



LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

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

Inquiry into ACT's heritage arrangements

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Standing Committee on Environment, Climate Change and Biodiversity
ACT Legislative Assembly
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INQUIRY INTO ACT'S HERITAGE ARRANGEMENTS

We make the following submission to the enquiry as we are practicing heritage consultants and have operated in Canberra for several decades.

We note the terms of reference and make the following comments.

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

We find the existing operation frustrating mainly due to:

- Excessive time to receive responses which has extended to over two years for a CMP and one year for a response to a DA request for information. Projects are planned to occur in reasonable time frames and excessive delays become costly and frustrating for clients;
- Lack of understanding of architectural details and building practice in responses to submissions;
- Lack of ability to discuss details personally with Heritage Unit staff rather than emails and letters; and
- Projects with grant funding should have the capacity to release some funds on delivery of a draft report instead of waiting an excessive period for reviews/clarification/responses to be resolved. We have waiting up to nearly a year to be paid as the final report had yet to be accepted and no payment will be made until it is.

This would appear to be due to:

- Inadequate resourcing of the unit;
- Lack of architectural expertise in the unit and Heritage Council; and
- Lack of defined periods in the Act to respond to which is not like a DA which has prescribed times in the Planning Act.

If the skill base is lacking there needs to be a process to provide it even by peer reviews or a panel of technical experts.

These delays are giving heritage a bad name when it should be a positive one for Canberra.

- 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 structure and operation of the Heritage Unit is unknown and a method to find out unclear.

Direct contact with individuals who are the appropriate person to contact is not often possible as contact details are not provided and the general contact (phone and email) is not often responded to or not responded to in a reasonable time frame.

- c) *The adequacy of resourcing for the ACT Heritage Unit;*

Totally inadequate, as indicated above.

- d) *The operation of heritage legislation in other Australian jurisdictions;*

We have worked reasonably widely in NSW and in the Commonwealth but little in other states and there are some marked differences:

- There is local significance managed by Councils and State significance managed by the State. In the ACT there is only territory significance which means many items of local significance are being ignored and removed. This could be easily modified by allowing significance to a section of the Territory to be acceptable rather than the whole of the Territory.
- NSW now do not approve CMPs but will consider them if one exists when a DA is proposed.
- NSW is also under resourced but appears to respond quicker.
- In NSW, access to Council heritage advisors who have direct input to planning decisions works well.

In NSW, heritage is part of the Planning and Environment portfolio so lacks strength in the process. Major projects as determined by Government can bypass heritage which is unfortunate.

In Victoria the Heritage Act is separate and much more effective in protecting heritage.

The Commonwealth requires HMPs to be publicly advertised and encourage community input. In the ACT CMPs are not available for community input and there have been cases when endorsed CMPs have forgotten essential elements of a site.

The Commonwealth is also under resourced.

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

More resources and efficient processes to overcome the deficiencies mentioned above.

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

- a. Canberra is a world heritage site but does not have the recognition due to lack of ACT Government support. However, the aspects of the planning, garden city etc. are promoted and attract visitors. Tourism could be enhanced if the heritage was lauded.
- b. There are sites where the setting is important but the Heritage Act can only control the listed site. There needs to be a positive planning approach to support settings for heritage places and not ignore it much to the detriment of good urban and rural design.
- c. There needs to be a mechanism of a quicker means to update citations as a result of CMPs and further studies. CMPs invite more research and updates but the system, the Heritage Act or approach by officers restrict potential change even when a citation or control is inaccurate or inappropriate.

- d. The general conservation guidelines are about 15 years old and need to be updated and deal with modern issues such as solar panels and changing circumstances. These guidelines are used for some individual sites and are quite inappropriate. The "guidelines" are being interpreted as statutory mandatory requirements. If so, the name needs to change.
- e. Sustainability in today's world is essential and the ACT needs to take the steps to include all aspects of energy into the assessment of developments such as:
 - Embodied energy;
 - Energy in manufacture of products; and
 - Energy in transport of products.
- f. Lack of retention of green space in residential areas as green space can be paved without approvals.
- g. In NSW and other states there is a set of clearly stated exceptions from heritage approval. This does not exist in the ACT and it could save time and money if clearly defined. It would appear repainting a window requires approval by Heritage but not a DA.
- h. The Statement of Heritage Effects (SHE) is a decision by Government and should be an appealable decision.

The fact that a SHE with a DA cannot be accepted is frustrating.

The SHE has to be submitted direct to Heritage with its own form and on the merits they can accept deviations to Heritage guidelines.

However, when considering a DA and responding to conditions the response is if a mandatory condition is not met, even if minor and no consequence to heritage impact, it is not supported.

The system is confusing and frustrating.

- i. NSW has a Technical Advisory Committee (TAC) where difficult projects can seek specific advice from an expert panel. If one was not possible in the ACT, given it's size, access to the NSW TAC could be possible.
- j. The backlog of nominations need to be addressed and removed so Council should only be dealing with new nominations.
- k. There have been significant heritage places on Commonwealth level that have no legislative protection as the NCA only controls the exterior (not interior) and if there is no Commonwealth interest then they cannot be included on the Commonwealth Heritage Register and ACT Heritage Act does not apply. For example, Hyatt Hotel, Canberra Olympic Pool, West Portal Cafeteria.
- l. A clearly articulated and regularly updated Heritage Strategy by Government would be useful.

Yours faithfully

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