

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

REVIEW OF THE HERITAGE ACT 1977

CORRECTED

Virtual hearing via videoconference on Tuesday 24 August 2021

The Committee met at 9:30.

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 fourth 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 local council representatives and community groups. 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 they may make to the media or to others after they complete their 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 answer only 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 I ask that everyone please state their name when they begin speaking. Everyone should 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 avoid making comments when their head is turned away.

LINDA SCOTT, President, Local Government NSW, affirmed and examined

BEN PECHEY, Executive Manager, Strategic Planning and Urban Design, City of Sydney, affirmed and examined

LISA NEWELL, Principal Strategic Planner, Hornsby Shire Council, affirmed and examined

TERRY TREDREA, Strategic Planner, Lane Cove Council, sworn and examined

The CHAIR: I now welcome our first witnesses. At this stage, would you like to take this opportunity to commence by making a short statement? Councillor Scott, would you like to start?

Ms SCOTT: Thank you, Chair, I would. I start by acknowledging that I am in Sydney today, so acknowledging the Gadigal people of the Eora nation, whose land I am on. I thank also the Committee for the opportunity to represent the local government sector at today's hearing. I am appearing in my capacity as the President of Local Government NSW. Effective heritage management is of course at the heart of the work that local governments do across New South Wales. Collectively, local governments are the custodians of over 40,000 items listed on local environment plans across the State and it is the largest collective owner of much of our beloved heritage assets here in New South Wales. We acknowledge that this inquiry primarily focuses on the legislation affecting the management of State-listed heritage items. With that said, however, local government has a close role in the assessment of development applications, protection of Aboriginal cultural heritage and, importantly, also as a development proponent.

Disappointingly, the discussion paper released by Heritage NSW does not list the protection of heritage as a guidance policy theme for the review of the Heritage Act. The primary focus of any heritage legislation must be the protection of heritage, and this most fundamental goal should be front and centre in any reforms recommended following this review. Heritage reflects and shapes the values and aspirations of a community and celebrates our rich history. Local government knows this acutely, and it so often falls to already overstretched councils to bear the increasing cost and responsibility for maintaining our State's heritage where the State Government fails or refuses to do so. It is critical that the effects of these costs and operational burdens on councils are also addressed as part of the reform. To manage the over 40,000 locally listed items across the State, councils receive between \$5,000 and \$20,000 per council per year by the State Government to subsidise operating budgets in managing these significant inventories.

This funding is, of course, a drop in the ocean compared to the quickly escalating costs to councils that are required to protect this local heritage. It is critically important that the heritage sector at both the local and State government level is appropriately funded and resourced to deal with the increased volume and complexity of heritage assessments across the State. At our 2019 local government conference, councils resolved to advocate for minimum standards of maintenance and repair for locally listed heritage items within the Heritage Act. This is a critical reform that is desperately needed to prevent the widespread loss of heritage as a result of demolition, particularly demolition by neglect. However, as part of the ongoing planning reforms, the Department of Planning, Industry and Environment has taken steps to prohibit councils and remove the option of charging compliance levies, and the consequence is that this will limit the capacity of local governments to undertake this compliance work, including the protection of heritage.

We call on Minister Stokes and the State Government to commit to adequately resourcing councils for this compliance work to protect heritage. Fundamentally, local governments are deeply concerned about how often existing heritage protections are also turned off where a development is deemed to be, for example, State significant. Time and time again, as the New South Wales planning system exponentially increases the number of applications assessed as State-significant developments, the capacity for councils and communities to protect our heritage is dramatically diminished. Councils continue to express significant concern about any potential reforms that may limit local government's capacity to provide comment or concurrence to development applications for State heritage items or any moves towards sanctioning further ministerial discretion in determining heritage controls.

Additionally, local government strongly wants to see progress on the long-awaited reforms to Aboriginal cultural heritage management. This must be progressed urgently to bring greater certainty, better engagement and shared decision-making with Aboriginal peoples about the protection and celebration of our cultural heritage. Again, at the local government conference in 2017 councils resolved to advocate for greater tax-based incentives to support local governments to promote ownership of the cultural assets that we protect. This suggested reform would make an enormous impact in the protection of our local heritage. I welcome the focus of this Committee, recognising the fundamental importance of both built and cultural heritage to local communities, and look forward to answering your questions. Thank you.

The CHAIR: Thank you, Councillor Scott. Mr Pechey, would you like to also make a brief statement to the Committee?

Mr PECHEY: Yes, thank you. The City of Sydney welcomes the opportunity to speak to the Committee today about the review of this very important piece of legislation. The city has many layers of history and culture embedded in its places, which tells the story of the city and its people and contributes to its livability, environment and the economy. The City of Sydney has over 400 items on the State Heritage Register with places of local, State, national and world heritage significance. We also have about 2,200 local heritage items, plus many of the city's distinctive suburbs and high streets are recognised in local conservation areas. The City strongly supports the Act, its objectives and the role of the Heritage Council. The objectives should be generally maintained with that for adaptive reuse strengthened such that it facilitates this critical aspect of conservation. We see an ongoing need for specific heritage expertise on the council. In particular, we recommend the reinstatement of the New South Wales Government Architect to the council and that changes to acknowledge Aboriginal cultural heritage in the Act must be driven and managed by Aboriginal people.

The City recommends avoiding the categorisation of heritage listings due to the perceived devaluing of significance. Rather, we see there could be different pathways for the management of significance, but these should be directly related to the significance of a place and its contributory elements. Streamlined approaches should also be investigated, but efficiencies can be found in current structures. We often see an overlap or a disconnection between planning and heritage exemptions, and the ability for applicants to seek heritage approval prior to planning consent can create inefficiencies and complexities. The City supports incentives for conservation and the City is available to work with the Government should it pursue schemes similar to the City of Sydney's heritage floor space scheme elsewhere in the State. The City's scheme helps fund the conservation of heritage buildings through a market mechanism that requires developers to purchase floor space from heritage item owners. It is specific to central Sydney and can only be managed through local environmental plans as it involves local planning settings. There would need to be a degree of adaption should it be used in other places in the State.

Integration of heritage and planning is critical to effective conservation and adaptive reuse. The Heritage Act must not be switched off for State-significant development. It is even more relevant as certain developments and precincts of State heritage significance are lifted up into this development assessment pathway. There is a need to retain interim heritage orders as an exceptional course of action. The city has used these orders very rarely, but the recent example of the former Kwong War Chong & Co. building in Chinatown unearthed a highly intact Chinese-Australian shop that is a time capsule to past Chinese migrant communities and would otherwise struggle to have been conserved. The City embeds heritage in its strategic planning, including in its *Local Strategic Planning Statement*, precinct studies and development capacity forecasting. We have shown that heritage does not have to be set aside to achieve employment and housing targets. The City of Sydney's heritage areas—managed under local controls, rather than the Heritage Act—are some of the densest, most job-rich and highly valued places in Sydney.

The City also encourages the preparation of robust evidence to understand land value impacts and unintended consequences before offering financial compensation for listings or support for poorly maintained buildings. Any financial support should be to facilitate adaptive reuse and leverage the unique values of the heritage place, acknowledging the breadth of heritage throughout New South Wales. It is our experience that sympathetic adaptive reuse is not compromised by heritage listing. Finally, we would also recommend that the review look to include mechanisms to stop demolition by neglect of local heritage items and enable councils to have those powers. Thank you for your time.

The CHAIR: Thank you, Mr Pechey. Ms Newell, would you like to also make a short statement, please?

Ms NEWELL: Thank you, Chair, and apologies for my connection difficulties earlier. I think probably Local Government NSW and City of Sydney have summed up much of the position that Hornsby has taken in a much more local and localised and suburban way. Our primary concern with the review, as it was, was the scope of the review and the feeling that it would be better that both the Environmental Planning and Assessment Act 1979, or the EP&A Act, and the Heritage Act be reviewed as mirror companions at the same time with regards environmental heritage. The expression "squeezing a balloon" comes to mind. If you squeeze one, the other one bulges or splits. It is very important—I think the local government submissions have actually borne this out in parallel, even though they were separately written—that any reform to the Heritage Act needs companion reform in the EP&A Act and for local government to practise it.

Our submission was primarily that of operational question and detail. If the reforms put forward and the issues put forward are together, then how would they operate at a local government level? How would that work with local planning, both strategic planning and development control planning? What changes would need to happen, right down to the issue of what is exempt in complying development? Our major point was that those two

Acts need to be reviewed in concert to proceed with a holistic way to go ahead with looking at and enjoying New South Wales' heritage. Thank you.

The CHAIR: Thank you, Ms Newell. Mr Tredrea, have you been able to join us? Can you hear me?

Mr TREDREA: Yes. Can you hear me?

The CHAIR: Yes, I can. Thank you very much for your patience. Would you also like to make a short statement to the Committee?

Mr TREDREA: Thank you. Lane Cove Council welcomes the opportunity to make comment on the proposed review of the Heritage Act. Our council supports in principle best-practice measures for recognising, conserving, reusing and celebrating the important heritage of New South Wales. Many of the suggested measures in the discussion paper were reasonable and timely, in particular, those measures which may assist in adaptive reuse of the State Heritage Register items. However, while supporting the principle of activating heritage places for tourism, legislation needs to recognise that some uses, while excellent for attracting tourists, may be incompatible with the amenity of surrounding uses. For example, cafes, bars, hotels and shops may have an adverse impact on nearby residences. Changes of use to attract tourism must always be consistent with such matters of consideration as those listed under the conservation incentives in the standard instrument for the local environment plan, clause 5.10 [10], which suggests that changes "should not have any adverse effect on the amenity of the surrounding area".

Lane Cove Council also supports the principle of providing a graduated response to noncompliance, such as a system of fines leading up to court action as a last resort. However, care should be taken not to weaken the power of government to use enforcement powers appropriate for severe noncompliance. Lane Cove Council in general supports the proposed expanded owner incentives, philanthropic funding and public ownership proposals in this review insofar as they encourage development of otherwise neglected sites—sites often undergoing demolition by neglect. Thank you.

The CHAIR: Thank you very much. Mr Tredrea, if you are asked to respond to a question, due to the technical issues you are experiencing, for the benefit of Hansard could you identify yourself before you answer the question?

Mr TREDREA: Certainly. Thank you.

The CHAIR: On that basis I will invite members of the Opposition if they would like to start with questions. I will go firstly to the Hon. Walt Secord.

The Hon. WALT SECORD: Thank you, Mr Chair. For the benefit of Hansard, it is Walt Secord. Ms Scott, you mentioned in your opening statement that you were surprised that "protection of heritage" was actually not in the review. Why do you think that is the case?

Ms SCOTT: As I said, it is disappointing to see that it is not there and rather surprising. I think, really, it is a question for the relevant Minister and the Government. But, on behalf of councils, we would strongly advocate that this be a primary goal of the review and, of course, a primary goal of the Act. Councils, of course, make these views very clear, but it is also a strong view that we hear from our communities. I know in the City of Sydney, for example, we have a large number of resident groups—The Glebe Society, the Millers Point Resident Action Group—and I am sure these groups are replicated across a wide variety of councils who are strongly engaged in ensuring that the preservation of heritage in their local area is something that is seen as important by the council and the State Government, and also that this kind of activity is resourced. I think you have heard from all of the speakers today from the differing local governments across the State about the importance of funding that preservation of heritage and about the importance of ensuring that we are not seeing demolition by neglect. I do hope that the Committee is able to come to a view about that and make a recommendation about the importance of the preservation of heritage being a primary function.

The Hon. WALT SECORD: I was actually going to rephrase the question because when we actually finish our deliberations—you know this—we actually put forward recommendations. Would you agree that "protection of heritage" should be one of the key points in the review of the Act?

Ms SCOTT: Yes, we would strongly endorse that on behalf of all councils.

The Hon. WALT SECORD: You and Mr Pechey both referred to a concept called "demolition by neglect". What do you mean by that and can you give an example of something that you could refer to as an example of demolition by neglect?

Ms SCOTT: Thank you for the question. It is really important to highlight that it is important to protect heritage, but also it is important to maintain and resource that protection. What we do not want to see is our items

that have been recorded in some form of heritage protection not being cared for, not being maintained. We understand that this is a costly process. Many of these items, as I noted, sit with local governments who own them or have a responsibility for caring for them. This can be an extremely expensive activity. It also is important to understand, as I said in my opening remarks, that there is no common standard for the kind of preservation that should be seen. In our submission we have advocated for a heritage activation strategy. This would help councils, the New South Wales Government and the community to identify suitable locations and opportunities for heritage activation—for example, to support incorporation of heritage tourism as part of the New South Wales Visitor Economy Strategy; to identify engagement methods with local communities and councils; and we hope also to drive some funding for the activation and promotion of these heritage assets to show that they have much more significant interest, perhaps, outside those who just live next door to the heritage item.

There are a range of different mechanisms that can be explored for activating our heritage in New South Wales and funding its preservation. I note Mr Pechey spoke about the City's scheme that also supports this funding. We do need a consistent standard and a mechanism to ensure that our heritage preservation is funded into the future. Again, we urge the Committee to make those kinds of recommendations to ensure that we do not see our heritage falling in standard and disappearing for the future.

The Hon. WALT SECORD: Ms Scott, one thing that occurred to me is that, as the spokesperson for Local Government NSW, putting forward a single position on heritage must be actually complex for you. I listened to the opening statement from the gentleman from Lane Cove Council and he talked about local residents not wanting to be adversely affected by tourism occurring from heritage, whereas in your statement just now you referred to a desire for—and I know that Broken Hill in their submission wants this—cultural and heritage tourism. So how do you navigate that?

Ms SCOTT: It is a great question. The way we navigate it is by working with the conference policy that is set for us via our councils. Of course, each year our councils come together, they submit motions that have been determined by elected councils and then our conference delegates vote on them. Most often they are unanimous but, as you can imagine, not always. But that is the way that we democratically select the views and the foundation of our policy: on the basis of the voting councils. So these kinds of recommendations—that are often filled with detail based on consultation with officers and elected members of councils—are the way that we inform our policy. And, of course, all of our submissions are endorsed by our board, which is, again, a democratically elected group of councillors from across the State.

I think it is important to recognise that it is important not to expose people to extraordinary amounts of activation. We have seen examples where this has become problematic. But as a general rule we know, for example, that so much heritage in this State is not known about. People do not know where it is; it is not activated in a way that people know how to access it and learn about it. Indeed, we have seen some controversy recently with a new development from the New South Wales Department of Education on Observatory Hill in Millers Point in the City of Sydney—an extraordinarily important site, an extraordinary site of significance for Australian history and yet a recent modification to that development application to add a further storey really threatens the heritage of that area. I would bet that so few people in New South Wales, even though this site is so significant, have been interested or engaged in the development that is occurring at this site. This is an example of the need to activate our heritage so that Australians, people in New South Wales, understand it, can learn more about it and can benefit from it.

The Hon. WALT SECORD: You mentioned in your submission and also your colleague Mr Pechey referred to "State-based incentives". What were you referring to? I guess tax-based incentives and State-based incentives.

Ms SCOTT: As I said, councils are concerned about two elements. Firstly, councils are concerned that existing heritage protections are often turned off through the processes that are available to the State in the planning Act—for example, when something is deemed State significant. But, also, we are very concerned—and this is via a resolution of our local government conference—to ensure that the kinds of incentives for preservation are present. I think, again, Mr Pechey has highlighted a significant example in a beautiful shop in the Chinatown area of the City of Sydney that was uncovered as part of a development requiring an interim heritage order. Ensuring that owners understand the need and are supported to protect this kind of heritage because the benefit is, of course, not just for the owner but for the wider community to protect and support this preservation. Having a reasonable system that encourages owners to protect heritage where it is found to be present, and in some cases it is found to be present—for example, in this case I think it was found to be present—post purchasing the item. It is really important to have a structured system of taxation from the State that rewards that kind of preservation for the wider public benefit.

The Hon. WALT SECORD: Thank you, Ms Scott.

The CHAIR: Thanks, Councillor Scott. The Hon. Mark Buttigieg.

The Hon. MARK BUTTIGIEG: I understand we have only got limited time, so just a quick one perhaps collectively to all. Feel free to jump in. What jumps out to me from this evidence is that there seems to be an incongruence between the volume of items that local government is responsible for. You said 40,000. I did a quick calculation on the funding. If it is \$20,000 per council, there are 128 councils, so that equates to about \$64 per item. In the case of Sydney it is about \$50 per item because you have got 400 items and \$20,000. On top of all that, there is no mandated representation on the Heritage Council from local government. Is it the case that local government is being, for want of a better word, ostracised with heritage? It is largely left to what is perceived as subject matter expertise and local council can just deal with it. I mean, are these the sorts of things we need to realign if we are going to take heritage seriously?

Ms SCOTT: Thank you for the question. We would like a realignment and that is why we welcome this review of the Act. Again, it is extremely important to see more local government representation on, for example, the important decision-making bodies. That was one of our recommendations. We would also support the City of Sydney's recommendation to have the State architect represented. We think it is very important to have those views and voices around the table. We have also asked for a better way to, for example, deal with Heritage NSW both for local governments acting as a proponent or as a consent authority. The example that is often cited is the Bathurst Rail Museum. Staff from the Bathurst Regional Council took two years to obtain a consent from Heritage NSW for what they describe as both a slow and vague request for information from Heritage NSW. It was only resolved by council officers travelling to Sydney to meet with Heritage NSW in person. Obviously this was pre-pandemic. The main guidelines for heritage approval were published in 2001. They require significant updating to ensure that advice provided to councils is contemporary, relevant and achieving an outcome, again, that is in the public interest. So, yes, we think stronger local government representation is very important on the key decision-making bodies, particularly the Heritage Council, and we also think that it is important that the work of Heritage NSW be updated to ensure that it is relevant and achieving a public good.

The CHAIR: Thank you, Councillor Scott. I will now go to our crossbench members to see if they have a question. Reverend Nile.

Reverend the Hon. FRED NILE: I have a question for Councillor Linda Scott. The National Film and Sound Archive was recently in the news over the need to digitise many of its works before they perish. Would State and local heritage items kept in libraries, museums, galleries et cetera be in a similar situation, at risk?

Ms SCOTT: Thank you for the question, Reverend Nile. It certainly is the case, and we acknowledge the importance of not only physical heritage but also cultural heritage and the importance of protecting that. Yes, I think it is certainly the case that local governments would support the preservation of relevant digital heritage to ensure that the cultural elements of those heritage classification items are considered.

Reverend the Hon. FRED NILE: Most, if not all, libraries hold a lot of local history items in the way of photographs, maps and publications that are in need of preservation. Would they also not require some sort of digital initiative?

Ms SCOTT: Thank you again, Reverend Nile, for the question. Of course, it is really important and councils are doing a lot of that work. I certainly know, again, in my own council, the City of Sydney, we have an extraordinary set of archives with photos and plans and all kinds of really remarkable local historical items. Again, I stress, Reverend Nile, it is why we have sought to ensure that there is a full system of recognition about what the standard is for preservation so councils understand that and also provide some funding mechanism for local governments to then meet these standards in a consistent way. I stress, councils are very much doing that work of our own accord right now in our archives, in our libraries, but you are right to highlight that, without consistent standards, proper protections and funding, that kind of preservation is at risk.

Reverend the Hon. FRED NILE: Just another quick question: Once these items are digitised, would it be costly for them to be upgraded into a database such as Trove for all to access?

Ms SCOTT: Reverend Nile, I think the answer is, yes, it would be costly, but the importance of protecting these items is, of course, significant.

The CHAIR: Thank you, Councillor Scott. Mr Shoebridge.

Mr DAVID SHOEBRIDGE: Thanks, all. Sorry I was late. I had a conflict this morning in my diary. I got out of it as quickly as I could. Can I ask you each about the general direction of the Government's reform paper. The three key policy themes—and I am using the Government's own terms—are "making heritage easy", "putting heritage to work" and "making heritage relevant". The National Trust and many other submissions have

criticised the absence of other probably more important key themes, such as "protecting and conserving heritage". Do any of you have any views on that? I might ask you to kick us off, Ms Scott.

Ms SCOTT: Thank you, Mr Shoebridge. Yes, as I said in my opening statement, it is critically important to ensure that "preserving heritage" is the defining characteristic of this review. It is significant because this must be the most fundamental goal and that must be front and centre in any of the reforms that are recommended to follow this review. Again, as I said, to manage the over 40,000 locally listed items across the State, councils receive between \$5,000 and \$20,000 per council. One of the biggest risks to the preservation of heritage in New South Wales is the risk of demolition by neglect. There must be a mechanism for ensuring there is a set of minimum standards that are funded, and that the review not only recommends that an additional primary driver here must be preservation of heritage but also the mechanism to support that and to support local governments having a key place in that.

Mr DAVID SHOEBRIDGE: Mr Pechey?

Mr PECHEY: Yes, I think the points that the City has raised in terms of protecting and conserving heritage, as Councillor Scott mentioned—the powers that are needed to manage situations where there is demolition by neglect and buildings are not properly maintained—would certainly go towards better protecting and conserving buildings. Also, conserving heritage buildings can be improved with ensuring the expertise is on the Heritage Council and having targeted incentives that go towards the conservation outcomes, particularly adaptive reuse, rather than just trying to recognise the effects of listing, which can be overcome with good conservation and adaptive reuse. I suppose the other part to it is that the current switching off of the Heritage Act for State-significant development is a threat to protecting and conserving important places.

Mr DAVID SHOEBRIDGE: I will come back to that, Mr Pechey, probably through the lens of the Fort Street school, but to Mr Tredrea or Ms Newell, do you have a view about the absence in the key themes of "conserving and protecting heritage"?

Ms NEWELL: If I may speak, Mr Shoebridge, it is Lisa Newell here from Hornsby council. I think preserving and conserving heritage is a fundamental principle of any legislation to do with heritage. The three themes for the review, I did not see those as fundamental principles for either a legislative review or for proceeding with looking at ways of improving necessarily the legislation. They did seem to us to be more operational ideas and certainly operational objectives of perhaps a strategic business plan that might be introduced. But, yes, preserving and conserving heritage is absolutely critical to any heritage Act. It is actually part of most environmental legislation around Australia as a fundamental principle. "Making heritage easy", "putting heritage to work" and "making heritage relevant", there is nothing wrong with any of those but they do seem to be operational principles. Thank you.

Mr DAVID SHOEBRIDGE: Yes, thank you.

Mr TREDREA: Terry Tredrea, Lane Cove. Yes, we agree with Ms Scott that protection is a necessary legislative requirement because it is true that listing is a disincentive to ownership. Maintenance and adaptive reuse become expensive items, and the disassociation of interests. Therefore I think financial intervention measures are a critical element of this paper. Thank you.

Mr DAVID SHOEBRIDGE: Thanks very much. One of the case studies, if you like, of the way State significant development overrides all the heritage protections is the Fort Street Public School at Millers Point. The National Trust has made strident objections to the most recent proposed change there, which is going to add an extra storey to a modern infill element, which is then going to be higher than the observatory building. They point out that the historic heritage observatory building needs to be the highest building there for it to fulfil its historic function of observing the weather. Yet that was given almost no weight, no statutory weight, in the development application because of the way the heritage laws were turned off by the Planning Act when it is State significant. Councillor Scott, did you have anything further to add on that? Then I might particularly ask you, Mr Pechey, from the City of Sydney's perspective, as it is in your patch.

Ms SCOTT: Thank you, Mr Shoebridge. It is just an extremely disappointing application by the State, because you would hope that they would recognise that the importance of that site and the importance of the perseverance of that site is something they should not breach via an application for an additional floor, especially in light of the fact that the original application was one that really there was broad support for. But the modification really has meant that there have been an overwhelming number—indeed, hundreds—of strong objections from, of course, heritage bodies, as you outlined, but also community members living in the area.

So it is just extremely disappointing that this application has gone so far. It is a perfect example to highlight that it should not be the case that heritage protections can be turned off so readily under the planning laws of this State. It should not be the case that, simply because of the mechanism of development approval that

an application proceeds along in New South Wales, it has different heritage considerations. If something is considered significant in order to be protected, that power should not be turned off because of a special pathway that it is deemed to be on under the Planning Act. This is a case example to highlight that on a very, very significant bit of public land.

Mr DAVID SHOEBRIDGE: Mr Pechey?

Mr PECHEY: The City has certainly argued for switching back on the Heritage Act. I think this is a case in point where providing that independent review that the Heritage Council can bring under that legislation can raise the heritage issues. I do not myself have close association with this application. So I might take on notice, if that is all right, to review the City's submission to the modification. I can report back to the Committee a statement.

Mr DAVID SHOEBRIDGE: Thanks, Mr Pechey. If you could address the fact that we have one government agency assessing another government agency's position and the complete absence of the Heritage Council in that.

The CHAIR: Mr Shoebridge, I will now need to ask Government members to raise their questions. Is there a Government member?

The Hon. SHAYNE MALLARD: Mallard here.

The CHAIR: Mr Mallard, thank you.

The Hon. SHAYNE MALLARD: You are welcome. Good morning, everyone. Thank you for coming and giving evidence. Morning, Councillor Scott. Good to see you again. Am I coming through there?

Ms SCOTT: Yes.

The Hon. SHAYNE MALLARD: Good. There is nothing on my screen. I want to ask Councillor Scott. Being that you represent all local government across the State, not just the wealthiest council in New South Wales, which has—having been there myself—a lot of money to give out as heritage grants and to preserve its own heritage properties, let us look at other councils. It is easy to say that the State should hand out money. Let us just put that aside. What do you propose as a sustainable funding model for councils to support local heritage across the State?

Ms SCOTT: Thanks, Mr Mallard. I just, of course, as you would expect, refute your concept about the City of Sydney's financial state.

The Hon. SHAYNE MALLARD: It is in trouble now, is it?

Ms SCOTT: I will note that in the midst of the pandemic we lost a significant amount of money. But I will put that to one side in the interests of answering your question.

The Hon. SHAYNE MALLARD: There is a scoop. Tell us more.

Ms SCOTT: I certainly do and have highlighted examples, both from Bathurst, about the need to have a better structured system of engagement with Heritage NSW with respect to their approval for their museum but also the concerns about turning off heritage protections through the State-significant pathway. This has happened—

The Hon. SHAYNE MALLARD: Sorry. I am talking about funding.

Ms SCOTT: Yes. There are some recent examples of that in Willow Grove in Parramatta, the Albion and Royal Oak hotels in Parramatta and the demolition of heritage homes in the Haberfield Heritage Conservation Area, which is of course in the Inner West Council. More broadly on the funding mechanism, it is a really important point. As I said in my opening statement, councils certainly do advocate for the need to ensure that this is better funded. You are right to highlight that councils, for example, particularly those councils in regional areas, have an extremely low rate base and they are provided with very little funding. So it is significantly challenging for them to ensure that these things are protected.

I guess I highlight, for example, the Brewarrina fish traps—a really remarkable globally significant site of significant Aboriginal cultural heritage. When one goes out and visits those fish traps, as, I am sure, many of you here have, one can see that the local government is doing absolutely everything it can to preserve that site, indeed, to run a museum, as I highlighted, to encourage tourism and other activation so that more Australians can learn about our First Nations' history. As we said, that is one way—the activation of heritage through sustainable tourism—to ensure that there can be a secure funding mechanism. Of course, we advocate that the State Government step up their funding, but there are other mechanisms for doing this as well.

Mr Mallard, that is why we have advocated in our submission for a heritage activation strategy that would help councils, the New South Wales Government and the community identify suitable locations and opportunities for the activation of heritage and then incorporate this heritage tourism in a sustainable way as part of the New South Wales Visitor Economy Strategy. We think that is one sustainable way to ensure that there is activation of these sites and therefore some additional funding available for their preservation.

The Hon. SHAYNE MALLARD: Thank you for that, Councillor Scott. My next question is to Mr Pechey, from the City of Sydney. As you know, I was on the council and on the Central Sydney Planning Committee. I am quite aware of how the Heritage Floor Space Scheme works. We are looking at that quite in depth in this inquiry. Could you just assume 101—that we have no knowledge of how it really operates? Could you just step us through how the heritage floor space actually operates at a practical level?

Mr PECHEY: Yes. The Heritage Floor Space Scheme is a market where there are sellers of heritage floor space and also buyers of heritage floor space. The principles behind it is the ability to sell heritage floor space helps fund the conservation of heritage items in central Sydney. The scheme applies in the central Sydney area, which is the CBD. It does not apply widely throughout the whole council area. An owner of a heritage item, a locally listed heritage item, if they undertake heritage works can then make an application to the council to be awarded an amount of heritage floor space. That floor space is a portion of the amount of total development potential that could otherwise be realised but cannot because it is a heritage item. They are awarded this amount of floor space. It goes onto a register.

The Hon. SHAYNE MALLARD: That is held by the council?

Mr PECHEY: Which is held by the council, yes. On the other side of the market you have the sellers. The council's planning controls say if you are building a building in the city centre and you wish to achieve the maximum floor space, then you need to purchase an amount of heritage floor space. That amount will depend on the size of your building.

The Hon. SHAYNE MALLARD: Is that exceeding the controls or is that within the controls?

Mr PECHEY: It is within the controls. The controls are structured such that there is a base amount of floor space.

The Hon. SHAYNE MALLARD: And a bonus.

Mr PECHEY: One of the conditions of accessing that bonus is that you purchase heritage floor space. There is now an obligation on the developer of a building to purchase the heritage floor space before the development can proceed. They then consult the register and make contact with various owners and come to an arrangement or an agreement to purchase the floor space for an amount that is agreeable to each party. The council is not involved in pricing the heritage floor space agreement.

The Hon. SHAYNE MALLARD: How is that price arrived at?

Mr PECHEY: By agreement between the sellers and the purchasers. There is a number of sellers that they can approach and whoever is prepared to sell and buy at a certain price, that is the arrangement they come to.

The Hon. SHAYNE MALLARD: Clearly it is a commodity that is desirable by the developer.

Mr PECHEY: That is right.

The Hon. SHAYNE MALLARD: Thank you for that. I hope that helped my colleagues. It reminded me of how it worked. Thank you for that. That is the end of my questions. Thank you, Mr Chair.

The CHAIR: Mr Martin has a question.

The Hon. TAYLOR MARTIN: Thank you, Chair. I will start with a question specifically for Councillor Scott. In the Local Government NSW submission it is noted that the approval processes for State heritage can be somewhat onerous and complicated. Would you be able to expand a bit more on those issues?

Ms SCOTT: Thanks for the question, Mr Martin. I think the most relevant example I have cited is the Bathurst Rail Museum example, where officers spoke to us about the fact that it took them two years of engagement and, indeed, required a need to travel to Sydney from Bathurst really to secure a final agreement. This should not need to be the case. Indeed, it is obviously unsafe to do so, particularly at the moment in a pandemic. So really we would just urge, as we have in our submission, for there to be an ability to ensure that there is a minimum standard of maintenance, repair, clearer guidelines from Heritage NSW, an updating of their standards, as I noted, considering they were last amended nearly two decades ago. These are the kinds of reforms

that local governments would welcome to ensure that it is possible to have a more straightforward engagement, with clearer advice coming from Heritage NSW.

The Hon. TAYLOR MARTIN: I will follow up by opening up for all witnesses here at the moment. How might we be better able to integrate a reviewed Heritage Act in with the planning processes that we currently have under the EP&A Act to actually deliver these conservation outcomes?

The CHAIR: Any witness would like to respond first to Mr Martin's question, please.

Ms NEWELL: If I may. This is Lisa Newell from Hornsby council. The first thing that I think that probably needs to happen is for both Heritage NSW and Planning NSW to come together and not be so siloed. They have been siloed for quite some time. It is a common thing with agencies. It has actually divided those two agencies for the last 15 years. Bring them together—they know that they work together very well when they try to—and open a review that is about both. It needs a fair bit of housekeeping and homework ahead to actually structure it, get it together, get both agencies working together to work out the terms of reference and the mechanics of a review.

One happened in the early 1990s, a big review of the Heritage Act and the EP&A Act. It happened step by step, together and very, very openly. Both of those reviews were very fruitful because every time an issue came up in one it was answered and able to be dealt with by the other. It worked quite well and actually ended up in a very different Act by about 1993, which we are largely dealing with now. So the premise is that they actually do work together. Just open that review and set up a review across agencies. It would also need to take into account the National Parks and Wildlife Act and Local Government Act as well and to open it to very big community input to look at the scope and issues. I think it is very important to open that up very broadly. Thank you.

Ms SCOTT: Mr Martin, I might just add it is very important, for example, that the enforcement powers are aligned. I am sure you would know that the Minister for planning is undertaking a really significant reform of the Planning Act right now. They seem at this point to be at cross-purposes. For example, we know that the State Government via the Building Commissioner is improving the ability of the State to collect levies for compliance activities but at the same time reducing the ability of councils to undertake and collect levies for compliance. This is going to have a cost to the ability of councils to do compliance for heritage protection. This seems counterintuitive.

Similarly, the bill before the Parliament about the ability of the State to, via regulation, change the mechanism for developer contributions is extremely problematic. We understand that, while the Government is yet to put that regulation on public exhibition but that they will do so, a threat of a significant income stream for councils similarly is at cross-purposes to the protection of heritage and councils having an ability to fund and be able to afford to activate that. So I really appreciate you highlighting the intersection between these two Acts and the need for them to have corresponding reform that works together and does not set opposing goals.

The Hon. TAYLOR MARTIN: Thank you all. I think I have taken us well over time now. Thanks for your time here today.

The CHAIR: Thank you, Mr Martin. On that note, I will take this opportunity to thank Councillor Linda Scott, Mr Ben Pechey, Mr Terry Tredrea and Ms Lisa Newell for attending this hearing and for your participation. Mr Pechey, the secretariat will be in contact with you in relation to the question you have taken on notice. In the interim, to help accommodate the changeover of witnesses we will be taking a short break until 10.45 a.m. A friendly reminder to Committee members to now place yourselves on mute and also to turn off your video until we reconvene at 10.45 a.m. Thank you.

(The witnesses withdrew.)

(Short adjournment)

ELIZABETH VINES, Broken Hill Heritage Advisor, Broken Hill Council, affirmed and examined

KATE WOOLL, Business Manager of Strategic Planning, Goulburn Mulwaree Council, affirmed and examined

JEFF SOWIAK, General Manager, Brewarrina Shire Council, sworn and examined

The CHAIR: Good morning. Welcome to the review of the Heritage Act 1977. The Committee is resuming proceedings. I now welcome our next witnesses. Would anyone like to commence by making a short statement? We will start off with Ms Vines.

Ms VINES: Thank you. Our submission outlines that critical to the success of the heritage program, which was initiated in Broken Hill back in 1987, has been a strong partnering with the New South Wales Government over the years. A key to this partnering has been the continuous financial assistance provided by the State Government. Therefore, in response to the key points for Broken Hill from the terms of reference, point 2—which talks about consideration of new supports to incentivise heritage ownership, conservation, adaptive re-use and activation—is a key one for an outback city like Broken Hill. Here heritage tourism is a key economic driver. Property prices are not like they are in the city. So if you invest in a heritage building you do not get that investment back in terms of increased property values. So this issue about support from State Government is critical to the success of our program, and we have been delighted to partner with the New South Wales Government in this.

Indeed, we have been able to show multiplier effects of about a dollar allocated to Broken Hill by State Government having been multiplied about 11 times in the local community, with spin-offs of job creation and so forth. The next key point in terms of the terms of reference for Broken Hill is around streamlining of heritage processes. This is a key issue. We do experience long wait times for approvals from Heritage NSW, which can be off-putting to property owners. Previously we were one of, I believe, two councils within the State that had delegation. This was a good response to our remote location and also a recognition that council takes heritage management very seriously. We were able, in a sense, to process our own approvals process related to buildings on the State Heritage Register.

So we consider, even despite the recent dispensations and new exemptions that have been introduced, that this delegation would be good for us as an outback city, being quite different from a city context. The heritage advisory service in Broken Hill has been a leader in the country. Really we believe that we spend the resources allocated to us in a very responsible manner. We also have an annual heritage strategy, which helps us benchmark the process that we are undertaking and makes the council accountable. Those are really the key issues that we respond to. Our recommendations are the need for local skills training, to boost support for heritage advisory services and to boost financial support. Once again, I express council's gratitude for the partnering that we have had for more than 30 years with the State Government. We would love that to continue.

The CHAIR: Thank you, Ms Vines. Ms Wooll, would you like to make a brief statement?

Ms WOOLL: Yes, thank you. I think Goulburn Mulwaree would echo a lot of what Broken Hill has just submitted in terms of the issues raised there. But in addition to that, I think we probably would want to highlight more than anything the issues that we are experiencing here with our heritage. We have a number of very large heritage sites that are becoming derelict and subject to vandalism. Some are State heritage listed. Some are locally heritage listed. The issues we are having are that, similar to what Ms Vines just mentioned for Broken Hill, the property values are not particularly high. Some of these sites are extensive. For example, one of them is the Kenmore former mental hospital, which is of a scale like Gladesville Mental Hospital or Callan Park in the city.

It is very difficult for private owners to work their way through the complexities of meeting the requirements to satisfy heritage legislation or planning legislation and also actually make a development feasible when they are of a large scale. So, I suppose, increasingly what we are seeing is an increased pace with the loss of sites due to neglect and vandalism. That is one concern. The other concern is for council as a landowner, as well, of heritage sites. We have quite a few heritage properties in council ownership and management. Working through the heritage process as a landowner is actually quite an eye-opener, because you see the difficulties with that.

It is also an issue for us in our CBD. We have a number of historic office buildings, which tend to be only occupied at ground-floor level and not adaptively re-used because tenants prefer brand-new, purpose-built buildings on the periphery of town, because they are easier to meet building code requirements, premises code requirements and they are cheaper. So it is interesting. We have got a really diverse, extensive amount of heritage, but it is just saddening that the system as it is, whilst promoting heritage, does not actually provide a lot of feasibility for the ongoing use of some of these properties.

The CHAIR: Thank you very much, Ms Wooll. Mr Sowiak, would you like to make a brief statement?

Mr SOWIAK: Yes, thank you. Thank you for the opportunity. We have obviously made a very short submission, which the commission has on hand. There are four key issues that I think I would like to stress from that. The first is obviously Aboriginal heritage. Our shire comprises the largest population of Aboriginal people of any shire in New South Wales—over 62 per cent. More than 80 per cent of our outdoor staff are engaged as Aboriginal people. That is fairly high. And 33 per cent of our councillors and senior management team meet that category as well. The issue in terms of Aboriginal heritage is that there has been three different pieces of legislation dealing with this: the Environmental Planning and Assessment Act, the Heritage Act and the National Parks and Wildlife Act. I guess the National Parks and Wildlife Act is because of the concept that Aboriginals were fauna and perhaps that was the reason why it came under that legislation.

But there are two significant ways in which to look at Aboriginal heritage. The first is the relics, the archaeological value of the physical substance that you see—the fish traps, the actual stones, the trees, the burial grounds and so forth—and the anthropological interest, the significance of the area, the story, the language, the spiritual connection to sacred sites. That is more than just a waterway and some fish traps. That is a story about the history of that and preserving that story for the future. In terms of the submission, we stress that we need one piece of legislation that covers Aboriginal heritage and artefacts. That needs to happen at some stage in the future. There are more than enough examples from other States of different pieces of legislation. I think that is what we do.

One of the important aspects is community engagement. We talk about community engagement. At the moment, four or five people can get together, register an incorporated association, call themselves a community representative group for Aboriginal people and go out and seek government funding and promote themselves. The New South Wales State Government has a fairly rigorous structure in terms of the local land councils. We recognise that structure. The governance structure is there. The accountability is there. They have got to report to someone. They have got to do annual reports. They have got to do financials. They have got to keep track of what happens with them. I think the State Government should use that avenue more in terms of community engagement and getting that recognition rather than necessarily the loudest voice of the minority, who claim to speak on behalf of community and do not.

The other issues in terms of the submission and in terms of dealing with heritage issues is the layers of development. You go through different steps. You have got the Heritage Council. You have got the development control under the EP&A Act. You have got the cultural clearance. You have got the Fisheries in case of waterways. You have then got Crown Lands, who come in under that somewhere, and then the National Parks and Wildlife Service. All of that is very complex. In terms of categorisation, reading through the submission, we just have concerns that this may be overcomplicating: Let's keep it simple. If it doesn't need to be fixed, why fix it? So keep it simple. So we have asked for that.

In terms of enforcement, I think we should move from enforcement to agreement. There seems to be a lot of pressure that if someone does not do the right thing, you enforce something. No, you educate. You reach agreement with people. We had a history here where we had Weilmoringle Station, a shearing station on the Culgoa River. It is a significant building. It is significant in terms of what they had there and the history of that site. It was under the control of Indigenous Land and Sea Corporation, a government agency. We heard that a contractor had been called to do some demolition work out there because there was asbestos sheeting, which is an issue. That is neither here nor there.

So we approached and we did issue an interim heritage order. That was just to get their attention—this contractor was about to do something perhaps. Then we sat down and talked with the owners of the property, which is a government agency. Rather than spend \$10,000 or \$20,000 on experts to give us opinions and go through the process of legislating the heritage order or whatever, we just reached agreement with them and said, "Look, you understand this is a cultural and heritage site. We need you to manage it as such." They said, "Yes, that's what we do." That is all we needed, that sort of agreement. We do not need a very complex process to make that happen. I think we need to emphasise that more in terms of heritage, reaching agreement with people.

Perhaps the fees and structure should be conscious of the fact that, if we are going to have to go and pay for qualified people to do things, then maybe the fee structure should be reduced to pay for that. We have only got a million-dollar rate base here so we do not have a great deal of money to spend on consultants and heritage people to do expert advice on property that we do not own. So let us not make it too complicated. I think that is about all I needed to summarise from that. Thank you.

The CHAIR: Thank you, Mr Sowiak. I will now ask the Opposition if they have questions. Mr Secord?

The Hon. WALT SECORD: Thank you, Chair. For the benefit of Hansard, this is Walt Secord speaking. Mr Sowiak, in your submission and also in your verbal submission you talk about interim heritage orders and that. Do you at the moment have a register of heritage sites in your shire?

Mr SOWIAK: We do have a register of sites. We have a heritage study, which was undertaken by a part-time heritage consultant who we engaged on one or two days a month—one day a month, I think it is—and worked with our local heritage to do a register of sorts. That is in our local environmental plan [LEP]. But the list needs to be updated; it is out of date. Obviously, there needs to be some investment in that, which we do not have the capacity to do.

The Hon. WALT SECORD: The reason I ask this question—sorry, Mr Chair. I am getting a repeat echo—is are there sites in jeopardy or at risk in your shire due to neglect, but not wilful neglect just financial neglect?

Mr SOWIAK: Yes. I can talk to a number of public buildings. The Catholic church in Goodooga is past the point of repair. It is a historical timber building. It would have historical and heritage significance, but it has just been left to a state that is unmanageable in terms of restoration. Yes, that would be true.

The Hon. WALT SECORD: Now back to the Brewarrina fish traps. Does council have any jurisdiction or responsibilities over those?

Mr SOWIAK: That is a very tricky issue as to who actually has responsibility. Certainly, the Fisheries would argue they have some responsibility. The Heritage Council would argue they have some responsibility. It is a nationally listed heritage item. So it is both on the State register and on the Federal register. So the department of planning and environment—whatever they are called today—is responsible. Yes, it is under control. But the reality is it is owned by the local traditional owners. Fisheries cannot tell the local traditional owners how they can manage that which they own. Perhaps in government agencies we forget that there is that connection to country, there is that connection to the land and, at the end of the day, we have done a lot of destroy that very same structure over the last 50 or 60 years or more. Now is the time to actually recognise and preserve it.

The Hon. WALT SECORD: One last question to you. Does Brewarrina have cultural tours? Do you in fact get economic benefit from the fish traps?

Mr SOWIAK: That is an interesting question because there is certainly some tourists who come to our community specifically to see the fish traps and to go on the tour, which I would recommend to anyone who comes to Brewarrina. It is a very good tour. They go through. But the story is not about the rocks in the river. The story is about the cultural connection to those rocks, what was the trading operations, what was in place before European settlement came. That is the story—the spiritual significance of the site. We want to promote this not as a tourist attraction, but we want to promote it because it is the most significant cultural asset that we have in this country. It is located 200 or 300 metres behind me.

The Hon. WALT SECORD: Thank you. I would like to ask a question of Ms Vines.

The CHAIR: Could I just step in, Mr Secord? Has someone inadvertently got another app on or live streaming in the background? If we could just disengage, it could make it easier so we can avoid the echoing. Mr Secord, could you repeat your question for the benefit of Hansard please?

The Hon. WALT SECORD: Yes. It is for Ms Vines. Thank you, Peter. The echo has stopped. The situation in Broken Hill is that the council has quite a good record on heritage and preserving the outback city, so to speak. How could the Heritage Act and the Government assist financially in helping with preserving the buildings of Broken Hill? Do you have a plan or a strategy or an approach that you think that would be? Broken Hill is very unique.

Ms VINES: Thank you for that question, and thank you for acknowledging the significance of our city and how we are trying to be as responsible as possible. In a sense, our submission under-represented the biggest strategic challenge that we have in relation to the mining challenge. We are, as you would know, inscribed on the National Heritage List—which was a big achievement, we felt, back in 2015. The then Minister, Greg Hunt, was very much personally involved in that inscription, and we are very grateful for that. However, I think we are struggling to build for the council and ourselves a bigger strategic framework about how we can manage responsibly all those huge numbers of assets, hundreds of them, on the Line of Lode.

There are real issues around that management because, as you would know and as people would know, generally mining companies are beholden to, at the end of mine life, rehabilitate the land. Now the tension is that we want to retain those assets, those physical assets, but they have no use—big concentrator mills, large structures which are representative of the story of mining in Broken Hill and, indeed, of international significance. The froth

flotation development happened at Broken Hill and so forth. So again I keep getting back to resourcing and assistance from the State Government, which is so useful to us.

But we would even want more, in a sense, leadership from our State Government—we recognise the very limited resources of the Federal Government—in helping with that challenge, because mining goes up and down and at some point there is going to be end-of-mine-life issues to deal with. There are structural issues to deal with. So I think it is quite a complex problem. I think what we have been managing to do day-to-day is rescue challenges as they come up or save issues as they come up. There has been in the last, I would say, five years a considerable financial investment by the private sector in some buildings in Broken Hill. I think of The Broken Hill Pub—a \$6 million investment by a local person into creating a pretty hip pub in Broken Hill. As a tourist—and believe me there have been many up until the last few weeks when we are in now a new crisis time. But everybody has been going to Broken Hill.

I have been personally encouraging people to go to Broken Hill because we cannot travel overseas. They are amazed at what they find and also delighted in the standard now of accommodation, standard of meals and the standard of tourism. So I think on that front both the council, the help from the State Government and the investment by private individuals—which is, thankfully, happening—is very important. But it is at the bigger strategic level that we need ongoing help to deal with the mine closure issue, mine management issue.

The Hon. WALT SECORD: Ms Vines, I have a bit of a left-field question here. I know that you have very unusual historic buildings in Broken Hill. I visited the Broken Hill Synagogue. I have also visited the Broken Hill Mosque. Now I understand that the mosque is actually in quite a state of disrepair. What do you do when you have nationally significant buildings like the Broken Hill Mosque, which is part of our national history? What does the council do? How does the State Government assist when you have situations like that?

Ms VINES: The two buildings that you talk about—the synagogue and the mosque—are quite small-scale, fragile buildings. It is a case of getting the right sort of technical advice to make sure that they are maintained. The mosque did receive some grants money a few years ago. I was not involved with the council at the time. I think some of the key maintenance issues, sadly, were not addressed with the money available. Essentially what you have to do with these fragile places is keep them maintained—have a watching committee keeping them maintained with expertise and finances from the council.

At the moment what we have now, specifically around the mosque, is a new schedule of works that I have prepared, but we do not have the money yet. It is a bit unfortunate because we got some money, but some of those—and they are not huge issues, the maintenance issues. It is a bit like our Brewarrina friend; we do not have a huge rate base. We have got more than Brewarrina, but finding even, you know, \$50,000 or so out of a council budget for maintenance issues is difficult. I think it is about this keeping watch and keeping people involved and connected. I mean, there is a particular character associated with the mosque. I do not want to name names, but he is a Muslim cameleer descendant.

The Hon. WALT SECORD: I have actually met him.

Ms VINES: He is a wonderful guy. It is so important these people feel they are heard and involved in the process. Particularly as somebody on the ground, and I am sure Ms Wooll would feel this too, that making sure people—and certainly the man from Brewarrina. I am sorry I do not have your name up on the screen. It is all about listening to the community and keeping them engaged and feeling like they have a connection, whether it is Indigenous connection to country or whether it is Afghan descendant's connection to his place or the Jewish community to these unusual places or the whole of Broken Hill's connection to the fact that they had tin houses and they are important. Listening to the community and engaging them is so important. You can have, you know, a city slicking expert come in and write a snazzy conservation plan and schedule of works and it is misguided. It is about how that is delivered as well and training local tradesmen and all of that connection to the place which is so important and, quite frankly, needs resourcing. If we think Broken Hill is of national significance, we need some national help.

The Hon. WALT SECORD: I would like to ask Ms Wooll one quick question about the challenges in Goulburn. We referred to the Broken Hill mosque and synagogue, and I know that last month the heritage Minister listed the Jewish cemetery in Goulburn. Has there been any support beyond simply listing it, and does council have any plans in that area?

Ms WOOLL: This is Kate Wooll from Goulburn Mulwaree Council speaking. Look, at this point in time that was very much a community-led activity. There are a number of members of the Jewish community who initiated that, with council's support for that listing to occur. I think over time council actually had been, sort of, supporting the maintenance of the site at one point by doing the maintenance on the site. But at this point, no. It

has just been listed and presumably there will be applications made for grants under the State scheme now that it is.

The CHAIR: Is there another Opposition question?

The Hon. PETER PRIMROSE: In the very short time that I have, can I ask all three witnesses a question? You may wish to take this on notice, given the time. In their submission, Local Government NSW made a number of recommendations. One was recommendation No. 8. I will just read it out:

The NSW Government should explore legislative changes to the *Local Government Act 1993* that would enable local councils to offer a rebate/concession on council rates for land with a local or state heritage-listed properties, on an opt-in and case-by-case basis.

Can I ask any of the witnesses if they have a comment on that, please?

Mr SOWIAK: If I may, Chair?

The CHAIR: Yes, Mr Sowiak, and then Ms Vines has raised her hand.

Mr SOWIAK: Just in relation to that, obviously the rates are not a significant issue. Most of the properties would probably have a minimum rate of \$100 or \$200. It is not going to be a significant issue in terms of the rebate in relation to heritage properties. Also, most of the heritage properties are in public or benevolent hands, so there is no issue in terms of them being rateable to start with. So, yes. It would apply for more larger incentives though.

Ms VINES: In relation to council, the issue is that they struggle with the rate base that they currently have. Let's take the Broken Hill Pub example, which has had this fantastic investment. In a sense, to encourage an incentive for a development like that would be great, but the council does not want to miss out on its rate base because it struggles as it is. I suppose the question is about the public good of heritage. It is not just Broken Hill that benefits by it being a significant place; it is the country. That is why I keep talking about the importance of the close partnership with the State Government. This is an important place for the State and, therefore, external systems are really gratefully received in recognition of its significance.

The CHAIR: Thank you, Ms Vines. It is the Chair speaking. I ask members of the crossbench if they have a question.

Reverend the Hon. FRED NILE: Yes. I have a question for Ms Kate Wooll. One of the points in your submission states:

There could be a greater role for the NSW Department of Public Works in employing additional tradespeople with heritage experience and offering apprenticeships for heritage trades.

Would it be a benefit if some of these apprenticeships were earmarked for First Nations Aboriginal people, particularly if they are working on Aboriginal heritage conservation sites?

Ms WOOLL: Yes. I think that would be quite appropriate to extend it to First Nations people as well. I think definitely one of the issues that we are having at the moment with our local heritage grants scheme and even with our CBD grants scheme that we run is that there is a shortage of suitably qualified tradespeople to work on traditional sites, whether they be European or of Aboriginal cultural significance. Definitely, leaving it to the commercial sector is not working now, so if public works could extend its coverage and provide a service to areas like ours or Brewarrina or Broken Hill, I am sure that would be quite valuable and well subscribed.

Reverend the Hon. FRED NILE: Just following up, I have a question for Jeff Sowiak [inaudible].

Mr SOWIAK: The same question?

Reverend the Hon. FRED NILE: The submission [inaudible].

Mr SOWIAK: We already employ eight or nine, I think, Aboriginal trainee workers on our workforce, through various funding bodies. So that is something we are currently doing anyway. Most of my employees—the majority of my employees—are traditional owners as well. When they are involved in Aboriginal heritage and restoration, it is not really an issue. Even for our road works it is not really an issue in terms of getting someone on board who is culturally aware and sensitive to those issues.

Reverend the Hon. FRED NILE: Just following up on that question, the submission by the Brewarrina Shire Council [inaudible] there is evidence [inaudible] before and after colonisation.

Mr SOWIAK: There certainly is evidence of that, yes.

Reverend the Hon. FRED NILE: Have these sites been listed?

Mr SOWIAK: Yes, they have. We have got the oldest example of human construction in the world at the Brewarrina fish traps. We have got the mission out at the Brewarrina Mission, which is another site out there where all the people were brought from all over the western district to this area to live. Certainly, those stories are important and they are something that is preserved.

Reverend the Hon. FRED NILE: [Inaudible]

Mr SOWIAK: Sorry, I did not catch that question.

Reverend the Hon. FRED NILE: [Inaudible]

Mr SOWIAK: Yes, the environment council—

Reverend the Hon. FRED NILE: [Inaudible]

Mr SOWIAK: Yes. We are certainly involved in that and we certainly work with the land council. We actually have a project to try and remove the weeds that are growing in amongst the rocks at the fish traps at the moment. That has been an ongoing program that we are funding from our own funds.

The CHAIR: Before I go to Mr Shoebridge, could we be mindful of the echoing creeping back into this broadcast.

Mr DAVID SHOEBRIDGE: Mr Sowiak, I might start with you. The Brewarrina fish traps are this extraordinary testament to the cultural ingenuity, talents and the history of First Nations people—the Ngemba people and others. How much funding do you get on an annual basis from the State Government to preserve and protect that State listed heritage item?

Mr SOWIAK: Zero. The only funding we use is the funding the council provides. We are spending probably around \$20,000 to \$30,000 a year on average to try and actually just maintain the weed growth, which is the problem at the moment.

Mr DAVID SHOEBRIDGE: Whilst that might be a spectacular—I think some other people need to mute.

Mr SOWIAK: Sorry, I did not catch that.

Mr DAVID SHOEBRIDGE: Whilst that might be a very spectacular [disorder].

The CHAIR: It is the Chair speaking [disorder]. Mr Sowiak, Mr Shoebridge will ask you a question and then we will move on.

Mr SOWIAK: Okay.

Mr DAVID SHOEBRIDGE: I will start again. Whilst the Brewarrina fish traps might be a very spectacular site, there are multiple State heritage sites in each of the other two council areas. I assume it is the same in each of your council areas. You get no funding at all to protect State heritage sites in your areas.

Ms WOOLL: Kate Wooll speaking. Yes, that is correct. We only get a very small amount of money for the Heritage Advisory Service, which is about \$6,000 year, and we get about \$6,000 a year to run our small local grants scheme. But in terms of the State heritage items, no. We do not get any.

Ms VINES: If I could add to that, it is the same issue in Broken Hill. Although, Broken Hill does add to the \$6,000. I also work in Wilcannia as the heritage adviser. Central Darling did not put in a separate submission, but the issues that I am talking about in the Broken Hill submission are exacerbated even more in Wilcannia. However, I could say that in Wilcannia—I mean, my role in Wilcannia focuses on settlement built heritage. I make that very clear. My expertise is not in Indigenous heritage. Although, of course, it is all embracing and inclusive. My role is to assist in helping to maintain those buildings which were built on the Darling River when Wilcannia was the second biggest port in the State. The drip feeding even of small amounts of money in that community has saved buildings, supplemented by an excellent program run by the New South Wales Government called Heritage Near Me. When I say it was excellent, it was excellent because it gave us more resources. It was not so much excellent in the way it was administered. It just helped with resources.

Mr DAVID SHOEBRIDGE: Even very modest amounts of additional funding—provided it comes consistently year in, year out—can be very significant for heritage protection. Do you all agree on that?

Ms VINES: That is right. The programs that we have got in Wilcannia and in Broken Hill are often to help people buy the paint to paint their own houses. These are people whose houses are literally worth only sometimes tens of thousands of dollars and they have got no income beyond a pension, which is minimal. So to then be able to give them \$1,000 and trust them to go and buy some paint, you have to give them the money before

they do the work—because they cannot do the work—and build up a sense of community, ownership and trust. If in a couple of cases the money is misspent, you turn a blind eye because if you get all administrative and bureaucratic and punish people it is ridiculous when we are talking about small amounts of money. It is encouragement money. I did love what Jeff Sowiak said about encouragement and partnering as opposed to compliance. So, yes, whatever support you give locally, even given out in small circumstances, is important.

Mr DAVID SHOEBRIDGE: Ms Vines, you are the first person who has made that very clear, cogent case that in many cases, particularly in rural and regional New South Wales, these are not wealthy property owners sitting on some fancy heritage mansion. They are people struggling to get by and even modest assistance is critical.

Ms VINES: I will give you three examples in Wilcannia of important early buildings where the property owners have probably received grants of up to \$100,000 and you think, "Gosh, that's a lot of money." Their property is not worth \$100,000 more, but what is being contributed to that community incrementally—you always have to have a long-term perspective, not short term—means that those buildings are not ruined or vandalised anymore.

Mr DAVID SHOEBRIDGE: Ms Vines, I invite you to give us that information on notice, if that is not too much trouble. I think that will be very useful.

Ms VINES: Okay.

Mr DAVID SHOEBRIDGE: Can I ask each of you to quickly—there are only about three minutes or so left in this round. The Government's review paper proposes three key policy themes. Those are the words of the paper. They are making heritage easy, putting heritage to work and making heritage relevant. A good number of submissions, including the National Trust, have pointed out that some of the most critical points, being conserving and protecting heritage, are not found in the Government's key themes and indeed they should be the underpinning of a heritage review. What do you all think of that proposition?

Ms VINES: I do apologise. I was just writing down what you wanted me to do and I missed the last bit. I am so sorry.

Mr DAVID SHOEBRIDGE: The Government's three key themes that guide their review are making heritage easy, putting heritage to work and making heritage relevant. A good many submissions, including the National Trust, have said it is missing the most critical points, which is conserving and protecting heritage, and that should be the guiding goal for a review. Do you have any observations about that?

Ms VINES: Can I start? I do. What I have kept saying is we need resources to actually do stuff on the ground that saves sites. There has been this fashionable twist with heritage about telling stories. Of course they are important, but if a building is gone that you are telling the story about, there is not much point in telling the story. I agree with what you are saying about missing conserving and protecting. Conserving involves resources and protecting involves leadership. Those two key things, I think—you know, "Let's make it easy", "Let's put it to work" and "Let's make it relevant" are all sort of buzzwords, almost like telling the story. The fundamental point is we have got to get out there and resource to do the stuff to save it.

Ms WOOLL: I would agree with what Ms Vines just said. I suppose what I would add is in my comments on the objects I think I also added conservation and management as something that the objects of the Act should include. I think it is not just about conservation as such, but it is the understanding of actually how—if you own one of these properties, what does it entail and what skills do you have to have to manage it. Some of these sites are extremely complex. People might see that the land is quite cheap, they buy it and then they really do not know what to do with it. They do not have the skills to approach banks or get appropriate finances to see that the property is actually going to be used in a meaningful way. They do not know what to do next. So it is not just about conservation management plans; it is also about the skills that people need to actually appropriately manage and use properties. I think a lot more education around that is required in order to get the conservation outcome that the community would like.

Mr SOWIAK: The issue is—making heritage easy is important, and I think that is probably a very strong ambition. In terms of putting heritage to work, I would probably focus more on the community enjoyment of heritage and not necessarily the economic opportunities that arise from that—just having something that is culturally and spiritually significant and preserving it for the sake of its significance. In terms of relevance, yes, we need to recognise our beautiful places and we need to be able to do that in a way that is easy and recognises that community benefit. So, yes, conservation comes under that.

The CHAIR: I now ask Government members if they have questions, starting with Mr Franklin.

The Hon. BEN FRANKLIN: I will start with Ms Vines. I guess something a little rare for me is to basically echo some of the words of Mr Shoebidge to say that I think your evidence today has been exceptionally

compelling, particularly your advocacy for the incredible impacts that small amounts of funding can do for regional and remote communities, but obviously more broadly than that. I wanted to start by picking up something that is in your submission and that you also referred to in your opening statement, which is the multiplier effect of funding conservation and heritage projects. I think you talked about it being 11 times the dollar value, which is extraordinary. Can you basically expand on this a little bit and talk about the benefit of this multiplier effect to both the preservation of heritage within your community and the benefits to the broader community in itself?

Ms VINES: Sure. How we measured that—and we have not done it recently because of sadly a change of staff in Broken Hill. There was a very good director of environmental services who had a spreadsheet related to how much money would go to a small grants program, what the project spent and therefore—because in many cases I would say the little bit of money made the project possible if it is, for example, painting a house or rebuilding a front veranda, small-scale projects. So let's say that you give a property owner \$500—which is what we started with, which sounds like peanuts in a city context. But, as I said, it allows you to buy your materials.

Then you look at what that generates and, okay, the \$500 then invariably gets added to either in labour, which you are able to factor in at a labour rate because people are actually doing the work even if they are not being paid. So we in Broken Hill in the beginning of our scheme allowed dollar-for-dollar funding to be matched by contributions of labour. What we found in the first few years is that you have \$500 and that might generate, let's say, \$2,000 worth of improvement to a house because by the time they painted it and tarted it up and did it, they had added that amount of money. But then what we found was that once we gave a bit more money and there was more confidence in the community, the \$1,500 generated \$10,000 worth of work because they think, "Wow, we've got \$1,500," and then they might borrow a bit from the bank and then they might get a family to chip in and suddenly you have \$10,000 worth of work. So what is that? That is seven times, \$1,500 to \$10,000.

Also what we were doing was let's say we get \$1,000 from the Government, \$1,000 from the council and then we actually get dollar for dollar. So someone is given, let's say, \$2,000 from those contributions and they put in \$2,000, whether it is cash or in labour. What we were then finding—and we sadly no longer measure it because this council staff member is not there anymore. But we were getting up to \$11,000. And so, for example, the Broken Hill Pub would obviously skew the figures. You know, we might have given them \$3,000 for their veranda replacement and that is a \$6 million project. That would completely skew our figures, right. We would not do that. That would be kind of lying. Look, along the way we did a little bit of fudging to help. But the reality is that if you go to politicians and you say, "Give us a dollar worth of State money," we will multiply it 11 times and that equals jobs. We are always being told we need to create jobs. That is how we kept getting money.

The Hon. BEN FRANKLIN: That is great. What you have done in Broken Hill has been extraordinary. It is now, I think, one of the most important arts and cultural centres in all of regional New South Wales and in fact all of New South Wales and probably all of Australia, as well as obviously having done an extraordinary job with heritage. Can I move on to looking at how we can potentially replicate that across regional New South Wales and look at the benefits that you have been able to achieve and discuss the sort of incentives that you think would help to deliver these benefits. I know that you have talked about the importance of increased training and support. For example, the Brewarrina submission has talked about potentially not requiring application fees for heritage DAs and so forth. I was wondering if the three of you could please expand on what you think the most effective incentives would be in order to continue with preserving and protecting our heritage in regional New South Wales.

Ms VINES: One initiative which South Australia has is that the Construction Industry Training Board [CITB]—when you do a development application you put in a levy which is about training tradesmen around the State. I do not think it exists in New South Wales. But essentially we have got a very good program here—because I am based in South Australia. I am based in Adelaide. I am not based in New South Wales. The CITB levy has been used to do skills training in heritage. There have been a number of projects around the State where buildings in community ownership, particularly those that have rising damp problems and stone issues—there is a stone company here in South Australia that does this training to train stone tradies to do the work. So the levy is being used. I do not think that applies in New South Wales, and I think it is an excellent initiative that we have here.

Through the Heritage Near Me program—the parameters of the program were very broad and I thought that was great. Look, I keep talking about resources. I am sorry, but I do—financial resources because financial resources can be used if they are effectively managed to build skills. We in Broken Hill, through Heritage Near Me—Broken Hill has a population of 19,000 and there are quite a few builders there who know nothing about heritage. We organise through Heritage Near Me a similar kind of thing that CITB does in South Australia. In fact, we got the same company up to do some training on stone conservation on walls of the local stonework in Broken Hill. So it is about skills training, it is about resourcing and it is about training people.

I commend the New South Wales Government for their Heritage Advisory Service. That is still the best remaining one in the country. Other States have dropped it off, but it is the most effective way of spending money

in the country. There was a year 2000 assessment of the advisory services programs around Australia and how effective they were in terms of managing heritage. The resources provided through those networks in each of the States, but particularly in New South Wales, was argued as the most effective way of managing heritage because of its multipronged approach to not just giving money but providing expertise on the ground by then sharing these in quarterly meetings, which of course now could be held on Zoom but used to be held in Sydney.

It is this capacity building. We have e-news of heritage networks and so forth. So it is a combination, if you are asking the question. More money, more skills, more training, more connections and more listening to local people and people like me. I am at the end of my career now. I am trying to retire, but I love what I do. We need people in their 20s and 30s doing this sort of stuff and to hand on the mentoring that people like Ms Wooll and I do and all the advisers in New South Wales do. We are a passionate bunch of people, and I really commend the Government in keeping that service going. Resource that more. Get more than \$6,000 per council. Quadruple it.

The Hon. BEN FRANKLIN: Thank you, Ms Vines. That is very helpful. Could we move on to you, Ms Wooll, with the same question about the incentives that you think would most assist in this space.

Ms WOOLL: I think, from our perspective, the issues surrounding some of these big sites and bigger commercial sites in town and things like old former mental hospitals, orphanage sites and these bigger properties is often that it is almost sort of a "rabbit in the headlights" syndrome with some owners and some consultants even in terms of navigating how to deal with issues like the Building Code of Australia, accessibility and fire in some of these sites without diminishing the significance of them. I think whilst we have a heritage adviser it is a fantastic service, but even then I think with some of these bigger sites or some of these more difficult technical sites there just needs to be greater availability of a sort of mediating body to help negotiate these issues.

I think what we are facing again and again is that greenfield sites where you get to build your own building are just too attractive an alternative, and as a result we are just going to struggle as time goes on with managing these properties and making them relevant and worthwhile, which is tragic because the community is very passionate about heritage. In every piece of consultation we ever do, heritage is one of the first and foremost things that comes up. It is just a matter of trying to make the process more accessible so that it does not create that initial fear or repulsion to the idea of going into one of these sites and actually doing something meaningful with it so that we keep it.

The Hon. BEN FRANKLIN: I noted that your submission also suggests introducing heritage enterprise grants. I was wondering perhaps if you could unpack that a little bit.

Ms WOOLL: That was actually noted in the discussion paper. But I think it is South Australia that has a scheme and maybe Victoria has one as well where the State provides an initial payment and effectively that allows for the redevelopment or adaptive re-use of a building which then gets sold off and the profits from that get rolled into another project where that can then fund sort of an ongoing rollout of improvements over different sites. I think something like that would be fantastic. Especially for some of the really big sites because they are just sitting there doing nothing. Truly, the owners I think half the time do not know what to do with them and the easiest path is just to wait for council to issue a demolition order on them if they get that bad or for a fire to burn them down. I think, again, it comes back to that sort of providing different stimuli to get these properties back in action again. An enterprise fund starting off with a seed investment in one property and rolling it on would be great.

The Hon. BEN FRANKLIN: That is great, Ms Wooll. Finally, Mr Sowiak, did you want to add anything to those comments?

Mr SOWIAK: I just want to reinforce the words that Ms Vines spoke about in terms of increasing the funding for the Heritage Advisory Service. That has not seen any increase in donkey's years. It would be nice if that was increased and topped up a little bit, because we never get enough hours for that. The other issues these small rural shires is getting experts to help us with modifications to our LEP to update our heritage inventory. Those are issues that we just do not have the capacity to deal with.

The Hon. BEN FRANKLIN: All of those contributions are incredibly helpful. Thank you very much. I do not know if any of my colleagues have any questions in the remaining very small amount of time. Sorry about that.

The CHAIR: Thank you, Mr Franklin. Are there any questions from Government members?

The Hon. SHAYNE MALLARD: Mr Franklin covered it comprehensively. Thank you.

The CHAIR: On that note, I take this opportunity to thank Ms Elizabeth Vines, Ms Kate Wooll and Mr Jeff Sowiak for your attendance and your valuable participation today. A question on notice has been taken

by Ms Vines. 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 question you have taken on notice. We will now take a short break until 12.00 p.m. A reminder to members to please go on mute and switch off your video until that time.

(The witnesses withdrew.)

(Short adjournment)

JOHN McINERNEY, Executive Committee Member and Former President, Millers Point Community Resident Action Group, affirmed and examined

MICHAEL BARKLEY, President, Friends of Fernhill and Mulgoa Valley, sworn and examined

ADAM LINDSAY, Executive Director, Sydney Living Museums and the State Archives and Records Authority of NSW, affirmed and examined

The CHAIR: I now welcome our next witnesses. Would anyone like to start by providing the Committee with a short opening statement?

Mr McINERNEY: Yes. Thank you, Chair. I guess in introduction I should say that Millers Point is probably the heart of the heritage of New South Wales, if not Australia, as most people would know. I have lived here for over 10 years and have been a member of the local committee for all of that time. I am fairly closely aware of the difficulties that we have had and the benefits of the Heritage Act. I suppose in broad summary I would say that the problem we have identified is not so much with the Act; it is the administration of the Act. It is a bit like local councils where you cannot blame the Local Government Act but you can certainly blame the mayor and the CEO who do not manage it properly. My feeling or the feeling of our group is that it is the administration of the Act that is the problem. Although, we do accept that there are certain benefits and improvements that could be made. We have enumerated those in some 18 points we have put at the rear of our submission.

If I could just perhaps highlight one of them that we think is probably the most important—that all development applications for heritage items should be assessed at the relevant council level. Our difficulties particularly have been with involving the officers of the Heritage Council in local decisions. We find that either they do not come out to the site or they use some rote process to solve our problems. We have found increasingly the local council solves our problem. We have lobbied in the past for more delegations to local council, to the extent now we are operating quite well in Millers Point, but there are still some minor areas of delegation that would be left. I think delegation to local council is the direction. But, again, that is an administrative matter rather than necessarily an Act problem. Thank you.

The CHAIR: Thank you, Mr McInerney. Similarly, Dr Barkley, would you like to also provide a short opening statement to the Committee?

Dr BARKLEY: Yes, please. I will just give a bit of background that Friends of Fernhill and Mulgoa Valley is a community-based non-profit organisation. Our objectives include the safeguarding of cultural and natural heritage of Mulgoa Valley and responsible, cultural and ecological tourism while respecting the amenities of its residents. Friends of Fernhill is a partner in the Alliance for Public Parklands, which is a coalition formed to protect significant parklands in the Greater Sydney region. Mulgoa Valley is principally significant as the cultural landscape that has evolved over the nineteenth century through large estates established by the Cox, Jamison and [inaudible] families.

The evolution of the rural land uses and historic associations with the community are demonstrated in the collection of homesteads and village cottages, the local public school, St Thomas' Church and cemetery reserve, cultural plantings and the Mulgoa Road, which has long served as a principal means of access. Mulgoa Valley is perhaps the richest area surviving in the Sydney Basin for its number and diversity of natural and cultural heritage sites, its diversity and scenic landscapes. Its cultural value resides in its visual character, the culmination of large estates, such as Fernhill, and village settlement and the natural values of remnant oakwood forest, cleared rural land and the broader setting, and the Cumberland Plain Woodland and treed hillsides.

Last year we nominated Mulgoa Valley for listing in the Heritage Register as a cultural landscape at the suggestion of the Greater Sydney Commission, the Environment Commissioner, and consistent with its metropolis of three cities, and Penrith City Council's scenic and landscape study. Our submission to this inquiry is Mulgoa Valley centric and based on over 40 years of residents' experience with conservation and heritage issues in Mulgoa Valley, including issues directly impacting Fernhill. Thank you, Mr Chair.

The CHAIR: Thank you, Dr Barkley. Mr Lindsay, would you also like to take this opportunity to provide the Committee with a short statement?

Mr LINDSAY: Thank you, Chair. I do not have an opening statement to make, so I am happy to get straight into questions.

The CHAIR: Thank you very much, Mr Lindsay. I invite the Hon. Peter Primrose if he has any questions.

The Hon. PETER PRIMROSE: Just a couple, if I can. Flowing out of Mr McInerney's statement, you spoke about the importance of local government in resolving local issues. Earlier we had a submission from Local Government NSW. Their recommendation number four to us was that:

Local government's ongoing role in the management of Aboriginal cultural heritage must be clarified in any proposed reforms to state heritage legislation.

It seems to me that we need to broaden that to not only include Aboriginal cultural heritage but also in relation to cultural heritage itself. I was wondering if any of the three witnesses could comment on what they see as what should be the role of local government in relation to not only Aboriginal cultural heritage but also in fact cultural heritage more broadly. Maybe if I can begin with Mr McInerney, who raised the matter.

Mr McINERNEY: Thanks, Mr Primrose. In our submission we argued that there should be a separate legislative Act to protect Aboriginal cultural heritage. We think it is necessary because the Heritage Act is firmly rooted in what might be called colonial history. Not to denigrate the Act itself, but I do not think it has either the background or the mechanisms in the Heritage Act, that is, to adequately deal with Aboriginal cultural heritage. On the other hand, I think it does have the capacity, with perhaps some strengthening, to deal with what might be called white Australian cultural heritage. Again, I am not denigrating white Australia, I am just saying that is the reality of Australia. I think the Heritage Act could deal with that, but again I make the point Aboriginal cultural heritage is I think a step too far for the Heritage Act.

The Hon. PETER PRIMROSE: Can I ask, Mr McInerney, before I ask other witnesses to comment, could you also specifically address the issue of the role of local government, please?

Mr McINERNEY: Yes. Sorry, you did ask that and I had forgotten. I think in my experience, and I have actually served on the Sydney City Council, so I have a fair bit of local government experience from that side, but also from the local community. We have found and continue to find that administration and advice and everything we need from a heritage point of view is best provided at the local council level, in our case. I must say though that the Sydney City Council probably has one of the best resourced heritage administrative sections in the State. Some have argued in fact it is better resourced than the Heritage Council. So I guess we are in a rather ideal position for me to say that. But, on the other hand, I think the closeness of local councils not only to the properties but also the owners of those properties is a strong argument to delegate most of those powers that the Heritage Council has back to local councils, perhaps having some review role from time to time. But I am firmly convinced that the future role regarding heritage should be mainly carried by local government.

The Hon. PETER PRIMROSE: Thank you. Can I ask Dr Barkley if he would now address the issue?

Dr BARKLEY: Yes, thank you. This is Michael Barkley speaking. Our experience with council on Aboriginal issues has been limited to exposure to their policy, but beyond that it has been very limited. We have had more success with obtaining information and liaising with the Dharug community and this is exemplified by our Colonial Connections event that we had in May. The initial inquiry we had with council was regarding the archaeological research that had been done in Mulgoa Valley, and that proved to be very limited. I think that is a wide open agenda for exploration. For example, on Fernhill the eastern or Littlefields Creek precinct has archaeological artefacts that have not been researched and it is a wide open field. There are other places in the valley too that are of Aboriginal cultural significance. One took place on St Thomas' Church and that has been documented. But in terms of what we will be able to obtain to our local government has been limited. In terms of the role of local government in cultural heritage, we have been working closely with council in our listing, or nomination for listing Mulgoa Valley on the State Heritage Register.

The Hon. PETER PRIMROSE: Thank you. Mr Lindsay, I know that you address focus question number two in some detail in your submission. My question for you is also going to be to ask if you could elucidate on that, please. Can I get you to possibly do both? That would be great, thank you.

Mr LINDSAY: Certainly. Adam Lindsay here. We did talk about alignment between State and national legislation in our submission. I acknowledge Mr McInerney's point around the colonial nature of the Heritage Act. Indeed it is a product of colonial Westminster government. I suppose I firmly believe in self-determination and as a white man feel I have got limited amounts to offer other than aligning State and national, and even local, parameters around acknowledging First Nations culture. But what I would like to say is I think the mechanism, the Act itself, is possibly less important than who administers that Act and who makes decisions about that Act and that First Nations leaders and communities should be involved and at all points in that process.

The Hon. PETER PRIMROSE: Do you have any views on the role of local government in relation to the matters we have been discussing? Earlier I read out local government's ongoing role, both in the management of Aboriginal cultural heritage and cultural heritage more broadly. Do you have any views what the role of local government should be?

Mr LINDSAY: In my profession we deal with a lot of local governments. We have properties all over the State, deal with a lot of local governments. The requirements when you have got an item of significance, be it Aboriginal or not, the divergence of requirements between State and local and Federal can sometimes add additional burden. So I would encourage that decision-making be placed with the right entity, whether that is local, State or national, and that there be some convergence of the systems so that you are not dealing with multiple stakeholders to try and get things done.

The Hon. PETER PRIMROSE: Thank you. Since we are talking already, Mr Lindsay, can I ask you to possibly elucidate on your answer to focus question three: "Are the objectives of the Heritage Act still relevant?" You make a number of suggestions. Could you please elucidate why you believe that they should be changed?

Mr LINDSAY: Certainly. We think that they are largely fit for purpose. As you can see from the submission there are a couple of insertions in bold. We have suggested adding excellence in design and urban renewal. We are firmly of the belief that protection of heritage places is part of the story and part of the role of the Heritage Act, but the community expectations do expect activation and ongoing use and that contemporary design and urban renewal should form part of the objectives of the Heritage Act. We have suggested the introduction of a heritage fund, which is outlined in a number of other answers in our submission, but really that fund is there to protect and address the burdens and the costs associated with heritage listing and protections, and potential heritage listings.

The Hon. PETER PRIMROSE: Recommendation number 10 of Local Government NSW—and I am deliberately asking people to comment on specific recommendations here—was:

The NSW Government should develop a state-wide Heritage Activation Strategy to coordinate government efforts to activate and promote heritage assets (both built and cultural heritage) across New South Wales. This should commit a dedicated funding pool to local government to support the activation and promotion of built and cultural heritage across New South Wales.

Mr Lindsay, I think you almost alluded to that in your response. Maybe if I could ask all three witnesses again but begin this time with Mr Lindsay.

Mr LINDSAY: Certainly. Thank you. I think I am in favour of anything that activates, celebrates and increases enjoyment of heritage places. Sydney Living Museums [SLM] is a dedicated institution that does that for 12 of the State's most important historic and heritage places. I think it is very difficult to make a broadbrush statement that funding is best provided to local government, or even State government, to activate those places. It is very difficult to say that one entity is best placed to coordinate a strategy for activating. So I really do not have any magic answers on how to get increased activation because it happens largely in our organisation through a dedicated institution set up for the protection and activation of those properties. I think that a heritage fund, run by the Office of Heritage, should have a mechanism not just to protect heritage but also to enliven, activate and celebrate heritage. I will not make too many comments of whether that is best placed with local government or State government, but I do think increased focus and funding to activate significant heritage places is really important, particularly for two reasons: return on investment for those assets, but also to increase people's enjoyment, understanding and connection with those places.

The Hon. PETER PRIMROSE: Dr Barkley, do you have a view on that?

Dr BARKLEY: [Inaudible].

The CHAIR: Dr Barkley, it is the Chair speaking. Could you—now we can hear you. Fantastic.

Dr BARKLEY: Penrith City Council has done some activation through the western Sydney councils in establishing a historic western Sydney app which can be used to explore Mulgoa Valley, for example, as well as other historic sites in western Sydney. That needs to be further developed and marketed. Other activations, I think they are allowing a minor reduction on council rates for heritage properties. That has been longstanding. But I am sure that, given the constraints that local government is under, I imagine they would be in favour of any increase in funding that would help them promote heritage and cultural tourism in their local government areas.

The Hon. PETER PRIMROSE: Thank you, Dr Barkley. Finally, Mr McInerney, can I ask if you have any comments, please?

Mr McINERNEY: Yes. Mr Primrose, the idea, as you spelt it out earlier, I would fully support and I know our group would as well. I think there is a very positive role for the State in the area that you talked about. In a sense it is coming back a bit toward the idea of delegating the details to local council and keeping the broader picture and broader direction at the State level. I am very keen on that and I think it could work quite well. Certainly, from the point of view of funding the required resources, I think the State would have more ability to do that. So I guess I am fully in favour of it.

The Hon. PETER PRIMROSE: That will do me for the moment, Mr Chair, thank you.

The CHAIR: Are there any other questions? The Hon. Taylor Martin?

The Hon. TAYLOR MARTIN: I think my first question is best directed to Mr McInerney. Your submission notes challenges faced by residential property owners in the Millers Point area in relation to the heritage approvals process. What changes do you think could be made as a result of this review that would improve that process for locals?

Mr McINERNEY: Mr Martin, I think facilitating delegation would have helped. We started to lobby for more delegation to Sydney City Council some eight years ago, I think. It has taken all that time and the council still has not got a full delegation. In one way it is an administrative process, but I think there are some little quirks in the legislation that could be ironed out and improved to allow this process of delegation to occur quite smoothly. I am not a hundred per cent in favour of full delegation with no questions asked, because some of these matters are so important that it needs to be kept under review. Perhaps the Heritage Council's role could be (a) one of delegation, but (b) some sort of monitoring position or review position that would rein in a council, let's say, that got out of control or really was not taking any notice of the heritage requirements. Is that an answer for you, Mr Martin?

The Hon. TAYLOR MARTIN: Yes, thank you. Can I follow up? Do you believe that the current listing process and inventory processes provide enough clarity to owners on what fabric is and is not significant, and what activities those owners are able to carry out without seeking approval?

Mr McINERNEY: The current listing process I think is good. In fact I think the review looked at even facilitating that more to allow a simpler process, which we would agree with. Associated with the listing, of course, are the heritage impact statements and the various associated documentation that goes with the listing. Some of those are quite detailed, perhaps overly detailed. Again, it comes back to the way in which the Act is administered. If the heritage statement associated with the listing is too detailed then it needs a fairly hands-on process to come up with solutions where there are problems, say, in new construction. That again is where the Heritage Council or the officers of the Heritage Council, who in fact refuse to visit the sites, cannot solve some of those problems. So again it bolsters up the idea of administration at the local council level.

The Hon. TAYLOR MARTIN: Thank you, Mr McInerney. I have a question for Dr Barkley and the Friends of Fernhill and Mulgoa Valley. The Government's discussion paper has proposed introducing a special heritage listing category for landscapes. What are your views on some of the challenges with heritage listing larger landscapes?

Dr BARKLEY: I am not aware of that which you mention, but some of the things we have encountered, particularly in a large area like Mulgoa Valley, is community understanding of what it is all about and how it works in their favour. That is affected I think by the demographics of the valley. In other words, more recent residents who have moved into the valley tend to have a different view than those who have been resident in the valley for one or more generations.

The Hon. TAYLOR MARTIN: Thank you very much. That is all from me, Mr Chair.

The CHAIR: Thank you very much, Mr Martin. The Hon. Ben Franklin has raised his hand.

The Hon. BEN FRANKLIN: Thanks very much, Chair. My questions are going to be predominantly directed to Mr Lindsay. Can I start by talking about the City of Sydney's heritage floor space scheme, which was referred to in the first session today? I understand that Sydney Living Museums, of which you are obviously the very well respected CEO, has used revenue generated from that scheme to partially fund the upgrade of Hyde Park Barracks. Could you tell us a little bit about that, the scheme itself, how the scheme benefited the project and, I guess, improved conservation outcomes?

Mr LINDSAY: Thank you, Mr Franklin. We did use the City of Sydney's heritage floor space scheme. It in fact provided the predominant funding source for the complete renewal of the Hyde Park Barracks. If the Committee members are not aware, that is a United Nations Educational, Scientific and Cultural Organization World Heritage-listed site, so the conservation requirements and preservation requirements are at the very top tier. Along with funding from the Commonwealth Government and the State Government it allowed us to undertake a complete renewal of the site, both to protect it and also to activate it.

Some of the outcomes were: We increased the display space at the museum, we have more of the archaeological collection on display, about 40 per cent more of that collection on display; we did a complete access plan for the site, so the gravel pathways which are part of the landscape now are accessible to people who use wheelchairs; we put a passenger lift in, so people who are not able to use the old stairways are now able to get up to the second and third floor for the first time ever; and we also did a companion website, and both the physical display and the Convict Sydney website have been recognised with a number of awards. So I think it is fair to say

that it offered a very successful model for private-public partnership enabling heritage protection and cultural activation, and for the organisation it really gave an increased level of confidence.

The Hon. BEN FRANKLIN: Thank you. I said in the last inquiry at which you were a witness, but I want to say it publicly again, I think it is an absolutely outstanding job and it is now one of the best examples that we have in Australia of how you have utilised that space, the stories that you have told and the balance between colonial history and Indigenous history. I think it is just superb.

Mr LINDSAY: Thank you.

The Hon. BEN FRANKLIN: Do you see that scheme potentially being able to be utilised in either other SLM properties or other venues that you are aware of?

Mr LINDSAY: We have a number of other properties that are eligible for heritage floor space credits. We also have one or two properties that we would like to try and argue into the scheme that are not currently eligible. We would love to—and I said this in my submission, I see other properties on the outskirts of Sydney, like Darlinghurst Gaol, that would benefit greatly from heritage floor space and I personally think having properties in Parramatta and then also the Western Sydney Records Centre, although not heritage but in Penrith, that the growing cities there should be encouraged to look at such an offset scheme.

The Hon. BEN FRANKLIN: Do you think it would have any application potentially to be replicated in regional New South Wales?

Mr LINDSAY: I note that some of the research says that it cannot be sustained outside of a large metropolitan area. It is not a field of expertise but I do think that if a local council can find a way to make it work, they should. We would not have been able to complete the renewal had we not been the beneficiaries of such a scheme.

The Hon. BEN FRANKLIN: Thank you. I move on now to the Endangered Houses Fund, which the Government's discussion paper refers to and obviously you have had some interaction and involvement with. Can you give us a bit of a snapshot on how this operates and where this has led to good conservation outcomes for the heritage properties, in your view?

Mr LINDSAY: I certainly can. It started formally in 2005. The Endangered Houses Fund was established formally in 2005. Its rationale is to identify significant properties at risk of demolition or unsympathetic development or similar, to take hold of those properties—sometimes that is through purchase, sometimes that is through gift—then we put our expertise and love and care, and money, into it and then offer it to the market for future generations. In more plain terms, SLM addresses conservation deficits that have built up, that the market, either buyers or owners, find unattractive or off-putting or out of reach for them to have the capacity or capability to repair.

It comes in at a certain point and arrests that dilapidation, reverses that dilapidation or conservation deficit, so that it can be an attractive property to offer back to the market. It has produced conservation outcomes across a number of properties. Most recently, we are conducting some work on a Nissen hut at the moment. That is the latest in our Endangered Houses Fund properties. That will be finished later on this year and then ultimately offered back to the market. That property is one of a number of surviving Nissen huts. It is significant because of its commentary on the housing of that type, the small housing movement—

The Hon. BEN FRANKLIN: Excuse my ignorance, is Nissen the architect? I do not know the term "Nissen huts", that is all.

Mr LINDSAY: You do not know the term "Nissen huts"? Nissen huts are a particular type of housing. I could share my screen and share a picture for you but I do not know how to do that on Webex. But it is a particular type of postwar housing. Basically there are a number of them in situ. It is significant because of the original nature of the fabric. It is also significant because of its place amongst a number of dwellings of its type. Sydney Living Museums purchased that and are now conserving that. First of all we got a development application approved and we are now developing according to that DA, then we will next year offer that back to the market. That property would have continued to dilapidate, would not have been an attractive residential property or investment property, so SLM's intervention in that to arrest the conservation deficit and offer it back means it is there for future generations.

The Hon. BEN FRANKLIN: That is fantastic. My final question is for all three witnesses but was prompted by something Mr Lindsay mentioned in his submission, which was something very basic and logistical in terms of how the system could be improved. For example, you say the permit system could be improved with things like alerts for submission requirements if the dates are not met by Heritage NSW. To me that seems like an eminently sensible, very small thing that could be done that could have a broader positive outcome. My question

to all three witnesses is: Do you have suggestions of smaller procedural, logistical process type changes that can be made that we can recommend in our inquiry but that would lead to really positive outcomes? I will start with Mr Lindsay.

Mr LINDSAY: The alert system, as I have mentioned in the submission, I think is a sensible one that could play well with both applicants and also the heritage office itself, if you had a system that alerted milestones lapsing or coming up so that time lines are not delayed. I think that the category system that the Government has proposed in its discussion paper could also lead to simpler system-based processes—no-touch applications, for instance, that meet certain thresholds or compliance. The new web-based system that Heritage have introduced, I think some exploration of what other capabilities that system has to allow more automation, more notification and more information provision so that they can meet the kind of, I suppose service expectations of the public.

The Hon. BEN FRANKLIN: That is excellent. Thank you. Mr McInerney, do you have any comments to make about that question?

Mr McINERNEY: Yes, Mr Franklin. I would argue for more staff to be available from the heritage office to quite early explain to applicants exactly what is required, what they can and cannot do and, if necessary, to go to the site itself and sit with them. Many of the problems related to heritage are really quite complex and specialised in a design sense. The applicants, while having often the best will in the world, do not have the proper design advice available to them—often from their architects, by the way—to do what they would like to do. So I think early and expert advice available freely and, as it were, not just over the counter but also on site, to me would cut out a lot of the later confusion and unhappiness and dilemmas that occur.

The Hon. BEN FRANKLIN: Thank you, Mr McInerney. That is very helpful as well. Dr Barkley, did you have anything to contribute on this issue?

Dr BARKLEY: Yes. I would like to reinforce what Mr McInerney had mentioned. We have struck that here. But also I think it would go a long way if prospective property purchasers and landowners were aware of the heritage conditions that affect their properties in the valley. We have had some discussions with Penrith council officers on this matter. I think it is a combination of getting the word out there locally and understanding what is required of them from the Heritage Act point of view.

The Hon. BEN FRANKLIN: Thank you very much. That is all of the questions from me, Mr Chair.

The CHAIR: Thank you very much, Mr Franklin. Mr Primrose, do you have a further question?

The Hon. PETER PRIMROSE: Two if I may—one very specific one that I forgot to ask Mr Lindsay. It is the very last item in your submission:

D. Response specific to State Archives and Records Authority of NSW (SARA)

You make a very specific recommendation. I was wondering if you could elucidate on that, please?

Mr LINDSAY: Certainly. The State Archives Collection, the State Archives and Records Authority is set up explicitly to manage record keeping across New South Wales public offices. So it is not just government, it is also local councils, it is State-owned corporations and it is also universities. The State Records Act governs the record keeping requirements of those public offices from creation right through to either compliant disposal or identification of archives of enduring value. Anything that is identified by the State archives board as being required as a State archive, having enduring value for infinite number of different purposes that it may have such inherent value, is required to be retained indefinitely and then ultimately transferred into the authority's custody and accessioned into the State Archives Collection.

This collection is an unbroken public record and the material in it predates colonisation in 1788. It is a significant collection, one of the world's leading collections, documenting the wielding of colonial power, if you will, and has a dollar value over a billion dollars. So its social, cultural, economic value is extremely high. It acts, therefore, as a repository for academics, for researchers, but even more broadly, for social historians and the public. Archives from the 1880s are being used now for a completely different purpose than they were originally thought to be used.

For instance, early photographs of Coogee and eastern suburbs communities that were taken as surveys for development are now being used to map coastal erosion—very, very different purposes than we saw them created for. This, as a body, as movable cultural heritage, may be thought of by some as being governed by or subject to the State heritage legislation. However, there is an exemption in place currently. This recommendation would formalise that exemption for the purposes of the legislation to clarify that there is no overlap and no jousting to be done between the record-keeping legislation and the heritage legislation, but it would also then put in statute

the independence and the determination of the New South Wales State Archives and Records Authority to manage its collection as its Act asks it to do.

The Hon. PETER PRIMROSE: Thank you. If I may ask one general question, Mr Chair. Mr Franklin asked for some very specific responses. I am going to go to the other end and ask for a more general response, given the time we have got. I ask all three witnesses, maybe beginning with Mr McInerney, what do you think would be the most important recommendation this Committee could make in relation to the Heritage Act? If you were able to be in the deliberative and make a recommendation, given what you have put in your submission, what would be the most important thing that you would want us to recommend?

Mr McINERNEY: It is a difficult question. I guess from the simplistic side of the Millers Point community, we would just like to see the Act operate more efficiently, more effectively. We still agree with the objectives of the Act, with the whole concept of the thing, but it is its operational procedures that seem to be lacking. I am not sure, to be honest, that you can sort that out by amending the Act. I think the role of the Committee may be to look at the way in which the Act is administered and to make recommendations perhaps in that area rather than changing the actual black letter law of the Act. Sorry if that does not—not a good answer.

The Hon. PETER PRIMROSE: No, I think a number of us are certainly taking a similar view. Can I ask Dr Barkley if you have a view on that, please?

Dr BARKLEY: Yes. I think funding has certainly been a critical issue with [inaudible] the Heritage Act. Also I think it is critical that the Heritage Council has a merit with skills and experience-based appointment of respected professionals and experts. I will leave it at that.

The Hon. PETER PRIMROSE: Thank you. And finally, Mr Lindsay. Give you a magic wand, what would you do with it?

Mr LINDSAY: If I had a magic wand? I will respond equally generally in big picture to your general big picture question. I would say the most important recommendation from my point of view and with my experience is that we should have legislation that sees preservation of heritage and heritage values as the starting point, that it should promote access, enjoyment, celebration and promotion of these places' position in the heritage of the State. One of the things I think is most forward thinking about the Historic Houses Act is the word "enjoyment". I am proud, we say this internally all the time, of the fact that one of our objectives as a trust is to promote the enjoyment of these spaces. Yes, we have to protect them and preserve them. Yes, we look at scholarly research and outcomes and we look at public programs. But ultimately, most broadly, we celebrate their position in the heritage of the State and we promote their enjoyment.

That gives us, I suppose, non-elitist licence to be unashamed about hosting very scholarly exhibitions, doing publications, but at the same time having fantastic events and functions there, right through from weddings to more ceremonial celebrations of bicentenaries et cetera. It is that non-elitist attitude that allows us to sort of open up and say, "You don't need a history degree or a heritage degree." Maybe the people making these decisions at first do—I am not commenting on that—but from an audience and attraction point of view, it really does open it up and says, actually "enjoyment", that is an accessible word. If we get away from all the nomenclature, all the kind of terms that we can get stuck in, the word "enjoyment" is completely universal. In my opinion I would love to see an Act that makes that a priority.

The Hon. PETER PRIMROSE: An important point. Thank you, Mr Chair.

The CHAIR: Thank you very much, Mr Primrose. Are there any other questions? To the witnesses, did anyone wish to make any final observations or comments?

Mr McINERNEY: Good luck.

The CHAIR: I will take this opportunity then to thank our witnesses for attending the hearing and for participating. I also extend my appreciation to all Committee members for their assistance and support during today's hearing. In addition, I extend my thanks to the secretariat for their ongoing professionalism in helping to facilitate this virtual hearing. Our fifth and final hearing is scheduled for next Thursday 2 September. Until then I wish everyone a pleasant afternoon. Keep safe. This concludes today's hearing.

(The witnesses withdrew.)

The Committee adjourned at 12:47.