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TRANSCRIPT OF PROCEEDINGS

PRODUCTIVITY COMMISSION

INQUIRY INTO THE CONSERVATION OF AUSTRALIA'S HISTORIC HERITAGE PLACES

DRAFT REPORT PUBLIC HEARING

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

TRANSCRIPT OF PROCEEDINGS

AT SYDNEY ON TUESDAY, 31 JANUARY 2006, AT 9.00 AM

DR BYRON: Good morning. My name is Neil Byron. I've been appointed the Presiding Commissioner for this inquiry. My fellow Commissioner on my right, is Tony Hinton. This inquiry stems from terms of reference that the Commission 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 released a draft report in early December, which contains a number of draft findings and draft recommendations. Submissions have been coming into the inquiry following the release of the draft and we now have about 215 submissions in total, all of which are on our web site, except for those that have come in, in the past couple of days.

The purpose of these hearings is to provide an opportunity for any interested parties to discuss their submissions with the Commissioners and put their views on the public record about the commission's draft report and recommendations and following these hearings here today, we will be holding similar hearings progressively over to February in most states and territories. We are planning to finalise our report and submit it to the Australian government by the due date, April 6. The Australian government is required under the Productivity Commission Act, to publicly release the final report and the response to it within 25 Parliamentary sitting days of receipt from us.

The Productivity Commission always tries to conduct our public hearings in a very informal manner, but we do take a full transcript for the record. I should also mention that the Productivity Commission Act grants immunity from civil prosecution for any comments made in the course of making a statement, submission or giving information or a document, so long as it is made in good faith. But I remind all participants that these are all official hearings, not just a public meeting, so interjections from the floor are not really helpful and not really acceptable, either.

We always make an opportunity for anyone in the room who wants to come forward and put something on the public record to do so before the day's proceedings are over and transcripts will be put on the commission's web site as soon as they have been checked for accuracy of transcription and they will also be available publicly through libraries around the country or on request from the commission itself.

To comply with the Australian government Occupational Health and Safety legislation, I have to inform everybody here that in the very unlikely event of an incident, alarms will sound and we go out through these doors here, through the fire escape, out into the laneway. The other bit of housekeeping that I should inform you of is that the toilets are just outside to the right, I

think. I think that's all the housekeeping I need to do. So I'd now like to commence our proceedings with our first participant of the day, the representatives from the National Trust of New South Wales. Thank you very much for coming. Please take a seat.

MR O'KEEFE: Mr Chairman, Mr Hinton, my name is Barry Stanley John O'Keefe. I am the President of the National Trust of Australia and New South

Might I now approach the very form of that recommendation. A number of participants expressed the view - we have no idea who they are, the report doesn't tell us. One could guess that they might have been governments or government departments that were trying to devolve their functions, but we don't know.

DR BYRON: It was in fact other national trusts. I can tell you that.

MR O'KEEFE: Then I'd like to see it, Mr Chairman, because I'd like to know because I'd like to rip into them because the fact is that - let's look at the state and the Commonwealth. One of the big gripes of the states is that they get money under section 96 grants with conditions attached: you do as you're told in relation to this money. That's absolutely inconsistent with a community based independent organisation which has its agenda for the protection of the heritage of its area when the government might have entirely different ideas, often - for instance Darling Harbour is a very good example - often dependent upon Thatcherite economics; that is, bottom line rules. So we would respectfully submit that the material in the report, which is at page 156, does not support the recommendations.

In March 1960 when the National Trust was under consideration for being incorporated under a state act, there was a good deal of discussion about the matter, and there was concern expressed in some National Trust quarters that that might compromise the independence of the trust. For 60 years that has not been so, and when the act was amended in 1990 powers were conferred that wouldn't have been conferred on a private organisation to empower the trust to place public positive covenants on properties that were the subject of sale in order to protect them.

It's worthwhile pointing out also in this context that the UK national trusts have a statutory basis; very successful trusts. In Scotland, for instance, with a population about the size of New South Wales, just over the six million, between six and seven million, there are over 250,000 members of the National Trust of Scotland. It's a statutory body; no confusion. There is of course the historic houses as well in Scotland as there is in England, but there's been no problem about identity or about independence in the UK any more than there has been here.

Because of the legislative basis for the National Trust we are able to participate in the state government's insurance plan, and I can tell you that the difference in cost for insurance as a consequence of that, which we would not otherwise qualify for, is virtually to halve our insurance premiums, and that's a lot of money. Not only does it do that, but it does it on the basis that we are insured for full replacement value, not just repair, so there is a positive economic advantage from our position under legislation. There's a down side I

suppose in one sense, although in this day and age of openness of affairs probably not a down side, and that is it makes us subject to FOI, but if an organisation runs itself properly, then it should not fear FOI.

So we would respectfully submit that there isn't the evidence to support the recommendation, and the suggestion that the trust might be a delivery vehicle for heritage moneys for state or other governments doesn't seem to find its way into a recommendation or actually a finding, it's a possibility that's raised. I would have thought with great respect on the basis of my experience of some many years now that it would be much more likely to be a challenge to independence than being incorporated under a state act.

DR BYRON: I don't want to interrupt, but just to clarify, there is at the moment the grant in aid to the National Trust which is about a million dollars a year from the Commonwealth government.

MR O'KEEFE: To the ACNT?

DR BYRON: To all the national trusts and the ACNT.

MR O'KEEFE: Yes.

DR BYRON: That doesn't in any way compromise anything, does it?

MR O'KEEFE: No, and hasn't, but I might say it's an amount that has in real terms and in actual terms diminished over the last 10 years. I think it was three million dollars 10 years ago, it's about a million now, so it has gradually diminished. Our experience is that reliance on federal funds is the way to oblivion.

I want now to address research, and I want to take an example because without wishing to be unduly critical the general impression one gets - I get and those who have been advising me get from the report - is that there is in many areas inadequate research that's been carried out. At page 133, footnote 6, there is a reference to some research by the commission in relation to heritage listing. It relates to a paragraph at the top of the page, which reads:

> The Chairs of the Heritage Councils of Australia and New Zealand quoted a study indicating that real estate agents do not believe that listing had a significant impact on property values, and heritage attributes would generally be regarded as a positive attribute in selling a property.

That's the evidence from the Chairs. Footnote 6 appears to be designed - break down the effectiveness of that by saying, "In an Internet survey of

heritage properties for sale, conducted on 21 November 2005, the Commission could find no evidence of sellers advertising their properties as heritage listed." I asked my staff to do such a search. We came up with 50 properties in which classified by the National Trust, classified on the National Estate, classified by the National Trust and listed on the register of the National Estate, heritage listed, grade A National Trust listing, heritage conservation order National Trust listing, heritage listed with the council et cetera. 50 properties, and that was within the last week. That's a web site that's been going for about six years.

I then asked the staff, would they contact a number of estate agents to ascertain what they said in relation to the matter that the Chairs are reported as having said, and we received a number of replies. I'll just turn up the ones I've got here.

"We believe many buyers choose to live in the area –"

"this is an area which had heritage values –"

> "for a number of reasons, and one that is repeatedly told to us is the appeal of living in a heritage area, and the opportunity to own a delightful historic building. We definitely do not think using words such as "heritage" or "historic" during a marketing campaign is detrimental to the property, in fact quite the opposite."

We have a number of those that we have received, and these are from people in the business of selling. So they are confirming what it is that the Chairs of the heritage bodies said, and no doubt when they give evidence in Canberra on 17 February reiterate that. What I've used this for, however, is to just raise the flag of concern as to adequacy of research. Certainly in that respect it's demonstrated as being quite flawed, and it is our view that that is to be found in other areas of the report. They will be highlighted, or a number of them will be highlighted, by the ACNT in its submission in - Adelaide, is it? Thank you, in Adelaide.

I want now to come to a wind up, a conclusion. It is the belief of the National Trust in New South Wales that if the system advocated in the draft were to be adopted it would undermine the essence of the system of heritage protection that has been developed in Australia over a number of decades. It would so violate the principles underpinning the present system as to destroy their capacity to identify, protect and conserve places of heritage value with integrity. The system proposed, in our respectful submission, would fail the commission's own test. It would be neither equitable, efficient nor effective. What it would do would be give carte blanche for particular owners. In other words it would not just compare public good and private good, it would in ever

case cause the private good, which would always be economic, to predominate over any public good. Anybody who sees their property as a goldmine will, of course, not enter into - by pulling it down and building whatever you like, subject to the zoning, of course - would not be entering into the agreement postulated.

Could I remind the Commission that in 1929-1930 the regulation of (indistinct), which subsequently became a schedule to the Local Government Act 1919, was brought in because the laissez-faire, do as you please, what you want to do, approach to building was leading to the construction of residential flat buildings in entirely inappropriate places. They've been regulated in this state by zoning or its equivalent from 1939-30, lasts for - what's that - 80 years. So zoning considerations are matters that are as significant, and probably more so, in relation to the money objectives of some owners as are heritage restrictions.

We would submit that nowhere in the world has the proposal outlined in the Commission's draft report been used successfully as the basic element in conserving historical heritage places, and it is our respectful view that the analysis that is included in the report in relation to the national heritage system and its problems, a number of which are correct, is flawed because it regards the proposed solution as not just inappropriate but as contrary to the practice around the world for a number of decades. Largely the problem is a system problem, as identified. It is not that the system is inherently wrong, but it is inadequately funded and supported, and it is our respectful view that we do not see how the Commission's proposal will do anything positive for heritage conservation.

We would, therefore, respectfully suggest that there be a relook at the matter, that the fundamental key - "key" is the word - that the key recommendation not be adopted in the final report, that the recommendation that there be a phasing out and ultimately no listing not be adopted, and the recommendation 7.3 concerning the repeal of trust legislation likewise not be adopted. They're the matters that I would like to put before the Commission. They are additional to, although some of them will find their way into the written document that will be supplied by the staff of the Commission.

DR BYRON: Thank you very much for those very thoughtful and considered comments. I guess my first reaction is whether we have a communication difficulty in that the - we may be using the same words with different meanings. When we talk about negotiated heritage agreements we have in mind things which in other areas would be called treaties or covenants or contracts whereby the listing body says, in effect, "We think there would be great public benefit if this property was to be" - sorry, I'll go back a step. Having assessed the significance of a number of candidate properties the listing

agency would go to the owner and say, you know, "Good news, you know, we've discovered or we've assessed, concluded that this particular property has historic and cultural significance, and you are the very fortunate owner of that."

We would like to ensure that this property is well-maintained in the future for posterity and future generations. We recognise that this may impose some constraints on you. Therefore, in exchange for agreeing to put a 20, 50 or 10 or perpetual year agreement to manage under an agreed set of rules, which will constrain some of your options, there is a quid pro quo." That that would be agreed, and then the management of that property in the long term and its conservation outcomes would be assured. The reason that we go for that sort of negotiated heritage agreement on individual iconic properties - and we're not talking about broad zones covering thousands of properties at once - is because, as you've pointed out, we asked ourselves whether the existing system was effective, efficient and equitable, and concluded that it did not score highly on those three criteria. We were solely trying to devise a different system that would be more effective or efficient and more equitable.

So the idea of getting owners of identified heritage properties on-side was, from my point of view, at least, driven not out of any ideological commitment to deregulation or anything else, but simply to say, "Is this more likely to give good conservation outcomes in the long term?" I fear the converse is that you could end up with a very long list of properties, where the listing is involuntary, where the owners are reluctant, hostile, opposed, and, therefore, without their consent and goodwill, the long-term survival and good management and conservation of that property is at risk. It's because we were given examples in all jurisdictions of the sort of perverse behaviour, where owners who were involuntarily listed and thence received - were State Heritage listed, and then it's got controls and what they saw as additional expenses; you know, there is a fear, a reluctance of some people, to have their property listed.

Now, what we're saying is that, if instead of holding a gun at the property owner's head and saying, "Because we have assessed this as of significance, you must do this," if you approached them and said, "Because this property is significant, we would like you to agree to do this, and we are willing to offer some carrots in exchange," if the benefits to society are, you know, $10,000, and the cost to the owner is $1000, as an economist, I would say the property should be conserved, et cetera, but the entire cost of doing that, to provide the public benefit, should not just fall on the owner.

It's possible to come to some mutual win-win arrangement where the owner is happy to sign a contract for the long-term conservation and management of the property, and society also benefits because we will be assured, with much greater confidence, that the property will be so maintained. It's purely out of that concern to get an effective, efficient and equitable

solution that we've proposed long-term agreements that would not be at the whim of the owner but that would be, you know, binding on future - so it wouldn't be attached to the time - - -

MR O'KEEFE: No, only until such time as there is an application for a development, because then they would be reviewed. That's what the report says.

DR BYRON: That's what we said in the sense in - for the transition zone, the transition period, for properties that were - - -

MR O'KEEFE: Antecedently listed.

DR BYRON: Yes. Because at the moment there is the - it would be clearly impractical to go to every listed property in every jurisdiction in Australia and overnight negotiate agreements with all of those. Now, I totally agree with what others have told us, that many owners accept existing heritage listing, even though it might constrain the hands in some ways, without any request for compensation or quid pro quo's. But there might be others who would agree to a binding contract if offered some form of a sweetener, carrot, or whatever you want to call it. We have not tried to prescribe what all those should be because we think that each jurisdiction would be competent to work out a sort of a standard package. But we certainly weren't talking about the heritage agreement that could be abrogated at whim; we're certainly thinking in terms of long-term covenants.

I guess my mental model, as referred to in the report, is where, well, in Victoria, over 1000 owners of freehold property have perpetually set aside under binding covenance on title lands for nature conservation without one cent of compensation, and precisely because they wanted to bind the hands of future owners when they have invested so much in maintaining the property to such high conservation standards, they wanted to make sure that future owners wouldn't degrade that.

So it occurs to me, and I don't have yet examples from the heritage conservation - historic heritage conservation - there may well be owners who would willingly sign on to perpetual conservation, management contracts, agreements, treaties, covenance, for a very small positive inducement. Is that fundamentally different to what you thought we were saying?

MR O'KEEFE: Can I approach it this way? The first thing that it depends upon is quid pro quo. That's money. We have no idea what that would be, and the economic costs of such a system are not plumbed in the report. If one has a compulsory regulated system, then it is true to say that one of the flaws in that system is that it may, in some cases, impose a hardship on an individual in

relation to a privately-owned property for the public good when the private individual gets no return for a contribution that he or she is making to the public good. That's recognised. I recognise that. The National Trust recognises it. The legislation itself in New South Wales recognises that that might be so and provision is made in the legislation for grants and advances for repairs and the like in respect of such properties. Such a fund was created statutorily, but has never had any money to do anything. So it all depends upon government saying, "Yes, we will provide the wherewithal for the quid pro quo."

I come back to my state, and in an entirely different field, and I deal with the Richmond report, which was about closing all our mental institutions, saving an enormous amount of money, and having a series of halfway houses. It was in two volumes. Volume 1 was adopted. Everything was sold. People emptied out. But the cost part was never implemented. So we have in the streets of Sydney a large number of very unhappy, very disturbed people who haven't got institutions to go to and haven't got anywhere else to go to because it was about money. The theory that if you offer somebody something they'll say yes is in a sense right.

I have a little Morris Minor, 1956 model. It belonged to my mother. Great emotional appeal. A lady drove into the garage behind me the other day and she said to me, "I'd love to have that for my daughter's 21st birthday. Will you sell it?" I said no. She said, "I'll give you $15,000 for it" - much more than it's worth - and I said no. She said, "There must be a value." I said, "Yes. $100,000." She said, "I'm not going to pay that." I said, "You can't afford to have this car, then." Now, it works the same way with houses. You pay me a million dollars for this block of land and I'm happy to let it be and I'll do anything with it. But to sell it to the next guy I'll take my million and go. But you've got to have the million, and the money, in my respectful submission, is not quantified, and there's no assurance that it would come.

The next thing is, in understanding what you said. The key phrases were "something might be", "something may well be", but they might not be and they might not well be or well not might be. In other words, it's a speculation, and what we are putting is that to make a fundamental change to the system based essentially on a speculation is not a proper way to go. I mean, I think part of the problem has been we, in the National Trust, have failed. Our advocacy has not got through, at least in the way in which we had hoped.

The problem, I accept, is complex; there's no question about that. It's a very complex problem. The balancing of public good and benefit and private right in this benefit is a very difficult calculus, and there's probably no formula that you can adopt for it. It might be fairly individual. There may be some form of words that you could use, but you've got to look at each case

individually. Now, as I said earlier, I believe that those who want to preserve their properties, like the thousand people in Victoria who have entered into agreements, have done so because they believe in the conservation of their land. They're going to do that anyway. They can always, in New South Wales at least, do it by putting a covenant on the land so you don't have to have an agreement. You can have a positive covenant for its protection.

The ones that are the problem are those who see their land merely as a commodity, to be turned into cash, and that becomes a very difficult problem where there's an area that is the subject of change; it may be zoning change or something like that. But you do have in that area a property of particular significance in heritage terms. The owner of that sees it in milch cow terms, and we don't have a system whereby the compulsory restraints can be compensated for by some return to the owner. That doesn't depend upon agreement, that depends upon providing the fund quid pro quo. So whether you do it by agreement or effectively by compulsion, you still need that money sum to compensate those people. They're going to be not so many, I believe, but some who do suffer from owning a heritage place.

If, however, they've bought it knowing that it's a heritage place, the flag is there, the listing is there, then it's very difficult.

DR BYRON: That's a non-issue.

MR O'KEEFE: It's very difficult for them, you know.

DR BYRON: We were asked to begin by looking at the pressures - on the pressures of heritage conservation, and it seems to us that there are two quite different types of pressures. One is very much a metropolitan or urban pressure where there is, shall we say, commercial desire to get at the site for redevelopment. We agree that the system of regulatory controls is very effective in dealing with that sort of pressure. The other pressure which, I think, is probably much more common in rural areas with rural heritage and also with redundant technological heritage, is demolition by neglect.

It seems to us that having regulations that prevent the deliberate demolition or radical modification of a heritage place doesn't actually do anything when the threat is just from neglect.

MR O'KEEFE: From doing nothing.

DR BYRON: Yes. So when we asked ourselves what sort of a system would deal with the predominantly rural demolition by neglect - dereliction problem - as well as the urban redevelopment type of problem, again the idea of a contractual agreement between the heritage conservation authority body and

the private owner would be a way of actually putting some resources and incentive there to prevent that demolition by neglect. Is there anything to that?

MR O'KEEFE: The rural areas pose different problems. The question that springs to my mind is: you have a farmer or grazier who has got a property that's giving him an inadequate return, and he's looking for ways to augment that return. Unless he is given some ongoing return, why would he be signing any agreement that restricts what he can do? I mean, the big thing at the present time in a number of rural areas where there isn't so much a particular item of heritage; house or building or whatever it might be, but a landscape, an escarpment. Some of the pressures at the present time are in relation to wind farms, for instance, where a farmer can lease or licence a wind farm energy company for x dollars a year for such and such a space for a turbine.

Now, those are difficult to deal with. I don't think you will ever have a quid pro quo that will match the private sector there.

DR BYRON: I guess the examples we were thinking of where we were told in western New South Wales about property owners who know that there are fairly substantial remnants of Cobb and Co staging posts, for example, on their property. What they're doing now is destroying them as fast as they can before anybody from the government finds out and ties them up with red tape. That, I think, is truly perverse, and if there was a standing offer of substantial financial support to encourage the retention and the ongoing management, perhaps even public access to enjoy those places, then we might be keeping them rather than having them disappear.

The other example I was given was where three farms are amalgamated and suddenly you've got three shearing sheds that are all 140 years old, but the owner only needs one. At the moment he's bulldozing or burning the other two. Now, if they have heritage values in their own right, is it possible that the state could make some sort of agreement with the National Trust, or if anybody could make some sort of agreement to see those properties - if they are of heritage significance - retained and well-managed, rather than just list them and then watch them disappear.

MR O'KEEFE: There is a fundamental question. There is going to be change and rural areas are going to be one of those areas in which the change occurs. The days when you had a shearing shed that had 50 stands in it are gone. The flocks aren't there, and the mode of dealing with one's flocks that are there are quite different from the way that it was done 100 years ago. I think there's got to be a recognition that if there are 100 such shearing sheds, only a limited number of them really need to survive. You don't make each one survive as some sort of museum. Museums cost money and they don't work. The only way in which those sort of properties are going to be

effectively conserved is if they've got some use. So you've got to find a use for them. In country areas that's very difficult.

DR BYRON: I'm just wondering if that same problem extends to timber bridges, to old meatworks and gasometers, and all sorts of redundant technologies. Some would even say a lot of the church buildings in rural areas are now redundant or obsolete; there aren't the congregations to support them. Again, those are properties that may be of social cultural heritage significance, but unless there is somebody to manage them and some funds to pay for their management, they're likely to disappear.

MR O'KEEFE: I think that's right, but we come back to the money. It may be that I'm just getting old and that I've lived too long and seen too many governments, and worked too closely with governments in various government jobs, but when you put a bucket of money between heritage and an owner, the bucket of money is going to get knocked over and taken. When you ask a government to put a bucket of money there, it's not going to do it. So a quid pro quo worries me. We have had since 1945-46 in this state, town planning legislation, all of which contemplated green belts, compensation and the like. The green belts are gone and there's never been any money. So relying upon an owner saying yes because he gets something by way of money out of it, depends upon there being some money and I've got real difficulties and what happened with the Richmond report - I'll come back to that, is a real concern for heritage.

MS GODDARD: Can I just add to that. I mean, what seems to be coming through is a clear intent to aid the preservation of heritage. What I don't understand, is why this agreement needs to be linked to listing per se. It seems to me that in the case of the Cobb and Co ones that you were talking about, if people are in fact, going off to demolish them and to remove them before anyone notices them, first of all, unless we do notice them and can't offer them the agreement anyway, so we need to do some research into listing in fact; if not - if in fact, non-regulatory, but we still have to list and to identify.

But if there is a conservation agreement that is in fact an access to funds, as Barry has already said, then that could be an adjunct to listing, so there is in fact a reward for listing. When all else fails, the listing mechanisms stay in place, but that there is a sweetener, a carrot as you say, to that. So that if you enter into the system voluntarily, you do then get access to the funds and that is in fact, largely what does happen in places like the UK and in the US as well. That, you only get access to the funds and to the carrots if you do enter into these further agreements, but that the fundamental identification still takes place and we would need to have that to do any of this.

DR BYRON: If the system was such that people knew that there were

sweeteners, that it wasn't entirely just red tape and big sticks - - -

MS GODDARD: Yes, absolutely.

DR BYRON: - - - I suspect that you would have - you see, I'm trying to think of a system that would encourage owners of significant heritage properties to come forward to volunteer themselves for listing rather than trying to conceal and damage and degrade properties in order to prevent this. The incentive structure at the moment, as I see it, is causing some seriously perverse outcomes and so we're asking the question, is it possible to get a different framework that would give positive incentives for people to come forward and propose - I know it happens already to some extent, but to have more people coming forward and wanting to have their place listed rather than, you know, seeing it as an imposition on them.

MS GODDARD: And that seems like a very worthy aim and I think we all agree, I think, that one of the common threads throughout all the submissions is that there is too much reliance on regulation and proscription and not enough on incentive. I don't think you would have any argument from anybody on that. It is the main crux of the matter in that key recommendation however, is this negotiated agreement which then predicates the listing. The listing doesn't exist unless you have that agreement and I think that if there was enough, and as you say, there are already incentives in place, but very little.

I was talking to someone the other day who was telling me that he managed to get a grant for doing work to his house. But he got a grant of $2000.

DR BYRON: On a $50,000 job?

MS GODDARD: Yes. Well, I think it was a $100,000 job and you know, what's it going to do for him? Nothing. I mean, he's pleased to get it and wasn't going to throw it back, but nonetheless, it wasn't enough and that's not enough of an incentive top then turn around and volunteer yourself a listing, unless you are already deeply committed to the place. And it's linking those two things together. Also, we must be in a position to - we would still be needing to do the identification so that those people who don't come forward or don't necessarily recognise that their places might be important, we would still need to them go forth and negotiate those agreements and it's tying those things together. As Barry has said on numerous occasions, it's the degree of funds behind it and how much that's going to cost and who is going to pay for that, is the- - -

MR O'KEEFE: You don't have to go to the Richmond Report to have doubt about the government providing money. They had two systems in New South

Wales, one of which was to give I think it was an amount of $8000 contribution towards those who put a solar heading for their houses. That's been whittled down to four and will peter out altogether next year.

There was an amount of up to $4000 as I recall for putting water tanks in because we've got a real water problem in Sydney, as you know. That's being phased out next year. I mean, carrots are great when they are fresh.

MR HINTON: I add my thanks to Neil's for your participation this morning and your thoughtful comments; thank you for that and also thank you for your foreshadowed submissions both in terms of New South Wales Trust but also part of the wider Council submission. We look forward to getting those.

Just as you, Mr O'Keefe, referred to your comments in certain five tranches, I've got three tranches of questions. The first one is in relation to your rightly focusing on one of the recommendations regarding the statutory basis of the Trust here in New South Wales and some other places. The question that comes to my mind is what benefits do you see flowing to the Trust from the statutory recognition of the Trust here in New South Wales?

MR O'KEEFE: Well the first thing is, over the 15 years that I've been president, I've been able to go to premiers and relevant ministers and say we're a statutory body. We are recognised as important by the state because of that in the maintenance of heritage. We manage a number of state properties. "You should be looking after these properties through us by assisting." That's an argument that has worked pretty well over the 15 years I've been president. So there's been the advantage of being able to approach government on the basis that you are a corporation set up by statute.

The second thing has been - and this has got better as years have gone on - the insurance situation. It has been a very significant saving that we would not be able to have were we not incorporated under statute.

The third thing is that when those in the National Trust in the 1960s and before that, Ivor Wyatt in particular, was looking at this question of whether or not we should be under a statute or not, it was then believed - and I think with justification and I think that justification still exists - that there is some kudos in the recognition of incorporation through statute. I mean, in days of old, important corporations were so incorporated - banks and the like, big railway companies and the like. It was a sign of one's significance in the milieu in which the incorporation took place.

MR HINTON: But there's a fundamental difference there, surely. One is, the government actually undertaking an activity with its own commercial risk and commercial control as opposed to statutory recognition for an NGO. The two

are apples and oranges.

MR O'KEEFE: The railway companies of the 19th century were all private enterprise. They were just incorporated under statute. They were not government. There was no government owned railways in England until after World War II, when the Labour Party nationalised their railways.

MR HINTON: I thought you were giving Australian examples.

MR O'KEEFE: No, no. We've - in Australia we've always had until - always. We've had until fairly recently wholly owned, government owned railways. That's been quite different, although that's not so any more. I mean, you've got National Pacific and places like that now. No, I was thinking - I was thinking of the concept of - there is one other matter, actually, and I forgot to raise it. I would respectfully submit this doesn't fall within your terms of reference. I looked at this last night, actually, and I thought, "Now how does this come within the terms of reference," and I went to the terms of reference, and the only one that I thought that it might conceivably fall within was - I think it's number 4, "The Positive and Negative Impacts of Regulatory and Institutional Arrangements on the Conservation of Historic Heritage Places." Now, that's a double concept. It's not just the institutional arrangements, but it's their impact on heritage places; and whether we are incorporated under statute or not, with great respect, I don't see how that impacts on the conservation of historic heritage places.

MR HINTON: Are you aware of any cases where a court process is referred to and given status to a National Trust listing, as opposed to a statutory listing?

MR O'KEEFE: Yes. It happened in the Land and Environment Court.

MR HINTON: Yes, I thought that might be one link to our terms of reference.

MR O'KEEFE: But of course we're a statutory corporation, but because we're a respected organisation that knew what we were talking about and that we'd done our homework in relation to a property, and when we said it was worth conserving, the court agreed. It had nothing to do with the statute. You look at all of those judgments and not find a reference to the fact that we're incorporated under statute.

MR HINTON: That wasn't quite what I was saying in terms of the status of the National Trust is - - -

MR O'KEEFE: No, its status was - - -

MR HINTON: You can't disentangle - - -

MR O'KEEFE: Its status was the status of excellent, not the status of incorporation.

MR HINTON: The disentanglement issue here is, I think, fundamental, and - let me move on to a second area of questioning, and that is the discussion this morning has been focussing on essentially - primarily local government activities and responsibilities with regard to erosion of property rights and, by implication, ownership of residences by individuals, and I'm sure your written submissions will go much wider than that, but I'd welcome your comments this morning on the broader issue. That is, is the new structure of the three-tiered approach to the heritage conservation objective - the three-tiers-of-government structure - do you see that as properly based, soundly based, which is one of our findings in our draft report? I'd welcome your comment on that sort of systems area of discussion.

MR O'KEEFE: Well, until relatively recently - the last probably 15 years, we were really looking essentially at state-based regulation and protection. In 1975, I think it was, you had the Australian Heritage Commission Act passed, but the nature of the activities of that organisation were advisory and - then subsequently you had legislation that governed what could be done with Commonwealth places that it owned, and it required consultation by the relevant authority with, I think, the Australia Heritage Council - the minister; but until fairly recent times, the extent to which regulatory controls of the Commonwealth exist has been very small. Under the present legislation, which was the subject of a great deal of negotiation with the ACNT, of which I was part, involves a concept of there are going to be a limited number of items or places or buildings that are the subject of Commonwealth involvement. Beyond that, there's a question of whether the state or the local government is the governing body.

What's happened is that, where places are of state significance, the state has played a role, but has devolved the other to local government. I was in local government from 1968 till 1991, and was mayor for 10 of those years, and president of the Local Government Association, so I had a good overview and every-day working view of how heritage controls worked at local government level. If you asked me do I think that's a good idea and it works well, conceptually it's probably a very good idea. Does it work well? The answer is no. If you were to do a survey of councils, you would find that the political influences that affect listing or delisting, putting things in a schedule or not, often justify some of the criticisms in the report. I can be very frank with you. I think that was a great mistake, and you can be too close to the instance and to the pressures to be objective about the matters; and I think that's happened a lot in local government, not just in the rural areas, but in the

city areas as well.

So I don't - conceptually, it's a great idea, but it hasn't worked well.

MR HINTON: Another area I'd welcome your comments on is in relation to one of our other findings, and that is we note - or we imply - a concern that the listing processes, generally speaking, do not take into account or consider the costs that that statutory listing imposes, both on the owner as well as even the community more widely. That's an important finding for what then proceeds in the analysis in the draft report. Do you have any reactions to that judgment that's inherent in that finding?

MR O'KEEFE: Yes, and to the conclusion. I mean, it is said, and I think rightly said, that the listing process or the impositions that may flow from that in works statutory do not carry with them any compensatory rights for the owner, and that's correct; and that is an inequity: that the public good is being achieved at the individual private cost without any recompense for that individual private cost. However, having recognised that, to say that one should go to agreements which depend upon a quid pro quo is no different from saying, "Well, one way of dealing with it is to provide the quid pro quo under the statutory scheme in any event." It's the same amount of money.

So I agree with the proposition that there are inequities, but the inequities flow from the inadequacy of funding for those, whoever they may be and whatever the numbers may be, who sustain some private loss for the public good, but that does not carry with it the logical consequence that you jettison the system of compulsory controls in favour of agreements. What it says is that the same money that you would use as the quid pro quo to induce people to sign the agreement, if they want to, is the amount that you should be prepared to pay for the same loss, if it occurs, to the person who is the subject of the statutory regulation.

MR HINTON: I had one other question, Neil, if we've got time - - -

DR BYRON: Just.

MR HINTON: Just - that is, I'm a little unclear of where you came out on the funding issue, in that on a number of occasions your comments were quite pejorative about reliance on taxpayer funding activity; that is, that promises are made and then, with passage of time, those funds become eroded, not only in real terms, even in nominal terms, and that leads to the demise of achieving the objective.

MR O'KEEFE: Yes.

MR HINTON: Yet on a number of other occasions you replied that the system does need more public funding and there even could be a role - some could see a role for - increased, enhanced role for the Trust. I'm not sure where you came out on that sort of balance of comments.

MR O'KEEFE: I'll make it quite clear. I don't trust governments with money, as far as grants are concerned. They make promises and they break promises, and the priorities of today, which might be in election time, and where you want to look green, will be quite different from down the track; and that is the history of government funding. It doesn't matter what field you're in, priorities will change and what is promised today is yesterday's promise tomorrow. That's number 1.

MR HINTON: That's clear. Yes.

MR O'KEEFE: Number 2 is the report itself recognises that there is a communal and community good that flows from the retention and conservation of heritage - that's absolutely clear - and to date recognition. What it doesn't do is say, "You should have a fund and it should be statutorily provided for and augmented for these purposes." Now, we don't agree that they should be the purposes of making good so that you attract people to sign agreements. We say they should be just making good any losses that occur. So all I am saying is that it would be highly desirable if it were not just implicit in the report that there should money but it should be stated, and there should be some attempt to quantify in accordance with, I think, it's term 2 of the terms of reference. Is that clear?

MR HINTON: Thank you.

DR BYRON: Good. There are a number of other things that I would have liked to come back to, but perhaps you'll elaborate on them later. Mr - - -

MS GODDARD: If there is anything in particular you'd like us to elaborate on later, if you send us a note, we'll be happy to do so.

DR BYRON: Thank you very much. Is there anything else you'd like to say finally, in closing?

MR O'KEEFE: No, thank you, except again to thank you for giving us the opportunity for making our comments and being here today. Thank you.

DR BYRON: Thank you very much. The process relies on participation of people like yourselves.

MR O'KEEFE: Thank you.

DR BYRON: Thank you. We should move straight on.

DR BYRON: Thank you very much for coming, Mr Green. When you're settled, comfortable, if you could introduce yourself for the transcript and take us through the main points that you wanted to make. Thank you very much for the written submission which we both read. If you'd like to elaborate on the main points, then we can discuss it a bit more. Thanks for coming.

MR GREEN: My name is Councillor Gary Green. Actually I'm a councillor in the Rockdale area, Rockdale Council, and my parents have huge and have had huge problems for a number of years with the heritage listing process, and having come to council I have been given a precious insight into how it works from the other side, and I must say although it's hard to I suppose be completely unbiased, but it's grossly unfair the way the present system is set up, and I've made a two-part submission, and the first part I thought I might read to give just a little bit of background to those present here, with your permission, and the second part you've read it so you may have some questions to ask me, in which case I'd be more than happy to respond.

If you could just pause for a moment and imagine a situation where your house was virtually impounded, where you were not allowed to build what your neighbours were, where the council gave you no choice but to continually make costly repairs rather than economically rebuild, where the council did all this to you without paying any compensation. You can stop imagining and wake up to the reality of City of Sydney Council's present unethical, biased heritage regulations.

Recently my retired parents had their only investment property heritage listed by COS against their will and without any compensation. The forced listing of my parents' property in consequential ex-appropriation of their property rights has cost them their life savings in foregone development revenue. It's also cost them tens of thousands of dollars in DA application fees to be directly lost too. As such, it's worse than unfair and is actually theft when heritage restrictions are forced upon unwitting owners years after purchase, which is what happened in my elderly parents' case.

Unfortunately for my parents COS's unjust heritage regulations, which are emulated pretty much across the state by most councils, have resulted in my parents having to either sell out below fair market value or maintain these run-down terraces riddled with rising damp and concrete cancer in perpetuity for the sole posterity of the community but at our family's sole expense. Simply put, COS's present heritage listing regulations and the state's regulations are an arse. To illustrate this point our family has been given no choice but to continually make costly repairs rather than economically rebuild, and there's plenty of research out there that shows that it is cheaper per square metre to rebuild than to renovate, and that doesn't take into account heritage. Once you've got heritage it's a completely different kettle of fish; the costs go up exponentially.

For example, back in 2002 we were quoted $233,000 to fix the rising damp alone. This huge problem leads to cement render and paint internally and externally continually needing repair. It also results in an unhygienic musty stench within the terraces. These problems have severely impacted the rental income generated by the premises which have no heritage features, original heritage features, within; they're purely an aesthetic shell. It would cost over $250,000 to fix that problem alone in those houses, and the crux of the problem is that if you spend that - if my retired parents were to borrow that money and spend it, at the end of that repair the property would look pretty much the same as it does now, we couldn't increase our rental income, so it just doesn't pay to fix them, so we're in a catch-22 bind.

It's fundamentally inequitable and akin to communism to expect the individuals to shoulder the burden alone for the benefit of the community alone. There is no question that most of our genuine heritage items must be preserved, but if heritage is a community good which justifies an override of private property rights, then surely the community should bear some of the costs, if not all of that cost, it's their benefit. My parents have been kicked in the teeth with this unfair decision, but adding insult to injury out of the inconsistencies within COS's own planning instruments it's illogical and inequitable to offer some constituents a bonus for retaining heritage-listed properties, albeit a piddly little bonus, but not others or my parents.

This crazy inconsistency is partly responsible for preventing desperately needed repairs and renovations to number 44 Church Street which is untenanted, has been for four years, and costing my parents over $15,000 a year annually in holding costs, and we can't reach agreement with this council. You just can't negotiate with a tyrant that holds all the power. That's the problem here. We have a fundamental power imbalance. I've submitted photos of that building. It's unsightly. Surely that's not a benefit to the community having something like that. It's no benefit to my family. My parents would much rather have that money to give to charity than give it to the banks.

The inconsistent and impossible nature of COS is further illustrated by the fact that when my parents purchased their property in 1986 there were no height restrictions. This is evident by the clear precedence as set on the same block as my parents with a nine-storey Centra Hotel, the eight-storey bonds building across the road and the 10-storey building which is just down the road as well. Reasonable people know that you don't change the rules in the middle of a game, but not COS. Subsequent to heritage listing of my parents' property my parents had been told that two stories is as high as they can build in a three-storey zone with a four-storey building right on the boundary and a nine-storey building on the same block. I ask you, is that a fair outcome from having something heritage listed?

Also noteworthy is how COS has recently overturned a 78-year-old road-widening order to preserve the terraces. Not only has this piece of hodge podge

planning resulted in the streetscaping permanently scarred, it's also increased the possibility of pedestrian strike and motor vehicle accidents owing to the narrow guttered roadway; meanwhile intensive care ambulances en route to RPA Hospital are often caught up in bottleneck traffic in neighbouring Missenden Road, the irony for my parents being that the road-widening order initially prevented them from carrying out renovations to a high standard the council wanted to back then, purchased the fronts of the properties and so they told my dad, "Use second-hand materials." So it's a council-generated problem in part. I've had neighbours whose sons have had accidents on that section of the road because it's so narrow gutted, and what we have here it's plainly for me and my background in psychology it's a values imbalance.

We have a council here, and councils generally, that seem to value heritage aesthetics over life or limb, and that's a scary thought, but it's obviously its values. Furthermore, and abhorrently so, is when an application is made to construct buildings near any heritage-listed site, consideration must be given to the visual effects such construction will have on the listed site, and separation or the distance between these two sites is the name given to this regulation, and what makes this regulation of having more separation or forcing greater separation hypocritical on COS's behalf is basically the fact that they have this beautiful magnificent town hall, clearly a heritage item, that has this monstrosity tower built a metre behind it, so obviously it appears that you can have one rule for your constituents but a different rule for council.

Another great example of that too is the Toaster that encroaches upon the wonderful world heritage or almost world heritage listed Opera House; the inconsistencies inside there are breathtaking. Also the inconsistency with respect to facadism. Presently I'm not sure if the people here are au fait with facadism, but with facadism you can actually have a 50-storey building built immediately behind a facade, but when you've got other heritage listed items you can't do that. The councils say you've got to have a 20-metre separation here, and what the effect of this is is that where you could once build on the entire block, you can no longer build on your entire block because you have this forced separation, and it's hypocritical. Why can you have no separation with a facade but in other instances where you have a non-facade, just a normal A-shaped roof, you've got to have this huge separation?

So what it is in my opinion and my observation of how councils work, and I've travelled the world speaking to different councillors, is you have a divide between councils for development and councils against development. Where you have a council that's against development they'll use any trick in the book to stop development, and this is a classic, forcing greater separation basically stops and stymies development. However, old and new can coexist happily together and often demonstrated in Europe. You can see the Tower Bridge and the modern egg-shaped building that's next to it and the comments thereto that there's - you can Google to

find comments on it. It's not something that's terribly shocking. Of course if you speak to a heritage expert they're in shock and horror, but it's just not the case at all, and there's plenty of other instances, pyramids in Paris, where the two go hand in hand.

There's no harm, there's no reason why you can't have a symbiosis between old and new. In fact, I laugh, because if I ask a Greek or Italian immigrant to this country - I'm of Italian background myself - what do they think about this Californian bungalow, that should it be a heritage item, they laugh. They say, "Don't be bloody stupid." I mean, over in Europe we have thousands of years old heritage items; we have colosseums, we have The Parthenon. How on earth you could ever class a Californian bungalow as an Australian heritage item is beyond believe, but I suppose it does demonstrate that if you keep anything long enough, it will end up a heritage item, even what's being built today.

My parents have been robbed and simply cannot afford to build or even renovate. Heritage laws were never intended to stop the reasonable development of properties, yet here is another example, from amongst hundreds on your web site, thousands within Sydney, where heritage listing has unreasonably restricted development in a mixed use zone. Not a heritage precinct, not a residential zone; my parents' property is in a mixed use zone, so it's completely surrounded by shops, commercial properties.

The contrast between what could once be built prior listing and what could now be built post listing is stark, and there's ample evidence to prove so. I could probably demonstrate a 2 and a half to 3 million dollar loss in value from the moment the heritage listing has taken effect. That's a pretty big haircut to take on behalf of the community.

COS's existing regulations trample on top of property rights and ironically actually encourage the pre-emptive or post listing destruction of genuine heritage items. Additionally, these lopsided regulations are often misused by certain political groups, as I mentioned earlier, to stop quality development and impede progress. But worst of all, it could happen to your own house, even if it's an asbestos-ridden fibro, and we've seen that out west, where they are actually heritage listing fibro dumps.

Interestingly COS's inconsistent codes conflict between asbestos needing to be disposed of and heritage needing to be retained. Again, it's your values. They often also turn a blind eye to the Building Code of Australia, occupational health and safety, as well as equitable access requirements. Just to illustrate: if I went to council and I submitted plans for a replica of what my parents have down there now, I'd be thrown out of the council. There's no way they would let me or my family to build a replica of those terrace house. So why on earth do they want them

maintained against all their codes? It's hypocrisy.

I apologise. It's probably four years of pent-up frustration of dealing with morons in council that's got me to this point, and my parents are worse. Presently COS's regulations force the properties with perceived heritage value to be listed and preserved without the consent of the owner or without any compensation to the owner. They also expect property owners to preserve, repair and maintain their properties, no matter how run down - and heritage properties usually are pretty run down - for the sole benefit of the community, but at the sole expense of the property owner. It's grossly unfair, and heritage laws definitely need reform. God bless this tribunal and the work its doing.

DR BYRON: Thank you very much. I can understand why there's a certain amount of aggravation in your voice. This inquiry is not about resolving individual disputes, and we don't have the power or the resources to go and sort these out. But it is very interesting to us because there seems to be a disconnect between how the system is supposed to work and how it's actually working in practise, as it affects this particular case; for example, all the heritage experts say that the whole thing begins with a statement of significance. Have you or your parents received one of those, that explains which particular features or why and in what way these are significant, or what attributes of them can't be touched because it would impair that significance?

MR GREEN: It wasn't borne out initially and the consultation process is lacking. There's no question about that because in speaking with my neighbour, who owns an identical property to the one that my parents own in the same street adjoining ours, she was not consulted with respect to the inclusion of her property on the heritage list. We were and I actively fought against it to the best of my ability, but eventually it was a futile attempt, but there's certainly other people in the street that weren't consulted and the consultation process is quite flawed.

I mean, the fact that removing the heritage listing from the properties would mean that the 79-year-old road widening order would be lifted, that's plainly going to affect every resident in Church Street and the whole street should have been notified or the ramifications of that. There seems to be some sort of undercurrent working within some of these departments that it wants to preserve heritage at any and all costs. It's like they're on some sort of mission.

DR BYRON: Some people will no doubt tell us that this particular case is very unusual and a very isolated case, and your idea is to try and suggest that it's more widespread.

MR GREEN: Yes, it is.

DR BYRON: Is there anything either from Rockdale or from City of Sydney that

you can make an assessment of why you think it is a one off or that it's a common occurrence?

MR GREEN: No, it's a fairly common occurrence because I deal with constituents at Rockdale that object to having their properties included on heritage lists. I know of other counsellors that there seems to be a divide there, along counsellors that value property rights over counsellors that don't value property rights. There seems to be operating at the level of local government a communistic mindedness, where we've got people that are very similar to Bolsheviks in charge, running the show, and it's a scary proposition. As a result, consultation processes don't go as well as they should do.

MR HINTON: Thanks very much for your submission and your appearance this morning. As Neil says, cases do help us understand where the system is or is not working well, so thank you very much for that, though we're not going to reach a view on the actual heritage listing itself.

MR GREEN: I understand.

MR HINTON: My question really relates to processes within the City of Sydney. Do your parents have scope for a review, formal appeal, challenges to administrative fairness or whatever? What have they gone through so far to actually pursue that sort of due process?

MR GREEN: Yes, absolutely. Well, we're in contact with the minister's office to stop the listing, to stop it being gazetted. We've actually submitted a formal series of complaints to the Ombudsman's office. There's an internal review currently happening with COS and the Ombudsman's office will look into that review to see that it's being conducted fairly, and there are even more moves underway to ensure that the process is followed. But fundamentally the process, by virtue of legislation, is just grossly unfair and it doesn't help the preservation of properties.

There seems to be talk this morning and a lot of talk about funding. Perhaps a 1 per cent heritage levy would be the answer. I mean, that's a clear way of putting a cost on heritage, so that everyone's rates receive a 1 per cent rate increase, and that would go straight away to fund the acquisition of heritage properties and have them converted into council use. Alternatively what you can do, and Rockdale Council is doing this in other areas where we have to acquire land and turn it into parkland for example, we arrange FSR and height swaps with the owners. So there are win-win ways.

We can say we want to take your property and turn it into a park, and there may be a three-storey building there. Now, obviously the owner is not going to be happy about having his property rezoned into a park. So we make it worth their

while. It's the carrot and the stick. At the moment all it is is a damn stick and it leads to aggravation. It leads to a point where my dad would put a bulldozer through it at the end of the day if he has to. He'd rather sit on a ten year vacant block of land than put up with losing on this; and it's a principle with him, it's not money.

MR HINTON: Let's come back to Neil's earlier question about statement of significance. If there is one available for the 36 Church Street property - if I've got the number right - - -

MR GREEN: Yes.

MR HINTON: That then suggests what you're constrained to do because that's what needs to be conserved.

MR GREEN: Yes.

MR HINTON: But if the council is using the heritage - playing the heritage card for a development issue - that is, blocking development - then surely the transparency of the heritage significance would test that particular motive or issue? Is it a development issue or a heritage conservation issue in your mind?

MR GREEN: In my mind, it's quite plainly a means and a ways to stop development. There's just no question about it. If we look at that council, we can see that a person has come to power because they're upset about development, and they hold the majority and they're voting against it. We read the papers; plenty of anecdotes there. We can see the mindset inside the ruling majority of that party, how they think. It's plain to me, anyway, that they're quite against development, and this is just - my property is just - my parents' property is just one example. It just shows generally how they're operating. By coming here and submitting this, I've - basically I've gone to war with the council and I'll have to wait until the councillors there are changed. I've accepted that; the parents have accepted that. We just have to wait now. We have to wait it out.

MR HINTON: But these other processes are not still active?

MR GREEN: They're - no, look, they - - -

MR HINTON: The Ombudsman and - - -

MR GREEN: Your process, at the end of the day, even though it's going to be a long, drawn-out one, that's the only thing that - well, it's the only - it's a candle. It's a candle of hope for us. That's all. These other processes - I might be successful in agitating and getting them to change their mind but, really, that's unfair. Just because I've been the loudest voice - the squeaky wheel does get the - the squeaky hinge does

get the oil - this might be an example of us getting away with it, but that's not how business should be conducted, anyway, really. It's not fair and equitable, which goes back to how they operate in there, anyway.

DR BYRON: Just coming back to the nature of the properties: from the photos that you sent in - I'm trying to imagine what outcome the council would like to see for those places. Do they have a vision that one day they'll be all fully restored and occupied by happy tenants, or that they will sit there, or they'll be - if the council bought them, I can't imagine them wanting to set up offices in there. So what's the - can you see an endpoint which they're trying to achieve through the Heritage Conservation Order, or is it simply - I guess you've already implied an alternative.

MR GREEN: I've implied an alternative. I suppose it's not completely "let's stop development at all costs". They do look at the properties and I'm certain that there would be people in there that have this romantic appeal, but, I mean, beauty is in the eye of the beholder. Some people look at those houses and just think they're dumps. Other people look at them and think they're quite beautiful. So I'm sure that it's a cross between the two, but I can assure you that councils the world over are divided along that line, for development or against it.

DR BYRON: Is there any opportunity of finding some of those people who think that the places are just beautiful and selling it to them?

MR GREEN: Yes, you could sell it to them, but you would not realise any worthwhile - or anything worthwhile. You'd - at the moment there are flats around the corner on the same block selling for 500,000 for a two-bedroom block, so there is a huge financial inducement for us to just turn it into a block of flats, let's say.

Also, by keeping an - it probably does sound heartless, but by keeping those properties - this is the other side of it - we can't actually excavate the site because you can't excavate underneath heritage properties. So because we can't excavate the site, which you're allowed to normally - everyone else in the city of Sydney or around the country are allowed to excavate wherever it's possible - because we can't excavate, we can't put in the parking provisions that the council wants, so it's a de facto way of saying, "Well, you can't excavate the site. You can't achieve your building outcome," and that straightaway affects the price of the property because you could put 19 two-bedroom units on there at $500,000 a pop, so you're talking about $10 million, let's say, as opposed to about $4 million, $3 million, $2 million building cost. I'm not a developer. I'm actually in the psychology business, despite my email address, but there's a huge haircut in this case because it's a high-rise zone. We're surrounded by tall buildings.

But the crux of the matter is there's no empathy at all from these councils or these heritage people. They just don't care that your parents are going to be put out.

It's not that they have no empathy; they have no caring. The system is wrong and it could lead to - in America, there are situations where people take the law into their own hands. God forbid it happens here. One guy was so aggrieved by a council decision that he spent six months modifying his bulldozer, welding a one-inch plate to it, so that he could go on a rampage and destroy other properties, and it could quite easily happen here.

I can tell you the frustration is to boiling point, and speaking with another person that had an interim heritage order put on his property in Dunmore Street - he was flabbergasted, and a year later it was taken off because it was found not to have any merit. Can you imagine - there's no compensation for that guy. He's in a financial turmoil at the moment because of that. Where's the fairness? I mean, something has got to be done. Something has got to give before something breaks.

There were some other holes that I'd pointed out too in the rest of the submission - that was virtual recording. There are emergent technologies now where you can basically have holographic 3D projections, so you could actually - they benefit the physical restoration or holding of a property because - at present my parents' properties remain on a heritage list; no-one will be able to see inside them except for the tenants. But if you had them set up through some holographic 3D projection system, people could actually go through the insides; see what they look like in a real sense.

So there are those new emerging technologies. There's a university in Canada that's holding a symposium on all these emergent technologies too. So I think that perhaps there could be more of a look-in there. I know that I've noticed on the running sheet that the council - the City of Sydney Council - will be following me, and they'll probably have some things to say, but I intend to follow that because - there is something that I couldn't disclose, but I'll make a confidential disclosure to you in writing at a later date.

Maintenance and repair orders: forcing my parents - again, if you were to force my parents to repair these properties, you know, because they're concerned about demolition by neglect, that would be so grossly unfair. We'd have to spend that quarter of a million dollars to fix something that would have no - there would be no way that we could really increase the rent pretty much past what they are because, as it is now, a new tenant comes in, we scrape out the old render, put some new render on, paint it up. It costs a fair bit to do that way because it's continual work.

It's $1600 per unit whenever they come up, but it's cheaper than doing the alternative and, as I say, if you were to spend that money and put damp courses in and do all of that work, to a tenant's eyes, it just looks exactly the same as though we've spent 1600, but really we've had to spend 40,000. The tenant is not going to pay any extra. So to force someone to do that, it's just so grossly unfair, and

something has got to give with respect to it.

DR BYRON: I guess, if you were listening to our earlier discussion, we were talking about whether or not heritage conservation agreements might work, but I imagine this place is one in which, because of the redevelopment potential, the amount of carrot or sweetener that somebody would have to offer to get those places restored and retained as original historic property would be very large. I guess you're making the assessment that the council will decide it's not worth - even if they are heritage-significant, they're not so significant that they're worth spending $10 million or something to keep them as they are.

MR GREEN: They'd be about $3 million, but it could be the case that this is the exception. Well, it is an exceptional - it may be an exceptional case, actually. I don't think it's that exceptional. The only thing is that it is in a higher-density zoning, so that's why the effects of the heritage listing are magnified in part by it. But - - -

DR BYRON: Yes, so if it were zoned single residential then you wouldn't have the redevelopment potential, would you?

MR GREEN: No, if you were to get rid of the separation constraints - get rid of the hypocrisy of the separation constraints, there would be a lot more that we could do, because we could build on a larger portion of it. My parent-family - actually, we've gone to a lot of expense anyway in consulting with the best heritage advisers - ones that are accepted by council, and actually there is scope for us to keep those properties providing the separation is not a huge issue. I think the Australian public really do need to be made aware of this separation and the effects of heritage listing. It's not just one property that's affected. When a property is heritage-listed, its neighbours are affected by it, so if a neighbour wanted to build a pergola, he'd have to go and get a heritage expert's report on whether or not, or how that pergola is going to affect the heritage aesthetics of its neighbouring property.

Now, that's going to cost thousands of dollars; it's going to cost more than the pergola. I mean, that situation is - again, I could give you lots more examples of how silly it is. There was a courthouse too - just having lunch with someone who works in a court - and they told me about a court called - I can't even think if the name of the courthouse. It's an unusual - Dugong? It's a courthouse in Dugong, where the roof has a demolition order on it but the staff are forced to work underneath a roof that has a demolition order on it. I see on the weekend we had a roof collapse in - - -

DR BYRON: Poland.

MR GREEN: - - - can't think which country it was, but it - - -

DR BYRON: Poland.

MR GREEN: Poland? Killed 70 people or such. It's lunacy. The staff are tripping over wires because heritage specialists - I like to think of some of them as boffins - not all of them, but some of them - won't let the wires be chased into the wall, so that they just run cables and staff are tripping over. They're actually tripping over fireplaces and they're being hurt. Look into it, because I have it on very good authority - but that's just one example, I'm sure, of hundreds right across the country where the - again, it's values. People are valuing heritage aesthetics over life and limb, and I think it's a minority. I think most Australians are fair-minded, and not like the people that have great power; these little minorities.

DR BYRON: We've had heritage consultants and architects tell us in submissions that they have been able to find solutions whereby the heritage significance, values of properties are fully protected, and the owner of the property gets their outcomes which actually make them better off. Now - - -

MR GREEN: I'd love to see it. It would be the exception that proves the rule if that was the case, and obviously what about the - sorry to stop you, I apologise - what about the cost of the heritage consultant? Straightaway, the second you've employed a heritage consultant, that's in addition to other expenses because you need these reports. So the whole cost straightaway goes up. There can't be any question about the cost or the expense going up, and then the uncertainty goes up too because you're not sure whether or not the council is going to approve this or not. It's just the whim of the council. They can say no and then force you to go to the Land and Environment Court, as we did, and I only withdrew - we withdrew our Land and Environment Court case after assurances from a councillor I won't name who didn't keep his word.

So it's just a shame, but you don't know what's going to happen in the Land and Environment Court, and of course, you're up for the expense of it. How can the average person, who's got a gripe about a garage or a pergola, take a council to court when they're going to be up for about 30 grand in the Land and Environment Court, win, lose or draw. The system is just - it's unfair.

DR BYRON: Anything else?

MR HINTON: I'm fine.

DR BYRON: Any closing comments?

MR GREEN: No, I just think that a man's home is no longer his castle. Between the neighbours and the council, they have just far too much say over what can be built on private property, so-called private property. It's just a crying shame, but I believe within my heart that the pendulum has swung so far from, you know, the 60s

and 70s where, fair enough, it was out of kilter. It's gone too far in the opposite direction now, and it does need to be brought back, and it will be brought back. There's no question of it being brought back; it's a question of when. That's why I wish you well with your work.

DR BYRON: Thank you very much for coming.

MR GREEN: Thank you very much.

DR BYRON: I think we now have time for a cup of tea. Thank you very much, ladies and gentlemen. We'll resume in about 15, 20 minutes.

DR BYRON: Ladies and gentlemen, if we can resume. Mr Rahmani, thank you very much for coming today, and for your written submission and all the detailed attachments. If you can just introduce yourself and then summarise the main points you want to make today and then we can discuss it.

MR RAHMANI: Sure. My name is Saman Rahmani. You can call me Sam if you like. I'm the owner of number 27 Richmond Avenue. That's where I've had a lot of problems over a few years in regard to heritage issues. At the moment I live with my parents at 345 Mona Vale Road, St Ives. As you have said, you have already read my submission. I'd just like to point out two major points from my submission, if I may.

One is the process by which - I just wrote it down, so I'll just read from that note. One is the process by which my house became a heritage candidate, and the second point is the effect heritage listing would have on the value of mine and many other similar properties. The process, as I have explained in detail in my submission was very improper, to say the least. The heritage has become a tool. It is used by some councillors to stop development that is not to their liking. In my case to stop my dual occupancy development and the State Environmental Planning program No. 53, also known as SEP 53.

I purchased this house in October 1998. Before the purchase I was aware of its small size and poor construction. I purchased it with the intention of living in it for a short period, and meanwhile to save some money in order to get a development application for one dwelling and build a better home, which is more suitable for our use, the land size and its location. Having a big mortgage on this house makes the savings process very slow, and at the same time we weren't happy living there.

My parents suggested to me if I could get a dual occupancy approved then they are willing to put up the money for construction of both dwellings. They could then live in one and my family and in the other. It was ideal. We could finally have a new home where we can live comfortably. I did not know that the council does not like the SEP 53 developments, as it is a development code imposed on them by the state government. Since I had followed the code in SEP 53 and could get my development application approved the council then had no other excuse to refuse it.

They then resort to recommending heritage listing, first with the New South Wales State Heritage Office, failing that they have since been trying to recommend to list it on the LEP heritage list to deter me from any type of development. The last application I have lodged with the council was a demolition application. The reason was to be able to sell my property as land value. Since the potential clients were deterred, fearing that if they purchased the property with the existing building the council could list it on the heritage list and none of the potential buyers wanted to have this heavy burden on them. Conveniently the council held a meeting after I

lodged this development application. The use of heritage listing as a tool to deter the development that the council does not approve of is never more clear than in the meeting described below.

The meeting was held on Tuesday, 19 July 2005. The councillors had to vote for the heritage listing of my property and another one in the same group as mine, number 400 Mona Vale Road, St Ives. Two of the councillor, Mr Nick Ebbeck and Mr Ian Cross, had voted to not to list 400 Mona Vale Road, but to list mine. The same councillors always claim that they base their opinions on their expert report. Their expert report indicates that number 400 Mona Vale Road has more heritage significance than number 27 Richmond Avenue, which is my house.

Councillor Ebbeck and councillor Cross should be accountable for this decision. There has not been any inquiry into their action as yet. Or what councillor later on, Tony Hall, raised a recision motion and this was discussed and put to the board one week later on Tuesday, 26 July. The mayor, Mrs Ryan at the time, had to eventually use her casting vote not to recommend the listing of my property.

The second point I would like to raise today is the claim that some heritage organisation have made in regard to the value of a property when it becomes heritage listed. They claim that once a property becomes heritage listed its value will go up by 12 per cent. It is easy to make any claim but one should look at the supporting study or research for these claims. This claim is based on a study conducted by a Vinita Deoldhar. The study covers a number of periods, starting from 1840 to year 2000. It has compared the selling prices of 64 heritage-listed houses against 76 unlisted houses over different periods.

The last period, which is referred to as the late 20th century - this period is from 1960 to year 2000. The number of unlisted houses that was sold in this period was 29, against only two heritage-listed houses. My house was built in this period too. How can one take this study with such insufficient figures seriously? My claim is that I would lose a substantial amount of the value of my property if it becomes heritage listed. Now, let's look at my supporting documents. I have engaged an independent property valuer to my property with a heritage listing and without. This valuation indicates that if this property gets a heritage listing its value will drop by $170,000. This is a very substantial drop.

You have a copy of that full report. But I think the best evidence is to let the market decide. I have done this on two occasions, with two different real estate agents. The full report was sent to you with my submission. The total marketing cost to me was over $10,000. Over $5000 on each occasion. The first report was made through a statutory declaration by the real estate agent Shane Braces from St Ives Real Estate. I would like to just read a few points from this report.

> "I have found from talking to people, inspecting the property, that the property is unsuitable because (a) it requires total renovation, the cost of which would be substantial; (b) it lacks space for the average family; (c) the backyard is too small; (d) the garage, being a single garage, is too small and is in the wrong position; (e) they want to demolish and build a new home."

She goes on to say that the threat of heritage listing has been a major deterrent to prospective purchasers. The following example is mentioned. One couple who were very interested in the property wanted to demolish and build a new home for their family. I suggested that they talk to someone at council about this possibility and the proposed heritage listing. They were informed that it was basically a done deal, that is that the property would be listed as heritage. I like to share a section from the report of the second real estate by the name of Don Ashby from PRD Nationwide, Pymble.

> "The response to our advertising and marketing has been good, with over 80 groups who now register as having shown interest our property and the number of full page Internet hits on the Domain.com alone approaching 2000. As you know why the land is in an excellent location. The house is not only small but also poorly positioned to take advantage of the land having currently a very limited backyard area. The extensions that were undertaken some time ago also do not flatter the property and the house itself is dated and draughty. I had every expectation though of being able to at least achieve land value. This has not been the case as while the property itself is not currently heritage listed it may as well be as it is heritage affected, with the council advising that as it may be heritage listed in the future. They are consequently not prepared or able to give guidelines of comfort, even to potential purchasers like the Bookners, who engaged an architect to plan modifications and expansions in sympathy with the surrounding properties but have now given up . It apparently being all too hard even for willing and cooperative purchasers. The only conclusion that I can draw is that we are wasting our time trying to achieve anything near what should be market price for the property owing to the heritage issues. I can only recommend that you take the property off the market, sell it at whatever price you can get or try to rent the property out, which owing to the nature of the house itself is unlikely to be financially very rewarding."

As you can see I cannot develop my property, I cannot live in it, I cannot sell it or rent it at a reasonable market value, all because of the threat of heritage listing. I am sure there are some places suitable for heritage listing. Some councils however abuse the heritage. That is, they use it as a tool for their ulterior motive and this should be stopped. My property is very poor in design and quality and the best

candidate for demolition. I hope that this commission will help to achieve a just outcome in the area of heritage listing of private properties.

DR BYRON: Thank you very much. As I think you heard me say before that we're not empowered to resolve individual disputes and we're looking at, funnily enough, the whole of Australia not just Ku-ring-gai in this inquiry although Ku-ring-gai seems to come up much more than any other place in Australia. I do thank you very much for the detail that's in your written submission and for coming here today. Other people have said to us before that sometimes the problem is simply a mismatch between the property and the owner, and I think the exact words in the previous hearing was that heritage properties should be owned by people who value heritage.

Do you think there are people out there, prospective home buyers, who would actually be quite happy to buy your property with the heritage listing because they want to be part of this history? You haven't been able to find them yet?

MR RAHMANI: I couldn't find a buyer without the heritage listing, and the problem was because it could become heritage listed. So if it becomes heritage listed, can you imagine how hard it would get? You'll have to see the house. In my expert's report, the heritage expert's report, there are some pictures but still you really have to see it in person, if you can send a representative to see it. Even some heritage people from - a representative from I think it was the State Heritage Office a few years ago, they came and I could see the expression, they weren't impressed. You really have to see it.

DR BYRON: It was a prototype, wasn't it, and designed to be extended as a first module?

MR RAHMANI: It was marketed as the - in fact there is a brochure of it made in 1960 when they were selling off - you know, selling similar designs, and it was marketed as a house that is very cheap to construct. It might not be the exact words but it indicates that anybody could afford this type of house, and it was built in the 60s. I can't spend any money to renovate it because it would cost a lot. It's like building a few houses, that's how much it would cost me to conserve it, and that's what I have to do if it becomes heritage listed. It's not fair on me. Nobody would want to have this building on them. When you mentioned that if somebody might be interested if somebody, let's say, liked this type of - there is nothing to like. No, seriously.

You think that I'm being very obvious because I've been going through so much and have lost so much money, it sounds very subjective when I say that, but you have to come and see it for yourself. You really have to come and see it for yourself, and then I ask the heritage people to judge fairly and just if they can imagine them being the owner of this house. Would they then push so much to

heritage list that house? In a fair society that's what we have to do. We have to put ourselves in another position, the position of the person who's being unjustly treated, and if you do that I'm sure none of the heritage people would want that house to be heritage listed if they put themselves in my shoes.

MR HINTON: If you found a purchaser who had the heritage commitment and therefore was buying that property for its heritage characteristics notwithstanding your judgment and assessment about price - that that would be more likely to be paid would be well short of the potential development price associated with a move to higher density construction. Is that what the valuation really is saying?

MR RAHMANI: Well, I wouldn't even consider the development price. Let's just consider the land value, and it would be substantially less than the land value alone, and that is a big loss. Potential development - if you want to - even one-dwelling development, potential one-dwelling development, there would be a lot of loss. But to be fair on the heritage people, let's just consider the land value. Still, it would be a lot of - because I couldn't sell it at land value. So it's the most unjust scenario you can think of, and I'm very frustrated. I'm so upset because I have lost so much.

The house is vacant at the moment - sorry. The house is vacant at the moment. It's been vacant for two years. I could have rented at a very low price but I did not because of mainly the reason that I consulted with the real estate agent and they said, "You'll have a better chance to sell it without a tenant in it, because most people who want to buy, they want to live in it." So it's been - I've been losing so much money on this property, and all because of this - because the council wanted to stop my development.

MR HINTON: Is the council open about their objectives; that is, in response to the question, "Are you using the heritage objective to block development because you don't like development?", do they respond that, yes, that's what they're doing?

MR RAHMANI: No, they don't admit to that.

MR HINTON: They say it's heritage objective.

MR RAHMANI: Of course they don't admit to that. But that example I've pointed out in my address today, it's quite clear when - I mean, if they're serious about heritage, why did they refuse the other house - the report indicates that it has more heritage significance. And I don't think just the report, you know. I don't know who wrote report. Like, the other report I read for you from that lady; as far as the house value would go up. So anyway, but if they rely on the report, she should have listed the house and not - or mine together, but they did not list the other house. So it's quite clear that they're using heritage as a tool.

DR BYRON: Well, I mean, my understanding of the debate - and I must admit I don't spend all my time trying to keep up with what's happening in Ku-ring-gai. But the whole cluster of what were once the display homes is quite obviously very important to some people, particularly, I guess, the Royal Australian Institute of Architects, who see that whole site as being very special. Now, the interesting thing, as some other participants said, is that, you know, you've got one group of people who want to achieve a certain outcome at the expense of somebody else. Now, what we were talking about in the draft report is, is there possibility of some negotiation which achieves both outcomes?

Now, I suspect in this case, when you're saying that the house is not really fit for purpose - you know, current use - then it's either going to have to be, in your view, demolished or radically changed, and that wouldn't be acceptable to the people who want it kept as a special conservation site, and so there is no opportunity for an agreement. Would that be right?

MR RAHMANI: Sounds like it, yes.

MR HINTON: No matter what system operated.

DR BYRON: Yes, but just in terms of - I mean, to understand the other side of the picture from what you have portrayed, I imagine - and perhaps I'll tell this later - that there are parties to this issue who would like to see all eight - four, six or eight - of the original homes kept substantially as they were originally. Your position is that that one, the smallest at the back, is not really suitable for most people to occupy at the time. So if it's not going to be used, who's going to look after it? Who's going to - you know, what happens to that house? That's one issue that I'm interested in. If nobody is looking after it or living in it or maintaining it, the future of that place is that it will probably deteriorate. Yes?

MR RAHMANI: Of course.

DR BYRON: Yes. Then what happens in a few years time?

MR RAHMANI: Maybe the heritage people can give us some idea.

DR BYRON: I suspect that in a few years time you'll be worse off and they'll be worse off also.

MR RAHMANI: I will be worse off?

DR BYRON: Yes.

MR RAHMANI: Mildly worse off.

MR HINTON: Right, in that sort of hypothetical scenario where down the track the property declines and in effect becomes demolition by neglect, a development application could then be assessed on its own merit consistent with the zoning area of that region. Hypothetically, what is the council's reaction going to be for a development proposal of the kind that you had in mind previously? Did it still say it can't be developed, that is?

MR RAHMANI: Well, I wouldn't be surprised if Ku-ring-gai Council would say that, yes. They're not, you know - so far they have been very unreasonable, so.

MR HINTON: So is that a lack of transparency in the planning controls?

MR RAHMANI: Yes - - -

MR HINTON: That's suggests to me that it's much wider than a heritage issue, it suggests that it's to do with the administration and operation by council of the zoning and land use requirements of that region.

MR RAHMANI: That's right, yes. Because the problem is between them and the state government and the code that has been - in a way you can say, forced on them by the state government and they're not happy with this state environmental planning programs.

MR HINTON: But if you then challenge the council's decision on a development application then you have to go to the Land and Environment Court, which is discouraged because of burdens and costs. Is that the problem with that route of inquiry or that route of review?

MR RAHMANI: Yes, the cost and also the fact that you don't know the outcome. I have lost a case at the Land and Environment Court and that's because there is no – the legislation is not complete. The legislation is - the judgement, if you look at the judgement. The judgment was for the development not - it wasn't a heritage issue, but if you look at it there is no guidelines as to what I can do.

There was only a reference that a heritage expert suggested to maybe build some pavilion at the front section of the house but, you know the cost of this, it is not worth spending any money on these projects. That's where we need new - a more complete federal legislation as far as heritage issue goes. We don't have that at the moment. The Land and Environment Court does not make law. When there are some fault in the legislation as far as heritage goes, then it is quite uncertain to go to the Land and Environment Court, as my case.

MR HINTON: I was trying to disentangle where the area of problem was; whether

it was heritage, which seems to be part of the case but it's just as equally a problem with regard to the land use controls and disentangling them is very difficult on a case by case basis.

DR BYRON: To come back to the purpose of these public inquiries is to get feedback and criticism on the proposals in our draft report and, you know, what you've been telling us suggests that this is one where a "negotiated agreement to preserve the historical and cultural significance" of the property while still allowing you to get a nice house to live in is fairly difficult. So this seems to be the case where our proposal, will it work or will it not work?

MR RAHMANI: It won't.

DR BYRON: Yes.

MR HINTON: Because of the land use - - -

DR BYRON: Because of the land use issues. The - - -

MR RAHMANI: As I said, this - you really have to see this building to understand why it won't work.

DR BYRON: Yes.

MR RAHMANI: You see, my heritage expert approached Mr Ken Woolley who had designed all these houses and asked him, "What do you suggest we should do?" There was no reply. When the designer himself cannot think of doing something how can - you know, what hope do I have?

DR BYRON: Would Mr Woolley like to buy the house?

MR RAHMANI: I suggested that in a letter to him. I said, look, I would give it - "You can have the building for free, you can just pay me for the market land value." No reply. He made - it's nothing for him to make money, but he did make a lot of money, you know, designing these houses obviously as the architect and selling, but now we are suffering: me, my neighbour, John, Ian, Gab, we are suffering and it's not fair. You know, nobody is compensating us for it.

DR BYRON: Well, that's I guess the gist of our proposal is that those who think that any property - and I'm trying to think outside of Ku-ring-gai, that any property is worth preserving for community values then the community at large should make a substantial contribution rather then expect the entire cost burden to fall on the person who happens to be the current owner.

MR RAHMANI: In a just society that's what you think should happen. Sorry to interrupt.

DR BYRON: The other part of our draft report is that we've been critical of the disconnect between first, the assessment of heritage significance and then the consideration of costs. The way the system works at the moment if it's assessed as significant then its listing and all sorts of consequences arise from statutory listing. What we were proposing, in brief, was to do exactly the same assessment of heritage significance but then have a second step where you say, "Well, this is why it's significant. What would the cost be and who are the costs for?" Then there would be a decision about if it goes onto the list or not.

Not having seen your particular property I have no basis to make any assessment, but if, hypothetically, you know, on any property you could look at the statement of significance as it's assessed under the Burra Charter, et cetera, and then say, "And what are the costs of retaining this place?", the decision may be, you know, either retain it or not retain. At the moment there is no step in the process to even ask that question. I think maybe asking that question might have been a useful step in your situation.

MR RAHMANI: Yes, when they realise that the costs would be so substantial, I think they would think twice.

DR BYRON: Although again, I'm trying to think of both sides of this argument not just, you know, what you're saying. Would one of the positions be that even though that particular house may not have, you know, great significance by itself as part of a group it's worth much more?

MR RAHMANI: That's one of the arguments he put forward but I don't own the group, I own just this house - - -

DR BYRON: Do you only own the one - - -

MR RAHMANI: - - - and I have other - a mortgage on this house. See the argument is - again, they don't care about the individual, the citizen that own the land, the owner of the property, they just think of their own reasons and they don't care how it affects the owner.

DR BYRON: Okay. I don't think I have any other questions at the moment. Is there anything you'd like to say in conclusion?

MR RAHMANI: Just thank you for giving me this opportunity to come and voice my concern and I just hope, you know, that this commission would help the legislation to be changed to a more just way for - mainly, it's mainly the owner,

property owners that are being unfairly treated in this heritage issue at the moment.

DR BYRON: Just to confirm, when you originally bought this property, did you know about its special features or its history or background? Or you thought it was just another suburban house?

MR RAHMANI: I did not know anything about the heritage issue, and as I motioned, I purchased - I knew about, you know - the only thing I could see was the bad condition, and I thought, "Fine," you know, as I explained, you know, "I get it, I live in it for a short period and then save some money and demolish it." It's - - -

MR HINTON: Just to clarify one point: in your concluding comment just then you said that the issue was the heritage requirements, but in fact I thought we'd explored it further and came to the conclusion that it was the land use/planning controls that also were a significant factor within the Ku-ring-gai Council area as to whether or not development occurs with consistency or without consistency with the state government's views. So it's much wider than heritage, as I see your particular circumstances.

MR RAHMANI: Yes.

MR HINTON: I don't wish to put words in your mouth, but that's - - -

MR RAHMANI: No.

MR HINTON: I mean, do they think solving the heritage legislation and restrictions would not necessarily resolve your issues with regard to the operations of Ku-ring-gai Council.

MR RAHMANI: Yes. But, you see, the thing is that - well, what I meant is that the heritage legislation is incomplete at the moment. If we solved that problem, then the councils - - -

MR HINTON: Can't play that card.

MR RAHMANI: Their hands would be tied. They can't use that as an excuse any more. They can't use it as a tool. So there should really be a change in the legislation as far as the heritage law goes. Because that’s the only thing they've been using. And my case is not the only one; there has been a lot of - you know, you probably have a record. There are a lot of cases similar to mine.

MR HINTON: Thank you very much for coming today and for revealing all of this to us.

DR BYRON: Thank you very much for coming back.

MR BLACK: That's okay.

DR BYRON: It's good to see you again.

MR BLACK: Good afternoon. I think it's still - no, morning, just.

DR BYRON: I think you know the ritual. But if you could just introduce yourself for the transcript and then take us through the main points that you wanted to raise.

MR BLACK: Certainly.

DR BYRON: We look forward to discussing it with you.

MR BLACK: Okay. Great. My name is Phillip Black. I am one of the councillors with the Council of the City of Sydney. Thank you, commissioners. It's good to be back and talk about some points in reviewing the draft recommendations. I understand the city is submitting a written submission to you as well. Basically, the position that the city is taking is that the current built heritage-protection system of legislation in New South Wales arose out of a history of the failure of the property market to protect all heritage that culminated in the green bans of the 1970s. It's been proven time and time again that property owners will not protect built heritage in a voluntary manner, and this is particularly evident in periods of property boom.

Many private property owners do not want to accept or understand that they are the present-day custodian of the building - and when I say "a building", I mean a curtilage also - and this building has often existed, perhaps, for a hundred years or more. With proper owner respect, adaptive re-use, and maintenance of these historic properties, they will exist for long after the current ownership.

Statutory heritage requirements linked with economic incentives are required to ensure the long-term survival of the nation's built heritage. The draft conservation of historic places report by the Federal Government Productivity Commission recommends voluntary statutory listings of private-owned property subject to a negotiated conservation agreement, and there's a major concern that heritage listing is being tied exclusively to this conservation agreement which lapses with a change of ownership. If adopted, this would have the initial impact of a massive reduction of the heritage listings, and when combined with changes of ownership will result in an unacceptable, significant loss of built heritage, most probably by demolition.

With acknowledgment that in some cases there may not be significant assistance to owners of heritage-listed properties, this is not an argument to decrease the legislative protection. Instead, it's a reason to argue for increased financial

and so of the 300, 22 were recommended to council that they be added to the heritage list. Part of that recommendation on accepting that report to council was that council move this year to have an education program on timber cottages and timber buildings. The problems associated with the age - they've often got white ants or damp or you know, timber rot and so on, how you work through those problems and how you can adapt it to re-use the building, so the council is moving on that education side of the fence as well.

MR HINTON: Is there an issue there of post-acquisition listing?

MR BLACK: That's always an issue because as heritage reports are done on properties, often unidentified builder significance, yes, comes to the front. There is a cottage in Wilson Street, Newtown, that was just seen as an interesting little gothic cottage set back from the street - the owner wanted to add onto it and it wasn't until the conservation management plan was done - it was the original gatehouse to a larger house which had been lost within the block, many, many years ago. So it's heritage significance was only identified at that point. So yes, it does often happen.

DR BYRON: I've just realised - thanks for pointing it out - that there is a comma in a wrong place in one of our recommendations. It actually changed the meaning slightly. The magic of a comma. You've raised the question of - okay, the draft recommendation 9.8, which is on page 5 - - -

> State and territory government should remove the identification of management of heritage zones, precincts or similar areas from the heritage conservation legislation and regulation, leaving these matters to local government planning schemes.

So what we were trying to say there was not that there should be no heritage consideration at all, but that if you were talking about precincts or zones or planning issues, to consider heritage as a planning issue and that it was basically a question of using the right tools for the right job - that trying to use the heritage legislation to achieve planning and zoning outcomes didn't seem to be working very well. So we weren't saying there should be no heritage precincts or zones but we were saying that the heritage precincts and zones should be done through the planning mechanism rather than through state heritage legislation. I'm not sure if that clarifies things at all, but yes, there is a - - -

MR HINTON: Certainly at the lower government level that is what happens, at the city, the city of Sydney, yes.

DR BYRON: Yes, one of the problems is, with writing a national report that it doesn't fit in every jurisdiction, so, yes. The other things that you raised that I think we'll have to address perhaps a little bit more in revisions to the draft report - you'd

be surprised at how many local governments have told us that they'd like more funds for heritage but the principle of subsidiarity as we understand it, is that each tier of government can decide for itself how much money it wants to spend on heritage, as opposed to preschools, day care centres, facilities for the aged, roads, rates and rubbish et cetera and so then - I imagine it's always tempting to think of the federal government as having very deep pockets.

They will tell us, I imagine, that state governments and local governments have resources, have budgets, and it's entirely up to the constituents to tell their elected politicians how much more they'd like to see spent on heritage and whether they would like to see that money come from an increase in their rates, or less money spent on parks or rubbish removal or whatever - the vast array of other activities that councils do. It just seems a little bit well, simple to say, you know, local governments will do more on heritage conservation if they get more money from the state or the Feds. Any reaction?

MR BLACK: I guess it's not just a matter of just a financial handout, I wouldn't imagine. I mean, I think it's tied up with some of the legislative processes and the way the state and federal government see the way they are going to deal with the financial, you know, incentives. I mean, probably the heritage listings that are tiered now probably should be funded in that same sort of tiered manner. The problem with, I guess, the difference between the city of Sydney and other councils is that, you know, we are a relatively wealthy council and there's a lot of rural councils that are the other extreme.

DR BYRON: I was going to say, Broken Hill or Brewarrina.

MR BLACK: Exactly, yes. Yes, and there's probably very significant built heritage in those neighbourhoods that is under threat just by falling down.

DR BYRON: Yes.

MR BLACK: But no-one is able to financially assist that and I think, you know, where those incentives go, from a state to the local council probably needs to be assessed at a state level and the State Heritage Office here in New South Wales.

DR BYRON: Even though much of New South Wales' identified heritage assets may well be in Sydney - - -

MR BLACK: Are, yes.

DR BYRON: - - - they might argue that you have more resources to care for those - - -

MR BLACK: Exactly. Yes, yes.

DR BYRON: - - - than does Brewarrina or Broken Hill.

MR BLACK: Exactly, yes, and I guess your point is perfectly correct about the community's value, and that's something that needs to be measured. The City of Sydney, I guess unanimously, agreed to look at an incentives program funded by the city, because all the councillors across all persuasions saw the community wanted us to move in that direction, otherwise I guess there may have been some argument at council of whether we should go that way or not, which there wasn't. But certainly I can imagine other councils, the different pressure from the community, and there's probably different pressure from councillors.

I've noticed since I've been a councillor, only 18 months, that a lot of things, such as heritage or culture, are driven by the councillors of the day. So if you've got an elected group of councillors, which certainly reflects the community's values, that aren't heritage interested you're not going to get that same sort of support for heritage, and this may go back to the lack of understanding and education, and something that I've mentioned and you've talked about in the report.

DR BYRON: Yes, but would you agree that it would be terribly presumptuous of us to say that every local government in Australia should spend a percent of its budget on heritage conservation?

MR BLACK: Yes. It would be, yes.

DR BYRON: Or that, you know, the federal government should give X million dollars a year to - I mean, I don't think we can be that prescriptive.

MR BLACK: No, I would agree with you. Yes, you can't, because it varies across the board. Yes.

DR BYRON: Okay.

MR BLACK: But there needs to be a mechanism of being able to make that assessment. I mean, I guess, like the Australia Council, you know, issuing money to arts organisations. I mean, maybe there needs to be a Federal body like that that allocates funding to worthy heritage. I mean, I don't know. I mean, these are just things that need to be looked at in the bigger picture. But just giving X amount, no, you couldn't do it that way.

DR BYRON: There was talk about a contestable, you know, transparent grants-giving process.

MR BLACK: Right.

DR BYRON: Not some mysterious white board that - - -

MR BLACK: Exactly. Exactly.

DR BYRON: You know, a clear process where local governments would put in proposals for what they would do, because as you mentioned about councils committing themselves to take care of council owned and managed property. That's been surprisingly contentious, as we've travelled around the country, that many councils who were expecting private owners to protect heritage values weren't actually doing the same on their own property, and we've sort of suggested that, you know, heritage conservation begins at home.

MR BLACK: Most certainly, and if you look at the City of Sydney's properties you'd find they're in a range of conservation states largely because a considerable amount of that has come from the former South Sydney City Council which didn't have ultimate money to do on every property. Paddington Town Hall is certainly one that South Sydney Council spent a lot of money on conserving. Others, like Erskineville Town Hall, you know, need, you know, that attention now, today. But the city is reviewing all of that, and at some point will prioritise, you know, what should be done each year. I mean, the city's own town hall in the centre of the city I would argue hasn't had a proper maintenance program, and it's something that I've been concerned about since I've been there, and I understand the staff now have put together a committee to start that process to look at that as well. So, I mean, yes, local governments have not particularly been good, and we've acknowledged that and working in that direction.

DR BYRON: You know, I don't mean to be critical of local governments who are doing that, because I imagine - I'd like your insights into the priority setting process, because, you know, I can think of a local government area where the choice is between, you know, spending $5 million on doing up the town hall and spending $5 million on daycare centres or preschools or whatever. And it must be extraordinarily hard to get the sense of what the community wants in terms of - I mean, when you've got the town hall fully restored, and every comes and says, "Wow, that's fantastic. We're glad we did it." But you don't actually see how many preschools you didn't get.

MR BLACK: No, look, you're exactly right, and so that sensitivity is certainly measured, and a project like the City of Sydney Town Hall would probably be a 20 or 25-year project, because if you put all that money into a two year project you're, exactly as you say, there's a childcare centre or a new park or some other facility is not funded that year. And so that's where I understand the staff committee is beginning to look at that long term process, and would recommend to the councillors

what the priority should be, and we'll accept that or not, I guess, at the end of the day.

DR BYRON: Again, many places that we've talked - we've talked about an accumulated maintenance deficit that over decades things were sort of done on the cheap or not done at all. But that suggests that to get the, you know, council-controlled, council-owned assets up to the standard which the councils themselves would like to see is going to require a fairly substantial injection of funds.

MR BLACK: Well, state governments are in exactly the same situation with their heritage properties too. Yes. So - - -

DR BYRON: Well, I mean, that - changing the subject slightly - that's one of the things that we found very difficult to get a handle on - read in the report - that how much Commonwealth, state, local governments are spending today just on maintaining their own heritage assets. I would have thought that would be a bit of information that we'd pick up very easily, but it turns out to be extraordinarily difficult to work out how much is being spent and what achievements we've got to show for it. I mean, the - there aren't sort of periodic condition reports or state of the heritage assets reports that enable us to say, "Well, you know, we've spent X million or 100 million on this and, you know, this is what we've achieved in terms of heritage conservation, and this is how, you know, that's enriched society."

MR BLACK: Yes.

DR BYRON: So it's been a bit frustrating to us just in the sense of knowing. So I was very interested when you said that the City of Sydney Council was going to pick up the idea of tracking, monitoring, what they're doing in the heritage area, and the outcomes and results. I think that's - that will be recommended.

MR BLACK: Well, I mean, I'm sure every council probably do their accountings differently, and of course the painting of a town hall, internal painting, may not be then listed as a heritage, it may be listed as a maintenance line item. So there's those difficulties in trying to pull together that information. Yes.

DR BYRON: But if the repainting costs twice as much because you're still at the original gold - - -

MR BLACK: Yes, that should be - that's right.

DR BYRON: - - - the difference is clearly a heritage expense, rather than just a routine maintenance.

MR BLACK: Yes, but I guess that boils down to - what I'm trying to say is that how the accounting's done, by the various authorities.

DR BYRON: Thank you very much for coming forward, and thank you very much for the very constructive feedback.

MR BLACK: Okay, all right. Thank you, fabulous.

DR BYRON: Ms Edwards? Thank you very much for coming again.

MS EDWARDS: Thank you. My name is Zeny Edwards. I'm an architectural historian, and my area of study is Ku-ring-gai, the architectural history of Ku-ring-gai. Sorry about that, Ku-ring-gai keeps coming up, doesn't it?

DR BYRON: It's a very famous place.

MS EDWARDS: First of all, thank you for giving me the opportunity to address you again today, and also I must commend you for allowing us to have freedom of speech that we have now. It's very evident that we can say whatever we like without fear or favour, which is very good.

DR BYRON: Absolutely.

MS EDWARDS: Also I have benefited from the number of excellent submissions. I've become the wiser for that, knowing about and understanding heritage from all points of view. Having attended the full hearing, it's become obviously clear that there are really really big problems, and I will address those problems later. I was also very surprised that quite a lot of importance has been placed on Mr Boyd's statements and the importance of the Pettit and Sevitt in the inquiry. I don't know whether it was by chance or coincidence but Pettit and Sevitt seem to have become a focus in this - New South Wales at least.

So I'm compelled to do some corrections and clarifications regarding the Pettit and Sevitt if I may. There are eight houses - - -

DR BYRON: Sure, but just by way of introduction - I don't think the report is about Ku-ring-gai or about Pettit Sevitt or about any particular house in that cluster. I'm a little surprised that you think that, you know, there's great emphasis attached to that in your report because to us it's just one of hundreds of places that we've looked but sorry I interrupted. Please go ahead.

MS EDWARDS: Mr Boyd's omission - there are eight not six Pettit and Sevitt Houses in the group; six are listed and two are not. Mr Boyd, who is in number 400, is not listed and number 27 is not listed.

The heritage significance or the statement of significance of the Pettit and Sevitt Houses are - their architectural, social, technical and cultural significance. Technical and architectural is very clear and I think that probably is the most important significance in that area because the houses were designed to be extended to cope with growing family requirements because they were built in 3 foot modules. All the building materials that have been used are readily available and are affordable and that was one of the, sort of the criteria that was practiced by the architect when

he was building and designing these houses.

The rarity of the Pettit and Sevitt Houses are because they are in a group of eight, and they're intact and they're in one place - Richmond Avenue - and they're sort of in succeeding - one after another rather than individually separated. That's also part of the - contributes to the heritage significance of the site. The other side of the coin is there are a few of the owners of the Pettit and Sevitt Houses that are quite happy for their houses to be listed, and Marie Rampling, who's in number 29, wanted me to say specifically that she bought the house before it was heritage listed, and when she got the notification for heritage listing, she was quite happy about it and she has opened her house. The historic house is just for inspection, and she's still very proud of the house and its heritage significance.

The other owner who is not a part of the Pettit and Sevitt group lives in 59 Richmond Avenue and owns a Pettit and Sevitt House. She was totally unaware of this hearing and she said if she'd knew, she would have made a submission as well. And she asked me to - if I may submit her letter regarding her support of the heritage listing of the Pettit and Sevitt group, that would be very good.

The other point that I wanted to address is the listing - also I believe that there are quite a few interested parties in Mr Rahmani's house. I know an architect who was very interested in it, precisely because it was a Ken Woolley house. It was part of the Pettit and Sevitt, not just a house. He was very interested in it because of its history. And I don't know what happened to that one, why he didn't buy it.

The other issue I wanted to address is the National Trust listing process. I was the chair of the Historic Buildings Committees of the National Trust, which was the committee which is involved in the listing and classification process. It is a very vigorous process. It's not an ad hoc or an indiscriminate process of listing. We have had experience in the past where owners of properties have submitted their own houses to be listed and which were rejected because they didn't qualify or they didn't meet the criteria, and they were very disappointed because they really loved their house and they thought they were significant. So there's not that sort of rigorous assessment that takes place when one is listing or classifying items.

The National Trust and other heritage groups play a crucial role in preserving the historical value of the national and built environment of Australia. In the long term - the ideal scenario is in perpetuity and not just in the short term. I mean, it goes beyond Mr Boyd's ownership of his house, for example, and the community value and public good. I know they're very emotive terms when you think about it. It's not just monetary value in my mind. It goes beyond that, and I think it is exemplified in owners of heritage-listed properties who really love their house, and there is no way, as Barry O'Keefe said, that if you offer him a million dollars or a hundred thousand dollars he might - but he won't sell it because of its sentimental

value to him.

The other last issue I wanted to tackle was the urban conservation areas, which you have already tackled with the previous submission, especially with regard to recommendation 9.8. I think you have addressed that before with the City of Sydney submission. I have been sort of overseeing the heritage survey of Mount Wilson and the Central Coast, particularly Patonga. We went there on behalf of the National Trust mainly from the request of residents to have their areas listed because they were worried about the developments. So this is the other side of the coin. I mean, the urban conservation areas are very important in keeping the streetscape and the character intact. I think Haberfield and Braidwood and Richmond Avenue are very good examples of urban conservation areas that are required and should be in place to protect their future.

In conclusion, may I read a statement:

> Heritage is a dynamic process which necessitates upgrading the assessment process progressively through the years and subjecting it to continuing review. The recommendations of this Productivity Commission are crucial to the dynamism of this assessment process - to abolish some mechanisms that are now in place is to denigrate the years of study that have been devoted by expert bodies into developing current heritage policies and guidelines. Conservation should be the absolute focus of the whole argument. The problem is not conservation of historic heritage places, but is equitable, consistent and wise implementation of its policies and guidelines to ensure its further success.

In conclusion to that conclusion, I have sort of heard the previous submissions. Clearly, some of the problems are council generated. And there are - with regard to Pettit and Sevitt, it's just become such a sad, muddled, complex problem, which there is no solution. Nobody is going to be happy with any outcome, mainly because of the antics of some councillors and the council and the delays, and all of this and all of that. So that is a very big problem. The other problem is funding. It's very good and well to say funding is needed. But I don't know where the funds are going to come from, and that is also a very big problem. The education of the grassroots level is very necessary. If the general public understand and appreciate heritage, then you won't be having the problems we are having now with the private owners complaining about the heritage listing of their properties. Thank you.

MR HINTON: Thanks very much for your attendance today, Ms Edwards, and your written submission. At the risk of adding again to the focus on Ku-ring-gai, let me nevertheless ask a question. As you heard earlier this morning, there's a view around that the Ku-ring-gai Council perhaps might be using the heritage objective or the heritage conservation objective as a sort of guise to actually achieve

anti-developments objectives, even though the development proposal might otherwise get approval consistent with state government here in New South Wales. Do you have any reaction to that sort of mindset, that sort of hypothesis?

MS EDWARDS: I think it's very clear, but that's what's happening at Ku-ring-gai Council. Not with all councillors, but some councillors are hiding behind heritage to prevent development, and they're painting this very negative picture of heritage as anti-development, where it really isn't. This is very clear in the Pettit and Sevitt development application, where that was the excuse given.

MR HINTON: That suggests to me that that environment is doing damage to the heritage conservation objective but also doing damage to sound, rigorous land use and planning controls, and not doing all that well for local governments either. Is that an overstatement?

MS EDWARDS: I don't think it's just Ku-ring-gai Council. I think that Rockdale Council also had very big problems with that. I mean, it was an absolute yes or no, or black and white, as mister - whoever it was - agreed and pointed out, and there is no sort of negotiations or mediation between the two parties. And I'm sure if both of them, council and owners, sit down and work it out, they can come up with a solution to the problem.

MR HINTON: My questions were in no way meant to say that the Commission was focusing just on Ku-ring-gai Council. We are looking to have a system, or recommendations pursuing a system, that would have an Australia-wide application that brings rigour across all local governments. But we use specific examples to help us understand how the system may or may not be working well today.

MS EDWARDS: I also think it's not just the councillors, it's the whole local government staff and the development application officers and all of that. They really need training not just in knowledge but in public relations, and dealing - they shouldn't intimidate or be intimidated by others. There really should be also specific heritage policies and guidelines and the relations and the liaisons between owners of heritage listed properties and the staff should really be improved in a way and the management of local heritage listings should be consistent and not wavering.

I think that's the problem with the Pettit and Sevitt. It was wavering. It was listed, not listed, maybe it's listed, maybe it's not listed. I can understand the frustration of the owners when they're facing that: "Well, is my house listed or is it not listed?" And every time they front council meetings, they're being bounced backwards and forwards and they don't really know what to do. It's come to the point where the whole eight group, the owners of some of those Pettit and Sevitt, who are pleased with the listing, don't want to make any statements - and I know this, they don't want their names mentioned - because they don't want to sort of upset

Mr Boyd and Mr Rahmani about it. But they really are - some of them are quite happy with the listing.

MR HINTON: Let's - a slightly different topic, and that is, your written submission, in effect, says that heritage listing does not damage value, does not erode property value. Am I sort of reading too much into your written submission?

MS EDWARDS: I know most of my friends who live in Ku-ring-gai, and I live in Turramurra, whose houses are heritage listed - I think are just as valuable because of the - - -

MR HINTON: Yes, but that's not the issue. I'm sure that we can find places out there, heritage listed, which in fact might even benefit in value from the heritage listing. But that doesn't mean to say that it applies universally. That's an important issue for us, in that we're getting statements from some saying, "Of course, heritage listing never damages value." Others say, categorically, "It invariably reduces property values." I suspect the truth is in between, that in many cases heritage listing does lead to opportunity cost of a fundamental, substantive amount with regard to loss of capital gain through redevelopment, in particular. But on other occasions the characteristics of the property, with its maintenance of its heritage characteristics and maintenance of that through conservation over time, could lead to a higher value. It means there's truth in either case - - -

MS EDWARDS: Exactly.

MR HINTON: We've been a little disappointed. There's too many categorical statements from both camps.

MS EDWARDS: Exactly - I mean, I agree with you on that and I'm sorry, my experience is with Ku-ring-gai and I'm not an expert, but I'm sure the National Trust has had experiences with heritage properties that have been really, really affected by the heritage listing. I think heritage properties or heritage items should be looked at on merit and as an individual, and not be - and this is where the problem happens, to classify them in general terms, and I don't know whether Jacqui agrees with me and that is to look at each item individually and assess it on its merits, rather than grouping them together as a whole.

DR BYRON: Well, I may be repeating what I said before. What we're trying to add to the existing process is that after the assessment of significance, which would still be done exactly as it is today, according to Burra Charter, et cetera, there would be a new step. Having assessed its significance as very, very high or moderate or average, we then look at what would be the implications of a permanent or very long term statutory listing, what might the cost be and who would have to pay those costs, and have some discussion about that. It seems to us that the process as it works at

the moment is you assess significance, if the answer is, "Yes, it's significant", then it's statutory listed and everything else follows, without actually that intermediate step of assessment.

The discipline that we're trying to put on there is for those who are proposing a listing, rather than being blind to the costs, at some stage the legislation says they can't even consider that, that there would then be an explicit suggestion of well, what would be the consequences? So, you know, in your submission, for example, to come back to Pettit and Sevitt and Ku-ring-gai, you talked about the Heritage Office, RAIA, the Docomomo, the National Trust and all these sorts of things. Not only do they all agree that the cluster is highly significant - the rarity as an intact group - but they also agree that therefore it has to be conserved and retained and managed, but that's going to be at somebody else's expense. So you've got one side making the demands, but the other side having to bear the consequences of those demands.

Now, what we're trying to propose, for discussion at least, is a serious negotiation of what the consequences will be of a heritage listing and if there are costs, then how they are going to be borne and by whom. Now, that seems to us to be the step that's missing. So when you said a few minutes ago about how the trust listing process is discriminatory and rigorous and that, I don't question that at all in the sense of the assessment of the significance of places, but it's that next step of saying, well, having decided that this place is highly significant, then what?

I think that that "then what?" thing needs to be explored further, and in the failure to do that you end up with one side saying, "We demand, expect or require that X should happen, but we're not going to pay for it." Somebody on the other side is going to have to pay for it. That, I think, is a fundamental tension that leads to, in some cases, hostility, in some cases, vandalism, you know, all these sorts of things, which are really unhelpful to the conservation objective.

MS EDWARDS: I know for a fact - I've heard from Ku-ring-gai Council, I rang them before I came here - I believe there is a young family interested in Mr Rahmani's house and they have contacted the Heritage Office - I'm sure Susan would verify this - and the Heritage Office have offered to help draw up plans and extensions and advise them on how to best manage that, if they decide to buy the property. I think it also falls on the owners of heritage - heritage assistance also falls on the Heritage Office and the National Trust in a way, and local council, with regard to making it easier for heritage owners of listed properties - to make it easier for them and transform that negative idea into a positive one.

I mean, the rebates on rates, for example, I think is a very good start for local council; also help in kind, like restoration grants for materials; and maybe help from craftsmen who were willing to go and do some work. I mean, we did that with Eryldene where we had the Department of Education doing heritage work on the

Castlemaine process of the ceiling, and they did that for free. We just had to pay $500 for the materials and they used that as an educational tool to restore that ceiling which would have cost $15,000 if it were done by a contractor.

I think that really needs to be studied, maybe, I don't know, if another forum as to how a heritage advisory committee run by the National Trust to give advice on people with heritage or restoration problems and things like that. I mean, there are so many ways, but with the funding it's very difficult, because I don't know where the money is going to come from. So what - I'm probably volunteering that might be a suggestion is in kind and advice rather than funding, and the funding will have to come from the government.

DR BYRON: I think you're right in that the funding and the education are probably reinforcing, and probably both need a bit to make the situation where to be on a heritage list is seen as a tremendous asset rather than a tremendous liability, and I think there's a lot of very negative perceptions of heritage out there because people think that being heritage-listed will impose a lot of additional costs and very few, if any, additional benefits. So again the thrust of what we're trying to propose here is what would it take so that owners of places that were high priority candidates for heritage conservation would come forward more often, would volunteer rather than have to be pressured to maintain identified places.

Now, it may mean that there needed to be more prioritisation in the sense that do we need to preserve every sandstone bank in Australia or whatever, but it just seems to us that what was missing was the assessment of - now that we've decided a place is significant, then what? Who's going to do it? Who's going to pay for it, if there are costs? As you say, there are probably many - there are certainly some cases where the owners are delighted to have their place heritage-listed, they willingly accept any additional costs or constraint that may be placed and they're very happy with the system. That's great; very pleased. But the problem is with people who are very unhappy with the system - - -

MS EDWARDS: Yes.

DR BYRON: - - - and the feedback from that. So I think there's a lot in your latest submission that is very helpful to us. Do you have any more questions, Tony?

MR HINTON: Fine, thanks.

MS EDWARDS: I'm sorry I don't seem to have offered any solution because it's a very, very complex - and the funding, I think, is the main problem because nobody knows where the money is going to come from. I mean, it is the most important - if the funding is there but who funds it and where the funds are coming from is the - - -

DR BYRON: Yes, exactly, but if enough money is made available anything can be solved, but the question is how sustainable is that. Maybe governments - - -

MR HINTON: As long as the system is soundly based so that the money is not just wasted.

DR BYRON: Yes.

MS EDWARDS: And not abused by - - -

DR BYRON: Exactly.

MS EDWARDS: - - - the owners.

DR BYRON: So that the Australian governments could come in with a large bucket of money and fix one particular problem but within days there will be a similar problem in another state or another local - - -

MS EDWARDS: Yes.

DR BYRON: - - - government area and so on. So what we're suggesting is maybe to try and fix some defects in the current system rather than trying to patch up the consequences by always throwing in more money. But, yes, I think we're in very vigorous agreement that there are both education and funding roles here as well as getting the regulatory arrangements right. Was there anything else that you wanted to add?

MS EDWARDS: Yes. I just commend you for initiating the inquiry and - - -

DR BYRON: We can't accept the credit, I'm afraid.

MS EDWARDS: Well, representing the - managing the inquiry and allowing us to speak. Otherwise we wouldn’t have had the chance to air our views which is good. Thank you very much.

DR BYRON: Thank you. It being now 1 o'clock, we can take a lunch break and resume at 2.00 with the Castle Hill Historic Site Community Centre. Thank you very much.

DR BYRON: Thank you, ladies and gentlemen. If we can resume the public hearing into the draft report on the conservation of Australia's historic heritage places. Our next participant is from the Castle Hill Historic Site Community Centre, Mr Sommerlad. Thank you very much for coming. If you would just like to take a seat there in front of any of those microphones.

MR SOMMERLAD: How long have I got to speak?

DR BYRON: Well, we've allowed about half an hour, but that includes some time for us to discuss the main points. So the normal routine would be if you could summarise the main points in 10 or 15 minutes, and then we - - -

MR SOMMERLAD: Three minutes or 10 minutes or - - -

DR BYRON: 10 or 15 would be excellent.

MR SOMMERLAD: Thank you. Mr Chairman, the Castle Hill Historic Site Community commends the Productivity Commission on the content and clarity of its inquiry draft report on the conservation of Australia's historic heritage places. This provides a sound basis for public comment. The Historic Site Community Committee believes conservation of Australia's historic heritage is fundamental to the cultural understanding of identity for current and future generations, et cetera. I'll leave a few of these out. I'll summarise this report that I've given to you, if you don't mind.

The preservation and conservation of our historic heritage in the final analysis is the responsibility of the three tiers of government. Assessment of cultural and historical significance, while subjective, should be determined on the significance of the item or place in relation to time, use, context, effects, uniqueness, practical or intrinsic value and relevance to society, irrespective of public or private ownership.

I'll leave a few paragraphs out here and progress. The cost of conserving government owned or controlled items, except in specific circumstances, should be shared fairly between governments, users and the public, in the context of status, viability, capacity to contribute and the level of community involvement and support. Financial transparency and accountability is a process that is expected in public affairs these days. The Register of the National Estate and other heritage registers most definitely should not be phased out. These provide an important reflection of relevant historical significance and should be used in assessing, but not ultimately determining levels of government support.

The RNE is a vital and relevant instrument in the national and international perception of Australia's heritage, even if not particularly used for financial purposes. National trusts have fulfilled an invaluable role for nearly 50 years in the

preservation of historical and cultural significant sites, and particularly in heritage promotion and advocacy. Under no circumstances should their role be diminished, minimised or comprised. They perform functions governments can't or won't.

National Estate government grant systems are fundamental to the maintenance and continuation of historic heritage conservation. Any change in the system cannot reduce the volume of delivery without drastic detrimental effects. Cost effective assessments of potential items or products or projects of project recipients is reasonable, but determination on this basis alone is contrary to the value principle intrinsic to heritage. With Australia's population growing, cities becoming larger, existing heritage becoming more significant, and new places and items joined in the ranks for the passage of years, heritage costs will progressively increase and governments at all levels cannot opt out of a basic responsibility. It should be remembered: old countries live on heritage.

The Castle Hill experience is an example of problems. I won't give you the full run-down on all this, but the basic elements are necessary to get a hang of what I want to say a bit later on. Castle Hill's historic site was involved with convicts for 30 years. Governor King established a government penal farm there in 1801 to produce stock, feed and grain reserves from 700 acres farmed. Up to 600 convicts were engaged; hundreds being Irish political prisoners.

It is significant in our history, with the site of the Castle Hill rebellion, Australia's largest, on 4 March 1804, when hundreds headed south to capture Parramatta, et cetera. They were confronted by troops; about 15 were killed, seven wounded, nine hanged, others flogged and 30 put in chains. Martial law was proclaimed for the first time, the colony terrorised and the ramifications affected administration and the military. Religious, cultural and social life was restricted for two decades. If this isn't significant, I don't know what is.

The Castle Hill farm closed after 10 years. The two-storey barracks became Australia's first lunatic asylum until 1829. At about 1825 convict chain gangs based on the farm site began to build a great north road to the Hawkesbury River and Hunter Valley, which features some of the finest examples of existing cuttings, embankments and bridges constructed by craftsmen and stonemasons.

In 1975 the federal government reserved 50 acres of the penal settlement at Castle Hill, still in its natural state, to be acquired by the state government and passed to the Baulkham Hills Shire Council to be used in perpetuity as a heritage park. Most of the area was placed on the register of the National Estate, number 2964, in March 1986; on the National Trust's Conservation Register, 1996; on the New South Wales Heritage List, 2001, when the park boundaries were finally determined. Of course, it was on the local heritage list from earlier times.

In 89, what is now titled the Castle Hill Historic Site Community Committee - that's what I represent - was formed, with the express aim of organising the construction of an exhibition and education centre on the site, which only then had been acquired by the state government. We organised a public appeal to get it going; they've still got the money in trust. This land didn't have a frontage or a main entrance, and it took us years to drive the council to buy the 2.2 hectares to provide a fundamental entrance to the place. The cost to council; 2.3 million, without any government assistance.

Another three years later, the park was opened simply with a small paved parks signage covered area and tables and children's playground. We still haven't got a toilet. The only federal government funding, apart from some national heritage small grants, amount to about 240,000, most of this for archaeological investigations still continuing. A plan of management exists for the conduct of the whole business; a committee was established, our people are represented on it, and we drew up a plan of management approved by the council. This included the Convict Education Interpretive Centre, which we set out to build 16 years previously.

During this time, the committee had been fighting pre-emptive and rearguard actions against developers and/or the council regarding what we considered to be inappropriate developments at the entrance to the park and on most sides, which is now virtually enclosed. In fact, all our efforts have been unsuccessful in this area, but there are many more battles to come in this regard. The lessons from this saga are manifold and have implications for the heritage inquiry. We have listed these for you.

Despite the delays and problems the Burra Charter administered by the Heritage Office has preserved the heritage integrity of the site and will continue to do so. The proposed education centre cannot be built without the federal, state and local government and the public jointly cooperating to provide the finance required. This is why our three-tiered government structure needs to continue. It won't happen locally. An education centre is fundamental to justify the Australian government's virtual gift in 1975 of the historic site to the people of Australia as a national historic reserve in perpetuity; and also to fulfil the obligation the shire council has to foster and promote public understanding of such a heritage site in the context of colonial development 200 years ago. This is why an education centre is fundamental.

Our plan to interpret, not merely Castle Hill, but the convict farm way of life, similar to those other penal settlements and agricultural settlements in the Sydney region during the early colonial years, as a perceived need expressed by New South Wales Tourism, is designed to demonstrate for the public the farm practices, customs and land use of the pioneering years of the 19th century.

Because of the international connections between Castle Hill and Ireland's

Vinegar Hill site at Enniscorthy, site of the English victory in 1798 which produced the convict flow to Australia - Baulkham Hills Council and Wexford Council are sister cities - it is imperative that Castle Hill Education Centre be constructed as a goodwill gesture to Ireland with its national memorial at Enniscorthy, the site of the defeat in 1798. It's important to note that 50 Irish visitors visited Castle Hill for the Heritage Park opening in 2004. Another group of 50 will arrive in six weeks' time for the 102nd anniversary of the Castle Hill rebellion. This emphasises the national and international significance of Castle Hill historic site.

The political colour of governments change and councils become factionalised, as we have found to our immense frustration. The site is located in a Liberal voting electorate, and in a large developmental shire with constantly growing infrastructure needs the New South Wales government is loath to assist in meeting. Thus heritage support, nil. If the three-tier system is abolished and no funding is available from federal sources - we barely receive any anyway - with the state government disinterested and the council unwilling at this stage to endorse education centre construction, even with public support, the prospects of completing the Castle Hill project in the committee's lifetime is bleak, to put it mildly. This is why availability of funding support from all tiers of government is absolutely essential.

Finally, the Eureka Stockade stand-off for a few days in 1854 in the Ballarat community of 35,000 people, promoted as the birth of democracy in Australia, attracted three-tier government financial grants totalling around $4 million to establish the Eureka Centre for the 150th anniversary in 2004. Our committee seriously contends that the provision of a convict education centre and interpretive centre on the Castle Hill penal site to commemorate the 1804 rebellion and the battle of Vin ary in 2004. Our committee
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pay its way - some things will - but a lot of it won't. Something that's hopeless, well, I mean we can't support that but a lot of things that are significant and viable - reasonably viable - you know, governments have got to support them.

Local government, we can't do much with local government because if you use the American system - or a lot of states - where they levy a special rate to fulfil a particular purpose. It might be over a couple of years - a rate - to raise money to do something; that's what needs to be done, say, here. There's no hope of doing that in Castle Hill because the state government, you know, limits, puts a cap on rates. Our shire is so, you know, strapped for cash because billions of dollars of infrastructure development that they can't possibly fit this in. This is why, unless there's some mechanism to enable people to get extra funding - particularly from governments - for significant projects, heritage is going to be just a disaster.

DR BYRON: Given the history of the site, you know, the very brief, pocket history that you've given us, I find it quite surprising that there's been so little financial support for the communication, extension and interpretation of what went on there in explaining the importance to people.

MR SOMMERLAD: Well, the main way of interpreting it to do what we want to do with the heritage education centre, convict education, because, you know, these convicts were there for 30 years, and to show, you know, to interpret not just the rebellious side of it but the land use; the cultural activity; the methods of the day and all that sort of business so that people - New South Wales Tourism recommend this. There's no where to go to get a picture of this. They can go to the Hyde Park Barracks and learn about convicts and orphans and all this sort of business but there's nowhere they can go and we've got a park. Originally, the farm was 34,000 acres; we've got 20 acres of it now - sorry, 20 hectares of it now - - -

DR BYRON: 50 acres.

MR SOMMERLAD: - - - to use as a park, which is a wonderful, beautiful site, you know, naturally. So that, you know, we've got all the facilities. The test will come in next year when we start touting for funding from other sources. This is why we're adamant that we're putting this view before this inquiry to pre-empt any actions of the inquiry, recommendations of the inquiry or actions by government that will prevent adequate finance flowing from government sources - it's a government responsibility - to support national heritage sites.

I mean, I'm sure we'll probably get some funding. The Eureka Stockade a couple of years ago was a classic example, but you know, they've got the running because they've built up the democracy angle for 150 years; the damn thing started at the Castle Hill Heritage Park. This is what I'm saying, you know.

DR BYRON: Yes.

MR SOMMERLAD: We're the inspiration of the whole thing. This is why we've got to get public support and we don't want anything happening that will preclude this.

DR BYRON: Okay. Tony?

MR HINTON: Mr Sommerlad, thank you for those comments and your submission that you've given to us this afternoon. I'm a bit unclear as to your reasoning behind the view that the existence of this inquiry is in fact a basis to conclude that the federal government has in mind reducing its involvement. It's that causality that I'm struggling a bit with.

MR SOMMERLAD: Well, it's common knowledge that governments try to make user-pays as a principle and cost benefit. You know, a user principle hits about everything there is; everything is being privatised and so forth. What I'm saying is that they're not looking for ways to give out money for, you know, public benefit, particularly in the realm of heritage. They'll look after the Sydney Opera House and a few of these major projects which are obviously, patently national icons and so forth, but for items such as ours - which we contend is no less significant than the Eureka Stockade place, you know. This is where you run into battles; I mean we've fighting for 16 years to get where we are and we haven't reached where we aimed to start from, you know. This is the sort of thing that, you know - what are we going to do, another 16 years? I won't be here to see it and nor will most of my colleagues.

Now, we're in fighting spirit as you no doubt recognise but, you know, this is why we don't want you, this inquiry, to do anything that will inhibit - I hope you're going to do the opposite. You know, this is a sort of a caution - - -

MR HINTON: Okay.

MR SOMMERLAD: - - - to inhibit - - -

MR HINTON: I understand - - -

MR SOMMERLAD: - - - you know, anything that could be interpreted as reducing government involvement in heritage funding.

MR HINTON: I understand your reasoning now much better. Thank you. I pick up something in your written submission that you refer to the Register of National Estate but go on to say that, "the Register of the National Estate and other heritage registers most definitely should not be phased out." Is that also a precautionary comment in the sense that - - -

MR SOMMERLAD: Yes, that's a precautionary statement. The reason being if a place is on a couple of heritage honours - like the national and the state - it's obviously more vital for preservation than something that's purely on the local. Except exceptions; there'll always be exceptions to these things. Certain things like houses, building, things like this that are probably not nationally known but are vital for the government support, including council and other government support.

This is why these registers enable people - and this is the public perception - they enable people to realise, "Gee, this must be something pretty good, you know, this is significant." Now, if you're struggling along on a local heritage list or something or other, people couldn't give a damn. You've got- especially a site like ours, I mean you'd never get anywhere. The very fact that it's recognised by the federal and the state governments and the National Trust - has been for years - you know, the very fact indicates, well, this must have something, you know really potential and essential about it.

That's why we believe that these sorts of things - I mean, I'm not suggesting they can't be trimmed down or something like that. But just to phase out the federal list except for icons, you immediately get to the idea that it's only a minor or lesser importance.

The fact is that it's taken, in our particular case - okay, it happened in the Sydney Colony in 1801 to 1830. The ramifications of the whole thing had national implications. Because a lot of things in Sydney happened in the early part of the - before other states were created and all the rest of all that stuff - means that they have more, probably, relevance in some respects than some of the - they are on certain lists because they got an earlier start, not that other matters in states aren't important. But it indicates that - it recognises the fact that these are colonial heritage items of vital significance.

MR HINTON: You're uncomfortable with the idea that the national list should not be just restricted to those that have national significance. Is that your point you're making?

MR SOMMERLAD: No, our committee believes they've got to be of national significance - and we consider our site and the Eureka Stockade Gardens have national significance, not just because they happened in Victoria and New South Wales. Just because they happened in Sydney doesn't mean to say that they shouldn't be on the national list. What are you going to put on the national because of the state system? The national list covers all states.

MR HINTON: Yes.

MR SOMMERLAD: And this is why - - -

MR HINTON: But it's the degree of significance; is the criterion.

MR SOMMERLAD: The degree of significance is fundamental to building up a public perception of what something really is, what its value is.

MR HINTON: We seem to have a fair bit of support for the existing new system that has a national list and a Commonwealth list for the Australian government level, and then state lists for state significance, and then local government lists for local significance. But we do recommend in our draft report that the Register of the National Estate be phased out for historic sites, and that's because of a link to the issue of: a statutory list is a statutory list that then has implications for how government's controls come into play. By having a Register of the National Estate for sites complicates matters unnecessarily, which is, in very brief terms, our reasoning behind our recommendation. Is that causing you concern?

MR SOMMERLAD: Yes, it frightens us to no end. Okay, the National Estate Register at this point hasn't got a really statutory power. It's the state ones that have statutory power, and that's why that's fundamental. But if everything in Sydney goes on a state register, how do you equate their national significance?

MR HINTON: It might be on the national register.

MR SOMMERLAD: If they were on the national register, that's okay. But if the national register doesn't exist unless it's - - -

MR HINTON: No-one is proposing it not exist.

MR SOMMERLAD: It's not proposing in any form.

MR HINTON: It is existing today and no-one is proposing that it be scrapped.

MR SOMMERLAD: No, but the suggestions I read, though, it was to be sort of phased out.

DR BYRON: Sorry, I think there's a confusion between the Register of the National Estate that was established in 1975, which covers - - -

MR SOMMERLAD: Yes.

MR HINTON: Lots of things.

DR BYRON: Yes et cetera, and then there's the Australian Heritage List that goes

back about two years, which was supposed to have just a relatively small number of places of outstanding national significance because, from 1975 onwards, all sorts of places were put on the RNE, and being on that didn't actually confer very much protection at all.

MR SOMMERLAD: No, very little.

DR BYRON: So the idea was that this new system, where the national government would take responsibility for all the places that are identified as national significance, state governments for state significance, local governments for places that are locally significant; actually makes the old RNE - Register of the National Estate - redundant.

MR SOMMERLAD: Redundant, yes.

DR BYRON: So that the idea was that the various heritage offices at the various levels would trawl through all the places that are on the Register of the National Estate and see whether they belonged to national, state or local significance, and then put them onto one of those statutory lists that gave a strong statutory protection and, presumably also, corresponding funding support, whereas the old RNE basically didn't do much of either. And at that point, having historic places still listed on the Register of the National Estate would be redundant. I think maybe the issue for you is whether the Castle Hill site should be on a national significance list as well as a state significance list, and local.

MR SOMMERLAD: That's an issue. The Castle Hill site would probably not rate with the Opera House or the Rocks or something, you know. The danger is that we'll be written back, and we don't want this to happen because of - Eureka is going to be the same thing. That's touted as a place of democracy. That will get up, and Castle Hill will be put down. And this is not on, as far as we're concerned. The Castle Hill has 50 years happening before, when the population of the whole country was only 6000 or less. You've got to relate it to the context and the relevance of the occurrence.

We're doubtful when - merely on a state list, and you publicise a state list - admittedly, they'll give you funding. But there again, does that mean the federal government doesn't give the state funding? Because if you got to rely on the state for funding without any forthcomings from the federal, out of taxpayers' money, to the state, nothing will happen. And if you got a state like ours, we've got Buckley's chance because it's a one-party state, just about, here. This is the situation. And if you've got a council that's semi-interested or factionalised, you don't get a guernsey. You can be working for life and still not get a prize.

That's what we want to ensure, that there's protection for places of significance and public voluntary assistance that works like slaves to get things done. I think I've

probably said enough, Mr Chairman. You're probably fed up with me, aren't you?

DR BYRON: That's too strong. No, not at all. It has been genuinely, extremely interesting and useful. I'm still struggling to get to the hub of - it seems to me that all three levels of governments - national, state and local - have been, shall we say, fairly reluctant to get involved in supporting this. Just from the very brief history that you gave us, I find it hard to understand why they'd be so reluctant.

MR SOMMERLAD: The point is, really, it took - the site didn't come into the possession of the shire till 1997. Okay? So we've only had five - about eight - seven or eight years. It took from 1997 to 2004 firstly to persuade the council, or the government and in the finish the council, to buy 2.4 hectares of land - 2.2 hectares, to provide the dashed place with a site, with a frontage and the colonial entrance. So that took us to 2001, so we've been struggling for 12 years before we even got the dashed park. Then we get a park that's opened in 2004. Now, it's only been cleared and available to the public since 2004. This is barely two years ago - - -

DR BYRON: Yes - - -

MR SOMMERLAD: - - - so we're only now starting to get geared up to put on the park what we tried to do, you know, 16 years ago - that's why it's not, you know - I can understand your feeling that nothing has happened, but it was - - -

DR BYRON: Sorry, that's not meant to be - - -

MR SOMMERLAD: - - - that's why - - -

DR BYRON: - - - critical of you or your committee at all, but if you - well, if - we've known the history of this place since eighteen hundred and - - -

MR SOMMERLAD: One.

DR BYRON: - - - one or 1804.

MR SOMMERLAD: 1801.

DR BYRON: You said that the federal government reserved the 50 acres - 20 hectares - in 1975, and yet - - -

MR SOMMERLAD: That's right.

DR BYRON: - - - we still don't have a place there that publicly celebrates the events that occurred which are, as you argue, of at least national if not international historic relevance. So it just seems to me that, since 1975, the rhetoric hasn't been

supported with hard cash.

MR SOMMERLAD: Well, there's nothing - I'm sorry, I can't take any blame for that.

DR BYRON: No, no - - -

MR SOMMERLAD: I've only been here - I've only been in Castle Hill for 23 years. Prior to that, I've spent 30-odd years in the country supporting every heritage thing and the historical society in existence, and establishing the Inverell Pioneer Village, which is a prize-winning folk museum, but the - - -

DR BYRON: Yes. Sorry, I'm not trying to - - -

MR SOMMERLAD: The thing is whoever is responsible, there's no, you know, real public body, and the local member who pushed it all through died - retired and then later died, so that there wasn't any driving force to do anything, and then a bit of agitation - when our committee was formed, or before it was formed, there was agitation to get the land transferred from - 50 acres transferred from the federal - you know, from federal government ownership - it was War Service Homes land - to the state government, and then there was a hassle because the state government argued what they wanted to spend on it.

They had to pay 890,000, and then between 80, 99 and 97, there was deals of all types between the council and the government because the council needed a road up the top - the top at one end that cost them about $11 million, and there was all sorts of - instead of getting 50 acres to go to the heritage park, we were reduced in size, you know, and the money was spent - you know, all the argument was about getting a dashed road and determining the boundaries of the place. So it's really only since 1989 that - and we started driving this thing from 1989 - it's only since 1997 - correct that, 1997 that anything could be done. I mean it was just virgin land at that stage. Then they couldn't get a site so it was 2001, it was virgin land up to 2001 before anything happened on it. That's why there's why there's been such a protracted delay.

DR BYRON: That explains it very well.

MR SOMMERLAD: May I go?

DR BYRON: Thank you very much.

MR SOMMERLAD: Sorry about that.

DR BYRON: No, no, that's very helpful.

MR SOMMERLAD: Thank you very much, Mr Chairman, sir.

DR BYRON: Thank you for your time coming today and explaining all that to us.

MR SOMMERLAD: It's a pleasure.

DR BYRON: Yes, please, we have a gap in the program.

MR ALLEN: Thank you very much, sir.

DR BYRON: That's very generous of you. I did say this morning that we'd give an opportunity for anybody who wants to come forward, and this is an opportunity, so - - -

MR ALLEN: Thank you kindly.

DR BYRON: If you'd just like to take a seat.

MR ALLEN: I appreciate being allowed to do this.

DR BYRON: Introduce yourself for the transcript and - - -

MR ALLEN: Yes, I just walked in off the street, you might say, but I did see this in the local paper and I have an ongoing interest in heritage. I established a business - - -

DR BYRON: Your name please.

MR ALLEN: Darryl Allen. I established a one-man band. Christian Heritage Australia I call myself, but my interest is particularly in regard to Christian heritage and Christian churches. I became interested in this over about 10 years ago and tried to get in touch with churches locally to arrange a particular function and I found it very hard to do that; a bit like try to break down the fortress.

But then I got interested in driving around Australia and looking at the country churches, and I saw how many of them are becoming derelict, and very small congregations struggling to maintain their buildings. It worried me that in years to come you'll be driving around and all you'll see is just a pile of stones in localities which were once thriving villages and towns. Then I thought, "What a sad thing to happen." It's already happening in certain areas - the old mining towns - and I thought, "What a wasted tourist opportunity."

There's so many things that we could tie into those buildings, church buildings, because they were at the centre of the communities, and they were built by the local communities, financed by the local communities, and used by the local communities, and they still have an ongoing contribution to the people today, because a grandmother or an aunt or a relative was born, christened, or a funeral service was held in that particular building. So the contribution is past, present, and future, and with the lack of funding of these buildings and the lack of funding by the actual church bodies that own them, it just seems a rather dismal future.

Yet we see in recent years the establishment of the tourist centres by the state governments, which has been a great boost to tourism for the country areas, yet the things that people could go to see and learn to appreciate about their heritage - the buildings that are there that are monuments of the past contributions that people have made - are just withering away, so how could we help to finance the maintaining of these buildings. Just thinking it through, one is to lease them to the local communities. I think there's a Catholic church at Molong which was going to be sold and the local community there got together - it's been a very historic town - they got together and they actually bought the building themselves and did it up, and that's still let for people to go and see today.

So those people that realise the value of their history as a tourist drawcard, but also something that they have appreciated and used, so I - there was a seminar held some time ago by New South Wales Heritage as to how we might preserve these buildings, and there's another option. I've been sort of muddling through, and one is the churches to either lease the buildings to the local communities or sell them or seek some funding for them to be maintained by the local council, state or federal, in various ways.

But they could be assisted in terms of providing employment opportunities for young people. In fact, I have seen a church at Quandilly - I can't pronounce it - I know it's a little place somewhere in the middle of nowhere where this church was restored by a employment opportunity program, and it's now become a proud feature to the community. So I think that's one opportunity that could be used as - and also used for people who have to provide community service through some misdemeanour.

The difficulty is setting up these programs and maintaining them, but if there are assisted local voluntary groups, particularly the - there's always - I also see when I drive - the local people, they're elderly people that run these heritage societies and they've got that ethnic - no, not ethnic - what's that - that - what's the word, I can't find it, but - - -

DR BYRON: Ethic, culture.

MR ALLEN: Enthusiastic, yes. There's another word, but I - yes, but they've got that approach to it, where they want to - which is being lost today. Everything has sort of got to be government-funded today, you know. If you don't get government funding, it doesn't happen.

But there are certain people in the community - they run the Red Cross, they're brought up in a Christian background and they've got that sort of culture, sacrificial approach to community. Yes, it's a sort of culture thing, yes, whereas people today,

you know, it's - trying to survive financially is hard enough, let alone trying to find some spare time to help in the community. But in those days, the pace was a lot slower. They had time and they did it and all these things are going to collapse one day.

The Red Cross, the Flying Doctor - all these things now. They were once voluntary, they're now becoming government funded because people just haven't got the time to do it so it seems to me that that must be the way it has to go but if we can tie into providing - if there's something, if you can see something coming out of the government funding that's beneficial to the community, you know, I've tried to alliterate that a little bit and tried to find ways how that could happen, then that would be a benefit to the community, which they can see, rather than just preserving a building.

If that building becomes useful and provides services to the local community that they're in, then it's a win-win situation. I think we'll always be struggling for that approach. The other thing I've got - if I could just relate on to another matter, is to do with the federation housing heritage at Haberfield. Having experienced doing up my auntie's place - just some of the frustrations that you have with heritage - you go around to Ashfield council, you've got to put a DA in to replace your back fence, which is ludicrous. To put a new roof over your garden shed, they wanted a DA. To put up just a frame, just a sort of little shade house to protect my auntie's orchids; a DA. You've got to go through a form, it's about a 40 or 50 page thing. Most of it is irrelevant. Application - whack that in, $150 or whatever.

It costs you that much to build the thing, let alone pay for the DA. Then you've got the inconvenience of someone coming to inspect it. It's far better to just have a little form you've put in and somebody could have the responsibility to say "That's not an issue. Council won't worry about that." They could just give it a tick and you walk out at the same time. It's just become such a political issue because councils get on the bandwagon and we've already heard this morning about people using it as a means of blocking - just pig-headed bully-ness. I mean, I could punch some of these people on the nose. They're such pigs, really, some of these people in council. Really, it's another issue.

We need to educate them in how to deal with the public, how to work in a more or less conflict approach, in a win-win situation. I was going to suggest that we have some sort of a forum like you have, like FACS with the TV programs. You can convey it on a TV program - you write to the body that's advertising and you complain about the problem and if you don't get a satisfactory answer you go to FACS. Well, that's the sort of thing I'd like to see set up for heritage. If you don't get a satisfactory - from council, you don't have to go to the environmental - - -

DR BYRON: Land and Environment Court.

MR ALLEN: It costs hundreds of dollars, a lot of time, a lot of headache. You should be able to go to some ombudsman or some group which doesn't cost you anything to put your case and have it heard. They make a decision and then the parties discuss it and they're not satisfied and they can't resolve at that point, then it would have to go to the environmental body and the person who goes against the Ombudsman's decision has to pay for it, or some way like that where it wasn't so expensive and such a heartache for people because I mean, these poor couple of people here this morning, I really feel for them because I think they've been unfairly treated but by the same token they're probably, I mean, they've got a dollar sign in the back of their mind as well, which is fair enough.

It just seems a shame that there's been a communication breakdown there and no-one is winning and the victim is this person who has got this property they can't do anything with and it's just - the community is not winning because a dump of a building sitting there that no-one can use. It's become a hazard, because a pig-headed council and an equally pig-headed other person, I suppose reaching no decision. You see that around the place - I mean, I've got a place over at Dural here. It's an incomplete structure there. It's been sitting there for years. The guy has built the thing without getting council approval and they've stopped it and it's just sitting there. There you go. Well, I've said my bit.

DR BYRON: Thank you, Darryl, for that. Just before you take off, we have had submissions and attendance in public hearings last year from the Uniting Church, the Anglican Church and the Roman Catholic Church about the problems of sort of, redundant churches particularly in rural areas and as one of them said to us, "You know, if we had an extra million dollars, we wouldn't put it into bricks and mortar or stone, we'd put it into community services or age care, health care or counselling or something like that." They don't see themselves as- their prime purpose being as maintaining or restoring bricks and mortar, as religious organisations.

MR ALLEN: That's right.

DR BYRON: As long as they're in use, they certainly maintain them but when we ask them what happens to churches where the congregation has basically been disbanded - there's only a couple of people left who can't afford the upkeep, they, like you, are looking you for opportunities for adaptive re-use for community services, to find some way of keeping the building alive and being used rather than mothballed.

MR ALLEN: Thanks very much.

DR BYRON: I don't think we have any other questions. Thank you very much, gentlemen.

MR ALLEN: Yes. No, that's fine. Thank you very much for listening to me.

DR BYRON: Thank you. You made your point.

MR ALLEN: A bit impromptu, but I appreciate the opportunity. Thank you for what you're doing.

MR HINTON: We've got two scheduled appearances left for the day. It's David Logan and later, as already foreshadowed, Anne Carroll and Janine Kitson, which would be, perhaps, at 3.45. But as soon as David Logan arrives - he's here? Good.

DR BYRON: Right on time.

MR LOGAN: Thank you very much.

DR BYRON: If you'd just like to take a seat. When you're comfortable, settled, papers in order, if you can just sort of introduce yourself for the transcript and then take us through the main points that you wanted to make today. Thanks very much for coming, and thanks for the written submission, which we have, of course, read.

MR LOGAN: Thanks, commissioner. Thanks for the opportunity to address here today. I'd like to show you some photographs in a moment, and just explain what I believe are the issues associated with non-listing of heritage places. But perhaps I can just start by way of introduction.

My background is as an architect and planner. I've been involved in heritage management for approximately 25 years. I'm a member of the New South Wales Heritage Council, appointed by the minister to the Parramatta Design Review Panel. I'm a member of the National Trust's architectural advisory panel. I'm a member of the City of Sydney business forum, appointed by the lord mayor, and I'm also a member of the Property Council's planning committee - that's the New South Wales Property Council's planning committee. So I believe my background is both as an experienced heritage practitioner, but also involved in advising, if you like, the other side of the industry, the development industry, on heritage-related property matters. I believe my approach is balanced and has regard to the commercial reality of heritage management.

I have some points to make about the broad recommendation that has arisen out of the draft report, and, generally, I have to say that I have some concern about that. But I do agree with some of the commission's findings, and I have to congratulate you on a very comprehensive report. I think you've certainly covered a huge amount of territory, and in particular the background to the heritage industry I think you've covered extremely well in the limited time available. I just think you've perhaps gone a bit too far in recommending what you have in relation to heritage listing only to be by way of almost voluntary agreements with owners, and that I think is the major issue that I have with the recommendation. I think you're right in saying that there should be a statement of significance for every heritage place. I have to assume you said that. I think that there are already comprehensive statements of significance for many heritage places, in my experience.

Now, I have to say my experience primarily relates to the New South Wales

heritage system, but I have worked in other states as well. When I say that there are, by and large, adequate statements of significance, that's not to say that they can't be improved, and I think that is an important recommendation that you have already made. But nevertheless, I think it is important that owners of heritage-listed places understand why they have been listed. In my experience, that is already available to the extent that is necessary.

By and large, if a statement of significance says a place is considered to be of significance for architectural reasons or historic reasons because of its association with something, by and large, that's enough for property owners, in my opinion. Clearly, there are times when they want to contest that; they don't want to be listed in certain circumstances, and then they often then say, you know, "This statement of significance is inadequate." But, by and large, in my experience, the statements of significance that are prepared, mostly arising from heritage studies, are adequate for the purpose of informing owners why those places have been listed.

In relation to conservation agreements, I think that is also an excellent idea arising from the draft report. However, I don't think it is necessary to have conservation agreements for every place that's proposed for listing. The ones that I do think would benefit from a conservation agreement are the ones where development potential is forgone as a result of listing. In those cases, there is often a need for a negotiated settlement, compensation, if you want to call it that way, or incentives, if you want to call it by another name. But in those circumstances, a conservation agreement I think is probably both beneficial and, arguably, necessary - and I'll say more about that in a moment.

I should probably pause and ask you, how long do I have?

DR BYRON: I'd say approximately - in total, we've got about 45 minutes, but if you talk all that time then we don't the opportunity to ask you any questions.

MR LOGAN: No, I won't - - -

DR BYRON: Already, there's a couple that I'd like to ask you.

MR LOGAN: Sure. Maybe I'll only talk for 20 minutes or so.

DR BYRON: Thank you.

MR LOGAN: So I'll say more about conservation agreements and how that might apply in a moment. I think it's really important to separate heritage listing from heritage management, and that has been a fundamental tenet of the heritage management system in New South Wales over the last 20 years.

I think it's a very important point that the heritage system that we now have has evolved, and it's evolved from the school of hard knocks. It's evolved from heritage battles. Heritage battles occur daily. I worked for the heritage council in the 1980s; I was one of the heritage advisers to the heritage council, and every day I had to deal with property owners who were objecting to heritage listing or communities who were opposed to development proposals. Often - more often than not, in fact - we saw those battles in the face of a development application where there wasn't a heritage listing, and, as a result of that battle, someone suffered, and it was often the property owner who, unfortunately, had the community jumping up and down in relation to a development proposal for a property that they had bought what they thought - in good faith, that they did not understand was of heritage significance. It is only because of those battles that the property industry lobbied long and hard for comprehensive heritage listings.

In fact, in my experience, the property industry lobbied the hardest of anyone for comprehensive heritage listings. They would sit at the table of the heritage council meetings, thump the table in fact, and say, "Give us comprehensive heritage lists. You must spend the money on giving us comprehensive heritage listings, because, otherwise, it is simply not fair to property owners. They need to buy properties with their eyes open." That's one of the reasons that we have the system that we have today, where exhaustive heritage studies have been done, yes, over time new properties emerge, heritage values, community values and heritage values change over time, so there is a need for additional listings. But, by and large, the vast majority of places that are of heritage significance have been listed already. As time goes on, more will be added, but that will be a relatively small proportion compared to the amount that are already listed. Certainly, that's my view.

So the system that we have today has evolved. It is not something that has been thought up as a last-minute or a somewhat hasty or heavy-handed decision to list many places. The reason I'm going on about this I think is because, whether intended or not, I think the commissioner's recommendation that places not be listed unless there is the agreement of the owner will inevitably lead to only a few places being heritage listed, or very few heritage places being listed. I read into your report that that is an intended consequence of your recommendation, ie, that heritage listing is too big a burden on property owners, and, therefore, perhaps we shouldn't have so many places listed.

Whether that is your intention or not, I don't know; but that's certainly how I read it. If not, I'd certainly - my concern is that that would be a consequence, because if you ask people whether they would prefer to be heritage listed or not, they would say, "We'd prefer not to be heritage listed." There would be a small proportion who would welcome the opportunity to be heritage listed. The vast majority of people would not, and that is only because of human nature. It is not necessarily because heritage listing imposes a huge burden. If it did, you would have

people beating on the doors of politicians every day, saying, "You must remove the listing," and that doesn't happen. You have a few, but the vast majority of people accept the heritage listing that they have.

But people, by their nature, do not like to be controlled, in the same way that if you ask someone, "Would you like to have a height limit imposed on your site or would you like an FSR control" - I don't know whether you're familiar with FSR, floor space ratio control - "or a zoning control imposed on your property?" the answer would be no. Everyone would opt out of the system if they had the opportunity to do so. Heritage quite deliberately has been included in the planning system - I think for better - but everyone thinks it is much fairer to see it as a planning control, and people should not have the opportunity not to comply with planning controls. So heritage really should be seen as a control that's very similar to a height control or an FSR control or a zoning control, all of which may have impediments to what people may do to their place or would like to do to their property.

For that reason, I think it's really important that we don't have a system that allows people to opt out of heritage listing. You might say, "Look, if people really do want to opt out of heritage listing, doesn't that just prove that there is an inherent problem with it?" I'd say the answer to that is it's not really the case. It is more to do with people not wishing - and particularly in Australia, not wishing to be controlled. Unfortunately, planning controls exist for the public good. I think it's fortunate, but some people think it's unfortunate. For the same reason, heritage controls exist for

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Unfortunately, planning controls exist for the public good. I
some people think it's unfortunate. For the same reason, heri

advisers at local government level, who would take a similar, responsible and pro-active attitude, through experience, hopefully. Through their own personal experience, they would hopefully do that and say, "Look, you can't just lock this place up, you have to allow some development. Yes, there will be an impact, we recognise that, but that is the inevitable consequence of the zoning situation we have and the fact that this hasn't previously been listed." Even if it had been listed - if it had been listed and someone else had bought it with that listing on, then it's a different set of circumstances - - -

DR BYRON: Yes, they'd bought it with their eyes wide open.

MR LOGAN: - - - and, again, you've recognised that very correctly. But first time listing - it's those people that take the financial hit, if there is a hit to be taken, and if any compensation is to be given they're the ones that need to be compensated. I think the way to achieve that is through development. Again, if it's listed, you will have a negotiated development outcome by involving heritage architects. That will be, in my experience, a better outcome than if it's not listed. Listing will bring people to the table and usually, because of the political process involved, you can't say to someone - and it very rarely happens in my experience - "Sorry, you can't have any development on this site. Even though you're taking a huge financial bath, you're still not going to be able to do anything on this site." It used to happen more. I think these days that situation, which is an unrealistic situation or outcome, happens very rarely, where people really do suffer a financial hurt.

DR BYRON: I think we happen to have heard of two cases of that this morning.

MR LOGAN: Really? Yes, but I genuinely believe that they're very few and far between.

MR HINTON: That really was going to be my follow-up question, David. The case Neil gave, I think you're probably right, that they're not thick on the ground. But we are finding that the pressures with regard to heritage conservation are occurring at those - not inner suburbs of, say, Sydney and Melbourne and other capital cities, but that next suburb out, where they are zoned for higher density dwellings; that is, they potentially put in two town houses where an existing house exists today. That's where the scope for other creative mechanisms to give them some capital return, without developing the site, doesn't readily jump out at me.

MR LOGAN: No, it doesn't.

MR HINTON: Which is why I was questioning that when you said that there was scope to do the CBD sort of creative allocation of alternative development sites or whatever; doesn't seem to exist in an area where residential, single to multiple - and that is where these pressures are emerging with regard to conservation of heritage

places: the likes of Stonnington City Council in Melbourne, to choose one. Well, let me choose Glebe. Let me choose St Ives.

MR LOGAN: I hear what you say. I think there is scope to introduce the transferable floor space system. The essence of that, effectively, is that you get bankable floor space, which can be on-sold. So if people can be given an award of floor space to compensate for that huge impediment - other people might say, "Well, look, is it" - "you know, what's impediment, you know?" They're still able to develop their site, just not to the same level as everyone else.

But I think in certain circumstances where everyone else is building big development around a little house and in fact are borrowing the amenity that's provided - the amenity for those big places are provided by this small place, I think it's an unfair impost on that place. Additional for that, you wonder about the setting that is left anyway as a result of the higher-density development that is created around those places.

The solution in some circumstances is to say, "Let that place go. Don't even bother with the listing of it. Its context is going to be ruined anyway. Unless it's a rare example of its type, don't bother with it." Certainly there are examples of - a lot of people from Ku-ring-gai today. There are examples in Ku-ring-gai where that is happening. And you've got to ask yourself at the end of the day, "Well, is there any point in keeping the house that's surrounded by this, you know, much taller development, when it will be out of context?" Unless it's rare, you'd say, "Look, forget it. It's been ruined. Its context has been ruined. Forget it."

But I think hopefully there is potential - and I'm not a lawyer, and that needs a lawyer - to say, "Okay. Can we have a transferable floor space system that will hold up legally, that allows people to get an aware in those circumstances where other people have much greater development potential than they are on their sites?"

MR HINTON: Let me go back to your 90 per cent category.

MR LOGAN: All right.

MR HINTON: I wanted to raise with you the issue of your suggesting that the heritage requirement is no more a constraint than, say, a height planning control, whatever, requirement.

MR LOGAN: Yes.

MR HINTON: It's been put to us by some that in fact the way some local governments works - and I won't pick on any particular one - that in fact the heritage requirement does carry with it imposts that are more burdensome than just, say, a

height. Put aside the fact that it's already selective, height requirements apply to everyone in that particular precincts, zone or region, and the heritage one doesn't, so it is already somewhat differentiated.

But more importantly we're getting anecdotal evidence along the lines that, once they're listed, that listing itself involves the local government planning officer that can in fact involve discretion way beyond that would normally apply with regard to, say, such as a height requirement: three storeys not allowed, two storeys allowed or whatever. But as soon as you're listed with a heritage label to it, then the colour of the back room all of a sudden needs approval. In some local government areas, the roof on the shed out the back needs to be under a development application, which we heard very recently today on that same example.

That is, while some local governments are wonderful and proceed to apply the heritage approach with rigour and transparency, there are many local governments out there who then use a discretionary approach in a manner that certainly is an impost on the owner way beyond than, say, a normal local land use rule, whether it be height, limit or whatever.

MR LOGAN: Again, if we just try and quantify what that additional impost is. I suppose it's having to negotiate through the process and the emotional angst that's involved with that. I'd agree with you that some councils are more unreasonable than others. Or putting it another way, some councils are more reasonable than others. I suppose to a certain degree, that's unavoidable. But one way to rectify that, and hopefully through your own recommendations, would be to have experienced heritage advisers right across the country, and we need a training system for heritage advisers that ensures that that happens. Again, why can't the federal government fund heritage advisers in every council throughout Australia?

It's not such a big cost when you think about it. Or at least part funded; again, something the Commonwealth could do. Yet part of the problem is the inexperience of some advisers and the inexperience of planning officers. But part of the solution is training and education of those advisers and a comprehensive system of advisers, not only in this state but throughout Australia.

DR BYRON: Can I just seek clarification on the way the process works. Because nearly all the heritage experts that we've spoken to say, "You start with a statement of significance. That's absolutely essential, pivotal," and we've accepted that; and that that would guide the consideration of all subsequent development applications for the listed property. What we were told was that if the property was heritage listed because of the press ceilings in the front bedroom or something, then that is what is to be protected. And so whether you can change the windows at the back of the house or do something to the shrubbery in the rear garden or whatever, is not on the radar.

But when we've talked to local governments, and our survey of more than two-thirds of all local governments in Australia, what most, if not all of them, are telling us is that once a place is considered for heritage list and it's on it, whether it's because of the views from the streetscape or the pressed ceiling in the front bedroom or whatever, then it gets the full treatment and "we will exercise a control over every aspect of everything that goes on there," whether it relates to the significance. That seems to me to be a question of process. I'm wondering if - I'm not who to believe. But is there a mismatch between how things work in theory and how things are actually being done in practice?

MR LOGAN: I think maybe there's a bit of discussion at cross-purposes there perhaps. Where a property is heritage listed individually, yes, the council will have control over the whole property. But that doesn't mean that it won't approve applications and change within that property.

DR BYRON: Yes, I realise that evolution is allowed.

MR LOGAN: But yes, it will want to get involved in the landscaping and changes to the rear et cetera because those changes might well have impacts on the heritage significance of the place as a whole. The vast majority of heritage listed houses, they were listed through conservation areas, where by and large it is the streetscape that is sought to be protected. And yes, some councils have a somewhat misguided view as to how necessary it is to consider the windows in the back wall of the house, when that's not part of the streetscape.

But in my opinion most councils take a more liberal and reasonable view on that. Many councils, in fact, don't even get involved in changes to the interiors of heritage items, let alone to places in conservation areas. Yes, they might be telling you, "Yes, we take full control over those places," but maybe they're not thinking through the level of control that they really exert over those places.

DR BYRON: Okay.

MR HINTON: One last question.

DR BYRON: One last question from me. It's to do with a - what was it called - a rate rebate, or zero rating activities by local governments for heritage listed buildings and sites.

MR LOGAN: Yes.

DR BYRON: What's stopping local governments proceeding down that course today? It's not as if there's a rule that says no, you can't.

MR LOGAN: I think there is a legislative basis that currently prevents them doing that. One is they can't increase their rate overall rate base without the approval of the minister in New South Wales. That's pegged. So you can't - - -

DR BYRON: Rating, a per cent ratio.

MR LOGAN: Yes, I think - - -

DR BYRON: A ratio rating - - -

MR LOGAN: A maximum of 8 per cent or something a year, or something of that area.

DR BYRON: So if you give a rebate, you've got to increase that if you don't have unchanged revenue.

MR LOGAN: Correct. But within the system, I think it is possible to - and I don't know whether it would require legislative change or not - to say we'll have the same overall rate base, but we will - so in other words, the council collects 40 million in rates across the local government area, that will remain the same, but within that we will require the 99 per cent of non-listed heritage places to pay slightly more in the future - add another $10 to each of those property's rates - and thereby compensating or subsidising those that aren't.

DR BYRON: So it's a sort of tax expenditure anyway, so you could also argue that you don't retain the 40 million. You actually retain 40 million minus X with X being equal to the value of the rate rebate that you give heritage buildings; just like an expenditure.

MR LOGAN: Yes. Rebate is another way to do it, and a levy - a separate levy, you know, which is transparent and accountable is another way to do it too, but I would prefer simply an adjustment to the way that the rates are charged, thereby charging heritage listed properties zero, and make that very public that this is what this community is doing in the interests of heritage, and to support owners of heritage listed places, and everyone understands that this is the consequence of heritage listing, and people can then see how much it actually costs.

DR BYRON: But there may be a presentation issue there, that that is the mansion on the hill with a wealthy family pays zero rates, and that struggling cottage owner down on the bottom of the hill is going to pay a surcharge on her rates. Sell that to your local council.

MR LOGAN: Yes. Well, again, I would introduce it through legislation, you

know, so it's not the council that has to sell it, but the state government says, "This is what we're doing for heritage; this is the way we're dealing with heritage", because community has said there needs to be a fairer system. The community has said individual owners shouldn't suffer a financial burden that you've identified as a result of heritage listing. I personally don't think it's a huge financial burden, but if you do, then there are - the point I'm making is there are solutions to this.

DR BYRON: Yes, but that cost is huge.

MR LOGAN: Sorry?

DR BYRON: For your 10 per cent category it is large.

MR LOGAN: Absolutely. I'm talking about the 90 per cent category now. No, no, I agree, and I don't for one minute resile from that. I think there is a big issue associated with that 10 per cent, but I think there are ways of dealing with that too. I'd say, look, if you still wish to insist on heritage agreements or negotiate outcomes - negotiated agreements - which I don't fundamentally oppose that for the 10 per cent, because there is a good legal reason to do that, and that's associated with - if you're going to give someone a financial benefit of that type, you'll certainly want to impose that on their title, you know, and put a covenant on title. Of course, you need a negotiated agreement. The Heritage Act in New South Wales has a place for heritage agreements.

DR BYRON: Yes, that was what I was just going to say. Most states do, but they're just very rarely used.

MR LOGAN: Yes.

MR HINTON: But the 90 per cent case, if there is a disconnect between how local governments operate and how they really should operate, where they are excessively impeding the owners' activities, then maybe it is a negotiated agreement - a conservation agreement - that rebalances the power between the local government and the owner, because then they're not just being told by the local government that that's what will happen to your listed property, is give some more, or an increased power to the owner to negotiate that which will happen to that property. That's part of the reasoning behind our recommendation for voluntary conservation agreements.

MR LOGAN: Yes. Well, I think what the consequences of that will be is that places won't get listed. I think to introduce it, to implement a system like that for the 90 per cent of places would be a nightmare. It would take years.

MR HINTON: Yes, but if it's not listed, does that actually mean it's not conserved - - -

MR LOGAN: Yes.

MR HINTON: - - -in this 90 per cent category, that is another question. The objective here at the end of the day, if it's heritage it should be conserved, but maybe if it's not listed it's still conserved.

MR LOGAN: See, it depends what you mean by conservation. I'm not advocating that there will be immediate demolition if a place is not listed.

MR HINTON: Well, it's not in your 10 per cent, so it's not up for redevelopment, so they've got to live in it, so - -

MR LOGAN: It has it's own value. Chances are it will not be demolished. Some will. Some will, but what happens is the things that occur in those photos that I showed you, it's demolition through attrition, if you like; through unsympathetic - - -

MR HINTON: Certainly erosion; potential erosion.

MR LOGAN: Erosion. It's unsympathetic changes that are not controlled in a sympathetic manner, and heritage listing provides an opportunity to implement sympathetic change to a place. That's what it does.

DR BYRON: Which takes me back to my - it probably should have been the first question then. I think we have a bit of semantic terminology sort of issue. But my understanding of the way the process works, and the way that our recommendation would change it is that there is a heritage survey or an inventory that identifies places of potential significance - say at the local level - and then there's some assessment process that leads to the identification of certain places as yes they are locally significant, either - - -

MR LOGAN: A more detailed survey, yes.

DR BYRON: Now, at the moment it seems to me that what happens if a place is assessed as being locally significant, then the listing does more than plant a flag of community interest. It actually imposes statutory controls which have consequences; sometimes quite serious financial consequences. So what we're actually suggesting is another step between the assessment and the statement of significance, which everything up to that point is the same, and then the other step is well, having identified it as significant, who is going to look after this place and how, and what will they do or not do, and what will the cost be, and let's work through that and then when an agreement about that is done, then we say that is on the list, because the list contains all the places for which heritage agreements exist. Then we can say that we have in place a process where every place that's on that list its future management is,

if not ensured, then highly probable.

At the moment, if you just go from is it significant, put it on the list, without thinking of who is going to what as a result, then you can easily end up with perhaps a longer list, but great uncertainty, and perhaps even dispute about who is going to do what as a result. So we're suggesting that why not sort out the responsibilities and the co-financing of these significant places, and then say it's listed, rather than list it and then try and sort it out. So it's a question of the sequence in which the steps are done, and whether you're saying "this is a list of a thousand places that we consider significant", or "this is a list of 950 places for which we have long-term secure negotiated contractual agreements on title. Does that sort of explain where we're going?

MR LOGAN: I understand. Yes, I understand, but I am certainly concerned that if you try to negotiate with an owner about heritage listing they will simply say "no thanks". I understand what you're trying to achieve, but the fear of the unknown still - even though you might say to them, "Look, we'll pay you for the cost through the rate system; we'll pay you for the cost of engaging a heritage architect and for doing your heritage report; you won't have to pay that yourselves; you'll get the benefit for that, and you're only zoned 2A anyway. You won't be able to get medium-intensity development on this site. So there's no foregone development potential. You'll still be able to do an addition; it's just that we'll get involved in saying what form of addition," they will still say, "No, thanks," for the reason that I've mentioned. But I do - I agree with you in principle that it would be terrific if you could actually go to the owner at the time of listing and say, "This is what we will and won't allow on this site," you know, in detail.

That's the way the heritage management system is further evolving. It's actually going that way. Sydney City Council, with all its heritage inventories, has a management policy with each listing that says, "We will allow changes to the interior of this place. We will allow two storeys' additional development to occur; we won't allow 10 storeys to occur." It's like a mini conservation plan attached to each listing, so that when people buy it they understand exactly what the implications of that listing will be. That's the sort of negotiated outcome that I think you're headed towards, except that it's very difficult to achieve in a practical sense, that level of detail.

DR BYRON: As I said earlier this morning, we're trying to conceive of a system whereby people would - you know, more people would come forward and volunteer and seek listing because they're not frightened, or, in some cases, terrified, of being bound up in red tape and initial expense and so on that they believe will come with a heritage system.

MR LOGAN: Yes.

DR BYRON: So what sort of system would it take to create a very positive attitude out there in the public, rather than this very negative and apprehensive attitude? And the draft proposal is to make sure that the package had, you know, a lot of carrots in it as well as sticks; whereas, at the moment, it's nearly all stick.

MR LOGAN: Yes. Many things. That is a really good question. Many things. One is, genuine incentive, genuine financial incentives. The Commonwealth used to have a tax incentives scheme which cost the Commonwealth virtually nothing - $2 million, effectively. That was the extent of - it gave people a - overall, across the country, $10 million benefit. Sorry, $10 million worth of works, from memory; got $2 million worth of rebate, tax rebate. Nothing, you know. So the Commonwealth should consider very seriously what it provides for the built environment by way of financial incentives for people.

A little bit of incentive goes a huge way, in my experience. Give people $500 through the small grants scheme and they're heritage friends forever, you know? That's been my experience. If you contribute $500 towards the cost of their fence, and they think heritage is wonderful, simply because they feel like someone is helping them. As well as imposing a burden, someone is willing to accept that heritage might be a burden to them, and give them $500 and they think it's fantastic. It goes a huge way. So a small amount of money, that is one way to achieve it.

Secondly, education. It is really important that we dispel the myths - and many of the perceptions are just that, just perceptions, rather than reality. We need to dispel some of the myths of the burden, the perceived burden, associated with heritage listing. I've talked about some of those today. You know, when you actually drill down and see what is the real burden, you know, it's the cost of the architects; it's the cost of the heritage reports; and, to some degree, it's the emotional cost and time associated with negotiating and fighting with council officers who aren't experienced enough. That's the flawed part of the package, I think, which is the training and requiring that each council had an experienced heritage consultant who doesn't then - knows the difference between something that's appropriate and something that's reasonable and something that's not.

DR BYRON: Another possibility - we've been told that some councils, for example, waive all DA fees - - -

MR LOGAN: Applications. That's, again, another thing - - -

DR BYRON: - - - for a place which has been listed by that council as at least a - well, it's a bit more than a token or symbolic, but it's a way of saying, "Look, we like what you're trying to do and we're trying to help you rather than, you know, tie your hands up in red tape and additional expense."

MR LOGAN: Yes.

DR BYRON: But it seems to me that there are relatively few examples of where the governments or local governments have been facilitating. They're much more inclined to tell you all the things that you can't do rather than help you to do the things that aren't consistent.

MR LOGAN: That's right. Again, with experienced heritage advisers, they can actually help people design alterations and additions in a positive way that ultimately are likely to get approved by council. That's one of the things that inexperienced advisers often lead to people going down a certain path, only to have council reject it. So, again, that is a benefit of heritage advisers, that you can actually then have them do sketch designs for people, and that happens in some places already. Broken Hill is a classic example of an experienced adviser doing that for people as a benefit.

DR BYRON: One last question, hopefully a very short one, with regard to the first thing I asked.

MR LOGAN: Yes.

DR BYRON: Presumably, the construction of the modern building and the surrounds helped generate the finance to pay for the restoration of the main building. Is that - one of the questions that we've asked lots of people in lots of hearings is, what's the limit of adaptive reuse, and at what point does it become, you know, bastardisation or worse?

MR LOGAN: The short answer to that is the answer in the Burra Charter, which says "as much as necessary and as little as possible". Now, the "as much as necessary" sounds glib, but it's true. You know, you say, "Okay, look, what do you really need to get out of this development? Beyond windfall profit, what do you really need to achieve? Do you really need those -the two units there that are closest to the house, or could you pull back a bit further and still have enough money to pay for this?" You know, it's the - again, experienced advisers will be able to negotiate good solutions, and there's a benefit in that, I think.

DR BYRON: Thank you very much. I think we'd better let you off the hook now. Thank you very much for your presentation and for the written submission, David. It's been extremely interesting. And thank you also for the opening complements. We don't get a lot of those.

MR LOGAN: And if those in the audience would like to look through those photographs, I'd be happy to pass them out.

DR BYRON: I think we can take a break now until 4.30, when we'll have Anne Carroll and Janine Kitson. Thanks.

DR BYRON: Thank you very much, ladies and gentlemen. If we could resume. Thank you very much for taking the time to come. If each of you could introduce yourselves in your own voice so that the transcribers can recognise who is saying what, later on and then take us through the main points that you want to make in the submission. Thank you very much for the written submissions we've read, of course.

MS CARROLL: Thank you, Commissioner. I'll start first by saying, I am Anne Carroll, and I'm a long-term resident of Ku-ring-gai, and I've travelled extensively and I assisted with the formulation of this report and I'll now introduce Janine Kitson.

MS KITSON: Yes, hello. I'm Janine Kitson, and I've also lived in Ku-ring-gai most of my life and I've also been a former elected councillor on Ku-ring-gai Council, so I have a background in that regard.

MS CARROLL: Could we begin by thanking the Commission for this inquiry. We obtained a copy of the report and were pleased to see the background to it and also the scope of the inquiry, and adopted the number 1 point of examination, the Main Pressures on the Conservation of Historic Heritage Places, and our response has been formulated in a way to establish again, for the record, the heritage significance of Ku-ring-gai and then to look at the pressures, as we see them and in observing the comments here today, the name Ku-ring-gai has come up a lot and our contribution, I think, will be one because Ku-ring-gai is a heritage place and there are heritage places within Ku-ring-gai, and secondly, because it is currently under a great deal of pressure.

So in our report we hope to assist the commission in backing up the things that we've said and Janine will commence.

MS KITSON: We would like to outline our background and why we are here - that the fact is, that we are committee members of Friends of Ku-ring-gai's Environment, or otherwise known as FOKE, which was a community group established in 1994. Both of us take a very active interest in development and planning issues and their effect on the heritage, natural and cultural, particularly on our local government area. However, we have no formal training in urban planning. Regrettably, the FOKE committee was unable to meet over the Christmas vacation and therefore have been unable to formulate its response to the draft report.

So the views today that we put forward are ours, although we are confident that our views would be endorsed by most, if not all members of FOKE committee and of our group, FOKE, Friends of Ku-ring-gai's Environment. As Anne Carroll has just said, we have picked up some points from the draft report and I just want to quote three, and conclude with the most pertinent one to us. Firstly:

> It is timely to review the current pressures and issues associated with historic heritage conservation. The conservation of our built historic heritage is important and there is a need for research to underpin how best to manage the conservation of our historic places.

Finally, we are very keen- of the point raised in the draft report about the main pressures on the conservation of historic heritage places and we would like to now provide a background to the commission on the main pressures on the conservation of the historic heritage place, particularly the Ku-ring-gai local government area. Ku-ring-gai is recognised as a heritage rich local government area. It is however, currently under considerable pressure to conserve its heritage and that's why we therefore welcome this inquiry. We would just like to quote from a long-standing study of 1987, the Ku-ring-gai Council Heritage Study, which outlines the significance:

> The investigation of the history of the development of the municipality of Ku-ring-gai, an examination of its physical evidence, street by street and its comparison with other similar places leads to the conclusion that Ku-ring-gai is a municipality of national cultural significance for its fine collection of 20th century domestic architecture of aesthetic, historic, scientific, social value to past, present and future generations.

And also:

> The study of Australian architecture in the 20th century could be exemplified in the study of Ku-ring-gai's buildings.

In response to a submission based on the findings of various heritage and environmental studies and on the effects of the application of the New South Wales state government's urban consolidation policies, the Australian Council of National Trusts listed Ku-ring-gai's 28 national trust urban conservation areas on their ACNT 2000 endangered places list:

> State government medium density policies actually promote destruction and unless they are modified, local development control strengthened and a residential strategy based on heritage principles is adopted, the garden suburbs of Ku-ring-gai remain under threat.

The listing also made reference to the threat to Ku-ring-gai's heritage from inappropriate development. The nomination of Ku-ring-gai as an endangered place also received the New South Wales heritage office cultural heritage award in the 2000 Keep Australia Beautiful Council New South Wales awards program. Ku-ring-gai local government has more classified national trust urban conservation areas than any other area studied. We understand classification and listing by the

National Trust, New South Wales, does not have statutory force. It is however recognised as an authoritative statement of the historical and architectural importance of the building, site, item or area.

We see the main pressures on the conservation of heritage places in Ku-ring-gai arising from the New South Wales government's urban consolidation policies. The areas for urban consolidation generally overlap Ku-ring-gai's core heritage rich areas. The New South Wales state government's blocking of gazettal of urban conservation areas compounds the problem. As a result of the New South Wales government's rezoning of medium density, properties of heritage and contributory heritage significance are vulnerable to demolition or to serious loss of amenity from a lack of interface between existing houses and multi-storey developments.

An analysis of the location of these rezoned sites reveal that many are also within the urban conservation areas identified by the National Trust in 1997. 16 of these areas have been further studied by Ku-ring-gai Council and recommended for recognition for urban conservation area status. Therefore, the effects of New South Wales state government medium density policies will also impact on the integrity of these areas. This is a serious concern.

MS CARROLL: So that's the general overview of the main pressures, that we have this conundrum of the urban consolidation areas overlapping our core heritage rich areas. We're not saying - we're not anti-development, we're not saying that you can't have development but there is this conflict and it's throwing up some of the issues that we've heard today and you'll receive in the submissions about houses being isolated because of what the people next door can do and others can't. We have compiled a photographic record - we're well into it - of places that are of contributory significance to the urban conservation areas and we have mapped and taken this record to show a factual profile of what will be lost when these urban consolidation policies reach their full fruition and people carry out what they can with the new rezonings.

So from that overall picture, I now move to commenting about draft recommendation 8.1. I won't repeat it because it's been talked about at length today, and to say that we do not support this draft recommendation, we see it as only as valuable as the attitude of the current owner, and as not protecting the property on an ongoing basis.

My husband and I purchased our current home in 1980. Some seven years later - that is, after we bought it - we were notified by council by letter that our place had been assessed and was worthy of heritage listing, and in that correspondence we received an information folder, and we were given the opportunity to respond as a submission. We were totally satisfied with this process. As I've said in my

submission, we felt honoured that the place that we felt was of note had features that other people valued, and it certainly wasn't an imposition on us to accept the heritage listing. Indeed, we were proud, and we have that attitude today.

In that time that we've owned our house - about 25 years, we've extended, renovated, carried out works as finance and need arose, and in a commonsense, sympathetic approach, which I don't see as varying from the previous house that we owner, which was not heritage-listed.

We saw it as - the 1987 method - that we were confident in it, that it was part of an established system. We heard Mr Logan say earlier that the system has evolved through battles et cetera; I didn't know anything about that or battles at the time, but we were confident it was part of an established system that had served people before and would serve us with - and I'll stress the key words - "a consistent method of identification applied in a uniform way across our local government area" - we weren't being singled out; it was applied across the board - "and that the study was conducted by experts in the field who had looked at the area as a whole."

The proposed negotiation-conservation agreement system presents to my mind many uncertainties with the possibility of the heritage-listing or otherwise varying from one owner to the next, from one point in time, whatever that point in time is to the next, and I've thought about it deeply and I felt that this - and I'll describe it as a fluid and unstable environment with regard to what I consider key components of an area as being unsatisfactory to the neighbours and to the neighbourhood, and in fact like living in a quicksand environment: it was prone to change.

So in summary, the proposed system, we believe, will not result in the protection of built heritage because it is voluntary and Mr Logan has said that people don't generally volunteer; and I know we've been thinking about that, and I don't think we would volunteer for a voluntary conservation agreement. We're in the 90 per cent that we've been talking about today. We thought you'd probably engage legal advice, property values would be - it's sort of something you wouldn't enter into lightly, and so that was what we thought: we'd really think seriously about stepping forward for the proposed system as I understand it from the document.

We see generally - and I'm talking now about Ms Kitson and myself - there's a need to renegotiate with each new owner, and a new owner may not want to continue with the conservation agreement. I might have misread it, but that was my understanding.

DR BYRON: Yes, but - - -

MS CARROLL: Sorry.

DR BYRON: - - - many other people have obviously had the same misunderstanding - - -

MS CARROLL: Yes, okay.

DR BYRON: - - - so don't feel in any way picked on.

MS CARROLL: At lunchtime I went out and I searched through it and tried to refind, so I could give it back to you this afternoon, where I found this from owner to owner. I don't know, but I wasn't able to, but that doesn't mean I didn't - it's not there. But it was somewhere in my understanding.

We believe there's no control over the long-term future of the heritage item and there's little mention of provision for extra funding to local government to administer the system. We thought there was an assumption that local government has resources, expertise, and finances to fulfil the conservation agreements. Some heritage-rich local government areas have in the vicinity of almost 1000 items, and others would have about 50. I think Gosford has got about 50.

Our final comment on this: we feel it's unrealistic to expect that local government may have funds for compulsory acquisition in those cases in the scenarios outlined in the report.

So now we come - I discuss the draft recommendation 9.8, and I'll read this:

> That state and territory governments should remove the identification and management of heritage zones, precincts, or similar areas from their heritage conservation legislation and regulation, leaving these matters to local government planning schemes.

From our experience in Ku-ring-gai where we have had these areas identified by the National Trust, back in 97, and Ku-ring-gai had more than any other area studied at the time, and they studied Orange, Newcastle, and the Sydney metropolitan area. So there was a wealth of areas - conservation areas - revealed in Ku-ring-gai running up the spine.

So in a way we support this recommendation but we have to say it needs to be reworded and made more strong, so that there's a clear understanding that local governments are supported and not thwarted in the identification and management of heritage areas. I say that because, following on from the study, Ku-ring-gai Council commissioned expert consultants to revisit some of the National Trust areas, and over a period of time they've come up with 16 areas that, in their opinion, are worthy of urban-conservation-area status. Yet we are - Ku-ring-gai is being denied, and it's not only Ku-ring-gai.

My understanding is that the state government is denying urban conservation area processing across the board, and we find this - and we've heard it mentioned today - it's printed here, and in the report, the heritage conservation areas impose less stringent restrictions on the ability to demolish and redevelop properties than do individual heritage controls. So there's a certain scope and freedom, and certainly with urban consolidation, it can also happen as I understand, and I'm not an expert, in these areas. It's not precluding it; it just means, "Hey, there are existing - there is an existing context that we must be mindful of in introducing inverted housing choice," the change from the single residential lot, a resident stand-alone house.

In saying that we believe that heritage is a joint responsibility between tiers of government - federal, state and local - and the community, we say that because that, having had this approach from the state government, there also seems to be little avenue for us to get a sympathetic planning approach to the predicament of housing more people in New South Wales; and that's what it is: it's a population pressure.

I'm not familiar with the relationships in the planning documents between state and federal, but in a simplistic way, we are being stymied at the state level, and if there was an appeal board or something that would provide better discussion and greater understanding of the conundrum because, as I see it, the urban consolidation policies are rather a blanket document applied across the metropolitan area taking little regard for the existing context and indeed the topography, because we are getting occasions where we're getting five storeys next to one storey. Well, that's okay - I mean, not okay, but it's a different story but on the topography on the western side of Ku-ring-gai, one storey down here has a different relationship to something up here on the ridge, as policy that we feel needs a little bit of refinement.

We have concerns about the recommendation that local government take on the major responsibility for the protection of heritage, and Ms Kitson's experience with council provides a background to that. Our experience shows that one of the constraints on heritage protection at a local government level has been the lack of financial resources with the addition of work burden involved in administering the proposed voluntary agreement system, further financial burden will be added at the local level, or that is our interpretation of it.

DR BYRON: I don't want to interrupt inappropriately but when you said concerns about the recommendations that local government take on "major responsibility", I can't imagine where you got that from or were you talking in a different sense?

MS CARROLL: I'm probably extracting that from the individual listing agreements and seeing that in a case with a lot of heritage items, that the logistics of one local government area dealing with many, many potential heritage items is a major contribution in the overall heritage picture. Have I - - -

DR BYRON: So in terms of "major responsibility" you mean there will be the largest number of listed places do occur at local government level?

MS CARROLL: Yes.

DR BYRON: I guess what we're - - -

MS CARROLL: I'm sorry, you're looking at the national - - -

DR BYRON: I thought what we were saying is that at national, state and local government level, the amount of activity, the responsibility, the number of places, the amount of resources that each tier of government puts into it is determined at each level. I don't think we ever said that local government should have the major responsibility for protection of heritage.

MS CARROLL: Can I ask a question: is the local government going to be the body that will negotiate these agreements?

DR BYRON: What we had in mind was that if it was on the State Heritage Register it would be the State Heritage Office or Heritage Council, if it was at local government level then it would be - the number of agreements and nature of agreements would be determined by that local government. So that if one municipality wanted to list 10,000 - or have 10,000 identified, supported heritage conservation management plans and the adjoining municipality only wanted to have 1000, well it's up to the ratepayers in each municipality to decide how many they want. It's not for us sitting in Melbourne or Canberra to say that every municipality should have 1 per cent or 2 per cent of its properties under some sort of heritage agreement.

So we don't have a target figure in mind but rather we're saying that each local government would be free to work out for itself how many heritage properties it wanted to list and how much resources to put into it.

MS KITSON: Do you think there would be financial constraints on the local government because they may not be able to afford to properly serve that heritage?

DR BYRON:

this morning.

Are there any other final comments that either of you would like to make?

MS KITSON: No. Thank you for listening to us - - -

MS CARROLL: Yes.

MS KITSON: - - -and taking on the issues that we feel very passionately about as citizens, about our local heritage, and we are very, you know, pleased to have that opportunity to have that public hearing so that people can hear about the issues that we are so concerned about for the heritage of Ku-ring-gai. Thank you.

MS CARROLL: I mean, it's not self - it's - there's no self-interest; it's a - of civic interest.

MS KITSON: Yes.

DR BYRON: I understand and respect that.

MS CARROLL: Thank you.

MS KITSON: Thank you very much.

DR BYRON: That brings us to the end of the advertised proceedings, but I said this morning that there would be an opportunity this afternoon if anyone wanted to come forward and say their views and have it on the public record. Now is that time.

MS POSEM: Yes, I am Jean Posem. I live at 76 Ryde Road, Pymble, which is not an urban conservation area. But on the other hand it's a sea of trees. It really is. It's a sea of green. It's absolutely beautiful. I've lived there for 44 years and that's what I love about Ku-ring-gai. And Anne Carroll and Janine Kitson, it wasn't just heritage we're upset about with urban consolidation. It's the loss of trees.

Now, when it gets back to heritage, we have one particular problem with heritage. In Gordon, next to Ravenswood, there is a five-storey building proposed opposite Ravenswood. Now, this is urban consolidation. It's not just medium housing. It's five storeys. And Mrs Carroll said, "Five storeys - - -"

MR HINTON: Commercial or residential?

MS POSEM: Residential.

MR HINTON: Thank you.

MS POSEM: Now, there is a couple there who have treasured their house for - how many years is it - 25 years or something like that. And they've carefully loved that house. Now they're going to have five storeys next to them, and it's heritage listed. And they say that the heritage listing stopped it from being demolished. Their house is not zoned for five storeys. But if they could possibly change the zoning, they could then demolish it and maybe put two or three storeys.

And this is what we are concerned about with this urban consolidation. You get the creep effect. You get one bad apple and all the rest of the street becomes bad. So we are going to lose whole streetscapes with this urban consolidation. Unfortunately, as Mrs Carroll said, our urban conservation areas are right along the ridge, and because they're next to the railway line where the early houses were first started, going back to 1890, you have some magnificent houses. I feel really badly about Australia because in other countries now, they would be preserving these houses. But that's another story. I have been along to the Department of Planning, many things, you know, and there are other alternatives to urban consolidation but I won't say it at the moment. Thank you.

DR BYRON: Thank you very much, Jean. I should repeat what Tony said, that fortunately this is not an inquiry into urban consolidation, or we'd be here for years.

MS POSEM: I know.

DR BYRON: Is there anyone else, please?

MS SHEIN: Yes, my name, Galina Shein, and I live at a very well known area: Pettit and Sevitt Houses in Richmond Avenue. Now, I know I'm not supposed to talk about individual houses. But I want to highlight the fact that's been hidden by Ms Edwards. As the owner of one of these heritage listed houses, I want to highlight what should be said. There's eight houses, one of them mine. Now, she said that most people happy to be listed in the group. That's not correct. Only one happy to be listed, I presume, for her own reasons. Now, two houses at the moment not listed. Five houses, including me, put written submission to the council to be delisted. So I just wanted to get the record straight, so I can sleep at night. Thanks for giving me the opportunity.

DR BYRON: Thank you very much. I think we're all done. We can pull up stumps for the night. Thank you very much, ladies and gentlemen, for your participation. We really do rely very much on this sort of critical feedback, and your time and your participation, effort, knowledge. So thank you all very much for coming today and sharing that with us. We do undertake to very carefully consider all the things that we've been told today. I can now - - -

MR .....: Is there another session tomorrow?

DR BYRON: Yes, we're continuing here tomorrow morning. The first is at 10.00. Nobody wanted the 9.00 to 10.00 slot. I think I can now adjourn to resume here tomorrow morning at 10.00. Thank you.

AT 5.17 PM THE HEARING WAS ADJOURNED UNTIL
WEDNESDAY, 1 FEBRUARY 2006

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