



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ENVIRONMENT, CLIMATE CHANGE AND BIODIVERSITY
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Submission Cover Sheet

Inquiry into ACT's heritage arrangements

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INQUIRY INTO THE ACT'S HERITAGE ARRANGEMENTS



ACT LEGISLATIVE ASSEMBLY STANDING COMMITTEE ON
ENVIRONMENT, CLIMATE CHANGE AND BIODIVERSITY



Australian
Institute of
Architects

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INFORMATION ABOUT THE INSTITUTE

The Australian Institute of Architects (Institute) is the peak body for the architectural profession in Australia. It is an independent, national member organisation with more than 13,000 members across Australia and overseas.

The Institute's vision is: *Everyone benefits from good architecture.*

The Institute's purpose is: *To demonstrate the value of architecture and support the profession.*

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INTRODUCTION

The Australian Institute of Architects (the Institute) welcomes the opportunity to contribute to the Inquiry into the ACT's Heritage arrangements.

TERMS OF REFERENCE 1

The effectiveness and adequacy of the operations under the Heritage Act 2004 including First Nations heritage, and approvals provided under the Act

The Institute appreciates the previous work of ACT Heritage Unit staff in dealing rapidly with urgent nominations at short notice, and the ACT Heritage Council's agreement with the Unit's advice. However, Institute members recent experiences of the operations of the Heritage Act 2004 have not been effective and adequate. Further to the relationship issues outlined in the public version of the Nous Report, there is a lack of expertise on architectural heritage in both the Heritage Unit and Heritage Council that contributed to their inefficiency and inadequacy. In some cases, the Unit has contradicted the advice given to our members by its own Heritage Advisory Service. The time frame in which responses to applications and requests for information are received are unworkable for many of our members, with some reporting waits of up to 2 years.

There is also a large backlog of places nominated for registration awaiting final decisions. Recent timeframes with architectural heritage listings, applications and requests for information demonstrate a lack of understanding of architectural processes and building practices, and cost ramifications for architects, builders, and their clients.

The pressure on the Unit and the Council brought on by this backlog has resulted in a defensive mentality on their part when they should be proactive in promoting the protection of heritage in the ACT. This is not helped by the ACT Heritage Register not always having heritage conditions and conservation information on listed buildings, being difficult to navigate and not being linked to the planning system, meaning neither applicants nor authorities can easily access the same information.

This is complicated by the ACT Heritage Study being out of date as it was last updated in the 1980s. In addition, conservation guidelines have not been updated for 15 years and need to be developed to address contemporary issues. The guidelines are now inappropriate for things like solar panels and changing circumstances. There are also procedural weaknesses in the Act, such as the Council's advisory (rather than decision making) role, and the lack of avenues of appeal for the Council through ACAT. Decisions on architectural heritage can be made by the planning authority should the Unit and/or the Council not respond, but this puts decision making in the hands of those who are not qualified. The result of all of this is that architectural heritage has been placed in danger, with some heritage buildings (such as the Benjamin Offices and the Northbourne Flats) being demolished before they could be listed.

TERM OF REFERENCE 2

The effectiveness of the structure, administration, and operation of the ACT Heritage Council, including the adequacy of governance arrangements between the ACT Heritage Council and ACT Heritage Unit

While the structure of the Heritage Council is laid out in the Act, the structure and operation of the Heritage Unit is not known. This is demonstrated by the lack of information on Unit staff, generic email and physical addresses being the only option, resulting in the inability to consult with them face-to-face or over the phone. There is a general lack of responses to correspondence, causing much frustration, not helped by the lack of defined response periods in the Act.

TERM OF REFERENCE 3

The adequacy of resourcing for the ACT Heritage Unit

The delays in, or lack of, responses from the Unit and the Council, the out-of-date Heritage Register interface and information, the lack of a current architectural Heritage Study for the ACT, are clear evidence that resourcing is inadequate to meet the many demands on the unit. More resources need to be made available not only to the Unit and the Council, but also resources so that additional expertise on processing applications on architectural heritage can be procured.

TERM OF REFERENCE 4

The operation of heritage legislation in other Australian jurisdictions

The structure of heritage legislation in other Australian jurisdictions is similar to the ACT, having a register of heritage places linked to planning and development processes. However, their operation often differs to the ACT in the following ways:

- the makeup of the heritage councils
- clear procedural pathways and statutory timelines
- more comprehensive rules for as-of-right works and works that require permission for places on heritage registers
- the use of qualified consultant heritage professionals by planning authorities to assist with applications for the development of heritage places.

In NSW and other states there is a set of clearly stated exceptions for heritage approval. This does not exist in the ACT, and it could save time and money if clearly defined. For example, in the ACT, it would appear repainting a window requires approval of Heritage but not a DA.

While also under resourced and far from perfect, the timelines for heritage approvals that are required by development applications are far more predictable and communications much more transparent in other jurisdictions when compared to the ACT. Unlike the ACT, where an architectural heritage discipline member is theoretically not required due to the number of councillors being less than the number of disciplines covered by the Act, heritage councils in other Australian jurisdictions always require councillors who are expert in large disciplines such as architectural heritage and archaeology. Large jurisdictions like Victoria also have alternative members for their heritage councils to mitigate the availability of councillors.

In other disciplines, heritage significance is broken down into smaller levels, such as state, local and special significance, whereas the ACT only has one level of significance.

TERM OF REFERENCE 5

How the ACT's heritage arrangements might be improved to guarantee the ACT Heritage Council achieves its statutory functions

Architectural heritage not only contributes to environmental sustainability by preserving resources and materials in buildings, but also adds significantly to the character and identity of the city. Because of this, heritage processes need to be adequately resourced so that they can be more transparent, processed in a timely manner and be able to draw on professional consultants to assist with applications and proposals.

The ACT's heritage arrangements would be improved by having a clearly articulated and regularly updated Heritage Strategy by Government. A professionally prepared heritage survey of the ACT, which is kept up to date would also improve ACT heritage arrangements. This will minimise ad-hoc entries in the ACT Heritage Register when threats to unregistered places of heritage value arise. It will also minimise losses of places worthy of heritage protection through neglect, inappropriate alterations or demolition.

The Unit should manage the heritage significance of listed places by proactively engaging with owners and their architects with regards to their legal obligations, as well as providing timely advice and facilitating available financial assistance. The Register interface needs to be updated to include more conservation information to facilitate the approvals process.

A mechanism to update citations more quickly as a result of Conservation Management Plans and further studies is also required. Currently, the Heritage Act or the approach to this by the Council or Unit has the effect of restricting potential change even if a citation or control is inaccurate or inappropriate.

Heritage requirements need to be prioritised according to scale and complexity, and different types of applications introduced appropriate to the scale of the proposed changes. For example, small maintenance works (such as replacing irreparable window sashes with facsimiles of the same material and construction) should not have the same application requirements as larger scale proposals (such as adaptive reuse proposals to large, listed buildings).

The discipline of architecture should always be represented by an expert on the Heritage Council to facilitate knowledgeable processing of applications.

Both the Council and the Unit should be adequately resourced so that they can engage independent qualified expert heritage consultants to help with busy periods, or to clear existing backlogs of nominations for listings and applications for development. Both the Council and the Unit should be forward looking, with leadership that will develop strategies for heritage in the ACT, as well as develop processes that facilitate the relationship between the Unit and the Council, and between the Unit and the public.

TERM OF REFERENCE 6

Any other related matters with respect to the ACT's heritage arrangements

The ACT Government currently promotes aspects of the city's planning, its garden city character and so on to attract visitors. The Institute believes that government should recognise and promote Canberra as a world heritage site. Tourism to Canberra could be enhanced if its heritage was lauded.

There are heritage sites where the broader setting and context are important, but the Heritage Act only controls specific listed sites, and not its adjoining areas. In addition to building and property listings, there needs to be a positive planning approach to the area around listed buildings that promotes good urban and rural design, rather than appearing to ignore it.

Heritage conservation contributes significantly to sustainability and can help the sustainability credentials of the development of heritage places. The ACT's development approvals process should consider all aspects of sustainability, such as embodied energy, the energy used in the manufacture of building products and the transport of building products.

The ACT Government should lobby the Commonwealth for better articulation between Commonwealth and ACT heritage controls to better protect ACT built heritage. There have been significant heritage places on Commonwealth level that have inadequate legislative protection as the NCA only controls the exterior but not the interior. Without Commonwealth nor ACT interest, these interiors cannot be included on the Commonwealth Heritage Register and ACT Heritage Act does not apply, putting them at risk. For example, the Hyatt Hotel, Canberra Olympic Pool and the West Portal Cafeteria.
