

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

REVIEW OF THE HERITAGE ACT 1977

CORRECTED

Virtual hearing via videoconference on Tuesday 17 August 2021

The Committee met at 10:00.

PRESENT

The Hon. Peter Poulos (Chair)
The Hon. Mark Buttigieg (Deputy Chair)
The Hon. Ben Franklin
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 third virtual hearing for the review of the Heritage Act 1977. Before I commence, I would like to acknowledge the Gadigal people, who are the traditional custodians of this land. I would also like to pay respect to the Elders past, present and emerging of the Eora nation and extend that respect to other Aboriginals present. Today's hearing is being conducted virtually. 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. Today we will be hearing from a range of stakeholders, including the NSW Aboriginal Land Council, the Aboriginal Cultural Heritage Advisory Committee, heritage consultants and practitioners, and owners of items on the State Heritage Register.

Before we commence, I would like to make some brief comments about the procedures for today's hearing. While parliamentary privilege applies to witnesses giving evidence today, it does not apply to what witnesses say outside of their evidence at the virtual hearing. I therefore urge witnesses to be careful about comments you may make to the media or to others after you complete your evidence. Committee hearings are not intended to provide a forum for people to make adverse reflections about others under the protection of parliamentary privilege. In that regard, it is important that witnesses focus on the issues raised by the inquiry terms of reference and avoid naming individuals unnecessarily.

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 21 days. Today's proceedings are being streamed live, and a transcript will be placed on the Committee's website once it becomes available.

Finally, I will make a few notes on virtual hearing etiquette to minimise disruptions and assist our Hansard reporters. I ask Committee members to clearly identify who questions are directed to and ask that everyone please state their names when they begin speaking. Could everyone please mute their microphones when they 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, I remind members and witnesses to speak directly into the microphone and to avoid making comments when their heads are turned away.

MERRILL WITT, Member, Leadership Group, Better Planning Network, affirmed and examined

ALEXANDRIA BARNIER, Associate Director, Heritage Team, Urbis, affirmed and examined

The CHAIR: Would you like to both start by making a short statement to the Committee? Ms Witt?

Ms WITT: Yes. Thank you again for the opportunity to speak to you today. As I mentioned, I am on the leadership group of the Better Planning Network, which is an umbrella organisation for focus groups across New South Wales. In our submission we address the importance of making heritage conservation an integral part of the Environmental Planning and Assessment Act. In my opening remarks I would like to highlight some important examples to illustrate why heritage must be front and centre of strategic planning schemes. Last year the historic homestead of Mount Gilead near Campbelltown was added to the State Heritage Register [SHR]. The Minister responsible for heritage, the Hon. Don Harwin, rightly observed that Mount Gilead is an outstanding early nineteenth-century colonial estate with a spectacular sweeping landscape.

I grew up practically next door to Mount Gilead's equally superbly situated property of Meadowvale. It was originally part of a hundred-acre grant Governor Macquarie made to Andrew Hamilton, the father of the pioneering explorer Hamilton Hume. It is often wondered how these two magnificent properties, rich in both colonial and Indigenous history, survived intact for so long. As it turns out, they owe their existence to visionary planning controls that were put in place in the early seventies, when Campbelltown was declared a satellite city. Guided by the lofty goal of balancing the new city's growth needs with the conservation of the special assets of landscape, the rural properties surrounding Campbelltown were originally protected through zoning restrictions on land use, a minimum subdivision rule of a hundred acres and innovative development controls like the Scenic Hills protection zone.

When the Mount Gilead homestead was declared a State heritage site, the environment Minister, the Hon. Matt Kean, said the decision was also a win for the koalas, commenting that it is vital we pull out all the stops to protect koala habitat but also the structures that help define who we are as Australians. According to the chief scientist's report *Advice on the protection of the Campbelltown Koala population*, the Mount Gilead estate is home to three important koala corridors and provides the koalas with the shortest route between the Georges and the Nepean rivers. But the land surrounding the 150-hectare State Heritage listed homestead has been rezoned for urban development. The Gilead precinct represents the first stage of Greater Macarthur 2040, a strategic planning scheme that will see thousands of hectares of rural land released to accommodate upwards of 58,000 new homes. The stunning scenic vistas from Gilead—in my humble opinion, some of the best views in all of Australia—will be blighted forever [inaudible] development.

In its submission to the inquiry, the leading law firm Herbert Smith Freehills recommended that the Committee consider the listing of cultural landscapes with State significance and also identify a best practice approach to cultural landscape protection. In 2012 UNESCO warned the Australian Government that the World Heritage listed Old Government House and Parramatta Park were at risk of being declared in danger because of urban encroachment in the peripheral areas, especially all the new tall buildings undermining the integrity of the colonial sites. Placing heritage protection on the entire Gilead property and the continuum of notable colonial properties along Appin Road would not only save the significant cultural landscape; it would also save the important koala habitat. In fact, the koala habitat surrounding Campbelltown is worthy of a heritage listing in its own right because the koalas who live here are so unique. They are the last surviving chlamydia-free koala population of any significance in New South Wales. Experts believe their protection will ensure the survival of the species in our State. By way of example [inaudible] China's giant panda habitat was World Heritage listed in 2006.

I would just like to close by quickly noting that the protections of heritage can be undermined when a planning approval process gives too much discretion to decision-makers. Recently the Sydney Eastern City Planning Panel approved a development application [DA] for a six-storey residential apartment building abutting the heritage conservation area of Transvaal Avenue in Double Bay. Woollahra Council had recommended refusal, primarily because the DA had dramatically breached controls put in place to protect the avenue's ambiance—a picturesque cul-de-sac of single-level Victorian terraces.

Unfortunately, this decision is likely to be indicative of the type of rulings we will see if the proposed amendments to the clause 4.6 variation request come into effect. Together with the proposed Design and Place State Environmental Planning Policy, these planning instruments will give authorities the power to determine whether a contravention of well-considered development standards will result in an improved planning outcome. To date "an improved planning outcome" is not defined. It seems to rely on a subjective interpretation of the environmental, social and economic benefits. I look forward to your questions. I hope my opening remarks have

highlighted the importance of adopting a broad perspective to heritage conservation and also an understanding of what robust controls are needed to protect it. Thank you.

The CHAIR: Thank you very much, Ms Witt. Ms Barnier, would you similarly like to provide a short opening statement?

Ms BARNIER: Thank you, Chair. I am not making an opening statement today. Urbis' views are set out in our submission. But I thank you for the opportunity to talk with you.

The CHAIR: Thank you very much. I now invite members of the Opposition to ask a question. The Hon. Peter Primrose.

The Hon. PETER PRIMROSE: My question is to both witnesses but particularly to Ms Witt. I note in your submission, on page 7, the third point under "Recommendations" says:

State Significant Developments must not be allowed to turn off the Heritage Act.

Could you talk further to that? You did talk to it in part in your opening statement, but I would ask both witnesses whether they could comment on that further, please.

Ms WITT: The Haberfield Association put in a submission to this Committee, which you would be familiar with. They spoke about the terrible—the whole of Haberfield is a garden city in a recognised heritage conservation area. As you know, there was a lot of angst around the building of the tunnels for WestConnex because a lot of those really beautiful heritage Federation homes were lost in the process. Really this has to be a consideration before these infrastructure projects are approved. There were suggestions at the time that perhaps those tunnels could have been based at a slightly different angle to avoid so much damage to what is truly one of the best suburbs in Sydney. It is sad.

The Hon. PETER PRIMROSE: Can I ask Ms Barnier whether she has any comments.

Ms BARNIER: Yes. Alexandria Barnier speaking. I cannot say that Urbis considered the effect of turning off the Heritage Act in the context of State significant developments [SSDs] in our submission. But I can say in my experience that certainly the Department of Planning does take the comments of their referral bodies incredibly seriously and certainly we have been sent back a number of times to undergo rigorous consultation with both the Heritage Council, Heritage NSW and the relevant councils, if not further stakeholders as well. In my experience we have not necessarily compromised good heritage outcomes by turning off the Heritage Act in the context of SSDs.

The Hon. PETER PRIMROSE: Could you give us an example of that?

Ms BARNIER: May I take it on notice and get back to you with some examples? Thank you.

The Hon. PETER PRIMROSE: Please. Thank you. I will hand over to my colleague in case he has any questions, Mr Chair.

The CHAIR: Thank you, Mr Primrose. The Hon. Mark Buttigieg.

The Hon. MARK BUTTIGIEG: In the submission from the Better Planning Network, Ms Witt, you refer to the composition of the Heritage Council of NSW and that you think it should be restored to its original configuration from 1977—that is, a representative from local government, a representative from the Australian Historical Society, the New South Wales Government Architect and a representative from a representative union. Then you follow on to say that the Government should not be able to appoint eight out of the nine current members as it does now. The implication is that it does not operate at arm's length from government. Did you want to elaborate on why you think that original '77 configuration would serve the Heritage Council better than the current one?

Ms WITT: Yes. Can I just say that, prior to the submissions being put in, the National Trust held a heritage forum where they convened two panels. It was so well attended. I think there were probably three or four hundred people. This was actually one of the recommendations that came out of that panel. It is not just something that the Better Planning Network is advocating. I think all of the people there—it was a real mix of community organisations, interested people in the community—feel that the Heritage Council needs to have better teeth. I think one of the examples they also looked at was in Victoria, where the Heritage Council really does operate at arm's length from government. The Minister of the day just cannot overturn a Heritage Council ruling.

But I think for everyone, including the Government, to feel confident about the information, the advice that they are receiving from the Heritage Council, they need to know that the Heritage Council is from a broad mix of the community, that they are hearing a wide diversity of views. I think if the composition of the Heritage Council was strengthened so that it included a local government member, it included more community

representation, it included representation from the unions, who, as we know, over time have been very instrumental in protecting heritage in New South Wales through the green bans—I think that would make it more effective and probably also give the community more confidence in the Heritage Council and decisions it makes.

The Hon. MARK BUTTIGIEG: Ms Barnier, do have a view on the composition of the council?

Ms BARNIER: Alexandria Barnier speaking. Yes, I do. It is not based on the separation between the Government and the Heritage Council necessarily. But certainly Urbis does have a view on the range of expertise that is represented within the council at present. I believe it is section 8, perhaps, of the Heritage Act right now which facilitates for a broad range of expertise on the Heritage Council, but we do not necessarily see that in practice. I suppose our main concern is that we see very few dedicated heritage consultants and heritage architects on the Heritage Council and on the approvals committees. We acknowledge that specialist input and specialist experts certainly add rigour to assessments. However, you cannot necessarily expect someone with a landscape background to be sitting on an approvals committee to assess an application that is a boundary-to-boundary building within the city. So we do think there is certainly some scope for defining further what the expertise of the council is. Perhaps I will say now that I do agree with Ms Witt that there might be some merit also in defining where those representatives come from, what institutions they represent. That is all I would like to say on that.

The Hon. MARK BUTTIGIEG: These are two things that seem to be coming through from the submissions. Ms Barnier, you have indicated that it is not such a big problem from your perspective. But certainly one view is that the Heritage Council is not independent enough from the Minister—in other words, it is hand picked and subservient. The second view is that there is a lack of depth of expertise specific to heritage. Thank you for those answers. That is all from me, Chair.

The CHAIR: Thank you very much, Mr Buttigieg. I will now invite members from the crossbench if they have any questions. Reverend Nile?

Reverend the Hon. FRED NILE: Yes, Mr Chairman. I have a question directed to Ms Witt. Ms Witt, you mentioned in your submission that heritage conservation needs to be better resourced. The discussion papers refer to three successful grant schemes: the UK Heritage Enterprise grant scheme, the New South Wales Endangered Houses Fund and, thirdly, the Victorian Heritage scheme. Do you see how any of these incentive programs can be applied to specific projects within your community? Can you recommend any points on how these schemes may be improved?

Ms WITT: I might have to take some of that on notice. In terms of actual general funding for heritage conservation I think what came out really clearly in a lot of the submissions I have had the opportunity to look at was that at the local level, where a lot of the original decisions are made, it is not properly resourced. In some respects it relies too heavily on heritage consultants, who often have, unfortunately, I think, two masters. They are employed by the applicant developer to give a heritage report. Just recently, by way of example, I read in the paper this weekend about the Gilling mansion that was demolished on Vaucluse Road. That, I think, was an example where there actually was quite a good heritage report done that was mislabelled as a demolition report, an example of even a wealthy council like Woollahra being under-resourced so that that report was not properly assessed. Then we got into this terrible situation where they tried to slap an interim heritage order on it before it was demolished, and it was all a bit too late. That stunning building has been lost.

So where I think it is really important is that councils are better resourced so that they can properly assess the reports that they are receiving from heritage consultants, because often they are working for two masters. I think that heritage report that was done for 46 Vaucluse Road was actually an example of it being very detailed. It gave a lot of context around why that building was significant and then, remarkably, just said at the end, "Well, they have made a few extensions at the back of the building. It doesn't need to be preserved", where the eastern and northern facade of that building were perfectly intact. I think keen eyes from an experienced heritage expert would have immediately questioned why that final recommendation in that report was made. That was just a very unfortunate circumstance. The rest of the schemes—if I could get back to you, that would be great.

The CHAIR: Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Ms Barnier, you do not support the additional categorisation approach that the Government has put forward in its discussion paper. You say that is going to lead to further inconsistency and a more convoluted process, which would be hard to imagine in the heritage space. Can you give us some brief observations about why?

Ms BARNIER: Yes, absolutely. Alexandria Barnier speaking. I would like to say to you that it is my clients who often get the most frustration out of trying to navigate our current heritage approvals system, but, to be honest, I think certainly myself and, I assume, many other heritage consultants are now also in same boat. We find many inconsistencies between the assessments made by each individual agency, within those agencies, in

terms of assessing very similar applications on very similar properties. To be quite honest, it is usually a case of trying to remember what the previous officer told you a week ago, which was different to what the officer told you two weeks before that. I think further categorisation—firstly, I question whether Heritage NSW has the resources to undertake such a project and whether they should be diverting those resources away from assessing the applications and the proposed heritage listings that are currently in the system. Also I question whether they will be able to maintain a sense of standardisation across even more categories. In addition to that, my observation is that—I apologise. I have someone. May I mute for a moment?

Mr DAVID SHOEBRIDGE: Sure, Ms Barnier. We are all facing these stresses. I might go to Ms Witt. Then you can come back when you have dealt with your pressing domestic issue.

Ms BARNIER: Sorry. They seem to have left now. Would you like me to continue?

Mr DAVID SHOEBRIDGE: That is okay. You may have noticed the shadows going back and forth in mine. There are school breaks and cooking. It is happening in all the households, Ms Barnier.

Ms BARNIER: It is a persistent postman, it seems. The other observation that I would make is that the categories proposed by Heritage NSW certainly do seem to speak to a heritage system, a heritage approval system and listing system that already exists on a wider scale. They do seem to be potentially overstepping in assuming that they will be assessing the exceptional national values of the Sydney Harbour Bridge. That responsibility sits with the Department of Agriculture, Water and the Environment in Canberra. They, in my experience, deal with those applications efficiently and successfully. I do not see the need to further categorise that on a State level.

Mr DAVID SHOEBRIDGE: Ms Witt, briefly, what is your views on the proposed categorisation?

Ms WITT: I guess I just worry that the lower categories could be downgraded in importance. I guess I would argue that all heritage is important. By the same token, I think it is really important that we get a lot more heritage onto our lists and also look at redefining "character". In Woollahra, it counts a character listing, but it does not actually protect the building from demolition. It has to move up the status to heritage. I just think that that is extremely important, that the definitions are [inaudible] so we can save as much as possible. I think the real thrust of our submission and the other submissions I am reading is that people are really worried about losing local character for their neighbourhoods. Recently, Elizabeth Farrelly spoke about—

Mr DAVID SHOEBRIDGE: [Inaudible]

Ms WITT: I think in terms of the categories it is important as long as the lower ones are not downgraded.

Mr DAVID SHOEBRIDGE: I have one final question to put to both of you, starting with you, Ms Barnier, and then going to you, Ms Witt. One of the consistent themes in the submission is the fact that the Heritage Council does not have independent resources and independent staff and is dependent upon the advice coming from the government department, often from agency employees who are working towards different ends on behalf of the Government. Do you support the Heritage Council having its own guaranteed independent resources? Secondly, do you think that if there was a pool of consistent resources available to the Heritage Council it may reduce some of those wild fluctuations and randomness in the assessment process?

Ms BARNIER: Alexandria Barnier speaking. Yes, I think there is benefit to the Heritage Council having their own pool of resources. I question whether having their own pool of resources would solve the issue of wild fluctuations in terms of assessments. It is something we very much called for in our submission. I would like to see that consistency come into effect. But, to be quite honest, heritage and design and architecture and significance are inherently subjective things. Sorry. Is someone else talking? No. I think there needs to be some pretty day-to-day changes that need to happen in terms of the training of any staff, whether it is a dedicated staff or the staff that exists now, to establish some consistency there. I am not sure these things can be overcome by selecting a particular group of people.

Ms WITT: I heard the conversation. That came up in the hearing on Friday, when you were speaking with the Minister and his staff about that issue. I had not realised that it did not actually have its own dedicated staff. I think it is absolutely essential. I think it is also essential for the Independent Planning Commission to have its own staff as well. I think the emphasis with the Government is to say, "Well, we look at the Heritage Council and the Independent Planning Commission as critical thinkers that look to the advice they get from the departments", where, in fact, I think they should be able to bring in their own experts and have their own staff that can carefully evaluate the submissions they are receiving from government about these issues.

The CHAIR: Thank you, Ms Witt and Mr Shoebidge. Government members, any questions. Mr Martin.

The Hon. TAYLOR MARTIN: My question is directed to the Better Planning Network. Your submission mentions the importance of consulting with communities. What are some of the issues with the current consultation process for heritage listings? How might that be improved?

Ms WITT: Merrill Witt here. I think that what we are seeing at the planning panel level is that objections from the community have been overlooked or not considered. I think the point I was trying to make at the end was a lot of the decision-making powers have been taken away from the local level. In some respects really that is a more arms-length approach. But I think the pendulum has swung too far. I think the idea that you can get a petition together and it could have a hundred signatures of people objecting to, say, the demolition of a site which had been listed as heritage or amendments to a heritage building is counted as only one unique submission just does not make any sense. I think a lot more needs to be in the space to encourage more community consultation.

At the local council, we had a recommendation to bring back heritage committees that can also inform councils' understanding and allow them to nominate heritage listings as well at the local level, going all the way up. The problem really is that—I know because I am also a member of several residents associations—we are just really under-resourced. Even the Better Planning Network is struggling to keep up. There are so many submissions we have had to write recently in response to so many changes in the laws. So anything that can support community involvement I think is critical.

The Hon. TAYLOR MARTIN: Can I just follow up briefly specifically in relation to heritage lists themselves rather than new developments or things of the sort.

Ms WITT: I think, obviously, the community has an opportunity to comment when planning proposals for heritage listings, for example, go on public exhibition. I just think that it needs to come in earlier. The community really needs to be actively involved at the council level and also at committee level to the Heritage Council in identifying heritage that should be protected, because I think there is expertise out in the community that has been a bit left untapped and lots of opportunities missed, for example, as I referred to before, to identify places that need to be considered. Sorry. I will not go on.

The Hon. TAYLOR MARTIN: It is okay. I am just conscious of time, and I know my colleagues have questions. Thank you.

The CHAIR: Mr Franklin.

The Hon. BEN FRANKLIN: Thank you both for being here. Can I just ask a couple of questions of Ms Barnier. It is about some of the practical suggestions that you have made in your submission in terms of funding heritage. The first I wanted to talk about was the revolving heritage fund that you referred to in your submission. Could you elucidate how that would work and the benefits that would provide for preserving New South Wales State heritage?

Ms BARNIER: Alexandria Barnier speaking. I regret to say that that assertion was largely based on the report that Mary Knaggs wrote in her International Council on Monuments and Sites [ICOMOS] paper in 2015. I am happy to summarise our key points that we took from that document, but I do not have it in front of me. May I take that on notice?

The Hon. BEN FRANKLIN: Absolutely. The other one I was going to ask you about was the heritage loan scheme that you talked about as well for adaptive re-use of properties. I was wondering whether you could talk about that. What we are looking for is some really proactive sensible suggestions that can assist in protecting heritage. This, I thought, was an excellent one.

Ms BARNIER: Absolutely. We absolutely think that a loan system would certainly incentivise and motivate architects and owners to own heritage, to celebrate it and to really engage with it. The difficulty, I suppose, that you all might have in terms of public policy is finding that money. I suppose we do not purport to understand where that necessarily would come from. The loan scheme I imagine would need to run in tandem with something like the national heritage lottery which exists in the UK and generates those funds in the first place. Whether we have that opportunity here, I do not know. I suspect not in terms of a national lottery. But certainly there is a further piece of work that would need to be done to understand where those funds would be generated, particularly when considered on balance with all the other suggestions that we have made and certainly diverts public funds to private owners for the conservation of heritage. There are some challenges there. We certainly acknowledge that and are very happy to be part of future conversations that explore how that could work on a more practical level.

The CHAIR: One quick question from the Government. Mr Mallard.

The Hon. SHAYNE MALLARD: One minute to go. My question is to Ms Barnier. In your submission you talk about the difficulties in the process of listing or removing items from the heritage registers, taking things

off and putting them on. It can take up to two years. You might not have enough time, but do you want to basically enunciate what reforms you would like to see in that process of listing and delisting heritage items?

Ms BARNIER: Alexandria Barnier speaking. Resourcing, I think, is the first issue and something I am sure you will hear over and over again. Certainly there have been some items that have been sitting on the nominations list for the State Heritage Register for, I think, close to 10 years in the case of a couple of buildings. I think there also needs to be a more efficient triage process. I believe this is already happening—has certainly been happening for the last couple of years. But, again, I have been involved in several projects where we have items that were nominated by the community and sat on that triage list for up to a year. I think it all comes down to resourcing and potentially being more proactive with proactive heritage studies and having more faith in the process that we have.

The Hon. SHAYNE MALLARD: Would you see a role for the State to be proactive in heritage studies?

Ms BARNIER: Yes, I do. I think the Heritage Council and Heritage NSW could be more proactive in heritage studies, absolutely. I think that on a State level and a local level that would avoid a lot of the reactive nominations that happen at present at both levels and would certainly free up some more resources to be considering those items that truly were overlooked for whatever reason and those items can be considered more efficiently and management put in place.

The CHAIR: Ms Witt and Ms Barnier, I will take this opportunity to thank you both for attending this hearing, for your input and participation. The secretariat will be in contact with you in relation to the questions you have both taken on notice. They will be in touch after the transcripts are produced. You will have 21 days to respond. We will take a short break to accommodate the changeover of witnesses. A friendly reminder to Committee members to please go on mute and switch your videos off until we come back at 10.45 a.m. Thank you.

(The witnesses withdrew.)

KATE DENNY, Partner and Heritage Planner, Lucas, Stapleton, Johnson and Partners, affirmed and examined
NATALIE VINTON, Chief Executive Officer, Curio Projects, affirmed and examined
MacLAREN NORTH, Managing Director, Extent Heritage, affirmed and examined

The CHAIR: Thank you very much. Would each of you like to commence by making a very short statement to the Committee? I am mindful of time. Ms Denny, would you like to make a short statement?

Ms DENNY: No. Thank you for the opportunity, though. Thank you.

The CHAIR: Thank you. Ms Vinton, did you wish to make a short statement?

Ms VINTON: Yes, I did if that is okay. I will make it very quick. I just wanted to say most of us here today would at some point have used an historic German proverb which was first recorded in the fifteenth century as "Don't throw the baby out with the bathwater." It is an idiomatic expression for making sure you do not make an avoidable error in which something good is eliminated when trying to get rid of something bad—in other words, rejecting the favourable along with the unfavourable. In this review of the Heritage Act, I request that you remember the objectives and intentions of the Act itself. The Heritage Act is the baby. It is the good that must be protected. It provides the legal framework for projecting the heritage that the Jack Mundeys and Juanita Wilsons fought so bravely to conserve. The strategic framework that is used to manage the Act, the guidelines, the agencies, the policies and everything associated with it are the bathwater that sit around that baby.

So, as the Act matures, we need to ensure we continue to nurture, protect and grow it to be responsible, ethical and an inspirational piece of legislation. We need to safeguard it when it needs to be safeguarded, filter out the toxic processes carefully as required, recycle where possible and introduce no new harm. In conclusion I would just like to state that I believe a successful, healthy Heritage Act will promote and deliver inclusive heritage management for Indigenous and non-Indigenous Australians where both the baby and the bathwater can remain clean and healthy. Thank you for allowing me to speak today.

The CHAIR: Thank you, Ms Vinton. Dr North, did you wish to make a brief opening statement?

Dr NORTH: Only insofar as echoing some of Ms Vinton's sentiments that the issues here before us are, I think, less about the structure of the legislation itself than many of the practices around its administration and that what we need to keep focused on is the outcomes that we desire from heritage legislation generally. Thank you.

The CHAIR: Thank you very much for your collective cooperation in shaving some time off from your opening statements. I will now invite members of the Opposition if they have questions. Mr Buttigieg.

The Hon. MARK BUTTIGIEG: You all collectively feel free to jump in. If it is a common view that the architecture of the legislation is fundamentally sound and that administrative resource failure is largely why we are not getting the outcomes we desire, did you want to elaborate about whether there are any areas in the context of the discussion paper that you do feel to be amenable to change in the Act?

Dr NORTH: MacLaren North here. I am happy to at least start. In terms of actual legislative reform the processes around listing and delisting from the State Heritage Register, which have been subject to change over the last 10 or 15 years, have become, I think, unnecessarily cumbersome. There are mechanisms that could be streamlined within the Act around the processes of listing to simplify both the addition and removal of items from the State Heritage Register. I think one of the issues that has been forgotten is that the idea behind having a register as opposed to a reactive system of conservation orders was that it was meant to be dynamic and therefore it was expected to change over time. That objective has been lost, partly because the processes around adding and removing items from the register are so challenging and time consuming.

Ms VINTON: It is Natalie Vinton here. I agree with that sentiment a hundred per cent. I also think that we need to look at how we streamline those processes in order to gather information in a way and use the legislation in a way that is more commensurate with how, perhaps, First Nations would prefer to manage their heritage. I do not think that the Act allows for that in a particularly dynamic way. For example, what I mean by that is that a lot of the intangible heritage values of First Nations—it is an oral history tradition that is handed down. Yet even to have a site listed in the Heritage Act requires a very strong ability to want to do historical research, written detailed reports assessing significance about guidelines that were established initially for heritage buildings really. So it is understanding how in the legislation there may be something in there that allows First Nations to more comfortably and more accurately record culturally significant places as part of the Heritage Act protection, if that makes sense.

Ms DENNY: Thank you. Kate Denny speaking. I have to agree with both previous speakers, particularly with regards to Aboriginal Indigenous heritage and how it is currently managed. I think that there are opportunities there for a broadening of the way the assessment processes are undertaken for Aboriginal heritage to be tackled in the legislation, just as a simple example, to have more work done on cultural management plans as opposed to conservation management plans. I also think that there are opportunities in the legislation for further work to be done, again to make the system swifter, easier and more approachable for owners of heritage properties in terms of site-specific exemptions for their individual properties and also heritage agreements. They are two aspects of the Act that I think are not well utilised and certainly not well promoted. I understand that it is probably a bit of a pickle, trying to get both of those aspects of the Act put into place. I think that improvements could very much be made around those two items. Thank you.

The Hon. MARK BUTTIGIEG: Thank you. I might ask one more before I hand over to my colleague. In terms of the proposed category system whereby you would have a hierarchy of categories from State-significant items like the Opera House and Harbour Bridge down to local categories largely administered by local councils, it seems to me some of the evidence we have heard on record today implies that that may be a downgrading of the significance of a local item because it is down the bottom of the category system. I guess that strikes a bit of an alarm bell with me. If you are wanting to connect the community with heritage value, one of the ways you would do that is through the connectedness through local councils because it is the closest form of government to people and communication lines tend to be more facilitative through those local government areas and councils. Do you have any views about that category system and that potential problem?

Dr NORTH: It is MacLaren North here. I am happy to take that to start. Again I think that the existing categories themselves probably do not need to change because they align with the levels of government and administration. I suppose the difference that we have seen is with respect to local heritage because it is allowable to demolish an item of local heritage under the planning legislation, where it is not allowable to demolish an item of State heritage under the Heritage Act. In practice there are certainly cases where local heritage is lost because it can be seen as something that can be sacrificed. I do not know that I would go so far as to say that there should be a prohibition on demolishing every local heritage item because I suspect that that would cause a whole range of other intractable problems. Part of the issue has again been the resourcing that local government has put into its local heritage systems.

As I alluded to in my submission, there are still many local heritage studies out there which are quite deficient either in terms of their coverage or in terms of their level of assessment. It is not unusual to find local government heritage studies that were done in the 1980s that have a one line statement of significance that says, "This property is significant for historical reasons." That really does not provide any useful guidance. We have been involved in a number of local heritage studies over the last two to three years, primarily for inner city councils which have spent a much greater level of resources on actually assessing the items of local significance so that they can be better understood. In the absence of good information about why something is significant to the local community, I think when you look at it in a planning context it becomes very difficult for a council officer assessing an application to make a credible distinction between why something is and is not significant or why it should or should not be changed when there is an information vacuum. Filling that information vacuum is going to be a big part of making that system of local heritage more effective.

Ms VINTON: It is Natalie Vinton here. I wanted to add to that. Again I agree with what MacLaren North has actually stated. I have had a slightly different approach in that I think sometimes there is too much of a gap between "State significant" and "locally significant". When I first started in heritage 25 years ago we used to have regional gradings, which I am not necessarily saying are required to be brought back, but I think what happens is that, collectively, local heritage—such as, if you take an area like Paddington or Haberfield—when you collectively protect your local heritage as a group it then becomes elevated to a point of having more significance across New South Wales, for a start. Sometimes there is an in-between where it is the individuals as a collective who make something State significant, but each individual house—say, for example, each terrace itself—may not be so spectacular to warrant State listing, but as a whole suburb you find something lifts to that level. It is the sum of the parts that make it so significant.

I think what happens is there is nowhere in between that State and that local level. If you have a State listing, you have such a large raft of legislation and such a large set of criteria to work through. It may be that your site is State significant because externally it is exceptional and it meets some of the assessing criteria at a State level, but the reality is that its day-to-day management is by local communities. I think that is where the pressure point is in that legislation—it is there is too much of a jump. I have recommended in my submission that there should be a bit of a tier that allows the management to suit the actual item as opposed to just, "Large buildings are State or esteemed buildings are State and smaller homes are local." It is about looking at the properties and, as MacLaren North has said, understanding the significance of them, and having a bit of a tier in there to allow some more fast-tracking and streamlining for everyday sites that are still contributing. Thank you.

Ms DENNY: It is Kate Denny speaking. In response to your question, I suppose I want to raise the flag a bit for the rural and regional areas of New South Wales in terms of their local heritage. I have been involved in a few jobs that have taken me outside of the inner suburbs of Sydney—not enough, because that is the area that I am most interested in—and I find that the regional and rural councils are screaming out for assistance, for information and for acknowledgment of their diverse heritage on a local basis. The information is just not there. Heritage studies are now really quite dated, having been done about 20 or 25-odd years ago and there have been no subsequent updates.

In particular I worked through the Hunter Valley and I found that some of the local councils there were really wanting us to acknowledge certain types of historical development; in particular the Gloucester council area springs to mind. They were really wanting the history of their dairy industry to be acknowledged. Unfortunately my remit was not that, but it emphasised to me that rural and regional areas are really wanting help in acknowledging what is very important to their local communities and subsequently should probably be acknowledged at a State level as well, once a greater understanding is made. So resourcing towards rural and regional areas, I would be going for that full on. Thank you.

The CHAIR: Thank you, Ms Denny. Mr Peter Primrose, did you have a very quick question that you could direct to one of the witnesses?

The Hon. PETER PRIMROSE: Yes, I would like to direct it to all three, but please take it on notice, if you would, because I only have a very short amount of time. Dr North, I note that on page 3 of your submission you specifically address the objects of the Heritage Act. You make reference "that the objects could be amended to include" and you suggest a number of things. I wonder if you could come back to us and expand on that—I mean actually list the objects and, if you would, include some very specific things that you would actually include and what you would exclude from the objects, and how you would redraft it. I also invite the other two witnesses, if they wish, to maybe also take that question on notice.

The CHAIR: Are all three witnesses comfortable with that?

Ms DENNY: Yes, thank you. I will take it on notice.

The CHAIR: Thank you very much.

Dr NORTH: Yes, I am happy to take that on notice.

The CHAIR: Thank you, Dr North. I now invite members of the crossbench to ask questions.

Reverend the Hon. FRED NILE: Yes, Mr Chairman.

The CHAIR: Thank you, Reverend Nile.

Reverend the Hon. FRED NILE: I have a question for Ms Denny. In your submission you state, "The suggested four heritage listing categories as outlined in the discussion paper make no sense." What do you see as the main obstacles of the category system in addition to what you have already stated?

Ms DENNY: Thank you very much for the question. Yes, I was very blunt in my submission, I must say. I suppose my response in my submission to that was that I do not actually understand what is trying to be achieved in the four-category system of listing. We already have world listing, which protects those very important places that people have used as examples already, such as the Opera House; also, of course, national heritage listing; then we have State, which is what we are talking about today; and then separately local heritage listing, which is not actually protected under the Heritage Act—it is protected under the Environmental Planning and Assessment Act. I struggle to understand what was trying to be achieved with introducing a categorised system of listing because, in my mind, if you are of significance then you are of significance. It is really about how you manage that significance, how you manage the conservation and protection of it and how you also then support owners to be able to adapt their properties suitably for their own needs and for the community's needs. I hope that answers your question.

Reverend the Hon. FRED NILE: I have one further general question. You probably already know that the Art Gallery of New South Wales is not listed in the State Heritage Register. What is the reason for that? Have they made an application that has been rejected, or have they not made an application? Shouldn't the Art Gallery of New South Wales be listed?

Dr NORTH: I am happy to respond to that. In the past there has been custom and practice of not listing some government assets on the basis that they were not under threat. I personally do not agree with that. I have worked with a lot of State agencies over my career where we have heritage listed everything from office buildings to schools to water pumping stations to dams to electricity substations and it has not stopped any of them from performing their function. I think the fear of having to be answerable to another party is probably part of the

reason that the art gallery itself has not been put forward—the fear of unnecessary bureaucratic interference with their operation. Personally I do not think that fear is warranted. Clearly the Art Gallery would make sense as an item of State significance, but I think it is hardly the only State asset which is unlisted which should be.

Ms DENNY: If I may follow on with that, I totally agree with what Dr North has said. It actually highlights one of the aspects of the Heritage Act which perhaps we should have talked about earlier when asking about what legislative changes could be made, and that is about the section 170 register aspect of the Heritage Act. It is a quasi-State, quasi-local listing for government-owned properties and they tend to just sit on a great big register. Obviously there are asset management requirements that whatever the public authority is who owns those has to complete and go through, but they can very easily slip through the cracks. They can also very easily be removed from section 170 registers and neither become an official State heritage item nor a local heritage item. I think that there are opportunities for more work to be done around the 170 register and what its function is today and whether it should actually exist or if things should be moved onto the formal registers. Thank you.

The CHAIR: Thank you, Ms Denny. Mr Shoebridge?

Mr DAVID SHOEBRIDGE: Thank you all for your submissions and your time today. I suppose I should put onto the record that over a decade ago Ms Denny's firm provided some heritage advice for the property I am in at the moment. I do not think that amounts to a conflict of interest, but I will say you are hard taskmasters. You defend heritage as against even your clients, so I put that on record. Ms Denny gave her position on the proposed categorisation from the Government. Do either of the other witnesses have a view about the proposed additional categorisation?

Ms VINTON: It is Natalie Vinton here. I have to admit, it was a little confusing to me as well for the same reasons that Ms Denny noted in terms of what it wanted to achieve, but it did open my mind to thinking about whether categorisation would help in the way that it is supplied, for example, for English Heritage, where you have different tiered properties, which allow you to make different levels of adaptation to them. I think we have those four overarching categories that work well in terms of local, State, national and world, but I do believe that within those categories there are subcategories which relate to tiers of management. For example, recently I was dealing with a property in the inner west. It is a terrace and it sits within a conservation area and it is not individually listed as a heritage item, but the feedback initially—I became involved after the application was told to be withdrawn. The feedback you got was that they were making too many changes internally to the house and that they needed to change.

I took on that job because I thought, "Well, it is not really fair because they are not individually listed, they are not listed as a contributory item and they are doing everything correct in terms of the principles of the Burra Charter." And you have got a heritage officer telling them, "No, we don't like it because of what you are doing inside your home," not that they were changing anything to the street. Sometimes I think it is that lack of informational training for some staff in different areas where if something is in a heritage conservation area and you are conserving its external heritage then your category or tier of management and the responsibility for council relates to what happens externally and that is it. That is where I think things like categorisation would be very healthy and useful, and help change some of the fear that sits within heritage management. It is understanding, "Is your category related to your exterior, your interior, your front yard or your backyard"—all those sorts of things that make it easy and defined for council, property owners and heritage professionals—and then which bits you should be worrying about, whether it is at State or local.

Mr DAVID SHOEBRIDGE: Thanks, Ms Vinton. I will go to you in a second, Dr North, but I might follow up quickly with Ms Vinton. First of all, that would have been with a local council and not under the Heritage Act. That would have been under the council's planning legislation.

Ms VINTON: Similar happens in the Heritage Act, though, with assessments.

Mr DAVID SHOEBRIDGE: Do you think that could be adequately addressed by more careful prescriptions in the heritage inventory sheets so that you can very clearly see what the heritage values are of a property? That is an alternate way, rather than splitting it up by characterisation.

Ms VINTON: In an ideal world, yes, absolutely. But, again, to get those data sheets up to scratch—I guess I am trying to be pragmatic in that, are you always going to have up-to-date inventory data sheets for every single property listed at a State level or a local level? So what happens when you don't? Is the onus then on the owner to have to prepare and pay a consultant \$5,000 or \$6,000 to get it up to scratch? I guess I am trying to think, "What is something that is pragmatic that might be able to be applied?" But the ideal answer is, yes, every data sheet would be up to date and it would be fantastic and councils will have done the work to make sure the data sheets are at an adequate level.

Mr DAVID SHOEBRIDGE: Sorry for butting in there, Dr North.

Dr NORTH: I am happy to add my thoughts. Again I struggle to see precisely what was trying to be achieved with those categories. I can see some applicability following on from what Ms Vinton said earlier about conservation areas and also broader landscape conservation, that these are the things that can fall through the cracks. When you consider that conservation areas are arbitrary lines on a map—and local government boundaries are also arbitrary lines on a map—there may well be areas of significance that cross areas of administrative control. I do recall a project that I worked on early in my career, which was around the Old Great North Road, which passed through seven—I believe, at the time—local government areas. One of the things we struggled with was how you create an administrative framework that works across seven local government areas to get consistent management. In the end it fell into the too-hard basket. There was some discussion that councils could create a joint local environmental plan, but there was no appetite for that.

The other thing I would say—just following on from your comment about the need for prescriptive measures—is that I do not know that prescriptive measures necessarily always work. For example, I am aware of properties in Millers Point where very detailed conservation documentation has been prepared and yet consent authorities are still specifying things like what mortar joints one can put a screw into. Frankly I do not think that is the most productive use of the time of somebody in Heritage NSW to be getting down to that micro level of detail, particularly when it does not impact on significance. There needs to be a balance in there. I think if there is going to be any change to the categorisation system, it needs considerably more thought put into it.

Mr DAVID SHOEBRIDGE: We have very limited time. There are two issues that I was hoping to cover. One is what your views are about the three so-called guiding policy themes that the Government has put forward in its discussion paper, being "making heritage easy", "putting heritage to work" and "making heritage relevant". Those are not the themes that have been put forward by the National Trust or the Heritage Council, for example, which talk about conservation and protection. Briefly, do any of you have any observations on that? We might go to you first, Ms Denny.

Ms DENNY: Yes, I probably will err on the side of the National Trust in that the word "conservation" absolutely needs to be there. I do not disagree that "make heritage work" can be interpreted in a multitude of ways including adaptation, which then also links in with "make heritage easier". One of your previous speakers today was talking about making things community-driven or customer-driven for the heritage office. I must say that I agreed with his remarks. But "making heritage relevant"—I struggle to understand what that means. Maybe that is just my bias because I am a heritage planner: It is incredibly relevant to me. I also think that the broader community would always find heritage to be relevant. Thank you.

Mr DAVID SHOEBRIDGE: Ms Vinton?

Ms VINTON: I echo the same sentiments. You need to look at the community response to "is heritage relevant". When you look at the way communities respond to the loss of significant cultural landscapes or buildings within their community, you can see that it matters. I think "making it relevant" should really be around making it easy to help people with heritage assets: access to information and access to a lower risk management system whereby you are not dependent on individual heritage officers having their own personal opinion around how you develop a site. I say this because I used to work in government for a long time doing assessments. I could sit next to someone who had a different opinion about how to adaptively reuse a terrace house, but neither of us were required to justify that in terms of, "Well, this is the council's approach in these types of situations." It becomes full of risk for people, which is when it becomes negative, because people cannot guarantee a certain pathway will work because it comes down to personalities within government dealing with personalities outside of government, as opposed to a black-and-white process.

In terms of what I think needs fixing, it is giving more support, framework and guidance to the staff who need to administer the Heritage Act and also giving owners of heritage assets more incentives to want to preserve them, rather than look to options such as demolition through neglect and those sorts of elements. I think I have mentioned—and I will not say much more now because of time—looking at what are the tax incentives for heritage owners. I think in terms of "Is it still relevant?" it does not matter. You only need to look at cultural tourism and what it brings to New South Wales in a normal environment, which is more than \$13.8 billion a year in cultural heritage tourism is generated through the number one activity of visiting cultural heritage sites, whether they be built heritage, Aboriginal or natural. So I think yes, heritage matters.

The CHAIR: Thank you very much, Ms Vinton. I now invite Government members to ask questions. Mr Mallard.

The Hon. SHAYNE MALLARD: I thank the witnesses for their submissions and expertise at our inquiry today. It has been very informative. My area of interest in particular is adaptive reuse. Ms Denny, I note that your firm has a reputation for adaptive reuse and restoration of buildings. I note an earlier witness in their submission said they supported adaptive reuse but not commercialisation. I did not get a chance to ask where that

line is drawn. I would like to hear from Ms Denny in particular but also from the other witnesses on their views on adaptive reuse of heritage-listed buildings. I would not mind hearing one or two good examples of that if you would like to fill us in on that area.

Ms DENNY: Thank you very much for the question. I am a real champion of adaptive reuse. I think it is a really excellent phrase but it can be manipulated and end up with less than great outcomes. Adaptive reuse still needs to put at the forefront conservation and acknowledgement of the significance of a place. But we are talking about heritage places. Obviously our firm mostly works with buildings, so that is what I will have to concentrate on. They are old buildings, obviously, and things operated very differently 150-odd years ago than they do today. So it is trying to reach a practical balance between the needs of the users and owners and how they want to live their life, work and activate that building, and preserving and conserving either the physical significance or the intangible connections that are made with that place. It is a difficult balance.

As has already been pointed out, our firm are hard taskmasters. We do lean on the side of quite traditional approaches to adaptive reuse. That is just our philosophy and that is not to denigrate anybody else's approach because there are some excellent examples out there of adaptive reuse using much more contemporary and modern approaches. I think that there are opportunities for a range of approaches to be demonstrated and celebrated and supported by the heritage. If I may, I would like to take on notice some good examples. I would like to have a good think about that before I respond, if that is okay.

The Hon. SHAYNE MALLARD: Yes. When you referred to the intangible, would an example of that be a post office that is no longer used as a post office adaptively reused but the connection to the community as a post office is lost?

Ms DENNY: Yes, that is right and that is a real problem. You see that everywhere, where the poor old post office is shut over.

The Hon. SHAYNE MALLARD: Or a bank.

Ms DENNY: Yes, or a bank. In my experience—and I am happy to be shut down—banks tend to be adapted more easily. I think that is more of an architectural—post offices were built by the thousands by Government Architect Vernon. They are much more specific in their configuration and appearance than perhaps banks are. They are a bit more modern in their architectural design. There are probably easier ways, if I can be simplistic about it, to adapt a bank building than there is a post office, but it should not prohibit that opportunity.

The Hon. SHAYNE MALLARD: Thank you for that. Ms Vinton, would you like to add your perspective to that discussion?

Ms VINTON: Yes. I am also an advocate for adaptive reuse. From 2004 to 2012 I managed a program for national parks because they are actually the second biggest holder of heritage assets in New South Wales, which most people do not realise. One of the core aims of that—it was a grants program funded by Treasury. I changed the program from a maintenance-only program to a revitalisation program simply because maintenance was keeping the buildings shut and it was not putting uses into them. You could not get people in to rent them for holiday rentals or to use them for other activities because they did not have upgraded Building Code of Australia compliance, they did not have toilets and bathrooms that you would use that you could rent out. I spent that eight years developing a program that would allow national parks to get to the point where they could make the properties continue to be conserved and have their key attributes celebrated but also adapt them enough to allow financial income and return and livability.

If heritage is not living and it is just mothballed, it is not going to be retained for the long term. That is why I think careful adaptive reuse is so important, if it is needed, in order to keep a building in use and being viable—and at some point offsetting some of its costs. During that period, that is when you saw a big push in getting the lighthouses turned into accommodation and a whole range of things, and it continues today. But it was changing that philosophy from "maintain but don't use" through to "there needs to be a certain level of adaptive reuse at times". Just quickly, we are now at a point where a lot of the properties that we are working on in The Rocks—we are working really well with designers and architects to get fit-outs that come in that are standalone that look like they are fixed. So it looks like you have banquet seating in bars and restaurants and things that are all fixed to the original sandstone fabric, but we now have the ability to design and create pods and a whole range of things that you can fit in and fit out. The technology is getting better for us to do more clever adaptive reuse as well, which is great because it is also cheaper for those putting fit-outs in.

The Hon. SHAYNE MALLARD: Thank you for that. Now to my colleague Ben Franklin.

The CHAIR: Mr Franklin.

The Hon. BEN FRANKLIN: Thank you very much, Chair, and thanks, Mr Mallard. I wanted to pick up on the comments made at the end by Ms Vinton about the importance of cultural tourism. I note that you talked about that in your submission as well. I wanted to expand that a little bit more broadly and ask all three of you about the importance of heritage in regional areas, which is obviously a specific focus of mine. What can be done, what needs to be done and is there anything that needs to be codified in terms of protecting regional cultural heritage in contrast to where we tend to focus more and mostly, which tends to be in the urban areas? And particularly to Ms Vinton, but if others wanted to too, I would be grateful if you could link that with the discussion about the cultural tourism and what needs to be done in terms of increasing that in regional areas as well. Perhaps we will start with Ms Vinton.

Ms VINTON: I will try and keep this short, otherwise I will go on for days about this. Cultural tourism is one of the most amazing benefits for local regional areas and communities. Lockdown is probably a good example of where Australians have been forced to look at their own backyard. The places they tend to go to are not just coastal towns but towns that have character, towns that have retained their heritage. Quite often what happens with the towns that have kept their heritage it is because economically they could not afford to progress and knock down their buildings. So the towns that really prosper are the towns that have their historic character and have been able to [inaudible] and adaptively reuse them.

You look at places like Mudgee, Orange, all of the little coastal towns, places like Tilba. I think what those towns need—and I have said this in my submission—is government needs to get behind them and they need to give them very tailored cultural tourism packages to help them understand what it is they need in terms of, you know, do they need digital tourism maps, do they need money to get their streets looking just like they need to? I think back to the Tidy Towns campaign years ago, which, when you think about that now, was really about actually fixing up your town to look beautiful. It is similar in terms of cultural heritage tourism in getting Destination NSW behind these towns.

What I was doing at national parks was looking at the benefits socially and economically. If national parks were better maintained near towns then you have people needing more accommodation and staying in towns for longer because people who participate in cultural tourism like to eat and drink and buy nice things. When you really break it down, they contribute more broadly to regional areas when there are opportunities for them to stay there for a few more days. So it is about targeting and supporting those towns to see their potential. I will just finish quickly. If you look at what has happened to forestry towns and mining towns in Tasmania that have reinvented themselves for mountain bike riding and the impact that has had, with cultural heritage tourism it is the same types of people. It is really working with smart Destination NSW people—not just heritage experts, but cultural tourism experts—to help these towns. I think it is a State Government initiative. It needs to come down from there to really help guide that process and just continue to help those towns flourish.

The Hon. BEN FRANKLIN: That is great, Ms Vinton. Thank you. Do Ms Denny or Dr North have any comments to make on either that area or the broader area about the challenges of protecting and preserving regional heritage?

Dr NORTH: Yes. I am actually speaking to you from regional New South Wales today. I am in the Hartley Valley just west of the Blue Mountains. I also sit on the community management committee of the Hartley Historic Village, which I am sure Ms Vinton remembers well from her time at national parks. Prior to the regional lockdown, a couple of weeks ago I was able to actually get out and visit some of these communities that I had not had a chance to visit in a while. You look at communities like Orange and Mudgee, they are very prosperous and they are surviving fine. We also drove back through Rylstone and Kandos, which were ghost towns—lovely little towns but very little happening in them. I think that some of this is how you connect those regional towns into a network. It is all well and good to go to Mudgee but why should I go from Mudgee to Rylstone, for example? Frankly, right now there is probably not a reason but the trick is to find out how to get these towns working together as a network so that they feed off each other and they are drawing larger crowds for longer periods of time.

But I might just speak about Lithgow, which is the closest community to me. Lithgow is a former mining town with limited industry now. I have lived in the valley for about nine years now and I have watched Lithgow reinventing itself as an artistic community. It has active festivals. Events like Ironfest, which started out as a celebration of iron and steel, draw 20,000 people. Unfortunately it has not happened for the last two years and it is a one-off event, so it still does not quite have critical mass. But, again, I think if there was coordination—with assistance from the State Government—between other communities, it would help draw people into the regions.

Ms DENNY: I would just like to add a little bit more to that. One of the great things about regional and rural areas is that they all have very distinct characters and histories. In terms of linking areas together, I think

heritage as its starting point is about the history of a place or a building or a landscape, and from there you branch out into all sorts of other aspects. I have been working most recently in Leeton, which is part of the Murrumbidgee Irrigation Scheme. That is a town that was designed by Walter Burley Griffin, as well as a number of other towns in that same area. There is a whole bunch of themes right there that unify that whole area that could be promoted. I am sure I am not the only heritage nerd in New South Wales who would be keen to get out there. We have also been working on the Leeton Roxy Theatre. There are so many theatres and cinemas that are dotted all the way through New South Wales that are just abandoned or under-utilised, but there is another theme that could really be used to entice people out beyond the great western divide.

The Hon. BEN FRANKLIN: That is terrific. Thanks, Ms Denny.

The CHAIR: I take the opportunity now to collectively thank our witnesses, Ms Denny, Ms Vinton and Dr North, for attending the hearing this morning and for your participation. The Committee has resolved that answers to questions taken on notice be returned within 21 days. The secretariat will contact you in relation to the questions that you have taken on notice. Thank you once again.

(The witnesses withdrew.)

(Short adjournment)

ANNE DENNIS, Chair, NSW Aboriginal Land Council, sworn and examined

GLENDAL CHALKER, Chair, Aboriginal Cultural Heritage Advisory Committee, affirmed and examined

MISHKA HOLT, Principal Solicitor, NTSCORP, affirmed and examined

The CHAIR: Good morning once again. Welcome to the review of the Heritage Act 1977. The Committee is resuming proceedings. I welcome our next witnesses, Councillor Anne Dennis, Ms Glenda Chalker and Ms Mishka Holt. Would each of you like to commence by making a very short statement to the Committee? Councillor Dennis?

Ms DENNIS: Thank you, Chair, Deputy Chair and Committee members for your time and for the opportunity to speak today. My name is Anne Dennis. I am the Chairperson of the NSW Aboriginal Land Council and councillor for the north-west region. I would like to acknowledge country and pay my respects to the ancestors, traditional owners and Elders of the lands from which we are all participating in this meeting today. The NSW Aboriginal Land Council is the peak body representing Aboriginal peoples across New South Wales. We have over 23,000 members, making us the largest Aboriginal member-based organisation in Australia. The current laws relating to the protection and promotion of Aboriginal culture and heritage are outdated and ineffective. We need new, dedicated laws to protect and promote Aboriginal culture. These laws must be based on self-determination and the need to be owned and controlled by Aboriginal people.

We do not support incorporating Aboriginal culture and heritage protections into the Heritage Act 1997. The Heritage Act does not meet Aboriginal community aspirations for protection of and decision-making about Aboriginal culture and heritage. The NSW Aboriginal Land Council advocates that Aboriginal people must be empowered to make decisions about Aboriginal culture and heritage, both in relation to specific proposals and their potential impact, and in the running of the system itself. It is also important that any revised Heritage Act improves interactions with planning laws and new Aboriginal cultural heritage [ACH] laws. Resourcing Aboriginal land councils and Aboriginal communities to protect Aboriginal culture for future generations provides a key opportunity to strengthen culture and local communities. This will benefit and enrich the cultural landscape for all people of New South Wales. It is important that the Government works in partnership with us to progress these reforms. Thank you.

The CHAIR: Thank you very much. Ms Chalker, do you wish to provide a brief statement?

Ms CHALKER: Yes, please. Glenda Chalker, Chair of the Aboriginal Cultural Heritage Advisory Committee [ACHAC]. Thank you for the opportunity to meet with the review committee today. I would like to acknowledge my Dharawal ancestors past and present of the country I was born to and where I have lived all my life. I am here as Chair of ACHAC, which is the statutory advisory body to the New South Wales Government on Aboriginal cultural heritage. Our submission to the review offers four fairly straightforward recommendations for what we see as necessary and overdue amendment of the Heritage Act. I am sure the Committee has seen those recommendations and I will not go through them again now.

I would also like to provide the Committee with a copy of the Dhawura Ngilan vision statement, which was issued last year by the Heritage Chairs and Officials of Australia and New Zealand. The statement gives a set of basic best practices and standards for any policy or legislation that affects Aboriginal cultural heritage. It is my understanding that that has been warmly welcomed by heritage Ministers across all of Australia and New Zealand. If I may have a policy document sent to the Committee, I will do so. As a general statement on the current heritage legislation, I would like to say that the Heritage Act in its current form does not do a good job of respecting and protecting Aboriginal cultural heritage. The Act does not reflect, as it should do, that all heritage in New South Wales is built on Aboriginal cultural heritage and that every heritage site in New South Wales, including those of State significance, has a primary association over tens of thousands of years with the cultural heritage of Aboriginal people.

Of the 1,700 items listed on the State Heritage Register, only 32 are acknowledged as having primary Aboriginal cultural heritage values. These primary sites are regulated under an Act that makes no provision at all for Aboriginal decision-making. In our view that needs to change. I would add that the great hope of ACHAC and Aboriginal people and communities generally is that there will soon be a wider reform of New South Wales legislation governing Aboriginal cultural heritage. These reforms will see Aboriginal cultural heritage taken out of the National Parks and Wildlife Act and protected under standalone legislation that ensures that decisions on ACH are made by culturally authorised people at the State and local level. Thank you, Chair, for the opportunity to speak today.

The CHAIR: Thank you very much, Ms Chalker. I understand you are having some technical issues. Because your video is switched off, whenever you intend to answer a question please identify yourself for the benefit of Hansard.

Ms CHALKER: Thank you.

The CHAIR: Ms Holt, do you wish to provide a brief statement?

Ms HOLT: Yes, thank you. Firstly, on behalf of the Native Title Services Corporation I would like to acknowledge and pay my respects to the Gadigal people, the traditional owners on the country on which I appear today, and the respective communities where all of the members and the witnesses today appear by videoconference. I would like to acknowledge the Chair, Deputy Chair and Committee members of the standing committee. I acknowledge Chairperson Dennis and Chairperson Chalker. I also acknowledge the Chairperson and board of NTSCORP and our CEO, Natalie Rotumah.

I appear today on behalf of NTSCORP Limited. NTSCORP is a company comprised of Aboriginal members from throughout New South Wales. NTSCORP is the native title service provider for New South Wales and the Australian Capital Territory. We are funded to represent the interests of Aboriginal traditional owners who hold or may hold native title in the lands, seas and waters of New South Wales, and specifically to assist Aboriginal traditional owners to exercise their rights under the Native Title Act. We welcome the opportunity to appear before the Committee today to discuss the review of the Heritage Act and Aboriginal cultural heritage reform more broadly.

From NTSCORP's perspective, it is of central importance to develop a model for reform which will see Aboriginal sites protected for future generations and which honours the Elders and ancestors who have gone before us in their struggle to protect country. The rights and interests recognised by the Federal Court in native title determinations include the rights to maintain and to protect from physical harm sites and places of importance and the traditional lore and customs. In NTSCORP's view, any new cultural heritage legislation must have culture at its core and respect the traditional systems in operation for millennia, a system in which traditional owners speak for country and make decisions about what occurs there.

NTSCORP considers that any cultural heritage legislation in New South Wales must reflect those traditional beliefs and culture. We support standalone legislation in New South Wales for Aboriginal cultural heritage management and protection. We support Aboriginal ownership of Aboriginal cultural heritage. We support greater heritage management, oversight, compliance and enforcement, and opportunities for self-determination, capacity-building and employment, including the right to veto; broader recognition and definitions of Aboriginal cultural heritage, including intangible heritage; and a broader recognition of the landscape, which includes seas and waters as paramount.

The inclusion of State significant infrastructure and major development in the protection regime is sorely missing at present and is something NTSCORP calls to be included in any reform process. It is a system that needs to be properly funded and set up for success. Establishment of an Aboriginal cultural heritage authority which is independent of government is supported by NTSCORP, and localised management of Aboriginal cultural heritage through local panels that have cultural legitimacy, including where native title is determined that native title prescribed body corporates will nominate the local consultation panel for the whole of the determination area. Where no native title is determined, we support local panels comprising local cultural heritage knowledge-holders, being the right people for country.

We cannot support any system that operates to diminish traditional owners' current or prospective legal rights. We acknowledge the recommendations made in ACHAC's submissions. We consider that they are all sensible amendments to be made to the Heritage Act. I note for the record that they include objectives to better acknowledge Aboriginal cultural heritage as the source from which all other heritage has derived, the representation of male and female Aboriginal members on the Heritage Council and that the Act should be reformed in line with any ultimate Aboriginal cultural heritage legislative reform to ensure that it is consistent. Thank you.

The CHAIR: Thank you, Ms Holt. I will now invite members of the Opposition to raise questions. I acknowledge that the Hon. Walt Secord has joined the hearing for this session and he has a question.

The Hon. WALT SECORD: My question is to Ms Chalker. In your introductory remarks you said that there were only 32 Aboriginal primary heritage sites out of 1,700. Just to give a bit of perspective, what are some of those 32 that you are referring to?

Ms CHALKER: The Calga cultural landscape is one of them that comes to immediate mind.

The Hon. WALT SECORD: You obviously would like to see an increase of that number. How would you like to see an increasing of that number to occur?

Ms CHALKER: Recently there has been a change of communication between the Heritage Council and ACHAC. We are actually consulted now as part of the process of any nominations that come forward for SHR listings [audio malfunction].

The Hon. WALT SECORD: I think she has muted herself.

Ms CHALKER: No. I do not have any video though.

The CHAIR: Keep going, Ms Chalker.

Ms CHALKER: The Heritage Council now consults with the ACHAC on any nominations that come before it that might have Aboriginal heritage values. So that is increasing the numbers.

The Hon. WALT SECORD: To increase the numbers, who can actually initiate a nomination that would be in the area that would be primarily of Aboriginal historical significance?

Ms CHALKER: Initially it is someone within the community that does it, but recently the ACHAC itself has put forward a nomination for the Appin massacre cultural landscape to the Heritage Council, which is the first time.

The Hon. WALT SECORD: Are you familiar with the State Government's Blue Plaques program?

Ms CHALKER: Just vaguely. We have an ACHAC meeting tomorrow where it is being presented to us.

The Hon. WALT SECORD: This question could be answered by you or the two other participants. Do you think that there would be scope for recognising massacres and frontier wars through the Blue Plaques program?

Ms CHALKER: I think some of the—probably all of the massacre sites and conflict sites all need more recognition than a Blue Plaque.

The Hon. WALT SECORD: At the moment, how does one know that a massacre occurred at one of those sites? Is there anything at the moment to mark those sites?

Ms CHALKER: Does anyone else want to speak here? There are some that have been identified; Myall Creek massacre site is one of them. There are others that are identified through SHR listings and Aboriginal places, possibly. My local one to me is the Appin massacre site. We have a plaque not on the site because it is private property, but nearby at the Cataract Dam.

The Hon. WALT SECORD: Thank you, Ms Chalker. I have a question for Ms Dennis. In your opening remarks you referred to the current laws being outdated and ineffective. I understand that New South Wales is the only State without a standalone Aboriginal cultural heritage legislative framework. Are there any jurisdictions in Australia that you hold up in the area of recognising Aboriginal cultural heritage?

Ms DENNIS: Really, again, the culture and heritage protection lot sits within the National Parks and Wildlife Act. One of the first—when the New South Wales Aboriginal Land Rights Act was enacted in 1983, the Government at that point in time said that the next legislation that they would enact would be for better protections around Aboriginal culture and heritage. So it has been outdated and government has not followed through with those protections. When we have 250 nations of Aboriginal people across Australia, with 37 different Aboriginal nation language groups across New South Wales and the dialects of Aboriginal people in New South Wales alone, the only people that can speak for country and better protect culture and heritage sites on country is the Aboriginal people on that country. The New South Wales Aboriginal Land Rights Act is standalone legislation. There are 120 Aboriginal land councils on country, with a membership of, as I said, 23,000 people.

What we have actually agreed on is around—where the current legislation is outdated, the legislation has got to be able to strengthen self-determination and empower Aboriginal people. It must be led by Aboriginal people—Aboriginal people on country to speak for that country. It must be inclusive and respectful of culture and native title rights. It must build on structures within the land rights and native title network. It must be independent of government and improve better Aboriginal culture and heritage protection. It must promote and repair, including the rights to say no. We must have free, prior and informed consent, including the approaches to protection regulation around intangible Aboriginal culture and heritage knowledge, languages, cultural access and the use to repatriation and water. Really, it should not be detrimental to land rights. That is where it is outdated.

The Hon. WALT SECORD: Ms Dennis, you said in your answer that you would like to have options where you can say no.

Ms DENNIS: Yes.

The Hon. WALT SECORD: Can you give me an example of where you would like to veto or say no? Give me an example.

Ms DENNIS: I live out at Walgett in north-west New South Wales. I am the councillor for the north-west. About 135 kilometres west of Walgett are the Brewarrina fish traps. They are listed as heritage, but Aboriginal people have practically no say in how they are modified and developed and funding that actually comes into the community.

The Hon. WALT SECORD: No say whatsoever?

Ms DENNIS: No. There are continual, subtle changes to the Brewarrina fish traps. They are 45,000 years old. We can take the incident that happened at Juukan Gorge in the Pilbara, where it was just blown up. Will the Brewarrina fish traps be protected in future—really, it is the Ngemba people of Brewarrina that must have that consultation and they can speak for country. We as Aboriginal people know who can speak for country and I know the people in my community who have that cultural knowledge. Again, on country we can put in place those better protections. That is what the principles of the ACHAC and NTSCORP—really, we agree on the principles that it must strengthen self-determination of Aboriginal people and it must empower Aboriginal people. We have structures to be able to put that in place.

The Hon. WALT SECORD: With your answer on the Brewarrina fish traps, you have actually sparked my interest in the repatriation and the return of the remains of Mungo Man in western New South Wales. Do you have a view on that? Was the local community consulted on whether the remains would be returned and whether they would be marked?

Ms DENNIS: I would have to take that on notice about Mungo Man and how Aboriginal people were consulted around that. I can only speak for the country where I am and there are many burial grounds—like Angledool, which is, like, 130 kilometres north of Walgett. You have got Lightning Ridge and Angledool where the burial sites are disturbed and really us as Aboriginal people, the Lightning Ridge Aboriginal Local Land Council, we cannot do anything about that unless there is government funding or we rely on government funding. I look at the sand hills at Gingie Reserve out at Gingie Mission and the destruction of illegal dumping of asbestos that takes place on our identified reserves. It is that respect. Aboriginal people, we must be the ones who determine how we actually protect sites. It is not complex for us as Aboriginal people because language and culture is connected to the land where we live.

The Hon. WALT SECORD: The two sites that you referred to that were disturbed—the asbestos dumping, can you tell me about the previous one? What were the concerns about that site?

Ms DENNIS: Really, again, it is an Aboriginal reserve, so the Aboriginal reserves are listed as sites on the Heritage Act. But, again, they are only listed for mention. There is no protection around the culture and the existing sites that are there. Most sites across our lands are open to vandalism. How do we actually protect those sites without—we can report to the Office of Environment and Heritage [OEH]. We can make those reports but because of isolation and remoteness most of those go unnoticed. Usually it is a state development because usually sites can be disturbed, particularly with statewide developments. Usually that sparks then some debate around what happens. But when it is remote and there is the clearing of land and the cutting down of scared trees, the removal of that without any consultation and protection is why we say we must have better protections, better laws and Aboriginal people must have the voice to be able to say no. We need to be able to protect that site.

The Hon. WALT SECORD: Thank you. May I—

Mr DAVID SHOEBRIDGE: [Disorder]

The Hon. WALT SECORD: Is that the end of my time?

Mr DAVID SHOEBRIDGE: It is. If you had a follow on from that—

The Hon. WALT SECORD: No, I have other questions. I apologise.

Mr DAVID SHOEBRIDGE: Thanks, Ms Dennis, and thanks to the other witnesses for coming. Thanks for the work you do in between these hearings. It is essential work. Councillor Dennis, could I ask you first of all about what your view or your organisation's view is on the way in which once a project is listed as State significant, all of the Aboriginal heritage protection laws are turned off. If you could focus on particularly in the mining sector and the impact that has through approvals in the mining sector.

Ms DENNIS: Again, I suppose it is the consultation with local Aboriginal people. I suppose it is because it is unclear if it is the Heritage Act or if it is the National Parks and Wildlife Act or if it is actually local Aboriginal land council or native title groups—that division. Because government has really failed to deliver on the standalone legislations to protect, really, companies such as a mining company are really looking at who they actually talk to, and it is the person with the loudest voice. So it can be quite convoluted and it can be quite vague about who they actually talk to and who they get permission from. There needs to be clear processes put in place so that—and I understand that around Carroona, Walhallow where local Aboriginal people joined to protect some cultural sites around grinding grooves and rock formation for Aboriginal people, and there was a place where they had actually gone through that process to be able to protect that.

That is why, you know, we agree that there should be a land council or Aboriginal people of that country should be able to veto particularly to protect significant Aboriginal sites. Really, the laws and legislation are quite—they overlap. It is treated like, "You have to work in a silo? No, we can't look at that. We need to work down this road." So whether that comes under the various local government Acts or different legislation we have to work it out. Is it the Heritage Act? Well it is not listed as a heritage, it is not a building, it is not respected and valued. So, again, it can be quite—and it is such a lengthy process. It can be such a lengthy process and then that can create a lot of division within communities. That is why we are saying to government, and that is why we are asking you as the Committee to ensure that, you know, it is not just now transferred across or the Heritage Act is transferred that we must have better protections for Aboriginal culture and heritage.

Mr DAVID SHOEBRIDGE: Ms Chalker, do you have a view about the way in which the planning system turns off all of the Aboriginal heritage protections, as meagre as they are, under the National Parks and Wildlife Act once a project is declared State significant?

Ms CHALKER: I have worked in heritage on the ground for 30 years now. A State significant project turns off the National Parks and Wildlife Act, it also turns off the Heritage Act and it is all done through planning. The only thing that we might get a say in is that Heritage NSW can give advice, but there are no decisions made by Aboriginal people on how a State significant project progresses, basically.

Mr DAVID SHOEBRIDGE: Ms Chalker or Ms Dennis, maybe I would invite you to respond in that order starting with Ms Chalker and then Ms Dennis, one of the areas that is of concern at the moment is in the Hunter Valley. The Wonnarua people are trying to protect their massacre sites—sites where tragic massacres were inflicted against the Wonnarua people—from a mining project by mining giant Glencore. All of the State heritage protection laws have been turned off. They are having to rely upon Federal Aboriginal heritage protection laws. Do you have a view about that?

Ms CHALKER: Yes, I do because that proposal for the mining company is not only about the historic house, it is about the massacre site and all the other sites that are around it that are in line for what I call "massive destruction". The Hunter Valley is only one example of that. We see that in the Sydney basin every day because of massive destruction caused by urbanisation, which actually just crawls out a little bit further every day. Most of them are State significant projects also.

Ms DENNIS: Again, what is happening with the Wonnarua people is happening right across New South Wales, if not right across Australia. Laws relating to ACH protections and promotions really, you know, are not designed to give Aboriginal people the community control around being able to protect what is left. Just strengthening heritage or the national parks and wildlife really is not going to protect Aboriginal significant sites. Really, I suppose, the New South Wales Government did sign up to the Close the Gap national agreement. They say all the right things, but, again, those protections are not there for local Aboriginal people or organisations to be able to work their way through.

Again, we are asking that the Government must be able to work with us, develop broader reforms and really uphold the rights around self-determination and free, prior and informed consent. Without them working with the people on the ground because, as I said, the nations that we—I am a Kamilaroi woman. I have got Ngemba down to the west of me. I have got the Yularoi people to the north of me. I have got the Wiradjuri to the south. I have got Wailwan people. We are the people that will speak for our country and protect and know what exists and what is there now. These laws must work with us as Aboriginal people and must give us that right.

Mr DAVID SHOEBRIDGE: Councillor Dennis, I know you mentioned the Brewarrina fish traps. That is a classic case in point where critical decisions have been made by largely non-Aboriginal bureaucrats, which have had major impacts on what may well be one of the, if not the oldest, existing human-made artefact on the planet. The two things that come to mind are the construction of that concrete weir some decades ago and the damage that did to the fish traps and then more recently the fish ladder that was put in and I know was highly contested from elements of the Ngemba community saying that it was not consistent with their thought about

protection. That is a case in point, isn't it, where we should be looking to the traditional owners on the ground to be the decision-makers?

Ms DENNIS: Well and truly, as I say—that is a classic example. When you look north of Brewarrina and you have got the Murrawarri people and the Culgoa National Park and, you know, the community of Weilmoringle, they have not got a voice. When rivers are dry and the protection of site—usually there are so many other issues, like that we are doing this right in the middle of COVID-19—these communities cannot even access essential items. They have got no shop in their community. Really, the destruction or these subtle—this work continues regardless of what else is happening in that community. That is why it is important that we must talk with Aboriginal people on country.

Mr DAVID SHOEBRIDGE: My time is very close to concluded, but can I ask each of the witnesses one more question. What is your view about the priority of the Government here? We are progressing changes to the 1977 Heritage Act and prioritising those legislative changes, and not progressing through any similar process empowerment of First Nations peoples and standalone Aboriginal heritage law reform. The Government has said that they have got a separate process, they are working with stakeholders. Do you accept the priorities are right?

Ms DENNIS: The priorities are not right because government will set up different structures and different decision-making groups. If we look at, you know, the New South Wales Aboriginal Land Council and the legislation enacted by Parliament since 1983 and yet Aboriginal affairs would set up local decision-making models and they would promote then regional alliances, rather than work with established organisations that have been in our communities for a very long time in getting people to work together. Then we have got native title under Commonwealth law and we are all Aboriginal people on country. Really, again, the processes that the Government is actually using at the moment does not strengthen self-determination and empower Aboriginal people. It is not led by Aboriginal people. Really, as I say, there are about 37 nations and language groups across New South Wales. All of our groups, we will speak for country and we know people who are on country. Whether we are native title or whether we are a member of a land council, we can speak for country [audio malfunction].

The CHAIR: I think Ms Dennis has placed herself on mute.

Ms DENNIS: Sorry. So, really, it is about us using our processes that we have developed over 40 years to be able to make those decisions. All we ask is that government work with us to be able to do that. Thank you.

The CHAIR: Mr Martin, have you raised a point of order? I have just noticed.

The Hon. TAYLOR MARTIN: No, sorry. I just wanted to speak next, which is probably good timing.

The CHAIR: On that basis, I will just revert now to the Government members and Mr Martin.

Mr DAVID SHOEBRIDGE: Could I just invite Ms Chalker to take that on notice, if she is able to answer that question?

The CHAIR: Mr Shoebridge, that was to Ms Chalker, is that right?

Mr DAVID SHOEBRIDGE: I asked a question to both witnesses. I know that time is limited and I do not want to jump over all the Government's time, but if Ms Chalker can take it on notice.

The CHAIR: Ms Chalker, are you comfortable taking that question from Mr Shoebridge on notice?

Ms CHALKER: Yes. Can I have the question sent to me again, please, just to remind me?

The CHAIR: It will be relayed in due course. I will confirm those details at the end of this session.

Ms CHALKER: Thank you.

The CHAIR: I will just go now to the Hon. Taylor Martin with a question.

The Hon. TAYLOR MARTIN: I thought it might be good timing because Ms Dennis was just starting to get to a point in her answer about talking to the engagement so far with the Government. If I could ask independently—maybe we will start with Ms Dennis seeing as she was at that part of her answer—for each of you for a bit of a view on the engagement you have had so far with the Government, specifically with the Minister or his office directly in regards to the proposals for Aboriginal cultural heritage management going forward.

Ms DENNIS: Through the New South Wales Aboriginal Land Council, we worked extensively with the Government around the 2018 bill on culture and heritage legislation. Our three groups—NTSCORP, ACHAC and the New South Wales Aboriginal Land Council—agreed on the seven principles. Really, I suppose, the approach that the Government is using is not recognising that we are different Aboriginal people right across New South Wales, that we are different language groups and we have got different protocols within our communities and recognise those differences.

Really, I suppose, the approach to it for what I see as the chairperson is it is really a divisive approach in talking to the different groups at the table, rather than respecting Aboriginal people and trying to strengthen that self-determination. It is that divisive group of "everybody has to agree". We all have to agree. You know, I say that I cannot get my family to agree on most things, so how are we going to get everybody to agree? We agree on the principles around strengthening, self-determination and we must have better protections and it has got to be led by Aboriginal people. But, again, the Government in making a decision and that standalone legislation that we have fought for over a very long time, again, it is divisive and just keeps Aboriginal people separated. When they ask—I think it is really unfair that they ask that we as Aboriginal people have to agree before something will happen.

The Hon. TAYLOR MARTIN: Ms Chalker?

Ms CHALKER: In the beginning NTSCORP, ACHAC and the New South Wales Aboriginal Land Council all basically agreed on the principles of the 2018 draft legislation. We have been told by the Government that it does not support the establishment of the ACH authority, which is a statutory authority led by an Aboriginal board and was in the 2018 bill. Over the last year we have spent some time looking at what sort of statewide body would replace the ACH authority and this is still ongoing. The Government has also told us that the 2018 bill was too expensive and too complex, so we have been asked to help with co-designing a cheaper and simpler set of ACH reforms.

For Aboriginal groups who want the best for Aboriginal cultural heritage, these are challenging starting points for co-design with the Government. I use a quote quite often everywhere in my life, "Cheap is not always the best. You get what you pay for." If the cultural heritage reforms are too cheap, we will not get what we want and need out of this process. This new legislation should be about what the Aboriginal people of New South Wales want, which was very clear from the consultation in 2018. It should not be about just what the Government wants. Self-determination and decision-making by the Aboriginal people in New South Wales is a high priority in regards to Aboriginal cultural heritage.

Ms HOLT: I am sorry, did you want me to also answer that question for NTSCORP? I am not sure if you can hear me.

Mr DAVID SHOEBRIDGE: I can hear you, Ms Holt. I think the Chair is muted at the moment.

Ms HOLT: Okay. I would just say very briefly on behalf of NTSCORP that the Minister has been particularly engaged in this reform process and has obviously made it clear that he is keen for a reform bill to be developed. But I would say NTSCORP's view is that there are parameters which have been put to the parties which create a series of difficulties. Each of us are charged with the responsibility of conveying the views of Aboriginal people, and the views of Aboriginal people have been clear that they want legislation that will protect cultural heritage and give Aboriginal people a right to speak and make decisions about cultural heritage. Legislation that is modern and reflects the times that we are in and particularly the New South Wales Government's commitment to closing the gap, which captures increased legal rights for Aboriginal people, increased rights for decision-making and partnership.

I guess one critical issue from NTSCORP's perspective is the funding for standalone legislation and for the standalone cultural heritage authority. I think that largely if there was a commitment to funding that would enable the kind of system to be built that Aboriginal people want then things would move in a much faster fashion. It is perhaps the parameters that are placing limitations and that are dragging the process out longer. It has been a process well before my time: back in the seventies a commitment to cultural heritage reform and protection. There have been a series of reports. I am reminded that in 2010 then Minister Sartor indicated in his second reading speech for the National Parks and Wildlife Amendment Bill that it would be a two-year period before standalone legislation was developed. I think that the parties would all be aided by a commitment to the funding to have standalone legislation and an authority.

The CHAIR: Thank you. Mr Franklin has a question.

The Hon. BEN FRANKLIN: Thank you. I suspect my colleague may have a follow-up, but I really wanted to cut to the chase as I see it. I will start with Councillor Dennis, but I would be interested in the views of all three of you. Councillor Dennis, you have obviously talked about I think very appropriately the importance of cultural authority and speaking for country and I totally understand that point. But could you perhaps speak to how that very important element can be incorporated into legislation?

Ms DENNIS: Really, I suppose, if we look at the processes around the Aboriginal Land Rights Act and there are 120 local Aboriginal land councils across nine regions, so really we have structures in place and we have standalone legislation. Every Aboriginal person right across the country has that cultural connection to land and to country. I suppose Government policies and the removal of Aboriginal people—whether it be through the

Stolen Generation—Aboriginal people are removed from one country and they are now living on other country. So the complexity around which country do you belong to. As I say, the principles that we have agreed to as NTSCORP and ACHAC really goes to Aboriginal people speaking on country and it must be led by Aboriginal people. The Government need to be able to look at that structure and that legislative reform to build on existing structure. We have got native title structures and we have got land council structures, so there are existing structures in place.

How do we actually strengthen this so that Aboriginal people are inclusive, be able to have that voice and protect what we have left? Really, as I say, we have done extensive work around the 2018 bill and it was the Government that came back to us and said that it is too costly and too expensive to be able to protect. It is something that we have worked on for all our lives, really, and particularly over the last 40 years. It is more and more—the more mining that happens across our country and the more development that happens across our country, you know, what sites are left? Really, I suppose, the Heritage Act does not offer all those protections to all of those sites because, you know, some sites are sacred and only community and local people know where those sites are. How do we actually build on those existing structures to be able to protect what is left? We have worked closely with government to be able to do that. How do we keep doing that but, again, not be divisive about which group to talk to and which one—we have got to be able to stand. We are halfway there in doing that.

The Hon. BEN FRANKLIN: Thank you. I understand we are getting close to time but if either Ms Holt or Ms Chalker had anything quickly they would like to add, please do so. If either of you wanted to talk in a more substantive way about how we can incorporate cultural authority and speaking for country into the legislation, you could certainly take that on notice if you had some more detailed thoughts. But if you had something short, noting time, then that would be wonderful as well.

Ms CHALKER: Can I take that question on notice? I just wanted to make a bit of a statement, if you do not mind. ACHAC is committed to continuing working with the New South Wales Aboriginal Land Council and NTSCORP to find an agreement with government. Our understanding is that whatever reforms come out of the current consultation, they will then go out for broader consultation with all Aboriginal people and Aboriginal communities across New South Wales, so that everyone can have a say in this process.

The Hon. BEN FRANKLIN: Thank you.

The CHAIR: Just prior I was on mute and I was talking to Mr Martin. Did you have something quickly to add?

The Hon. TAYLOR MARTIN: No.

The CHAIR: I take this opportunity to thank Ms Anne Dennis, Ms Glenda Chalker and Ms Mishka Holt for their attendance and their participation today. A number of witnesses took some questions on notice. The Committee has resolved that answers to questions taken on notice be returned within 21 days. The secretariat will contact you in relation to the questions you have taken on notice. We will now be breaking for lunch. We will resume at 2.00 p.m. A reminder to Committee members to place yourselves on mute and also ensure that your videos are turned off until that time.

(The witnesses withdrew.)

(Luncheon adjournment)

PENNY BARLETTA, Manager, Parish Property Services, Anglican Church Property Trust Diocese of Sydney, and Anglican Church Growth Corp, Moore Theological College, sworn and examined

TIM DUDDY, General Manager, Historic Houses Association of Australia, affirmed and examined

GEORGE SALOUROS, Director, Asset Management, Planning and Projects, Royal Botanic Gardens and Domain Trust, sworn and examined

The CHAIR: Good afternoon and welcome to the review of the Heritage Act 1977. Would each of you like to start by providing a very short statement to the Committee?

Ms BARLETTA: Thank you for this opportunity. I would like to start, if I could, with a quick recount of the story of St John's in Darlinghurst, which is one of our listed buildings. The first building on the site was a school hall, which was built in 1851. We used it for church meetings until the first stage of the church was completed in 1858 and then there were significant additions to the church building in 1866. The rectory was built in 1868, then 1872, 1875, 1879 and 1883. In 1903 the original school hall was knocked down and rebuilt and in 1924 a side chapel was added inside the church. The war years kind of intervened to constrain any further development on the site. In 1986 the site was State listed and from that date on the story of the buildings and the relationship with the buildings to the people changed. From that point the buildings no longer responded to the needs of the people meeting on the site, rather the people had to respond to the needs of the buildings. But, despite the history, the place continues to be made by the people who are an ongoing worshipping community there. It has been a continuous community since that first date in 1851.

I would like to point out that a heritage listing would have us believe or pretend that heritage is something in the past and that it can be frozen by placing a listing on a building at a particular date. What that does though is ignore the fact that history continues to be created in a place by its ongoing use, and this is a challenge that we have as the owners of properties that have been in use since they were first built by us sometimes centuries ago. But, of course, today's community expectations are very different from the community that met in St John's initially in 1858—different even to people who were meeting there in 1950. What we find is nowadays we are constrained in our ability to update and upgrade our facilities to make them welcoming and functional places for communities that continue to meet on these sites. That is really what we would like the ability to do.

We would like to have systems and processes that enable us to meet the expectations of the community outside the church, but primarily meet the needs of the community that meets inside the church. Too often what we are finding is that our plans to alter buildings are actually constrained by these external pressures, even though we may be seeking to upgrade more, to develop sites and spaces around these buildings to provide community facilities, social amenities and also, I acknowledge, sometimes commercial facilities to enable us to continue to maintain the assets. Often the objections come from people who want to keep our buildings as points of historical interest. I have heard comments on historical tourism, cultural tourism, there is aesthetic value obviously and green spaces in neighbourhoods that are provided by our buildings, but there is no balancing requirement for public contribution to their upkeep.

The objects of the Act as they stand have the potential to develop and deliver a more educated public, and this is one of those objects. Educated not just on the heritage sites, but also on the costs of conservation and what it actually means to be the owner of a heritage of site. Of course, we would like to see the public engage more with our sites through perhaps a shared responsibility for that heritage management, but also in the ongoing history making that is occurring within the buildings. We note that the content of the Act does not quite address the object of promoting understanding because the reporting requirements that the Heritage Council is mandated to report on are pretty much related to the regulated protection of heritage—for example, through listings and orders and agreements that might be made.

As a final point, we think the Heritage Council has the opportunity as one of the lead heritage entities in the State to show some exciting and creative leadership, which we hope would be followed by local councils in dealing with heritage properties that are already activated and in use. Reactivation and re-use do not mean much to us because we are already using our properties. We would like to partner with heritage entities to continue to make significant contributions in our State's history, as we intend to do. We would like our buildings to continue this unfolding journey with us. Thank you.

The CHAIR: Thank you, Ms Barletta.

Mr DUDDY: I take it as read that the Committee has seen our two submissions to the review. They are labelled No.1 and No. 1a on your list of submissions. In 2014 the Historic Houses Association of Australia [HHA] was formed to raise awareness for architecture in historically significant historic houses. Our genesis lays in 1988, alongside the formation of the New South Wales Historic Houses Trust. It brought together the friends of some

of Sydney's more important buildings, such as Elizabeth Bay and Vaucluse House. Over that period the friends were one of the most significant benefactors to the State-owned properties. Our fundraising contributed to their upkeep, maintenance and development, both in the hands-on work of the volunteers and the financial assistance that was taken advantage of by our fundraising activities.

The HHA is a national member-based organisation. We are fully independent of government, are a registered not-for-profit charity and have been granted DGR or deductible gift recipient recognition from the Federal Government. We are predominantly a volunteer organisation with a growing membership and reach. Our goals are to educate and inform the public to support private owners and work with the community to build an environment in which historic properties and places are supported, valued, preserved and enjoyed. We provide a platform, resources and expert advice to our owners. We advocate on their behalf to government and we educate the public through a dynamic range of events and activities. We also support research to understand the special needs faced by owners of historic properties, and in 2018 we hosted our inaugural conference in Sydney where the issues facing privately owned historically significant houses were explored.

This unique perspective allows the HHA to understand the issues that face both private and State-owned properties. Firstly, I would like to put on the record that it is our view that the Heritage Act is a very good instrument as it stands. The issues arise with the institution's enforcements, skill sets and resources that surround it. These fail heritage and the Act and its capacity to preserve heritage and deliver good outcomes. Some of these issues that have been flagged amongst our peers are a lack of protection that is applied to State-owned properties once the mechanism of State significant development is applied. It appears that the Heritage Act and all its goals and aspirations are quickly forgotten.

As part of our association's work, we run a range of international study tours. I have travelled extensively in the field and there are many examples of good heritage outcomes from around the world. For instance, in Rome the property developers have made very significant contributions to heritage. The fundamental basis of all development is that they build around, repurpose, renew and repair everything. In a State where the view is that every developer—in many cases—and architects that are responsible for a tender which includes the Government, must start afresh from a flattened building site. Recent examples are the demolition of the award-winning Sydney Entertainment Centre and the removal of Willow Grove at Parramatta to make way for the new Powerhouse Museum site. Willow Grove was the last surviving Victorian Italianate riverside residence. One would ask how moving it to a suburban block in North Parramatta could possibly be seen as a good salvage outcome.

If this sort of project had been contemplated in Rome, there would be no option other than to incorporate Willow Grove into the museum development, thus allowing it to survive and remain relevant in its sense of place. This would also have been a great win for the community, who in many instances have stories about being born there or their parents being born there in a previous incarnation as a private maternity hospital. Sense of place has become the new black in heritage and the discussions in heritage spheres. As set out in the Burra Charter, it covers Indigenous environmental heritage, something that has been tragically overlooked in the past, much to the peril of proper planning and the urban sprawl.

Many of our historically significant landscapes have been completely overlooked and, worse still, ignored by bureaucracy and developers. Current examples are the Mulgoa Valley, the Varroville development of the Catholic Metropolitan Cemeteries Trust and the proposed, now abandoned, development of the St John's Camden horse paddock as an aged-care facility. To explore further the HHA has branded our upcoming conference in 2023: "A Sense of Place", discussing these issues to assist the Government and community in resolving some of these pressing challenges. I will touch briefly on some of the other issues that have been raised at our base, which is slightly outside the purview of the Committee's review; however, very relevant additional input.

Climate change is affecting our heritage from a built and regional perspective. The COVID-19 crisis means that more than ever we should be looking towards State and regional tourism opportunities, and proper protection of heritage will keep regional communities attractive and local. When the world is open to international tourism, government should not be allowed to assess its own applications. They should be carried out by an arms-length independent body, free of political influence. The Office of Environment and Heritage should comprise skill-based planners to deal with planning and registered heritage architects to deal with architectural significance. The resounding feedback has been that it is populated mainly by archaeologists—a science that is not based on preservation but rather ways of recording loss—or graduates without practical experience in the field.

Conservation management plans should not be volumes of information; they should be simplified. One touch documents that are constructed from a template. They should identify, preserve and encourage owners to achieve better outcomes. Private owners of State significant buildings usually have the best intentions regarding heritage. Damage often occurs through ignorance rather than malice. There should be a less adversarial process

in dealing to remedy the situations. Across the State, local government should be properly resourced to deal with heritage issues either from a centralised regional group of councils or with the assistance of the State Government department. Once built and natural heritage is destroyed, there is no turning back. The time to act is today. We welcome this review.

The CHAIR: Thank you very much, Mr Duddy. I invite Mr Salouros to provide a brief statement.

Mr SALOUROS: Thank you, Chair. Thank you to the Committee and thank you for the opportunity to be able to present the comments from the Royal Botanic Gardens and Domain Trust. Let me preface by saying many of the elements that have been raised by the preceding speakers are very common to our organisation as well in various forms and elements and the various strengths. The Royal Botanic Garden is Australia's oldest scientific institution. It was established in 1816 as the second-oldest botanic garden in the Southern Hemisphere, and for those who are familiar with gardens also predates the Royal Botanic Gardens in Kew, England, which is the world's number one rated botanic garden globally.

The Trust and our whole issue in this space is that we obviously as a scientific institution curate a living collection. These are key factors in understanding the purpose of what the garden is and the Domain within the space, both as a public space that can be opened for recreation and access, but also the fact that it benefits scientific research. It is not a normal parkland. I think these are key factors that the Committee should consider. We are also among the top 10 most visited botanic gardens in the world, with international visitation and domestic visitation just into the gardens themselves, excluding the Domain, of over 5½ million people per annum pre-COVID. Even in the COVID environment we are still having over 3½ million visits into the space of the Royal Botanic Garden, even at the height of the COVID scenario, as people seek to break out and exercise where they can under the current restrictions.

Like an art gallery—and I think this is a key point to note—our gardens and spaces are essential to maintain relevance and to meet the objects of our Act, which addresses the requirements for science, horticulture, education and recreation. Like an art gallery, the value of a gallery is obviously assessed by how often it puts on new exhibitions and its ability to change its displays and its information that it puts out to the public, therefore maintaining relevance. From a personal experience I could probably state to you that before I became a director in the gardens my last visit to the gardens was as a 14-year-old with my family, and then I attended nearly 40 years later. Why? Because the gardens had not changed or modified or kept pace and could provide some form of attraction or interest.

Among these things—and these are the considerations—is that within the Heritage Act was a very broad reach in terms of some of the categories that are applied and the level of expertise. There have been experiences in the past which have prevented changes to things like the trees, the plants and obviously the need to move and adjust structures. A key point I think I would flag is that because it is a scientific collection, the category approach that is one thing that the Committee is looking at is something that will be most applicable to take on the nuances of the botanic gardens in the space of the State significance of the heritage assets that it holds. It holds both a scientific collection as well as broader collections of interest to the public.

We rely heavily on visitation. It continues to support our ongoing viability, particularly in these difficult times. While the need is within our conservation management plans and structures to maintain elements of picturesque or gardenesque architecture, landscape and design, we found that in the past there has been almost a sense of freezing the gardens in time. I would probably say to the Committee that a garden frozen in time is a dying garden because there is nothing to attract visitation and keep renewing the space and keep bringing people into the space, and therefore meeting our objects of education, research, recreation and science.

The other key factor is that we need to be able to be quite flexible. I emphasise quite heavily the need for our living collection: our trees, our garden beds, our displays and so forth. But all of those are heavily reliant on the infrastructure that sits around and supports them. For us not to be able to do a renewal of our in-ground irrigation systems, or for that matter place and install irrigation systems, without having to go through a heritage approval process, is anathema to being able to support the outcomes of the garden. There are certain constraints and there are certain limitations. The Trust has no qualm with the approaches to the built infrastructure—the buildings, the footprint that is clearly established, set in stone—whether it goes back to our 1838 Domain Depot on St Mary's Road, right through to our somewhat brutal 1979-constructed Brown Building, which is currently housing our herbarium collection.

Within these parameters, the Heritage Act does give us some clear guidance. There are some dispensations for temporary works and the capacity to do things, but it needs to be looked at in the objects of the Trust. The Trust has over 200 years of experience in managing and looking after these assets, invests quite heavily with whatever recurrent funding it has and capital funding from government to maintain these as assets and facilities of the State but it also needs the capacity to be able to use that space to attract people. Those of you who

sit in Parliament are well aware of the event sequences that take place in the Domain: the concerts, Christmas Carols in the Domain, and all these other social and cultural activities. Anything that tries to curtail or restrict those within the broader definition of trying to contribute to the cultural benefits can also be negative to the heritage impact, because again we are trying to work on a space frozen in time.

I urge the Committee to consider the options in terms of particular uses and nuances in terms of the review, to look in particular at the category approach as one of the items that may come out of this, and to consider the number of agencies, the Royal Botanic Garden inclusive, which includes scientists, botanists, horticulturalists, arborists. That is their specialisation. They have devoted their lives to that site and would not be an organisation that would seek to dismiss its heritage blithely in doing any works in that space. I thank the Committee.

The CHAIR: Thank you, Mr Salouros. I invite members of the Opposition to ask questions.

The Hon. PETER PRIMROSE: I have a question for Mr Duddy. If I go to page 2 of your supplementary submission, about halfway down you say you support a reduction in the burden of owning a residence on the State Heritage Register but oppose the proposed system of categories as a way to achieve this. Can you please elucidate and talk in a bit more detail about what you would actually like to see in its place?

Mr DUDDY: That is referring to the concept of involving a local government authority or a much more hands-on, face-to-face interaction that deals with the challenges that surround these houses in a pragmatic fashion. To suddenly have a building, a house that you purchased that has a 300-page conservation management plan that is attached to it, and many of those things do not actually go to practically preserving the fabric of the house, if you need to replace a water downpipe, you would need to get an archaeologist to move one metre of pipe to oversee the excavation works in that space. Those things practically do not work in a private residence. Dealing with a one-touch conservation management plan, as I alluded to earlier, where they are done from templates and people very clearly understand what their obligations are—there were some stories in some of the houses in The Rocks where they lifted floors and they had to keep the dust from under the floors that was removed and it had to be removed by an archaeologist. These things are not practical in a domestic setting. If the Government was doing something to one of their own buildings, such as the Department of Lands building that they are contemplating using as a hotel, they would not have those imposts.

The Hon. PETER PRIMROSE: When you are talking about this, you are talking about it being less specific and less prescriptive, is that correct?

Mr DUDDY: No, I am talking about it being very clear but it being a simpler process where things are looked at in a—I suppose, yes. To answer your question, yes, less specific but looking at things in a general format that work on overall protections, not on minutia.

The Hon. PETER PRIMROSE: Thank you, Mr Chair.

The CHAIR: Other questions from the Opposition? The Hon. Mark Buttigieg?

The Hon. MARK BUTTIGIEG: Briefly, there seemed to be a theme from the opening statements that I guess the catchphrase we have been using to describe it is adaptive reuse, or in other words better engagement with the public for use in real time to then foster the longevity and appreciation of the asset. I wonder what people's views are on the ability of the Act to achieve that as currently configured and whether or not it needs alteration to achieve that objective.

Mr SALOUROS: I am happy to have a go at that.

Mr DUDDY: As we suggested in our submission, it is actually not the Act that is deficient in that space; it is the design of the bureaucracy around executing that Act where you have people working in that bureaucracy that are not practitioners of the fields in which they are making the rules about. The OEH is very, very, very heavily weighted towards archaeology. You cannot have an archaeologist making a decision about how you deal with a damp wall. It is not the thing you do. You also have people that have got extraordinary academic qualification but very little hands-on experience in working in the field. So it is not the Act that is the problem, it is the way that the bureaucracy is designed that is surrounding it.

The CHAIR: Mr Salouros, did you wish to add a point?

Mr SALOUROS: Thank you, Chair. I would like to reflect on what Mr Duddy has just stated. The challenges we face—and I specifically respond for the Royal Botanic Garden in this case—are that the Royal Botanic Garden over time started off, believe it or not, from Farm Cove in its original origins as one of Sydney's tips. The reality is that from that whole space we have got that wonderful Farm Cove seawall and view over Sydney Harbour over time, but it was a landfill project. Across the gardens and across the Domain, those areas have been repeatedly disturbed over 200 years through various works, whether it is planting, replanting, lifting

things up, moving things around, putting in pipes, running electricity when that was introduced into Sydney, running gas supplies and rainwater lines, the Cahill Expressway and Eastern Distributor tearing quite a large scar between the Domain and the gardens as it currently stands.

Talking to process, should we be considering anything to do with an application to do even some minor works. A an example, I wish to put in two turnstiles at two of our gates to provide ease of egress for people out of the gardens at night when the gardens get locked. People invariably stay behind, the rangers have locked the gates, and then people need to get out. To put those in we go through a section 60 application. Perfectly fine, perfectly acceptable, perfectly understandable. But when we also start getting inquiries to do an Aboriginal impact statement and an assessment on the terrain and the archaeological elements as part of the criteria, to an area that has been repeatedly disturbed over the years, the value of continuously investing in that area is almost, dare I say, keeping an industry going. When, in effect, there should be just a review and understand you have particular areas that have been grossly and significantly disturbed and you have areas which are pristine or have not been disturbed for extensive periods of time. The nuanced approach that has been referred to would allow that level of granularity and that level of flexibility without having to keep reinvesting into the background of this. Thank you, Chair.

The CHAIR: Thank you, Mr Salouros. Ms Barletta raised her hand; she would like to add some points. Then I will invite the Opposition to ask another question.

Ms BARLETTA: I would like to invite the Committee to take a step backwards from the details of the Act and note that while the objects of the Act—and I pointed this out in my introduction—the first is to promote an understanding of the State's heritage; then to encourage the conservation of the State's heritage, a couple of points that I think are quite well covered in the Act; and then to encourage the adaptive reuse of items of State heritage significance. A survey—and I did this very quickly and not completely—of the actual contents of the Act points out that most of the Act actually addresses objects (c) and (d) to provide for identification registration in the interim protection of items of State heritage significance. I think there is an opportunity to take a higher level look at the Act itself against those objects, if they are in fact to remain the objects of the Act, and see how the document actually meets up with the stated intention of the document.

Further to that, it is an old adage that that which is assessed is what attention is paid to. I think you will find in division 2 the Heritage Council is required to report to the Minister—I am looking for this—annual report, and the report's contents are to include a summary of recommendations, advice and opinions under the following provisions: interim heritage orders; direct listings; removal of items; heritage agreements; advice on shipwrecks; orders restricting harm to buildings; stop work orders; deletions to the State Heritage Register; and finally, particulars of financial assistance as is provided. There is nothing there referring to any action of the Heritage Council that might promote understanding or encourage rather than legislate for preservation. I think it might be worth stepping back a little bit from the details of the Act, and in fact how that process plays out in the real world, to look at whether the Act is reflecting all of the objects. Thank you.

The CHAIR: Mr Buttigieg, have you concluded your questions?

The Hon. MARK BUTTIGIEG: [Inaudible]

The CHAIR: Reverend Nile, Mr Shoebridge, do you have a question?

Reverend the Hon. FRED NILE: Yes, I do, a question for Ms Barletta. In your submissions 49 and 64 you stated that your application to add a services building on a city site with two listed buildings and little free space was rejected without a Heritage NSW assessor even visiting the site or discussing options or advice on what would be permitted. Would it be of benefit to mandate that heritage assessors have to at least visit a site and propose options and give advice before an application can be declined or rejected?

Ms BARLETTA: I believe that the volunteers who manage our heritage sites would very much welcome visits by Heritage advisers before decisions are made. Another case that we referenced was from a country church, which struggled to get a positive result on an application, again without a visit from an assessor. They suggested that perhaps advice from local heritage experts could be taken into consideration, rather than requiring somebody—I understand this is a Moss Vale church. It is a way to travel, we understand that. A little bit more disappointing that the trip was not able to be made to a Sydney church in the centre of the city, essentially, in that circumstance. But certainly I know that the volunteers who manage our churches would appreciate earlier and more engagement from people undertaking those roles.

The CHAIR: Thank you, Ms Barletta. Reverend Nile?

Reverend the Hon. FRED NILE: I note the issues you had with the replacement of a church roof and the development on a lot neighbouring a listed property. The recommendations you made all seem very logical

and should be seriously considered. Is there anything further you would like to add to improve the operation of this system?

Ms BARLETTA: I think one of the things that we note and needs to be acknowledged, that many of the challenges we have are with local councils, rather than with the State heritage system, and I guess the separation of responsibilities between those two bodies is not always helpful. We see that the Heritage Council has the potential to or in fact does lead in heritage matters, and that is where, I guess, we would like to see some more attention being given to ways forward that open up opportunities for sites. One of the examples that we used was St Jude's in Melbourne. Unfortunately, that church, which is on the heritage register in Victoria, suffered a fire, but the fire made way for significant and very sympathetic development, which has given that church a whole new lease of life. It would be helpful to find ways to operate with our listed properties at local or at State level in order to provide the kind of amenity that was made available through that very unfortunate circumstance, without having to have our buildings burnt down, but actually provide a little bit more flexibility on our sites so that they can continue to tell the story of Christianity in our State rather than confining it to the history books, because that just does not accurately reflect what is going on.

Reverend the Hon. FRED NILE: Thank you. Just one final question.

The CHAIR: Yes, Reverend Nile.

Reverend the Hon. FRED NILE: In your submission 64 you point out:

... from a Christian perspective, we value people and actions significantly above our church buildings. We feel that we are being constrained in the redevelopment of our sites for church, education and social infrastructure uses by heritage rules that more serve the secular community, who do not use our assets, at the expense of more high quality ministry and charitable works.

You outlined the St Jude's Anglican Church example. How did the process of the Victorian heritage assessment differ from the Heritage NSW assessment? How was it an improvement?

Ms BARLETTA: Thank you for the question, Reverend Nile. I am afraid I do not have the details of the difference between the two assessment processes, but I am very happy to research that and get back to you if I could take that question on notice.

The CHAIR: Thank you, Ms Barletta, that will be fine. We will note that. I will now go to Mr Shoebridge.

Mr DAVID SHOEBRIDGE: My first question is to Mr Salouros. The submission we have from the Royal Botanic Garden is signed by you as the Director of Asset Management. Was it adopted by the Trust and the Trustees?

Mr SALOUROS: Sorry, Mr Shoebridge, in the sense that this has been approved by the Trust to be issued is the question?

Mr DAVID SHOEBRIDGE: Yes. Did it go to the Trustees and did they adopt it?

Mr SALOUROS: This is information that has come back through advice which I have been able to excise through my authority and my delegation through my chief executive. So it has not necessarily gone up to the Trust as a direct document for the board's review and comment.

Mr DAVID SHOEBRIDGE: Has it gone up as an indirect document?

Mr SALOUROS: No, not yet.

Mr DAVID SHOEBRIDGE: If you are talking about fundamental amendments to the Heritage Act, do you not think that is something that the Trust itself, the seven appointed Trust members, should have input in, something as important as amendments to the Heritage Act coming from an organisation as culturally important as the Royal Botanic Garden?

Mr SALOUROS: The answer to that one, Mr Shoebridge, is that as a director I have certain delegations to manage. The planning and commentary on impact and legislation sits within my area of responsibility, and therefore it has been done along those lines.

Mr DAVID SHOEBRIDGE: What is the commercial activity that you have wanted to undertake in the Royal Botanic Garden that you feel the Heritage Act has prevented you developing?

Mr SALOUROS: Within our areas we have looked to adaptive reuse. We have a number of cottages which have some residential background and history. The Domain Depot is one, Victoria Lodge is another, Rathborne Lodge, which is currently used as our education offices, and Lion Gate Lodge. All these used to be former residences that were part of the curators or the custodians or the superintendents that lived on site prior to

legislative changes back in the 1980s. These are areas that have the potential to create adaptive reuse, including a food-and-beverage outlet, where the heritage value is recognised within the space, but also allows the development to reflect and take advantage of these areas. I might point out to the Committee that the Royal Botanic Garden is roughly pre-COVID half-funded through government grant and the rest is dependent on its commercial revenue to support these primary functions of science, education, research and horticulture. Opportunities to be able to increase that revenue and reduce the reliance, if possible, on government grants would be of benefit, not only to the gardens and the Trust in delivering its objects but there is an indirect benefit to the State as it draws less on the public purse.

Mr DAVID SHOEBRIDGE: You want to hire out those three buildings for commercial use as restaurants and the like. Is that the limit? Because you referenced what happens in the Domain and it sounded as though you also wanted to commercialise, by way of short leases or festivals or the like, some of the green open space in the Royal Botanic Garden. Are you saying it is only limited to trying to get some restaurants and other similar facilities?

Mr SALOUROS: Anything that would attract and keep the visitation. One thing I would like the Committee to be aware of is that in a space such as the botanic garden, what happens is that it is a free-entry botanic garden. That was a decision of government that was made a number of years ago. As a result, the visitation has, quite rightly, gone through the roof. Free entry tends to mean therefore there is a greater interest of people moving through the space. In fact, what it has actually done with that is increased the operating costs of the gardens: the waste removal that generates out of it; the cleaning of public amenities and so forth. So the benefit I think from all of this is to be able to at least get the best possible use out of any space—and I reflect the term "best possible use" within the restrictions and the limitations of legislation and the Act—but that which allows us to deliver those greater benefits that we see to the community.

Mr DAVID SHOEBRIDGE: Mr Salouros, this push for the greater commercialisation of the Royal Botanic Garden, do you have the endorsement of the Trustees for this push that you are bringing to this Committee?

Mr SALOUROS: Mr Shoebridge, the answer to that question is that each matter is assessed in its own approach. We had approached to the board questions about what we can do and what we can explore with each of our facilities. None of those were accepted by the board. The board has asked the executive to review and come back with any other options and be able to come back to the board with any figures and suggestions to look at that. There is no "carte blanche, go ahead and commercialise" type statement. The board is very active and very diligent in overseeing those objectives and trying to make sure it aligns with our objects and our responsibilities.

Mr DAVID SHOEBRIDGE: Given that, given the board has not supported your previous efforts for increased commercialisation of the Royal Botanic Garden, do you not think it would have been prudent to have gone to the board before you brought this submission before the Committee to try to find avenues for additional commercialisation of the Royal Botanic Garden?

Mr SALOUROS: Mr Shoebridge, the board is recognising and quite cognisant of the issues that we deal with trying to obtain revenue, obtain grants and obtain funding to support our operations. In these particular matters, these are a balancing act. In taking this to this inquiry is to understand some of the issues that are confronted that go through the process. Commercialisation is not the only outcome. The ability to, say, convert an existing building into an education building or a facility, or something that facilitates greater access for school excursions, these are all things that can be part of the Act. The issue from the inquiry and the perspective is not simply the commercialisation, but it is the best use that we can make of our heritage assets and the mechanisms through which we can pursue that.

The CHAIR: It is the Chair speaking.

Mr DAVID SHOEBRIDGE: Mr Duddy—very briefly?

The CHAIR: Very briefly, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Mr Duddy, we have had a number of submissions concerned about the lack of independent resources to the Heritage Council and the fact that by reason of the Heritage Council having to depend upon government agency staff there is a conflict of interest or a lack of independence, depending how you characterise it. Do you have a view about that, and do you think we should be recommending independent resourcing to the Heritage Council?

Mr DUDDY: Absolutely. I think that is an essential part of the proper process. And I think also asking the broader community to put up representatives that the community agreed to is also a very good process, as you would do with any other committee.

The CHAIR: Thank you, Mr Duddy. I will invite Government members to raise a question, and I acknowledge the Hon. Taylor Martin.

The Hon. TAYLOR MARTIN: My first question is probably best directed to Ms Barletta. Your submission mentions challenges with the heritage approvals process. Would you be able to expand a bit more on this and on any particular areas of that process that your organisation believes could be improved on?

Ms BARLETTA: Thanks, Mr Martin. First perhaps I should point out that I reached out to the volunteers who manage our heritage assets for their report, for their contribution, so I am one step removed from that process. I believe that there is a resourcing issue, that it is difficult to connect in with the heritage office and have consistency, even with people dealing with one matter over time. It takes a long time for things to be dealt with. I think the Act allows up to a year for a response, in some places. I have experienced what I would consider overreach in heritage office officials making their opinions known about what heritage outcomes should be. That is a concern. There are a range of issues that have come up in my conversations with parishioners who are dealing with the heritage office particularly, and also some of my own direct experience. Does that help?

The Hon. TAYLOR MARTIN: Sure. If we can move on for a moment and I will let my colleagues ask questions. What kind of incentives do you believe might encourage heritage property owners to better conserve their State Heritage-listed items?

Ms BARLETTA: Is that a question for me, Mr Martin?

The Hon. TAYLOR MARTIN: For all, but I will start with you.

Ms BARLETTA: Some of the incentives that are offered to heritage owners do not impact us. Our churches are not—we do not pay land tax. There is certainly a consideration there of the social impact for churches that is obviously to our advantage as landowners. I think the most meaningful incentive, obviously we would like more grants to be available and more grant funding to be made available. That would make a big difference. Our heritage adviser, Mr Davis, has suggested that perhaps targeted funding and the management of funding through a program of works across our buildings would possibly be something worth exploring as a way of managing, I understand, limited funding.

I think perhaps a disincentive for people to list or propose listings. If there was some kind of responsibility to those who are proposing listings to actually contribute in some way to their upkeep. I think that would be a just way to deal with heritage listings, which right now can be made with or recommended with no impost on the person making the proposal. But key for us is the opportunity to use our land more flexibly than heritage listings, particularly at a local level. I think our State Heritage-listed churches are very well maintained and cared for by the local congregations and they certainly do not get the push for those to be developed. We have had some success, but certainly the opportunities at the local level to make better use of our land through development would be invaluable to us.

The Hon. TAYLOR MARTIN: Thank you. I am conscious of the time, so I will move on to my colleagues.

The CHAIR: Thank you. The Hon. Shayne Mallard has a question.

The Hon. SHAYNE MALLARD: My questions are directed to Mr Salouros from the Royal Botanic Garden. I note, not that it is a conflict, that I spent a couple of years on the board of the Centennial Park and Moore Park Trust, which had a close relationship with the Royal Botanic Gardens and Domain Trust. Picking up on the issue of commercial opportunities for the botanic garden, you mentioned that it is 50/50, the funding split roughly between government grants and revenue raised through activities in the botanic garden. It is clearly in the interests of the Royal Botanic Garden for you to maximise the opportunities for sensitive commercial development to reduce your reliance on government grants. Would you acknowledge that?

Mr SALOUROS: Yes, I do, Mr Mallard. I would probably also add that prior to the decoupling of the Royal Botanic Garden from Centennial Park, my role was to sit on the group botanic gardens and Centennial parklands agency, where Centennial Park was one of my estates that I was also responsible for management. I would probably like to bring to the Committee's attention the question I think that drives many of these things. Centennial Park is an organisation that has an economic engine that has been provided to it through—

The Hon. SHAYNE MALLARD: Golf.

Mr SALOUROS: —the Entertainment Quarter, Fox Studios—

The Hon. SHAYNE MALLARD: And the golf club.

Mr SALOUROS: All those other areas. The Royal Botanic Garden does not have such an economic engine and therefore relies very much on its capacity to do that. Consequently Centennial Park has been pretty much self-sufficient in terms of its operating requirements and continues to be so post the decoupling and integration with Greater Sydney Parklands. But the Royal Botanic Garden is still in that position where it does not have that economic driver, whether it is on Trust lands or associated with Trust lands, to be able to support and underwrite its activities.

The Hon. SHAYNE MALLARD: The Greiner Government was the government that did the reforms to align the Domain to the botanic gardens as an opportunity for revenue and the Centennial Park and the Moore Park precinct for that reason. Prior to that, you would acknowledge in difficult times for government both parklands were totally underfunded and in poor condition?

Mr SALOUROS: In terms of the funding, I would probably highlight that COVID has had a significant impact. There is a significant operation there for the Royal Botanic Garden in the sense of the parking revenue from the Domain car park, the impact of the food-and-beverage outlets that are existing operations within the gardens. All of these have a continuing impact and lead to the Royal Botanic Garden—I cannot speak now for Centennial Park—but the Royal Botanic Garden being a question of going concern. However, having said that, wherever the Government has been able to support capital funding to renew and refresh assets the Government has done so through the normal government process based on the forward estimates over four years.

The Hon. SHAYNE MALLARD: My final question, you will recall a few years ago—and I was a councillor on the City of Sydney, so we were consulted on this one—the work to remove flying foxes. There were a lot of failed attempts to remove the flying foxes, a protected species, from the 200-year-old rainforest in the gully in the middle of the botanic gardens. There was a lot of talk about them being heritage listed, but of course the trees were not heritage listed. The landscape category within the new categories for heritage recognition, would that be of benefit in a process like that, for example, where it was a difficult process, but people were willing to understand that we were weighing up a heritage landscape against other interests?

Mr SALOUROS: I would probably say, Mr Mallard, that it is always an exercise of balance. The colony that you refer to, at one stage I know in my time at Centennial Park grew to 90,000 flying foxes in the park—

The Hon. SHAYNE MALLARD: They were killing the 200-year-old trees.

Mr SALOUROS: And therefore killing off the melaleucas and the paperbarks that were in the gully at Centennial Park. As they forage for food, they forage far and wide and come to the botanic garden because of the fig trees, and the fig trees in Centennial Park for that matter. There has always been a balance act between that. We recognise the issues that come over the top of it; animals will extend boundaries and those that can fly will definitely extend any land boundaries that may be present. I would probably say that from our perspective, and conscious in the sense of the heritage values that we speak of, the thing that ties Centennial Park and the Royal Botanic Garden together is Charles Moore, who was one of the directors of the garden and superintendent of Centennial Park. Therefore there are common thematic themes between the estates. The colony rises and falls based on the conditions. I would probably also flag that the climate change statement that was made by one of the previous proponents is also a concern for us as development takes place around the gardens and the Domain; concerns about the sun plane and its impact, the ability of reflectivity of surfaces into that space, these will affect trees, these will affect the vegetation, these will affect the wildlife—

The Hon. SHAYNE MALLARD: Mr Salouros, I better hand over to my colleague, the Hon. Ben Franklin. I could talk about the botanic gardens all day, but my colleague will get a quick question in with one minute to go.

The CHAIR: This will be a very quick one, Mr Franklin. Thank you, Mr Mallard.

The Hon. BEN FRANKLIN: I will put my question on notice, Mr Chair. No problem at all.

The CHAIR: Thank you for your assistance, Mr Franklin. I take this opportunity to thank Ms Barletta, Mr Duddy and Mr Salouros for attending this hearing and for their participation. We appreciate your input. I recognise that Ms Barletta has agreed to take a question on notice. The Committee has resolved that answers to questions taken on notice be returned within 21 days. The secretariat will contact you in relation to the questions you have taken on notice. Members of the Committee will take a quick break to assist with the changeover of witnesses. I invite Committee members to ensure they are on mute and switch off their video. I will keep my video on to facilitate the sound check of the next witnesses. The hearing will resume at 3.00 p.m.

(The witnesses withdrew.)

STEPHEN BATEY, Architect, EJE Architecture, sworn and examined

HECTOR ABRAHAMS, Former Chair, Heritage Committee, Australian Institute of Architects, NSW Chapter, sworn and examined

POLLY SEIDLER, Private Individual, sworn and examined¹

The CHAIR: Welcome to the review of the Heritage Act 1977. The Committee is resuming proceedings. I welcome our next witnesses.

Mr BATEY: I am Stephen John Batey. I am an architect at EJE Architecture.

Mr ABRAHAMS: I am Hector Charles Abrahams, registered architect. I represent the Australian Institute of Architects, NSW Chapter.

Ms SEIDLER: I am the in-house lawyer, Harry Seidler liaison, fact checker and architectural historian.

The CHAIR: Would each of you like to start by providing the Committee with a very short statement because I am mindful of time. I invite Mr Batey if he would like to start us off. Could I ask you to move a little closer to the microphone and provide that statement.

Mr BATEY: I have been working predominantly in heritage projects for the last 5½ years. The active use of heritage items is critical. If an item is not in use it is not able to actively demonstrate its significance. We enjoy working with the significance of a place along with the capabilities of its owners to arrive at solutions which keep places and items useful in contributing to their communities. We agree with the purposes of the Heritage Act 1977 but often encounter difficulties with mechanisms involved in conservation applications. These difficulties can stall projects and items can lose their active use. So we welcome this opportunity to contribute to this review of the Heritage Act and hope that it will make the pursuit of conserving our heritage easier into the future, thus maintaining its active use and contribution to communities. Thank you.

The CHAIR: Thank you very much, Mr Batey. Mr Abrahams, would you like to provide a short statement?

Mr ABRAHAMS: The Australian Institute of Architects, New South Wales chapter, is very pleased to present its detailed submission. Next to those of the Department of Planning, Australia ICOMOS and Sheridan Burke, ours is among the broadest of those you have received because architects are deeply involved at the practical level. I commend it to you. I have read more than 60 per cent of the submissions, and all the main ones. Lots of evidence has been given to you about the issues raised respectively in our discussion paper and there is a very low level of gripe.

How might you respond as legislators? Along with the National Parks and Wildlife Act 1974, the Heritage Act 1977 is the oldest legislation in the modern era about the environment. It predates the Environmental Planning and Assessment Act 1979 and the State Environmental Planning Policies. God willing, we will soon have an Aboriginal heritage Act as well. These later Acts define their relation to the Heritage Act, but the Heritage Act does not relate to members or define its relationship to them.

Many of the operational issues in the submissions before the Committee arise from lack of definition between the Act and its later, influential heritage cousins. The heritage office did not exist when the Act was written. As legislators, you could seriously improve our management of our environment and heritage by working on these relationships and the institute would be very pleased to collaborate with you on that. Architects live with the reality of environmental legislation all our lives for our clients and the public good. We wish you well in your endeavours.

The CHAIR: Ms Seidler, did you wish to make a short statement?

Ms SEIDLER: Yes. I am Polly Seidler. I am the daughter of the late modern architect Harry Seidler—award-winning buildings over a 60-year period after 1950, some local and State heritage listed. I speak as both a property owner of heritage buildings and someone concerned about modern architecture heritage. Sometimes that is seen to be a conflict, but I have experience of both ends of the spectrum. As a building owner, there is currently a procedural burden which non-heritage owners do not have for repairs and upgrades. Unlike in Victoria, where you can get a heritage approval and then a complying development consent [CDC], in New South Wales if it is

¹ In [correspondence](#) to the committee received 17 September 2021, Ms Polly Seidler provided clarification of her evidence.

locally listed it has to be a full DA, even if the heritage officer approves the works you are doing. I would like to say that also the current assumptions behind heritage are that buildings with their original use—

The CHAIR: Please continue, Ms Seidler.

Ms SEIDLER: Buildings with their original use which have good design—the purpose of why they are going to be heritage listed—seem to be penalised, particularly if they are a commercial office building. They are treated as if they are an artefact and stumbling blocks to get new tenants having to do full DAs and the like. I do think there are current issues of non-architects making heritage decisions about architecture. The focus on materials—like for like—is not the solution for a lot of modern architecture heritage, particularly my father's work. There is a lot of factual inaccuracy and sloppiness in heritage listings. I have had to swear the truth before you today yet these heritage listings burden property owners, they are often sloppily written and there is no accountability for the sloppiness that is written. There is no excuse. The sources are on the public record but people like doing a last-minute assignment.

One thing that I think the Heritage Act does need to take into consideration is that a lot of heritage buildings are also under copyright now where architects died 1955 or later. This also gives rise to issues of architectural integrity and architectural attribution under the Federal legislation—moral rights of artistic integrity. Unfortunately, the heritage world in New South Wales operates as if these Federal laws do not apply to decisions that they are authorising. As to financial incentives, issues to do with land tax, waiving stamp duty on insurance, local council rates—there are various New South Wales revenue aspects that could help to subsidise heritage. I also want to plead for proper resourcing of the New South Wales heritage office staff. I believe that they do not have enough staff, causing delays in listings, buildings being ruined or demolished in the interim and inappropriate works being authorised that ruin the heritage significance. Thank you.

The Hon. PETER PRIMROSE: Mr Abrahams, I am looking at page 10 of your submission and your answer to question 18: "How could we improve heritage tourism or help activate heritage places for tourism?" The last paragraph of your answer states:

It should be noted that tourism trends are often very short lived. Great care should be exercised in assessing the 'fit' to the heritage place.

Could you elucidate on that and also talk about how you would ensure that the "fit" was actually exercised?

Mr ABRAHAMAS: Thank you for your question. Tourism and heritage do go very well together. The Opera House would be the key example of that. It is the most visited place in Australia and is on the World Heritage listing. It would not be on the World Heritage listing if it did not have protection first under the New South Wales Heritage Act. One of the roles of the Heritage Act is actually to support tourism by acknowledgement and recognition. I think that is a good example for you. Examples where it is not is really where it is not thought about carefully enough. You get examples where a town might be tinselled up for tourism at the expense of its heritage. There is a lot of pressure on some heritage towns, such as Morpeth in the Hunter Valley or Tilba Tilba, where the pressure for tourism is not the friend of heritage. In those examples the heritage office and the Heritage Act play a role in tempering that relationship between tourism and the basic value of the place.

The Hon. PETER PRIMROSE: Nothing specific in relation to great care, or just that people should be alert to it?

Mr ABRAHAMAS: The Heritage Act does control what happens in places and the heritage office does have control mechanisms. In places like Morpeth and The Rocks, for instance, they are trying their best to exercise that control in the right level of balance. I think wisdom is needed in the heritage control part of the Act. I think it is very important how appointments are made, not only in the Heritage Council of NSW but in the heritage office, so that there is great wisdom. I think some of the gripes arise from the processes of the Heritage Act not being wisely played out.

The Hon. PETER PRIMROSE: Mr Chair, may I simply ask if either of the other two witnesses have any comments that they may wish to make on that point?

Ms SEIDLER: With tourism, people forget not only the building fabric but likewise the side, shall I say, "services" for tourism. For a heritage owner, where do the tourists park? Where are the toilets? Where do they get a cup of coffee? That side aspect can also denigrate the original heritage item and also has to be managed, but it is also a capital expenditure that then has to be recouped with the tourist dollars. The pressure then is on owners. For instance, the Rose Seidler House—they are wanting to shut it down. Just for the record, Rose Seidler House is part of the properties of the Historic Houses Trust, a State government entity now branded as Sydney Living Museums. The pressure is that they want to close it for half a year and have it for dining venues with replica furniture. Now, apart from the intellectual property issues there are cultural integrity issues with this pressure to lease it out for commercial operators to have a pseudo tourism event.

Mr BATEY: A short answer from me. We alluded to this a little in our report as well. We only noted that it fits the business case of what you might use something for to bring the tourists in. We cannot condone so many coffee shops all lined up together. There has to be a business case in there to support the use of the item. That has to be prolonged so that it does not lose that use in a couple of years' time and then we have to go back to the start to refurbish it again.

The Hon. MARK BUTTIGIEG: I wonder if witnesses have a view on the composition of the Heritage Council and the people on that body. We have heard varying degrees of evidence about the appropriateness of expertise and also the perception of independence from government. I just wondered if witnesses had views on that.

Ms SEIDLER: While I have not looked at the current members of the committee, I am concerned about the lack of people with architectural understanding at all. I guess for the State Heritage Register Committee, I do not understand why someone who has worked at Ausgrid, is in healthcare administration or is a planning lawyer is making the decisions of what is to be our cultural architectural heritage. No other country in the world would have people making—you would want trained curators deciding what goes into a museum, not just members or someone who has worked as a public—I do not mean any disrespect to any of you, but bureaucrats should not be making decisions on what buildings should be heritage listed.

Mr ABRAHAMS: In our submission we focus, again, on the number of technical disciplines that could be required and that they should be in the majority—although I think we all have to recognise that the Heritage Act does have representation on its Heritage Council from stakeholders, and the National Trust play an extremely important role in that. There used to be more; they are the only one left. I think stakeholders of the community are not a bad idea. I think the heritage office should also have a formal role on the Heritage Council. At the moment that is one of these relationships that I referred to that is just not defined. There are delegations but they are fairly insignificant, and they are not defined in the Act expect for the power to delegate. There is the director of the heritage office, who is sitting at the back of the room in Heritage Council meetings and might occasionally have been asked her or his opinion. That is just not enough of a relationship to have a robust system.

Lastly, I would like to say that since the Act was written in 1977 a whole lot of disciplines have become professionalised and have arisen and become mature. You could actually name a whole lot more disciplines. The one that we would principally think would make a lot of sense is people with expertise in conservation plan writing, which is the fundamental discipline of heritage. That is not on the shopping list at the moment.

The Hon. MARK BUTTIGIEG: What about your views on the relative weight or burden of the problem here? Is it the way that the Act is worded? Are there deficiencies in the Act that are causing major problems or is it largely a function of the administrative machinery and the way that the Act is implemented that is the issue?

Ms SEIDLER: I do note that in the preamble to the Heritage Act it refers to "conserve" and "adaptive reuse". Those mechanisms, then, are prejudicial against a building still being used in its original use. I think the Heritage Act was written in an era where buildings with their original use were not concerned about heritage protection. Yet you are going to have buildings now—be they buildings like churches or commercial office buildings—getting heritage listing but the owners just want to do what a normal building owner wants to do and do their necessary repairs and upgrades.

Whether it is tweaking the legislation to reframe people to see that heritage is not about turning something into a mini museum and treating it like a mini museum—Australia Square tower is locally heritage listed. It has been a successful office building since 1967 but it should not be trampled upon. I might also note that in 2011 the owners of Australia Square were willing to have it locally, State and federally listed. They got one of the major law firms to provide a unified approval mechanism but the State, local and Federal bureaucrats did not want to work with each other. That is exactly the sort of thing that a building owner does not want to be lumbered with: three tiers of approval just to do what normal upgrades buildings need. It should be a single mechanism.

I am only speaking about architectural heritage, but I think heritage systems do assume against the normal commercial use of buildings, leases—I can say as someone who manages a heritage asset and a lease that to try to instruct your commercial lease lawyers to put all the relevant provisions in there to protect the heritage aspect, particularly tenants who are going to make good their—at the end of the lease the tenant puts in their fit-out and makes good—just to safeguard that that all be done correctly. There is just a lot of different things to keep in one's head at the same time, and not all owners are willing to engage with that process.

Mr ABRAHAMS: The question is about where the effort is to be laid: in the legislation or in its implementation. Clearly we would say that the answer is both. As Ms Seidler has just described, there are truly legislative misfits with other legislation, such as the exempt and complying and the relationship between Federal

legislation and State legislation. Those things are legislative problems. I think it has to be recognised that it is a very unusual Act because it relates to planning and environmental legislation, yet at the core of the heritage legislation are cultural and social concerns, which is why I presume it is in front of this particular parliamentary Committee. That is not going to go away. That is not going to change.

That is part of the magic of the Act, but it does mean that the Act has to be really diligently led. It has had periods of great flourishing and it has had periods of decline. I think we have just come through a decline. I would evidence that by saying the Heritage Council, although one of its key obligations is to educate, has not made a publication for 11 years and they have only recently started their social media. In the 11 years before that they made over 100 publications, one of which is absolutely critical to every architect submitting a development application—that is, the standard template for the heritage impact assessment, "How to Assess Impact". That document is more than 20 years old and is just completely out of date. That is a problem of diligence.

Lastly, I would like to say that it is partly a practical problem but it is also partly a perception problem: how heritage is seen. In the seventies it was seen as quite a static thing. I think what Ms Seidler was saying is a really good example, which is how heritage needs to be seen as something that is dynamic and that is related to people. It is the relationships between the building, its use and its artistic bases and so on that is a dynamic, and including attitude can only do a good thing for heritage. It is not a very straightforward answer but I really like your question.

The CHAIR: I will now invite Reverend the Hon. Fred Nile and Mr David Shoebridge to ask questions.

Reverend the Hon. FRED NILE: [Inaudible]

The CHAIR: Reverend Nile, if you could repeat the question? You are on mute.

Reverend the Hon. FRED NILE: [Inaudible]

The Hon. TAYLOR MARTIN: Fred, you are still on mute.

The CHAIR: You are still on mute. I will just go to Mr Shoebridge.

Mr DAVID SHOEBRIDGE: I am still here.

The CHAIR: I think Reverend Nile is about to come off mute.

Reverend the Hon. FRED NILE: [Inaudible]

Mr DAVID SHOEBRIDGE: I could kick it off with a question and then we will go to Fred.

The CHAIR: If you could, Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Mr Abrahams, I see that you do not support the proposal for the fragmentation and additional categorisations proposed in the discussion paper. Do you want to explain why?

Mr ABRAHAM: Many of the respondents to this have got the same answer and some of them are going to be able to explain the reasons better than me, but it does not make sense procedurally. If something is important it should be listed, independent of what category it is in. Secondly, the four categories are not the same, and to treat them differently does not add any value. I have not got them in front of me, but I think the fourth category is locally significant items. Well, they are not listed anyway under the Heritage Act so that is a non-category to start with. There is a danger, in the first one, of the idea of something being listed because it is in an iconic category. For a start, there are not many things that would be in an iconic category, and "iconicness" is not a particularly useful heritage listing principle. I guess some of the problems are intellectual and some of them are just practical.

Mr DAVID SHOEBRIDGE: One of the rationales is that there would be a lower form of protection, for example, for residential properties. Your institute is contained in a residential property, and residential properties can have such distinct differences in their importance. Treating all residential properties as though they are uniform and of a lesser need for protection does not seem to be particularly well founded in heritage assessment. After you, Mr Abrahams, I might ask Ms Seidler what her views on that are.

Ms SEIDLER: Can I speak? My mother lives in a heritage-listed residence—State listed. I have experienced how when Harry Seidler houses are being sold that realtors do not want to mention if the house is heritage listed. This is seen as a restriction and a burden. I should have said before that procedurally I just think there is a way to address that, particularly if it is on a local listing, if it would have been otherwise complying development consent. If you can get, somehow, the heritage tick-off without having to do a full DA with what would otherwise be complying development consent then that would help things. Then you are not constraining owners with a procedural burden if a heritage approval can be given for what would otherwise be complying

development consent. My mother's roof needs replacing after 54 years. It is taking a very long time. I believe it is under process now. While I would like Seidler things to be heritage listed—the good ones—I do understand owners' concern about that.

Mr DAVID SHOEBRIDGE: I suppose what I am really interested in is focusing on the heritage protections under the Heritage Act, which is what this inquiry is about. Quite often we get discussions—and I understand it—about the problems with heritage protections through planning instruments at a local level. But if we are talking about a residential property that should have State heritage protection under the Heritage Act, do you think there is a rationale, Ms Seidler, for giving it different and lesser protections than other State heritage items simply because the nature of the property is a residential property?

Ms SEIDLER: No, I cannot see it just for residences. What about commercial building owners? You might see behind me that I have Australia Square there. I have the Seidler office building there. These buildings were built with the intent of commercial leases. Most building owners want that flexibility to do, as I say, the repairs and necessary upgrades. I am not sure why a residence gets a separate status.

Mr DAVID SHOEBRIDGE: I might ask Mr Abrahams and Mr Batey if they have any views on this. Do not limit it to just the residential categories, the concept of categorisation.

Mr ABRAHAM: I am hearing from what Ms Seidler said very clearly that you soon get into category issues if you try to make one class of building enjoy a different level or type of protection than another. Suddenly it moves you away from significance. It is listed because it is significant or important somehow. As soon as you list it for another reason that puts it into some category, or you change the way you deal with it because of a category, then you have just undermined the basic criteria. Administratively, it would be terrible. What if a house was listed but then the house was in a listing category and some department over there was dealing with houses, and then the house changed from being a house to a boarding house, a museum, a guesthouse or some other use? Then they would have to change categories on you—and that does happen quite a lot. It was said by the chair of the Heritage Council that this might be a precursor to having a system where houses were only ever considered for what was on the outside and their interiors were never to be listed, but clearly that is not the case. There are many houses whose interiors are more than worthy of listing. For many reasons it has no support in any of the submissions that have been given to you.

Mr DAVID SHOEBRIDGE: Indeed, Mr Abrahams, the property that your organisation occupies has changed its use from a residence to the centre of your organisation. It is like a case in point for how categorisation does not really even follow adaptive reuse.

Mr ABRAHAM: Yes. We have an opportunity to keep it simple. You list things on the basis of significance. That is simple and straightforward enough.

Mr BATEY: We did not comment on categorisation in our submission. We commented more on the analysis of significance. What might be more valuable than the categories is the analysis of significance, which tells you what is significant about this item. Mr Abrahams mentioned the interiors of some residences—a residence by Mr Seidler. There were three houses that sold in the last 18 months by Bruce Rickard, another architect who designed right down to the last detail. The interiors there would be just as significant. I think if the listing of an item is robust enough that it picks up all of the significance of it that would be more useful.

Mr DAVID SHOEBRIDGE: I ask the three of you—and we might go again in that order, starting with Ms Seidler: The Government's discussion paper talks about three key policy themes that are guiding all of these changes, which are "Making heritage easy", "Putting heritage to work" and "Making heritage relevant". But a series of submissions, not least from the National Trust, point out that that does not include conserving and protecting heritage. Do you think the Government's three guiding themes are adequate, or do you think we should be starting with conserving and protecting heritage?

Ms SEIDLER: Easy, relevant—I am sorry, what was the last?

Mr DAVID SHOEBRIDGE: Easy, working and relevant.

Ms SEIDLER: As a property owner, I do like the sound of all of that—but not at the expense of undermining the heritage significance. One thing related to this is I do see there is a—I am a little bit of an outside player to, shall I call it, the heritage industry. I am not talking about architects. My concern is that there are a lot of people who have no interest in making things easy because they are doing themselves out of a job. I know that might be controversial. That is when the Government is tempted to then sort of put its brakes on heritage to declare something State-significant development or the like. As a building owner, you do want it to be working. As a commercial building owner, I do not want to have to tell my tenants they have to get a DA when everyone else gets to do a complying development consent. It is a commercial building. It was designed for tenants to come and

go. This is just an unfair restriction and burden because I have a well-designed building that is worthy of heritage listing. It is penalising me, in a way.

Mr DAVID SHOEBRIDGE: So I understand it, Ms Seidler: They are not bad things to have—you support them if you can—but they cannot undermine the core objects of the Act?

Ms SEIDLER: Yes.

Reverend the Hon. FRED NILE: I have got one or two questions for Polly Seidler based on her submission No. 86, where she raises some interesting questions that I have not seen mentioned in any other submissions. In her submission she states:

... even though NSW heritage officers are wilfully blind and ignore this federal legislation when considering demolishing or altering an architect's work.

I do not think we have had many discussions about State versus Federal legislation; I think it is one of the first that I have seen. Would you like to comment on why the Federal legislation does not seem to have any consideration—and what is the Federal legislation?

Ms SEIDLER: Basically since 21 December—

Reverend the Hon. FRED NILE: That is a question for Ms Seidler.

Ms SEIDLER: For me, yes? Since 21 December 2000 artists—whether artists, sculptors or architects—have things called moral rights of artistic integrity and attribution. It is a Federal piece of legislation enacting an international covenant that most other Western countries in the world have; it is not a quirk. But unfortunately our heritage systems—everyone thinks, "Oh, it's real property" and everyone just thinks of planning law. They are just not used to considering that there is a Federal piece of legislation relevant to whether you should be approving the change. I have given an example of where someone has demolished a locally heritage listed building, then erected something else on it and put the name "Harry Seidler"—that is false attribution. There is nothing to do with Harry Seidler on the site.

The processes of the heritage office are not used to, I guess, dealing with heritage where the original creator or their estate still has relevant reputation that lasts—again, I am only talking architects who died 1955 or later. That will move to 1956 in 2027 because it is life plus 70—the life of copyright. These rights were watered down quite a bit to protect the property industry, but my point is that people are not giving any moral rights notice—not engaging in good faith—when they are authorising changes to a building. I can tell you that someone who goes around changing a Harry Seidler building—it loses its distinctiveness of being Harry Seidler. The solution, I think, is a provision just asking the question: Did the architect die before the end of 1954? Is the work still in copyright? Then, at least, people can consider the issue.

I am not talking about—where the architect died 1954 or earlier this Federal legislation is irrelevant. Whether the Act just needs to refer to it—otherwise, heads up: One day some well-intentioned heritage officer or developer is going to get issued with a writ from the Federal Court for authorising infringement under Federal law, even though it is fully compliant with New South Wales law. Their own Department of Planning just say, "Oh, if it's not heritage listed go and demolish it," but ignores the separate question, "Did the architect die before the end of 1954 or not?" In that case, you have to go and give notice under the Federal moral rights legislation, which I note the New South Wales Government did before it demolished all the buildings on Martin Place. Someone at Macquarie Street has been well advised for its own work, but the heritage systems and officers—I am talking as if I am from the moon when I even mention the issue of moral rights under Federal law.

I have come from a copyright law background and it just staggers me that here are government officers operating as if this Federal law—okay, it started December 2000 but it has been 20 years and they all operate as if they can ignore it. It is very difficult. And then the hypocrisy when they do go and alter a Harry Seidler building—they love using the name Harry Seidler yet it is something possibly that we disown ourselves from. You would never do that to an Aboriginal person or an Indigenous person—labelling something without consulting with them—so why are we doing it for modern creators worthy of heritage protection? I think the Act could be amended by just saying "for works which are still in copyright and where there are moral rights this has to be"—I do not know. Bureaucrats like checklists. Just put a little checklist button somehow in the legislation. Maybe that will help address the issue.

Reverend the Hon. FRED NILE: Thank you for those answers. You have clarified my concerns.

The Hon. BEN FRANKLIN: I have a couple of questions before I throw to my colleagues. Mr Abrahams, could you give us some sense of some of the challenges that architects currently face when they are sensitively reusing State heritage items? Are there opportunities to alleviate some of those challenges through the current system that are not being utilised and taken up in the way that they could be?

Mr ABRAHAMS: [Inaudible]

The Hon. BEN FRANKLIN: You are just on mute, Mr Abrahams.

Mr ABRAHAMS: Thinking time.

The Hon. BEN FRANKLIN: I understand! Sorry.

Mr ABRAHAMS: There is a category of work where it is State-significant development and the Heritage Act is switched off. In that respect, there is an uncomplicated relationship. A lot of the major asset recycling programs like the Lands Department are in that category. The Australian Museum, the Art Gallery—not that it is listed, but they are in that category. For projects that are in the education sphere that is also not a problem because the new State Environmental Planning Policy for education also switches off the Heritage Act—again, not that many schools are listed. For projects that are domestic, there are very few houses, relatively speaking, on the heritage list. They are numbered in their hundreds, not their thousands. Yes, it can get very complicated when you are trying to adaptively reuse a house, but that is an unusual scenario anyway. There are real difficulties where the place is a landscape or the place is a precinct because that is going to be sophisticated territory anyway. You have got to be ready for it to be complicated.

I think they are the types of projects I mostly have experience of as a member of the institute, but if I think of another one I might want to have an auxiliary chance to answer your question. But perhaps to wrap an answer in with what Mr Shoebridge asked about easiness, I think easiness is a desire we all have. In the environment things are never completely easy, although we would like them to be. Sometimes we make decisions in the name of easiness and it makes it harder. In our submission we talk about the problems with exemptions created last year that, again, make some things easier but make some things harder at the same time. There is really no substitute for wisdom on this one. Things just have to be wisely dealt with. Please remember, everyone, that we are not talking about more than 3,000 heritage items. This is not a big category of parcels of land but it is a very big category of what people care about. It is curious that heritage does tend to be, therefore—because it has got a powerful Act it tends to be the battleground for all kinds of things. That is just an aside.

The Hon. BEN FRANKLIN: From that, I think that there is obviously an overwhelming support for activation and adaptive reuse of State heritage items. I note in your submission you say that a number of incentives already exist in the Act but knowledge of them is poor. I was wondering if you could speak more to those incentives which could be better promoted and taken up, or alternatively what kinds of incentives and programs could be introduced to support the activation and adaptive reuse of these items?

Mr ABRAHAMS: The classic incentive of the last 40 years has been the grants program. It has been run surprisingly consistently for 40 years. The amount of money handed out varies, but as a program it has been very consistent under all governments. I think that has to be acknowledged. There are some incentives in the Act to do with relief—land relief, land tax relief. There are some attempts to get a relationship with the Federal cultural deposits legislation so that money spent acquiring or working on a building could be a cultural deposit, the same as me giving a painting of Captain Cook to the Art Gallery. I think that is an impressive thing that could be explored. There is a very, very significant incentive not in the Heritage Act but in the Environmental Planning and Assessment Act, section 5.10, which is almost never used but is a startlingly fertile source of support for heritage—the incentive clause under that Act. That unfortunately has no relationship to the Heritage Act and it is unclear as to whether listing on the State heritage list is a switch on or a switch off of the section 5.10 clause in the Environmental Planning and Assessment Act. Sorry for all the long titles.

The Hon. BEN FRANKLIN: No, that is excellent.

Mr ABRAHAMS: There are other incentive programs in Victoria that are talked about a lot, and many of the submissions refer to the Victorian model.

The Hon. BEN FRANKLIN: Yes, indeed.

Mr ABRAHAMS: I think the other really good incentive that has run well over many years is the heritage adviser system—free advice. Again, that is actually not something set up by the Heritage Act; it was set up by the heritage office about 25 years ago. That free advice has led to a lot of architects and their clients being able to access heritage advice and heritage consent advice. That is very significant. Those are my answers to that.

The Hon. BEN FRANKLIN: Thanks, Mr Abrahams. I appreciate that. That is excellent information.

The CHAIR: Mr Mallard, did you wish to raise a question? Then I will go to Mr Martin.

The Hon. SHAYNE MALLARD: [Inaudible]

The Hon. TAYLOR MARTIN: He cannot come off mute.

The CHAIR: Mr Mallard, are you coming off mute? If not, I will go to Mr Martin.

The Hon. SHAYNE MALLARD: Go to Mr Martin. Mr Martin is fine.

The Hon. TAYLOR MARTIN: I have got a question for EJE Architecture, specifically in relation to the adaptive reuse that I believe that firm has worked on in relation to the Newcastle council admin centre complex, which is still working its way through the State heritage listing process. Did you get any advice on the potential impact of State listing on that project and the benefits of adaptively reusing the building compared to if they were to use a different site for that process? You may or may not be aware that for some in the community it is now being used as a five-star hotel.

Mr BATEY: That is right. It is a long and involved story. Do you mind if I take it on notice so we can actually check—

The Hon. TAYLOR MARTIN: Sure.

Mr BATEY: —the sequential order?

The Hon. TAYLOR MARTIN: Sure. That is a good idea. Fair enough. Thank you.

Mr BATEY: Terrific. Thank you so much.

The Hon. SHAYNE MALLARD: I will bring it all home, then. Thank you for your submissions and sharing your expertise this afternoon on this inquiry. It is good to see you there as well, Polly. My questions are directed to Polly Seidler. In your submission you focused on an area that I am very keen about and concerned about, which is the protection of modern architecture. We have had a big debate in Sydney in recent months, fuelled by our Treasurer, about the worth of keeping brutalist buildings. I am a big fan of brutalism. We nearly lost the Sirius—it did not get listed. What is your view on that and what measures should be taken to identify and protect modernist buildings in our city? That includes your father's buildings, of course, clearly.

Ms SEIDLER: Yes. Brutalist basically means "off-form concrete". Unfortunately, what I think is happening is that heritage is so focused on materials that even a whole classification of buildings get characterised by their material. I do not know if you can see, but behind me I do actually have a picture of our office building—there is some off-form concrete—and the home here in Killara. I actually say that even though it is off-form concrete—my father distanced himself from this term "brutalist" because it is from the UK, and I think it is better that you look at the buildings not just as symptomatic of the material but whether it is a design worth protecting.

I do know the heritage office looked at heritage listing some of my father's buildings. They did a report, I think in 2016, and the Australian Institute of Architects spent a lot of time doing the draft listings back in 2018. Well, it is almost three years later and the heritage office—nothing happened. For any building to be listed, someone has to do the hard research work, write the listing and then it obviously has to get through the approval process. I have heard on the grapevine that someone has commissioned a report on what are distinctive modern buildings going before the heritage office. But I perceive the issue is there is a lack of resources to read and process and consider listing those buildings.

My concern is there are not many people who have any background or studies in architecture history at the heritage office—I am happy to be proved wrong. I think a lot of people go into heritage because they have maybe studied archaeology in an undergraduate degree or they have done a general history degree, whereas for architecture you need people to know about design history and architecture history. You have got people then who cannot read drawings, they cannot solve the problems and they are not discerning what makes that building unique.

The Hon. SHAYNE MALLARD: But your theory from your submission is that there is a gap or challenge or threat to modernist buildings at the moment because they are not being recognised for appropriate—

Ms SEIDLER: Because if they are not heritage listed you can pull them down. Okay, yes, moral rights laws aside—people generally do not uphold that—if you are not going to list these modern buildings what will happen is that the owner will either demolish it or go and do such changes, which are complying development consent, and you go and ruin the building. You will put a different facade on it, you will in-fill what is maybe a spatial cantilever, you will change the spatial arrangement and you have ruined it.

The Hon. SHAYNE MALLARD: But the classic is the American Express tower on George Street, which—

Ms SEIDLER: That is right, yes.

Mr DAVID SHOEBRIDGE: Or the Bidura Children's Court.

The Hon. SHAYNE MALLARD: Indeed. Have I got time to finish up with one quick question, again to Polly Seidler?

The CHAIR: Just a very quick one, Mr Mallard.

The Hon. SHAYNE MALLARD: It is in the submission, and you talked about it a minute ago: the interesting idea of complying development activities that you can do with a heritage building that has been ticked off by the Heritage Council—like your mother's roof—rather than having to go through the whole process. Do you want to just elaborate on that a bit more?

Ms SEIDLER: My mother has a roof that needs to be repaired. If it were not for heritage listing she would just get on and repair it. She co-designed it. She is the award-winning architect. I want to have an exception that if the building is heritage listed and it is the architect making the submission that that in itself be the imprimatur that it is okay to proceed. I cannot see anything being achieved by bureaucrats approving the roof there. With the complying development consent, again, for a commercially listed office building, if I get the heritage tick-off from the local council do not make me do a full DA. I do not think anything is achieved with that. But anything locally listed basically takes it out of that certifier jurisdiction. I am all for basically getting the heritage aspect approved, but do not make me then have to do a full DA. It is longer and it is more time-consuming. Enable the heritage tick-off with a CDC, like in Victoria.

The Hon. SHAYNE MALLARD: This goes to our proposal to reduce the complication around managing heritage buildings. Thank you very much, and thanks for your submission.

The CHAIR: Thank you very much, Ms Seidler and Mr Mallard. I thank Mr Stephen Batey, Mr Hector Abrahams and Ms Polly Seidler for attending this hearing and for their input and free-flowing participation. I note that Mr Batey has agreed to take a question on notice. The Committee has resolved that answers to questions taken on notice be returned within 21 days. The secretariat will contact you in relation to the questions you have taken on notice. Finally, I extend my appreciation to the Committee members for their assistance and support during today's hearing. In addition, I sincerely thank the secretariat and the IT service desk for their professionalism in helping to facilitate this virtual hearing. Our fourth hearing is scheduled for next Tuesday 24 August. In the interim, I wish everyone a pleasant afternoon. Keep safe. This concludes today's hearing.

(The witnesses withdrew.)

The Committee adjourned at 15:56.