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## **TRANSCRIPT OF PROCEEDINGS**

**PRODUCTIVITY COMMISSION**

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

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

**TRANSCRIPT OF PROCEEDINGS**

**AT SYDNEY ON THURSDAY, 18 AUGUST 2005, AT 9.00 AM**

**Continued from 15/8/05 in Canberra**

**DR BYRON:** Good morning, ladies and gentlemen. Welcome to the public hearings of the Productivity Commission's National Inquiry into the Conservation of Australia's Historic Heritage Places. My name is Neil Byron and I'm the Presiding Commissioner for this inquiry. My fellow Commissioner is Tony Hinton.

This inquiry stems from terms of reference that the Commission has received from the Australian Treasurer with the endorsement of all state and territory governments. It covers the policy framework and the incentives in place to encourage the conservation of heritage places, including built heritage.

We've already talked to a large number of different organisations and individuals with interest in heritage conservation in most states and territories, including some fascinating rural and regional visits in Victoria, New South Wales, Queensland and Tasmania. Submissions have been coming into the inquiry following the release of our issues paper about two months ago, and we now have over 150 submissions, all of which are on our web site.

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. We've already held hearings in all of the capital cities and, today and tomorrow here in Sydney, the end of our formal information-gathering process. We're about to move into analysis and writing mode after Friday, tomorrow. So we're planning to release a draft report for public comment late November, early December. There will be another round of hearings, with opportunities for feedback, where we'll be looking for comments when people have had the time to read and digest and think about our proposed recommendations.

In the Productivity Commission we always try and conduct our public hearings in as informal a manner as possible. But because we're taking a full transcript for the record, we can't accept interjections from the floor because the transcription service won't be able to recognise who's talking. But we always, to compensate for that, try to make an opportunity for anyone in the room, who wants to come forward at the end of the day to put something on the public record, to do so. The transcripts will be put on the Commission's web site as soon as they've been checked for accuracy, and they'll also be available through public libraries.

To comply with Australian Government occupational health and safety legislation, I have to inform everybody in the room that in the very very unlikely event of an incident, alarms will sound and we'll go straight out that way into the open, and congregate down past the fire exit and exit onto the street. The other bit of housekeeping is: the toilets are just outside, the way we came in, around to my right as we go out the door. I think that's all the housekeeping I need to explain.

**DR BYRON:** So without any further ado, I'd like to welcome our first participants for the day, the representatives of the Heritage Chairs and Officials of Australia and New Zealand. If you'd like to take a seat at the microphone, and then if you could just officially introduce yourselves through the microphone so that the transcribers can recognise voices later on.

Thank you very much for the written submission, which Tony and I have read quite carefully. If you could just take us through the main points of that in maybe 10 or 15 minutes. Then we'd like to spend the next half an hour or so after that discussing the matters that you've raised. Thanks for coming today.

**MR COLLINS:** Thank you, chair. We're delighted to be here today. My name is Michael Collins. I'm the chair of the Heritage Council of New South Wales. Importantly, I'm here today in my capacity as the nominated representative of a forum known as the Heritage Chairs of Australia and New Zealand (HCOANZ). With me is - and I'll get Susan, for voice-identification purposes, and Jeremy to identify themselves.

**MS MACDONALD:** Hi. My name is Susan Macdonald. I'm the assistant director of the New South Wales Heritage Office. But my role in this session is as the project manager of the joint submission that's being prepared by that body.

**MR THORPE:** My name is Jeremy Thorpe and I'm a director of the Allen Consulting Group. We are providing some advice in assisting in the original research and preparation of the second submission.

**DR BYRON:** Thanks.

**MR COLLINS:** Thank you very much. As I said earlier, I'm delighted to be here because, I think in a nutshell, chair, we often fail on the cultural side of Australia's heritage environment; that we are the poor cousin to Australia's natural heritage environment in the way that policy development has occurred at the national and state levels. I think the reason for the Productivity Commission inquiry is to actually tease those sorts of issues out.

As I've said to you, I'm here today in my role as the chair of a project group formed by the Heritage Chairs and Officials of Australia and New Zealand to prepare a joint submission to the Productivity Commission into historic heritage. As I've also said, I'm the chair of the New South Wales Heritage Council, and with me is Susan Macdonald and Jeremy Thorpe, who actually we have engaged - the Heritage Chairs have engaged to undertake research work on our behalf as part of our final submission to this Productivity Commission inquiry.

The submission has been prepared by the Australian and New Zealand Heritage Chairs as a joint submission of the chairs of the various heritage councils. It has a rather specific type, which outlines exactly who the submission is from and of course the submission is in fact titled Initial Submission. The key words here are "initial submission" by the heritage chairs of the Heritage Councils of Australia, New Zealand, New South Wales, Victoria, Western Australia, Queensland, South Australia, ACT and Northern Territory heritage councils and the Tasmanian Government. I just wish to put that on the record.

As I said, our submission is an initial submission only in advance of a more detailed submission that will draw on research work currently under way. It's our ambition to have our final submission to you by the end of next month, by late September, very early October. We hope that the Productivity Commission will await what we hope to be a useful and indeed important submission, which will rely upon some groundbreaking new research that has yet to date not been attempted in this country.

I notice, Commissioner, that you talked about receiving more than 150 submissions and have had the opportunity to look at those 150 submissions. It's fair to say that in terms of intellectual research, a lot of the submissions do not have an intellectual research component. They offer a lot of opinions and observations. Therefore we feel that it's all the more important that our submission is going to garner the type of research that the Productivity Commission will be seeking and relying upon in its analysis of the state of historic heritage in Australia; that is, work on the economic, social, environmental and cultural value of heritage places in Australia.

Our work, as we've discussed with you in previous sessions, is research that has long been needed and attempted to delve into Australia's opinion on the importance of our historic heritage. We're not sure what the outcome of that research will be. But in our experience people are passionate about our past; how it has shaped us as individuals and how it has defined our nation's culture and our physical environment. We know that there are, however, impediments to achieving our aims. Our work will also outline what we think the market failures are in detail.

Our research departs from previous methods that have been used to measure the value of historic heritage and recognises that measuring the value of individual monuments and places is really only just a part of the story. Our heritage is of course more than that. We prefer to talk of the historic environment, where the parts may be of national significance, or perhaps of some importance on a regional level, and indeed many may be of importance primarily to those who live and work there in the local area. But together they all constitute our historic heritage.

The relationship of the parts is of course important, too, as the sum of the parts can sometimes be more important than the individual places themselves. We've brought with us today a copy of our draft survey - which I'll be pleased to hand over - which is intended to occur over the next month or so. I'll show you just where we're going with this work. We would, of course, be interested in your comments on the way through.

Importantly, we support the idea of an integrated approach to heritage. By that we mean that it's important to manage all of our heritage in the same way, and the relationships between it - natural heritage, historic, or cultural heritage, and of course, indigenous heritage. Together, these components constitute our historic environment. We acknowledge the focus of this inquiry is on historic heritage.

Of course, we have focused our submission on this aspect of Australia's heritage. Our initial submission, which we provided to you several days ago, is in fact quite brief. It outlines who we are in a very factual way, the relationships between our respective jurisdictions. It answers some of the most basic questions about the Australian heritage system raised in your issues paper. It also lets you know what we considered to be the most important issues. These are firstly the need for improved incentives. By this we mean a range of tools and instruments, including economic instruments.

Secondly, we recognise the need to improve the policy framework. We know that these are actions needed by government at every level - and with our help, as the government's key expert advisory councils in each jurisdiction. Between us, we recognise we have a great responsibility for managing Australia's heritage. As you know, and as we state in our submission, much of Australia's historic heritage is managed by local government. They do not do this in isolation. Rather, they do it within the structure provided by the states, and with our limited support - limited in terms of financial support.

As the group of key heritage chairs with the organisations that administer our work, we are in fact a small group, but we think a very important one. We have noticed some common themes emerging in submissions that you've received to date, and they are of no surprise to us. We also note that, as is usual, where there is a government body available to discuss local heritage matters, people have taken this opportunity.

Although some of these seem quite specific, they do provide a flavour of the nature of our work, and the tensions that exist in our work on a day-to-day basis, and the issues of concern to the community. Whilst many of the submissions may not be of particular relevance to the pure terms of reference, they do, in fact, provide a very great descriptor to the general concern of the

community in the way in which our heritage is valued or not valued and protected. Many of these issues, of course, as I said, are quite local in content, but they are indicative of the range and type of issues repeated over and over again across the country. We have described the research work that we are presently undertaking in our submission, and would be happy to answer questions about it today. We are also keen to hear about how we can help you at this stage of the inquiry.

What I'd like to do now is just spend a couple of minutes in just thumbing through the submission that we have made to you. I note that in terms of the final submission that we want to present to you, the heritage chairs have recently commissioned Allens Consulting to undertake research on the economic, social and environmental and cultural value of heritage places. As I said earlier, there has been comparatively little of this type of research, or market survey work done in Australia on historic heritage. We believe that the lack of research limits the ability of respondents to address many of the questions raised in the Productivity Commission inquiry. That is why we are doing the work.

The work that we're undertaking includes a non-market valuation study that identifies the economic, social, environmental and cultural value of the current system of heritage management in Australia. This work will address both use and non-use benefits, including discrete choice modelling. Benefits not able to be modelled in this way will also be incorporated into the analysis. A discrete choice modelling exercise attempts to assist in determining the value of heritage in its wider context.

Secondly, the work will also include an identification, very importantly, of the market failures and other market characteristics that impede the provision of the optimum level of heritage protection. Policy tools that are, or could be used to address these market failures, and the characteristics of them, will be identified in our final submission to capture economic, social, environment and social benefits. As I said to you earlier, it is anticipated that this research will be completed and be incorporated into our final submission to be delivered to you in late September, early October.

Finally, I think I just want to draw on an early submission that Allens have been doing for us, to point out to you the direction of some of the research that we're undertaking. As I've said, it's very very important that we get to understand the economic, social and environmental value of heritage. Heritage generates economic value for a number of potential reasons - the physical assets that embody historic heritage. Beyond physical value, they were heritage assets valued for a variety of intangible benefits. People, can in fact, value the existence of heritage. Although they might never visit a given place, they would feel a quantifiable loss if it was destroyed. The option to visit a

heritage site, although they may not have an immediate plan to visit the place. Also, the chance to bequeath a heritage place for future generations as part of a shared cultural legacy.

Major challenges is that places that may have a range of values for different individuals or groups, heritage is in the eye of the beholder. The lack of an absolute reference standard means that there is always going to be debate about the degree to which individual sites are protected on heritage grounds. The identification of market failures is important because Australian governments are committed to the principle that government interventions in market should generally be restricted to situations of market failure - and that each regulatory regime should be targeted on the relevant market failure. I guess we might even say that we believe there has been, to some extent, an over-reliance on heritage listing, as a tool to protect heritage sites, without sufficient support from complementary policy instruments. This is evidenced because the current crop of heritage lists that are around Australia - each of the state and territory lists as well as the national lists - are not comprehensive.

One can't look a list and say, for example that, "My property is not listed, so I should be able to manage it as I see fit." Often, it's only when a development of a site is foreshadowed, that the heritage issue may arise. So there is uncertainty in that particular area. The public is not sufficiently aware also of what listing entails. Heritage listing is seen as an amorphous concept, but a distinction between different heritage lists, between different classifications within lists, is sometimes lost on the community with the result that sometimes people have little perception of the actual restrictions that listing entails.

Finally, the public may have negative perceptions about the impact of holistic loss. Listing may reduce the value of some properties in some cases. The weight of evidence actually suggests otherwise. I guess in terms of policy implementation, we would say that the failure to adequately support listing with a comprehensive stocktake of Australia's heritage sites with funding support and mechanisms and incentives, and effective public education programs, can undermine the effectiveness of the listing process.

In short, I would say that the notion is that we should move to, I guess, increase more direct and indirect use of policy instruments, but do it in a way which balances the need for economic preservation, and the direct involvement of land owners as well as the wider community. With that, I will finish my introductory comments, and invite questions from the chair. Also, with the assistance of Susan and Jeremy, hopefully, we can answer any questions that you may have.

**DR BYRON:** Thank you very much, Mr Collins. You mentioned the latest

submission with the more detailed research work. Can I just politely and discreetly beg you get that to us as soon as possible, because by the middle of October, much of the report will be written, and heading towards finalisation for printing. If the work is as valuable as we expect it to be, we really need it sooner rather than later. The other option I should mention is that you don't have to hold back everything until - I understand it will take time to do the Allens work, but if you've got other material that you could get to us, you're not restricted to only having one more shot. You could feed it to us in two or three - - -

**MR COLLINS:** We understand that, and we've actually already had discussions with your office about this, and we'll be providing you with the iterated versions of the report.

**DR BYRON:** Fantastic.

**MR COLLINS:** We simply ask you, Commissioner, to understand that as a representative of virtually 10 jurisdictions I'm obliged to honour my peers on the way through and to ensure that - and that itself creates some logistical pressures upon us which would not normally exist. But I must say that all of my peers are being very very good and cooperative. But we will be not giving you just a final submission. As long as you're prepared to see four or five drafts of it on the way through you will see the earliest versions that are available.

**DR BYRON:** Terrific.

**MS MACDONALD:** I think the other thing is that our work with Allens is really three pieces of work. There are two specific reports, and one of them is a submission which draws on two of the pieces of research. The first piece of research is on the market failure and the policy system. In fact I expect that we can probably have that in a form that we can provide to you quite soon.

**DR BYRON:** As a module, yes.

**MS MACDONALD:** Yes, as a discrete piece of work which we will use outside this inquiry as well, but will also be very useful for your purposes. So I'm expecting that that one might actually come quite - that will definitely come in advance of the submission, and hopefully we'll be able to get it to you reasonably soon, probably in a couple of weeks, yes.

**DR BYRON:** Jeremy?

**MR THORPE:** Yes, a couple of weeks if it's ready.



**MS MACDONALD:** I've got to get it through.

**DR BYRON:** Yes, I understand all about clearance processes, believe me. Just completely out of left field. I know it's the Heritage Chairs and Officials of Australia and New Zealand. Is there a New Zealand contribution to this? Do you think we should be actively seeking to have a look at how the New Zealand system operates, in that it may or may not shed light on what Australian jurisdictions might do differently?

**MR COLLINS:** The Historic Places Trust of New Zealand has been a partner for a member of the Australian Heritage Chairs and Officials forum for the last three years. Before that they were observers. They have joined with us because they, I think, feel that the way in which heritage, national and state and territory regulation in Australia is managed is in fact something that I think they feel is a useful reference point for the way in which historic heritage is managed in New Zealand.

They are not looking to do an individual submission. They have been very very pleased to have their name appended as a forum member to our overall submission. But I would certainly invite you to contact Bill Tramposh, who is the chief executive, or Damien Salmon, the chair of the New Zealand Historic Places Trust, if you felt that you wanted to issue them with an invitation. But I think I can confidently say on their behalf that they feel quite happy to be a part of this submission.

**MS MACDONALD:** Just maybe one other thing to add. There is one aspect of New Zealand's management which is quite interesting, and that is the relationship in the way that they've dealt with indigenous heritage and post-European settlement heritage in that they have organised that in a way which I think is quite interesting. It's really integrated cultural heritage with indigenous heritage in a way that we haven't modelled in Australia as yet, and I think that is an interesting aspect of it.

**MR COLLINS:** I think that's right. Indeed, the reference, whilst the New Zealand Historic Places Trust uses Australian reference points for the treatment of historic built heritage, historic heritage, certainly I think we feel it's the other way around so far as the integration of indigenous heritage, and the way in which it's mainstream with our other elements of cultural heritage in Australia. They actually have - of course, the social system of indigenous heritage in New Zealand is actually quite different, and therefore that leads to different treatments, and it's more based on a village concept, and ownership of indigenous heritage at the local level. Not in a way which is totally alienated to the Aboriginal system of land ownership and custodianship, but there are some very useful links between the two. But I'm reminding myself that this particular forum is really about historic heritage.

**DR BYRON:** My next question was going to be - you've made the point in the written submission and this morning about an integrated approach to all forms of heritage, not just historical, cultural, indigenous and natural. The Australian Heritage Council has made the same point as many of your other colleagues. In fact I think there have been very few dissenting voices to that proposition. Yet, up till now, in many states there is a sort of a silo approach or different agencies managing natural heritage. In some ways, although there are many parallel issues, many similarities, the way natural heritage is being handled is sometimes very divergent from the way historic heritage has been handled.

**MR COLLINS:** Correct.

**DR BYRON:** So, would you agree that one of the challenges for this inquiry is to try and think of some ways of getting the convergence to diverge, or perhaps a system that applied equally well for both historic, cultural and natural heritage?

**MR COLLINS:** I absolutely agree, Commissioner. I think that the way in which different legislation and, therefore, different emphases of the silo approach to the treatment of our overall cultural heritage has emerged, is a result of the political dynamism, and sometimes the economic dynamism - for example, perhaps the political dynamism that exists in relation to the natural heritage agenda. In relation to Aboriginal heritage, it's clear to me that policy development at a federal and state level have been driven by demands by government to achieve certain minimum social outcomes, and the treatment and the protection of our Aboriginal heritage has been wrapped up as part and parcel of that.

So I think what we've ended up with is an unintended silo effect in the way in which our cultural heritage management has been broken up both at a national and state level. That's not an issue for criticism in any shape or form, it's simply the way that it has happened. But, certainly, the Australian Heritage Council, the National Cultural Heritage forum and the Australian Heritage Chairs and Officials are really at one, and the Australian Council of National Trusts and Australia ICOMOS, who are probably the five main stakeholder groups who, I think, are involved in cultural heritage management, feel very firmly that all of these dimensions and elements of our total cultural heritage must be seen as a whole, and therefore the appropriate level of management must be done on an integrated basis.

**DR BYRON:** Okay. Good. I've just got two questions from the submission dealing with the listing process. I think, yes, it's on page 8. "The practice of heritage listing is based on the principles that" - dot dot dot - "listing improves

the level of certainty for property owners and the property market about 'what is to be protected'." I can see how that applies if you're talking about a place that is already listed, where the citation includes the statement of values that are to be protected, and the consequences of that, "Because this, this, this - therefore A, B and C will generally not be permitted without consent, but X, Y and Z," might be perfectly consistent with the protection of those values.

I've been surprised when we've actually see citations like that in some states that they actually tell the owner very little about either the statement of values or what the owner can or cannot do as a consequence of the recognition of those values. That's for a place that is already listed. But a place which is currently not listed, but proposed or nominated, I think one could argue that creates uncertainty for the owner of the property.

**MR COLLINS:** I'll just make a couple of general comments about that, and perhaps invite Susan to make some comment. Attached to annexure, I think, A or B we have listed the listing criteria which is the basis upon which any particular item may be listed in any jurisdiction of Australia. They really do follow the ICOMOS Burra Charter, and that Burra Charter has actually been, I guess, subsumed into all of the state legislation in one way or another. Generally, to be recognised, for example, of state or territory significance you have to meet one of those criteria. Not more than one, but just simply one of those criteria, because there are a range of criteria across a range of influences which could mean that a particular property is important. The listing process, therefore, is a gateway which has to be met, depending upon the measurement of its relevance across a range of criteria.

The way in which the listing, if a property is in fact taken forward and judged on one of the criteria to be of say state significance - the way in which the item is therefore protected is actually encapsulated in a conservation management plan. The conservation management plan would generally be required by the listing entered in - a New South Wales case for example would be the Heritage Council of New South Wales. In order to allow a particular item to be restored or adaptively reused or intruded upon with its fabric, generally a conservation management plan would be required to be carried out. Sometimes at the owner's expense, sometimes grants are provided for these types of plans.

The conservation management plan actually use the detailed document which encapsulates the fabric analysis, what parts of the property can in fact be adaptively reused or perhaps demolished or in some way intruded upon - and what parts of the property can't be. So it sets in place a series of policies which actually guide the land owner or the occupant as to what they can and can't do. So you'll find that wrapped up in the conservation management plan process rather than per se the listing process.

**DR BYRON:** Okay. Susan, do you want to - - -

**MS MACDONALD:** Really, I think that you've hit upon one of the issues that creates people's nervousness about listing - and that is, what the purpose of listing is to tell people what's important, why it's important and what about that place is important. Then what's needed therefore is the next part of that is sound, transparent, well understood, well articulated policies about how it's appropriate to change or evolve places that are listed. At the moment one of the problems that we have in our system is that we don't have an overarching set of policies that anyone at a local level, any state or territory that they live in or at the federal level, something that's on the national list can immediately understand what's okay and what's not in the way that they go about managing that place.

So there's quite a bit of confusion and fear about, "Listing means I can't do anything to my property. Listing means that I can't sell it. Listing means that I can't paint it pink" - to use an analogy that came out of a focus group that we did recently - "Listing means I can't put a games room on the back of my property." All of those things are misconceptions, because - but without having it easily understood we've got an information failure.

**DR BYRON:** They may all be real though.

**MS MACDONALD:** Sorry?

**DR BYRON:** Couldn't we find examples where people have been told all those things?

**MS MACDONALD:** There could be, that's right. So we've got an information failure about what the implications of listing are. But the listing itself, we've done some recent work in the central west of New South Wales when we were doing some listing work there, and we had a look at the idea of when we were preparing those listings for the State Heritage Register of attaching some policy statements to each of those listings which gave that owner a very clear understanding of what was okay and what wasn't for their property at the time of listing. That was a really good idea, because it gave them immediate understanding with, "Okay, so you're really only interested in X," or, "This is what you've told me. I understand that you've said in the listing that this is important and this is what that means," because I think this is the problem. People don't know what it means. It's not generally understood, and it's interesting - - -

**DR BYRON:** I think you're right, it's not just not well understood, there is profound confusion which is probably exacerbated by a multiplicity of lists of

people who think that the register of the national estate or a National Trust listing have some statutory ground. I'm amazed.

**MS MACDONALD:** Exactly.

**DR BYRON:** Well, I shouldn't be amazed, but - - -

**MS MACDONALD:** Yes.

**DR BYRON:** I'm struck by the extraordinary degree of confusion amongst ordinary members of the public, including some people who I would have thought would be very well informed on all this.

**MR COLLINS:** Yes.

**MS MACDONALD:** Yes. I mean, we've actually put some of this issue in our state submission that you'll see about this.

**MR COLLINS:** I mean, the issue that you're raising, Commissioner, really gets to the fact that people like, for example - I mean, probably the greatest reference that the community has is, for example, the Register of the National Estate or indeed the National Trust register. Now, both of those are generally non-statutory lists. I mean, obviously the Register of the National Estate does have some level of significance, but reduced significance these days, and it's more a data base.

**MS MACDONALD:** There are no controls that come out of it being on that list.

**MR COLLINS:** Correct.

**MS MACDONALD:** Yet it still exists.

**MR COLLINS:** The National Trust register. I mean, the National Trust was formed in 1945 or whatever. It was the forerunner to any statutory listing process. You know, it's a non-profit organisation which is an advocate for heritage listing. It developed this non-statutory list. What's happened is that state and federal legislation has actually caught up with it, and it's probably - has now probably superseded the list in the sense that national, territory and state lists now provide a regulatory listing environment, but the National Trust list is still there, and still used as a reference point, particularly by commentators who really don't understand the - public commentators who don't understand the power and the lack of ambiguity, I guess, surrounding the listing process. As a result of that there is confusion which is still continuing to be perpetuated in the marketplace as a result of the crossover of statutory lists

and non-statutory lists.

**MS MACDONALD:** Can I just ask you, you talked about this issue of certainty. Why there's uncertainty in the system for things that aren't listed is because we know that there's quite a lot of stuff out there that is important, and most people would recognise it as being of importance, but it's not listed. So it just sits there until it is proposed for development, and then you get community activism associated with it, and for the owner that's really difficult, because they were merrily sitting there thinking that, you know, they could go ahead in a particular way without having controls associated with a heritage listed there, and all of a sudden they find, "My goodness, all these people around me are telling me that, you know, this place is important and I should be subject to some controls." I mean, often what they want to do and what they're able to do are the same thing, but sometimes they're not. So it does mean that for those people that live in a place that's of heritage value but isn't on a list there is uncertainty in the system as a result of that while the lists aren't at their base level.

**MR COLLINS:** I think that's right. I mean, in New South Wales, for example, we have 1500 items on the state heritage register. I think that the informed community perception of those people within New South Wales, for example, in the heritage industries, would think that for New South Wales to grow that list to a mature balanced representative list that list could grow by another one or two thousand, or even more, to the extent that there is that gap existing. Then there are owners out there of properties who buy and transact property, both buying and selling, only to find, as I pointed out in my opening remarks, that as a part of them wanting to do something all of a sudden the heritage issue is then raised as a cause for concern.

It's often not raised by the owner, but raised by a neighbour or somebody watching from close or afar, that a person innocently wants to demolish a property only to find that he can't do it, because all of a sudden it is potentially a heritage item. So the fact that we do not have, as I said in my opening remarks, a comprehensive national integrated list of heritage significance right across Australia, from local government level right through to national, is in fact an issue which is putting the rights of land owners at least in some confusion if not in some form of economic risk.

**MS MACDONALD:** I think we've also tried to be - I think the system is actually quite flexible, our regulatory system, but sometimes perhaps we've been overly flexible. So if you talk about what's appropriate to do at a national level, what the Commonwealth will tell you is, "It depends what the values are, and it depends how you impact on the values." If you're an owner you don't understand what that means. At state level we have certain policies that are quite broad as well, and at local government, again, they have policies which

are quite broad.

But in the end we don't have the same level of understanding of what listing means, and the implications for it, in the way - I lived in the UK for a long time, and most people there understand if you have a grade 1 listed place, they understand quite well what that means. If you've got a grade 2 star they know what that means, and if you've got a grade 2. But we don't have that same level of understanding about the implications.

**MR HINTON:** I had a number of questions about your initial submission which I'd like to get on to because they're a bit broad ranging, but before I go down that track, I wanted to continue the line that Neil was taking regarding listing, and I'm a little concerned that your response to Neil's questions about not bringing certainty to the system being a symptom of information failure - that seems to me to be understating the problem significantly. If there's information failure, the way to redress that is to disseminate information - improve understanding of the implications of listing, the implications of the operations of the system; but what we're getting from interested parties - a number of interested parties across Australia - is that in fact the system in fact is deficient, that the discretion that's embedded into the local government arrangements in Australia mean that more information will not provide greater certainty at all because the discretion that's inherent in decision-making as to the implications of listing are so substantive that there is no information to give, and that to my mind is an issue of system, not an issue of information.

**MR COLLINS:** I agree with that.

**MR HINTON:** In those circumstances, your responses were, frankly, very disappointing.

**MS MACDONALD:** I think the information - there's information failures in certain aspects but I wasn't meaning to say that that is the actual - - -

**MR COLLINS:** The root cause.

**MS MACDONALD:** - - - the cause of the problem. I think that we have said that, that we do agree, and I think you'll see in the submission, and in the one that we made from New South Wales, there is a recognition by the Heritage Chairs and Officials, and they've talked about this at a number of their meetings, is that there is policy work to be done in terms of that framework.

**MR HINTON:** I'm glad you mentioned that, that term "policy work to be done" because that's one of your key messages from your initial submission,

the need to improve the policy framework. Maybe I'm not hearing those words correctly, but I would have thought that the policy framework has been looked at reasonably closely by a number of jurisdictions if not all in recent times, and the sort of policy framework has improved in recent times. But the actual deliver at the coalface is where the huge deficiencies are; that is, the implementation systems seems to me to be prima facie, if I can take case studies as an input, to be crying out for attention.

If you start to have - which takes me to your second point - new incentives to encourage greater private conservation, if the coalface work of implementing the policy framework is not working, then incentive is certainly going to go down the wrong way, or potentially be perverse or not be effective. So I would have thought that, while there may be need - and I think there probably is some need to do something about the policy framework - the biggest concern is the implementation of the arrangements. Maybe I'm overstating the circumstances, but I'd welcome your reaction to that, what I saw, was a basic response to your initial submission, one of inadequate description of the problem.

**MR COLLINS:** Essentially, I think your observations are absolutely accurate. The reality is that at a national level, if you talk about policy framework, the policy framework through national, state and territory is really quite a sophisticated framework in its own way. It actually sets levels of significance in the way in which properties are to be managed. Of course, let's keep in context the fact that the great majority of properties of heritage importance are at the local level. I think I, in previous casual conversations with you, have spoken about, perhaps at a local level, we may have a 100,000 plus historic properties at the local level.

Perhaps something like 15,000 at the state level and, obviously, only about 13 at the national level at the moment. But bearing in mind that we've just had the new legislation in place for three minutes that national list is likely to grow to perhaps a couple of hundred or 300 or more. So it's in fact very much a triangle-apex type thing. So the policy, the framework, is very cohesive in relation to the top tier or national. It is in my view quite cohesive in relation to the second tier, which is state and territory. But it is not so clear in relation to those items at a local level.

So I think when Susan talks about the policy framework needing to be improved, it needs to be improved most particularly with the group of properties which are fundamentally the underlying - providing the underlying level of numeracy in terms of our total listing. So it's that level. It's actually, local government listings are really provided through planning processes and through planning instruments rather than through any other form of regulation. I think it's the development of policy at that level which after all, as I said is



aimed at protecting the great bulk of Australia's historic heritage, is where there could be some policy improvement.

But, Neil, you're also absolutely right, because even if the policy was mature and sophisticated and well enunciated there still is an issue of how you actually implement it, because at the end of the day the great majority of properties that are owned are owned by private owners rather than by public owners. In that I include churches as being private owners as opposed to public owners as well. So I don't know if that answers your question or raised more questions.

**MS MACDONALD:** Can I also just add that I think one of the - we've always agreed in the Chairs and Officials that you sort of need - there's four things to get what we want, and that's been the package. We've talked to you about that before, and it's been the package of ingredients that are used in other countries. You need good legislation, which we've only had in place since 2003 or 2004. It's the first time in Australia that we've got the three levels of government with the legislation in place to protect what are recognised as the three levels of heritage. So it's very new that we actually have the legislative framework.

We've also got - so that's the first thing you need. You need good legislation. You need a good policy framework, guidelines, support at each level for administering. You need education, but you also need the incentives. You need those four things, and they need to be perhaps more balanced than we have at the moment, and one of the issues that we have at the moment - and we've talked about - Mike mentioned - is that we've got the legislation, but we haven't actually got a well rounded package of all these other things which you need to deliver it. So are failures in the system because of that, and our research is sort of picking up on that.

**MR THORPE:** To some degree it's a sovereign risk issue at local government, it seems to me, that the discretion provides that potential outcome. One of the key issues that we've picked up on is the issue of cross-subsidy, and effectively that there's some degree that the people who want to protect the local heritage, particularly local government, don't actually bear the risk if it's a private sector property. So listing is a, from their perspective, a cheap and easy way of achieving some outcome. The "some outcome" is relatively undefined.

One of the things in our paper that you'll receive in a couple of weeks, hopefully, will talk about the degree to which that cross-subsidy exists, but also some mechanisms that we believe - as advisers, not necessarily the position of the organisations - to put some degree of pricing back on, and sharing the cost where that may exist amongst the broader community if we're protecting broader community heritage values.

**MR COLLINS:** I mean, I think that's the core of what we're trying to convey to the Productivity Commission; that is, that we don't believe at the moment there is a complete mature policy framework which protects Australia's historic environment. There are good policies at different levels, but not cohesive enough to provide the total quantum of Australia's heritage protection, and that to the extent that we do in fact have this, the implementation is - as Commissioner Tony has pointed out - crying out for attention, because there is this enormous weight of responsibility placed on individual owners of property, and private owners of heritage property, without very much assistance in any shape or form.

Whilst they may have selfish reasons for protecting a particular property - you know, they may want to renovate it and have their own personal aspirations, and may be motivated to spend money to protect an item simply out of pure personal selfish reasons - the reality is that they are expected to be the custodians of a particular item for the future generations of Australians. So you have this accident - that is, the heritage management tends to be an accident of imposing a person's personal aspirations and personal dedication to an item, and rewarding the broader public, the third party broader public with the outcome of that - without the third party broader public having any associated obligation in relation to it.

That to me is probably the prominent issue of market failure or potential market failure. That's the reason why we have this notion that people are confused about heritage. They don't really understand. People are expected to be the custodian of privately owned Australian heritage, whilst giving a free kick to the broader community. It's because of that tension, in my view, that's existing that there is a reluctance for land owners to engage in the listing process and the conservation process of privately owned property.

**DR BYRON:** Even people who feel passionately about heritage properties, as owners, are pointing out to us that a old - especially an old heritage building, is much more expensive to maintain. The materials are more expensive and harder to get. The skills for the labour et cetera. They also are telling us that there is a whole additional burden of red tape and compliance which doesn't apply to their next door neighbour who isn't heritage listed. So, from their point of view, they see themselves actually being penalised to provide a service to the broader community who don't have to put their hand in their pocket at all.

**MR COLLINS:** Correct. But who enjoy the benefits.

**DR BYRON:** Exactly. Much of the - some of the benefit is private to the owner of the property.

**MR COLLINS:** Yes.

**DR BYRON:** But there is also a substantial community-wide benefit for which the community at the moment is paying nothing. I think it's that sort of fundamental equity issue that keeps coming up, and that seems to me to be the only reason why we meet people in every jurisdiction who are afraid of having a property they own heritage listed, because they see not only an immediate loss of capital value, but an ongoing increased expense for which they're going to have to pay for everybody else's benefits.

**MS MACDONALD:** We don't actually have the research to - there's two things, (1) the perception of higher costs certainly exists for bigger buildings, for buildings that are of a larger scale. But if you look at a row of cottages in a street, one which might be heritage listed and one might not be, if they're not particularly grand, with very old crafted skills, the costs - the work that they've done in other places can actually be the same, but there is a perception that the cost is always higher. I don't think that's probably right, but there are additional costs for certain types of buildings in terms of their maintenance.

In fact some of the workers suggested that a lot of older buildings, you don't - a building from pre-1840 comes up for major repairs every 60 years. A post-1950 building comes up every 30 years. So in fact the costs of repairing, over a long scale, are actually higher for a more recent building. But for a short-term owner, somebody who might own it for 10, 20 years, that sort of almost becomes a more difficult argument.

So there isn't specific research that actually deals with that one. And, yes, people have talked about the compliance one, and that's certainly a common issue.

**DR BYRON:** It just seems to me that if an owner of a property is providing a service to the community at large, then the jurisdiction would want to facilitate that and help assist, rather than put more roadblocks and more red tape burden in his way.

**MR COLLINS:** I agree.

**MR THORPE:** Just to some degree the problem is a little overstated.

**MS MACDONALD:** Yes.

**MR THORPE:** Because - and it comes back to having clear and transparent obligations that, if you know in advance what the listing entails presumably that will be factored to some degree, if not perfectly, into the market price.

**DR BYRON:** Absolutely.

**MR THORPE:** So, really, it's the initial purchaser of the property who has listings subsequently imposed upon them who couldn't reasonably factor that into their purchasing position. But, really, it does come back to how clear and transparent the obligations are when the purchaser actually does purchase.

**MR HINTON:** Can I explore this slightly further, and that's, one way for us to get a handle on some of the issues is to segment the sorts of buildings we're talking about. There are different categories. We've touched on residential houses, for example. We've touched on government owned buildings. We've touched on churches. But one category that's been drawn to your attention is the commercial building that is in its initial state, such as a - and a good example is the Adelaide Arcade. Clearly a listed, clearly a heritage building, clearly with the wider community benefits associated with its heritage characteristics.

But its actual commercial operation against commercial competitors is disadvantaged to some extent given the historic heritage nature of the building, in the sense that its maintenance has obligations that incur costs that would not be incurred by the commercial competitor. Is there a separate set of issues here, from your minds, or you think it's just part and parcel of the overall policy change.

**MR COLLINS:** I agree with Jeremy. I don't think there is a separate set of issues here, and in fact my belief is that properties with a commercial adaptive reuse potential along the lines, Commissioner, that you've spoken about, are probably the least worrisome for us, because to take Jeremy's point, the pricing mechanism initially deals with that. But we've done a number of case studies in New South Wales, which I think we've provided to the Productivity Commission, about this type of adaptive reuse of arcades and CBD-type buildings where an historic property lines up against a non-historic property next door.

Yes, certainly, the rental levels may be a little bit different. The outgoings may be a little bit different, but the developer actually is very capable to professionally take all of that into account. To simply say that at the end of the day the rental, the outgoings, on a particular building are a little bit higher than the non-heritage building next door is a bit of a perverse argument, because it actually only captures a part of the economic debate that surrounds that particular item, and there have been many examples.

I mean, I have to use Sydney as a reference point, because I'm a Sydneysider, and work and live in Sydney. But there are many examples of

classically adaptively reused commercial retail buildings in Sydney, from QVB through to the GPO and through to others, where developers have been very very happy to encapsulate those into other developments, and feel actually quite proud of the outcome at the end of the day. Whilst the outgoings may be high, in many cases the rentals that are being achieved are also higher than the property next door, because there is a value capture, because of the way in which a particular heritage item has been restored and presented to the marketplace. Obviously the Queen Victoria Building is a classic example.

**MR HINTON:** Thank you. I have one more question. I know we're getting squeezed for time. It's to take up your invitation to explore with you the work that Allens is doing for you. In particular, this reference to determining the value of heritage in its wider context. A tough task, and one that I'm sure that is requiring a lot of intellectual input. But the question that arose in my mind is, you do that work, you actually put a value on it. How does the valuation in itself, whether it be X or Y, enrich the policy making process that would then presumably flow from it from your perspective? What value does that number give to policy.

**MR THORPE:** The advantage of the discrete choice modelling process that we're doing - and I'm not - would you like an explanation of discrete choice modelling?

**DR BYRON:** No, I've taught it for years.

**MR THORPE:** Okay. Sorry about that. I just thought for the record. The advantage of discrete choice modelling is it focuses on a number of attributes that make up people's perceptions of what they value about the product. What we've done is we've undertaken three focus groups so far, and we've got one more to go. We've done one in Perth, one in Dubbo and one in Sydney, just so we've got a - one in different sides of the country, but also at least one rural centre. From that we've built up the attributes, which we'll provide to you, that we've used.

The advantage is, it doesn't provide necessarily a single number. It provides you with some degree of relativity about how people value the individual attributes. So rather than saying heritage is worth X million dollars, it says there are a number of attributes that make up people's perception of what heritage is, and we can get the sense of relativities. For example, one of the attributes that we've focussed on is the mix of the age of properties.

So, for example, some people in the focus group say, "Look, old is all I care about. I really don't care about 1950s Art Deco," sorry 1950s - whatever was built in the 1950s. Some people said, "Look, I think we need to have a mixed, because we're telling a story of the progression of our society." What

we'll come out with this is from the survey, giving you also a sense in different jurisdictions - so that will guide from a jurisdictional perspective - whether people really do value the mix of properties or whether they really do value just having older properties.

So the real advantage of this method is it's not a single value that we're trying to describe to heritage, we're trying to describe value to individual heritage attributes, and across the various jurisdictions. Is that giving you a sense of - - -

**MR HINTON:** That elaborates for me an understanding of what you mean by "value". Thank you for that. I was expecting something like that. But I still have then a need to move to the next step. Okay, we now have an understanding of what people in the community might think the community should value, and the characteristics of what is being valued. Where does that take you with regard to whether or not the government should or should not intervene, and if it does intervene, who pays for it and how it's paid for, if there's a cost embedded in that process as well.

**MR THORPE:** Yes. In addition to the discrete choice modelling, we're asking some supplementary questions which we think might go to some degree to that. It's also whether people are interested in local, state or national heritage as the focus. To some degree, heritage has some attributes that you might classify as being a merit good. So even to some degree the survey may end up showing that people value things that, from a heritage perspective, the experts say, "That's one view, but it actually shows that we haven't been very good in telling the story." I suspect that may come out of it. I mean, we've not come in with a deterministic sense of what the results are going to be.

We've forewarned the clients that it may not be a message that they will necessarily like. So to some degree, I suspect that the clients and the heritage industry may see some failings in what they have done to date in the results and the way that certain people value certain activities. The interesting thing also - the rural versus non-rural.

**MR COLLINS:** I think the only other observation that I would make in addition to what Jeremy has said is that the Australia community, even the, what I would call, hopefully not arrogantly, the professional heritage industry or component of the Australian heritage community, in my view has the capacity to have a one-dimensional view about what the value of heritage is. What our research is trying to do is to actually go to the source, go to the community in a focused way to try and derive from them what they regard is the value of heritage at various levels and across a range of building types and heritage types, so that that can inform us as to the type of recommendations that we want to make to you in our final submission.

We're not second-guessing the answers here. It's important that we all understand that the research work is not self-serving in that sense. We don't know what the outcome of the research will be. It may well be that the results of the research is not as didactic as maybe we were hoping or looking for. We're not going to pre-empt the outcome of that work, but we certainly do believe that there is a multidimensioned view about the value of heritage which this research, and only this research, can assist us to understand and hence allow the Commission to understand.

**MS MACDONALD:** Can I just also add that the value of the research is really, for us, broader than the Productivity Commission; it's about helping us understand how the communities see whether what we do is important, why and what parts of it are important. Just for our day to day work and understanding, it's very useful for us to do this sort of exercise. Had we had the opportunity any time up until now, we definitely would have loved to have been able to. But this has galvanised us to be able to pool our resources to do it. That is really the bottom line.

**DR BYRON:** A lot of people in talking to us have broken heritage into three steps: the identification; the management/conservation of what we've identified is significant and important and worth keeping for future generations; and then the communication, the extension of the outreach, the telling of the story. The message that I'm getting, and what I'd like your reaction to, is that we've done, collectively, around Australia a pretty good job at all levels of the identification. We've done an average job of the actual conservation of the places that we've identified. But in terms of the third step of actually using those places to communicate and engage with the public, we may not have done very much of that at all. That could mean that the public is much less engaged and therefore much less aware of the importance of listening and the importance of conservation and management. So if it is a chicken and egg thing, we've let part of the cycle down.

**MR COLLINS:** You could explain it as being a chicken and egg thing, or a revolving circle, but my view is that - actually, I would take the opposite view and say there is a cascading effect. You end up with a lack of understanding about the value of using places and that sort of thing because of the fact that the conservation process has been, and the requirement for conservation has been less understood and less accepted. The reason for that is because the identification process is not at the moment at a full and mature level. It's at a full and mature level at a couple of levels, being state and national, but certainly not at the local government level where the bulk of our national heritage assets sit.

So I would put it another way, Commissioner. I would say that, because

we still don't have a thorough level of identification and policy framework, that leads to an equivocation about policy, conservation, implementation; and then that leads to a confusion in the marketplace about the way in which these properties ought to be used. So I think it's a cascading effect, starting with the first one.

**MS MACDONALD:** I think we'd already said today how - and like I'd said at the beginning - an addition to add to that is, you know, we have said that we think this emphasis has largely been on the legislative and listing side of it. So I guess, really, in some respects we are agreeing with your comment there. And we've said that.

**DR BYRON:** It's almost time that we have to move on. Did you have one last question?

**MR HINTON:** You wouldn't allow me.

**DR BYRON:** Yes, I would.

**MR HINTON:** Neil, I'm fine, thank you very much. I'm sure I could ask lots of questions and explore more issue with them, but I think we are running out of time.

**DR BYRON:** Yes. A last one on listing, and that is a de-listing process or a continuous review of the inventory to make sure that everything that's on the list at whatever level, at whatever jurisdiction still meets the criteria to be there; that, you know, it hasn't fallen apart or blown over or been burnt down, et cetera. I think it's in Queensland where they actually will issue a statement of non-interest or exemption; that, having considered a place and said, no, it doesn't meet the state heritage listing criteria for these reasons, they therefore in writing say, "We're not going to revisit this for five years." Have you an opinion on whether that has merit for other jurisdictions? A double-barrelled question.

**MR COLLINS:** That's actually a very good question. It's not one that I think that we've actually ever considered in the way in which you've posed the question. In our jurisdiction here in New South Wales, the process is: it comes before you. You consider it. If you think that it's worthy then it moves forward. But if you think it's not worthy, then that's the end of the message. We don't ever put any timeframe on the relevance of that decision - in other words, "This decision remains relevant for five years, " or whatever. You raised a very important point, that of course different heritage items develop heritage significance over a long period of time, and what might not be important to the community today could become important to the community in several years' time.



Just because of the way in which the community interacts with heritage, even a five year time frame would be probably be putting too finer point on it. You would probably take a longer - you know, if the community feels that something today isn't important it's unlikely that the community would consider that as important within a five year time frame. So the notion of what is an appropriate time frame is probably important. I mean, I actually don't - I think I'm quite relaxed about the notion of saying, "Well, we're not going to consider this again for another five or 10 years, or whatever it may be."

But the listing process actually should be capable of - whilst it's capable of adding properties to a list, because at a particular point in time they're relevant, it also should be capable of taking properties off the list, because over a period of time they become irrelevant or no longer of value to the community. I'm not sure that all of the heritage jurisdictions around Australia, including New South Wales, actually have the - you know, are able statutorily to take properties of their statutory list when possibly they ought to be.

In the New South Wales jurisdiction we do have a small number of properties from time to time that come to us which are in fact on the list, and we have to consider whether or not they are appropriate for the future. In fact I'm dealing with one at the moment. But the Heritage Act does not give us the capacity to de-list. So I've probably answered your question in a roundabout sort of a way.

**MR THORPE:** Can I respond to the statement of negative interest. My understanding, with some overseas experience, is that it's been an interesting mechanism because, while that appears to add certainty, developers have actually been scared because they've sought such a statement, and then it's raised the attention of the site to the relevant party, and they have listed. So in fact they may have actually been able to develop and get through and no-one particularly noticed, but when the heritage officer or whichever equivalent body has been in practice, then I think we can provide some material about that.

**DR BYRON:** I'm not only interested in places where the owner would rather not be listed. There may well be cases where the owner of a B and B desperately wants to get on to a state list for commercial reasons, and you look at it and say "no", you should be able to say, "And don't come back and bother us for another five years."

**MR THORPE:** I think it's a great mechanism. I'm just saying it's interesting that it's had some outcomes that some people may not have necessarily - - -

**DR BYRON:** Yes.

**MS MACDONALD:** Yes. I mean, I think we've dealt with it artificially.

**MR HINTON:** Can I raise another category, the category of where it has been subject to proposals, examined, and rejected; but then five years later the same parties who thought it had heritage characteristics before, try again, and gets rejected again. That may have an interactive process over 20 years where, each time it rejected - to my mind, that particular owner of that particular property has huge uncertainty unless you give them a statement: "No, you will never be listed." In the absence of a statement of categorical nature that, no, you will not be listed, or that building will not be listed, then uncertainty in fact is heightened by two aspects: (1) you haven't given a time line to it, and (2) the fact that it's gone through a proposal previously, if not proposals previously, which to my mind is a huge risk for that particular property.

**MR COLLINS:** I think what you say is absolutely right. But the reality is that, at the regulatory level, the Heritage Council in New South Wales really has not come across those sorts of - there's no outstanding dynamic in the marketplace that is giving us that feedback in relation to that issue. Mr Boyd over here will be very interested, I'm sure, in his submissions to talk about his particular problem because that's exactly the issue that Mr Boyd is facing in relation to this property and a group of properties at St Ives, where he lives. I'm sure he'll talk to you about that.

But apart from Mr Boyd's issue, which is a real live issue, the Heritage Council does not come across instances where people are feeling continually aggrieved or the Heritage Council feels continually aggrieved because of a repetition of the listing process. So that arrangement, that negative deed arrangement, is not something that we've ever really discussed because there's not been any sort of underlying dynamic that's requiring us to think about it.

**MS MACDONALD:** I think at the state and the national level as well, when you choose not to list something there is a stated reason for it. It will say it does not meet the criteria under the state quite clearly, or it will say, "At this moment, we do not have the comparative information for us to make a decision." That's a very rare occurrence, and that might be because it's a new area of heritage that we're looking at. I think the 20th century is one of those areas.

So I think Mike is right: the uncertainty comes when - and I think it's something that happens at local governments sometimes when local government chooses not to pursue a listing because of pressure from the community. So they might acknowledge that something is important, but because the community is fearful of having their place listed, they might choose not to go forward with it.

That is a real problem because that does leave that place hanging, and you might get another council in two more years time that is committed to actually fulfilling their requirements under the act, whatever act that is in whatever state, and says, "No, we really should be doing this. It's part of our environment protection package and it should be listed." So that is an area in local government where there are other reasons that come in to play that do end up sometimes creating that uncertainty. Probably at local government we could cite examples of that.

**DR BYRON:** I'm a little embarrassed with my time keeping, that we've gone way over the time with the heritage chairs and officials.

**MR HINTON:** He usually blames me.

**DR BYRON:** But fortunately we've moved into the timeslot for discussing New South Wales issues. So at this stage can I thank the heritage chairs and officials.

**MR COLLINS:** I'll take my leave and I'll leave Susan to deal with the submission. Susan is from the New South Wales Heritage office. So I'll take my leave. But in closing I just want to - - -

**MS MACDONALD:** I can table this now.

**MR COLLINS:** Sorry. In closing, Commissioners, I just want to say how delighted we are that this process is under way. We hope and are confident that our final submission to you in its various iterative forms that we get to you will be a great stimulant to the Productivity Commission's investigation and analysis of this issue. Anything at all that the heritage chairs and officials of Australia and New Zealand can do to assist in that analysis and assisting the Commission in determining its findings, we'll be thrilled to participate in. We feel particularly pleased to have been able to make a presentation to you this morning and to engage with you in the way that you have. And thank you for the time you've given us.

**DR BYRON:** Thank you very much, Michael.

**MS MACDONALD:** Sorry, Mike. I didn't mean to interrupt you.

**MR COLLINS:** That's all right.

**DR BYRON:** Susan, can I welcome you again in your different hat (NSW Heritage Office) and thank you very much for this hot off the press, still warm submission.

**MS MACDONALD:** I do have another copy if you'd - wouldn't you like - - -

**MR HINTON:** Please.

**MS MACDONALD:** It's not bound, so it doesn't - - -

**MR HINTON:** I'll judge it accordingly.

**DR BYRON:** Again, Susan, if you could just sort of summarise the main points. I'm sorry we haven't had time to read it yet, but - - -

**MS MACDONALD:** Yes, I'm sorry we've only just given it to you. Can I just also acknowledge that there's two other members of our task force that have been responsible for preparing this submission here today: Sharon McGill from the cabinet office and Mac North, who is from the Department of Environment and Conservation. I'm sorry we weren't able to get it to you so you could read it beforehand.

The New South Wales submission had been prepared by government agencies in New South Wales that have the conservation of the state's heritage as their core activities. My role in this process is the project manager of that submission, and I work at the New South Wales Heritage Office. Again, like the previous submission it is an initial submission in advance of some more detailed work that we'll be doing.

What we've tried to do in our submission is really give you information that was important to the inquiry about how the heritage system works in New South Wales, some detailed information about our heritage incentives program, the role of state and of local government in managing the heritage of New South Wales, how New South Wales government manages its own assets, and the relationship between government and non-government organisation in general terms. Also, in relation to the listing issue that we've been talking about, we've talked about our listing system, and we've given you some explanatory texts on the pressures of historic heritage that have been identified in the State of the Environment report of Australia of 2001. But we've described them in New South Wales's term.

Lastly, we've just ended by flagging two issues that we're going to pick up in our more detailed work that we will get to you as soon as we can. Again, they're about incentives, improved management, and policy framework

coordinated across all the jurisdictions - including the importance of national leadership, which is something that we will be discussion in more detail in our next submission. The need to address issues about market failures and information failures that exist; about the value of heritage and the heritage management system and it's implication, as many of the submissions have actually raised. We thought we could usefully provide some more information on that. We've also added another pressure or an issue that we think is important in New South Wales, which is the need to address the skill deficit and a skill shortage in historic heritage conservation.

What we'll do in our next submission is really give you more detail on some of the questions that you raise in your issues paper in relation to market failures, the relationship between market failure and government intervention in New South Wales, and the relationship between the levels of government in delivering the heritage management system in New South Wales, which is something that I think has come out of the discussion that we've just had.

I think we'll probably talk more about this issue that's been raised in a lot of the submission, about that relationship between state and federal level of government, particularly in relation to the new legislation that EPBC - that came in, and the national listing system.

We just wanted to raise one comment now, because we noticed that it's come up already and is out there. And I'm sorry we weren't able to address it in this submission. As you know, we've got a national heritage protocol which identifies the roles and responsibilities of the states, the territories and the federal government in relation to that legislation. But there's also, interestingly, an expectation that I've noticed in the AHC submission that the states will prepare nominations to that list to ensure that it becomes, you know, a credible and comprehensive list. But from the state's point of view, I've got to say that we're quite busy doing our own list.

We mentioned in our submission that we see some work that needs to be done to get our list to a sort of - our base case. So without assistance from the federal government, it's really probably a difficult expectation for the states to meet in fulfilling that expectation by federal government. I don't really raise this issue specifically for any other reason to perhaps use it to exemplify why some things work at inter-jurisdictional level and some don't. Some of this is about expectations of the different levels of government.

Obviously you haven't had a chance to read our submission. But if I could just flag a couple of things that we have included in it. In the day to day practice of conservation of Australia's heritage, we believe that state government has a responsibility, in a legislative capacity, at least, for managing most of Australia's heritage, although much of the hands-on identification and

development assessment work has been devolved to local government. State government is really the bodies that are responsible for setting the strategic framework for heritage management in the state, and then that's cascaded up across the nation.

We're also involved, however, in works to heritage sites at quite a detailed level. So we have a very detailed role and a much more hands-on role that federal government does in terms of the nitty gritty of day to day issues, practical issues about how you adaptively re-use properties, how you deal with practical, physical conservation, and in relation to those promotion interpretation and telling the story that we were talking about. So we feel that we're very well placed to understand the big picture, but we also understand a lot about the nitty gritty and the day to day issues as well. So state government is quite uniquely placed in that regard.

In our submission we've described three categories of state government agencies in New South Wales that are involved in heritage management. Firstly, those that have regulatory responsibility through the various legislation they administer. They include the office that I work in - the heritage office - they include the Department of Environment and Conservation, which Mac North is currently working in. They are involved in natural heritage issues: threatened species and Aboriginal heritage relics. And the Department of Infrastructure, Planning and Natural Resources, which is our main planning framework in New South Wales.

Our second category of agencies are those with heritage places in their portfolios. There are approximately 85 agencies in New South Wales that have responsibility, that own heritage properties. Out of all the agencies, there are 85 which we know own places and are therefore responsible for their management and their care. There are also three agencies which have heritage conservation as a core activity. One of those is the Historic Houses Trust, which is a unique organisation in Australia. They own 14 properties across New South Wales which they're responsible for conserving, promoting. They include collections as well. Through their conservation activities, they also have - one of their roles is about the promotion and the understanding of heritage generally and heritage conservation. We have a Sydney Harbour Foreshores Authority, which has a specific remit for managing a very important part of Australia's heritage, The Rocks, the first urban area of Australia; and the Department of Environment and Conservation, which is where all our national parks in New South Wales sit.

Our third category is a single agency that provides practical conservation expertise and services on a semi-commercial basis, and that exists within our Department of Commerce in the government architect's branch. It's called the Heritage Division, and they do practical conservation work. They have their

architects, archaeologists, professionals working - they work for state government. They provide services to state government, as I said, on a commercial basis. They're also a unique service in Australia: there isn't another agency like that that exists in Australia. What we've done in our submission is just give you a description of those, the responsibilities of those different agencies.

Our submission has been prepared by a task force, which involves those agencies that have heritage as a core responsibility. Some of them I've mentioned: Historic Houses Trust, the Department of Environment and Conservation, the heritage branch of the government architects branch, Sydney Harbour Foreshore Authority. Also our cabinet office and treasury. Much of our submission at this stage is fact-based, but we've tried to give you facts that aren't easily gleaned just from trawling web sites. So we've given you the bare facts, but we've also tried to explain relationships, because it's not always easy to see the picture. So we hope that that is useful.

We've also talked and put some commentary in about our incentives program, which in New South Wales we believe is the most comprehensive incentives program for heritage in Australia. It provides a very important role in relation to local government. We provide a fairly extensive support network which is absolutely vital to helping local government meet their responsibilities. We provide moneys for heritage studies, for provision of heritage advisory services in local government, and local incentives funds. We have a heritage adviser's network meeting, the annual meeting of which is being held in Parramatta today and tomorrow. We provide training - all the heritage advisers come together and we give them information on the latest issues pertinent to New South Wales. They share their experiences. We host a web group, which has large numbers of emails that are shared amongst them. So we facilitate a service which enables them to support each other.

We've also talked about the listing system in New South Wales. We've talked about the issue of non-statutory lists and that issue of the confusion that sometimes occurs as a result of that, because we've noticed that that seems to be quite an important issue, so we thought it was important to give you that information now. And as I said, we've talked a bit about the pressures that are relevant to heritage conservation in New South Wales.

I think it's probably best for me not to really talk about anything more specific about it at the moment, because there's information in there. I appreciate you haven't had a chance to look at it yet, but I'd be happy to take any specific questions that we might be able to help you about from the regulatory framework, the statutory system in New South Wales.

**DR BYRON:** That's great. Thank you very much, Susan. We may get back

to you after we've had a chance to go through this. But just even from a very quick skim through it - I mean, I thought I had a pretty good understanding of how New South Wales system worked, but there's all sorts of interesting little - or big - nooks and crannies that I hadn't even thought of before. So that will be very, very helpful.

One of the things that I wanted to ask you about and which you have mentioned: the 85 agencies that own heritage places and are responsible for their management and care, can you tell me a little bit more about how that works and how it's paid for. The particular angle that I'm interested in is transparency from the budget sense. You know, if \$x million is allocated in the state budget for police and justice, I assume people expect that that money is used for maintaining law and order rather than for maintaining old courthouses at west Woop Woop. The money that is given to State Rail, people would assume that that money is for running the trains rather than for maintaining historic railway stations. Is there a cloud that's put over the budgetary transparency because the heritage function is actually being subsumed - camouflaged - in a whole lot of line agency operations?

Sorry, that sounds overly critical. It's a very interesting way of getting the state to take responsibility for managing all the state-owned heritage properties in respect of which portfolio they're in. But I'm just wondering about, is there a transparency issue in that the public don't realise that in every state budget there's probably tens, hundreds of millions of dollars going into maintenance of heritage properties but it's never labelled as that.

**MS MACDONALD:** Can I answer that in two ways. Firstly, can I just spend a couple of minutes just telling you about the system here, because I know you haven't had a chance to read it. New South Wales is the only state who has specific provisions within its heritage act for state government to lead by example. That was the aim of the exercise in the 1996 ministerial policy. So in our heritage act there is a requirement for state government agencies to identify their heritage on something called a section 170 register and then to become subject to guidelines that are put in place through the heritage act to maintain and manage those places.

It's different from Victoria in a budgetary sense in that they identify a pot of money that will be spent on heritage properties and administered through - I think through Heritage Victoria. In ours, the responsibility, as you say, is driven through the individual agencies. So they have a requirement to meet these obligations and I think it's about 20 of them. We've got about 45 agencies that have done some of that work.

In terms of budget transparency, I guess I'm a little bit reluctant to delve into that too deeply because I'm not the treasury representative. But I know



that individual agencies in meeting those obligation do put in specific submissions to treasury identifying those issues. There are some agencies who own heritage properties which are tremendously important, that everyone would value. If I could just mention housing. The Department of Housing is one of them. They own most of the buildings in Millers Point, all of those terraces down in The Rocks. One of the agencies that we've talked about in there, the Department of Government Architects, they've got a special program that they're doing with the Department of Housing to help maintain and look after those properties. There's a special budget allocation. The money is actually mentioned in that submission, I think, the costs associated with it.

Other agencies have got specific in-house expertise. Mac North was the manager of a section in Sydney Water who had specific responsibility for managing their heritage assets which were separately accounted for in their budget. In that regard, those agencies who have a lot of heritage assets, who it's recognised as an important responsibility, they have been identified as that.

There are other agencies who have a large number of properties that are just part of their day to day assets that are in general use. It's not articulated - I think I'd be right in saying that, you know, "This one is an old building and this one is not and this maintenance cost is this and this one is not." They haven't been separated out like that.

**DR BYRON:** No. Nor should they be.

**MS MACDONALD:** No, and it wouldn't be appropriate to do that. So really, I suppose the agencies that have got some very specific issues, a very specific estate which has been identified as being important and needing special attention, have them, generally, packaged in a way that is part of a budgetary process.

**DR BYRON:** The point behind my question was that, if somebody was trying to find out, how much do the New South Wales taxpayers overall spend on heritage conservation? If they just looked at the budget-line item for how much goes into the State Heritage Office, they would get entirely the wrong answer.

**MS MACDONALD:** A different picture, yes.

**DR BYRON:** Yes. It would be seriously misleading. If you compare that to the way the Victorians do it, it's right up there in black and white that there's, you know, \$500 million to go into paying for the conservation of heritage properties which are owned by the state government. At least people can look at that and say, "That's not enough; we should double it," or whatever. But I'm just concerned that it's hard for us or anybody else to actually see just how

much is actually going in, because it's sort of spur of the moment.

**MS MACDONALD:** That figure may be useful and it may be not, because some places that government owns are just part of general maintenance, and so why would you identify them as being things that are, because they're a heritage property, you have to separately identify a budget for looking after it. So I think that the more relevant question is, when they're doing it purely from a conservation point of view, that it's probably more important than whether it's just a general maintenance figure.

**DR BYRON:** The other incentive: if I was the head of a health department, and rather than putting money into doing hospital operations I was putting money into maintaining an old hospital building, not for operational or business reasons, I suspect my incentive would be to try and flog it off so that I didn't have to put health department budget money into old buildings rather than delivering health outcomes. That's why I guess I'm suggesting that a separate, clearly marked trench of funds that says, "This is explicitly for maintaining state-owned buildings that would otherwise not be maintained because they're not core-business" - sorry, I won't belabour that any more because I'm asking the wrong person. I'm sorry.

**MS MACDONALD:** Yes. I don't know whether - Mac, you need to come up here to speak to the microphone - as the asset manager, somebody who had a responsibility in an agency might - - -

**DR BYRON:** If you could just introduce yourself when you sit down, Mac.

**MS MACDONALD:** I think there also is a recognition by government, though, that heritage properties, they can be involved in delivering a core service, but sometimes the properties they own are also a really important part of the fabric of the state, and they contribute in other ways. So that's why it's just a recognised obligation.

**DR BYRON:** Yes, a different way of doing it.

**MR NORTH:** My name is Mac North. I'm currently the policy and planning manager in the cultural heritage division of the Department of Environment and Conservation. I've also been the heritage manager at the Sydney Water Corporation for four years, which is a state-owned corporation.

I thought I could shed light on my experiences in that regard at Sydney Water and the Department of Environment and Conservation. Speaking first about DEC, that is an agency which has a specific conservation agenda and receives \$2 million a year in tied treasury funds specifically for conservation of historic heritage assets.

**MS MACDONALD:** That's in the submission.

**MR NORTH:** That's articulated in the submission. That is I think a pretty unique position for state government agencies in New South Wales. I can say it's not nearly enough to deal with the range of heritage assets that the Department of Environment and Conservation has because it owns 8 per cent of the State of New South Wales and there are many thousands of properties state-wide. There is an internal process every year where - essentially it's an internal grants process where people in the field apply for money for specific projects to conserve historic heritage assets.

At Sydney Water Corporation it's a very different kettle of fish. That's an organisation where it's primary responsibilities are the provision of water and sewerage services. It has about 220 heritage-listed properties, of which about 90 per cent are still operational parts of the water and sewerage system. In those, there's no specific budget allocated for heritage conservation. However, because in the majority of instances they are operational assets, the works to those assets are dealt with through either the property maintenance program or the asset maintenance program.

**DR BYRON:** Normal course of business.

**MR NORTH:** Yes. But what we've recently done is tried to do a more detailed assessment of some of these heritage assets which are operational to work out what are all of the range of maintenance requirements; what are the ones that are currently being dealt with by the property management area, which is one area, and what are the ones which are being dealt with by the asset maintenance area, which deal with the pipes and pumps end of thing; and then, where's the gap. What we've found is that, in most instances, about 90 per cent of the maintenance issues are dealt with either through one or the other of the two streams of asset management. But there is this gap.

As you're probably aware, Sydney Water Corporation receives its funding not through treasury but through the Independent Pricing and Regulatory Tribunal, through a price path. In this last pricing submission which went in earlier this year, we did put in two specific line items to seek a pricing enhancement to deal with heritage conservation issues. We sought \$3 million to deal with one specific heritage site, which had a very large number of backlog maintenance issues - which we were successful in receiving IPART's blessing on that - and we sought \$3 million over five years to deal with the gap, that 10 per cent gap on the remainder of heritage properties. We were not successful in receiving that funding. So at this point, that gap is either not being dealt with or it's being absorbed into normal maintenance costs as part of core business.

**DR BYRON:** Thank you very much. That was really enlightening. Tony, did you have a question?

**MR HINTON:** We're running out of time. But I do have one question. Susan, thank you very much for the submission. I've had a quick look at it too as we've been talking, and it does provide very detailed information on New South Wales. Thank you. I think it does expand our knowledge of the system here in New South Wales.

My particular focus this morning was on section 4, Local Government Heritage Management. We did touch on some of these issues in the previous session that you participated in as well. I'm particularly interested in this in that the system for the relationship between the state government and the local governments varies quite significantly from jurisdiction to jurisdiction. One of our challenges is for the Commission to get a good handle on each of the six states and how they relate to their local governments.

As part of that process, we're seeking to try and identify best practice to the extent that it can be identified, and to the extent that it can have wider application, if not universal application, which in itself is not necessarily a logical conclusion. So with that rather lengthy introduction to a very short question, do you think that your system's - that is, New South Wales State government's - control, influence, guidelines, oversight of local governments with regard to the heritage objective, is working well or working badly? Where would you give that judgment for New South Wales?

**MS MACDONALD:** I think that our system is actually a very sound one, it's actually a good one, and in the main it works well. What it delivers or has the potential to deliver is quite thorough and far reaching and effective and efficient. Obviously, it would be great if it was a much bigger program, and that's come through in the submissions that you've received from other people. We have heritage advisers in - I can't remember the exact number, and I haven't got a copy in front of me. I think it's 120 out of the 157 councils across New South Wales. We have one in every metropolitan area. But they only go to these places one day a week.

I think, as you found when you went out on your visits, some local councils don't have much access to professional advice. So those heritage advisers provide a really vital service in the council, and it could be augmented greatly in other ways, because they tend to fill gaps that are left in local government provision of planning services and things as well. So I think the reason that it works really well is because of the support structure that is there. I think that it's very important that they have some strategic direction and context to work within.

The heritage advisers network that we provide, just through the E-group that I mentioned, the training that we deliver with local government or ourselves, those sort of things work really really well, and given the moneys that are provided and the work that we put into it, we get very very effective outcomes. If you take areas that haven't had an advisory service, and you introduce one, you can start to see the impact on that community in most cases really quite well. I know you've had a submission from Broken Hill which is, I suppose, one of the real great success stories of that program.

We provide 12 and a half thousand dollars per year to a local council for a heritage adviser, which is - they double that amount, and that provides them with a professional one day a month. We always look at it in comparison to a couple of metres of road, and I think it's really good value for money. But it is really good value for money, I think, because as I said of the support that's provided at the state government level. I really don't think that it would be as effective if it was provided straight to local government without that network of support, because they help each other, they help us understand what they need, and we help deliver what they need in a broader sense, and put them in contact with other people.

The incentive programs, which provide small amounts of moneys to local government to provide local incentive funds, we provide up to 8000 per year per council. They do that on a 50 per cent basis. They work quite well in local government, although they are small sums. But they seem to be quite effective in leverage for more money. One of the principles of our program is that we don't - it's very rare that we give money that isn't doubled or tripled by others. So we don't provide moneys where it doesn't leverage additional money.

So every dollar we put it there's another one or two dollars coming from somewhere else, and it's the combination of those which is important, because (1) you get more money, obviously, but the second thing, it shows commitment and support, and a real willingness to then augment it, and to implement it that doesn't always come if you don't do it in partnership with people. I don't think I'm being arrogant in saying this, I think within the states and territories it actually is recognised as being the best program that exists at the moment in Australia.

**MR HINTON:** Thanks.

**DR BYRON:** It's just interesting to reflect that more than half the written submissions that we receive come from New South Wales, and it's an interesting mix of probably half of them who think that there's far too much heritage regulation, and the other half who think there's far too little. That may simply come back to the eye of the beholder point that you've made before.

There's a number of things I could ask you, I wanted to ask, but I've got my eye on the clock. I'll just limit myself to one question. What is the Heritage Office's position on voluntary listing, the pros and cons of voluntary listing, as opposed to - I guess the opposite is involuntary?

**MR HINTON:** Proscriptive.

**DR BYRON:** Proscriptive or statutory. Do you think it would work, or why wouldn't work, what would be wrong with it, what would it take to make it work adequately?

**MS MACDONALD:** You've seen people's opinions about listing, and they're quite varied, as we've talked about. I think one of the problems with voluntary listing is that you don't actually conserve what's important, you conserve what a current owner - you end up conserving things that are seen by that current owner only as being important or not. I mean, people that actually own heritage places that think are important sometimes don't want them listed. So the problem with voluntary listing is you don't identify the places and protect the places that are important.

**DR BYRON:** Maybe I should have clarified a bit. By voluntary listing I didn't mean only people who came forward and offered. But, if you like, a negotiated listing whereby the listing authority and the owner come to a mutually agreed negotiated outcome that says, "Yes, we both agree that this is a good thing to do," and it might involve a quid pro quo in recognition that the listing might involve some additional cost burden on the owner et cetera which could be in terms of rate reliefs or grants or technical advisory support or eligibility for something.

**MS MACDONALD:** Right.

**DR BYRON:** Because, what I'm concerned about is that there's a possibility - some cynics have said to us that, "We end up with a list of places that we would have liked to have been able to conserve, but they're still disappearing anyway." Whereas, if you get the owner of the proper, whether it's a church or a bank or a family, to agree that, "Yes, we've done a deal where we promise to conserve this place," you've actually got volunteers rather than conscripts.

**MS MACDONALD:** Yes.

**DR BYRON:** You've got people who have signed on, who have taken the pledge, and that I think is probably far more likely to deliver conservation outcomes, because simply putting a property on a list doesn't fix the hole in the roof, doesn't stop the rising damp.

**MS MACDONALD:** Obviously, we'd think that a place that you list with the owners being happy with that concept is a much better outcome. In fact when you look at the listings that we do at a state level largely that is the case. They've been through a long negotiated process with the owners. If you look at the cathedrals - - -

**DR BYRON:** Perhaps that's why it works.

**MS MACDONALD:** Yes, but it took us - there's a lot of work involved in that. So the listing of the cathedrals and the synagogue in Sydney, obviously placed of great importance, that took a number of years. Because we pursued it on that basis that it would be important that those owners and managers of those places are doing this because they recognise it's important, and they have a level of comfort with the process. So our Heritage Council - and I'm sure Mike would say this if he was here - they really like to hear that the owners are happy.

In our papers that go up to the Heritage Council there is a section which tells you what the owner's opinion is, and they really want to know, and there are many presentations that are given to that Heritage Council at the time they make the listing, and the owner usually comes along and says - if they don't like it they might come and they talk about that. There is real concern, I think, in our listing process when an owner is not happy with that outcome, because as you say in the end they're going to have to manage it. So it's important that they do understand it.

Our work that we did in the central west, which was a sort of strategic project to try and get things identified in the central west of New South Wales that are obviously of heritage significance preceded on that basis in that we did it - it was a community-based approach. The community sat down and said, "These are the things that were important in our area," and then the heritage advisers from that area went and talked to the owners and said, "How do you feel about this? This is what it means," and they included some policies at the bottom of the listing, which was a sort of mutual agreement about what that would mean for them, and that's a great idea.

It involves considerably more resources, obviously, than doing it the other way, considerably more, and in a way that's what the public process of listing has moved more and more towards. Everything is advertised. People have the right to say something. People do really listen to people's views.

**DR BYRON:** I guess what I'm saying is that perhaps the best outcome is one that everybody sees as a win-win outcome.

**MS MACDONALD:** Absolutely.

**DR BYRON:** And if it is a win-win, you don't have to sort of ram it through - - -

**MS MACDONALD:** Exactly, yes.

**DR BYRON:** - - - it's a voluntary commitment on both sides. I guess the question that that raises is, where the owner of the property originally has some sort of reticence or reluctance, it may be that a relatively tiny financial inducement or offer of a gold star and an elephant stamp or something would just get them over the line.

**MS MACDONALD:** Of course, yes.

**DR BYRON:** There may be some people for whom it would take quite a large inducement to get them to voluntarily agree, but I guess those are the ones where you really have to weigh up whether it's worth the battle, and whether you will achieve an adequate long-term outcome if you try and go the involuntary route. Sorry, Tony.

**MR HINTON:** One last question from me, I think.

**DR BYRON:** Yes, I see the time.

**MR HINTON:** As indicated in our issues paper, and as I think both Neil and I have said on a number of occasions in public hearings around Australia, the Commission certainly - as you know too well, also well too, Susan - is not about making judgments about individual cases as to whether or not they should or shouldn't be listed, and whether or not the full consideration of all the issues have been examined by the relevant authorities in making decisions about listing. But, nevertheless, we are open to be briefed by interested parties on individual cases to the extent that that information regarding those cases enriches our understanding of how the various systems are working at both local, state and Australian government level.

As Neil noted a moment ago, a lot of the interested party submissions are coming from New South Wales that do relate to individual cases. I, therefore, have an issue as to how we can ensure that we get right information about those cases such that we don't get a distorted picture of how well the system is or is not working; that is, we can rely on the submissions from interested parties. But I think it also would be useful if we could have some input from the New South Wales government about those individual cases that do not compromise any confidentiality, particularly for the individuals concerned, that might ensure that our handle on the systems and how they're working is soundly based. So I just wanted to raise that with the New South Wales



government here this morning, so that we can then have further follow up on that down the track.

**MS MACDONALD:** I mean, we'd be really quite happy to brief you verbally or with some sort of brief notes about each one of those cases, if you like, to give you the context for them. I think that would probably be very useful from our point of view.

**MR HINTON:** That would be very valuable, Susan. We like the system to be transparent, so that I think that the supporting notes would be important - - -

**MS MACDONALD:** Yes, sure.

**MR HINTON:** - - - because then they can be part of our web site information, such that it's transparent.

**MS MACDONALD:** Of course. Yes.

**MR HINTON:** But I think that would ensure that we test our understanding with rigour as to how the system is operating, as eliminated by those individual cases.

**MS MACDONALD:** Yes. No, we'd be really happy to do that.

**DR BYRON:** We like to cross-check everything we're told.

**MS MACDONALD:** Yes, you've had a lot of publicity in New South Wales, which I think explains the number of submissions that you've got from New South Wales. I don't, you must have seen - you were even in the Sydney Morning Herald last week.

**DR BYRON:** Didn't see that.

**MS Macdonald:** With a cartoon. Not of you, it's all right.

**MR HINTON:** Of me?

**MS MACDONALD:** No.

**MR HINTON:** Thank you for that.

**MS MACDONALD:** There was a cartoon about heritage.

**DR BYRON:** Thank you. Okay.

**MR NORTH:** Could I raise just one thing briefly about the negotiated listing process. Just to point out that that does happen when it comes to the listing of state agency heritage assets. When I was working for Sydney Water negotiating the heritage register, the Sydney Water heritage register with the Heritage Council, that very much was a negotiated process, that wasn't just state agency rolling over and saying, "Yes, we accept that you tell us what our suite of heritage assets are." There was a lot of discussion around, and that process took a number of years. So it does work at the government level as well as at the private sector level.

**DR BYRON:** I mean, the churches in every state we've been have put their hands up as owners of property that are required to do very expensive maintenance, which they insist they simply cannot afford, and which is actually very low priority for them. I guess what I'm thinking of, well, what would it take to make it worth their while to continue to maintain this fabric given its significance, particularly in rural communities.

**MS MACDONALD:** Yes, and that - sorry. I mean, I think the churches are a - it's an international issue. Same as you see the same issue in the UK and in the States - - -

**MR NORTH:** Canada.

**MS MACDONALD:** In fact if you look at - there has been response by government, both at state and federal level, to that particular issue through specific grant programs, and over a number of years, of quite significant amounts of money, because they're such landmarks and held in such high esteem by society.

**DR BYRON:** I'm afraid I'm going to have to move the gag there. I would have liked to have gone on all day with this, but we may be able to get back to you later to follow up on some of these significant issues. Thank you very much, Susan.

**MS MACDONALD:** Yes, sure. We'd be very pleased to answer any more questions specifically.

**MR HINTON:** Thank you very much.

**DR BYRON:** We can now take a tea break for about 10 minutes, and resume after that with the Friends of Quarantine Station and the North Head Sanctuary Foundation. Thanks, ladies and gentlemen.

**DR BYRON:** Thank you, ladies and gentlemen, we can resume now. Thank you for coming, ladies. Thank you for the written submission which I certainly found fascinating, and cleared up a big blank space in my knowledge, and I feel greatly educated by your submission, thank you, and for coming today. You've probably told Tony all about it, but if you could just sort of take us through the main points.

**DR LAMBERT:** Certainly.

**DR BYRON:** Because your submission is actually very detailed.

**DR LAMBERT:** Yes.

**DR BYRON:** Then we'd like to raise a couple of issues with you. Thanks for coming.

**DR LAMBERT:** Certainly. Okay. Thank you, gentlemen.

**MR HINTON:** After you identify yourselves for the transcript, please.

**DR BYRON:** For the transcript, yes.

**DR LAMBERT:** Sure. Judy Lambert, the president of the North Head Sanctuary Foundation.

**MS JOHNSEN:** Mary Johnsen, the secretary of Friends of Quarantine Station.

**MR HINTON:** Thank you.

**DR LAMBERT:** Okay. Thank you very much for the opportunity to present to you, Commissioners, and thank you for having already read our submission. We apologise that it only reached you about a week ago. One of the hazards of being relatively unfunded community sector organisations trying to write professional submissions. I do have to apologise that there is one significant error in our written submission. On page 6, and I'm not sure where you've got the submission there, but there is a set of dot points, and the paragraph below those dot points reads, "The Trust intends to involve the private sector in using various of its facilities in ways that are compatible with these principles. However, it is likely," that should read, "However, it is unlikely."

**DR BYRON:** I thought so.

**DR LAMBERT:** My sincere apologies. I take responsibility for having typed

the final version, Mary proofread it.

**MS JOHNSEN:** Both responsible.

**DR LAMBERT:** Okay. If we could just briefly explain - and I don't think we did do it in our submission - why you are having a joint presentation from the Friends of Quarantine Station and the North Head Sanctuary Foundation, and it will be brief. Our original registration of interest in your inquiry was solely from the Friends of Quarantine Station, which is a group of both local concerned residents and eminent professionals who share a concern for the future of the North Head Quarantine Station, the oldest continuously operating quarantine station in Australia, from the 1820s through to 1984.

In the course of preparing for this inquiry the friends identified that much of what we wanted to present was of equally much of relevance to North Head Sanctuary Foundation, which is another not-for-profit community-based organisation, much more recent than Friends of Quarantine, brings together a diversity of scientists, heritage experts and other professionals, and interested community members, who are seeking to have the whole of North Head recognised as a national heritage precinct, and conserved as an educational sanctuary into the future.

So we both have interests in the historic heritage of North Head, but from somewhat different perspectives, and it's the coming together of those perspectives, I guess, that we'd like to use as our case study to address some of the issues. We're fully cognisant of the fact that the Commission is not about hearing specific cases, but we hope that our case study will serve to highlight some of our perspectives on the issues.

To move on to, I guess, highlighting some of the points - and we're grateful in such a short time that you've had time to review our submission. I guess the main point of our submission is to put a very strong case for continued and very active Commonwealth involvement in the conservation of Australia's historic heritage places. Our submission, as you'll have noticed, does somewhat of a comparison between the work of the Sydney Harbour Federation Trust, a Commonwealth statutory authority that's been in place since 2001, that is responsible for the former School of Artillery site on North Head, sometimes referred to as the hole in the doughnut on North Head, because of it's geographic location.

I'd have to say that we believe the trust has a strong vision for the conservation of the heritage of that area, and that's natural, built and cultural heritage. The Commonwealth, through the trust, has made a clear funding commitment to conservation works. When the funding was announced a couple of years ago, somewhat more than \$11 million was allocated to meeting

the trust's commitment through their legislation and the preamble to it of returning those Commonwealth former defence sites to the people of New South Wales in good order, and it's to that end that that 11 million plus is directed.

As a community NGO we're also working quite closely with Sydney Harbour Federation Trust as they develop plans, moving on from a concept plan from about two years ago, to now preparing a quite detailed plan of management for ministerial approval, and then that will form the basis for their future management of that site. Sadly, from our point of view, they have responsibility only for the School of Artillery site. As I think, I hope, has come through in our submission, North Head is very much an integrated whole. It's a tight island that has particular characteristics to do with the nature of the whole area, and to treat it as several parcels of land, we believe, discredits the historic heritage as well as the natural heritage of the area.

The Quarantine Station site - as I said, the longest serving, continuously serving, quarantine station and probably the most intact, although the people at Point Nepean may challenge that, in Australia - was the subject of a hand back from Commonwealth to state in 1984. Since that time it's been used in a low-key way, but we believe it has suffered sadly from neglect. We're not saying it was in anything like perfect condition when it was handed back in 1984.

By 1987 - and there is documented evidence of this - the state government had decided that it wanted to put it out for a head lease across the whole of the quarantine site. Work, maintenance work, on the historic heritage values of the site has suffered greatly since that time, and we have actually got a summary time line that we prepared for a different purpose, but that we'll table with you if we may at the end of our presentation - - -

**DR BYRON:** Thank you.

**DR LAMBERT:** - - - highlighting some of the issues around both the lack of integrated management and the decisions that have worked against that, and the relative responses of these two agencies - one Commonwealth, one state - to the conservation of an important part of Australia's very foundation.

I guess the next point we'd like to make is the importance of community sector involvement. We're not saying that our being here today is the be all and end all, but I think that the involvement of groups like the Friends of Quarantine Station and the North Head Sanctuary Foundation; one much more perhaps an adversarial watchdog, because of the way things have evolved, the other working very collaboratively with the Commonwealth agency. We believe there are examples that parallel our involvement all around the country

with positive benefits for the future of Australia's historic heritage.

We also are very cognisant from our case studies of the fact that the willingness of community sector organisations, and many of the professionals who give voluntary time outside of their career positions, to organisations such as ours is far less forthcoming where you have either a private heritage property or, more particularly, a public heritage property that is at risk of being handed over solely for private gain. I think the contrast between our two organisations highlights that. The Friends of Quarantine has participated in what feel like endless rounds of hearings, submissions, presentations, public information days. I don't think either of us could count the hours that we've involved, but I think it would be fair to say that all of the Friends of Quarantine members have now adopted a totally adversarial approach to the proceedings at the quarantine station and where it's heading, rather than the much more collaborative approach to the future of heritage on the School of Artillery former site.

But, of course, that is not easy for non-government organisations, and one of the issues raised in your inquiry is the role of the community sector or NGOs. I guess what we'd really like to draw out as a highlight - and I'm trying through this to just highlight key points, messages, that we hope will come out of our presentation - is the fact that the community sector generally, not just in heritage conservation, is operating in a climate of declining government support, particularly Commonwealth support. I think we only have to look at the history of a range of different NGO sectors to look at those who have either been defunded or have had substantially reduced funding over recent years.

To cite just one example, the grants to voluntary environment and heritage organisations previously getting up to, in the days when I worked for a federal environment minister, I think the biggest of our grants used to be 60 to 80 thousand dollars to conservation and heritage NGOs. They are now capped at 10,000 dollars, which has major implications for the work of many of those organisations.

So we're operating in that climate of declining support, probably increasing competition for corporate sponsorship and for community generosity at a time when the demands on NGOs to fulfil their commitments to the conservation of historic heritage are huge. I was interested to hear the State Heritage Office representative, I suppose for me, reaffirm something that had been a perspective of mine without much proof in her I think answers to questions this morning: that state governments see themselves as being very much at capacity in terms of getting their own heritage lists in order and are not generally investing in the future of national heritage and national heritage listings. Our interpretation of that is that that means that the listings are largely

falling to the community non-government sector, with some limited support from local government.

In one of my other hats I am an elected representative on local government in, I suppose, perhaps a slightly more affluent area than some others - Manly, on the north harbour of Sydney - but I know that we struggle with adequately addressing heritage. The Manly council has been quite supportive of the North Head Sanctuary Foundation in limited ways, and certainly has assisted us with a national heritage nomination for North Head. But I think there is a significant burden falling to the NGO sector in terms of maintaining heritage. I've only had a chance to briefly look at the other submissions already up on your website, but I think it would be fair to say that that's a major theme of the Australian Council of National Trusts as the peak NGO in this area.

I think also, as perhaps the quarantine station example highlights, if the conservation of Australia's historic heritage places is coming to rely more heavily on the private sector, be that through ownership or long-term lease - and in the case of the quarantine station, of course, we're talking about a prospective long-term lease - then it is increasingly falling to the NGOs to be the watchdogs of the public good, particularly in terms of our national heritage. I guess in the public good I'm looking both at the physical conservation of those places, but also of the conservation of the social capital that attaches to them.

I regret that I couldn't find the reference, but I know that I've used it in various other submissions in the past. I have a clear memory of a major study some time ago, and I believe it was one from your predecessors, the Industry Commission, which showed that public investment in the community sector provided a return. I won't swear to my memory, but I think it was of somewhere between 3 to 1 and 4 to 1 for the return on investment. In the case of investment in the community sector to assist in the conservation of our historic heritage, and particularly those places that are of national significance, I would say that that investment is money extremely well spent. But it is a declining investment.

I guess the next point that we'd like to focus on - and I'm sure there are other presenters who are much more qualified than we are to look at the issues around market failure. I think it is perhaps market failure more than any of the other issues which is the strongest case or argument for the continuation of major government investment in conserving historic heritage places. There are numerous examples of the problems of historic heritage conservation where that has fallen to the private sector. I guess the ones that come to mind off the top of the head are the issues around Jenolan Caves. Previously entirely public; went to the private sector and there seems to have been a litany of

problems since then. And of course the whole debate around the proposed long-term leasing of the North Head quarantine station. I will, if I may, at the end table you that time line of activity surrounding that.

It was in 1987 that the state government first determined that it would seek an appropriate head lease for the North Head quarantine station. We're now in 2005. Some of us would say fortunately, but that lease still has not happened. It's been through an EIS, a very extensive commission of inquiry. Out of that commission of inquiry came something of the order of 233 additional conditions of consent that should attach to any such lease. The commission of inquiry was finalised - forgive me, I should remember - February 2003, I think. It's in our submission, anyway. I did check the date before I finished off the submission.

Whilst the negotiation of that lease is certainly not transparent - and I'll come back to the questions of transparency later - it is our understanding that both issues of financial return on which that proposed lease is absolutely predicated. One only has to read a number of state documents, including the original conditional agreement to lease, to understand the extent to which that proposed lease is predicated on a return, a re-investment in restoration of historic heritage. But it is our understanding that there are still significant questions around that financial return, and it's also our understanding that the incorporation of those 233 conditions of consent, all of them put in place to protect our historic heritage, are still not achieved. There is not still an agreed lease. Some of us would argue that we should stop this pursuit and get back to integrating the conservation of all the historic heritage on North Head in an integrated way.

Looking at the market failure aspect of it, I think one of the issues is the social capital that attaches to that place and to many other of our national, probably all of our other national heritage places. I should acknowledge that North Head has not yet been listed. A determination by the minister was due two days ago.

**DR BYRON:** No news yet?

**DR LAMBERT:** No news yet. We are looking in our letterbox every day. But the classes of social capital that attach to that place are numerous. We've documented those; I won't go back over those. I know Dr Byron – see, from other encounters where we've both been at various times. I think the question of attaching an economic value to social capital is an extraordinarily difficult one. We may differ on whether we should even be trying to attach an economic value to it. But I think that there is no way that it's been taken account of in the North Head example or in many other examples.



I guess the other concern that we would really like to highlight is, on our part, a perceived government responsibility to ensure that any profits that derive from a growing tourism sector - that of interest in environmental and heritage-based tourism - should be re-invested in those public sites rather than in shareholder profits. That, of course, is an agreement for retaining public ownership and control rather than private ownership or long-term leaseholders, where, by definition, returns to the shareholders must take precedence.

To briefly summarise, we believe there is a very strong rationale for substantial, continued government investment in the conservation of Australia's heritage places where those are places of national significance. We believe it should be the Commonwealth government; market failure and taking account of social capital being a significant component of that. We believe that the existing policy frameworks have the potential to protect Australia's national historic heritage, but I think if we look at the National Audit Office's 2002-3 report on the application of the EPBC Act to other aspects - and of course national heritage wasn't one of the issues covered in those days - then the success of that potential is hugely dependent on ministerial discretion. Unless things have improved substantially since that National Audit Office review, then the discretion is not being nearly strongly enough exercised in favour of protection at this stage. There is of course always the potential for that change, and again I think the community sector has a role to play in that.

I guess the other issue that concerns us in terms of some failures of existing policy are reflected in a New South Wales auditor-general's report, November 2003. If I may just quote briefly. It was a report on the disposal of Sydney Harbour Foreshore land. In that, the auditor-general said:

"Project-level assessment does not provide an adequate mechanism to consider the cumulative impacts of developments that may all be impacting on the same geographic area. This applies particularly to the use of foreshore land within the context of Sydney Harbour."

Given the historic heritage values of many of the sites on Sydney Harbour, I think that determination by the auditor-general is an important one.

Our other concern is the exacerbation of deterioration that's already occurring. In our North Head case study we're looking at almost 20 years of neglect. The 12-month or more time period that is currently required for the assessment of nominations of national heritage places simply contributes to that deterioration. I've certainly had anecdotal conversations with heritage builders who expressed significant concern about the North Head properties, and I know that the Sydney Harbour Federation Trust is moving quickly on the restoration of some aspects of its properties which have been vacant and perhaps not maintained for a much shorter period than the quarantine station.

I guess the other major point that I would like to come back to is the question that one of you as Commissioners raised of transparency. But it's transparency from a somewhat different point of view. Again, we'd like to use the quarantine station example. A lack of transparency in the financial aspects of many of our heritage places - and I take the point that sometimes general maintenance is an appropriate place for those funds to be earmarked. But then they get lost, in the case of the quarantine station, in the Department of Environment and Conservation Sydney region funds with no particular earmarking of what the costs of maintenance or restoration at that particular site are.

Our concern with that lack of transparency is the fact that it is very difficult for any party to fairly assess the merits of a long-term private lease if we can't assess what the current economic performance is. We have tried, through parliamentary contact, through freedom of information access and through other means to access that. We have seen, through the commission of inquiry process what could only be described as very flexible figures around the finances of that particular proposed lease. We have obtained under FOI some follow-up financial assessments. And it is still not possible to make a clear determination on what the economic benefits of that proposed lease, the sole purpose of which, as we said, is to invest in restoration and maintenance, and yet we can't assess what that will be. If we don't have that sort of transparency, how can we possibly assess, how can anybody assess, the merits of one option versus another- the retention of public ownership. So it's an aspect of transparency that we think is a fundamental flaw in the current process, and one which is not in the public interest.

I guess to conclude we would say that whether a property is owned or managed by public, private, or a not-for-profit organisation, we can find good examples of conservation management, but we can also find major deficiencies. I think that that stems from a number of areas. Transparency of financials is certainly one of them. The use of commercial-in-confidence when there is a strong public good component is another concern. Failure to explore the breadth of options; narrowness in terms of reference of things like EISs - we could go on with a whole host of gaps in the process. But I guess what we'd like to see is that there is a national best-practice approach to conservation of heritage in the public good. Thanks.

**DR BYRON:** Thank you. Mary, did you want to add anything at this stage?

**MS JOHNSEN:** No. It's been totally covered, as far as I'm concerned, thank you.

**DR BYRON:** Okay. Thank you very much for the case study, Dr Lambert,

because we were talking earlier this morning about - and I think you said the same thing too - about, there's a policy in place that looks pretty reasonable. There may be questions about its implementation. What I got out of reading your submission was that your particular concern was with the proposed head lease over the quarantine station that would substantially affect all of the heritage values, not just the historic, cultural, natural - of the whole of North Head.

The implementation question is that we've got an apparent reluctance of the New South Wales government to act in a manner that you, your organisations, and others like the federation trust think would be more appropriate for the North Head. The implication I think in your submission was that that was for financial reasons that the state government or - though national parks saw the commercial opportunity for a head lease for a hotel development. Is that the nub of the problem, or is there more to it than that? Would a national heritage listing in some way circumscribe what the state government could do in North Head?

**DR LAMBERT:** I think that's something that's still to be tested. It's certainly something we don't know at this stage. We did apply for an emergency heritage listing when it looked as though the head lease was going to be signed in January. We've had about six revisions of target dates for when that lease might be signed. The latest one is somewhere between August and the end of the year.

It is our deeply held concern that, despite all the efforts of the commission of inquiry and all the parties to that inquiry, and subsequent heritage council hearings, that there are significant aspects of the heritage of the quarantine site that will not be adequately protected under the arrangements proposed, even with the 233 additional conditions that are proposed. That's assuming they all get into the lease. Our concern is that, if it goes ahead and things don't work out, then a piece of national heritage has been irreversibly changed - and I deliberately say "irreversibly". At what cost to our community in terms of social capital is almost impossible to measure. Whether a national heritage listing will be able to adequately constrain that, we don't know at this stage.

**DR BYRON:** Can I ask you another hypothetical. If there is no head lease agreed and no hotel development, or if that was sort of forgotten about - - -

**DR LAMBERT:** If the state government were to see the light and see it our way?

**DR BYRON:** Your words, not mine. Can you spell out for us the alternative future that your two organisations see for the quarantine station in the context

of the whole of North Head.

**DR LAMBERT:** We can't give you a detailed plan at this stage, but in concept the pathway that the Sydney Harbour Federation Trust is heading down of an educational sanctuary across the whole of North Head, which would respect not only the built heritage, but respect and interpret and present the immigration heritage, the military heritage, the Aboriginal heritage, which is also very significant, the natural heritage of the whole of the area by way of, probably, access for scientific research; certainly, access for public interest and interpretation.

In our view, there is absolutely no reason why the low-key professional conference use of the quarantine station that used to happen and that happens on an on-again/off-again basis at the moment, depending on where we're up to with the lease negotiations at the time, and which is previously reported to have netted - some previous freedom of information suggests that it netted for the state government something of the order of a million dollars a year. In a very low-key way, we believe that all of that, managed in an integrated way, we could have an absolutely showcase place of Australia's heritage, for locals and for visitors. I'd say by way of extension of that, Manly as a local government area has somewhere between six and eight million visitors a year, many of whom come for the beach, some of whom currently come for the pubs, if anyone has read the recent media.

It is certainly the intention of the current and previous Manly councils to have greater interaction with the natural and historic area. If the whole of North Head were to be managed as an educational sanctuary, then there is potential there to have managed access, managed numbers, overnight stays, but not in the way that a full-on commercial hotel and restaurant would require.

**MR HINTON:** Judy and Mary, thank you very much for the written submission and your participation here this morning. It comes through loud and clear that this is a very complex site - that's probably the wrong word, "site".

**DR LAMBERT:** It is.

**MR HINTON:** But certainly North Head issues are very complex, both in terms of ownership, tenure history, heritage, you name it. I think your submission makes it very clear indeed. So thank you. I get a very clear message that the way ahead is, from your perspective, an integrated approach given those complexities. That's almost a non-negotiable, necessary condition for progress almost. I can understand how the characteristics lead you to that view. I wanted to explore with you some subsets of that or one subset of that.

If I heard Judy correctly - I think, Judy, you mentioned that retention in public ownership seemed to be an important part of an integrated approach. But then you later talked about other constructs that can operate for achieving the heritage objective. You talked about private ownership, public ownership, and you said there are examples of good and bad in both categories. If I heard you correctly, it's the governance arrangements of an integrated approach that's crucial, not the ownership. I read from your comments, and perhaps you were arguing not necessarily for public-sector ownership for North Head as being the only way ahead, it's the governance characteristics that underpin the activities associated with those sites and North Head more generally. Can you elaborate.

**DR LAMBERT:** I think we would say that in terms of ownership it does need to remain in public ownership. I think that the investment needed in restoration because of the use of undermanagement, neglect, whatever we want to call it, mean that if a private sector owner were to come in, their demands on the site - "site" in the sense that you used, the whole site - - -

**MR HINTON:** Certainly. For want of a better word.

**DR LAMBERT:** - - -would be so large. And I think that's exactly what we're seeing with the negotiation over the proposed quarantine lease. The demands in order to get their return on investment would be so large that the heritage values and the heritage integrity could not be retained.

What we are absolutely sympathetic to is to continue public ownership with smaller, other-than head leases. It's the issue of the control of a whole component. The inability, in our view, to retain the sufficient public governance, I suppose, over the management of area that concerns us greatly. We would not be averse, for instance, to, hypothetically, a private operator contracting to Sydney Harbour Federation Trust or the Department of Environment and Conservation or whoever to operate a wildlife study centre with quite clear government controls around the parameters of what that centre might be as one component. That might occupy one building and some outreach. But once you get to the scale of private ownership that we're talking about with the quarantine station site, then we don't believe that the shareholder return imperative can adequately respect the heritage values. Does that make sense?

**MR HINTON:** Yes. You used that term a number of times, the "shareholder return" not reflecting the heritage objective or words to that effect. But there is a system of governance of conditions that hypothetically, at least, could constrain the activities and guide the activities of the private sector commercial activity, and the income stream associated with that commercial activity can also be tapped into to give a, at least a dollar return on the commercial activity

to the public sector.

To the extent that the heritage values are retained - and that in itself is an objective with a value - at an extent that there is a commercial return that can be shared to the broader community more generally, then that also is using the asset appropriately. I was really questioning why that can't be done. Is it the inherent complexity of the North Head area that precludes that or the competence of government to design it? The sort of disentanglement of sort of various interests that can't cooperate and coordinate that causes it - unachievable? Are all those things at work?

**DR LAMBERT:** My short answer would be, all of the above.

**MR HINTON:** I thought you'd say that.

**DR LAMBERT:** Our concern stems from the fact that after roughly 10 years of negotiation there is still not in place an agreed lease. Nor in our view are there conditions of consent, although I'm sure that the Heritage Council and other state agencies would disagree with us, that will fully protect the heritage values. Particularly the billed heritage values, but the cultural as well. I think that stems in part from the approach that's been taken from state agencies having gone a long way down one pathway, when perhaps other pathways might have been more fruitful in the first place.

There's an unfortunate incongruence of timing in that we were already 10 or 12 years down the track of the state government leasing process before the Sydney Harbour Federation Trust and its sanctuary proposal came on the scene. So there's a lot of work to undo, not just to move ahead in that process. And of course, state agencies that commit what at best estimate, because none of the financials are transparent, is currently somewhere between 3 and 4 million in the process, ie, the leasing process and everything that surrounded it - it takes a lot of courage for a state government to undo something of that magnitude. So I think that's a significant factor. I think that, yes, you're right, the complexities of tenure - and I don't pretend that those complexities of tenure are yet fully resolved - are a contributing factor. But I think the complexities of tenure would argue in favour of smaller, almost single-item licences to operate, or leases, rather than a large-scale head lease.

I guess the other concern from our point of view is that the prospective lessee and/or his backers, partners - we haven't managed to distil what the precise relationship is - don't have a strong track record on other sites that are of, particularly of natural heritage significance. I don't want to go too far down that pathway, because I don't want to find myself in trouble.

**MR HINTON:** Is it oversimplification to say that you're not against adaptive

re-use, just not disuse?

**DR LAMBERT:** Absolutely. I think we've been working closely with the Sydney Harbour Federation Trust to progress some aspects of adaptive re-use.

**DR BYRON:** That was exactly what I was just thinking, that the idea of turning the quarantine station into a modern hotel development goes way beyond your definition of acceptable, adaptive re-use.

**DR LAMBERT:** That's right, yes. It's the changes to heritage fabric and the question of whether they are reversible, which was a case that we put very strongly to the Heritage Council's hearings. It's the extent to which, I suppose, the proportionary principle has or hasn't been respected in relation - I know you're not here to talk about natural heritage, but the natural heritage of the site. There are endangered species and populations on the site. Yes, there are safeguards in place, but how much of an endangered species or population can you kill off before it becomes the big cliff that you fall off?

So it's those issues that concern us, not at all - and we fully accept that it is unlikely that North Head will remain absolutely, totally in public ownership and control - management and use. But it's the scale and the nature of what's being proposed that we have an issue with, and particularly when the integrated management - the integrity of the whole site is part of its heritage character.

**DR BYRON:** I think it's a very interesting point you've just made about the state government having gone down the path 12 years before the federation trust, and the larger landscape scale approach makes it very hard to reverse that, to back up that path. Mary?

**MS JOHNSEN:** At the time of the Commission of Inquiry into the adaptive re-use of the quarantine station as a hotel, there were submissions and there were suggestions put forward that if a hotel had to be put anywhere, the fabric of the quarantine station buildings, which are about 60 little old, you know, very simple wooden buildings were totally unsuitable for this proposed big hotel of 100 - - -

**DR LAMBERT:** 90 beds.

**MS JOHNSEN:** - - - 90-bed hotel, and a 150-seat restaurant which was going to go in the boiler room. The boiler room had to be completely wrecked to make it into the restaurant. At that time the School of Artillery had not yet been handed back, but it was apparent that it was probably going to be - or it was nearly, wasn't it? And it was said that if they wanted to have a hotel at all, the buildings of the artillery school would have been the place to put it: they were already a hardened surface and - you know, solid concrete buildings

already had big restaurants to cater for serving the military. The developer really had his eye only on the jewel in the crown, which was in the lee of North Head and the beautiful view looking right down there. He had his heart set on the Quarantine Station. He didn't want the concrete; he wanted the heritage. He wasn't agreeable to any alternative suggestions at all.

**DR LAMBERT:** That was part of what I meant by terms of reference for EIS's being too narrow.

**DR BYRON:** That's been fascinating, but I think we are going to have to move on. I do sincerely thank you both very much for coming and for the written submission. I don't know that I can see a big simple answer, but it's a very interesting case study that we will think about and continue to follow with great interest. Thank you very much.

**MS JOHNSEN:** Thank you.

**DR LAMBERT:** We'll leave our notes and the time line with you just for additional information, if we may. Thank you for the opportunity.



**DR BYRON:** Ms Edwards, thank you very much for coming today and for your submission and for the photographs that Tony and I have both enjoyed admiring.

**MS EDWARDS:** Thank you.

**DR BYRON:** If you could take us through, in 10 or 15 minutes, the highlights of your submission that you'd like to emphasise for us. Then we'd like to discuss it with you.

**MS EDWARDS:** Okay. I thought that instead of going into the detail of my submission, which you've got before you, I thought I might deal with the case studies which will sort of illustrate what I'm trying to say and also give you an inside story about what happens and what is happening in Ku-ring-gai at the moment. If you will bear with me with that.

The topic of my submission is Ku-ring-gai conservation of a historic heritage place. There is a street in Warrawee, which is one of the smallest suburbs in Ku-ring-gai and which shares a postcode with Turramurra. The street, originally a bridle track, is Hastings Road, which runs past Warrawee Railway Station, from which it undergoes a name change to Warrawee Avenue before winding its way uphill where it transforms into Chilton Parade. This street and many others like it in Ku-ring-gai is the epitome of an historic heritage place of this Productivity Commission's main focus, and fulfils the criteria for a prime consideration of this inquiry.

Hastings Road contains houses designed by the most eminent Australian architects of their time: Wilson Levenberry, Bedelthorp and Walker, Vernon, Robertson and Marks, John Horbury Hunt, Sir John Sulman, Stafford, Hammond, Buchanan, N B Helligan, women architects Eleanor Cullis-Hill and Ellice Nosworthy, B J Waterhouse, James Muir, Professor Leslie Wilkinson, Emil Sodersten, who designed the Canberra War Memorial, F Glynn Gilling, there is a Glenn Murcutt in there and a J Burcham Clamp.

Chilton Parade is of the same level of significance. Bruce Dellit designed a house there and as you know Bruce Dellit designed the Anzac Memorial in Hyde Park. There is no other street in Australia that represents such diverse and comprehensive number of architecturally designed houses. Its architectural significance is not the only thing that makes this street so rare, its social history is also remarkable, further enriched by the quality of its original residents. Prof Lindsay Sadler, the Fitzhardings, Windeyers and Trells, T W Garrett, the Cricketers, the Evatts, Davidsons, Gowings, Snows, even George McDougall, who created Granny's Column, now Column Eight. Together the timber getting Sainty families and the orchardist's family of the

Childens.

From Warrawee let's go to St Ives, which is a postcode up at 2075. A few steps away from busy six-lane Mona Vale Road in St Ives is 100 to 102 Rosedale Road. A remnant of the original Blue Gum High Forest which includes and adjoins Browns Forest and Dalrymple-Haig nature reserve. It is where pristine impact, right in the middle of suburbia. 100 to 102 Rosedale Road is under private ownership. In 1925 the Forestry Commissioner Richard Dalrymple-Haig recommended to the state government that the St Ives forest should be preserved for all time because of its historical and botanical value.

In 1997 the Blue Gum High Forest, including this remnant St Ives forest was gazetted as an endangered ecological community under the New South Wales Threatened Species Conservation Act to protect what was left. The St Ives forest is the largest and best-preserved remnant forest in comparison with other blue gum high forests throughout Australia. It has over 180 plant species and 75 bird species. This area of wilderness is so outstanding that environmental scientists from all over the world had joined the cry for its preservation.

In 2002 the owners of 100 to 102 Rosedale Road lodged a development application for medium density housing. Ku-ring-gai Council refused the DA and a subsequent appeal in the Land and Environment Court was also dismissed, principally because of the development's adverse impact on the endangered Blue Gum High Forest. Under its current ownership and status it is still under imminent threat of destruction by development. This forest, and many other natural sites like it, is the epitome of an historic heritage place in Ku-ring-gai and fulfils the criteria for a prime consideration of this inquiry.

What is the point I'm trying to make? The heritage significance of the Warrawee and St Ives sites, so different from one another, are facing the same threat. Warrawee by destruction of its historic houses, St Ives by the destruction of its Blue Gum High Forest. The Warrawee and St Ives precincts are but two of the many historic heritage sites in Ku-ring-gai that need to be protected from destruction or diminution of its value.

In 1996, the National Trust identified 28 sites of heritage significance to be protected and be conserved as urban conservation areas. Warrawee and St Ives are included in these UCAs. After the listing, nothing happened. In 2000, the Australian Council of National Trusts listed the Ku-ring-gai urban conservation areas and their national endangered places list, and referred to the overall threat of development in Ku-ring-gai. I thought if something is recognised and listed as endangered, then the process or program is immediately actively activated to protect it. But nothing happened. In 2002, Godden Mackay Logan, heritage experts commissioned by Ku-ring-gai

Council, recommended that the gazettal of these 28 UCAs be formalised. Nothing happened.

In 2004, state government seized planning control of the six sites - two in Lindfield; one in Gordon; two in Pymble; and one in Warrawee - and rezoned them for five-to-seven-storey development. In 2004, the Ku-ring-gai Residential Development Strategy was endorsed by the state government. Something happened very quickly.

Development applications from developers to build multi-unit apartment complexes in Ku-ring-gai began to inundate council. To make matters worse, in October 2004 the state government, through DIPNA, decided that draft LEPs for heritage conservation areas will not be progressed to finalisation. In other words, the state government has halted the listing of the UCAs.

To the end of June 2005, developers lodged 47 development applications for apartment complexes, which represent 2500 apartments with 17 to over 200 apartments per complex. Five to seven-storey buildings are looming over single-storey houses without any interface. Trees, both native and exotic, which comprise the defining characteristic of Ku-ring-gai, have been cut down with total disregard for authority. Instead of tree canopies are rows of concrete; instead of articulated, quality-designed buildings, we have now giant cement-rendered boxes.

I have not had much success with Ku-ring-gai Council, some councillors even regarding with contempt the expert assessments from the National Trust, the Institute of Architects, the Heritage Office, and other Australian international heritage institutions, which were unanimous in their support for the heritage conservation of significant sites in Ku-ring-gai.

According to the Sydney Morning Herald, Prof Maurice Daley's second report on Tweed Shire Council, and I quote:

"- -has implications for all 152 New South Wales councils.

Prof Daley wants an urgent and widespread review of the role of councils in planning, criticising the situation of having councillors with no planning experience approving applications.

I quote:

Often councillors are simply opportunistic in determining applications without regard to advice provided to them, and without giving reasons for their determination.

This Productivity Commission is my last recourse. I'm putting all my

hope and faith in Senator Ian Campbell. When he announced through the media that this Productivity Commission inquiry would complement the government's new national heritage system and strengthen the protection of Australia's most important heritage places.

Please take politics out of the equation. The Australian Heritage Council, as principal adviser to the Australian government on heritage matters, really needs to look closely at Ku-ring-gai and the threat to its heritage significance, which is recognised internationally as comparable to the world-renowned Bedford Park in England or Forest Hills Gardens in New York. The Australian Heritage Council, by making recommendations to government through the findings of this Productivity Commission needs to fulfil its vital role in promoting identification, assessment, conservation, and monitoring of heritage and endangered sites such as Ku-ring-gai.

I cannot stress more strongly the urgency of action. Every day in Ku-ring-gai literally means a historic house demolished, a tree removed. Every day with its stereotyped development, Ku-ring-gai is beginning to look more like Chatswood or Hornsby.

In conclusion, the topic of my submission is Ku-ring-gai, Conservation of Historic Heritage Place. The aims of my submission are to protect and preserve the unique character and heritage significance of Ku-ring-gai through the recognition and gazettal of urban conservation areas, natural and built sites, and other endangered places within the municipality, to seek a commitment from government through the Productivity Commission recommendations and the Australian Heritage Council that heritage issues are given prime importance in decisions affecting urban development in Ku-ring-gai.

At the present time, the layers of Ku-ring-gai's history spanning centuries are being erased instantly. Conservation policies need to be put in place urgently to protect these layers of history from permanent damage. Enclosed with my submission are the 28 UCAs which were proposed by the National Trust. Thank you.

**DR BYRON:** Thank you very much, Ms Edwards. I guess at the outset I should make clear that our job - and this inquiry - is not to advise the Australian Heritage Council, nor to recommend about any particular place anywhere in Australia; that we're asked to look at the current system for the identification, recognition, conservation, protection management, and presentation of Australia's historic heritage places, and to see ways that that system might be improved; and therefore we're interested in any examples or any evidence about where the system is not delivering those outcomes but - I have to clarify that - I mean, we certainly don't have the power to direct the Australian government or the New South Wales government to do anything in

particular with regard to Ku-ring-gai.

We can look into issues like why the council has decided not to act on advice from National Trusts, but we're not in the position to issue any sort of decrees or direction to anybody. I just wanted to make that very clear.

One of the things that I frequently have trouble with is seeing how historic cultural heritage interfaces with other matters of local concern, which are sometimes called "character, aesthetics, amenities". You know, it's sometimes being said to us that people are talking about heritage when what they really mean is that they're concerned that multi-unit development would lead to carparking problems, overshadowing - overlooking adjoining buildings, and the question of the interaction between heritage protection and urban planning generally is one that we're having to look at because so much of Australia's historic heritage is being managed at the urban level. So, yes, there's a question there.

Do you think that sometimes the heritage issues are confused with other amenity and aesthetic considerations?

**MS EDWARDS:** I think the information that is being given to the state government or the planning authorities are inadequate in a way. The state government - certainly the rezoning of certain sites for five-to-seven-storey development - some of them are just inappropriate because I think what happens is there's lack of communication and information between the real - the planning authorities who know the area and the state government who look at it with a sort of a map or a piece of paper and are given the information that they base their decisions on.

Heritage is a very abstract idea, in a way, and the financial gain is the one that determines whether a house is demolished or not, or whether a site is developed or not; and I think that's where the problem really lies - is a full sort of assessment of the heritage impact of the site on adjacent properties. I think the state, but I'm not really sure, but the state planning authorities don't really realise that because of - really lack of time, probably, or lack of assessment or inadequate assessment or inadequate information that has been given to them.

**DR BYRON:** Many of these decisions are made at the local government level, and presumably, under local democracy, the elected members of a local council represent the majority of the voters in that area. I'm trying to think what the other side would say about your position, is that just because the council came to a different conclusion to what you would prefer, doesn't necessarily mean that the system is broken. It may mean that they've made a decision on the basis of either different values or different information.

**MS EDWARDS:** I have serious concerns about that in one instance, the council or the councillors have decided - made a decision contrary or the extreme opposite of what was the expert opinion of the National Trust and the Heritage Council, and indeed, the Land and Environment Court. It went against all of that in deciding whether to list the property or not. I have a problem with that when they disregard expert opinions, and the outcome of the Land and Environment Court in making a decision. I don't know how else to put it in simpler words than that.

**MR HINTON:** Ms Edwards, thank you very much for your written submission. It was a very substantive set of documents - extensive photographs that illustrate the characteristics of Ku-ring-gai local government area. Thank you very much. I also appreciated you picking out two case studies. In your presentation this morning, to illustrate your more general points that helped us more succinctly understand what you were saying. My question really is a follow-on to Neil's about this distinction between amenity and heritage, with of course, re-affirmation that we are really about heritage issues, not the amenity considerations. Land use is a very broad topic. It touches on local government as well as state government responsibilities, of which heritage is only one aspect.

With that rather lengthy preamble, my question really is, with your knowledge and dealings with the Ku-ring-gai Council, how would you assess their system, or information base on heritage characteristics of buildings in the local government area? Do they have documentation about a streetscape, landscape, particular buildings, or whatever, that touch on measuring or assessing the heritage characteristics of buildings and areas?

**MS EDWARDS:** They do have that. Many heritage studies have been conducted in the past regarding heritage areas in Ku-ring-gai. I'm talking about specific development applications when they arise, that council was very erratic, not consistent, in their determination of what criteria they follow when they're making their determination. Sometimes they go against the recommendation of the development application officers, or council staff, and sometimes they agree with it. One can't predict what the outcome will be.

**DR BYRON:** When you say, "Go against", you mean sometimes they say, "No", when the recommendation is to proceed with a development. Sometimes they say, "Yes", when the recommendation - both categories.

**MS EDWARDS:** Yes.

**DR BYRON:** When they say, "No", they normally would be obliged to give reasons. Are those reasons sometimes based on amenity or sometimes based upon heritage? Do you have a feel for - - -

**MS EDWARDS:** Sometimes it's based on a sort of a denigration of the heritage assessments that have been put forward by the assessors.

**DR BYRON:** Do you feel that the council officers, and the council itself, perhaps, are not sufficiently sympathetic to the heritage objective - heritage conservation objective?

**MS EDWARDS:** Not always, but there are certain instances where they just go against the recommendations of heritage assessors.

**DR BYRON:** That brings a system with inconsistency - that which is an important criticism from your perspective.

**MS EDWARDS:** Yes.

**MR HINTON:** That's actually a recurring theme that's been raised in just about everywhere we've been, that although at national and state level, there seems to be clear criteria and thresholds for assessment; at local government, there seems to be not only a great variation between local government authorities, but even within a local government authority over time, or depending on individual officers. One of the points that we are certainly looking at, is a way to get more consistency and rigour into the way listing is handled at local government level.

**MS EDWARDS:** I don't know how you're going to achieve that with the current set of organisation of the local council.

**DR BYRON:** There are systems across some states that have scope for appeals, either appeals only by the effected party; that is, appeal against rejections for development. There are other jurisdictions that have third-party appeal rights where approval by a council for local government authority for a development to proceed, can be objected to by a third party who would argue that the decision-making has been unsoundly based. That goes to an independent tribunal, or whatever. Is that what you're seeking that should occur in Ku-ring-gai?

**MS EDWARDS:** My frustration lies in the inconsistency of the decision-making processes of council laws, or of council. It's not a sort of a regular pattern that one can predict. Also, one of my main concerns is the way the powers of the local council, or Ku-ring-gai Council, have been taken away by the state government, with respect to a residential strategy. The government is now determining which areas need to be developed - like the six sites rezoned for five to seven-storey development. That was out of council's hands.

**DR BYRON:** Yes, that was referred back to state government level.

**MS EDWARDS:** Yes, so we are disempowered. The residents are disempowered when it comes to that, because there is no cause for, sort of, communication, because the decision has been made to do that. That is a main worry to me that the state government are making decisions when there is no direct communication. They're not taking the complaints and the residents' opinions, and letters, and all of that, into account.

**DR BYRON:** Was that state government decision made with the consent of the relevant local government, or on the recommendation of the - or without even consulting the local - - -

**MS EDWARDS:** I don't think it was with the consent of the local government.

**DR BYRON:** Then your problem is that the state government has agreed on a course of action. The local government has gone along with that.

**MS EDWARDS:** They're powerless now to sort of go against the state government. Ku-ring-gai is in a very difficult position at the moment because of that.

**DR BYRON:** As your own submission makes very clear, Ku-ring-gai has a great deal of recognised historic and natural heritage, which, on the whole, is in very good condition at the moment. Is that right?

**MS EDWARDS:** That's right.

**DR BYRON:** Some people might argue that that means - well, the system has been working pretty well, if you've got such a good condition at the moment.

**MS EDWARDS:** It's a good condition, but they're under threat at the moment. The one in St Ives, the Blue Gum High Forest, is being developed for a multi-storey development because it's under private ownership. There is still a danger that that might be developed. There is a threat. The threat in Ku-ring-gai is every day.

**DR BYRON:** Presumably that's because there are a lot of people who would like to live there, because it's such a nice place.

**MS EDWARDS:** Exactly - I mean, I live there. The gazettal of the UCAs have been - - -

**MR HINTON:** Overridden.



**MS EDWARDS:** Not overridden, but stopped. The exhibition of the UCAs have been stopped by the state government, while the residential strategy is going on. So in the meantime, while the UCAs are not being looked at or gazetted, the development applications are coming into these UCAs for development which are not appropriate to the UCAs.

**DR BYRON:** Yes, but the UCA as identified and proposed by National Trust, have no particular legal significance, do they?

**MS EDWARDS:** No.

**DR BYRON:** They're just one NGO's contribution to the system.

**MS EDWARDS:** Exactly. The local government had a look or were looking at those 28 National Trustees for gazettal in the local LEP, but that has been delayed because of the state government intervention.

**DR BYRON:** But the local government was under no - obligation may not be the right word, but it's not compelled to take the advice of the National Trust.

**MS EDWARDS:** No, it's not.

**DR BYRON:** In the UCAs.

**MS EDWARDS:** It's not compelled to take the advice of the National Trust.

**MR HINTON:** Ms Edwards, is there anything else that you think you would like to raise this morning with us, that you haven't had an opportunity yet to raise?

**MS EDWARDS:** No, I think I've said my bit. The Productivity Commission is one avenue for information, on my part, to advise you of what's really happening in Ku-ring-gai. I'm probably speaking on behalf of a lot of residents in Ku-ring-gai who have been affected by this.

**MR HINTON:** Thank you again for your submission, and your appearance here this morning.

**MS EDWARDS:** Thank you.

**DR BYRON:** Thanks very much.

**MS EDWARDS:** Pleasure.

**DR BYRON:** If my program is correct, we've had a cancellation of 1.30, so we'll resume at 2.00 with Australia ICOMOS. Thank you very much, ladies and gentlemen.

(Luncheon adjournment)

**DR BYRON:** Good afternoon, ladies and gentlemen. If we can resume the public hearing into the Commission's inquiry into conservation of Australia's historic heritage places. We now have representatives from Australia ICOMOS. Just take your time, whenever you're comfortable and settled, and your papers sorted out.

**MS BUCKLEY:** Thank you.

**DR BYRON:** Thank you very much for coming today, and thank you very much for the very substantial and very detailed submission. I know it might be difficult, but if you can try and just summarise the highlights and the main points in maybe 10 or 15 minutes, and then Tony and I would like to discuss it with you.

**MS BUCKLEY:** Thank you.

**DR BYRON:** First, you could introduce yourselves for the transcript.

**MS BUCKLEY:** Sure. Would it be appropriate for me to introduce all three of us or do you want each one of us to do it.

**DR BYRON:** It's probably easier if own voices, so that transcribers can recognise who says what later on.

**MS BUCKLEY:** Sure. My name is Kristal Buckley. I'm the president of Australia ICOMOS. I'm also a member of the Victorian Heritage Council. I'm the expert heritage person on the Australian State of the Environment Committee and an Australian representative at World Heritage and ICOMOS international expert meetings.

**PROF MACKAY:** I'm Richard Mackay. I'm the managing director of Australia's largest private sector heritage consultancy. I was also formerly a director of the National Trust; a member of the New South Wales Heritage Council and the inaugural chair of the New South Wales State Heritage Register Committee. Relevantly, I was also part of the working party which drafted the current version of the Burra charter, and my professional practice is concerned with heritage management planning at places like Port Arthur or The Rocks or Kakadu National Park.

**PROF SULLIVAN:** My name is Sharon Sullivan. I'm the former executive director of the Australian Heritage Commission, and the former head of the heritage division of the now Department of Environmental Heritage. During that period, I was also Australia's delegate on the World Heritage Committee. I'm a member of the New South Wales Heritage Council. I'm the chair of the

Port Arthur Historic Sites Authority Board. I'm the chair of the National Cultural Heritage Forum and I'm a heritage consultant on and off to UNESCO, the World Monument Fund and the Getty Conservation Institute.

**DR BYRON:** I thank you all even more for coming. I hope all our questions will be answered in the next half an hour or so.

**MS BUCKLEY:** That's right. Just in relation to your invitation, we have provided to you a fairly extensive written submission which cannot be fully explored in the time available, so we are not going to systematically attempt to take you through it; which I'm sure you'll be relieved to hear. What we'd like to do is to spend as little time as possible introducing our key points to you, and then to spend as much time as we then have available to hear your questions and respond to your ideas arising from our submissions. We will be very brief in our overview.

I'm sure that knowing that you're well into your work, that you are aware of Australia ICOMOS as an organisation. We are the leading professional NGO for cultural heritage here in Australia. We are part of a worldwide organisation, ICOMOS, which is a principal adviser to UNESCO on matters related to cultural heritage. Here in Australia we are recognised as an authoritative independent voice on methods, standards and practice. We have more than 300 of Australia's leading heritage professionals as our full members, and through the Burra Charter, we are a world leader in heritage conservation methodology. As an example of that, I've brought you a copy of the equivalent in China, the China Principles - which I'll leave with you - which is basically used as its starting point, the Burra Charter. We've explained that in more detail in our submission.

What we want to talk to you briefly about are five big key points from our submission and make several observations about trends, which are of concern, and leave you with a few ideas about what we would like to see emerge from your work. I'll ask Richard Mackay to talk first to the five key points in our submission.

**PROF MACKAY:** Thank you, Commissioners. As you pointed out, we've put in a substantial submission. It's divided into three parts. The first part is a narrative in which we make the five points, about which I'll speak. The second is the questions that have been put out by the Commission, which we've endeavoured to answer or make it clear that we're not engaging with. The third component is a number of case studies submitted to provide some evidence and support; some of the key points made.

The first of our points relates to historic cultural heritage itself and we endeavour, in our submission, to establish by reference to case study material

and by reference to government policy, prime ministerial utterances and the like. An understanding of why historic cultural heritage is fundamentally important to Australian identity, to our sense of where we are and why that inheritance is an important aspect of Australian life and culture. It is something that is, I guess, as a starting point for this inquiry; something that is relevant and important to understand as a baseline.

We then deal with one of the key issues that we understand to be under consideration, that being the rationale for the involvement of government in historic cultural heritage management. A fundamental point there is firstly that in relation to historic cultural heritage in its broadest sense, if the market is not regulated it will not deliver of itself an appropriate heritage outcome; that government does have an important role as regulator, and we make the connection between historic heritage and other forms of planning control. We note also that the regulation is not simply statutory regulation, that government also has an important role in a policy sense, in terms of providing incentives and other non-economic instrument based initiatives which facilitate the achievement of a good heritage outcome.

Again, we have endeavoured, by way of support material, not only to cite examples in the submission, but also to provide some noted reference material to real case studies. Government's role however is not only important as regulator and public policy provider, but also as leader, particularly through its stewardship of heritage assets. They break into two: there are those places which are simply part of the public estate because they're needed for operational reasons - our dams, our airports, places that are used - and where they have heritage values, it is fundamentally important that the government be a good heritage asset manager by way of example.

However, there are also a number of places - and one of our case studies, Port Arthur, illustrates this - where the place itself by its very nature is so important and perhaps so fragile that it can only be effectively conserved if it is held within public government ownership and control. So government has the dual role as regulator, policy provider and as responsible asset manager.

The third point made in the Australia ICOMOS submission relates to the working of government, and put at its most simply, we believe that the system for heritage management, particularly established through legislative changes that came into place last year, is well conceived in terms of its structure and theory, but is seriously not working in practice; and there are a number of reasons for that lack of cohesion. But the absolutely fundamental problem is that the cooperation envisaged in the legislation, and expected through the Council of Australian Governments, has not yet taken place.

There is a chronic need for better cooperation between Commonwealth

and state through the COAG process for the efficiencies and the effectiveness of the national heritage management system to be delivered. Related to that is our fourth point regarding resourcing. It is clear, because historic cultural heritage is a public good, because it is regulated, because there are impacts on some of the owners of heritage places, that there needs to be a proper resourcing package - a resourcing package made available to those in the public sector who are charged with delivering these outcomes, and at times for those who are the owners or responsible agencies for heritage places, or the NGOs that support them. It is clear to us - and again, there are some examples cited in the submission - that that resourcing is not commensurate with either the need or with for example the corresponding resourcing that is provided to the natural environment.

My final point relates to standards of practice. There are a number of points made in the submission, but the key point to emphasise today is that the Burra Charter is founded on 20 years of experience and field testing, it is widely accepted, not only in Australia, it is recognised as the best benchmark internationally. As the president of ICOMOS indicated a moment ago, a quarter of the world's population are now following the Burra Charter, and it is most appropriate that it become embedded and recognised as a standard. The Commonwealth government has an important role to play in leading that recognition.

So they are our five points. I think before concluding our oral presentation, Prof Sullivan wants to make some comments about current trends in historic cultural heritage.

**PROF SULLIVAN:** Thank you, Richard. Yes, thank you, it's a great pleasure for us to be here today. We, I might say, are very excited by the Productivity Commission inquiring into heritage; and in fact, we've had some interesting comments from overseas colleagues to say they think this is really interesting and a good idea. Actually, just the submissions themselves, I think are very useful and interesting as a sort of snapshot of heritage in Australia today; and we're hoping from this to get some really good outcomes and thoughts - not necessarily solutions to everything, but some directions, I guess.

I've worked in cultural heritage for a while, and I think there are some interesting trends during the last four or five years, perhaps longer; but one of them is that communities are definitely getting engaged in cultural heritage. There's a clearly growing interest amongst communities, and a recognition, particularly in regional communities, of how important heritage is in terms of holding their rather fragile communities together, and indeed getting some economic drivers in those communities. That's noticeable if you work at a state or local level, that there is this growing interest and growing recognition by people of their heritage. That's pretty important.

Matched to that, however, has been really basically - Richard mentioned the lack of resources, but I think if you look at the Commonwealth effort in resources over the last five or 10 years, there's actually been a pulling back from involvement in local community funding; you know, the classic example of that is the disappearance of the National Estate Grants Program, which we hear about every day - not a large amount, but the amount of leverage there was really very considerable, and it did give people a feeling that they had a means of looking after their own heritage.

So we think that's a really significant issue which is becoming more marked. The Commonwealth has been withdrawing from local community life in a number of ways: the loss of the post offices, the loss of a whole range of services, and the withdrawal from an interest in heritage is also one of those things that people see. That then leads me to the second, I suppose, encouraging trend. We do think - and Australia ICOMOS has been a very strong supporter of the new heritage legislation, in some cases, against the opinions of some of our colleagues, especially in the natural environment, I should say.

We were very active in beginning the idea about the new national legislation and getting it through. We are a firm supporter of it, but I have to say that we see it as a new heritage system, not just as a minimalist legislation which turns out to be, for the moment, a lot of legalistic arguing about national or state values, and a lot of false starts in that sense. The way the new heritage legislation has been applied to day - and we do understand the resource and other reasons for this - has meant that, really, what ICOMOS had in mind and what we had in mind in bringing a range of other heritage NGOs with us, was that we would have a package which was new national legislation, but which did not mean the Commonwealth simply withdrawing from all responsibility and all leadership except for a very small national list.

The idea was rather more to be like the model for the natural environment, where you do, you have things of national importance, nationally listed endangered species and so on; but you also have a whole range of agreements and work with the states, and you have a whole range of people, even at a local level, supported by federal government funding. We're not actually necessarily saying there should be the same amount of money. What we're saying is there should be the same outreach and the same attitude of leadership at a federal level, and that's really what we bought into when we bought into this new system.

At the moment, we see it receding, and that's a bit of a problem for us; and because that hasn't been fixed, I think there is still a classic federal/state problem - a lot of arguing and a lot of buck passing about responsibilities.

That's always been a problem in our federal system, but it's particularly difficult at the moment, for the reasons that I've outlined. I would say that I think that during the period that the federal government and the states have been involved in heritage management, which is now about 20, 25 years or more, the states have actually taken - we've watched them gradually take, in many cases, a really good leadership role. We now have a situation where I think the states are well ahead of the Commonwealth in some of those issues, and that's another trend that we'd like to see addressed.

Finally, I suppose I'd like to just touch on the lack of expertise at a federal level which goes along with the lack of leadership. I guess we've seen a diminution of the level of expertise at the federal level in the Department of Environment and Heritage, particularly in the area of cultural heritage. There are some extremely good cultural heritage professionals in that area. However, there's been a lack of somebody with a broad cultural heritage experience and respect at senior levels in that department; and if that department is going to take a leadership level, that's quite crucial.

I suppose the other final thing I might say about that is that one of the things that we have been struggling with for a long time, because we thought it was a really good initiative, has been the state of environment reporting on cultural heritage. Australia was the first country in the world to include cultural heritage in state of environment reporting. We all thought that was terrific, because we are committed to natural and cultural heritage as one system. We see it as a spectrum, obviously, of values, and that's another thing that ICOMOS does.

But one of the issues has been that there has never actually been, I would have to say, the level of expertise or the level of follow-up between SOE reports which gives us anything that is really authoritative, or gives us the statistics we need to actually see where we're going. The stuff has simply not been gathered. We've all struggled with it, and from our point of view one of the issues that arises there is that the work has simply not been done, and there is no real system to ensure that it's done regularly, and in a way where the evidence can be looked at over a period of time. So we think that's a major issue, and it's also an issue because without that evidence it's very difficult for us to demonstrate some of the things we would like to demonstrate to this inquiry. Thank you.

**MS BUCKLEY:** Okay. Just to quickly wind up our bit of talking. It occurred to us that, because we've given you such a substantial written submission, and tried to answer each of your 81 questions, that it may not be clear what we're saying we want. I guess I just thought we'd finish with a really short statement of what we want. We are more focussed on outcomes than mechanisms and processes at the end of the day. So what we want is for



Australia's - our nation's heritage to be identified and conserved, celebrated, for communities to be empowered and supported to care for their heritage and to recognise its role in community identity, and so on, as we've said in many more words in our submission.

When I say our nation's heritage, I think it's important to recognise that our nation's heritage is not just our capital and national heritage - that we're talking about our nation's heritage in its entirety, and we see that all levels of government need to participate in an integrated and cooperative way in achieving that goal. We do expect the Commonwealth government to provide leadership, and we do expect that COAG can play a critical role in seeing this vision achieved. We expect the Commonwealth to lead by its own example, to set standards, and to work cooperatively with the states and territories.

We want an effective operational system, heritage system, which is aligned and well resourced, with adequate expertise, clearly defined roles, and no duplication. We want fair and transparent processes and resourcing for private owners of heritage places. One thing we don't want, necessarily, is we don't want new legislation. The best legislation in the world will not deliver the outcomes we're seeking if seen as a single tool. As Sharon said, we see legislative change as part of a much bigger package, and would like the national systems to proceed on that basis.

So no doubt we've touched on a lot of things that we could talk in more detail with you about, but we'd really like to hear what your questions for us might be. Go ahead. And we did bring some copies of things to leave with you.

**MR MACKAY:** I'd just like to hand up some copies of our speaker notes from today. A copy of the China Principles to which Kristal alluded earlier, and two copies of the Burra Charter, the straight Burra Charter as adopted in 1999, plus the illustrated Burra Charter. We're conscious that the Commission probably has access to those documents, but it would seem inappropriate for ICOMOS to be making its submission and not to provide them as well. There's one other document, which is the Feldingham report into Port Arthur, which is referenced in our submission, and we think that's probably a key piece of I guess what you might call hard economic evidence.

**DR BYRON:** Thank you very much. That was a very succinct articulate summary of the mass of argumentation.

**MR MACKAY:** Coordinated.

**DR BYRON:** Yes, right. Orchestrated. Choreographed. I'm not too sure about the burden of high expectations that you've put on us, but we'll try and

live up to that. You mentioned in the submission and in the comments, particularly Sharon's, about the lack of data, and Mike Collins from Heritage Chairs and Officials said this morning that we've had, out of 160 something submissions, there's a lot of opinions and a lot of assertions, but not a lot of hard evidence and analysis, and not a lot of firm data that we ourselves can analyse. So it seems to me from you particularly were saying, Sharon, that it's about time that the system put in place a mechanism for systematically collecting data, so that every time there's a review the reviewer finds out, "Well, actually, there's not much data around." It's about time we stopped complaining about that, and set up a system that would systematically generate the information, so that next time we won't have that problem.

**PROF SULLIVAN:** Yes.

**MR MACKAY:** I think, perhaps just to bed that down, in our answer to question 3 in part 2 of our submission we actually cite a number of previous Commonwealth studies which make exactly that point. It would seem it's simply a matter of policy to implement some of the recommendations that have been before government for resourcing that data collection for quite some time.

**PROF SULLIVAN:** Yes, I might also say that - I might say that, for instance, as a result of the last state of environment report, which I was actually involved in and was an author for, there was prepared a more than 100 page document for the department, which canvassed what the key indicators should be across Australia from everyone, what were says of testing them, and suggested that this should be set up sort of now - that is, after the last inquiry - so that there could be some continuing thing. Now, the problem is that there simply were not the resources or, I might say within the SOE section, the expertise to do that. It is difficult for us to deal with a group of people who are extremely well meaning, very competent at SOE stuff, but all from the natural environment. It has been a matter of concern. I suppose the point we're making is that this is not for want of people actually producing what may or may not be the correct indicators, but certainly a lot of work has been done on that.

**DR BYRON:** Can I just jump for a moment to the point about leadership, and relate that to the declining Australian government role and resources going into that, and expertise within the department in Canberra. Would any of you be prepared to offer an opinion on why that might be happening?

**MR MACKAY:** Well, I guess I can offer an observation rather than an opinion, and my colleagues might want to add to that; that is that, within the Department of Environment and Heritage, in my observation and direct experience, there seems to be a perception on the part of government that anybody can do the historic cultural heritage role. So when senior positions become vacant, someone is moved from elsewhere in the department in a way

that simply does not happen with other aspects of that department's operation where people with the relevant technical expertise are deployed.

It seems to be that there is a gradual erosion of what was a very highly skilled team of people within the former Australian Heritage Commission in this area, with the implementation of the new legislation, the incorporation of the Commission within the Department of Environment and Heritage for a reason that I couldn't comment on. What has happened is, as people have left they have not been replaced with people that have the technical expertise that is necessary, and the result is a diminishing of the skills base.

**DR BYRON:** But others have told us that the Australian Heritage Commission used to be far more "out there", with a high public profile not only in the media but far more active, visible and so on, and with its own secretariat and staff consultant, and all that.

**PROF SULLIVAN:** Yes, could I - I should say, of course, that I used to be the executive director of the Australian Heritage Commission, so maybe my views are slightly biased. But I went through the process of really the - there was a decision maybe eight or 10 years ago now - it would be - to bring the Heritage Commission more closely into the department. Now, there were some advantages in that, but then we had the change in government and there was an enormous amount of pressure on the then minister, Minister Hill, from - in many cases - state development agencies and state governments about, you know, the wickednesses of listing things on the Register of the National Estate. And, you know, I've actually heard that if you put something on the Register of the National Estate in Perth, the Tokyo Stock Exchange would tremble, and, you know, investment as we knew it would come to an end in Western Australia.

Now, in fact, one of the things that we did was to talk to Senate - this is Wendy McCarthy, the then-Chairman of the Heritage Commission and myself - we actually started this thing about new legislation in the sense that we said, "What you need is to have a package deal with the states." One of the reasons why you keep getting these nominations, and one of the reasons why the Commission appears to be so out-there, which it did - you know, dealing with, basically, local matters - is because in a lot of jurisdiction this is the only way places can be protected, because there are gaps in the legislative protection in each state.

This is the time when Tasmania didn't, in fact, have heritage legislation. So we said to the minister, "You need to get this new legislation, concentrate on the national stuff, but work out at the same time a deal with the states, whereby this system works across the sphere." And then we had a heritage conference and we had a whole range of things, and all of this took about five

or six years, at least, okay? But during that period, there were sort of really strong signals from the government, like the abolition of the National Estate Grants program, that they were really looking to a new system. So, really, the Heritage Commission became disempowered during that period.

The department became not a really exciting place to work for heritage, because everybody was saying, "The Heritage Commission is going to go," and, you know, "We don't know what's coming." So, frankly, there was a period - because the legislation took so long to get through - there was certainly a period during which there was a real lack of leadership, lack of - I guess lack of forward thinking during that period, and I think we still very much have the hangover from that. I think that's quite significant. The other thing that really did hit us badly, I think, because we've never - the National Estate Grants program was so out- there, and it really was one of the major ways in which the Heritage Commission made its mark, and when it was abolished, it's never really recovered from that. We still have people saying, "We want a National Estate grant."

**DR BYRON:** Can I follow that up with - your comments about the legislation and the system that - am I right in getting the implication that what we actually need is the better implementation of the system that we already have on paper?

**PROF SULLIVAN:** Yes, but it's not just - if you look at the legislation, for both the natural environment and the cultural environment in the EPBC Act, you'll see that if you just abided by the legislation, you would really not do much in the way of leadership in the natural environment either, because there are certain things that - you know, there are controlled actions and there are certain things the Commonwealth is responsible for. So, getting that legislation underway is important, but taking that leadership role generally is also important, and that's the sort of policy package that needs to come forward.

I think another really key aspect here is the new Australian Heritage Council. If you look at their legislation, if you look at the way in which the Heritage Council is framed in legislation, it has a very broad remit. Extremely broad. Members of the department have recently taken to telling us that the only thing it does is assessment, and that, therefore, I'm not allowed to talk to it about, you know, doing work in China, or it's not appropriate for us to talk to the new Heritage Council about management. In fact, if you look in the act, you will see that it has a very broad potential, but the fact that it, in fact, has no resources of its own, and that it is at the moment wrestling with just trying to get the national list established, has meant that it, in fact, hasn't taken that leadership role.

I think that's one of the things that's - it's not independent, but that sort of

slightly removed from government voice is not there at the moment, in many ways. Please don't take that as a criticism of the membership of the council. I just think that it's - at the moment, it's just not there, as it used to be.

**MS BUCKLEY:** I think also that in terms of the implementation of the new system, following the act being - finishing its torturous path through the senate, is that there was no planning or resourcing seemingly put in place to actually facilitate the implementation, and there seemed to be no recognition that going from the previous system to this new one would actually be quite a resource-intensive activity to do well. In the meantime, because the process of getting the new legislation in place had taken a long time, the resources in the heritage division had kind of really been reducing over time. So I think that the implementation hasn't been well-enough resourced in our view, and I guess, to be very candid from Australian ICOMOS's point of view, we didn't buy in to the new system because we wanted two more lists.

We bought in to a package that contained legislation, but also contained other things: an integrated national heritage strategy that all levels of government were going to agree on. You know, a distinctively Australian program that was going to be very vigorously engaging with communities about our nation's heritage, and so on. And those other elements - because it's been such a giant undertaking for the people who work in the department to get the new system, in its statutory sense, up and running, those other things have really fallen off, and we're very unhappy about that. The previous minister, David Kemp, actually said that the new system was going to create a new national conversation about heritage, and we really bought that offer, and we're still waiting for that to happen.

**MR MACKAY:** Commissioners, could I make one final point on top of all that's been said, which is that we are 20 months into the implementation of the new heritage system. There is, not only in ICOMOS, but in the wider community, an expectation and eagerness and anticipation, and the moment is now. If the Commonwealth government does not use its influence through COAG or its resourcing in terms of its own department and whatever it is that is going to replace the National Estate Grants program, the momentum and the credibility will be lost. This is not something that can wait another 20 months before someone gets on with doing something about it. The system will bog down in its dysfunctionality.

**DR BYRON:** That's probably a good place to jump back to your second point about the role of government. Can I get your reaction to an alternative view - an explanation - of how heritage operates in Australia, that the bulk of the heritage properties - apart from icons like, you know, Port Arthur, Mawson's Hut, Sydney Harbour Bridge, Sydney Opera House et cetera. Are homes, churches, buildings of high significance at a local level - this is the numerical

majority of them - and most of these places are maintained by their owners who are using them because the owners benefit. They see it as worth their while to invest in continuing maintenance and so on.

So, it's possible that a very large percentage, numerically, of Australia's total heritage buildings are quietly being looked after by the people who live there or use them or pray in them or whatever, without the government even knowing or doing - even if governments didn't exist. This would still happen. But, sometimes, the owners decide that either the cost of continuing to maintain the place is getting too steep or their requirements have changed, so that the benefits of continuing to keep this place have fallen. And so they do their sums and say, "Well, you know, it's no longer worth while as the owner of this property to continue to keep reinvesting in it and using it. I could either sell it somebody else, who might do something, or I might knock it down or change it or amend it," and so on.

Then, when that happens, which might only be, you know, 1 per cent of all places each year, there may be a divergence between what the community at large thinks should happen to that place and what the individual owner thinks. And that is when governments become involved - because of that divergence between the private and the social interests. That suggests to me that the role of the government is not with dealing with every heritage place every day of the week, but it's dealing with the 1 per cent - all right, 1 per cent, 5 per cent - but the small number of exceptions where what the owner - whether it's a church or a factory or a bank or a family, what the owner would like to do based on their own calculation and what the whiter community would like to see.

That suggests that the government involvement is just dealing with the exceptions rather than dealing with the 95 per cent that just sort of quietly ticks over and is looked after very nicely to everybody's benefit all the time. Is that crazy or is it approximately sensible?

**MR MACKAY:** If I might, I don't think that's crazy, but there's several comments that are relevant. Firstly, what you've described indeed happens in practice a lot. People use their assets operationally because they're useful and many people look after things like their heritage house and payment in traditional schemes and do sympathetic alterations because they're turned into those values.

However, because a lot of - in fact the vast majority of the nation's heritage at whatever level is ultimately real estate, it also has a non-heritage economic value and from time to time will come under differing pressures. So there is a role for regulation to look at the greater community inheritance, the public good, that arises from those heritage values rather than just the

economic value of the real estate, and you're right, that happens infrequently with a small number relative to the total.

The question of procedural fairness, however, means that if you are one of those places subject to those controls or regulations that relate to heritage, it's fair that you know about that, that you know about that at the time that you're purchasing, investing, looking to develop. That's where the lists, as well as the provisions that attach to the lists, are terribly important, so that they are transparent and reasonable ground rules. Australia ICOMOS doesn't pretend that there will ever be lists that would be signed off and never change evermore, but the reality at the moment is that in a number of states, Queensland and Tasmania, I guess, particularly, the lists are problematical for quite different reason in those two states, which I'm sure you've got evidence of before you. It is very desirable that the lists be well established, that the ground rules be clear.

You're absolutely right, the only time that the need for regulation kicks in is when there's a proposal for change and then when there is that impact it may also be appropriate in those circumstances to look at other incentives to provide variants to what might otherwise be a development standard or some parking concessions, or a change of use, or some flexibility on zoning or even a loan or a grant to recognise the value for the community, as well as the utilitarian value for the owner.

**PROF SULLIVAN:** I'd like to take that up. I think it's a very interesting observation. I think there are a couple of other issues. One is increasingly, you are correct, increasingly the majority of people are sort of looking after their heritage places very nicely. I think it's important to recognise, however, that that is in fact part of the work of the Australian Heritage Commission over the years, the Australia ICOMOS, a whole range of people who have said, "This is valuable, this is nice." I mean you open any magazine now, any furnishing or home improvement magazine, you'll get the heritage look. I used to come from a place where we suddenly discovered we had heritage pizzas, which is a bit a nightmare idea really, but so heritage has become quite fashionable and there are two outcomes with that. People increasingly like to live in heritage places, but this didn't just happen. It happened because in fact of government and community education.

The second thing, of course, to remember is the other side of that argument, is that increasingly we have very good evidence that in a lot of areas heritage is the selling point for houses. It's not just, we now know, although the real estate agents would like to have it both ways, it's really not just a disincentive and, once again, that comes from people in the community having an understanding of heritage and the value of heritage and, if you like, an aesthetic appreciation of heritage or at least an understanding of the amenity of

heritage and, of course, this with knobs on applies to the tourism industry.

So I think that's one thing I would like to say and the other thing is that one of the problems is that because there aren't really enough resources or incentives for people, the only thing that people sort of hear about often are the penalties and the 5 per cent. So really what the government's role is certainly to concentrate on trying to fix that 5 per cent, but also to provide more incentives and more encouragement to the other 95 per cent.

**MS BUCKLEY:** I think too, if I can add one slight extra point, that certainly the regulatory monitoring and approval of change and the management of change to properties is one thing that the heritage system does on a day-to-day basis, as you've described, but it's not the only purpose of it. Every day we very consciously put things on heritage registers all round the country that will never really be threatened with inappropriate development or the change of the nature that I think you were alluding to in your question because we're recognising their importance to our locality, our state, our nation, and I think that the integrity of these lists rests on the fact that they are a collection of places that are highly valued for their cultural values, not because they're places where we assume that there's going to be a need to be very carefully monitoring change.

So that is one. I don't want to minimise the fact that that is one big part of the systems, but it shouldn't be seen as the only function.

**DR BYRON:** The listing is part of the recognition of significance and the celebration of this. Is there also an adjunct? Apart from recognising that a place is now officially ordained as being significant at whatever level, there's then the management issue of who's going to look after it and how they're going to do it and what do they need to do it well and how much is it going to cost and who's going to pay for it. Most of the people we've spoken to said those are important questions, but they come after the listing on the basis of significance. Now I can go along with that, but the question is they have to come up somewhere and they should hang off the statement of significance.

**PROF SULLIVAN:** Yes, I see what you're saying, it is.

**DR BYRON:** But I guess one of the things that worries me is if we continue to add things to the list without having that parallel process that says, "Okay, who's going to look after it and how and how much" and da da da da, you end up with a list of places that have been assessed as being highly significant, but may well be deteriorating because we haven't answered those questions and, as one cynic said to us, you end up with a list of places that we would like to keep, but instead we're just watching them decay.



So it's one thing to identify them and celebrate their significance, but then there's the real ongoing question of who's going to do it. Presumably, the answer is, well, whoever owns it, whether it's a railway station or a bank or a church or a post office or a house, but if there are significantly higher costs because of its heritage status, then is it reasonable that all those additional costs be put on the owner in order to provide a substantial benefit for all the rest of us, or is there some way that all the rest of us contribute and actually pay that extra burden that we're going to put on that person. So that's where we're sort of going at this inquiry.

**PROF SULLIVAN:** I think that it's a very important point. I think in the first place we would say now that there evidence that for many people it is an advantage to have places on a heritage list, that the number of people who object are perhaps between 1 and 2 per cent, which indicates that for most people this is not an issue, but setting that aside, I do think you've got a really important point and, if I could draw your attention - and this really part of the package that we were trying to get when we were talking about the new legislation.

We really do need a set of incentives and assistance that is available to owners in these circumstances and, if you look at the natural environment, I've just got a \$50,000 grant from the federal government to fence off part of our property in northern New South Wales, the river, so that the river will be free of the cattle and then we'll take the privet out. Now that's because the government recognises that if we don't let our cattle go down to the river, they don't eat the grass there and they don't have access and we need to pump water up, et cetera, et cetera. So the government recognises that because this is natural bush and an important habitat and important river, they would like to contribute to that.

This is money coming directly from the federal government, through the state Landcare program - and that's exactly and absolutely what would transform heritage in Australia.

Briefly, in this country, we had a tax incentive scheme for heritage which is probably somewhere in your papers. We were very pleased with that but the treasury capped to such an extent that it actually acted as a grants program because the treasury would only allow a certain amount of tax per year to be forgone, I mean tax revenue per year. That meant it turned into a grants program which actually was very difficult to run. But we ran it with our state colleagues and the subscription to it was overwhelmingly oversubscribed. There were a lot of people who were very interested in it. They had to demonstrate what they wanted the tax incentives for would be good for heritage, not that - you just couldn't do anything.

But part of that wasn't just, "It will be good for heritage." It was, "This will enable me to go on living in this house. I'm going to build a granny flat. This will enable me to go on living in this house and look after its heritage." So I'm not saying the answer is a huge pot of money - in many respects it might be. What I'm saying is that even - that's why the National State Grants program was important, because people felt they had some recognition of this. Really, at the moment, the situation we've got is that the states - the Commonwealth really doesn't provide anything at that level. The states are very limited in what they can give people. So we have this feeling in the community that you've spoken of so well, that all people see is often the penalties.

Whereas, it is, as you say, clearly a public good. If the public does want heritage to be looked after in Australia, then there are a whole range of incentives which the chairs and officials and the - I'm sure you've seen the submission on incentives.

**DR BYRON:** Making heritage happen.

**PROF SULLIVAN:** You know, I really think that the question is a good one. But from our perspective it's slightly unfair.

**DR BYRON:** Sorry.

**PROF SULLIVAN:** No, I only mean that, yes, we fully recognise this. I think you'd find that the whole heritage professionals and the whole heritage industry and our state and territory colleagues, we could transform the way people think about heritage by a modest program of incentives and encouragement.

**MR MACKAY:** Can I just add two quick points to that. One is that there is a difference between the incremental effect of the heritage listing and what it might entail and just the basic asset management cost. There is a lot of smoke and mirrors about that difference. If you've got to paint your house, you paint your house. Whether you paint it in a heritage colour scheme or a dog-ugly 1970s colour scheme, it doesn't cost anything different. You might feel put upon if you're encouraged by main street program to use the heritage scheme, but the economic cost is actually no different.

My second point is that with respect to public sector asset managers, whether they be operational agencies or historic houses trust or whatever, as a tax payer I am really wanting them to look after all the values of the places they are stewards on on my behalf including the heritage and intangible values. So an agency like State Rail or an agency like the Federal Airports Corporation I would expect and hope - and indeed it's provided for in the legislation - that

they would have heritage asset management programs that are values based; that's just being good public stewards. That shouldn't be perceived as an imposition.

**MR HINTON:** Thanks. I'll add my thanks to Neil's to thank ICOMOS for their substantive submission - especially I note that you've got 70 recommendations. Thanks a lot.

**MR MACKAY:** We could just say, yes, it's a very simple process.

**MR HINTON:** I think my first question may fall in the category they just accused Neil, being unfair, but I'll continue anyway - it's to do with the basic theme of your earlier comments. I think it came through from all three of you - and that is the way ahead here is national government, leadership, structure, guidance, clarity, selling, you name it - a role for the minister, the council, the department, whatever - and that message came through loud and clear.

Yet the subsequent discussion that took us down the tracks of some problems and the overwhelming message we get from interested parties is that the main problem rests not so much at the national government level but at local government level and in particular the relationship between state and local crying out for attention. So that immediately to my mind came the point, isn't there a disconnect between your solution and the identified problem? Is that unfair?

**PROF SULLIVAN:** Yes and no. I'm sure Richard would like to say some more about state and local stuff. I might just say that we were definitely concentrating on the role of the national government because we're a national organisation but we don't actually expect the national government to solve all of these problems. We do anticipate that what comes out of this should be a real partnership. I'll just pass over to Richard.

**MR MACKAY:** Whether we like it or not, we've got a federal system. We've got the three tiers of government. I don't particularly like it but it's not going to change in my lifetime. I guess one of the reasons that we are emphasising the Commonwealth's leadership role is that it's a Commonwealth Productivity Commission inquiry and that the new system establishes a very cogent structure and set of roles for the Commonwealth government with respect to its own property holdings and places of national significance with the state government and they in turn with local government for places of state and local significance respectfully.

One of the big structural challenges in the heritage system, whether it's looked at holistically and nationally - and I guess as a national NGO professional body, ICOMOS has trying to come in with a national level. But if

you take that down to the state and local level, there is still a real issue in clarity of roles between state, state and local government. It's probably best evidenced in effected practice in either Victoria or New South Wales in my experience, where in Victoria you have some state level overlays and local overlays that can operate in tandem. So there's some basic ground rules for heritage management indeed or planning and some local rules for planning that can be different local government area to local government area.

Or in New South Wales where you have a state heritage register which will be the places for which the state government will become the consent authority. Then standard provisions that are applied by local government with respect to the local lists. Where that system in turn breaks down - and it parallels what we've been saying at a national level - is that there is not as yet adequate capacity resource at the local government level to do the heritage job. There's not an amount of expertise that gives the good results in every local government case as you get in some of the ones that are doing it well like Broken Hill or some of those councils. We've put a Broken Hill case study in the back of our submission.

So at one end of the spectrum you get Broken Hill with good access to good local heritage staff inspiring an enthusiastic community that develop main street programs and celebrate their heritage so that it's not seen by a listed owner as an embuggerance. It's actually seen as something that's attractive. The main issue there is people putting their places up and agencies having to defend their decisions not to list them.

Contrast that with Tasmania where you get almost no local government involvement in local heritage matters and it's all done by the state, I think again, by any objective measure it is not functioning effectively. Why is it not functioning effectively? (1) because there's not that role clarity that the Commonwealth system envisages, and (2) because there's not the expertise available at the local level where most of the individual heritage management decisions happen in Australia.

How can that change? It does need to be a top-down change, hence the role for the Commonwealth. It's not going to happen grass roots up because there's not the skill base or the resource there and it's got to happen through however many hundred local government agencies across the country.

**MR HINTON:** But history shows that the federal government, the Australian government, telling the states that this is what they should do, doesn't get very far.

**MR MACKAY:** It won't.

**MR HINTON:** The top-down process seems to me to be a rather unfortunate way to look at it. I would have thought, picking up some words you used earlier - I'm not sure which one of you - there's buck passing going on at different tiers. There's a need for greater cooperation. I would have thought there is a cooperative effort that's needed here that requires a COAG-type of approach that can at least address the areas where there's significant deficiencies including gaps and including getting a coherent system, but especially getting at the coalface of the actions of local governments.

Now, if you've got some bright ideas on that, including the intersection between planning and heritage, we'd welcome them; because to my mind, that cooperative approach to address that issue is going to bring you grassroots improvement that will add integrity, and therefore respect and therefore support, for the pursuit of the heritage objective, or am I missing something?

**MR MACKAY:** No, I think we couldn't have put it more succinctly or more eloquently ourselves.

**MS BUCKLEY:** We agree with that. We'll just sign up to that, if someone is taking down the transcript.

**MR HINTON:** It'll be in the transcript. I don't mean to verbal you.

**MS BUCKLEY:** I just want to say, about local government, back to your earlier comment - we are very aware that we didn't address it very thoroughly in our submission because it would have been so many hundreds more pages than it already was, and that we did for at least this phase of the inquiry, focus more on the national level of government than on others. We acknowledge right up front in our submission - we acknowledge that's perhaps a slight distortion of our bigger view. In terms of local government, the real difficulty, it's very hard to generalise, because there are both - as Richard said - excellent nation-leading examples happening at the local level and also quite behind the mark kind of levels of performance, and everything in between.

That capacity for innovation is something we'd like to maintain. But I guess our feeling is that, when we say "top down", we don't mean the Commonwealth doing it all, or having all the control, or bossing the rest of the tiers of government around; because we would agree with you that that is not likely to be effective. When we talk about leadership, we're talking about leadership, not control and autocratic kind of direction.

But we would say that all levels of the system are chronically under funded and under resourced, and some remedy of that situation would help at the local level, as well as the others; and that some kind of degree of much greater genuine cooperation between the Commonwealth and the states to get a

national framework for how these things should happen in place would also be a big improvement. That at the moment is there in some kind of motherhood level, but not really on the ground.

**DR BYRON:** But Kristal, when you say that all levels of government are under resourced, could I rephrase that; that all levels of government under resource themselves, because they all have budgets - - -

**MS BUCKLEY:** Point taken.

**DR BYRON:** They all choose to spend the money on something else, rather than heritage. They're all elected, they're all responsible to their constituents, and for whatever reason they choose to spend the money on things that - are they simply reacting to the public perception that maintaining law and order is more important than maintaining old police stations?

**MR MACKAY:** Commissioner, I don't think that your premise is actually correct. I think, as Prof Sullivan said in her introductory remarks, that the trend is in fact the other way. The number of local government heritage advisors in Australia is increasing, and the case studies of good heritage outcomes at the local government level increases commensurately as they increase. The New South Wales Heritage Office is an exemplar, in the way that it has seed funded those positions, usually wanting some sort of dollar for dollar contribution, to the point where local heritage advisors that were put on on a part-funded basis 10 years ago with some agencies are now fully-funded, full-time positions; and there is a rising response at a local level, where you get municipal local heritage competitions and participation.

What I think we're seeking is an extension of that, and noting in the context of the new framework that there is an important lead by example, lead by coordination COAG, not a bossy role. I think also the way in which the New South Wales government has proceeded since Minister Knowles devised the state and local heritage management framework is a good case study to look at, where there's some inherent sense in who is the consent authority for state items and local items.

Then to come back to Commissioner Hinton's question about the relationship with planning, New South Wales is actually quite a good example of that also. None of the systems around the country are perfect, but at least in New South Wales if you have an application that you need to make where you need a local council approval and you need a Heritage Council approval, you now do it in an integrated way: you make one application, they deal with the referrals, the Heritage Council gives the heritage answer, the local council gives you the answer. That system works really well, and I guess if you wanted to see somewhere where it doesn't work well, I can show you some

examples in Tasmania.

**PROF SULLIVAN:** If I could just say, it's not a question of top down direction. The whole new legislative and heritage system package was devised in concert with the states, and really the idea was that this would be an integrated system. I would just have to say that I suppose the reason we've been hammering the Commonwealth is that we see, from our position, that the states are ready to go on this. They've actually been running with this. Some of their systems are very good, but we're a federation; they need some leadership to get some coordination to stop every poor person out there having their place on four lists. You haven't even asked us that yet, you know.

**DR BYRON:** Yes, we've asked everybody - - -

**MR MACKAY:** Perhaps before you do, or four different meanings - you take the word "aesthetic", which has a different meaning in Queensland to the one that it has nationally to the one that it has in Tasmania. That sort of introduction of simple coordinated standards and practice is not actually a hard thing to do. It just requires the coordination and commitment to do it.

**DR BYRON:** I'm conscious of the time and that I haven't given Tony a go, but I've got one more question.

**MS BUCKLEY:** You gave him a little bit of a go.

**MR HINTON:** I'm speechless. I have two micro questions - Neil has covered a lot of the ones I was going to ask of the broader kind. The two micro ones were in relation to some of your comments this afternoon as opposed to your written submission. They really are micro. I think it was Sharon who said that, if I heard her correctly, that some from the natural environment interests objected to the new heritage legislation. I was a little surprised at that. Can you perhaps elaborate, and more importantly, explain the sort of reasoning behind their concern and their - - -

**PROF SULLIVAN:** I was actually referred to Australia ICOMOS' heroic role in getting the legislation up. But in fact, the issue was, I think - we were rather surprised at this - but the issue was that some of our NGO colleagues in the natural environment thought that this was an opportunity to completely turn on its head the EPBC Act, which they do not think was strong enough. Therefore, they wanted to take the opportunity of the heritage legislation coming through which was going to amend the EPBC Act to immensely extend that; and they were really just not prepared to agree to the proposals which were coming forth.

The other issue was that there certainly has been - and for very good

reason - a strong sentimental attachment amongst the NGOs to the Australian Heritage Commission; and its independent statutory role. They saw a real danger in the new legislation and the new system, which I'm afraid at the moment, it looks as though, at least temporally, that may be the case. We're hopeful that it won't be the case in the long run, but they're the sorts of reasons.

**MS BUCKLEY:** The other thing that a lot of the NGOs in the natural environment area were very concerned about was the proposed discontinuation of the Register of the National Estate, and I think that there is a genuine difference of perspective between people who work mostly in historic heritage and natural heritage, where there are reasonably structured systems at the state and local level for listing historic heritage, but not for natural heritage in a lot of jurisdictions.

**PROF SULLIVAN:** In that listing sense.

**MS BUCKLEY:** So that sense of the Register of the National Estate being an incredibly important protective, and morally kind of important instrument for managing and protecting natural heritage was a great concern driving the natural heritage NGOs at the time of the - because it removed the Heritage Commission and potentially the RNE from the whole system, not just its historic and indigenous heritage elements. There was a real concern that there were going to be issues and places that would fall between the gaps if those two mechanisms were removed. So we had very different, if you like, lobbying positions in relation to the government during that period.

**MR HINTON:** My second micro question was in relation to another comment by Sharon that referred to lack of expertise, and in particular referred to DEH not having qualified people in heritage matters at the more senior level. But this is related of course to my earlier comment about where the problems are. Is this lack of expertise more general concern to you, or is it just within the DEH structure that you're really wanting to flag?

**PROF SULLIVAN:** I'll tell you what is - and this is - I'm well aware this is a very sensitive issue because, you know, we have some extremely competent colleagues in the Department of Environment and Heritage in Canberra, and some really dedicated people and, you know, I preface what I say by that. It's really a philosophical issue, and it relates as much to the sort of climate of managerialism that we have in the federal government, which is you can take anyone - a competent senior public servant - and put them into another - you know, rotate them, and put them into another position, and they will go a good job. Now that's often the case, but if you're trying to get the Commonwealth Government to have a leadership role in cultural heritage - - -

**MR HINTON:** No, I'm not wanting you to explore DEH on that. It's whether



or not you have a concern that the heritage expertise shortage runs wider than in the Department of DEH.

**PROF SULLIVAN:** Is there a shortage?

**MR HINTON:** Yes.

**PROF SULLIVAN:** Yes.

**MR HINTON:** More generally?

**PROF SULLIVAN:** Yes, there is a shortage more generally. I guess Richard would be better to comment on that than me because he employs people more than I do.

**MR MACKAY:** The short answer is, "Yes, there is still a shortage." There are now tertiary courses that are available and that's an increasing trend, but can I simply say that the most recent skilled additions in my company, we had to recruit a heritage planner out of England because, despite national advertising here, we couldn't get someone with the necessary experience and skills. That situation is probably more likely to self-correct of itself over time, if there is support for the need for heritage advice at the local level.

**MR HINTON:** Thank you, and Neil won't let me ask any more, so I'll shut up. Go ahead. I'm mindful of the timetable.

**DR BYRON:** I'm going to indulge myself in just one last one because one of the recurring themes - that I don't think that you've actually raised, but I want to bounce off you anyway - is that I think in every state and at the Commonwealth level, and in many local governments, we've been given examples of where the listing authority - or the listing jurisdiction is reluctant to apply its own rules to itself.

So, for example - we can talk about the Commonwealth since they're not here - places that are on the Commonwealth Heritage List, which other parts of the Commonwealth would like to demolish because there's a bucketful of money to be made. There are state governments that refuse to list places of state significance because they'd like to sell them off, and so on, all the way round. Is that a false impression that I'm gaining or is there an element of "do as I say, not as I do"?

**MR MACKAY:** I think Australia ICOMOS wouldn't comment on the generality, but perhaps on specifics at the appropriate time, but look, this is why more than - for any other reason - it is necessary to separate the assessment significance, put-on-a-list process from the management

decision-making process. It is not, frankly, for Australia ICOMOS, the Commission, or anyone else here, to seek to usurp a legitimate decision taken by a duly elected government. If the Commonwealth government decides with respect to a surplus building in Canberra that's owned by DOFA or one of the agencies that it wants to demolish it and build something else, the government is entitled and indeed empowered to make that decision.

What is imperative from the point of view of Australia ICOMOS is that such a decision is made on the basis a clear understanding of the heritage values of the place, a clear understanding of the issues that apply and the alternatives that are available, and the heritage impact. If all of those things are lined up, then obviously, whether it be local, state or Commonwealth government, then they're entitled to make those decisions and there can be public debate and scrutiny, and accountability as to whether the decisions are good or bad; and in many cases there are appellate mechanisms where those decisions can be tested and quite often overturned. What is not okay is to say, "We won't list this because we've predetermined our management decision," because that obfuscates a due and well-informed public sector decision-making process.

**MR HINTON:** Very good answer, thank you.

**PROF SULLIVAN:** I think you're right though in the general perception that people have. But I should say that I think this new federal legislation does try to address that. It picks up the major recommendations in the Schofield report, which was very important. It was a very important report. It took a long while to get it moving. But it really does mean that there is now actually more obligation. In, for instance, New South Wales there is a special register, special listing process that state authorities have. They're very slow at getting it off. I do think that it is true that people would in general be a bit cynical about this, with some merit, and say, "They hound us, but basically this heritage building and this national park has been sitting there for 10 years, and nobody has done anything about it." People do notice those things.

**DR BYRON:** People say to us, "Well, we thought this building was protected, because it's on XYZ list," and the next thing we find is that the local government, state government, Commonwealth government that listed it is proposing to - - -

**PROF SULLIVAN:** Sell it. Demolish it.

**DR BYRON:** And that, I think, damages the whole debate.

**PROF SULLIVAN:** Absolutely.

**MR HINTON:** I was a little concerned that Richard's - - -

**PROF SULLIVAN:** We would agree - - -

**MR HINTON:** - - - answer did address that specific category that Neil just flagged then, but there's another category, and that's where they own the building or they own the actual thing with heritage value, but it has demolition by neglect; that is, there's no proposal to do anything with it, therefore it doesn't face the test of transparency and accountability to the same degree that it's there, but not necessarily maintained to the desirable level.

**MR MACKAY:** There's a technical answer and there's a practical answer to that, and I give both by reference to New South Wales because I'm familiar with it. In New South Wales if a place is on the State Heritage Register - and the vast majority of places on the State Heritage Register are state government assets - then the corporation or the minister who holds that asset is accountable to carry out the minimum standards of maintenance and repair, pursuant to the heritage regulation.

It is a brave head of agency or indeed minister for planning who is going to commence proceedings against a fellow agency or fellow minister for planning on the basis of not meeting the minimum standards of maintenance and repair. So it becomes a policy agency to agency or minister to minister matter.

**MR HINTON:** Relationship.

**MR MACKAY:** The second is the practical reality.

**MS BUCKLEY:** I think it's true though that New South Wales, and now the Commonwealth very recently, are kind of well ahead of other jurisdictions in terms of having a stated and clear requirement for state agencies or government agencies to care for their own assets appropriately. That's something - I mean, it was one of the big carrots that brought a lot of people on board with the Commonwealth, with the EPBC amendments, was that the Commonwealth was going to have to live up to its own system, and we would like to see the same thing happen in the other states and territories as well.

**DR BYRON:** I'm afraid that I'm going to have to draw this to a close. But I'll console myself by saying I think we'll be able to talk again at some other stage.

**MS BUCKLEY:** I hope so.

**MR MACKAY:** Thank you.

**DR BYRON:** Otherwise, in the second round, after you've seen the whites of our eyes, in the draft report.

**PROF SULLIVAN:** We look forward to that.

**MR MACKAY:** Thank you for the opportunity.

**MS BUCKLEY:** Yes, okay. Yes, and we would - - -

**MR HINTON:** There's an analogy you might like to use.

**DR BYRON:** Thank you very much for coming.

**DR BYRON:** We'd better move straight on with Mr Geoffrey Parker from Phoenix. Thanks very much for coming, gentlemen. If you could each introduce yourselves into the microphone. Thanks for the written submission with all the attachments. Tony and I have read it very carefully. Thanks for taking the trouble to come here today. If you could sort of briefly take us through the main points. There are a few questions Tony and I would like to ask you.

**MR PARKER:** Okay. My name is Geoffrey Parker.

**MR CRAPP:** And I'm David Crapp. We're both directors of a flying club on Hoxton Park Airport, and that's the focus of our submission.

**DR BYRON:** Thank you.

**MR PARKER:** Rather than the very broad and educated nature of the previous submission, our submission is a very focussed single issue submission. The reason we're making it is because we understand that the Commission is inquiring into the function of the current heritage system. Whether it works well or whether it works badly, and we wanted to present this example where we think it's worked badly.

In 2000 Phoenix Aero Club submitted an application to the Australian Heritage Commission for listing of Hoxton Park Airport on the Register of the National Estate. We did that because Hoxton Park Airport was one of a dozen or more dispersal airfields constructed in two rings about the periphery of Sydney as preparation and defence against Japanese air attack. All of the others are gone, and we thought that since Hoxton Park Airport was still there and still functioning as an aerodrome we thought it would be worth attempting to gain the protection of the Australian Heritage Commission for that property.

We did that, and we put in an application and I have a copy of the application here, if that's of any interest to you. The application was considered by the Australian Heritage Commission, and the property was listed on the interim list of the Register of the National Estate in - I'll just give you the date - 21 March 2001.

The criteria were - historic significance, because the airport was stated to be particularly important for being a rare surviving airfield of this type. The Australian Heritage Commission also identified some remnant areas of Cumberland Plain Woodland, which, I understand, must be protected - and a number of endangered former species. There was then the usual period - the listing was notified in the national press, and there was the usual period for objections. At least one objection was received, and the Australian Heritage Commission considered that objection. One of the grounds of that objection

was that there were areas of significance outside of the area that was proposed to be listed. When we put in our original application we proposed the aerodrome itself, and an adjacent area of Cumberland Woodland which contains some revetment areas where aircraft were hidden away during the war.

When the interim listing occurred, the Australian Heritage Commission considered that the revetment area was - there wasn't enough material there of historic significance to list that. So, they listed only the aerodrome. One of the grounds of the objection was that there were areas of historic significance outside of the area proposed to be listed. So, the Australian Heritage Commission enlarged the area that was on the interim list. There was then another period of objections allowed, and further submissions and expert reports, and so on. A full listing, or registration on the register of the national estate, was granted in October 2003. It was granted on 28 October 2003.

The Hoxton Park Airport is situated on land owned by the federal government. We understood there was substantial protection afforded to the aerodrome, because of the fact that it was federal government manned, and the Australian Heritage Commission had listed it. In early 2003, the federal government offered for sale, the operating companies which administer Sydney's metropolitan airports which are Bankstown, Camden and Hoxton Park. The terms of that sale process were that, as far as Bankstown and Camden are concerned, the aerodromes had to remain as aerodromes with the land remaining the property of the Commonwealth government.

As far as Hoxton Park was concerned, the lease that Hoxton Park Airport Limited - the operating company that was for sale, the lease that Hoxton Park Airport Limited had over the land, was to be shortened to five years. After that time, the land was to revert - or is to revert - to freehold land in the name the purchaser. Then the purchaser is permitted to do what they like with the airport. The purchasers have announced that they intend to close the airport in December 2008, which is when the five years is up. It will be developed for industrial purposes.

**DR BYRON:** That's all pretty well explained in the written submission, thanks.

**MR PARKER:** During the sale process, we made some inquiries as to what the relevance of the listing was. Eventually, we received a letter from the Australian Heritage Council, which said that the Commission, which had ceased to exist by that time, had imposed a requirement on the purchasers to apply for listing with the New South Wales State Heritage Office. The gentleman who wrote that letter said that he believed that the application by the purchasers for listing of their own property on the New South Wales State Heritage list, had been proposed, considered and rejected by the New South

Wales State Heritage Office. We then wrote to the New South Wales State Heritage Office, and asked if they'd consider another application for listing, because we didn't think that someone who wanted to develop a property for industrial land, would put in a very enthusiastic application.

The New South Wales State Heritage Office then finally looked at the material we had previously sent to them, and rejected an application for listing, and proposed that Liverpool Council consider the property for listing on the Local Environment Plan. We think it's likely that Liverpool Council objected to our original application, and Liverpool Council, in the press, have had a long history of objection to the presence of the airport. So, we think that an application to the Liverpool Council - we think an application for the Liverpool Council is unlikely to be successful. The Liverpool Council, in any case, is under administration at the present time.

**DR BYRON:** Can I start by making two confessions. The first is, as a private pilot, I've flown into Hoxton Park and Schofields and Bankstown and Camden. The second confession - - -

**MR HINTON :** He's got a conflict of interest.

**DR BYRON:** The second confession is that I didn't realise its heritage significance at the time I landed there. I feel a bit guilty about that. As you acknowledge in the submission, you realise that we're not empowered to resolve specific cases. As I just said to the people from ICOMOS, there seemed to be examples where jurisdictions - in this case, the Australian government - on the one hand, or at one time, recognise heritage significance by the RNE. At a later date, when it's no longer convenient to recognise heritage significance - do something else. In that sense, I thought it might be interesting for you to hear ICOMOS' answer to my question. It's not the only case of Commonwealth-owned land that's being disposed of for sale, in spite of having either Register of National Estate, or, even stronger, heritage identification.

Could I just clarify firstly - I can see two issues here. One is about the preservation of the historic heritage values of Hoxton Park as a World War II dispersal airfield. There is also, I imagine, an issue about maintaining an operational airfield. Can you tell us about - do you give equal weight to those two issues?

**MR HINTON:** Do you disentangle them?

**DR BYRON:** Can you disentangle them?

**MR PARKER:** My speculation is that it was the cost of maintaining the

airfield on one side of the ledger, and the capital that can be made by selling it on the other side of the ledger, which was at the heart of the problem. Given the huge disparity between the two sides of the ledger, I don't think the heritage listing worried anybody terribly much at all, in Canberra.

**DR BYRON:** The other cynical proposal that a fellow pilot once said to me that Hoxton was sacrificed as the sweetener, to get someone to operate Bankstown and Camden. that the opportunity to turn that into freehold commercial industrial, was in some way - we probably shouldn't get into motives and speculation about that.

**MR HINTON:** I'd like to come back to that first question that said, "disentangling" bit. Is the Phoenix Aero Club seeking to retain Hoxton as an operating airport, or would they be happy to retain those buildings that are there as an inherent part of the airport, as a recording of the heritage aspects of Hoxton even though it wouldn't continue as an operating airport; that is, are the two capable of being disentangled?

**MR CRAPP:** I don't think any of the buildings there have any heritage significance in the context of the origin of the aerodrome and the use of the aerodrome. They're all modern buildings.

**MR HINTON:** So it's the operating aspect of the airport that's the heritage aspect, not the infrastructure, the runways.

**MR PARKER:** There are a number of structures there from World War II, taxiway bridges and some of the original runway and so on and so forth, but there are no buildings there from World War II. We do run a flying school and we do take a very keen interest in maintaining facilities for general aviation which we believe are under attack generally, and we do think it's terribly important that the next generation can be taught to learn to fly in the Sydney Basin which is also under substantial attack, so it is difficult for us to disentangle those two. We would not be happy at all if there was an industrial park with a cairn in the corner that said, "Here there once was a - - -"

**MR HINTON:** The plaque system.

**MR PARKER:** We would not be satisfied at all with that.

**DR BYRON:** But do you think that that's what's likely to happen anyway?

**MR PARKER:** I doubt if there will be a plaque. In the preliminary draft master plan that was prepared by the new owners they make reference at one point - on page 4 they say, "HPAL" - which is the operating company - "has identified that some aspects of the airport have heritage significance. These are



proposed to be managed in accordance with a heritage management strategy currently being prepared." The former minister Mr Anderson went on to approve this plan, we believe, without seeing a heritage management strategy or without requiring that to be completed.

**MR HINTON:** If I were to be a cynic or questioning this situation I could put the view that the objective of having pilot schools and flying schools and flying training facilities in the, as you describe, Sydney Basin, that that can be done at Bankstown, it can be done perhaps at some other locations and that the decision by the Australian government to sell Hoxton Park was done in a full eyes-open basis knowing the heritage characteristics of the aerodrome, and therefore they as the owner and elected government took an executive decision to act in that way and therefore they're accountable to it, so I'm not so sure it is necessarily a prime example of the system not working.

It certainly means that there are people in the community like yourselves that have, in your views, a soundly-based objection to where the end result is, but there may be lots of other people as well out there who take a different view, and that's the nature of democratic process. Am I being too cynical? Am I being devil's advocate here? Can you react to that?

**MR PARKER:** I think you are with respect because the Australian Heritage Commission found - it wasn't just our small group, it was the Australian Heritage Commission who found that there were significant heritage values in the property and listed it on the Register of the National Estate, and because of legislative changes and some changes in ownership there is now no heritage protection.

**DR BYRON:** But the Register of the National Estate, as I understand it even 10 years ago, required responsible Australian government ministers to take into account the RNE listing, but it didn't say that they couldn't make land use changes or something, they just had to take into account and I guess - - -

**MR HINTON:** Have regard to.

**DR BYRON:** Yes, and what Tony is saying is that they looked at the citation on the Register of the National Estate and said, "Yeah, that's really interesting." However, as you said, given the difference between what it costs to maintain and what they could get by selling it, they made a certain call.

**MR CRAPP:** Yes, that is true and accountability is critical, but it would seem to me that the crown has attempted to sidestep its accountability through the cynical process of requiring the acquirer to put in an application to the state council. Now, a consortium of that size with billions at its disposal and certainly millions at stake was not going to hand over a cheque for what it

handed over knowing that its application to the state council was going to succeed. Perhaps I'm being cynical now, but I would have thought that before I signed a cheque for that amount I'd want my heritage consultants to assure me that the application looked great and wasn't going to succeed, and there I think they've ducked their accountability.

**DR BYRON:** Yes, I think the requirement that the applicant should apply is a very, dare I say, weak requirement.

**MR CRAPP:** It shouldn't be encouraged again I shouldn't have thought.

**MR HINTON:** Your cynicism was welcome though.

**DR BYRON:** The other thing that struck me in the material that you provided is that the management plan talks about there will be a progressive decrease in aviation activity at Hoxton Park, but when I look at the appendix it says, well, they've just assumed it's going to taper off to zero over five years because it's going to be closed within the five years. Is there an alternative set of projections of what usage might have been had it not already been decided that the airport would close in 2008? I mean prior to that can you tell us what the usage patterns were?

**MR PARKER:** Because there is no control tower at Hoxton Park there is no permanent monitoring of the number of take-offs and landings, but a reasonable estimate seems to be about 80,000 per year.

**DR BYRON:** Landing fees?

**MR PARKER:** There are no landing fees at Hoxton Park at the present time. One of the important points that that projection that you've just referred to ignores is that a lot of Hoxton Park traffic is not derived from tenants at Hoxton Park. The new owners have done their level best - the new owners have encouraged many of the tenants to leave or to surrender their leases, and the assumption is therefore that the degree or the amount of aeronautical traffic at the airport will decrease. But that's incorrect, because a lot of it comes from people such as yourself, Commissioner, who might land at Hoxton Park. In fact Bankstown and Hoxton Park have functioned for many years as an integrated unit, because Bankstown had no cross-wind runway of any significance, and Hoxton Park is and was Bankstown's cross-wind runway.

**DR BYRON:** I was just curious about whether the movements had been put in there as a sort of self-fulfilling prophecy.

**MR PARKER:** Yes, I believe they have.

**DR BYRON:** Okay. But I guess the fundamental question, the issue, is that the registration - the fact that the AHC considered Hoxton Park met the criteria for registry of national estate hasn't actually meant much subsequently.

**MR PARKER:** Correct.

**DR BYRON:** I guess - and it's no consolation to you in particular - but there are other examples of where, in spite of a listing, governments have decided to change land use or to sell the redevelopment rights and so on. So it's one of a much larger group of similar problems in that sense, where the owner in some cases feels that it's surplus to requirements; the Defence Department has said that they don't need Portsea Barracks and Mornington Peninsular, or - and so on and so on - or proposed to sell.

**MR PARKER:** But these decisions also were being taken prior to the current umbrella legislation that operates, that has its own national listing, Commonwealth ownership listing, or ownership and managed listing. The RNE in some ways is losing its character and its force today, and that occurred over this interim period. Perhaps, looking for factors at work, here may have been that interregnum of when your decisions or decisions effecting Hoxton Park were being taken, were some way overtaken by subsequent reviews that led to different legislation at the national government level. I'm speculating. I don't know.

**DR BYRON:** Well, I don't know that there's much further we can go at the moment. But - - -

**MR PARKER:** But in terms of an inquiry by the Productivity Commission, which I presume is directed towards calculating the amount of output for the amount of work that's put in - I think that's a broad definition of productivity - the amount of work that we put in has resulted in no output. We sense that it's been a waste of time, and I think - - -

**MR HINTON:** And it goes back for some years.

**MR PARKER:** And I think the same thing applies. The same thing can apply more generally to a lot of effort in heritage preservation.

**DR BYRON:** Yes, well, as we were talking before, if people have put a lot of effort into voluntary listing only to see the process achieve nothing it sort of brings the whole heritage process into a certain disrepute in the eyes of those who see their efforts as having been a waste of time. Not wanting to put words in your mouth, but - - -

**MR PARKER:** Can I ask one question of you. There was a reference earlier

to, for example, the Federal Airports Corporation having some heritage responsibilities. Would it be possible to enlarge slightly on that?

**DR BYRON:** I think that was Richard's comment.

**MR PARKER:** Yes, I was.

**DR BYRON:** The FAC doesn't exist any more, does it?

**MR HINTON:** I think he was alluding - I'm speculating too, I can't put words in his mouth, but I think he was alluding to the fact that there are a variety of entities in both the national government level and state government level that own assets that are either a part of their operating responsibilities or surplus to those operating responsibilities that have heritage characteristics. And there are different systems at the national government level and the state government level as to how there is a responsibility on the national government and on the state governments to conserve those assets, with scope to actually sell off surplus to need assets, with the possibility of adaptive reuse.

The new act for the Australian government actually carries with it some obligations about how they do that process with regard to adaptive resell off with adaptive reuse. To the extent that they don't do that, there's an obligation for them to maintain them in a manner that protects the heritage value. I think he was just using the Airports Corporation as administration of that wider more general point. I'm speculating, but I think that's my memory of the discussion.

**DR BYRON:** Yeah, we might be able to follow that up a bit further, and see where it goes.

**MR HINTON:** David, is there anything more that you'd like to add?

**MR CRAPP:** No, I've exhausted my cynicism, Commissioner.

**MR HINTON:** Thank you for that comment.

**DR BYRON:** I do thank you for bringing it to our attention, and yes, we'll see what we can find out.

**MR PARKER:** Okay. Thank you.

**DR BYRON:** Thank you. I propose we take a 10 minute tea break, and then resume with Mr John Boyd. Thanks, ladies and gentlemen.

**DR BYRON:** Thank you, ladies and gentlemen, we'll now resume with Mr John Boyd. Thank you for the written submissions, again. Thanks for coming today. If you'd like to summarise your submission for us, we'll then discuss it. Thank you.

**MR BOYD:** Thank you, Councillor Neil and Councillor Tony. My presentation outlines our experiences as home owners who were unfortunate enough to have bought a home which has subsequently been threatened with heritage listing on four separate occasions. My presentation also describes the significant loss in property value which would result, and the completely inadequate compensation offered by the proponents. My name is John Boyd, I'm 76 years old. My wife, Jan Boyd and I are the joint owners of our home at 400 Mona Vale Road, St Ives, one of Sydney's northern suburbs. We are both aged pensioners.

We thank you for the opportunity to participate in the Commissions heritage inquiry. We forwarded a written submission to the inquiry on 21 June 2005. Although there has been further developments since that date they have not, as yet, affected the heritage status of our home.

Ignorance, but not bliss. We purchased our property in September 1986. At that time our solicitor's searches did not reveal any heritage issues associated with it or that there were any ever likely to be. Had we known the anxieties that lay ahead we would certainly not have bought it. But as it turned out our home had been one of half a dozen demonstration homes which had been built in 1964 and 1965, and were then known as the St Ives Pettit and Sevitt Display Village. They were all sold into private ownership in 1966.

Pettit and Sevitt was a large firm which built project homes. It was originally formed in 1961, it was sold in 1974, and ultimately passed into receivership in 1978. By then the company had built some 3500 homes through Australia, Fiji and New Zealand, and of those homes some 1500 were basically similar to ours.

Our first brush with heritage. In 1988, some two years after we bought our home, our local Ku-ring-gai Municipal Council put forward a proposal to include our house, and the other five original houses of the Pettit and Sevitt display village, onto their heritage conservation local environment plan number 1. Their reasons included, "The homes had all been designed by a Mr Ken Woolley, then a young man, but ultimately to become an acclaimed domestic architect. Landscaping of the display village had been done by a Mr Bruce MacKenzie whose work was also subsequently widely recognised. The photograph of the firm's advertising brochures was done by a Mr Max Dupain, a widely recognised Australian photographer.

We opposed this heritage listing, and in June 1989 council notified us that it had resolved not to list our property. We heard no more about heritage in the ensuing 14 years, and in fact during that time we obtained council approval to alter and extend our home. The work was duly carried out and approved, and the question of heritage was never raised during the entire process.

Our second brush with heritage listing. But heritage was back on the agenda in December 2003, this time at a state level. The nominators were the Ku-ring-gai Municipal Council and the Royal Australian Institute of Architects. Again, we opposed listing. In June 2004 the New South Wales Heritage Review Committee notified us that it had recommended to the minister that the homes of the original St Ives Pettit and Sevitt Display Village be not listed on the State Heritage Register.

Our third brush with heritage listing. In August 2004 Ku-ring-gai Council again proposed that our property be heritage listed and included on its heritage local environment plan, now number 29. Again, we opposed listing. It might be appropriate at this stage to say why. Council's heritage officer had told us that the value of our property would appreciate in value by some 12 per cent if it were heritage listed, but we had very different advice from an independent, qualified and registered property valuer. He reported that if the home were listed its value would drop by some \$120,000, from \$720,000 to \$600,000.

The matter came before council in April 2005. There was some pretty heated debate, I can tell you. Those for listing included council staff, two or three councillors, and representatives of the Royal Australian Institute of Architects, the National Trust, and Docomomo Australia. All of these could see significant heritage advantages in the listing and, incidentally, would not in any way be personally be out of pocket.

Those councillors against listing felt some sympathy for the position my wife and I were in. They could see, in fact, my wife and I would have to bear the full personal and financial cost if our home were listed, and these were significant. The loss in value of our home would be around \$120,000. We are both pensioners, and our home is the main asset we have to pay for the any necessary moves and changes in lifestyle as we grow older. A reduction in its value might well limit what future options that were available to us. The slight reduction in council rates and the \$1000 offered every four years by council for maintenance, upkeep and improvements would be negligible compensation for our loss in property value.

In addition, the councillors against listing recognised that we were being

put under great strain by this continuing move to list our property. I have been fighting cancer for several years, and all this certainly doesn't help. A majority of councillors voted against the listing, and we were duly advised that as a result of council's resolution, council would be taking no further action to list our property on its local environment plan. Their letter was dated as recently as 12 May this year.

Our fourth brush with heritage listing: in the intervening two or three months since receiving what appeared to be final advice that our home would not be listed, some remarkable things have happened. The Royal Australian Institute of Architects admitted that for some years it had been considering several project home display villages, constructed during the 1960s, for heritage listing, without coming to any conclusions. But, suddenly, it was able to make up its mind that the St Ives Pettit and Sevitt Display Village warranted first ranking. This decision was immediately passed on to the New South Wales State Heritage Office who, on 3 June 2005, wrote to Ku-ring-gai Council recommending it reverse its decision and list our home.

Armed with this letter the proponents of council for listing were able to get the matter back before council, and a meeting was scheduled for July 2005. Literally, at the eleventh hour the National Trust also wrote urging council to list our home. Their letter was received the day before the council meeting. Council dealt with the matter at a fiery meeting in July, and yet again decided not to list our property.

The present position: it seems that our property is secure from local government listing for the duration of the current council. A future council could reverse this council decision, and list it. There is, however, nothing to stop a state or federal heritage committee from listing it now or any time in the future.

The future. Well, frankly, we don't know what to do. It seems highly unlikely this issue will go away. Should we cut our losses, sell now, bear the costs of agent fees, stamp duty, moving et cetera, and try and find somewhere else to live? Or should we just stay put, knowing the whole issue of heritage could come up again at any time in the future, and that we might have to face all this stress and strain again as well, of course, as a considerable loss in the value of our home without adequate compensation if it is listed?

Our general comments. From our point of view this whole heritage exercise has been a harrowing and deeply unsatisfying experience. Despite the views expressed by one councillor, it is very hard to see any relationship in heritage values between this little group of 1960 project homes and the Sydney Rocks area or Haydrian's Wall in the north of England. Certainly, these homes were the first group of Pettit and Sevitt homes to be built in our municipality.

However, they were not the first such homes to be built, and are hardly unique. In fact, as mentioned earlier, 3500 Pettit and Sevitt homes were built in Australia, Fiji and New Zealand, and some 1500 of them are quite like ours.

Getting back to our little group of houses, several have been altered over the years, and the landscaping in the group has changed considerably as gardens were developed, paling fences erected, and trees grew to maturity. The adjacent main road, which our home faces, has grown to a very busy six-lane arterial road. Certainly, much of the character of the original display village has been lost, and lost forever. It seems to us highly likely that the vast majority of Ku-ring-gai's 100,00 residents are completely unaware of the existence of this little group of one-time display houses, and would not see any particular merit in preserving them for posterity, but they haven't really been asked.

The 29 day public exhibit of draft LEP number 29 took place at council chambers and at council libraries throughout the municipality. It received several submissions recommending heritage listing. They came from architectural and heritage associated groups within the municipality and the greater Sydney region. All of whom would have been made aware of the situation. All of whom had some sort of vested interest, and all of whom would claim to be experts.

Those against heritage listing were our family, our friends, and neighbours of the people who would be affected. We too had a vested interest, and were aware of the situation. Unfortunately, however, we're not classified as experts. There were no submissions from the general public in favour of the proposed listing or against it. My wife and I approached several heritage related architectural businesses to obtain an independent assessment of our property's heritage value. We came up against a brick wall. None were prepared to become involved once they realised that both council and state were endeavouring to have our home listed in their respective heritage registers.

There is little doubt in our mind that this whole thing has been pushed along by some heritage oriented officer on council staff, perhaps keen to get some achievements on their record, and they've been ably supported by a couple of councillors anxious to increase their municipality's heritage profile. It is also hard to believe that the Royal Australian Institute of Architects could be unbiased in any advice it gave. Who could imagine that it could advise that the work of one of their eminent members wasn't worth preserving.

From a personal perspective, during the whole process we've felt a great sense of frustration, and of being powerless, and that we were the victims. We have been effectively under attack by a few members of council and its staff,



and by representatives of these other bodies interested in heritage. But none of them were interested in our viewpoint or seemed to have the slightest feeling of caring or compassion for us or the position they were putting us in. They were, in effect, quite prepared to rob us of over \$100,000 of our life savings without any adequate compensation. An action which, in other circumstances, might well have landed them in gaol, and perhaps that would be appropriate.

To sum up. In a nutshell, it seems to us that if Australia is really serious about preserving its heritage it is essential that it lay down rules and guidelines for adequate consultation with the public, and for the honest and fair compensation to those who are effected. Efforts to preserve our heritage may well be politically correct and cultural elite, but without adequate financial and other compensation people affected are simply immoral. Thank you for this opportunity to talk to you. Copies of all of the documents associated with it have been forwarded to you. I'd be delighted to answer any questions you might have.

**DR BYRON:** Thank you very much, Mr Boyd, and I'm sorry if we're putting you under any additional stress by being here today. As we've been saying to everybody else, we're not really in the position to solve individual specific issues, but your case seems to demonstrate what a number of other people in all states have raised as a concern about the private cost of having your own private residential property heritage listed. You said just then that the independent valuation was a reduction of \$120,000 approximately in the value of your property, and that the council heritage officer had suggested that it would probably actually increase in value.

**MR BOYD:** Yes.

**DR BYRON:** Did he have any information or evidence or anything else in support of his argument that it would go up?

**MR BOYD:** There was a member that did a doctorate degree from Macquarie University on the value of heritage listing of property, and it was categorised from - and I've got a full copy of it in my bag if you'd like it.

**DR BYRON:** I think I've seen it.

**MR BOYD:** But it characterised it from the very earliest, and right through Elizabethan and through Federation and so on, up until the 1960s. They found 78 homes in the whole of Ku-ring-gai that they would use as a base that were heritage listed, and then they compared those with 78 homes that were not heritage listed. The homes that were built in the 1960s, there were two, and they compared those to 14 homes that were built in the 60s. So the thing was completely out of whack as far as I was concerned. Their overall finding was

that houses would appreciate in value by 12 per cent. But as there were only two houses in the bracket that we were in, to be able to sort of say the other 72 had gone up, which were all pre-war and well before that and back into the previous century, seemed to me to be just completely wrong in fact, and I'd be delighted to let you take away - - -

**DR BYRON:** No, I've already got a copy of that, thanks.

**MR BOYD:** You have?

**DR BYRON:** Right. Tony?

**MR HINTON:** Mr Boyd, thank you very much for your submission and your participation today, and I appreciate that both are not without effort. So thank you very much in preparing a written submission, and also coming in today and hearing some of the earlier people appear, and also appearing yourself. So thank you very much.

I had a question about the six or so, half a dozen or so, that were the Pettit and Sevitt display homes that yours is one of. Two questions. Have any of the others been listed in that group? And the second question is: have they, the owners - if they have been under the possibility of being listed - have those owners also pursued the way you have very actively pursued the council not to be listed?

**MR BOYD:** Well, to answer the question - when it first came up back in 1986, 88, I took a day off work and went down to Ku-ring-gai, because we received the notification through that they were investigating it under LEP number 1. I took a day off council and made an appointment with the planning manager and with the heritage people that were involved, and I asked them to tell me exactly what was involved, and to give me a set of rules of what would happen if I became heritage listed. I took time to read all those, and then had further meetings with them, and it became apparent to me that I would, if I agreed to heritage listing, in a major sense lose control of the property, and I didn't have any thoughts of demolition or anything else.

We were trying to make it our home, and if we wanted to alter it to suit our lifestyle or if we wanted to do additions or - at one stage we actually drew up plans to put a gabled roof on it. The building has a flat roof, and we actually had quotes done and plans drawn up for a gable roof. So I wanted to find out how it would effect us as a property owner, and I decided after I'd read all of the information they provided that I didn't want any part of it. So I engaged a solicitor who then advised me to engage a barrister, and so we got the barrister to write some letters, and as soon as we did the council then decided that they would not list our home. But they listed the other five.

The reason they listed the other five is that the other five home owners didn't know what they were getting into. It wasn't until 2004, when the state then decided that they would endeavour to list them all, that they suddenly said, "Heck, what have we got ourselves into?" They're now battling desperately to get off. There's one exception to that, number 27. It was one of the six, and initially it was listed, but then a subsequent owner said, "No, it's not a Pettit and Sevitt home," and applied to council, and they took it off the list. So it was unlisted, and ours was the other one that was unlisted.

So then a new person bought the property, and he made application to build two houses - knock the house down and build two houses on it - and then suddenly the council called in the original architect - that's Mr Woolley - he had a look at it and said, "Yes, it's a Pettit and Sevitt home," so the council said, "Well, it's going back onto the heritage register." They then took him to the Land and Environment Court, or he took them to the Land and Environment Court, and he lost the case, and the Land and Environment Court said it should be heritage listed.

**MR HINTON:** His development application to put two houses was declined?

**MR BOYD:** Yes. So he tried to sell it, and then unsuccessful. He could sell it at a give-away price, but he'd spent a huge amount of money in the Land and Environment Court, and decided that he wanted to try and get some money back. Then it came up again, of course, in April, because the state decided that they wouldn't list it, and then council came back again. In fact the council voted him out of the heritage situation, and they've now done that twice. Currently, his house and my house are still unheritage listed. We're not on the register at all, and the other four are. So it's just a crazy situation. The four houses that are on are all crying, and they've signed a petition and done all sorts of things to try and get the council to change its mind. New South Wales says that - the New South Wales Heritage Office said, "If an application comes through from council to remove those four, we won't sanction it," so they won't let them come on. So we've got two houses off, currently, and we've got four houses on. It's just a crazy situation.

**MR HINTON:** Presumably there is a risk that the argument will be put that because the other four are listed, therefore that provides prima facie grounds that your place should be listed for consistency.

**MR BOYD:** Exactly.

**MR HINTON:** Was that the argument used last time it arose, as recently as April this year?

**MR BOYD:** Yes, well, that and amongst other - - -

**MR HINTON:** July.

**MR BOYD:** It's sort of like a big axe hanging over your neck, ready to chop your head off because you don't know where the next one is going to come from and how strong it is. Let me tell you that the council and the state have spent thousands of dollars, thousands of dollars. The document for the April situation, gospel truth, was that thick. The man hours and the printing and God knows what that's gone into it. I just don't fathom it.

**MR HINTON:** Have you explored with council a proposal that seeks some sort of statement that can give you some assurance that you will not be listed for X years or whatever?

**MR BOYD:** I wrote to the general manager, the director of planning and the Lady Mayor and asked exactly that question. "What does it mean?" I got a letter back and there's a copy of it in this submission that I've just read to you. It's across the back there somewhere. It's a letter from the Lady Mayor.

**MR HINTON:** Councillor Adrienne Ryan.

**MR BOYD:** Yes. They can't give any recommendation at all.

**MR HINTON:** The letter says:

Does not have the power to pass a resolution that binds or attempts to bind itself or any future council as to how it will or should make a decision and when faced with a situation whereby law the council is required to exercise its discretion.

**MR BOYD:** I didn't understand it and still don't. To me it's, "Yes, you can get listed next week if we decide."

**MR HINTON:** I think the import of the paragraph is quite clear. There is no guarantee that a listing is ruled out in the period ahead.

**MR BOYD:** Sure..

**MR HINTON:** Of course they would not dare offer a legal opinion.

**MR BOYD:** It puts us in a heck of a position. If I was a young man, Tony, I'd sell the place and take the loss or whatever it was and then go and work hard and make some more money to go and buy a new place. But I can't. What I am is what I am. Nobody wants me. Where do we go? But some of

the councillors don't feel that way and it's unfortunate. I feel as though I'm a winger and I'm pleading stuff. I'm not asking you to make decisions. I'm just trying to tell you what it's like to have that hanging over you all the time.

**DR BYRON:** Has anybody at any stage offered you financial compensation for the reduction in the capital value in the land? Has it even been discussed?

**MR BOYD:** Other than the thousand dollars and the reduction in rates. In fact, we wrote to council in an initial written submission my daughter wrote to council and we recommended that we would pay for six or seven independent valuers and they could ask - they could nominate three or four and we would nominate three or four. I would pay for that - and that we would take a mean of what it was. If council were prepared to pay me that, then I would welcome heritage listing. But they didn't even reply - and subsequently we found out that councils don't have to pay compensation anyhow. It is only the state government, if it effects the owner or the leasee, then it's only the state government that has to pay compensation.

**DR BYRON:** I mean, if there were - just pulling numbers out of the air - 200 people in the municipality of Ku-ring-gai who really felt strongly that your place was needed to be listed, they don't - list it - they'd only have to put in \$600 each and there's 120,000 and you're home sweet.

**MR BOYD:** There's 101,000 people in the municipality. I heard people talk today about lack of funds and what have you. If we need - if we think that heritage listing is really necessary, then \$10 onto every rate notice in Ku-ring-gai - if I've got three children and a wife, so there's five of us, so they put the rates up \$50 a year and there's 101,000 residents, we'd have \$1 million to do something with heritage with. I'm not trying to say anything other than you can't really walk into people's lives and make decisions that effect them financially and physically and mentally and just walk away and say, "Well, we fixed that problem. Those six houses are right, tick them off," and we're the victims. We're sort of out in the surf putting our hand up but there's no lifesavers. There's no way back.

Once I'm listed then I'm listed. I can't get off. I can't appeal to anyone. There's no-one I can go to. I can write to the minister but - you know.

**MR HINTON:** This is why we appreciate you making significant effort to send the written submission in and come in here today to talk to us because it gives us another case study as to the operation of the system certainly in New South Wales, particularly in regard to two aspects, (1) the criteria that are being used to pursue heritage listing but secondly, the processes of decision making and review that do not seem to be generating, certainly in your case, any degree of certainty as to what the implications are for the assessment of your property.

So we do appreciate that you have brought this to our attention. We also appreciate we know that that has not been without some significant effort. So thank you very much. Is there anything else that we haven't covered that you'd like to cover because we want to give you full opportunity to explore these matters.

**MR BOYD:** No. I'm just so grateful that we've been able to tell our story and to let you know what it feels like to be under that weight. The one thing I'm really really sorry about is that if my ward alderman, Tony Hall, hadn't dropped a note that he received from the general manager of Ku-ring-gai Council to say that your inquiry was taking place - if he hadn't dropped that in my letterbox, I would never have known this inquiry was on. I don't think there's anyone in the municipality of Ku-ring-gai that knows it's on other than probably the people that were at the council and those associated with heritage within the municipality.

I can show you, I've got with me, in fact, letters that people wrote in 1988 to the council, begging them not to be heritage listed. Someone at council read the letters and then marked it list and it reminded me of things that happened in the war, "Him, them, get rid of them. He can be saved. This one goes," and so on. If you go through these letters it's just that. People have put in - writing about their experiences and why they don't want to be heritage listed. But the council just saying, "Listed. Listed." Probably one or two people making decisions that effect the lives of those people. And so I'm really really sorry that the general public didn't know that you were an operating unit and that you are trying to gain information about what's happening.

Can I tell you that in that first survey done back in 1988 there were 900 units in the municipality listed. I heard today in this meeting that the New South Wales state registry has got 1500 on it. To me that just seems completely at odds. I mean, here's one municipality with 35,000 homes it in has got 900. And how many homes are in Sydney? How many homes are in the whole of New South Wales? They've got 1500. So something is wrong, in my view and in my thinking of the whole system. I don't mean to defame the council workers, the people on the staff at Ku-ring-gai by saying that they're trying to get some marks on their books. But it just makes you wonder what's going on and where it's all going to lead to. Thank you again.

**DR BYRON:** Thank you very much for coming.

**DR BYRON:** Ms Colleen Morris, Australian Garden History Society.

**MR HINTON:** I apologise for the change in time. Thank you for being here.

**MS MORRIS:** I probably should warn you I have reduced hearing. I am the national chair of the Australian Garden History Society. In our submission we gave you a brief overview of our structure. I'm also a professional heritage consultant that specialises in gardens and landscapes. So I guess I'm bringing that perspective to the inquiry. I'm also involved with other non-government organisations such as the National Trust and the Royal Australian Historical Society.

I guess to summarise the points that I wanted to emphasise was the need for further education in this area to raise awareness of the importance of heritage gardens and landscapes. I was very impressed with what Sharon Sullivan said about the need for leadership from the Commonwealth government. I really feel that as a community we need some inspiration. So the days of the old National Heritage Commission actually putting out publications about gardens and landscapes did very much help raise that level of awareness on a national level. So that is one issue that I think is important. I also think we are chronically underresourced in the heritage area, especially cultural heritage as opposed to natural heritage.

We have a lack of skilled workers in the area of historic gardens. So I think there's a need for training. There's a need for incentives to preserve heritage gardens. To add to my written submission I realise that our annual turnover had been left off our submission, it's about \$175,000 in the year 2003/4. Of those, \$24,540 was spent by branches on restoration projects; that's direct work. Most of our turnover is spent on publications and education as well as running our web site and our office.

I think it's pertinent to add under the issue of tax deductibility and our efforts to achieve that that in August 2004 Minister Mal Brough wrote to us that in rejecting our application for DGR status he replied:

While the society has similar objectives to the objectives of the National Trust, the government considers that through granting specifically listed DGR status to the national trust appropriate support has been extended to preserve and maintain Australia's cultural heritage places.

I would disagree with that. I'm on a technical committee for the National Trust. I really support the National Trust and they support us as well in our activities. But to just say "appropriate support has been extended to Australia's

cultural heritage places because we've given the National Trust tax deductible status," I don't think that's really a very valid argument today because I think the National Trust is really struggling to cover all areas as part of their concern. That's why I think it really would help if the government would think of extending that whole DGR category, those DGR categories because we slipped through the cracks so to speak of all the listed categories.

Of the general concerns, the development pressures that we have specially in urban areas and the pressure on gardens and cultural landscapes is extraordinarily high. There seems to be lack of recognition among developers as to how historic gardens and important parts of landscapes, important curtilages to older properties can add value to a development. From an amenity point of view and from the point of view - merely as an amenity point of view to begin with, apart from the fact that having a heritage property in the area will attract people to go there in the first place. This is particularly noticeable in the urban release areas in western Sydney.

There's also, at a local government level, I think a failure to be able to envisage the ramification of some planning decisions on gardens and landscapes. For instance, development adjacent to an historic garden is actually going to overshadow it to a large degree. Land modelling has, especially in western Sydney, in the Campbelltown area, there's been land modelling now adjacent to the freeway that has stopped, blocked view over what was a significant heritage landscape near Macquarie Fields House. Thousands of commuters each day used to look out over that and that's - actually adds to the quality of their life as they're going along the freeway.

I was subsequently involved with another council where they had said, "What we want to do is avoid what's happened at Campbelltown from the freeway. We want to preserve views." So views over significant cultural landscapes I think needs to be recognised within the system.

As far as gardens are concerned, there's often a lack of recognition for the need for ongoing management and maintenance and long term planning. There's a lot of deteriorating infrastructure that's not visible in heritage gardens, such as plumbing and drainage and grants for fixing up such things, or getting people to sponsor - repairing this sort of infrastructure is not terribly appealing at times. People want to be able to be involved or engaged in something that's very visible and that they can see where there's a result. So I think that sort of getting support for the repair of that infrastructure is often difficult.

There is a lack of training of staff, particularly, I would say, at a horticultural level. I'm frequently called by the telephone when there's a job coming up in - maybe you'd see it like a small museum property or a historic garden - to see if there's anyone I know that will have the requisite expertise to



be engaged or to be interested in going for that position. Usually I have to reply that everyone that I know that's any good is actually employed elsewhere.

At a professional level, I came from a different background originally and I undertook to do a master of heritage conservation in 1992 in the course that the University of Sydney commenced. At that stage there was a landscape architect with a specific interest in his garden history that was employed by the Faculty of Architecture, who ran that course, and he was actively involved in running that heritage conservation course.

When he retired he was replaced temporarily and then budget levels meant that eventually that position was abolished. I taught in that course for about three years after graduating, sort of in the late 1990s, and I was engaged on a casual basis. Again there were budget cuts and it was back down to visiting lectureships. Now they're very infrequent and so that course does not have an expert in garden history or heritage landscapes involved in that course on a full-time basis.

Also I don't believe the Colleges of Horticulture have people that have this sort of expertise. It seems to be a chronic problem of economic rationalisation. If there's someone there that happens to be able to teach that subject, that's good, or is able to teach in that area, but if they're not, well, you know, there are other things. The resources need to be spent on core business, which is teaching horticulture and gardening, whereas the heritage aspect of it is probably not seen as core business. Where historic gardens are recognised I don't believe funding has been commensurate to the increased visitation and pressures on those historic parks and gardens. In a recent survey of Sydneysiders' use of parks and gardens, the Royal Botanic Gardens in Sydney rated equal top - that was 40 per cent amongst respondents as the Royal National Park, both heritage gardens and landscapes - as the most frequently mentioned location.

I have watched over the years the rationalisation of garden beds and planting at the Botanic Garden in Sydney as they've had to increasingly sought to be self-funding and do the fundraising within the gardens themselves, and this is a place which I believe is of international significance. It's the place within Australia which holds arguably the oldest scientific institution in this country. It is where botany and agriculture both began after white settlement in this country. We use it. We love it to death. It is extremely popular with overseas visitors; it's extremely popular with interstate visitors and Sydneysiders and I just don't think we're putting enough money in it as a government, as a community. Ultimately, the government has to gain money from the community, but I think we need to actually give these places more.

One issue that I think is probably really quite left field in this inquiry that

is an issue for us is voluntary workers' insurance. We're actively engaged in practical working bees and voluntary workers' insurance has been a big problem for us. We had an incident in the last two years where someone was injured on a working bee. They were not covered. Their injuries weren't really covered by our voluntary workers' insurance. We sought voluntary workers' insurance quotes from other places or other insurance agencies. One of them, interestingly, only insured people up to the age of 55. When we looked around the room of our committee there are only a small number of us that were actually under 55.

**MR HINTON:** You're skating now.

**MS MORRIS:** So in common with other organisations, we're an aging membership. Contributions of governments, first of all, I would say I would agree with Sharon Sullivan that it's actually crucial that the momentum and credibility of this new national system is not lost.

From the perspective of our society, we were involved with nominating Recherche Bay in Tasmania to the National Heritage List. We actually put in a submission for an emergency nomination in December last year and we're still waiting for a result and I'm sure you've heard quite a bit about Recherche Bay, but I considered the response to that emergency nomination was extremely legalistic in its wording and there were some real puzzles to me because it appeared that there was general agreement to all the factors that were involved with listing the place. It's very likely that it would have the values and yet it wasn't listed. I'm hoping, I'm hoping that that will be resolved in due course. Richard Mackay mentioned Port Arthur as an example of where government ownership was the best means to protect a heritage asset and I'd suggest perhaps some form of that could be appropriate for Recherche Bay, but I'm sure there are people that have been thinking about those things.

It's also another example of where those landscapes which are the most under threat, or the most likely to be impacted upon by adjacent development, are sometimes the most difficult to get listed, and to move on from that issue, I use the example of the state heritage listing of a number of colonial gardens on the Cumberland Plain in western Sydney. About 18 months ago the Heritage Council agreed that these properties - a list of four or five properties - be listed on the State Heritage Register. They are all in the area of proposed urban release. The owners were in favour of listing, and that recommendation went to the state minister and they still have not been listed.

It can be very difficult to get grant funding. The National Trust property and garden Everglades in the Blue Mountains, a garden designed by Paul Sorensen, urgently needs a conservation management plan, or has needed a conservation management plan for a number of years; and the National Trust

has applied for grant money from the Commonwealth government in the past and they've been knocked back on a number of occasions.

Private owners and private sector contribution: the community heritage grants, I think the abolition of that national estate funding is very disappointing. With private owners and in the areas of the community, it's a matter of a small amount of money can actually go a very long way; because what a small amount of funding can do is it can pay for a part-time employer who can then coordinate volunteer groups. One example would be Abbotsford Convent in Victoria. It's not an Australian Garden History Society project, although one of our prominent members is the person who's paid there, and some of the volunteers are members. We're very interested in this project.

They had a grant of \$50,000 from the Ross Trust. One person is paid out of the grant for two days per week, and she coordinates the volunteers. From that, she has two regular conservation volunteers and one Greencorp person two days a week for six months. So this is a project that has mainly operated on volunteers and donations, and in 12 months - I had a look at the place in February, and what they've achieved is quite extraordinary. They've re-established garden beds, they've cleared the undergrowth; and really, what happens with this small amount of money is it has a snowball effect, because once people can see that there's something happening and there's a result, you'll get more volunteers, you'll get more donations, because people get excited and they're more likely to come forward.

The Bishop's Court garden in Victoria is one that we have been involved in. It is one of the success projects of the Victorian branch. Between 2001 and 2004, the Victorian branch of the Australian Garden History Society raised \$26,986.83 for the project, and they had spent \$24,163.56 on professional support. So that funded tree surgeons, a professional gardener, path resurfacing, fertiliser and plants. That was in that three years, 656 volunteer days of work. So the voluntary contribution put by NGOs is quite substantial in this area.

There's also, I guess the morale sort of boosting effect that a society like ours can have for a private property owner, where the garden might be important. I'm thinking of two examples: one is Winstay in Mount Wilson, which is a very important garden - that's in New South Wales. The person that inherited that property really wanted to keep it and Zeny, who is here, helped organise those volunteers; where volunteers spent a weekend helping her prepare to have that garden open, and where they cleared and pruned and generally really put in a lot more volunteer hours to prepare that place for her. I think that sort of contribution can really help private owners with important gardens. It gives them a real boost, and it makes them feel that it's worthwhile keeping the place and attempting to keep it intact as a heritage garden.

At Turkeith, a significant garden designed by William Guilfoyle in Victoria, over the years the AGHS has provided support to the family, both practical and just knowing that we're there to help them. It came at a time some years ago, I believe, when the family demands and the decrease in wool prices made maintenance of the garden quite overwhelming to the family, and a group of volunteers have for some years gone there once a year, and have continued to do so over a change in ownership. So over the years also the society has funded the rebuilding of walls and the entrance gateway, and they have got students from RMIT in Melbourne involved in this garden also.

So that's a success story, which I really want to emphasise, that a lot can be achieved with a small amount of funding and voluntary workers' participation. So I'd really - I'd love to see out of this Productivity Commission a recommendation that some form of national estate funding be reinstated, because I think you can do a lot with a lot of small amounts to different projects with voluntary funding. Also, my recommendation would be that there should be tax incentives to maintain and keep significant gardens.

**MR HINTON:** Excuse me, Colleen, I don't wish to interrupt you inappropriately, but we've been going for 30 minutes now, and we are getting squeezed for time.

**MS MORRIS:** Okay.

**MR HINTON:** If you can either focus on the real issues that you want to definitely put to us or we can move on with some questions.

**MS MORRIS:** Tax incentives is something I think needs to be a recommendation, and I think developers should be required to put more funding into keeping historic gardens if they're developing within the curtilage of historic property. Also, where we have increased urban development. I mean, for instance, in the City of Sydney we have - we've seen a substantial increase in the population density. I think there should be a levy that could then go to help provide the Royal Botanic Gardens and the Domain, which is one of the real living spaces in the city, more funding, and I think we should be thinking of doing some sort of structure.

**MR HINTON:** Your "more funding" message is coming through - - -

**MS MORRIS:** More funding.

**MR HINTON:** - - - very directly. So, no need to reiterate that one.

**MS MORRIS:** And incentives for sponsorship. Please, any questions?

**MR HINTON:** Thank you. Colleen, thank you very much for your written submission and your participation today. That was a substantive presentation, so thank you. The importance of - or your work you do, you really spoke with passion and interest, so thank you. I had two questions. (1) It's a sort of a not quite devil's advocate question, but it's a - can you get me a better understanding, give me a better understanding, of the recognition of the need to maintain, conserve, preserve, have in our communities gardens, and the need to maintain to maintain, preserve, conserve those gardens that have heritage characteristics in a heritage state?

In circumstances where we're talking about growing things. Things change daily. Trees fall over and die. Shape of gardens can be a characteristic. Composition of gardens can be a characteristic, but a garden is a living thing. I have a difficulty in disentangling those two categories. I'm all for the amenity of gardens in our urban landscape - a crucial part of life. There seems to me to be a challenge here with regard to the objective as regard to heritage gardens. Can you briefly help me out?

**MS MORRIS:** Heritage gardens actually are going to be an amenity, as well as new gardens. One of the important things about heritage gardens is to maintain the character, I believe. That does not necessarily mean that that tree is going to be in that place forever.

**MR HINTON:** Precisely.

**MS MORRIS:** In fact, J.H. Maiden who was one of the directors of the Botanic Gardens in Sydney from 1896 to about 1924, he had a very good tree replacement strategy for that place. What he did when a certain species of tree was senescent, and was dying, he would propagate off that particular tree. He would plant - after they had a new tree, they would plant one in the vicinity of the old tree. I don't mean right next to it, but in the vicinity. You had a composition that although changing, it maintained the same sort of character. It maintained some sort of continuity. Botanic Gardens, for instance, have changed since that time, in that now they want to plant provenance trees. One of the most crucial factors of botanic gardens, is that one of the most principal aspects of their significance is the continuity of use, and the fact that they're still living as an institution. So they have to remain relevant to cotemporary society.

In heritage gardens, I think it is actually important to maintain that character. Does that - - -

**MR HINTON:** That helps.

**MS MORRIS:** That helps.

**MR HINTON:** One other quick question.

**DR BYRON:** Okay - last one.

**MR HINTON:** You've referred to the developers being required to put more into heritage gardens in circumstances where they impact on the curtilage, surely that is part and parcel of a planning process - land use process. The system seems to be capable of pursuing that particular objective. You're not suggesting that the system is deficient in any way there?

**MS MORRIS:** I think sometimes heritage is pushed to the side a little. People have jumped ahead and made decisions before - heritage has, sort of, taken into perspective a little later than it probably should be sometimes. People get ideas and then are pushing things ahead. I think it's actually very important that heritage be part of the groundwork in any future planning, you know, taking that into consideration - opportunities and constraints of heritage, yes.

**MR HINTON:** Thanks again very much for your participation.

**DR BYRON:** I'm afraid we're going to have to keep moving. We could talk about this a lot longer - but at some other time. Thank you very much, Colleen.

**DR BYRON:** Ms Walker from Lidcombe Heritage Group. I'm sorry to keep you waiting a bit longer than the time we advertised.

**MS WALKER:** That's all right. I may as well join in now. I might refer to it. I don't know yet. The reason I've brought a lot of paraphernalia is sorry - you want my name - Raema Walker, Lidcombe Heritage Group.

**MR HINTON:** Thank you, Raema.

**MS WALKER:** Recently, I had to speak at the Heritage Council of New South Wales. After my 10 minutes in which I was confined to a couple of points, I came away thinking that the people there didn't know what I was talking about. I just had a couple of photos to illustrate those points. I felt they didn't know the history, or the place. So, today, I've brought just some of the photos and information.

**MR HINTON:** With no flippancy, I should mention that they don't come across very well on transcript.

**MS WALKER:** I know that, but you will be able to see. There's an important point that came up a little while ago. Sue Jackson, is, I believe, a heritage consultant. She called a meeting - actually her neighbour rang me one morning saying, "There is a meeting about a Productivity Commission." "What? Who? Where?" Our group belongs - we are affiliated with the RAHS. I believe we didn't have anything through there. I didn't know this neighbour, but she said there's a meeting. Okay, I tried to get someone else to go with me, but they couldn't. I went. There were a few people, not all that many - that's at Haberfield. Sue Jackson has done a marvellous job about Haberfield. She's been a major focus keeping Haberfield a beautiful suburb to go and visit. It's worthwhile.

At that meeting, she suggested a one-page submission summary would be good to sent to the Productivity Commission so that it would be read.

**DR BYRON:** And we've read it.

**MS WALKER:** Good. When I've heard of many , many pages - have I done the wrong thing? However, you have read the one page, and understood it. I don't know anything as much as these other people know, I'm working from the ground up, because we're hands-on people. I'll say this little part again. Unless the government bodies are involved in assessment, listing, planning and conservation of Australian historic heritage - be it of natural environment or built - it would be impossible to maintain. Volunteers should also be partners which can help to minimise cost of upkeep. Just by the way, members of our

group are also volunteers in the Duck River - 11 hectares of beautiful bushland. It's very uplifting. The current pressures that I see in maintaining heritage places are that local councils are encouraging high-rise infill impacting on older residents near railway stations, overshadowing - changing the whole atmosphere of suburbs.

You might call that "amenity", but I noticed another note I have back here of mine is:

Many heritage homes are built near railway stations because they were the first ones in the area. They are the ones that are going to be impacted by the developers when they come in, because within 500 metres, up go the 14 storeys, as in Auburn under the Urban Consolidation Plan. Migrants come here for a better life. They may as well live in the high-rise of Hong Kong or Beirut. Sydney is losing its own character.

This is what I believe. It is costing too much, probably, to conserve our history. I'm wondering whether our wealth is going towards supporting unemployed or chronic illness pensions. Jobs are outsourced overseas. Local sweat shops exist, but former employers are going out of business because of cheap import and taxation is not producing enough to provide funds for heritage conservation.

That's what I believe. Page 8, I've got - I'd better say this first: We, the Lidcombe Heritage Group, currently have 93 members on the books, although only a small portion is active; we're all getting older. Actually, 86 is the age whereby you can't be covered by insurance, because we don't - that group doesn't do the digging or the weeding. It's, yeah, just going to meetings. Originally we had more than 100 names, but over the period of our existence, since 1994, some members have passed away. We're affiliated with the RAHS, who negotiate public liability insurance for all the groups, but it's still a hefty sum to be paid annually just in case someone takes offence at us.

Our aim is collect and disseminate the history of the former Lidcombe Hospital, as well as promote the conservation of as much of the artefacts, archives, landscape and historic buildings on the site. Our first book, Lidcombe Hospital's Centenary 1893 to 1993, A Pictorial History by Don Keast has been reprinted, and the second, A Historical Tour of Lidcombe Hospital 1995 by Dr Greg Marcar and John Ballard has now been revised and updated to 2005. I have the two books here to give you. I'll just hold up one to show the - okay, that's the cover of the second book, the 1995 just revised. I'll just hold up this one, the first one, and you'll see on the back what's been reproduced. I have more over here to verify that.



Sadly, in the year of its centenary, 1993, the government of the day decided that Lidcombe Hospital, with all its credentials as a centre of excellence in gerontology and chronic disease - in 1990 it was called that - could be sold off as surplus to requirements. All that expertise acquired over the many years of medical and surgical experience, and acting as a teaching hospital in several fields for universities, was to be disbursed to other hospitals, and the teams broken up. Hundreds of local residents reacted to the loss of a vital facility by forming protests in Bankstown and Auburn, and on site. But even a change in government did not stop the loss, and in 2000 Sydney staged "the best Olympic Games ever" with 6000 media personnel housed in buildings and portables all over the Lidcombe Hospital site.

Quite a few hospital buildings were demolished to fit the hundreds of portables onto the site, notably the 1933 administration block, gateway to the heritage precinct, which the heritage precinct was built in 1886. Now the last 44 hectares has been levelled for Australand's Botanica. Botanica is here in the local paper. Quite hideous. They're all two storeys. There's no villa homes really for people who can't go up steps, it's all for - actually, they call the "adaptable homes", which cost \$720,000, you can live on the ground floor in the adaptable homes, and I suppose you have to rent the top for people who can go up steps. They're horrible.

But what I say, now the last 44 hectares has been levelled for Australand's Botanica Estate of 750 dwellings after a 10 and a half day battle in the Land and Environment Court. Epic battles like this need to be recorded nationally, we believe. Now, that was a question on - they were saying - I can't find it now. "Should they be listed?" That was one of the questions? One of the 85 questions?

**MR HINTON:** Yes.

**MS WALKER:** And I do believe so. Okay, we've lost heaps. We haven't yet lost the original 1886 dwellings, not yet. They have - we have had the presentation in, and the State Heritage Council is favourable to registering the old section.

**MR HINTON:** Of the hospital?

**MS WALKER:** Yes, the original, which is in a loop here, from the main drive up into a loop, and that's the village green in the middle. Actually, Sue Jackson named it the village green when she came out to see the place and fell in love with it also. So, hopefully, that will still be protected. Also, the curtilage that belongs to now - not Australand, but - well, Australand hasn't paid yet, they're paying over five years, they're paying \$100 million for it. But the other curtilage of the triple drive belongs now either to the Department of

Health or SOPA or OCA or the mining department, and that's still under - yes, it's not protected yet, but we hope it will be.

This is the main drive, with the stone gatehouse at the front. That was 1912. The slip roads at both sides - that is, that way from Joseph Street, and you would come in, and that is the area there. But as you can see the hospital - well, actually, it was 1300 acres to begin with, and it went right over to the Hume Highway. This is Joseph Street going between Lidcombe and Bankstown, and the new Jack Lang Wing, which was built in 1977, and opened then, has now been reduced to rubble.

A person coming out from the depression, 29 and - I was born in 33. But we were very careful with our resources, and knocking things down like that is anathema to me. This is the one that went down. This was a 1933 building. The triple drive. This one here might be the only house, building that is properly conserved. Apparently now the Department of Commerce has allotted, appropriate money in order to conserve Dr Fox's house. He was the first resident doctor at the hospital, and when he retired in 1929 this is what happened.

He was so loved that he was given - five pages here of illuminated address - and that's where the covers come from to the back there. And everybody who worked with him signed the illuminated address. That's one lot there, more there, and more signatures here. He was very much revered, and we're grateful that the public works are now going to conserve his house. That is how the palisade fence used to be along Joseph Street, with gates and the gatehouse, the stone gatehouse. What I'm annoyed about - I'm annoyed about a lot of things.

**DR BYRON:** Tell us the main one.

**MS WALKER:** The main one here, yes, is we had back - after 12 months we had back the nomination to the Minister for the Environment and Heritage of the former Lidcombe Hospital for inclusion in a national heritage list. Now, we understand, and on our application forms we advertised, that the wooden and brick wards around the heritage area are listed by the National Trust, and classified by the Australian Heritage Commission in Register of the National Estate. I don't know if that is still valid or not, because now they're saying:

The council has assessed the heritage values of Lidcombe Hospital against the national heritage criteria, and has advised the minister that in its view Lidcombe Hospital does not meet any of those criteria.

When you go through - where's the last page - I want to - is there an

appeal, because I want to contest the answer, because when the answers that come through, they're saying what natural heritage or indigenous heritage or historic heritage, and they're saying it doesn't comply, but I believe they do. I believe they do. The landscape of the area is outstanding. It has gardens that were planted. The gardens were planted as landscapes next to the drive. That is the southern slip road, of Palm Circuit; that's one - and then the main drive is in the middle and the other slip road to the north. In between there are the gardens, the landscape gardens. Now I believe - I've seen Australand are planting Kangaroo paws. Back in 1906 and 12 would they have had Kangaroo paws in here?

I know there's a list from the botanic gardens, I haven't got it, but I don't think they're doing the right thing. Godden Mackay Logan were actually the only people who - let me start again. Australand, in fact, were the people who asked for the listing. Their application is being actioned. But back in 1991 the Auburn District Historical Society asked for a listing. Our group, the Heritage Group in 1995 asked for listing. The local MLA, Peter Nagle, asked for another one and nothing happened. I think - I'm sure it's because the games were coming on. In 1993 I cried when I knew we were getting the games because I thought we'd lose the hospital - and it happened. I think that's because they didn't want to jump either way.

Nothing has happened, except a fence has gone around and protected it from vandals, which is one thing, but we couldn't even go in and pull a weed out. We knew there were weeds growing but we couldn't - but at least the fabric was protected by City Eastern Security, so that was good. But how it couldn't be assessed as valuable to the community, I don't know.

At one stage in about the 1920 there were 2000 people on site. 1500 in the home, because they said they had no family or no home. Sometimes in wintertime there were more people than in summertime and there were 500 people or so, men, in the surgical or medical wards. It was, at that time, the biggest institution of its sort in the southern hemisphere. It just blows your mind at what went on there, how many things went on. In the book, when you read it, you will see how it grew. The nursing staff had to do their regulation 160(a) exams. They pulled themselves up by their socks. There were people in the services there that had anaesthetics and intensive care - medicine and sub-specialties, geriatric psychiatry, psycho-geriatric, surgery and sub - allied health, nursing.

The people who came were students and ex-students, the professionals - of the University of Sydney, Cumberland College of Health Science, University of New South Wales, Macquarie University, Wollongong University, New South Wales University of Tech, Macarthur College of Advanced Education, University of Western Sydney, Nepean; Wetherill Park

College of TAFE, Sydney Teaching College and the Royal Australian College of Physicians - and it goes on.

Surgeons, dermatology, ophthalmology, psychiatrists, pathologists, general practitioners, medical council clinic - and this was the Jack Lang wing that went down not even reaching 30 years. That was built with four beds to each room and they had their shower facilities within that. It did overlook the Rookwood cemetery, which is next door and it might have put some people off, but the view is beautiful. The view of Rookwood cemetery is still beautiful. Of course, we did have people who passed away and there is a place where the old road, at the back used to go across into the cemetery and I've been told where the paupers' graves were further over near the main road through now.

Let me just show you briefly, this little one is the slip road and this is some of the new buildings that are going up at a pace. In fact, one good thing that Australand did was they've taken some of the mature trees and they've kept them at a nursery and they are replanting them now in the seven hectares of open space on the ridge. Of course, all the buildings - as more and more people needed to be treated at the hospital, it's read, of course, from the originals that came along here, the iron church was in part of or just next to the old section. The iron church has a history of its own. It came out from Glasgow in - a long time ago - and it became - in Macquarie Street it was a church. It was dismantled and because all the workmen had gone to the gold diggings, precast buildings were very important then. We still have them in Macquarie Street, covered over. It then came out to Lidcombe and it was there from 1899 to 1959 when it was taken apart. In place now is the Ken Woolley Hall.

**MR HINTON:** Raema, you have extensive supporting material.

**MS WALKER:** Yes, there's just so much - - -

**MR HINTON:** Which is an interesting story.

**MS WALKER:** Which I couldn't post down to Belconnen.

**MR HINTON:** That's why we're happy to see them here this afternoon. But we are getting a little off our main focus for this public inquiry.

**MS WALKER:** I want to know why this cannot possibly be listed heritage listed with the National Heritage List, the whole site? Now we've lost so many buildings it can't be the whole site.

**MR HINTON:** Our concern is that the Productivity Commission is not in a

position to either challenge the minister's decision or even review the minister's decision. We can hear you loud and clear as to the processes that related to this site - and thank you for that - but we can't really take it any further than that - and that's why I'm a little concerned that we don't want to misrepresent what we can achieve and that is misrepresented to you.

**MS WALKER:** Yes, I know you can't help. But one thing that I noted here, heritage - when you were talking earlier about what is heritage, I've written down, "heritage, like beauty, is in the eye of the beholder." It's only when you know a place over a period of time you try to understand the aesthetics and what's gone on and the history and the people who have gone through that you realise the value.

**MR HINTON:** That's a very powerful comment you make, which is why local experts are very crucial input to the process of heritage judgments and heritage assessments. I think many would share that observation you just made, Raema.

**MS WALKER:** My question is, are the state and the national governments actually bankrupt and you're in the treasury?

**DR BYRON:** Have you checked the vault lately, Tony?

**MR HINTON:** Raema, I can assure you that the Australian governments are in very good financial position.

**MS WALKER:** This is what Mr Howard tell us. So why isn't there more money available to protect our heritage places better than they have been protected?

**MR HINTON:** I think you've made that question very loud and clear this afternoon. And interestingly a number of other interested parties have made the same point to us, not only to the hearings today but in other hearings. There is the old issue, there is no shortage of what taxpayers' funds can be put to. The demands are unending. So the governments have to make this huge challenge of decisions about the priorities to which they're going to allocate taxpayers' funds - and that's a very complicated process that has input across a whole vast array of consultations and inputs and expertise.

**MS WALKER:** I'm just so grateful - - -

**MR HINTON:** I'm not here to sort of respond to what the Australian government budget looks like, but that's the process.

**MS WALKER:** Okay, you're not going to come clean. You won't tell me

how many pennies are left. Well, prioritise please for this. I'm just so pleased that my husband and I worked enough - he's passed away now - that I'm a retiree that's self-funded. I'm grateful for the train ticket, the 2.50 train ticket, that's great. But I think as many people who can should be on superannuation and not be a drain on the government purse. But there's a point I did want to say, the interesting thing was that when Australand applied for the listing, the one comment that came was from Godden Mackay Logan and it was fairly weak. I know Mr Logan is quite a nice man but he's paid by Australand. Godden Mackay Logan are paid by Australand, so why would he give a really good report and say all of the hospital land should be preserved.

**DR BYRON:** Sorry, can you just clarify for me, when you said that that application for listing, was that to national government or to New South Wales government?

**MS WALKER:** State.

**DR BYRON:** You've explained that the hospital site was knocked back for national listing, but you've also gone for state listing.

**MS WALKER:** That was about 12 months ago.

**DR BYRON:** What happened at the New South Wales level?

**MS WALKER:** We're on a knife edge. It's up for decision by - when I heard it was going to be Diane Beamer, I thought, "God, help us." But it's now going to be Frank Sartor.

**DR BYRON:** You'll be right then.

**MS WALKER:** Yes. So I really - I'm in agony. Yes, but it still has to go through another process, doesn't it, yes.

**MR HINTON:** Still outstanding is the way to put it.

**MS WALKER:** Yes, that's right.

**DR BYRON:** I mean you've certainly explained to us the unique features and the fascinating history of the place.

**MS WALKER:** It's just so huge. The cows used to be over in Carnarvon Golf Course and come over here and be milked, it was a dairy. They actually had it down as a shepherd's hut but it's the herdsman's hut. We put in for that to be a museum, from our group. We've offered a - - -

**DR BYRON:** Peppercorn rental.

**MS WALKER:** Yes, peppercorn rental, \$1 per annum but we believe that somebody else has already put in for it too. So they might have offered, two, we don't know. We do hope we can have part of it. But the Ken Woolley hall, Auburn Council didn't want to know about it. I think it's too expensive. They don't want the maintenance. They did pay many thousands of dollars for the Land and Environmental Court case. One thing about it is that at least the village green has to be kept as public space. That was a big win. At one stage it was going to be an institution that was a foreign-backed institution and we had eight and a half thousand petition signatures against that. So it will be open, it won't be fenced. We hope that - these places are for lease - they will be looked after by the people who lease or buy them.

We've had to back off and say, okay, we understand that somebody has to maintain these, somebody. Provided there's a proper regimen for the buyers or lessees to follow, and don't disturb the outside and only manipulate the inside, we'll have to be pleased with that because I know that it would cost a great deal, especially the colonial ones by Barnett, they have the damp coming up, they're the British design whereas Vernon did these ones here and they're up in the air and they're like the ones in India with the airflow and they're beautiful. They are so beautiful and cool - and the Ken Woolley hall.

We have to accept that Australand will maintain or do the right thing by it in order to keep them viable. It's just that it's so sad to lose all that ground which could be open space. The golf course is not open space, you've got to pay to use it. I just recently heard that the golf course is now being subsidised by Australand. Thank you.

**DR BYRON:** Fascinating.

**MS WALKER:** Yes, they're not slow in coming forward.

**DR BYRON:** You don't have any questions, Tony?

**MR HINTON:** I've been pursuing Raema with questions through the course of her detailed presentation. Thank you, Raema.

**DR BYRON:** I think you've answered all mine on the way through too. I really look forward to reading the book, if you can leave us one of those.

**MS WALKER:** Yes, you will enjoy it.

**MR HINTON:** Thank you very much for the effort you've gone into in preparing your supporting material.

**MS WALKER:** I'm very pleased to be able to come here. I'm just thankful for Sue Jackson for getting her neighbour to ring me at first because it was not very well publicised.

**DR BYRON:** Can you thank her on our behalf too.

**MS WALKER:** Sorry?

**DR BYRON:** Can you thank her on our behalf.

**MS WALKER:** I will, I shall do that.

**DR BYRON:** I said this morning that I'd allow an opportunity for anybody who wanted to go on the public record at the end of the day. If there is anyone, I urge them to be as brief as possible. Barring that, I think we can adjourn and resume tomorrow morning at 9 o'clock at the same place. Thank you very much for your participation, ladies and gentlemen, I really do appreciate the trouble you've all gone to. Thank you.

AT 5.41 PM THE INQUIRY WAS ADJOURNED UNTIL  
FRIDAY, 19 AUGUST 2005



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