



**TRANSCRIPT
OF PROCEEDINGS**

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PRODUCTIVITY COMMISSION

**INQUIRY INTO THE CONSERVATION OF AUSTRALIA'S HISTORIC
BUILT HERITAGE PLACES**

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

TRANSCRIPT OF PROCEEDINGS

AT BRISBANE ON MONDAY, 25 JULY 2005, AT 9.03 AM

DR BYRON: Welcome to the public hearings of the Productivity Commission's national inquiry into the conservation of Australia's historic heritage places. My name is Neil Byron and I'm the presiding Commissioner for this inquiry, and my fellow Commissioner is Tony Hinton. This inquiry stems from terms of reference that the Commission has received from the Australian Treasurer with the endorsement of all the state and territory governments. It covers the policy framework and the incentives in place to encourage the conservation of heritage places, including built heritage.

We've already talked to a large number of different organisations and individuals with interests in heritage conservation in most of the states and territories, including some fascinating rural and regional visits - Tasmania, Victoria, New South Wales and here in Queensland. Submissions have been coming to the inquiry following the release of our issues paper about two months ago, and we now have about 25 submissions, all of which are on our web site.

The purpose of these hearings is to provide an opportunity for any interested parties to discuss their submissions with the Commission and put their views on the public record. Following these hearings here today we'll be holding other hearings progressively over the next month in all states and territories. We are planning to produce a draft report for public comment about the beginning of December, and then there will be another round of hearings and opportunities for feedback, where we're looking for comments after people have had time to read and digest and think about our proposed recommendations.

The Productivity Commission always tries to conduct our public hearings in a fairly informal manner but we do take a full transcript for the record, and so we can't really run them just like a public meeting because the transcription service won't know who's talking, but we always try and make an opportunity for anyone in the room who wants to come forward and put something on the record to come and do so. The transcripts will be put on the Commission's web site as soon as they've been checked for accuracy and will also be available to anybody through public libraries.

To comply with Australian government occupational health and safety legislation, I have to inform everybody in the room that in the very, very unlikely event of an incident, the alarms will sound and we'll go out through the glass doors and assemble in the street out there. The other bit of housekeeping is that the toilets - if you just follow the carpets around to the left up that way. I think that's all the housekeeping I need to explain.

So without any further ado I'd like to welcome, first, Mr Ian Evans. If you'd just like to come and take a seat anywhere you like, whenever you're comfortable. Thank you very much for the written submission which Tony and I have read very

carefully. Thank you also very much for the book, which is both an excellent example of the sort of service that your company provides and I'm fascinated by the contents as well.

MR EVANS: Thank you.

DR BYRON: I enjoyed that very much.

MR EVANS: Thank you.

DR BYRON: If you could just introduce yourself for the transcript, summarise the main points that you want to emphasise out of your submission, and then we'd like to discuss that with you.

MR EVANS: Okay.

DR BYRON: Thank you.

MR EVANS: My name is Ian Evans. I've been writing about old Australian houses and buildings and the conservation thereof for the past 25 years. Together with my wife Annie we own the Flannel Flower Press Pty Ltd, which specialises in books on the conservation of old houses and buildings throughout Australia. There will be many opportunities for a variety of organisations to address all of the issues covered in your issues paper. I don't propose to attempt to come to grips with most of them but the main thing I would like to say is the fact that I think we look at these state, federal and local heritage lists and I would submit that the vast majority of Australia's architectural heritage is not listed on these lists. There are a great many buildings which form the streetscape of our towns and cities throughout Australia which, if we were to lose them - and we are, through a gradual process of attrition - we would be much the poorer.

I'm not talking about houses which perhaps have some important historic association, whether with a governor or some rich merchant of the nineteenth century. I'm talking about houses and cottages which belong to ordinary people and which are representative of the technology, taste and period in which they were built. I think the present system of heritage conservation throughout Australia is not working terribly well; that we're losing a lot of wonderful buildings through a gradual process of attrition. What I would like to suggest is a system perhaps modelled on the one in use in Britain, where they have a national heritage lottery. I would hesitate to suggest any system under which further taxation was imposed or in which we had to develop a whole new bureaucracy, but I would think that a national heritage lottery might have some advantages in the field of heritage conservation throughout Australia. Those are the two main points that I'd like to raise for the Commission.

DR BYRON: Thank you very much. Yes, we've been talking to people as we go around the country. The same I guess three points keep coming up. How do we recognise what it is that's worth keeping, and who does that and according to what rules? Who's going to actually do the maintenance and stewardship and caring and nurturing of these places once we've recognised them? And the third point, which you've already made, how is it going to be paid for?

MR EVANS: Yes. I think your second point, who's going to do it, lies in the fact that the vast majority of these buildings are in private ownership and in fact these people have been caring for these buildings and spending their money on these buildings for a very long time, with results that are highly variable, I might add. Some people do an excellent job; others are not so well informed. I think the way to go is not to suggest for a second that the government should impose stringent controls or requirements on these people but to provide incentives for them to acquire the knowledge, and perhaps some form of inducement in terms of a taxation rebate. I'll leave that to others to work out the details but I think they just need a little bit of incentive.

They need the means to acquire the information, whether it's from the books we publish or other books, or from heritage advisers, and perhaps just the realisation that in going down in this path they will not only be doing the right thing by the buildings and their neighbourhood but there is a little financial reward at the end of the tunnel.

DR BYRON: If I can start at the end, the question of how it might be funded, I guess you're aware that all the states collect a fair bit of tax revenue from existing gambling taxes and it occurred to me, reading your submission, that any state in Australia could today or tomorrow decide to divert 20 per cent, 25 per cent or whatever of that poker machine tax revenue, or whatever, to put it into a heritage fund if they wanted to.

MR EVANS: Yes.

DR BYRON: It seems to me the fact that none of them have tells us something.

MR EVANS: They're always complaining about lack of funds. I don't know where all the GST money is going but it must be going somewhere and, you know, with what's been happening in the UK recently, a lot of available state funding is going to be poured into closed-circuit television and extra surveillance techniques, and so on and so forth. Nobody would argue against that but what I'm suggesting is a way in which people who are interested and involved in heritage might be provided with the opportunity to buy a ticket in a lottery and they know the money they've put in there is going to go towards heritage conservation. I think you would find that a great

many people would support such a lottery which would be handled by an organisation perhaps independent, although linked with State Government authorities involved in heritage conservation, but would be an umbrella organisation which assisted in conservation throughout Australia rather than the existing situation under which we've got all the states doing their own thing, or nothing, for heritage.

I just think that the present system is clearly not enough because I go around the country quite a lot and I see buildings falling down left, right and centre and I hear from heritage advisers and people involved in heritage, with whom I speak regularly, about lost causes and hopeless campaigns, which they feel impelled to undertake. So what I'm saying is, "The present system is broke, and we need to fix it."

DR BYRON: I'm just thinking we had something along those lines to fund the Opera House and we used to have a system here in Queensland where the public hospitals were funded by the Golden Casket, et cetera.

MR EVANS: Yes.

DR BYRON: But governments seem to have moved away from having those sort of special purpose things and so what you're suggesting is actually a move against the trend in having a - - -

MR EVANS: Things go in cycles.

DR BYRON: Yes, okay, but - - -

MR EVANS: And the national Heritage Lottery Fund in the UK has been very successful. They've raised a vast amount of money and transformed the conservation of heritage throughout the UK.

DR BYRON: Before we get around to proposing how to tip a whole lot more resources - whether it's through taxes or through lottery earnings or whatever - into the system, it would probably also be a good idea to make sure that the system doesn't have big holes in it; otherwise you're tipping money into a bottomless bucket.

MR EVANS: Yes.

DR BYRON: So I think we, as a Commission, have a responsibility to make sure that the existing heritage system works as effectively as it can with the money it has already got before we propose tipping yet more money into it.

MR EVANS: Quite. At the end of this process you'll be in a very good position to make that decision.

MR HINTON: Recommendation.

MR EVANS: I'm just here to float a suggestion or two for you, which you can carry away with you.

DR BYRON: Do you have a comment on how well the existing resources - and again, most of the people we've spoken to said that heritage conservation in Australia has been done on a shoestring by governments for a very long time; lots of very willing and enthusiastic volunteers in the National Trust and so on.

MR EVANS: Yes.

DR BYRON: But many people have made the point to us that whereas natural heritage conservation have got a billion dollars from the sale of Telstra, historical and cultural heritage conservation got approximately nothing.

MR EVANS: Yes. I agree. I think both of those areas of conservation are very, very important, but I would submit that the heritage buildings of Australia are part of our sense of place and help to build a sense and a feeling of cultural identity, and we've seen in Britain just recently what happens or what can happen when you have a population in which there are a lot of people who don't feel any affiliation to the place in which they live, and I think that understanding and appreciating our architectural heritage, the places which are unique to Australia, is part of the process of building a national identity and continuing to enhance that in the years ahead.

DR BYRON: I don't think many people would disagree with you, but I think from the point of view of governments, when they're saying, "Yes, we want to foster national identity and pride in our culture and so on," and then they say, "But we could do that by putting more money into the Institute of Sport or supporting the Wallabies, or more money into Anzac Day celebrations, or more money into struggling young musicians and artists" - you know, there are a number of things that governments might do that would have that effect of pride in our identity and culture and background. So even if they agree completely with you on the goal, they would then say, "Well, there's many different ways of pursuing that, and why should we put money into old buildings or heritage places?" So how would you respond to that?

MR EVANS: I think I've already responded to that.

DR BYRON: Okay.

MR EVANS: Because I think these heritage places are an essential part of the character of Australia and if we ignore them and continue to let them fall down, we're going to be losing something very important .

MR HINTON: I'd like to add my thanks to Neil's for your participation here this morning and also your submissions. Thank you very much. I had a couple of questions as well. On the lottery aspect, presumably you see the idea having merit because having a lottery designated in relation to heritage would in fact increase the profile of the objective in itself. Is that the logic behind your proposal?

MR EVANS: That's correct. It would put it on the radar, if I can put it that way, because it's one of those things that people tend to take for granted, and it's only when the wonderful old building or the old house up the street is under threat that they perhaps recognise what they're in danger of losing. It's so much a part of our life: we walk down the street or we drive down the street and we're passing by all these old buildings and if they're not there any more we have this sense of loss, but it's not something that perhaps a lot of people think about every day. It's only when there is a threat that arises that they understand what they're in danger of losing.

MR HINTON: Unrelated to that, Ian, I had a question about your very strong point that much of the area of difficulty relates to buildings that are privately owned rather than in public hands. I'd welcome your reactions to the idea that even recognising that, there is a suggestion that that should be subject to a constraint whereby it would be open to the owners to veto or block heritage listing to the extent that a listing process, as currently structured, does carry with it the erosion of property rights. Therefore the question arises: if it is an issue of private ownership, does that not raise the question that at least the owner should have the right to say whether or not it should be subject to a heritage conservation process? What is your reaction to that?

MR EVANS: I think this is a very thorny question indeed and I don't think anyone has resolved it and I'm not sure I'm going to be able to do that here today, but I think if people are in danger of losing value on their property as a result of a heritage listing, that there should be some means of recompense for that, because otherwise you will get a process in which buildings will catch fire in the middle of the night, or be allowed to fall down quietly, with perhaps a few judicious holes poked in the roof, where you can't see them. So compulsion is never something that really works terribly well in this sort of situation.

I think you need education and you need incentive and where you've got - this situation is worse, I think, in major centres. For example, in Brisbane you might have - as I know, there is the case of the old cinema at Paddington on Latrobe Terrace, the subject of a state conservation order. The owners are unable to develop that and they are therefore paying for the heritage conservation of a building which is enjoyed by a great many people. I don't think that's a fair situation. I think there should be, in cases such as that, some form of compensation for the owners.

MR HINTON: Thanks for that. I think the issue of getting the incentives right is a

very important one and one that Neil and I are going to be struggling with.

MR EVANS: Yes.

MR HINTON: And certainly focusing on, but I can see how you could have a system whereby there is a structure of incentives, either compensation or joint funding for conservation or whatever - upkeep - but that still could operate within a right of veto by owner. I don't see how it necessarily has to be a substitute for it, but in fact could operate in tandem with it. Did you have any reactions to that formulation?

MR EVANS: Yes, I think that is fair enough. The last thing you want to do is create a whole lot of controversies about heritage conservation issues and I think they're often counterproductive but it is, as I said, a very thorny question. The usual reason for the owners of such buildings to be upset is that they feel they are going to be losing an opportunity or a lot of money in agreeing to their building being preserved. I think some way has to be found of addressing this issue, because it is an important one.

MR HINTON: In your submission, Ian, you refer to one form of assistance being via heritage advisers perhaps being pursued through local governments. I think that in fact a number of local governments around Australia actually do do that, with funding to some degree from state governments.

MR EVANS: Yes.

MR HINTON: If I understand your submission correctly, that sort of approach would probably involve a significant increase in what is happening today. I would welcome your reaction to that point, but more importantly if that is the case, is there not an issue here as to whether or not we have sufficient expertise of sufficient quality to underpin a system that would be so dependent upon so-called heritage advisers being worked through local governments?

MR EVANS: There is never enough expertise to go around, but there is a lot of expertise out there. The present system, as I understand it, which operates in New South Wales and in Victoria, is you have these architects who are located at various locations throughout states and they cover certain areas; perhaps local government areas. For one day a week or whatever the arrangement is, they are available to assist with heritage issues on buildings. It's not a perfect system, but I think it's a pretty reasonable one. These people are local to the area. They know the area, they know the buildings, they often know the people, so they are very well placed to deal with these issues.

MR HINTON: That raises a question though, which is another area of interest to

Neil and myself, and that is one of consistency of approach across Australia. That is, if you have local expertise with local knowledge and they are the sort of key underpinning experts as to the pursuit of conservation, then that in fact could run the risk of rather sporadic approach across Australia without some sort of integrity to the overall system. Did you have any reaction to that?

MR EVANS: Well, conservation is a bit like medicine. I mean, you know, you have a doctor in New South Wales. He may not have the accreditation in another state, but he knows how the human body works. It's the same with buildings. All you have to do is understand the principles and you can pick up on the differences from area to area. I mean, Queensland is a unique situation. In here there are all these wonderful old timber houses which are quite different from those found anywhere else in Australia and indeed anywhere else in the world, but the information is available for people who may need to work in Queensland to pick up the details as they go along.

You don't have to spend years and years studying them. If you understand the principles of conservation, you can work anywhere in Australia providing you keep your eyes and ears open for a short period of time, and put a bit of effort into learning about the local situation.

DR BYRON: Could I come back to the part of your submission where you talk about the pressures on heritage buildings, which is part of our terms of reference. It seems to me that we can go through a sort of classification, that there are some particularly in metropolitan areas where the big pressure is demolition because somebody wants to use that very valuable inner city land for something like commercial or a block of apartments or something; there are other places where the pressure is basically coming from neglect, because it's now surplus to requirements, it's no longer needed for what it was originally built or it's not up to adequate standards for occupational health and safety reasons or fire protection reasons.

MR EVANS: Yes. That's another thorny issue. I think we have issues arising from that sort of thing and from disabled access with requirements for ramps, particularly obtrusive ramps to be built across the front of buildings, and I think this is perhaps an area which the Commission might like to think about. You're talking of fire protection - - -

DR BYRON: There's a theatre in Toowoomba next to the city hall that is now closed because they said it was going to be prohibitively expensive to give disabled access.

MR EVANS: Either prohibitively expensive or very unfortunate for the building in some cases. I'm aware of conservation architects, heritage advisers, dancing around the legislation and trying to find a way of making it work and doing the right thing

by the disabled people, but it's often not easy.

DR BYRON: I think particularly in the rural areas we have been, there are - whether it's old banks or old post offices or old railway stations, or even old shearing sheds, which are now sort of surplus to requirements and so they're suffering from neglect. The third category that I hadn't actually thought of before but has come up a few times - I just wanted to know if you're aware of this - where people have decided to deliberately get rid of an old building before somebody from the government finds out about it, because from their point of view they see that, you know, if the government gets its claws into this, it's going to be red tape and bureaucracy, la, la, la.

MR EVANS: Yes.

DR BYRON: The particular example was an old Cobb and Co staging post. The owners knew what it was and they said, "We're not going to let anybody find out because it's just going to create headaches for us," and so they bulldozed it.

MR EVANS: Yes.

DR BYRON: I think that sort of perverse system as that, you know, we really want to get away from as quickly as we can.

MR EVANS: Yes, agreed.

DR BYRON: Are you aware of that sort of reaction and any ideas on what we can do to eliminate it?

MR EVANS: I think that has been happening for a long time. I think it's a matter of, as I said, turning the situation around and providing an incentive for these people to embrace conservation of these buildings, rather than hastily demolishing them before the government finds out about them. Another situation that I know occurs in Tasmania is you get a consolidation of properties and greater mechanisation makes this possible, so you get surplus old buildings on these properties. They have got some wonderful old 1830s barns, outbuildings, dovecotes. Some of these rural properties were like little villages in themselves, with workers' quarters and they're just wonderful. They are time capsules of their period and they're a part of Australia's history.

I think it's very important that we look at the issues relating to these buildings and try to find a way of saving as many of them as we can. We're not going to save them all, but it would be nice to save a lot of them.

DR BYRON: One of the points I'm picking up from what you're saying is that in

the past we have tried to rely on regulation to say, "You are forbidden from knocking that down."

MR EVANS: I think that should always be a last resort.

DR BYRON: Yes, well, that was the point. I mean, sometimes you need to have a big stick in the closet.

MR EVANS: Yes.

DR BYRON: But you're also suggesting what we need are a lot more carrots, as well.

MR EVANS: Yes, definitely carrots.

DR BYRON: You just mentioned about we probably can't save everything and that brings up the subject of listing. You're a bit scathing about that.

MR EVANS: Right.

DR BYRON: I would like to hear a bit more from you on what you think the lists might achieve and what they almost certainly can't achieve.

MR EVANS: I think the lists are fairly limited. There has been this tendency to go for historic - with a capital H - buildings and so you get the nice sandstone mansions in Melbourne which the National Trust has poured a lot of energy and money into trying to preserve, and that's fine. That's fine, but you need the entire range. You need the workers' cottages, you need the houses in the middle. If you look at wildlife conservation, you get these wildlife refuges and zoos and so forth, where important and interesting species, and perhaps threatened species, are protected and cosseted. I think the heritage lists are a bit like these wildlife reserves, but in wildlife conservation you don't forget about all the animals in the bush just because you have some in the zoo. You have to think about the whole thing. It's fine if you have a list of important buildings - who knows how you define "important" - but you have to think about the bulk of them, too.

I gave the example of the City of Bathurst. The old core of the city is this network of a rectangular grid system of roads and streets, and they've got street after street of wonderful old 19th century buildings. Individually, I doubt whether 1 per cent of those houses would be on any heritage list, but as a mass they define the City of Bathurst. I think it's the same with all of our cities. On your way from Sydney Airport into the city, you can drive through streets of terrace houses, none of which will be on anybody's heritage list, but I think they're all important in their own way and they're all a small part of the mosaic which makes up the heritage of

Australia.

DR BYRON: We were in Rockhampton a few weeks ago, and I don't think there's a single building on the local environment plan there. Yet when you drive around - it's 30 years since I lived there - the public at large seem to be taking a great deal of pride and interest in the maintenance not only of public buildings but also of private residences.

MR EVANS: Yes. I think there's a great deal of affection in places like that for their old buildings. What I'm suggesting is, if you like, a way of galvanising these people and to make them understand that they're not out there battling on their own to save these buildings and that there is some sort of official recognition - I would hope on a national level - for these heritage places.

DR BYRON: What I found surprising about Rockhampton was that there were places listed on state heritage but there was nothing listed by the city council and yet there was still a great deal happening, whether it was listed or not.

MR EVANS: Yes.

DR BYRON: I thought that that was a very interesting contrast to the sort of idea that unless every building or precinct has been formally categorised and put on a list somewhere nothing is going to happen. What's officially recognised and what's actually happening on the ground are not necessarily the same.

MR EVANS: Yes, that's correct. I think it's important to understand that, if you take any old house or building and you're going to spend \$100,000 on it, you can spend \$100,000 bugging it up or you can spend that same amount of money conserving it properly. The point I'd like to make is that I don't think authentic conservation is necessarily more expensive than just blazing away and doing whatever you like and putting concrete blocks across the front of a building. What is important is what guides the hammer or the bricklayer's arm, and it's an understanding of what is required and the understanding should relate to the sympathetic use of materials and the way in which they're used so that what happens relates to the period of the building.

If you've got an old house and it's not big enough for you, you can extend out the back. What you do might not necessarily be passed off as an original part of the building but, as long as it relates in its form and materials to the rest of the structure, I think it's perfectly acceptable. You were talking about buildings for which the original use is no longer applicable. You have to find a way of making these buildings work and earn their living in the 21st century. It's fine to recycle them; to use them in some other way.

DR BYRON: We were just going to ask you about adaptive reuse.

MR EVANS: Yes. Ask me if you wish.

MR HINTON: You mentioned Bathurst. We had a very good visit to that part of New South Wales. It wasn't Bathurst, but another nearby council indicated to us that they had three basic objectives within their ratepayer community. They were called jobs, jobs and jobs. They felt that that particular focus was the one that was endorsed by ratepayers, that particular objective was one that resonated with councillors and it was also seen to be widely acclaimed across the broader community. They therefore put to us that conservation was important but, if there was to be a conflict or tension with regard to an investment project that might generate economic activity, they knew where the balance would lie in relation to that.

MR EVANS: Yes. Quite a lot of reactions - - -

MR HINTON: I'm not surprised to hear that.

MR EVANS: You see the same situation in Tasmania, where we're talking about logging. It is the old dilemma. I think, in a case such as the one you're talking about, it may be that there is not necessarily a conflict between the project that will produce more jobs and the architectural heritage of the location. It's possible that the project may need to be relocated rather than to eradicate a large area of the early 20th century heritage of the town. I would think that such situations need to be looked at on a case-by-case basis rather than in a general way.

DR BYRON: Coming back to tradesmen, a couple of people we spoke to said, if I can summarise their argument, that it's all very well to go through this process of recognising and identifying what we want to keep but, even if money is provided for it, if you don't have people who have the appropriate skills - who know how to use lime mortar, who know how to work with 19th century glass, who know how to do slate on church steeples - all the other work is going to be in vain.

MR EVANS: I think the skills are there but they're not necessarily guided by the right understanding. It's always been my approach to try and provide the information which the owners can then take to their tradesmen and say, "This is how I want you to do it." The mere understanding of the fact that there is a substance called lime mortar and it's very important to use it in the right place, rather than cement based mortar, for a very sound structure or reason - if your home owner understands this and has it very clearly in mind, he or she is going to instruct the builder that this is the way they want it done. I think that that is the key.

The builder in that case will take that information away with him, which really he should have picked up at technical college or when he was an apprentice. Some

of these techniques have been lost in time. There are a lot of good tradesmen out there who do understand these things and who do follow the right sort of approach. Providing the home owner or the property owner understands what is necessary, you have a good chance of getting a good result.

DR BYRON: I've been told by some people that there's been a sort of a deskilling of trades - that they basically slap together the adult Lego rather than the trades - and that even apprentices will say, "What's that?" You'll say, "That's a hand tool." "We've never seen hand tools; we started straight in with electric drills," or whatever.

MR EVANS: Yes, that is certainly a problem. I think perhaps that, as a long-term goal, one could look at ways of encouraging technical colleges to re-introduce some of the appropriate technology. This is not something that needs to be done throughout Australia but, for example, if you've got a place like Bathurst, the local technical college might be encouraged to teach the apprentices in that area relevant conservation training.

DR BYRON: There's a bit of a chicken-and-egg problem that, as more people become interested in conservation of heritage places, there's going to be more demand for people with those sorts of skills and, therefore, the TAFE colleges and so on will start to teach a bit more of that or there will be special courses in heritage materials and techniques.

MR EVANS: Yes.

DR BYRON: The information is available. It's a matter of getting it disseminated. Okay.

MR HINTON: Ian, I had a question also relating to delivering the conservation objection in relation to your category of particular concern; that is, the houses, for want of a better term, in private hands. The tension that seems to arise most that is put to us is the area of the intersection of that objective relative to applications for development to development authorities, that then get submitted to local governments. Having the objective is one thing. Having an approval process for development is another thing. The issue seems to be how you put the two together. That could lead to a very prescriptive approach or it could lead to quite flexible approaches with discretion. Do you have any reactions to that sort of basic tension in delivering public intervention?

MR EVANS: It is a big issue. I mean, inevitably, as the cities grow and the population grows, there are going to be these pressures. I really don't have a solution for that problem. It's like tectonic plates crunching up against each other. Greater minds than mine have tried to find a solution to this and I'm not aware that there is one. I think that we will have losses and we will have development in the cities. It's

a question of the community deciding which of the buildings in the centre of its city it regards as significant and wishes to keep. I'm afraid there is no easy solution to it.

MR HINTON: Thank you. We've got some suggestions that being overly prescriptive has its challenges but also being too flexible and discretionary can lead to all sorts of inconsistencies.

MR EVANS: Yes, I agree.

MR HINTON: One suggestion put to us that you might like to react to is that if you have a better articulation on paper, on record, of what the characteristics are of the building that makes it worthy of conservation, then that in itself can enrich the decision-making process for development.

MR EVANS: That's correct. That's quite correct. I think heritage studies and reports on individual buildings perform a very valuable function in that process.

DR BYRON: But it's not just individual buildings - a precinct of cottages and so on.

MR EVANS: Yes, quite.

DR BYRON: So that you don't necessarily have to go into great detail in prescribing each - - -

MR EVANS: No. Well, there will be situations where you're talking about individual buildings, or it might be a streetscape. I've seen, myself, in Brisbane and other cities you've got a street filled with, for example in Brisbane, wonderful old timber cottages of the late 19th century, and somebody gets council consent to redevelop in that street, and so you get a brick ugly going right into the middle of this row of nice houses and it just destroys the nature of the street. You will find that the people who own the old buildings will not be comfortable with what's happened in their street, and they will leave and those buildings will run down and eventually the whole street goes.

DR BYRON: I can think of a few examples from personal experience where that's - - -

MR EVANS: Yes. So precincts are very important, even though the individual buildings may not be hugely significant, but the group is what counts.

DR BYRON: But it seems to me that the official system as currently set up is set up mainly for individual icon buildings, rather than for looking at precincts.

MR EVANS: We're getting back to this list issue.

DR BYRON: Yes, the grand mansions and the sandstone and the bluestone.

MR EVANS: Yes.

DR BYRON: Okay. Is there anything else you'd like to say by way of wrapping up?

MR EVANS: No, I think that's it. We could sit down and talk about this for a very long time but I'm sure there are other people who have a barrow to push.

DR BYRON: Well, maybe we could do that sometime when we're not being recorded.

MR EVANS: Yes.

DR BYRON: Yes, okay. Well, thank you very much for taking the trouble to come here today.

MR EVANS: Pleasure.

DR BYRON: And for the both the written submission and the information you've given us today.

MR EVANS: Thank you for the opportunity. I'm very pleased to see a glimmer of Federal Government interest in this issue.

DR BYRON: Thank you very much.

DR BYRON: Good morning. Thanks very much for the written submission, which we got on Friday. If you would introduce yourself for the transcript we can then talk about it.

MR McDONALD: My apologies for the lateness of the submission.

DR BYRON: Better late than never.

MR McDONALD: My name is Ivan McDonald and I am an architect in private practice, specialising in historical heritage conservation. I have been involved in heritage conservation for about 25 years and have been actively involved in the National Trust over that period of time as a former employee, councillor, state vice-president and chair of their listings committee. I am currently a member of the Brisbane City Council's heritage advisory committee and have been for the last five years the heritage adviser to both Ipswich and Toowoomba City Councils.

My firm is based in Brisbane and provides heritage conservation advice throughout eastern and northern Australia, but focused mainly on south-east Queensland. I would like to make it clear that I appear before the Commission today in a private professional capacity and do not represent any other organisation or council. If I can precis my submission for the benefit of the inquiry. The central theme in my submission is primarily about assistance for the owners of heritage listed places in one way, shape or form. That breaks down into a number of specific points, which we might touch on.

The first one is what I call "the carrot and the stick", the stick being legislation at all levels of government which aims to conserve our historic heritage places. That, in my experience, is generally accepted in the community as a worthwhile outcome and is generally accepted by the owners of heritage places as a valid activity of government. What I am often faced with is the view of those same owners that there are not balancing incentives to defray encumbrances, costs and impediments that the heritage listing places on those owners. We can come back and talk about that in more detail.

I also raise what I call "the principle of no-worse-off", whereby those same owners of places - the heritage listed places - in my view ought not to be financially disadvantaged by providing for what is essentially a community based outcome in the conservation of those places. Most of these outcomes relate one way or another to providing some sort of balance to those owners by way of a whole range of possibilities, be they financial incentives through the rates rebates, tax concessions, be it through assistance with advice, such as what I provide to people in Ipswich and Toowoomba, through the heritage advisory service. It could be assistance with ease of processing of applications because those sorts of owners often trigger more applications than non-heritage listed places.

I also have a particular issue with what I see as a hypocritical approach by many levels of government in their treatment of their own buildings particularly and that is the trend we have seen in recent times of the disposal of public buildings. I often am giving advice to clients who are in a private capacity buying disposed government buildings and they often feel particularly disgruntled at one arm of government having run down a building to the point where they no longer consider it an asset and want to dispose of it and, at the same time, another arm of government comes along and wants to impose stringent heritage outcomes on that same owner. I think there is a short-sightedness on the part of many levels of government in this wanting to dispose of public buildings as I believe they are a public asset and I believe not enough attempt is made to hold onto those for future generations.

My last point deals with matters of heritage listing, again focused on the theme of appropriate incentives. The current environment for heritage listing, particularly at a state level - to some extent at a local level and far less so at a federal level - is that listing is often seen by owners of buildings as a curse, a negative, an impediment, something to be objected to, something to be fought. This often places both sides of the camp - proponent listing, recipient of the listing - in an adversarial position. It can be very fraught with emotion. It can be very expensive in terms of legal costs.

My view - and it may be an idealistic view - is that if there were an appropriate package of incentives to heritage building owners the whole environment of listing could change from being a negative to a positive and that would have enormous follow-on benefits by way of saving the costs of fighting listings. It would also, in a methodological sense, create a much more balanced and worthwhile environment in which to assess places if we had people bringing them forward for listing because they thought that was a worthwhile thing to do. I am happy to go into any of those matters in much greater detail or answer any questions you may have.

DR BYRON: Thank you very much. I think those three points are very central to the inquiry. I am not sure which one to start from first in the sense that they are linked. You said early in the submission that most people accept government regulation of heritage as a legitimate role of government and that there is a broad community benefit and the feeling I am getting is that, "Yes, that's true usually, provided they see that regulation as being sort of reasonable and not too heavy-handed. There are a few examples of where the government regulation for heritage conservation seems to have been a bit over the top and the tabloids and the shock-jocks pick that up very quickly and that sort of publicity makes everybody else very, very nervous - that, "Gee, what happens if my place gets listed?" Is that a reasonable interpretation?

MR McDONALD: I think it's true that there is an awful lot of public

misunderstanding about the impact of heritage listing and quite often the first discussion I have with clients is to dispel a lot of those myths. Even in this time, lots of people still think that if their house is heritage listed they can't change their kitchen or they can't put in a new light fitting - those sorts of simple myths. I had one person recently believe that they couldn't sell their property because it was heritage listed. Don't underestimate the degree of misunderstanding in the community about what heritage listing means, so usually the first conversation is about debunking many of those myths and then it gets down to issues of what might be real impacts and, yes, there are often impediments that heritage listing does place on owners.

DR BYRON: Yes. A couple of the local government bodies that we have spoken to appreciate that because of their listing of a place in a local environmental plan that additional - I am trying to think of a substitute for "red tape" - administrative obligations, and so what they do is they waive development application fees because the only reason that this owner has to put in a DA application is because the place is on the list - which the council has done - so as the quid pro quo there is no fee whereas the fee for other unlisted properties - is that one of the possible quid pro quos, apart from rate adjustments and so on - is that they waive development application fees. Because the only reason that this owner has to put in a DA application is because their place is on the list, which the council has done. So as the quid pro quo, there's no fee, whereas there are fees for other unlisted properties. Is that one of the possible quid pro quos, apart from rate adjustments and so on?

MR McDONALD: Yes, it is, and I think that's a very obvious and fair and sensible outcome that ought to be not adopted on a local authority by local authority basis but ought to be a matter of general policy.

DR BYRON: Where listing imposes an additional regulatory requirement, there should be no extra charge for that.

MR McDONALD: There should be some compensation, be it waiver of fees or even some assistance - financial assistance - for the preparation of applications.

MR HINTON: Ivan, if I heard your body language correctly, you would not be a supporter of the concept of the owner has right of veto for - be subject to a listing.

MR McDONALD: No. That system won't work. That will never produce a balanced list. If we purport to have a list that identifies those places that are important and ought to be conserved for future generations, that outcome can never be achieved on a voluntary basis.

MR HINTON: Doesn't that then require a decision-making process to have some sort of integrity then so that that potential erosion of property rights can be subject to

some sort examination, appeal, review that has integrity to it? Under your system, if there's not a right of veto, should there be a right of appeal, an independent arbitrator, specified criteria? Or maybe you don't think that's needed as well.

MR McDONALD: There are a number of issues there. There should always be rational and objective criteria for assessing places, and in the main that occurs. All levels of legislation espouse a criteria. Heritage practitioners, as a matter of course, will apply criteria at whatever appropriate threshold. So the issue is not so much, as I see it, at the assessment level but, yes, I think that if an owner is going to have rights withdrawn, they ought to have a right of appeal. I would like ideally to see a system in place where it didn't need to be that legalistic; where there were sufficient checks and balances, there were sufficient incentives in place that people were happy with the notion of heritage listing.

DR BYRON: Or even seeking it.

MR McDONALD: Ideally even seeking it.

MR HINTON: But this brings us back to, I think your term was "the various myths that exist". We're certainly getting material submitted to us that indicates that there may be myths out there, but there are certainly a number of other cases which aren't myths. There are real-life cases where discretionary activity by local government officials have in fact led to significant erosion of property rights without not too much rigour underpinning it. Now, I'm not saying that that necessarily is the order of the day. I'm saying that they do exist, at least in some cases - in some areas - which seems to, prima facie, provide a very strong case that the system is not working. Is that an overstatement or an understatement?

MR McDONALD: No. I have many disgruntled clients who find themselves in that position, mainly in dealing with Brisbane City Council, because they have a particular way of dealing with their heritage listings which avoid them being taken to appeal. So ultimately the council is not held accountable for erroneous listings.

DR BYRON: I don't know anything about that particular one, but the general statement from going around the whole country is that where the citation is fairly complete and lists, "These are the values which we think need to be protected and therefore you can't do A, B, C and D without permission, but you can of course still do X, Y and Z," and that sort of clarity means that the owner of the property and everybody else knows where they stand, but there seemed to be some local government areas where they say, "Number 42 is listed full stop," and that doesn't actually help anybody at all, and it gives a great deal of discretion to some local government official who wants to say, "You can't change the colour of the tiles in the bathroom."

MR McDONALD: I agree with that and I appreciate how that comes about. At a state level, places go onto the Queensland heritage register always with the fulsome citation which has that basic information and a statement of significance, and that becomes the basic guideline for judging conservation outcomes at a development application stage. The outcomes are far more sporadic at a local government level, and it's directly related to availability of funds. The Brisbane City Council has the largest local authority in the country; has a very well-resourced heritage unit by comparison to every other local authority in Queensland.

They are able to research each individual place, and while they've changed their practice recently, they are at least able to produce a very professional citation on demand. In the initial years of their operation, they would do that as a matter of course. In the last few years, and because of resources, I believe they're not preparing citations for every place that goes on their register, but they will produce one on demand if exactly for this purpose assessing conservation outcomes it's needed.

What tends to happen in smaller local authorities, and this is as soon as you drop down to a regional city level, heritage studies don't have the funds to enable individual research to go into every place that goes on a register. We have carried out a number of those studies around the state, and we would like to be able to have that level of input into those studies, but studies that are typically funded at the 20 to 30 thousand dollar range for a whole local authority simply don't have the financial capacity to do individual research and prepare individual citations for what are usually a number of hundreds of places of heritage significance.

What we attempt to do is establish a prima facie case of significance from broad research of the area - visual inspection of the place - and we sometimes leave that for future contest, even though those places might be embedded in a planning scheme and have controls. It's difficult. The cost difference to do a study that has a fully researched citation for each individual place on a shire-by-shire basis is probably a factor of 10. It would take a \$20,000 study and turn it into a \$200,000 study - that magnitude of cost - and local authorities simply don't have the funds to do that. While we would methodologically prefer to do the more fulsome job, we still see benefit in establishing a prima facie case for significance and getting those places on a register and having a degree of control so at least there is some protection for them.

We like to think we get most of those places right, but as I said earlier, we do leave open the prospect that sometimes we get it wrong, and we always impress on local authorities that they should be prepared to revisit those assessments if somebody challenges them.

DR BYRON: Could there be a sort of a two-tier where there are those which have

been fully assessed and are seriously on the list, and there are others that are simply flagged as being of possible heritage interest, so that even a prospective buyer, looking at one of those places, would have eyes wide open that even though it hadn't been fully and completely assessed yet, it was a candidate?

MR McDONALD: Yes. I think that such a system would have merit.

MR HINTON: I'd like to explore with you further this issue of source of funding or who pays for what. In your submission you say:

As a matter of public policy, I believe that the community ought to bear a reasonable amount of the financial cost of heritage conservation in line with the degree of community benefit derived from such conservation.

Prima facie, that sounds eminently sensible, but I'd like to explore it with you further as to how it might be put operationally. Does that mean that you would see if a building, for example, is of local significance, not state significance and therefore not national significance, therefore the local community should be the prime funder of the costs of conservation, the cost of heritage objective? Is that reading too much into your statement?

MR McDONALD: In a pure sense that would seem the fair outcome, but in a practical sense I appreciate the difficulties that that would present to local government. In my mind I was referring to community in a broader manner, meaning the community - really our society, the community of the country. I saw opportunities for pursuing incentives through the federal taxation system as a primary plan.

MR HINTON: That's putting particular weight on your expression, "The degree of community benefit derived from such conservation." Certainly you could present a reasonable case that different buildings have different benefits for different communities. That particular building wherever - hypothetical - may not have any national significance whatsoever. It therefore could follow logically that why should the taxpayers at the national level fund the heritage objective if it's not of interest to them.

MR McDONALD: I would see it another way: I would see it that those places of high significance ought to be able to avail themselves of high degrees of benefit, because of the greater community benefit that they provide. It might mean that an individual house in the suburbs that happens to be on the local council's heritage list might be only to avail itself of a relatively small degree of benefit, enough to carry out some necessary repairs and maintenance or, as I have put in the submission, the cost difference between doing repairs to a conventional standard of construction as compared to the higher order conservation standard.

DR BYRON: Just building on Tony's point, I imagine a lot of rural shires, where there may well be old churches, for example, with declining congregations, old public buildings and so on, there is a lot of historic and culturally significant fabric out there, and yet the rating base to pay for it at the local shire level is probably pretty small.

MR McDONALD: Yes.

DR BYRON: And then the question is, does that mean that Queenslanders as a whole should chip in or Australians as a whole should also chip in, but not necessarily in equal proportions?

MR McDONALD: I certainly agree that there are areas where the capacity of the local authority to provide some incentive package is probably next to nothing, and rural shires I would think are the most likely. That's why I keep coming back to thinking of the federal system, because it applies fairly and generally to all people and can then be reapportioned, as I see it, on the basis of the relative significance of the place.

MR HINTON: Would there be a tension in decisions being made at the local level as to what warrants conservation and the implication of that being that it would be funded by those outside that local area? Is there an inherent tension in that?

MR McDONALD: Possibly. Administratively I could see issues where there might be concerns raised about the effectiveness of grants, rebates or financial concessions given, as to whether that money was actually being effectively used. Again, in my mind, it's a bit like any other tax deduction we have in the general taxation system. By and large we rely on the honesty of people making the claim that it's a legitimate deduction and people know that there are penalties if they make false claims. I could see a similar system in place for the owners of heritage listed buildings, whereby they might be able to claim some general tax rebate for the cost of repairs or maintenance as part of the general tax deductions.

MR HINTON: Ivan, I had a question about your particular focus on - I think your expression was, "Do as I say, not as I do." That is the public ownership of buildings. One of the driving forces, as we understand it, behind governments selling off buildings is surplus to requirements, but also being driven by the objective that adaptive reuse of those buildings is probably the way to go and therefore the only way to initiate adaptive reuse is to have a change of ownership. It therefore follows that it's in the interest of the conservation objective for governments to actually sell, because that's the only way you're going to get adaptive reuse. Have you got a reaction to that inflammatory question?

MR McDONALD: I don't think it's an inflammatory question. I think it's a matter of not trying hard enough on the part of government. Yes, adaptive reuse is certainly a viable option, but it seems to be the option to leave that as the first option. In my view it ought to be a long way second after whatever level of government that owns the building has very seriously tried to continue its use for its own purposes or tried to find another public use for the place. In my experience I've seen whole sections of state governments being run by ex-real estate agents whose sole role is to dispose of public buildings that somebody has decided are liabilities rather than assets.

I know in my own mind that there would be quite viable government uses for those buildings. Even if a courthouse meant to sit with a judge in it could be adapted to another government use, another commercial use. I think that's a superior outcome to selling the building privately, and it will still end up being an office building. So I think the issue is one where government really isn't taking matters seriously enough and trying hard enough before they look at what is, yes, certainly a viable option of private adaptive reuse.

DR BYRON: But you weren't suggesting that state governments should run the old schoolhouse, teahouse or the old courthouse art gallery.

MR McDONALD: No, nothing like that. I mean, if, at the end of the day there is, in the words we use, no prudent and feasible alternative, then yes, by all means look at disposal, but in my view government leaps at that option.

DR BYRON: This is coming up - maybe not surprisingly - commonly, that I believe for example the New South Wales cabinet took a decision that every government department and agency was going to be responsible for maintaining all their heritage buildings. But, you know, if I was the head of the railways department, I was trying to get the trains to run on time and I found out that I had to spend \$1 million doing up an old railway station, even one that trains didn't even come to any more, my natural inclination would be to pass it on and make it somebody else's problem. If you're trying to get coppers out on the beat to solve crime and you're told you've got to put \$1 million into doing up the old courthouse at West Woopwoop, you know, I can understand why they would react that way by saying, "This is not our core business. We're the health department, we're trying to get doctors doing operations in hospitals. We're not trying to put money into heritage restoration of an old hospital somewhere." I can see where those tensions come from in non-core businesses and I can understand why they react by saying, "Well, sell it to somebody else who will then look after it."

MR McDONALD: I agree that heritage conservation is probably not the core business of almost all levels of government, but my contention is that it still ought to be some of their business. Yes, I'm not suggesting that we waste public resources trying to preserve buildings that are redundant to need, but that doesn't mean to say,

on the other hand, we dispose of them as soon as the problem gets a little difficult.

DR BYRON: Sure, but the alternative proposition might be that each level of government from state and local was to make a commitment that with all the properties that we own we will endeavour to be a responsible landlord and we will maintain these properties to a high standard including the older ones and those of cultural and historic interest. I don't know that any of them have actually made that sort of categorical commitment yet, but that would be an alternative position that they could make and that would be consistent with your argument, I think, that they should meet the same commitment their respective private owners do.

MR McDONALD: I agree.

DR BYRON: Is there a particular issue with things like banks and churches, which have always had public access even though they are privately owned, and so when they become privatised - well, they are already privatised but if an individual buys an old bank or an old church and turns it into a private house and shuts the door there is no longer public access to the interior?

MR McDONALD: Yes.

DR BYRON: So is that a special class of problem?

MR McDONALD: It is certainly an issue and it is what we would generally deal with under compatibility of use. Looking at non-government public buildings - such as you say, banks, churches - yes, part of their significance is often in the fact that the public have had access, have carried our functions, have used the place. So in my view if the original use changed and a suitable adaptive reuse had to be found then you would look for a use that still continued some degree of public access to the place before you would consider uses that completely blocked all public access. So it would be far more appropriate, for instance, for an old bank building to be converted to a restaurant than it would be to a private house, or something like that.

MR HINTON: Ivan, I would like to pick up on the fact that you are an architect, as in the institute certainly has views on what is worthy of conservation and in particular they push for, as I understand it, conversion of particular buildings that represent a particular style of architecture. That is, if something is a prime example of the late brutalist period then that in itself could be a key criterion by which a decision should be made for that building to be listed and conserved. Do you have any views on that sort of criterion or that approach to this particular objective of Conversation Australia's Historic Heritage Places?

MR McDONALD: I think in the early years of the conversation movement in Australia we tended to focus on - I think Ian Evans used the term "iconic buildings".

The whole conservation movement has moved on considerably from there. I think you will find that most architects have moved on considerably from there. Yes, there is always a place for an outstanding example of any particular class of building, but more and more the sorts of places we are finding are generally representative of particular themes. It might be simple workers cottages that happen to grow up around a prominent local industry; it could be broader areas, streetscapes, building groups, precincts - are now systematically in any serious heritage assessment of an area. So the movement has developed far beyond that.

MR HINTON: One example given to us is a 1960s high-rise that was the first high-rise in a particular place, as a large area within an urban centre, and there is a push to retain that building because it was the first, even though many in the community would regard it as less than attractive, as an understatement. And even worse because of its particular design in the sixties, it doesn't lend itself for adaptive reuse with current technology requirements with regard to wiring and airconditioning and occupational health and safety and whatever. And therefore there is an inherent tension there, with the pursuit of the objective of conservation because it was the first, up against the tension that is seen by many as less than attractive, if not ugly, and certainly not open to adaptive reuse. Is that a valid tension? Have you got a view on that tension?

MR McDONALD: It is certainly a valid tension and it's pretty typical tension. Again, in years gone by, heritage listings tended to be dominated by matters aesthetic. If a building wasn't pretty it wasn't considered. We are more mature and broader now in our consideration, and given that there are diverse opinions on what might be beautiful in a building, apart from matters aesthetic, something like the first of its type will have undoubtedly some historical significance for that fact, that it's a seminal example. So that matter of its attractiveness is not necessarily the only criteria by which significance might be judged.

That brings me to the more important second point and that is the separation of assessment of significance and management of the place. We can eventually separate those two tasks so that - and that is useful so that the assessment of significance can be done objectively and purely on the merits of the places of cultural and heritage significance. Once that is established you can then look at how you manage that significance. It may be that, again, the term "no prudent and feasible alternative" comes to bear. It may be that we all acknowledge that a place is significant; that there is no prudent and feasible alternative to its conservation and we will regrettably let it go, but you need to separate those two parts of the process.

MR HINTON: Some are putting to us that there is no shortage of criteria that can form a basis for conservation, that is almost also for inherent listing; automatic listing, given the sort of range of objectives that various groups in the community can push grounds for conservation. Yet there is always a shortage of funds and that you

will never ever match the two with the demand for listing going up but the availability of funds having a much different scope with regard to possibility of increases. Does that not therefore lead you to the view that some sort of culling exercise is essential if the system is going to have any sort of integrity?

MR McDONALD: Absolutely. There is not a limitless amount of places that ought to be on heritage registers, and that culling process is exactly what the assessment process does. We might argue that sometimes that process doesn't occur with sufficient rigour but if the process does occur within recognised criteria and with sufficient rigour we should only have an outcome where significant places are identified and go onto lists. That is not to say that there won't be vexatious nominations made, which has certainly been a growing and unfortunate trend in the recent past, but again proper rigour in the assessment ought to quickly weed out those sorts of places.

DR BYRON: Since the Burra Charter we have had this quite distinct separation. One is the pure assessment of its significance and then we will talk about what we will do about it and who is going to do it and who is going to pay for it. One alternative that has been suggested to us is that the listing body would have to consider - if we had this property how much is it going to cost and where is the money going to come from, and if we haven't got the money what are we going to take off if we put this one on?" I have probably oversimplified there, but to get - the issue of, "What is worth keeping and who is going to pay for it?" to have some sort of intersection because no matter what one is discussing, if somebody else is going to pay for it then an awful lot more people are going to put their hand up and say, "Yes, I'll have some too, thanks." But if there is a requirement to think of how is it going to be paid for, that puts a bit more discipline on the process of, are we sure we really, really need to have this one - sorry, I'm again trying to be provocative.

MR McDONALD: I can see the benefits. I don't disagree with any factor that makes for more cautious consideration of a place to be heritage listed. I think that only benefits the integrity of lists. We can argue about whether management issues ought not be considered there. I know certainly on the Brisbane City Council's Heritage Advisory Committee we have had this debate because at a political level the councillors all say, "Why are we going to go through all the grief of putting somebody's place on the heritage register when at the end of the day we're going to let it go? That's just politically dumb. We won't do it. We'll make that decision back here not to pursue it."

I can see the sense in that. I can also see the pitfalls, because it potentially influences, distorts - what's the word I'm looking for? I'll leave it at that - your assessment of significance. I would much rather do assessments of significance without those other matters bearing on my mind; then I can focus purely on the relative significance of the place against set criteria. That to me is a far more

rigorous, methodological, accountable process.

DR BYRON: If the heritage advisers do a completely, shall we say, pure assessment of significance and then it goes to another body which might be the city council or something like that, and they've got this full detailed description in front of them but then they think, "Unless we're willing to put our money where our mouth is, it's better to keep the mouth closed," and they say, "We're not interested in having a great long list of places we would like to keep but can't afford to, so every time we actually put one onto the official list we are consciously and deliberately putting an allocation of money to go with it for its long-term maintenance," they may well decide that they need to go out and collect a lot more money for that purpose.

I can imagine that wouldn't contaminate the pure assessment of its significance, but then at that level, if you like, the political decision is to put matching funding with it. The greater the significance, the greater the matching funding or the greater the need for restoration, the greater the matching funding.

MR McDONALD: I can understand the fear that might exist and that would be a fear based on a notion that there was not an end to the number of places that might be on a list. We tend not to want to cap lists, because that again says we've found every place that's significant and there aren't any more.

DR BYRON: I don't think that - - -

MR McDONALD: That would be dangerous and unwise, I think. I think as time progresses it will be an exponential curve. We will gradually get to a point where we're finding less and less places of significance. Factor in time, of course, because as time moves on, each generation views places differently.

DR BYRON: New things will qualify.

MR McDONALD: That's right. Lists are likely to expand, but I would speculate at a substantially slowing rate. Most levels of government have been through the last 20 years' processes of identifying places, so in most jurisdictions the bulk of significant places are known.

DR BYRON: So we're catching up on the backlog?

MR McDONALD: I think so.

DR BYRON: That relates to another issue. Some people we have spoken to said if there was another X million dollars, should that go into better identification, listing and citation of places that we think are worth keeping or should it actually go into funding the better stewardship of what we've already found before. I imagine that's a

very difficult choice and the answer is probably both.

MR McDONALD: The answer is both, because I know places that are on various heritage registers that probably don't belong there. I see registers that could have better integrity, meaning some places should come off. We've certainly not identified all significant places and I don't think we will ever get to a stage where we can confidently say we have. That means there will always be places, albeit at a small rate, going onto registers.

DR BYRON: But if you had to advise say the State Government today if there was X million dollars additional for heritage conservation, would you put more into a better inventory stocktake assessment of what is out there, given that there are some local government areas that apparently haven't done any assessment at all, or would you say that most of the money should go into looking after what we have already identified?

MR McDONALD: In the case of Queensland, I would probably give a short term priority to a more comprehensive survey listing exercise because, as you say, at a local level, yes, there are vast amounts of the state unsurveyed. At a state level I think that's far less the case. I think the Queensland Heritage Register is a far more comprehensive and settled register. I would invest a minority of those funds for review and further assessment of that register, and the majority for physical conservation works. There's a difference between state and local there.

DR BYRON: Yes. I think that exhausts my questions. Is there anything else you would like to say in the way of conclusion?

MR McDONALD: No, just thank you for the opportunity to come and participate.

DR BYRON: Thank you very much. It has been extremely helpful and informative. I think we can take a tea break for 15 or 20 minutes. Thank you, ladies and gentlemen.

DR BYRON: If we can resume, we've got representatives from Kangaroo Point Residents Association and Save our Brisbane. Thank you very much for coming, ladies. If you would like to each introduce yourself and then we're very interested to hear what you have to tell us.

MS LAMB: Thank you. My name is Joy Lamb and I'm a founding member of the Kangaroo Point Residents Association in 1980, and so we have 25 years of experience in the suburb of Kangaroo Point, Brisbane, and we have had some spectacular successes in our non-party political dealings with the Queensland Government under several premiers and with the Brisbane City Council under several lord mayors.

I'll outline some of those things in a time line and I would seek time to put these documents together in that we only became aware of this hearing last week and, more particularly, only invited to speak per courtesy of this hearing at the end of the week, and Sue was away at the time and Sue is a recent member. So I would like to thank the Federal Government for setting up this inquiry because it's well needed, as the other people whose submissions I briefly saw last night - as someone pulled them off the web for me - is sorely needed because Brisbane is affected by being a city-state, it is the largest council in the Southern Hemisphere certainly and possibly the world now with the Greater Brisbane Area under its control. I think that is our biggest problem and to the extent that Queensland has settled in the south-east corner mainly and now has three gigantic councils taking the majority of the population, I think that the pressure is so strong and the power is in the hands of a few, both government and councilwise, that Brisbane suffers the potential loss of its total identity, as Queensland has become the flavour state of the last few years since Expo. So we're very grateful to have this ability to appear today.

I can continue after Sue has introduced herself. Sue has a specific interest in regard to coming to Kangaroo Point recently. I have a 100-year involvement with Kangaroo Point because of my husband's family home, so I do wear two hats, but they are interwoven with my experiences. So if I get my papers ready and Sue introduces herself - thank you.

MS KEYS: I'm Sue Keys. As Joy said, I'm a recent resident of Kangaroo Point but I was born in Brisbane, I have lived here all my life and I was brought up to appreciate heritage values and our history, whether it was local history or Australian history. We would go to Sydney and look at the different styles of architecture and drive around Brisbane and look at the houses and over the recent years we have watched it disappear. I believe very strongly that a city or a town is a sense of - it gives that sense of place that our first speaker spoke about. I think that's terribly important, but I think it also reflects the pride and value that unity places on itself. I also feel, if we're going to be talking about the issues of the taxpayers' dollar - well, I'm one of those people that prefer to look at an old building than go to a football

match. I've never been to Lang Park and I would like to see some of my tax dollar go towards our cultural heritage and our sense of place and identity.

MS LAMB: Just a brief time line for the Kangaroo Point Residents Association. It was inaugurated in 1980 and from 1980 to 1983 it mainly supported residents. This was before any boom. There were a few high-rise buildings in Brisbane but there had been no boom in Brisbane at all; it continued as people liked to call it, a large country town that happened to be a capital city. So from 1980 to 1983 there was a bit of activity in the acquisition of the land at Mater Hill South Brisbane down to the river, which is now called the Southbank residential precinct, and I've invited Mr John Eglington, whom I know through being involved with Save our Southbank - and again, he was only advised at the end of the week when Mr Plunkett had phoned me to tell me that we had the ability to make an oral submission - so I go back to the time John - and to our members still living in Mater Hill houses.

They had been bought or put on contract for a development application approval in those early days, not the same as it is today, for the buildings that stand there now. There were two aspects of mention in that time, because John will I'm sure put a submission in about recent times - but it was basically acquired by the original Watkins building group and they had the houses for a delayed payment settlement, but they didn't maintain them and people had difficulties with their toilets and their electrical things and their gardens and water, and our residents' group started to support people who were alienated by proposed development. So it started with a very good social responsibility and we believe we've kept it, although we had to become incorporated along the way under the Kangaroo Point Association, but more recently have gone back to a limited use of the residents' association in an offshoot, unincorporated, because of the legal actions we've had to support with specific people's money.

It is inappropriate to air those matters in a public meeting forum that an incorporated association requires, so we can explain that to you a little bit later. But that was how it started and we also then were aware of the architect Robin Gibson who did the Queensland Cultural Centre. He had hoped and had lobbied the government of the day to not do those high-rise buildings on the foreshore at Southbank - the two adjacent to the freeway, Southbank and Riverview Gardens. He had hoped to see a more terraced approach on that hill, so that everybody got a view and that is a philosophy I support; that Brisbane has a terrain that allows such a use of - the vast amount of the city, if not all, is in that hilly topography that allows the philosophy of another architect friend of mine, Russell Hall, who supports tiered planning and a north-south situation, so that it gets over all planning problems and respects other people.

The heritage can remain, and that's the prime topic today of course. The heritage can remain because if the buildings in the future respect the existing

buildings, then everybody wins, because if people redo buildings down the hills in a terraced manner, those that are already there aren't particularly disadvantaged because they maintain their site - and this is in the suburbs in particular, not the CBD - but that was the philosophy of Gibson for the Southbank, which was right for high-rise redevelopment. It was an ex-maritime area and warehousing and transport area that had been augmented into the Southbank government supported area, and that just has developed not quite as they planned, but that's all I'd like to say about that.

We had a quiet time from 1983 till 1986 because there was a recession, but in 1986 the Kangaroo Point Association was really called upon to do its civic duty and we achieved some great things. There was a proposal on River Terrace, a prime site overlooking the city, the first spine ridge settlement following from the peninsula of Kangaroo Point, which is river flats, and then the Kangaroo Point Cliffs, the well-lit - are you aware of the Kangaroo Point Cliffs?

DR BYRON: Yes.

MS LAMB: The Kangaroo Point Cliffs area was a quarry until 1976 and had ceased quarrying - and it remained Crown Land - and the Naval Stores from the old Queensland Navy in the late 1800s were below St Mary's Anglican Church, a very historic area, those two buildings adjacent to each other, and then the quarry reached from the St Mary's/Naval Stores precinct almost around to the southern pylon of the Captain Cook Bridge, a vast amount of Crown Land.

In 1986 came some pressure from developers to look at that area, that riverside area, and the Lord Mayor Sallyanne Atkinson had acquired the Naval Stores by transfer from the Commonwealth under the Hawke prime ministership, which was a major acquisition and she put that idea to the public to tender and got the tenderers. There were 10 tenders; eight complied with the land available, 1.8 hectares, and the other two sought to take the entire Crown Land from the Naval Stores right around to the Captain Cook Bridge and that then became a State Government issue as the Crown Reserve and the Kangaroo Point Association was galvanised into action by its members and we worked from 1986 until 1989 under the National Party government and the particular Lands Minister Mr Glasson to save that area, and save it we did.

No-one can believe us now when we say that it was to go to three theme parks and a carpark by a private developer and they nearly die - they just think you're joking - and when you say that it took five years of five people's lives - and they were myself and our president David Murray, and Mr Glasson initially, Premier Ahern, and then Premier Goss - so between the five of us and five years standing fast against some very, very vehement opposition from a private developer, we did win that and it took from 1986 to 1991 to see those cliffs enshrined in the form you see today, albeit still under a little bit of an attack in part.

People like to say that that was our greatest win because it is the prettiest and it's the one they all see, but I now have cause to question that. I do believe it was a wonderful win and it was worth the five years and, coincidentally, we then saved \$70 million of taxpayers' money in a private case for compensation sought by the developer, particularly against Wayne Goss and Tom Burns and Kevin Rudd, so it has been a very interesting life for me and mine in the last several years because it was our documents that were the only running set of documents that gave an overall story to the Federal Court and Justice Susan Kiefel, who subsequently did rule against the appeal for compensation from the government for stopping a development that never had rights to take that Crown Land anyway.

Its tender was for the 1.8 hectares of the Naval Stores transferred from the Federal Government to the Brisbane City Council, so it was an extraordinary action that we were party to by association because we were subpoenaed for those documents and those three gentlemen, having occupied high places in the governance of this city, were somewhat reliant on our documents and the overall tale from our meetings with Mr Glasson in 1987 through to the change of government in - I say 1990 because it was December 1989.

Mr Goss stood strong to his support of the Ahern decision and consequently the Kangaroo Point Cliffs were saved. At the same time - or in that same time span - the association's major win and the focal point for community representation today was probably the 1987 Local Government Court appeal, which was against the Brisbane City Council, where Lord Mayor Atkinson was prepared to look at high-rise buildings on the Kangaroo Point Peninsula erasing a local planning policy for nothing higher than the Story Bridge roadway and its adjacent Bradfield Highway roadway similar to the Sydney Harbour Bridge with its adjacent Bradfield Highway, which was saved in the 1970s by, ironically, Jack Munday and the Green Bans.

The supreme irony of all that is that yesterday Sue and I and two others had the good fortune to attend the launch of a book at the Paddington Workers' Club in Brisbane by a local historian, Dr Greg Mallory from Griffith University, who has documented the two major campaigns, in his opinion, of the unions and their social responsibility, and the one we were most interested in was the Builders Labourers Federation in Sydney and Jack Munday and the Green Bans which saved the Rocks in Sydney, etc.

We met Jack Munday yesterday and he was of course a local hero throughout the country, not just Sydney, and our dilemma now is that, having saved the comparable 'Rocks' area in Brisbane - namely, the Kangaroo Point Peninsula - and we saved this again, under the Ahern government and the particular government building Yungaba - to have to revisit this, as Sue and I have had to - with the local community - in major objections in 2003 to the Queensland Government, the

Heritage Council and the Brisbane City Council, that we thought would hold some weight, given the history I have just outlined. They were totally ignored and the Beattie government has agreed to a fairly closed tender reuse of the site - of Yungaba - and its adjacent land owned by the Government per courtesy of the demise of the shipbuilding industry by Evans Deakin on that site for some 50-odd years prior to major shipbuilding ceasing on the Brisbane River, so heritage is interwoven in everything we have done.

We feel very betrayed by this Queensland Government because when they were in opposition - Mr Beattie wasn't in Parliament at the time, but he was seeking a seat in that historic election for the Goss government, but Mr Beattie said he was one of our supporters. I was actually specifically in his electorate on one side of the road and the rest of Kangaroo Point was in Ms Anne Warner's electorate and she was supportive from Opposition, and the then Minister Glasson, being an older person who respected his parliamentary role, did deal with us over several years and did in fact rule in our favour on several subjects, but he would not do it without the acknowledgement of our local state member and our local aldermen. He was wanting to know what the local member thought in both cases and he sought Warner's opinion, so he wasn't just swayed, as is sometimes misrepresented - the role of the Kangaroo Point Association - that we managed to get the ear of the person of the day. I think that I've said enough to say that we didn't. We sought wide political support from both major parties and, in turn, both of those parties - the Ahern Government and the Goss Government - sought the reassurances of the local member. So it wasn't a little one-man band of complainants on our side and a one or two-man band on the government side; it was wide public support.

We won the 1987 court case to preserve the height limits adjacent to the Story Bridge, and that is most relevant to the subject for which we're here today, but dearest to our hearts is yet again to try to save the Story Bridge from being reduced to nothing but an across-river structure, in that the heritage listed Bradfield Highway roadway that gives the space and place to the suburb of Kangaroo Point and its Peninsula is a major section visible to all parts of Brisbane. It is the focal point of the suburb and such an historic suburb, from the day that settlement occurred in Brisbane in 1824 at the Petrie Bight area, picked by Oxley and his later companions from the colony of New South Wales after discovery of the Brisbane River in 1823. In fact, those convicts and soldiers crossed the river to the alluvial flats on the Point to plant crops, from virtually day one of settlement. Kangaroo Point has as much history to Brisbane as the Rocks has to Sydney, and it is absolutely essential that recognition is given to this.

I realise that you people can't do much to help us in this imminent battle, but it is essential that the subject is aired through the ability that you have given us, and how we go from here is critical in the next weeks. It's just recorded through you, and we're really grateful for that. We won the height limits, we won the cliffs, we won some public river walkways that Brisbane is now so proudly touting for residents and

visitors alike at Kangaroo Point.

On the Evans Deakins site, which runs from the former dry dock that dictates the new Dockside development of three towers and a high-rise hotel back from the Peninsula, there initially was to be a two-metre walkway per courtesy of the relevant Minister Leisha Harvey in the National Party government of the day. We sought her change of mind to support Sallyanne Atkinson in her walkways situation, which she established on the north bank of the river from the University of Queensland ultimately, to the Story Bridge. But we succeeded in getting a 20-metre public open space area on the old Evans Deakins sites from the dry dock at Cairns Street in Kangaroo Point to the Peninsula and it now goes round to West End, so we achieved that and supported Sallyanne Atkinson with those walkways.

I haven't got this written down, by the way, so I'm having to think. I've just got some dates. There were other things that the KPA achieved in Kangaroo Point that I won't go into today, but things like a proposed glass multi-storey restaurant planted on the side of the cliffs and the cutting and covering of River Terrace, a major arterial road, to put kitchens and bus terminals on River Terrace, a predominately residential medium-density part of the suburb, was just bizarre and Minister Glasson came to that conclusion, although the National Trust did not support us. The National Trust of the day did not support us. They were more interested in how many cars would park there. But the overall thing, as with the Story Bridge, is the diminution in heritage value of the Story Bridge now or the Kangaroo Point Cliffs at the time.

We were active, as I said, when the government changed and supported the Goss government to continue with the Ahern decision - and, as I said, they did - so we were quite satisfied by 1994 that we had achieved the majority of our aims. There were planning processes in place for the Peninsula of Kangaroo Point and the adjacent existing residential timber and tin cottage areas of the rest of the suburb, and that's the part that I live in compared to Sue, who's a newcomer to the immediate area below the bridge.

We thought those planning policies would be permanent, and the problem is that they are a movable feast. We've seen it all happen and we feel very aggrieved that the community has to again act to try to save something within an 18 or 20-year time span. This is what we're hoping that this inquiry will be able to achieve; that true heritage, such as an old suburb as Kangaroo Point and its adjacent suburb of South Brisbane, can be recognised for what it is before it's too late, because the truest potential, as is so promoted, will be lost if we see the city wiped out in its original form in the existing heritage places. What is there to come to see?

I've had a recent battle myself in the Land Court, where my husband and I elected to represent ourselves. He elected to have me represent us, even though it's his family's home, because of my community background, and in the end I found that

I couldn't pay anybody to learn what it had taken me 25 years to learn about my own area - in particular, my own marital associated residence - and the Land Court is a similar situation to this hearing, only a bit more rigorous perhaps than this. The one saving grace of the Land Court is that at this point one still has the ability to represent oneself.

In my court case, I was advised by the retiring member of the Land Court, Dr Neil Divett, that he was aware of my community activities and he did think that possibly I was being punished for them. I certainly made him aware that I believe I have been punished for them. But he advised me, in turn, that the Court was under some difficulty, in that the Beattie Government was seeking to abolish the Land Court and roll it into the Planning and Environment Court, so that one could not easily be self-represented as residents disaffected by land valuations. As he said to me, "You know what that means, Mrs Lamb, more legal bills", and I said, "I do, indeed, know that".

As one of your submissions touches upon Land Court and land valuations - I mention it briefly now because I will supply you with some documents under whatever section that they will fit in with submissions and documents, so I'll supply them to this hearing. But I actually found, after I attended hearings at that Court from November last year until May this year, that it was a lengthy process, because I have had a physical disability. Dental abscesses have caused me great difficulty with my facial muscles and nerves. The Court was very kind to me, I must say, and I did have times in between to catch up because of my disability.

Having said that, Crown Law and the Valuer's Department were most unkind, because they saw it as a good time to keep me on the run and they did challenge certain aspects of the hearing of our case, which I thought was particularly unkind. The judgment in the case of F. and J. Lamb v the Chief Executive was brought down on 8 July, and I did partly win that case and changed the Land Court's mind about how heritage values were to be assessed. It was no longer a case of one size fits all with a 10 per cent reduction. They had already had other cases where people who were far more skilled than me, in a professional manner - an eminent QC, Marshall Cook, with a house at Ascot - was able to put all the heritage costs that he had to comply with and he put them in hundreds of thousands of dollars worth that he had to spend, or was supposed to have spent, for his property at Ascot.

The difference was - I had to remind the Court and they accepted - that his home was in a very settled, guaranteed residential A area that had no real threat upon heritage, whereas our home is in a residential B inner city major target area for redevelopment and that our house is isolated on a large site, from 1901, although the site was subdivided and previously held by only one person, from 1884. So we were not in the same position. We are in a tenuous position now, as we are set upon on all sides, compared to the Cook case, but he did put values upon things.

Another one at Ascot, a real estate agent, Spiro Conias, won a court case that was also based on real costings. So those two cases were available that influenced the court in regard to real costings. That touches upon matters that Ian Evans has touched upon, but in a different way, because those places are not under siege. I am under siege. The houses that Ian Evans was talking about are under siege.

The Land Court did not say that they had held their decision until past 30 June, which was supposed to be the cut-off time, for any reason, but the fact that the land in front of our house was to be sold at public auction on 29 June, due to receivership, couldn't have been lost on them. The difficulty with the Valuer General's Department, or now the Department of Natural Resources, valuation section, is an 1100 square metre block of vacant land in front of me, on a very precarious sector of the Kangaroo Point cliffs, recently owned by Mr Lasrado, an Internet entrepreneur whose money came from Internet pornography.

That is a fact. He bought, as the Court had me prove, as an imprudent or naive buyer, a very difficult 1100 square metre site that has the total ability to wipe out our heritage listed site behind it. We have the subservient land, despite being the most prominent building on that section of Kangaroo Point opposite the Botanic Gardens. People just do not understand what subservient land really means and the Land Court had to investigate this.

The department, in its non-wisdom, had put a \$5.6 million unimproved value on the Lasrado land after the former mayor, Mr Jim Soorley, had done some work for Mr Lasrado in 2003, seeking some of our land to help Mr Lasrado build three 'small lot' townhouses of five-storey dimensions in a site and height limited area. We refused him the 20 metres to give him the ability to build the three houses. Mr Soorley then said he'd gain it from the Crown. I advised him that that was probably impossible because the Crown - the former Minister Glasson - had investigated that very subject of that very land for the former owner, in 1986, and it was disallowed. Not only was it disallowed but the former Minister Glasson had had a White Paper done by his Government to save that Crown Reserve of the cliffs and the Park and Recreation Reserve below, which are the Kangaroo Point Cliffs today.

Once again we were under duress in our residence, from 2003 until that Crown Land was refused earlier this year, and the Soorley-promoted redevelopment of the Lasrado site did not proceed and Mr Lasrado unfortunately went into receivership. And I say that with complete sincerity. I did not want to see the man in receivership. I would have preferred to deal with him and work out a way that he and we could live together. I had offered him a way, which did not involve giving him any of our land but it did involve a reconfiguration of our land and his land.

I did advise the Land Court of this and they were quite astonished. The reason I say this - and all my affairs are intertwined with the KPA - is that the Kangaroo

Point Association is not against development; it seeks a better way out. We are not stupid. We seek negotiated decisions and the ability to save what's good of the old, juxtaposed with a better outcome for the new. I instance that in a negotiated decision with the Church of Jesus Christ of Latter Day Saints, in 2001, instead of a full Planning and Environment Court hearing, where our association, through the group of residents disaffected by the proposed temple and adjoining church for the Mormons which was going to wipe out visually that part of the River Terrace diagonally opposite me and above the Cliffs.

It was challenged through the Planning and Environment Court, then the Mormons, to their credit, asked if we could try for a negotiated settlement and the disaffected area elected me to be the liaison because I had no problem with the church, per se; I had much more of a problem with the planning issues involved. It was a bad plan for the site originally and we had a good outcome with a negotiated decision that allowed the Mormons to build their two buildings in a much less hard-edged and elevated profile.

I believe we are the only association, according to the Brisbane City Council, and to the Mormons - I guess they should know - and to other interested parties - we are the only people who ever managed to negotiate a decision to everybody's benefit, through Utah. It wasn't just the local Mormons; it was through Utah. Everything we put to them about changing their plan to suit the area and consider the other residents was put to Utah. So that was a satisfactory outcome. So again I stress that we are not anti-development; we seek a better way.

They are the most prominent decisions that take us to 2001. At the same time, the Kangaroo Point Residents Association is the offshoot that liaises any court cases, as they are specific to disaffected areas. In this current case we are supporting Sue Keys and her area below the bridge because of our length of time and experience and knowledge, as I've outlined. In the case of the Mormons, it was those people directly adjacent to that building and, to a degree, our family looking at it, or looking past it, or trying to.

In the case of another heritage listed building - Shafston House, a very early building, not in its original form; it had been revised several times between 1854 and about the 1880s, but it is a significant site at Kangaroo Point on 2.5 acres and was the subject of a disposal by the Federal Government - a disposal of Defence Department land. That was an RAAF establishment originally used as an Anzac hostel for disabled officers of the army flying corps, prior to the formation of the RAAF. That hostel existed from about 1918 until 1986, when the Hawke Government looked at disposing of some sites around the country, and that was at the same time they disposed of the Australian Embassy in Japan - a foolish move and a very face-losing move with the Japanese by the Australian government of the day; that was folly in many ways, but they did it.

In the case of Shafston House, a Mr Gary Balkin was the successful buyer at a public auction for leasehold land holding Shafston House and the hostel, which was the patients' living quarters. Mr Balkin is a respected hotelier and was the founder of Brisbane River tourism via the Kookaburra Queens. Are you aware of that?

DR BYRON: Yes, I know them.

MS LAMB: Mr Balkin is not a fool either, and before he bought that property lease at public auction he sought the approval of the Federal Government through the Australian Property Group and through the State Government, through then Sir Joh Bjelke-Petersen and his first Heritage Minister, who established the first heritage register in Queensland, which is relevant to Yungaba again. So this is all interwoven. That is heritage. This is living heritage and living history. Bob Katter - everybody laughs when you say Bob Katter in his current role, but at that time he was the first Heritage Minister. He established the first cultural landscape or cultural buildings record, and Yungaba was the first building on that register. It's mentioned briefly in the appeal documents before the Planning and Environment Court at the moment, which ironically has been called in by the Beattie government, and that will be further down the track - as I'll try to hurry to explain.

A brief mention of something: that Sir Joh, prior to death and after death, was still vilified, 20 years after leaving office, as being a heritage philistine. Well, there's a lot of us think that there were some mistakes, but such mistakes have been multiplied and multiplied to the point that the whole of south-east Queensland is on the verge of wipeout unless commonsense can prevail, and we're looking to the Federal Government and this Inquiry, with all its attendant submitters, to try to get commonsense back into the equation, and a bit of morality I think, and ethics too. It's beyond our comprehension. Yesterday Jack Mundey was very gracious in his speaking and gave credit to a lot of other people helping him.

Drew Hutton, a well-known Greens campaigner, is as frustrated as me and we probably come from different sides of the political fence in many ways, but we share that common philosophy of what's good for Brisbane suits everybody, not sectional interests. He and I have been friends for some time now but we didn't know each other initially, from the early 1980s, but we certainly have from the 1990s.

The Shafston House matter: Gary also did his homework with the Brisbane City Council under Sallyanne Atkinson, so he had three-tier government support. He then bought the lease at public auction for \$2 million and had approached the community in the guise of our quite large community organisation, and explained the situation on two and a half acres, and we visited the site; saw a couple of functions. It's a large site. The sound was contained, everything was going for him and he had huge community support outside of the Kangaroo Point area as

well, and the Courier-Mail support, but he later had an absolutely dreadful time over seven years, dealing with the Brisbane City Council specifically and the relevant alderman and half a dozen residents - half a dozen versus 300 paid-up members of the KPA, which represented some hundreds because it has one membership per residence.

Half a dozen people ruined that business to the point that Mr Balkin sold the boats, including the Kookaburra Queens, to put into the ongoing restoration of Shafston House in good faith; sold his award-winning Pier 9 restaurant on the river in that Eagle Street eatery area; and he lost everything as he was forced to sell Shafston House as a residence seven years later after a Queensland Supreme Court appeal overturned the Planning and Environment Court a decision in his favour pertaining to the rights of Commonwealth property, as it was at the time - albeit leased - to be specially considered in its 'regurgitated' form - adaptive reuse.

His plan was the most outstanding use for that site. As adaptive reuse he agreed to all of the restrictions that the community had requested of him, as did the Mormon church. The community was not pushing it as hard as the local neighbours and we took notice of the local neighbours in regard to how many - that he only ran a night function Thursday, Friday, Saturday. He had valet parking. He proposed to stop everything at 11 o'clock so the site was dead quiet.

Those conditions apply today to another situation that the KPRA also had input to; in regard to the Woolloongabba Cricket Ground and the rebuilding of that, which was hastened to accommodate the soccer games for the Olympic Games. So there was a very fast timetable to expedite the completion of The Gabba, and that was an advantage to the locals because otherwise we could see it being strung out. It was supported by the Borbidge government in 1996 and the then Chairman was none other than Don Nissen, the former state manager of the Commonwealth Bank of Australia, and subsequent chairman of Energex. The Gabba have had their own problems but, again, the way this city and these inner city matters intertwine, the local residents were basically supportive of the Gabba redevelopment. Some of the locals tried to say no, but you can't stop that and we never tried in the main, but what we did seek was a better outcome and we did get it.

The Gabba Trust then enshrined into their approval that the timing had to be cognisant of the people's lives in the area, and they only operate about 24 nights a year. Between the cricket and the AFL, they only impinge on us 24 nights a year, but they acceded to stopping everything at 11.00 - totally cleared of the site before midnight and lights closed down. Gary Balkin had agreed to that, but he still lost. Within one month of Mr Balkin selling that property to a Mr Keith Lloyd, who said he would always love to live in a heritage house, having had another mansion nearby of more recent times - within about one month Mr Lloyd had 'rolled in' with the bulldozers and destroyed the terrace grounds of Shafston House,

heritage listed in their own right in the site-to-site coverage of that listing by the Federal Government on the National Estate of the time, I understand - on the three registers through the three tiers of government.

So Mr Lloyd put the bulldozers through. The local residents who had caused so much trouble for Mr Balkin didn't hear them. I mean, they were adjacent but they didn't hear it. The KPA was called on again, after one month of that, to say what could they do to try to stop the bulldozers, and we had to then get on to the Council and officially advise them that the dozers were there, and Mr Soorley had to enter the fray and had to request that work cease - anyway, put a stop-work order on it. He then requested that Lloyd reinstate those grounds, but at about the same time a former mayor had apparently begun using the hostel section as a kindergarten; as a paying concern, as a commercial use. Despite Mr Balkin having to sell it as a house. There was a court order saying it was a residence, and historic residence to boot, with all of the trappings that have been detailed by the preceding speakers, all of the impingements.

So that was absurd. We couldn't understand it, it continued and apparently without planning notice, it grew into a language school. Then the first common knowledge planning notice that was ever properly advertised was for a huge building on Shafston Avenue, backing onto Shafston House, which fronts onto the river. So that whole block was acquired to become Shafston University, and we had not seen the planning notices to this effect until they wanted to put this huge accommodation block for Shafston University. That did require planning approval and could not be 'hidden'.

It was excessive GFA that applied to that building, taking some of the GFA out of Shafston House, two and a half acres, into this building. A gross misuse of the site, a gross diminution of the amenity and the heritage look of that building, Shafston House, but the Heritage Council - what were they doing? We're still wondering. The National Trust similarly, because the community in the form of the KPRA were left to fight it again. We did not take that one to court. We could not afford to take that one to court, because at that stage the surrounding area was in transition and everybody was still complaining about Gary Balkin. I mean, they had lost the plot. They said that, "Well, we stopped Gary Balkin, so why are they doing this now?" I said, "Well, that was years ago. You wouldn't support us. You supported the immediate people who were against Gary Balkin. You wouldn't support us. Are you going to put the money up for us to liaise?" because we don't do anything without lawyers, as an unincorporated section of the association. They run these cases and the disaffected have to pay for them by levy.

They just didn't see a problem. They thought the planning mechanism would stop it, and it didn't. Mr Lloyd still operates - well, he doesn't - Shafston University with some allied uses still operates. Mr Lloyd had some personal problems in 2004

with some of the students and the University of New England I think required his vacating a hands-on role in that establishment. So that continues, and Gary Balkin sits across the river in New Farm looking at it, and I look at it too and say, "Where is fairness, morality, ethics, planning rules, heritage values?" Where is everything in relation to Shafston House, in relation to our family residence, in relation to Yungaba, the subject of the Planning Appeal that has been a 'call in' and that I have mentioned and will finish up with shortly.

But I think you'll understand what I'm saying. I think Queensland - dare I say we need more politicians - I was one who said we don't and now I say that we probably do I think, like Drew Hutton, that we do need an Upper House in Queensland. That deals with the state governance, but with the local governance our biggest problem, compared to the other states, is the size of the Brisbane City Council, as I've said. I think what has evolved with the situation of the National Trust in Queensland, the Heritage Council established by the Honourable Pat Comben - I'm sure he did it with every good intention - but it seems to be working against not only him and the former heritage minister Wells, whom I had contact with in 2002, and he subsequently lost his portfolio, he's on the back bench. But it seems to be a poisoned chalice, almost as bad as Health in Queensland. It isn't working.

The National Trust has no teeth. They try valiantly, but the two seem to be working against each other and that is one way that costs could be looked at to see. I recently had to engage the services of a heritage architect from South Australia, Ms Carolyn Wigg. Carolyn has been a friend of mine since we met in the Year of the River with Sallyanne in 1987; it preceded Expo in 1988. I knew that she worked for the Government of South Australia as a heritage architect and that was about all, but we just became friends. We got on well from that day and we see each other from time to time when she visits this state. I rang her by chance in February this year, having seen the difficult situation that heritage architects - and this is touching on Ivan McDonald's submission to you - to my great sorrow, people whom I had known and respected, heritage architects of major reputation have, to my really great sorrow as I said, been diminished in their ability to act without fear or favour and conflict of interest.

The reports that I've seen in support of Planning and Environment Court cases involving the Kangaroo Point Residents Association have clearly shown that they are arguing against the citations that have been written for the buildings under heritage consideration, in particular Yungaba and directly opposite me, in a very special small precinct, St Joseph's Convent building formerly in the Roman Catholic parish of Kangaroo Point with three other buildings: the church, the presbytery and the school - these being under the control and ownership of the Diocese of Brisbane. The convent itself was under the sole ownership of the Sisters of Mercy, they own other convents which are in the same situation. I'm aware specifically of three. But

you touched upon 'church' and I think another person touched upon church and governance, so I won't go further, because you were spot on in regard to your comments; the community shares them.

If the government of whatever tier does not own and maintain its own buildings and use them for another purpose, if they are surplus to their needs, it isn't good enough to sell them to other people and then, as you noted, that they again have heritage listings imposed on the new people. So I support your comments from the hearing totally in that remark. That is the most critical remark. The Roman Catholic Church in particular is the largest property owner, because of their size in the community. They have their properties free of rates and cash them in 100 years later to private developers, with no consideration of their adjacent church or school's continuing role. They sell them off to developers without any concern about what happens.

In the case of St Joseph's Convent, it is the oldest school associated with Mary MacKillop. She came from South Australia in 1867, her order of St Joseph's was formed in 1866 in Penola. I'm not a Roman Catholic coincidentally. I'm not a Roman Catholic, but I had to research this for the heritage listing by the State for the KPA, to try to save St Joseph's Convent for an adaptive reuse, not ruination. We did get it onto the preliminary register - what's that called - the Provisional Register and an excellent citation was prepared by the State. It was, until the last year or so, a pristine 1890 building; absolutely pristine, totally intact, timber and tin.

Mary MacKillop: her first school was at St Mary's Roman Catholic Church at South Brisbane to take over from the Mercy nuns at All Hallows, because they could not walk that distance from the city, which was quite understandable. So she was brought to Queensland by the Bishop of the day to re-institute that school. She did that. That's long gone, as the industrialisation of South Brisbane wiped out the population. The church still exists, and it's a little island of its own and it's a particular facet of the church that's outside the general church rulings and they have their own problems with that, but the church itself is still there, but the school has long gone.

The second school was at Petrie Terrace and we believe near Lang Park. The second school is now lost in that vicinity and her third school was at Woolloongabba on the other side of the swamp, which is now - which became the Woolloongabba railway yard, then became the freeway intersection, with The Gabba cricket ground on one side, our house on another, and the South Bank near the river - to the left from where I'm sitting now - anyhow, it is from how I look at it.

But her third school was in Hubert Street at Woolloongabba and she remained there for a few months, eyeing off the land at Leopard Street, Kangaroo Point, with a church going up - a church being erected by the locals in 1866, 1867. And she sighted this and was forced out of Hubert Street with her nuns because of the mosquitoes from the swamp, now known as Woolloongabba, and it was a series of water holes. So she removed the school to the higher land of Leopard Street, to 18 Leopard Street.

That is the only school remaining of those three, so it has heritage significance. It has church significance. It has educational significance. It has building significance with their four buildings and I'll give you a submission that outlines all that because it's 'been-there-done-that' with the Planning and Environment Court. It was the only case we ran that we could not afford lawyers. It was the easiest case to win and we lost it through a very peculiar judgment by the court, and we couldn't afford to appeal it because in the Supreme Court you suffer the worry of having to pay the other party's cost.

In the Planning and Environment Court, as the Land Court pointed out to me, which is why I support the Land Court retention, you can also represent yourself - even if the Integrated Planning Act makes it all well nigh impossible, you can do it. And we did it in the case of the convent but in a very difficult way, because the developer pulled us on into a time slot that was in the middle of another court case that we ran against an adjacent development next to Shafston House, the applicant being a part overseas developer but the town planner being the then Chairman of the Heritage Council, Mr John Brannock, in his civil role. Mr Brannock is also the applicant for Australand in regard to the redevelopment of Yungaba.

Mr Brannock was also the planner for the proposed rejigging of Cliffside Flats, two doors from my husband's family house, a significant 1930s heritage listed building under the State Register and the Council, on the river. The owners were only the second owners of that site and ironically, the architect was the second generation of Wilson Architects, the first generation having done my husband's family house, and they're into their fourth generation now and they had a celebration at Christmas time. The oldest surviving firm in the world, some 125 years family-owned. So all of those things have some significance to the heritage situation. The Cliffside owners have recently told me their family sought the KPRA's opinion through me, and also our personal opinion because of our house - - -

MR HINTON: Mrs Lamb, I don't wish to interrupt you inappropriately but it is just getting a bit lengthy for this process. I think it would be very valuable if you could now focus on points that you would like to emphasise so we can sort of proceed.

MS LAMB: Okay. Well, I think that I have probably encapsulated the main problems that I have with what has happened. I don't seek to convince you but I hope I have informed you of the role the Kangaroo Point Residents Association has had to play, and it's a wide role.

MR HINTON: Yes. As you indicated right at the start, this Commission and this public hearing is not examining particular cases but we are using particular cases to get a better understanding of how the system is working. So we value the sort of information that we can obtain from interested parties on individual cases to the extent that it does help us to understand the system, but we will not be reaching views about whether or not a particular case or set of cases has been handled well or handled badly - - -

MS LAMB: No, I understand that but when - - -

MR HINTON: - - - in terms of individual judgments.

MS LAMB: No. I just meant that I hope you will see that we are not a disruptive group. That's all I seek to achieve, that we've put - - -

MR HINTON: I understand that, yes.

MS LAMB: - - - a good, civic effort forward.

DR BYRON: But you have also explained very clearly why redevelopment proposals in Kangaroo Point are controversial and have been controversial for a long time.

MS LAMB: That's correct.

DR BYRON: And dare I say it, may continue to be controversial in the future.

MS LAMB: That's correct. And so accordingly, I will give you back-up material. I'll try to cull it so that you can just have references to the things that I've mentioned. I don't really know what I've mentioned, to be honest. I wrote the dates out this morning because - - -

MR HINTON: Mrs Lamb, I should mention that the transcript of your comments today will be available to you.

MS LAMB: Thank you. I'll need that.

MR HINTON: So the fact that you haven't got written notes in front of you will be in fact overtaken by the transcript, which will be sent to you.

MS LAMB: Thank you. Well, I will need that then to put the submissions in. So I do seek an extension of time for the submissions because I have my own battle in regard to our house; also a problem with my mother's house, which is heritage listed by the Council. So if I could just touch on that then to get off the KPA for a minute. Apropos of what Mr McDonald said, I don't think he felt that people were put upon with heritage listings. I believe they are put upon. I can quite understand why my husband's family house is of interest to some people but I am horribly aware that Mr Soorly clearly told me that nobody cares and that it can go. Nobody cares if it's built out, tough luck, we've had a hundred years, and the heritage architect who did the assessment for that proposal effectively said the same thing: "Oh, well, they'll still get a bit of a view". But that isn't the point of the Heritage Code in Brisbane or in Queensland.

The Heritage Code states that a heritage place must be visible to the people of the city, not from our point of view if we can see out or not. And that was stressed in our objection. We had to retain Clayton Utz to do our objection because I was far too close to that objection to sit down and coherently ever do that. I was in opposition to Clayton Utz as the solicitor for the Mormon Church in that decision. So I found that man very fair and very ethical, and he knew the area, so we retained him for our particular problem.

But the point that Ivan said about it's not a problem, and it's extremely costly. Heritage listed places are put upon when they are in that urban renewal high land value situation and that has been explored at length. I note what the Commission said, as opposed to Mr McDonald's view - he's a professional person but he sits on those committees of the Council and the State Government and Ipswich Council, where he is actually wearing two hats as well. He does private commissions and he does public listings. I don't agree with him that it's as easy to cope with heritage listing and adaptive reuse. I've got some notes about his submission - do you want me to leave them out?

DR BYRON: I think it's probably better if you leave it out. Thank you.

MS LAMB: I just say that I don't agree - - -

DR BYRON: But you can put that in writing later.

MS LAMB: I can put that in the submission when I read his transcript perhaps.

MR HINTON: Focusing on areas of disagreement as to views expressed is perhaps more productive than going into wider issues.

MS LAMB: I think as a professional person he may or may not have a heritage listed house and, if he does, he's surely much more knowledgeable than the rest of us. The problems that this inquiry has been set up to address are the real world, and the problems that exist in regard to the Burra Charter and its real use. Carolyn Wigg during her visit to support the Yungaba group also saw my mother's house as heritage listed by the Council as punishment to me. I'm quite sure, that it does not really satisfy the criteria. But more particularly, the house that was next door did - a 1910 timber and tin major house on Dornoch Terrace at Highgate Hill. Actually my mother's house was built on the tennis court of that house - but the house itself was ticked off to go in 2002, in the Brisbane City Council consideration of Dornoch Terrace.

Dornoch Terrace at Highgate Hill was the second ridge - developed for more middle-class housing. River Terrace at Kangaroo Point was the first ridge past the Peninsula and then it went round to Highgate Hill. Dornoch Terrace, circa 1860s and thereafter, saw development working its way up from the South Brisbane workers' cottages. John Eglington will be able to fill in the bits that happened in between about South Bank, but from the McKay book, 'Architects of the 19th Century', Dornoch Terrace had the largest number of architect-designed houses in Brisbane and it's in the process of losing them all under the Local Plan and previous development rights.

The timber and tin special houses of that street over a few development eras, were dependent on the wealth of the city progressing into larger houses. My mother's house is in the last development area between 1909 to 1920s and it was the last parcel of land, of the hundred sites, the last subdivision, so it shows a precinct - to bring in the precinct situation. But hers is a 1940s brick house on a former tennis court and now its biggest problem is the tennis court site. I had to accept the heritage listing with some reservations, given our own problems with Kangaroo Point, but I objected on certain regulatory grounds. The objection was not upheld in the appeal process to the Council listing, and so to say that appeals are upheld - they're not. I appealed on the grounds of what I'd learnt, to my horror, at Kangaroo Point and I didn't want it repeated for a less significant house.

For five and a half years I still tried to save that house through my mother's estate and resolve a problem with my sister and, to my astonishment, last year there was a development application for the site next door for a six-story building. I realised that my mother's house was beyond saving and, worse than that, the site is so insecure in that it's on retained land that's presently moving and has a public risk liability associated with it. So I'm consequently in re-consultation with the Brisbane City Council engineering and heritage department about reconsidering that. I only mention that because that has been put into the paper against me in regard to that situation, which is unfortunate because - it's been represented as "heritage saviour becomes destroyer developer".

So I've been castigated and ridiculed and humiliated all over town, and I'm watching my mother's three-storey brick building every day, as its retaining wall is moving south onto an adjoining property, and I have a major problem and I'm seeking legal advice urgently, further to the legal advice we've already had. So I just mention it because I don't want my personal problems to ever be mentioned anywhere in this hearing to hurt my representations regarding the community.

DR BYRON: I think in the interests of time we're going to have to move on, so perhaps you could summarise, if you like.

MS LAMB: Okay.

DR BYRON: I know that there are other people who want to speak today also.

MS LAMB: Thank you. I will just finish then on the misunderstanding of the Burra Charter. Ian Evans subscribes to all those views that you've mentioned. I've just glanced at his submission but I have read his books. I have got his books and I subscribe to that view that if there are heritage buildings, they should remain looking like heritage buildings. There is a view in Brisbane, or Queensland, by those heritage architects that Ivan thinks are doing a good job, but they have a different view. It may not be Ivan's view; I don't know his specific view but I do know the view put by some who influence the Heritage Council, and that is that they do not want the refurbishment of buildings to be sympathetic to the Burra Charter and the existing building.

They actively promote a dissimilar building and I would instance the Normanby Hotel at the Normanby Fiveways as a gross addition of the most unsympathetic kind, in that it's worse than Baxter and those places of high security. It is a vile addition and people look at it in horror. How on earth did that get promoted, far less get through, in a Queen Anne style building which - they like to call my husband's family house a Queen Anne style building because of gables and bits of stuff around it - timber fine detail. It is just ghastly in the majority opinion.

The recently approved redevelopment of St Brigid's Convent virtually adjacent - another Roman Catholic building disposed of - now, I can understand them disposing of that. The school has closed down. The magnificent church across the road is unrelated to it physically but Robert Riddell, as the architect and a member of the Heritage Council at the time, has promoted a small lot house and a very unsympathetic huge swimming pool in concrete enbloc construction which, when Ivan was talking about concrete things running across buildings I just note that several people put in submissions about that.

I can see I've got to hurry now. I'll just conclude with saying that the Kangaroo Point Residents Association is presently engaged in trying to persuade the Minister

for Local Government in her 'call-in' period to reassess the application for the redevelopment of Yungaba and its adjacent lands for the firm Australand, because the trade-off to do that - selling off Queensland Government-owned major heritage buildings related to immigration - 'welcome to this state' in 1885 - the trade-off is the ability for Australand to put four of what will be - and there's a development application now for a private development for another eight-storey - so there'll very soon be six eight-storey buildings on the land immediately below the Story Bridge, a very narrow section of land. You'll get the maps to show exactly what I'm talking about. Those three buildings on the city side and three buildings on the New Farm side of the Story Bridge will totally wipe out the girders and truss section of the elevated Bradfield Highway and its wonderful open space.

That should never have been considered. It was not in the DCP review. It came in after the DCP review committee had been disbanded. It came in and it's being used against us now. There was no public consultation. John Brannock said he had it with the Kangaroo Point community. There was none. He specifically named meeting with me as representing the community. He had not. He lodged his documents before I had ever seen him. He lodged them to the Heritage Council and that set the whole process in motion and he had not seen me. He told me of the thing after he had lodged that using my name. The minute I saw one eight-storey building, let alone four, knowing there would be six, I said I had a huge conflict of interest.

I had saved that area through the Minister Glasson, saved that building Yungaba, not rent asunder by Goss and seen the ethnic component expanded down there, a wonderful adaptive reuse of that building and its surrounding grounds. If the Government cannot support its own buildings for adaptive reuse - which they had done successfully in the case of Yungaba in 1987, then a hidden tender specifically given to Australand and to Keith Lloyd in 2002 - that is a most grievous situation. It was not open.

By chance one of the lawyers I have to use in regard to my mother's situation has recently said to me - he's a property lawyer - "There are other developers very unhappy with the fact that major land - some two hectares of major government land was offered privately to two possible future users, one of which has successfully got this despite the Beattie government saying that they had put \$6 million aside in 2002 for the continuing maintenance of Yungaba. At the same time or soon after, they were approached by Lloyd and Australand to use - Lloyd wanted to use the Yungaba site, Australand wanted the extraneous land and the trade-off was, "We'll offer you a tender situation". Australand, I'm told by Australand in fact, were virtually asked to take the whole site. So I rest my case on that and we're now defending that, be it through the Court or through the Minister. Thank you.

DR BYRON: Thank you very much. That's been extremely informative. We are going to have to move on to the next speaker.

MR HINTON: Does Susan wish to say anything?

MS KEYS: I think it would be a great loss to Brisbane if this unique area and streetscape under the bridge is lost. There's very little open space. As a matter of fact, Kangaroo Point is a very popular picnic spot at the weekend and I think in an ideal world if this could be a park extension and give the city a little bit more breathing space in terms of open space, this would be a very good use of the land. We are now living in an adjacent development that was built and marketed by Australand. Our first question in fact was, "What is the adjacent development going to be?" We were shown models of two-storey townhouses, a very sympathetic development around Yungaba, but in fact the minute the building was settled the plans were produced for the eight-storey towers that block in the girders of the bridge; and these towers are going to be within six feet of the girders to the height of the Bradfield Highway. Everybody's reaction is, "Who would want to live there?" But now they're going to put towers on the other side as well.

It seems incomprehensible and it's going to destroy so much heritage. Last week the development proposals went up for a tower on Captain Burke's Cottage land which also includes in its backyard a well. I don't know if any of you know of the 'Mayne Inheritance' – a book about Brisbane's early history? There was a notorious murder in Kangaroo Point and the body parts were dumped down this well. This is part of Brisbane's historic tour. There's going to be nothing to look at soon. As a person new to this, I'm stunned by the fact that the small person could be made to feel very powerless and a lot of people I've spoken to say, "You can't fight City Hall mentality". But I believe we have to stand up for ourselves and I think those avenues need to be made available to people; that they don't feel powerless, that they can have their say, and it must start with the public consultation which never occurred. There is lip service being paid to the process at the moment. I think we need to have a real process in place.

MR HINTON: Thank you for your participation today.

MS LAMB: Thank you.

MS KEYS: Thank you.

DR BYRON: Thank you very much for coming, Mrs Whitlam. If you could just introduce yourself for the transcript and then we're very interested to hear of your experience with being involved in a heritage listed building.

MS WHITLAM: Thank you. My name is Christine Whitlam and I'm the deputy chairperson of the board for Craigston Pty Limited, which owns a heritage listed building on Wickham Terrace. I would be speaking today in my personal capacity but I appreciate the opportunity to use Craigston perhaps as a case study for seeking more public support for privately owned and heritage listed buildings. I'll try to be quick because I know people will be looking forward to their lunch but if I could just quickly read a prepared statement that I have and then perhaps try to relate it to the broader issues that have been discussed this morning.

Craigston is I think accepted to be an important Brisbane historic building and I have a picture here for people who may not have seen it. I don't know whether you could see it from this distance. This is an early picture; it's seven storeys high and it consists of individual apartments with offices, medical offices on the ground floor. It was built in 1928 and is the first high-rise apartment block in the city and its first reinforced concrete building. It is also a major example of the Spanish mission style used by architects at Kinson and Conrad.

In a city where much early architecture was destroyed, Craigston remains a majestic building included in the inner city heritage trail. As somebody mentioned, it seems important that we should try to keep these few things that are on the heritage trail still standing. It was included on the State Government's heritage list in 1992 and on the Commonwealth government's register of the national estate in 1993. Craigston's excellence of construction has unfortunately provided the basis for its decline. It was so well built that limited maintenance was ever required. Given its company title arrangements no sinking fund was established as this would have had unwelcome tax implications. Any small maintenance issues were dealt with through levies imposed on a quarterly basis.

Since its construction, Craigston has required external painting only once. It was largely rewired in 1977 but apart from this, maintenance has been minimal. It was such a pleasant place to live that residents have remained there for many years and in 2005 some of Craigston's long-standing residents are in their 80s and 90s with the oldest resident being 94 now, I think. 60 per cent of residents are above the age of 60 and most of them are on restricted fixed incomes and this is a major problem. They are now of an age where the building's maintenance requirements do not present themselves as an affordable priority.

Now we get on to the sad story. Maintenance and other 21st century requirements are, however, now considerable. The roof membrane leaks. Higher floors cannot obtain water of sufficient pressure to run modern appliances, given the

scaling of corroded pipework. The sewage pipes leak. There are limited security arrangements and drug users regularly shoot-up in the ungated and badly lit carpark. Would-be intruders have attempted to use crowbars to gain entry through the front door. There are still restricted circuit breakers - a few now - to prevent fires resulting from aged wiring and other fire safety arrangements are inadequate. The external window frames and sills have been awaiting paint for so long that they are likely to require total replacement if not attended to urgently.

Asbestos is unravelling from hot water pipes. At least we think it's asbestos; we're in the process of having it checked through an asbestos audit. The gas water heater is housed in an unventilated area. Render is starting to fall from the external walls. Over the years unsightly pipework has been placed across the facade and some traditional windows have been replaced with inappropriate aluminium sliders. Clearly something needs to be done if Craigston is to continue to enhance Brisbane's landscape. Basic repairs and maintenance are likely to cost in the vicinity of about half a million dollars. It appears that no support is available from the state and/or Federal Government. I'd like to talk about that a bit more at the end.

The expenses consequently need to be totally met by Craigston's residents. On this basis Craigston's board of directors faces a situation where its heritage listing proves regulatory rather than supportive - stick rather than carrot. It needs to seek approval for aspects of its rehabilitation work but appears to be provided with no incentives or technical support to facilitate the rehabilitation effort for which it is both financially and technically ill-equipped. Craigston seems to provide a significant example of where the public benefits of heritage listing at present far outweigh the private benefits. Indeed, it can be argued that the private benefits to the owners of Craigston might be negative. In such circumstances there seems to be a strong case for the public, that is the government, to subsidise the conservation of Craigston, not simply the private owners.

Since the building was heritage listed its rateable value has increased, despite some concessions there, along with the value of other apartment buildings in the area. It could be argued - or perhaps economists can argue this better than I can - that heritage listing has resulted in a real financial loss to the owners of the building. It has meant, for example, that commercial opportunities for the refurbishment of the building have not been considered. These could perhaps have included the conversion of apartments to commercial office space, the sale of air space and/or the building of a parking station. All of these things would be quite horrible but nevertheless would have increased the financial benefits and perhaps made it easier for residents to preserve some part of the building properly.

And then an economist's argument might be that a correct financial evaluation of heritage listing should not, therefore, be based on before and after comparisons but rather with and without comparisons. In this way the true private costs in terms of

financial revenues foregone can be taken into account but I'm not an economist so I won't go into this much further. The unsustainability of the public benefits of heritage listing must also be recognised in this case. Given the fact that the owners of Craigston apartments are largely senior citizens on fixed incomes, they do not have the capacity to pay the higher costs of refurbishment associated with maintenance of conservation values and in my experience they are higher. We've discussed that this morning.

Moreover, because the apartments are held on a company title basis, even the availability of reverse mortgages is limited and the cost prohibitive. Without government assistance then, Craigston appears doomed to deteriorate further. I hope I don't have to end on that note. I mean, we shan't be giving up. I do think that it would have been helpful had we been able to turn to the government in various ways. To start with, it would have been helpful if we could have had some technical support. That was discussed a little bit earlier on this morning. We don't necessarily need to be told Mr X is a conservation plumber but it would help if we were steered in the right direction. I have no background really in heritage issues. I've only become involved at all since 2003 but it has been by trial and error that we have found out who the heritage architects are. We have now got a plan done which highlights some of the main conservation issues facing the building.

If we had been able to go to the State Government and be told, "This is the source of this kind of thing and, you know, we can send somebody along who can give you advice on the steps that you might follow," that would have been terribly valuable. We do recognise that clearly we're going to have to pay a bulk of the costs of fixing up this building, assuming we can find some sources of commercial finance. But I think, given the constraints placed on us because we are heritage listed, I would have hoped we could have got some support for this major rehabilitation effort from either the state or the national government.

When I went to the State Government I was told there were no funds at all. I was also told that there really was no capacity to provide us with any technical support. When I went to the national government, which did at one stage have a support scheme, I was told that that had now been suspended and that guidelines were being drawn up to provide support primarily for buildings on the national estate list.

DR BYRON: Or the national register.

MS WHITLAM: Whereas we are on a lesser list. I was also told that the national government's view was that the state should look after its own buildings. So really we're in the situation now where it seems that there is no support for anything at all and so we're in a mess. Thank you for giving me the opportunity to tell you all these things.

DR BYRON: Thank you. Just on that last point, my understanding is that the Commonwealth government and all the state and territory governments agreed in probably 97, 98 that the Commonwealth would look after places considered of national significance and each state and territory would look after places that were considered of state significance, but how well that is implemented in practice we're still finding out.

MS WHITLAM: But then I guess that raises the question of what value is there for us being on the Register of the National Estate.

DR BYRON: My provisional understanding is that the Register of the National Estate that was started in the early 70s only constrains decisions made by Commonwealth ministers but apart from that, it doesn't impose any other restrictions. It just meant that federal ministers had to consider if the place was on the Register of National Estate before they made any decision. It's not clear what other restrictions being on the Register of the National Estate actually imposes on anybody.

MS WHITLAM: Of course, what I'm looking for is benefits. You know, we're well aware of the restrictions but it would certainly help if there were a few carrots or even one - - -

MR HINTON: Christine, could I come back a step then. It's still not clear to me what constraints there are on Craigston that directly derive from the fact that it is a heritage building that some jurisdiction seems to put some weight on. What is the particular impact of that?

DR BYRON: You said with and without and we're trying to understand what extra burden that - - -

MS WHITLAM: Yes, okay.

MR HINTON: What cannot the owners of Craigston do because of the fact of its historic characteristics - heritage characteristics?

MS WHITLAM: I would have to know whether certain alternative uses would prove acceptable to the State Government and we haven't yet proposed those things to the State Government. There is also the fact that residents in the building all have very strong, independent views. So even if we were to consider an alternative use, it would be extremely difficult getting total company support for that.

MR HINTON: But that seems to be more related to the nature of the building and its history, irrespective of whether or not it's identified as having historic heritage significance.

MS WHITLAM: Yes, the history of the building is a major factor in our present situation.

MR HINTON: Which could apply to another building of the same sort of make-up and structure and ownership history that might not have a historical heritage relevance.

MS WHITLAM: Yes, it could.

MR HINTON: And it's that sort of disentangling that I think is important.

MS WHITLAM: I don't know.

DR BYRON: Reading the bit off the Queensland government web site about the listing of Craigston, its significance and its history and so on, that was the good news part of the story, the recognition and the explicit praise for what it is and why it's important, but there's no mention of the other side of the coin.

MS WHITLAM: No, and by sitting through these hearings I have come to realise the value in even having got that far. The fact that we are on the register, we do have this public recognition of our status, I realise that's a positive, in theory.

DR BYRON: Yes. What we were talking about to someone else this morning, about the quid pro quo, the balance, that there are some additional restrictions placed on what the owners can do in the public interest and where is the reciprocity.

MR HINTON: But the opportunities for adaptive reuse would seem to be significantly constrained by the ownership structure of the building.

MS WHITLAM: Yes.

MR HINTON: And including also the actual residents of the building. I don't have any magic solutions to that.

MS WHITLAM: No.

DR BYRON: I assume the market value of the building as a prominent building in legal terms continues to rise with property values all over Brisbane.

MS WHITLAM: Yes, it is rising but the argument could be made that it's not rising as fast as it would have done had we had the capacity to either renovate it or put it to other uses.

DR BYRON: Yes. Are there issues with regard to updating the residential part or - I mean, in terms of ordinary single houses out in the suburbs - you know, people want to have a sunroom out the back or they want to do up the bathroom and put in an ensuite or something - are there issues there in, I guess, modernising the residential qualities of the place or is it basically living in them as they were in 1927?

MS WHITLAM: I think the State Government has been reasonably supportive in allowing us to upgrade individual apartments to modern standards. Our own apartment went to the State Government for approval before renovation took place and we were quite happy with the response of the State Government. I think residents need to be educated more about the fact that they are still - there are options to renovating in a modern kind of way. When I say "modern" I mean in a functional kind of way in terms of modern requirements.

DR BYRON: So the interest of the state or the public is very much in the external appearance of the building and the structure, the shell?

MS WHITLAM: It seems to be but it seems that there is a recognition that we need to adjust the insides of apartments so that we can run modern appliances and have modern conveniences.

MR HINTON: But even if you took each apartment and renovated it, there still would be a broader problem associated with the plumbing of the building itself, the - - -

DR BYRON: The security of the carpark.

MR HINTON: - - - the security of the carpark and also the external cladding, which seems to be a body corporate style of responsibility rather than individual apartment occupiers.

MS WHITLAM: Yes, that's true.

MR HINTON: The difficulty I've got is that those sets of issues seem to arise unrelated to the heritage characteristics of the building.

MS WHITLAM: I wouldn't say it was totally unrelated. You'd be unlikely to get the kind of composition of people that we have if it was not an old building, I would imagine. You know, that we have such an elderly population, partly because they became residents of a building that was built a long time ago and they're still there.

DR BYRON: Have you tried the experiment of imagining we're 20 years hence from now and what - I guess the question you raised before was the future of the place. The fact that it's on the permanent register of Queensland heritage, everybody

is expecting that it will still be there and in good condition 20, 50, 100, whatever years' time and that will be long after many of the current owners and incumbents have moved on, so - I'm just trying to abstract away from the personality of the individuals who happen to be there at the moment and say, well, even without that there is still the question of how is it going to be maintained to a desirable standard and how is that going to be organised and funded.

MS WHITLAM: Yes.

DR BYRON: That seems to me to be your fundamental question. Part of the heritage is not just the physical shell of this building but the fact that it was before body corporate legislation came into existence. So it's historic in a legal sense as well as in a physical sense.

MS WHITLAM: Yes, that's right. We really need to tackle the legal issues as well and perhaps move to strata titling but it's very difficult to do that in the present situation. We're focusing a lot on trying to educate the people in the building, trying to get people involved, trying to bring about attitude change, trying to get some of the older residents to appreciate that we will try to help arrange funding for them so that they can go along with changes. So step by step we're trying to move forward but it would help if we had some government support. I think if we had been able to say to some of these older residents, for example, that we had got even a small grant from the government to, say, replace inappropriate windows, I think that would change the view of the people living in the building; they'd start to say, "Gosh, the government really thinks we're important."

DR BYRON: There is a very loud signal that comes with that even if the amount of money isn't that - - -

MS WHITLAM: Yes, I think that would be terribly important.

DR BYRON: I'm just wondering if there's a concern about, you know, how would the people out at - I shouldn't name them - a particular western suburb, struggling on the edge, feel about the state taxpayers' money being given to a bunch of rich people who live in this fabulous site in Wickham Terrace. Is there a perceived equity issue there as well?

MS WHITLAM: Yes, I can understand that. We have wondered whether we should be doing more for the community benefit. You've talked about community benefit this morning. We could, for example, approach Jupiters. There was a discussion this morning about gambling funds. Now, Jupiters Casino does provide funds for various purposes; we haven't tried them yet, but they would provide funds for projects that have a recognised community benefit. We're on the heritage trail but do we really provide a community benefit? I suppose people come along and stand

outside, look at their brochure and it says this was built in such-and-such a year. I think it would be nice if we could perhaps do more for the community benefit with, say, the National Trust. You know, maybe we could have an open day.

MR HINTON: With the asbestos. Sorry, that was uncalled for. I withdraw that comment.

MS WHITLAM: We'd have to stabilise the asbestos first with funds provided by the government. I don't know whether that addresses your question or not. I can see that people may think we should be able to do this ourselves but, as I've explained, it isn't that easy.

MR HINTON: Thank you very much for drawing it to our attention.

DR BYRON: It's a puzzle that I don't think we've got an immediate magic solution to and there may not be one. Yes, we'll keep thinking about it. Thank you very much for bringing to our attention the sort of realities of what it's like to live in a state listed building.

MS WHITLAM: Thank you for the opportunity.

DR BYRON: Thank you very much. I propose now we can break for lunch and we'll resume after at 2.00 with the National Trust of Queensland. Thank you very much, ladies and gentlemen.

(Luncheon adjournment)

DR BYRON: Good afternoon, ladies and gentlemen, if we can resume the public hearings of the Productivity Commission's Inquiry into the Conservation of Australia's Historic Heritage Places, our next presentation is from the National Trust of Queensland. Would the representatives like to come and take a seat in front of the microphone there and, whenever you're settled and comfortable, just introduce yourselves for the transcript. Thank you very much for the written submission which we've read with great interest. I'd suggest that if you could summarise the main points from the written submission, then we can discuss some of the issues that you've raised; and thanks very much for coming.

MS BENNISON: I'm Ann Bennison. I'm president of the National Trust of Queensland. I'm not sure how much other information you need in relation to me for this purpose. We also have Pat Comben who is the past president of National Trust Queensland and also still a councillor on the National Trust Queensland board; and Penny Cook, who is our executive director of National Trust Queensland. I'm going to hand over to Penny fairly sprightly so that she can lead you through most of the major points that we'd like you to hear in relation to the submission.

DR BYRON: Thank you.

MS COOK: Thank you very much. I guess our first point is that we, as the National Trust, have taken part in a national submission which I'm sure you're both aware of. It's in its final stage.

DR BYRON: And looking forward to reading it.

MS BENNISON: It's that thick.

MS COOK: Yes, it is.

MR HINTON: That's the first chapter.

MS BENNISON: It's been reformatted and it's actually thicker now.

MR HINTON: Is that double-sided?

MS BENNISON: No.

MR COMBEN: But it is only size eight font.

MR HINTON: Thanks, Patrick.

MS COOK: Essentially, in coming to this hearing today, we are not attempting to reproduce the arguments that are in the Australian Council of National Trust

document. Suffice to say that we have been involved in and support the arguments in relationship to the definition of heritage, the arguments in relationship to its fundamental role as part of the social platform of the Australian society and we're also very supportive of the arguments that are put forward in relationship to existence value and in relationship to the role of the not-for-profits in heritage conservation.

The bulk of this paper is, of course, about the role of not-for-profits. The paper does deal with and develop arguments in relationship I guess to four ownership categories of heritage properties. One is government ownership and we would like to point out in dealing with Queensland that I understand some 30 per cent of the Queensland heritage register is government-owned property, so that we very much support the arguments of the dual role that governments have in heritage. One is as an owner of heritage properties, and the other is as the policy-maker and funder of community based heritage conservation.

In identifying different ownership categories of heritage properties, there are I suppose two subcategories of private ownership: one we're calling domestic and the other commercial. In dealing with notions of market failure and heritage properties, the main paper points out, but we would like to emphasise, that we believe that an enormous amount of success occurs in relationship to heritage conservation of commercial buildings. I don't have the figures for the financial year just gone, but I believe that the Queensland Heritage Council, for example, deals with somewhere between 200 million and 300 million dollars' worth of development applications for important commercial buildings in Queensland.

Privately-owned buildings has a slightly mixed message in relationship to the market or market failure. We have, for example, been given submissions from owners of private properties, when they have heard about the Productivity Commission hearings. One of them is an important building called Craigston which is one of the earliest historic buildings, high-rise apartment block, in Brisbane. They are concerned, I suppose, about lack of resources and lack of advice in regard to how to conserve their building.

So primarily we have submitted to the Productivity Commission in relationship to the not-for-profit sector. We have given you a summary of the activity of the National Trust. We have given you a summary of our view of the government heritage regime in Queensland and we've provided you with three case studies in regard to properties owned by the National Trust: one for the Hou Wang Temple, Atherton; one for James Cook Museum, Cooktown; and one for Wolston House at Wacol on the edge of Brisbane. We're happy to speak further to that or to look at how you want to take that information further in relationship to Queensland; but I'll stop there because when organising between us, Pat has matters to speak to.

MR COMBEN: I'd like to address your terms of reference 2 and 4 concerning

benefit and regulatory and taxation matters. As a lay person my comments will be generalised to some extent and I apologise to the Commissioners for the generalisation but I think that there's still - I hope - merit in what I'm going to say. If you look at heritage in a broad aspect, there are probably five categories. At one end you have the huge icons, the Port Arthurs, the Commonwealth Parliament House, those sorts of ones which public policy says we look after. The second categories, the reuse buildings, which are in every main street of Australia, or most main streets of Australia: the Rocks in Sydney, the B and Bs, the restaurants, those sorts of things. A huge plus in terms of heritage, Australia, history, et cetera. Those two areas are pretty well looked after. Bit of argy-bargy occasionally about whether you save the facade, about how far heritage regulations go, et cetera.

The areas which have problems are three: firstly, private residences; secondly, the not-for-profits; and thirdly, the spiritual and the intangible areas. The private residences? They can be split into two as well: the ones where someone buys a heritage house and says, "I want to live here." If you're talking about benefit, then the benefit is, it is preserved. If you're talking about regulation and tax, someone has chosen to take on the cost of that. Perhaps you can give them a hand, but probably for most people, "Why do more?" Where it gets difficult is with the private house that - suddenly the local authority changes the rules and you could do a development there, and no longer can you, because of the heritage regulation. So who pays the cost?

On not-for-profits where often we have presented but not used the properties and thus we have not given those properties highest and best use in economic terms, even if in social terms and community terms we may believe as a community it's the highest and best use but there is not an economic return - what do you do there? Then the third area of concern, I've said spiritual. In another capacity I am the registrar of an Anglican Church diocese and we're very conscious of the cost of churches and what they mean but also what they mean in heritage terms to community. The great services of thanksgiving, of celebration of lives, are in community buildings called cathedrals and churches, yet no-one gives us anything back. How does the market address there?

The intangibles, the places, the natural areas - Gallipoli, unless it was preserved in Australia as a national park, would not get protection and how would you protect it? We don't even have historic places preservation as the historical parks of North America. In many areas you will either go to a national park or you will go to a history park. We don't have that sort of category.

So all of those areas needs some sort of support, because the market has failed. The first two categories: icons to be used, the market pretty well looks after them. Yet they are wonderful examples of what could be done with a bit of support. I will give you just two examples. If you travel 200 kilometres south of Calgary, in

Canada, you come to a little cliff about 30 metres high. You can stand on the cliff and you can look out over the Great Plains. It's a place called Head-Smashed-In Buffalo Jump, where the Red Indians used to drive the bison over the top and just have a feast at the other end, because the bison were called.

There's now a wonderful heritage interpretation there. It's goose-bumps stuff, when I even think about it, and it was some years since I was there. But it has brought economic development to an otherwise depressed part of Canada. It may not have been a true market. There was social policy, which inducted to provide an economic stimulus and from absolutely nothing: there was nothing left there except a natural feature. There is now a wonderful world-class, world-heritage area, properly interpreted, giving economic stimulus. And so heritage can be good, even though there is not a major infrastructure there.

Similarly, an example of the difficulties of the intangibles: the civil war battlefields of Virginia, maintained by the United States people for a century and a half, as being wonderful places. Yet now, with all the development around, the nibbling of the small - the tyranny of small decisions and urban spread is coming around them, and a huge challenge as to how they will be preserved. Can you really relive the great battles if over there is the line of houses with a metal fence? So they are the questions that have to be raised.

I think we would suggest to you there are three areas in which there can in actual fact be some sorts of answers. Firstly, the legislative framework of perhaps transferable development rights. That seems to be a huge potential that is not tapped into in many local authority areas, or in much of the State Government legislation. Secondly, public policy that says there should be something done and that there is an economic benefit to that.

Thirdly, the negative impact of taxation, where in so many areas - if you talk about the not-for-profits, presenting a building, not using it, et cetera, or if you are talking about a private individual who says, "I've got this building and I now don't know what to do with it." If we could present some sort of tax benefits then that would seem to be of benefit.

I think the intellectual argument is, in many areas - whether it is about energy conservation, whether it is about some sort of water; even free trees at times - governments say, "We tell you how to do it but here is the support." Yet in heritage there is very little support, in actual fact. So there has to be, at some stage, both tax breaks and grants as well. Thank you very much.

DR BYRON: Thank you. Anything else? Did you want to go first?

MR HINTON: Certainly. Thank you very much for your submission. Thank you

very much for your attendance today. I'd also thank you for your involvement in the foreshadowed, more detailed submission that's coming down the pike at us and we are looking forward to getting that as a very substantive input to this inquiry. I had a couple of reactions out of your submission and comments today. The first one is quite a narrow one. That is, you flagged there is a timing problem with regard to the statutory timing requirements of, I presume, the Queensland Heritage Act, rather than the Integrated Planning Act, although I may be proved wrong there. What did you actually have in mind with your problems with statutory timing?

MR COMBEN: When I left the act there, having been a minister who introduced it, it was perfectly good when I left it, but I'm not sure about some other people.

MS COOK: I suppose we are talking about our brief submission on the heritage regime in Queensland, which of course we have prepared in this main document that's submitted to you separately because you haven't got this yet.

MR HINTON: Sorry, Penny. Yes, I was of the thought that we might benefit this afternoon if we focused on Queensland specifically.

MS COOK: Yes, indeed.

MR HINTON: Thank you.

MS COOK: Our concern is that I suspect what is called the IPA-isation of the Queensland Heritage Act. Those changes, I think, only occurred in 2004. So that the interaction between the Integrated Planning Act and the Queensland Heritage Act is, according to a number of - yes, certainly practitioners, but also a number of, I guess, property owners. The timing doesn't appear to work. Now, there may be several problems.

One is, I think, a resource problem. Secondly, there is potentially a problem with the processes within the Environmental Protection Agency, so there is a centralised thing called Ecoaccess, which would appear to take rather a long time to reach the person in the field who is actually going to deal with it. For example, there is often a call for further information because that's the only option that officers have left in regard to the timing, to seek more information. So there is often, in our experience and with a number of - as I said, a number of practitioners and a number of owners of heritage properties, there are inordinate delays in dealing with development applications under the current system.

MR HINTON: So the timing problem, as you perceive it, is in relation to lack of timeliness in decision-making for development applications. Did I hear you correctly?

MS COOK: Yes. There's a process within the EPA called Ecoaccess that all applications go through, and on my understanding that goes through central office here in Brisbane. It can often take a number of working days to get to a regional office, because the regional offices are dealing with the operations. So it might get to a regional office two or three days before the statutory timeframe for initial response is up. There is also a resource problem, in that officers might already have another 10 or 11 that they are dealing with. So they simply delay by seeking further information.

MR HINTON: I see. That's the technique by which they can handle the statutory deadline without being in breach of the regulation?

MS COOK: Yes. It's both a resource problem and a process problem, I believe.

MR HINTON: Does this derive from the referral system from local government to the State Government level? Is that the process that gets caught up? The local governments can't act with jurisdiction, can't act with their own authority when the heritage issue gets raised, and it has to refer back to - - -

MS COOK: When they've got the referral back there can be delays there as well. A lot of local governments in Queensland don't have, again, the resources or the appropriately qualified staff to deal with the heritage applications.

MR HINTON: So referral is an option and not a requirement? If the local government has the resources it can make the decision, or is it required to refer to Brisbane?

MS BENNISON: It would depend on the listing of the property in question. If it was state heritage listed then clearly there would be a referral agency because it would be statutory. Whereas if it were something that was in the local government's jurisdiction then I don't think there would be any - - -

MS COOK: Yes, it's where there's a state interest, if it's on the Queensland heritage register.

MR HINTON: And the state interest is designated by the Queensland state registration, or the listing?

MS COOK: Yes.

MR HINTON: That answers my misunderstanding, but that suggests that when the building is of local significance, that doesn't prima facie involve State Government responsibility, then it can be done within local government jurisdiction.

MS BENNISON: That's my understanding. I hope I'm not incorrect in that understanding, with the local government hat on. That is my understanding of local governments across Queensland. Currently there is a move to confer more responsibility for heritage protection upon local governments where they don't necessarily have the resources or the specialised staff to undertake that work.

MR HINTON: Do the statutory times also get activated when it is not referred to the state level? That is, if it is within State Government jurisdiction?

MR COMBEN: No.

MR HINTON: So the timing problems that you were alluding to in your written submission - statutory timing problems - relate to those cases where there is a State Government responsibility?

MS BENNISON: Yes.

MR HINTON: That then is frequently in breach through the technique of seeking more information that, in effect, activates an extension.

MS BENNISON: Mm.

MR HINTON: Which then delays the decision-making for a development authority; but if that process is separate to the State Government and contained within the local government, you might not have statutory deadlines. It doesn't necessarily mean you get timely decisions, but you don't have statutory deadlines.

MR COMBEN: Depending on how you define "statutory", as well. You could have a local law.

MR HINTON: That's statutory - - -

MS BENNISON: And in all the integrated Planning Acts, there are statutory deadlines throughout, but we're talking specifically about those where there is state agency referral because of the heritage issues.

MR HINTON: Yes, okay.

MS BENNISON: There are still statutory deadlines in all the IPA regimes throughout.

MR COMBEN: We would also raise with the Commissioners that local authorities in Queensland are the strongest set of local authorities anywhere in Australia and they traditionally have - - -

MR HINTON: Sorry, Pat, I missed that point. They are what?

MR COMBEN: Are the strongest in statutory terms of any local authorities anywhere in Australia. They have traditionally always been very strong. They guard zealously their powers and - yes.

MR HINTON: But it's open for the State Government to change whatever powers they have or have not given to local governments.

MS BENNISON: Unfortunately, yes.

MR HINTON: Given that local governments are a creation of the State Government.

MS BENNISON: Yes, that's right. I have other hats here to wear, too, as part of the Local Government Association of Queensland the Australian Local Government Association.

MR HINTON: I'm glad you raised that, because I was going to not take you to task but certainly explore with you, given those hats, a hypothetical regarding the relationship between state and local government. If the system is not working partly because of the sort of uncertainty of relationship between state and local government responsibilities, and if we as a Commission found that and would want to change that, how would you feel about recommendations that refer to a State Government action to constrain or direct local governments in Queensland regarding heritage matters?

MS BENNISON: Well, first of all, I can't speak on behalf of either of those associations here. I am here as a member and as president of the National Trust of Queensland, so as long as that's understood.

MR HINTON: Sure.

MS BENNISON: I suppose the problem would still rest with whether the local authority, be it a city council or a shire, has the relevant expertise to undertake those responsibilities. I think there would still be some problem there within particularly rural and regional shires across Queensland undertaking those roles. There may not be the same time problem or time issue, but whether it would solve the problem or not is open to debate.

MR HINTON: I was really trying to explore more widely than the time deadlines. It could actually be a whole range of issues where the heritage system itself is not working because of lack of clarity as to who does what between state and local government. What we seem to have at the moment is significant flexibility and

independence at the local government level within some broad responsibilities of State Governments, particularly with regard to state listings. Therefore, if we were to address that, it becomes a question of becoming more prescriptive, more constraining, on local governments.

You can't do that by a recommendation that says "local government shall," because they could just very well ignore it. You could have a recommendation that said "State Government should," which would be one option, but there is a prior question again that maybe there's another way to implement that and that is to have some sort of intergovernmental agreement at the COAG level that says, "To pursue heritage reform, maybe we need Australian governments and state governments to get together to get broad endorsement for the shape of the system across Australia."

That is a very rough, brief description of a possible formulation for taking forward hypothetical initiatives. Because of (a) your state involvement, Queensland, and to some extent Ann's involvement in local government matters, I wanted to explore with you this afternoon that sort of mechanism by which you can put forward public policy change.

MS BENNISON: I think what you have suggested about setting out the framework and the various levels of government working towards that, sounds like a good way forward; a good recommendation. I guess the only problem I see is the various - when it comes down to the practical applications of the protection of heritage across say a state like Queensland, how do you overcome the various levels of interest and involvement in particularly protection through the various shires across a state like Queensland, where you may have some that are very interested and involved, see heritage as it is, as an asset, for all sorts of reasons - for cultural reasons, for economic development reasons - but then there may be others that don't in fact value those places. I guess if you're talking about the framework overall, that sounds fine, but fundamentally that issue lies underneath it as far as I'm concerned.

MS COOK: May I add something there?

MR HINTON: Sure, Penny.

MS COOK: I guess Ann is right; there is enormous variety in Queensland at local government level, because I think of the nature of the Integrated Planning Act that says shires need to identify valuable features which they define in terms of both historic and indigenous heritage; but the act is then very open as to what you do after that. You have enormous variety where you have a local government like Ipswich that has some 7000 places on the heritage register, to a shire that shall remain nameless further to the west - a long way west - that said they went out and had a look for valuable features and couldn't find any. They're not actually technically in breach of the act. They're just saying they don't have anything that they want to enter

into this heritage game within their shire.

One of the key things I think is resources and incentives. They are I think sadly missing in Queensland at the moment. Queensland initiated a heritage advisory scheme with 50/50 funding with local governments back in the late 80s, early 90s. That was extremely successful. In fact where you have shires that have taken advantage of that, or city councils, like Mackay, Ipswich, Townsville, et cetera, you actually have a higher level of awareness and a higher level of activity in heritage. I think the incentives, including awareness - because local governments that say they don't want to have anything to do with heritage are only doing so out of a fear that the electorate won't vote for them. If there's a major program that takes place over a number of years, with advice and some sort of - and proper resources - - -

MR HINTON: Yes, but it's not a balanced approach. That is, if a local government is going to say no to a development application for heritage considerations, then doesn't that get addressed by - controlled from a State Government level as to when you can say no or the criteria by which you say no and that covers your Ipswich local government area, as well as your other extreme example where they haven't found anything of value. The extent that you have constrained the use of the power of no against certain criteria based on heritage objectives, it covers all categories. When you get to the incentives, then that in fact can work for both extremes.

It says, "If you are going to have that set of criteria regarding what you can do or not do with a heritage property, here are some funding arrangements we will provide," and that also applies in the Ipswich case as well as your unnamed other extreme. I didn't see how the different attitudes across local government areas in itself eroded the impact of the sort of hypothetical formula they put forward, either both in terms of the regulatory structure as well as the incentive structure.

MS COOK: There certainly needs to be a better framework and I think that's over the three levels of government.

MR HINTON: That of course is a very good question.

MS COOK: Yes.

MR HINTON: We have virtually presumed it in this discussion so far.

MS COOK: Yes.

MR HINTON: Even then it also presumes that you can set up criteria by which you can make judgments about what is the heritage objective, but I was really exploring the public policy mechanism by which you could in fact implement

changes. I was using Ann's local government hat to pursue that to some extent.

MS COOK: Potentially through levels of assessment being clearly part of the overall framework, we are tending to in the heritage industry, either de facto or because that's what is being established, talk about levels of significance in regard to places, so we are now talking about national, state and local and in fact we talk about going from national down to local, which is not necessarily productive at the local level, but maybe we are needing to clarify in this framework the levels of assessment of development applications in regard to places at all levels as opposed to spending a lot of time talking about assessment or levels of significance. I think that is one of the things that the National Trust is talking about in its submission, as well.

MR HINTON: I would like to explore some of those issues. In terms of criteria by which you are going to make judgments about the heritage objective - and I think Pat talked about national icons and levels of state significance, but we are certainly getting messages from interested parties that most of the concerns at that next level - that is, privately owned properties that intersect with the planning approvals, development authorities at local government level; that is, that is the main area. Now, that doesn't quite match Pat's five categories of which three are a problem, but it is certainly not inconsistent with it, so the question then arises, "Is there scope to have criteria that can determine what is locally significant which then would warrant being listed as locally significant that maintains the integrity of pursuing the heritage objective?"

MR COMBEN: It's a very difficult question and certainly for community organisations, such as the National Trust, we regularly get people coming in, saying, "This is significant because grandma lived there." Yes, you want them. Yes, you can get them, but we would be relying on some very fine minds to try to find out how you would do it and to maintain that integrity, and I don't think anyone has yet found it and that's why you seek support from the Heritage Commissions of the various states, et cetera, and you rely on a public policy which says, "Let's put a framework of people together that can hear it and then we decide."

That works largely on the state level. It doesn't always work. There are some classic examples at times which seem to have escaped, or the developers would say, "Why is it on there?" so it is both ends. How you then do that for every one of the 600-odd local authorities or how you try to get local authority impact, I don't know. I think it is an enormously complex question and I was almost going to join in the discussion about the framework. I think that is where the framework will fall down, as well.

You talk about COAG. You can do it with water. You can do it with a number of other things which are huge issues across Australia, but where there is a clear interest in something which is tangible out there and which we all know and love -

we can take water as an example. As soon as you start getting down to the fundamentals of heritage then it is a value judgment and it's a value judgment which every community and every individual does and therefore straightaway you have the potential for conflict - not just a potential, you have conflict. I just don't know how you would physically do it as a matter of public policy, but the aim is absolutely spot on, so we look forward to reading your report when you tell us how to do it.

MS COOK: I think that you can do it. Part of the issue with assessment is of assessment of significant values; that the criteria do allow for a level of subjectivity. It cannot ever be a totally objective process. The great difficulty that has happened in Australia and is even now more complex because of the three levels is thresholds. No-one has come to terms with thresholds; like the new National list says that a place has to be of outstanding significance to all Australians. Well, there probably are none, if you wanted to be totally objective. You might say that Parliament House Canberra is, but then having lived in Western Australia for eight years - they hate the place and it is of no significance - - -

MR HINTON: So do most of the states.

MS COMBEN: Most of the states do. It's the level of subjectivity and that's why I was talking briefly about the level of assessment of development applications because I think that's something that could be looked at as a parallel between just simply assessing significance so that you look at - I mean, the domestic house is one of the most problematical things: you know, if you put a house on a state register you then have enormous difficulties with when you want to put in a new kitchen or a new bathroom or a new toilet or whatever, and does it really matter? Is that significantly affecting the value of that place or is the value of that place - its image, its character - only if there's really important perhaps people associations. I think we are not going far enough. We get stuck on assessing values as opposed to how the place might be utilised, as well.

MR HINTON: But, Penny, isn't there a set of criteria that would make good public policy at least including the following two: firstly, reasonable certainty; that is, if a property developer wants to develop something he or she sort of knows with reasonable certainty the basic characteristics that they can and cannot do; secondly, consistency, so that when another developer comes along with a similar project, similar location, similar considerations, the treatment is consistent. I think if you add a third criterion for good public policy you would have transparency.

There are other criteria such as equity and accountability, so you get review systems and appeal systems, but I would have thought that the structure that we would be appropriately pursuing would be a system that had those objectives in mind. That doesn't mean to say that you automatically press a button and out pops an answer at the local government level, but at least it gives you a framework with

those good public policy criteria in place. By the way, my hypothetical construct of COAG and whatever is a hypothetical. I am not expressing a Commission view because it is still very early days for this inquiry. I will get kicked under the table from my fellow Commissioner here in a minute. It was exploring the issues with you, using the benefit of this afternoon's occasion and your attendance. I hope you understand that.

MR COMBEN: All the aspects of good public policy you have outlined there would be very well settled in heritage. The one you didn't refer to was significance, and it seems to me that that's the one that is always the difficulty; that generally - and you may be able to find or know already of examples of local authorities or state governments being inconsistent about things, but I would suggest, with the greatest of respect, that they are the aberrations rather than anything else, but this question of significance; that's the one which varies so much and local authorities and Heritage Commissions grapple with that all the time and I think that's - - -

MR HINTON: Not at the national level. Not at the state level. It's only local, isn't it?

MR COMBEN: No. Certainly they grapple with it at state level, as well.

MR HINTON: So you think there are cases in dispute that fall either side of the dividing line - those that aren't but should be state significant and those that are that shouldn't be?

MR COMBEN: Yes. There has been now I think even a court case as to what the significance was of a listing on the state register. Certainly they were preparing to go to court. There have been a number of times when people have come in fairly strongly with good arguments the other way and saying, "This should not be of significance."

MR HINTON: State significance

MR COMBEN: Yes. Have you heard from the State Government yet? I know the State Government is sitting here. I didn't get a nod that time.

MR: Not yet.

MR COMBEN: No, but I think the Heritage Commission would be able to say to you that there are times when the significance of the place is in question. We certainly tried to frame the act in such a way that we tried to do it - that, firstly, "this is significant" and then, secondly, "What do you do with it?" That was the conscious attempt - - -

MR HINTON: Isn't that process still going under way; that is, a listing of significance has still yet to delineate that which is of state significance and that which is of significance but at local level? Isn't the listing of state at the moment - hasn't been fully delineated, or is that unfair?

MR COMBEN: That's unfair because the state act was designed for state heritage properties or properties of significance in the state. It was not originally designed for local authority significance. The two-part process which we attempted was of significance and we actually thought that that would be without question. Do you simply put up the documents and say, "This is significant" - that's fine - then you go to the argy-bargy of, "What can you do?" But it has never really worked as well as that. There has always been these fundamental threshold questions of: is this significant? It may not - - -

MR HINTON: At the state level?

MR COMBEN: Yes. I don't say every time, or it may not be huge. I would be delighted to hear what the present Heritage Council says about that, but there have been major issues as to what is significant.

DR BYRON: Is that because of the way the question is framed as a yes-no, black or white, up or down sort of question, rather than a "How significant is this place? Is it a nine out of 10, or a two out of 10?" I would have thought it would be much easier if it was being ranked on a sort of a scale than if it was just - you know, "It's of infinite value or it's at zero value." That sort of dichotomy, I think, is particularly unhelpful.

MR COMBEN: This advice is coming to me 12 years too late. We took the view that it was either significant or not. We didn't try to rank things. We naively perhaps - and I'm perhaps now sitting here reflecting and thinking maybe we did get it wrong, but this is also stated - never had any heritage legislation, so we were working in a situation of - - -

DR BYRON: I wasn't trying to have a shot at anyone.

MR COMBEN: No, too old for those things. But I don't know how we could have done it on any sort of ranking because as soon as you had done that, then you start to get the 4.5 or 5.5 and which side, and it just seemed to us it was not necessary and yet, clearly, that hasn't worked. That's probably the answer. So we didn't have that in front of us at the time and perhaps we should have thought about it.

DR BYRON: I can imagine how - if there is a committee of people who have a great diversity of interests from, you know, commercial buildings through to shipwrecks and lighthouses and there are nine or 10 criteria pursuant to the Burra

Charter, et cetera, and almost any candidate that came could say, "Well, if you're interested in lighthouses then I'll agree with you that that lighthouse is significant, if you'll agree that my woolshed is significant," and so on. That way it avoids the argy-bargy of saying, "Well, my woolshed is more interesting or important than that commercial building or your lighthouse." But ultimately if there is a finite pool of money that's available to support the conservation and maintenance of the list of places, doesn't there have to be some sort of priority setting? You can't just keep listing more and more places that are not going to be looked after, as opposed to having a smaller list but all of them well looked after.

MR COMBEN: I agree with you largely. We won't concede the point that there is a limited bucket of money. The bucket of money ought to be bigger.

DR BYRON: Yes, but even if it was twice as big or 10 times as big, it's still - - -

MR COMBEN: Yes, that's right. It is still finite. But I think that analysis then assumes that there is always a market out there of knowledge which knows it all - and I say that well meaningly - that you're not taking into account the local community that looks at their lighthouse, which happens to be one of 12 exactly the same, designed by the same person over a period of five years on the Australian coast, and they want that lighthouse saved at this moment, instead of going to a bed and breakfast - when we've got nine others. That local community aspect will still always be the thing which makes life very difficult for public policy and for determining significance. That might be locally significant, but it may be of no state significance.

DR BYRON: But just in that sort of hypothetical example, you sort of answered the question that because there are nine other buildings - similar ones - around the coastline, this particular one is not thought to be of national or state significance, but if it's highly significant to the local community, then perhaps it's largely their responsibility to organise how it's going to be looked after, since they are the ones who are proclaiming and - - -

MR COMBEN: Getting benefit.

DR BYRON: - - - benefiting from its retention. Just hypothetical - - -

MR COMBEN: I invite you to be the local member in a situation such as that.

MS COOK: I actually agree with that. I think that the conversation in the last 10 minutes or so has made an assumption that all heritage places need public money. I don't necessarily think they do and there are a lot of places that I suspect don't need public money - houses being one of them. They're standard - if you have a non-heritage 1980s house you're expected to maintain it and just because you might

have a house that has some heritage value doesn't mean the state maintains it. So I don't - - -

MR HINTON: The line of argument was that you needed rigour for heritage determination which was a necessary, but not necessarily sufficient condition for public funding. That was the formulation. No-one was suggesting that everything of heritage needed to have public funding - I hope. We wouldn't want to leave out your example of - you know, private ownership can also contribute to - and contributes very significantly - - -

MS COOK: It does, yes.

MR HINTON: - - - to the heritage objective.

DR BYRON: In fact, I suspect that public funding of heritage buildings is probably more the exception. I'd love to see the figures, but I suspect that an awful lot of both listed and unlisted properties are just being looked after by their owners in the normal course of business and it's only the exceptions where the owner has decided, "It's not worth my while looking after this any longer because it's no longer useful to me." Those are the cases that actually trigger external funding to come in, as a sort of an emergency measure. In fact, a lot of the buildings that we still have - it's because their owners have been looking after them for the last 100 years.

MS COOK: That's exactly so, and particularly so in Queensland because there's no government funding.

MR COMBEN: And part of our original submission and material which you'll get later is to say that the majority of heritage in Australia is actually already looked after, is a significant part of the fabric of our way of life and that we as a community body - nor, with the greatest of respect, the Commission - should get totally tied up in the belief that it's the controversial properties which are the subject of heritage retention. They're not - they're the controversial edge. There is a mass of heritage which has contributed billions of dollars, I believe, to what our lifestyle is and yet people often forget that and say, "There's nothing going to heritage." Well, there's a huge private bin out there and we would like to see the public bin better and we want to push out the edge because I think the market fails the edge, not the - - -

MR HINTON: This morning I asked a number of people at the hearing a question about right of veto by the property owner, particularly in relation to residential properties. In some ways it could be argued that if the owner had right of veto for a heritage listing, that would certainly remove the tension for the disputable cases, to some extent anyway, if not a significant extent. What would be the trust's view on that sort of system or characteristic of the system being right of veto?

MS BENNISON: It would also probably remove 80 per cent of protection that you'd have for current historic places. I mean, just looking from a Brisbane City Council perspective, the debates that go on within the council from owners once we list places as significant locally - you know, you get a lot of people that object to it because they misunderstand or don't really fully understand the implications and think all of it - you know, that it's all quite dire, when the explanation in fact isn't the case. If you had right of veto surely you would lose 80 per cent of your current protected rights?

MR HINTON: But does right of veto mean that they are destroyed? The fact that it's not listed doesn't mean to say you go out and destroy the house you're living in, does it?

MS BENNISON: No, but in places, for example, that are suffering - experiencing high growth, then you would lose a lot of those properties. If you had right of veto for the heirs, I'd argue that you would lose a lot of those.

MR HINTON: There are certainly two types: there's direct demolition for development and there's demolition by neglect. You're proffering the view that those that are vetoed from listing, that would have been listed, would usually fall into one of those two categories, therefore you do lose it by not listing.

MS BENNISON: I would have thought so. Yes, I would have thought so.

MR COMBEN: There are also a number of examples where families have maintained heritage homes that have not been listed. With every good intention the families have lived there for three generations. Mum and dad die and the family come along and there are six heirs and the property just gets sold for development or something else, so that even the best intention today may well be taken out by the economic imperative of latents in the future. If you maintained a large Queenslander on a large block of land - in two or three decades' time none of us here could afford the rates of that sort of a place.

MR HINTON: There are other techniques.

MR COMBEN: Yes.

MR HINTON: You know, reverse mortgages and all sorts of - - -

MR COMBEN: But still in some states the heirs come along and they might not have the money.

DR BYRON: Can I just pick up on your point, Ann. I hadn't actually thought of that before, but out of the - you know, however many properties have been listed,

say, by Brisbane City Council - could you hazard a guess at in what percentage the owners said, "Yippee, that's terrific," and what percentage said, "Oh, my God, I've been heritage listed. What can I do about it?" Would it be fifty-fifty or 90:10?

MS BENNISON: It's difficult because you hear most from the ones who, you know, are suddenly afraid or assaulted by the idea, are offended by the idea of heritage listing. No, I couldn't really hazard a guess. You'd hear - - -

DR BYRON: I'm sort of saying how many are volunteers and how many are conscripts?

MS BENNISON: We do have individuals who list their own properties when we let people know that we're doing a run through an area. There are people that say, "Yes, I'd like my property to be listed," but I'd say they'd be in the minority as well. You've probably got - who knows - maybe less than 10 per cent that would identify their own property, I would have thought. Maybe at the other end, 10 to 20 per cent that would be violently opposed to heritage listing - maybe more, maybe less.

MR HINTON: I'm much more interested in a different number - that is, those that are objecting to heritage listing because they want to destroy it - pejorative word - and redevelop it for capital gain, as opposed to those who are concerned they might be constrained through their constraint on property rights to put in the extra bathroom or hang a painting on the wall - that is, may be unsoundly based, but nevertheless they're objecting, not because they want to not preserve, not conserve it, but because they're concerned they might be constrained. If submissions to us are any guide, it's that latter group that seems to be quite noticeable in number. I'm not saying the others don't exist. There are quite a few out there who really don't want to be listed because they want to knock down the bungalow and put up units.

MS BENNISON: They're probably the ones that I was mentioning when I said the misunderstanding of what heritage listing is - you know, that you can still do some things to your property, particularly internal to the property. It would be just a guess. I wouldn't hazard a guess as to how many that would be.

DR BYRON: I think there may even be a third category of people who are afraid that, you know, the old woolshed on the property or whatever might be listed, and that will impose all sorts of constraints on what they can do on the rest of the farm. So they'll bulldoze it first, before anybody even thinks of listing it, and that seems to me to be, you know, an extraordinarily bad outcome, because things are being bulldozed out there before either organisations like the trust or the State Government or local government apparatus have even had a chance to look at them.

MS BENNISON: We see that.

DR BYRON: It does happen, doesn't it?

MS BENNISON: We see heritage buildings that go up in smoke because we've put demolition controls on them some years ago, through a council perspective. You do see that happen. You see properties that are listed, you know. The owners gradually let the white ants take over and the rest, in the hope that eventually they will be able to bulldoze and build whatever, or on-sell. A lot of people are simply afraid of the potential resale value, and the impact that heritage listing can have on a potential resale value. So yes, you do see those examples.

DR BYRON: What we're being told quite often is that there is a public misperception - this fear of a huge amount of red tape that's going to restrict their liberties, and what they can do with their own castle, and so there are all these sort of unwarranted but quite serious reactions, as a result of the misapprehension. What sort of information or educative program gets rid of that misapprehension?

MS BENNISON: The problem we have is like any. You can educate as much as you like, but until it impacts upon your property - until you're personally impacted - you won't necessarily absorb the information that's out there. So it's how you overcome that issue.

MS COOK: I just I guess want to make a comment, because I think there is, I mean, the notion of the castle and doing what you want to do with your property is, of course, not actually correct.

DR BYRON: I appreciate that, except the punter out there may not.

MS COOK: Yes, exactly, because the punter out there still can't - I mean, he still has to meet planning and sanitary and you name it, electrical - all those sorts of things have to be according to regulation. The difference with heritage is that there's a list, whereas these other regulations relate to, you know, every property and anything you want to do to develop that property. So I sometimes think that local governments having registers or lists is part of the confusion, because there's a - - -

MR HINTON: Well, that's the lack of clarity. It's just implications of it.

MS COOK: Yes.

MR HINTON: You know that if you put in an extra ensuite bathroom that you've got to have plumbing approved. The developer knows exactly what they've got to do.

MS COOK: So you look at a regime or a framework in which local government has some sort of heritage assessment as part of - you know, this is what I was trying

to talk about earlier, in the sense of development assessment as opposed to local governments putting a lot of resources into running a register. They look at how they might be assessing any development, and heritage is one of the line items just like sewerage and drains.

MR HINTON: There is a related issue that has arisen in some other submissions, and that's the sort of playing of the heritage card in pursuing a different objective such as amenity. Is this occurring, and is that damaging the heritage objective in itself, or the support for the heritage objective? Do you have views on this?

MS BENNISON: I think it enhances the heritage objective myself. We have - and I guess I'm speaking from a council perspective, not from the National Trust - that's the only difficulty.

DR BYRON: You do wear some hats, don't you?

MS BENNISON: I do, but I'm not official from any of the others. But, for example, our character and heritage protection areas that we have across Brisbane, which were designed to protect those pre-1946 homes, which was all about amenity and streetscape, you know, in the local areas, where you saw the old Queenslanders being taken away overnight, and there were absolutely no controls, so then we had a blanket character and heritage protection that looked at all of those houses that were built prior to the Second World War, so pre-1946, where they then had to apply for demolition approval in order to be able to take a house away, or even to shift a house over. So from an amenity perspective, that particular resolution was brought in from an amenity perspective, and to preserve the tin and timber that we have across Queensland.

MR HINTON: So that's putting the two together.

MS COOK: From my perspective, I think that the amenities issue is bad for heritage.

MR HINTON: Thank you for sharing that different view, bringing clarity to this issue. Please continue, Penny.

MS COOK: Again, very clearly, we get, you know, extraordinary numbers of phone calls in the National Trust from people who are essentially dealing with an amenity issue, that they don't want high-rise next door to them, so the house where this person wants to develop, "We think it has heritage values," so that heritage is being misused from that point of view, and it's just muddying the waters.

MR HINTON: And damaging the heritage objective, I would have thought.

MS COOK: That's correct. So they should be clearly dealt with as a planning issue, rather than a heritage issue in many cases. Sorry, that's my perspective.

MS BENNISON: That's all right. From a development assessment perspective, I mean, we do separate out the heritage significance before looking at the development assessment - the development application itself. So you look at whether it is of significance, which is what you were talking about earlier, and then you discuss that - whether it has heritage significance locally - and then move on to the DA stage.

DR BYRON: Can I take a completely different tack, because it seems to me that up till now we've been getting your and the trust's view on how well the heritage conservation framework has been working, and you're very experienced in the system, but the question I wanted to ask is about the National Trust's role in that system, because it seems to me that since the National Trust was created, we've had the advent of state heritage agencies and state heritage lists - statutory lists - which didn't exist when the National Trust started. So whereas Tony was asking about how you see the relationship between state government and local government, for example, I'm asking about the relationship between various layers of government and the trust. What's the role for the trust or any other not-for-profit or membership based organisation, including historical societies or the Institute of Engineers or whatever? How does the trust fit into the whole big picture system?

MR COMBEN: You keep the bastards honest.

MR HINTON: Catchy.

MR COMBEN: Pardon?

MR HINTON: Catchy.

MR COMBEN: Catchy, yes. I think it's been done before though. Certainly the trust had some difficulties in the early 90s with the introduction of heritage legislation in Queensland. Until that time, if you talked about heritage, if you talked about anything to be preserved or protected, you looked through the National Trust list. It was a totally voluntary list, in terms of - well, it had no statutory force, is probably a better way - so when a list came in suddenly the National Trust looked around and said, "What's our role?" and people were perhaps not talking as much. So it has been a decade or more of recreating the role and certainly in my time in the chair I believe that our attempt was to make sure the system worked, especially in local authorities. That's why you perhaps saw some passion about our views on local authorities and significance, et cetera.

But it is now about saying, "Well, the state has come in theoretically with greater expertise, greater resources." We're not sure that that has, of course, been of

great benefit - well, that has been of substantial benefit, let's be honest. But where then does the trust fit in? I think it is about saying to the system, "There's a better way of doing it at times," or, "Why did you do it that way?" and being the watchdog, being at times the local resource and researcher, that the state cannot be in every small area of railway stations, mining sites or rural sites, et cetera. So I think that's the role of the trust today.

DR BYRON: Apart from the watchdog role, I can think of at least a couple of others that you may have deliberately excluded after consideration. The role of being the owner and property manager of substantial real estate holdings. Again, that is something that I imagine, you know, if the state is willing to do it do we need to - or whether you want to perform the educative role of the interpretation. In which case, it's important to have the historic buildings there as a backdrop, as a prop, as material that you can use for telling that story, but you don't necessarily have to own the building. It could be a government-owned building, it could even be a commercial building, but you're there communicating and educating the public about it. So, I mean, I'm wondering to what extent you still want to be involved in the real estate game and all the expense of maintenance that comes with being the owner of some of these very valuable properties.

MS BENNISON: We are moving, and have been for a little while, towards much more of a lobbying and an advocacy role. We would like to see that role strengthened particularly. We are also looking at I guess our property portfolio. We have taken a policy position just recently that our property portfolio should be self-sustaining and it's not at the moment, but we need to move that way. So we need to work through those issues on the properties. We also see ourselves as having an educative role, as you've mentioned, and a very strong support role for those people who are helping to protect the heritage that we have. So there's a number of roles there that we play and it is an important one that you've mentioned, about the ownership of property. In the past the trust did own property, sometimes through accident, sometimes through design, in order to protect those properties, but it's not absolutely essential. Provided the properties are protected and able to be still looked at by the public, you know, viewed by the public.

DR BYRON: Well, I was thinking particularly about the example that works apparently quite well in the nature conservation area, of having revolving funds and perpetual covenants. Trust for Nature in Victoria will buy a place of high conservation value, put a perpetual covenant over it and then put it back on the real estate market, to somebody who wants to own a listed property of high conservation value. The covenant has a clause in there that public access will be available and so on. So the buyer, in purchasing that property, is undertaking a commitment to maintain it, to look after it, to continue with public access and so on. I'm just wondering if that's part of the evolution of the idea from the simple one where the trust would just buy it and own it forever. I don't know the particulars of

Queensland, but some of the other states have told us that they have got assets in terms of many, many millions, but they've got no cash to pay the bills.

MS COOK: I think that those sorts of notions are really very much, yes, the evolution of the National Trust starting 40 years ago and simply owning properties, because that was the only way to protect them. It's absolutely essential that, I guess, the not-profit management of heritage properties moves forward with looking at a number of these sorts of mechanisms that are both income earning and create greater awareness of our heritage properties. I mean, one of the properties the National Trust has sold in recent years is a great success story, because it's lived in now by a family that are running several businesses from home, including one being the utilisation of that property. It's an amazing success story. Whereas we had to close it to the public, because we simply couldn't afford to pay staff to open it. So it's very, very important.

I think the trust has a strong role in working with governments in that regard, because we're able to present, as a community organisation, which indeed we are - we are able to have tax deductible donations. I mean, one of the big things we do in Queensland is our 22 current heritage conservation appeals, where in the last decade some \$15 million has been raised for heritage conservation. That is mostly churches, but there are a number of important things that a non-government heritage organisation would do, including having members.

DR BYRON: But you're one of the very few community based not-for-profits, which is established by an act of parliament.

MS COOK: Yes, indeed, and we are currently negotiating with the Queensland government to review that. We are finding that that is becoming extremely difficult. We find that access to funds is getting harder and harder. For example, one of the few funds left, which is the community gaming fund here in Queensland, has decided that we are no longer eligible, because we're semi-government. I mean, we're going to have to argue that with them but, yes, we - - -

MS BENNISON: There is also great confusion amongst the public about the role, whether we're government or whether we're not government. There is great confusion out there.

MS COOK: I mean, we were simply formed by an act of parliament 40 years ago, because that was what you did then. There was no government heritage legislation then. You have a group of strong citizens that are going to get together and do something about heritage. It's certainly time to review that.

MR HINTON: Wouldn't the Queensland Heritage Act of 1992 have been an appropriate opportunity to review it?

MR COMBEN: No-one asked. But I think, to defend all of us, it worked for a long time. There had been a long history of no heritage protection in Queensland until the 60s. Sir Raphael Cilento, a then director-general of health and a leading citizen of this state, got together a group, of whom two are still alive, and said, "We should do something." For 30 years they were a very powerful community group. If you wanted something, you wandered down to the Brisbane club or the Queensland club and you protected the icons. Then in the 80s the history is well known of the Cloudland and those other buildings, Belleview, going over. Suddenly something else was needed. So a new government came in clearly with a mandate to protect.

But I don't think that the National Trust saw the change that would occur. We in government certainly didn't see it, because here were still the community citizens that wanted - we actually adopted their list and there was some political pain about doing that, because the list wasn't quite right and we listed a few places that were a bit interesting, but a long bit of history. So the times changed and we should perhaps have addressed it at that time. We're getting a good hearing now from the present minister. She sees the problems and I think they will be addressed. It's all part of the resurrection, if I may use that term, the rebadging, the redeveloping of the role of the National Trust. It's exciting times in many ways. Very hard times as well. It's not easy.

MR HINTON: It may be hard to get legislative action on the priority list, because it's not as if it's a huge problem demanding immediate attention.

MR COMBEN: No, but interestingly on one small issue concerning Currumbin Sanctuary, which we own, there was a very legalistic interpretation of what could be done there. We wanted to make some changes and put a professional board with some payment down there to look after the place, and to clearly focus management and board governance on that, and the government moved very quickly. It was part of an Omnibus legislation. But they are quite prepared to work and the Honourable Desley Boyle is being very supportive; I think the finest heritage minister the state has ever seen. It took a lot for me to say that.

MR HINTON: I had some questions about heritage advisers - that is, a number have put the view to us that to underpin the rigour of any revised or reformed system it would crucially depend upon expertise just as the system currently depends to some extent on expertise. It's also been put to us that (a) they're few on the ground, (b) that they're local rather than national which in itself can generate tensions and (c) there are also potential conflicts of interest - that is, if there are a few of them around they're batting for both teams, sometimes even on the same project potentially. You have any views on this heritage adviser sort of function, supply, demand in relation to a good system?

MS COOK: I mean, it depends on what we mean by heritage adviser and what level.

MR HINTON: It's a generic term.

MS COOK: A generic term. And it depends on whether we're talking about local government heritage advisers and whether we're talking about professional heritage architects that might be dealing with a state development application. There is a significant, I guess, lack of general, generic heritage advice available in Queensland so there are no architects substantially working in heritage conservation north of Brisbane. There was for a little while in Townsville. I was working in Townsville when I worked for the government and we managed to get one up there for a while.

No, I think very few local governments now have heritage advisers in that sense; in the sense of providing advice to owners. So there's a severe lack of it. I think it's part of the issue in Queensland that there's a lack of understanding in relationship to what you can and can't do to a property. If there was someone who could come and view your property and go through it with you fairly quickly and efficiently, then I think that would be of enormous benefit. So it depends on - yes, I think there's just a lack of such people in Queensland.

I just want to add a little bit about the fact - where's my interaction in the heritage industry which has happened over a long period of time. Heritage can be a little bit in danger of sinking down into too much detail. That's what I refer to when I talk about levels of assessment in the sense of drilling down to - I suppose dealing in minute detail in a Burra Charter sense with places that might be character houses as opposed to places that might need a high level of development assessment. I think that's all become blurred and that needs to be clarified as part of the overall framework and overall guidelines.

MR HINTON: Thanks.

MS BENNISON: As well as a lack of heritage advisers there's also a severe lack of town planners. You're probably aware of that across Australia. It's certainly the case in Queensland but across Australia wide. So at that level, as well as the heritage advisers that advise the town planners, we're bringing them from overseas into Brisbane City Council.

MR HINTON: I had just one more question. I was going to pick up something Pat said about an hour ago. You mentioned the fact that there was no category in Australia of historical site. Now, maybe I misheard you or maybe I misunderstand you with regard to your definition of historical site. I thought that in fact we do have historical sites so there's unbuilt heritage in that definition; whether it be the sort of the Dig Tree.

MR COMBEN: Dig Tree was a huge challenge as to how we were going to protect it. It wasn't easy. Two years of thinking about how we would do that.

MR HINTON: But the system eventually coped with it. You're saying that the system is not coping with it well though. Is that your point?

MR COMBEN: Yes, very much so because there are always two categories in every state and that is a general reserve under some sort of lands act or there's a national park. But in America particularly if you just pick out even a wide-scale map of the US and you will see the historical monuments on it, et cetera. We have nothing like that - a second park in the USA was a historical monument site. We just don't do that sort of stuff. Perhaps we're a newer country. Perhaps we don't have the resources to do it.

MR HINTON: But in your view we should be doing something about it.

MR COMBEN: Very much so. Then I think we could better interpret because almost by definition if you make it a national park then you limit the interpretation and you limit the number of people going, and you do all sorts of things. I think there's a whole category which is missing there.

MR HINTON: Thank you.

DR BYRON: I was also coming back to your opening comments. If they're government-owned heritage places they're pretty much under control. They're secure, they're funded, et cetera, and the commercial are private and that left - or even the situation where they're private residential or domestic but people have gone into it with their eyes wide open; they know what they're doing and that's under control. So the contentious areas that come out of that were the situation where there's a change in the rules and somebody suddenly finds they're living - the house that they've been living in is suddenly heritage listed and that has implications. There's the role of the not -for-profits which we've talked about a bit and then the intangibles and - - -

MR COMBEN: I've called them "the spirituals".

DR BYRON: The spirituals, and the role of churches. I mean, churches, universities and even the banks have that tradition of being open-for-public-access buildings. Even though they're privately owned in a legal sense they were for public use. So when they become surplus to operational requirements and are sold off by their private owners who then may decide to make a business out of it or lock the doors, there's presumably a public response to that loss of access to places that were part of the cultural fabric. Firstly, those are the three big areas of contention that we

need to focus more on. Any particular suggestions for the last one of those; the loss of access to private buildings?

MR COMBEN: In my view they're the three where the market fails. Just thinking it through - and I was looking for market failure particularly. No, I don't think there are easy answers. If you just take cathedrals, the Anglican Church has 23 dioceses. The Catholics would have about the same. There would be a couple more. So say in Australia 70, 80 cathedrals. At this moment Sydney Cathedral has bits falling off it into the park next door. Townsville is falling apart and a couple of others are as well.

I don't know what the answer to that sort of thing is because you can only charge a funeral or a public ceremony a certain amount of money, and yet they are seen very much as being public buildings. So how the market could ever accommodate that is just beyond my comprehension. Sydney at present, you may be interested to know, is going through - and the Sydney diocese of the Anglican Church is extremely strong and extremely wealthy - a process of trying to sell a large number of properties to then fund other churches. I think that's going to be fascinating to see whether they can do it.

For me as a churchman the way they've done it is flawed but nevertheless it will be interesting to see when the public of Sydney start to understand that they're flogging off some very nice stone buildings, et cetera, even if it is to save souls elsewhere. So there's going to be a fascinating social conflict down there at some stage. But again, no easy answers. We can start selling some churches to provide the money to preserve some more. Maybe there are some questions of management and some managers within the church are looking at those things.

DR BYRON: But particularly in rural areas you've got congregations that are rapidly declining and those that are left don't have a great disposable income and yet there were very substantial public buildings - - -

MR COMBEN: In the centre of the community, yes.

DR BYRON: Yes. In many cases they're pivotal to the society. The society can no longer afford to maintain them. I imagine it would be difficult for a local congregation or diocese or even a local government area to say, "Well, we're going to put resources into maintaining this material fabric even though there are only two or three people coming once a month."

MR COMBEN: It is extremely difficult. In New South Wales - I work for the diocese of Grafton - we're closing a number of churches. It is the hardest part of my job. It is often the congregation who will first come weeping and crying that they want to be buried from their church, because that's where three generations have been buried from, and then when the community gets hold of it you get some fairly

intemperate letters at times from the community. But there's no easy - - -

DR BYRON: You're making the banks look good.

MR COMBEN: Thank you very much.

MS COOK: But of course that's what the National Trust in a sense is selling - we're selling off some properties to support others. So you're making choices.

MR HINTON: Yes, but that's a parallel.

MS BENNISON: Can I just make one quick point?

MR HINTON: Yes.

MS BENNISON: When we're talking about the role of local governments as well in state and local and looking after - I think you need to - and I'm not sure whether you would understand how small some of the local governments are across Queensland; not in size but in terms of staff. I think that really needs to be taken into account when we're talking through these issues. I think the smallest local government in Australia has about 125 residents. If they have one baby then their population increases by 10 per cent or some crazy figure. So I think the staffing of local governments need to be taken into account when we're looking at these recommendations that come forward.

MR HINTON: Thank you.

MR COMBEN: If I can just come back to the church thing. It's also of course just the depopulation of the western parts of the eastern seaboard that we're just part and - except we're in the public domain whereas small businesses close up. They're allowed to close up and they go away and people give them a party. They burn us in effigy.

DR BYRON: Well, I think that exhausts my questions for now. But I am really looking forward to seeing the umbrella ACNT submission. But was there anything else that you wanted to say by way of summary in conclusion?

MS BENNISON: No, I just thank you for the opportunity. We do welcome the opportunity of speaking to you informally as well as here today, and look forward to your recommendations coming forward in due course.

DR BYRON: Thank you very much for coming.

DR BYRON: I did say this morning in my opening remarks that we always try to give anybody in the audience who wants to come forward and put something on the public record - now is the opportunity to do that, please.

MR HINTON: We would be grateful if you could identify yourself for the transcript, if you don't mind, at the start of your comment.

MS ROSSER: My name is Jody Rosser. I am with Queensland Transport. One of the officers who deals with heritage issues couldn't make it today, so she just asked me to raise one point that she encounters which she has difficulty in addressing. That is, when you have an emergency situation where you need to get emergency works happening and you have to deal with an infrastructure that's of heritage significance, the process that is involved in actually getting approval to undertake works on a heritage infrastructure can be considerable if there is public safety as an issue. She is actually doing some work with EPA at the moment in terms of their legislation, but she just wanted me to raise that issue because it is one of - - -

MR HINTON: Can you give me an example, please? Are we talking bridges here?

MS ROSSER: This is a quick - "I'm in the office, I'm out the office, can you raise this issue for me."

MR HINTON: I've got you, yes.

MS ROSSER: But she did ask for the opportunity. I did mention that you were receiving written submissions, so that is an opportunity where we could put something in writing, anyway, to you to further explain.

DR BYRON: That would be very much appreciated. The issue of bridges, transport and all the rest of it, has come up in a number of our local visits and I think in a couple of the written submissions from other states.

MS ROSSER: Also in construction, as well. Building busways, building roadways, you may come across historical infrastructure or whatever that may not have been noted as one and you might dig it up and you find there's an old bridge there or there's - - -

MR HINTON: Antiquities.

MS ROSSER: Something there, yes.

DR BYRON: Buried treasure.

MS ROSSER: So you need to do an alternate plan for that.

MR HINTON: Thank you very much.

MS ROSSER: That's okay. Thank you.

DR BYRON: We would love to hear more about that.

MS ROSSER: Yes, I'll endeavour to - I've got all your details here, so I can - - -

DR BYRON: Yes.

MS ROSSER: Thank you.

DR BYRON: Is there anybody else who - going once, going twice. In that case I think I can adjourn the public hearings. Thank you all very much for coming, ladies and gentlemen. It has been a very interesting, informative and useful day. We will reconvene on Thursday in Darwin and then Monday in Perth. Thank you.

AT 3.25 PM THE INQUIRY WAS ADJOURNED ACCORDINGLY

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