and, shall I say, generous grant-maker - - -

MS THOMSON: Yes, say generous.

MS OVERHEU: - - - we've seen that we should have other program areas that are much more flexible and responsive. At any time of the year people can come for projects. I suppose typically that's small museums and historical societies that need either equipment or items to help them do what they do or perhaps they need planning. What I've noticed recently is there a greater increase in local government coming to us for strategic plans to manage their cultural heritage facilities.

For instance, the town of Cue has quite a large number of heritage places in its shire, but it's a small shire and so it's wanting to look at ways that it can better manage, for instance, "Which building do we choose to conserve first? Should we sell off some of our assets to fund the conservation of other places?" The Shire of Northampton is another recent local government area that has taken that sort of initiative too. That seems to us to be a very considered way to manage heritage resources. If we can support local government to better do that, those are the opportunities that are available to people to apply under our other grant areas.

We also do memorials, and that may be either the construction or the interpretation of memorials. Whilst not all of those are necessarily cultural heritage memorials, nevertheless most of them would probably fit that category. That is really where people see something of significance in their own community that they may want to erect a memorial to remember or to better tell the story really of that event, place or whatever. A number of interpretive centres seem to have sprung up around the state, where sometimes natural heritage is combined with cultural heritage and it's about putting up a building that better introduces people to that site or place. A grant to the Greenough hamlet for an interpretive centre there really is a way of setting the scene for a visitor experience of that place. We've been able to support the installation of the interpretive materials within that centre.

It is basically, "Come to us with a story and we'll see what we can do to support you," and I guess all our grant-making is around trying to assist people to get their grants. If I told you that 94 per cent of the grant applicants to Lotterywest are successful, that would probably give you some idea of how we're able to support our community.

MR HINTON: That suggests you're well known - - -

MS THOMSON: No.

MS OVERHEU: No, not at all. Yes, I think perhaps we're very clear and transparent, and we're also very supportive of our grant applicants, so we actually are able to work with them. Even if their initial submission to us may not quite meet the criteria, we can actually work with them to ensure that they are successful with what they're requesting.

MS THOMSON: And we actually want to give the money away.

MS OVERHEU: Yes.

DR BYRON: Can I just butt in there. Do you find it difficult to go through all the applications and apply this public benefit or charitable purpose type of test? Does that actually filter out people who don't apply because they realise they wouldn't have made that hurdle?

MS OVERHEU: I suppose to some degree we have done that to differentiate our grant round from the Heritage Council's grant round. I presume that somebody has talked to you about their grant round.

DR BYRON: Yes.

MS OVERHEU: So this is more about the pure heritage value of a site. I think people understand that, if that's where their interest lies, they can go to the Heritage Council.

DR BYRON: That was another thing I was wondering from reading the submission, about how your activities intersect with what Heritage Council or other sort of state government apparatus does. As you yourselves have said, you're not heritage experts - - -

MS OVERHEU: No.

DR BYRON: - - - and yet you are probably one of the largest funders for community based heritage works. I was just wondering how that meshes in with what the others are doing, so that we have now got these two apparently independent - but maybe, you know, you're cross-linking with each other all the time.

MS THOMSON: Can I talk more broadly and then narrow it down. The heritage

area is no different to any of the other areas that we might make grants, in that there's probably always a government body - - -

DR BYRON: Health, for example.

MS THOMSON: Health or disability or community development, community services, child protection or whatever. There's usually a government player in there as well. We just work very hard to make sure that ours is a complementary source of funding, that there is a point of difference, and we work very hard to have strong relationships. We are government too, so we make sure we have very strong relationships and that we're maximising all of the state's resources to be in a complementary way.

DR BYRON: So you have to understand where they're operating - - -

MS THOMSON: Absolutely.

DR BYRON: - - - so that you can adjoin it without overlapping it too much.

MS THOMSON: Absolutely. But nor do we want to see our money as a replacement for what governments should do, so we work very hard. It's not unusual if we receive an application - and we very much believe it's the remit of government and sits within that - to jump on the phone to whoever is the government body to say, "Hello, you need to know about this group, and they should be coming to you, not us," and we'll partner and lever and all of the rest of it.

More recently, and more directly within the heritage area - three years ago, I think - Lotterywest undertook to pick up one of the Heritage Council's area of grants interest to allow the Heritage Council to deal with a backlog of places. I'm going to get the language bit wrong, so I hope Faye corrects me. They had more places than they could deal with in terms of assessments, so for a three-year period we agreed to pick up their community grants program because the groups that would go to that would be eligible for our money and it made sense that we could do that. But it was for a three-year period only for a purpose, and that period has finished now.

DR BYRON: To cover the catch-up.

MS THOMSON: To cover the catch-up, because that was seen as a good thing to do as well.

DR BYRON: Yes.

MR HINTON: Can I come back a step. It's really to do with Lotterywest itself,

and sort of three queries: (1) who sets your percentage of winnings that leaves you with surplus funds? Is it set by statute, for example? (2) I assume that admin is pretty small, but I'd welcome confirmation of that. (3), most important of the three, do you have any links between those who spend the gambling dollar and knowledge of your end point of your surpluses? That is, is there identification to your *raison d'etre* behind the person who buys the Lotto ticket?

MS THOMSON: Okay. Let me start at the beginning and go down. Yes, our percentage spent of our income is determined by legislation. I've just come back from a conference where I was sprouting these numbers, so I can quickly refer to that. For your interest, we have 10 per cent of the nation's population but 18 per cent of the market share, so that just sort of sets the scene. Of course, we don't have pokies in Western Australia, so that helps.

MR HINTON: Yes.

MS THOMSON: You understand that? But 55 per cent of our income is returned to the community as prizes, paid to individuals and syndicates.

MR HINTON: That's lower than pokies.

MS THOMSON: I'll keep moving. We then return 8 per cent to our retailers. We have a network of some 500-odd small retailers. - - -

MR HINTON: A commission, in effect.

MS THOMSON: A commission to our retailers, and the rest of our return to the community is dictated by our legislation. We work to keep our administration at less than 7 per cent to allow us to return the maximum to the community, because after we've dealt with prizes and commission that's what we can return to the community, and we can maximise that by keeping our own administration low.

MR HINTON: Which includes promotional material, salaries - - -

MS THOMSON: Which includes promotional material, and we benchmark ourselves against other lotteries jurisdictions across Australia. We continue to be well placed, and we're running a community funding arm as well, whereas they're not, so we sort of jealously guard our management of our own money. Very much over the last few years have we promoted the link between our product and the benefit that brings in terms of community return. That's part of our corporate advertising, and again we work very strongly with retailers and other stakeholders so that they know that where the money comes from is where the money goes. The reality is that over 80 per cent of adult Western Australians play Lotto fairly

regularly.

MR HINTON: Sorry, how many?

MS THOMSON: Over 80 per cent play Lotto fairly regularly, and they're the very same people who in fact are benefiting from the community grants. We're talking about the same sort of folk who might be buying a Lotto ticket as part of their Saturday shopping experience but may well be part of the machinery preservation group that's receiving the grant from us.

MR HINTON: You mentioned a sort of entanglement - probably that's too pejorative - link also to environmental heritage. There's also indigenous heritage. You've talked about the rabbit proof fence, and that touches partly on that to some extent - but only just - and there's also moveable heritage - - -

MS THOMSON: Yes.

MR HINTON: - - - with those three being outside of our terms of reference, but your particular six mechanisms to deliver the heritage objective would pick up all of those three, as well as building and site heritage. Is that a fair call?

MS OVERHEU: Yes. Certainly with the conservation of cultural heritage - natural heritage - we have a specific budget allocation for that each year, with its own set of guidelines. It's around about 1.5 million we've been distributing into that area for more or less on-ground type projects in natural heritage. We have been conscious that, whilst our programs are certainly available for indigenous cultural heritage requests, we haven't had as many requests as we would like to see coming through. So we have begun to be more proactive in working with organisations that might be interested in making submissions to us and looking at ways we could make our process as user-friendly as possible for those people or, indeed, let them know about the programs that we do have. So we certainly are working as much as we can to encourage and attract applications from that area. I understand for indigenous cultural heritage there may be other sources that provide for their needs, so there is less need for them to come to us, but certainly within the interpretation of cultural heritage I'm noticing that there has been certainly a recent increase in requests.

MS THOMSON: Can I just add one area that we didn't pick up in our submission. It's an area where we have been quite active in supporting the skilling of the sector that allows for the conservation and the preservation of our state's heritage, much of which is undertaken by volunteers and many of those volunteers are unskilled or without access. Through our grants program, we've been supporting volunteer skilling at either tertiary or other levels to enable them to return those skills to their community, and do it better, frankly, in being more contemporary in practice and so

forth. So it's probably the intangible side to what goes with this.

DR BYRON: Yes. The question of skills in heritage conservation has come up a number of times, where people have said there's a shortage of stonemasons or that there are people who would gladly volunteer their time to do heritage restoration works but, you know, you need to have some serious skills to be able to do that and you don't want amateurs tinkering around on fabric of high heritage conservation value.

MS OVERHEU: We have been conscious in the conservation area that, where we make a grant, one of the conditions of grant is that the work should be signed off by a heritage practitioner. We have been conscious of that as the standard practice for good heritage conservation work, so we have adhered as closely as possible to it.

MR HINTON: But as a general rule, you transfer funds through not-for-profit entities - - -

MS OVERHEU: Yes.

MR HINTON: - - - not individuals.

MS OVERHEU: No. Correct. Individuals are not eligible to come to us.

MS THOMSON: Our legislation has two eligibility tests, if you like: that the grant has to be to a not-for-profit organisation or a local government authority for a purpose which is benevolent or charitable. Then a policy regime sits underneath that.

DR BYRON: Right. You mentioned that Lotterywest is unique in Australia, but you may be interested to know that in Brisbane, and I think in Adelaide, there were submissions - I guess referring to the UK heritage lottery - actively suggesting that Australia might need to have, or could develop, a lottery system which would fund - I guess they were thinking only of heritage, but perhaps more broadly including heritage, although someone else made the comment that governments could immediately now put a greater percentage of their tax take on pokies, in the states that have them, into heritage conservation if they so wished. They don't need to set up a special lottery mechanism to generate revenue to put into heritage, if they were thus inclined.

MS THOMSON: Without commenting on other states and why or why not they may act as they do, for Lotterywest as a commercial organisation - albeit government - it just makes eminent sense that, true to the history of lotteries around the world, which were established for good causes, the same organisation that can be a highly successful commercial entity and run a socially responsible gaming enterprise and

can return that money directly itself to the community for good causes, so our model is, we believe, the best model.

DR BYRON: I was thinking there were precedents in Queensland. At one stage the entire public hospital system was financed by the state casket lottery and, of course, Sydney financed the Opera House with a lottery.

MS THOMSON: Yes.

DR BYRON: So the idea of having a publicly-run lottery mechanism to generate money for "worthy causes" is not entirely new, but WA seems to be the only state in Australia that has it at the moment.

MS THOMSON: Things are always better in the west. That's why you came here, wasn't it?

MR HINTON: Exactly.

DR BYRON: To learn.

MR HINTON: Can you tell me if you have any discomfort with interpretation of the meaning "charitable and benevolent purposes"? That is, that's part of your statutory requirement. Charity and benevolence is in the eye of the beholder often and maybe the eye of the recipient. Are you comfortable with that sort of constraint obligation and delivery of funds to heritage, for example? That doesn't cause you any tension? Do you want to explore this issue for me?

MS THOMSON: I think we probably popped this area of our activity into the benevolent, rather than the charitable. We've been guided over the years through our State Solicitor's Office in reference to British case law, but we've been watching, of course, the activity that's happening at a federal level around charities and definitions.

MR HINTON: Yes.

MS THOMSON: We're quite comfortable where we are with this, because very much for us, as we've just been saying, this is about people. This is about heritage, because that helps our community interpret itself to find meaning, to establish its cultural identity, to move forward, knowing what sort of peoples we are. We're quite comfortable with where we are.

MR HINTON: Yes.

DR BYRON: Heritage places, as one of our former participants said, are like a time capsule of who we were and how we thought and how we lived in previous periods.

MS THOMSON: So we're happy to answer anything - - -

MS OVERHEU: I suppose, just to respond to that, I also see it as how we do live now as well. It's not all about the past either, is it? Quite often that history is alive, and I think that's the thing that we're trying to engender in our funding approach, to make sure that people see it as a live heritage that's just as relevant to them today. It's not about old places and old things that are kind of mouldering away somewhere. It's about things you can actually engage in actively in your community to make it a better place now.

DR BYRON: Yes.

MR HINTON: What have we left out?

DR BYRON: I think I might have interrupted you when you were - - -

MS OVERHEU: No, that's all right. I don't think so.

MR HINTON: Anything we haven't covered that you'd like to cover, Jacquie or Faye?

MS THOMSON: No, I'm quite comfortable.

MS OVERHEU: I feel like our submission covered most of the other things we wanted to say.

DR BYRON: Yes, it did.

MR HINTON: Thank you for your submission and your attendance today. I learnt more about Lotterywest.

MS OVERHEU: You might like to buy a ticket.

MR HINTON: Do you have any tickets there?

MS OVERHEU: No, we don't. There's probably a retailer across the road. We've just got some corporate information as well, as guideline information, that we'll leave with you.

MR HINTON: Okay, thank you.

DR BYRON: Thank you very much for the submission. I did read it at lunchtime.

DR MELOTTE: Thank you.

DR BYRON: And thank you very much for making the effort to both put that down in writing and to be here this afternoon. If you could just take us through a summary of the main points that you want to raise that you think will be of most help to us in grappling with the issues in our terms of reference, then we can discuss it. Thanks for coming.

DR MELOTTE: Thanks very much for the invitation to make a presentation. It is a very serious interest that I have in heritage and I have had some experiences, both good and bad, in trying to both include heritage and also to assess heritage for its inclusion in mainly planning and development processes. I have a very brief submission of two pages for now, and I will expand it when we get the opportunity because we got going on this on Friday, mainly after I saw your ad in the paper. I had missed it previously so I'm sorry that it has come so late.

DR BYRON: I'm sorry that our publicity machine hasn't been more effective.

DR MELOTTE: That's fine. What I might do is propose a comprehensive policy for investigation, recognition and conversation of Australian heritage assets. The approach aims to coordinate and integrate the contributions of national, state and local governments, as well as private business, not-for-profit and the voluntary sectors. The idea behind it all is the development of an expanded heritage topology to support the framework and also to enable these public and private sector and voluntary contributions to be coordinated.

The submission outlines some aims, and I apologise for not having the subheadings but I will have those in the final program. I then talk about the influence of the local legislation and the ICOMOS framework and I talk about two benefits following this approach. I talk about how it may be facilitated and then give an example of how I have been able to identify heritage which had otherwise been missed.

In terms of the aims of the submission, I believe we can add to the state legislation, in particular, because currently it allows for place and precinct and that in addition, when you actually come to prepare a town planning scheme, there are two other categories you can identify: a conservation area or you can have a heritage schedule in the statutory town planning scheme. I understand that local governments tend to be very wary of, certainly, the last two of those categories because it commits them to dollars and cents and sometimes it doesn't make sense for them.

I would like to actually expand the classifications that are considered in the legislation, and this is the first opportunity that I have really had to make a submission so I suppose the forum is available. I'll make the presentation. I believe that we should look at the streetscape, which is a broader appreciation of the heritage, and also the elements within this. I will detail the reasons in the submission but for now say that I think those two categories could be added, together with an appreciation of landscape and townscape, because they influence the context for the heritage.

In particular, when looking at the ICOMOS criteria - which are quite widely used, we appreciate, and have been very functional and are supported by the Burra Charter nationally - I believe that we could look at historic planning and subdivision and survival rate to actually give us a more quantitative appreciation of the heritage. I have actually used that approach to identify areas that were significant and worthy of further and more detailed consideration. If you have 1 per cent left of heritage, then I realise that it's a different approach to identifying single places. If you have only had 1 per cent in the area, then the heritage context has been lost, but if you have got 98 per cent of the area in its heritage context, it's a worthy area for consideration as a conservation area.

DR BYRON: I would like to come back to that, because I don't think anybody else that we have spoken to anywhere has talked about survival rates the way you have, so I would just like to - - -

DR MELOTTE: Yes, I would love to talk about that, because I think it will be a way - - -

DR BYRON: But I don't want to interrupt you now.

DR MELOTTE: It will make a contribution. They are the things that I believe can be added to the criteria for consideration and that would give more quantitative indicators of heritage conservation significance. I would like to move to the benefits. I think there is one immediate benefit that could be achieved by this approach and that would be the recognition of potential cultural heritage significance in advance of pressure for development or redevelopment and the quantitative indicators to assist in the assessment of that degree.

My experience has been that with heritage the developer has already decided to develop the building and so we undertake very serious and detailed assessments of the heritage, only to come to the same conclusion that the building has to go, unless it is an outstanding single opportunity. If we just maintain those outstanding single opportunities, we're going to finish up with a very disorientated and very unrepresentative appreciation of heritage. We will see all the grand mansions and

none of the elegant terrace rows that contribute to the fabric and the heritage fabric in particular.

So that's the immediate appreciation. The two additional benefits are more of intermediate appreciation: firstly, to actually integrate the cultural heritage significance into the more regular planning and development processes. Some countries actually do that quite well. We don't seem to do it particularly well at all. I believe that, if we were to take heritage as a serious influence on our development, we should be able to arrive at a better conclusion. The second intermediate benefit would be to actually have some appreciation of the conservation areas confirmed with the community. The experience in Western Australia has been with municipal inventories being undertaken at the local government level. The local government was in no position whatsoever to be able to honour the things that they identified in the municipal inventory because of the lack of finance, so you had a wonderful story of the history of the place but no real capacity to be able to do anything about it.

The final two points I would like to make are about the facilitation of this broader and more diverse approach to heritage significance, to actually recognise this broader appreciation. Some areas - and I will give an example later - wouldn't actually attract heritage designation. For example, you may have one person who owns a very humble cottage in a row of cottages, and there would be no way you could justify the saving of that one small cottage in the row because the opportunity for redevelopment, et cetera, would be very significant.

But if you were to take another look at that row of cottages and recognise they were all built by the same person using certain materials and they contributed, for example, to another event - they were warders' cottages and they were the warders for the convict prison - you start to take a broader appreciation of the heritage influences on these particular buildings. Not a good example. I think I had better move on to what I feel was a better one.

What, perhaps, I could underline is that we can have a better opportunity to identify heritage if we have this more comprehensive appreciation of the information to be taken into account. The example that I would like to add was the first four houses, and there is a drawing that I made from the newspaper article - about page 4 or 5 - and those four houses are the first workers' cottages built under the Workers Homes Act in Western Australia in 1912. They were opened by the premier of the day and they are very simple cottages but they represent a particular development in architecture as well as in planning and development, because there's a history behind those buildings arriving on those sites that's too long to go through here but is part of their heritage significance. But they're very simple dwellings, and the zoning process has recently, for example, increased the zoning so those properties will come under pressure for redevelopment because they have been up-zoned rather than

down-zoned, which made them more attractive for redevelopment.

I wouldn't have come across those as part of the Workers Homes Act if I hadn't have actually done the background work and realised how the subdivision came to be that they're in. The subdivision is what was called "the new residents area" and it was developed because prior to that people were camping in tents on Monument Hill. There was a great exchange between the state and the local government to get those "denizens of sin", I think it was described as - something like that - off the area, and the outcome was a new Federation subdivision and then these houses, which were built for very simple sums, in the few hundreds, and rented for 11 shillings, et cetera. So there's a lot of history there that I think could be taken into account with this broader topology of heritage.

I have added a methodology for a study that I undertook which has been slightly refined. That includes, under Conservation Areas, a classification of precincts, streetscapes, places and elements which add the streetscapes and elements to the legislative considerations. That's figure 1. In figure 2 there's a framework for broader field work and there's a sequence of looking at the broader townscape. The Fremantle townscape as it faces the Cockburn Sound is a quite unusual background, and there are some areas where that townscape is actually penetrated by a very large hospital which destroys the setting, for example.

Then there's the appreciation of the landscape in a broader sense - not just trees and bushes but the shape of the land and its influence on the architecture and development - and then the streetscape, which is in fact one of the reasons that can be given for refusal of an application even though everything else complies in a town planning scheme in Western Australia.

Then, finally, there's the more traditional appreciation of the building, the period and the parts of the building that make it significant for heritage. The diagram that I've included of a conservation area is on the following page. The main things I wanted to draw together were the hierarchy there of a conservation area, then the place, the streetscape, the precinct and the elements. That's the scope, as far as I've been able to go, for today's presentation.

DR BYRON: That's very helpful, thank you. In relation to the one that you mentioned last, the first time I saw that it struck me that that sort of hierarchy, from the conservation area right down to the individual element - and clearly sorting out whether we're talking precinct, streetscape, place, et cetera - may be one of the things that is frequently missing - - -

DR MELOTTE: I agree.

DR BYRON: - - - as a result of not being explicit about where in that hierarchy are the particular heritage values that are being considered.

DR MELOTTE: That's right. People get very confused when they see a monument described as a place. You know, you've got a monument like an RSL monument, First World War, it's on the heritage register as a place, but in fact it's really an element within the landscape.

DR BYRON: Yes.

DR MELOTTE: Similarly, "the place" is a more generic term than a single building. I'm not trying to redefine "heritage" entirely, but there are some adjustments, I think, in the language that we use that enable it to be explained a little bit more simply.

DR BYRON: In a lot of the places we have been, particularly in some of the smaller rural areas where they haven't had the resources to do very detailed citations, it's often very unclear whether it's the precinct, the streetscape, the place or the particular elements.

DR MELOTTE: Yes, or the bit between the building and the kerb in some cases.

DR BYRON: Yes, but in the absence of that clarity, if it just says that such and such a street "is hereby listed", it doesn't explain why and what those heritage values are and it doesn't actually give a lead to anybody who has to consider a redevelopment application of what uses or activities would be consistent and what would be inconsistent with the listing. If the citation is much more specific, in the way you've suggested here - if the concern is simply to preserve the general appearance of the streetscape - then that is tantamount to saying, "Well, we don't really care what colour the bathroom tiles are." But there might be other places where the bathroom tiles are critical to the values that are trying to be conserved and therefore can't be changed.

DR MELOTTE: To complement what you've said, I'll add one further point. With the streetscape, that doesn't mean that you have to put back the heritage streetscape. You can have a modern streetscape that is in sympathy and in keeping with the heritage, so you can have a modern building in a heritage street, as long as it picks up the particular heritage cues and puts them into a modern context. So we're not talking about icing in terms of heritage, but in fact being able to accommodate new development within heritage areas.

DR BYRON: Sympathetic - - -

DR MELOTTE: Because of the sympathetic appreciation of the streetscape.

DR BYRON: Just one other question: you suggested that if the archival research and field work is done in the proactive sense of an inventory of what is there - - -

DR MELOTTE: I can give you an example, if that would help. There have been three histories written on Fremantle by historians and the three histories actually missed the first burial ground. You wouldn't believe that would be possible, but I believe I've identified the first burial ground because, in following the mapping history of the area, I came across a note added to an 1833 map by draftsman Hillman, that said that - and numbers escape me right now - these two lots were actually resumed for the public purpose of being the original burial ground. This was a note on the map. The reason, I believe, that people thought that the original burial ground was another one was because we operated under the English Cemeteries Act.

They came into being in 1832, which is three years after the beginning of our settlement. So the first cemetery was registered under the act in 1832, but in fact people actually died in the first three years of our settlement and they were buried. So where were they buried? They weren't buried in the so-called first burial ground, they were buried in the original burial ground, which was identified on the map. What I'm saying there is that, if we do more in terms of the archival research to support the actual appreciation of the evolution of a place, then we will have a chance of picking up these particular issues that would be important.

DR BYRON: But at the moment, if I read you correctly, a lot of heritage work is only triggered when a development application is received.

DR MELOTTE: Yes.

DR BYRON: So that we're reactive rather than proactive, and I imagine that that might be because doing the archival research and this strategic forward-looking documentation is seen as being expensive in the short term.

DR MELOTTE: That's right.

DR BYRON: It actually costs to know what's there and its background, so we tend to not do the research until one minute to midnight.

DR MELOTTE: My response to that would be that, if we were to include the heritage work as part of our normal planning and development work, then we would do the study of the background when we're setting up the history of the area for the planning. So instead of being a very specialised study of a building that's already decided to be pulled down, we could actually do some work that says, "Look, this

area is very significant; we need to know more about this area than we do in one where it has already been redeveloped." So we can put our resources into looking at the areas that may come up for appreciation of their conservation significance rather than documenting something that is already decided.

MR HINTON: Barrie, like Neil, I was quite taken with your conservation area diagram, with its tiered approach of precinct, streetscape, place and element. I saw it not so much as an expansion but bringing clarity to the different tiers that clearly exist today. I had in mind that your approach of expanding it seems to be driven by the constraints that are inherent in the Heritage of Western Australia Act of 1990. My reading is that there are some states out there that in fact have a different act that already gives powers for local governments to make judgments about precincts and streetscapes as well. That probably doesn't apply nationally, but it is already in existence across some areas of Australia with regard to the tiered approach to heritage conservation. So I see your input today as very valuable, because it gives clarity to that tiered approach but does seem to bounce specifically off the Western Australian experience rather than what is happening more widely. Is that a fair call?

DR MELOTTE: In part, because I still think there's a difficulty with the Commonwealth legislation, when something is described as "a place" and it's not a place. You know, "the place" is jargon rather than a real description of what you're looking at.

MR HINTON: I think "place" in that context is a bit like our terms of reference, that it's not a building.

DR MELOTTE: That's right. But, you see, until it gets on the registry it's not a place and it's registered on the national register as "a place", because that's the jargon we've attached to it. It's very confusing for ordinary people to understand some of these technical issues. I was looking for a framework that seemed to be more logical; that is, you know, there are elements that are sometimes quite important but ignored because they don't constitute a substantial part of the thing to be looked at. The streetscape is quite often used as a basis to put back what was there before rather than accommodate change. Probably one of the best examples I can give you where I think that's happened is Georgetown in Washington. Doxiadis's office was in the most historic part of Georgetown. It was an office building, but it had the waterway going across the front and it had the heritage cobblestone street.

What I'm saying is that we can accommodate change and we can also recognise the heritage. That's why I put up that particular framework. I've moved on a bit, as you can see, from the submission. Part of it is around that diagram, but I think there's even a broader appreciation of the broad landscape and townscape as well that should be part of heritage. I didn't have time to document the details, I'm sorry, but I

hope to in the submission. I appreciate the comment. I have worked in five other states and territories, so I do understand the broader appreciation of heritage in other places. I think when they come to register things under the Heritage Act they still go for place, yet there are so many other dimensions that could be taken into account.

DR BYRON: Could we talk about that in the context of these workers' homes in Forrest Street.

DR MELOTTE: Yes.

DR BYRON: We would call that group of four houses a precinct?

DR MELOTTE: The answer is yes. First of all, that part of the suburb of East Fremantle would be a conservation area, because there are a great number of not only the workers' homes. For example, there's a one-room house in Forrest Street, which is the remnant of what was called a tent block. So the person was given a block of land to move their tent from Monument Hill to this new subdivision, and they replaced the tent with a one-room house. It's still there and it's functioning as somebody's house.

DR BYRON: That was what I was leading to. In the days when people want to have en suites, family rooms and all this sort of thing, houses that may well have been sort of state of the art and highly desirable in 1913, even if in immaculate as-new condition today, probably wouldn't meet a lot of people's expectations of a 21st century family dwelling. So what's the future of a row of houses like this? Should they be kept as they are now, or as they were initially, or is some amount of sympathetic adaptive re-use possible? You mentioned that because of rezoning there's now probably even greater pressure for redevelopment on these areas.

DR MELOTTE: Yes.

DR BYRON: How are all these considerations coped with?

DR MELOTTE: It wouldn't be easy, of course, because it's part of the negotiated process that takes place for arriving at a development plan for the area, but if we were to take that East Fremantle area and recognise that it contributes to several eras of the development of housing in Western Australia, that would be a starting point.

There would definitely not be an argument to compare the one-room house with the three-bathroom house, and perhaps a three-bathroom house wouldn't be the sort of thing that would be suitable in that area. But people have redeveloped in that area and they've taken very sympathetic modern construction, very simple angles, picking up the same roof pitch, using timber but putting in insulation, using smaller

windows, adding a living section to the back of the house and just using the old house as the bedroom section. If we're looking for more sustainable outcomes, one of the ways we can do that is to use the heritage that exists and add to it.

With the workers' homes, to answer your question directly, they're on very large lots and at the back of those houses you could amalgamate the backs of those lots and organise access from either a rear lane or from one of the side streets, so that it becomes part of the negotiated process for development that we keep the workers' homes. In fact, they're adding value because they're in short supply, and we can add newer dwellings at the back as long as they are sympathetic and don't overshadow. We can look at the detail.

If you don't have any recognition of the heritage significance, albeit it's not one pristine building, then if one building comes up for application you've got no grounds on which to really say, "Do you realise this is a worker's home and it's very important for us?" and the person says, "But it's not important for me." What I'm advocating is a better understanding of a broader role for heritage rather than putting it into a place and then looking at it from afar. Have I explained that all right?

MR HINTON: Certainly those involved in heritage conservation objectives seem to widely endorse the idea of adaptive re-use, broadly defined - - -

DR MELOTTE: Absolutely, yes.

MR HINTON: - - - but the stories we are getting to date are that the actual implementation of that is less than consistent across jurisdictions; that is, your description in response to Neil's questions about how you might actively re-use or expand the use of those workers' cottages would seem to be a pragmatic approach, but I suspect that there would be a number of heritage advisers out there who would say, "Shock, horror." Is that your experience? Am I overreacting to that?

DR MELOTTE: No. I think there are all sorts of heritage advisers. There are pure heritage advisers and there are those who want to see some appreciation of the heritage in an ongoing appreciation of that heritage rather than its destruction altogether. If it meant that, as part of the negotiation process, those workers' homes were to be retained rather than demolished then I would say there is a plus for the heritage. It wouldn't be a significant plus if, for example, they took that heritage building and they put a second storey with all the Roman filials and all of those sorts of things, no. I agree then the heritage argument is lost.

MR HINTON: Do you think the system would be improved if we could better articulate that sort of approach: (a) that gives strong endorsement to adaptive re-use and (b) that has development; that is, retains those identified heritage characteristics

but (c) is cognisant of the real world today, that standards of living require at least a degree of amenity and comfort for the buildings to be continually used. Can you articulate a system like that in this area or is it pie in the sky?

DR MELOTTE: No, I don't think it's pie in the sky. I think it's possible in this particular area and in other areas that I have been involved in. For example, Battery Point in Tasmania is a very good point of where whalers' cottages of very small size are very desirable dwellings and appreciate accordingly. I think there are opportunities to be able to have adaptive re-use, as you have used the terminology, and they have taken place in the area that I have described, but you have to have a recognition of those heritage values to be conveyed and taken into account when the development is being negotiated.

I actually had some experience of working with a chap called Brian Berry, and Brian described it as a series of hurdles that you have to make the developer jump over and the last hurdle is, if you can't make the developer jump, you have to buy the building. But all along the way is negotiation that can take place, and the person who is doing the redevelopment is quite prepared to do that to maintain the heritage. But if they suddenly say, "Well, you take the house and I'll keep the land," then you really do have a problem in terms of the heritage.

DR BYRON: One of the examples we were told about - I think it was in Tasmania - was where the owner of a property, to improve the energy efficiency, wanted to put double-glazing on the rear windows of the house, and there was strong objection on the grounds that there wouldn't have been double-glazing in 1842. Well, there probably wouldn't have been electricity or sewerage either.

DR MELOTTE: No, and I think that is a good example of overreaction in terms of the heritage. As a graduate student in Edinburgh, and having moved from Toronto to Edinburgh, I recognised the value of double-glazing but, as a student, couldn't afford the glass. So I actually got very large sheets of plastic to put behind the terrace house in Roseneath in the middle of Edinburgh, which is one of the more significant heritage locations. It worked very well, and I didn't get any complaints from the neighbours and we were very warm. We didn't interfere with the outside fabric of the building, but we were able to make up for the drafts that otherwise came in through the ill-fitting windows. I think there is an answer there and the answer is to engage the community more in what is heritage for them and also to have the professionals be able to be a little bit more adaptable.

MR HINTON: Engaging the community to identify what is locally significant seems to have a lot of merit, but that discretion of local influence and local input seems to have a tension with the other objective of having an overall overarching system that constrains discretion that brings commonsense along the lines we just

formulated and I - - -

DR MELOTTE: Yes, I agree there's a tension there and I think we may have got people offside by being too demanding in terms of what is heritage and what is a heritage appreciation.

DR BYRON: You wanted to explore the survivor rates.

DR MELOTTE: Yes. You had one question about how do I establish the - - -

DR BYRON: I was just intrigued that you had done that, because I don't recall a phrase or even a concept having come up in any of our other discussions or written submissions or public hearings of people sort of systematically surveying and quantifying what percentage of the original buildings are still there in commission.

DR MELOTTE: There is a very good example of the vagaries of that as well, in terms of exchange; that is, how do you identify the heritage date? That's a very big question. In the study at Fremantle, for example, the earliest mapping I could get that in fact covered the buildings that were still there was 1908 and 1914, so I actually put that up as the base date, but we all know that in parts of Fremantle there had already been two phases of development. So one of the things you would have to do is in terms of the survival rate is you would have to get the community or the decision-makers to agree, you know, what's the base date that you're working for survival and then to identify that.

In Fremantle there was a study of 27 precincts and they ranged in survival from just under 60 per cent - quite large areas - down to 1 per cent. The 1 per cent was gone - it had become an industrial area and there wasn't too much you could do - but in the higher areas, one of which of course was the area where the workers' homes were, that's the area where you put your resources and say - - -

MR HINTON: I'm being the devil's advocate here, but could I raise two points - - -

DR MELOTTE: No, it's good. I think it's important.

MR HINTON: - - - of scepticism. One is that we're really pushing things to the limit and getting reasonable sorts of inventories for heritage buildings across local governments at the moment. To now say that one solution is to have survival rates seems to me to be going to a degree of knowledge that we've nowhere near reached yet in terms of resources, expertise and capacity. The second one is one of spurious precision. A survival rate is a very broad tool that would only lend itself to use prima facie of like with like; that is, you have got a row of oranges and you know

that 10 per cent of those oranges are still alive, but the trouble is most of the street has also got apples and pomegranates and whatever. Even though they look alike, the buildings are very different if you do the heritage examination - - -

DR MELOTTE: Yes.

MR HINTON: - - - so a survival rate for a particular type of building could be quite misleading relative to the heritage objective. There are two sceptical challenges - - -

DR MELOTTE: No. I think that's quite reasonable but, as I said before, if you had the debate on, you know, what is the heritage of the area that you are looking to be considered for heritage conservation, then that is a legitimate argument. There are examples of local government where they have gone to a lot of trouble to identify their heritage guidelines and they have applied them to the whole municipality - that happened here in Western Australia - but the guidelines they took were from one part of the municipality and two other parts of the municipality had developed at other times, so you had the attempt to impose a heritage regime, if you like, on an area that it was inappropriate for. That's your point. As long as the community identifies, say, Federation as the area of significance that survives, then you go looking for the criteria or the elements for Federation, and you can have a modern building as long as you interpret these criteria.

MR HINTON: Barrie, do you think it could have wider application; that is, statewide?

DR MELOTTE: Absolutely, yes.

MR HINTON: That is, we've saved 10 per cent of the known sandstone railway stations in rural and regional Western Australia, so we don't need to save any more or whatever. Is there that element to it or Australia-wide - - -

DR MELOTTE: Well, it does.

MR HINTON: Bank of New South Wales buildings in New South Wales?

DR MELOTTE: No, I agree. In fact, that's how in fact we should determine which is Commonwealth, which is state and which is local, because something which is of Commonwealth significance will obviously be financed by the Commonwealth, won't it? Everything that is of state significance would be financed by the state and, of course, when you get down to local there may be many examples of them somewhere around Australia, but they're important to the local people and so they become part of their heritage - - -

MR HINTON: And the retention rate might be lower.

DR MELOTTE: Yes, and if the Commonwealth would look after those things that are of Commonwealth significance then we're moving into that sort of appreciation of heritage in a wider context.

DR BYRON: I think one of the problems with that sort of formulation is that, for many rural municipalities and shires in Australia, they seem to have a lot of heritage fabric and not a lot of ratepayers.

DR MELOTTE: Exactly.

DR BYRON: And not a lot of wealth to pay higher rates in areas where you've got declining church memberships and church is becoming redundant, railway stations, old banks, et cetera. There are frequently a lot of formerly public buildings that people might well consider as being highly locally significant but the capacity to pay for them at a local level might be very severely stretched.

DR MELOTTE: Absolutely. Can I add that this is another reason why we need to have a broader topology, the reason being that you can talk in terms of heritage tourism so that, whilst the local authority may not have at this time the funds to be able to appreciate and maintain their heritage, if we were to look at it in its broader context and its opportunities, rather than its constraints, the opportunities of being able to use those heritage buildings as a way to attract people from the cities to come and visit and also to be seen as part of the economic fabric of the area might be - I know we're moving outside your terms of reference. No, you've actually got social, economic and physical in the terms of reference.

DR BYRON: Heritage tourism is very central to this inquiry for many people. We had, I think, the CEO from the Shire of York sitting right there just an hour or two ago saying how bus loads of tourists coming into York do nothing but create additional expense and they don't get a single dollar out of it. So he saw that as a big negative. We were trying to explore some ways where they would actually capture some of the tourism benefits that could go into maintaining the fabric of the - - -

DR MELOTTE: Sounds like I've got to give him a phone call.

DR BYRON: Okay. I probably should draw it to a close there. Is there anything else you wanted to say before I do?

DR MELOTTE: No, I would like to thank you for your time.

DR BYRON: Thank you for the effort and thought that has gone into this. It's been really very helpful and constructive. Thank you very much, Barrie.

DR MELOTTE: Thanks very much.

DR BYRON: I said this morning in my opening comments that at the end of the day anybody in the room who wanted to come forward, including people who have already put something on the public record if they've thought of anything they forgot to say or anything they'd like to add, having heard what other people had to say here today, now is the chance. Going once, going twice. Okay. That being the case, I probably should announce that the WA Local Government Association have just let us know that they're tied up and won't be able to attend this afternoon after all, unfortunately, but we do have their written submission and we'll get back to them. In that case, I think I can close today's public hearings and we'll resume on Wednesday morning in Adelaide. Thank you very much, ladies and gentlemen.

AT 5.06 PM THE INQUIRY WAS ADJOURNED UNTIL
WEDNESDAY, 3 AUGUST 2005

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