



**LEGISLATIVE ASSEMBLY**  
**FOR THE AUSTRALIAN CAPITAL TERRITORY**

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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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**Australian Capital Territory Legislative Assembly  
Standing Committee on Environment,  
Climate Change and Biodiversity.**

**INQUIRY INTO  
THE ACT'S HERITAGE ARRANGEMENTS**

**Submission by the  
Canberra & District Historical Society**

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## ABOUT THE CANBERRA & DISTRICT HISTORICAL SOCIETY

The ACT's heritage arrangements are of fundamental interest to the Canberra & District Historical Society (CDHS). The Society was established in 1953 to:

- Encourage the study of the history of Canberra and district, and of Australia in relation to it;
- Promote the compilation of authentic historical records;
- Promote the preservation of historical material and places of historic and aesthetic interest; and to
- Foster the interchange of information through talks, discussions, excursions and exhibitions.

The Society is a non-government, not-for-profit, community organisation incorporated in the ACT. CDHS is registered with the Australian Charities and Not-for-profits Commission (ACNC) and is endorsed as a Deductible Gift Recipient (DSR). The Society is the ACT member of the Federation of Australian Historical Societies (FAHS).

CDHS is financed by membership subscriptions, donations, fund raising activities and ad hoc government grants for special projects. The Society's activities are conducted entirely by volunteers. The Society's office is in premises at Curtin rented from the ACT Property **Group**.

Amongst its activities CDHS:

- Maintains one of the largest publicly accessible collections of historical records about Canberra and district. Access is physical and on-line through our website <https://www.canberrahistory.org.au>
- Holds regular talks open to members and the general public;
- Publishes a prestigious journal (*Canberra Historical Journal*) and a newsletter (*Canberra History News*)
- Sells an extensive range of books and photographs;
- Holds the annual Canberra Day Oration in partnership with the National Library; and
- Undertakes projects resulting from successful grant applications (ACT and national).

## APPROACH

We note that the inquiry focuses on the ACT Heritage Council and its secretariat. However there are many other elements that make up the ACT's heritage arrangements and these are listed in Attachment 1. The inquiry needs to consider the broad context in which the Heritage Council operates, especially in relation to the *Planning and Development Act* and proposed reforms to the ACT planning system. This context has a significant impact on the ability of the Heritage Council to effectively perform its functions. In addition, a significant amount of funding for heritage facilities occurs outside the EPSD Directorate, notably through the Arts portfolio in the Chief Minister, Treasury and Economic Development Directorate.

Obviously, many of the matters raised in this submission are made without knowledge of the internal workings of EPSDD. Nevertheless, external perceptions are powerful.

## INTRODUCTION

*'People frequently state that Canberra is a city without a soul. I do not agree. Canberra has a soul but without our heritage we have nothing to build a city on. All the great cities of the world have built their cities on heritage.'* Sylvia Curley. 'A Long Journey', page 132.

*'Canberra's unique heritage and arts facilities are an important part of our story. 'Improving and restoring our heritage sites also supports jobs and provides additional tourism experiences for those visiting our region.'* Joint Media Release, Chief Minister and Minister for the Arts, 5 Feb 2023.

Currently it is arguable that Canberra is not destined to be the great city that Sylvia Curley wished for and certainly not the 'city like no other' that Walter and Marion Griffin designed. Heritage is a major contributor to Canberra's unique character.

The National Capital's evolution as a planned city in Commonwealth territory is a nationally significant story as is the story of the First Nations peoples of the area and the early European settlers. The ACT and Commonwealth governments are responsible for ensuring this national story receives the respect and acknowledgement it deserves. They are also in the position to leverage the considerable economic and social benefits that derive from cultural heritage.

## EXECUTIVE SUMMARY

The current heritage arrangements in the ACT lack:

- strategic direction
- an appreciation of the economic and social value of the Territory's heritage assets; and
- effective coordination.

As a result, there are a plethora of symptomatic problems. That said, there are a number of positive elements that should not be overlooked. For example, the ACT Heritage Festival is highly valued by the community and appears to be run on very minimal funding by a small number of dedicated staff.

Unfortunately the ACT is no exception to declining heritage protection across Australia. There is in some quarters a narrow, dated view not backed by evidence, that heritage is an unnecessary brake on Canberra's development.

The bleak reality of the overriding approach to heritage in the ACT is that heritage is regarded as an impediment to development, especially urban densification. This is well illustrated in the current *Planning Bill* which seeks to downgrade the Heritage Council and does not consider protecting the Territory's heritage to be a good planning outcome. The abandonment of the development of an ACT Heritage Strategy with statutory standing is another indicator.

A constructive balance between the government's urban development objectives and heritage protection is possible if the value of the ACT's heritage assets is properly recognized and maximised. These objectives need not be mutually exclusive and in fact can be complementary if intelligently managed.

The Federation of Australian Historical Societies has recently published a document summarising the national and international evidence to the contrary, showing that local government and history and heritage groups can work together to maximise the value of heritage assets. See Attachment 2.

The following attempts to summarise some of the many issues under individual terms of reference. Some issues are relevant to more than one term 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.**

The effectiveness of the *Heritage Act* is significantly constrained due to the ability of the current *Planning and Development Act* to override it. Expert entity advice from the Heritage Council, even where it relates to mandatory requirements of the Heritage Act, can be ignored. This situation will be compounded if the new Planning Bill is passed without adequate heritage safeguards.

**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 location of the Heritage Council and the Heritage Unit within the EPSDD appears to be detrimental in relation to resourcing, governance and support at senior levels. The Heritage Unit is in a tricky situation of being answerable to both the Heritage Council and EPSDD managers. There is potential for conflicting requirements. More broadly, there can be a fundamental conflict of objectives between heritage and development planning. It appears that in the draft Planning Bill good planning is not considered to include maximising the value of ACT's valuable heritage assets or that this is a good planning outcome.

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

It is clear that the Heritage Unit is not adequately resourced to provide secretariat support to the Heritage Council so it can fulfill its statutory functions at a level intended by the Heritage Act and as expected by the community. Inadequate resourcing for statutory functions can be a primary driver of stress and tension within organisations.

The funding for public programs such as the Heritage Festival and Heritage Grants remains at minimal levels, especially compared with other sectors such as the Arts and Natural environment. This significantly limits capacity for community organisations to contribute to the conservation and promotion of the ACT's heritage and support the work of the Heritage Council.

**d. The operation of heritage legislation in other Australian jurisdictions.**

As the 2021 *State of the Australian Environment* report finds, heritage legislation in other jurisdictions is not particularly effective. In particular, it finds that development is a key threat to cultural and natural heritage. Indigenous heritage is being destroyed at an unacceptable rate.

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

A number of improvements are needed including:

1. Adoption of an ACT Heritage Strategy with statutory standing as part of the Territory Plan.
2. Heritage Council advice only to be overridden by planners in exceptional circumstances. In such cases detailed reasoning is to be provided, tabled in the Legislative Assembly and made public. The Heritage Council should be able to such decisions to ACAT.
3. Relocation of the Heritage Council and Heritage Unit to a directorate where there are other heritage related elements. See Attachment 1.
4. Adoption of better coordination mechanisms so there is a closer working relationship between all the elements of the ACT's heritage arrangements as listed in Attachment 1.

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

There are many related matters covered in the rest of this submission. Some of the more significant ones are:

1. Exclusion from the *Heritage Act 2004* of certain categories of heritage. These include:
  - a. Local heritage, especially in the larger districts of Canberra which have their own identities; and
  - b. Ethnic group culture other than First Nations people.
2. Poor coordination on heritage matters between directorates. An unfortunate example is the destruction of two scar trees. See Attachment 4.
3. Limited use of the extensive body of knowledge in community history and heritage groups. This appears to be relatively untapped potential if adequately resourced.

4. Lack of transparency, reporting and important information/ data. The annual reports of Directorates contain minimal easily accessible information about current heritage issues and challenges. Reporting to the Legislative Assembly appears to be ad hoc. There is considerable potential for the government to provide the community's elected representatives with practical information to inform heritage strategy and policy.
5. Enforcement, especially for privately owned heritage places. There appears to be a reluctance to take effective enforcement action even where it is evident heritage requirements are being breached with impunity. The situation with Hill Station in Hume is an example – see Attachment 5.

## THE NATIONAL CONTEXT

The operation of heritage legislation in other jurisdictions does not appear to be all that effective. This is reflected in the key findings of the 2021 *Australian State of the Environment* report:

**‘Our heritage is not adequately protected.** There are gaps in the protection of Australia’s heritage. To ensure that Australian heritage is fully protected, resources to identify and research all types of heritage, encompassing all parts of our history, are needed. We also need resources to allow their timely listing and protection. Improved statutory recognition of the broad scope of heritage (i.e. intangible heritage, cultural landscapes and other landscapes, serial sites and objects) would provide more comprehensive heritage protection.’

**‘Development is a key threat to heritage.** It continues to have significant, negative impacts on both natural and cultural heritage. Stronger legislative heritage protection provisions, greater industry regulation in relation to heritage (proven to be effective where applied), and stronger and more robust feasibility, assessment and approvals processes are all needed to resolve these negative effects. Coordinated, collaborative and strategic approaches can engender genuinely sustainable approaches.’

**‘Australia’s diverse and widespread historic heritage is at a high level of risk from development, particularly from urban renewal and urban expansion.** The ongoing failure of the statutory planning system to adequately protect heritage, especially historic heritage, and weakening of existing protections in some jurisdictions are impacting heritage conservation.’

**‘Destruction of Indigenous heritage is occurring at an unacceptable rate and the reported experience of Indigenous Australians is that they are denied their right to speak for, make decisions about, protect, access and manage their heritage.** There is a pressing need for a rights-based approach to Indigenous heritage management, something that is currently lacking at all levels of government across Australia.’



## IMPORTANCE OF THE NATIONAL CAPITAL'S HERITAGE

The National Capital's evolution as a planned city in Commonwealth territory is a nationally significant story as is the story of the First Nations peoples of the area and the early European settlers. The ACT and Commonwealth governments are responsible for ensuring this national story receives the respect and acknowledgement it deserves. They are also in the position to leverage the considerable economic and social benefits that derive from the Capital's cultural heritage.

However, the ACT is no exception to declining heritage protection across Australia. This indicates that there is still a **lack of appreciation of the current and potential value of the ACT's heritage assets**. There is in some quarters a narrow, dated view not backed by evidence that heritage is an unnecessary brake on Canberra's development. The Federation of Australian Historical Societies has recently published a document summarising the evidence to the contrary, showing that local government and history and heritage groups can work together for mutual benefit to maximise the value of local history. See Attachment 2.

## WHAT SEEMS TO BE WORKING WELL?

The **Act Heritage Festival** is well patronized and helps raise awareness of the richness of the ACT's heritage. It achieves a great deal for a budget of only \$85,000 (2022). Could it be better coordinated and promoted by Events ACT and other tourism bodies.

The **ACT Heritage Grants** program is of considerable use for poorly funded heritage and history organisations. However funding for individual projects (\$190,000 in 2021-22) may not have kept up with rising costs and funding for equipment to digitising fragile material needs to be included as there is a significant amount of material requiring conservation and improved community access.

The most **significant funding for heritage places is coming from the Chief Minister, Treasury and Economic Development Directorate** through the Cultural Facilities Corporation (Canberra Historic Places and CMAG) and for heritage places that are used by arts groups (The Power House Glass Works, Gorman House, Strathnairn Homestead, Ainslie School, the Hub at Causeway Hall). Many of these places are significant destinations for tourists. Significant funding also comes through the ACT Property Group which maintains a number of heritage properties.

The **Suburban Land Agency** appears to appreciate the value of heritage in promoting the attractiveness and character of its place planning and estate development such as at Ginninderry. Early planning for East Lake already recognized the significant heritage in the area including Cargill's Cottage, the Causeway Hall, Canberra Railway Museum and the old Canberra Milk Depot.

## ISSUES WITH THE CURRENT ACT HERITAGE ARRANGEMENTS

Many of the current issues were raised when initial work was done to develop an **ACT Heritage Strategy**, unfortunately abandoned by the government. The recent disbandment of the Heritage Council is but a symptom of many of these issues and the broader context of heritage conservation in the ACT.

Since the establishment of the *Australian Capital Territory (Self Government) Act 1988* we do not have the basic information and data to help make informed decisions on the state of our heritage places. Resources devoted for conservation are continually declining and the problems heritage places are facing seem to multiply with each passing year rather than become fewer.

### *Top Ten Threat Categories – specific to ACT*

1. Built historic landscapes demolition/destruction/degradation.
2. Natural landscapes & environments destruction/degradation.
3. Development impact on rare/endangered or vulnerable species/populations.
4. Deficiencies in legislation and/or compliance with and administration of legislation.
5. Movable heritage inappropriate conservation and/or use.
6. Inappropriate use of/impact on heritage listed places.
7. Loss of social values.
8. Abandonment & neglect causing destruction/degradation of fabric,
9. Ineffective conservation/management of cemeteries & graves.
10. Pressures on significant trees.

## STRATEGY

- **Current ACT heritage arrangements do not reflect a contemporary, coherent view of the economic and social value of heritage.** Contemporary views about the value of heritage should be the starting point of any revised heritage arrangements. See Attachment 2 for the FAHS publication on the value of history and heritage to local government.
- **The ACT lacks a Heritage Strategy** with statutory standing that is part of the Territory Plan.

## RELATIONSHIP WITH THE PLANNING SYSTEM

- Perhaps the greatest threat to ACT heritage is the current plan to **reform the planning system and its legislation to downgrade the status of heritage protections**. This includes the capacity to set aside Heritage Council expert advice where it is assessed by the Chief Planner that yet to be defined ‘better planning outcomes’ might result. It is puzzling that the proposal will give the Heritage Council less capacity to appeal decisions than the Conservator of Flora and Fauna. This implies that cultural heritage is less valued and respected than natural heritage. This will further weaken the ability of the Heritage Council to protect the unique cultural heritage of the ACT – one of its key statutory functions.

- Cultural heritage, particularly in the form of built heritage, is often overlooked or treated with a degree of disdain during urban development planning.
- Even now the advice of the Heritage Council can be ignored or overridden by ACTPLA. There is no provision that requires their expert opinion to be followed even if mandatory provisions of the Heritage Act are involved (this relates to the interaction of the ACT *Heritage Act 2004* and the *Planning and Development Act 2007*);
- A major mismatch between the *Heritage Act 2004* and the *Planning and Development Act 2007* (soon to be replaced) is the status of places nominated for inclusion in the Heritage Register. Under the *Heritage Act 2004* they have the same protection as if registered. However the *Planning and Development Act 2007* does not require referral of nominated places to the Heritage Council. Given the size of the backlog of nominations awaiting assessment, the long time some nominations have been unresolved (e.g. the Kingston and Manuka shops), and the significance of some places (e.g. the Hotel Kingston) this is a worrying gap. The *Planning and Development Act 2007* needs to be amended to remove this anomaly.
- In relation to the 2022 *Planning Bill*, it is essential that the Bill does not in any way work counter to the ACT *Heritage Act 2004* and the functions of Heritage Council e.g. by not accepting its entity 'advice' in relation to development applications. Quite the opposite – it should reinforce the protection of ACT heritage and strengthen the status of Heritage Council expert advice. Heritage conservation should be considered a principle of good planning and also a good planning outcome.
- An example of the tensions between heritage and planning is the case of the Northbourne Housing Group and plans for value capture along the light rail route. See Attachment 6.

## LEGISLATION

- The ACT Heritage Council is only required to provide advice to ACTPLA in relation to development applications for heritage places that are either provisionally or fully included on the ACT Heritage Register. ACTPLA is not required to seek advice for places that have been nominated but have not been assessed. Advice does not need to be accepted despite being from an expert body and usually based on the mandatory statutory requirements of the ACT *Heritage Act 2004*.
- The Council has no remit to make directions that must be complied with by ACTPLA. This works against the Council being able to perform its statutory functions.
- Even the Council is believed to have made decisions that override mandatory requirements in the heritage legislation e.g. 'negotiating' breaches of mandatory legislated plot ratios;
- Local heritage and places related to a particular ethnic group are not recognized in the ACT unlike in other jurisdictions. This includes jurisdictions with similar populations like Tasmania. This is an insult to local community groups. Groups of different ethnic backgrounds have special heritage places across the ACT reflecting a continuity of traditional practice and cultural meaning brought from their homeland. As the ACT grows with new districts such as Stromlo and West Belconnen there is greater need to recognise local heritage. Both issues result in a flaw in the Heritage Act 2004 as it means they are not recognised when planning decisions are made.

- The functions of the Heritage Council as set out in the *Heritage Act 2004* contain potential conflicts. For example the Council is required to
  - (a) to identify, assess, conserve and promote places and objects in the ACT with natural and cultural heritage significance;
 Yet it also has:
  - (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;

## GOVERNANCE

- The ACT government elements of the ACT Heritage arrangements are scattered amongst several directorates and there is no obvious coordination mechanism. For example, ACT Historic Places and the ACT Heritage Library are not in the same directorate as ACT Heritage (See Attachment 1).
- This lack of coordination has resulted in some unfortunate losses of irreplaceable heritage such as two Aboriginal scarred trees. See Attachment 4.
- Major events such as the ACT Heritage Festival might be better placed outside EPSDD e.g. Events ACT.
- It appears from outside the ACT public service that senior management of EPSDD were not able to ensure the Heritage Unit and Heritage Council were functioning effectively. It is not evident that problems were identified at an early stage and addressed.
- The Heritage Unit is in a difficult situation as it is answerable to both the Heritage Council and senior EPSDD managers. There is potential for this to lead to conflicting requirements.
- There has been a demonstrable decline in the independence, leverage and professional composition of specialist advisory bodies to the various ministers overseeing heritage legislation, particularly over the last fifteen to twenty years. As a result heritage protection has suffered.

## HERITAGE COUNCIL AND HERITAGE UNIT COMPOSITION

- There is a perception that the Heritage Unit does not possess sufficient levels of appropriate skills and experience (e.g. heritage architects, archaeologists, historians) to support the Heritage Council.
- The ACT Heritage Council lacks representation of the key ACT non-government history and heritage organisations.
- Best use is not being made of the resources of non-government organisations to support the conservation of cultural heritage in the ACT. They are in a position to provide much relevant information to help decision makers.

## RESOURCING

- The ACT Heritage arrangements appear so inadequately resourced and poorly supported at a strategic level of government that they are overwhelmed. There is little wonder that the people working in the ACT government heritage system are

stressed. The reality of resourcing demonstrates the low priority heritage is given in practice within the ACT government.

- More specifically, it is not evident that the Heritage Council and the Heritage Unit have the necessary resources to perform their functions at the level expected by the community and to deliver best practice outcomes (expertise, funds, staffing, high level support within EPSDD, time and so on). It would appear that in practice the Council and the Heritage Unit are the 'Cinderella' of EPSDD and might be better located elsewhere.
- Some of the functions that appear to be challenging include:
  - Processing the large backlog of unresolved heritage nominations – some significant nominations dating from the beginning of self-government (1989) such as for the Manuka and Kingston shopping centres. Progress on the assessment of these nominations is not included in EPSDD annual reports.
  - Comprehensively identifying and enforcing breaches of heritage requirements.
  - Assessing and responding substantively in the required timeframe to development applications, especially for large scale projects.
  - Proactively and systematically assessing where there are gaps in heritage protection and proactively nominating heritage places and objects;
  - Ensuring Conservation Management Plans are updated as required by the legislation. This is of particular concern for places owned by the ACT government for which there is significant public interest, including statutory corporations (e.g. Manuka Oval, Kingston Power House).
  - Proactively educating the owners of heritage properties about their legal responsibilities under the *ACT Heritage Act*. Also, some builders appear to be unaware of heritage requirements.
- Public funding for historic built heritage conservation is declining.
- Funding for all levels of heritage is grossly insufficient for the demand needed even for adequate conservation.

#### FUNDING OF NON-GOVERNMENT HISTORY AND HERITAGE ORGANISATIONS

- In recent times both the ACT and Commonwealth governments have withdrawn operational funding from history and heritage groups. This is inconsistent with the ACT government funding of other cultural organisations such as the Arts. Subsidised rental is appreciated but still onerous and takes away from capacity to buy essential equipment, run ongoing programs for the community and employ staff.
- There is a continuing resourcing disparity between government provisions for natural and cultural heritage.
- The amount of funding offered in the ACT Heritage Grants Program has not kept pace with growing economic costs. This has been a systemic practice over many years resulting in the non-funding of many worthy heritage related studies and events.
- Funding has only been available for ad hoc projects and there is little or no capacity to recoup administrative costs. There is no certainty of ongoing funding.
- The impact is to:

- significantly lessen the capacity of these groups to contribute to the conservation and promotion of the history and heritage of the ACT.
- Jobs have been lost.
- Capacity to assist the Heritage Council by providing information to support its decision making has been reduced.
- Some innovative practices for sourcing funding and assistance for ACT can be found in Attachment 3 – FUNDING OUR HERITAGE.

#### TRANSPARENCY AND REPORTING TO THE ASSEMBLY AND COMMUNITY

- Current reporting does not identify significant heritage issues and the effectiveness of the Heritage Council and ACT Heritage but simply notes some output metrics.
- Some useful measures could include:
  - The backlog of nominations. A list of outstanding nominations and how long since nominated. This would be accompanied by a strategy to reduce the backlog and the resources needed.
  - Number of breaches of heritage legislation identified and action taken.
  - Work done to proactively identify significant heritage places and objects not yet on the Heritage Register.
  - Activity taken to educate owners of heritage places and objects about their responsibilities.
  - Heritage issues arising during the reporting period. This could, theoretically, include matters such as:
    - conflicting objectives with the planning system
    - advice provided and issues arising in relation to major projects e.g. the Kingston Arts Precinct
    - heritage directives issued and other ‘advice’ and ‘education’ provided to people in breach of heritage requirements
    - builders and property owners not seeking heritage approval to undertake work.

#### INFORMATION AND DATA

- There is lack of data to enable a comprehensive picture of the state of ACT’s environment, especially for cultural heritage including Indigenous heritage.
- Ironically, CDHS notes that problems surrounding the lack of empirical data on heritage were identified in the sequence of State of Environment reports from 1996 to 2021. But there seems to be no real recognition of this problem and certainly no improvements in this area throughout that period. Indeed, glaring examples of this is the ever increasing backlog of heritage registrations which has been the case here in the ACT for over twenty years.
- The immediate impact of this problem was the loss of access to a valuable body of heritage data by those making recommendations affecting heritage places and those wishing to do further research. The lack of reliable and relevant data and the inherent associated problems can only increase in the future if the present situation remains. An example of this was a conservation and management plan being developed for Belconnen Homestead and grounds in 2020 where highly relevant archival information could not be accessed from ACT Archives resulting in a lack of knowledge regarding the building history for a considerable period.

## OTHER MATTERS

- The processes for adding additional supporting material to existing heritage nominations and Heritage Register entries is unduly arduous and inefficient. This particularly relates to nominations made around the time of self-government, many of which are quite sparse.
- Similarly, it is difficult to update the sometimes inadequate heritage conservation requirements for particular entries to the ACT Heritage Register.
- Lack of effective action to ensure owners of heritage places keep them in proper repair. The heritage-listed St Francis Church (1872) at Gold Creek is in danger of being demolished by neglect. The case study of Hill Station can be found at Attachment 5.

## SOME SUGGESTIONS/ RECOMMENDATIONS

We suggest that the inquiry consider the following recommendations designed to improve the operation and effectiveness of the ACT's heritage arrangements.

Our priorities are:

1. Urgently develop a statutory Heritage Strategy as part of the new Territory Plan.
2. Ensure the *Planning Bill* currently under consideration and the resulting Act includes:
  - a. Heritage conservation as a 'principle of good planning' and that heritage conservation is regarded as a 'good planning outcome'.
  - b. A requirement that development proposals for heritage nominated places must be referred to the Heritage Council for advice.
  - c. The Heritage Council is able to appeal decisions of ACTPLA, in the same way that the Conservator of Flora and Fauna can (i.e. has third party rights).
3. Introduce more effective coordination mechanisms to protect and manage heritage between ACT government directorates and agencies.
4. Make better use of existing resources, especially community organisations.
5. Improved reporting to the Legislative Assembly and the community on the effectiveness of heritage arrangements.

- 1. Urgently develop an ACT Heritage strategy that has statutory standing in the planning system.**

The development of a statutory **Heritage Strategy** needs to be revived urgently as part of the development of a new Territory Plan. This strategy would acknowledge the economic and social value of the ACT's heritage assets and also ensure that the Heritage Council and Heritage unit were not unduly constrained in performing their functions. Comprehensive reporting to the Legislative Assembly on the state of heritage protection in the ACT would be another essential element.

- 2. Ensure the *Planning Bill* currently under consideration and the resulting Act includes:**

- a. Heritage conservation as a 'Principle of Good Planning' and that heritage conservation is regarded as a 'good planning outcome'.
- b. A requirement that development proposals for heritage nominated places must be referred to the Heritage Council for advice. As mentioned earlier, under the *Heritage Act* places nominated for inclusion in the Heritage Register have the same protection as if fully registered. However the *Planning and Development Act 2007* provides no such protection because it does not require referral of nominated places to the Heritage Council.
- c. The Heritage Council is able to appeal decisions of ACTPLA to ACAT, in the same way that the Conservator of Flora and Fauna can (i.e. has third party rights).

### **3. Introduce more effective coordination arrangements.**

The ad hoc scattering of ACT cultural heritage elements among several ACT government directorates lessens their effectiveness to protect and promote the cultural heritage of the ACT and maximise the economic and social benefits of heritage.

A more effective, efficient and coherent approach is needed. There are several options. For example, co-locate the main elements of ACT cultural heritage in one directorate so that there can be coordination of policies, strategies, resourcing and organisation. Ideally they would be in a directorate that already includes other elements of ACT cultural heritage.

The heritage arrangements should be separate from the main planning and development portfolio so there is no conflict of interest. Other directorates have more direct involvement in cultural heritage and related matters. EPSDD has demonstrated it was unable to identify and manage the issues resulting in the disbandment of the Heritage Council.

At the least, if heritage is to have the voice it deserves in the councils of government, EPSDD should be divided into two directorates, each reporting to their respective ministers viz. Planning on the one hand and Environment and Heritage on the other.

The Heritage Unit should be answerable only to the Heritage Council and not beholden to EPSDD management. This would reduce the likelihood of competing requirements and help improve the independence of the Heritage Council.

An aspirational model could be to create an entity called HERITAGE ACT. The various cultural heritage elements could be grouped thus:

#### **STRATEGY AND POLICY**

- ACT Heritage Strategy development, effectiveness monitoring, ongoing evaluation of heritage arrangements and reporting to the Legislative Assembly.
- Includes the ACT Heritage Council and the Heritage Unit.

#### **HERITAGE PROTECTION**

- Development Application assessment according to *Heritage Act 2004* requirements.



- Compliance and enforcement of *Heritage Act 2004* provisions including Heritage Register requirements and Conservation Management Plans.
- Proactive surveying of ACT heritage to ensure significant heritage places and objects are identified and included on the Heritage Register.
- Providing early advice about development plans involving heritage places, including to the Suburban Land Agency.

#### ACT HERITAGE COLLECTION AND EVENTS

- Historic Houses (Cultural Facilities Corporation)
- CMAG (CFC)
- ACT Heritage Festival (EPSDD)
- ACT Heritage Grants and other support for non-government organisations (EPSDD)
- ACT Heritage Library (TCCS)
- ACT Archives (Chief Minister's Directorate).

Another option could be to give the Heritage Council a stronger role in co-ordinating the activities of the various elements of ACT heritage arrangements. This could include a formalized mechanism.

#### **4. Make better use of existing heritage resources, especially community organisations.**

Work more closely with community organisations to make better use of the knowledge and commitment of the non-government history and heritage sector. For example:

- Assist identifying specific and thematic gaps in the coverage of the ACT Heritage Register (e.g. Barton Court – first privately built flats in the ACT);
- Provide information needed for the Heritage Council to decide heritage nominations.
- Resource to do this.

ACT Heritage Grants program could more proactively and explicitly fund high priority projects. For example, fund a project to identify significant places and objects that are not currently on the Heritage Register. This could be more cost-effective than going out to professional tender at market rates.

#### **5. Improve reporting to the Legislative Assembly on the effectiveness of heritage arrangements.**

Currently the reporting, such as for the ACT State of the Environment and the EPSDD annual report, is focused on work outputs e.g. number of DA's processed and nominations to the Heritage Register processed. The reports do little to outline the main issues facing heritage in the ACT and possible solutions. These could include:

- The EPSDD annual report does not include easily accessible data on the resourcing of the ACT Heritage Unit and the Heritage Council. Funding and staffing levels need to be transparent.
- Compliance with Heritage legislation – breaches identified by the Heritage Unit and by the general public.

- Retain the work outputs measures
- Capacity of the Council to perform its legislated functions at the required level
- Outline issues facing cultural heritage in the ACT such as conflicts of objectives between heritage protection and urban densification.

## LIST OF ATTACHMENTS

1. Elements of the ACT's Heritage Arrangements
2. Local government and Historical Societies: Maximising the value of local history. Federation of Australian Historical Societies.
3. Funding our heritage: Innovative practices for sourcing funding and assistance for heritage in the ACT.
4. Poor coordination: A Tale of Two (Scar) Trees.
5. Neglect: Hill Station and private neglect.
6. Heritage v Value Capture: The Northbourne Housing group.