



**LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON ENVIRONMENT,
CLIMATE CHANGE AND BIODIVERSITY**

(Reference: [Inquiry into ACT's heritage arrangements](#))

Members:

**DR M PATERSON (Chair)
MS J CLAY (Deputy Chair)
MR E COCKS**

TRANSCRIPT OF EVIDENCE

CANBERRA

TUESDAY, 16 MAY 2023

Acting secretary to the committee:

Ms M Ikeda (Ph: 620 50199)

By authority of the Legislative Assembly for the Australian Capital Territory

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

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Amended 20 May 2013

The committee met at 9.20 am.

MARSHALL, AM, MR DUNCAN, Chair, ACT Heritage Council

THE CHAIR: Good morning and welcome to the public hearing of the Standing Committee on Environment, Climate Change and Biodiversity for its inquiry into ACT's heritage arrangements. The committee will today hear from 28 organisations and individuals, including community councils and resident associations, heritage professionals and organisations, private individuals, advocacy groups and the ACT government.

The committee wishes to acknowledge the traditional custodians of the land we are meeting on today, the Ngunnawal people, and the committee wishes to acknowledge and respect their continuing culture and the contribution they make to the life of this city and region. We would also like to acknowledge and welcome any other Aboriginal and Torres Strait Islander people who may be attending today or listening online.

For Hansard, proceedings are being recorded and transcribed and will be published. The proceedings are also being broadcast and webstreamed live. When you take a question on notice, it is useful to use the words, "I will take that as a question on notice."

For our first scheduled hearing this morning, we will speak to Mr Duncan Marshall AM, Chair of the interim ACT Heritage Council. I welcome you, Mr Marshall, to today's hearing and remind you of the protections and obligations afforded by parliamentary privilege. I draw your attention to the pink privilege statement on the table. Can you confirm for the hearing that you understand the implications of the statement and that you agree to comply with it?

Mr Marshall: I do, and I agree.

THE CHAIR: Thank you. We are not inviting opening statements, but we will now proceed to questions.

I was wondering if you could speak to us about the intersection between the Heritage Council and the heritage unit.

Mr Marshall: Mindful of your comment about me not providing an opening statement, one contextual bit of information is that I have only relatively recently been appointed chair of the council. The council has not yet formally met. There have been informal meetings, and I have, in my new role, had some interactions with the branch, ACT Heritage, and no doubt that will ramp-up over the course of time. So, I am kind of on the back foot a little bit in terms of being new in the role, even though I was previously a chair of the council.

But to come to the substance of your question, my personal view, and my view based on previous experience, is that we need a system in which all parts work together effectively in order to achieve what is expected of the council under its legislation. Council will bring certain skills, expertise, roles and qualities to the activity, and the

branch is there, in part, to support the council in its work but to also undertake other functions for the ACT government.

Clearly that got into a mess in the recent past, but I am very hopeful that with a new council, mindful of the recent history, we can develop a more effective working relationship which is much more productive than, obviously, proved to be the case recently.

THE CHAIR: Do you think it is relationship-based, or do you think there are structural issues?

Mr Marshall: Both.

THE CHAIR: Both—okay.

Mr Marshall: Yes.

THE CHAIR: In terms of structural issues and improvement of the interaction between the council and the heritage unit, are there specific things that you think could help?

Mr Marshall: Like yourselves, I have only seen the public version of the Nous report, which portrayed a series of problems in that relationship, particularly around clarity of roles. I have also reflected on my time previously on council. One of the things that has come to mind in reflecting on the recent past is the difficulty the branch may have in dealing with two masters: the council on the one hand, and EPSDD, the government and the minister on the other hand. I think perhaps even in my time it was apparent there were some tensions there and that the branch were not always comfortable responding to some council requests—very few requests, but occasionally the branch was uncomfortable when we got a little active or when we were perhaps pushing some boundary.

Looking forward, I think one of the opportunities is to have a more direct and open conversation about where those boundaries are and how we respond to difficult issues and circumstances. Where the branch is feeling uncomfortable, we need to recognise that as the council and work out other ways of addressing and dealing with that.

THE CHAIR: In your submission you talk about an ACT heritage strategy that may work to clarify some of these roles. Can you speak more to that?

Mr Marshall: Yes, and just to clarify, prior to becoming chair I made a submission to this inquiry along with my colleague and friend Dr Michael Pearson, who was also a former chair of the council. Then I become chair, and I am here in my chair capacity this morning, so while those ideas and views in that submission no doubt influence me today, I feel like I need to be a little bit separate from that to some extent.

The heritage strategy idea has been around for quite some time. There was work back in 2016, or later, which was not necessarily, I think, about the kind of relationship between council and the branch but, rather, about how the community might have some sort of strategic vision for its heritage into the future.

Obviously, government, council and the branch are part of that overall ecosystem, if I can put it that way, but there are many players and many individuals and organisations who contribute to the heritage of the ACT, in government and outside of government. I think the idea of the strategy was to kind of encourage everybody to be pulling in the same direction rather than necessarily having no strategic vision or pulling in different directions.

THE CHAIR: Thank you.

MR COCKS: Back to the question on the issue of serving two masters—I wonder, have you looked at the models operating in other states? We have heard a bit in submissions around the Victorian model and the New South Wales model. Do you have a view as to whether other models get around that problem?

Mr Marshall: No, I do not, and I have not looked in detail. I have worked in many other jurisdictions, and I have many contacts in those jurisdictions; and I used to work for the commonwealth government on the secretariat side, on the public service side, of that sort of relationship with a council—a commission, in fact.

There is always a bit of creative tension, I think, that can exist between, if you like, public servants who are supporting a council or commission on the one hand but also a minister in government and department on the other. I am not sure that I am aware of any specific, helpful guidance that might come from other jurisdictions, but I do think of, at the least, a more honest conversation between, say, the branch and the council—“There will be times when we ask you to do awkward things, or things that you may find awkward. How is it that we can identify where those boundaries might be? Then, where you are feeling uncomfortable, we can work around that in some other way.” And that is what happened in the time that I was previously chair.

That said, one of the possibilities is to create a kind of separate and dedicated support unit for the council itself: one that only reports to the council and does not report to government, in a sort of line-function sense. Given the size of the branch, even though it has grown in recent times to address workload pressures, I am not quite sure how effective that may be, because what you would be doing is dividing up staff into even smaller units. But it is certainly something that can be thought about and considered.

MR COCKS: If there were a separate team, what would be the functions that direct-support team would undertake?

Mr Marshall: The example I can think of from my previous time as chair is we would ask the secretariat within the then ACT heritage unit to draft a letter on some particular issue, and, because of real or perceived views within the directorate, the staff felt uncomfortable about doing that. They felt they might get blamed for being activists themselves, in some way or other, for pursuing a heritage agenda, even though it was council’s clear and express wish to do so. What council did in those circumstances was to, in fact, draft the letter itself. The letter would be sent off by the staff, but we would draft the letter.

I guess one possibility is that you have some small number of people who would not

feel that pressure, not feel that conflict, and be able to be fully responsive to council's direction without that perceived conflict arising. So, that is one small and relatively simple way that that might be overcome. I am not quite sure whether that is going to work fully, but it is something to consider.

MS CLAY: Mr Marshall, you have covered quite a lot in your submission. You do not think there is major overhaul of the legislation required, but you have touched on implementation and operational issues. I am interested in that because we have had across the submissions quite a lot of commonality on implementation and operational issues. You have mentioned there is an increase in the unit workload, and that has come through from a number of areas, and you have mentioned that the register is not fit for purpose. I am wondering if you could tell us: if the legislation is generally satisfactory, what do you think are the few changes that could be made operationally, and in terms of implementation, that would actually make this area work really well?

Mr Marshall: Just to contextualise the change to legislation issue, I have seen in my long career in heritage dozens of reviews of heritage, and they are almost always viewed with great concern by the heritage community, because governments are often more about unravelling heritage in some way or easing the path for other activities rather than a kind of full-throated, genuine embrace of heritage issues. Mostly that has been at the commonwealth level, but in other jurisdictions as well.

My colleague Mike Pearson and I have something like nine years of experience as chairs of the council. Mike Pearson and I, in saying that the legislation is generally okay, were saying—and again, this is not a view of council, because council has not formed a view about this—was that, in our experience, the legislation itself seems generally fine. There are particular areas that need to be addressed, and dealing with First Nations heritage is one of those, and that is a particular area for reform across Australia at the moment—the commonwealth has been doing things; there are developments in Victoria, for example, and other jurisdictions, so that is a particular activity.

To circle back to your issue about performance, a starting point in the recent past has been that anyone who sent an email request or submission or something into ACT Heritage got a bounce-back email saying, “Thank you very much for your message; the waiting time for dealing with certain tasks is 30 days,” or 60 days, or 90 days—really long time frames which are a clear indication of problems. Some of those seem to be about resourcing, and I have seen in the minister's submission some numbers about the scale of increase of activity, so clearly resourcing available to the branch has not kept pace with the demand on the branch's time.

In coming to this new role as chair now, I am interested to see whether there are ways in which parts of the activity can be improved and reducing the amount of time needed on some activities. For example, how council deals with conservation management plans—reviewing those and approving those. The conservation management plans are generally relatively large documents. It takes quite a bit of time for someone—that might be staff or council—to go through them. Through that process, are we getting good value out of the time spent approving those CMPs? Certainly, there needs to be some oversight, but it is the quantum of oversight that is being devoted to that particular task. So, are there better ways of dealing with that

particular activity which do not require the amount of time and energy? That is the demand side, if you like; there is also the supply side. Are there enough staff of the right standard? Does the branch have the resources? Clearly that seems to be not the case at the moment.

MS CLAY: I also noted in the minister's submission a doubling of nominations—I think it was a doubling. It was certainly a rapid increase.

Mr Marshall: Yes, and backlogs of nominations are a kind of chronic problem. In another life, before I joined the council in 2011 or 2012, I did a statutory review for the then heritage minister in 2010 of the ACT's heritage system, and there was a backlog of nominations then. Suitable noises were made that processes were in place, resources were available and it would be whittled away. I am not quite sure that that has happened, necessarily. By the same token, in that 2010 review I also pointed out that the heritage register database was—I think I referred to it as being steam powered back in 2010! I think we have still got that steam-powered heritage register now, 13 years later!

Hopefully, the focus and attention on all of the problems—and the minister's focus on these matters and, indeed, your committee's attention—mean that perhaps we are now at a moment that can result in a quantum shift in the activity, and some of these problems can be addressed in a meaningful way.

MR COCKS: I will try to stick within your role currently and your recent appointment, rather than going too much to your submission. You were pretty recently appointed to this role. Have you had a chance yet to meet with the minister and discuss directions? Have you got directions from the minister?

Mr Marshall: Yes, I have had the chance to meet with her. I should say that having been appointed I almost immediately went overseas for the better part of the month and, while I have been dealing with some issues remotely, I have not been in Canberra. But before I went away, I did have a chance to sit down and have a good conversation with her about the role of council and my role, and I do not think it is a secret that it is her intention to provide a statement of expectations to council about what she and the government would like to see in terms of performance from council.

We are going to hear more about that this afternoon. As I mentioned before the hearing started, the council is getting a briefing—an induction later this afternoon. The minister will attend that, and it is my understanding that she will speak to that statement of expectations, so we will have more detail about that in the next little while.

MR COCKS: Have you had any conversations with the minister, noting the recent history of the council, around risk management and how to ensure the system remains operational and avoids those problems the council has run into previously?

Mr Marshall: Probably not framed in terms of risk management but certainly with that sort of quality about it. I think, perhaps like many, I still remain puzzled about how the system seemed to get itself into such a muddle in the recent past. Part of the reason for my candidature to rejoin council was to resettle the work of council and to

try and provide greater confidence to the community and to the staff of the branch, for example, about the future work of council.

Yes, I think there is a heightened sensitivity to try to address any continuing issues and the circumstances which might lead to a recurrence of any problems. Part of that touches on things like undeclared tensions, for example, in the relationship between council and the branch over an activist council wanting to do something which might upset the government. Let's understand where those boundaries are and, in those circumstances, how the branch responds, how the council responds and how we continue to do our work mindful of any sensitivities and pressures that the branch may feel. I think what the recent history has done is to shine a light on where things can go wrong, and we are now in the response phase to that—about how we can avoid those problems occurring in the future.

MR COCKS: It sounds like you have not had a chance to have a look at the full report from Nous.

Mr Marshall: I have not seen the full report. It will probably be a question when we see the minister about whether we will see the full report.

THE CHAIR: In Professor Hansen's submission, it says the functions of the council should be reworded and/or include the following:

- to identify, assess and register places and objects in the ACT with natural and cultural heritage significance;
- to remove places or objects from the Heritage Register ...

I am wondering if you have any quick views on that?

Mr Marshall: I have not compared Roz's suggestion against the existing wording, but I am sure the existing functions cover the first part of that but not necessarily the removal. I would have taken it to be a function of council to maintain the register, and maintaining the register might indeed be removing. In fact, I would be reasonably sure that there have been removals, if only through destruction and loss by bushfire or other disasters. It may be a helpful clarification of the role, but I think in practice councils in the past had been doing that to date. It may be a matter for some legal clarification about whether it needs to be spelt out in that way.

THE CHAIR: Great; we will follow that up. Thank you very much for your time today. The committee would like to thank you very much for appearing.

Mr Marshall: Thank you very much, and I am sorry I could not be quite as helpful—in a little while I will be a better chair!

THE CHAIR: It was great!

Mr Marshall: Thank you very much.

Short suspension.

SWAIN, MR NICHOLAS, Secretary, Canberra and District Historical Society Inc
KENT, MR GARY, President, National Trust of Australia (ACT)

THE CHAIR: I welcome Mr Kent, from the National Trust ACT, and Mr Swain, from the Canberra and District Historical Society. For the record, would you both state that you acknowledge the implications of the privilege statement.

Mr Kent: I acknowledge the statement, as requested.

Mr Swain: I also acknowledge the privilege statement.

THE CHAIR: Fantastic. We are not inviting opening statements, so we will proceed to questions. I will start with a question on the conservation of Aboriginal heritage in the ACT. I am interested in your suggestions on how we might improve this and pursue this, from both of your different perspectives.

Mr Swain: It is not a field that I am an expert in, so I would probably defer to some of my colleagues, but, from what I can see, the most important thing is to engage Aboriginal people, First Nations people, in the process. That seems to be fairly difficult. I am not sure that the current processes are always as successful as perhaps we would all like them to be. I guess there are cultural things involved in that too, but it is not something I feel I am that qualified to speak on. Not being a First Nations person, it seems a bit presumptuous to offer an opinion. I would rather you ask someone from that background. It is certainly an area that is important to us. In the ACT we tend sometimes to adopt an approach which says, "It's just European settlement that we are worried about," but we know that there are multiple layers of history and heritage which we must acknowledge.

THE CHAIR: Thank you. Mr Kent, is there any perspective from the National Trust in the ACT?

Mr Kent: In its submission, the trust has made several detailed suggestions in relation to Aboriginal heritage. Perhaps I could highlight two or three of those. One would be that we think it would be very useful to consider whether or not there should be a separate act of parliament in relation to Aboriginal heritage. This area has not fared well under current arrangements, and we think a standalone piece of legislation might be useful. One of the deficiencies in the current arrangements is that intangible Aboriginal heritage is not really recognised under the current act. There is a heavy reliance at the moment on the presence of physical objects and structures. We think that is an area that could be improved.

It is not easy. The trust has not found it easy, at times, to engage with Aboriginal communities on heritage. Like Mr Swain, we probably would not want to be seen as the definitive advocate in relation to this, but we think that things could be done a lot better than they are now. Certainly, there should be enhanced arrangements for communication with Aboriginal people. We note that recently the government has slightly revised its consultative arrangements in relation to the various communities in the ACT.

THE CHAIR: Thank you.

MS CLAY: Mr Swain and Mr Kent, you have both made some comments about the Heritage Act and this review, in the context of the planning review. It is great to see people engaging with that. It is large and complex and I am really, really pleased that people are engaging.

Mr Kent, you made a couple of suggestions. You suggested that the government should remove the chief planner from the Heritage Council. You also suggested that there might need to be a bit of a change to ensure that independent, frank and comprehensive reports can be provided to the council without the need for approval by EPSDD. You have made a couple of governance recommendations there. Can you talk me through those?

Mr Kent: Yes. In relation to the first one, we do not think it is appropriate that the chief planner be a member of the Heritage Council. There are inherent tensions between the role of chief planner and the Heritage Council. You can imagine, through no fault of the chief planner, tensions emerging in discussions. We think that the heritage assessment is so important that it should be conducted independently of the planning process. We would ultimately hope that the new heritage legislation takes account of where the Assembly comes to in relation to the new planning scheme and that the heritage legislation is quite separate and overlaid on the planning legislation. We do not see any reason why the head planning executive should be a member of the Heritage Council. There is, we would suggest, a conflict of interest.

Your second question I think I might have already come to, in that, as we have suggested in our submission, we do not think the current planning arrangements adequately protect heritage. We believe that the Heritage Council should have a decision-making power, which is not included in current arrangements. Again, we would hope that the new heritage legislation reflects that in the new scheme.

MS CLAY: And your concern is about conflict of interest and the quality of advice whilst we have the existing structures? Is that the issue?

Mr Kent: It is not so much the quality of advice. It could possibly skew the advice. At the moment, the Heritage Unit, as we understand it, is in the direct line of management of the chief planner, so there would naturally be an impact on the nature of the advice provided. That is no reflection on anyone; it is simply a symptom of what happens in a big government agency. We think that heritage is so important that any suggestion of conflicts of interest or working to achieve a particular outcome, to the extent that that has occurred, should be completely removed from the heritage and planning systems.

MS CLAY: Thank you.

Mr Swain: Can I add to that?

MS CLAY: Yes, please.

Mr Swain: I agree with everything that Gary said, but I will express it in terms of the

independence of the Heritage Council and unit—that is, being part of an organisational unit which is built into the main structure of EPSDD does not give it the look of independence. It also means that all its resourcing is entirely dependent on a trickle down in the system.

It would be much better if it were at least in a more independent situation. For example, you have the Suburban Land Agency, which does report to the chief planner, but it is out to one side. It is not in the main organisational structure of EPSDD, so it is perhaps not subject to situations. I imagine, for example, that the heritage unit staff, basically report to two sets of people; they report to the Heritage Council and they report to the hierarchy in EPSDD. That must create some sort of tension and, as Gary was saying, potential conflicts and those sorts of things.

It would be good if that was removed, so that there was not an apparent conflict. Sometimes it must be extremely difficult. I was thinking of the situation when Northbourne Avenue heritage was being discussed. There was clearly quite a robust situation going on between EPSDD and the Heritage Council about what was to be preserved in Northbourne Avenue and so on. It would be very difficult for the staff of the unit to keep an even keel.

MS CLAY: Yes. Thank you.

MR COCKS: You have made a very good case around strong independence and avoiding a potential conflict or even an apparent conflict of interest. I wonder if there could be some benefit in having the chief planner at least being privy to the council's conversations? Can you see any benefit that could arise from Heritage informing Planning?

Mr Swain: Yes. In many situations it is clear that there are planning implications, so, somewhere in the process, planning legislation and planning strategies need to be in there. I do not know that it needs to involve the chief planner, as such. I doubt the chief planner has actually attended many Heritage Council meetings. But he could delegate people to do that. It is really a question of what degree of influence the chief planner would have. If it was to provide information which might inform the council's decision-making, that is fine. That is really fantastic. But if it was to influence and say, "No, you should not be doing that; you should be doing that," then that is not so good.

MR COCKS: If the chief planner was to continue being part of the council, then it sounds as if it would need some clarity around the role there.

Mr Swain: Yes. Maybe an advisory role.

THE CHAIR: Mr Swain, your submission says that the perception is that the heritage unit does not possess sufficient levels of appropriate skills and experience to support the council. Can you speak more to that?

Mr Swain: Yes. This is stuff you hear around the network. I have heard from various people that it has been very difficult for the heritage unit to staff it with an adequate level of skills. It may be to do with pay levels; I am not sure. It may be due to the perceived apparent dysfunction between them and the council. I have certainly heard

that they do not have much experience in heritage architecture, but I do not know what the current staffing is. We do not know too much.

Urban planning would be another area which is useful, and maybe First Nations staff. I know that at some stage it did have a First Nations person on staff and I am not sure if the person is still there. It is certainly worth looking carefully at what mix of skills ought to be in the heritage unit itself and whether it has the capacity to actually fill those positions.

THE CHAIR: Thank you.

MR COCKS: Mr Kent, the trust's submission makes a number of recommendations, going beyond just the mechanics of the heritage system. You make recommendations about a heritage strategy and about amendments to the Heritage Act. To what extent do you see this as being fundamentally a strategic level issue that needs to be addressed?

Mr Kent: Thank you, Mr Cocks. One of our key recommendations is the development of a heritage strategy. The development of such a strategy was commenced about seven years ago, but resourcing went out and it was never proceeded with. We see a strategy as being critically important, for a range of reasons, and we have mentioned why in our submission.

This is not dependent on the passage of new legislation or anything like that, but it needs to be done. Hopefully, with input from this committee, the government has a good look at the value of heritage to the ACT. As we have said in our submission, we see heritage as a benefit, not a cost. People come to the ACT for heritage, and the strategies should reflect that.

We have suggested a range of other changes to the legislation, one of which, for example, is that we consider that there should be an objective for the new council in relation to climate change. Climate change was not on the agenda 20 years ago; it is now, and we consider that to be very important. We have also suggested, for example, a more definitive role for the council in providing approvals and protecting heritage assets around the territory. At the moment, its role, we believe, is far too advisory. A new act, we hope, would redress that.

MR COCKS: Would you see it as necessary to have an entirely new act or could this be managed through amendments?

Mr Kent: I am a public servant by trade, and I believe that you can use an existing act to achieve a lot of things. Given the recent history with the Heritage Council and given the fact that we are dealing with a new planning regime, it is probably time for a brand-new act which reflects all the things that have happened in the last 20 years. No doubt this committee will make a number of important findings in relation to the management of the ACT heritage system. Probably a brand-new act would be the best way to achieve that. In our submission we have recommended a number of key changes, and it is probably difficult to draft those into the current arrangements.

THE CHAIR: Could we discuss the annual heritage grants. There is a

recommendation in one of the submissions that, rather than having annual grants, there be a heritage fund established that can receive money from government but also from external bequests and gifts from the community, and that this would be something that could be managed by the council. I am interested in your perspectives on any changes to the grants. What do you think would be an appropriate way forward? Mr Kent, do you want to go first?

Mr Kent: Yes. I do not think that was part of our submission. I have read that proposal. We think it would work. I might say that we are very, very happy with the current system of heritage grants. A very wide variety of important projects are recognised. The trust has traditionally received grants over the years. We think the current system works well. A fund placed on firmer footing could also perhaps enhance arrangements, but we are not unhappy with the way the current system works. The grants are very well managed and, as I said, many good projects are recognised every year.

Mr Swain: I will make a comment on that. The amount of funding provided for grants is very small, and keenly sought after. It does not connect into any kind of heritage strategy. I would have thought it would be really good to have a grant saying, “These are the objectives that we are trying to pursue with the grants,” and that the grants program proactively look for people to put in applications in quite specific areas. Now, they set a general theme, but they do not say, “We are desperately looking for a group of people to do X or Y or Z.” That would be useful.

Also, in recent years both the commonwealth and the territory have withdrawn any form of operational funding from heritage bodies, so they are entirely reliant on ad hoc funding for whatever grants they feel able to apply for. That puts a lot of stress on heritage bodies to raise all their operational funding. For example, the Historical Society has to raise \$9,000 a year for rental of its accommodation. By the time we have done that, we have no money to do our own projects, except anything we get from heritage grants. They are very small, and they could be much more proactive and supportive of heritage strategy.

Mr Kent: Following up on Mr Swain’s comments, we have suggested in our submission that it would be good if the government could provide funding for the various heritage and kindred groups around Canberra. Organisations like the Historical Society undertake an enormous amount of volunteer work. In other non-heritage sectors of ACT government, organisations are provided with assistance. The amount of work that the Historical Society, the Lake Burley Griffin Guardians and the Archaeological Society et cetera do is really unrewarded in a financial sense. The trust is lucky; we are receiving an ongoing grant. We think it would be great if some of the other organisations doing essential work in this area were similarly recognised.

MS CLAY: I noticed this particularly in your submission, Mr Kent, but I am sure you also have views, Mr Swain. You commented on the need—and you mentioned this just before—for adaptation and mitigation for climate change. I am assuming that is both the need to reduce emissions, which often requires building modifications, and the need to adapt to the changes that are already locked in. I was really pleased to see that in there.

You also mentioned our Wellbeing Framework. We have the Wellbeing Framework in the ACT now, which is new, and, frankly, from my experience, not particularly well plugged in to our decision-making, but I was really pleased to see that general integration. How do you think we can better tool up climate change and the need to make wellbeing decisions for Canberra into our heritage system, noting that those have sometimes been seen to be quite separate things?

Mr Kent: In relation to the second one first, if I may, the trust is very pleased with the ACT government's wellbeing arrangements, which have been in place for about three years. We contributed to that. There is a little bit on heritage in the Wellbeing Framework. I suppose we have suggested in our submission that we go the full monty with that and make it a statutory requirement.

We have had a good look, for example, at the arrangements in Wales, where they have legislated their wellbeing act. It is legislated, and government agencies are required, annually, to report on compliance with the framework. There is a wellbeing commissioner in Wales who has a very active role in assessing and reporting and logging the achievements of the framework goals. We would like to see something like that in the ACT. As I said, we have a very good framework, but we would agree with you that it is not particularly well connected with the rest of the operation of government.

The first question was on climate change. The heritage sector has a big role to play. One example is that even the process of demolishing an old building and building a new one has a significant effect on climate change. Preserving the old building, to put it simply, is a contributor to dealing with climate change, and we think that should be recommended, using the new heritage arrangements. We think that climate change, as I said earlier, could be a separate strand as an objective of the new Heritage Council. It is not there at the moment, and heritage has a big role to play. The assessment of heritage applications and whether, for example, a decision should be made to approve a demolition should take into account those externalities.

Mr Swain: Can I make a couple of comments?

MS CLAY: Please.

Mr Swain: Thanks very much. I strongly support what Gary said about climate change, and particularly the repurposing of heritage buildings so that you do not have a problem with the embodied energy in buildings being just taken out. We have seen a fantastic example with the Glassworks in Kingston. It has been wonderful.

On the Wellbeing Framework, I draw your attention to one of the attachments to our submission, which is from the Federation of Australian Historical Societies, which put together a document that outlined the economic and social values of history and heritage. A huge amount of the social value is about the benefits that volunteers get from the programs, and also what volunteers contribute to the preservation of historical materials and places. That is very much undervalued, I think, in terms of what is achieved and the huge amount of goodwill that goes into the process of doing voluntary work.

MS CLAY: Thank you. That is excellent. The social benefits—

Mr Swain: Huge social benefits.

MS CLAY: of participation, and also building re-use and adaptation.

Mr Swain: Yes.

MS CLAY: This has come up in a few lines of inquiry now.

Mr Swain: Two big things; yes.

MR COCKS: Mr Swain, I think you touched earlier on the perceived conflict between development and the historical arrangements that we have. Some of the submissions that we have seen have viewed the heritage arrangements as being an obstacle to housing and to development. I wanted to provide you with an opportunity to respond on how heritage can interact and whether we can still provide good developments close to the city.

Mr Swain: If I did not care a stuff about heritage, I would just say, “Wipe it all out and let me get on and clear-fell.” A more sophisticated approach might be to say, “How can we leverage the heritage that is there and add value to what we are doing?” I am seeing government agencies like the Suburban Land Agency saying, “There are some really interesting little bits of heritage here.” They are not necessarily on the heritage register, but they are places which can add interest and character and attractiveness.

With the Ginninderry development, they are saying, “There are a lot of quite interesting things here. Come and live here, guys, because you can establish roots. You can feel like you belong and that there is something more to this place than just asphalt and concrete and new houses.” It does not take a lot of creativity to say, “How can we best use the heritage that we have got, rather than just wipe it all out?” which is far too simplistic. I am sure Gary will have a comment on that.

MR COCKS: Mr Kent, I do not know if you want to comment on the same issue.

Mr Kent: I agree. There is by no means a necessary conflict between heritage and development. I refer to another example, and that is the Canberra Brickworks in Yarralumla. That is a very precious piece of Canberra industrial heritage. We do not have a lot of industrial heritage. The community are working with the developer and the government in a very cooperative way to achieve what we think will be a very special result there.

It has not always been so. The government is now moving towards a paradigm where it does have a good system for working with developers and the community in relation to heritage assets. I think a similar approach is being taken in relation to the Kingston Arts Precinct, and there are others I could refer to. Again, we think that, despite that, there are still too many heritage assets being removed because some developers are either not complying with the rules or the rules are too weak. We have

identified some examples of that in our submission.

We think that the new system should provide greater penalties for developers who do not comply, but at the same time we are hoping that, with additional resourcing, the heritage unit and the Heritage Council can come to decisions at a much earlier point in time on assets that are worth preserving for the community in the long term. One example regarding penalties, which is not directly related to development, is that recently there were a number of Aboriginal trees destroyed. The legislation has recently been amended to strengthen penalties for that sort of activity. We think that could be broader, in turn, for the development sector as a whole. Many developers are doing the right thing; don't get me wrong.

THE CHAIR: I just have a question which may go a little bit to climate change and also to the proposal for an ACT heritage strategy. Professor Hansen, in her submission, speaks about the heritage register. Currently, our register in the ACT has no thematic organisation. She said that in New South Wales they break down their register into different categories, and Victoria has about nine themes relating to Victoria's heritage. Do you feel that something like that, some in-depth categories on the heritage register, would be helpful?

Mr Kent: Our heritage register is very basic. If you look at it, it is an older generation webpage. It is essentially a spreadsheet, really, with attachments. As you know, it is arranged in alphabetical order by suburb. We think that there are many ways the register could be enhanced. The ability to sort it in a thematic way, we think, would be wonderful, absolutely. We know that the government has provided funding to enhance the register. Thematic arrangement would be a really good thing. It would increase people's ability to understand what is going on in ACT Heritage. It would enable you to review nominations, for example. At the moment it is impossible because of the arrangement.

Mr Swain: I would agree with that—perhaps not so much a thematic arrangement but the ability to interrogate the register in the way that you might some sort of basic database, where you can say, “How many nominations are outstanding? How long have they been outstanding? What sorts of nominations are being delayed for unreasonable lengths of time?” It is more about the ability to create reports that inform policy and would inform the Legislative Assembly and the committee about how things are going.

THE CHAIR: More transparency in the activities of the council?

Mr Swain: The register is just part of the activities of the council, in terms of nominations, but it would be good if there were themes: “Have we got a good representation of certain sorts of places and objects and cultural situations on the register?” What those themes might be would need to be sorted out and then the register organised to see whether there are big backlogs in one particular theme or not. So, yes, it is not a bad idea because it would help with reporting.

Mr Kent: It would give the ability to generate maps, for example, too. At the moment, it cannot do anything like that. The ability to better track where nominations are up to would be helpful. For example, there was a nomination for the heritage register of the

Kingston and Manuka precincts many years ago, but it is difficult, looking at the register, to work out exactly where that is up to and what the problem is with it proceeding further.

As we said in our submission, the heritage register may provide the opportunity to map Aboriginal heritage in the ACT better than is done now. Of course, you would have to be careful. The more specific you are, the more risk there is that there might be people who use that for other than the intended purpose. The heritage register could be enhanced in so many ways, but a thematic approach would mean that you can easily identify gaps. For example, one category of heritage is modernist housing after World War II. There is no easy way to get into the register to work out how many buildings that are classified fall into that category, if any.

THE CHAIR: Excellent. On behalf the committee, thank you both very much for your submissions and for giving evidence today. It is very helpful.

Mr Swain: Thank you for the opportunity.

Mr Kent: Thank you very much.

Hearing suspended from 10.21 to 10.34 am.

REID, MS SARAH
BLAIN, MS AMY JOWERS
MANNALL, MR GRAHAM

THE CHAIR: Welcome back to the public hearing for the committee's inquiry into the ACT's heritage arrangements. The proceedings today are being recorded and transcribed by Hansard and will be published. The proceedings are also being broadcast and webstreamed live. When taking a question on notice, please state clearly, "I will take that as a question on notice." This helps with the transcript of the hearing.

I will begin with the session 3 panel. I welcome Mr Graham Mannall, Ms Sarah Reid, Ms Amy Blain. I would like to start by reminding witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. I would ask you to confirm that you are all appearing as individuals, and that you understand the implications of the statement and agree to comply with it.

Ms Reid: Yes.

Ms Blain: Yes.

Mr Mannall: Yes.

THE CHAIR: Fantastic. We will start with questions. The big question that relates you all to one another is the issue of solar panels on heritage buildings in the ACT. Would you each like to give a little bit of context to your experience with this issue, and have any of you had a resolution to this?

Ms Blain: I will defer to Sarah because she has been fighting this battle for a decade.

Ms Reid: Thank you for the opportunity. I have been talking about this for a very long time. We first started the conversation in 2008 and my daughter is now nearly 15, so this might be an intergenerational discussion eventually. I almost wonder what is going to happen first: peace in the Middle East or solar panels on my house. I am not a betting woman, so I do not know.

It is great to be able to talk about this today. Obviously, it has been an issue for lots of people. I do not quite understand why something that really should be pretty straightforward has been so intractable. We have had about three cracks at it. I am a bureaucrat, so I have upmost respect for the bureaucracy—the role it plays is critical—but I do not quite understand why the pace has been glacial. We find it very hard to get responses. The time line has been very difficult. The process has been really cumbersome.

We had a couple of different experiences. On the one hand, when we followed advice, there was a back and forth that was very slow. We ultimately put in our Statement of Heritage Effect. That required more technical information from our solar provider. We have been through three at this point. We are very fortunate that people are putting so much solar in—solar providers are possibly the busiest businesspeople in

Canberra—but it is a real imposition on them. A fair amount of detail is required in the answers, it is something they do not make money on, and they have to guide us through the process. We would fill in the Statement of Heritage Effect based on information shared by our solar providers and that goes to the panel. There would be a long time between meetings. The panel would finally meet. They would refuse our application at that point and come back with a whole series of further questions, which we would then have to defer to the solar provider, who obviously is very busy. You get about two cracks at that before everyone just falls off and it is too hard.

This is a situation where we actually meet the policy requirements to put panels on. We clearly have no alternative practicable orientation, and I think that is conservation policy 1. Anyway, what was most effective was that we finally managed to get everyone to agree to be in the same room. We had Dr Heffernan, the previous head of the panel; our solar provider; ourselves; and a representative from the department, and we all got on the same conversation. That was game-changing because it meant that there was not the six-month lag time between questions and answers and people's availability; you could do it on the spot.

Hats off to Dr Heffernan who said he had come to the session thinking, "Clearly, we cannot approve this. You do not meet any of the criteria," but, because we could not provide the answers, the solar provider was able to say, "This is why you cannot do this. This is why you cannot do that. You absolutely cannot do this. This is the way that works." He said, "I have come away with quite a different sense of how this would be." It seemed to really finally be on a positive path, and I do not know what happened after that.

Ms Blain: Still no solar panels.

Ms Reid: Still no panels. At that point, there was a six-month delay in the department and then the panel was decommissioned or was moved on. I think there are solutions. There are really sensible ways of working through them, but they are just hard to get at.

THE CHAIR: Graham, do you want to speak a bit about your experience?

Mr Mannall: Yes. Mine is very different. We built a new house in a heritage area on a block that had never been built on. The heritage status was only interim when we did it, but we wanted to comply, and the result was we had to do a very long, tall roof with a 30-degree pitch on it. The house runs from east to west, so there is a very large north-facing roof. I have always been interested in sustainability and felt that, if we are trying to electrify everything, we should be generating as much power as possible, so I looked at the areas of my roof where you would not be able to see them at all from the road and put my initial application in.

One of the solar companies gave me the name of a lady who works in the approvals area in Heritage. I sent her an email. She said, "What you are proposing looks great. Send us the details," which I did, and I got the approval. There were delays in that approval, and I missed the sun while waiting for them to come through and ended up getting increased costs because the credit values go down each year. But that was okay.

Then we started producing power and I realised that we were going nowhere near what we actually needed if we were trying to be sustainable, so I looked at the rest of my roof, which again is on the north side—it is the side that does not face the road—and put in another application. I waited around four or five months to get a response to that. I did not have to go through all of the detailed stuff that Sarah had to go through, but I did get a response back from them saying that they considered it.

I had requested an additional 15 panels. They said they would support me putting six up, but, regarding the other nine on the section of the roof closest to the road—and admittedly our houses are eight metres back from the road anyway and we are pretty close to the neighbour's house, so you do not see much of our roof—they said, “We would not support it.” I do not know whether “not support” means that, if we did it, they were not going to stop us or that it is an actual non-approval.

One of the things that I have noticed in trying to build a new house in a heritage area is the inconsistency of the approach that the Heritage people take to each application. What we experienced compared to what our other two neighbours, who also bought blocks at the same time, experienced were totally different. I also find that the Heritage people often get caught up in ridiculous minutiae in terms of what their interest is. We have some neighbours near us who applied to replace a pyracantha hedge, which is a noxious weed, and they said no. You look at it and you wonder why they spend so much time on these issues when they do not tend to have time to actually look at the more important issues.

THE CHAIR: Amy, do you want to—

Ms Blain: I have a similar experience with our roof—the skinny end and the pitch of our roof. We had a battle with Heritage. We did not want to compromise on having that pitch. We face perfect north on our plot, so we wanted to make sure we had solar panels, but we ended up having to dig down and across and having a bigger footprint so we could get the right pitch, which to me is just perverse. The argument was the streetscape and that it would have an impact. We actually have quite a long driveway, so it would not have had that impact. Also, I think heritage needs to be an evolving concept—that we need to prioritise people who are trying to do the right thing on sustainability and how that can sit with heritage, rather than one trumping the other.

We have ended up with a bigger footprint than we wanted. It takes up more space on our land. We were building a legacy house. We wanted to electrify, and that is the way that we were going to do it, in the right way, but we did have some incredibly frustrating conversations with Heritage. Although they have a shared portfolio, it was like: “No, sustainability does not matter. Heritage is everything.” We were also looking at whether we were going to have a double garage, which we decided not to go with, but it was not going to be workable for the space between the garage and the original, and they said, “Just knock down the original garage and move it back.” I said, “I am from the UK. We are not knocking down heritage buildings.” I also think it is quite perverse that in the heritage precinct you can do a knockdown rebuild and build as it was. That, to me, is not heritage. That is not true to the values of that.

It is so expensive to renovate those properties at the moment. It is so much cheaper for

people to just knock them down and rebuild than actually try to work with what is already there and keep the facade. The UK has done that really well, where you can keep the facade and you make the homes inside completely sustainable and energy efficient. So there is the blueprint there. Heritage in the UK is a really good example.

I found there was not any evolving concept of heritage; it was very rigid to the rules. Sarah could have powered her home for 10 years and put on more panels. If people who want to do that can, then, if they are generating lots of power, they can share that with the community. That is what we should be doing, rather than standing in the way of people who really want to do that. They could sit together, and we need to evolve the concept of heritage.

Ms Reid: It is a very “tick the box” sense of heritage, is it not? Heritage is so important. That is why we live where we are. We have stupidly restored inside and went back to the original features. We think it is important. Heritage is a letter to the future, is it not? It is saying, “This is what was happening at this point.” But, as you say, Amy, it does not stop. Heritage did not stop in 1927. Heritage evolves, and this is how we live. Solar panels are an important story in our ongoing history. I remember having the conversation with Dr Heffernan, saying, “I know what is going to happen. You are going to let us put solar panels on the roof, and 20 years from now the technology will evolve and you will not let us replace them because they are heritage!”

The punishment for us also, as I said in our submission, has been in trying to stay within the rules. We started this journey a long time ago. What we should have done is what other people in the neighbourhood did—just smashed the roof with panels—and we would have been well ahead. I am sorry I am a rule follower. It is sending the wrong message about rule of law and the role of government. It is saying, “Actually, the only way to work within this system is to ignore it and just do your own thing,” because there really has been no incentive in this case to work within the legal framework.

MS CLAY: Thank you, everyone. That was wildly entertaining and extremely well put. It certainly sounds like we need more of a concept of living heritage, evolving heritage, sustainable heritage. We have really clear government policy now to transition off gas and electrify everything. That is really clear. We have not yet got to this stage with chargers, but I am willing to bet chargers will be the next solar panels in heritage areas that we will be dealing with. We have had some really clear stories of exactly what happened.

I was really interested. Our last two witnesses were from the Canberra and District Historical Society and the National Trust. They mentioned that they thought there was maybe a need for explicit recognition of climate in heritage. They brought it up in the building reuse adaptation context. They were saying that unfortunately there is a bit of an incentive to knock down and rebuild, and that is not great for climate. That is not great for embedded emissions and embodied energy. It is interesting that we have had a similar message—“You can knock down that garage and rebuild it”—which is not great for heritage, but it is also not great for climate. Do you think we need some more explicit recognition of climate, either in the skillset of the people working in this or in the framework, so that we are actually making more intelligent decisions about how to

do it?

Ms Blain: Yes; absolutely. We come from climate sectors, so we fully understand that. If we are moving people towards electrification and coming off gas, we need to make sure that climate is number one, and then everything else. That also should apply more generally outside of the heritage precincts. We were just discussing how you have houses which are being built with massive footprints for just one household, taking up the entire block, which is obviously also a concern in terms of climate. We are losing our green spaces, and those properties are huge and they do not necessarily have fully electric features to them. There are so many that are being built in Ainslie just outside of the precinct that do not have solar panels and are not off gas. You have to have that skillset across all planning, particularly on heritage, to say, “How can we make them work together?” but we also need to watch those houses just outside of the precinct which are also doing things that are not climate-friendly.

Ms Reid: I think both of those things would be really constructive changes, but I wonder if it is enough, being in the situation that we are in now, where we have policy that allows us to do the things that we want to do and they are not being followed. I mean, we have a government that is very committed to sustainability, so we have all the right settings for this to not be like this, and yet it still is. While both of those would be excellent developments, something is going on in the culture where these decisions are being made that does not seem to reflect any other aspect of the context of our environment. Maybe it is a training issue. It is such an unusual situation and begs the question: “Why on Earth is it like this?” I think both of those would be useful.

MS CLAY: Implementation operational is probably more—

Ms Reid: Clearly; yes. There is the fact that we have all got these crazy stories. It is not good practice. Something is going on for it to be this sort of Kafkaesque nightmare. It is something that should be relatively straightforward.

MS CLAY: Graham.

Mr Mannall: I have a few points that I think are worth adding to that. I have been told by several people—and this has been relayed to them by either their designers or their builders—that it is usually better not to ask for approval; ask for forgiveness afterwards. That goes to Sarah’s point: there are a lot of people who just go and do this and there are no consequences. There is a balance that needs to be arrived at here, and I do not think that we have the balance quite right. For example, we have a genuine heritage house right next to us which is called Beaufort House, which is a steel box that was a kit home brought out from the UK. It has about a 12-degree pitch on the roof. The Heritage people forced us to do a 30-degree pitch on our roof. We tried to make a house, even though we knew ours would not have heritage value, that would actually fit into that sort of area.

The guy who bought the block next to us sat on it for 10 years and then ultimately sold it to somebody else. How he did that is another story. The people who bought it then went to Heritage and said, “We want to build a new house.” Their experience was totally different to ours. They wanted us to have a garage down the back. When we convinced them that the block was too small and narrow to be able to do that, we

were able to have a garage. They said, “We only want you to have a single one.” We said, “That is not practical.” They finally agreed for us to have two, but they had to be offset.” They were not concerned about how big our house was. The key thing was we had to have the really high roof. The last thing, which was such a joke to our designer, was that they wanted the design for our letterbox. I mean, seriously!

Ten years later, the people next to us wanted to build an eco-house, so they applied to the Heritage people, and they were told to come up with a new dwelling—because these had never been built, we do not actually have heritage listing on our blocks; we are just in a heritage area—that is sympathetic to the heritage values of the area, and then they designed a house that is completely modern in every sense of it. It has Colorbond that goes all the way down to the ground and it has a single double-garage lift-door. That was okay. The thing that they pushed them on was that they were not allowed to exceed the plot ratio. They did not tend to care about how big our house was. The thing that I think got them over the line was that they said, “We will do a feature wall of recycled old Canberra bricks”—the only thing that had any real connection back to any heritage. The way they did that was in a completely modern sense. That house does not fit in. Our house dwarfs this tiny thing that is next to us.

You have to look at the way that they come up with these rules. There is no consistency about what they do. What would be really good is, for example, not needing to get approval if, say, you are putting your solar panels on a side roof or a rear one. If it faces a road, maybe that has to be looked at by the Heritage Council. You need to simplify it. At the end of the day, they are not going to do anything about the people who are just doing this. The only people who are being penalised are people like us who are trying to actually do the right thing. We end up getting frustrated, the cost increases, and there are delays, and for what benefit? I do not think we are getting that balance right at the moment.

MR COCKS: What I want to ask about is how well you think you were informed about the impact of being in a heritage area before you bought into the area. Maybe that flows into a larger question: do you feel that you actually understand what the rules are now? I am happy to—

Mr Mannall: Can I answer that first? We bought, as I said, a vacant block of land as one of three that were sold in a heritage area just as they decided to create the Wakefield Gardens precinct. It was only an interim heritage listing at the time. Did we understand what was involved? No. It ended up costing us about an extra \$50,000 in construction costs to comply with what Heritage wanted us to do.

One of the other people who bought one of the blocks at the same time got so frustrated with the Heritage people that they sold the block. The person who then bought it, who happened to work in the local supermarket, came and asked me how we got through that process. I explained to him who we used as a designer. He saw them and essentially just ignored all of the heritage rules, because it was only interim, and built what would have been a modern house at that time. The third one, who did it 10 years later, was a set one, but, again, you have to look at what the heritage thing is really about. The whole nature of Wakefield Gardens was to bring the bush into the city, keeping the corner parks and keeping the setbacks, but then they went around and took photos of the front of every house that was there and, if it existed at the time,

you were told you had to maintain it.

Some of them are definitely good enough that they should be cared for, particularly Beaufort House and the bus shelter that has its own unique characteristics, but, for a lot of the houses there, seriously, there is very little value at all. They just happened to have been there and therefore they somehow got caught up in that process.

Ms Blain: When we bought ours, we did know that it was in a heritage area. We were not quite aware of all the restrictions, but we did work with a designer and we actually went through the heritage advisory architects. They said that they did not see it as a problem. It was only that it then got rejected when it kept going through. They wrote a letter supporting our focus on sustainability and heritage, and it still got rejected. We did a mock-up and it was still rejected. We have done everything. The whole concept of streetscape I find quite interesting. As Graham was saying, when you go around our street, if you have issues with what the houses look like, the heritage aspect is not the only concern. There are also some issues with what the streetscape looks like. It is not: "Ours is going to be a well-maintained house." Not necessarily all of the houses along there are being well maintained, so the concept of "We do not want to damage the streetscape" is quite interesting.

Ms Reid: They have not looked at it.

Ms Blain: You might need to look at some other housing issues that are going on in the street if you are going to restrict people who are trying to do something which is sustainable. We had a meeting with some of the Heritage staff at the time and it was a very black and white conversation. I thought, because there was the joining of heritage and sustainability, that there was some wriggle room, and they said, "Absolutely none." What? We are in the middle of a climate emergency. Why is there not? They said, "No, that is just on the commercial side," but it seemed to be very at odds with people who understand heritage and want to preserve their homes.

We have taken all the paint off ours. It had very thick, grey paint on it and we did not want to paint on it again, so it is now back to the original red bricks, which is gorgeous. It cost more money, but that is what we think is heritage, sitting with the modern back bit which is the sustainable aspect of the house at the front. Ainslie itself is very strong on heritage houses. There is a very strong community who thinks heritage should trump everything, and I am one of those who sit on the side of, "Heritage is great. We also need to have homes that are as sustainable as they can be," which means sometimes we will have to be flexible on how we interpret heritage.

Ms Reid: Our experience is pretty similar. I wonder if it all goes to the question of balance that has been mentioned. I am not quite sure why the judgment is so difficult. It is inconsistently applied and it is sometimes a tick-the-box exercise. Heritage and sustainability are not black and white; they have levels of complexity. It seems to be very difficult to manage those different tensions. Our experience was very similar. We bought a house in, I think, 2007. We also went to the heritage architect to get advice. The heritage architect also helped us with the submission to the Heritage Council, recommending the one row of panels on the only orientation that gets the sun.

Interestingly, we built a small extension on the back. The original proposal by the

heritage architect was far too modern for our liking. The whole point of us moving into a heritage suburb was that we wanted to be consistent with heritage values. Aesthetically it is beautiful and historically it is important. We did not have too much trouble doing our extension, but it is not visible from the street, and maybe that is part of that tick-the-box exercise—“You fit in that category, so we actually do not care what you do.” We are fortunate in that we respect these principles. Inside our house, it is a love letter to 1927 in lots of ways, and we have restored it back to original features.

There was your question about how much information we had. None, basically. There was no information. It is obviously incumbent on us to do our own research and understand what the circumstances are. The appeal of a heritage suburb is also that it is a green area; there is a lot of tree cover. It is slightly cooler than other areas where everything is built out. We have also tried to really respect that, but those somehow do not seem to be criteria that are taken into consideration when making heritage decisions.

I am sorry, the second part of your question was—

MR COCKS: It was about understanding. It sounds like there might be a need for clearer communication about what the standard is that you are trying to meet.

Ms Reid: Is that it? I feel like the standard is being so inconsistently applied. I think the issue is the standard itself.

Ms Blain: Yes. We were going down to paint colours that are approved. The rules under heritage sometimes would not necessarily be easy to communicate until you start going into them. You get the people who advise you on it, like the heritage architects, who say, “You can do these things.” I found that the conversation we had with him was so helpful because he was working with us on how we could get the design but still meet—but then it confused me that the advice went to review and the answer was no.

Ms Reid: It is ignored.

Ms Blain: Is that not why you have this person who is giving heritage advice as an architect, to marry those two ideas together? But they said, “No. We are still going to say no to that.”

THE CHAIR: Was the heritage architect within the Heritage Unit, not the council? Is that how—

Ms Blain: We were advised to—

Ms Reid: I think it is subsidised. The ACT government—at that point, anyway—subsidised. They are a private firm, but they work with—

Ms Blain: They suggest you go there to check before you put your applications in. If it needs approval, it is slightly different. We went because we had the sustainable design that we wanted to put in place. He did not see that would be a problem. He said

that, as it is at the back, it should not affect the streetscape. We did modelling and stuff, but it was very black and white. There was a conversation with the team. There was no point in having the conversation. They said, “Absolutely not.”

THE CHAIR: Do you think that, if you receive advice from a government-endorsed heritage architect, the process should be expedited?

Ms Blain: I think so, because they understand the rules. We had all the requirements. They said, “You will need to do these different things,” and we said, “Yes; sure to all of those.” Then you hope that should make things easier to marry the two ideas—

Ms Reid: Why have it?

Ms Blain: someone who understands it and says, “These are the rules.” Yes; exactly. Why have it? We had this lovely conversation on the plane.

Mr Mannall: Could I add a little bit to that. If you read what is actually set out in all of the individual heritage requirements, they are very detailed. That is potentially where the problem is—when you read through all those things. I do not think that they need more in those sorts of areas.

If it is stuff that is not significant and they are not going to enforce that somebody has done it wrong, then I think you have almost got to say, “Where is the balance with not needing to go through all of those processes?” At the moment, the reality is that you get a specialist architect, you put all of the time and effort into all of that, you seek the approval, you then get the frustration, and you get the answer no, and for somebody who finds a cheap solar person, sticks solar up on their roof and says, “Oh, did I need to get approval? I did not know that. Sorry,” nothing is going to be done about it. In many respects, I think we would be better off to get the balance right and say, “For a whole lot of these things, provided you meet these sorts of criteria, maybe you do not need to get approval. You can just do these things.”

Ms Reid: Also—if I could flag this too—on the question that goes to the culture and the issues around implementation, I agree with the expedited process when you have done what you have been asked to do, but, when there are opportunities, part of the problem has been that everyone operates in parallel processes and no-one talks to each other. If there are formal opportunities to bring all parties together—the builder, the engineers; whoever it is that you are using in your services—everyone can have a conversation in the same room at the same time so you can actually get your questions answered on the spot by a person who has the knowledge. Otherwise, it is like spaghetti. I would just ask for that be considered.

Ms Blain: Also, on reviewing things, in the heritage precinct in Ainslie you have to tar your driveway. Ours needs to be redone, but I really do not want to do a big—ours is a very long driveway, and it is going to be a nice black heatsink. That does not make any sense to me. There really should be an alternative, but obviously I am not prepared to have that battle just yet. I cannot afford to either. I do not have any money for that. No, it is fine. The driveway is fine.

THE CHAIR: Hopefully there are some recommendations that come out of this that

may assist that process.

Ms Blain: I will just wait here.

THE CHAIR: Thank you very much for your time today. We really appreciate your input into this process. On behalf of the committee, thank you.

Ms Reid: Thank you.

Ms Blain: Thanks for your time.

Mr Mannall: Thank you.

Short suspension.

LAVELLE OAM, DR SIOBHAN, National Executive Committee Member, Australasian Society for Historical Archaeology

THE CHAIR: We will begin the next session by welcoming Dr Siobhan Lavelle OAM from the Australasian Society for Historical Archaeology. I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Could you please confirm that you acknowledge the implications of that statement and agree to comply with it?

Dr Lavelle: I have read the witness information and I do understand the requirements around appearing at this hearing.

THE CHAIR: Thank you very much. To start off, could you speak to historical archaeology in the ACT? As someone who has not worked in this space, or has very little knowledge, can you provide a bit of context for the committee on the archaeology of the ACT and where you see there needs to be reform?

Dr Lavelle: Overall, we felt that the objectives of the current ACT are appropriate, but we do think that there is a bit of a gap there in terms of managing historical archaeology.

When we talk about historical archaeology in Australia, that is the archaeology of European settlement and colonisation, and obviously it includes the impacts on and the interactions with First Nations people. So, basically, we are talking about the archaeology of the historic period, the past 200 years or 250 years in most of the eastern seaboard of Australia.

The ACT was, obviously, formed as the result of the decision for Federation and it was created out of the older existing state of New South Wales. So, in terms of archaeology, there is the archaeology that pre-dates the formation of the ACT itself and we think that in that time line, in terms of the 19th and 20th century, there are some significant sites.

But, when we look at the ACT Heritage Register, there are very few places that are actually identified specifically for historical archaeology values. In fact, I had difficulty finding any, although there are obviously some earlier homesteads and earlier occupations. We would expect those values to be there but they are not necessarily recognised, identified and stated in the register listings.

We also noted a few examples. One of them that springs to mind was a forestry camp. That oldest part of that forestry camp was actually established in the 1890s. There was a school site there. It is called Uriarra Forestry Settlement. That forestry settlement was established in the early 20th century and had a range of different houses on it. The people were living in, really, a self-contained settlement.

It ended up becoming public housing, which was just one of those strange transfers of government departments. It was nominated for provisional registration, but then those terrible bushfires of 2003 happened. So that particular site did not actually get registered because it was destroyed by fire.

But the point around the archaeology of that place is that the settlement started in the 1890s and so we would expect that there is archaeology and archaeological potential around that that would then be built upon in the 20th century. Because of the fires—and because the place was not registered—there was a clean-up after the fires and bulldozers came in. This was all very understandable, but what I am saying is that there is a gap there because there was no vision of, for example: Does this place have archaeological values? Is there a way to investigate it before it is bulldozed et cetera? That is the kind of thing that we are talking about—the earlier occupations but also the occupations that continued through with the establishment of the ACT.

THE CHAIR: Thank you very much.

MS CLAY: Dr Lavelle, you made a few recommendations about governance which I was interested in. You said that New South Wales recently removed ex-officio members on their New South Wales Heritage Council. You also spoke about whether the Chief Planner and Conservator should be on there and whether they should be voting members. Can you talk me through your views on that?

Dr Lavelle: Yes. I suppose it is about the nature of government departments working with other government departments. One of the things that we have seen in the other jurisdictions is that most of them have moved away from voting positions, because what one government department wants to do in terms of its core business and its mandate may be different from what another government department may want to do.

Some of those things are obviously resolved higher up between ministers and cabinet. But, basically, whilst it can be a very good thing to have ex-officio positions from expert departments that provide advice and can give the views of those other departments, we actually felt that they should not be voting positions.

For example, the New South Wales Heritage Council had a range of government positions until about 10 years ago. They were from National Parks, the Department of Planning and the Government Architect, and all of those people had great expertise. But, in a slimmed down version of the New South Wales Heritage Council, a number of the ex-officio functions were taken away and the other positions were made non-voting.

There is still an opportunity for the views of another government department or priorities—things that may not yet be public knowledge—to be communicated to the Heritage Council and the Heritage Council could be aware of those things in its decision-making.

For one department to be voting on a decision that is being made by another independent expert body, just seems to be a bit of a potential conflict.

MS CLAY: That is a good point, and it has been made by other witnesses and submissions too. It is interesting to me that you can see models around where information could be shared quite well. In any planning decision there will be lots of things that have to be balanced, including heritage. That can be balanced somewhere else; it does not necessarily need to all be done on the Heritage Council. Is that—

Dr Lavelle: That is exactly right. Really, ministers have responsibility, if you like, to promote the authority and the aspects of their portfolio. The Heritage Council is providing advice on heritage. But the planning system generally is trying to balance everything—what I would call furrys, fluffys, heritage, noise, air quality; the whole lot—but, really, the remit of the Minister for Heritage and the Heritage Council should be about the heritage values. You do not want those decisions being curtailed inadvertently at some point for some other factor when, in fact, a recommendation should be made and the minister, cabinet or government itself should be looking at all the advice and making the best decision for the people of the ACT.

MS CLAY: Thank you.

MR COCKS: Your submission goes to expanding the remit of the Heritage Council to be able to consider issues of local significance. I wondered if you could speak a bit more to that and how that might work in somewhere like the ACT, which is a bit smaller than other jurisdictions.

Dr Lavelle: One of the things that is quite obvious in looking at the ACT is that local level is not there and, obviously, you also do not have local government. The bigger jurisdictions—New South and Victoria, on the eastern seaboard—have their own separate responsibilities for managing that level of heritage.

There is obviously a need there for a link with the planning system. There will be things that may not make that threshold of territory level significance, but we felt that there are going to be other places that will be of value to the community in the sense of local context, local character and local neighbourhoods. We felt that it would be quite worthwhile for the ACT to look at investigating that, bearing in mind that your governance circumstances are different from those of the bigger jurisdictions.

It seems that, if there is a decision about registration and that threshold is not met, then there is no fallback. I certainly take your point that the size of the jurisdiction is very different. But there does seem to be that gap there. I think the main link that would be required there would be planning. One mechanism could be referral of plan proposals to the Heritage Council, but there would be other mechanisms that could be looked at for how we might modify what is happening in adjacent jurisdictions, if that is an area that is of interest to the ACT in heritage management.

MR COCKS: And are you aware of any examples where this may have come up previously or would be likely to come up?

Dr Lavelle: Not specifically. I have done work that has been very close to the borders of the ACT. By way of background, I used to manage the archaeology permits in New South Wales, and we had some of the growth areas around the edges of the ACT. New South Wales is different in that, in New South Wales, the archaeology of local significance is managed by Heritage NSW along with archaeology of state significance.

So we had situations where, because there were new suburbs and expansion happening right on the border, we would be issuing a permit. There were things like

early settlers huts—again, places that went back earlier than the formation of the Australian Capital Territory, but these places had a value. We issued archaeology permits for those places to be investigated. We would have requirements around interpretation of those places for the public going forward if an outcome or an offset from that development was that there was something provided to the community about the history of the place and the archaeological investigations.

MR COCKS: Thank you.

THE CHAIR: In your submission you talk about excavation permits and how there is currently no information or transparency in that process at all. Can you detail a bit more about that and where we should be in the ACT regarding excavation permits?

Dr Lavelle: I probably should tell the committee when we prepared our submission, we obviously looked at the act and the terms of reference but we also consulted with ASHA, a national organisation, and our members who are in the ACT or who have worked under the ACT legislation.

A lot of the feedback that we got was about the ACT Heritage Unit being in a bit of a resource constrained environment and that it was difficult to get feedback. For example, there are requirements in the act that the work or the application for work under a permit has to be justifiable, but there is not good guidance or criteria around how you would justify that that archaeology needs to be done.

Also, there is not very good communication out to the local community. I am sure you have submissions from some of the other interest groups here, who are interested in the topic of historical archaeology. It is quite difficult for people to understand what is being sought, what the requirements are and what will be delivered if a permit is actually achieved.

Our understanding is that it can also be quite difficult to get timely access to historical archaeology advice. For example, if I am a proponent of a development and I need to work out what my issues are or what my requirements are, it can be quite difficult to actually get access to advice about historical archaeology and what my requirements might be.

In the case of the other government departments, which we mentioned before, there needs to be an awareness for those departments about what their responsibilities are for heritage management, especially in cases where it will involve historical archaeology—so my example of the forestry settlement that was removed. That is good decision-making in terms of a big event has happened and the settlement is not needed and the community needs to move on, but there can just be this gap there where you need access to that advice and good communication about requirements.

Again, from my experience in New South Wales, we have a number of guidance documents specifically about the permit process but also about, for archaeologists, who can hold a permit, what the skill set is that you need to hold a permit, how that permit would be assessed and indeed, if you were to not get a permit, what an appeal process would be. It is quite rare for us to refuse permits in New South Wales but, if you did not get one, what is the right of appeal?

THE CHAIR: Thank you.

MS CLAY: Dr Lavelle, a number of our witnesses have made comments about resourcing, as have you. Can you tell me what your experience has been with regard to the adequacy of staff in the unit?

Dr Lavelle: One of our concerns, as the society—and its remit—is that we understand there has not been a qualified archaeologist within the unit. Again, when you look at the act and the process that is described for permits and the fact that they have to be assessed and signed off and approved, who is making that assessment? What are the factors and who has the skill set to understand whether the work is needed or justifiable?

In saying that, though, we did notice that when an interim Heritage Council was appointed, it did have two highly experienced archaeologists put on to that interim Heritage Council. We are very pleased about that, because there will be archaeology expertise within the council.

We believe a wide range of expertise should be available within the ACT Heritage Unit, through all heritage disciplines. But, obviously, with our remit being historical archaeology, we think it would be great if there could be an archaeologist specific position within that unit.

MS CLAY: That makes perfect sense. I am also pleased that we have those skills on the council itself. But you are saying that there is probably still a need to have skill sets, including archaeological skill sets, within the staff unit because they are making different decisions and they are working operationally.

Dr Lavelle: Exactly—and, obviously, they would feed information up to the decision-makers. It may be a combined position that can do archaeology of First Nations heritage as well, which we did not focus on in our submission, because of the remit of our society.

MS CLAY: Thank you.

MR COCKS: It does seem, from your submission, that there is a bit of a lack of clarity around the different roles of the Heritage Unit and the Heritage Council and where the lines are between them. Would that be a fair assessment?

Dr Lavelle: I think that is true. It is partly about communication. We understood from the feedback that we got in our consultations to prepare the submission that a bit of a current criticism about the unit was that it can be very process driven, that it is using some outdated kind of typologies and that it is not very proactive—that a place has to be registered, then you are seeking approval and then you are trying to negotiate your way through that approval system.

The other thing that we suggested in our submission was that, with more resourcing, the unit could be more proactive; the unit could be looking at things like a gap analysis of the register; and it could do a bit more community outreach. All those

things relate to resourcing.

THE CHAIR: Thank you very much for your time today, Dr Lavelle. On behalf of the committee, I would like to thank you for your attendance and for your submission.

Dr Lavelle: Thank you very much. Very best wishes for your work. It is very important.

THE CHAIR: Thank you.

Short suspension.

IRELAND, PROFESSOR TRACY, Professor of Cultural Heritage, University of Canberra; and President, Australia ICOMOS

THE CHAIR: Thank you very much, Professor Ireland, for attending our hearing today. You are attending from the International Council on Monuments and Sites. I would like to remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Could you please confirm that you understand the privilege implications of the statement.

Prof Ireland: Yes, I do understand the privilege statement.

THE CHAIR: Thank you very much. To begin with, you have quite a detailed discussion in your submission on First Nations heritage. We have just heard from the Australasian Society for Historical Archaeology, who said that their remit does not go to Indigenous heritage; it is just looking at colonial heritage, really. In your submission you talk about how our legislation is based on outdated concepts and understandings of Indigenous heritage. I was wondering if you could speak to that and to what we should be doing to improve that intersectionality between heritage and Indigenous heritage.

Prof Ireland: Great question. Thanks very much for the opportunity to speak to our submission. I might just say, by way of background, that we are a membership organisation, a global organisation, so our submission was prepared as the result of a consultation process through our membership. That is the reason it is quite in depth and covers a very broad range of areas.

One of the challenges ICOMOS is dealing with currently is the rapidly developing and changing nature of public policy around First Nations not just heritage but culture, self-determination and participatory processes across the board. It is a challenge for our organisation and every other organisation. It is also a field in which we are seeing very rapid change—which is a great thing—in the way in which this area of public policy and governance is approached. We now have a wide range of First Nations professional people active in the field. We need more, but I think the growing number of First Nations professionals is one of the reasons why this area has been changing.

As you know, there have been significant changes in the ACT recently around the perceived roles of registered Aboriginal organisations, who has the right to speak for country and how that process can be played out, and how the consultation required for that can be played out in the public domain.

ICOMOS is recognising a challenge. We know that legislation is slow to change and that with public policy there is always a lag in catching up to changes in the broader society. We mentioned in the submission a number of strategic documents that have been prepared in other jurisdictions that are pointing in a number of directions and that might assist how the ACT might adopt similar processes. For instance, the function of the registered Aboriginal organisations may need an update and a different process may need to be embedded.

What I should have said at the beginning is that this process needs to come from the

traditional custodians and First Nations people themselves. There is a very positive history of working with First Nations people to embed a range of cultural protocols and approaches in the area of public policy here in the ACT and I think that should form a strong foundation to build on that. But there is no way of getting around the fact that it has to be a process that plays out over a period of time and that the people who speak for country need to lead that.

What we are looking for in, any review of heritage legislation, is embedding that process of empowerment in any new processes that are developed. I think the words we used in the submission were around the fact that, at the moment, reasonably traditional approaches to heritage significance are framed up in the legislation and in the processes that follow the legislation. It is time to review those processes, because they tend to lead to a focus on archaeological significance and other more discrete silos of significance, when we now know that a First Nations approach to heritage is more holistic and tends to bring together the tangible and the intangible. We need a process, I think, that leads to that type of significance assessment being undertaken. There is no excuse, really, to fall back onto the old trope of a site-based approach.

THE CHAIR: That is exactly what my follow-up question was going to be. Because of the framing of your organisation being monuments and sites, you must have grappled with that regularly, the shifting idea. There are songlines and storylines, and there is country, and they are not necessarily a particular site.

Prof Ireland: Exactly.

THE CHAIR: Do you have any further advice on how the government could do that? Might that be via statements, as you said, clarifying that heritage can be all these different things?

Prof Ireland: Yes. We have picked up on a key dynamic in our international organisation. Australia has had a national chapter of ICOMOS since the 1970s, and one of the concepts that my fellow Australian members at that time introduced to ICOMOS was of place rather than monuments and sites. That concept of place is articulated through our key doctrinal document, called the *Burra Charter*, which is a policy statement and approach to heritage that has been reviewed several times over the years but is actually a very influential document all around the world. In framing up this idea of place, it sets out an approach that sees human values, natural values, stories, meanings and beliefs as entangled and experienced through place. The *Burra Charter* has stood the test of time. As I said, it has become very influential in many other countries around the world.

THE CHAIR: Would you be able to send that to the committee?

Prof Ireland: Of course.

THE CHAIR: Will you take it on notice?

Prof Ireland: Yes.

THE CHAIR: That would be great.

Prof Ireland: That is one approach that I think embeds some possible directions. Another framework that has been influential in Australia and in other jurisdictions around the world is the concept of the cultural landscape. The cultural landscape harkens back to that idea of place that I was just speaking about. It is now a category recognised under the World Heritage convention. The Australian government recently announced Australia's latest nomination to the World Heritage convention, which is the Murujuga peninsula site in Western Australia. It is being nominated as a cultural landscape, as a place that is shaped and experienced through traditional law, through songlines and through language, as well as through the tangible—the rock art and the other aspects of the landscape.

There are enormous amounts of research and studies that give a lot of framing in that sort of academic sense. I am sure that dialogue with First Nations people in the region would very much give a local flavour to how that might play out in the region.

MS CLAY: Professor Ireland, thank you for your submission. I think the participative, consultative way you have put it together really shows. There is a lot in there, and I thank you. You have said a lot that interests me, but I probably only have time to ask one thing, so I thought I might ask you about statutory time frames on decisions, and delays. There was a bit of material in there about that. Can you talk me through your views on that?

Prof Ireland: Yes. I am not somebody who deals with the regulatory process as part of my day-to-day work as a professional. I am somewhat apart from that. I do heritage research for a living. But, yes, very much a common point raised by our members was the difficulty of doing good work for the community in the absence of clear information and communication around these time frames.

For instance, I think we made the point in the submission that one could lodge an application and there was not an automatic receipt notification of some of those applications. I know that there are statutory time frames for some processes but not all. Because of the pressured way in which work is carried out when you are working on a development project, time frames are everything and crucial to good working relationships between the different parties involved.

What I am hearing from our members is this desire not only for you to reform processes, to simplify processes so that they are not so demanding and time consuming, but to have that contract between the stakeholders around how progress and delays might be communicated, how to make that transparent, so that everybody is on the same page.

MS CLAY: That sounds very sensible. So it is partly about communicating the time frames and telling people when there are delays, and partly about making decisions—whatever those decisions are—a bit more quickly.

MR COCKS: I want to turn to a related matter. There is nice articulation in your submission on the challenges with the clarity of roles, as well as responsibilities and resourcing. I wondered if you could speak a bit more to the impact of the lack of clarity your members are seeing?

Prof Ireland: Yes. That is a big question, isn't it? People's experience of that lack of clarity has evolved over time. The accounts by our membership that have been embedded in our submission are really talking through, in some cases, many years of experiencing that. Roles and responsibilities can get blurred, and different personalities can administer the same responsibilities in different ways and with different styles. I do think there is a level of complexity there.

What I would like to say in relation to this question is that, obviously, any kind of reform agenda would look at re-categorising and clarifying roles and responsibilities. I think everyone has noted this lack of clarity between the Heritage Council and the ACT heritage unit on who should be doing what and where the responsibilities should lie.

But there is a broader dimension to this, and I think it lies in the lack of an overarching strategic approach for heritage in the ACT. What we have seen described is very much a process-driven approach, where people are trying their very best to excellently work through a governance agenda and to do a good job on the assessment of regulation processes. I think that, because there has been little in the way of a strategic framework, even a very broad mission statement for what the government wants to see as the key outcomes from its heritage management processes and its heritage regulation, that makes it a harder management task to show people where their role in the process helps to achieve that overarching strategic agenda.

I note that there was some work done on a heritage strategy for the ACT some years ago, but I do not think it was finalised and formalised and promulgated as a statement. We would like to submit that a more outcomes-focused approach to heritage might assist in helping move beyond the weeds, if you like, or the detail that can sometimes become all-consuming. It becomes a task of working through that detail. If stakeholders could have a contract on what the outcome of the process should be, they might be able to work towards it more coherently.

The other thing we mention in our submission, just as a suggestion, really, is that some jurisdictions publish thematic histories or thematic agendas for what the organisation might like to focus on in its heritage management over the next five years, perhaps identified through a gap analysis or some other process and, hopefully, arrived at through a participatory inquiry.

Once again, how the item that is in question at the time fits into that more strategic agenda might help to clarify the process. If you have a heritage item that is in an urban character area, there might be parts of the process that are clearly more significant than if you are dealing with a heritage item that has broader forms of social significance or associative significance, because it is associated with a story the community are very fond of or feel is very important, as opposed to a place that contributes more to the experience of urban character.

I want to mention, if I can, the potential of linking more into the ACT's Wellbeing Framework and other public policy agendas, such as sustainability policy, and devolving some of the areas of heritage management into other policy agendas.

MR COCKS: So, rather than trying to pull all of those considerations within the heritage function, devolving some heritage consideration into other policy areas?

Prof Ireland: Yes; absolutely. We are doing some research on the topic of how heritage can be embedded in other policy agendas at the University of Canberra right now. We probably will not have outcomes until next year, but we are very happy to share them with you. The ACT has a very forward-looking Wellbeing Framework which sets up a framework for measuring the contribution of heritage to broader community outcomes: health, the economy, the environment. All of these things are relevant. Once again, that is a way of being more outcomes-focused about what we want to achieve as a community through our heritage management processes.

THE CHAIR: Your submission speaks to the relationship between the commonwealth and territory governments. That is not something that has come through a lot in the other submissions. Given that you are a national chapter of an international group, I am interested in this. I wonder if there are specific aspects of the intersection between the commonwealth and the ACT that really do need a sharp focus on?

Prof Ireland: I suppose the pointy end of that is the National Capital Plan. I used to work as a heritage consultant in a previous life, and it was a very common for complexity to be experienced. For instance, I did the heritage management plan for Lake Burley Griffin, and the tenure arrangements and the intersections between the local and the national framework there could be quite byzantine in some areas with having to flip between the two legislative frameworks.

Harmonisation should not be rocket science in this context, because you are dealing with the same objective, which is to appropriately manage the legacy of the National Capital Plan, the Burley Griffin plan. Where the difficulties have arisen has often been in the intersection of those areas. It is about how that vision might be enacted in the areas that are controlled by the ACT government, hand in glove with the National Capital Authority and the other stakeholder organisations—the national cultural institution, such as the War Memorial. They are all making decisions and putting forward proposals that intersect in that one frame of the plan.

MR COCKS: I would be interested in your comments about RAOs, registered Aboriginal organisations, and whether there is something that we can look at to improve their engagement.

Prof Ireland: I do not want to speak for First Nations colleagues on the future of registered Aboriginal organisations. I think we noted in our submission that that structure is perhaps not representative of how other jurisdictions are going forward in embedding that type of arrangement. I think the desired arrangement has to come through a process. We have seen a period of change and churn in the ACT. We know, because of colonial impacts and colonial legacies, that this is a cultural field where new connections are being made, new thinking is being brought to bear and emerging leaders and elders are moving into that space with new ideas. ICOMOS would promote a period of engagement and dialogue to empower the traditional owners and custodian groups.

THE CHAIR: Thank you, Professor, for your time today and for your submission to the inquiry. It is very helpful.

Prof Ireland: A pleasure. Lovely to talk to you. Thank you.

Short suspension.

CASSIDY, MS JANE, ACT President, Australian Institute of Architects
MARTIN, MR ERIC, Director of Martin and Associates, Member of the Australian Institute of Architects' National Heritage Committee, Member of the Australian Institute of Architects ACT Chapter Heritage Committee
JOHNS, MR PETER, Committee Member, ACT Division, Planning Institute of Australia
FITZPATRICK, MR TREVOR, President, ACT Division, Planning Institute of Australia

THE CHAIR: We will start this session by welcoming witnesses from the Australian Institute of Architects and the Planning Institute of Australia. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement on the table in front of you.

For the *Hansard*, can I ask each of you to please state you understand and agree with the privilege implications.

Ms Cassidy: I understand the privilege implications.

Mr Martin: Eric Martin. I am an architect who specialises in conservation. I am a member of the Institute of Architects and also a member of the Heritage Committee.

Mr Johns: I have read and understand the privilege statement.

Mr Fitzpatrick: I have read and understand the privilege statement.

THE CHAIR: We will get started and work through questions for the committee. One of the key recommendations in almost every submission has been around the governance structure and the council's intersection with the heritage unit. I am very interested in your perspective, from the organisations that you represent. How can this be improved, and what needs to happen?

Mr Fitzpatrick: From our perspective, in the highest level of governance, we believe that the heritage unit is appropriately placed within the EPSDD. We believe the interaction between the planners and the planning authority, the close interaction, is necessary to give a holistic assessment of development proposals. That is primarily where it comes to that end point—at the development assessment point of development proposals. We believe that close interaction, that working relationship, is critical, and therefore they should be within the exact same “jurisdiction”, sitting side by side if that is physically necessary in that context as well.

THE CHAIR: And what about the council's interaction with the unit?

Mr Fitzpatrick: As an advisory, if the proposals are referred from the unit to the council, the council will then have their say on that matter—in that sense the unit becomes a post office, if you like, back to the planners. So, the council advice becomes overarching in that sense.

THE CHAIR: Mr Johns?

Mr Johns: I suppose I echo Trevor's comments about that and say that I do not have any knowledge of the interactions that might exist between the heritage unit and the Heritage Council. We have some views about how some of the functions of the heritage unit might be made easier for us planners to access—that information, and we might come to that—but we do not have that knowledge or visibility of that relationship.

THE CHAIR: Yes.

Mr Fitzpatrick: If I can just add—

THE CHAIR: Yes.

Mr Fitzpatrick: Sorry, I should have added that it is our view that the council itself, when it comes to DA decision-making, should not be a decision-making body in that context. The decision-making body is the planning authority, in our view. They can be a decision-making body for the registration process and a range of other statutory things, but when it comes to development assessment, the broader issues should be the domain of expert qualified planners, in our view.

THE CHAIR: Yes, okay. Thank you.

Ms Cassidy: I think, for us, it is fundamentally about the right skill sets and the resources in both of those spaces. We have been really happy to see there have been some architects placed on the council, and that has been a skill set that has been missing for some time. Then, in terms of the interactions it is about making sure that we get that level of resourcing right. We have had projects referred, and it has taken up to two years to get a response back. That really indicates that the appropriate level of resourcing, or perhaps the mechanisms, is not working there in terms of timely responses. And there have been items now for urgent work that were a result of hail damage—the work was required to protect those heritage places, so, it was really, really, important. I might let Eric speak to the other more systematic response.

THE CHAIR: Yes.

Mr Martin: It is not always clear how the interaction between the heritage unit and the Heritage Council operates or where advice comes from. You put something into a planning system, it is referred to heritage, but whether the heritage unit provides that advice or whether the consultation occurs with Heritage Council is unknown.

Also, what frequently is lacking is an opportunity to discuss and interact with the relevant people and discuss the issues. A discussion can be far more effective in respect to solving a problem rather than waiting months for a formal written response and then having to go through a reiteration of it.

It is interesting in comparison with New South Wales; we submitted a DA to Goulburn and got a phone call from the heritage section while they were assessing it to clarify some issues—rather than interpreting it their own way and then sending a written response back. It was a quicker, more effective way of interacting—whether it

was with the unit or the heritage council. Because the critical thing, as Jane indicated, is that time is money in the building industry, and it is fundamental to get back appropriate responses in a timely manner.

The other related issue is that there are some statutory time frames in respect of the planning decisions; in other words, the DA has to be assessed within a certain time. But if it is a statement of heritage effects, which is another mechanism to provide comment on an item, which does not necessarily go through a planning process, there is no statutory time frame to respond and no appeal rights. This means you are at an extreme disadvantage in getting informed decisions on something which usually is not a major issue. It is just unbelievable; you could wait six months for a response to an SHE, which is unbelievable.

MS CLAY: This is interesting: we are hearing a lot about time frames and the ability of a conversation to resolve problems quite quickly, where a series of formal correspondence, spaced out over months, does not really work very well for anybody.

I am also interested in some of the information and some of the suggestions that reports should be public. Do I understand it correctly that in other states the heritage unit or the heritage council would perhaps call somebody and have a chat about it? And do I understand it correctly that in other states, if a decision is made—“Yes, we believe there are heritage values here” and something should or should not happen—the reasons for that decision are made public?

Ms Cassidy: We will look to Eric on that.

Mr Martin: There are two aspects on public exposure or inviting public comments on it—for instance, under the commonwealth, for a conservation management plan or a heritage management plan, it is mandated that public consultation occur on that document as part of the review process that occurs within government.

ACT will not permit the public to comment on the conservation management plan until they have made their decision on it. There have been examples where the decision has been made and they have made basic errors—in other words, forgotten essential elements in the heritage assessment, and they then had to go back and amend it later. So, that is through that particular process. The other issue that you raised was?

MS CLAY: It was the fact that in other states, and you mentioned New South Wales, you might get a phone call when documents are being looked at. We heard from another group earlier this morning how quick it is to resolve problems and that perhaps heritage units do not know the technical constraints of the environment, so they may make suggestions that are not possible. So a phone call would be better—

Mr Martin: That sometimes happens. The other thing which frequently happens, or has happened in the past, anyway, is a lack of understanding of the technical issues. You may be proposing some works, but it is not necessarily feasible from a technical point of view to implement some of those issues. It is a quicker process to discuss those issues and clarify exactly what is being meant, how to solve them or the reasons behind them, rather than to say, “Can you please explain or give us more information about this in a letter or an email?” Then you go through a process of a few months and

a few more letters and emails, just to resolve it. That interaction face to face is so much more effective in dealing with issues.

Ms Cassidy: Could I add to that?

MS CLAY: Yes, please.

Ms Cassidy: I think in the past there has been a really significant skill gap, and we have not had enough architectural skill sets, particularly, to speak to the technical requirements to address problems. That has been both in the council as well as in the department.

MS CLAY: We heard this morning from three people who had been through the experience of trying and failing to install solar panels on their properties. One of them had been through three solar panel installers over 15 years, all of whom had failed with month-long delays. One of them had used a government recommended, sustainability and heritage expert architect and had still been knocked back. All three of them suggested to us that, perhaps, the people who did not bother to engage with this system and merely put up the solar panels were in a much better position than those who tried conscientiously to work their way through the system to make some fairly simple, and extraordinarily government-aligned, sustainability changes. Does that match up with your experience on the ground?

Ms Cassidy: Yes. It is a big issue, and it is a much bigger issue going forward in terms of the sustainability of the built environment, but it is not only the environmental sustainability, it is the economic sustainability. We did a project at the Shine Dome looking at ways we could make that piece of infrastructure far more resilient from a sustainability perspective; but also, that project would have brought down the operating costs really substantially for that asset, which means that it is also economically viable to maintain that asset going forward. I think we really need to look at ways where we can achieve those things.

We also have the heritage framework, which at the moment, perhaps, covers much more than it potentially needs to. To replace a window frame, for example, with something that is an exact replica, or to get some painting done, you might need to go through Heritage. There are perhaps some things that do not necessarily need to be processed through such a complex system. As I understand, in some other jurisdictions they have a panel of experts and, effectively, they contract out some of that simpler work so that they can reduce the impact on the resourcing within the unit. Perhaps, Eric can speak to that—

Mr Martin: Yes, that type of thing is a heritage advisory service, which is provided by an architect under the jurisdiction.

MS CLAY: Yes.

Mr Martin: Unfortunately, some of the advice that person may offer, or that firm may offer, is contradicted by the Heritage Council later, which is a real frustration to anybody using that service. The information that is forthcoming is that some of the other jurisdictions do have exemptions for basic work, and there is a whole schedule

of exemptions under certain conditions—that you can repaint if you are repainting the same colour. Strictly speaking, in the ACT, everything—any intervention to a heritage property—needs an approval, and I think there would be some value in some sort of clarity in respect of exemptions. The other issue in respect of solar panels is some of the guidelines. Some of the guidelines date from 2008—15 years old.

MS CLAY: Yes.

Mr Martin: Technology has taken a huge advance since then, and I think it is really important that those fundamental guidelines about solar panels or other issues be updated. They need to be kept up to date to be far more effective. There are ways to be far more sustainable in respect of builders, not only from solar panels—there are other related issues of embodied energy.

MS CLAY: Thank you. We did have a witness wondering when they would be forced to heritage-list their very old solar panels and then be unable to replace them! Yes, there is a bit of fear in this area!

Mr Martin: I am waiting for the day when they mandate an asbestos-clad building as the last remaining one that has to be classified!

MR COCKS: I am interested in your point about having areas of government reach out and work with architects and builders to be able to clarify things before the point of decision. Are there areas in the ACT government doing that well, already, that Heritage might be able to learn from?

Mr Martin: You want to answer that, Jane?

MR COCKS: I will put that within context: in your experience, are there any particular examples you would like to point to?

Ms Cassidy: I think that post-COVID, with a lot of remote working and that sort of thing, there is less tendency for people within EPSDD to reach out and have conversations than there perhaps once was, so it would be great to see a culture of that returning.

MR COCKS: Other views?

Mr Fitzpatrick: I think it is somewhat unfortunate that, around the table, we cannot offer you the answer in that, as Jane said, that is probably right across the ACT government, or the agencies we work with, there is not that “Let’s just pick up the phone and have a chat” approach.

MR COCKS: Yes.

Mr Fitzpatrick: There is the formality of the pre-DA process, and usually Heritage will be part of that if it is a heritage item involved, so you get that formality. But that does not, at that point, allow you to negotiate or offer alternative suggestions.

If you are on site having a chat with somebody, for example, you can say, “What

about this?" You can say, "If you do not like that, let's go around the corner and have a look from the other angle and talk it through there." That does not happen anywhere near where we think it should or could.

MR COCKS: So, it sounds like it is more of a process of they get information, they make a decision and then you go back around the loop again.

Mr Fitzpatrick: From the DA assessment point of view, our experience is exactly what Eric said: there is a heritage item involved and you would still lodge a DA with your documentation; it gets referred to Heritage and you get advice back. You do not know whether that has come from council and whether they have even looked at the site and gone out there, because they do not ask you to be there on the day to talk them through anything. That is not known to you. It is: "Here is the heritage advice."

Often the DA assessing officer, if a problem arises, will forward that advice to you and say, "What are you going to do about it? Before I approve the DA or anything I want you to respond as applicant." That interaction happens, but that is quite a formal process of exchange of emails and requests for information which have time frames and the like in that process in the DA assessment system.

MR COCKS: Thank you.

MR COCKS: Building on the same topic, I am really keen to understand the nature of the interactions different professions have with Heritage. It is interesting to me that we are talking about Heritage, really, as one entity. It seems very difficult to differentiate between the council and the Heritage Unit. I am wondering if you can talk about what types of interactions you regularly have with Heritage to help us understand.

Mr Fitzpatrick: Through my experience, whilst I am president in the ACT, I have also been a consultant for the last 23-24 years or so, so I have lodged numerous applications for development proposals. There are two areas. The one area we have not covered is Indigenous heritage, and the issue there, similar to the built environment heritage, is the time frame. When you are doing research on a property, the interaction is almost non-existent. You are doing due diligence investigations to ask, "What is the future development potential of this property?"—usually on the fringes of the urban areas. The very first thing you want to find out is what the constraints are—that is, heritage—and that is near impossible. Unfortunately, owners and others get planners, architects, engineers, and ecologists to collect up information and progress on with master planning, and heritage information comes along much later, which then forces everybody to be reactive. We are saying: if that information were available upfront, it would be the front and centre issue of all the investigations from that point on.

That is where Indigenous heritage, I think, is lacking in this jurisdiction at the moment. The interaction with Heritage is simply that you apply for information, you follow it up and weeks later they tell you there is backlog, and you follow it up weeks later. You have to be a registered user of the information to get the information from them, but that comes sometimes many months after you have initially applied, and that is the only level of interaction. You cannot do much else other than send an email asking

what is going on. For built heritage, from a planning perspective, it is a similar way; but, as I mentioned before, it is through the DA assessment process that you get that advice and try to respond from there.

MR COCKS: Yes.

Mr Johns: I can reflect on it from a personal experience when I put in a submission to the Heritage Council that was proposing to register a particular building. I made a submission on that, and I was fairly active in following up where that submission had got to and what the process of assessment had been. I was able to get in contact with that particular area and engage with that particular area. They were very responsive about the issues that I had raised and about how it was being progressed through the evaluation—the committees of the Heritage Council that look at the evaluations. I felt that was useful, and they were very responsive in that regard.

MR COCKS: It sounds like sometimes it can feel like a bit of a black box where you put something in and do not really know what is going on until something comes back. You cannot really see what is going on in the process without active follow-up. Would that be fair?

Mr Fitzpatrick: Certainly on the regulatory side. As I said, my experience is in that DA assessment—that initial information. I have never been involved in the registration process of a heritage item, so that is a different aspect of Heritage considerations.

Mr Martin: It certainly does happen. I have got two outstanding issues that are there. One has been there for nearly 2½ years, with no response. Another one, which was a DA affected item—it would be 12 months without a response. Unfortunately, we had to delete the work that was under discussion and not build it, despite the client's desire and need for it, and we still do not even know whether it is going to get approved.

MR COCKS: I would have to imagine there is an economic impact from that—

Mr Martin: Any delay, in a building sense, is an economic impact. If you have got a reasonable, defined time frame, you can budget and allow for that in your finances; but there are holding costs for a site which has to be held for another six to 12 months. It can be a considerable amount of money that is borne by an owner or developer and subsequent professionals associated with it.

Ms Cassidy: Over the last few years, escalation has been quite extraordinary. We have had three months where the escalation would have been six to 10 per cent in the building industry, so each month is costing a lot of money. I think there is a perception that builders are making a lot of money, but at the moment, they are really challenged. We are really challenged in this marketplace with that escalation, because often we have locked in those prices way ahead of time, so we are in a really, really difficult environment.

Also, with registering important heritage places—we recently were advised that a heritage place had been approved to go on the register, but it was many years

beforehand that that particular one had gone in, such that we had almost forgotten that we had it. It had been such a long period of time for that assessment to occur. What will happen then is often in the interim that site will be redeveloped and we will lose that heritage place, so it puts at risk the incredible built environment heritage we have in the ACT. We have some of the most extraordinary examples of mid-century architecture and incredible brutalist architecture throughout the parliamentary triangle—we have extraordinary examples; some of the best in the country. There is such potential for the Canberra community to benefit from architectural tourism and the like if we just leverage that.

I think Minister Cheyne has recently done some research, which is really important research, about the economic benefits of the design industry, and significant architecture and design within Canberra. Heritage is one of those mechanisms that helps us leverage that economic benefit for the community.

THE CHAIR: I have not been involved in the planning review for the new planning legislation, but all the talk is around an outcomes-focused planning system. We just heard evidence from Professor Ireland, from—it was monuments and sites.

Mr Martin: ICOMOS.

THE CHAIR: Yes, that is it—International Council on Monuments and Sites. She was saying how we need heritage to be outcomes focused. I am interested in your views in terms of what is going on and your understanding of what is going on with the planning legislation, and that intention there. What could be done in the heritage space to align with planning?

Mr Martin: I think there are two issues. Fragmenting the planning system, I think, will—it lacks an overall Canberra vision. It can lead to different approaches in different areas, and I think that could fragment a vision for Canberra, particularly as a garden city ideal with consistency across it. I think that is a problem at the moment. There is a real issue in respect of some of the planning decisions.

The other issue related to planning is the commonwealth, or the national capital planning authority, and the territory planning authority. It is ironic that on national capital land the ACT Heritage Act will not apply, and if there is no commonwealth interest in a place, the commonwealth will not put it on the Commonwealth Heritage List. This means there are heritage items within the national capital area that the territory refuses to list and the commonwealth does not want to know about—heritage items not recognised and not protected. Somehow, the planning system has got to work better than that.

THE CHAIR: Yes.

Mr Fitzpatrick: My comments will probably be more focussed at the coalface and the end point—that DA decision-making point, if you like. That is the outcomes focus. The interaction of Heritage and the planner making the decision on any DA becomes critical with an outcomes focus—even more critical with an outcomes focus—because there are not numerical metrics to fall back on. They are looking at desired outcome, desired character and things like that. To me, the interaction needs to focus on those

listed matters for consideration under the new planning act that entrench heritage values.

The matters for consideration now focus on the desired outcomes of the Territory Plan. In a sense, the desired outcomes of the Territory Plan want to take us forward, whereas the heritage precinct says, “No, the desired outcome is pretty much what you see is what you get; we do not want to take it forward.” For either that site or that neighbourhood, the character is not the future desired character but a retention of the existing character. So, for those items for consideration that the decision-maker has a statutory obligation to tick off—hopefully they do more than that—that becomes the critical context.

At the moment, there are some fairly vague sorts of things that the assessing officer must consider—the context of the site, or things like that. Potentially, that is a bit too open for these sorts of very specific issues. They might be good for a new emerging neighbourhood, but if you look at the identified heritage precincts, particularly around inner Canberra, they probably do not relate to those as closely and as tightly as they could. To me, it all boils down to that end point, if you like.

THE CHAIR: Yes.

Ms Cassidy: I also reiterate the importance of the vision for Canberra. I think it is very difficult to have an outcomes-focused system when you are not sure what outcomes you are driving towards. We are trying to unlock 70 per cent of new housing within the existing footprint. We want a compact and sustainable Canberra. We want to target net zero by 2045. We want an equitable Canberra where you can get affordable housing and those sorts of things.

It is really fundamental that we establish what the vision for Canberra is and we take the Canberra community on that journey to explain how we envisage the city growing, changing and adapting over time, and how we might also protect the existing character and the heritage of our fantastic city of design as part of that vision. At the moment, we have got the planning reform piece but the vision for Canberra that brings in all of the different referral agencies along with EPSDD is yet to be undertaken.

MS CLAY: There is a lot of change in this area, and I appreciate the need for integration and articulation. I do not think we have touched on the urban forest protection, but it was in your submission, and I am interested. We have touched a little bit on the planning act and outcomes-focused planning and whether that is lining up with heritage and other values. Did you have particular concerns about the Urban Forest Bill and the urban forest legislation?

Ms Cassidy: I think it is really vital that we protect the tree canopy within Canberra; I think that is a really important thing. But that there are a couple of things. The urban forest is doing nothing to provide the tree canopy to all of those new suburbs which have no tree canopy. It is fantastic to see the tree canopy being protected; however, through the inner south, where we have got enormous amounts of land and very low population density very close to services, now all those trees are protected, so the ability to unlock 70 per cent of that land within the inner south that is closely

connected to all of those services is somewhat constrained. We need to make sure that those aspects of the urban forest legislation enable us both to protect appropriate amounts of the tree canopy going forward and to replant and have those other strategies. It suggests that will be something that can happen, and that can enable the transformation of some of those communities where there is such a low population density close to services—that would be great.

MS CLAY: Certainly, we have done that analysis in our office many times of where the jobs and services are and where the homes are, and there is definitely a mismatch.

Ms Cassidy: Yes.

MS CLAY: Thank you.

THE CHAIR: We will end the hearing, so thank you all very much for your contribution today and your submissions. It is very much appreciated.

Short suspension.

BUTZ, MR MARK
ASHLEY, MR GEOFF

THE CHAIR: I now welcome our heritage experts today to the panel, Mr Mark Butz and Mr Geoff Ashley. I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Could you please state the capacity in which you appear and your understanding of the privilege implications?

Mr Butz: I am here as an informed citizen—not representing anybody in particular.

Mr Ashley: I am the principal of Ashley Built Heritage. Like Mark, I am making my own submission. I am not representing anyone here this afternoon other than myself and my submission. I do understand the privileges information that I have been provided with.

THE CHAIR: As a starting point, there is a sentence in your submission, Mr Ashley, that talks about how the ACT Heritage Unit has become a narrow gatekeeper overly focused on already listed places and approvals rather than identifying, supporting and promoting heritage conservation in the ACT more generally. I was just wondering if you can speak to that and what you see as key and critical things that need to change to improve that.

Mr Ashley: Yes, I am happy to do that. I would like to talk to some notes. They are different to my submission, and I am very happy to make these notes available to you as well.

THE CHAIR: Sure.

Mr Ashley: I have extensive experience with heritage consultancy work in the ACT. I have worked on more than a dozen national, commonwealth and ACT places, including the Australian War Memorial, Lake Burley Griffin, Old Parliament House gardens, the John Andrews Callum Offices et cetera.

In relation to this, I believe that the governance related issues that you have mentioned merge with two of my recent projects. With both cases, it seemed to me, as you have said, that, even though there may have been the best intentions, the Heritage Unit acted as a bit of a gatekeeper in front of the Heritage Council and effectively prevented a review by the Heritage Council on matters that were relevant to it.

To me, the unit was overly focused on the current list of places and approvals rather than working with the ACT agencies and promoting heritage conservation in the ACT more generally. I believe that a lack of staff resources and relevant skills did not help this situation, with long delays in reviews and approvals.

In response to your question, I have four issues that relate to what you have said and I think they all presented opportunities. The first one is increased engagement with the community. Beyond the ACT, my overall concern in relation to heritage conservation in Australia is that the community's understanding of and support for heritage is being

lost in the mire of planning controls and processes related to listed places.

I believe that this was compounded in the ACT via a self-government process that drew heavily on existing commonwealth departments and resulted in what I call a top-down approach to heritage management. In other states, it comes from the bottom up more through the community to local governments and state governments.

As a result of this top-down, there is a sense of engaging with and promoting heritage values in the community appears to be missing, while there is a preoccupation with listed places, as I said. There is a need to provide a strong connection with the ACT community in relation to the identification and communication of heritage values beyond listed places. This is particularly important, as the unique modern aspects of Canberra's heritage require additional effort to communicate that heritage is not always old.

My second point goes to amendments to the Heritage Act 2004. There have been recent reviews of the heritage legislation, such as the EPBC Act and the New South Wales Heritage Act. But, to me, it is not the acts themselves that are the issue; it is more the implementation via clarity of who does what when. Nevertheless, I agree with other submissions that more can be done in relation to Indigenous heritage and also specifically requiring assessment of impacts on heritage items from development proposed on adjoining properties.

My third point is governance. I believe that it is essential that the review reinforces the role of the Heritage Council as the primary mechanism to advise the minister on heritage matters on the ACT and that the role of the Heritage Unit is to support the Heritage Council in providing that role. Put bluntly, the primary governance path to the minister should be from the Heritage Unit via the Heritage Council and not from the Heritage Unit via EPSDD.

To support the Heritage Council's connection to the ACT community and other agencies and organisations, resources should be provided to the Heritage Unit so its staff skills cover all potential attributes of heritage values, including built heritage items.

My final point is that policies should be developed, with changes to the act if required, to focus on the need or indeed requirement for regular maintenance free from approvals, and also for undertaking minor works, provided advice has been received from specialist heritage advisers in a network supported by the government.

Additionally, an increase in the provisions of heritage skills directly within the ACT government agencies, such as the ACT Arts and Conservation Service, would assist an overstretched ACT Heritage Unit and allow for the heritage aspects of the broader landscape and heritage values and responsibilities of those agencies to be addressed.

If I have not answered your question, I am happy to go back and try more with that one.

THE CHAIR: That is all right; that was very helpful. Mr Butz, could I ask for your views on this as well?

Mr Butz: Thank you. Yes, first of all, thank you for the opportunity to make a submission and to come and talk with you. Most of my comments in relation to that would be at the community end of things. I share the concern that heritage can be seen as the domain of in-house professionals and that that is where the expertise lies and therefore that is where all the decisions are made and where the information resides. But there is actually a wealth of information elsewhere.

I believe that a great many people with a high level of skill and a significant amount of expertise and understanding of the information are just not being used or they are being used only in a very reactive way—and I think that is wasteful. It is wasteful of their time, it is wasteful of the agency's time and it is wasteful of the government's time.

There are other comments about upskilling within other parts of the agency that go to that. Is the understanding and knowledge of heritage really just confined to the Heritage Unit or should it actually be across government? Could it be that the people who manage places have capacity within themselves—not just to rely on the Heritage Unit, but they have some capacity within themselves—even to ask good questions of the Heritage Unit?

If those skills are not there, what questions do you ask? You are reliant on a system that is already overburdened, as has been said in a lot of submissions, and you are not going to get the result. You are not going to get good outcomes.

Mr Ashley: Madam Chair, I recognise I did not fully answer your question in terms of the specific gatekeeper question. I could give the two examples now. If it is helpful I could give the specific example for those?

THE CHAIR: Yes; that would be great.

Mr Ashley: Firstly, I had a role in the National Capital Design Review Panel in terms of a development in the city and I came to the view in giving that advice that the ACT government, particularly the Heritage Council, should form a view about one of the buildings, which was a modern building on that site which was going to be demolished. In fact, the proponent's heritage adviser said, "It is not listed; therefore there are no heritage values," which is my whole point: I believe that it may have and I believe the ACT Heritage Council should have addressed it.

I kept saying that over a number of our meetings and basically got bounced back and ultimately I was told that the Heritage Unit told the admin people that basically they could only do it with a nomination. So I was providing advice to the ACT government and I was told to go away and that, basically, if I wanted to do anything about it, I would have to make a nomination, which is quite crazy, because I am giving the government advice; I am not there as a private person making a nomination.

So that was bounced back and it did not go anywhere. Of course, the support for the design review panels was from the Sustainability and Development Department, and this is a big proposal being put forward. I am just hoping that, in these situations, the Heritage Council gets to be engaged in these issues about listings like that.

The second issue is in relation to the huts in Namadgi that were burnt down. I have been very involved with the ACT Parks Service, and there is a good project coming together there. But, initially, even though the new interim chair of the ACT Heritage Council gave advice to the government that said the two huts should be rebuilt, the Heritage Council said, “No; the heritage values have disappeared and it is an archaeological site.”

We have worked through that in terms of the archaeological site aspect, but the heritage values, I believe, were not fully addressed. Particularly in relevance to this, it was an issue where the government received advice specifically about this issue from a specialist and the Heritage Council as a whole, in my view, did not get to review the situation. It was really the Chair of the Heritage Council, possibly just on the advice of the Heritage Unit, who drafted something up.

I am not absolutely sure about that, but it is my sense that it may have not gone to the Heritage Council. Where you get a situation where someone is advising the government on something very fundamental, I would have thought it should go to the full Heritage Council, which gets back to my model of governance.

Of course, you need the Heritage Unit to support and be the gate through which those things go to the Heritage Council but I think there should be more involvement with the Heritage Council meeting more often and having more of a direct role in advising the minister, ultimately.

THE CHAIR: Thank you very much.

MS CLAY: We have heard a lot about resourcing and implementation today, and you have also spoken about how frequently the council meets, whether they have access to enough staff and whether the Heritage Unit has access to staff. You have mentioned today whether there is general awareness of heritage from people who are not in the Heritage Unit but are interacting with the planning system and making decisions.

Do you think that our system, the rules in operation and the legislation generally are okay but we actually need to better resource it in terms of more training, higher levels of skills and maybe more human beings?

Mr Ashley: My feeling is yes. I think it is the second point. It is not the fundamentals, the rules, the process or the Heritage Act; it is having the skills in the Heritage Unit and the number of staff. In relation to these huts, I was told from the Heritage Unit people that it was something like six months or a year just to review a conservation management plan. Most heritage consultants actually write a number of heritage conservation plans over the same period. So obviously there is a stress point there.

I think someone else has made a submission that maybe there is too much burrowing down in some of these CMPs and maybe someone at a higher level could go, “Well, this is actually done by a professional. It is reasonable. Let it go.”

I think there is too much engaging with every detail. Particularly in relation to the Parks Service, where they have got broader responsibilities and a plan of management

for, say, Namadgi, if they have more of the skills in-house, they could do a lot more and take a bit of load off the Heritage Unit.

Also, in the specifics of those huts, I found that the unit and the Heritage Council seemed to be focusing just on the very specifically listed area, rather than the cultural landscape in which those places existed and Parks were trying to manage those places within the broader landscape.

So it is probably the resources and having a built heritage specialist—like myself as an architect. I did not come up with issues specifically to do with that, but that may be an area where more staff could help. But it is more to do with staffing and resources. Getting agencies to have more heritage advisers themselves would be great.

MS CLAY: Thank you.

Mr Butz: I would like to add to that. This notion that you have to own all the expertise is, I think, misguided and ultimately doomed to fail. I believe the trick is to identify the resources that could be brought to bear to something and to tap into those resources by a range of mechanisms—so that there is some residing in the community, there is some residing in professional people who work in the heritage sphere, there is some residing in the Heritage Unit and there is others residing in other parts of agencies.

These are not being employed thoughtfully, carefully or strategically, in my view. There is an over-reliance on a very small group of people to be the font of all wisdom and knowledge and to be the only basis upon which decisions are made. I think it is wasteful and I think it leads to poor outcomes.

I have been involved in a number of things where I cannot credit the outcome. It is either because nobody else has been consulted or they have been consulted too late in the process to affect that outcome, or they have actually contributed and somehow it is not lodged in the process. I have had one of those where my input just disappeared.

These things are frustrating and discouraging to people. It causes people to get cynical and to distance themselves from the process, when we actually want to be bringing more people into the heritage process. Whose heritage is it? It is not owned by the government, unless it is on behalf of.

I would like to see us acknowledge that heritage is what we both inherit and value. Who is valuing it and how can we ignore a significant part of the people whose heritage it actually is?

MS CLAY: Would that help with some of the community engagement planning decisions? All planning decisions can be divisive, but I think heritage can often be seen to be divisive too. Do you think that, rather than owning the expertise and making decisions for people, decision-making was made a little bit more with input, that would assist?

Mr Butz: I believe it would. I have worked in the game for 40-odd years, both in environment and heritage. It is generally very messy when you ask for people's

opinions or views and you are allowing them to shape the outcome. It is very messy and it is very time consuming. When a bureaucracy or agency is already under pressure, it is the last thing they want to do.

However, I have seen so many poor outcomes from selectively talking to people with something to say. I think we have to invest more in areas. We need to talk more widely. We need to ask more widely. We need to tap into what is out there. Even though it is going to take time, you are actually going to build a relationship. Making decisions in-house and in camera does not build a relationship. It does exactly what you say: it aggravates people; it inflames people; and it leads to opposition.

If there is not a partnership model or at least an openness model, a collaborative model, then you are building a recipe for conflict, because people care. The very nature of heritage is they care about it and they value it. So, if you are going to sweep their views aside, you are going to create conflict. That is in a nutshell and generalising.

Mr Ashley: I have a specific example of that—and I completely support what Mark is saying—in relation to the management of places in the national parks with Parks and Conservation and the Kosciusko Huts Association . I am a member of them, but I am not speaking on their behalf.

I believe that they sometimes have frustrations going through the approvals process. Having agencies like Parks having some skills and working with those quite intelligent, quite large groups like the KHA, more directly can be very helpful, and it will save resources ultimately as well.

That is not so say that people are not being listened to, but it is quite a process to go through. So engaging them through the Parks and Conservation Service more is a positive, I think.

MR COCKS: One of the messages that seems to be coming through from a lot of submissions and through these hearings is that heritage ought to be treated as a conversation—so bringing in communities, interested individuals, and construction and development sectors; so a pretty wide range of perspectives. There seem to be a lot of people feeling really unheard throughout the process.

Mr Butz, you mentioned that there are opportunities to leverage expertise and energy. Are there specific things that you think we could do, noting that there is a risk that just doing more consultation, just opening the floodgates, may result in more people feeling unheard?

Mr Butz: I think the answer depends on what the purpose is, what the object is, and the kind of outcome, broadly, that you are after. My comments would not be directed so much at the planning system; there are probably other people that are better equipped to do that. But I can certainly say that, in relation to nomination processes, assessment processes, the interpretation of education of places and so on, we need to look at each of those separately and say, what does it take?

This goes to a broader question. I know a number of submissions and I know a lot of

people talk about it, but there that there is no strategy for heritage in the ACT. There is nothing you could call a strategy. There are bits here and bits there, but there is no systematic approach to say, “What is out there that people value? What is the need in relation to those places and the values people place on them and how could we approach that? What are the parts of government and government enabling that we need to connect to those needs?” There is no attempt to do that.

Rather than me giving you an answer about how to change the system, I would rather that there was a conversation about how to change the system with a lot more people than me, and it has to address those range of needs. Some people are very concerned about what is happening next door; other people are very concerned with the whole ethos, if you like, of the way Canberra is built and the concepts that it needs to embody.

I work on a landscape scale. I do not like dots on a map being the way we manage heritage. I think it is very unhelpful. It does not help people understand the value of the thing if you can only think about it within the defined box rather than as part of something in a landscape. Where did people come from? Where did they go? What did they do? Where did that go?

This landscape approach works both out in the wild of Namadgi and in the city. Why is something where it is? Why did people do what they did there? This goes to how people value those places and how they value heritage. But our current approach is very boxy and very spots on a map—“Do not step outside that box.”

I am drifting from your question, but I do think that, by looking in a more strategic way, you would engage people far more meaningfully. People would be far more willing to engage and would be burnt less than they get burnt at the moment, if you took a systematic and a very open, inquiring strategic approach.

MR COCKS: Thank you. That is useful.

Mr Ashley: I would add to that. I completely support Mark’s comment, but I have written some submissions about the value of doing a heritage strategy which will help everyone understand what the objectives are.

But just specifically to your question, I think more can be done in relation to taking the load off the specialists by having heritage advisory people there. Having some advisory system where people can get some advice about things so that the issues are dealt with in an informal way before they become formal applications would be a very useful thing.

Another way to reduce the stress and tension is to have, where you can, identify things that do not necessarily need full approval for minor works—as an architect, I would say that maintenance is a very critical thing that people do not do—and having it very clear about what you can do in terms of maintenance without requiring approval.

Some places—and I think Victoria is an example—do not allow much to be done via maintenance. In a way, it prohibits maintenance, which is a crazy idea. You want people to maintain things as much as possible and you want to make it as simple as

possible as well. But I think having a heritage advisory network in place will help the consultation process a lot.

MR COCKS: I was pleased to see, Mr Butz, the reference to the ACT Heritage Library, and I was just wondering if you could provide some context for the values that that library provide to the system overall and to the community, because it is not something that has come up as much.

Mr Butz: I can appreciate that heritage arrangements is an interesting phrase and we will all interpret it differently. I interpret it from a point of view of a practitioner. In order to understand place, regardless of how that has come to me as an inquiry, I rely on a certain amount of online material but also a large amount of material that is sitting in archive.

In Canberra, we are very fortunate to have a National Library and National Archives as well, but I cannot speak highly enough of the ACT Heritage Library as a repository of information. But I do feel that it is seen as being a bit of an oddball within the library service and it is seen as unrelated to heritage arrangements.

But, if you view heritage arrangements from the community perspective, it is a vital resource and it is something that should get more recognition and it should get more resourcing, particularly to get material digitised. It is constantly receiving paper based material, which could drown it, except that they are very good at what they do. It means that a lot of the material is less accessible than it would be useful to be. If it were digitised, it would be more accessible—in the same way Trove operates at the National Library.

So I think it is very underrated. I am not surprised that it does not get talked about much, because there is no overt recognition of the role it plays in this broader question of heritage understanding at the community level but also protection.

MR COCKS: That sounds like an important supporting resource.

Mr Butz: Extremely important and it is very easy for that to wither on the vine unless it is recognised.

Mr Ashley: I agree completely with that. I visited it recently and it was amazing. I think one of the particular advantages of the ACT Heritage Library is that it is dealing with more local community places and heritage values. That is particularly important in Canberra where you are getting this mishmash of national, commonwealth and local. I think it is really great to have the library having a focus on that local resource, and I think that will help the community identification of heritage as well.

THE CHAIR: One of the submissions spoke about whether there should be a heritage fund more than just grants. I am interested in your perspectives on the grant process and how that can be improved.

Mr Butz: I would like to get on record that I cannot speak highly enough of the way a particular officer, Mary Gleeson, has run with the Heritage Grants Program. She is very connected with the people who the Heritage Grants Program, is trying to

empower and enable, puts an enormous amount of effort in, is very effective in two-way communication, brokering and all those kinds of things, and is just endlessly helpful. So I wanted to get that in.

The Heritage Grants Program always seems to have not enough for the demand. I am aware that there are questions about what gets paid out of the line item for heritage grants that are, arguably, a government program, as distinct from community effort. But I do not want to go too much into that; I am not aware of why certain decisions were made. But I would like to see the Heritage Grants Program expanded and better resourced.

In most cases, it requires contributing funding or in-kind effort. So I think it gives remarkable value for what it costs. Again, there are disincentives for people. In the community you can be treated as not being in the inner circle on heritage, and people get discouraged from using the Heritage Grants Program, even though a lot of it is made easy.

So, overall, I would like to see it enlarged and I would like to see it clarified that it is a community empowering and enabling fund—whatever it is called. That is what I would like to see.

Mr Ashley: I did a study for the Victorian government on the heritage grant system there—which turned into the Living Heritage Grants System. They found that there were lots of small grants were great for individuals but there were lots of big heritage places in Victoria, often government owned or agency owned, that were really major issues.

Having a grants system and a fund grant, ACT heritage funding, in parallel with a series of types of funding will allow you to identify in, say, a heritage strategy, “This is where we are going to give some funding at an ACT level,” not a grant based thing. So you can actually identify where there are priority projects that the ACT government feels—whether it is a property that it owns—that it really feels that it needs to focus on, as well as having a community grants process.

So I think sometimes it about having a bit of both—including having some big-picture items. It worked in Victoria, where they could actually identify and allocate substantive funds for big problem areas --ex-asylums and mental asylums et cetera that were unused in country towns. So that would be my suggestion: a bit of both. But the grants are fantastic.

THE CHAIR: Thank you.

Mr Butz: I would support that also—both.

THE CHAIR: Great. I would like to thank you both so much for your submissions and your time today. The committee is very appreciative of your expertise and input. Thank you.

Sitting suspended lunch from 1.05 pm to 1.55 pm.

WALLACE, MR CRAIG, Acting Chief Executive Officer, Advocacy for Inclusion

THE CHAIR: We welcome Craig Wallace from Advocacy for Inclusion. Mr Wallace, I remind you of the protections and obligations afforded under parliamentary privilege and draw your attention to the privilege statement that I believe you have been sent. Do you understand and agree with the privilege implications?

Mr Wallace: I have read and understand the privilege statement.

THE CHAIR: Thank you very much, Craig. We will each ask questions. We thank you very much for your submission. One of the key things in your submission was where you said:

Under the Disability Discrimination Act, all buildings, including those that are heritage listed, need to provide equitable and dignified access for all people.

Can you speak to how this does or does not happen in the heritage context or how it can be improved?

Mr Wallace: What is meant to happen is that a registration or a claim of exemption using heritage values does not automatically exempt you from the Disability Discrimination Act. It still meant to apply, meaning that a person, in theory, can make a claim about accessibility to any building, no matter how old it is. In reality, the requirements to actually pursue an action under the DDA include that the person needs to make a complaint themselves and attempt to move it forward within a federal process. That often involves some mediation and then potentially being liable for damages, if your claim is found not to be valid. Most people do not bother with that disability discrimination process through to the end result because they can wind up in the Federal Court of Australia in a lot of trouble.

So, in reality, seeking accessibility in Australia is, firstly, troubled and insufficient; secondly, often more a matter of regulatory responses by the states through their building codes, and conciliated and negotiated outcomes, and community education. The legal framework is used in test cases, but in most cases it is about good practice.

THE CHAIR: Do you think there is any way to circumvent this issue that is happening, in terms of having the federal legislation and our legislation here in the ACT?

Mr Wallace: The ACT is fortunate in having relatively strong legislation. There are moves to create a proactive duty to avoid discrimination, which I think would strengthen the obligation on people to create access within the public spaces and buildings. The problem does not really apply as much to new buildings, in that they have to comply with the code anyway. It is about what happens in an older space that is not accessible and is being used for a particular purpose that requires people to access it. That is where it gets tricky. The other issues are around ensuring that, when people retrofit and make changes, they enhance accessibility. That is one of the reasons that we are invested in the heritage space: to ensure that it is always front of mind that, when people are doing retrofits and considering how they apply

conservation values, they apply accessibility values.

MS CLAY: Mr Wallace, I note that in your submission you said that one in five Canberrans have a disability. This is clearly something that affects a lot of us and will affect many of us at some point in our lives. I really like this: you said that the best way to protect historic buildings is by keeping them in active use. That is a really interesting idea. It has come up in other contexts in the hearing today. It came up in the sustainability area, where a lot of people were frustrated that they could not make simple sustainability upgrades that make buildings more useful and that it accidentally gave an incentive to knock things down and replace them. It strikes me that it comes up in the inclusiveness space too. If we want to keep our heritage, we need to make sure that it is useable and accessible. Do you think we need to get a better balance between preserving our heritage and making sure that it is useable and accessible for everybody?

Mr Wallace: Thank you for that. That is a really good question. I think that we need to get more intelligent about the trade-offs. Disability access is not all or nothing, and neither is heritage and conservation work. There is always some flexibility, some allowance being made to keep a building in use. There are benefits. The heritage community itself acknowledges that you are more likely to retain a building if it is used. It is more likely to get investment in upkeep and be available. In making it available within the 21st century so that it can be used, you are already making adaptations to ensure that it is safe, it is not filled with asbestos and it can accommodate wi-fi. You are doing all kinds of things to the fabric of a building to ensure that it works and people can use it.

I would argue that the same needs to happen for disability access. Where it sometimes gets a bit annoying is when people say it is a kind of trade-off and you can do either/or. Some of the best examples of disability access have occurred in buildings where you say, “How are they going to do that?” At Old Parliament House, the steps are a totemic part of the building. They are where Gough was sacked. You would not want to remove them, so what they did was quite clever. They said, “We cannot change that. What we can actually do is overdeliver in other areas of accessibility within the buildings and the exhibition spaces,” and they have done that quite well.

I would like to see that kind of clever thinking applied outside of the rarefied atmosphere of the national capital precinct and in other heritage spaces around Canberra. I do not know if I am answering your question, but it is a kind of trade-off. It requires a more intelligent and nuanced conversation and for somebody to be passionate about both sets of issues: keeping the building in public use and improving accessibility, and valuing the heritage side of it as well.

MS CLAY: It strikes me that a lot of these decisions need quite a bit of judgment to exercise well and that maybe those judgments do not always happen. Maybe we are in more a rules-focused system. Has that been your experience, that maybe the decision-makers are not empowered or are not knowledgeable enough or do not have enough time to make decisions that actually activate spaces really well whilst preserving the heritage?

Mr Wallace: Yes. I think that is right. I also think that part of that is people do not

feel enabled to have proper conversations with users around what is important. If you are going to keep an older building in place as a public space, a shopfront or an office or a space that people are going to visit, then it is worthwhile having a conversation with people with disabilities. What are the access features that are essential to you? Is it about having access to the shop space? Is it about making sure there is a disability toilet? I would expect so. Is it about having some kind of equivalent egress and access at the front or rear of the building?

There are things that you can do that will just comply with the standards, but we would say there need to be more conversations with people with lived experience as we do those things. It is one of the reasons why, in a few committee spaces now, we have talked about the need for social planning to be an approach within the ACT, and that is planning that includes people at the centre, not just rules-based planning.

MS CLAY: Thank you.

MR COCKS: One of the things that has been coming through a bit today is barriers in our heritage system to what I would call sensible and relatively minor improvements to properties. We heard it particularly in the environmental sustainability space and around solar panels. I am wondering if the same sort of thing applies to accessibility. Are there sensible, relatively minor improvements that should be easier to make to a heritage property?

Mr Wallace: I would also note that, within that, there is a range of improvements that can be made without affecting fixtures at all. There are portable and mobile ramps and devices that you can put in place that can be done and probably involve an investment response. The other thing is that we do have a roadmap for sorting out those issues well. I think it is the roadmap that is provided by the Heritage Council in their five-step process, which we endorse. It starts with a look at the significance of the overall place, doing an access audit, and then evaluating those options within a conservation context.

Certainly, at around step two, you could easily do a bit of a survey of things and the workarounds that we can fix now and accommodate. I do not claim to be an expert in heritage conservation values, so I am hesitant to talk about structural changes and changes to that framework, but what I can say is that there are disability access improvements that can be done without a great deal of interference in the look, feel and structural integrity of the building, and there are also really smart ways around things. There are some great examples around town that we get from our proximity to the national capital precinct.

MR COCKS: Are you able to go to the types of barriers that might be faced in terms of accessibility in a heritage listed property?

Mr Wallace: Yes—everything from way-finding outside, the lack of signage, to parking that is not adjacent to the building or does not enable equal access. We have a concept we talk about which is a seamless path of travel, where a person can get from a transport drop-off point right through a building and to the exit, and can know how to do that fairly easily. Sometimes that level of information and signposting is not there. There is a great deal of variation in the design. There are things like disability

toilets within older buildings. Modern standards would remit that you have a fair bit of space available and that you have right- and left-hand transfer toilets available to people.

Tactile indicators are often things that are not thought about. They are for blind people who are using a cane or an assistive device so that they can know where the entrance is. Again, it does not necessarily interfere with the fabric of a building if you install something like that. There are auditory signals so that people can actually enjoy the space, if you are talking about a kind of building where the point is to go and enjoy the heritage features. The other things that I have seen people do to address barriers are things like having tactile features or audio descriptions of what you are actually encountering and going through, for people with issues with low vision or are blind. I do not know if that gives you a picture.

There is a wide range of things that I could point to, but probably the main ones are sensory barriers and physical barriers, and also barriers that are about the way that information is provided, such as plain English for people with a cognitive or intellectual disability, signs in larger print, and so on.

MR COCKS: With indulgence, it does sound like most of these are particularly the case for public buildings?

Mr Wallace: Sorry—I am not sure I understand the question, but most of them are already in place or---

MR COCKS: Sorry—most of the issues would be about particular barriers where we are talking about public buildings as opposed to private residences or those sorts of things?

Mr Wallace: Yes, but there is a separate level of standards and a separate process around private housing. It would be wrong to say that these are not also issues within housing. There is a movement to create and require universal design features within residential housing that are about ensuring that people can age in place and be able to live at home as they age, but it is a different set of requirements and a much more personalised set of requirements.

MR COCKS: Thank you.

THE CHAIR: In your submission, you talk about how you believe that the Heritage Council should include people with expertise in accessibility within heritage sites, and this expertise should be prioritised in the Heritage Unit as well. I am wondering if you have any thoughts around that, but also on whether a more built-in advisory role to the Heritage Council could work. We have heard evidence from others today around how there are heritage architectural services that can be engaged or are recommended to be engaged. Maybe there is some way to embed an advisory role in the council on accessibility issues?

Mr Wallace: I am sure there are ways. What we would say is that, because the two intersections are pretty sharp between heritage and accessibility, it should be a standing item of work for the council. It is a real issue for older people. I am sure

there are other intersections like environmental intersections in the work of the council, but disability, ageing and mobility space directly hinge on heritage, so we think there should be somebody on the council who has knowledge and passion around both heritage issues and disability issues.

Canberra is lucky that those people exist. They are within the architect community. A good example is Eric Martin, who is the former chair of the Institute of Architects here. He built national and international credibility and expertise on how you reconcile and build best practice accessibility in heritage spaces. But there are other people like that in town. We think it is important that they are there. It is also good to have conversations with people with disabilities themselves in those spaces. It is about the task of understanding the trade-offs and getting the tricky stuff right, but it also needs to be profiled as an issue within the Heritage Council's work plan going forward. That would be our view, because it is so important to the sustainability of those buildings and it is also important to the visitor experience and to the rights of people with disability to enjoy our public spaces.

THE CHAIR: Thank you.

MS CLAY: Mr Wallace, we have jumped around the built infrastructure quite a lot, but you have also mentioned information quite a lot. Some of it includes minor installations, but quite a lot of it is about information. I have heard this criticism made in the arts and tourism sector in Canberra quite a lot too—that people who have a disability do not know before they go what they are going to get. It is not well advertised on tickets and it is not well advertised on websites. Simply providing better information about what is available might help. Have you encountered that?

Mr Wallace: Yes. It is a huge issue. I have a great deal of frustration that we do not have a committed effort to get that right, because we could, particularly with things like apps at the moment. It should be something that you give the disability community the responsibility of doing—in other words, building an app or building a really good information and referral website that has pictures of spaces in it. Often, if you are going to go to a hotel and you ring them and they say, “Yes, it is accessible,” and they provide you with a verbal description, when you go there it is nothing like what they described over the phone and you cannot use the toilet or the shower or whatever.

What we need and what current technology could provide us is a bit of a visual map that you can see online through an app, where you can search and filter and it has some element of consumer feedback and critique, like you have with some of the ratings websites. You could build something like that and keep it going. Governments seem to fund them all over the place, and then you get no money for the ongoing upkeep of them, and so nobody has actually built one that is viable, ubiquitous and has information about lots of spaces.

There used to be an organisation called NICAN that I worked for that actually did this. It was defunded in 2015, and since then we have seen nothing but a patchwork of people trying to set these up, often as social enterprises, and, because it involves a lot of work, they do not sustain. This is exactly something that should be done and it could easily be done.

THE CHAIR: We have finished our time frame for today. Craig, thank you so much for your submission and giving evidence today. The committee very much appreciates your time. Thank you.

Mr Wallace: Thank you for giving me your time.

Short suspension.

MACLEAN, MR HOWARD, Convenor, Greater Canberra
LEIFER, MR EBEN, Deputy Convenor, Greater Canberra

THE CHAIR: I welcome Howard Maclean and Eben Leifer from Greater Canberra. I remind you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement on the table in front of you. Could I have an acknowledgement that you understand the privilege implications?

Mr Maclean: I have read and acknowledge the privilege statement.

Mr Leifer: I have read and acknowledge the privilege statement.

THE CHAIR: Fantastic. We might start with Mr Cocks because he missed out on that last one. Would you like to go first?

MR COCKS: Thank you. Thank you very much for your submission to this inquiry. It provided a different perspective to many of the other submissions. One of the impressions I got working through it was that you see the ACT heritage arrangements as fundamentally being a barrier to good development around the ACT, and in particular close to the city. A lot of the other perspectives we have heard today are about trying to find a way to co-exist with good development and good heritage arrangements. Could you provide some views as to whether there is and where that line and that balance might be found?

Mr Maclean: We do think that heritage is very important and that an objective of the framework should be to preserve actual heritage. We think that a lot of the problems that we currently have stem from the system not being particularly good at communicating to the Canberra public about the actual history of a place that is preserved. In fact, quite frequently, as a fun party trick, I say, “Did you know that this place was heritage listed?” and most people did not. Most people do not know that the Canturf farm, for instance, on the Monaro Highway is heritage listed, and that is why it is a Canturf farm. It used to be a dairy. Virtually no-one knows that.

We have a system that currently attempts to preserve the shell of places rather than the actual history that we have. We think we can get a better system that is less intent on preserving the exact built form as it existed in a point of time, the shell, and more about communicating heritage in a reasonable manner, and then allowing for greater flexibility in adaptable reuse and potentially some more judicious approach as to how we preserve examples.

For instance, we think the 1920s is an important period in Canberra’s history. The garden city precincts are important in Canberra’s history. We preserved a huge swathe, effectively, of inner-city Canberra under a system of no change, and we are currently in the position where our city will not grow much more in terms of its geographic boundaries. The land we have is finite and Canberra will be here for hundreds and thousands of years to come. We are still at the very beginning of the history of Canberra and we simply cannot preserve places as they existed at a given point in time at the rate at which we currently are.

That does lead to a rethinking. Future Canberrans will have different needs for their city. They will need to do different things, and every heritage registration we currently make is taking away that choice from future Canberrans about what they do with a place, because we are of the view that what currently exists is superior use of land and is more important than any possible use in any of the centuries to come. We think that currently we are doing that at far too high a rate, far too fast, and that we should have a more judicious process that weighs the long-term economic, environmental and commute time, and, also as mentioned, accessibility considerations, to have a more balanced decision-making framework. Eben, do you have anything further?

Mr Leifer: To put it simply, there are ways to do heritage that respects a building but also adapts to change. The Sydney and Melbourne Buildings have seen lots of changes since their first construction. People protect heritage there far more than in any place in Reid because they go there every day. They are utilising modern purposes, even if it is a club or a pub or a tattoo parlour. People use those locations every day and they are far more tuned in with why the heritage of those places matters because they utilise them, they see them. If you go through Reid, very few people are going to walk through and appreciate individual architecture. People do on occasion—people who are architecture nuts will go and do that—but as a place it is very underutilised for our community.

When we make these heritage decisions, we need to ask about how people are actually going to interact with them. Should we adopt a system where heritage is preserved, but it is allowed to be reused and show the story of our changing city. In place of freezing in amber for a moment a single house in the 1920s, and, instead, having a building that is continually developed on and rebuilt but preserves some of the essential features and allows it to be useful today, people can say, “Originally this was a 1920s facade, but on top we can see a modern, glass framed building.” You see these sorts of examples all around the world.

One example that we used in our submission was a power station in the UK. That is a huge coal power station that was decommissioned. It was a large defunct and ransacked area for a long period of time, but now is home to tens of thousands of people, shopping centres, conference halls and all those sorts of main features. They have preserved a lot of it, but they also redid a lot of it, and there is still that heritage listed coal power plant, which in many ways is beautiful, even if it had quite a climate challenging purpose originally. It now has a whole new purpose that suits the modern day. It respects heritage and it lets people live it.

When we talk about that, we do not hate heritage. We do not want to knock down every heritage house. I think that impression comes along. What we want is a reasonable adoption of what heritage means and how it can be actually utilised to help people, and whether we can weigh it against the trade-offs which exist.

THE CHAIR: This is kind of supplementary, but I will go to a substantive question. We have heard a lot from other people who have given evidence today in a similar vein: heritage is so rich. If you put something on Facebook about the Canturf place, you would get so many people engaged in the history of it and what it means to them or to Canberra. We have asked other people how to go about bringing that community knowledge of heritage in the ACT—the bureaucratic structures. One of the

suggestions is potentially an ACT heritage strategy. That may be a way of canvassing those views broadly in the community and bringing them into the strategic trajectory of heritage. Do you think that is something that would be a worthwhile exercise?

Mr Maclean: We definitely think that the current institutions around how heritage is handled are broken. We have seen that recently with the implosion of the Heritage Council. We definitely think there needs to be renovation and a more intentional and strategic perspective on how we engage in heritage, where we are going and what we are doing. That is definitely something that we would welcome.

Mr Leifer: I could add to that. My one concern would be that, with these sorts of strategies, the people who are going to give feedback and get involved are people who genuinely care. That is a good thing, but it means it does not necessarily represent the community at large. When doing strategies, people seek consultation. The ACT government should look at doing something where it actually canvasses a wide range of views and does not just seek input.

This inquiry is a good example. A lot of people who responded to the inquiry are genuinely interested in heritage, and a lot of people who do not know much about the system but might favour more housing or might favour a different approach are unlikely to get involved. Any strategies should consider the fact that you are going to get a lot of responses from people who really care about heritage, for good reasons, but are not necessarily representative of the whole.

A strategy is good, but I think we also need to look at how people interact with heritage. A simple answer is: it is when people are near it every day. When people see heritage and appreciate it, they are around it. For example, in London, where I grew up, people appreciate heritage because they walk past a heritage building every day. It is in the centre of locations they go to work and live, and it is adapted. It is a place they use. At the Canberra city buildings, for example, people appreciate the heritage. They like drinking or working or commuting to a place where it feels like it is part of Canberra's history and it has a modern use. In establishing a strategy about preserving these places, you have to ask: how are they going to be relevant to modern people to the point where people actually go there and appreciate the heritage every day?

As I said before, people do not walk through Reid every day to look at the architecture, but people go past the bus interchange every day. They see those buildings and they see their uses. People go to parts of Manuka every day and use the cafes. There are areas where you have to ask: how do we get people there every day to see it, to appreciate it and to make it part of their lives and say, "We like this heritage. It is part of my city." At the same time, it is adaptable and people can say, "I can still use this in a modern context."

Mr Maclean: To briefly add to that and give you an example, I live in Kingston. I live on the site of the Printers' Quarters which were built in 1926. There were 12 homes. If they had not been knocked down in the 1970s, they almost certainly would have been preserved in their current form, in a similar manner to the garden city precincts, and I would not be able to live in my house, and nor would hundreds of other families that currently live in the apartment block that was constructed on that site.

We are in a situation where heritage has an enormous impact on every other aspect of our own planning framework and every other part of our policy framework. It impacts on transport, on incomes and on environmental considerations for both climate and ecological preservation. It also impacts quite strongly on things like accessibility and all the other considerations you have heard from other stakeholder groups. Those groups will not necessarily be involved because they will not directly realise the impact which a heritage listing can have on all those factors.

We are in a situation where current consultation processes are really good at getting views from people who really value heritage, but there are a lot of other impacts, and a lot of those groups will not be directly aware of the downstream effects. I would not have been able to participate in any kind of process for the heritage list regarding the Printers' Quarters, had they been heritage listed 20 or 30 years ago, because I would not have been born yet. We are in a situation where the Assembly need to walk quite a delicate balance between the interests of the broader community, the interests of heritage, the kinds of views that they will hear, and representations to inquiries like this.

Mr Leifer: We have an opening statement that covers some of that. We will submit it afterwards. I am getting the indication that you want to maximise time for questions, so we will provide a copy.

THE CHAIR: Thank you. Ms Clay.

MS CLAY: One of the suggestions in your submission is to make the minister a decision-maker on heritage. Did you mean the heritage minister would make a decision on heritage listings?

Mr Maclean: Yes.

Mr Leifer: That or a delegate. Our view on that is that it should be a democratically accountable body. One of the issues we have with heritage listings at the moment is we have given an immense amount of power, when you factor in all the consequences of a heritage listing and strategies, to an unelected body. One of our suggestions—this is not fixed in stone—is that we would like to see a system where not only is the heritage value assessed but it is also assessed against liveability, accessibility and sustainability impacts, and there is a proper cost-benefit analysis completed.

The federal Department of Finance suggested in one of their reviews that heritage should be a cost-benefit analysis process. We think it would best if the Heritage Council had the ability to make suggestions, screen it, bring it forward and put up the heritage value, and then the minister or the delegate is presented with the information that says, "Here is the heritage value. Here are the trade-offs. Here are the issues," and the Heritage Council can make an informed decision, and that reason is recorded. If that were the case and the heritage minister were effectively accountable and their views on heritage were out of step with the rest of the community, the community would have the opportunity to respond to that via an election.

MS CLAY: I understand changing the criteria to make sure that economic, social,

sustainability, inclusion and other principles are taken into account, but you could change the criteria for whoever is the decision-maker.

You would not necessarily have to do that only for the minister. I am interested that you would prefer the heritage minister to make decisions. We have a planning system that has intentionally removed all these decisions away from the politicians. Also, we have a high volume of applications. It is quite an unusual thing to give to a minister to decide on day-to-day operational decisions.

Mr Leifer: It is like we mentioned—using delegates and so on. This is something we have brought up in planning. Planning is inherently a difficult decision. Obviously, individual DAs should not be subject to ministerial approval, but they should be subject to the rules that the minister approves. In the same way for heritage, we would like to see far greater involvement of the democratically elected government that reflects people's views. At the moment, the Heritage Council, even with the changes, is largely made up of heritage and architectural experts. There are now a few additions and they have changed since the new council. Those are the people who are always going to say there is heritage value. That is their job, that is their data and that is their expertise, but they do not represent everyone's views. They are not democratically accountable and they do not represent the community as a whole.

We would like to see an individual who can at least be tied back to the minister or the minister having a disallowable power or something along the lines where, if this is out of touch with the democratic expectations of the community, the minister should have a way to say no, or, if the Heritage Council came up with something that says the opposite, the heritage minister would make the decision and is accountable. People know who the individual is that made the decision and who is accountable for that project.

MS CLAY: On the flip side, we have heard quite a lot of evidence that the Heritage Council is not empowered enough to make its decisions and that the EPSDD's Heritage Unit is stepping in and interfering with that decision-making, so they are not independent enough. Have you got a view on that?

Mr Maclean: Yes. That kind of dysfunction is a necessary consequence of the current system we have. Our usual method for making democratic decisions and making government decisions is cabinet. Cabinet is an excellent vehicle to allow for holistic and comprehensive decision-making that takes into account many different considerations. The reason we want heritage decisions to be made through that cabinet process, in a similar way to what currently exists, is partially to reflect that recognition: by going through the standard democratic methods—Westminster government—we end up with better results.

The current conflict between the Heritage Council and the Heritage Unit is a necessary—well, it is not necessary, but it is an unfortunate consequence of the current system where we have a collection of statutory office holders in the Heritage Council and then we have a bureaucracy they do not direct. This, combined with all the other statutory office holders and the various different statutory agencies, which are all independent of each other in the planning framework, produces a lot of dysfunction in the current system. We have made submissions regarding that—in

relation to the planning bill, for instance.

Our preferred solution is that the heritage decision-making be democratically accountable through the ordinary system of ministerial accountability and democratic government. We would prefer that over any kind of reform to the Heritage Council where we end up with the ACT government and the Heritage Council largely independent of each other, which is the theoretical situation, notwithstanding the current conflicts between the Heritage Unit and the Heritage Council.

Mr Leifer: I will add to that. Having an independent heritage agency not making the total decision is not necessarily a bad thing. If you had a group of independent experts who say, “Here is our view on the heritage value,” a minister can still be required to have consideration of that and, if they reject it, be required to give reasons. In that way, if it is a genuinely really good heritage example and the minister says no, the public knows why they say no, but they also know the heritage value and they can make up their own mind on that property and on the heritage minister’s policy.

An independent body that provides advice and says, “Independently, we think this has great heritage value for this reason,” but does not make decisions is still an option, but we would prefer that the decision-making process be clearly accountable and that these sorts of considerations, including liveability and sustainability, be pushed into that.

MR COCKS: For clarification, it sounds like what you are suggesting is something like the way the federal Medical Services Advisory Committee works—an independent committee which is composed of experts and considers all the evidence around a particular medical service and provides a recommendation to a minister who is then accountable for that decision and, most of the time, would probably follow the advice. Famously, Tony Abbott made a decision previously which was not what the committee recommended. Is that—

Mr Maclean: Yes. We support the entire model of having an advisory Heritage Council which is able to provide expert independent advice to the minister, and then potentially that advice could be made public to make it very clear. The minister’s reasons for decisions would be articulated. We think that, in the vast majority of the time, the minister would just accept the advice on any individual nomination. It is more about making sure that responsibility for actual decisions aligns with elected representatives and is handled through the holistic framework of cabinet government.

MR COCKS: The point about providing reasons for a decision seems like it would be an important part of that.

Mr Maclean: Yes. If the minister’s decision were infected with jurisdictional error or it involved irrelevant considerations, then there would be potential under this framework for judicial review of that decision.

MR COCKS: Thank you. It seems that a lot of the concerns that you are bringing forward are that the current system has dysfunction baked into it and that there is a fundamentally distortionary impact on heritage decisions which prevent development in particular areas. In your submission, you put forward an alternative vision for the

Reid precinct as a Parisian style medium- to high-density area. Is there a risk that removing the restrictions that are currently on a precinct like that does not result in a Parisian style development but just results in large mansions—McMansions, to use that term?

Mr Leifer: The issue there is not just a heritage one; it becomes a planning issue. If Reid stays in a RZ1 zone, you can build, except in a few certain circumstances, a large McMansion, if you want to. When we think about that, we think about the heritage-specific issue. There are obviously other issues which would require a planning framework: whether you up-zone the areas of Reid; whether you come up with a master plan that dictates exactly what goes in there and how it works. When we speak about a Parisian style suburb, we are not saying that the ACT government should buy it or knock it down and make it like that. What we are saying is that area is one of the closest to the city centre, to our major employment hub, to our major service centre, to the place that most people need to go at some point during their day.

What we are doing at the moment through heritage, and obviously also through planning—but that sits outside this particular inquiry—is saying these areas can only ever be owned by a small, select group of families with the money to both own and preserve a heritage house. We are saying that we want to embed a certain wealth disparity in our community because we value the posterity of the past over the prosperity of the future. What we need to do is re-examine that. That does not mean knock down every heritage house in Reid—not by any means.

We need to look at whether garden precincts are fit for purpose. Right now, they apply to every house, whether or not the house is heritage listed. We have heard in the news and so on that people are just trying to do things like put solar panels on a non-heritage listed home that happens to be next door to a heritage house and they affect the streetscape. At the same time, there is the inconsistency that is applied. People park cars from the 2010s through to the 2020s outside houses from the 1920s, and that would surely have an impact on the streetscape.

What we need to do when we talk about this great suburb is say, “Is there actually a benefit to us saying this entire streetscape needs to stay exactly as it was and apply it inconsistently,” or is there a benefit here for us to say, “This house is a great example of 1920s architecture. Let us preserve it. But let the rest be a Parisian style perimeter block because that will house three times the number of people.” There are now blocks on the edge of Reid that house more people than the rest of the suburb combined, because that is the housing needed and demanded in our city. We end up with—if I might say so—horrific wealth imbalance. We say, particularly to younger people and to poorer Canberrans, “You can have an apartment block here, but these wealthy people can live on a large quarter-acre block—some of them up to 1,000 square metres—in the centre of the city and there can never be anything else because of that heritage framework.

Mr Maclean: I can quickly add to that. We singled out Reid for a reason. Reid is basically a part of the CBD. It has UNSW Canberra and it is surrounded by the new areas of the Campbell developments. Along Ainslie Avenue is where the future high-speed rail station will be. It is not an inner-city suburb; it is part of the future CBD. We have created a situation where there can only be the very lowest density cottage

suburbia. The reason we have talked about Reid in this context is that Reid is the most expensive single heritage listing where there are environmental, economic, social mobility and other concerns. Eighty years from now, there will be someone studying at UNSW Canberra who will sacrifice hundreds of hours of their life because they are not able to live on campus or near campus. Instead, they have to live further away and commute every day. These are the costs which are associated with the current heritage listing.

When we talk about reforming Reid to be a medium- to high-density suburb, this is what we are really talking about. We are talking about it because it is the most expensive precinct. We have nine garden city precincts. We should potentially look at saying, “We have nine garden city precincts. The garden city area is very important, but we need to look at which ones are inordinately expensive to maintain.” Reid is by far the most expensive one to maintain in terms of social costs. That is why we have talked about it in our submission as being the area we prioritise for reform.

THE CHAIR: Thank you very much for your time. We will need to leave the hearing here. Thank you for your submission and for your time.

Mr Leifer: I will submit the opening statement to the committee secretary.

MS CLAY: Thank you.

Short suspension.

CARTER, MR GRAHAM DENNIS OAM

BURNES, MS ELIZABETH, Curator and Caretaker, Tuggeranong Schoolhouse Museum

GRIST, MS PENELOPE JANE, Secretary, Fire Brigade Historical Society of the ACT

BROWN, PROFESSOR NICHOLAS PETER, School of History, Australian National University, Manning Clark House Incorporated

THE CHAIR: We welcome witnesses from Manning Clark House, the Fire Brigade Historical Society of the ACT, the Tuggeranong Schoolhouse Museum, and Mr Graham Carter OAM. I would like to remind you all of the protections and obligations afforded under parliamentary privilege and draw your attention to the pink privilege statement on the table. Please state your acknowledgment and understanding of the privilege statement.

Mr Carter: I acknowledge the statement.

Ms Burness: I acknowledge I have read the privilege statement.

Ms Grist: I acknowledge the privilege statement.

Prof. Brown: I acknowledge the privilege statement.

THE CHAIR: Each of us will ask questions. We have heard a lot, even from the people who just gave evidence, that heritage is very much boxing in the here and now; it is not about the future and the planning of our city. I see Mr Carter's submission talks about a vision of the city and having a shared vision. We have also heard from other people about the need for an ACT heritage strategy that might go some way to addressing the issue of the lack of a comprehensive vision for the ACT. I am interested in your perspectives on this.

Mr Carter: I think it is a great idea. As will be obvious from my submission, I felt a little bit conflicted because I was on the previous Heritage Council. One of the big issues that we faced, in addition to the issue of under-resourcing, was that the council itself was always in a very reactive mode. We could only react to the business that was addressed to us by the secretariat. That is a problem in terms of public visibility, because the assumption in a public case, I think, is that the Heritage Council is quite proactive and goes out looking for business. We can only really respond to the business that comes to us, and that business is only often in terms of individual nominations of sites that are contested. Often that is too late to make any kind of useful intervention or useful guidance.

I think the issue that combines us all in this is precinct management. There needs to be a way in which the community can be alerted to the fact that the council exists—not just to respond to individual nominations but also to be resourced to undertake a broader precinct evaluation. That precinct evaluation might be guided by overall strategy rather than again being reactive: what are the values of this property; how do we square it off? That would be useful. I think it would particularly help to diffuse the assumption that the Heritage Council, in its business, is anti-development. My experience with the Heritage Council is that it is not anti-development; it is about

seeking to reconcile balance in development.

THE CHAIR: Thank you.

Ms Grist: I would absolutely agree with that from the perspective of the Fire Brigade Historical Society operating the Canberra Fire Museum out of the old Forrest Fire Station. I would just like to make a correction to our written submission. There are seven residences listed around that rather than nine, as we included in our submission. Certainly, we have been quite concerned to see development occurring in that precinct that does not seem consistent with the values listed in the heritage registration. Resourcing to oversee and enforce the heritage registrations would be particularly welcome.

If it could be part of an overall strategy, we would also very much like to suggest that the ACT government covers the costs of management and preservation of heritage registered buildings that are ACT government owned. ACT Fire and Rescue are incredibly supportive of the society. They deeply value the heritage assets and they do excellent routine building maintenance, but their budgets have to be directed towards emergency services, not heritage conservation.

Although the Forrest Fire Station has needed conservation for many years, it is reliant on volunteer time and expertise to apply for government grants to pay consultants and then the expertise to manage conservation works, which is somewhat untenable. An ACT government strategy that includes managing and supporting the actual preservation of ACT government heritage registered buildings would be very welcome.

Ms Burness: Would I be able to give my presentation now or later?

THE CHAIR: We were not going to—

Ms Burness: Five minutes is all this will take.

THE CHAIR: Maybe there are some key points that you would like to pull out of it rather than making an opening statement, because—

MR COCKS: Are we able to take something written as well?

THE CHAIR: If you want to write it out to give to the committee, we could take it as evidence.

Ms Burness: It is not very long. It has been timed to five minutes, but I can pull out the key points.

THE CHAIR: Yes. Some key points would be great.

Ms Burness: Thank you for the opportunity to contribute. It is a. and c. that I am particularly interested in. I manage and run the Tuggeranong Schoolhouse. It is that the future of the museum would be insured if there were a revamped ACT Heritage Council. I am after the effectiveness and adequacy of the operation if it could be

enhanced and extended.

Probably a lot of people are not aware that, in 2009-10, the ACT government made a commitment to retain and preserve the Tuggeranong Schoolhouse, an 1880 building. They had the ACT Property Group oversee the restoration. But the ACT Property Group's core business is not restoration of heritage buildings. They did fix it, but they renovated it rather than restored it. It has ended up as an 1880 building with a green Colourbond roof on it. The only heating for the whole complex is a Daikin reverse cycle air conditioner right at the front door of the 1880 school master's residence. It is a bit of a worry. They also painted the whole place white. They have other properties as well. They have Tralee and Couranga, which are rotting as we speak. If they could get some help, not in renovating or repurposing but somehow in just getting it restored.

I had looked after the Hall School Museum. That is another one. I was approached to put my collection into this empty renovated building—the schoolhouse—which I have done. There are 2,000 items that I own that make it a museum. They are very carefully chosen. They are all correct. But, if there were a central committee and a council that were looking after properties like this, I reckon you would get more retirees, like me, and people who would volunteer. It would save an enormous amount of money for the government in salaries. If these people know they are going to be looked after and that there is an overriding council that is going to look after them, I think you will get them. They are very keen.

The other things that I think are very important are things like insurance, for example. I pay the insurance. Just to be clear, I do not pay rent and I do not pay for fixing any problems in the 142-year-old building, but I pay for 24-hour back-to-base security and I pay public liability insurance. If there were a council that was looking after that, and for Hall and all the other ones that are run by volunteers, you would get a lot of people that would be keen to come.

The other thing that is possible with a centralised body is that you would get some surveys and data collection. You could get all sorts of things, particularly publicity. Because of Linda Roberts and the publicity she generated for the 40th Heritage Festival—the special day I had—40 to 50 people turned up, and it has all been documented. They will come. We are also keen to get more schoolchildren. At the moment, I have a school coming. I take a lot of the items to schools because, with COVID, as you can imagine, it has not been easy for excursions. I take the stuff to them.

THE CHAIR: Ms Burness, we might keep going through some questions, if that is okay.

Ms Burness: Yes; sure.

THE CHAIR: That is very helpful. Mr Carter, do you have any final comments on my question? Then we will move to Ms Clay.

Mr Carter: Yes. The strategy is important. Where I am coming from is the slightly bigger picture where we need to have a vision and we need to have a policy, from the government's perspective particularly. Before the 2016 election, I met with each of

your respective parties and asked them which policy was for heritage. You did not have one either—any of you.

MS CLAY: I think we did.

Mr Carter: Not before 2016, because I went around—

MS CLAY: Maybe not then.

Mr Carter: Sorry. In 2016, I presented an issues paper. A large chunk of the issues paper was accepted as the Greens policy, which then came to the election. The same thing happened in the Liberal Party. I had similar discussions before 2020. Again, the Labor party and the government have not had a policy at all. We have been going from situation to situation as a result without any real focus on the plan and not understanding what the heritage industry is—what is the shape of it; what is the size of it?

I put together a list of about 300 stakeholders. There is a lot more out there. As part of the strategy development exercise, we need to go through consultation. We need to get some vision lists from all the stakeholders and what their priorities are, and then, through that consultation, we can start to develop the individual strands of the strategy. The strategy itself—having been involved in other industries—needs to be accompanied at the same time by an ongoing practice. The strategy needs to get 10 years worth of rolling and rising. We also need to do impact studies every four years to get an understanding of what is needed, what practices and plans have been put in place, and then how we are going. We need to develop some KPIs concurrent with that.

They are not there for the heritage industry at all. Once upon a time, we had a triple bottom line to our approach. We have now got a poor line of approach. We need to look at the social aspect, the cultural aspect, the economic aspect and the environmental aspect, and we need to develop a regime of KPIs in each of those assets and at various levels.

Elizabeth has just pointed out that some people get involved in stuff just for fun. For an awful lot of programs, people get involved for fun. But we have not got down to that fundamental level. We have not got any measurements. We have not got any measurements at the high end of economic activity for heritage management and everything in between. We need to go through a workshopping process to develop the strategy, but concurrent with that are these other things which need to be teased out at the same time. That enables you to take a photograph of the industry at one point in time. By having a four cycle of impact studies, you can then translate the data that you are accumulating into trends, make some judgements as to whether your original targets are being achieved, what the trends are, and then what corrective actions need to be taken towards taking that all the way—a cogent exercise.

There is opportunity for involvement with the University of Canberra, with their heritage and their business studies area. They could be somehow used as a consultant to do some of this work for you and be involved in the impact studies. I have been involved with impact studies for sport and recreation, when I was on the board of

ACT Sport. We actually undertook three there. It is an iterative process that needs to be worked through. If we can get those measures in place, people can understand what we are trying to achieve, how we have gone or not gone, as the case may be, and adjust your actions accordingly.

THE CHAIR: Professor Brown, do you have anything to add?

Prof. Brown: There are two points in particular that I think are worth drawing out of our comments. The first is an obvious observation. Given the size of Canberra and the history of Canberra, so much heritage work is done by volunteer groups. In terms of the labour and the resources that are applied to undertake grant processes and maintain these resources, it is important to underscore how much this sector relies on volunteer effort.

The other thing, partly going back to my association with the Heritage Council, is that one of the problems with the current act is the use of the word “community”. It is a very slippery word in the ACT. If we think about state based and metropolitan based heritage acts, they often define quite clearly different constituencies, whereas the ACT, even from this group, has a series of quite diverse communities whose association with place might often be deeply local or might be deeply historical.

When assessing the criteria for eligibility, we come down to community appreciation or community evaluation, what that community looks like or how you might identify communities or specific communities that have a particular association with the place without them being drawn into a big debate about: “That is not true of the whole ACT community.” The use of the word “community” in the Heritage Act does need some refining. We do not have an act which is very sensitive to the local community; we have an act which is sensitive towards an aggregated sense of a territory community, but that is certainly not how Canberra functions.

THE CHAIR: Thank you. Ms Clay.

MS CLAY: Penelope, I was interested in your submission. You talked us through the history of applying for nominations. I think you said that you had a 2019 nomination and you were still waiting for a response. Have I got that right?

Ms Grist: Yes.

MS CLAY: That is a bit of a delay. And you needed to make urgent repairs.

Ms Grist: Yes. The nomination was for a fleet of 22 fire appliances, or fire trucks. It is a complex nomination—I absolutely acknowledge that—but it is clear that process has stagnated. I would imagine that is hugely due to the under-resourcing of the Heritage Unit. It will be a complex thing to investigate. I think that is just part and parcel of the bigger problem.

In terms of what we talked about in our submission and what I referred to in terms of the preservation of the Forrest Fire Station, it was a long time ago that we started applying for grants. The first letter I could find in our files was dated 13 July 2004, when we first started applying for grants to address the ingress of water into the

Forrest Fire Station. We were very grateful to receive an ACT emergency heritage grant, which took a little while to come through, but, again, we are in the position where most of the funding is going to pay consultants, and then we are placed in the position where we are trying to manage heritage conservation works. While we have enormous expertise about the history of firefighting in the ACT, we definitely need advice around preserving building fabric.

I would like to acknowledge that today Ron Hourigan is in the audience, one of my fellow volunteers and retired firefighter from the ACT.

MS CLAY: I have heard similar stories. We have other ACT government heritage listed buildings and they are not funded to do urgent repairs. Do you see a mismatch there in heritage listing? Is it an ACT government building?

Ms Grist: Yes.

MS CLAY: Is there a mismatch in asking you to apply for grants to make the repairs if it is an ACT government facility?

Ms Grist: Yes; absolutely.

MS CLAY: Thank you.

MR COCKS: Probably on a similar line, one of the clear messages I am hearing is that heritage is about more than just maintaining a register. The maintenance of the register is very important, but there are certainly other roles that the act maybe does not currently deal with, including how we maintain the buildings and sites that are currently owned by the ACT government. The thing tying you together seems to be around maintaining those sites. Are there any views on what it takes to keep one of these sites in good condition for people to use, and how we promote and leverage those assets?

Ms Burness: Can I throw in a little bit here? I am very keen that the property—an 1880 building with an 1899 kitchen extension—has its integrity intact. It is one of the best preserved, but I am very worried that it could be repurposed as an office building, a bit like Gungaharra has been. That was a derelict farmhouse, I know, but this is a school room. Everything is intact there. It is quite remarkable. I am just passionate that somebody does not start counting the beans and says, “We can get somebody like Housing ACT to take over the property,” and not allow the public in. I think that would be an absolute travesty. That is the problem.

ACT Property Group owns two other properties in Hume. Anne Forrest is the Morrison family historian. I was there recently. It is fenced, but the vandals have got into it. It is on the way out. There are people like me—probably not as stupid as me to pay for as much as I have, but occasionally I get a gold coin donation if somebody comes. I reckon that there are a lot of people out there and they are very worried about watching the dwindling number of things. I reckon that you could actually get some of the heritage tour operators to do an intimate tour of Canberra’s history as well as the big institutions.

I have had quite a bit of feedback—not that I have it written down, because I am really too busy talking to my visitors. I have hearsay that people, particularly schoolchildren, are so overwhelmed when they come into that atmosphere. They might say, “It is just like Granny’s house,” and all that sort of stuff, or “How did you get the smell?” Unfortunately, the smell is mould and dust. They are desperate and they are keen, and they did not know the place existed.

Perhaps there could be an overall one that is helping us all with insurance. Public liability insurance for an acre site is quite a lot, as you know. I pay for back-to-base security. I installed it. It is mine. But I have had no vandalism in the 12 years that I have run that property, and I live in Holt. I am not there, but the neighbours are watching it. Perhaps there could be a centralised one that is watching that and helping—“What is the latest thing coming up for the month?”—just like Linda Roberts has done. It was fabulous publicity.

Mr Carter: I could add to that. In these instances, the ACT government is the owner. The owner is responsible for the property. End of story. What you need for these is an actual asset management plan for each facility. Just come up with a template type of document—it is not that hard—and then articulate exactly what the requirements are: why you want to maintain the thing in the first instance and what the requirements are to keep it up to whatever the required standard is. It is up to the owner to determine what that required standard is. You then have a plan for operational expenses and activities, and also for the maintenance at the same time.

Then you need to have a cyclical period of review of those plans. You set your period for that—five years, for argument’s sake—and then do an audit at that stage relative to your plan. For your own house, you know which rooms need painting, which holes need fixing in the roof or what have you. It is not rocket science; it is fairly basic.

Prof. Brown: Manning Clark House does not really fit in this category because it is a privately owned house that is managed by a trust under a sublease, but there are two points I would make in response to your question. One thing a heritage strategy could very usefully do is correct the way in which so many of these issues are dealt with on a fairly atomised level. The whole process of making heritage applications goes to: “I am an individual. I have to come up with criteria to put this place forward. I am kind of doing it on my own.” The Heritage Unit is very skilled at assisting people. That is part of the drain on its resources, I think. We need a strategy that enables people to think, “I am not necessarily on my own.” A series of common objectives or strategies that the ACT is seeking to advance as part of its heritage priorities would be really useful.

Your point about collaboration is very important as well. One of the great initiatives that Manning Clark House has been able to take recently is to start building relationships with ACT Historic Places through the Cultural Facilities Corporation. They do not have resources really either. They are desperate to add a 1950s post-war property to their list, but there is no way that they can acquire it. What we are seeking to explore with them is how can we—essentially as a privately-run, volunteer based organisation that needs the donations that people leave us when they come for tours or for talks—work with them? They are not going to acquire anything after Calthorpes House. That is not happening. There is no budget for that. But there are ways in which

heritage interests—community based, volunteer based and government based—could talk much more effectively to each other. One thing that a heritage strategy perhaps could do is make us more visible to each other.

Mr Carter: That is where the measurement is fundamental to the whole thing. We need to know what we are trying to achieve, how we are making progress on it and what resources are required. The trouble over the last few years with the national institutions is that they have all fallen into a heap because they have not been able to provide the appropriate and acceptable business cases for resourcing and for funding. We need to get the data so that we can build those business cases. We need to look at what the industry is actually producing. It is not just about having these things available for schools or what have you—which is an important part—but we need to understand what the industry is producing.

We need to understand that this is about tourism as well. We need to look at what comes out of the tourism, and then that is part of the case as to why you need more money coming into the system at the other end of it. Other jurisdictions are picking up on heritage tourism, even down on the South Coast and those sorts of places. Here it is just catch-as-catch-can. There is no structure and there is no direction for what we are trying to achieve. Heritage tourism is already important in this town. Probably 30 per cent of the people who come to town come because of Parliament House or those sorts of things.

Ms Burness: The big places.

Mr Carter: People either come to town for those sorts of activities, entertainment and events or to visit family, or sport or something like that, but there are a very few—

Prof. Brown: That is actually the kind of leverage that I think the Cultural Facilities Corporation can develop. If we have an activation strategy, if we have a strategy which is not about just getting tourists into the familiar destinations but immersing them in less familiar aspects of Canberra, then we can do that. The problem for all of us, though, is that we feel as though we are starting from scratch. We need guidance on priorities. One of the things that Manning Clark House has to realise is that we cannot be a museum and a cultural facility at the same time. We are going to need to make some compromises, but, if we are going to find those kinds of compromises, we need to know where we can fit into other strategies. None of us can preserve the property that we value 100 per cent as it is. What we need guidance on are the qualities of those properties that are worth supporting as part of a broader heritage strategy.

Mr Carter: That is where we need the understanding of what the industry is.

Prof. Brown: Exactly.

Mr Carter: What the shape of it is; what the scope is; what it produces. We need that bigger picture.

Ms Grist: Just addressing your question about what it would take, it is obviously hugely greater resourcing for the Heritage Unit, but also bringing some of the heritage

expertise internal so there is a much greater level of advice. To address your points around connectedness, I think that needs to go to what you are looking at in terms of regulation and legislation as well. One thing that we would love to see is the capacity to co-list objects and buildings. For example, we have the Merryweather turntable ladders. They were the reason that the station was extended. Both items gained meaning from that. To be able to co-list so that association is not lost would be incredibly valuable, and that is about connectedness.

The other point around that is making it more efficient to allow an updating of heritage values. Our heritage listing addresses Capital Hill, the architecture and the early days of the fire brigade. That leaves out about roughly 80 years and thousands of associations with the Forrest Fire Station, including the commanders who are still resident in the precinct. To be able to sustain these heritage assets, we need to see the values that are listed reflecting the evolving significance of the places and protecting their continuing relevant life. I think that goes to your question about how to leverage it. I think it goes very deep into the heritage legislation.

THE CHAIR: That is a perfect note to end our session on. That was beautifully stated. Thank you all so much for your time and contribution to this inquiry. We are very appreciative. We will have a good report for you in the not-too-distant future, I am sure.

Prof. Brown: Thank you.

Ms Grist: Thank you very much.

Mr Carter: Thank you.

Hearing suspended from 3.14 pm to 3.29 pm.

TONGUE, MS SUSANNE, Vice President, Griffith Narrabundah Community Association, and Council Member, Inner South Community Council
FORREST, MS ANNE, Deputy Chair, Inner South Canberra Community Council
ZEIL, MR JOCHEN, Chair, North Canberra Community Council
ALBURY-COLLESS, MS MARIANNE LOUISE, President, Reid Residents Association

THE CHAIR: We will resume the hearing. The proceedings are being recorded and transcribed by Hansard and will be published. They are also being broadcast and webstreamed live.

For this session, we would like to welcome witnesses from the Griffith Narrabundah Community Association, the North Canberra Community Council, the Inner South Canberra Community Council and the Reid Residents Association. In front of you all there is a pink sheet. I remind witnesses of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. Could you all acknowledge the privilege implications of the statement?

Ms Albury-Colless: I can clearly see the privilege statement; thank you.

Ms Tongue: I accept the privilege statement.

Ms Forrest: I accept the privilege statement.

Mr Zeil: I also agree with the privilege statement.

THE CHAIR: We heard earlier from Greater Canberra regarding Reid. I am not sure whether you listened to them. They talked about the future thinking in terms of preserving heritage. At the same time, Reid, being a very inner-city suburb, is taking up a lot of space, in that it is a heritage-listed precinct. The Manning Clark House submission also talked about this, in terms of the dynamics between trying to preserve heritage and the need to develop our growing city. I would be very interested in your perspectives about how we go about finding a balance there, and what the balance is.

Ms Albury-Colless: Yes, I have heard a lot regarding Greater Canberra and their concerns about Reid. As a heritage precinct, it was originally recognised in 1980 by the Register of the National Estate, so heritage in Reid goes back a very long way and for very significant reasons. I have included those reasons in my submission.

I do tend to think that some of the concerns that the Greater Canberra people raise are also a legacy of the fact that we seem to have demolished quite a lot of social housing in Canberra and replaced it with, shall we say, quite high rise and high-priced apartments. I think that is a great pity, because that was a lost opportunity.

Again, if you look at the benefits that heritage brings, and particularly Reid and all of the other precincts that were garden city inspired, these relate more to John Sulman, who was the chair of the federal capital commission at the time. He brought a particular Australian lens to looking at the way of life of public servants and people coming to Canberra—people who were so necessary for the building and the administration of the new commonwealth parliament.

He had lived in Australia for 30 years before he took up that chairmanship, and he realised that, for people to survive in the situation that they were being put in, they would need a certain size of property so that they could grow their own vegetables and fruit, and they needed to follow the other principles of a garden city, which apply today—clean air, space and easy access to work. These are the basic principles of garden city precincts, and they are as applicable today as they were then.

There is also the way that we look at these heritage precincts. If you look at Reid in particular, it is really like a park. It is sustainable. The dwellings are sustainable, and they have been adapted and re-used time and again. In fact, they will click over the 100-year mark in 2026-27, and quite a number of them have photovoltaics on their roofs.

I also worry about the fact that people are cavilling about trying to infill a situation which will destroy so much amenity. The CSIRO have a very interesting report on the urban heat of Canberra; they mapped it. Reid is cool. Not only that; it is cool while being situated right beside the very highly heated area of the Canberra civic centre.

Not only do the Reid Residents Association enjoy that, but so do the thousands of people who walk through it every year. Tens of thousands of people walk through Reid. It is very accessible. It has multiple entries by car and even more entries by foot or by bicycle. So some of the assertions that are being made are completely nonsensical.

I also point out that there is a feeling in the Zeitgeist, apparently, that we are dreadfully wealthy. In fact, if you look at the latest census stats, apparently, Reid, in terms of wealth, is completely outnumbered by every surrounding suburb, including Campbell, where people apparently are 40 per cent wealthier than the people who live in Reid. The stats are in that report.

Some of these things that are being thrown at us are really not founded on principles of good research. It is very peculiar. We do not have our own university; we really do not. We understand that it actually belongs to the University of New South Wales. It is not Reid's university. Actually, it will be on Reid's side of Constitution Avenue as well as the suburb of Parkes.

To me, one of the very interesting things that has resulted from the heritage arrangements that have covered and stood Reid in well standing is that not only is it, based on a sustainability level, extremely sustainable, but also it is a haven for incredible birdlife, including the gang-gangs. In fact, I picked up a gang-gang feather this morning, and I will send it off to get the DNA ID'd, probably tomorrow.

There is also the fact that some people seem to think that any green space is open slather. At the moment I would very much suggest that there are spaces around Canberra close to the inner city that actually are available for densification, and they are already prepared to have something built on them. I am talking about the Doma site, on the foothills of Mount Ainslie. At the moment there is not a leaf stirring there, because it is a clean site in terms of development. It could be a wonderful village, based on garden city principles, and built for sustainability and inclusive of a diverse

range of people who will need that sort of housing. They can walk down, cross over into Ainslie Avenue and then they are right in the middle of Civic. What a wonderful opportunity that would be, if the government did what it did back in 1926-27, and developed a government housing precinct in Reid and various other inner-city and close suburbs. It would be a superb model to try to solve some of these problems that we have.

THE CHAIR: Thank you. Would anyone like to add anything more broadly, outside Reid?

Mr Zeil: The North Canberra Community Council is also extremely concerned about the destruction to social housing along Northbourne Avenue. We think that more effort needs to be made to put social housing close to facilities and public transport.

We have suggested a couple of times in our meetings that one should analyse the misuse of space in Canberra, if one is concerned about space for high-density urban development. The first one that comes to mind is surface car parks. If you map them across Canberra, you will see there is a huge amount of infill space being used for that, rather than social housing, for instance.

We have been continuously arguing that Thoroughbred Park and Yowani golf club should have a master plan for high-density urban development. Before we go into the suburbs and subdivide blocks, I think that is what we need to do.

Ms Forrest: I would like to support those statements. In the inner south, we have lost very significant pockets of public and social housing, all to very expensive multi-unit developments. We have been absolutely over-gentrified, and that healthy mix of community is being gouged out. At the same time we have quite a number of development proposals sitting there waiting, like the extension of Kingston foreshore through to the Causeway, and various other parts that I will not mention. That, in particular, will be a very big development when it happens.

Ms Tongue: I would like to say that good decisions come from facts, not assertions. I think that we are working from rubbery figures. I heard this morning a discussion about the density in the inner south. I think the figures being used for density are outdated. I think that there is not enough awareness of the amount of infill that is already going on in Griffith and Narrabundah.

You preserve heritage and allow for a growing city by doing what we talked about this morning—having a heritage strategy and recognising the values of heritage, which we talk about in our submission—recognising, for instance, that in a garden city you value the streetscape, the character, the pocket parks, and all of the things that we cannot get back, once we lose them, in the inner south and the inner north.

MS CLAY: This is a really interesting panel that we have put together. Three of you have made recommendations on governance, and I will run through the gist of them. They are quite similar recommendations, actually. You have raised separating the Heritage Council and unit from the planning directorate—from EPSDD. You have raised clarifying the role of ex officio members, with the Chief Planner and the conservator currently sitting as members of the Heritage Council—clarifying what

that is and maybe separating that out from EPSDD. You have raised whether the Chief Planner and the Director-General of EPSDD should be combined, and whether that should be part of the Heritage Council.

That has come through quite strongly in a few submissions. It was not really part of this inquiry, but what is it that you think is the negative impact on heritage decisions at the moment, with that really close connection that we have, structurally? Would anyone like to comment on that, or perhaps talk us through why we have recommendations about this?

Ms Albury-Colless: To me, a statutory organisation, agency or body—whatever you like to call it—should be able to work independently and give advice, because they have been appointed for expertise.

One of the things that I know has constantly worried me about the Heritage Council is the lack of somebody with a science background—an environmental science background—because that is so utterly fundamental to making decisions about these sorts of things, in terms of infill, which then hugely increases urban heat. These are the sorts of decisions that will need to be put under a very scientific lens based on the facts and the evidence, and the predictions regarding where we are going with heat.

To me, when you put somebody there in an ex officio situation—particularly at the level at which the chief planning officer may be, as well as wearing the hat of the head of the EPSDD—it seems to be a very peculiar way of doing it. You should let the council do its job and advise, and that should be put out and made transparent, so that we all know what the advice is. It should then go to the test of the Legislative Assembly and the minister. One can only presume that the minister also has a very good level of advice and advisers of a calibre that can advise him or her in the right way.

With respect to other heritage councils around Australia, if I look at some of the other submissions, they advise that other jurisdictions do not run heritage councils in that way. I think it is much wiser and it would lead to much more cogent and appropriate decisions if those ex officio members were not on the council.

Ms Tongue: When a DA comes in, the planner making the decision on the DA goes out to the entities and asks for their advice, and that is expert advice from experts in the area. The Heritage Council is an expert in heritage. The same is the case with sewerage and electricity. When the advice comes in to the planner, they give due deference to sewerage and electricity. From my reading of the DAs, they rarely give any deference to the Heritage Council.

I actually think it should be a rebuttable presumption that the Heritage Council's advice is accepted, and the planner has to say why they are not going to accept it. You could, if there was a dispute between planning and heritage, say that the minister has to decide that, because that is a real dispute. The planners are not God. They are just advisers with some expertise, and there are lots of other clever, talented people giving advice. The conservator is another entity that should be consulted. If the conservator's advice conflicts with what the planner would like to do, someone higher up has to make that decision.

Ms Forrest: Just following on from what Sue was talking about, you all heard this morning about the black box, and how decision-making appears to occur in some sort of a black box, so that the general public and other concerned organisations have no idea how that decision has been arrived at.

At the grassroots level, we do know that the head of EPSDD is sitting as part of council, and we see decisions on heritage that certainly appear to be influenced more by the general planning act than by expert heritage advice. At the end of the day I would like to hand over some papers illustrating a few of those, and we are happy to provide more information. That is a real failing of heritage, in my view.

Mr Zeil: Given that the heritage legislation also covers natural heritage, there is a lack of expertise in conservation on the present council. Just to mirror what Marianne was saying, there needs to be more transparency about the decisions of the Heritage Council, and that means having published minutes. One thing that members of NCCC would like to see is the ability to be invited to address the council and discuss applications.

MS CLAY: Thank you; that was excellent. Scientific and environmental expertise, transparency and more separation between who is doing what.

Mr Zeil: Independence.

MS CLAY: Independence, yes.

MR COCKS: One of the things I really appreciated—Ms Forrest, it came through in your individual submission—was the idea of pathways. Also, it seems to draw out the idea that we need to be clear on the functions of what is inside the black box and what we are trying to achieve through the planning legislation and the council. Could you speak to your description of the pathways a little bit?

Ms Forrest: Yes. Some of the material that I would like to leave with you gives you some illustrations of that. I explained in my personal submission—which just illustrates some of the points in a much more detailed way than what is contained in the Inner South Canberra Community Council submission—how people can approach redevelopment of a heritage property through various doors. I have referred to some of them as back doors.

MR COCKS: Yes.

Ms Forrest: You have the Heritage Advisory Service, which I think Mr Eric Martin pointed out is advisory. At the end of the day, their advice can be set aside by a non-expert within the Heritage Unit—unless there is an expert there that we do not know about. What is the point of the Heritage Advisory Service, which is represented by qualified heritage architects? You can go through the Heritage Advisory Service; you can go straight to the unit with your query about what you would like to do to your property; or you can go to EPSDD and assume that EPSDD will send that application to the unit for advice, and that it will then come back to the EPSDD.

It is much more complicated than that. There are a whole lot of steps there that can fail or lead to inappropriate development. I am aware of people being told that they can find a builder and a certifier who will work with their proposal outside the boundaries of the mandatory requirements of the register, so that they can get what they want.

Again, you heard this morning some people saying that, if you stick by the rules and try to do it properly, you run into this enormous wall and time just stops; or you can just do it. There is no lease compliance, so no-one is out there checking on all of the things that are degrading heritage.

At the end of the day, regarding what we have here, you heard from Greater Canberra. We have two very different views of heritage. Do we keep it, conserve it, and recognise its value for the future, or do we decide that there are heritage areas in this city that are already registered and on which we need to lift the protection? That will be a very big question, in the beginning, for the interim council.

I hope that the Chair of the Heritage Council will engage with different groups and talk through these things, because we have never been able to get near the council, know what their agenda is, see any report or minutes, and understand who is in fact the decision-maker within the Heritage Unit.

Ms Tongue: Less than one per cent of Canberra's houses are heritage listed. There are 106,000 single dwellings in Canberra, and less than 1,000 are heritage-listed properties. It is a small number; we could manage it. We are clever people.

MR COCKS: On the point about the decision-maker, you have suggested, again, in your personal submission that the final approving body should be the Heritage Council. We have also heard today the view that perhaps it should be the minister, on advice from the Heritage Council. Are there any views around that as an alternative model? Would that achieve the same objective as having the Heritage Council as the decision-maker?

Ms Albury-Colless: That depends a lot on transparency in what has gone on to actually build the case. You would look at that in terms of the fact that, yes, it would be the Heritage Council, when it is properly appointed and includes all of the people that we have suggested that it should include—particularly, as I was saying before, regarding science and understanding of the environment et cetera. Basically, the minister, in our democratic system, is usually the final arbiter. I have seen heritage ministers previously—I am not necessarily talking about the last iteration of ministers—make decisions that were definitely anti-heritage, even though one presumed there was advice there.

In that particular instance, the Heritage Council, and in another situation, also went against certainly what was happening in Reid. In both cases there was a Zeitgeist reaction, and the Reid residents took it into their own hands and objected. In one of the cases the developer who was moving into Reid wanted to put in a perfectly good house that would have been absolutely fine in Gungahlin or one of the new suburbs—no problem with it—but it would have disrupted the streetscape of Reid. They chose, rather than cause any more angst, to put that house somewhere else.

I have seen various examples of that sort of issue. But, in a democratic system, the minister is usually subject to being elected. I would tend to think that possibly he or she should be the final arbiter. But one would hope that she is also very aware of where the evidence lies, and the rationale for why the values of the heritage place that is under consideration should stay or should possibly be reconsidered.

Ms Forrest: Regulation 2008, as part of the Territory Plan and part of the legislation, brought into effect exempt, merit, and significant developments. In the merit track, there are two pathways. One is minor merit, and one is major merit. The average person in this city, understandably, does not appreciate that, and you are not aware of that when you are applying to do something on your home. I am talking about any home, not just a heritage property. Generally, single dwellings fall into either the minor merit track or exempt. In fact, there is almost no difference between minor and exempt.

Since that regulation, we have almost no strong link between the Heritage Act and the Planning and Development Act. It is almost one sentence, so that you can end up, as some of this material shows, with a heritage property that has been given by the Heritage Council an approval for an exempt development, but we do not know who that is. I very much doubt that that is the Heritage Council. It may be the delegated authority. It may just be someone within the unit that has the capacity to make that approval with the manager's signature.

It is really fragmented decision-making which is hidden from the general public. One of the things that I am hoping will happen is that a really strong link is developed for dealing with redevelopment of heritage properties, if we are going to keep them; that is the question.

Ms Tongue: It needs to be in the new planning laws, because the Heritage Act is not listed as needing to be aligned with the planning laws, either—although other acts are.

THE CHAIR: It is interesting that you all represent different associations and different suburbs and areas of Canberra. Someone else gave evidence earlier that the Heritage Act and the way we conduct heritage in the ACT is too much at an ACT level and it does not actually tap into local heritage. I am interested in your views around this and whether we could do it differently, or better, to capture what you are all talking about, regarding the specific areas that you represent. Are there issues occurring in Reid that actually do not relate to, for example, issues that we were hearing about in Tuggeranong?

Mr Zeil: In this context, there is a more general problem. As far as natural heritage is concerned, what is the standing of heritage legislation relative to environmental protection laws, natural resource management arrangements, Canberra Nature Park management plans, the Tree Protection Act, urban forest legislation and so on? Stuart Jeffress, who is charged by EPSDD with carrying out this review, could not answer that question. What is the standing of heritage legislation, as far as natural heritage is concerned? That means Canberra Nature Park and all of our endangered ecological communities. Does it add to the other instruments? Does it relate to them? The situation is that, despite all of the instruments that are there, our environment is

degrading at a rate that is terrible to see.

Ms Tongue: I think the Heritage Festival shows that all parts of Canberra appreciate and value heritage in the same way. All age groups turned up to all kinds of events all over Canberra.

Ms Albury-Colless: Yes, and we run our fair share of those most of the time, too, except when one of the organisers gets sick, namely me. I could not agree more. I look at the effects of the garden city principles as outlined by the largest precinct, which is, no doubt, Reid. I look at the connectivity in particular. I look at gang-gangs and at the other bird life that we have, which we have in abundance. I look at all the reasons why we have that, and infill would destroy that.

The doctrine of density needs to be applied very wisely, very carefully and in consideration of these things. I would like to refer to something that I think you should know about. Andrew Gissing, the Chief Executive Officer of Natural Hazards Research Australia, stated last week, unequivocally, that extreme heat is our largest killer in terms of natural hazards. In fact, it is the sum total of all other natural hazards combined in terms of its overall mortality. Particularly as we see our climate warm and our communities experience more extreme heat into the future, we will need to account more and more for extreme heat in our urban design and land use planning into the future. If we do not do that, not only do we make ourselves unbelievably uncomfortable and, for our future generations, this place probably will be unliveable, but we destroy what we have left of our fantastic, diverse range of flora and fauna, including gang-gangs, which happen to be the fauna emblem of Canberra. I think that would be illogical and, frankly, quite stupid.

THE CHAIR: We might leave it on that strong point. Thank you all very much for your time today, for your submissions and for contributing to this inquiry.

Short suspension.

BRADSHAW, MS FRANCES, Senior Solicitor, Environmental Defenders Office Ltd

MONTALBAN, MS MELANIE, Managing Lawyer, Environmental Defenders Office Ltd

THE CHAIR: I would like to welcome the representatives of the Environmental Defenders Office. I will start by reminding you of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement that you have been sent. Could you confirm that you understand the privilege implications?

Ms Bradshaw: I confirm that I have read the privilege statement.

THE CHAIR: Okay, great. We will start by asking some questions. A lot of the recommendations in your submission relate to First Nations cultural heritage. We did hear from others today about the tangible and intangible heritage around First Nations cultural understandings. Could you speak a bit further about that, and about how we build that into a heritage system that traditionally has been very much based on your block or your building?

Ms Bradshaw: Yes, certainly. The question is about how best to incorporate intangible heritage; is that right?

THE CHAIR: Yes.

Ms Bradshaw: The first thing we would say is that any kind of definition or concept of intangible heritage needs to be developed by First Nations peoples, not just solely by ACT government and non-Indigenous drafters. There are examples in other jurisdictions. We have used Victoria in our submission; we have included that at page 7. I am not sure that I can provide much more detail than what we have already suggested in our submission. In terms of implementation, as I said, that would need to be developed in consultation with First Nations peoples. I am not sure whether you are looking for further information from other jurisdictions or what sort of guidance you are looking for.

THE CHAIR: You have used Victoria as an example. Do you have any further knowledge of how that definition and understanding have played out? It looks like it has been in their act for a while. Are there any challenges? How is that particular understanding working in their act?

Ms Bradshaw: I do not have that knowledge today. If that is something that would help the committee, we are happy to consult with our colleagues and provide a response on notice, if that would be of assistance?

THE CHAIR: Yes, that would be wonderful.

MS CLAY: Frances, thank you for preparing such a detailed submission that went into some depth about the failings of the current system when it comes to First Nations cultural heritage. It was really valuable to have that laid out.

I will pick out a few elements. You have noted that we probably need a system that has more than one First Nations person involved on council to represent Aboriginal communities. Of course, it is not just one community; it is multiple communities. We need our public notification to work for First Nations peoples. Standard government registers and emails do not always work so well. Also, we probably need to look at remuneration for consultation. I actually value that word, because it is genuine work; it is quite time-consuming work, and we usually pay people for their services. Is that a summation of some of the failings of the system to engage properly at the moment?

Ms Bradshaw: Yes, absolutely. We strongly stand by those examples that you have used. In addition to the examples that you have just summarised, we also strongly advocate that the principal of free, prior and informed consent needs to be reflected in this legislation. That is currently a failing that is probably nationwide, in terms of heritage legislation. It is one of the main findings of the Juukan Gorge inquiry, at a national level. That needs to start being reflected in all heritage legislation across Australia, including the ACT.

MS CLAY: Can you talk me through, Frances, the Juukan Gorge inquiry? I will give you a bit of context. We have heard, in other contexts today, quite a lot about the need for transparency. I am wondering whether what you are about to say might actually touch on that for a number of people involved in heritage.

Ms Bradshaw: When you say transparency—

MS CLAY: Free, prior and informed consent, from the Juukan Gorge inquiry: can you explain to me what the problem was and what the recommendations are?

Ms Bradshaw: Certainly. I confess that I do not know the detail of the history of the Juukan Gorge incident. However, the lack of consultation and information sharing, and, as I said, transparency about how decisions are made, and the lack of the ability of communities to get involved in decision-making, were all issues that came up.

The principle of free, prior and informed consent is one that comes from Australia's international law obligations, so implementing it in the Heritage Act would be consistent with human rights law and best practice internationally. Those issues of transparency could perhaps be improved by incorporating the principle of free, prior and informed consent into the Heritage Act or other heritage legislation. Melanie, was there anything that you wanted to add to that?

Ms Montalban: To be honest, I did not hear the question. I should say that Frances and I were not involved in the Juukan Gorge inquiry. A lot of our colleagues put in submissions and attended that inquiry. It is a bit difficult for us to provide more detailed comment than what is in our submission.

THE CHAIR: Melanie, welcome to the inquiry. For the record, can you confirm that you understand the privilege implications?

Ms Montalban: I have read and understand the privilege requirements.

THE CHAIR: Thank you. Mr Cocks do you have a question?

MR COCKS: Absolutely. I really appreciated the depth you have gone into here. I am glad that my colleagues have touched on some of the things that are important to me to hear about as well.

One of the things we are hearing about a lot, and it comes through in a lot of submissions, is the idea of needing a strategy around how we manage heritage. It seems to me that some of what you have addressed in this submission could potentially align well with that sort of approach. Are there parts of this which could go into a strategy, rather than needing to be embedded in legislation?

Ms Montalban: Let me quickly run through the recommendations. The only thing that I can think of that could be taken outside the Heritage Act is around culturally appropriate consultation. Frances, can you think of anything else that might be better placed in a strategy?

Ms Bradshaw: Most of our recommendations address the efficiency and appropriateness of the act itself. Those recommendations, we would say, should be incorporated into the legislation. But some of them are about practice or implementation, as Melanie said. Consultation probably could be in a strategy, rather than in the legislation.

One of our recommendations, for example, is on the membership of the Heritage Council. There are already provisions in the act for there to be more than one person representing the Aboriginal community. But, in practice, that has not happened. Again, that could be more of a strategy.

Ms Montalban: The focus of our submission was really on amendments to the Heritage Act itself.

THE CHAIR: Do you have examples—we touched on Victorian definitions in the legislation—of heritage frameworks for legislation in other jurisdictions that you would consider are best practice in engaging First Nations cultural heritage and First Nations groups?

Ms Montalban: To be perfectly honest, no. I do not think there is a really great example of good First Nations cultural heritage protection in Australia. There might be some provisions that we could draw on. But, as an overarching framework, I would not be necessarily recommending any other jurisdiction.

Ms Bradshaw: I agree with what you have said, Melanie. That was picked up, I think, by the inquiry into Juukan Gorge, and it is one of the reasons why there is now a federal reform process into cultural heritage protection laws at a federal level, with the intention that those reforms will trickle down to the states and territories for consistency. I am not aware of any other jurisdictions that would be best practice.

MS CLAY: One of the other recommendations that you have included is a need for civil enforcement provisions. Can you talk me through what the problem is and why that would be helpful?

Ms Bradshaw: From our review of the Heritage Act, we were not able to find any real, accessible mechanism for members of the community to be able to enforce the Heritage Act, including First Nations people, and that seems like a very significant gap to us.

There is an option for a person to ask the Heritage Council to apply for a heritage order. If the council fails to do so, the person can apply to the Supreme Court themselves, but the Supreme Court is not an accessible jurisdiction for many people in the ACT because of the significant cost risks and need to find legal representation, both of which are quite significant barriers.

In addition, there is seemingly a lack of provision about ongoing monitoring of compliance with certain matters under the act—for example, heritage directions, repair damage directions and heritage agreements. It means that there is a risk that breaches of the act are going unseen. We think that these provisions could be strengthened by including a civil enforcement mechanism whereby people can bring breaches of the act to the council's attention, or for people to have a more accessible forum, such as the ACT Civil and Administrative Tribunal, to apply for heritage orders.

MS CLAY: There is a similar mechanism in the existing planning act, where people can bring a controlled activity order, and that is a civil enforcement measure. Are you thinking about the same kind of mechanism in this context?

Ms Bradshaw: From memory, controlled activity orders can be made in relation to controlled activities, which is quite a limited number. It is a good start, but it is still a limited number of activities that can be the subject of orders. We would advocate for something similar, but we would advocate for a broader list of things that could be brought to the attention of the council or otherwise enforced—any breach of the act or any non-compliance with the act.

MS CLAY: If that act better recognised cultural heritage, that might be quite a powerful tool.

Ms Bradshaw: Agreed.

MR COCKS: I was interested in the comments you had on RAOs and the role that they play within the system. In particular, I am interested in the remuneration side of things and the challenges that that presents. Do you have any further background on that issue in particular?

Ms Montalban: No further information. It is just something that we come across quite often, not only in the heritage context but in a lot of other matters where we see First Nations people, communities and organisations experiencing consultation fatigue, because they are asked to come along on so many different processes and inquiries.

In our view, they are providing expert evidence that should be remunerated as such, because they are giving the benefit of their lived experience, or they have professional expertise as well. We consider that they should be remunerated much like everybody

else when they are being consulted, for either each individual consultation or perhaps having their organisations better funded so that they can respond to multiple inquiries. We note that the heritage RAO declaration specifically excludes remuneration, which we find problematic. Frances, do you want to add anything to that?

Ms Bradshaw: Nothing further to add.

MR COCKS: That is useful.

THE CHAIR: Thank you very much for your submission and for taking the time to provide evidence to the inquiry today. I really appreciate it.

Ms Bradshaw: Thank you very much.

Ms Montalban: Thanks for inviting us.

Short suspension.

VASSAROTTI, MS REBECCA, Minister for the Environment, Minister for Heritage, Minister for Homelessness and Housing Services and Minister for Sustainable Building and Construction

RUTLEDGE, MR GEOFFREY, Deputy Director-General, Environment, Water and Emissions Reduction, Environment, Planning and Sustainable Development Directorate

THE CHAIR: We will start with the final session for today's inquiry. We now welcome Minister Vassarotti, the Minister for Heritage, and Mr Geoffrey Rutledge, the Deputy Director-General, Environment, Planning and Sustainable Development Directorate.

I remind you both of the protections and obligations afforded by parliamentary privilege and draw your attention to the privilege statement. I would just ask each of you to state your understanding of the privilege implications.

Ms Vassarotti: I have read and understand the privilege statement.

Mr Rutledge: I have read and understand the privilege statement.

THE CHAIR: Fantastic. We will go straight to questions. One of the issues that came up today was that the ACT heritage properties are running down, basically, and they are not being cared for or invested in in the way that they should be.

I suspect that may be slightly out of your portfolio responsibility, but I think there is a real gap between our heritage requirements and framework and the act, and how the ACT government itself implements that in its own properties. I was just wondering if you have any ideas on how that could be improved and addressed and what we need to do that?

Ms Vassarotti: Thanks for the question, Dr Paterson. It is a really interesting situation. The work of the Heritage Council and Heritage Unit is really around providing advice to the owners of heritage assets. Heritage is not an owner of properties. There are a range of government assets that have heritage values. I think it is managed differently depending on what the heritage assets are and sometimes where they sit.

The Cultural Facilities Corporation is a good example of an asset owner that has really specific responsibilities around historic sites and has a really clear understanding. But we also have other assets that might sit with Property Group, for instance, where their heritage value is almost adjunct to how they are being used.

I think there are definitely opportunities. I think this is one of the opportunities that flows from the review that we are doing within ACT government in terms of looking at that nexus.

In terms of the role of Heritage, it is about giving protection to heritage assets; supporting the development of conservation management plans; providing advice to owners, whether they be private or government owners, on how to manage those assets; and a compliance role, if there is a breach of obligations. A lot of this is in terms of providing advice and support for owners of properties whose responsibility it

is to maintain the heritage value of sites. I do not if know if Mr Rutledge has anything to add.

Mr Rutledge: No; nothing really further to add for the committee. We have listened to the hearings. As the minister said, it is not within our portfolio. But it is of interest and of interest to the community. So I will look into that, but I cannot promise anything further to today.

THE CHAIR: You were talking about the owner's responsibility to upkeep properties. They are ACT government properties and they are not being maintained. Is there a mechanism within the Heritage Council or do you think there need to be strengthened mechanisms within the Heritage Council or the Heritage Unit to hold the government itself to account to upkeep these properties?

Ms Vassarotti: From my perspective, on the distinction between whether it is a private owner or a public owner, there are obligations in terms of maintaining heritage assets, particularly for registered sites, for instance.

As part of the review, we are looking at how the legislation operates. I think you are speaking to things such as compliance and enforcement, which fall into the scope of the review.

There are some incentives that we will provide, particularly for private owners. Some of our heritage grants will sometimes provide support for private owners.

It really does sit within the remit of government owners to actually ensure that they are maintaining their property, including their obligations around health and safety. I think it does fit into that bucket. There is definitely a role in terms of compliance, but responsibilities do tend to sit with the owners of assets.

THE CHAIR: We had a robust discussion this morning about installing solar panels on heritage-listed houses. Then we had another robust discussion about accessibility requirements. That was quite interesting. We had a lot of really good evidence presented that our heritage needs to be living heritage and that the best way to make sure we keep our heritage is to make sure it is useable.

A lot of people have asked for standard exemptions for sustainability upgrades—and you might make out the same case for other types of upgrades—and a lot of people have suggested that perhaps those who are complying with the system and going through the 15-year process and three-contractor variation of trying to get a solar panel provider who can fit solar panels in a heritage-appropriate way are being punished and people who simply put panels up are going ahead. Is there a role to revisit that for sustainability and maybe some other—

Ms Vassarotti: That is a case study that I hear quite a bit. I think the very short answer is yes. I think there is a really important conversation to have. We know that the best heritage assets and heritage buildings are the ones that are being used. They need to be useable as well.

In fact, I have come today from the induction of the new Heritage Council, where we

actually had a discussion around these kinds of issues. Interestingly, solar panels and accessibility came up as good case studies of advice coming from heritage experts on what is a balanced decision.

This is exactly the conversation we were having today—about heritage experts bringing the heritage advice and other people bringing other advice and it comes to a different decision-maker to balance up those needs. But I think there is absolutely a role for the heritage professionals to actually look at a balanced decision.

My great desire, and what I have stated as part of my vision, in terms of the review is that we get to a place where we do not see heritage and something else basically being pitted against each other, and it is a fight about which value trumps which value. I think environment and heritage is a really good example of that.

I want us to get to a point where we really see those values complementing and supporting each other, rather than them being pitted against each other and one winning over the other one. That is what we are trying to achieve through the process that we are doing through now.

THE CHAIR: I think that sounds excellent. It was suggested to us that better decision-making might happen if bureaucrats—and possibly the council, depending on who is making decisions—could pick up the phone and talk to people. That was on the basis that what seems to be happening is there is this massive time lag of four to six months and you get a rejection and, “No, you cannot do it that way; try this,” but they have not actually spoken to the person who has expertise in the disability adjustment or the solar panels. So a short conversation on the phone would have come up with a workable solution where years and years of exchanged correspondence does not land it.

Is there more of a role for actually talking to the individual but then letting that person say, “Let me get you to talk to my architect,” or “Let me get you to talk to my solar panel installer,” or “Let me get you to talk to the person who has raised this with me”?

Ms Vassarotti: I think that is a really good and fair reflection. Certainly the reflection of Heritage ACT—particularly with a high-level of volume and just being pretty overwhelmed by the level of work—is that, while it would be quicker to do some of those things that you talk about, it became a bit process driven and mechanical. I heard today senior leaders in the organisation really reflecting the desire to be able to be more connected and more responsive in order to work with people to find solutions.

MS CLAY: You were talking about constructs being pitted against each other. One of the things we heard was that there just is not the expertise in the council to make these decisions. For example, the knowledge of solar panels and how solar panels work these days and the technology does not sit in the Heritage Council. So they are making decisions really not understanding how a solar panel is fitted these days and that type of thing—and it is the same around accessibility and also First Nations cultural heritage.

Rather than viewing it as one thing pitted against the other, is it just that the council absolutely does not have the knowledge base to make these decisions in relation to

these things?

Ms Vassarotti: I would push back a little bit on that. I think that, if you look at the expertise of the interim council that we have put in place, they actually have a high level of expertise and professional experience. We have an architect sitting on that council that has specific expertise around adaptive reuse.

I would question why a Heritage Council member would need to understand how to install a solar panel; however, I think that it is important that council members understand in general terms technologies.

We keep talking about solar panels. It would be great to solve this problem one day. But the issue is not around the technology; the issue has potentially been around very strict requirements, particularly through precinct plans, in terms of them being visual in terms of the streetscape. A smaller, more streamlined solar panel is still potentially visible from the streetscape.

So I sort of question that it is about a lack of technical expertise that is driving some of these decisions. But I think there is a really fair conversation to be had about how we look at issues like adaptive reuse. I would actually point to the fact that, in terms of First Nations, we have actually put in place a council that has a high level of expertise and has the ability to seek additional expertise where possible.

There are some really good connections that can be made with other councils. I reflect on the Climate Council. They have also got some really interesting expertise around adaptive reuse, for instance. So, I think there are opportunities to draw on the expertise that we have across a range of areas. I think this issue, particularly around adaptive reuse and how we ensure our heritage assets are sustainable, is actually one of the key areas that we want to do a lot more work in.

MR COCKS: Minister, one of the first themes to arise through this inquiry—and it is clear from the very submission we received—is the lack of a heritage strategy. There was work done all the way back in 2016 and a discussion paper was released, and we are still facing the same problems, it looks like, with no strategic vision for where heritage is going. Is there a reason that so many years later we still do not have that strategic document?

Ms Vassarotti: We are certainly working towards a heritage strategy. I have held the portfolio since the end of 2020. We had some specific---

MR COCKS: The government has been there a bit longer than that.

Ms Vassarotti: I can actually only speak to the experience of when I have had portfolio responsibility. Certainly in terms of taking on the portfolio, some of the challenges that emerged through the COVID experience, which I know that we have talked to you about before, and really responding to the volume and some of the systems and process challenges that the unit has faced has meant that, in terms of the journey that we are on now, absolutely, we need a heritage strategy. I would absolutely support that recommendation that is coming out.

Certainly, the way that we have been working through this issue is really looking at some building blocks that we need to put in place, particularly around getting some of our business processes in place and actually getting a functioning database, for instance. So there is some really functional work that needs to happen. So we are looking at what we need to do internally as well as what we need to do externally.

I think one of the first parts of that journey, particularly with the new council, is around the development of a statement of expectations. I have presented a draft to the council which identifies a range of priorities. I am really keen to work with them collaboratively and so I have asked for a bit of feedback. We will then formalise that and that will be a publicly available document that really sets out some of the priorities. I think that is a step towards the heritage strategy, but we will deliver a heritage strategy. It is just about working through some of the building blocks of that.

MR COCKS: Building on your comments there, you touched on the resourcing constraints for the unit. I want to recognise the staff working in the unit. Having spent a long time as a public servant myself, I know it can be a really stressful environment when politicians are off looking at what you do. What resources in terms of FTE does that unit have now, and what does it need to complete what is a really significant work agenda?

Ms Vassarotti: I will ask Mr Rutledge to talk about the specific resourcing. It is fair to say that we did see an escalation of the work program, particularly around some of the processing work. So we have invested some significant additional staff resourcing into the area. We are looking at that staff team.

In terms of some of the business processes, we are not exactly sure what we are going to need into the future, particularly given the fact that we hope some of the business processes and things, such as a functioning database, will actually significantly ease the administrative burden.

MR COCKS: There are some pretty fundamental functions here that the team need to complete.

Ms Vassarotti: Absolutely.

MR COCKS: So I would expect you have some idea of what resources you need.

Ms Vassarotti: Yes.

Mr Rutledge: Thanks, Mr Cocks. I will take a little step back. I think we have seen an ongoing increase in heritage work, I would say, probably since about 2016-17. I think that is how long we have seen both work in known heritage places outside of their urban environment—some of our signature properties, as we talked about earlier—but, as the urban infill and the pressure, particularly in the older suburbs, for expansion has increased, there has been renewed interest in heritage.

The government committed new money in 2016-17 to not only the heritage component but also development assessments across the environment planning portfolio, because we have seen a big influx, more complex assessments required and

more complex proposals. So there was new funding then to try to catch up.

In the last couple of years, we have seen a focus on improving our business practices, and there has been new money for that. This financial year we have put in an additional three resources to help us for both the review of the council and the work that we are talking about and to review of our business systems. The heritage database is actually an investigation of our business processes to see if efficiencies can be gained.

At the time, in 2016-17, we thought, quite rightly, that the additional resources provided by government would have been enough. We did not predict the increase in workload in the last few years, particularly around the inner suburbs of the inner south and the inner north, where we have heritage precincts and people expanding and doing renovations et cetera on their sites. So that is where we are.

I do not think it is so much how FTEs we have—currently we have 13 working on it. It is more about harnessing the resources and getting the advice at the right time—going to some of the concerns that you have heard today. Because of this wave of new applications we have probably been in our bunkers trying to work through that backlog. The minister has challenged us to stick our head up a bit and work with the new council to set an ACT strategy.

I do not think it is just numbers; I think it as much business improvements that we can do. That said, I am sure the minister will apply in this budget round and probably future budget rounds for additional investment. Every minister does that, but I---

MR COCKS: Given we cannot really go into cabinet concerns---

Mr Rutledge: No, and I am not going to. I am just saying that we have got---

MR COCKS: The other bit of the equation that I am interested in is: are there dedicated FTE to supporting the council or other specific functions?

Mr Rutledge: Yes. We have a heritage approvals and advice team. That has six permanent officers at the C6 and 5 levels. We have temporary contracts in place. I will just also add that, because of the level of expertise we are expecting from these people, they are difficult to recruit to positions. It is about getting the right skills set as much as getting the bodies. Overall, we have 13. We employed three this year, and we can give you a further breakdown—

MR COCKS: I am happy if you want to provide that on notice.

Mr Rutledge: Yes, I am happy to put that on notice. The three we put in this year are really to try to get to that backlog, whilst we have the council and external reviewers helping us with the review, including the work of this committee.

Ms Vassarotti: We also have a specific secretariat role for the council.

MR COCKS: Is that in addition to the 13 or within the 13?

Mr Rutledge: No; within that 13.

Ms Vassarotti: Yes, within the 13. But to your question about support to council, in terms of the different functions, a range of staff will be providing the advice and support to council. But I think you were asking a question about specific secretariat—

MR COCKS: Those who are responsive to council in particular.

Mr Rutledge: I will take that on notice, Mr Cocks, and then put it in writing for you.

THE CHAIR: Just to move on to another substantive, we heard evidence today that the council is purely reactive—it can only really react to nominations that come through. In the Manning Clark House submission, they say that, whilst the council has advised of development applications, it has no power and certainly no resources to comment, let alone decide on those applications unless they are directly related to a nomination, and so the council has very little capacity to engage in the broader consideration of issues of precinct values and heritage significance in the ACT.

I would put it to you that it does not sound like a best practice use of these professionals who are experts in heritage to just be responding to nominations rather than actually being proactive in their engagement with heritage in the ACT.

Ms Vassarotti: In terms of the development of heritage precincts, the council has been very involved in that work. So I think there has been a level of setting some of the broader heritage values across the city.

I think that is a really fair reflection in terms of the responsive nature of some of the council's work, particularly around things that come to the fore. Again, that is one of the reasons that we are undertaking a review right now and looking at what best practice does look like and looking at other jurisdictions' approaches. There is a desire to have a more strategic approach. Things such as the development of a heritage strategy will be able to support that process.

There will always be a level of responsive work. Particularly in a growing city, there are pressures on the heritage assets of this city. So it is difficult to see us get to a point where you will not have that responsive work.

I think there is a strong desire of the council to do that more strategic work and also to be able to do that responsive work in a way that is user friendly and that actually provides a level of consistency and people can get access to information easily—so it does not take 25 letter exchanges to actually deliver an outcome that works for individuals and actually preserves the heritage value.

Even in the responsive work, there are opportunities to be more strategic in that work as well. That is certainly a focus of the review that we are undertaking right now. The very question that we are posing in the review is: What does a best practice, fit-for-purpose heritage system look like for this city?

Mr Rutledge: Further on that, I think the Heritage Council and the Heritage Unit are most seen when they are making decisions around nominations. Under the act, the

remit of the council is broader than that, but I think what we see is their statutory decision-making front and centre.

When you think of the influence that the Heritage Council has on the understanding of heritage and you think of our Heritage Festival, which is our large engagement with the community, not all of those are heritage-nominated, heritage-listed, statutory-decided programs, buildings or experiences. But that is something that the Heritage Council have an influence in, and they certainly see that as part of their remit.

I suppose the visible nature of the Heritage Council is their decision-making and their advice on development applications. In that sense, they only make hard decisions on what is referred to them, as you say. But I think the members of the Heritage Council see themselves—as I think we would—as having a broader role than that. Could it be better directed and better seen? I think that the heritage strategy and the outcomes of this review will lead that to occur.

But, when it comes to a statutory decision-making role, absolutely, as the submission from Manning Clark House said, they only have statutory decision-making powers on what is referred to them. That said, they do talk to the community broadly about heritage values, and that might lead to a nomination which then turns into a decision.

MR COCKS: Supplementary to that, one of the other big concerns we have heard about is what has been called the opaque black box that is the decision-making process. That has come through in a wide range of submissions and in discussions today. Do you have any plans to open the black box and increase transparency—and, alongside that, transparency around what is happening now as well?

Ms Vassarotti: What do you mean by “what is happening now”?

MR COCKS: In terms of there is a review which has been almost entirely redacted in what is available to the public.

Ms Vassarotti: Okay; we are going to that again.

MR COCKS: Not just there; the black box of the actual decision-making process is the key part.

Ms Vassarotti: Again, the current review that is going on is about looking for a fit-for-purpose best practice. How this decision making gets done is a really fair part of that conversation. For me, one of the other issues is actually understanding how the current decision-making happens. and even who the council is an interesting thing.

That is one of the things that I have talked to the new interim council about. There is a lack of understanding even about the fact that I am not the decision-maker in heritage decisions—that it sits with the council—and the processes around that decision making. I think there is a low level of understanding about how the current heritage decision-making system works.

Again, in terms of the review that we are undertaking, I think that it will be something that is explored. It is reasonable for people to understand at least the mechanisms

around decision-making. I would assume that would be part of a best practice model around heritage decision-making.

We have interrogated the Nous review extensively. Again, another decision-maker made a call on what was appropriate to—

MR COCKS: Will you be able to provide that to the current chair so that they are able to avoid the problems of the previous—

Ms Vassarotti: We are having very significant engagement with the current chair and the current council on the key issues. As everyone is aware, there is an executive summary and all of the recommendations about the review, which gives you a very good sense of what some of the key issues are around a range of issues. We are taking a lot of time in inducting the council and ensuring that we have got good processes in place in terms of governance et cetera. Also, we are working with them in partnership around the review process that we are undertaking right now.

THE CHAIR: Installing a new council now, and there is a review underway and there is also an inquiry underway—and I imagine both processes will make substantial recommendations for change. How will the government support the interim council through that process, which I imagine will be quite unstable for them, with the knowledge that there is all this change coming?

Ms Vassarotti: In the engagement that I have had with the council—including today, where we had a really great session—there is a real appetite and enthusiasm for this process which council members are seeing as a real opportunity. I would suggest that it is a time of change. People have come into the roles actually understanding that this is a time where we are reflecting and reviewing.

We are bringing together a range of people with significant professional expertise and experience—and with good experience around change management as well. I am seeing this as a really positive thing. We are actually providing a lot of support to the council, and we will continue to do so. We are really trying to strengthen that partnership in terms of the connection between myself and the council and the unit as well.

We will need to step this through. As evidenced in the conversations that we have had with the committee, we are really keen to draw from the richness of the work that the committee has done through this inquiry. I think you have actually been able to provide an opportunity for the community and others to share their experiences, which we see as a really important element of that.

We will obviously do ongoing work, but we are really committed to doing that in an integrated way so we are not duplicating processes—running a process to respond to the recommendations of your committee as well as recommendations about the government-commissioned review. We are looking at how we bring that together so it is a streamlined process, and we can draw from the richness of the learnings that we get both from the work from the committee as well as the work from the external review, which is looking at a wider net in terms of particularly what is happening in other jurisdictions.

THE CHAIR: Great. Thank you very much for your time today and for contributing to our inquiry.

Ms Vassarotti: Fantastic. Thank you.

Mr Rutledge: Thank you, Chair.

The committee adjourned at 5.02 pm.