



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

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Inner South Canberra Community Council

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

Standing Committee on Environment, Climate Change and Biodiversity Inquiry into ACT Heritage arrangements 2023

'Heritage is our legacy from the past, what we live with today, and what we pass on to future generations. Our cultural and natural heritage is both irreplaceable sources of life and inspiration

"Cultural Heritage" is a fairly broad term that can apply to both the tangible—physical places and objects we can touch—and the intangible—stories, songs, and celebrations we experience in the moment." (UNESCO)

The Inner South Canberra Community Council (ISCCC) welcomes this inquiry and provides this submission in response to the Committee's terms of reference. It thanks the Committee for the extension of time for submissions that has enabled it to consider other submissions. It endorses those submissions; in particular, those of ACT Heritage Council submission & Appendix, to Draft Planning Bill June 2022, Prof Roz Hansen (004), Dr Ken Heffernan (005), the Canberra and District Historical Society (CDHS) (006):ⁱ

The ISCCC submission draws on inner south residents' experience of the operation of the heritage arrangements.

Summary

1. The value of heritage protection is incalculable. International, national and local legal and moral obligations require its recognition but, more importantly, it benefits us economically and in other ways.
2. The character of the inner south region is shaped by the early development of the National Capital.
3. The wider heritage characteristics of these early inner south Canberra suburbs are embodied in the Garden City principles. These characteristics must be better integrated into the new Inner South District Strategy and the Territory Plan. *
4. Much valued elements of this character were afforded some level of "heritage" protection prior to and during the establishment of self-government.
5. Erosion of those heritage values has become evident in recent years indicating the urgent need for "a major overhaul"ⁱⁱ of ACT Heritage arrangements.

6. In particular, decision making powers concerning Heritage must derive from the Heritage Act. Accordingly, the Heritage Act cannot be subordinate to the proposed new Planning & Development Act.
7. Changes to the *Heritage Act 2004* (Heritage Act) must ensure that the Heritage Act aligns with proposed changes in the planning laws.
8. In order to support this separation of decision making powers the Heritage Council, Heritage Unit, Heritage Register and ongoing Heritage Precinct management require adequate resourcing as a first step.
9. Community involvement and consultation, including with our First Nations people, is an essential part of the ongoing protection and conservation of Heritage.

Recommendations

The ACT is a small jurisdictionⁱⁱⁱwith a unicameral legislature and a government that combines the roles of a state government and local council. This means that the regulation and operation of programmes must be well considered, balanced and resistant to undue pressure of certain interest groups. While the heritage arrangements are under review there is a concurrent review of the linked planning laws.^{iv}

The ISCCC makes the following recommendations in relation to Heritage and the synchronising of Heritage protection within the proposed new ACT planning regime:

A. Integration of Heritage Recognition with Territory Planning

1. Integrate UNESCO’s historic urban landscape principles in all ACT planning, policy documents and legislation - especially integrating urban heritage values and prioritising policies and actions for conservation including good stewardship ^v
2. Conduct the widest possible consultation with traditional owners in the ACT to ensure their views on the protection of their valuable heritage is heard, taken into consideration and acted upon.
3. Change the “tone at the top” in order to recognise that heritage is not a problem but a valuable opportunity ^{vi}
4. Ensure the fundamental principles of the Griffins, Sulman, and Weston in particular, are maintained in the inner south.
5. Recognise that heritage is greater than listed buildings and extends to the Garden City features of the Inner South (Areas of Territorial Significance)* that must be recognised, honoured and protected. ^{vii}
6. Ensure that drivers embedded in the Inner South District Strategy elucidate and acknowledge cultural heritage.
7. Identify and acknowledge the built environment as well the natural environment, in the Inner South District Strategy Blue Green Network which references stewardship of the environment.
8. Ensure changes to the Planning Act and the proposed Territory Plan prioritise heritage protection and conservation when initiating assessment of development applications.^{viii}
9. Engage constructively with the community on the implications for heritage protection as the new ACT planning laws emerge, and the Heritage Act, subsidiary heritage legislation, and heritage policies are re-examined.

B. Review of Heritage Arrangements:

1. Implement a targeted study of other jurisdictions. ^{ix}
2. Ensure that the Heritage Act, the Planning & Development Act and the Territory Plan are properly aligned.

3. Ensure all references to the Heritage Act and its subordinate legislation are prominently and exhaustively referenced in planning legislation.
4. Ensure that the Heritage Act is prominently and consistently cross referenced in other ACT legislation, including environmental and planning legislation x.
5. Require all Directorates to routinely report on legislation administered by those Directorates that should be linked to the Heritage Act.
6. Require the Heritage Council to report annually on any legislation found not to be properly linked to the Heritage Act.

C.The Heritage Act 2004

1. Include in the Act the object of “protecting and conserving the cultural heritage of the territory”^{xi}
2. Include a function (and power) to act independently, impartially and in the public interest.
3. Amend the Act to include in the functions of the Council responsibilities for the Register and Heritage precinct.^{xii}
4. Review enforcement measures and penalties (the “sticks”) in the legislation^{xiii}
5. Include the Heritage strategy in a Notifiable Instrument^{xiv}
6. Reinstate the “dirty blocks” provision that allows action to be taken against leaseholders of poorly maintained land. This would assist in preventing landbanking.
7. Reinstate the right of merits review of Council decisions, including by the Council itself in the event of a Council decision being over ruled.

D.The Heritage Council

Improve institutional arrangements to achieve desired outcomes:

1. Separate heritage decision making and policy from planning decision making and policy.^{xv}
2. **Insert a rebuttable presumption in the proposed Planning legislation** as follows: “... that the advice of the Heritage Council will be followed unless the adverse impact of doing so would significantly and demonstrably outweigh the benefits of following it”. (Note: The onus of proof would be on the planners to prove that the Heritage Council advice is so disadvantageous that it can’t be followed)
3. Towards this end, properly resource the Heritage Council and Heritage Unit, recognising the economic and social value of heritage to enhance our community.
4. Provide proper funding for the Heritage Unit which is not linked to Directorate budgets^{xvi}
5. Ensure that development applications involving places or objects nominated for heritage listing are identified and referred to the Heritage Council when they are lodged.^{xvii}
6. Ensure development applications involving places or objects on the Heritage Register are immediately referred to the Heritage Council for expert assessment prior to development assessment within ACTPLA.
7. Ensure consistency in the assessment of development proposals for properties in heritage precincts.
8. Introduce monitoring, documentation and application of penalties for breach of heritage rules.^{xviii}
9. Institute quality assurance of Council decisions (including by analysing court and tribunal decisions of Council deliberations in these jurisdictions.)

E. The Heritage Register

1. Update the Heritage Register and modernise the online register database.^{xix}
2. Introduce best practice principles^{xx} for:
 - a. the Heritage Register
 - b. the Heritage website^{xxi}
 - c. application of Heritage Guidelines
 - d. Heritage Management Plans prior to development proposals^{xxii}

F. Heritage Advice in practice

1. Reinstate best practice principles to protect and conserve Heritage Precincts and individual heritage listed properties. For example:
 - a. Notify purchasers and real estate agents of obligations and opportunities (work with Real Estate Institute)
 - b. Provide for Heritage expert advice for new and prospective owners of heritage listed properties.
 - c. Investigate the status and value of the Heritage Advisory Service
 - d. Support & reinforce expert advice with a publication which sets out the opportunities and constraints for a private owner or government entity when planning changes or upgrades to heritage properties
 - e. Maintain and publicise maintenance schedules for heritage places.^{xxiii}
2. Promote heritage recognition through, for example, marking and signage, as adopted in Victoria and the UK.
 - a. Support and enhance the Heritage Library including access rights for interested parties.

i The ISCCC commends to the Committee the CDHC submission's (006) organisation of issues by strategy, relationship with the planning system, legislation, governance, Heritage Council, resourcing, funding, transparency, information and data and other matters. It also especially commends the CDHS Top Ten Threat Categories and What Seems to be Working Well.

ii Roz Hansen submission 004 to this inquiry p.1

iii *Governance of Small Jurisdictions* Guest Editors Introduction *Public Organization Review: A Global Journal* 1: 149-165 (2001) https://www.um.edu.mt/library/oar/bitstream/123456789/27323/1/Governance_of_small_jurisdictions.pdf

iv Heritage was an important issue at the ISCCC consultation forum on the new Planning Framework. Attachment A records the outcomes of the Heritage and all the Inner South suburbs subgroups at that forum.

v <https://whc.unesco.org/uploads/news/documents/news-1026-1.pdf> (p.16).

vi The ISCCC endorses the comment in the Pearson Marshall submission 003 to this inquiry that there has been an "impoverished dialogue about the value of heritage" in the ACT p.4. See e.g. Strategy paper (para 1.3) p.6.

vii The ISCCC refers to the supplementary submission of the NSW Heritage Council in this Committee's "Other Document" section on its website that makes this point.

viii See Attachment B to this submission

ix Including drawing on the useful information provided in submissions to this inquiry e.g. Roz Hansen (004) on the Victorian and NSW legislation.

x See, for example, Submission 001 to this inquiry p.2 for a useful list of ACT legislation that does not properly interact with the Heritage Act. See also Attachment B to this submission showing an example of how the current Act is misaligned with the Territory Plan.

xi See Roz Hansen submission 004 discussion of objects of the Victorian and NSW Acts purposes provisions p.3-4

xii Noting Prof Hansen's reference (submission 004) to the Executive Director's responsibility for the Register in Victoria p. 6

xiii The NSW Heritage Commission submission to the NSW Inquiry, that this Committee helpfully provided in the "Other Documents" section on its website, cites the "carrots and sticks" aspect of Heritage legislation. Carrots to encourage behaviour and sticks the punish for misbehaviour.

xiv See, for example, submission 003 to the inquiry. The ISCCC supports the call for a Heritage Strategy that was recommended in a discussion paper in 2016.

xv This is a common theme through the submissions to this inquiry.

xvi WIPO Ask First document https://www.wipo.int/export/sites/www/tk/en/databases/creative_heritage/docs/ask_first.pdf

xvii See Appendix B. The Heritage Assessment Policy is silent on whether a lodged nomination will be considered when a DA is considered.

xviii see Dr Ken Heffernan submission 005 recommendation 10

xix See also Submission 003 pp 3,4.; See also CDHS submission 006 on the need for updated information and improved databases

xx The Burra Charter – or ICOMOS Charter for the Conservation of Places of Cultural Significance - was first adopted in Australia in 1979. It is a source of principles that create an inclusive and nationally accepted standard for heritage conservation practice in Australia.

xxi See Dr Ken Heffernan submission recommendation 5

xxii see Dr Ken Heffernan submission 005 recommendation 2

xxiii See Dr Ken Heffernan submission (005) recommendation 11



Inner South Canberra Community Council

INTRODUCTION

1.1 The ISCCC includes all the inner south area of Canberra extending to Oaks Estate in the east and Yarralumla at the western edge of Lake Burley Griffin. The committee of the ISCCC represents all the active residents' associations and groups in these suburbs and is prepared to give voice to residents beyond the urban fringe. The ISCCC has links to other community groups such as the Lake Burley Griffin Guardians, the Friends of the Albert Hall, the Canberra & District Historical Society and the Walter Burley Griffin Society.ⁱ

The Inner South (and its experience with Heritage arrangements)

1.2 The Inner South nestles in a valley on the Limestone Plains. The valley has an ancient Aboriginal history and a colonial overlay. Evidence of this history was severely compromised when the Limestone Plains were chosen as the site of the National Capital. The planned layout of the inner south, part of the initial development of the "Bush Capital" dates from the 1920s. Historically, the area is home to the majority of Canberra's major national institutions. The adjacent early suburbs display a distinguishing character widely identified as Garden City Planning. The features of this distinctive and much valued character include the street layouts, the treed verges, the siting and setbacks of the dwellings, the no front fence policy, and the community open spaces.

1.3 Indeed, Canberra is recognised throughout the world as a beautiful planned city befitting of our country's national capital. (*The older inner north and south suburbs of Canberra are perhaps the best examples of how the principles of the Garden City movement were applied in Australia.*ⁱⁱ)

1.4 The extraordinary vision of Walter Burley Griffin and his wife, Marion Mahoney Griffin, the winners of an international competition for Australia's National Capital, promoted the framework, the vistas and the initial layout of the new twentieth century city. Combined with the town planning expertise of Sir John Sulman and the horticultural expertise of Charles Weston, this early vision determined the street layouts, the tree plantings, and the placement and architecture of the older buildings.ⁱⁱⁱ This legacy has immeasurable social value because of its importance to our community which has a collective attachment to the meaning and values it embodies,^{iv} including respect for the natural environment and the importance of green space for community wellbeing.

1.5 Prior to the introduction of self-government in 1989, the National Capital Authority produced a series of guidelines with the intent of protecting the character of the original suburbs while enabling inter-generational growth and change (see Planning Practice Notes PPN5, PPN6). These early Garden City suburbs were identified as being of Territorial Significance. In addition, certain precincts within these areas were nominated for heritage protection at Commonwealth Government level (e.g. Canberra's earliest public housing development, section 2 Griffith).

1.6 Initially, in the early 1990s,^v the ACT Heritage Register was established and was included as an appendix to the new Territory Plan. Residents of certain suburban 'precincts' within the Garden City suburbs were informed that their areas were being considered for inclusion on the ACT Heritage Register. Then, after extensive consultation with these residents and professionals in the field, a number of Garden City Precincts were entered into the Register.

1.7 The distinctive Garden City character is deeply embodied in these precincts which, in the inner south, are predominantly located in Barton, Griffith, Forrest and Kingston. The heritage protection afforded to these precincts via the ACT Heritage Register is an acknowledgement of the intrinsic value of these low-rise residential areas.

1.8 In addition, the Heritage Register identifies a number of individual properties in this inner south valley including:

Telopea Park School in Barton, the Prime Minister's Lodge in Deakin, the Manuka Pool in Griffith, St Christopher's Cathedral Precinct in Forrest, Hill Station & Old Tralee in Hume, Robertson House & the Oaks in Oaks Estate, the Papal Nuncio in Old Red Hill, Forestry Place in Yarralumla (to name just a few).

1.9 The ACT Heritage Register remained part of the Territory Plan until 2004. Then, the ACT *Heritage Act 2004* was signed into law^{vi} and the ACT Heritage Register was excised from the ACT Territory Plan. Subsequently, there were significant changes to planning laws, in particular, the *Planning and Development Act 2007* (PDA) and Planning and Development Regulation 2008. The Heritage Act became 'subordinate' to the PDA and the mandatory requirements of the Register have not translated into the real world. (Was this possibly an unintended consequence?) Recent planning decisions, development applications, and ACAT appeal processes have highlighted this disconnect.

1.10 The Marshall Report of 2010 focused on heritage protection in the ACT in view of this disconnect. The report contained 111 recommendations to government. Yet, despite months of wide ranging consultation and expert deliberations, almost all of the 111 recommendations were ignored.

The report acknowledged and responded to expressed concerns about the loss of original heritage fabric and the problems of compliance. In the years since this report was presented to the Minister these concerns have heightened. The links between the *Heritage Act 2004* and the *Planning and Development Act 2007* continue to appear weak, at best.

"A review of the protection afforded to these heritage precincts, and the individually identified properties, is long overdue. The loss of heritage diminishes the story of our community and our city, and is ultimately a loss to the nation. We must lobby our government representatives to commit to this review now".^{vii}

Reasons for ACT heritage protection

1.11 The reasons for heritage protection are well known. As the Burra Charter^{viii} says:

Places of cultural significance enrich people's lives, often, to the past and to lived experiences. They are historical records that are important expressions of Australian identity and experience. Places of cultural significance reflect the diversity of our communities, telling us about who we are and the past that has formed us and the Australian landscape. They are irreplaceable and precious. These places of cultural significance must be conserved for present and future generations in accordance with the principle of intergenerational equity.

12. Heritage protection adds value to the community. Our heritage is non-renewable capital that has economic and social benefits.^{ix} Heritage recognition and protection:

- helps build community adaptability, cohesion and identity, strengthening social networks and fostering a strong sense of belonging and attachment to place
- provides continuity and memory that help with the physical and mental health of individuals and society
- reinforces association with personal and cultural identity, intergenerational continuity, and civic engagement
- links natural and cultural heritage allowing broadening of the discussion of sustainability so we can better reflect on our inheritance and stewardship
- assists tourism, job creation, skills development and a range of economic activity including creative industries

Concerns about heritage protection in the Inner South

1.13 The disregard for heritage in the draft Inner South District Strategy^x is symptomatic of the inadequacy of current arrangements for heritage protection in the ACT. The views of those characterised as "passionate" about heritage were clearly not considered as valid as the views of those

who believe that “heritage imposes constraints, red tape and regulatory burden and stifles development opportunities”.^{xi} Of course, the ACT Heritage Strategy Discussion Paper of 2016^{xii} (Strategy paper) forewarned that only “significant heritage places and objects” would be integrated as intensification increased. However, “retention of existing heritage fabric can also be beneficial in its contribution to environmental savings”.^{xiii}

1.14 It is of significant concern that developments within Inner South Heritage Precincts have appeared, in some cases, to degrade heritage fabric. In extreme cases, dwellings have been almost completely demolished and rebuilt. This phenomenon, referred to as façadism, has been capturing the attention of experts and concerned citizens in Australia and overseas. In at least two of the Heritage Precincts in the Inner South retention of the original built fabric is not now required.

1.15 As Canberra’s population expands and 21st century issues around environmental degradation and the need for sustainable development impact our society, there is **growing community support for high quality urban intensification in key areas**; along major traffic routes, adjacent to shopping centres, and in town centres. Meanwhile, urban intensification is leading to significant changes within local communities. And, in some instances, these changes are causing detriment to the ever decreasing number, proportionally, of heritage listed properties predominantly located within Heritage Precincts.

1.16 The ISCCC notes that community groups comment that it is increasingly difficult to participate in the process of identifying, protecting and valuing the heritage fabric of this city. Yet, it is to these very groups that individual residents often turn for advice and support. Furthermore, community involvement is exactly what promotes understanding, respect, and protection of heritage fabric. Community groups are more than just “interested parties”, they are a key component of the heritage process.

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

A.1 As there is no ACT Heritage Strategy, the Heritage Act 2004 is used for guidance, together with the Strategy paper of 2016. The Act establishes the Heritage Council, Heritage Register(s), and Heritage Guidelines.^{xiv} It defines heritage places and objects and provides a scheme for registration.^{xv} The Act is linked to the PDA. For example, it provides for ACTPLA to refer DAs to the Heritage Council under s.148 of the PDA.

A.2 The ISCCC considers it inappropriate to comment on the effectiveness and adequacy of operations under the Act in relation to First Nations heritage except to support the widest possible consultation and proper operations. It refers to the National Capital Authority (NCA) Heritage Strategy 2022–2025^{xvi} which cites the Ask First Guidelines for Aboriginal community consultation^{xvii} and the Working Together Guidelines.^{xviii} The NCA also cites the Australian Natural Heritage Charter 2002 which is a guideline for best practice conservation principles aimed at assisting in the identification, assessment and management of places with natural heritage values: “(P)laces may have both natural and cultural heritage values—values that may be related and are sometimes difficult to separate. This is often the case with Aboriginal people who see the natural and cultural world as part of the same continuum.”^{xix} The ISCCC also refers to submissions and oral testimony of First Nations people to this Committee and to such submissions and testimony to the 2021 NSW Legislative Assembly Inquiry into the NSW Heritage Act (the NSW Inquiry).^{xx}

“The tone at the top”

A.3 The Strategy paper stated that “(A) common initial reaction to the concept of heritage in the ACT is sheer surprise that such a recent city can have heritage.” The ISCCC suggests that ignorance should not be broadcast and perpetuated by the government. One doesn’t need to be “passionate” about heritage to recognise its value^{xxi} and the legal and moral obligation to protect it. One just needs to be educated and this is assisted by the government properly supporting and promoting heritage. The values of heritage protection should be front and centre - as they are in the NCA Strategy paper.

A.4 The objects of the ACT Heritage Act (s.3) **should** include the object of providing for the protection and conservation of the cultural heritage of the territory.^{xxii}

Properly align current planning (and other) laws and the Heritage Act

A.5 Proper alignment of current heritage and planning laws would:

a) remove the splintering in the Heritage Act whereby the Council administers certain provisions, while the Minister for Planning administers others. ACT Heritage supports both, providing administrative and secretariat functions to the Council and advice to the Minister.

b) prevent demolition of heritage properties before proper processes have been undertaken (see Attachment C)

c) enable proper heritage consultation when development applications (DA’s) are being considered.^{xxiii} An assessor of a DA seeks comments from the Heritage Council – an “entity” under the Planning and Development Act (PDA) 2007. The Council must provide advice in accordance with the *Heritage Act 2004*. Sections 60 and 61 of that Act requires them to consider three main points.^{xxiv} First, they must see whether the property is listed. Secondly, they must see if it has been nominated. Finally, they must consider whether the development would affect another listed place.

This is a process followed in other jurisdictions.^{xxv} And it is not unusual for a heritage nomination to coincide with a DA lodgement because that is when people pay attention.^{xxvi}

Ideally this process would be done according to policy guidelines that delineate the steps in accordance with the law. Those policy guidelines would be kept up to date with recent court and tribunal decisions.

The ISCCC recommends that:

- the guidelines set out the required steps under the Heritage Act, and
- there are strong, proactive links which enable the assessing officer who is considering the implications of a DA, to know that a heritage nomination involving the property in question has been received.

The PDA provides for the Territory Plan which contains the Multi Unit Housing Development Code (MUHDC). Rule 90 of that Code is misaligned with the Heritage Act because the Act allows the Heritage Council to consider “nominated places or objects likely to have heritage significance” (s.60 (1)(b)) while the MUHDC, which is subordinate legislation, only requires ACTPLA to refer DAs relating to “land containing places registered or provisionally registered”.^{xxvii}

The ISCCC refers to submission 001 to this Inquiry by the ACT Commissioner for Sustainability and the Environment that lists ACT legislation that could be linked to the Heritage Act.^{xxviii}

The ISCCC recommends that all Directorates be tasked to report on legislation they administer which should be linked to the Heritage Act.

Apply, maintain and review the Heritage Guidelines

A.6 The Heritage Guidelines are applied inconsistently within heritage precincts. While some residents are required to strictly comply with heritage requirements, there is evidence that others are

able to demolish much of the original built fabric with impunity. All residents buying into heritage precincts need to be aware of their responsibilities and be guided in ensuring they meet the mandatory requirements of the Heritage Register. Most importantly there need to be effective penalties for non-compliance including “naming and shaming.”

Improve the protection and management of heritage precincts

A.7 The ISCCC considers the Heritage Guidelines sound because they are straightforward, unambiguous and comprehensive. Nevertheless, these Guidelines are being regularly overlooked in the Inner South.^{xxix} To illustrate: there is a recent example in Old Griffith (Blandfordia 5) where a house has been almost completely demolished and the block cleared. Only the front of the heritage “protected” home remains standing (façadism).^{xxx}

The ‘sticks’: Penalties under the Act

A.8 The ISCCC has no information on the number of times the “penalty” provisions of the Act have been applied by the Council. (This information does not seem to appear in Annual Reports). Accordingly, a list of questions about penalties is provided in Attachment E on which the Committee may wish to seek information.

Maintain the aspects that work well

A.9 The ISCCC agrees with the CDHS (006) that some aspects of the arrangements work well. For example, the Heritage Festival, the Heritage Grants and other features of the arrangements are praiseworthy.

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;

B.1 The ISCCC has cited the redacted public Nous Group Report on the Heritage Council that explains:

The Heritage Council is an independent, statutory body responsible for a range of provisions under the Heritage Act 2004, including:

- a. identifying, assessing, conserving and promoting heritage places and objects in the ACT*
- b. making decisions about the registration of heritage places and objects*
- c. providing advice on works and development matters in accordance with the ACT’s land planning and development system*
- d. encouraging and assisting with appropriate management of heritage places and objects*
- e. encouraging public interest in, and awareness of, heritage places and objects in the ACT.*

The Heritage Unit (also called ‘ACT Heritage’) is an area within the Environment, Planning, and Sustainable Development Directorate in the ACT Government that provides administrative support to the Council and advice to the Minister for Planning and Land Management about the range of heritage matters for which they are responsible.

B.2 The ISCCC has not seen the full report of the Nous Group and assumes the Committee will be given access to that document.^{xxxi}

B.3 The ISCCC has listed questions about the Heritage Council’s operations in Attachment E. These concerns include the following:

- Council meetings and deliberations are not open to the public and records of meetings are not published;
- the Heritage Council Taskforce apparently makes decisions about development applications in isolation from community input during the “public comment” period;
- Most DAs involving heritage listed properties now only trigger minor merit track notification infrequently and exempt building applications routinely.

- There is no information available concerning audits in relation to the outcomes of these changes to decision making.
- There is no evidence of monitoring or review of the building applications for the asbestos blocks in the heritage precincts.
- There is “a significant backlog of nominations awaiting assessment” (Strategy paper p.9)
- The nomination process has become more onerous, especially in the case of an urgent application.

B.4 The Heritage Unit is obviously under pressure and under resourced.^{xxxii} It appears to have very little capacity to fulfill the functions listed in the Nous Report. Yet there is evidence of significant demand for these services.

Location of Heritage Unit

B.5 There is clearly an inherent problem with locating the Heritage Unit within the Environment, Planning, and Sustainable Development Directorate (EPSDD) because of the danger of bias - perceived and actual - by the Heritage Council in favour of ACTPLA’s actions. The ISCCC has included possible questions for the Committee to ask in Attachment E. Several submissions to this inquiry have raised this issue.

B.6 The Director-General of the EPSDD is an ex-officio member of the Heritage Council (s.17(b)). The PDA s.121 authorises delegation to the director general, who may, in turn, sub-delegate. The *Legislation Act 2001* part 19.4 allows delegations. The Director-General currently holds such a delegation^{xxxiii} in relation to 56 sections of the Act (see Attachment B).

B.7 The ISCCC questions whether economies of scale could be achieved by servicing all bodies similar to the Heritage Council from a central unit which specialises in servicing meetings etc.

C. The adequacy of resourcing for the ACT Heritage Unit;

C.1 The Heritage Unit has several responsibilities including liaison with stakeholders, organising events and, importantly, processing applications for heritage listing. There is a history of merit and judicial review of Council decisions on registrations.^{xxxiv} The ISCCC has listed in Attachment E questions on several pertinent issues on which the Committee may wish to seek information.

C.2 The Unit is involved in the three stages of heritage conservation – recognition, management and celebration.^{xxxv} These are important and time consuming jobs which have different complexities and require different skills from staff. For example, there are legal requirements for recognition while encouragement and assistance with management involves high level interpersonal skills. In a small jurisdiction like the ACT there are both rewards and challenges in performing these functions.

C.3 The ISCCC has studied the EPSDD Annual Reports that show the Heritage Unit’s funding included with other projects. The ISCCC lacks information about the ACT Heritage Unit’s funding but assumes that it cannot obtain its own funds from consolidated revenue and cannot employ its own staff and is, therefore, entirely dependent on resources provided by the EPSDD. Presumably all services provided by the Heritage Unit are delivered by EPSDD staff. It appears that funding is inadequate.^{xxxvi}

C.4 The ISCCC lacks sufficient information to comment on staffing levels. The Annual Reports do not show how many staff are employed in the Unit. However, the ISCCC notes the NSW Heritage Council submission to the NSW Inquiry which suggests:

- *that the Heritage Council be enabled to hire independent staff directly to assist it in its duties, including a senior leader and appropriate staff, and have the ability to have staff seconded to it*
- *The Heritage Council should have a separate budget to enable it to perform the functions it is required to undertake by the new Act*

- *Consideration be given to creating a single agency with a board (comprised of the same expertise as recommended above for the Heritage Council) which can provide independent advice to the Minister and to delegate functions to its staff.*

C.5 The ISCCC questions whether there is quality assurance of Council decisions. For example, are court and tribunal review decisions analysed with a view to improving Council decision making? Are detailed questions asked as to how the Heritage Council reached a decision that was upheld or rejected? This requires resources but it allows the benefits of our valuable review processes to be maximised.

C.6 The ISCCC queries whether the Heritage Council's functions could be outsourced to a body like the National Trust as is the norm in England?

D. The operation of heritage legislation in other Australian jurisdictions

D.1 The ISCCC suggests that overseas jurisdictions also be considered, including Great Britain.

D.2 The ISCCC can provide a table showing international heritage conventions and treaties, and legislation in other Australian jurisdictions. Note: The Productivity Commission Report, *The Conservation of Australia's Historic Places* 2006, Chapter 4, describes Australian State and Territory heritage protection arrangements. Herbert Smith Freehills, solicitors, submission to the NSW Inquiry (submission 273)^{xxxvii} contains a comparative table for amending heritage listings (p.11) and a comparative enforcement table (p.15)

D.3 Specific features of heritage legislation in other jurisdictions that the ISCCC commends to the Committee are:

- a) The Victorian provision for penalising developers who demolish Heritage listed properties
- b) The Victorian and NSW legislation discussed by Prof Roz Hansen in her submission to this Committee, including the purpose provisions and the establishment and functions of their councils.
- c) Decision making in England and Scotland which is vested in a trust, English Heritage, which is set up as a charity. Decisions can be appealed to the Minister.

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

E.1 The Council's functions are contained in s.18 of the Act.

E.2 This term of reference implies that the Heritage Council's statutory functions are not in need of reform. **The ISCCC disputes that premise.** In particular it recommends:

- (a) a function (and power) to act independently, impartially and in the public interest
- (b) a function aimed at maintaining the Heritage Register database listing items of local heritage significance, and
- (c) a function aimed at maintaining the identified Heritage Precincts, including providing guidance and advice to property owners, enforcement officials and other interested parties.

E.3 Subsection (c) of the current functions should be reconsidered. It states:
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;

The ISCCC recommends that the words "work within" be removed and the Heritage Council be empowered to act as the final arbiter / decision maker in matters pertaining to Heritage.

Note: Prof Hansen's submission has some excellent suggestions on the functions of the Council.

E.4 The ISCCC believes that these recommendations would assist the ACT Heritage Council to achieve its revised statutory functions. At present it appears to have neither the staff, the funds nor the power to fully acquit its statutory functions in a manner that is independent, secure, and functional.^{xxxviii}

E.5 The ISCCC queries whether the current membership structure of the Council in the Heritage Act reflects how expertise in heritage conservation and management has changed over recent decades. The ISCCC believes that there should be participation on the Council by relevant groups, or at least consultation with those groups about who might be suitable for membership of the Council. Such bodies could include The National Trust ACT Division, ICOMOS, Canberra Moderns, The Professional Historians Association, The Historic Houses Association, The Garden History Society, The Australian Institute of Architects ACT Chapter, The Planning Institute of Australia, The Australian Institute of Engineers.

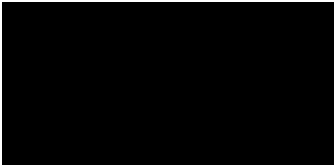
F. Any other related matters with respect to the ACT's heritage arrangements

F.1 The ISCCC queries whether more can be done to incentivise the facilitation of heritage recognition and conservation. During the NSW Inquiry various possibilities were raised including rate relief, architectural advice and planning assistance (see attachment D).

F.2 The ISCCC adopts the Planning institute of Australia (PIA) approach^{xxxix} of encouraging “a more strategic approach to the community value of heritage in planning” and that “deeper consideration be given to the strategic value of publicly owned heritage sites” which will lead to “innovative use, exemplar conservation projects and deeper community investment.”

Finally, informed members of the ISCCC are prepared to engage with the Committee of Inquiry in order to assist in achieving a positive outcome for heritage arrangements in the National Capital.

Yours faithfully



Marea Fatseas
Chair
Inner South Community Council

Attachments:

- A ISCCC Forum on ACT Proposed Planning Framework 7 February 2020
– Outcomes of Discussions about Heritage in Heritage and suburb subgroups
- B Misalignment between Heritage Act and Territory Plan
- C Case Studies of Heritage Arrangements at work recently in the Inner South
- D Recent feedback from residents in Inner South Heritage Precincts
- E List of possible questions for the Committee to ask in relation to heritage arrangements

ⁱ The ISCCC notes the CDHS useful list of relevant ACT organisations with an interest in heritage.

ⁱⁱ ACT Chief Planning Executive CTPLA *Garden City Values Design Considerations for Residential Development in Inner North and Inner South Canberra* 2008 Foreword A

ⁱⁱⁱ Griffith Neighbourhood Plan https://www.planning.act.gov.au/__data/assets/pdf_file/0006/890565/griffith-anp.pdf

^{iv} Margarita Diaz-Andreu 'Heritage Values and the Public' <https://www.tandfonline.com/doi/full/10.1080/20518196.2016.1228213>

^v The ISCCC notes the Kosciusko Huts Association submission (007) list of ACT heritage management across 3 periods (p.1).

^{vi} The Strategy paper (see para 1.3 above) refers to the 2004 legislation. Heritage existed before 2004. It just wasn't included in ACT legislation.

^{vii} Anne Forrest 31/3/17

^{viii} Published by the International Council of Monuments and Sites (ICOMOS) in 1979 it defines the basic principles and procedures to be followed in the conservation of Australian heritage places. The steps for the Burra Charter process are set out in the NCA strategy p.36. The Burra Charter is cited by Roz Hansen (004).

^{ix} See e.g. The Federation of Australian Historical Societies *Local Government and History Societies: Maximising the value of local history* 2016 p. 2 for a good description of the benefits of local history.

^x See below

^{xi} Strategy paper p.6

^{xii} Five Year ACT Heritage Strategy 2016–2021 Discussion Paper Feb 2016 p.6
https://www.isccc.org.au/isccc/wp-content/uploads/Heritage_Discussion_Paper.pdf

^{xiii} p.10. the ISCCC refers to the award of the 2023 Pritzker Prize to David Chipperfield for his reconstruction of old buildings while honouring their history and preserving the environment.

- xiv The Council is in Part 3 of the Act, the Register in Part 4, the Guidelines in Part 5 and Registration in Part 6.
- xv See description in *John Flynn Community Group Inc. and Flynn Primary School Parents and Citizens Association Inc. v ACT Heritage Council* [2012] ACTSC 50 per Burns J [at 8-14].
- xvi Prepared for the National Capital authority July 2022.
- xvii P.37-38
- xviii P.39
- xix P.37
- xx <https://www.environment.nsw.gov.au/policy-and-law/legislation/nsw-heritage-act-review>
- xxi See below
- xxii Cf Victorian *Heritage Act* purpose s.1(a). See Roz Hansen submission (004).
- xxiii Part 10 of the Act.
- xxiv See Attachment B
- xxv See Productivity Commission Report *The Conservation of Australia's Historic Places* 2006 p.105.
- xxvi Productivity Commission Report *The Conservation of Australia's Historic Places* 2006 p. xxiii
- xxvii See Attachment B.
- xxviii p.2
- xxix See Notifiable Instrument D!2007-174 Heritage (Blandfordia 4 Precinct Forrest) Guidelines 2007 No 1 issued under the Act s.25. Blandfordia 5
- xxx See Attachment B.
- xxxi As do other submitters – see Roz Hansen (004)
- xxxii See Dr Ken Heffernan submission (005)
- xxxiii Notifiable Instrument NI2015-561
- xxxiv E.g. n.4 above; *Bowden v ACT Heritage Council* (Administrative Review) [2019] ACAT 56; *Pettersson v ACT Heritage Council and Commissioner for Social Housing* (Administrative Review) [2010] ACAT 28
- xxxv Productivity Commission Report *The Conservation of Australia's Historic Places* 2006 p.6
- xxxvi See Dr Ken Heffernan submission (005) recommendation 3.
- xxxvii See note 8 above. Submissions appear under Background documents
- xxxviii Adopting the words of the NSW Heritage Council to the NSW Inquiry.
- xxxix Submission to NSW Inquiry No 202 p.8-9.

ATTACHMENT A:

ISCCC FORUM ON ACT PROPOSED PLANNING FRAMEWORK 7 February 2023

Outcomes of Discussions about Heritage in Heritage Group and Suburb Subgroups

Code

DFY Deakin Forrest Yarralumla
GN Griffith Narrabundah
H Heritage
KB Kingston Barton
OE Oaks Estate
RH Red Hill

Heritage

- There is a need to ensure that heritage is maintained across the Inner South. GN4
- The challenge is to protect heritage in the context of the government's wish to intensify H1
- We need to be respectful of nature and heritage. Built environment needs good quality environment and open space. The government has not addressed community concerns on this matter RH5
- Oaks Estate has significant heritage sites of value to wider Canberra. OE3
- It was commented that in heritage areas a residence cannot be varied yet it can be demolished DFY11
- The definition of heritage includes the built environment. It is not solely environmental. The view is that the documentation (in the draft planning documents) relates principally to environmental heritage. The group feels very strongly that built heritage is an extremely important part of heritage H2
- The Heritage Register and its future needs to be carefully considered and decided.H3
- In addition to proper oversight of the current heritage rules the group favours an emphasis on the preservation of the streetscape and the built character of the heritage precincts H4
- Retaining a proper permeable surface minimum ratio is also an essential part of the character.. H5
- Improving buyer awareness of heritage areas amicably is a high priority. H6
- There is a plea for a helpful, sympathetic heritage unit to work amicably and promptly with buyers H7
- The current heritage rules, in the group's opinion, are excellent. They're clear, professional, and comprehensive. They should be maintained and enforced. H8

ATTACHMENT B:

MISALIGNMENT BETWEEN HERITAGE ACT AND TERRITORY PLAN

Case Study: Consideration of heritage nominations in advising on DAs

1. This example relates to ss.60 and 61 of the *Heritage Act 2004* and ss.148 and 149 of the *Planning and Development Act 2007 (PDA)*.ⁱ
2. Sections 60 and 61 of the Heritage Act provides:

60. Advice about effect of development on heritage significance

(1) This section applies if the council is satisfied on reasonable grounds that a development would affect—

(a) the heritage significance of a registered place or object; or

Note A registered place or object includes a provisionally registered place or object (see s 11).

(b) a nominated place or object that, in the opinion of the council, is likely to have heritage significance...

61. Requirements for council's advice about development

(1) This section applies if the council gives advice—

(a) under section 60 about the effect of a development on a place or object that has, or is likely to have, heritage significance; or

(b) under the Planning and Development Act 2007, section 149 in relation to a development application.

provides:

This rule applies to land containing places or objects registered or provisionally registered under section 41 of the Heritage Act 2004. The authority shall refer a development application to the Heritage Council.

Note: The authority will consider any advice from the Heritage Council before determining the application.

3. The MUHDC Rule 90 states:

This rule applies to land containing places or objects registered or provisionally registered under section 41 of the Heritage Act 2004. The authority shall refer a development application to the Heritage Council.

Note: The authority will consider any advice from the Heritage Council before determining the application.

4. The effect of the Act and the rule is that, although the Act allows the Heritage Council to consider “nominated places or objects likely to have heritage significance” (s.60 (1) (b)) the MUHDC, which is subordinate legislation, only requires ACTPLA to refer DAs relating to “land containing places registered or provisionally registered”. That is, there is no requirement in the Plan for ACTPLA to seek Heritage Council advice before determining a DA on land where a nomination has been made. This creates a

gap between the Act and the Territory Plan and places or objects that have been nominated but not provisionally or actually registered fall into the gap.

5. In a DA involving a house in Griffith recently, when the EPSDD received a DA they sought comments from entities, some of which are also in the EPSDD, including the Heritage Unit and the Conservator (who is also an ex officio member of the Heritage Council: s.17 (a)). They are not obliged to accept that adviceⁱⁱ but they do list it in their assessment package documents.ⁱⁱⁱ ACTPLA went on to approve the demolition of the house. Meanwhile, the National Trust had nominated the house for registration.
6. The Heritage Council received the request from ACTPLA on 7 November for advice. The Heritage Council's advice to ACTPLA shows that it purported to exercise its power under s.60 of the Act and ss 148 and 149 of the *PDA*.^{iv}
7. It is common throughout Australia for heritage assessment to be delayed until a DA is received.^v While this can "add to uncertainty and can lead to unnecessary contention"^{vi} the situation is not surprising because interested parties may not realise there is a need to protect heritage by nominating it until it is threatened by those who do not sufficiently value it.
8. In any event, in this matter the Heritage Council stated that the subject property had no heritage significance. It referred to an adjacent heritage listed site but did not consider the effect of the proposed development on that site. It did not refer to the nomination.
9. The Heritage Council was suspended in August 2022 and abolished on 6 December 2023. The Heritage Council's purported advice on the Griffith DA was given on 1 December 2022.
10. The Heritage Act allows delegation to the director-general (s.121) and sub delegation is allowed (s.121 note 2). This has been done.^{vii} This advice was given under a sub delegation – that ended on 31 December. (So now, the director-general currently holds the delegations for 56 sections of the Heritage Act.^{viii}) So, in this case, the head of the agency making the decision on the DA was also the head of the agency of the decision maker giving advice on the decision.
11. The National Trust nomination of the subject property was received in the EPSDD on 21 September 2022^{ix} but it had not reached the Heritage Council nine weeks later when the Council gave its advice on 1 December 2022 and did not refer to it. The Heritage Council advice (given by the subdelegate of the Director-General) was received by the DA decision maker in EPSDD on 2 December 2022 and the DA decision was made on 6 December 2022 - the same day the Heritage Council was abolished by the Minister.
12. This matter was AT 114/2022 and it was joined with AT109/2022. In a Directions Hearing on 27 February 2023 ACAT decided that, since the DA did not comply with

mandatory Rule 4 of the Residential Zones Development Code the DA was refused.
Remittal was sought but refused.

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ATTACHMENT C:

HERITAGE ARRANGEMENTS AT WORK RECENTLY IN THE INNER SOUTH

Case Study 1: Exempt Development involving demolition of most of original home

B15 S10. La Perouse Street, Griffith

- Signage refers to construction of a new dwelling plus underground basement.

Case Study 2: Finding that a construction is in breach of Heritage Guidelines but no removal

- Garages – new buildings forward of original building line - on adjoining blocks in La Perouse Street. Breaches identified. No action taken.

Case Study 3: Extension far exceeds mandatory requirements of Heritage Register

- B3 S12 corner Grant Cres & Murray Cres.

Case Study 4: Asbestos site rebuilds ignore mandatory requirements of Heritage Register

- B6 S4 Stokes Street, Blandfordia 5
- B14 S26 Belmore Gardens, Barton
- B1 S3 Arthur Circle, Griffith

- B18 S10 Flinders Way, Griffith

Note: Details of these case studies can be provided to the Committee of Inquiry at the request of members

ATTACHMENT D:

RECENT FEEDBACK FROM RESIDENTS IN INNER SOUTH HERITAGE PRECINCTS

“... a suggestion – if you want to preserve heritage houses, could allowance (financial) be made to owners to preserve the houses they occupy that because of their heritage nature. For example, old cement that was used in construction often lacks a binding agent (lime); the double brick structure that makes heritage houses darker and colder and more expensive to heat; old timber that requires more preparation than usual prior to repainting; cypress hedges under removal orders at considerable expense despite the heritage value of such hedge (2 La Perouse Street is a good example, and others in adjacent street where removal of hedges from the 1930s has impacted adversely on the heritage ambience of the street); restrictions on the removal of old trees; old heritage houses often need unusual levels of maintenance to counter subsidence and the treatment of termites. There may also be a case for a greater solar power subsidy given the siting of an old house and the fact that it can't be knocked down and rebuilt to make it solar efficient.

Perhaps there is scope for a 20-30% reduction in rates to help heritage homeowners maintain their houses.”

“My main points: [1] resolve use of separation/integration thoughts to argue for better defining the relationship between the planning & development authority and the heritage expert/authority [2] clearly establish an increased role sought for the heritage authority with detail on procedures and powers [3] set generally in the context that heritage is manifest in continuum and evolving, so changes in buildings, landscapes, population groupings, cultural interests and practices all give rise to phases and incidents so significant their presence deserves to be commemorated or preserved in an appropriate way.

Here in Canberra...(and the ACT)... we have layers which are historically real and demonstrate how we have evolved through pre-history, rural settlement uniquely NSW, social development through to federation and per capita wealth in the world, the search for identity through the national capital [some still doing it e.g. Indonesia], modes of living transported [!] from abroad [best practice garden city, California mission style], modernist building [Boyd houses and others e.g. Seidler].

I suggest that these points need emphasising, as follows:

(i) publicise and identify existence and nature of heritage so that residents, agents and buyers are well aware of the implications

(ii) provide an early, willing, swift and free advisory service to prevent misunderstandings - much easier and more agreeable than trying to sort fait accompli.

(iii) enforcement must be prompt and effective - the word would soon get around - at present offenders can and do procrastinate, quibble, wriggle, argue, appeal and delay “till the cows come home.”

Just one suggestion to address the problem of owners/purchasers of heritage housing violating the rules... Provide a print-out of the rules requiring the document to be signed as a commitment that the owner will be bound by (the rules). It seems some owners/purchasers have a very hazy idea of what these rules are and what they are committed to by owning such a property.

ATTACHMENT E:

List of Issues about which the Committee may wish to seek further information

A. Heritage Council Advice

1. Development Applications (DAs)

In the last five years:

- a. How many proposed DA's – forwarded to Heritage Unit by ACTPLA- has the Council provided advice on?
- b. Has the Council followed up (audited) Council/Taskforce/ Unit advice on DAs?
- c. How often has the Council appealed to ACAT against an ACTPLA decision to approve a DA (see note 2 to PDA s.61)?

2. Nominations for Heritage Consideration

- a. What is the extent of the “significant backlog of nominations awaiting assessment”? (Five Year ACT Heritage Strategy 2016 – 2021 Discussion Paper page 9)
- b. Are nominations in the backlog ever elevated to a higher priority?
- c. If yes, what reasons are given?
- d. Is the reason for an “urgent” application for heritage recognition scrutinised by the Heritage Council?

3. *Draft Variations to the Territory Plan (TP) [2008 02]*

- a. How often has the Council made a submission on draft variations to the Territory Plan?
- b. How often has the Council, and/or its purported delegate or sub-delegate, made a submission on draft changes to the P&D ACT ?
- c. Did the Council support the introduction of “minor merit track” assessment for heritage listed properties?
- d. Was the Council made aware of the introduction of exempt developments involving heritage listed properties?

B. Heritage Unit

1. In the last five years:

- a. How many times did the Heritage Unit provide advice prior to assessment of a proposed DA –by ACTPLA- without involving the Heritage Taskforce?
- b. Given this scenario, how many times did the Heritage Unit seek guidance from the Heritage Taskforce?

2. The actual links between DA decision makers and the Unit;

3. Whether the Heritage Unit ever provides training or briefing to ACTPLA decision makers or entity policy units on heritage issues and if so, how often. For example, are new inductees given any heritage briefing?

4. How often has the Heritage Council written to the Director-General of the EPSDD expressing a view on an action of the EPSDD or its officers

C. Penalties

In the last five years:

1. How many times has the Heritage Council issued:
 - a. a contravention of heritage direction under s.65 of the Act ?
 - b. repair damage direction under s.67A ?

2. The number of times:
 - a. an authorised person, under s.66 (2), entered premises where a place or object to which a heritage direction applies is located?
 - b. the Magistrates Court authorised the police to enable a function under the Act to be exercised (s.67 (2))?
 - c. the Heritage Council applied to the Supreme Court for a heritage order (s.68)?
 - d. the Minister entered a Heritage Agreement under s.99 of the Act?

3. How many convictions have there been for:
 - a. an offence against s.65 of the Act for contravention of heritage direction?
 - b. an offence against s.67A of the Act for failure to comply with a repair damage direction (s.67C)?
 - c. an offence against s.74 of the Act for diminishing the heritage significance of a place or object ?
 - d. an offence against s.75 of the Act for conduct causing damage to an Aboriginal place or object ?
 - e. an offence against s.96 of the Act for intentionally contravening an information discovery order?

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D Heritage Council budget and expertise

1. How is the Heritage Council's budget determined?
2. Are secondments between the Heritage Council, the Heritage Unit, and other areas of the ACT government encouraged?
3. Does the Heritage Council and the Heritage Unit provide internships to students?
4. Does the Heritage Council decide on the heritage grants listed in the Annual Reports? x

ⁱ This example was provided to the ISCCC by the Griffith Narrabundah Community Association (GNCA)

ⁱⁱ And this ability to ignore it will be stronger under the proposed new planning laws.

ⁱⁱⁱ These are the documents that show, on their face, how the decision on the DA is reached.

^{iv} This advice was released under FOI and in Tribunal documents.

^v Productivity Commission Report *The Conservation of Australia's Historic Places* 2006 p. xxiii

^{vi} Id. See also submission of Roz Hansen (004) on EPSDD making the decision p.1.

^{vii} The director-general is the delegate of Council: Notifiable Instrument 2017-326. He has sub delegated: NI2022-406 of 22 August 2022 that ended on 31 December 2022.

^{viii} Notifiable Instrument 2017-326

^{ix} This is known from the documents disclosed in the ACAT case.

^x See 20/21 Annual Report

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