

Celebrating heritage in a growing city

ACT Heritage Jurisdictional Review

Phase 1

Final Report

July 2023



SIMPLIFYING GOVERNMENT

In association with



and Paul Knight



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Acknowledgements

Stenning & Associates thanks all stakeholders consulted for their input, together with ACT Heritage staff for their invaluable assistance.

Stenning & Associates acknowledge the Traditional Owners of country throughout Australia and recognise their continuing connection to land, waters and culture. We pay our respects to their Elders past, present and emerging.

Consulting Team

The key members of the consulting team that undertook this review were:

| | |
|---|-----------------------|
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Front cover graphics provided by ACT Heritage – montage of Aboriginal rock art, Yarralumla Woolshed Shearers' Quarters and the Manning Clark House.



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Table of Contents

Glossary ii

Executive Summaryiii

1 Introduction 1

2 Approaches to heritage management..... 4

3 Heritage in the ACT..... 6

4 Strategic Reforms 12

5 Reform Roadmap..... 30

Endnotes 38

Appendices A-D..... See companion document

Glossary

| Term | Definition |
|--------------|--|
| ACH | Aboriginal Cultural Heritage |
| ACHB | Aboriginal Cultural Heritage Body |
| ACT | Australian Capital Territory |
| ACT Heritage | ACT Heritage Unit located in EPSDD |
| ATSI | Aboriginal and Torres Strait Islanders |
| CMP | Conservation Management Plan |
| EOFY | End of Financial Year |
| EPSDD | Environment, Planning and Sustainable Development Directorate |
| Exemption | Document confirming minor works are permitted to proceed |
| FPIC | Free, Prior and Informed Consent |
| FTE | Full time equivalent |
| HCOANZ | Heritage Chairs and Officials of Australia and New Zealand |
| HERCON | Heritage Convention |
| HNZPT Act | <i>Heritage New Zealand Pouhere Taonga Act 2014</i> |
| IAR | Indigenous Ancestral Remains |
| ICOMOS | International Council on Monuments and Sites |
| MLA | Member of ACT Legislative Assembly |
| NCDRP | National Capital Design Review Panel |
| NSW | New South Wales |
| PALS | Priority Assessment List for Registration |
| RAO | Representative Aboriginal Organisation |
| RMA | <i>Resource Management Act (1991)</i> |
| SOE | Statement of Expectations |
| UNDRIP | United Nations Declaration on the Rights of Indigenous Peoples |
| UNESCO | United Nations Educational, Scientific and Cultural Organization |

Executive Summary

According to UNESCO ‘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 are both irreplaceable sources of life and inspiration.’¹ The ACT Government, along with governments nationally and internationally, has put in place legislation that supports the recognition, conservation and management of important heritage.

*The ACT is rich in natural and cultural heritage. It is important that we recognise and protect these places and objects into the future, and keep the stories they tell of who we are and the past that has helped shaped us.*²

Ms Rebecca Vassarotti, the ACT Minister for Heritage commissioned a review of the ACT’s heritage framework following a 2022 review by the Nous Group of the workings of the ACT Heritage Council and its supporting agency ACT Heritage. In announcing this review, the Minister stated:

As Canberra continues to grow, the community and the government now more than ever require well-functioning heritage arrangements to ensure that the ACT’s natural, cultural and First Nations heritage are recognised and conserved for future generations.

Stenning & Associates, in conjunction with New Insights and Paul Knight, was selected to undertake Phase 1 of this review, which has involved a jurisdictional review to ‘research, identify and propose a model for future heritage laws, frameworks and arrangements in the ACT that reflects best practice of other jurisdictions.’ Phase 2 will involve public consultation on the proposed strategic reforms and the development of an Action Plan to guide implementation.

In this report, we have used the term Aboriginal People for the First Nations people in the ACT. This is consistent with the *Heritage Act 2004* and the ACT Indigenous Protocol¹.

In undertaking this jurisdictional review, we developed a model of heritage recognition, management and conservation² to assist in the comparative assessment of different jurisdictional approaches. The model reflects the fact that heritage recognition, management and conservation in Australian jurisdictions is largely modelled on principles and practices espoused in [The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013](#).

Using this model, we considered the governance and operations of the underlying heritage recognition and management framework in the ACT and the specific arrangements that exist for Aboriginal cultural heritage (ACH). We identified current issues and gaps and the strategic reforms and supporting actions required to resolve them. In doing this, we have had regard to best practice in other jurisdictions in Australia, New Zealand and other selected comparable overseas jurisdictions (England, Scotland and Germany).

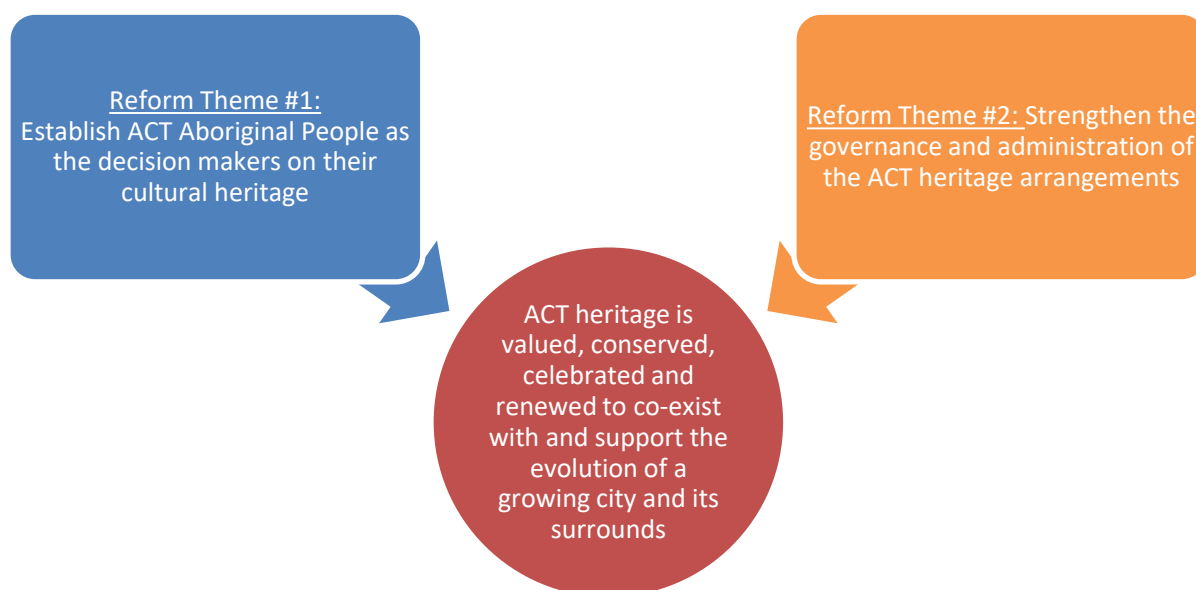
In broad terms, our review has revealed that the ACT’s underlying legislative arrangements for heritage recognition and management are consistent with contemporary Australian practice. Whilst the ACT has a sound legislative framework, we identified two reform themes (see ES Figure 1) that require attention to ensure ACT heritage is valued, conserved, celebrated and adaptively re-used

¹ The ACT Indigenous Protocol published on 28 April 2023 indicates: ‘The ACT Government recognises the Ngunnawal people as traditional custodians of the ACT and surrounding region. The Government acknowledges that other people and families also have a traditional connection to the lands of the ACT and region and we respect this connection to country.’

² The Heritage Act defines conservation to include preservation, protection, maintenance, restoration and reconstruction.

as appropriate in a way that co-exists with and supports the evolution of a growing city and its surrounds.

ES Figure 1: Strategic Reform Themes



Implementing the strategic reforms identified for each theme (outlined below) will enable a re-set of the community, industry and government conversation regarding heritage in the ACT.

Reform Theme #1: Establishing ACT Aboriginal People as the decision makers on their cultural heritage

Under current ACT Heritage arrangements, ACH is not consistent with emerging contemporary approaches nationally or internationally.

The [*Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia*](#)³, was developed in 2019, with Aboriginal and Torres Strait Islander Heritage Chairs, board members and officials committing ‘..to create a vision that would present a united voice for Indigenous Australians’ heritage aspirations for the next decade’. The vision outlines best practice standards for Indigenous cultural heritage legislation. While current ACT heritage arrangements meet several of these standards, there is a range which do not or only partially meet them. The most significant is that current arrangements do not give ACT Aboriginal People stewardship over their ACH.

Significant change is required to ensure ACT Aboriginal People are the decision-makers for all aspects of their cultural values, practices, objects and places. This is required to align with the directions and expectations of the ACT’s Aboriginal communities, as well as the objectives, values and practices that have been identified in *Dhawura Ngilan* and other guiding documents such as [*the United Nations Declaration on the Rights of Indigenous People*](#) (UNDRIP) and the *Burra Charter*.

We propose the most appropriate way of achieving this objective is to create an Aboriginal Cultural Heritage Body (ACHB³), with decision-making powers and consisting of Traditional Cultural Custodians. The ACHB would have delegated authority from the Heritage Council to make decisions on the recognition, conservation and management of ACH.

³ This is a working title only pending further work on developing the arrangements for the ACHB.

Standalone ACH legislation is not proposed as it is counterintuitive to robust heritage outcomes. Rather, we suggest that a more strategic and holistic solution is to adopt a layered approach to heritage values within the ACT's existing single legislative and operational framework. This approach recognises that different layers of heritage co-exist, starting from Aboriginal cultural landscapes and being layered with development and other values over time. This proposal draws on the New Zealand arrangements, which involves a singular legislative framework that incorporates a Maori Heritage Council operating in conjunction with an overarching Heritage Council.

We are proposing that the ACHB be established administratively initially, along with a layered approach to considering ACH and other heritage values. These reforms will provide a platform for:

- Improving the overall capacity for Aboriginal decision-making relating to ACH
- Developing clear criteria to guide the Minister for Heritage when deciding whether to register new RAOs under the Heritage Act
- Allowing the development of regulations, policies and protocols for managing ACH in collaboration with ACT Aboriginal communities
- Strengthening the recognition and management of ACH through a range of measures
- Improving communications with RAOs in relation to ACH matters
- Working with the ACT Planning and Land Authority to develop policy, guidelines and processes to ensure that all ACT planning decisions under the new *Planning Act 2023* have regard to valuing, conserving and promoting Aboriginal knowledge, culture and tradition and the conservation of Aboriginal places
- Confirming the enhancements necessary to the Heritage Act that ensure ACH practice is consistent with the best practice standards identified in *Dhawura Ngilan* and aligns with Aboriginal expectations of the *Burra Charter*
- Greater engagement with ACT Aboriginal communities, both in terms of heritage and across the ACT government generally
- Better education and understanding within the ACT Aboriginal communities of Government structures and processes.

In the medium to long term, the ACHB should also consider how to build the capacity of RAOs and their communities to participate effectively in the new governance model. This will mitigate the risk that in the Aboriginal community there may be insufficient experience in recognising, conserving and managing ACH.

We acknowledge the contribution made by the ACT Aboriginal communities consulted during this jurisdictional review and their strong support for the ACHB concept. However, there are some issues relating to the governance model that still need to be resolved. There have been strong views expressed that the body name should reference the Ngunnawal, while other groups have expressed equally resolute views in favour of a more inclusive name.

Accordingly, ongoing consultation by the ACT Government with ACT Aboriginal communities is required on the governance model, including the name of the body and appointment of members. This will need to involve Aboriginal community members with cultural rights relating to heritage within the ACT, including traditional and proven custodial cultural relationships to the ACT.

The proposed strategic reforms are summarised in ES Table 1.

ES Table 1: Proposed strategic reforms to the ACT's ACH arrangements

| Strategic Reform |
|--|
| 1. Establish and resource an Aboriginal Cultural Heritage Body (ACHB) that gives Aboriginal People the role of determining ACH recognition, conservation and management. |
| 2. Develop and implement a layered approach to heritage in which ACH is the starting point for heritage recognition, conservation and management. |
| 3. Build the capacity of the ACT Aboriginal People to participate in ACH recognition, conservation and management. |

Reform Theme #2: Strengthening the governance and administration of the ACT heritage arrangements

We found no major structural deficiencies in the underlying legislative arrangements for heritage recognition and management, and it is consistent with Australian and New Zealand jurisdictions. Nevertheless, the 2022 [Nous Report](#) on the ACT Heritage Council foreshadowed, and this review has confirmed, that the governance and operational aspects of the ACT's heritage arrangements need to be strengthened as the basis for managing heritage matters more efficiently, effectively and expeditiously.

Significant growth in demand for heritage advice and decisions, both in terms of registration nominations and in relation to development approval proposals has not been supported by adequate resourcing, systems, policies and strategic direction. This, combined with a breakdown in the working relationship between the previous Heritage Council and ACT Heritage identified in the Nous Report, has contributed to the diminished performance of the ACT's heritage arrangements. There is no doubt that these difficulties have adversely impacted on the brand and reputation of the Heritage Council and ACT Heritage. This requires significant remediation action to re-build the trust of key stakeholders.

A major impediment is that ACT Heritage has insufficient resources to carry out the functions required to support the work of the Heritage Council, particularly considering the increasing demands placed on the Heritage Council by the ACT's planning system, Government and ACT community. This is evident from extensive delays in decision-making and client service provision and growing backlogs of work.

Staffing numbers across jurisdictions vary significantly. Direct comparisons are difficult as jurisdictions operate differently, with different workflows and systems. Nevertheless, based on the evidence of long wait times for responses and work backlogs, it is clear that current staffing levels are not adequate to address the current volume of work, nor will they be adequate to deal with the additional activities proposed by this review. Recent additional temporary short-term resourcing, while helpful, does not attract and develop the skills necessary. Accordingly, the ACT Government needs to increase the permanent capacity and specialised capability within ACT Heritage to support all functions of the Heritage Council. This includes ensuring positions within ACT Heritage are competitive with the private sector to attract and retain staff with appropriate specialist skills. It also includes ensuring ACT Heritage has the mixture of specialist and support staff required to meet the statutory workload, as well as those strategic and policy skills necessary for facilitating change.

Further, work processes and systems are inadequate to efficiently support the Heritage Council, ACT Heritage and broader heritage arrangements. A review and strengthening of matters such as the decision-making capacity of the Council's taskforces, delegated functions and internal and external policies must be conducted to improve support to the Heritage Council. Other mechanisms include:

- establishing and resourcing pre-lodgement engagement arrangements with community and government to ensure heritage is considered early in planning and development processes to address potential constraints and identify options early and reduce downstream complaints.
- immediately improving the accessibility and usability of the Heritage Register and procuring and implementing business systems to support specialised ACT Heritage operations as a priority. Interim arrangements are necessary ahead of the major reforms underway with development of a new heritage database and register.

In addition to the additional staff and improved systems required for normal (growing) operations, a program needs to be established and resourced to resolve outstanding ACT Heritage Register nominations. This significant backlog causes ongoing reputational damage, as well as being demoralising for existing staff. ACT Heritage must be enabled to implement a program to eliminate this backlog, so that it is seen as *'ready and open for all new business'*. This program should also involve a review of the ACT Heritage Register to ensure registration information meets current Heritage Act requirements, and supporting Heritage Guidelines are made where applicable. Amendments to the Heritage Act have been identified that will enable the Heritage Council to clear registration nominations made before 2003.

Considerable work is required to lift the performance of the heritage system to a point where the Heritage Council and ACT Heritage are operating efficiently and effectively. This requires a focus on developing robust governance structures, processes, oversight and direction of the overall heritage system. As a priority, the Heritage Council needs to establish a strategic management framework to guide its decision-making and operations, and to review and renew its strategic priorities over the short, medium and long-term. This will bring the Heritage Council into line with contemporary practice in other jurisdictions and best practice corporate governance generally. It will clarify and improve accountability and the certainty on roles and responsibilities, support transparent, consistent and timely decision-making, and provide guidance on arrangements to stakeholders.

A new Heritage Council has been appointed while this review is undertaken. However, more flexibility is required in the list of experts/public representatives in the Heritage Act to provide the Minister with additional options in the appointment and configuration of a future Council. This will ensure the breadth of skills and experience aligns with the Council's business and governance priorities.

This review indicated that the existing Heritage Council decision-making policy and processes are not fully documented and can be unnecessarily complex, which has impeded timely and consistent decision-making. There is an urgent need for the Heritage Council to review its policies and processes to clarify and improve its decision-making capacity and capability. This includes:

- improving the transparency of Heritage Council decision-making principles and processes by strengthening and building on the suite of public policy and guidance material for heritage owners, managers and the community
- establishing policies to proactively support, encourage and enable improved and sustainable heritage outcomes for heritage places, including adaptive re-use, the use of solar panels, and accessibility
- ensuring the appropriate use of delegations, so that ultimately the Heritage Council makes heritage decisions based on the expert advice of ACT Heritage.

Furthermore, the new *ACT Planning Act 2023*, amongst other things, strengthens the treatment of heritage within the ACT planning system. The commencement of the Act provides an opportunity for the Heritage Council to enhance and strengthen its contribution to the ACT's integrated planning system, particularly by ensuring that its decisions on heritage recognition and management support sustainable outcomes. Several future amendments have been identified to the Heritage Act and Planning Act to strengthen this contribution.

The review has identified the need to raise and improve the profile and understanding of, and engagement with, heritage in the ACT. A range of actions are identified for consideration, including establishing an 'Office of Heritage' to administer delivery of the independent statutory obligations of the Heritage Council. Other actions identified in the review are intended to strengthen and promote the importance of heritage in the community. If the community, developers, and other agencies within government understand and appreciate heritage, it is more likely that it will be valued by them. These actions collectively will assist in overcoming past brand and reputational damage, including that caused by the perception that the Council was not independent of the Planning and Land Authority. Improvements in the Heritage Council and ACT Heritage's brand and reputation are, in turn, likely to stimulate investment and innovation, and lead to greater confidence in the ACT heritage arrangements generally.

Finally, heritage must be understood as the chance to celebrate our layered history. All parts of the community should feel that their heritage informs them and belongs to them. To achieve this, it is proposed that the ACT Government, in collaboration with the Heritage Council, develops a long-term ACT Heritage Strategy that fosters community understanding and appreciation of heritage. Similar strategies are used by the ACT Government to guide long term decision-making in other areas. The Strategy should strengthen the link between the value of heritage and the ACT's Wellbeing Framework and be supported by a study into the economic and social value of heritage in the ACT.

Initiatives have been implemented or are planned or underway to address many of the issues or gaps identified by this review, which align with the review's strategic reforms. These include, but are not limited to:

- The appointment of a new Heritage Council
- The Minister for Heritage providing the Heritage Council with a Statement of Expectations
- Clarity and greater engagement in the relationship between ACT Heritage and the Minister
- The new Planning Act recently passed by the ACT Legislative Assembly
- Through the National Capital Design Review Panel (NCDRP), adopting '*Design Principles for the ACT [that] sets out that high quality design must respond to the cultural elements of a place, including heritage buildings and values of the local area*'
- Commencing the development of a strategic framework for the recognition, management and conservation of heritage in the ACT, together with a supporting ACT Heritage strategic business plan
- Commencing the development of a new heritage database (currently in the design description and requirements stage)
- The development of a workforce plan for ACT Heritage.

The proposed strategic reforms are summarised in ES Table 2.

ES Table 2: Proposed strategic reforms to the governance and administration of the ACT heritage arrangements

| Strategic Reform |
|---|
| 4. Increase the permanent capacity and specialised capability within ACT Heritage to deliver its support functions and improve the customer service experience. |
| 5. Establish and resource a program to resolve outstanding ACT Heritage Register nominations and review the ACT Heritage Register. |

Strategic Reform

6. Establish a strategic management approach to guide Heritage Council decision-making and operations and provide clarity around roles and responsibilities.
7. Review the Heritage Council's policy and processes to clarify and improve its decision-making capacity and capability and to guide and inform stakeholders.
8. Raise and improve the profile, understanding and engagement with heritage in the ACT.
9. Develop an ACT Heritage Strategy that fosters community and industry appreciation of heritage.

Reform Roadmap

Reform Theme #1: Establishing ACT Aboriginal People as the decision makers on their cultural heritage

Implementing the identified strategic reforms to the ACT's ACH arrangements will require the ACT Government to commit significant resources to establishing the ACHB and to developing the supporting regulations, policies and protocols for managing ACH, including a layered approach to heritage in the ACT.

As mentioned earlier, the ACHB concept has been well received by the ACT Aboriginal communities, however, there are some issues relating to the governance model that still need to be resolved through ongoing consultation. This will need to involve Aboriginal community members with cultural rights relating to heritage within the ACT, including traditional and proven custodial cultural relationships to the ACT.

Initially and subject to legal advice, the ACHB should be established administratively to trial the new arrangements. In the longer term, once the operations of the ACHB are working satisfactorily, consideration can be given to legislative amendments to the Heritage Act to reflect the new arrangements. ACHB advice can also confirm the enhancements necessary to the Heritage Act to ensure ACH practice is consistent with *Dhawura Ngilan* best practice standards.

A longer-term priority will be building the ongoing capacity of the ACT Aboriginal People to participate in ACH recognition, conservation and management.

Key implementation challenges for the strategic reforms to the ACT's ACH arrangements include:

- gaining ACT Aboriginal community agreement to the ACHB governance model and composition
- ensuring that establishing the ACHB administratively in the first instance is legally robust
- ensuring adequate financial and staffing support is provided to establish the new governance model – particularly given that this establishment will be occurring concurrently with a range of other strategic reforms to the Heritage Council's governance and administration arrangements

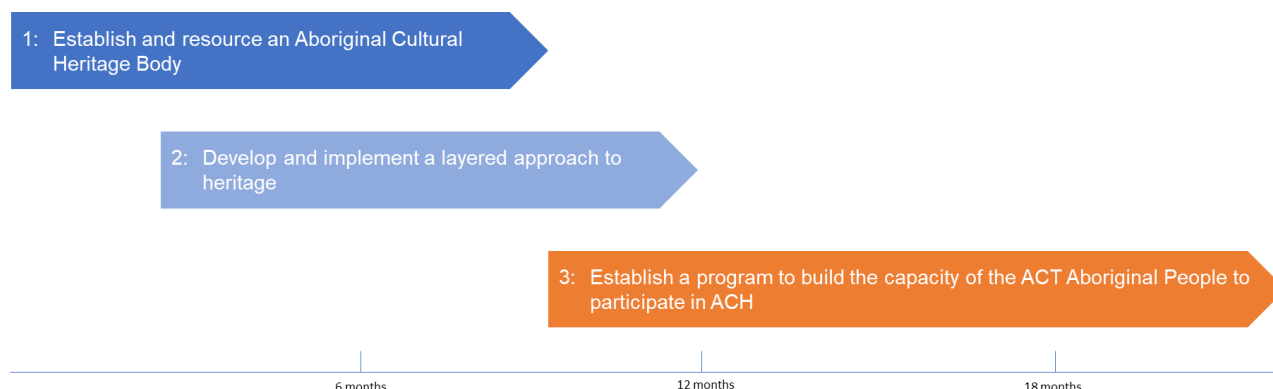
Opportunities should be explored for sourcing some of the required expertise from elsewhere within the ACT Government – for example, the Office for Aboriginal and Torres Strait Islander Affairs in the Community Services Directorate

- pacing the establishment of the ACHB to match the capacity of the ACT Aboriginal communities to participate in the new arrangements

- designing effective policies and frameworks to support and enable ACHB consensus and collective decision-making and for resolving situations where the needs of different heritage layers compete – drawing on the New Zealand experience will assist in meeting this challenge
- ensure clear and timely communications on the aim and scope of the strategic reforms to the ACT's ACH arrangements to minimise the potential for resistance to change by existing ACT heritage ecosystem stakeholders.

A suggested prioritisation of the proposed strategic reforms to the ACT's ACH arrangements is shown in ES Figure 2.

ES Figure 2: Prioritisation of proposed strategic reforms to the ACT's ACH arrangements



Reform Theme #2: Strengthening the governance and administration of the ACT heritage arrangements

The initial priority should be to increase the resourcing of ACT Heritage. This will enhance ACT Heritage's permanent capacity and specialised capability and support timely Heritage Council decision-making. It will position ACT Heritage to provide the support necessary to establish a strategic management approach to guide Heritage Council decision-making and operations and to review and strengthen the Council's policy and processes to clarify and improve its decision-making capacity and capability.

Of equal priority is commencing supporting actions to raise and improve the profile, understanding and engagement with heritage in the ACT. This will commence reputational and brand repair and re-build stakeholder trust and confidence in the Heritage Council and ACT Heritage.

Some changes to the Heritage Act will be necessary to support the strategic reform aimed at resolving the backlog of ACT Heritage Register nominations. While these changes are minor and likely to be uncontroversial, they will take time to prepare and be considered by the ACT Legislative Assembly. It is suggested that this strategic reform be deferred for six months to allow the appropriate legislative changes to be designed and scheduled. The proposed amendment to the Heritage Act to provide the Minister with increased flexibility in the appointment of new Council members should be included in the legislative reform package.

Finally, it would be prudent for the ACT Government to allow the Heritage Council to re-establish its momentum and capabilities prior to developing the ACT Heritage Strategy.

Key implementation challenges for the strategic reforms to ACT heritage governance and administration arrangements include:

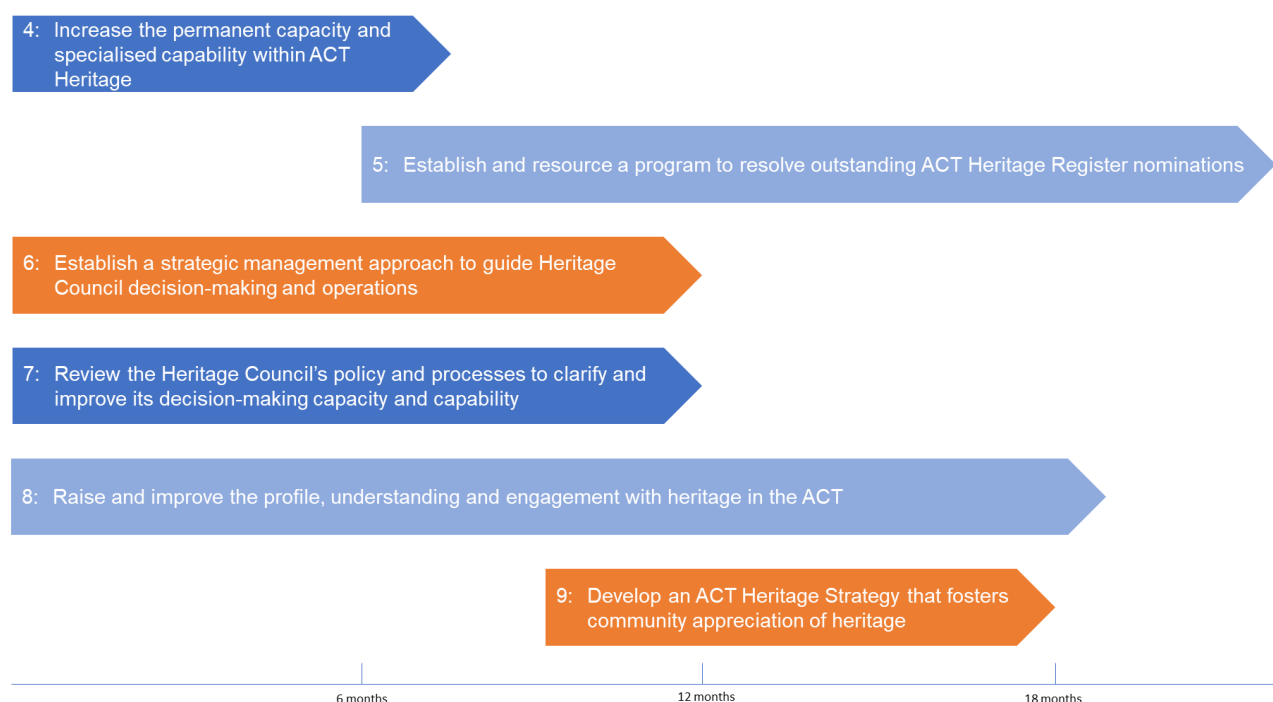
- ensuring adequate financial support is provided to ACT Heritage and the Heritage Council to implement the strategic reforms; this will provide the ACT Government with better heritage outcomes significantly faster than otherwise
- attracting suitably skilled people to ACT Heritage in the prevailing tight labour market

- ensuring that the work to improve ACT Heritage’s underlying business systems (including redeveloping the Heritage Register) is completed in a timely manner – this work is essential to achieving maximum benefit across the range of strategic reforms
- strengthening and building on the Heritage Council’s suite of public policy and guidance material will require significant effort – this can be made more efficient by drawing on similar policies and guidance material in other jurisdictions, together with active participation at Heritage Chairs and Officials of Australia and New Zealand in the sharing and exchange of ideas, policy and problem solving
- ensuring the passage of the identified legislative amendments required, amongst other things, to resolve the outstanding ACT Heritage Register nominations – the key to this will be getting appropriate priority within the Government’s legislative timetable
- building momentum in repairing the Heritage Council’s brand/reputation will require constant reinforcement and celebration of achievements – this will be the simplest and most impactful way to demonstrate positive change, but will fall flat if not sufficiently resourced

Early signs of success and enhanced reputation will embolden ongoing stakeholder commitment to the reform process.

A suggested prioritisation of the identified strategic reforms to the governance and administration of the ACT heritage arrangements is shown in ES Figure 3.

ES Figure 3: Prioritisation of proposed strategic reforms to the governance and administration of the ACT heritage arrangements



1 Introduction

According to UNESCO:

‘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 are both irreplaceable sources of life and inspiration.’⁴

The ACT Government, along with governments nationally and internationally, has put in place legislation that supports the recognition, conservation and management of important heritage.

The ACT is rich in natural and cultural heritage. It is important that we recognise and protect these places and objects into the future, and keep the stories they tell of who we are and the past that has helped shaped us.’⁵

In 2022, Ms Rebecca Vassarotti MLA, the ACT Minister for Heritage, requested a review of the workings of the ACT Heritage Council and its supporting agency ACT Heritage. That review by Nous Group⁶ found that a range of issues concerning governance and supporting administrative processes were impeding the efficient functioning of the ACT’s current heritage operations, stating that:

Strained Council relationships, together with inefficient Heritage Unit systems, present an imminent risk to ACT heritage sites.

The Minister subsequently announced a review of the ACT’s heritage framework, stating that

‘As Canberra continues to grow, the community and the government now more than ever require well-functioning heritage arrangements to ensure that the ACT’s natural, cultural and First Nations heritage are recognised and conserved for future generations.’

To commence that review, Stenning & Associates, in conjunction with New Insights, was selected to undertake Phase 1, which involves a jurisdictional review, which has involved a jurisdictional review to ‘research, identify and propose a model for future heritage laws, frameworks and arrangements in the ACT that reflects best practice of other jurisdictions.’ Phase 2 will involve public consultation on the proposed reforms and the development of an Action Plan to guide implementation.

This report outlines the findings of the jurisdictional review and a range of strategic reform directions and associated reforms for consideration. This report proposes a way forward for future heritage laws and accompanying arrangements in the ACT that is informed by best practice of other jurisdictions. This includes options for strengthening the role of First Nations peoples in their role as Custodians of their cultural heritage and enhancing the conservation of that cultural heritage. This report includes a reform roadmap to guide the implementation of the proposed model.

In this report, we have predominately used the term Aboriginal People when referring to First Nations people in the ACT. This is consistent with the terminology used in the *Heritage Act 2004*. It is also consistent with the ACT Indigenous Protocol published on 28 April 2023.⁴ We use the term First Nations People when referring to Aboriginal and Torres Strait Islander peoples broadly across Australia.

⁴ The ACT Indigenous Protocol indicates: ‘The ACT Government recognises the Ngunnawal people as traditional custodians of the ACT and surrounding region. The Government acknowledges that other people and families also have a traditional connection to the lands of the ACT and region and we respect this connection to country.’

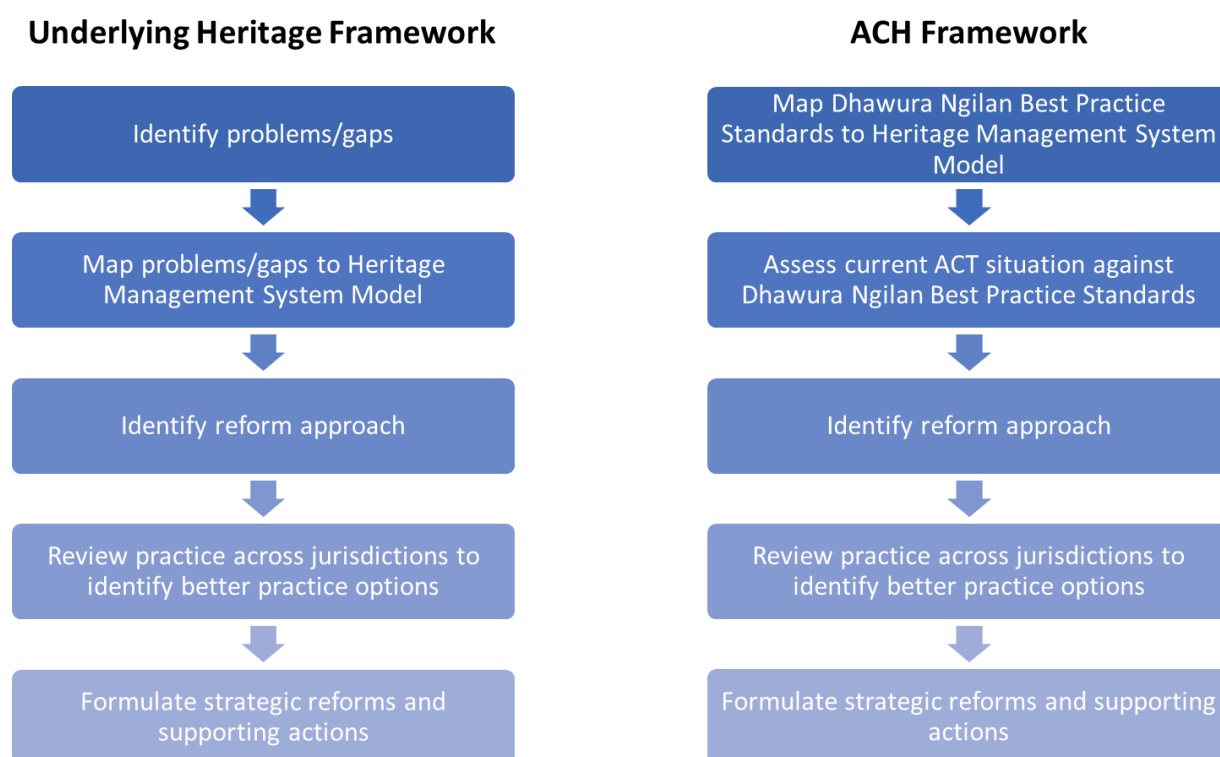
Method

At a broad level, developing this report involved:

- Desktop research and face-to-face consultations to identify how the ACT heritage management system currently operates and the key problems/issues that are being experienced in its operation and management. A summary of stakeholders consulted is outlined in [Appendix A](#)
- Desktop research and face-to-face consultations to identify how the heritage management systems in other jurisdictions currently operate
- Developing a Heritage Management System Model and accompanying assessment framework for assessing best practice in heritage management in Australia, New Zealand and other selected comparable overseas jurisdictions (England, Scotland and Germany)
- Using the assessment framework to undertake an issue/gap analysis to identify where the ACT heritage management system requires adjustment
- Distilling the findings of the issues/gap analysis into reform themes, their associated strategic reforms and supporting actions, and then developing an implementation roadmap.

Figure 1 outlines the Assessment Framework that was applied. It deals separately with the underlying heritage recognition and management framework in the ACT and the specific recognition and management framework arrangements that exist for Aboriginal cultural heritage (ACH).

Figure 1: Assessment Framework



For the ACH framework, the [*Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia*](#) was developed and agreed in 2019 by the Heritage Chairs of Australia and New Zealand. It has been endorsed by the National Native Title Council and the First Nations Heritage Protection Alliance. Importantly, it includes best practice standards for Indigenous cultural heritage legislation. An assessment was undertaken of the extent to which the ACT heritage management arrangements meets these standards. This analysis is contained in [Appendix B](#) and

informs the issues and gaps identified in [Appendix C](#) and the strategic reforms and supporting actions set out in Section 4.1.

For the underlying heritage framework, no accepted best practice standards for heritage management were identified but some commonalities appear in the work of different jurisdictions. Developing a system-wide set of best practice standards for heritage management was beyond the scope of this jurisdictional review. Accordingly, the consulting team drew on its experience, together with desktop research and consultation to identify the issues and gaps that exist, how these relate to the Heritage Management System Model, and the strategic reforms required. Jurisdictional practices were reviewed to identify better practice and to formulate supporting actions to support the strategic reforms. The issues and gaps are identified in [Appendix C](#) and the strategic reforms and supporting actions are set out in Section 4.2.

2 Approaches to heritage management

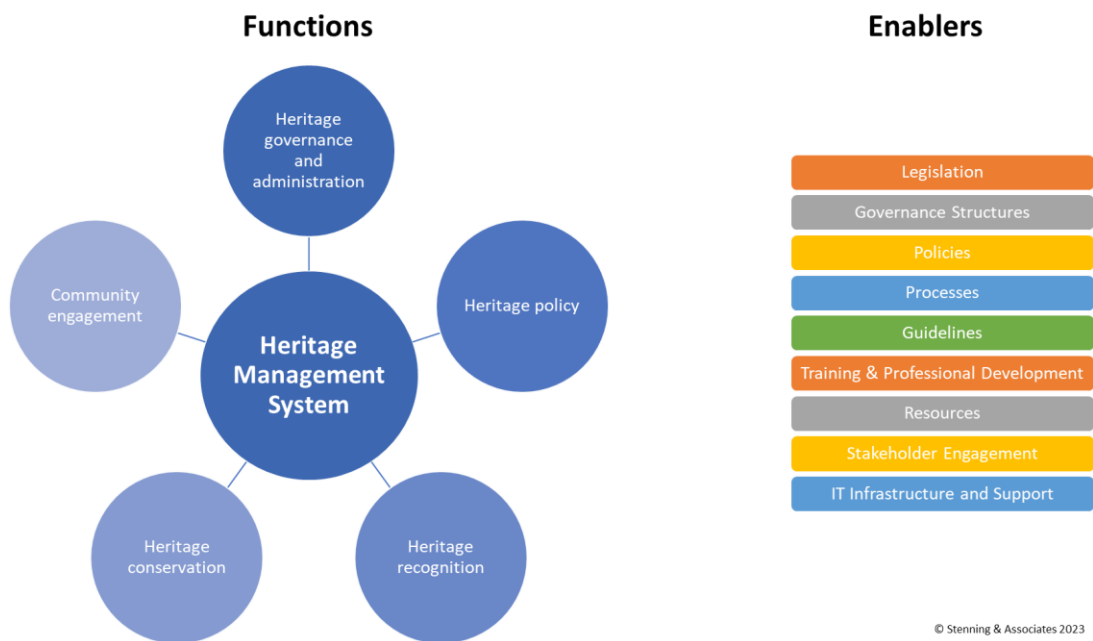
Heritage management (policy and practice) in Australian jurisdictions is largely modelled on *The Burra Charter: The Australia ICOMOS Charter for Places of Cultural Significance, 2013*, despite not being formally recognised in heritage legislation.⁷ Australia ICOMOS is the Australian National Committee of the International Council on Monuments and Site (ICOMOS).

The *Burra Charter* establishes standards of practice for those involved in heritage management, specifically those ‘*who provide advice, make decisions about, or undertake works to places of cultural significance, including owners, managers and custodians*’.⁸

To effectively apply the *Burra Charter* standards of practice a process for recognising, recording and managing heritage is essential. Australian jurisdictions have broadly similar approaches to heritage recognition and management that reflect these system components, involving heritage councils and administrative support units.

These components are reflected in Figure 2, which shows a model of heritage recognition, management and conservation developed to assist in the comparative assessment of different jurisdictional approaches. It outlines the key functions that are required by a heritage management system and the key enablers that can be used to support good practice.

Figure 2: Heritage Management System Model – Functions and Enablers



The key elements of the different system functions are set out in Table 1.

Table 1: Heritage Management System Model – Functions and Elements

| Function | Elements |
|--|--|
| Heritage governance and administration | Governance; Expertise; Resourcing, Risk Management, Performance Management |
| Heritage policy | Definitions; Standards; Strategy; Principles |
| Heritage recognition | Assessment; Register, Themes |

| | |
|------------------------------|---|
| Heritage conservation | Strategy; Works; Custodianship; Compliance, Enforcement |
| Community engagement | Communications and Stakeholder Engagement; Brand; Engagement; Education; Advisory Services; Incentives; Participation, Advocacy |

A well-functioning jurisdictional heritage recognition and management system will achieve the following desired outcomes:

- Conservation of all important heritage places and objects
- Encourages and celebrates the stories and values our shared heritage represents
- Aboriginal People being the determinants of decisions relating to ACH
- Clear communication of the expectations of the Minister
- Clear communication of the expectations of the governing heritage body in guidelines and supporting resources
- Enables and facilitates adaptive re-use of heritage places
- Ensures heritages places are resilient and adaptive to the impacts of climate change
- Well-functioning governing heritage body and administrative support unit
- Timely, transparent, consistent, sound decision-making
- Decisions that recognise economically sustainable imperatives
- Collaborative and respectful working relationships between governing heritage body and administrative support unit
- Trusted, open working relationship between the governance body and the Minister
- The governing heritage body and administrative support unit are respected as a valued part of the ACT planning systems
- The administrative support unit is adequately resourced to undertake pre-lodgement early engagement
- Early engagement with stakeholders is business as usual
- A 'yes, if' culture is embedded within governance body and administrative support unit
- The ability to work through contentious issues to find sound heritage outcomes
- Performance is tracked, monitored, measured and communicated, with a culture of continuous improvement
- A community that understands the value of heritage and the positive social, economic, environmental and community well-being that flows from the conservation and adaptive re-use of heritage.

3 Heritage in the ACT

The ACT's natural, cultural and Aboriginal heritage is unique. Its borders are surrounded by New South Wales (NSW), and numerous property boundaries and native titles cross the border. It is a varied landscape (urban, suburban, rural) with few colonial buildings. Aboriginal culture and history are abundant throughout the natural and built environment, including scarred trees, rock shelters and artefact scatters.

Canberra has a heavy load of 20th century buildings, many of which are past their 'first life' and need adapting or reconfiguring. The city is growing, and requires the densification of previously spacious suburban areas. The ACT Government's current focus is to shift:

'...growth in our city towards urban infill – as a commitment by the government to a 70/30 split between accommodating growth within the existing urban footprint (70%) and greenfield development (30%)'.⁹

Numerous major projects / policies are being developed simultaneously, which will have implications on the heritage value of the territory. Major projects undertaken in recent years at landmark places, (which require taskforce and internal government liaison) include:

- Northbourne Housing Representative Sample Precinct redevelopment
- Yarralumla Brickworks redevelopment
- Sydney and Melbourne Buildings
- Civic Square redevelopment.

The ACT's population has a higher-than-national average educational level, which tends to lead to high expectations regarding heritage matters. As a result of the above factors, there is high demand for Heritage Council / ACT Heritage services from both with government as well as individual private owners and developers.

Heritage recognition and management in the ACT is primarily established through the Heritage Act. At the time of its introduction, the Minister for Heritage indicated that *'the legislation today is equal to the best national practice'*.¹⁰ The recognition, management and conservation of heritage is managed by the ACT Heritage Council and its administrative body, ACT Heritage.

The Act was last reviewed in 2010 by Mr Duncan Marshall (the chair of the newly appointed Heritage Council), which ultimately resulted in several amendments being passed by the ACT Parliament in 2014 to *'strengthen and improve the current heritage system'*.¹¹

The ACT's heritage arrangements are well described (see Box 1) at a high level in the ACT Government Submission to the Inquiry into ACT's Heritage Arrangements being conducted by the ACT Parliament's Standing Committee on Environment, Climate Change and Biodiversity.

Box 1: Overview of ACT heritage arrangements¹²

The ACT Heritage Council and ACT Heritage work together to recognise, protect, conserve and celebrate the ACT's unique heritage places and objects. The *Heritage Act 2004* (Act) guides much of the work.

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

- identifying, assessing, conserving and promoting heritage places and objects in the ACT;
- making decisions about the registration of heritage places and objects;
- providing advice on works and development matters in accordance with the ACT's land planning and development system;

- encouraging and assisting with appropriate management of heritage places and objects; and
- encouraging public interest in, and awareness of, heritage places and objects in the ACT.

The Council comprises of the Chief Planning Executive and Conservator of Flora and Fauna and nine members appointed by the Minister for Heritage. Three of these appointments are public representatives, including a representative from the ACT community, the Aboriginal community and the property ownership, management and development sector. The remaining six appointed members are experts in one or more heritage related disciplines.

The Council meets approximately every six weeks to consider matters in relation to their functions under the Act. In addition, a number of sub-committees – Taskforces – have been established to meet out of session to consider matters in detail ahead of Council meetings, and to make recommendations to the full Council or the Council Chair. The Taskforces relate to Registration, Development Assessment, Conservation Management Plans and Aboriginal Heritage. The Registration Taskforce meets regularly ahead of Council meetings, while other Taskforces meet on an as-needs basis.

ACT Heritage, a business unit in the Environment, Planning and Sustainable Development Directorate (EPSDD), provides administrative support to the Council and advice to the Minister for Heritage about the range of heritage matters for which they are responsible. ACT Heritage staff are employees of the ACT Government.

Under the Act, the Heritage Council is the independent statutory authority and decision maker for heritage applications, including nominations to register places and objects on the ACT Heritage Register, applications to investigate and conserve heritage places and objects, and applications to undertake activities that may diminish or damage heritage places and objects. The Heritage Council also provides entity advice to other statutory authorities when applications relate to heritage places and objects, such as the ACT Planning and Land Authority and the Conservator of Flora and Fauna.

ACT Heritage supports the Heritage Council by providing administrative support and secretariat functions. Some ACT Heritage staff also exercise some Council functions under delegations, especially in relation to heritage advice and approvals. Delegated functions are exercised to ensure timeliness, efficiency, and effectiveness in carrying out the administrative functions of the Act and allowing matters of relatively minor consequence to be more easily expedited by ACT Heritage, on behalf of the Council. In this context, ACT Heritage provides most advice and approvals under delegation. However, where complex, contentious, or sensitive applications are being assessed, a collaborative approach between ACT Heritage and the Council is adopted, where assessment is provided by Council Taskforces and advice is provided by the Council Chair.

ACT Heritage does not have delegated authority to make decisions on whether a place or object is provisionally registered or registered on the ACT Heritage Register, as those key decisions are only made by the Council.

The management of heritage in the ACT is also subject to the provisions of the *Planning and Development Act 2007*. Under this Act, heritage advice is sought by the ACT Planning and Land Authority on a wide range of applications, including development applications, Territory Plan Variations and Environmental Impact Statements. Under this Act, owners also need to obtain prior heritage endorsement before undertaking exempt development at registered heritage places.

The ACT Government is currently progressing the ACT Planning System Review and Reform Project, to deliver a modern planning system focused on delivering outcomes for the people of Canberra. The new Planning Bill was introduced to the Legislative Assembly in September 2022 and includes key improvements relating to heritage – such as the recognition of First Nations culture, knowledge and tradition, and the inclusion of cultural heritage conservation principles in the definition of good planning. Improved consideration of heritage in the planning system is likely to increase demand for heritage advice by the planning authority.

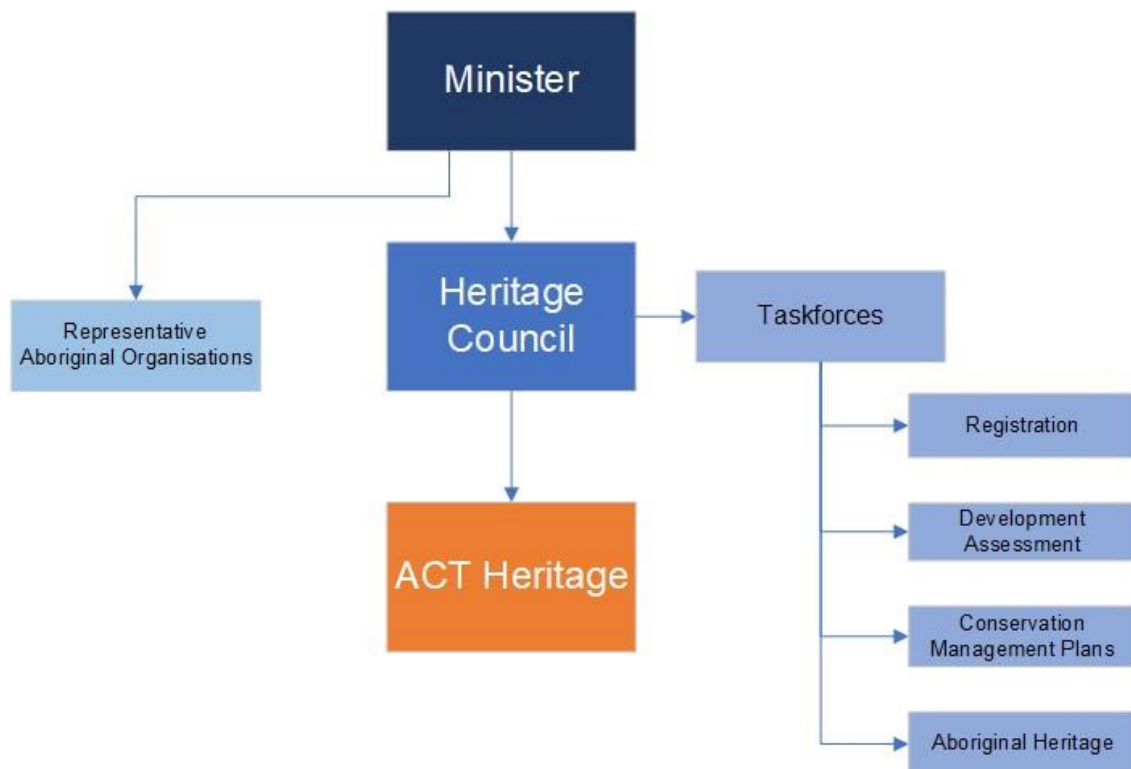
The ACT Planning Strategy recognises the heritage values of the ACT and sets out that delivery of infrastructure and new development will require heritage investigations to consider cultural and heritage values. The ACT Planning Strategy also sets out that urban redevelopment must consider and respond to issues such as the neighbourhood character, which includes heritage areas. Achieving such land release and development outcomes requires substantial heritage advice and approvals, which form part of the integrated planning system in the ACT.

Through the National Capital Design Review Panel (NCDRP), the ACT Government is also working to the design quality of the built environment, through its collaboration with the National Capital Authority and the advice of independent design professionals. The NCDRP's Design Principles for the ACT sets out that high quality design must respond to the cultural elements of a place, including heritage buildings and values of the local area. In this context, the NCDRP actively seeks heritage advice on design proposals relating to heritage places and precincts, and ACT Heritage meets regularly with the NCDRP Secretariat to identify heritage considerations to upcoming projects.

The management of heritage trees in the ACT is also subject to the provisions of the *Tree Protection Act 2005*, which will be superseded by the *Urban Forest Bill 2022* in January 2024. Both legislations require the Conservator of Flora and Fauna to seek ACT Heritage Council advice on applications relating to heritage trees, and to seek advice from Representative Aboriginal Organisations (RAO) on applications relating to Aboriginal cultural trees. With the introduction of the new Bill, the volume of referrals to the ACT Heritage Council is likely to increase, with the reduction of the regulated tree threshold from 12m to 8m.

The ACT governance arrangements outlined in Box 1 are illustrated in Figure 3.

Figure 3: ACT Heritage governance arrangements



The RAOs are appointed by the Minister and are consulted on matters relating to recognising ACH.⁵ The taskforces are established administratively by the Heritage Council.

In broad terms, the ACT legislative arrangements for the identification and management of its heritage are based on contemporary Australian practice. In addition, in establishing its heritage recognition and management system, the ACT has applied several well accepted principles:

⁵ The Aboriginal community coverage of the RAOs is consistent with the ACT Indigenous Protocol published on 28 April 2023.

- Heritage registration is not a land use decision, but rather the application of government policy to recognise and conserve heritage where such heritage values have been publicly nominated and independently verified^{13 14}
- The identification and registration of heritage places and objects should be separate from decisions about their conservation and management¹⁵.

As is the case for other Australian jurisdictions, the ACT applies the *Burra Charter* standards of practice as the basis for its approach to assessing, recognising, recording and managing heritage¹⁶.

All Australian jurisdictions, including the ACT, approach registration of heritage in a similar manner, and allow for provisional registration prior to full registration. ACT's approach to the conservation of ACH is contemporary in its approach in that where ACH exists, it is automatically protected under the legislation. This is in line with the approach across Australian jurisdictions.

The key difference between the ACT and other Australian state and territory recognition, management and conservation of heritage places and assets is that the ACT manages natural, cultural and Aboriginal heritage under a single Act, the Heritage Act. All other Australian jurisdictions deal with ACH under alternative legislation.

The ACT Heritage Council is the decision-maker on heritage registrations under the ACT Heritage Act, which is similar to the approach in Victoria, South Australia, Tasmania, Queensland and New Zealand. In two of those jurisdictions, the Minister holds a veto or call-in power: South Australia and Victoria. In four jurisdictions, the Minister is the decision-maker, receiving advice from a heritage council: New South Wales, the Northern Territory, Western Australia and the Commonwealth.

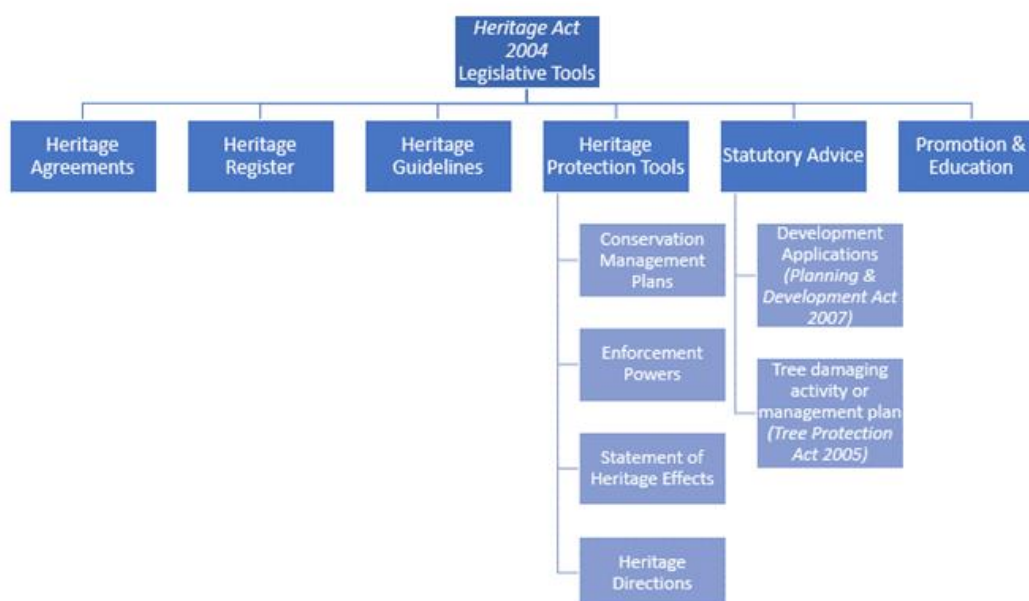
In terms of the interface between the recognition, management and conservation of heritage and the ACT planning system, the Heritage Council provides advice on the impact of development proposals on heritage to the ACT Planning and Land Authority (EPSDD). This is similar to all jurisdictions except Victoria, Western Australia, and Tasmania. In those jurisdictions, the Heritage Council is the decision maker on the impact of development proposals on heritage, subject to any Ministerial call-in powers relating to development approvals. This results in heritage receiving stronger protection in those jurisdictions, as it is less likely to be subject to administratively determined compromise in the development approval process.

The ACT uses assessment criteria for determining heritage significance that are consistent with Heritage Convention (HERCON) criteria agreed by the Environment Protection and Heritage Council in 1998. These criteria are used by all jurisdictions¹⁷, although jurisdictions have varied them slightly to suit local application.¹⁸

The legislation of each Australian jurisdiction establishes a Heritage Council with membership appointed by the Minister. The jurisdictional legislation sets out the experience, skills and knowledge required of Council members, and the representational composition of each council.

ACT's heritage arrangements include a range of mechanisms to assist in the recognition, management and conservation of ACT heritage, represented in Figure 4. Other jurisdictions use a similar suite of tools.

Figure 4: ACT Heritage mechanisms



As of May 2023, there were 298 places or objects on the ACT Heritage Register, and 85 nominations awaiting assessment (see Table 2).

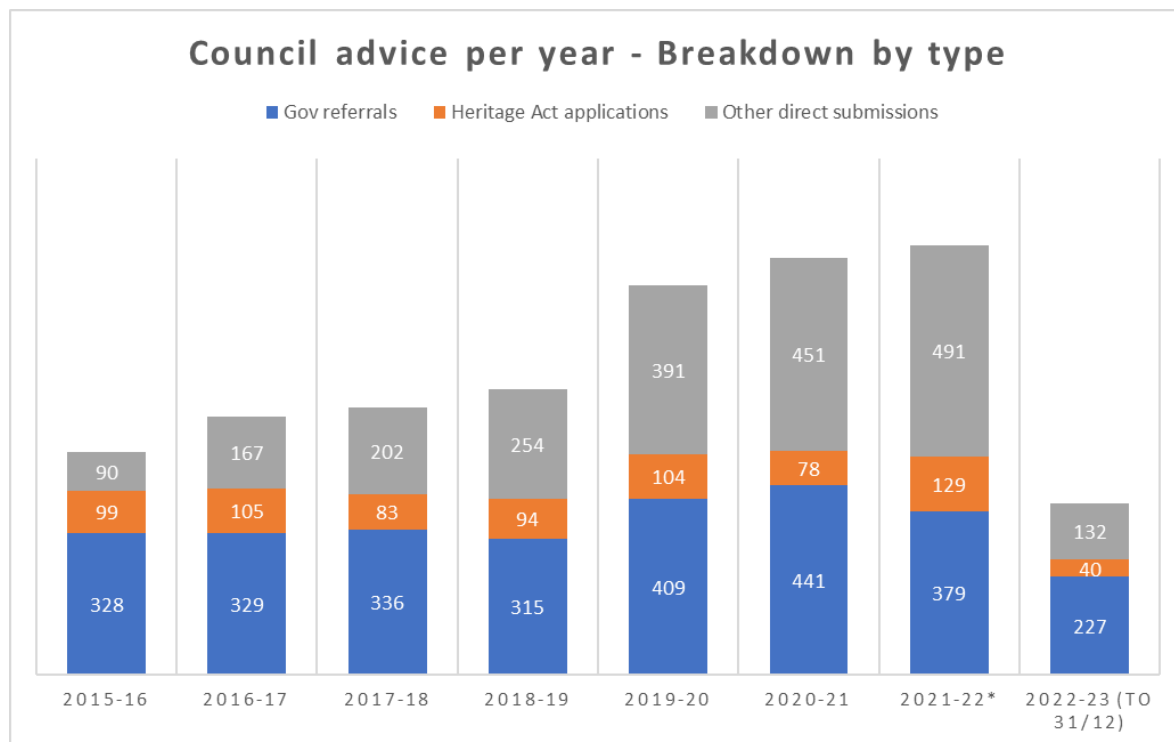
Table 2: ACT Heritage Register, May 2023

| Types | Registration Status | |
|-------------------|---------------------|---------------------------|
| | Nominated | Heritage Register entries |
| Aboriginal | 17 | 68 |
| Historic | 54 | 201 |
| Natural | 12 | 14 |
| Object | 2 | 15 |
| Total | 85 | 298 |

ACT Heritage is located in the EPSDD and comprises a Registrations team of 1.5 FTE¹⁹ and an Approvals and Advice team of 8.4 FTE. Staffing of the Approvals and Advice team increased from 4 staff members in 2015/16 to 5.1 in 2021/22 then to its present level in 2022/23.

ACT Heritage has faced increasing workloads, particularly since 2018-19. While the number of registration nominations has been declining (falling from 136 in 2015-16 to 75 in 2021-22), the backlog of 85 nominated places or objects identified in Table 2 has arisen due to insufficient staffing within the Registrations team to deal with them.²⁰ Further, the workload of the Approvals and Advice team increased 93 percent between 2015/16 and 2021/22 (see Figure 5).

Figure 5: Council advice per year, 2015/16 – 2022/23²¹



* Including unassessed submissions at EOFY 21/22

Additionally, in 2021/22, there were a total of 258 requests for advice that were unassessed due to resourcing constraints. ACT Heritage advised that factors influencing this level of unassessed advice in 2021/22 were:

- Impacts of ACT Heritage Council function and relationship – the 2022 Nous Report highlighted the wide ranging and complex structural issues impacting the performance and relationship of the Heritage Council and ACT Heritage.
- Increased proportion of major project and complex heritage submissions, which required significant time for review, and which also increased the volume of Council Taskforce referrals and meetings to 37 – the highest number in the past 10 years.
- Increased requests for non-statutory advice to deliver ACT Government priorities. For example, significant time was spend providing heritage advice on proposed reforms to the Planning Bill and Urban Forest Bill, both of which are important legislations affecting the management of heritage places and objects in the ACT.
- With heritage advice timeframes extended, there was a significant increase in the volume of complaints and queries regarding the status of heritage submissions. This included some complaints to the Minister and the EPSDD Executive; however, most were directed via email/phone to the Advice team. Each complaint and query response detracted from time available for heritage assessment.
- Reliance on short term contracts to support the Approvals and Advice team, which is an ineffective and inefficient model and often does not result in recruitment of heritage experts.

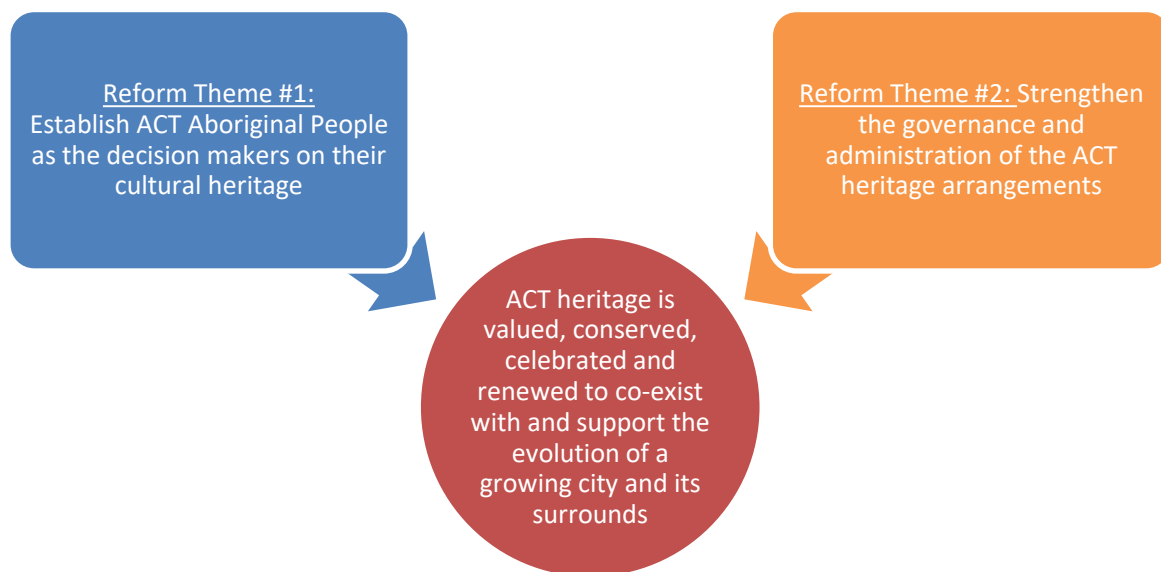
A more extensive summary of the ACT heritage management arrangements is contained in [Appendix D](#).

4 Strategic Reforms

This section outlines the proposed strategic reforms to ACT's heritage arrangements, which will be instrumental in ensuring that ACT heritage is valued, conserved, celebrated and renewed to co-exist with and support the evolution of a growing city and its surrounds. These strategic reforms emerged from an analysis of issues and gaps contained in [Appendix C](#).

Two key reform themes (see Figure 6) were distilled from that analysis that require attention. Implementing a suite of reforms across these themes will enable the ACT Government to re-set the community, industry and government conversation regarding heritage in the ACT.

Figure 6: Reform Themes



4.1 Establish ACT Aboriginal People as the decision-makers on their cultural heritage

The way in which ACH is dealt with by the current ACT Heritage arrangements is not consistent with the emerging contemporary approaches nationally or internationally.

In developing the *Dhawura Ngilan*, Aboriginal and Torres Strait Islander Heritage Chairs, board members and officials committed '*...to create a vision that would present a united voice for Indigenous Australians' heritage aspirations for the next decade*'. The vision includes best practice standards for Indigenous cultural heritage legislation. While current ACT heritage arrangements meet several of these standards, there is a range which do not or only partially meet them (see analysis in [Appendix B](#)). The most significant is that current arrangements do not give ACT Aboriginal People stewardship over their ACH.

An Aboriginal Cultural Heritage Body

Significant change is required to ensure ACT Aboriginal People are the decision-makers for all aspects of their cultural values, practices, objects and places. This is required to align with the directions and expectations of the ACT's Aboriginal communities, as well as the objectives, values and practices that have been identified in *Dhawura Ngilan* and other guiding documents such as the [United Nations Declaration on the Rights of Indigenous People](#) (UNDRIP) and the *Burra Charter*.

The main point in these documents is that Aboriginal People should be the decision-makers for all aspects of their cultural practices, objects and places. This is demonstrably not the case under the current ACT heritage management arrangements, where the Heritage Council ultimately determines matters relating to ACH recognition and provides advice (ultimately non-binding) on the impact of development proposals on heritage to the ACT Planning and Land Authority (EPSDD).

We propose the most appropriate way of achieving this objective is to create an Aboriginal Cultural Heritage Body (ACHB⁶), with decision-making powers and consisting of Traditional Cultural Custodians. The ACHB would have delegated authority from the Heritage Council to make decisions on the recognition, conservation and management of ACH. This should include the ACHB having oversight of ACH compliance and enforcement activity through Access Canberra.

A potential governance model could involve the ACHB being independently chaired and comprising four members – one nominated by each of the four existing Representative Aboriginal Organisations (RAOs) – with each member having a nominated proxy. Its ACH decisions should be accepted and endorsed by the Heritage Council without intervention, with a mechanism being established to allow the Heritage Council and the ACHB to resolve situations where the needs of different heritage layers compete. ACHB accountability would be achieved through appropriate Terms of Reference and supporting delegation arrangements, together with an independent chair provided by the Heritage Council. It is desirable that the independent chair be an Aboriginal person with relevant experience or knowledge of cultural heritage. The chair would have no voting rights and be skilled in chairing committees.

Initially and subject to legal advice, the ACHB should be established administratively to trial the new arrangements. In the longer term, once the operations of the ACHB are working satisfactorily, consideration can be given to legislative amendments to the Heritage Act to reflect the new arrangements.

It will be important to the success of the ACHB that adequate resources are provided to support its establishment and ongoing operation and to enable ACT Heritage to support ACHB functions. This will require ACT Heritage to procure additional expertise in ACH. This could be done through direct recruitment of additional ACH experienced staff or procuring that expertise through a Service Level Agreement with another ACT agency (for example, the Office of ATSI Affairs within the Community Services Directorate).

The resourcing of the ACHB should also enable ACT Heritage to engage staff/contractors to undertake all ACH assessments, including those required for developments proposed under the new *Planning Act 2023*. This approach draws on the successful approach undertaken in New Zealand by the Māori Heritage Council and is designed to improve Heritage conservation and management outcomes as well as identify ACH values to be recorded on the Heritage Register.

We acknowledge the contribution made by the ACT Aboriginal communities consulted during this jurisdictional review and their strong support for the ACHB concept. However, there are some issues relating to the governance model and that still need to be resolved. There have been strong views expressed that the body name should reference the Ngunnawal, while other groups have expressed equally resolute views in favour of a more inclusive name.

Accordingly, ongoing consultation by the ACT Government with ACT Aboriginal communities is required on the governance model, including the name of the body and appointment of members. This will need to involve Aboriginal community members with cultural rights relating to heritage within the ACT, including traditional and proven custodial cultural relationships to the ACT.

⁶ This is a working title only pending further work on developing the arrangements for the ACHB.

Strategic Reform 1. Establish and resource an Aboriginal Governing Body (ACHB) that gives Aboriginal People the role of determining ACH recognition, conservation and management

Establishing an ACHB will not only provide an opportunity for the Aboriginal community to make decisions in relation to their heritage. It will also provide a platform to resolve matters such as:

- Improving the overall capacity for Aboriginal decision-making relating to ACH
- Developing clear criteria to guide the Minister for Heritage when deciding whether to register new RAOs under the Heritage Act
- Allowing the development of regulations, policies and protocols for managing ACH in collaboration with ACT Aboriginal communities
- Strengthening the recognition and management of ACH by:
 - Ensuring that Aboriginal People who have a cultural relationship to the place or object can provide recommendations and consent to proposed changes through the ACHB
 - Ensuring pre-approval development assessment processes are established that ensure the ACHB is involved in the development process at the earliest possible time
 - Providing the ability to research, identify and record ACH values, resulting in better ACH values recording and reports
 - Allowing for a strategic approach to the mapping and assessment of ACH, that involves undertaking a comprehensive analysis of historic records, oral histories, ethnographic and anthropological data to ensure any actions or knowledge of past activities is included in the assessment of the current context
 - Ensuring that when assessing a change to the context or fabric of a site, the initial approach is to consider change that is minimal or reversible and which is sympathetic to the Aboriginal cultural context and values of the site
 - Improving Heritage Register listings regarding ACH
 - Developing an ACH dataset to document all known ACH that is not on the Heritage Register
- Improving communications with RAOs in relation to ACH matters
- Working with the ACT Planning and Land Authority to develop policy, guidelines and processes that to ensure that all ACT planning decisions under the new Planning Act have regard to valuing, conserving and promoting Aboriginal knowledge, culture and tradition and the conservation of Aboriginal places.
 - The pending commencement of the new Act provides an opportunity for the ACHB to enhance and strengthen the way in which ACH is considered within the planning system
- Confirming the enhancements necessary to the Heritage Act that ensure ACH practice is consistent with the best practice standards identified in *Dhawura Ngilan* and aligns with Aboriginal expectations of the *Burra Charter*
- Greater engagement with ACT Aboriginal communities, both in terms of heritage and across the ACT government generally
- Better education and understanding within the ACT Aboriginal communities of Government structures and processes.

There are also challenges in establishing the ACHB that will need to be resolved such as:

- securing adequate financial support to establish the new governance model

- designing effective frameworks to support and enable ACHB consensus and collective decision-making
- minimising the potential for resistance to change by existing ACT heritage ecosystem stakeholders.

Other challenges to be resolved by the ACHB once it is established include:

- the need to strengthen the financial capacity of RAOs to adequately engage their broader community in heritage discussions
- establishing mechanisms (including finances) to ensure that ACH conservation is supported to the same level as destructive activities such as salvage and excavation
- improving the RAO's understanding of other legislation that may intersect with actions under the Heritage Act.

The potential core functions that could be assigned to an ACHB are outlined in Table 3, together with other options to be explored with the various Aboriginal groups during consultation on the establishment of the ACHB.

Table 3: Potential ACHB Functions

| Functions | Description |
|----------------------------------|---|
| Core functions | |
| Decision-maker | <p>Enable Aboriginal People to determine ACH values and any management practices.</p> <p>Work with RAOs and other stakeholders to develop universally agreed outcomes, while ensuring the rights of Aboriginal Peoples are respected.</p> |
| Central consultative body | Be identified as a single destination for any consultation with Aboriginal communities in relation to ACH considerations. |
| ACH management | Development of regulation, policy, procedures and guidelines to support elevated and consistent ACH management that is endorsed by the RAOs and aligns with the rights of Aboriginal Peoples. |
| Cultural research | <p>Undertake research associated with oral histories, ethnography and anthropology to assist in mapping cultural values as well as the repatriation of knowledge into communities.</p> <p>All such research should be owned by the Aboriginal community with which it is associated and be kept in accordance with the management expectations of the particular group or groups.</p> |
| Communication coordination | Establish and maintain a framework to ensure that cohesive communication with all RAOs is achievable through whatever are their preferred mechanisms, individually and collectively. |
| Other potential functions | |
| Aboriginal Community Education | Provide education to the Aboriginal communities in relation to the mechanisms that impact on heritage decision-making, governance frameworks for RAO bodies, ACH knowledge both traditional and contemporary, and recognising that Aboriginal cultural knowledge and practices are living processes. |

| Functions | Description |
|-------------------|--|
| General Education | Provide education to the wider community and key stakeholders in relation to understanding ACH values and practices, values-based design and interpretation considerations. |
| Capacity Building | <p>Developing and implementing training and employment opportunities in relation to ACH management across tangible and intangible heritage values.</p> <p>This recognises the value of conservation and preservation as an alternate pathway to the destruction of cultural heritage through excavation and salvage, but also provides a framework so that should Aboriginal communities decide to undertake excavation or salvage, appropriately skilled Aboriginal community members are available.</p> <p>This practice will also enable and support succession planning within the RAO groups.</p> |
| ACHB Activities | Establish and manage a trust fund to support the ongoing works of the ACHB. |

Key supporting actions under this strategic reform include:

| | |
|-----|---|
| 1.1 | Establish administratively an ACHB with appropriate delegations to recognise, conserve and manage ACH. |
| 1.2 | Ensure adequate resources are provided to support the establishment and ongoing operation of the ACHB and to enable ACT Heritage to support ACHB functions. |
| 1.3 | ACT Heritage to engage staff/contractors to undertake all ACH assessments, including those required for developments proposed under the <i>Planning Act 2023</i> . |
| 1.4 | <p>Develop or strengthen ACH policy and supporting practices to require that:</p> <ul style="list-style-type: none"> Aboriginal People who have a cultural relationship to the place or object can provide recommendations and consent to proposed changes through the ACHB pre-approval development assessment processes are established that ensure the ACHB is involved in the development process at the earliest possible time a strategic approach be taken to the mapping and assessment of ACH that takes into consideration oral histories, ethnographic and anthropological information when assessing a change to the context or fabric of a site, the initial approach should be to consider change that is minimal or reversible and which is sympathetic to the Aboriginal cultural context and values of the site. |
| 1.5 | Establish as a priority a dataset of ACH that is not on the Heritage Register that is appropriately accessible by all stakeholders, including consultants, developers, other Government agencies and most importantly the Aboriginal community. |
| 1.6 | Review known ACH sites to identify significant sites for listing on the Heritage Register, as well as developing a strategic priority for future ACH listings. |
| 1.7 | Work with the ACT Planning and Land Authority to develop policy, guidelines and processes that to ensure that all ACT planning decisions under the new <i>Planning Act 2023</i> have regard to valuing, conserving and promoting Aboriginal knowledge, culture and tradition and the conservation of Aboriginal places. |

ACHB to consider and advise on the legislative and administrative changes required to the *Heritage Act 2004* to ensure ACH practice is consistent with the best practice standards identified in *Dhawura Ngilan* and align with Aboriginal expectations of the *Burra Charter*.

- This should include considering how to:
 - provide for the conservation, management and repatriation of IAR and secret and sacred objects
 - extend the definition of Aboriginal object and places to recognise the connection between Aboriginal Peoples today, their ancestors and their lands.

A Layered Approach to Heritage

To achieve First Nations decision-making on ACH, most jurisdictions in Australia, including the Commonwealth, are moving to standalone Aboriginal Cultural Heritage legislation. This is based on the view that this is the only mechanism that can enable First Nations People to freely control their heritage.

While this thinking has validity, it crucially fails to recognise that, contextually, heritage is singular in its origin starting from Aboriginal cultural values and landscapes. Therefore, different layers of heritage co-exist, starting from Aboriginal cultural landscapes and being layered with development and other values over time.

An example of a layered approach occurred with the recent heritage listing on the NSW State Heritage Register of the Appin Massacre Site. This is a cultural landscape that was co-nominated for listing by the Heritage Council of NSW and the Aboriginal Cultural Heritage Advisory Committee for its shared Aboriginal and non-Aboriginal cultural heritage values. This listing established that Aboriginal People were the original occupiers of the land and that colonial settlement depicted through existing historic houses and oral and written histories displaced the Aboriginal community and this eventuated in the massacre of Aboriginal Peoples at that location.

This history can be interpreted through the cultural landscape with specific buildings and landforms clearly defining and interacting with the events related to this period of frontier conflict. Clearly, the fact that Aboriginal People first occupied this area needs to be the starting point for this story and the incorporation of their cultural values is essential. To take any alternate approach to the layering of history would be nonsensical and not in keeping with recognising the counter story to the colonial events of our past.

Moving to separate legislative instruments to recognise and manage ACH is not considered the best approach and is counterintuitive to robust heritage outcomes. It not only fractures the context of the heritage object, but it also establishes separate interests and values that will potentially compete for authority.

Rather, we suggest that that an alternative and more strategic and holistic solution is to adopt a layered approach to heritage values within the ACT's single legislative and operational framework. This will enable a holistic approach to recording and managing heritage values across the various layers. New Zealand achieves this through a singular legislative framework that incorporates a Māori Heritage Council operating in conjunction with an overarching New Zealand Heritage Board. This Council is defined within the legislative instrument and is empowered to make decisions around Māori Heritage, which are layered alongside other heritage recognised by the Heritage Board.

Strategic Reform 2. Develop and implement a layered approach to heritage in which ACH is the starting point for heritage recognition, conservation and management

The key supporting action under this strategic reform is:

- | | |
|------------|--|
| 2.1 | The Heritage Council, in conjunction with the ACHB, develop and implement a policy and supporting decision-making processes that establish a layered approach to heritage in which ACH is the starting point for heritage recognition, conservation and management in the ACT. |
|------------|--|

Building the ACH capacity of ACT Aboriginal People

The success of the ACHB will depend on the capacity of ACT Aboriginal People to participate in the recognition, conservation and management of ACH. Our observation is that, while the RAOs have people that are experienced and knowledgeable in this area, this capability is potentially thinly spread. Accordingly, in the medium term, the ACHB should consider how to build the ongoing capacity of RAOs and their communities to effectively participate in the new governance model. This will assist in succession planning and mitigate the risk that there is insufficient depth in the Aboriginal community with appropriate experience in recognising, managing and conserving ACH.

This capacity building should include a program to educate the Aboriginal community in the process and benefits that align to a Heritage listing. This will reduce the risk that there is undue reliance on the fact that the Act protects ACH if it exists, rather than using the more robust protections and processes that apply to ACH if it is listed on the Heritage Register.

Strategic Reform 3. Build the capacity of the ACT Aboriginal People to participate in ACH recognition, conservation and management

The key supporting action under this strategic reform is:

- | | |
|------------|---|
| 3.1 | The ACHB should establish a program to build the ongoing capacity of ACT Aboriginal People to participate in the recognition, conservation and management of ACH. |
|------------|---|

4.2 Strengthening the governance and administration of the ACT heritage arrangements

Our analysis of the ACT's general heritage recognition and management arrangements has revealed a range of issues and gaps. While we found no major structural deficiencies in the general heritage arrangements, this analysis indicates that significant action is needed to ensure that the governance and operational aspects of these arrangements are appropriately resourced and working effectively.

Capacity and Capability of ACT Heritage

ACT Heritage currently has insufficient resources to carry out the functions necessary to appropriately support the work of the Heritage Council, particularly in light of increasing demands placed on it by the planning system, Government and the wider ACT community (for example, see Section 3 regarding the significant increase in the Approvals and Advice workload). This is evident from extensive delays in decision-making and client service provision and has contributed to the current backlog of work.

Staffing numbers across jurisdictions vary significantly. Direct comparisons are difficult as jurisdictions operate differently, with different workflows and systems. Nevertheless, based on the evidence the evidence of long wait times for responses and work backlogs, it is clear that current staffing levels are not adequate to address the current volume of work, nor will they be adequate to deal with the additional activities proposed by this review.

Accordingly, the ACT Government needs to increase the permanent capacity and capability within ACT Heritage to support the functions of the Heritage Council and improve the customer service experience. This requires attention across a range of areas:

- There is a need to ensure ACT Heritage has the mixture of specialist and support staff it needs to cope with its workload, as well as those with strategic and policy skills necessary for facilitating change. This includes the need to reclassify positions within ACT Heritage to be more competitive with the private sector to attract and retain staff with appropriate specialist skills.
- Permanent administrative support capacity is needed for specialist teams within ACT Heritage, as presently Heritage specialist staff are undertaking administrative work, which is an inefficient use of their time.
- Increasing the assessment capacity of the Council Taskforces by improving their remuneration budget to allow for adequate composition and meeting frequency.

Based on practice in other jurisdictions, ACT Heritage should be delegated to do most of the work to research and propose recommendations, with the Taskforces guiding output, and the Heritage Council or Chair making final decisions. For transparency and continuity, the Convenor of each Taskforce should be different (and not the Chair of the Heritage Council), and Taskforces are encouraged to supplement membership with relevant expertise.

The ability for the taskforces to meet more frequently and to increase their capacity will be dependent on an increase in the ACT Heritage resourcing that supports and prepares material for them.

- ACT Heritage needs a more effective triage system to guide its work priorities. An effective triage system will appropriately guide unit work priorities and must be informed by a risk register.
- It is critically important to procure and implement business systems to support specialised ACT Heritage operations and improve responsiveness, triaging and case management. Improving business systems will enable better access to information to assess works and provide general advice and information.
- Improving pre-lodgement engagement and customer support services is critical to ensuring that heritage is considered early in planning and development processes. Better pre-lodgement engagement will result in better consideration of critical heritage issues, leading to improved, higher standard submissions, with more appropriate proposals. This in turn will make such submissions easier to assess, and more likely to have a favourable outcome, and less likely to go to (or fail at) appeal.
- Access to accurate data is critical in the future recognition, management and conservation of heritage. The current Heritage Register is old and not fit for purpose compared to other jurisdictions that have moved to digitalised registers. A credible, accurate, searchable, discoverable, accessible digital register will transform all aspects of the work of the Heritage Council and ACT Heritage. In addition, it will build community confidence and engagement, as people are able to learn from the Register entries and search according to themes that preoccupy them. It will also assist developers and other agencies to be able to 'self-help', which will create significant efficiencies for ACT Heritage. The digitisation of the register is not a quick or easy undertaking. However, the long-term advantages, along with the community expectations to be able to easily access this information, flags this as a high priority initiative.

Interim arrangements are necessary ahead of the major reforms underway with development of a new heritage register.

Strategic Reform 4. Increase the permanent capacity and specialised capability within ACT Heritage to deliver its support functions and improve the customer service experience

Key supporting actions under this strategic reform include:

| | |
|-----|--|
| 4.1 | Review the structure and resourcing of ACT Heritage to ensure it can adequately support the functions of the Heritage Council including requisite skills / knowledge / experience. |
| 4.2 | Reclassify positions within ACT Heritage to be more competitive with the private sector to attract and retain staff with appropriate specialist skills. |
| 4.3 | Provide permanent administrative support capacity for specialist teams within ACT Heritage. |
| 4.4 | Increase the remuneration budget for the Heritage Council to provide for adequate composition and meeting frequency of the Council Taskforces, enabling greater assessment capacity. |
| 4.5 | Establish an effective triage system to appropriately guide work priorities informed by a risk register. |
| 4.6 | Procure and implement business systems to support specialised ACT Heritage operations and improve responsiveness, triaging and case management. |
| 4.7 | Establish and resource pre-lodgement engagement and customer support services to streamline submissions. |
| 4.8 | Resource the establishment of a new online Heritage Register that is accurate, searchable and discoverable. |

Outstanding Heritage Register Nominations

The ACT Government needs to establish and resource a program to resolve outstanding ACT Heritage Register nominations – which currently stands at 85 nominations. This significant backlog causes ongoing reputational damage, as well as being demoralising for existing staff. A significant proportion of the backlog are nominations that pre-date the current Act and lack sufficient information to enable appropriate assessment by the Heritage Council.

ACT Heritage must be enabled to implement a resourced program to eliminate this backlog, so it is seen as *'ready and open for all new business'*. This will require significant resources to ensure this task is completed in a timely manner (maximum 1-2 years). Some legislative adjustments to the Heritage Act have been identified that will improve the capacity of the Heritage Council to clear the nomination backlog and to efficiently undertake its registration functions. This includes removing pre-2003 nominations, tightening and clarifying the nomination requirements and introducing a definitive time limit for assessing nominations not currently provided in the Heritage Act. This will create a measurable standard against which to judge workload/staff requirements, enable tracked performance, and hasten the conservation of vulnerable nominations.

This program should also involve a review of the ACT Heritage Register to ensure current listing information meets current Heritage Act requirements, and supporting Heritage Guidelines are made where applicable. This should include an audit of existing heritage listings for deficiencies in data and spatial information needs, with the correction and updating of spatial information the priority in advance of populating the digital register.

Strategic Reform 5. Establish and resource a program to resolve outstanding ACT Heritage Register nominations and review the ACT Heritage Register

Key supporting actions under this strategic reform include:

| | |
|-----|--|
| 5.1 | <p>Amend the <i>Heritage Act 2004</i> to:</p> <ul style="list-style-type: none">• remove all nominations for provisional registration to the ACT Heritage Register that were made under the previous <i>Land, Planning and Environment Act 1991</i> (i.e., pre-2003)• expand the grounds for dismissal of a nomination application to the Heritage Register• allow automatic refusal of incomplete nominations• establish a time limit (e.g., 1 year) for a decision on provisional registration pertaining to new nominations. |
| 5.2 | <p>Increase resourcing to research, assess and process outstanding nomination applications to the ACT Heritage Register.</p> |
| 5.3 | <p>Undertake a systematic review of all Registrations on the ACT Heritage Register to ensure listing information meets current <i>Heritage Act 2004</i> requirements and supporting Heritage Guidelines are made, where applicable.</p> |

Governance and Operations – Strategic Management Approach

The 2022 Nous Report foreshadowed, and this review has confirmed, that there is a need to strengthen the governance and operational aspects of the ACT's heritage arrangements.

Significant growth in demand for heritage advice and decisions, both in terms of registration nominations and in relation to development approval proposals has not been supported by adequate resourcing, systems, policies and strategic direction. This, combined with a breakdown in the working relationship between the previous Heritage Council and ACT Heritage identified in the Nous Report, has contributed to the diminished performance of ACT's heritage arrangements. There is no doubt that these difficulties have adversely impacted on the brand and reputation of the Heritage Council and ACT Heritage. This requires significant remediation action to re-build the trust of key stakeholders.

Considerable work is required to lift the performance of the ACT heritage system to a point where the Heritage Council and ACT Heritage are operating efficiently and effectively. This requires a focus on developing robust governance structures, processes, oversight and direction of the overall heritage system. From this perspective, as a matter of urgency the Heritage Council needs to establish a strategic management framework to guide its decision-making and operations, to guide the review and renewal of strategic priorities over the short, medium and long-term. This will bring the Heritage Council into line with contemporary practice in other jurisdictions and best practice corporate governance generally.

This strategic management approach needs to be founded on a clear understanding by the Heritage Council of the strategic expectations of the Minister for Heritage on how it should perform its statutory functions and how this relates to the Government's priorities. We note that the Minister has recently issued the Council with a Statement of Expectations. This positions the Heritage Council to be very clear about what it wants to achieve for heritage management in the ACT, the articulation of which would be contained in the Heritage Council's Strategic Plan. This would include determining the Council's underlying principles and what 'good' looks like. The outcome will need to be responsive and adaptive to the growing needs of the ACT, the impacts of climate change, and contribute positively to the well-being of ACT communities.

The strategic management approach should include risk management and the development of a comprehensive Stakeholder Engagement and Communications Plan to guide all Heritage Council

communication, activities, and opportunities to participate. Consultation is a key enabler, and the message should be “consult early and often”. It will also be important that new Heritage Council members are appropriately inducted to ensure they understand the strategic management framework and their role in it.

The Heritage Council should also establish a performance review program to assess its performance in relation to its roles and responsibilities. Tracking this performance is critical to understanding and reporting progress to key stakeholders.

The strategic management approach needs to be supported by creating a governance framework for the Heritage Council that clearly establishes the services to be provided by EPSDD to support Council’s operations and describes how they will work together. This includes ensuring the appropriate use of delegations, so that ultimately the Heritage Council or Chair makes decisions based on the expert advice of ACT Heritage, which undertakes the comprehensive research and analysis necessary to support Council decisions.

ACT Heritage currently exercises delegated functions on behalf of the Heritage Council. However, there is a need for ACT Heritage to be able to respond quickly where there is an immediate threat or damage to a heritage place or object or non-compliance with a heritage rule or decision. A review of current delegations is required to address this gap.

Importantly, a strategic management approach will increase the confidence of the various stakeholders within the ACT heritage ecosystem in the heritage arrangements, by bringing clarity and improvements in accountability, certainty on roles and responsibilities, and ensuring transparent, consistent and timely decision-making. This also then improves public confidence and (as noted by Victorian/WA Heritage staff) leads to ‘community audit’ – where the public feel they can understand and appreciate the independence, expertise and work of the Heritage Council and the ACT Heritage.

Note that while a new Heritage Council has been appointed, a need has been identified for the Heritage Act to be amended to provide the Minister with increased flexibility in the appointment of new Council members to ensure that future Heritage Councils have sufficient breadth of skills and experience. For example, the Council may benefit from expertise other than that listed in section 16 (4) of the Heritage Act, such as those with expertise in governance, risk management, communications, stakeholder engagement or legal matters.

Strategic Reform 6. Establish a strategic management approach to guide Heritage Council decision-making and operations and provide clarity around roles and responsibilities

Key supporting actions under this strategic reform include:

| | |
|-----|--|
| 6.1 | Establish clear strategic expectations between the Minister for Heritage and the Heritage Council. |
| 6.2 | Implement a strategic management framework to guide Heritage Council decision-making and operations, including a Risk Register and an induction process for Heritage Council members. |
| 6.3 | Develop and implement a Stakeholder Engagement and Communications Plan. |
| 6.4 | The Heritage Council to establish a performance review program to assess its performance in relation to its roles and responsibilities. |
| 6.5 | Establish a governance framework for the Heritage Council that clearly establishes the services to be provided by EPSDD to support Council’s operations and describe how they will work together and how it will be resourced. |

| | |
|-----|---|
| 6.6 | Review delegations, with a view to expanding the list of delegated functions from Heritage Council to ACT Heritage to enable greater decision-making capacity in a timely manner. |
| 6.7 | Amend the <i>Heritage Act 2004</i> to provide the Minister with increased flexibility in the appointment of new Council members to ensure its breadth of skills and experience align with the Council's business and governance priorities. |

Heritage Council policy and processes

The existing Heritage Council decision-making policy and processes are not fully documented and can be unnecessarily complex and arduous on ACT Heritage staff, which slows decision-making. The Heritage Council needs to review its policies and processes to clarify and improve its decision-making capacity and capability.

There is an urgent need to strengthen and build on the suite of public policy and guidance material for heritage owners, managers and the community. In comparison with other jurisdictions, the ACT does not have the extent or depth of policies and guidance material necessary to ensure that the community and stakeholders properly understand how heritage is recognised and managed. Commencing by leveraging the thinking and insights of other jurisdictions, the Heritage Council needs to prioritise the development of policies and guidance material to improve the transparency of its policy and decision-making approach.

Evidenced by the backlog of works applications, we recommend immediate commencement of a set of Works Guidelines relevant to the context and conditions in the ACT. The distinct advantage of Works Guidelines is that they clearly articulate the expectations of the Heritage Council, the reasoning behind these expectations, and contain detailed descriptions of real-life examples. They need to be in plain language, with accompanying photographs or diagrams for easy comprehension.

Robust Works Guidelines, along with pre-lodgement engagement, can have a transformative impact on the management of heritage. Outcomes include:

- better quality applications for Development Approvals
- better relationships with proponents and an appreciation of their needs
- the opportunity to negotiate
- less refusals
- less difficult-to-manage cases / applicants
- less conditions to be implemented
- less fear of heritage restrictions.

This leads to superior heritage outcomes, and thereby the improved conservation of heritage significance and values. The other advantage (as found in Tasmania when utilising guidelines with pre-lodgement engagement) is a significant reduction in appeals. Consideration should be given to basing the Works Guidelines on those developed by Tasmania, which have been utilised and adapted by several other jurisdictions.

Following the development of the Works Guidelines, the next priority should be the review and amendments of the Heritage Assessment Policy to provide a standard format for any supporting information for Registrations, including length / photography / historical drawings / information. This will bring further efficiencies to the system, providing a systematic path to addressing the registration nomination backlog (see Strategic Reform 5) and conserving ACT's most important places and objects.

A further important policy to develop is an enforcement / compliance policy. Possible enforcement actions or non-action can cause reputational damage to the Heritage Council. Consequently, it is important that the Heritage Council has a clear approach to enforcement actions. This policy should be developed in conjunction with Access Canberra which undertakes all enforcement action.

Heritage is not a static concept:

...heritage is ultimately a process. It's about managing relationships between the past, present, and ultimately the future. It's about the decisions that we make in terms of what we want to keep and what we want to present to future generations.²²

The task of heritage conservation and management must be undertaken in an environment that is subject to constant social, economic, technological and environmental change. In this environment, it is important that decisions made on heritage recognition, management and conservation made under the Heritage Act are taken within the context of the need to support the sustainable use, development or conservation of land in the broader context of the ACT planning system.

The evidence revealed by this review indicates that the ACT's approach to heritage recognition and management needs adjustment to achieve this sustainable balance. Several stakeholders consulted (for example, the Suburban Land Agency) indicated that a lack of access to timely and consistent advice on heritage matters, or a lack of clarity on the heritage values to be conserved has impeded their ability to appropriately incorporate heritage considerations into land release proposals. Equally, consultations with ACT Heritage indicated that they received criticisms from residential owners that there is insufficient accommodation of glazing upgrades and solar panels. It is critical that ACT Heritage have clear plain language illustrated guides that outline parameters to support these adaptations where appropriate. For example, if some visible parts of registered houses/buildings have higher restrictions, but other areas can be utilised for such things, this should be made clear, with reasons why.

Accordingly, the ACT's policies and processes for heritage recognition, management and conservation needs to have due regard to ongoing change so that it can achieve a sustainable balance between heritage outcomes and other societal demands. This includes addressing issues such as facilitating adaptive re-use of heritage assets, mitigating the effects of climate change and contributing to the liveability, health and wellbeing of the community. This requires policies to be developed to proactively support, encourage and enable improved and sustainable heritage outcomes for heritage buildings, including adaptive re-use, the use of solar panels, and accessibility.

The new Planning Act expands the object of the planning legislation to establish an outcomes-focused system. In doing this it seeks to ensure that heritage considerations are fully integrated into the development assessment process at an early stage. The pending commencement of the new Act provides the Heritage Council with an opportunity to strengthen the consideration of heritage matters within the ACT's integrated planning system. This should include:

- establishing and resourcing pre-lodgement engagement arrangements that allows timely and consistent advice on heritage matters to be considered early in planning and development processes (refer Supporting Action 4.7)
- developing a policy that requires all Heritage Council decisions on heritage registration and management to be sustainable within the context of the broader stated objectives of the planning system⁷

⁷ This does not mean that the Heritage Council needs to make decisions outside its remit. Rather, it needs to make those decisions in a way that does not unduly impeded change unless absolutely necessary from a heritage perspective.

- working with the ACT Planning and Land Authority to develop policy, guidelines and processes that to ensure that all ACT planning decisions under the new Planning Act have regard to valuing, conserving and promoting heritage and that heritage is considered early in the development process.

We did consider the potential to reform the Planning Act to establish the Heritage Council as the consent authority for decisions on heritage matters within the ACT's integrated planning system (presently, and under the new Act, it is advisory only to the Planning and Land Authority). This is the approach taken in some other jurisdictions, for example, Victoria, South Australia and Tasmania. However, discussions with EPSDD officers indicated this would potentially have major implications for the way in which the planning system operates. We have concluded that a better approach would be for the Heritage Council to work with the ACT Planning and Land Authority to develop a policy and associated amendment to the Planning Act to clarify the circumstances where the Planning Authority may deviate from Heritage Council advice. Such diversions should occur in limited and well-defined circumstances, such as are in place for the Conservator of Flora and Fauna⁸. This would increase the transparency and certainty regarding heritage considerations within the planning system.

Finally, consideration should be given to amending the Heritage Act and the Planning Act to allow Heritage Council to be a referral entity in cases where a site subject to a development proposal is adjacent to a site on the Heritage. This approach is employed in several States (Queensland and South Australia) and would strengthen the ability of the Heritage Council to manage the integrity of registered heritage sites.

Strategic Reform 7. Review the Heritage Council's policy and processes to clarify and improve its decision-making capacity and capability and to guide and inform stakeholders

Key supporting actions under this strategic reform include:

| | |
|-----|--|
| 7.1 | Strengthen and build on the suite of public policy and guidance material for heritage owners, managers and the community regarding the decision-making principles and processes used by the Heritage Council / ACT Heritage. |
| 7.2 | Amend the Heritage Assessment Policy to set clear expectations on the size/format for new Registrations, and the inclusion of guidance on future development. |
| 7.3 | Develop an enforcement / compliance policy in conjunction with Access Canberra. |
| 7.4 | Establish public policies and guidance material to proactively support, encourage and enable improved sustainable heritage outcomes, including adaptive re-use, the use of solar panels and accessibility. |
| 7.5 | To work with the ACT Planning and Land Authority to develop policy, guidelines and processes to ensure that all ACT planning decisions under the new <i>Planning Act 2023</i> have regard to valuing, conserving and promoting heritage early in the development process. |
| 7.6 | Develop a policy in conjunction with the ACT Planning and Land Authority, with a view to amending the <i>Planning Act 2023</i> , to clarify the circumstances where the Planning Authority may deviate from Heritage Council advice. (i.e., in limited and well-defined circumstances, such as are in place for the Conservator of Flora and Fauna). |

⁸ See Section 186 of *Planning Act 2023* relating to restrictions on development approval.

Raising the Profile

The review has identified that there is a need to raise and improve the profile, understanding and engagement with Heritage in the ACT.

If the community, developers, and other agencies within government understand and appreciate heritage, it is more likely that it will be valued by them. This will lead to an overall improvement in the heritage brand and reputation, which in turn is likely to stimulate investment and innovation, leading to greater confidence in the Heritage Council and the ACT heritage arrangements generally. Once community and stakeholder understanding and appreciation of heritage and the ACT's heritage arrangements has matured, it is more likely that innovative and exciting developments or conservation projects will be proposed and approved.

A range of actions are identified for consideration, including:

- establishing an 'Office of Heritage' to administratively deliver the independent statutory obligations of the Heritage Council.

This will improve the heritage 'brand' and will assist in building a greater understanding of the independence and transparency of the Heritage Council and ACT Heritage

- improving the transparency of the heritage system by publishing the expanded suite of policy and guidance material.

This will create clarity and certainty for stakeholders and the community and is in keeping with best practice in other jurisdictions.

- developing a program to strengthen and promote the importance of heritage in the community, which could include, for example:
 - delivering regular 'good-news stories' on heritage issues
 - support or contribute to an awards system to encourage and celebrate good heritage / adaptive re-use outcomes
 - enhancing the existing grants program by increasing its scope, flexibility, marketing and advisory support for grant applicants
 - reshaping the Heritage festival to emphasise its potential and value as a tourism driver, including resourcing appropriately for long term continuity
 - engaging the Education Directorate to develop a school engagement heritage program, and Libraries ACT and museums to enhance their current heritage engagement programs.
- establishing a proactive community engagement strategy to recognise Heritage including ACH in the ACT, including providing an education program for the ACT Aboriginal community to strengthen its understanding of the ACT heritage arrangements and the interaction between those arrangements and the roles and the responsibilities of other ACT government agencies.

These actions will raise and improve the profile, understanding and engagement with the Heritage Council in the ACT. Importantly, collectively they will assist in overcoming past brand and reputational damage, including that caused by the perception that the Council is not independent of the Planning and Land Authority (EPSDD). Improvements in the Heritage Council and ACT Heritage's brand and reputation are, in turn, likely to stimulate investment and innovation, and lead to greater confidence in the ACT heritage arrangements generally.

Once community and stakeholder understanding and appreciation of heritage and the ACT's heritage arrangements has matured, it is more likely that innovative and exciting developments or conservation projects will be proposed and approved.

Strategic Reform 8. Raise and improve the profile, understanding and engagement with heritage in the ACT

Key supporting actions under this strategic reform include:

| | |
|-----|---|
| 8.1 | Establish an ' <i>Office of Heritage</i> ' to administratively deliver the independent statutory obligations of the Heritage Council and to raise and improve the profile, understanding and engagement with Heritage in the ACT. |
| 8.2 | Improve the transparency of decision-making processes by publishing the expanded suite of policy and guidance material. |
| 8.3 | Develop a program to strengthen and promote the importance of heritage in the community. |
| 8.4 | Establish a proactive community engagement strategy to recognise Heritage including ACH in the ACT. |

ACT Heritage Strategy

Heritage must be understood as the chance to celebrate shared stories. All parts of the community should feel that heritage informs them and belongs to them. Even children should be drawn into this ongoing community conversation – it helps social wellbeing. To achieve this, it is proposed that the ACT Government, in collaboration with the Heritage Council, develop a long-term ACT Heritage Strategy that fosters community appreciation of heritage. Similar strategies are used in a variety of areas by the ACT Government to guide long term decision-making and inform stakeholders, for example:

- [ACT Climate Change Strategy](#)
- [ACT Planning Strategy](#)
- [ACT Housing Strategy](#)
- [ACT Digital Strategy](#)

The Strategy should strengthen the link between the value of heritage and the ACT's Wellbeing Framework. The ACT has an established Wellbeing Framework that already contains some reference to heritage. Identifying ways to strengthen the link between heritage and community well-being will support an improved understanding of the positive role that heritage recognition and management plays in the ACT. This in turn will assist in raising the profile of heritage in the community generally.

It is important that this Strategy has measurable outcomes. Like other jurisdictions, the ACT Government should undertake a study into the value of heritage in the ACT, covering both its economic and social (non-tangible). This will record the status of heritage now and will be a marker to show change in 5-10 years, when another similar study should be done.

Finally, the strategy should include clear engagement about the growth in the Heritage Register going forward. It is critical that the Heritage Council develops a thematic approach to guide the population of the Register going forward. This is an excellent form of education and involvement to explain themes to the public and invite nominations within themes going forward.

Strategic Reform 9. Develop an ACT Heritage Strategy that fosters community and industry appreciation of heritage.

Key supporting actions under this strategic reform include:

| | |
|-----|--|
| 9.1 | Develop a long-term ACT Heritage Strategy. |
| 9.2 | Create a link between the value of heritage and the ACT's Wellbeing Framework. |
| 9.3 | Undertake a study into the value of heritage in the ACT, covering both economic value and social strengthening (non-tangible). |
| 9.4 | Develop a thematic approach to guide the growth in the Heritage Register. |

Current Progress

The analysis in this report commenced with the 2022 arrangements and interrelationships between the Heritage Council and ACT Heritage and the Minister, before the previous Heritage Council was dissolved. However, since then many new solutions have been implemented, new policy / strategy documents are being developed, and new data systems are being investigated. It is also understood that there is now an open and robust relationship between ACT Heritage and the Minister and that the existing ACT Heritage team is embracing the need for change.

We note from the ACT Government's submission to the Standing Committee on Environment, Climate Change and Biodiversity Inquiry into ACT's Heritage Arrangements that a range of initiatives have been implemented, are planned or are already underway that will help resolve the issues / gaps identified above, and which align with our suggested reform directions outlined in the following sections. These include, but are not limited to:

- The appointment of a new Heritage Council
- The new Planning Act recently passed by the ACT Legislative Assembly (which, amongst other things, strengthens the treatment of heritage within the ACT planning system)
- Through the National Capital Design Review Panel (NCDRP), adopting '*Design Principles for the ACT [that] sets out that high quality design must respond to the cultural elements of a place, including heritage buildings and values of the local area*'
- Commencing the development of a strategic framework for the recognition, management and conservation of heritage in the ACT, together with a supporting ACT Heritage strategic business plan
- The Minister for Heritage providing the Heritage Council with a Statement of Expectations
- Commencing the development of a new heritage database (currently in the design description and requirements stage)
- The development of a workforce plan for ACT Heritage.

Finally, through our review of structures, systems, policies and activities in other jurisdictions around Australia and New Zealand, we have found a desire for the sharing of information at a national level (this sharing includes New Zealand). There are differences in structure, governance, resourcing and support, however there is a great deal of similarity between the states and territories in the policy approach to heritage management. This includes:

- creating a representative register
- clearly communicating guidelines for works

- managing the increasing volume of works applications through delegations
- understanding assessment of works for adaptive re-use
- contributing to the discourse on planning reform
- the digitisation, accessibility, discoverability of information and data
- responding to the ever-changing needs of our communities.

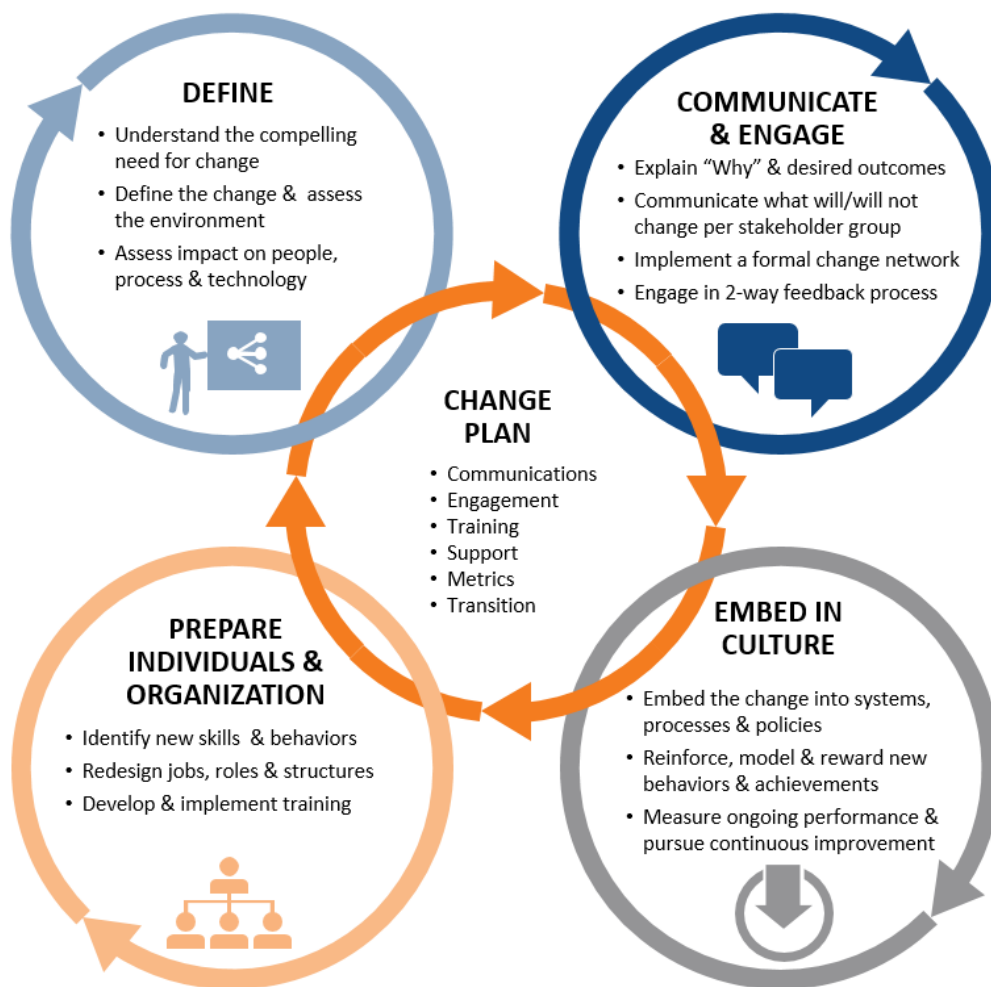
This similarity is evidenced at the attendance of the Heritage Chairs and Official of Australia and New Zealand (HCOANZ) annual meetings. HCOANZ provides the opportunity for chairs and managers of state and territory general heritage and ACH systems to exchange ideas, thinking and development of policy. Against this background, the sharing and exchange of information by the ACT on policy development is encouraged, as is active participation in the HCOANZ network.

5 Reform Roadmap

This jurisdictional review report identifies two key reform themes involving nine strategic reforms and 43 supporting actions. Implementing the range of identified reforms under these themes will require significant change management.

We propose that the change management framework outlined in Figure 7 guide the implementation of the reforms agreed by the ACT Government arising from this report. An implementation Action Plan should be developed in Phase 2 that is guided by this framework.

Figure 7: ACT Heritage Change Management Framework



The change management framework revolves around effectively communicating information regarding proposed reforms, soliciting feedback from stakeholders, and implementing changes to ensure the seamless continuation and enhancement of the ACT's heritage arrangements. It primarily focuses on adapting to the evolving needs and challenges of the Heritage Council and ACT Heritage while maintaining optimal operational efficiency.

It will be imperative that the change management process embeds the implemented changes into the culture of Heritage Council and ACT Heritage. This will ensure consistency and coherence, thereby fostering uniformity in the ACT's heritage recognition and management efforts.

5.1 Reform Implementation

The following sections propose a roadmap of the implementation activities, with activities scheduled over the short, medium and long term.

5.1.1 Establish ACT Aboriginal People as the decision-makers on their cultural heritage

The relative priorities of the supporting Actions for the Strategic Reforms under this theme are outlined in Table 4, together with an indication if the Action requires legislative reform. Note that Action 1.4 has been shortened for convenience in this table.

Table 4: Priorities for Strategic Reform Supporting Actions

| Strategic Reforms | # | Actions | Priority | Legislation |
|--|-----|---|----------|-------------|
| 1. Establish and resource an Aboriginal Cultural Heritage Body (ACHB) that gives Aboriginal People the role of determining ACH recognition, conservation and management. | 1.1 | Establish administratively an ACHB with appropriate delegations to recognise, conserve and manage ACH. | S | N |
| | 1.2 | Ensure adequate resources are provided to support the establishment and ongoing operation of the ACHB and to enable ACT Heritage to support ACHB functions. | S | N |
| | 1.3 | ACT Heritage to engage staff/contractors to undertake all ACH assessments, including those required for developments proposed under the <i>Planning Act 2023</i> . | M | N |
| | 1.4 | Develop or strengthen ACH policy and supporting practices. | S-M | N |
| | 1.5 | Establish as a priority a dataset of ACH that is not on the Heritage Register that is appropriately accessible by all stakeholders, including consultants, developers, other Government agencies and most importantly the Aboriginal community. | S-M | N |
| | 1.6 | Review known ACH sites to identify significant sites for listing on the Heritage Register, as well as developing a strategic priority for future ACH listings. | M | N |
| | 1.7 | Work with the ACT Planning and Land Authority to develop policy, guidelines and processes that to ensure that all ACT planning decisions under the new <i>Planning Act 2023</i> have regard to valuing, conserving and promoting Aboriginal knowledge, culture and tradition and the conservation of Aboriginal places. | M | N |
| | 1.8 | ACHB to consider and advise on the legislative and administrative changes required to the <i>Heritage Act 2004</i> to ensure ACH practice is consistent with the best practice standards identified in <i>Dhawura Ngilan</i> and align with Aboriginal expectations of the <i>Burra Charter</i> . | M | Y |
| 2. Develop and implement a layered approach to heritage in which ACH is the starting point for heritage recognition, | 2.1 | The Heritage Council, in conjunction with the ACHB, develop and implement a policy and supporting decision-making processes that establish a layered approach to heritage in which ACH is the starting point for heritage recognition, conservation and management in the ACT. | S | N |

| Strategic Reforms | # | Actions | Priority | Legislation |
|--|-----|---|----------|-------------|
| conservation and management | | | | |
| 3. Establish a program to build the capacity of the ACT Aboriginal People to participate in ACH recognition, conservation and management | 3.1 | The ACHB should establish a program to build the ongoing capacity of ACT Aboriginal People to participate in the recognition, conservation and management of ACH. | M | N |

Implementing the identified strategic reforms to the ACT's ACH arrangements will require the ACT Government to commit significant resources to establishing the ACHB and to developing the supporting regulations, policies and protocols for managing ACH, including a layered approach to heritage in the ACT.

As mentioned earlier in the report, the ACHB concept has been well received by the ACT Aboriginal communities, however, there are some issues relating to the governance model that still need to be resolved through ongoing consultation. This will need to involve Aboriginal community members with cultural rights relating to heritage within the ACT, including traditional and proven custodial cultural relationships to the ACT.

Initially and subject to legal advice, the ACHB should be established administratively to trial the new arrangements. In the longer term, once the operations of the ACHB are working satisfactorily, consideration can be given to legislative amendments to the Heritage Act to reflect the new arrangements. ACHB advice can also confirm the enhancements necessary to the Heritage Act to ensure ACH practice is consistent with best practice standards.

A longer-term priority will be building the ongoing capacity of the ACT Aboriginal People to participate in ACH recognition, conservation and management.

Key implementation challenges for the strategic reforms to the ACT's ACH arrangements include:

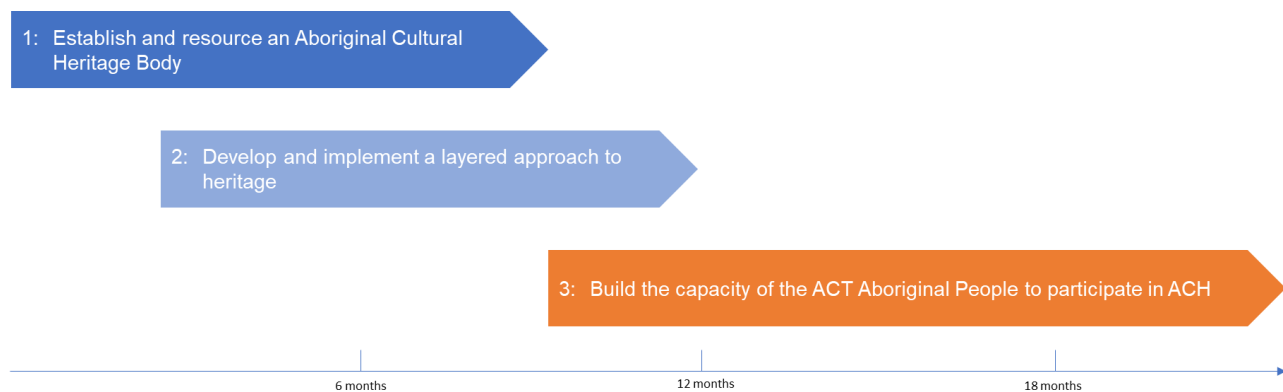
- gaining ACT Aboriginal community agreement to the ACHB governance model and composition
- ensuring that establishing the ACHB administratively in the first instance is legally robust
- ensuring adequate financial and staffing support is provided to establish the new governance model – particularly given that this establishment will be occurring concurrently with a range of other strategic reforms to the Heritage Council's governance and administration arrangements

Opportunities should be explored for sourcing some of the required expertise from elsewhere within the ACT Government – for example, the Office for Aboriginal and Torres Strait Islander Affairs in the Community Services Directorate

- pacing the establishment of the ACHB to match the capacity of the ACT Aboriginal communities to participate in the new arrangements
- designing effective policies and frameworks to support and enable ACHB consensus and collective decision-making and for resolving situations where the needs of different heritage layers compete – drawing on the New Zealand experience will assist in meeting this challenge
- ensure clear and timely communications on the aim and scope of the strategic reforms to the ACT's ACH arrangements to minimise the potential for resistance to change by existing ACT heritage ecosystem stakeholders.

A suggested overall prioritisation of the proposed strategic reforms to the ACT's ACH arrangements is shown in Figure 8.

Figure 8: Prioritisation of proposed strategic reforms to the ACT's ACH arrangements



5.1.2 Strengthen the governance and administration of the ACT heritage arrangements

The relative priorities of the supporting Actions for the Strategic Reforms under this theme are outlined in Table 5, together with an indication if the Action requires legislative reform.

Table 5: Priorities for Strategic Reform Supporting Actions

| Strategic Reforms | # | Actions | Priority | Legislation |
|--|-----|--|----------|-------------|
| 4. Increase the permanent capacity and specialised capability within ACT Heritage to deliver its support functions and improve the customer service experience | 4.1 | Review the structure and resourcing of ACT Heritage to ensure it can adequately support the functions of the Heritage Council including requisite skills / knowledge / experience. | S | N |
| | 4.2 | Reclassify positions within ACT Heritage to be more competitive with the private sector to attract and retain staff with appropriate specialist skills. | M | N |
| | 4.3 | Provide permanent administrative support capacity for specialist teams within ACT Heritage. | S | N |
| | 4.4 | Increase the remuneration budget for the Heritage Council to provide for adequate composition and meeting frequency of the Council Taskforces, enabling greater assessment capacity. | M | N |
| | 4.5 | Establish an effective triage system to appropriately guide work priorities informed by a risk register. | M | N |
| | 4.6 | Procure and implement business systems to support specialised ACT Heritage operations and improve responsiveness, triaging and case management. | S | N |
| | 4.7 | Establish and resource pre-lodgement engagement and customer support services to streamline submissions. | S | N |
| | 4.8 | Resource the establishment of a new online Heritage Register that is accurate, searchable and discoverable. | S | N |

| Strategic Reforms | # | Actions | Priority | Legislation |
|---|-----|--|----------|-------------|
| 5. Establish and resource a program to resolve outstanding ACT Heritage Register nominations and review the ACT Heritage Register | 5.1 | Amend the <i>Heritage Act 2004</i> to: <ul style="list-style-type: none"> remove all nominations for provisional registration to the ACT Heritage Register that were made under the previous <i>Land, Planning and Environment Act 1991</i> (i.e., pre-2003) expand the grounds for dismissal of a nomination application to the Heritage Register allow automatic refusal of incomplete nominations establish a time limit (e.g., 1 year) for a decision on provisional registration pertaining to new nominations. | S | Y |
| | 5.2 | Increase resourcing to research, assess and process outstanding nomination applications to the ACT Heritage Register. | S | N |
| | 5.3 | Undertake a systematic review of all Registrations on the ACT Heritage Register to ensure listing information meets current <i>Heritage Act 2004</i> requirements and supporting Heritage Guidelines are made, where applicable. | M | N |
| 6. Establish a strategic management approach to guide Heritage Council decision-making and operations and provide clarity around roles and responsibilities | 6.1 | Establish clear strategic expectations between the Minister for Heritage and the Heritage Council. | S | N |
| | 6.2 | Implement a strategic management framework to guide Heritage Council decision-making and operations, including a Risk Register and an induction process for Heritage Council members. | S | N |
| | 6.3 | Develop and implement a Stakeholder Engagement and Communications Plan. | S | N |
| | 6.4 | The Heritage Council to establish a performance review program to assess its performance in relation to its roles and responsibilities. | M | N |
| | 6.5 | Establish a governance framework for the Heritage Council that clearly establishes the services to be provided by EPSDD to support Council's operations and describe how they will work together and how it will be resourced. | M | N |
| | 6.6 | Review delegations, with a view to expanding the list of delegated functions from Heritage Council to ACT Heritage to enable greater decision-making capacity in a timely manner. | S | N |
| | 6.7 | Amend the <i>Heritage Act 2004</i> to provide the Minister with increased flexibility in the appointment of new Council members to ensure its breadth of skills and experience align with the Council's business and governance priorities. | S | Y |
| 7. Review the Heritage Council's policy and processes to clarify | 7.1 | Strengthen and build on the suite of public policy and guidance material for heritage owners, managers and the community regarding the decision-making principles | S | N |

| Strategic Reforms | # | Actions | Priority | Legislation |
|--|-----|--|----------|-------------|
| and improve its decision-making capacity and capability and to guide and inform stakeholders | | and processes used by the Heritage Council / ACT Heritage. | | |
| | 7.2 | Amend the Heritage Assessment Policy to set clear expectations on the size/format for new Registrations, and the inclusion of guidance on future development. | S | N |
| | 7.3 | Develop an enforcement / compliance policy in conjunction with Access Canberra. | S | N |
| | 7.4 | Establish public policies and guidance material to proactively support, encourage and enable improved sustainable heritage outcomes, including adaptive re-use, the use of solar panels and accessibility. | S | N |
| | 7.5 | To work with the ACT Planning and Land Authority to develop policy, guidelines and processes to ensure that all ACT planning decisions under the new <i>Planning Act 2023</i> have regard to valuing, conserving and promoting heritage early in the development process. | S | N |
| | 7.6 | Develop a policy in conjunction with the ACT Planning and Land Authority, with a view to amending the <i>Planning Act 2023</i> , to clarify the circumstances where the Planning Authority may deviate from Heritage Council advice. (i.e., in limited and well-defined circumstances, such as are in place for the Conservator of Flora and Fauna). | M | Y |
| | 7.7 | Amend the <i>Heritage Act 2004</i> and the <i>Planning Act 2023</i> to allow the Heritage Council to be a referral entity in cases where a site subject to a development proposal is adjacent to a site on the Heritage Register. | M | Y |
| 8. Raise and improve the profile, understanding and engagement with heritage in the ACT | 8.1 | Establish an ' <i>Office of Heritage</i> ' to administratively deliver the independent statutory obligations of the Heritage Council and to raise and improve the profile, understanding and engagement with Heritage in the ACT. | M | N |
| | 8.2 | Improve the transparency of decision-making processes by publishing the expanded suite of policy and guidance material. | M | N |
| | 8.3 | Develop a program to strengthen and promote the importance of heritage in the community. | S | N |
| | 8.4 | Establish a proactive community engagement strategy to recognise Heritage including ACH in the ACT. | M | N |
| 9. Develop an ACT Heritage Strategy that fosters community and industry appreciation of heritage | 9.1 | Develop a long-term ACT Heritage Strategy. | M | N |
| | 9.2 | Create a link between the value of heritage and the ACT's Wellbeing Framework. | M | N |
| | 9.3 | Undertake a study into the value of heritage in the ACT, covering both economic value and social strengthening (non-tangible). | M | N |

| Strategic Reforms | # | Actions | Priority | Legislation |
|-------------------|-----|---|----------|-------------|
| | 9.4 | Develop a thematic approach to guide the growth in the Heritage Register. | M | N |

The initial priority should be to increase the resourcing of ACT Heritage. This will enhance ACT Heritage's permanent capacity and specialised capability and support timely Heritage Council decision-making. It will position ACT Heritage to provide the support necessary to establish a strategic management approach to guide Heritage Council decision-making and operations and to review and strengthen the Council's policy and processes to clarify and improve its decision-making capacity and capability.

Of equal priority is commencing supporting actions to raise and improve the profile, understanding and engagement with heritage in the ACT. This will commence reputational and brand repair and re-build stakeholder trust and confidence in the Heritage Council and ACT Heritage.

Some changes to the Heritage Act will be necessary to support the strategic reform that involves establishing a program to resolve outstanding ACT Heritage Register nominations and a review of the ACT Heritage Register. While the proposed legislative changes are minor and likely to be uncontroversial, they will take time to prepare and be considered by the ACT Parliament. It is suggested that this strategic reform be deferred for six months to allow the appropriate legislative changes to be designed and scheduled. The proposed amendment to the Heritage Act to provide the Minister with increased flexibility in the appointment of new Council members should be included in the legislative reform package.

Finally, it would be prudent for the ACT Government to allow the Heritage Council to re-establish its momentum and capabilities prior to developing the ACT Heritage Strategy.

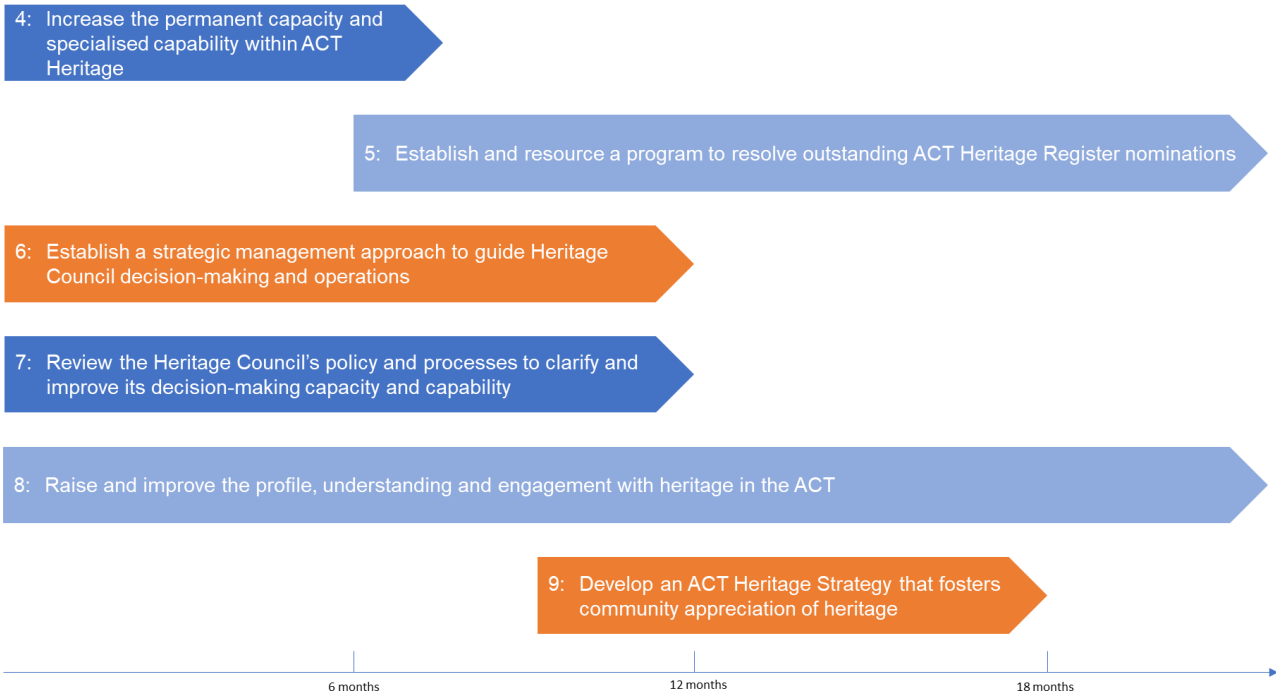
Key implementation challenges for the strategic reforms to ACT heritage governance and administration arrangements include:

- ensuring adequate financial support is provided to ACT Heritage and the Heritage Council to implement the strategic reforms; this will provide the ACT Government with better heritage outcomes significantly faster than otherwise
- attracting suitably skilled people to ACT Heritage in the prevailing tight labour market
- ensuring that the work to improve ACT Heritage's underlying business systems (including redeveloping the Heritage Register) is completed in a timely manner – this work is essential to achieving maximum benefit across the range of strategic reforms
- strengthening and building on the Heritage Council's suite of public policy and guidance material will require significant effort – this can be made more efficient by drawing on similar policies and guidance material in other jurisdictions, together with active participation at Heritage Chairs and Officials of Australia and New Zealand in the sharing and exchange of ideas, policy and problem solving
- ensuring the passage of the identified legislative amendments required, amongst other things, to resolve the outstanding ACT Heritage Register nominations – the key to this will be getting appropriate priority within the Government's legislative timetable
- building momentum in repairing the Heritage Council's brand/reputation will require constant reinforcement and celebration of achievements – this will be the simplest and most impactful way to demonstrate positive change but will fall flat if not sufficiently resourced.

Early signs of success and enhanced reputation will embolden ongoing stakeholder commitment to the reform process.

A suggested prioritisation of the identified strategic reforms to the governance and administration of the ACT heritage arrangements is shown in Figure 9.

Figure 9: Prioritisation of proposed strategic reforms to the governance and administration of the ACT heritage arrangements



Endnotes

- ¹ About World Heritage, World Heritage Convention, UNESCO, Accessed 3 July 2023
- ² [Heritage Registration and Protection. Environment, Planning and Sustainable Development Directorate. Accessed 3 July 2023.](#)
- ³ *Dhawura Ngilan* was developed under the auspices of the Heritage Chairs of Australia and New Zealand
- ⁴ About World Heritage, World Heritage Convention, UNESCO, Accessed 3 July 2023
- ⁵ [Heritage Registration and Protection. Environment, Planning and Sustainable Development Directorate. Accessed 3 July 2023.](#)
- ⁶ [Review of the ACT Heritage Council – Public Report, Nous Group, November 2022](#)
- ⁷ Heritage Chairs and Officials of Australia and New Zealand. (2005). *Submission to Productivity Commission Inquiry Into The Policy Framework And Incentives For The Conservation of Australia's Historic Heritage Places*
- ⁸ Australia ICOMOS. (2013). *Australia ICOMOS Burra Charter*
- ⁹ [Annual Report 2021-22, Environment, Planning and Sustainable Development Directorate, ACT Government](#)
- ¹⁰ Mr B Wood MLA, (2004). *Second Reading Speech - Heritage Bill 2004*. ACT Legislative Assembly Hansard.
- ¹¹ Mr S Corbell MLA, (2013). *Second Reading Speech - Heritage Legislation Amendment Bill 2013*. ACT Legislative Assembly Hansard.
- ¹² Edited extract from the *ACT Government Submission to the Standing Committee on Environment, Climate Change and Biodiversity Inquiry into ACT's Heritage Arrangements*, Rebecca Vassarotti, MLA, Minister for Heritage, March 2023
- ¹³ Mr B Wood MLA, (2004). *Second Reading Speech - Heritage Bill 2004*. ACT Legislative Assembly Hansard.
- ¹⁴ Mr B Wood MLA, (2004). *Second Reading Speech - Heritage Bill 2004*. ACT Legislative Assembly Hansard.
- ¹⁵ Mr S Corbell, MLA, Minister for the Environment and Sustainable Development (16 May 2013), *Second Reading Debate, Heritage Legislation Amendment Bill 2013*, ACT Legislative Assembly Hansard.
- ¹⁶ [Heritage Assessment Policy](#), ACT Heritage Council, March 2018, p 3.
- ¹⁷ [Heritage Legislation Amendment Bill 2013: Summary statement](#). Accessed 25 May 2023
- ¹⁸ Mr S Rattenbury, MLA (25 September, 2014), *Second Reading Debate, Heritage Legislation Amendment Bill 2013*, ACT Legislative Assembly Hansard
- ¹⁹ Note: Discussion with ACT Heritage staff indicate that the Registrations Team is resourced for three FTE and ACT Heritage will be seeking to fill the vacant positions now that a new Heritage Council has been appointed
- ²⁰ ACT Heritage, Overview – Registrations Team, April 2023
- ²¹ Source: ACT Heritage Approvals and Advice team
- ²² Dr Stuart King, Tasmanian Heritage Council member, *Back to the Future - Situational Analysis of the Historical Heritage Ecosystem in Tasmania, Final Report*, Stenning & Associates, 2022