

**REPORT ON PROCEEDINGS BEFORE**

**STANDING COMMITTEE ON SOCIAL ISSUES**

**REVIEW OF THE HERITAGE ACT 1977**

**Fully Virtual Hearing via Videoconference on Monday 2 August 2021**

**The Committee met at 9:30**

**PRESENT**

The Hon. Peter Poulos (Chair)

The Hon. Mark Buttigieg (Deputy Chair)  
The Hon. Trevor Khan  
The Hon. Shayne Mallard  
The Hon Taylor Martin  
Reverend the Hon. Fred Nile  
The Hon. Peter Primrose  
The Hon. Walt Secord  
Mr David Shoebridge



**The CHAIR:** Welcome to the virtual hearing for the review of the Heritage Act 1977. Before I commence, I acknowledge the Gadigal people of the Eora nation, who are the traditional custodians of this land. I pay respect to Elders past, present and emerging, and extend that respect to other Aboriginal people present.

Today's hearing will be the first ever fully virtual hearing by a Legislative Council committee. This enables the work of the Committee to continue during the COVID-19 pandemic, without compromising the health and safety of members, witnesses and staff. As we break new ground with technology, I ask for everyone's patience through any technical difficulties we may encounter today. If participants lose their internet connection and are disconnected from the virtual hearing, they are asked to rejoin the hearing by using the same link as provided by the Committee secretariat.

Today we will hear from Government witnesses, including the Hon. Don Harwin, MLC, Minister for the Public Service and Employee Relations, Aboriginal Affairs and the Arts, and Special Minister of State, together with Ms Kate Foy, Deputy Secretary, Community Engagement, Department of Premier and Cabinet, and Mr Matthew Clark, Director, Heritage Strategy and Policy, Heritage NSW, Community Engagement, Department of Premier and Cabinet.

Before we commence I will make some brief comments about the procedure for today's hearing. There may be some questions that a witness could answer only if they had more time or with certain documents at hand. In those circumstances witnesses are advised that they can take a question on notice and provide an answer within 21 days. Today's proceedings are being recorded and a transcript will be placed on the Committee's website when it becomes available.

Finally, a few notes on virtual hearing etiquette to minimise disruptions and assist our Hansard reporters. I ask committee members to clearly identify who your questions are directed to and I ask everyone to please state your name when you begin speaking. Could everyone please mute your microphones when you are not speaking. Please remember to turn your microphones back on when you are getting ready to speak. If you start speaking whilst muted, please start your question or answer again so it can be recorded in the transcript. Members and witnesses should avoid speaking over each other so we can all be heard clearly. Also to assist Hansard, may I remind members and witnesses to speak directly into the microphone and avoid making comments when your head is turned away. I now welcome our witnesses.

**The Hon. DON HARWIN**, Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs and the Arts, before the Committee

**KATHERINE FOY**, Deputy Secretary, Community Engagement, Department of Premier and Cabinet, affirmed and examined

**MATTHEW CLARK**, Director, Heritage Strategy and Policy, Heritage NSW, Community Engagement, Department of Premier and Cabinet, affirmed and examined

**The CHAIR:** Minister, would you like to start by making a short statement? I invite you to keep it to no more than five minutes, please.

**The Hon. DON HARWIN:** I acknowledge and pay my respects to the Elders of the Saltwater clans of the Broken Bay area and their Elders past and present. I also extend that respect to all those people at the DarkinJung Local Aboriginal Land Council, who do so much good for Aboriginal people and the wider community here on the Central Coast. I am very pleased to be appearing today to help progress this opportunity for reform of the New South Wales heritage framework. I believe State heritage belongs to all of us. It is those items, places, landscapes and precincts that reflect our State's character, key moments, achievements and tragedies.

Like much of history, our State's heritage is as diverse as it is contested. Since 1977—the time of the green bans—the State's significant heritage items have been protected under the Heritage Act. But like much of our society has changed greatly since the seventies, so has our understanding of what heritage is and the best way to protect it. While we may not always agree on what is and is not State significant heritage, the Heritage Act enables the Heritage Council to provide advice that balances differing views on what is and is not significant to our State. I think by and large this relationship works.

It is good government practice for all legislation to be periodically reviewed, with most new legislation requiring review every five years. The Heritage Act is over 40 years old. There has been no review of the Heritage Act for 14 years, since 2007. There has been no substantial reform of the Heritage Act for 22 years, since 1999. On 7 April I formally referred a discussion paper to you, requesting that you undertake an inquiry into the Heritage Act 1977. I am a believer in the great work that the law and justice, State development and social issues committees have done over the years. I do believe upper House committees can play a really important role in the formulation of public policy. I have faith that this review process will help deliver some great ideas and I look forward to your recommendations.

Our aim in undertaking a review of the Heritage Act is simply to make it easier, more affordable and more desirable to own, activate and conserve State heritage-listed items. The discussion paper offers some suggestions for how we can achieve this goal. They are suggestions. I am looking forward to the feedback and I am absolutely delighted with how many responses from the members of the public there have been to your committee process. There are a couple of things that I might quickly knock on the head in what is left of the five minutes, just to make clear. A number of people have raised how heritage is considered during the assessment of State significant developments. I can advise that it is not contemplated to change the State significant development and infrastructure process as part of this review.

I also acknowledge that a lot of the submissions raised the issue of Aboriginal cultural heritage reforms. The Government is committed to improving the way Aboriginal cultural heritage is managed in New South Wales and supporting Aboriginal self-determination. Reforms are proceeding alongside this review of the Heritage Act. However, these reforms are following a co-design process between the Government and the major stakeholders in terms of Aboriginal cultural heritage and land rights here in New South Wales. As such, it would be inappropriate to supplant the co-design process by attempting to canvass Aboriginal cultural heritage reforms at this stage as part of a review by your Committee.

Local heritage has also come up. Some stakeholders raised the management of the 35,000 locally listed heritage items. The management of local heritage I think is best left to local councils, not just simply because of the volume but because they have a level of community knowledge and perspective that is well suited to that role. Therefore, I think the Environmental Planning and Assessment Act processes that are observed by local council are best placed to make decisions about locally listed heritage. In conclusion, I am delighted to be the guinea pig for today's hearing in terms of the first, new, 100 per cent digital hearing. I am looking forward to the process and I hope it points us the way forward during the next little while as a means of getting on with the Legislative Council's work.

**The CHAIR:** Thank you, Minister. I understand that you are only able to stay with us a short while. I recognise our Opposition members, who will start with questions. I invite firstly the Hon. Walt Secord.

**The Hon. WALT SECORD:** Thank you, Mr Chair. I am Walt Secord, shadow Minister for Heritage, MLC. Minister Harwin, the Government's discussion paper says:

... over time, the perception has developed that heritage listing can be a burden, with most minor activities subject to costly regulatory obstacles.

What were you referring to when the discussion paper made reference to that?

**The Hon. DON HARWIN:** It would mainly be in terms of the processes that have to be gone through when very minor changes for minor items need to be referred to the Heritage Council before being able to do the work. For example, the Act currently does not allow the owner of a State heritage-registered property to replace a cracked heritage roof tile that is leaking, without approval. This could mean that a leak could have been quickly resolved with minimal damage but instead it has to go through a formal approval process, in which time the damage could be made worse. The Act also does not, for example, allow the removal of a significant tree within a State Heritage Register-listed property, even when it has rotted and died, unless there is approval.

It can also constrain the removal of noxious weeds from a heritage garden or a landscape. Heritage landscapes can be particularly difficult to manage under the Act. For example, an owner could be required to apply for approval to use machinery to mow, plough or dig in a cultural landscape or to move a heritage-listed item, such as old farm machinery, from one shed to another. As the Minister is not able to amend standard exemptions and can only accept or reject the exemptions recommended by the Heritage Council, I do not have the power to quickly and easily address these sorts of issues. That is one of the things we would like feedback on. That is one of the reasons that we put that in the discussion paper.

**The Hon. WALT SECORD:** Minister, in your opening statement you made reference to the green bans. With construction resuming this morning, when will the removal of Willow Grove begin?

**The Hon. DON HARWIN:** My advice has been that because the Powerhouse Parramatta project is within the Parramatta LGA there therefore is no work going on at Parramatta. I might ask my deputy secretary to confirm that I am correct on that, if that is all right, Chair?

**The CHAIR:** Yes, it is, thank you, Minister. Could I invite all speakers, for the benefit of Hansard, to state their name every time they speak before they address the Committee.

**The Hon. DON HARWIN:** Thank you, I will try to remember to do that.

**Ms FOY:** I am Kate Foy, deputy secretary. The advice that I have received is that with Parramatta in an LGA with certain restrictions, any works will not commence at this time until the restrictions change.

**The Hon. WALT SECORD:** Minister, on 12 June you and Treasurer Perrottet announced the Blue Plaques program. The first listing was May Gibbs' home. How will future plaque nominations be determined and what are the public consultations as part of that? Can you in fact dispute or support future nominations?

**The Hon. DON HARWIN:** I do not think I heard quite all of your question due to the sound quality. I think it was about Blue Plaques and the process going forward in terms of what was going to happen. Obviously you would be aware that Blue Plaques is based on the famous Blue Plaques program in the United Kingdom. It has inspired similar programs around the world and is designed to make heritage celebration accessible to all members of the community. Of course, Blue Plaques is a window into the past for the community and behind every plaque is a story. The nominations will be open to the public for plaques that celebrate the heritage that matters to them most, recognising its important people, historic events and Aboriginal history.

We are planning to have a digital interface with Blue Plaques as well to leverage the enormous heritage data warehouse managed by the agency and provide opportunities for heritage tourism and education. Heritage NSW is working on the public nomination process now and, as I said, working on the digital interface. It is intended that when that is finished, the public nomination phase will start. In the meantime, there is a further round of Blue Plaques that is being developed by Heritage NSW. They are working with key stakeholders also to develop the eligibility and assessment criteria for the public nomination process. But there will be, as I said, a second tranche that will be announced based on recommendations that come from Heritage NSW, based on the material they have already got in their extensive databases.

**The Hon. WALT SECORD:** Minister, thank you for your answer. In your opening statement you made reference to Aboriginal cultural heritage. The New South Wales Aboriginal Land Council has expressed concern that Aboriginal heritage provisions are not well integrated with [inaudible]. You indicated that it has been quite a long time—and they have indicated too—since Aboriginal heritage has been addressed. Why is that being excluded or separated from this process?

**The Hon. DON HARWIN:** May I just ask you to repeat more clearly the part to do with the land council and a concern. I think you said they expressed a concern but I did not quite hear that part.

**The Hon. WALT SECORD:** Minister, I will quote directly from your submission: "Currently Aboriginal heritage provisions are not well integrated within the planning, land use and development processes in New South Wales." The submission is—

**The Hon. DON HARWIN:** I am sorry, that is the part I did not hear—the words you said immediately after "integrated". If you could say that part again very slowly.

**The Hon. WALT SECORD:** Yes, "... are not well integrated within the planning, land use and development processes in New South Wales."

**The Hon. DON HARWIN:** Got it. Sorry to labour that point. I thought I recalled what it was but I wanted to make sure I got it exactly right. Of course, the land council is correct. We can do Aboriginal cultural heritage much better than we do it at the moment. I have been actively working with the New South Wales Aboriginal Land Council and with NTSCorp, the Native Title Services Corporation, who are the peak body that works closely with the PBCs of individual successful native title claimants. I have also been assisted by the Aboriginal Cultural Heritage Advisory Committee, which I appoint. They are the three main stakeholders and we have been working at it now for quite a while. But you need to understand there are very diverse perspectives within the Aboriginal community as to how we should handle some of these matters. We have got a complex landscape here in New South Wales. We have probably got more Aboriginal people living in areas where there has been a heavy impact of colonisation and where it will be much harder, if not impossible, to ever prove native title. Therefore, also it is very difficult to show traditional ownership.

We have to come up with a system which respects different associations that people have with the land. That process is ongoing and it is making progress, but it is difficult nevertheless. We are doing that side by side with this Act. As I mentioned in my opening statement, it is appropriate that we co-design that with Aboriginal people because it is heritage that uniquely belongs to them and the authentic right to speak for Country is complex. Working out appropriate ways to reflect that in legislation needs to be done. For example, the most recent bill that the Western Australians have brought forward to deal with that leaves the right to speak for Country, as I understand it, to be determined by the Minister. Well, that is tricky and that is not something that Aboriginal people are necessarily happy with. We are working through all of those issues now.

**The CHAIR:** I will invite Mr Shoebridge or Reverend Nile to ask questions. Mr Shoebridge has raised his hand.

**Mr DAVID SHOEBRIDGE:** David Shoebridge speaking. Thank you, Minister, for being here, sort of. One of the issues about the very, very slow progress of the Aboriginal heritage reforms is that there is no thinking about how the Aboriginal heritage reforms will connect with any reformed Heritage Act. All the key players in this space have pointed out that is a problem. There are a number of Aboriginal heritage items on the State Heritage Register, but there does not seem to be any thinking about how a reformed standalone Aboriginal heritage scheme would interact with a reformed Heritage Act. That seems to me a critical lack in the current thinking. Can you respond to that?

**The Hon. DON HARWIN:** I do not know that I would agree with your characterisation. In fact, that is something that the three stakeholders I spoke to you about very much have within their scope. Obviously Aboriginal Affairs NSW and Heritage NSW both have a role in advising that process in terms of ensuring that there is the highest level of legislative integration. I cannot give you a definitive answer as to how it is going to work yet. It is an integral part of the discussions towards getting an appropriate legislative outcome for Aboriginal cultural heritage.

**Mr DAVID SHOEBRIDGE:** Minister, I appreciate the statement, but there is nothing in the discussion paper that unambiguously says, for example, when it comes to Aboriginal cultural heritage that the policy intent of the Government is to ensure that the final decision on the protection of Aboriginal cultural heritage—even that that is covered under the existing heritage laws—will lie with First Nations peoples and that is the policy intent of the Government so as it is ready to interact with hopefully some useful standalone Aboriginal heritage laws. I am asking you now, is that the intent that Aboriginal heritage matters covered by the Heritage Act as reformed will be subservient to final decision-making by First Nations peoples under standalone heritage laws?

**The Hon. DON HARWIN:** Those matters are all under discussion at the moment, David, as part of the Aboriginal cultural heritage matter. I cannot give you a definitive response at this particular time.

**Mr DAVID SHOEBRIDGE:** My last point on this is that there are a series of very significant Aboriginal heritage sites that are already under the State Heritage Register, and that is a good thing—

**The Hon. DON HARWIN:** I put one of them there myself, at Calga.

**Mr DAVID SHOEBRIDGE:** Yes, the Brewarrina fish traps and the landscape listing at Calga. Is it intended that the final say on those items will lie with the Minister under a reformed heritage structure or is it intended that the final say on those items will lie with First Nations peoples?

**The Hon. DON HARWIN:** I think you have asked that question and I have given the answer that I am able to give at this time. As you know, at the moment all of those landscapes were put there on the listing by Ministers.

**The CHAIR:** Is there another question by Mr Shoebridge or Reverend Nile?

**Reverend the Hon. FRED NILE:** I am very pleased that the Aboriginal cultural issue is very much on the agenda and is being seriously considered by the Committee. I think that is a good step forward and I will keep in touch with Aboriginal groups to make sure that they continue to be happy with the progress that is being made to recognise the Aboriginal cultural issues.

**Mr DAVID SHOEBRIDGE:** Minister, the discussion paper refers to the Heritage Council as an advisory body. That has been a bit of a red rag to a bull when it comes to the heritage sector, who see the Heritage Council as very much more than an advisory body. How is it that the discussion paper characterised the Heritage Council in that way, given its many statutory roles and the fact that it is a statutory agency?

**The Hon. DON HARWIN:** In respect to listings it is an advisory body but in respect of everything else it is a consent authority. In terms of listings, they make recommendations to the Minister and it is the Minister who lists. It is not incorrect to say that it does have an advisory role. Certainly, in that respect, you could argue that it does have an advisory role. Nevertheless, its main work is as a consent authority. There is no doubt about that. In fact, I thought the way Professor Richard Mackay put it in his submission was very good. He would know, of course, having been a former member of the council himself. Indeed the make-up of the Heritage Council reflects very much the fact that it is a consent authority. That is why there are a range of matters that are listed in the Act—or a range of expertises, I should say, that are listed in the Act from which governments of the day draw members of the Heritage Council.

**Mr DAVID SHOEBRIDGE:** Minister, the most intimately engaged stakeholders—National Trust and the Heritage Council itself—say that the Heritage Council, because it has no staff and is entirely dependent upon the department for resourcing, does not have independence and indeed on a number of occasions is caught in irremediable conflicts of interest. For example, when the State Government wants to do certain action in relation to a State-registered heritage item and department officials can be working one day for the Government to make changes to the heritage item and the next day for the Heritage Council, who may have a very different approach wanting to protect the heritage item. Do you accept that there is a lack of independence with the Heritage Council because it does not have independent staff? Do you accept that there is that conflict of interest and is it intended to fix that?

**The Hon. DON HARWIN:** I am not convinced that it is necessary to change the current situation. I am happy to hear the evidence that people who have made submissions to the Committee provide to it through its hearings. I have certainly read what they have had to say, but it has not convinced me. I do not have a concluded view on that, but I do not see a strong reason to change. As a policy matter, that is the way I see it. I will however invite the deputy secretary, if she wishes, to make some observations from the point of view of the staff.

**Mr DAVID SHOEBRIDGE:** Minister, we will have plenty of time to talk to the deputy secretary.

**The Hon. DON HARWIN:** Okay. Please feel free to raise that with her later.

**Mr DAVID SHOEBRIDGE:** The Heritage Council itself has made that submission. They would know, wouldn't they, if they were caught in a conflict of interest? The Heritage Council itself has made that submission. Are you saying that they are wrong?

**The Hon. DON HARWIN:** I am not saying that they are wrong. I am saying that I am not convinced. I have not actually seen any—I have discussed this issue with the chair. I have asked him to nominate some examples of where it has caused a problem and I just have not been convinced by the conclusion that the chair might have drawn in his submission to see it as a major problem that needs correcting. It is one thing to identify a possible conflict of interest and on the other hand show that it is having real and significant effects on the operation of the Heritage Council. I honestly do not think that it is significantly affecting the operations of the Heritage Council.

**The CHAIR:** Mr Shoebridge, you have one more question before I invite Government members to ask questions.

**Mr DAVID SHOEBRIDGE:** One example they do cite where they say as a practical matter there has been a very clear conflict of interest is the State significant development and State significant infrastructure work that is being done at Central Station. They point out that the agenda of the Government in wanting substantial development there—quite significant changes to the heritage fabric of Central Station—has been at odds with the heritage conservation values of the Heritage Council. They have pointed out a very real conflict of interest there. Do you say that is a submission without substance?

**The Hon. DON HARWIN:** I am sure that it is sincerely put to you by the chair. I am not going to say it is without substance. It is a matter that is currently on foot, so I really do not think that it is probably appropriate that I say too much more about that. The fact is that all of those projects do go through—in going through the State significant development [SSD] process, they do have a significant heritage assessment as part of the integrated development approval in SSD. So to say that there is no role for heritage and that heritage considerations are not taken into account I think would be wrong.

**Mr DAVID SHOEBRIDGE:** Of course, I said—and I adopted their submission—that there is a terrible conflict of interest, but we will have to [disorder].

**The CHAIR:** Do any Government members wish to ask a question.

**The Hon. SHAYNE MALLARD:** Yes, indeed, Mr Chair. I am Shayne Mallard. Each of the three Government members will have a question to ask. I will be followed by Mr Taylor Martin and Mr Trevor Khan. Good morning, Minister, welcome to our virtual hearing. Having a history degree, I think it is important that heritage Acts are kept up to date with contemporary thinking. Your discussion paper talks about "activating heritage". That that is a term used a lot in discussion of heritage, from local government through to National Trust. What does that really mean and how do you see it supporting conservation outcomes for heritage items?

**The Hon. DON HARWIN:** Heritage activation is about making use of our heritage to create a sense of place. But it is also about social connection. That can include commercial and residential use but it also may be realised in a variety of ways, including other community activities or even, for example, arts and cultural use. Investing in heritage activation is really an important thing. I think there are a range of particular matters that have been raised in the submissions that I think are very good. By and large, owners of heritage properties do have a natural incentive to be able to activate them but it is not always easy.

While I would not wish to pre-empt the Committee's findings, options which I would encourage you to have a closer look at is the broader use of transferable development rights. I think the City of Sydney's scheme, which has been in place since 1971 and involves heritage floor space, has been extremely successful. Variations of that—particularly in areas such as the City of Parramatta, which has got significant heritage—is worth doing. I encourage you to look at planning incentives and more flexible zoning controls. That has been suggested in some of the submissions. We have a very small grants program in heritage. There is no doubt that further grants to assist with the cost of adaptive re-use and heritage activation would play a role, but I do not think the Treasurer would particularly thank me for raising it. If we could look at ways of incentivising—ways of bringing more money into covering the cost of adaptive re-use and heritage activation, that would be a good thing.

In terms of public assets, I do think there is some value to reasonably long-term leases of assets where assets do not have a continuing public use or are just not fit for purpose in terms of their traditional government use and no other government use is available. I think there is a role for that there. Heritage agreements, we have a capacity for that in the Act at the moment, but I think to get greater use of them we probably need some improvements to that as well. Other really great ideas like insurance rebates and stewardship payments have been suggested again. All of those things I really would encourage you to follow up again. Activation and re-use of existing heritage properties is particularly important in terms of sustainability. To be able to use a building that we have rather than to draw on more of the planet's resources to build new buildings I think is something we really need to uphold and support.

**The Hon. SHAYNE MALLARD:** My second question follows on from that. I am—as I think everyone here in this inquiry is—a strong supporter of the National Trust and its role in preserving heritage in our State. Do you see opportunities out of the restructuring of the classifications and the incentivisation for the National Trust to be able to improve its revenues for the restoration and acquisitions that it does?

**The Hon. DON HARWIN:** What do you mean by classification?

**The Hon. SHAYNE MALLARD:** Your discussion paper talks about, from memory, looking at four different types of categories for—

**The Hon. DON HARWIN:** The category approach?

**The Hon. SHAYNE MALLARD:** Yes, so that the Harbour Bridge and the terrace house are not lumped into the one set of controls. I think that is a very nimble and better approach to heritage protection. I am just wondering if there are opportunities for organisations like the National Trust to be able to better resource themselves for conservation and adaptive re-use.

**The Hon. DON HARWIN:** I have to say, those opportunities for the National Trust had not occurred to me. I would be interested in hearing more about your thoughts on that issue, if that was the question. The category system that we have put in the discussion paper is a whole separate topic. But rather than taking up time, I might just leave it there and see what the other questions were.

**The Hon. TAYLOR MARTIN:** Minister, how would the category system work and how might this improve heritage outcome?

**The Hon. DON HARWIN:** The category system is envisaged by Heritage NSW and its other proponents as a risk-based and principals-based approach to heritage conservation. It aims to focus administrative resources on conservation risks and allow simple activities that do not impact heritage values to go ahead. The aspiration is that it would be a more sophisticated, individualised and nuanced system rather than a one-size-fits-all, rules-based regulatory approach. It aspires to provide owners with increased autonomy, within clear and enforceable limits. Owners would be helped to understand, reducing the need for consultants or unnecessary applications. Category one is obviously fairly straightforward—national and State heritage listings, such as the fish traps, the Opera House, the harbour bridge and Hyde Park Barracks. I think all of you would appreciate what that is.

Category two would be more based on cultural landscapes. Currently every item that is listed on the State Heritage Register is treated the same way, with a standard set of regulatory controls. This means that very different heritage items, such as a heritage theatre, a residential terrace, a house or even a working farm, are required to abide by the same controls regardless of their circumstances. Category two will predominantly comprise State significant heritage landscapes and urban precincts. An obvious example would be something like the Myall Creek massacre site or Calga—as we talked about earlier—or the town of Braidwood, which is listed as well.

To be able to do this while still ensuring that we have a relatively high level of heritage protection, we would need to give consideration to options like better identifying what is heritage fabric and subject to approvals as part of the listing and making this information more accessible on the State heritage inventory. We would also have category exemptions, I think, based on asset classes such as farms, which could ensure carrying out of seasonal agricultural activities is permissible, where a point-in-time listing has previously made this impossible.

The third category would encompass the majority of the State Heritage Register-listed items as well. They would be treated pretty much like they are treated now, but the hope would be that we would free it up by eliminating the need to apply for a permit for a large range of minor activities if done in accordance with specified conditions and standards. There is a lot of material there that I could bring into the answer. It is probably best, given that there is limited time, that we allow you to explore this further with Mr Clark later in the hearing.

**The CHAIR:** Minister, I understand you need to leave this hearing.

**The Hon. DON HARWIN:** I would be happy to stay a little longer if perhaps there are some other matters that the Opposition or the crossbench briefly want to cover, but they might prefer to ask that to the deputy secretary or Mr Clark. That is a matter for them.

**The CHAIR:** Clearly, Minister, you are enjoying this virtual experience. What I suggest is—being mindful of time—I will afford the Opposition to ask one question and Mr Shoebridge or Reverend Nile to ask another.

**The Hon. WALT SECORD:** Walt Secord speaking. Minister, in the submissions Camden Historical Society expressed concern—

**The Hon. DON HARWIN:** Sorry, apologies for interrupting.

**The CHAIR:** It is the Chair again. Mr Secord, could you either [inaudible] the volume or step a little back on the [inaudible] and try again, and start your question from the top, please. Thank you.

**The Hon. WALT SECORD:** Minister, I am referring to Camden Historical Society's submission. They expressed their concern that:

... heritage items may be assessed primarily for their ability to be profit making ventures.

They express concern from your discussion paper, page 17, around the use of the phrase "streamlining" and their concern that, in fact, it will activate public assets being sold off. What is your response to reassure them?

**The Hon. DON HARWIN:** Well, I can assure them this is not about reducing heritage protection, if that is what they are worried about with the term "streamline". I think it is possible to make processes more efficient without reducing protection. It is also possible with a different approach to ensure we get the same quality outcome, but not necessarily with the same processes. The other thing in terms of the second part of the question was in terms of selling off public assets. It is absolutely not about selling off public assets. My focus in terms of the comments I have largely made have been about heritage assets that are in private ownership, as almost 50 per cent of those items that are listed are in private ownership.

A whole different set of considerations apply to public-owned heritage assets and by and large I would hope that government would always aspire to be a model heritage owner and would try as far as possible to adaptively reuse heritage assets for public purposes. I think in a very large number of instances that is possible, but it is not always possible. Then it is worth, as I said earlier, considering long-term leases so that other people who are interested in using those buildings can invest money in them to adaptively reuse them so that, frankly, they are just not neglected and left unused. I do not think that is particularly sustainable and it is not a good heritage outcome either.

**The CHAIR:** A question from the crossbench, please?

**Mr DAVID SHOEBRIDGE:** I am happy for Mr Secord to have a follow-up. I think it makes sense.

**The Hon. WALT SECORD:** That is fine. I understand.

**Mr DAVID SHOEBRIDGE:** Minister, the National Trust, Historic Houses Association—multiple very informed stakeholders—are troubled by the overall tone and direction. Just quickly, I think the Reverend Fred Nile does not have his microphone on mute. I think anyone who does not have it on mute means we get feedback. David Shoebridge here. Minister, the National Trust, the Historic Houses Association—multiple very engaged and informed stakeholders—have criticised the starting point for this review. For example, the discussion paper says it has got three prongs: making heritage easy, putting heritage to work, making heritage relevant. What that is missing as the overarching direction is actually protecting heritage. Why isn't protecting heritage the first goal in a heritage Act, and why isn't that the first order in your discussion paper?

**The Hon. DON HARWIN:** Well, I think all of the listings are designed to protect heritage. I do not accept that that is not the central purpose of everything that we are talking about in the discussion paper. Protection is absolutely critical and it is right there as an object of the Act and it is certainly what all of the suggestions—and they are just suggestions right now, and that is why we put them out for feedback through processes like this Committee. All of those suggestions are designed to improve the protection of heritage.

**Mr DAVID SHOEBRIDGE:** But, Minister, it never says it and the discussion paper says, "Here are the three key themes that we have for this review. They are about making heritage easy, putting heritage to work and making heritage relevant." Why isn't the first thing—the fundamental, underpinning theme—protecting heritage? Because you put it in the context of more development pressure, more need to activate heritage. Why isn't the first fundamental, underpinning part of this review protecting heritage?

**The Hon. DON HARWIN:** I think we are splitting hairs. I think it is obvious that all of those ideas that are in the discussion papers are designed to protect heritage.

**Mr DAVID SHOEBRIDGE:** Where does it say it in the discussion paper? I am happy to have Ms Foy or anybody point to where it says it in the discussion paper. I have read it top to bottom. Where does it say that the underpinning value here is protecting heritage? Where?

**Ms FOY:** Kate Foy here, reinforcing the Minister's statements that is at the centre of the discussion paper. Page 6, introduction, section 1:

NSW has a strong history of heritage conservation and protection.

**Mr DAVID SHOEBRIDGE:** That is the history. It is not talking about what the direction of this discussion paper is. I accept the Heritage Act has been working. I am asking where do I find in the discussion paper that the key underpinning value here is protecting heritage? Where does it say it?

**Ms FOY:** I think it is in the foreword where we say our heritage deserves to be protected and cherished.

**Mr DAVID SHOEBRIDGE:** I accept it deserves to be protected and cherished. I accept it has been important in the past, since the Heritage Act. What I am failing to see is anywhere in this discussion paper where it says it is an underpinning value of this reform process. There are three guiding principles. None of them mention protection. How is that the case?

**Ms FOY:** The principles—those principles, together with the objects of the Act, together with the role of the Heritage Council, together with the statements in the discussion paper I think do clearly state that heritage protection is at the core of what we are trying to achieve and there is no suggestion that we are resiling from that.

**Mr DAVID SHOEBRIDGE:** David Shoebridge. The objects of the Act are up for review.

**The Hon. TREVOR KHAN:** I am going to take a point of order [inaudible].

**Mr DAVID SHOEBRIDGE:** They are on the chopping board. They are on the chopping board. You cannot refer to the objects of the Act as informing the discussion paper.

**The CHAIR:** Mr Shoebridge, I have allowed some latitude both to the Opposition and to the crossbench. I am going to afford the Government members one final question to the Minister if they so wish. Is there a Government member with a question?

**The Hon. TREVOR KHAN:** I have a question, but it seems to me the Minister stayed to give the Opposition and the crossbench an opportunity of a further question. Mr Shoebridge has taken it and a bit in terms of simply arguing with the Minister. I am happy to ask my question, but the Minister has stayed on and I am wondering if the Minister still wants to stay on or leave it to the officials to continue on at this stage.

**The Hon. DON HARWIN:** Obviously, this is a brave new world in terms of the technology. We can only have limited time because of, literally—I am sure members have had that explained to us. I was happy to take a little bit more in terms of questions from the Opposition and the crossbench but I understand there is only half an hour remaining for the officials and that there are other witnesses beyond that that the Committee is planning to see. I probably should leave it there. I do not see any point in extending the hearing just so that Mr Shoebridge can ask me the same question a fourth time.

**The CHAIR:** If Mr Khan had a question for the Minister that would be the last question, if he wanted to take that opportunity. If not, then I will thank the Minister for his time. Mr Khan, do you wish to raise a question with the Minister directly whilst he is here?

**The Hon. TREVOR KHAN:** No. I am happy to wait until we deal with the officials.

**The CHAIR:** On that basis, thank you, Minister, for attending this hearing. I hope that it has been an enjoyable fully virtual experience and we thank you for your participation.

**The Hon. DON HARWIN:** Thank you.

**(The Minister, the Hon. Don Harwin, withdrew.)**

**The Hon. WALT SECORD:** Mr Chair?

**The CHAIR:** If I could suggest we just might pause for the Minister to leave this forum.

**The Hon. PETER PRIMROSE:** Sorry, Mr Secord has a question.

**The Hon. WALT SECORD:** Thank you, Mr Primrose. Chair, how do we take points of order during these proceedings? I wanted to agree with Mr Shoebridge and dispute Mr Khan and challenge what the Minister was going to say. How do we do that in this format? I was unable to do that.

**The CHAIR:** To that point, Mr Secord, perhaps if you could possibly—and I apologise if I did not see—maybe wave your hand and I might be able to interpret it. But it is a little challenging, I admit.

**Mr DAVID SHOEBRIDGE:** To the point of order, which I think is sort of partly made.

**The CHAIR:** Yes, Mr Shoebridge.

**Mr DAVID SHOEBRIDGE:** I reject the characterisation that somehow my questioning was inappropriate. There needs to be the capacity to follow up questions in a robust fashion. The fact that we are doing this online does not mean that we have to agree or we cannot follow up questions in a robust fashion. I do not believe there was anything I did that was inappropriate. In fact, I think I was asking questions that the entire sector wanted answered from both the Minister and the bureaucrats. I have read the submissions. These are concerns across the sector. The fact that questioning may get a little uncomfortable does not mean that it is out of order or improper; in fact, it is probably exactly where the questioning should be.

**The CHAIR:** Thank you.

**The Hon. TREVOR KHAN:** Chair, I have to respond. The essential point was that what Mr Shoebridge did was ask the same question at least three times. I can see him shaking his head, but the answer was as the Minister and Ms Foy gave. Mr Shoebridge continued to repeat it. Now, if we want to turn this into an entirely

unproductive exercise, that is fine. But if this is to be in any way constructive—Mr Shoebridge made his point. He did not need to labour it, and he did. That was essentially my point of order and it remains so.

**Mr DAVID SHOEBRIDGE:** If I may very briefly respond, and then we can get on with other matters.

**The CHAIR:** Yes, and also I think the Minister was meant to leave us but perhaps—

**Mr DAVID SHOEBRIDGE:** That is immaterial. If an answer is given which purports to answer a question but has very inherent flaws in it—and, in my submission, each one of the answers that were given had fundamental and inherent flaws in it—testing those flaws in the answer is absolutely our job. Mr Khan and I may disagree on that, but each of those answers had deep and fundamental flaws in it which were being tested with follow-up questions. That is my job and I will continue to do it as politely and firmly as possible in this context.

**The CHAIR:** I certainly appreciate the spirit in which everybody has engaged in this new opportunity, and I have certainly noted your collective observations. I suspect the Minister has left us and we still have both Ms Foy and Mr Clark. Mindful of the time, I now propose that we go back to the format and I invite Opposition members if they have any questions to either Ms Foy or Mr Clark.

**The Hon. WALT SECORD:** Walt Secord. This question is to Ms Foy or Mr Clark, whoever feels that they are best placed to answer the question. The International Council on Monuments and Sites [ICOMOS] has made a submission and they express their concern about the need to review the overall heritage system in New South Wales. They are also concerned about the lack—the Government responding to new and emerging issues. Has the review engaged in any dialogue with the International Council on Monuments and Sites?

**Ms FOY:** With ICOMOS—Kate Foy here. We have had a number of conversations with a range of stakeholders over the previous months. I might invite Mr Clark to speak directly to the ICOMOS. Certainly we have had conversations, I think, with Dr Mackay. Matthew, are you able to answer that question in a bit of detail, please?

**Mr CLARK:** Yes. Matthew Clark. Yes, we did have a discussion—we being my team in Heritage NSW— with Professor Richard Mackay leading into this process.

**The Hon. WALT SECORD:** Are you able to elaborate or discuss or tell us, in fact, did you respond to the concerns expressed in their submission?

**The CHAIR:** Sorry to interrupt. Mr Secord, could I invite you to step a little further back from the mic and try again? I am getting some feedback and it is a little difficult to hear you. Could you repeat the question, please? Thank you.

**Mr DAVID SHOEBRIDGE:** The difficulty is other people not muting. Everyone, including the witnesses, needs to mute.

**The Hon. WALT SECORD:** Walt Secord speaking again. To Mr Clark, I guess I am asking you about the detail or the dialogue that you had with the organisation. Did you, in fact, respond to the four points that they made in their submission?

**Ms FOY:** Ms Foy here, if I may address that. We discussed broadly the discussion paper. We have not canvassed or sought to respond to any stakeholder issues, more trying to understand their thinking and talk through the discussion paper and explain some of the points in the discussion paper. That is to the Minister's point about the referral to this Committee. We would not seek to make any detailed response. We are looking to this Committee and your recommendations and views in light of any of the submissions that have been made and absolutely look forward to that. But, no, we are not canvassing another stream of work where we are seeking to respond in detail to anything that might come up in our broader stakeholder consultations.

**The Hon. WALT SECORD:** About the [inaudible] to the submission,. I am rather pleasantly surprised by Goulburn Mulwaree Council expressing concern that Aboriginal representatives and issues relevant to the NSW Aboriginal Land Council were not addressed or sought as part of this review. I am pleasantly surprised that a country council would raise that. What steps are you taking to include Aboriginal concerns?

**Ms FOY:** A couple of points for that. The first is, as the Minister described in the first part of the session, the co-design process underway with the three entities: the Native Title Services Corporation, the Aboriginal Cultural Heritage Council and the NSW Aboriginal Land Council. That co-design process runs in parallel and certainly I oversee both of those reform activities and we have an integrated point. A Heritage team and Aboriginal Affairs team are involved in that. The second point I would want to make is consultation with the Heritage Council, and we have a representative of the Aboriginal Cultural Heritage Council on the Heritage Council. Thirdly, through the submission process that this Committee is running there are views that are coming through. Certainly

we have offered briefings to parties around this. Those that accept, we provide briefings to and those that do not, that is a matter for them.

**The CHAIR:** A question from any Opposition member? I recognise the Deputy Chair.

**The Hon. MARK BUTTIGIEG:** Thank you, Chair. It is Mark Buttigieg here. There are some interesting models presented in the discussion paper, one of which is a cost deficit recovery model. There is a case study that they have done in the United Kingdom. It is on page 12 of the submission. It is basically incentivising the project to bring it back to life by a government deficit-funding a project so that if the existing value of the asset would have been less than its original value after the amelioration is done, then the government would fund the cost gap. The example given was a local council that received funding in the United Kingdom.

Has there been any discussion about whether or not the State Government could actually take on those assets? For example, if there were a dilapidated building of significant heritage value and it was going to be viable once it has been restored, in a commercial sense, then why would the State Government not take on that asset and run it as a profitable enterprise on behalf of the people, rather than handing it off to the private sector? Have those discussions been had internally vis-a-vis that model?

**Ms FOY:** Thank you, Mr Buttigieg. I will ask Mr Clark to respond in a bit of detail. There are some different schemes, and I think one of them—and I am happy to come back on notice with a bit more detail; I just do not have it easily accessible in front of me. But the Sydney Living Museums has a program of being able to do particular works on quite dilapidated buildings. I am sorry, I just do not have it to hand but I will come back on notice. We are looking at a range of incentives, canvassing a range of incentives through this particular discussion paper, and I think the Minister spoke a wee bit to that this morning around the grant schemes, the heritage floor space that is currently underway in the City of Sydney. I certainly note a number of submissions speak to those incentives and suggest expanding that heritage floor space scheme to other locations, I think, such as Parramatta was one that was canvassed.

On page 12, that UK Heritage Enterprise grants scheme does look at where the value of an existing heritage asset and the cost of bringing it back to use is greater than the ultimate value of the asset. Again, I think, through this process we would be welcoming of any incentives that help protect, preserve, conserve and celebrate heritage as part of the future through the legislative framework. I certainly also note that many of the responses and submissions identify those that have an interaction with the legislative review, but there are other things also that can be looked at, that are outside of the boundaries, perhaps, of an Act but more around the way that Heritage NSW works in order to protect heritage in the future. Matthew, did you have anything further on that point that you wanted to comment on?

**Mr CLARK:** Matthew Clark. No, I would just echo what you said and point members to the focus questions and the discussion paper, because we do ask what sort of incentives—and I think you could expand that to being around processes or programs—might encourage activation and conservation of heritage. And so a model, such as that given in the example, provides an example of a model but certainly all other models, or good examples, or even just ideas that could be further developed are very welcome.

**The CHAIR:** Thank you. It is the Chair once again. I invite either Mr Shoebridge or Reverend Nile if they have a question at this stage.

**Mr DAVID SHOEBRIDGE:** Thanks, Chair. Ms Foy, one of the welcome changes in the proposed review is having more options in terms of enforcement, including infringement notices and the like. The discussion paper seems to suggest those options will lie with the State Government in one form or another. I have two questions. Is it intended those enforcement options will lie with the Heritage Council or the Minister? Secondly, is it intended to roll out those additional enforcement options to local government, who have said in their submission from the Local Government Association they want those options, and of course they are responsible for protecting the greatest number of heritage items in the State?

**Ms FOY:** Thank you, Mr Shoebridge. Kate Foy here. We have not made a determination specifically around where that would reside—the responsibilities. So we are open to all of the options.

**Mr DAVID SHOEBRIDGE:** Can I ask you—

**Ms FOY:** I make—yes? I beg your pardon.

**Mr DAVID SHOEBRIDGE:** Sorry, I thought you had finished, Ms Foy. I will stop and let you finish. David Shoebridge.

**Ms FOY:** Thank you, Mr Shoebridge. Apologies. I was just probably for the purposes of the Committee going to go through a few points around that enforcement if I may, but I am very happy to leave it as it is said.

But in short there are not a lot of intermediate steps involved, as you point out. There are lesser sanctions around notices and written warnings, and then there are some strong enforcement provisions in the Act by the way of penalty units, and I think six months imprisonment is there. Certainly, while we do not propose moving the provisions at either end of that spectrum, we are interested in the intermediate steps. We are also very open to the governance of that. We would like those mid-tier sanctions for breaches of the Act that enable a sliding scale of enforcement action. I am sorry, Mr Shoebridge, I did interrupt you before.

**Mr DAVID SHOEBRIDGE:** I do not think any apology is needed, Ms Foy. Could I then ask you again about local government, because of all the levels of heritage protection local government has far and away the biggest job. I think some 40,000 heritage items are at local government level, compared with less than 2,000 on the State register. You will know the term "demolition by neglect". The fact that it is a term well understood, particularly for local heritage items, should trouble anybody reviewing the Heritage Act. Can I ask you, why was that issue not addressed in the discussion paper, given this concept of demolition by neglect is such a major problem for so many heritage items, particularly on a local level?

**Ms FOY:** I suppose the answer to that is we are very open to listening and hearing all of the suggestions that come through the submission process, noting that local government and individual local government bodies have responded, so we would welcome suggestions that come through this Committee.

**Mr DAVID SHOEBRIDGE:** One of the obvious ways of helping that is to give those intermediary enforcement powers, including additional powers to require urgent and essential maintenance work—to give those additional enforcement powers to local government. Is that being considered in the scope of this review?

**Ms FOY:** We have not proposed any changes to the management of local heritage as part of this, and if there are matters specific to that that the Committee wishes to put forward we would absolutely consider that.

**Reverend the Hon. FRED NILE:** [inaudible]

**The CHAIR:** It is the Chair. I did notice, Reverend Nile, that you attempted to speak. If you tried to unmute yourself and raise your question I apologise that I missed you. You can try now.

**Reverend the Hon. FRED NILE:** [inaudible]

**The CHAIR:** Reverend Nile, we cannot hear you. Can you try again? You might still be on mute.

**Reverend the Hon. FRED NILE:** [inaudible]

**The CHAIR:** Could you try again, Reverend Nile? We are unable to hear you.

**Mr DAVID SHOEBRIDGE:** He needs to unmute. Fred, you need to unmute.

**Reverend the Hon. FRED NILE:** [inaudible]

**The CHAIR:** Reverend Nile, have you unmuted? You can try now.

**Reverend the Hon. FRED NILE:** [inaudible]

**The CHAIR:** You are still muted, Reverend Nile.

**Reverend the Hon. FRED NILE:** [inaudible]

**The CHAIR:** No, we cannot hear you, Reverend Nile. You are still muted.

**Mr DAVID SHOEBRIDGE:** Fred, you have got to press the unmute button.

**Reverend the Hon. FRED NILE:** [inaudible]

**The CHAIR:** Perhaps as Reverend Nile attempts that, Mr Shoebridge, did you have a question in the interim? Once I notice Reverend Nile unmute, I will then invite him to participate.

**Mr DAVID SHOEBRIDGE:** I will stop as soon as we hear from Fred. Thanks, Chair. Ms Foy, one of the key concerns is the lack of funding for the assessment process at a State heritage level. There are multiple concerns about that in the submissions and they repeatedly say the lack of funding for the work of the Heritage Council means very frustrating delays when there are applications being made to do the kinds of things this discussion paper is talking about, which is adaptive reuse. One of the cases in point is the multiple-year-long process to get adaptive reuse of a heritage item in Bathurst for a railway museum. The sector clearly points to the resource constraints that are causing frustration. Is there an intention to properly resource the Heritage Council to get rid of those frustrations?

**Ms FOY:** I think the Minister also spoke to that today. There are probably a couple of aspects in your question. Sorry, it is Kate Foy here. We are getting used to the online process. The last part of your question is

about the proper resourcing of the Heritage Council and I think the Minister answered that this morning. The second point that you made was around the time that it takes for heritage assessments to occur. I agree, they are often very complex. Often the timing is in the hands of a number of different areas, so when we do an assessment we also rely on and we work with owners and proponents and that can take quite a bit of time. That is why we are looking at how do we make this easier, and for us the clarification or the clarity through the category system is a way of assisting that, rather than having a system that suits all. So the category system is designed to assist with that. The other part of your question was about the cost. If I may ask for just a bit of clarification about what you meant in that question, Mr Shoebridge, and I may be able to answer that more specifically.

**Mr DAVID SHOEBRIDGE:** My question was not about the cost to external entities who are engaging with the system. My question was very much about the inadequate resourcing which is creating substantial delays in the assessment of applications to amend the do work on heritage items. Many of the submissions are saying the proposal for the streamlining processes is in many ways a response to inadequate resourcing. The other alternative to get a rapid consideration of adaptive reuse is, instead of reducing the heritage protections, you properly resource the Heritage Council to do the work efficiently in the first place. I again give you the example of the Bathurst council and the incredible frustration they had with the delays there because the sector says inadequate resourcing of the Heritage Council is causing the delay. It is not the structure of the Act; it is the failure to finance it.

**Ms FOY:** I cannot comment on the Bathurst example or use that as part of my answer. But your comment about inadequate resourcing, I am not sure that I can at this stage agree with. Certainly the resourcing of Heritage and the way it works is part of my responsibilities. We are making sure that we have the right structure in place in order to provide the right level of service. We are proposing to have a stronger customer service capability as well as an assessments capability. We do provide support to the Heritage Council and absolutely respect their independence. I have quite a lot of interaction myself with the chair in order to understand and support their work. If they feel it is necessary and appropriate, we certainly support them in the commissioning of a range of different advice, either through internal resources or independent external resources.

I reiterate, I think, what the Minister's comment this morning was. He has yet to be persuaded around some of the matters that you raised as part of that, but certainly through this process more than happy to look at it. I have read the Heritage Council's submission. I have talked with the chair of the Heritage Council about it. Certainly we want to make sure that they have got the resources necessary to do their job. About how that is structured is not something that we are seeking to change at the moment.

**The CHAIR:** It is the Chair. I have just noticed Reverend Nile is off mute, so I will invite Reverend Nile to ask his question and then I will revert to a Government member or members if they have a question to any of the witnesses.

**Reverend the Hon. FRED NILE:** My question is directed to either of the two Government representatives, Ms Foy or Mr Clark. I think it is excellent that this inquiry received over 300 submissions from the public and community groups and so on, which showed a deep interest in heritage. Did any particular theme come through those 300 submissions that should be of interest to our Committee in following up our work? Any particular theme that came through the concern of the community in New South Wales in those 300 submissions? That is either Mr Clark or Ms Foy.

**Ms FOY:** Thank you, Reverend Nile. We are making our way through. Actually, I think the team—between us all we have read all of the submissions. There is no particular theme, to be honest, that I would point you toward. I think for me some of the very strong comments around incentives and how we can use a broad range of tools to be able to incentivise the conservation protection and celebration of heritage was very valuable. I am interested in issues around the interaction with the—certainly there is a range of comments around the category system. We need to work through some of those comments, indeed, and perhaps there are points of clarification about the classification system that we may be able to offer, and Mr Clark can speak to that in a bit more detail. But it is about providing clarity rather than trying to diminish any protections. But no, I am very grateful for the absolute enthusiastic response from so many people to the review and look forward to the Committee's considerations.

**Reverend the Hon. FRED NILE:** Good. Thank you very much.

**Ms FOY:** Thank you.

**The CHAIR:** Are any Government members wishing to raise a question to the witnesses?

**The Hon. SHAYNE MALLARD:** Mr Chair, Shayne Mallard here. I am happy to ask some questions if that is okay. There has been a lot of discussion about Aboriginal culture and the Minister has made it clear that there is a parallel process, a co-design process, which may or may not come to this sort of end game of an inquiry as well, I imagine. You might want to comment on that. Is it not the principle that our Government has signed up

to and our parliaments have signed up to in the Closing the Gap principles that any legislation or administration that directly impacts upon the Aboriginal community has to be co-designed? It is a principle of the Closing the Gap, and it would be inappropriate to put that into this inquiry without partnership with Aboriginal Australians.

**Ms FOY:** Thank you, Mr Mallard. Kate Foy here. Absolutely. Through Closing the Gap—and that is also part of my portfolio that I support the Minister with—is partnerships with Aboriginal people and Aboriginal community-controlled organisations. Co-design as part of the cultural heritage reforms is absolutely critical and I am sure, as my colleagues in those agencies would attest, it is very, very, very complex and we have to work together on these very complex issues. Equally, any other part of the work that we do with Aboriginal people and Indigenous communities is against the principle of co-design and partnership. We have a lot to learn on the government side about how we do that and do that well. We work very hard to make sure that we are learning and that we are holding integrity with respect to co-design and partnership as we move through all these major reforms.

**The CHAIR:** It is the Chair. I am mindful of the parameters of this hearing. This will be the last question from a Government member.

**The Hon. SHAYNE MALLARD:** I will just check with my colleagues Mr Khan and Mr Martin if they are wanting to ask a question? I will assume the silence is no. I have some experience in the heritage floor space scheme of the City of Sydney. I was a councillor there from roughly 2000 to 2012. It is very successful. But it is also, to my understanding, a very sensitive market mechanism because the heritage floor space goes on the free market and then developers buy it to comply with what the council wants them to do on their building and that money then goes into the restoration of that particular heritage item under a conservation management plan.

When the South Sydney Council and the City of Sydney were amalgamated, I proposed the expansion of that heritage floor space scheme into south Sydney. We got a report back then—talking 2003, 2004—that the market would not sustain that expansion. It really was CBD-centric and it still is CBD-centric. It is the old city of Sydney. It does not apply out to south Sydney. I am wondering what work has been done around that market mechanism in terms of Parramatta or other areas. I guess you are consulting with the City of Sydney about that scheme. I am very keen for us to investigate it further. Have you done some work around that market mechanism and how fragile it appears to be, or I was told it was?

**Ms FOY:** Not in my particular area, but my understanding is the Department of Planning, Industry and Environment, I believe through Property, would look at those particular issues because certainly the issue around market sensitivity is one that we are alive to. The heritage floor space, to my understanding, has a very particular boundary inside the City of Sydney. There are submissions that talk about—and we would be very interested in what would the benefit to heritage and heritage conservation be to expand that boundary or to have it apply in other places. But certainly the department—and I am happy to come back with any more detail that I can on that.

**The Hon. SHAYNE MALLARD:** I wonder if you would take that on notice if any work has been done— I imagine it may well be commercially sensitive and we have to take that into account—around the expansion of the heritage floor space. I guess our inquiry could recommend in principle an examination of that scheme based on the success it is with the City of Sydney. That is just my thought bubble. Thank you for that.

**Ms FOY:** Thanks, Mr Mallard. Yes, I will take that on notice and come back with any detail that I can.

**The CHAIR:** Thank you, Ms Foy. On that basis I will take this opportunity to thank both Ms Foy and Mr Clark for attending this hearing and for your input. I observe that two questions were taken on notice. The secretariat will contact you in relation to those questions. For the benefit of this audio recording I declare that this concludes today's hearing. I invite the witnesses and the advisers to leave us at this stage. Thank you all once again.

**Ms FOY:** Thank you, Chair. Thank you for making this process quite an easy one for the first time. I appreciate all members and the ability to address you. Thank you very much.

**(The witnesses withdrew.)**

**The Committee adjourned at 11:05.**