

REPORT ON PROCEEDINGS BEFORE

STANDING COMMITTEE ON SOCIAL ISSUES

INQUIRY INTO REVIEW OF THE HERITAGE ACT 1977

Virtual hearing via videoconference on Thursday 2 September 2021

The Committee met at 10:00 am.

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 fifth and final 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 experts in the field: the head of the New South Wales Government's Cultural Infrastructure Agency and the president of the History Council of NSW.

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

All witnesses have a right to procedural fairness according to the procedural fairness resolution adopted by the House in 2018. There may be some questions that a witness could only answer if they had more time or with certain documents to hand. In these circumstances, witnesses are advised that they can take a question on notice and provide an answer within 14 days. Today's proceedings are being streamed live and a transcript will be placed on the committee's website once it becomes available.

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

RICHARD MACKAY, Private individual, affirmed and examined

HOWARD NAPIER TANNER, Private individual, affirmed and examined

The CHAIR: I now welcome our first witnesses. Would you both like to start by making a short statement?

Professor MACKAY: I acknowledge that this hearing occurs on the land of the Gadigal people of the Eora nation and I pay respects to Elders, past present and emerging, extending respect to any Aboriginal people in attendance. I am a former member and former Acting Chair of the Heritage Council of NSW. I was the inaugural Chair of the State Heritage Register Committee and principal author of the heritage sections of the Commonwealth's *State of the Environment* reports in 2011 and 2016. I have reviewed the Historic Cultural Heritage Act of Tasmania and provided strategic advice to heritage councils in both Victoria and Queensland. My submission and appearance today are in a personal capacity.

The terms of reference for this review are too narrowly focussed on the Act itself, rather than the total New South Wales heritage system. The discussion paper does not consider an appropriately broad range of options nor was it prepared in a consultative manner. The stated intention to make heritage easy, to make it work and to make it relevant; might be better presented as objectives such as to identify, to protect, to manage and to celebrate our precious heritage. The major challenges facing heritage regulation in New South Wales relate to the system, rather than to the Act. Some of the problems mentioned in the discussion paper could be dealt with under the exemption provisions of the Act or by better application of other provisions.

The current culture and process of regulators appears to be more focussed on preventing change than on retaining heritage values. This practice can, for example, militate against adaptive re-use. What is needed is a shift away from regulation and the message about what you cannot do, to enthusiastic encouragement about what you can do with our heritage places. The Bathurst Showground—submission No. 132 to this inquiry—offers a firsthand example, and I disclose my involvement as an adviser to the Bathurst Showground Land Manager.

The category system proposed would inappropriately mix the heritage identification listing of protection with conservation and management. Different management of different types of heritage places would be better achieved through more effective guidelines and statutory exemptions. I acknowledge that the Heritage Council of NSW and Heritage NSW are already making reforms and suggest that ongoing effective changes to the system, not changes to the Act, should be the priority. Finally, if there is to be any priority for statutory change to heritage in New South Wales that priority should be Aboriginal cultural heritage, as the current legislation is deficient, does not reflect the diverse values of Aboriginal places nor the proper roles and rights of Aboriginal people.

Mr TANNER: I have been involved in the heritage area since the 1970s. I have been chairman of the Heritage Council of NSW. I have been a councillor of the Australian Heritage Council and I have been national president of the Institute of Architects. I have been involved in a lot of heritage matters and I suppose it is my practical experience that I think is one of the areas that badly needs to be addressed in the review of heritage in this State. I have been involved in major projects: the Sydney Town Hall, Admiralty House, New Zealand Parliament House et cetera, so there has been a lot of experience there and something that actually is currently sorely lacking, I think, is practical experience of how you can get an outcome. The Heritage Act, as Professor Mackay has said, is not the problem. The problem is the administration of the Act. The Act's defined purposes are fine, but they are not being implemented.

During the recent past, the protection of heritage in this State and nationally has been seriously emasculated. There has been a dumbing down of the Heritage Council and of Heritage NSW through lack of support, no real indication of positive future directions and inadequate provision of appropriate expertise. The pursuit of a building approval has involved lengthy, complex and expensive procedures with very little authority, guidance or assistance along the way and this has damaged the public perception of heritage in New South Wales. Few buildings or precincts have been listed in recent years and one is told that a preferred listing is dependent on the agreement of the property owner. Heritage is an element of planning. No owner wants any controls over their properties; they want the controls over their neighbours' properties, as you would know.

Really we need to urgently protect the important elements in the State and we need things dealt with in an assured and quality manner. However, planning controls must ensure that the heritage item or precinct is not placed under undue pressure due to inappropriate development controls in the vicinity. There have been some strange and inappropriate decisions coming from Ministers in the heritage area, one being St John's Camden—which I can talk about, if you wish—and another one being the demolition of the Glynn Gilling House in Vaucluse. There are major sites—and I can talk about them later if you wish—desperate for attention. They are often government owned or with a large government influence and they badly need addressing. And certainly I think

this question of expertise both in Heritage NSW and on the Council is something that sorely needs to be addressed, not only expertise but also real practical experience.

We know that you have got to give advantage to people if they are going to pursue heritage. There are questions here about tax relief. The National Trust has the best system but it has never been expanded appropriately and, indeed, there is this question of whether rate relief could be readily implemented to assist heritage property owners. I think I must say that some good things have been happening. Late last year the ability to self-certify simple works has come into place through Heritage NSW and that has actually been a good thing. They are my remarks for the moment, and I am happy to answer any questions.

The CHAIR: I now invite members of the Opposition to ask questions.

The Hon. PETER PRIMROSE: Mr Tanner, you offered to talk about as an example what happened with St John's Camden. Will you briefly talk about that please?

Mr TANNER: Yes, there is a fantastic church in Camden called St John's. It is very important.

The Hon. PETER PRIMROSE: I know it well.

Mr TANNER: It is a landmark for the district, and was provided with funds by the Macarthur family. The church has been terribly keen to internally subdivide the land and to build all sorts of structures around it. It took a year of absolutely battering at the door of the then Minister to get any consideration. Then when it occurred, it did not actually protect the setting, it did not really protect the church in the manner that was required. It is that sort of unsatisfactory outcome—yes, it eventually got a listing after a year of hard work but, in fact, it did not protect the site.

The Hon. PETER PRIMROSE: Professor Mackay, one of your statements which struck me was that, frankly, the focus of the administration is currently more on preventing change rather than protecting heritage. Will you cite a particularly egregious example to illustrate that?

Professor MACKAY: I think a good suite of examples is contained in some of the terrace houses in Millers Point that were sold over recent years by the Government to private owners. Obviously these are expensive properties and it is reasonable to expect a degree of change to accommodate contemporary residential living. There are examples there—look, I am all for the conservation of original fabric and original form and ensuring that the important heritage values of that State Heritage Register precinct are retained, but that is taken to, in my view, an inappropriate degree when there are arguments about removal of small sections of floor joists, for example, in order to achieve effective transmission of food between a basement, kitchen and a first-floor dining room. There is a recent example in the New South Wales Land and Environment Court of exactly that problem. The issue there is resisting change, rather than looking behind the specifics of the change to how the values of the heritage place can be best protected, including ongoing viability.

The Hon. MARK BUTTIGIEG: I have a related but slightly different question to the one asked by the Hon. Peter Primrose. There was an emphasis from both of you on the problem not necessarily being the architecture of the Act but the administration of the Act. Then I think Professor Mackay particularly mentioned that there was a lack of emphasis on adaptive re-use. Can I take it from that that the facility is in the Act to engender adaptive re-use or do you think we would need to make legislative changes to emphasise that adaptive re-use feature that you said is necessary?

Professor MACKAY: My view is that there is not a need for statutory change. That the existing provisions especially in section 57, specifically section 57 (2), empower the Heritage Council to gazette exemptions. It is perfectly feasible to prepare different sorts of guidelines for different classes of place—be it a building or a landscape or an industrial site—and to accommodate adaptive re-use within those guidelines and associated statutory exemptions, and that would facilitate adaptive re-use. I would highlight that adaptive re-use is actually essential for many types of significant heritage places—redundant industrial sites, for example, or in country towns where you might have major buildings like banks, post offices or masonic halls which are now no longer appropriate for contemporary use and require adaptation—if they are to have a successful future and long-term conservation. My suggestion is that this can be readily accommodated through better resourcing of Heritage NSW to prepare more guidelines for a broader set of classes of heritage place, rather than putting effort into statutory change.

The Hon. MARK BUTTIGIEG: Mr Tanner, do you want to add anything?

Mr TANNER: I think one of the most important things is to have people dealing with matters who actually have practical experience. There is a lot of theoretical people out there telling us, particularly as Richard says, that you cannot do this and you cannot do that. What we need is people with experience who say "This has been done here. It was successful." You see all of our buildings, particularly, and many of our sites, require income

if they are going to have maintenance; therefore, they require a successful use. So, one of the jobs of the Heritage Council is to make sure that buildings and sites have a use and therefore have income and therefore have maintenance. You have got to have people dealing with these matters who have actually been on a building site, who actually know how construction is resolved. Quite a few of the so-called "experts" do not have this depth of insight and experience that says "Yes, it is possible to do that." It is like having a building matter being resolved by somebody who knows nothing about building. These are important considerations: that this depth of knowledge is available within the Heritage Council and within NSW Heritage. It is not currently present.

The CHAIR: I now invite the crossbench if they have questions.

Reverend the Hon. FRED NILE: Professor Mackay, your submission states:

... whether the NSW Heritage Council would best support the Objectives of the Act as an expert advisory body or a statutory consent authority... [the council] currently fulfils both roles... This leads to lack of clarity in listing and in consent decisions, as well as blurring of roles and misunderstandings about the relevant matters for consideration (as revealed by the Sirius Building judgment, for example).

What outcomes came out of the Sirius building judgement from which we can learn?

Professor MACKAY: The issue here—and it arises in a number of Australian jurisdictions and overseas—is the lack of clarity between the process for identifying something as having heritage value and then making well-informed management and planning decisions. Quite often this problem arises when the listing body itself is not clear about whether it is making the decisions based on heritage value or other considerations. The Sirius building in Sydney's The Rocks was an example of that. There was a judgement by the NSW Land and Environment Court a couple of years ago that is relevant and the question here had to do with economic impact of the listing. The court found that in fact the Minister at the time had construed that particular consideration in an inappropriate manner.

The issue, in my view, is that the Heritage Council itself and the listing process should relate to heritage values and then when there are decisions about development or change or planning or adaptation, that is the time in which it is appropriate to take on board economic considerations or physical constraints and to make sensible decisions about what is necessary to enable a building or a site to be conserved. Therefore, it is quite helpful—and it is demonstrated in a number of jurisdictions—to have a separation between the listing which might be done by an expert heritage council and the decisions which might be taken at officer level or ministerial level in a transparent, well-informed and accountable manner.

Reverend the Hon. FRED NILE: Professor Mackay, in your submission you state:

According to the 2019-2020 Annual Report of the NSW Heritage Council, a document has been prepared called 'Future of State Heritage Register: Vision and Objectives'. However, this document is apparently not publicly available ...

Is there any way that you can arrange for this document to be made accessible to this Committee?

Professor MACKAY: No, it is not within my power to release that. I think I would have to suggest that question be referred to Heritage NSW or to the Chair of the Heritage Council. The comment I would make is that even after 20 years the State Heritage Register is manifestly not representative of the diversity of our State's heritage. If the New South Wales Government is to have a role in regulating State significant items and using that register as the tool, it is really important that that be done. So, it is very surprising that there would be such a report commissioned by the agency that would not be publicly available and in play during the course of this review.

Mr DAVID SHOEBRIDGE: Thank you both for your submissions and your time this morning. Professor Mackay has made certain observations about the appropriateness of I think the three guiding themes—I think they are called the three key policy themes in the Government's discussion paper—making heritage easy, putting heritage to work and making heritage relevant. Professor Mackay, if I understand your position, they may be relevant as secondary objectives to a heritage Act but the primary objective should be about conserving, protecting and identifying heritage. Is that how I am to understand your submission?

Professor MACKAY: Yes, that is exactly right. I think I have made some observations in my submission about where heritage is not easy. We have had some commentary even today in this hearing about how to make it work more effectively and obviously, as Mr Tanner has said, making it relevant and making it viable. All of that is important but, frankly, making heritage easy, making it work and making it relevant is more of a slogan. In terms of core objectives, what do we need to do? We need to identify it so that we can manage it. We need to provide protective mechanisms that are not mindful of the ownership. Then we need to have a good system for managing and celebrating that heritage. It seems to me that that would be a better framework for any kind of statutory consideration or government policy guidance going forward.

Mr DAVID SHOEBRIDGE: Mr Tanner, do you have any views on that?

Mr TANNER: I think that certainly Richard Mackay and I both believe that there is a great need to have absolute clarity in the system. At the moment we are not getting buildings listed and we are not getting them properly administered—I must admit I speak largely about buildings since that is my background. But it is this question of making sure we know what the heritage of the State is, that it is recognised properly and then it is administered properly. One of the things for today is to make the case that we want heritage to move in a more positive direction. We want people to see it as a positive activity not a negative activity. I think that has been the problem of the past decade or so. My concern is that people see heritage as a problem, a burden. They do not see it as something worthwhile and, indeed, maybe there is the question of incentives that needs to be touched on today—whether it is rate relief or a tax scheme through the National Trust or otherwise. I think the point is there has to be something that encourages people to see heritage as not only doing the right thing but also being encouraged to do the right thing in a very positive way.

Mr DAVID SHOEBRIDGE: Mr Tanner will you specifically address both those three points? This is what the Government said—

The Hon. BEN FRANKLIN: Point of order: I am sorry but we are going by the WhatsApp group and the time for crossbench questioning has expired.

Mr DAVID SHOEBRIDGE: I am sorry. I missed that.

The Hon. TAYLOR MARTIN: Professor Mackay, your submission comments on the purpose of the Heritage Council and queries whether it should be an expert advisory panel or should function as a consent authority. Will you provide some more detail on your views in that regard?

Professor MACKAY: It can actually function as either and that is a matter for government decision. My concern is that it should not be an amalgam of both, either in terms of the composition of the Heritage Council itself—it should either be expert or it should be representative, and whether it is expert or representative goes to the question of its ultimate role. Is it the expert body providing advice to government at officer level and ministerial level—an expert body actually identifying what should be listed as heritage—or is it to be the consent authority? I think the mechanisms that work best are those where the State Heritage Council is predominantly the expert body providing clear and independent advice and then an associated transparent government process which is accountable. Victoria is the best Australian example of that if the Committee wants to turn its mind to examples from other jurisdictions.

The Hon. TAYLOR MARTIN: You mentioned customised standard functions. How do you see those functioning and what might be the conservation benefits for heritage items in that regard?

Professor MACKAY: It is probably best to answer by way of an example. In the categories model that is put forward in the discussion paper there is a suggestion that there be a separate category for landscapes. My view is there is no benefit in listing landscapes as a separate category, but there is every benefit in developing a series of specific guidelines and exemptions that relate to how cultural landscapes are managed. That could be an urban cultural landscape—the town of Braidwood is mentioned. It could be a rural cultural landscape, so some farmland. There is an outstanding example of that in Australia—that is, the arrangements for the nationally listed City of Broken Hill where the combination of local planning instruments and guidelines give rise to statutory exemptions under the Commonwealth legislation and mean that there is a common community understanding and an ease of management while at the same time conserving the heritage values of the town. What I am suggesting is that putting more resources into development of good guidelines with associated exemptions will reap far better rewards for the State's heritage and for the people that care for it, than devising different categories of listing.

The Hon. SHAYNE MALLARD: Thank you both for your submissions. The two of you are distinguished members in this heritage area. Professor Mackay, your submission suggests that there could be operational incentives to maintain owners' heritage properties. Do you want to expand upon that?

Professor MACKAY: I will answer briefly and I am sure Mr Tanner will also want to speak. The fundamental issue with heritage is that it is a community good and yet the cost of providing that community good is borne by the owners and managers of the heritage place. For the vast majority of heritage items in New South Wales they are private owners, so they provide a public good and there is a market failure because they are not compensated for that. As I outline in my submission, there are a number of things that government could do to redress that—a guideline or arrangement such as transferable floor space or changes to allowable development. But the obvious one that the New South Wales Government might contemplate would be some form of rate relief that relates to appropriate conservation works for listed heritage items at State level, at local level or places that are contributory within conservation areas. That would make an enormous difference to the owners and managers of those places and it would also be a fairer system because it would, if you like, share the burden of providing heritage to the broader community.

The Hon. SHAYNE MALLARD: Rate relief would spread that financial relief across the whole rate base of that local government area. If you exempt a property from rates, only a dollar or two, it lifts everyone else up so it is shared by the community.

Professor MACKAY: I am not suggesting complete rate relief but if, for example, there was a concessional rate for a heritage item in a conservation area relative to a property that is not a heritage item, that would be both a recognition and an incentive. You could decide to tie that to conservation works or not.

Mr TANNER: I think that Richard has touched on the essential points here but there is a sort of assumption that because you own a heritage property you have adequate means to maintain it and protect it. Firstly, you might be enthused but you do not have the means. Secondly, you are definitely not interested. So we have to work out, through rate relief or tax schemes or whatever, a mechanism where people can see that they are being encouraged to protect their place. They are also being helped to protect it. I think that is the most important message we need to get across because at the moment there is so much negativity in this area and we have to change that.

The CHAIR: I take this opportunity to thank Professor Mackay and Mr Tanner for attending this hearing and for participating. We will now be taking a brief break until 10.45 a.m. to assist with the changeover of witnesses. I remind members to mute their microphones and turn off their videos until that time.

(The witnesses withdrew.)

(Short adjournment)

STEPHEN GAPPS, President, History Council of NSW, affirmed and examined

ANNETTE PITMAN, Head, Create Infrastructure, Create NSW, affirmed and examined

SEAN MACKEN, Strategic Advisor, Committee for Sydney, sworn and examined

The CHAIR: Dr Gapps, would you like to start by making a short statement?

Dr GAPPS: I am the current president of the History Council of NSW, which made the submission to this Committee. I am also a senior curator at the Australian National Maritime Museum, an historian with a focus on frontier wars history. I would like to note that I was recently appointed to the State Heritage Register Committee of the Heritage Council NSW and to the Aboriginal Cultural Heritage Advisory Committee. The History Council of NSW is a peak body for history in New South Wales. It was established in 1996 to advocate for history and foster the practice of history in this State.

The council aims to ensure that history, in all its diverse forms, is a central part of the cultural life of the people and communities of New South Wales. We provide programs and services which build capacity within the history sector and showcase the importance of history to both our members and general audiences. You may all be familiar with our signature event: History Week—which I note begins this Friday evening, and I hope you will all be joining—with the announcement of the New South Wales Premier's history awards. It runs for a week with an array of community history events focussed on this year's theme "From Ground Up", which explores the role of history in renewal and regeneration in these challenging times.

I would like to add that the History Council does much more than History Week. In areas of advocacy and fostering history, we focus on events, programs and capacity building amongst our members groups across the State that focus on five key areas: awareness, diversity, excellence, advocacy and research. Just briefly, I would like to note the interest of the History Council in the review, stems from a growing endeavour from the council to diversify its aims and goals. In particular, increasing engagement with First Nations' histories in New South Wales, and another area of growing interest and concern is heritage in the State. This interest stems from the council's value of history statement, which can be found on the website, that outlines seven ways in which history is essential through shaping our identities, engaging us as citizens, creating inclusive communities, contributing to our economic wellbeing, among others.

The History Council strongly supports an invigorated emphasis on history as part of the heritage process. The council believes history and historians are critical to understanding, assessing, interpreting and disseminating heritage in all its forms, including built cultural and environmental. In our submission we outline a few suggestions in this area, including that historians should be an integral part of the Heritage Council, that the History Advisory Committee to the council should be reinstated, and that the position of a State or chief historian should be considered for New South Wales. The council's submission also strongly encourages a review of historical information for existing State Heritage Register listings, as much of this is outdated and overly focussed on such things as colonial houses. We also know that this and other suggestions can be furthered with increased resources rather than significant changes to the Heritage Act.

The CHAIR: Ms Pitman, would you like to make a short statement to the committee?

Ms PITMAN: Thank you. I will not be providing a statement today.

The CHAIR: Mr Macken, would you like to make a short opening statement?

Mr MACKEN: First of all, the Committee for Sydney really welcomes the opportunity to appear before you today and to make our submission. How heritage is protected and managed is something of deep interest to our membership. In preparing our submission we held what we thought was going to be a small workshop. In the end we had over 40 members participate in that workshop with their ideas on how the Act can be improved, and others who were not able to attend made suggestions as well. I will not go through our submission in detail as you have that. I think the five key takeaways for our membership and our members were, firstly, that we think the Act is fine but can be improved. We do not see there is a need for a wholesale replacement of it. It was a landmark reform in its day and while it needs updating it should not be discarded.

Indigenous heritage and how it is managed and governed, we think, needs to be resolved first. We understand this is subject to a separate process but we think that should be finalised before any major substantial reforms to the Act are made, and that that should be done with Indigenous groups and organisations. How the Heritage Act interacts with other Acts—in particular, the Environmental Protection and Assessment Act—we think should be clarified and, in some cases, streamlined. We do support a tailored approach to managing heritage. The one-size-fits-all can be improved on. Finally, protecting heritage needs more resources and needs more incentives. We make a number of recommendations on how that might be done. In particular, we see there is

possibly room for the expansion of the heritage floor space trading scheme which operates in the city. We think there is scope for that to be applied to other parts of New South Wales. I will leave it there. I am happy to answer any questions that Committee members might have.

The CHAIR: Members of the Opposition, do you have any questions for the witnesses? I welcome the Hon. Walt Secord, who will be joining us for this session. He has a question.

The Hon. WALT SECORD: I would like to ask Mr Macken about his very last mention—I think it was point five—where he said he believed that the heritage floor space trading scheme could be expanded beyond what it is now. Can you elaborate on that? How would that work in a country area?

Mr MACKEN: To answer the last point first, in short it does not work in rural areas. It could really only work in areas where you can trade floor space, and that is CBDs which have particularly high floor space ratios. In particular I am thinking Newcastle, Wollongong, Parramatta and possibly some of the other subregional centres, but it really does not apply to rural or remote communities. It is not without its difficulties, but the Committee noted that when you look at all the built State heritage items that are in the CBD, every single one of them has been preserved, has an operating function and has a scheme by which they can be regularly renewed—when you look at the State Theatre or the Capitol Theatre, when you look at the Queen Victoria Building—but then when you look at Wollongong CBD, Newcastle or Parramatta, the State heritage items in there are often empty. I am thinking of the Roxy Theatre in Parramatta, I am thinking of the Victoria Theatre in Newcastle or the Regent Theatre in Wollongong. Some of those buildings have now been boarded up for 30 or 40 years, and we think there is scope for at least consideration of expanding the scheme to those CBDs. But, that said, we know it is not easy. The city scheme has proven its worth. It is complex but we think it is something that the Government should be considering in partnership with those councils.

The Hon. WALT SECORD: Mr Macken, my next question was actually going to relate to the Roxy at Parramatta. How would heritage floor space help preserve the Roxy? How would you see it applying there?

Mr MACKEN: If you had a scheme, for example, the scheme that saved the State Theatre and—I am having a mental block—the theatre down in Haymarket, the Capitol Theatre. If the Roxy was not a State heritage-listed item, probably under the current zoning it would be entitled to a floor space of about 16:1. It could hold a building whose height would only be limited by the flight plane from Sydney Airport, so you could probably get up to about 100 to 110 storeys tall. Under a heritage floor space scheme, it would be able to notionally sell some of that lost floor space to neighbouring buildings, and any money raised, though, would be hypothecated to restoring the Roxy Theatre. That said, it is not an easy process. The Roxy has difficulties. It is not a fit-for-purpose at the moment building. But, that said, at the moment it is pretty empty. It has been empty now for, I think, six years. If it is to ever come back as a fully-fledged theatre, someone either has to buy it or there has to be some incentive or mechanism where it can achieve that. It is certainly not viable for the owner to just open it now as a theatre. And the same applies to the Vic and to the Regent and other State heritage items in those town centres.

The Hon. WALT SECORD: Dr Gapps, I would like to go to your suggestion about a State chief historian. Can you tell me a bit about that? How would that work and how would that benefit heritage protection in New South Wales?

Dr GAPPS: I think there is in several ways a position. The council sees it as something like, you know, in other areas you have a chief scientist, you have a chief representative of various organisations at different levels, but history is often neglected as something that I think is taken for granted in many ways. We do not see many, for example, local councils—from the City of Sydney and one or two others—that actually have historians on board. I think on a smaller scale that is really beneficial in the heritage process where you have got for a local council, for example, huge amounts of effort from local heritage staff. But when you have historians in play, you have access to people and research and an understanding of broader landscapes that are not necessarily that well understood by people whose roles are much more focused upon heritage fabric, for example. I think the role would complement in terms of advice to the council, assistance, and in generating projects such as regional studies, for example, that need to inform local sites and heritage issues.

The Hon. WALT SECORD: Dr Gapps, are you familiar with the State Government's Blue Plaques program?

Dr GAPPS: Very briefly. Minimally, yes, but not to a great extent.

The Hon. WALT SECORD: Are you familiar with the blue plaque program that exists in the United Kingdom? Would you be familiar with that?

Dr GAPPS: Yes.

The Hon. WALT SECORD: I was going to canvass your opinion about the Blue Plaques program, but I was wanting to move it towards Aboriginal heritage and frontier wars. How do you feel that would work in that regard?

Dr GAPPS: I am actually still trying to work that out myself. I would like to see what considerations that Aboriginal First Nations groups are actually giving to that system itself before I make any assessment. I am unclear at the moment and with the Heritage Council, I must say, I am on a steep learning curve at the moment in all these areas, so I would rather not give a firm assessment. And also, in terms of frontier wars histories—as I heard other people speaking about in this forum—I think it is very important that that is driven by First Nations organisations and peoples in the first place, and I do not know if a plaque is considered appropriate in some cases; in some cases it may well be.

The Hon. WALT SECORD: If a plaque is not appropriate, what other commemorations, markings or recognition occurs in other jurisdictions like in North America—Canada, the United States—or in other jurisdictions across Australia? How do they mark atrocities that have occurred?

Dr GAPPS: I am not clear that this is quite as relevant as I think, but from my understanding it is often in very different forms and it depends on local communities in the first instance. But I suppose, in a general sense, I could say from my understanding that a common thread or form of commemoration that is led by First Nations peoples is not necessarily plaques but perhaps landscapes, places, other sorts of community-inspired memorials.

The Hon. WALT SECORD: You would probably be aware from previous evidence and from media coverage of this hearing and previous hearings that New South Wales is the only State without standalone Aboriginal cultural heritage legislation. What is your view of that?

Dr GAPPS: I am not that familiar with the ins and outs of the Act and the legislation in that area. I would prefer not to make too clear a—well, I cannot make a clear statement about that. But from what I understand from what I have seen and heard in this forum, I think there are some concerns that that needs more prominence certainly, more attention.

The Hon. WALT SECORD: Ms Pitman, several weeks ago the arts Minister, Don Harwin, made comments about the State Government and the City of Sydney working together to protect the Minerva Theatre in Potts Point. Are you familiar with the project?

Ms PITMAN: Yes, I am familiar with the project. Just bear with me one moment as I get to my notes. Yes, I am familiar with the project.

The Hon. WALT SECORD: Has anything happened other than the arts Minister making comments in the media about it? Has anything tangible happened?

Ms PITMAN: We have partnered with the City of Sydney to conduct a feasibility study, which was co-funded by the New South Wales Government and the City of Sydney in late 2020. That would look into the restoration of the Minerva Theatre and whether it could reopen and operate sustainably as a performance venue into the future. The study identified that there was a commercial market interest into operating the theatre and that it is operationally viable to reopen the theatre. And that document is available on Create NSW's website.

The Hon. WALT SECORD: The proposal was to create a 1,000-seat venue. How does that work in with the commercial project? Because it is within Sydney city council, is it a State project or is it a Sydney city council project?

Ms PITMAN: Sorry, Mr Secord, I did not fully understand the question. Could you repeat that, please?

The Hon. WALT SECORD: I was actually going back to the approval processes. Is it a project that has to be approved by the State or is it a Sydney city council approval project?

Ms PITMAN: The Minerva Theatre is privately owned at present, and therefore the decisions and actions going forward are in the hands of the current owners. And the building is, of course, State heritage listed, so there is an aspect of future plans needing to go through the State heritage process as well.

The CHAIR: It is now time for the crossbench to raise questions. Reverend Nile or Mr Shoebridge, any questions?

Reverend the Hon. FRED NILE: Yes, I had one for Dr Gapps. In your submission you state:

... historians have been under-utilised in assisting the Heritage Council of NSW and Heritage NSW in the overall heritage process—in particular the valuable services of professional historians.

I would have thought historians would have been a very important part of the council's work. What is the reason that they have been overlooked?

Dr GAPPS: You are correct that historians are very important to Heritage NSW and are members of the council as well. Obviously I think I was appointed as an historian, and there is obviously a push and an importance placed upon historians both at the council and Heritage NSW. But I guess we are talking about the broader heritage environment. And when we are talking about all the consultants and all the areas of the process of heritage, they are not necessarily utilising historians in the way that we believe that they could be utilised, particularly in assessments in various ways and particularly, as I mentioned before, in generating historical understanding in terms of background papers, regional studies, that sort of thing, that goes to inform the process in general.

Reverend the Hon. FRED NILE: What is your reason that they have been overlooked? Is it some sort of bias?

Dr GAPPS: I think one simple reason is an added cost to the process to employ an historian when, particularly these days, it is a lot easier for everyone to be an historian.

Reverend the Hon. FRED NILE: Finally, in your submission you said the History Council of NSW supports the four-category tiered structure. Quite a few of the submissions we have received do not support the four-tiered structure. Why are you supportive of it so strongly? Dr Gapps?

The CHAIR: Dr Gapps, could you recommence your response to the question from Reverend Nile, please?

Dr GAPPS: I am terribly sorry. Stephen Gapps again, off mute. We do not strongly support that but we saw some merit in that in some kind of principle that might adjust the levels of the listings. But we also supported the connection of historians in that process, if there was to be one.

Reverend the Hon. FRED NILE: Do I have time for one more quick questions?

The CHAIR: Yes. Then I will go to Mr David Shoebridge.

Reverend the Hon. FRED NILE: A question to Ms Pitman, head of Create NSW, submission no. 70. Aboriginal communities have asked for a building to be earmarked as an Aboriginal war memorial museum. They need a place where they can exhibit a number of liveable heritage items that relate to the Aboriginal wars and massacres et cetera. Do you have any views on that proposal? Do you support it?

Ms PITMAN: Create NSW's *Cultural Infrastructure Plan 2025+*, which is our guiding policy document for our organisation, recognises the need for infrastructure that supports the cultural practice and economic empowerment of Aboriginal communities. This includes the need for Aboriginal keeping places and cultural centres and appropriate storage and digitisation of Aboriginal cultural heritage. Create Infrastructure is currently working with Aboriginal Affairs NSW and the Stolen Generations Council to establish keeping places at four New South Wales sites of significance for the Stolen Generations. The particular project that you mentioned, Reverend Nile, I am not across in detail. But also just to mention that there has been an allocation made for a fund that will fund the type of projects that you have just described, and we will be opening a round of applications for that later on this year. So there are some opportunities perhaps for that project to submit.

Mr DAVID SHOEBRIDGE: Ms Pitman, how much is that fund? What is the total in the fund and what is the cap for individual grants?

Ms PITMAN: Mr Shoebridge, there is \$60 million in the Creative capital fund. The guidelines for that fund are currently being worked through. I might describe the fund a little bit.

Mr DAVID SHOEBRIDGE: No, Ms Pitman, I do not need a detailed description of the fund. But you would accept, wouldn't you, that even if 100 per cent of the \$60 million went towards establishing a standalone museum about the frontier wars, that would probably not even be adequate if the entirety of it was directed towards a museum about the frontier wars, which was really what Reverend Nile was asking you about?

Ms PITMAN: I see. Mr Shoebridge, without information about the scale of the project and the detail of the project, it is very hard for me to comment particularly about it.

Mr DAVID SHOEBRIDGE: Fine, that is okay. If that is your answer, we might move on. Dr Gapps, when was the history advisory committee disbanded from the Heritage Council? Are you aware of when that happened?

Dr GAPPS: I am not sure of the exact date. I would have to get back to you on that.

Mr DAVID SHOEBRIDGE: Is it your view that if we are reviewing the Heritage Act, there should be an express reservation for a professional historian to be on the Heritage Council? Is that what I understand is your view?

Dr GAPPS: Yes. I think that a representative from, for example, the PHA—the Professional Historians Association, which is like an industry body for historians—would be appropriate.

Mr DAVID SHOEBRIDGE: Mr Macken, do you have a view about—assuming there are limited parliamentary and government resources—whether or not the reform of First Nations heritage should be the priority or the reform of the broader Heritage Act should be the priority, as is currently happening? Do you have a view on that, Mr Macken?

Mr MACKEN: Our view was that how Indigenous heritage is maintained and protected and the governance arrangements around that need to be resolved. Our members make the point that the organisation which is in charge of protecting our flora and fauna is probably not the appropriate organisation to be also managing Indigenous heritage. But how Indigenous heritage is to be managed should be done in consultation with Indigenous organisations and peoples. We understand that is happening. We were of a view that that needs to be resolved before there are significant reforms to the Heritage Act because it is increasingly looking anomalous—let me put it that way—to how we are managing Indigenous heritage.

Mr DAVID SHOEBRIDGE: Yes. It would be fair to say that in my consultations with First Nations peoples and community members about this, the continuing insult to First Nations peoples about having their heritage and culture categorised effectively as flora and fauna under the National Parks and Wildlife Act is a continuing sense of genuine, real and legitimate grievance. Is that what you have picked up in your consultations, Mr Macken?

Mr MACKEN: That is certainly what we have picked up in consultations.

Mr DAVID SHOEBRIDGE: Dr Gapps, do you have a view about where the priority should be at the moment: this review of the broader, largely European, although not exclusively, heritage or First Nations heritage? Where should Parliament's attention be directed right now?

Dr GAPPS: I agree broadly with what Mr Macken was saying previously. I think there needs to be definitely a strong focus on First Nations histories in terms of their relationship with the two different Acts as well as the current register and listings, and the information and inclusion of First Nations histories in those.

Mr DAVID SHOEBRIDGE: Ms Pitman, does Create NSW have a view about whether or not the primary objectives of the Heritage Act should be about identifying and protecting heritage rather than making it easy or making it work? Does Create NSW have a view about that in terms of a priority?

Ms PITMAN: Certainly Create NSW appreciates that the Heritage Act is about the protection and cherishing of our heritage and certainly supports—I think many of the projects that we have been involved in have celebrated the heritage of the individual properties. So certainly working with the Heritage Act has been much a part of what we do.

Mr DAVID SHOEBRIDGE: But, Ms Pitman, your submission is silent on that critical point, and the Government's discussion paper does not prioritise protection and identification of heritage. Is there a reason Create NSW did not engage in this? It seems to me that what you are saying now about what should be the primary direction of a Heritage Act, being protecting heritage, is not mentioned in your submission and it is very much a secondary consideration at best in the Government discussion paper. Is there a reason you have not engaged in this?

Ms PITMAN: Sorry, I am just looking through the relevant parts of our submission. I believe our submission has truly shown the support that Create has of celebrating history and heritage properties and providing the framework for adaptive use of those facilities and providing a fertile ground, if you will, for their preservation into the future.

The CHAIR: It is now time for questions from the Government.

The Hon. BEN FRANKLIN: I will pick up that point with Ms Pitman. You talk about obviously the adaptive re-use of heritage buildings, and I understand that Create Infrastructure has done a number of projects in this area. Basically, could you talk about what you view are the benefits of this approach to heritage conservation and to the arts more broadly? And if you particularly wanted to talk about one or two specific examples where that has worked most effectively, that would be of assistance to the Committee.

Ms PITMAN: Thank you, Mr Franklin. Yes, we do feel that heritage buildings can be given that new lease on life with new and compatible uses, and arts and cultural uses really suit the adaptive re-use of heritage buildings. The maintenance and the re-use of those buildings has social benefits for the community, and the community can really value those places with the adaptive use applied. Those adaptive uses can also be environmentally sustainable and an economically efficient alternative to that new construction as a counterpoint.

There are plenty of examples from the work that we have done. We have contributed to the Southern Highlands Gallery at Retford Park, which was an adaptive re-use of the dairy buildings in a regional art gallery on the National Trust Fairfax estate at Retford Park. We have provided funding to Albury City Council to transform their 1888 Albury waterworks pump house into a maker space and artists workshop. And on a larger scale we are of course just nearing the completion of the Walsh Bay Arts Precinct, which is a wonderful example of adaptive re-use. And that project has been all about restoring the industrial character of those wharves while also creating new and enhanced facilities to support the arts, cultural performances and events that happen inside them.

The works that we have done to the Sydney Theatre Company [STC], for instance—which sits within that precinct—were recently awarded a Sulman Award for public architecture as part of the NSW Architecture Awards. The ability to take and preserve that industrial character of those wharves but also create state-of-the-art, fit-for-purpose performance facilities within them is an example of the type of adaptive re-use and the real opportunity that cultural use for heritage buildings provides. Beyond that, of course there is Carriageworks. We are currently working on improvements to the Gunnery. The Gunnery is a State heritage-listed property that provides office and gallery and artist studio spaces. We are really looking at the re-use potential of that heritage site as a state-of-the-art interdisciplinary space for creating and showing contemporary art. So all of those projects demonstrate the commitment around unlocking that potential of adaptive re-use of those heritage spaces and supporting cultural infrastructure needs across the State by using those spaces to create fit-for-purpose space for arts and cultural use.

The Hon. BEN FRANKLIN: Can I particularly congratulate you on the STC building and the adaptation. It is excellent and I commend any Committee members to go and do the tour there; it is amazing. Can I move to a different but related issue? One of the things that has come up consistently throughout these inquiry hearings is the idea of particular incentives to obviously assist with the adaptation and re-use of heritage buildings, and obviously protection. I note that you talked about supporting new incentives in your submission as well. Could you perhaps elaborate on where you think we might be able to go in terms of incentives, and what you think they could be and how they could be best effectively used?

Ms PITMAN: Create does support the consideration of new initiatives, and our submission outlines that. Those initiatives should incentivise heritage ownership conservation, adaptive re-use, activation and investment. For arts and cultural organisations in particular, while I have just described how attractive adaptive re-use of heritage space is as an option, cost can definitely be a barrier to that. And new initiatives that could help to make that activation of heritage buildings more accessible for those organisations that we work with would be supported. These initiatives could comprise a number of regulatory or non-regulatory options, and that would include market-based solutions around options funded by government and the non-government sector. That could include the examination of the feasibility of transferable development rights schemes.

Mr Macken spoke about the potential to expand the heritage floor space scheme outside of the Sydney CBD. We believe that would have merit to consider. Also zoning waivers to encourage the adaptive re-use of heritage-listed spaces, consent fee waivers, innovative grant programs that maybe encourage some greater collaboration between the non-government sector and government, and use of heritage agreements as well. We are working with Heritage NSW and other governments on a number of committees to look at those options, but really it is just looking at ways to make those dollars go further when it comes to refurbishing heritage buildings for that cultural use.

The Hon. BEN FRANKLIN: Thanks, Ms Pitman. I will throw to my colleagues if they have any questions.

The Hon. SHAYNE MALLARD: Thank you for your submissions and your time today on this virtual inquiry, as important as it is. Dr Gapps, there was some suggestion by previous witnesses in their submissions that there should be an accreditation scheme for heritage practitioners. I know the answer to this myself but I would like to ask your view. Do you think there needs to be an accreditation scheme for heritage practitioners and more regulation brought into the industry or sector?

Dr GAPPS: I am not sure if I have got the expertise to comment on that more broadly, but my points were that I think increasing the accreditation or recognition of historians in that process would definitely be beneficial.

The Hon. SHAYNE MALLARD: Thank you for that. I open it up to anyone else who would like to comment on that issue. Do you think there needs to be more accreditation, more regulation in the sector? I have got a history degree, believe it or not, so I could probably hang a shingle out and be a consultant. Do you think there needs to be more accreditation to keep people like me out?

The Hon. WALT SECORD: Yes.

The Hon. SHAYNE MALLARD: Who was that? Who said "yes"?

Mr MACKEN: Perhaps if I chime in here, Mr Mallard. I think the better benchmark you should look at is the Land and Environment Court's benchmark for who constitutes an expert witness.

The Hon. SHAYNE MALLARD: Yes.

Mr MACKEN: They have recently established in legal practice how to determine a particular person's expertise in determining these matters. They go beyond just—I have a history degree as well but they would probably grill me and discard some of my evidence if I held out that I was a heritage expert.

The Hon. SHAYNE MALLARD: Mr Macken, being a former councillor, you have got great heritage background.

Mr MACKEN: I do.

The Hon. SHAYNE MALLARD: We have to declare a conflict of interest.

Mr MACKEN: No, that is all right. But the Land and Environment Court might think different to you and I.

The Hon. SHAYNE MALLARD: That is a very good answer and very good evidence. Thank you for that contribution. That is the end of my questions, thank you.

The CHAIR: Are there any other Government questions?

The Hon. BEN FRANKLIN: I do, Mr Chair, if I may. I also have a question to Dr Gapps. Do you think there are enough training opportunities for heritage professionals and tradespeople working on heritage items, particularly in regional New South Wales?

Dr GAPPS: Again, I do not think I have the information or expertise to answer that with any detail. But from my broad understanding, I think that there could be more opportunities and it would be something that would be beneficial.

The CHAIR: Are there any other Government questions? If not, I will allow Mr Secord.

The Hon. WALT SECORD: I have one quick question to Ms Pitman. You referred earlier to re-use and adaptive re-use. What is going to happen to the relocated Willow Grove at Parramatta?

Ms PITMAN: Thank you, Mr Secord. The Willow Grove property will be carefully dismantled and relocated, as you mention, and works have commenced to carefully dismantle the building. There will be a consultation process that we are commencing to consider the future location, the future site, for Willow Grove to be reconstructed on, and the future use of the property. And there is the Willow Grove *Relocation Framework and Methodology Plan*, which governs all of that work. The site selection process will ensure that the conservation values of Willow Grove are maintained. We will be looking at a criteria for the site, which we will develop in consultation with the community. We are very keen to hear the community's perspective on how we can return this asset into a real community asset for use for the community for many years to come.

The Hon. WALT SECORD: In the meantime, where will it reside?

The Hon. BEN FRANKLIN: Point of order: We are still in Government question time and I note that the time has expired. I am sure that Mr Secord has many questions to pop on notice to these witnesses.

The CHAIR: Thank you, Mr Franklin.

The Hon. SHAYNE MALLARD: Build Willow Grove out at his house.

The CHAIR: The Hon. Walt Secord knows I am a generous Chair but we have to wrap it up. I take this opportunity to thank Dr Gapps, Ms Pitman and Mr Macken for attending today and for their participation. We will now take a brief break until 11.45 a.m. A reminder to all member, please ensure that you go on mute and turn off your videos until that time. Thanks once again to the witnesses.

(The witnesses withdrew.)

(Short adjournment)

SHARON VEALE, Chief Executive, GML Heritage, affirmed and examined

ROGER JOWETT, The Rail, Tram and Bus Union, Retired Members Association, affirmed and examined

The CHAIR: Welcome to the review of the Heritage Act 1977. The Committee is resuming proceedings. I now welcome our next witnesses. Would both of you like to start by making a short statement? We will start with Ms Veale.

Ms VEALE: I am speaking today from Gadigal country and I wish to acknowledge the strength and resilience of their culture and communities and their continuing patience and generosity. I think identity matters in all places to all people. Heritage anchors us and reaffirms our past. It builds self-esteem and can restore dignity. Heritage evidences and helps us understand our history and connects us to cultures, traditions, ways of life and various values and meanings. Heritage, regardless of who owns and manages it, is part of our unique yet common humanity. Continuity and stability in our natural and cultural environments is more urgent than ever. Ideally, the conservation of heritage should transcend party politics and ministerial terms. We need to remind ourselves that we have a duty of care—a custodial responsibility to ensure heritage is protected and given life in the community.

The benefits of investment in heritage are broadly misunderstood in New South Wales and, while there is some evidence to the contrary, the Government has become more of a liquidator than the curator. The Government's policy of asset recycling through sale as a core principle and means of alleviating budget pressure is out of step with the community. It has failed to adequately account for the significant cultural and social losses associated with this strategy. An inclusive, green growth agenda is very much linked to the conservation of heritage. The benefits of investing in heritage for liveability, community cohesion, job creation and local economic development have been studied increasingly over recent years, with economic theory underpinning investment becoming substantially more robust. With few scholarly exceptions, Australia is well behind understanding this corpus of research and evidence. Our cities, towns and landscapes differentiate us from competing locations, creating a unique brand nationally and internationally, which in turn attracts investment and people.

Places that are most successful at attracting investment and business to meet the aspirations of their communities while promoting inclusion are those that harness all their resources comprehensively and collectively, including heritage. Clear strategy, inspired leadership, intergovernmental and interagency collaboration is required in New South Wales to achieve a better understanding of the vital contribution of heritage and what that contribution makes to our present and future. I welcome this inquiry into the Heritage Act. I acknowledge and appreciate the significant responsibilities of the Committee to truly reflect and represent the public interest in heritage conservation. Thank you.

The CHAIR: Mr Jowett, would you also like to provide the Committee with a short opening statement?

Mr JOWETT: Before I do, I would like to similarly acknowledge that we are meeting on the land of the Gadigal people of the Eora nation. I would like to pay my respects to their Elders past, present and emerging. I act for the Retired Members Association on matters relating to heritage, and all the activities of the association's members are undertaken on a voluntary basis. Thanks for the opportunity to address the Committee. I think it is a very important stage in legislative development because this Act has not been significantly reviewed for over 20 years. The time elapsed for the review suggests that the deliberations of this Committee will be generational. We urge that we are forward-looking, we have a look at the weaknesses, the strengths of the discussion paper and the reform proposals, and the various suggestions and recommendations for change with an eye not only for this generation but the next generation. In saying that, the association believes that there needs to be major changes to the Heritage Act.

We look at the objectives and they are out of kilter, in our view, with community views. We look at the fact that the Heritage Act overwhelmingly, without punning, is constructed around the built fabric—is constructed around buildings. When one looks at the terms of reference, building re-use comes up many times. The association argues that there has been a change in our society in terms of ethnicity, in terms of diversity, in terms of ethnic minorities, and there is a need to reflect their stories and their contributions to our society. Not only is there a cultural and demographic change; there is also a change relating to our understanding of what goes on internationally.

We refer to world heritage listings and we refer to decisions made by various United Nations Educational, Scientific and Cultural Organization [UNESCO] committees in relation to industrial sites, in relation to factories and in relation to the emerging issue of intangible cultural heritage. In that regard, we point to developments in Scotland and we refer to academic papers by Professor Lucy Taksa from Macquarie University in terms of the intangible cultural heritage, particularly at the iconic Eveleigh Railway Workshops. In that regard, Ms Taksa refers to the fact that invariably in New South Wales and under our Act, the focus is on buildings. We have a look

at the Eveleigh site. The Eveleigh workshops were the manufacturing base for the production, assembly and repair of locomotives.

When one looks overall at the heritage, it is overwhelmingly focused on the buildings, which rightfully are well recognised, and also a machine collection, but very rarely at the people who work in the buildings—the 4,000-odd employees. Their experiences, their stories, their craft, their skills, their link to community, their social practices are not referred to. We say that is a yawning gap in the heritage legislation, but also that translates into a package. It translates, in our view, the need for more diverse representation on the Heritage Council whereby community representatives and experts in the intangible cultural heritage can be added to the composition of that body. It extends to the work of New South Wales heritage. In our view, there needs to be programs incorporating industrial cultural heritage. That can be done in a number of ways. We instance the current strategic vision at North Eveleigh and the possibility to incorporate in that not only building re-use but also a vigorous pilot program related to the cultural heritage.

In terms of the other aspects of the Committee's discussion paper, there are some which the organisation endorses. Those are around heritage promotion; those are around areas of community involvement. We make a number of comments in relation to commercial re-use. Commercial re-use, from our experience based on Eveleigh, is a bit of a mixed bag. We ask the question: Why should a large corporation—and one we gave evidence in relation to what had happened at Eveleigh—have incentives for commercial re-use of buildings? We say to the contrary, in fact, there should be a premium from these companies because heritage, in a whole range of circumstances, gives a premium value to those who may purchase priority.

Our focus, in terms of commercial re-use, is on the non-profit areas, on the social enterprise areas, and we suggested a mechanism where, in circumstances there is a sale of government-owned buildings, then that premium which attracts to heritage should be allocated to the funding of, for example, the endangered houses trust. We pointed, with approval, to the developments in Victoria. We argue, within this activation of commercial re-use of buildings, there are a number of issues which need to be addressed. Thank you very much for the opportunity for the opening remarks.

The CHAIR: I invite Committee members from the Opposition to ask questions.

The Hon. MARK BUTTIGIEG: Thank you both for appearing. Mr Jowett, I will ask you a question in relation to your opening statement and your submission, which stresses the importance of intangible cultural heritage and how hitherto it has not been facilitated in the Act. I suppose it is a two-part question. Conceptually, we all understand, I think, what we mean by intangible cultural heritage. I am keen to understand, perhaps by way of example—because you say in your submission that you have been advocating for the recognition of the labour movement's intangible cultural history at the former railways workshops industrial sites. People generally think of a space and they think of, as you said, old machinery or antiquated buildings that look good. To try to then conceptualise what we mean by intangible cultural—the people who may have worked there, their history, their stories—can you give us some concrete examples of how that would be manifested in practice and, secondly, whether you think the Act is facilitative enough for that particular part of heritage?

Mr JOWETT: Thanks for the question. Going to the second part of your question first, in relation to that, definitely the organisations think the current Act does not facilitate intangible cultural heritage. In fact, it deters it because it does not give an opening for the parties to explore items of intangible cultural heritage. When one examines the structure of the Act and the structure of the supporting institution, the objectives, the composition of Heritage NSW, their work program, their corporate plan, it does not refer at all to intangible cultural heritage. In relation to practical expression of intangible cultural heritage, one example is the North Eveleigh Redfern strategic vision paper recently released earlier in the year by Transport for NSW. Overwhelmingly, the strategic vision is about the re-use of heritage-listed railway buildings. There are some over 20 references in that rather thin paper to commercial re-use.

The association, in its submission, pointed out that there is a long history in relation to the labour which was at the Eveleigh Carriageworks. The Eveleigh Carriageworks were responsible for the assembly and repair of the New South Wales rolling stock fleet for over 100 years. That 100 years meant that there were many issues relating to the social institutions of those workers and the fact that, on many occasions, migrant workers came into the workshop. There were struggles by the unions in the workshops for improved workers' rights, for improved health and safety, for the rights of Aboriginals, for equal pay, for women workers and a multitude of day-to-day activities which were part of working class culture. That included politicians who came out of the workshops. The labour movement had Premiers and had Governor Generals who came out of the Eveleigh locomotive workshops.

There were historic moments in New South Wales history where those workshops were at the technological forefront of manufacturing work in New South Wales. Those workshops were the heart of the

railways. There were social institutions. There were social clubs. There was a dynamic between that industrial community and the local community which worked at the sporting level, the religious level and the political level. This is the intangible cultural history which we refer to. I think the Scots put it very well when they said you do not understand the tangible that built the factories and the buildings without understanding the intangible and taking that into account and vice versa. I finish by posing the question: What is a factory—an industrial site with buildings, machines? What is it, what does it produce, what does it mean if you do not put the people and their institutions into it?

The Hon. MARK BUTTIGIEG: Thank you for that. I just want to drill down a bit because it is an important point. The question is how do you communicate that intangible history? The obvious answer is storyboards or interactive press buttons and other sorts of things you see in a museum. But is that part of the challenge? In a physical space that people are looking at and interacting with aesthetically, then trying to convert written history and communicate with people in those spaces, is that part of the issue? Or is that not really the issue and the issue is we just have not been doing it?

Mr JOWETT: I think it is both, to be frank. In relation to Eveleigh, there is a lot of historical material in which we can source a modern representation of intangible cultural history—for example, the machines which operate at Eveleigh workshops. It was steam powered. It was an era in which the workshops were referred to as a city within a city. Those machines, those experiences, the occupational health and safety, the danger, the dirt and the noise is captured in photographs. It is captured in stories. It is captured in oral histories. There is a lot of material in relation to social practices. In terms of marrying that body of work, why this period is particularly exciting for intangible cultural history—because of digitisation, because of technology, there are means of expressing that intangible cultural history which hitherto have not been available. We say that it is an exciting time. In terms of gauging intangible cultural history, the need for historians to be involved or former workers to be involved and that mix of skills gives us the ability to frame and to fashion a quite considerable body of expression of what is intangible cultural heritage in a practical form.

The Hon. MARK BUTTIGIEG: The other theme that you have highlighted, which I think is somewhat unique in terms of the evidence we have had to date—and you touched on it in your opening statement and also highlighted it in your submission as well. It is a very well-made point when you think about it: the idea that well-resourced corporate conglomerates would be able to get government funding when they actually may be advantageous for them by virtue of its heritage nature to invest. You gave the example of—I think it was Mirvac, wasn't it? The profit incentive is already there. What you are saying is that if we are going to have limited funds from government, they should be targeted to not-for-profit or social enterprises rather than people like the Mirvac who have the wherewithal and the profit motive to make it work. Do you want to elaborate on any of that?

Mr JOWETT: Yes. I think it is an important subject. I do not think there is a one size fits all. The subject matter was relating to commercial incentives for re-use. What I referenced was the practical example experienced by the association: the redevelopment and repurposing of the Eveleigh locomotive workshops. The company involved is one of Australia's largest ASX-listed companies. It invested \$500 million in three commercial buildings. It invested \$160 million in repurposing the workshop for high-end retail and commercial purposes. In those circumstances, I do not think that company would warrant a commercial incentive to re-use a public building.

I also pointed to the fact of the strategic vision paper released by Transport for NSW about repurposing of railway assets in North Eveleigh. The paper itself admits that, in many circumstances—and there is a lot of international literature which supports this—there is a premium commercially for repurposed heritage-listed buildings. That is admitted to in that paper. What the association says, in adopting an attitude and a principle of one size does not fit all, is to make a dividing line between the large commercial enterprises and the not-for-profits and social enterprises and suggest a mechanism by which funding from where there might be limited sale of public assets could be redirected and used as seed funding in a number of the enterprises quoted in boxes one, two and three of that section of the paper.

The Hon. MARK BUTTIGIEG: Thank you. I appreciate that. I think the Opposition is out of time. Is that right, Chair?

The CHAIR: Thank you, Mr Jowett, for your response. I now invite members of the crossbench, if they have questions.

Reverend the Hon. FRED NILE: I have a question for Ms Veale. Ms Veale, many submissions have stated that the Heritage Council lacks heritage skills and knowledge. How involved in each project do Heritage Council members have to be in regards to heritage conservation, community outcomes and needs? What is your response to that?

Ms VEALE: Sorry, I am not sure that I understand the question. Are you asking how should the Heritage Council be involved in heritage?

Reverend the Hon. FRED NILE: Yes. They are stating that the Heritage Council lacks heritage skills and knowledge as a criticism. How do they get involved?

Ms VEALE: I think the Heritage Council needs to have a broad range of representation from the community. It needs to be inclusive and it needs to be diverse. But just as importantly, it needs to have the range of skills and capability that contribute to a deeper understanding of heritage and its value to the community. I think what we have noticed over more recent years, with the appointments to the Heritage Council, is there has been a diminution of the skill and capability with respect to heritage matters, particularly in respect to history, cultural landscapes, Aboriginal heritage, industrial heritage, movable heritage, the range and diversity, living heritage. I resist the use of intangible heritage; I think it is living heritage. And it really is not necessarily distinguishing between the physical and the immaterial or the material and the physical. They are interdependent.

I agree that, in terms of understanding and protecting heritage, perhaps when you are trying to fix in or schedule particular places that living values become a statutory conundrum because you are not sure what you are trying to fix in place. But it is really about recognising, encouraging, celebrating and commemorating those values as part of the life within communities at places. I think the Heritage Council really needs to have a broad, diverse, inclusive representation of not only heritage matters and practice but also of the community more generally.

Reverend the Hon. FRED NILE: In your submission, you also mentioned commissioning research to inform the development of a strategic response to the recognition of living heritage within the community of New South Wales. Could you just outline what you mean by living heritage? Is there some gap in the way our heritage council is operating?

Ms VEALE: Yes. In terms of living heritage—and I use that term interchangeably with intangible heritage or immaterial heritage—I think our understanding of heritage has changed through time. It is much more inclusive and diverse. That reflects the composition and nature of contemporary society. The heritage listings process does not necessarily always inclusively take account of those living heritage values. We see that particularly with regard to First Nations history and heritage. We have seen that the way Aboriginal communities or First Nations communities transition their knowledge through generations—their cultural practices and traditions—is not well reflected or able to be protected through heritage legislation. I think having a strategic view and understanding of what is important to today's communities with respect to heritage is really important. We have not had a good look at that as a government or as a State for a considerable period of time. There is, for example, no heritage strategy for New South Wales. We are well behind other States and Territories and other best practice in other parts of the world.

Mr DAVID SHOEBRIDGE: Thank you, Chair. Noting we are about halfway through crossbench time, I might take over from here if that is alright.

The CHAIR: Mr Shoebridge, thank you.

Mr DAVID SHOEBRIDGE: I thank you both for your submissions and for your work more broadly, protecting and celebrating heritage. Ms Veale, I found one particular sentence of your submission, amongst others, worthy of some additional thought from you. You say that the guiding themes for this legislative review of the Heritage Act 1977 are intriguing. Do you want to expand on that a little?

Ms VEALE: I must say, when I read the discussion paper, I was somewhat concerned about the lack of rigour and the lack of evidence underpinning many of the assumptions. It seemed to me to rely on a very stereotypical, outmoded way of thinking about heritage. I was very concerned by the pillars, for want of a better word, of making heritage easy, putting heritage to work and making it relevant. For First Nations people, making heritage easy is, frankly, profoundly insulting. I have found that, for them, heritage has not been easy and it never will be. We have seen the continuing and ongoing destruction of Aboriginal cultural heritage across Australia, not just within New South Wales.

I know that is a separate matter and it is subject to other processes, but putting heritage to work—heritage is already hard at work. It is hard at work in the Government's asset recycling strategy, it is hard at work for large-scale corporations and ASX-listed companies and it is hard at work in our local communities. It is being constantly adapted, demolished and given life in communities in many ways. I am not sure what the underlying driving force or motivation for this inquiry is in terms of when you look at the composition and structure of the State heritage register and the number of properties on it which, by comparison to other States and Territories, is low. The composition of it is largely State properties. It begs the question, in my view, what is the end game?

Mr DAVID SHOEBRIDGE: We have had a series of submissions—normally it is from the National Trust—pointing out that those three key policy themes, as I think they are described, in the Government's discussion paper are kind of missing the point. They are adequate secondary objectives, by all means. But the primary objective in any review of the Heritage Act should be identifying, protecting and enhancing heritage or some version of those thoughts. What are your thoughts on that, Ms Veale?

Ms VEALE: Yes, the primary aim of the Heritage Act is to conserve the State's environmental heritage. That aim is the true north of what the State should be doing in terms of heritage. We tend to have a fairly ad hoc approach to the management of heritage. We are still trying to fit it into a planning system that is not comprehensive and not thinking of heritage holistically as part of neighbourhoods, as part of character areas and as part of precincts. We look at places on a project-by-project basis. Whilst there are some changes in that regard, we really need to be looking at management plans for larger areas that actually talk to the local community and really take account of participatory planning to actually understand what is of value to people.

Mr DAVID SHOEBRIDGE: So in many ways it is not the architecture of the Act that is the problem; it is the failure for governments to act upon that, adequately fund heritage and then do things like a comprehensive State heritage strategy. We would be better off looking at those major gaps in the system rather than trying to fundamentally change an Act that many people have said is broadly working, at least for non-Aboriginal heritage. Would that be fair to say?

Ms VEALE: I think that would be fair to say. Whilst, obviously, the administration of the Act and some of the interpretation of it may have caused delays or perhaps lack of consistency in some of the decisions that have been made, overall, the Act continues to serve its purpose. We have got a strong representation of heritage conserved and protected. However, I think the missing piece is that higher level strategic approach from government that actually determines and understands what is important to the State. What is the experience of New South Wales that we want to present to the world and that we want to provide to our local communities? What is it that we want to say about ourselves through our heritage? What is unique and special?

Mr DAVID SHOEBRIDGE: Mr Jowett, I know that you would want—and, to be quite frank, I endorse your position that intangible heritage needs to be written into the Act. Other than that, do you agree with, adopt or have qualifications about that broader view about where the attention should be in terms of this space from Ms Veale?

The Hon. SHAYNE MALLARD: You might have to take it on notice.

Mr JOWETT: I am in a position to make a comment. I think it needs to be both the Act, which we see as needing a degree of refurbishment because of community expectations, and also a greater understanding of what intangible cultural heritage is. From our experience in the planning system through development applications, there needs to be a greater integration between the Environmental Planning and Assessment Act and the Heritage Act. And, of course, there needs to be some strategic repositioning. When we look at the corporate plan of Heritage NSW, when we look at the performance objectives, when we drill down the composition of the Heritage Council, we can see that there are a number of areas which are excluded.

We say there needs to be a more integrated approach, a better interagency approach and greater attention given to a heritage strategy. So ours is both a strategic and also a legislative response, and also a package of government institutions. It is not only the Act, but also those who apply heritage in a day-to-day sense through Heritage NSW. They have not been involved one iota in intangible cultural heritage, to our knowledge, at the Eveleigh sites, whilst they have been excellent when it comes to built heritage and the machinery collection. That is an example of a yawning gap, in our view, that could be addressed and should be addressed by this Committee and the subsequent changes coming through the Government's white paper.

The CHAIR: I now invite Government members to raise questions.

The Hon. SHAYNE MALLARD: Thank you both for your submissions and your evidence today on this virtual hearing. My questions are straightforward; they will not include editorial comment. I would like to ask both of you—and I asked this question earlier today—do you think there is a need for accreditation for heritage practitioners working in the field of heritage assessment right through the whole landscape?

Ms VEALE: I am happy to answer that question, at least to start the conversation. Accreditation in the heritage industry has been long talked about. It has certainly been on the radar of Australia ICOMOS for many years. Obviously, there are many accredited professionals, whether they be architects, registered planners or professional historians and engineers, et cetera, that play into the heritage space. We find, particularly in the development and assessment processes, that standards across the industry vary quite significantly. Certainly, I think there could be some rigour applied to that if accreditation was a consideration of the inquiry.

Mr JOWETT: In response to your question, Mr Mallard, we make a comment from a different perspective of not being professional, not being a part of the industry—being a voluntary organisation where professional skills probably are at a premium. Certainly, in terms of passion and desire for better outcomes, that is our motivation. But also one needs to temper issues around professionalism and accreditation with an essential thrust of the discussion paper, which is about community involvement, community driven and community education. From our point of view, as a non-profit organisation with members in regional areas where education about heritage issues is at a minimum, these are the areas that should be the focus of the Committee's decision. From our experience and background, we point the Committee towards resources in terms of education and in terms of what are the consultative processes and means of engagement for community members. That is the end which we would prefer to concentrate on.

The Hon. SHAYNE MALLARD: I think that is very good evidence, Mr Jowett. The issue of citizen historians—sort of balancing between the two of the professionals and the well-informed community members bringing forward their heritage arguments. I see my colleague Mr Franklin may want to ask a question. My final question was, I think, directed more to Ms Veale in terms of the professional area. Do you think there are enough heritage training opportunities, if we go to accreditation, to support the accreditation—so heritage training opportunities across the spectrum, again, from local government to private sector and consulting?

Ms VEALE: In terms of people coming into the industry, do you mean?

The Hon. SHAYNE MALLARD: Yes, or even Mr Jowett might like to upskill.

Ms VEALE: Yes. I do not think there are, actually. I would echo Mr Jowett's comments. I think community engagement in heritage is actually the social and cultural licence that heritage needs. You have not got heritage without the stories, memories, attachments and connections within the community. Actually, in many instances, they are the true knowledge holders. Professionals from whatever disciplines are the facilitators, or can be the facilitators, of those processes. Sometimes the processes and systems are quite tricky and complicated. Having said that, I think training opportunities and pathways into heritage are not readily available. I know anecdotally that GML Heritage is one of the larger employers of heritage professionals in New South Wales, but we are not the only one—

The Hon. SHAYNE MALLARD: We need to move on because we have got limited time, but pathways for training is a very good point and we must pick that up in our report. I defer to my colleague Mr Franklin.

The Hon. BEN FRANKLIN: Thank you both for being here today. My question is also to Ms Veale, if that is okay, in your professional capacity. In talking about the way that State heritage-listed items are managed under the Act, your submission says the system is already nuanced. I was reflecting on that and thinking that is probably clear to heritage professionals but for homeowners, people who are managing their own heritage properties themselves, it might be less easy to navigate. I was wondering if you can reflect on that—the challenges to homeowners—a little. For example, do you have owners coming to you for support preparing their conservation management plans, their works applications, their assessments and so on to navigate the approvals process? Can you give us some idea about the complexity for homeowners and what it usually costs and any other issues that we can address in our report?

Ms VEALE: In terms of residential properties that are listed on the State heritage register that are owned by private individuals, that is a very small minority of properties. If you are talking more broadly about local heritage items or homes or residences that are within heritage conservation areas, yes. Obviously, local environmental plans require heritage impact statements. If you have not owned a heritage property prior, it can be something of a challenge to understand what is required, absolutely. I concur. But going back to some earlier points, I think that education and a broad understanding of heritage and what can and cannot be done is not necessarily always well communicated. Some councils are terrific and provide a lot of resources to their local residents, but it is variable across New South Wales.

The Hon. BEN FRANKLIN: Thank you. I think my colleague Mr Martin might have a question before Government time has expired.

The Hon. TAYLOR MARTIN: I have a question for the Rail, Tram and Bus Union [RTBU]. In my view, Transport Heritage has done fantastic work in celebrating movable heritage, particularly with its heritage fleet, of course. How do you think this could be expanded going forward?

Mr JOWETT: There was a review, as you might be aware, of the rail transport heritage space in 2013. There was a consolidation of the heritage organisations into Transport Heritage, which is sustained by government grants. In our submission, we made reference to the success of the rail heritage tourism sector in terms of number of visits to their museum and also the number of passengers. I think there needs to be greater interagency cooperation. I think there needs to be greater involvement of Destination NSW. There are and have been issues

relating to access to the railway network, of getting train path. That has been an ongoing problem and needs greater attention to it and, also, in terms of the cooperation with interstate tourism. Also, there needs to be an international focus. Our research indicates that it is a potentially booming part of the heritage sector. Just the idea of steam, a bit of grit in the eye, wind in the hair—that is really the stuff which gets the punters out in their droves, I have to say. Thanks very much for the question. I think there is a real opportunity for that sector to blossom.

The Hon. TAYLOR MARTIN: Thank you very much for the answer. Now that you have said that, I distinctly remember getting soot in my eye a few times—once at the Zig Zag railway—and, on top of that, I remember the 3801 featuring heavily in my childhood. Thank you, Mr Jowett.

The CHAIR: Thank you, Mr Jowett. Thank you, Mr Martin.

The Hon. SHAYNE MALLARD: Red Rattlers in mine.

The CHAIR: I will take this opportunity to sincerely thank both Ms Veale and Mr Jowett for attending this hearing and for participating. We will farewell the witnesses shortly. I just have some observations. As a Committee, we undertook the first ever fully virtual hearing by a Legislative Council committee. Over five separate hearings, together we have connected with 43 witnesses. I thank all witnesses for attending and contributing, as well as all interested stakeholders and individuals who took the time to make a submission to this inquiry. I extend, once again, my appreciation to all Committee members for their assistance and input during these hearings. Similarly, I thank the staff of the secretariat for their ongoing professionalism and guidance in helping to facilitate these virtual hearings. I wish everyone a pleasant afternoon. Keep safe. This concludes today's hearing.

(The witnesses withdrew.)

The Committee adjourned at 12:33.