



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON ENVIRONMENT, CLIMATE CHANGE AND BIODIVERSITY
Dr Marisa Paterson MLA (Chair), Ms Jo Clay MLA (Deputy Chair), Mr Ed Cocks MLA

Submission Cover Sheet

Inquiry into ACT's heritage arrangements

Submission Number: 038

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NATIONAL TRUST *of* AUSTRALIA (AUSTRALIAN CAPITAL TERRITORY)



PO BOX 458
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PATRON: The Hon Margaret Reid AO

Dr Marisa Paterson MLA
Chair
Standing Committee on Environment,
Climate Change and Biodiversity
ACT Legislative Assembly

LACommitteeECCB@parliament.act.gov.au

Dear Dr Paterson,

Thank you for the opportunity to provide a submission to the Committee's Inquiry into ACT's heritage arrangements.

Please find our submission enclosed.

We would be pleased to provide further information on any of the matters raised in our submission.

Please do not hesitate to contact me on president@nationaltrustact.gov.au or [REDACTED].

Yours sincerely

[REDACTED]

Gary Kent
President
National Trust of Australia (ACT)

31 March 2023

NATIONAL TRUST of AUSTRALIA (ACT¹)



Submission to Inquiry into the ACT's Heritage Arrangements

ACT Legislative Assembly Standing Committee on Environment, Climate Change and Biodiversity

Acknowledgement of Country

The National Trust of Australia (ACT) acknowledges the Traditional Owners of the land which comprises the Australian Capital Territory and pay our respects to Elders past and present.

LIST OF RECOMMENDATIONS

The National Trust of Australia (ACT) recommends that the ACT Government:

1. Prepare an ACT heritage strategy building on the Five-Year ACT Heritage Strategy 2016-2021 Discussion Paper, February 2016 and submissions, and integrate the Heritage Strategy with the new planning system.
2. Consider the need for a separate Aboriginal Heritage strategy.
3. Assess the current and projected ACT Heritage Council and ACT Heritage Unit workloads to address ongoing issues including heritage assessment backlogs.
4. Allocate appropriate numbers and range of skilled personnel, including First Nations people, along with financial resources to the ACT Heritage Council and ACT Heritage Unit to achieve improved productivity and outcomes.
5. Seek to amend the *ACT Heritage Act 2004* to:
 - protect and conserve Aboriginal Heritage in line with contemporary practices and policies.
 - respond to and reflect the implications of climate change.
 - strengthen the ACT Heritage Council's role in planning legislation and decisions.
 - remove the position of Chief Planning Executive from membership of the Heritage Council.
 - ensure the ACT Government's heritage policy, resourcing and operations reflect a valuing of heritage as a strong economic driver and important contributor to community identity and wellbeing.
 - require the ACT Heritage Council to prepare a stand-alone, independent, frank, comprehensive annual report by the Council, without the need for approval of the report by EPSDD or the Minister.
6. Clearly communicate ACT heritage legislation and heritage strategy, ACT Heritage Council and senior ACT Heritage Unit appointments, duties and responsibilities, operations, decision-making and appeal processes to all government and community stakeholders, using consistent terminology and a variety of modern communication tools and platforms.
7. Complete the digital upgrade of the Heritage website and database.
8. Increase recognition of and boost ongoing financial support to community organisations for their heritage activities.
9. Develop and implement enhanced arrangements for community consultation in relation to the ACT heritage decision-making framework.
10. Ensure that where proposed developments are subject to both Commonwealth and ACT heritage laws and requirements, the respective roles of the relevant Governments and agencies are clearly articulated.
11. Seek to amend the *ACT Heritage Act 2004* to require that any ACT Government advice to the Commonwealth Government or the National Capital Authority in relation to any of their decisions which may have heritage implications (a) must be subject to prior consultation with the community and (b) be tabled in the ACT Legislative Assembly.
12. Seek to legislate the ACT Wellbeing Framework, including regular reporting by the ACT Government of progress in achieving heritage targets.

INTRODUCTION

The National Trust of Australia (ACT) (the Trust) welcomes the opportunity to make a submission to the Inquiry into the ACT's Heritage arrangements in response to the Terms of Reference.

The Trust is a not for profit community organisation. Our Purpose is 'To promote the conservation of, and foster public knowledge about, places, objects and issues that are significant to the heritage of the Australian Capital Territory'.

Our Vision is 'To be an independent and expert community advocate for conservation of our cultural, natural and Aboriginal heritage, based on a committed and active membership and a strong financial base'.

Our *Core Values* include:

- committing to heritage conservation, education, celebration, and promotion, and defending of a sense of place in a changing world;
- enabling the diverse range of members, supporters, staff, and the community at large to participate and collaborate in the Trust's activities and business, encouraging debate, and valuing their participation and opinion;
- working in a collegial fashion with like-minded organisations locally, nationally, and internationally, to contribute to heritage policy development.

The Trust has been a well-respected and credible advocate for ACT's heritage since the late 1960s and has been responsible for heritage classification of many iconic heritage assets in the Territory. Originally associated with the NSW Branch of the National Trust, the ACT National Trust was established as a separate entity in 1976.

The Trust has excellent relationships with other heritage and kindred organisations in the ACT and, in addition to our own analysis and ideas, our submission references the outcome of discussions with a number of these organisations and perusal of their published submissions to the Inquiry.

In recognition of the Trust's expertise and capacities, it is currently the recipient of an ACT Government grant which provides secure funding to attract and retain appropriate staff. The funding enables The Trust to continue advocacy and engagement work on heritage conservation with the specific deliverables to:

1. effectively promote conservation of ACT's heritage places and objects, and
2. foster public knowledge about places, objects, and issues.

Trust activities assisted by the grant include our regular tours, events and walks, a thematic study on mid-century modernist houses in the ACT, the annual Trust Heritage Awards, programs of heritage education and awareness and an annual Heritage Oration.

NATIONAL TRUST (ACT) RESPONSES TO THE INQUIRY TERMS OF REFERENCE

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

As indicated below, the Trust considers that the existing ACT heritage framework is thoroughly outdated and inadequate in many respects. Details of our concerns and suggestions for reform of the framework are provided in our response to Terms of Reference (e) and (f) below. Specific illustrative examples of some key issues in the management of heritage in the ACT are presented in the Appendix. Our response in this section is confined to the operation and performance of the relevant government agencies within the *existing* statutory and regulatory framework.

Heritage approvals

As noted elsewhere in this submission, the work of the ACT Heritage Council and its support staff has been severely hindered by lack of resources. This is highlighted by long delays in the processing of applications as acknowledged by EPSDD, a trend which has been exacerbated by the 'rising demand for heritage advice and increased number of applications'. The EPSDD Annual Report 21-22 provides no further information but indicates that only a small number of decisions were made in the reporting period. Though somewhat reduced, a large backlog remains.

Coordination across ACT Government Directorates

Broader issues of co-ordination across the ACT Government also impact the effectiveness of heritage outcomes under current arrangements. Matters covered under the *ACT Heritage Act 2004* arise in most ACT Directorates, but few mechanisms are evident that would facilitate integrating *Heritage Act* provisions into Directorate actions, management strategies and, for instance, district planning. This lack of coordination across Directorates has contributed to loss of heritage, for example the Wanniasa Aboriginal scarred trees illegally cut down in 2017 and 2018, despite being listed on the ACT Heritage Register for over 25 years.



Heritage listed Aboriginal scarred trees deliberately felled: Protection mechanism failure
(Appendix 1.6)

b) 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.

The Nous Review

The Trust notes the review of these matters by the NOUS Group, which identifies many issues with the current operation of the ACT Heritage Council. Key findings of the review identified in the publicly available Summary Report demonstrated that the administration of the ACT Government's heritage responsibilities by the Council was neither effective nor adequate. The Summary Report highlighted several key issues in relation to the structural and governance arrangements.

The Trust notes that four Council members were appointed in March 2021. This was within a period where COVID restrictions were severely affecting workplaces and causing high absenteeism. This situation would no doubt have affected both ACT Heritage Unit staff and Council members, with perhaps less opportunity for interaction and induction processes.

Trust recommendations to address specific gaps and issues identified by the Nous Group in the current arrangements are presented in Table 1, TOR (d) below.

Structure of the ACT Heritage Council

The composition of the ACT Heritage Council as set out under the Act seems adequate, subject to one exception which we have noted below, and the Trust supports Aboriginal representation and the inclusion of expertise in fields of history, landscape architecture, architecture over time. However, the Council's functions under the ACT *Heritage Act 2004* to assess and register objects and places of significance valued for cultural, natural history and spiritual reasons, suggest the need for an appointment for a person with specific ecological/environmental expertise and someone with multicultural expertise.

c) The adequacy of resourcing for the ACT Heritage Unit.

Neither the EPSDD website nor 2021-22 EPSDD Annual Report provide data on staffing, outputs, or outcomes in relation to the ACT Heritage Unit so we can offer little comment on this Term of Reference. Information on the Unit and its staffing allocation is subsumed in annual reporting under the Environment and Water Group with over 300 staff members. We note that the Nous Review Report summary indicated increased workload for Unit staff without a corresponding increase in budget and resourcing. This lack of resourcing directly impacts lack of enforcement action in relation to heritage breaches and non-compliance.

d) The operation of heritage legislation in other Australian jurisdictions

The Trust notes that all states have in place some form of strategic management plan with most having Council and City level plans as well. Western Australia has a separate *Aboriginal Heritage Act 2021* (likely in response to the destruction at Juukan Gorge in that year) recently updated its Heritage Legislation and in 2022 also engaged with Aboriginal people in a co-design process to establish guidelines under the *Aboriginal Heritage Act*. The publicly available documentation about the design process, its outcomes, and outputs, may provide useful insights and guidance for any consideration and potential review of the ACT heritage legislation, strategies and guidelines.

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

Under the ACT *Heritage Act 2004*, the ACT Heritage Council has ten statutory functions as listed below with emphasis added. The Trust notes that the language used (encourage, advise, assist, work within) is conciliatory in tone and indicates a role lacking power for definitive action particularly in relation to planning. Further to this, we present a number of specific issues illustrative of the ways in which the

Council's Legislated functions impede it in protecting and conserving ACT heritage. We also suggest proposals for reform as a way of addressing these issues.

- a) to identify, assess, conserve and promote places and objects in the ACT with natural and cultural heritage significance;
- b) to **encourage** the registration of heritage places and objects;
- c) to **work within** the land planning and development system to achieve appropriate conservation of the ACT's natural and cultural heritage places and objects, including Aboriginal places and objects
- d) to **advise** the Minister about issues affecting the management and promotion of heritage;
- e) to **encourage and assist** in appropriate management of heritage places and objects;
- f) to **encourage** public interest in, and understanding of, issues relevant to the conservation of heritage places and objects;
- g) to **encourage** and provide public education about heritage places and objects;
- h) to **assist** in the promotion of tourism in relation to heritage places and objects;
- i) to keep adequate records, and encourage others to keep adequate records, in relation to heritage places and objects;
- j) any other function given to it under this Act or another Territory law.



Hill Station: Weak heritage enforcement of a privately owned property (Appendix 1.2)



Reid Housing Precinct: Lack of enforcement of heritage requirements (Appendix 1.8)

Improving the operations of the ACT Heritage Council and ACT Heritage Unit

As noted in TOR (b) The Trust recommends actions to rectify identified issues identified by the 2022 Nous Review.

Table 1: Possible strategies to address issues identified by the Nous Review

Current situation (Nous Report, 2022)	Change required for improvement	Trust recommended action
1. Lack of clarity in roles and work processes between ACT Heritage Council and ACT Heritage Unit	<ul style="list-style-type: none"> A strategic approach with established goals, objectives, and timeframes for achievement. Strategy reviewed and adjusted annually. Report against strategic objectives in the EPSDD Annual Report. 	<ul style="list-style-type: none"> 2016 ACT Heritage Strategy to be updated and a standard review process established. Develop an ACT Heritage Strategy building on the 2016 draft Strategy and submissions.
2. Lack of unified direction, understanding of strategic outlook and processes by Council.	<ul style="list-style-type: none"> Heritage Council has a unified direction which Heritage Unit understands and is resourced to support. Progress and achievements listed in the EPSDD Annual Report. 	<ul style="list-style-type: none"> Assess the current resourcing levels including staff allocations, appointments, budgets, and IT appropriate adjustments made. Joint/shared professional development opportunities to establish understanding of issues and clarity of purpose.
3. Lack of clarity on governance arrangement between the Heritage Unit and the Council.	<ul style="list-style-type: none"> EPSDD executive manager responsible for ensuring adequate induction of new Council members with Heritage unit staff. Improved monitoring and reporting regimes against workplace culture in line with EPSDD <i>Commitment to workplace culture</i> as set out in its 22-23 Annual Report. 	<ul style="list-style-type: none"> Improved induction of new Council members and joint sessions with Unit staff soon after council appointments.
4. Increased workload for Heritage Unit with inadequate resourcing.	<ul style="list-style-type: none"> Effective support for Council undertakings in line with strategic plan objectives. Improved workplace culture and interactions. 	<ul style="list-style-type: none"> Review staffing and workloads and allocate adequate resourcing. A diverse, skilled, well-informed, and adequately remunerated workforce which includes First Nations people.
5. inefficient business systems creating a stressful work environment.	Effective and well supported IT and other communication systems	EPSDD Annual Report 21-22 (p22) notes the new Heritage database and website... <i>the completion of these critical platforms and induction of Council and Unit personnel must be a high priority for the first half of 2023.</i>

Heritage registration approvals

The large backlog in approvals has built up over a 25 year history and cannot be linked directly to the performance of the current ACT Heritage Council or ACT Heritage Unit. In fact, a modest reduction in the backlog was reported by EPSDD for the 2021-22 financial year. No clear indication of reasons for the backlog

of Heritage approvals is evident in the Nous Summary Report which refers only to issues that would be likely to impact approval processing timeframes: increased workloads, staff shortages, inefficient business systems, and the like. In relation to the latter, completion of the Heritage digital upgrade as a priority should enable more efficient processing and improved public access and utility.

It is unclear whether changes made in September 2022 to the development approval (DA) process have led to some of the increase in workload for the Council and, by association, the ACT Heritage Unit. The change meant that only the opinion of the Heritage Council was required when applying for permission to undertake minor changes to heritage listed properties or those with provisional registration. This change was explained as a streamlining of the approval process, delivering time and cost benefits to owners and developers. It should have reduced some of the burden on the ACTPLA development approval process but may have inadvertently added directly to the Council's workload contributing to the backlog in heritage registrations and other workload related issues.



Manuka shops: Excessive delay in assessing the nomination (Appendix 1.3)

Limitations on Heritage Council powers under the *Heritage Act 2004*

In the Trust's view, many of the current problems faced by the ACT Heritage Council can only be addressed with amendments to the governing ACT *Heritage Act 2004*.

The Council is a small statutory authority and an independent advisory body, located within EPSDD along with the Planning function. It has **no discretionary powers** and may only provide **advice** on development and other matters affecting heritage. This along with the engagement and remuneration conditions of members must surely limit its capacity to fully undertake the complex range of tasks and functions as set out in the Act.

The ACT Heritage Council reporting in the ESDD annual report is relatively perfunctory and the Trust recommends that the ACT *Heritage Act 2004* be amended to require a stand-alone, independent, frank, comprehensive annual report by the Council, prepared and approved by the Heritage Council. The Council should be required to deal in the Report with all matters under its purview, without the need for approval of the report by EPSDD or the Minister.

The Trust believes that they are some key omissions in the current legislated powers and functions of the Council. These include Heritage and Climate Change and Local Heritage Significance.

Heritage and Climate Change

A key omission in the ACT *Heritage Act 2004*, probably unsurprising as it was drafted almost twenty years ago, is any reference to climate change. This has implications for the protection and conservation of heritage objects and places. For example, considerations regarding the impacts of solar and wind energy installations, the effects of extreme weather events (already experienced as hail and storm damage to heritage listed buildings and bushfire destruction of Alpine Huts and threats to the Aboriginal rock art at Yankee Hat in Namadgi National Park). Initiative by rangers to immediately dismantle the timber viewing platform at Yankee Hat Art Site, likely saved the paintings from the fire. Viewing platforms at sites should be constructed of non-combustible material. This gap in the Act and lack of integration of heritage and climate mitigation and adaptation policy is discussed in the submission of the *Office of Commissioner for Sustainability and the Environment (OCSE)* to this Inquiry. The issues are therefore not discussed further here although the OCSE recommendation to introduce recognition of climate change risks to the ACT *Heritage Act 2004* is supported.

Local Heritage significance

In State jurisdictions, places of local heritage significance are managed by Councils and of State heritage significance by the particular State. However, currently the ACT Govt considers the term 'community' to relate only to the entire population of the ACT jurisdiction. They do not consider community values relating to a specific area or indeed a specific cultural group. The Territory's small 'geographical and population size'² is given as justification for this lack of local level significance in the ACT. As a result, small-scale and local places, which are often highly valued by local communities can be unprotected and lost under the current Heritage legislation.



Ginninderra Blacksmith's Workshop:
Neglected and forgotten (Appendix 1.1)

Yet, the terminology and explanations lack clarity and, in some cases, appear contradictory. For example, *ACT Heritage Assessment Policy* (p.4) speaks of local heritage, local areas, and local regions (highlight added):

A place or object is of **local heritage significance** if its heritage values are of a purely localised nature and do not contribute significantly to our understanding of the broad pattern and evolution of the ACT's history and heritage.

In the ACT a **local area** or **region** would normally be considered a satellite town or district, such as Belconnen, Woden etc. On a smaller scale again, it might also be considered a suburb within a satellite town, such as Scullin or Curtin. A local region would also be considered either the north or south side of today's Lake Burley Griffin or the former Molonglo River. There are other, smaller areas which, due to their individual character and identity, might be considered a local area in their own right, such as the villages of Hall and Tharwa, and the suburb of Oaks Estate.

This seemingly contradictory and confusing explanation of local heritage works against community understanding and engaging effectively in heritage processes, including nominating places and objects. Possible improvements are suggested in TOR (f).

The lack of clarity in defining 'local' in relation to ACT heritage works against community understanding and inclusion in the heritage process. As noted in TOR (a), having two jurisdictions within the ACT adds to the complexity of community heritage engagement in the ACT and to the need for clear messaging about the distinctions and divisions.



Barton Court: Significant heritage overlooked
(Appendix 1.7)

Steps to improve the situation and provide a more inclusive heritage regime which encompasses places identified by communities as significant to their local community include:

- clear and consistent language and explanation in heritage legislation, policy, and strategic documents,
- allowing significance to a section of the Territory to be acceptable rather than the whole of the Territory, and
- well-targeted resources to complement the existing, substantial volunteer commitment to caring for our local community heritage.

Planning

A key limitation on the operation of the ACT *Heritage Act 2004* is in relation to the *Planning and Development Act 2007* and *Planning ACT* (ACTPLA). The ACT Heritage Council currently has only an advisory role and therefore no capacity to overrule planning decisions. Further



Northbourne housing group: Heritage versus value capture (Appendix 1.4)

reduction in the Council's capacity to advocate heritage values in planning decisions under the ACT *Heritage Act 2004* appears likely to result from changes in the 2022 *Planning Bill*.

Conversely, Council registration decisions can be appealed in the ACT Civil and Administrative Tribunal (ACAT). To enable heritage legislation to effectively protect ACT Heritage objects and places these anomalies should be rectified and the current review of ACT planning legislation should ensure that changes will not further reduce Council's capacity to appeal planning decisions.

The 2022 ACT Planning Bill appears to reflect a more regressive view of heritage as a potential obstruction to progress and development which will inevitably inform the way heritage is understood and enacted within the envisaged planning regime. The ACT Heritage Council will struggle to counter such a view given its limited resourcing and lack of discretionary power under the Act.

The Trust supports the views of Professor Ros Hanson, that the Chief Planning Executive should not be a member of the Heritage Council, and agrees with her reasoning for this recommendation:

The current situation in the ACT only allows the Council to advise on a DA involving a registered heritage place being considered by EPSDD. As a statutory authority equipped with the expertise and extensive experience in dealing with developments involving registered heritage places and objects it should be the Council, in its own right, who determines a Heritage Approval for such developments. The EPSDD should continue to determine the same DA as a separate approval based on the relevant planning instruments.

Again, there is reference in S.18 (c) of the current Act for the Council to work 'within the land planning and development system to achieve appropriate conservation of the ACT's natural and cultural heritage places and objects, including Aboriginal places and objects' (S.18 (c)). This framework is a trigger for friction or conflict between heritage considerations versus development considerations when, in reality, the criteria applied by the Council are not of a planning nature. This function should be deleted alongside the removal of the Chief Planning Executive on the Council.

First Nations Heritage

The ACT was the first Australian jurisdiction to establish an elected body, ATSIEB, to provide a voice for First Nations people in the ACT. A review of the ACT *Heritage Act 2004* would appropriately need to involve the Representative Aboriginal Organisations (RAO) established under the ACT *Heritage Act 2004* and ATSIEB.

The review should examine whether a separate Act and an accompanying First Nations Heritage strategy would provide better protection for the protection of First Nations heritage in the ACT, rather than being included as but one element in a broader heritage legislative framework.

Recognition of First Nations Heritage

The ACT Government formally recognises the Ngunnawal people as the traditional custodians of land now included within the ACT. However, in the ACT First Nations people are referred to as *Aboriginal* with no

particular nation or country acknowledged. The Minister may declare an entity to be a representative Aboriginal organisation (s 14.8). The Minister may direct the ACT Heritage Council to make heritage guidelines in relation to the conservation of an Aboriginal place or object, although none are yet in place.

Under the Act (s 9) Aboriginal objects and places are associated with Aboriginal people because of Aboriginal tradition. The Act provides for the automatic protection of all such objects and places, whether registered or not. Environmental elements associated with Aboriginal people may therefore be included as a 'place'. However, Aboriginal traditions, such as traditional practices, oral traditions and performing arts, now understood as *intangible heritage* (UNESCO, 2016) are not themselves protected. Further to this, features within the landscape often represent the tangible evidence of an intangible heritage (story or Dreaming Tract). But where there is no tangible evidence of First Nation significance such as stone artefacts, scarred trees or stone arrangements, the so called 'place' is deemed of little or no significance under the Act and is therefore excluded from First Nations heritage significance. This lack of understanding that all places have heritage significance causes anger and distress to First Nations people. These anomalies are inconsistent with contemporary understandings of heritage in Australia and internationally and warrant a review of the *ACT Heritage Act 2004* to ensure it meets accepted First Nations heritage protection and conservation standards.

First Nations voices on heritage

The Act stipulates that at least one member of the ACT Heritage Council must be from the Aboriginal community. The appointment of two members of Aboriginal descent, one Ngunnawal and one Palawal from Tasmania, to the previous ACT Heritage Council was a positive move. Their relevant skills, experience and cultural awareness would have enhanced the Council's capacity for understanding Aboriginal cultural heritage issues. Appropriate replacements should be sought and appointed to both the interim and new Council. A limitation of such appointments is that, as with any other heritage matters, the Council can only provide advice rather than having decision-making powers.

Other structural supports for a systematic approach to Aboriginal cultural heritage are missing. Although the Act provides for the development of guidelines, there are currently none in place for Aboriginal Heritage. Further, the ACT has no strategic or management plan for Aboriginal heritage conservation and protection across the ACT. These gaps could present opportunities for a collaborative engagement across cultural, sector and organisational boundaries to establish such frameworks.

Heritage in partnership with First Nations people

The *ACT Heritage Act 2004* sets out ACT Heritage Council responsibility for consulting with Representative Aboriginal Organisations (RAOs) on a range of matters relating to Aboriginal places and objects in the Act. Greater inclusion of knowledge-holders and those affected by a decision is increasingly understood as an essential requirement for good governance and informed outcomes in many spheres. It is particularly important in matters concerning First Nations communities and requires expanded opportunities for input and decision-making by consultative groups, ATSIEB and elders.

Engaging in genuine partnership with the ACT Aboriginal community will require mechanisms for ensuring First Nations voices are central in protecting and conserving their cultural heritage. In addition to the legislated Aboriginal representation on the Heritage Council, effective representation in the ACT Heritage Unit is essential. Further, arrangements should be made for appropriate reimbursement where engagement is ongoing, as with RAOs.

The Trust notes that the ACT government supports the development of a dedicated online map of Aboriginal sites and site names across the ACT with supporting material. It would be similar to the ACTPLA Heritage map (which has reference to Aboriginal sites alongside others) but would be solely for Aboriginal sites. The map would provide ACT residents a visual tool for increasing their knowledge and understanding of First Nations and pre-settlement history in their local area. It would also be a very useful resource for local and interstate school groups and international visitors.

The Trust supports the development of this map with the proviso that this initiative be undertaken under

the guidance of First Nations representative groups and elders. Discretion must be used when providing site information to the general public. Reference should be made to practices in other jurisdictions where location information for Indigenous heritage sites is not typically made fully available as it can lead to site destruction or damage. Some places such as the Yankee Hat rock art are well known to the public. In others, Traditional Owners may require specific access restrictions, such as single gender access sites. Using amorphous polygons that flag a general area but aren't accurate to the metre may be a way to manage risk.

f) Any other related matters with respect to the ACTs heritage arrangements.

Valuing heritage and its many benefits

Too often, regulations and actions to protect and conserve the ACT's many heritage assets are seen as imposing costs on the community and impacting negatively on the Territory's economy. In the Trust's view this is a short-sighted, counter-productive approach that fails to recognise that proper management of our heritage assets brings with it a range of economic and non-economic benefits that benefit the community in many ways.

Changing understandings of heritage

Under the ACT *Heritage Act 2004* nominated **places** or **objects** must meet at least one of the 8 listed criteria to be entered in the register. Contemporary understandings of heritage extend to include intangible elements:

The "intangible cultural heritage" means the practices, representations, expressions, knowledge, skills – as well as the instruments, objects, artefacts, and cultural spaces associated therewith – that communities, groups and, in some cases, individuals recognize as part of their cultural heritage. This intangible cultural heritage, transmitted from generation to generation, is constantly recreated by communities and groups in response to their environment, their interaction with nature and their history, and provides them with a sense of identity and continuity, thus promoting respect for cultural diversity and human creativity.

Yet, in the ACT, typically, only tangible components and elements are registered for protection despite two assessment criteria, fundamentally rooted in the intangible:

- g. has a strong or special association with the ACT community, or a cultural group in the ACT for social, cultural, or spiritual reasons;
- h. has a special association with the life or work of a person, or people, important to the history of the ACT.



St Francis School and Church: Destruction by neglect
(Appendix 1.5)

Relationship between ACT and Commonwealth Heritage laws

It would be unfair to suggest that responsibility for safeguarding and promoting the heritage of the ACT rests solely with those agencies and individuals designed in the Territory's statutory heritage framework. The Commonwealth also has a significant heritage role in the ACT, with substantial responsibilities vested in the National Capital Authority and the Minister for the Environment. These complexities are not easily or well-understood and appear to cause considerable frustration and inefficiencies across directorates, heritage professionals, developers, and the public.

Where proposed developments are subject to both Commonwealth and ACT heritage laws and requirements, the respective roles of the relevant Governments and agencies should be clearly articulated. Specifying the locus of responsibility in this way should remove the current lack of clarity and confusion about which level of Government has responsibility for which decision, which considerations must be

considered, and what review/appeal mechanisms are available.

The Trust notes with concern that it appears that decisions about identifying and listing Commonwealth and National Heritage values (that is, heritage values on Commonwealth rather than Territory land) are adversely affected by Territory Government views and influence. This is not done in a transparent matter. An important example is the ACT Government's advice to the Commonwealth in relation to the proposed heritage listing of Canberra. Accordingly, the Trust recommends that the ACT *Heritage Act 2004* be amended to require that any ACT Government advice to the Commonwealth Government or National Capital Authority in relation to any of their decisions which may have heritage implications:

- a) must be subject to prior consultation with the community, and
- b) be tabled in the ACT Legislative Assembly.

ACT Wellbeing framework

The significant benefits to the community of heritage are well-recognised in the ACT Wellbeing Framework adopted by the ACT Government in 2020. It demonstrates a forward-looking contemporary approach to heritage as a community asset that contributes to a sense of identity, place and belonging.

Heritage is increasingly recognised as contributing to community and personal sense of belonging, identity, and inclusion. Valuing, protecting and promoting heritage tangible and intangible assets can foster pride in Canberra and being a Canberran; awareness and understanding of Aboriginal culture; the opportunity to participate in community activities, gatherings, and events.

In its submission to the 2019-20 ACT Government's *Wellbeing Framework Consultation*, the Trust cited its research findings on the ACT's cultural heritage. The survey used the UNESCO Urban Landscape (HUL) approach for managing heritage in dynamic and constantly changing urban environments.

'Globalization makes cities similar in terms of finance, information technology or patterns of urban development, whilst culture and heritage are the resources which will always distinguish them from one another' (UNESCO, 2016:6).

While the Trust supports the ACT Wellbeing framework, we urge the ACT Government to go one step further to legislate the concept, similarly to legislation by the Welsh Parliament, the Welsh Well-being of Future Generations (Wales) Act 2015 which includes a goal to protect culture and heritage as part of achieving a prosperous, healthy, inclusive and cohesive community. The Act requires the publishing of regular reporting on the achievement of the various Well-being goals. In relation to Heritage, for example, the 2022 'update on progress' report included a separate section on Arts, Culture and Heritage with outcomes in terms of another of key performance indicators.

Economic benefits of heritage

Protection and promotion of the ACT's heritage assets can yield significant economic benefits to the Territory. Key amongst these benefits is the tourist sector. It is estimated that more than 50% of tourists worldwide now travel to experience a country's culture and heritage. This trend is also evident domestically with a particularly encouraging outlook, following Covid restrictions, for regional areas.

Governments are responding to this realisation of the economic benefits of heritage. The South Australian (SA) Government, for example, puts heritage 'at the heart of the Tourism experience' and has adopted a heritage tourism strategy with increased funding levels supporting the role of the South Australian Heritage council to 'Champion the economic and social value of heritage so that government invest in its promotion'.

Linking heritage built and landscape assets, with economic benefits can heighten the valuing of heritage, contributing to their preservation and countering a negative view of heritage as a potential impediment to economic development and a financial burden on communities and governments.

A planned, strategic approach is required to balance economic benefits with heritage protection within a national framework, to:

- build strong national alliances and partnerships,
- develop skills and capabilities of heritage tourism operators,
- coordinate existing National State/Territory and regional destination management plans,
- align Aboriginal, ecotourism, cultural tourism strategies, and
- guide future private and public investment in heritage tourism infrastructure.

Community organisations

A greater recognition and ongoing financial support for the vital work done by community organisations is warranted. Community groups are advocates and ambassadors promoting the importance of heritage to personal and community identity, a sense of belonging, and pride in our national and Territory treasures.

In its submission the *Canberra District Historical Society* has listed more than 20 local heritage groups whose members contribute hours of unpaid heritage work. These groups depend on the commitment, knowledge, expertise and skills of volunteers to undertake critically important environmental and heritage conservation and protection work across the ACT and Region. They are also regularly called on by ACT Government to engage in consultations and prepare submissions as part of legislative and other reviews.

The sector typically relies on meagre funds from memberships, donations and small grants with heavy reporting and accountability requirements. These place onerous burdens on volunteers and limits their ability to contribute. Appropriate resourcing and ongoing funding-needs to be put in place for this important work.

The current ACT Government has made considerable efforts to addressing the resourcing needs of heritage and kindred organisations. In particular the grant of significant funds to the Trust over a four period, as noted above, has enable the Trust to enhance its activities, with significant heritage outcomes.

APPENDIX

Examples of heritage damage and loss in the ACT and actions for improved outcomes

1. Ginninderra Blacksmith's Workshop: Neglected and forgotten
2. Hill Station: Weak enforcement
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Ginninderra Blacksmith's Workshop: Neglected and forgotten

Contributor: Dr Peter Dowling

Organisational affiliation: Canberra and District Historical Society



Ginninderra Blacksmith Shop Section 157, Block 1, Nicholls *Image: P. Dowling*

The Ginninderra Blacksmith's Workshop is the only known village blacksmith's workshop remaining in the ACT. It is a simple rectangular building located on a rise immediately adjacent to the south bound lane of the Barton Highway which links Yass and the Hume Highway to Canberra.

Today the Blacksmith's Shop is a combination of corrugated iron cladding and remnant hand-made vertical and horizontal timber slabs attached to the posts. However, it is most likely that the original structure, built c.1859, was a smaller timber frame building with hand-cut timber slab walls and a gabled, shingled roof. The existing corrugated iron cladding, which now covers most of the structure was probably added in the early 20th century, most likely at the same time the building was extended by a skillion-roofed section to the east.

A mixture of hand-cut sapling rafters and wall framing with machine-cut timber battens also reinforces the fact that there were at least two phases of construction. Non-aligned nail holes in the iron cladding suggest that it had been taken from another building and reused to cover the deteriorating timber slab walls and replace the shingled roof of the Blacksmith Shop. The skillion section is made of hand-cut vertical timber slabs (probably Eucalyptus sp.) on its long wall and corrugated iron cladding over a simple frame of machine-cut timber on each end wall. The skillion roof is supported by hand-cut saplings and is contiguous with the corrugated iron cladding of the main roof. The building is 11.8m x 6.5m in area and is protected from vandalism and unauthorised access by a high cyclone-wire security fence and padlocked gate.

Previous conservation, Interpretation, and use

The ACT Government, the ACT National Trust and other non-government organisations have, invested significant funding and endeavour to save, restore, conserve, and present this small building. Projects have included Conservation Management and Interpretation Plans, oral history, an on-site education program for schools and urgent repair and stabilisation work. Other funded programs include an artefact collection and on-site storage, Art/history interpretative events and signage, site maintenance and conservation work.

Present state

For the last decade the building has largely been neglected and confined within the locked perimeter fence with little or no public access. The building has entered a ‘fence and forget’ phase despite the significant past funding investments in conservation and presentation efforts.

This current state of neglect has been detrimental on several levels. The loss of structural integrity and resulting presentation of the building is only one aspect of the damage. It has also detracted from its perceived heritage significance to the public. Its history and heritage significance now remain a mystery to most Canberrans.

Together with its statement of significance this small building has a strong potential to present the late 19th and early 20th century history and lifestyles of the ACT in a manner that would be of high value to all residents. But it is now seen as a ‘little old tin shed behind a fence’ viewed from the window of cars heading along the Barton Highway.

Why hasn’t heritage registration protected the Ginninderra Blacksmith’s Workshop?

Taking into consideration the specific requirements of any place invested on the ACT Heritage Register it is quite astounding to realise that a *Conservation and Management Plan* has not been produced in any comprehensive way for the last twenty years. This has been the primary cause of the neglect that has ensued.

What needs to happen for improvement?

The Ginninderra Blacksmith’s Shop is just one of many places that have not been accorded the protection required under the current ACT legislation and are suffering from various forms of neglect and deterioration. This neglect of Heritage listed properties is a failure of legislative responsibility by successive ACT Heritage Ministers and the ACT Heritage Council.

Improved outcomes require more accountable, responsible, and better funded government heritage agencies and a range of supports for the efforts of non-government sector. Appropriate staffing levels and expertise are also essential to facilitate effective management of places on the ACT Heritage Register. Rectifying this problem is entirely within the realm of the ACT Government and based on respecting and understanding the value of ACT history and heritage to the community and a to a diversified ACT economy.

For further information: https://www.environment.act.gov.au/heritage/heritage_register/register-by-place

Hill Station: Weak enforcement

Contributor: Nick Swain

Organisational affiliation: Canberra & District Historical Society



Hill Station with basic maintenance, March 2023

Image: Nick Swain

Hill Station was placed on the ACT Heritage Register in 2012. It is a significant example of a 19th and 20th century rural station. It has strong links to early European settlement in the Canberra area and to 20th century political figures.

Over time the property fell into disrepair and measures taken by successive ACT governments to have the owners meet their responsibilities under the *ACT Heritage Act 2004* were ineffectual. For some reason a Heritage Direction had not been given to the owners to properly maintain the property. Fortunately, a recent change of ownership has resulted in some basic maintenance being undertaken.

This case study illustrates the lack of enforcement of statutory heritage requirements under the *ACT Heritage Act 2004* by successive ACT governments and reflects inadequate mechanisms available to the ACT Government to monitor privately owned heritage listed properties and, where necessary, enforce compliance. This gap between legislation and implementation contributes to the destruction of the ACT's heritage assets. It undermines the ACT Heritage Council's statutory function in protecting and conserving the heritage of the ACT. Additional resourcing to support educational approaches with property owners is required. Where these strategies fail to achieve the desired outcome, monitoring and enforcement capacity needs strengthening.

Further information on the ACT Heritage Register entry for Hill Station go to
https://www.environment.act.gov.au/data/assets/pdf_file/0006/315096/466.pdf

Manuka shops: Excessive delay in assessing the nomination

Contributor: Nick Swain

Organisational affiliation: Canberra & District Historical Society



Manuka Arcade, built 1926

Image: Nick Swain

The Manuka Shopping Centre was nominated for inclusion in the ACT Heritage register shortly after ACT self-government in 1989. Over 30 years later the nomination has not yet been assessed.

The Centre was indicated on Griffin's 1913 Preliminary Plan. It was designed by John Sulman along Garden City principles and the blocks were sold in December 1924. The original layout is retained despite loss of some features such as the combination of shops with accompanying cottages.

The strong axis through The Lawns, Manuka Arcade, Telopea Park to the far end of Constitution Avenue at the Russell Offices is an important feature. The compact mass with intersecting laneways makes the centre highly accessible.

The delay in assessing these early nominations is an indictment of the poor resourcing by successive ACT governments of ACT heritage functions. The backlog of nominations needs to be cleared. Requiring nominations to be assessed within a specified time frame, and providing the resources to achieve that, would be highly desirable.

More information about the Manuka Centre can be found in Swain, N and Hunter, M. 2015. *Manuka. History and People 1924-2014*

Northbourne housing group: Heritage versus value capture

Contributor: Nick Swain

Organisational affiliation: Canberra and District Historical Society



Northbourne Pair Houses Image: Australian Institute of Architecture Citation No R56. Creative Commons

The need for value-capture along the light rail route from Gungahlin to Civic highlighted tension between planning objectives and heritage protection. The sale of land along Northbourne Avenue aimed to help offset some of the cost of building light rail. Standing in the way was the Northbourne Housing Group designed by Sydney Anchor and comprising 169 dwellings of five different types. They were completed in 1962 and were considered cutting edge medium density public housing. They are the subject of an Australian Institute of Architects citation.

After protracted negotiations between the ACT Heritage Council and the ACT planners a compromise was eventually reached to preserve a representative sample of the housing typesⁱ. Further information about the Northbourne Housing Group can also be found in Reeves, T and Roberts, A. (2013) *100 Canberra Houses. A Century of Capital Architecture*. Halstead Press, Sydney, and Canberra

The issue here is how to resolve such tensions in a way that maximises the opportunities for adaptive reuse rather than destroy significant heritage. This is issue faced in many jurisdictions urban development is seen as a major threat to heritage.

There needs to be an agreed process for resolving such tensions. That process should be public and involve major stakeholders such as the *National Trust of Australia*, ACT and the *Canberra & District Historical Society*.

For further information see: https://www.environment.act.gov.au/__data/assets/pdf_file/0007/798901/Northbourne-Housing-Precinct-Representative-Sample-Background-Information-November-2015.pdf

St Francis School and Church: Destruction by neglect

Contributor: Allen Mawer

Organisational affiliation: Canberra & District Historical Society



St Francis church and school (left) with additions (right)

Image: G. A. Mawer

This small but significant 1872 stone building in Gold Creek village was the first Catholic school and church to open in what is now the ACT. Although decommissioned as a school in 1882 and as a church in 1909 it stands witness to the increasing secularisation of education in the late nineteenth century and the aspiration of Catholics to provide for religious observance. The church leased the building to private residents during and after the First World War.

The building was resumed by the Commonwealth in 1928 and again leased as a private residence. As time has gone by it has been degraded by flimsy and unsympathetic additions.

In 1982 it was heritage registered. It became part of a tourist complex with commercial tenants but after an interval continued to suffer neglect. Presumably the lease comes up for renewal in 2027. The property was placed on the market last year but appears not to have been sold: the heritage listing may have been a deterrent. In such circumstances it is not unknown for buildings to suffer damage by accident or design sufficient to destroy their heritage value.

Thanks to its robust construction the old building has stood up rather better to abuse and neglect than could have been expected. For St Francis the long-term future depends on sympathetic restoration and use. Any future lessee should be carefully screened by the ACT government, which should satisfy itself that the proposed use is both appropriate and viable.

In this, as in other cases, it is clear that heritage listing alone is insufficient protection. The ACT should make it a condition of all future leases of heritage listed properties (including this one) that at the very least they must be maintained to prevent deterioration. For existing leases, in the absence of agreement by the lessee the ACT government should accept responsibility for such minimal maintenance, with right of access to undertake it.

Heritage listed Aboriginal scarred trees deliberately felled: Failure to protect

Contributor: Dr Peter Dowling

Organisational affiliation: Canberra and District Historical Society



A heritage listed tree bearing an identified scar formed by the removal of bark by First Nation peoples, deliberately felled by an ACT Government body in Wanniasa ACT

Image: P. Dowling 2019

Cultural heritage Protection under legislation

Nominated objects and places meeting criteria for cultural significance under the ACT *Heritage Act 2004* are entered onto the ACT Heritage Register and provided protection under the legislation. The community should then feel confident in their expectation that registration secures protection and conservation of heritage assets for present and future generations.

What happens when the protective mechanisms of the *Heritage Act* fail?

A stark example of such failure happened in Canberra when two heritage registered trees were deliberately felled in 2017 and 2018. These two 'Scar trees', Blakley's Redgum (*Eucalyptus blakleyi*) displayed evidence of past Aboriginal cultural practices and had been on the heritage register for over twenty-five years. One tree, located, within the playing fields of a primary school, bore a 'shield' size scar and was a favourite of the young students who had learnt about its Aboriginal connection. The other much larger tree bore a large 'canoe' type scar and was located about one-hundred metres away in a small reserve.

The felling means much more than just the loss of two beautiful and long-lived trees. The Indigenous people of the ACT and beyond have lost more physical reminders of their culture. Archaeologically, we have seen a diminution in the marked trees as a complex marking of the targeted use of this species of trees along a former communication corridor through the valleys of southern ACT. The removal of the trees is of serious concern to local indigenous groups as well as the National Trust of Australia, ACT and the Canberra and District Historical Society. But also, importantly, there was a loss of confidence in the legislative processes and compliance, and to the adequacy of the ACT *Heritage Act 2004* to protect our heritage places.

As reported in the Canberra Times¹ one was cut down by an ACT government contractor and mulched before the incident was reported to the ACT Heritage Council. The other was reported months after the felling and came before an ACT Government estimates committee hearing, where ACT Heritage Unit Director Fiona Moore admitted that there was little action the Government could take to punish those responsible. She also pointed out that the incident highlighted the lack of enforcement provisions in the *Heritage Act*.

Why did the protective mechanisms of the ACT *Heritage Act 2004* fail?

The then Minister for Environment and Heritage, The Honorable Mick Gentleman, wrote¹ in relation to the removal of the Wanniasa 'Spook Tree', an Aboriginal place recorded as 'MSYBI' on the ACT Heritage

Register:

The removal of this tree was reported to ACT Heritage in April 2017 and referred to Access Canberra's Regulatory Compliance team for investigation.... The investigation concluded that as it was not malicious activity that resulted in the removal of the tree, but rather a genuine and unintentional administration error, and that prosecution in this instance would not be in the public interest, as such action is unlikely to succeed. (Gentleman, ND:131)

The letter also refers to the removal of a second Aboriginal scarred tree at Wanniasa, which had not previously been reported to the ACT Government and was also referred to the ACT Environment and Sustainable Development Directorate (EPSDD) Compliance team for investigation. In relation to the felling of both trees, Minister Gentleman wrote:

Given the deficiencies that this example has highlighted, I have asked that the Environment, Planning and Sustainable Development Directorate is explore the offence and enforcement provisions within the Heritage Act 2004, as well as explore a range of education options to increase community understanding of heritage values and specific identification of aboriginal values. I have asked for this work be completed as a matter of urgency (Gentleman, ND:132).

What changes are needed in heritage protection?

The illegal removal of these heritage trees raises serious issues about the adequacy of existing administrative mechanisms in relation to heritage across the ACT and Directorates. Wide systemic change is required to achieve enhanced heritage protection. Additional and strengthened strategies include more effective and timely engagement of Aboriginal representatives and organisations, increased resourcing of the ACT Heritage Council and ACT Heritage Unit. Heightened education and accountability requirements for contractors and ACT Directorate personnel should accompany stronger enforcement of heritage protections, and much-improved practical and fail-safe protections. Underpinning all these, is the need for a much greater community education and communication to foster an increased valuing of Aboriginal and other ACT heritage assets across the community.

¹ <https://www.canberratimes.com.au/story/6247254/something-has-to-give-with-heritage/>

¹ https://www.environment.act.gov.au/_data/assets/pdf_file/0009/1434177/19_25250-Documents-Part-01.pdf

Barton Court: Significant heritage overlooked

Contributor: Nick Swain

Organisational affiliation: Canberra and District Historical Society



Barton Court, Canberra

Images: Nick Swain

Barton Court, Canberra's first privately built residential flats development, comprises two double-storey buildings located at 14 Darling Street and 11 Bourke Street, Block 1 Section 23, Barton. The precise location is of importance, as the complex lies outside the Heritage listed 'Barton Housing Precinct'.

The flats were designed by one of Canberra's first independent practising architects, Kenneth Oliphant (1894-1975), and completed in 1935. Oliphant was also part owner of Barton Flats Limited and lived there for a while.

Barton Court is a notable example of the Inter-War Old English-style rural and village architecture seen briefly in Australia in the early 1930s. The very well-maintained complex continues to demonstrate traditional building techniques characteristics of the style: imitation half-timbering, gables, tall chimneys, casement windows, some leadlight glazing and finely-crafted brickwork and joinery.

Improved ACT Heritage nomination and registration procedures

Barton Court remains unlisted on the ACT Heritage Register despite its heritage value as an intact example of this period and style of architecture. Although a completed *Register of Significant Twentieth Century Architecture* is available on the *Australian Institute of Architects website*¹ and listed there under ACT notable buildings¹ it appears the complex has never been nominated for registration and therefore is not afforded heritage protection.

A more proactive approach in community communication and education by the ACT Government and ACT Heritage Council is needed so that heritage assets such as these are identified and nominated for inclusion on the ACT Heritage Register.

¹ https://repository.architecture.com.au/download/notable_buildings/act/r083_barton_court_rstca5eee.pdf

¹ <https://www.architecture.com.au/explore/notable-buildings/act>

for further information:

<https://trove.nla.gov.au/newspaper/article/130545370>

<https://trove.nla.gov.au/newspaper/article/2279645>

<https://trove.nla.gov.au/newspaper/article/116399319>

<https://trove.nla.gov.au/newspaper/article/2298697>

Reid Housing Precinct: Lack of enforcement of heritage requirements

Contributor: Marianne Albury-Colless

Organisational affiliation: Reid Residents' Association



Residences in the Reid Precinct, Canberra

Images: <https://www.reid.northcanberra.org.au/reid-in-photos/>

Reid's history and heritage make it unique in urban planning. Like many of the first suburbs of Canberra, Reid provided housing for government officials and so is directly linked to the establishment of the Parliament of Australia. It was gazetted as a suburb in 1928 having been subsumed from an area of North Ainslie. Reid is named after Sir George Houston Reid, Australia's 4th prime minister. Reid is situated in close proximity to many of Canberra's iconic buildings such as the Australian War Memorial and St John the Baptist Anglican Church.

Situated on the flat land at the base of Mount Ainslie, Reid is Canberra's largest [heritage housing precinct](#) (the Precinct) with placement of its original houses initially on the Register of the National Estate and subsequently listed as Entry 20023 on the ACT Heritage Register.

Heritage significance and registration

The reasons for its placement on both Registers is that the Precinct exemplifies, under Sir John Sulman's influence, the Australian variation on 'Garden City' or 'American Beauty' principles. These principles aim to create healthy working and living environments for urban residents and were integral to Walter Burley and Marion Mahoney Griffin's winning design for Canberra, the newly created Federal Capital of Australia. The Precinct evidences both unity of built form and landscape with most of the original dwellings built during 1926–1927 still intact and identifiable for their heritage values.

Threats to Precinct heritage values

The Reid Residents' Association (RRA) has a history dating to 1944 and has vigorously protected the Precinct ever since. Over the last decade Reid has seen more rapid changes in dwelling ownership, increased traffic and parking issues, and the discovery of four 'Mr Fluffy' houses (with asbestos insulation that required demolition).

Arrangements to monitor adaptations to (heritage) identified dwellings including installation of photovoltaic panels and house extensions have at times been marred with delays in responding to development applications, misunderstandings of the Objectives of Entry 20023, and non-enforcement of mandated requirements under the Act.

However, the most testing times recently for conservation of the Precinct's heritage values relate to the four 'Mr Fluffy' house blocks of which two have been rebuilt, one is currently under construction and the remaining block is still vacant. Legislative changes in relation to 'Mr Fluffy' rebuilds appear not to have taken

into consideration heritage requirements regarding streetscapes and the relative intactness and harmony of suburban and housing design of this Precinct. The rebuild does not comply with the following Objectives:

2.0 Conserving landscape and streetscape values: Mandatory Requirements

2.1b Additions to dwellings and

2.1d Site coverage of built development

3.0 Conserving the unity of built form within the streetscape

Objective 3.1 - Unity of Built Form for all Dwellings: a requirement to conserve the unity of built form within the streetscape

Objective 4.1 – Form and Scale of Identified Dwellings: a requirement to maintain the form of the identified dwelling as the dominant built form on the block when viewed from the street or adjacent public domain.

Gaps in the community consultation and ACT Heritage Council assessment processes were also evident. Development applications were rejected three times by the then ACT Heritage Council for not meeting various objectives and requirements of the Precinct. The original development application was not sent to relevant neighbours and, although there were meetings with the planning minister and RRA on this matter, the approval for the rebuild was passed to officials reviewing Major Projects who authorised the rebuild.

Enabling effective heritage asset monitoring and community consultation

The enforcement of Precinct heritage requirements is paramount when Development Applications for rebuilds and renovations are being assessed. Within a heritage precinct, the legislation provides, not only that all structures are given protection, but also its streetscapes and architectural unity.

To enable community involvement in protecting heritage precincts appropriate levels of resourcing need to be made available to the ACT Heritage Council to enable effective consultation with residents and community associations.

Further, the Council needs to have the resources to monitor extensions, alterations and rebuilt dwellings and the power to enforce mandated requirements under the ACT *Heritage Act 2004*.