ACT Heritage Jurisdictional Review – Phase 2

Listening report

FINAL

November 2023

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Ask.
Listen.
Understand.
Achieve.

Acknowledgement of Country

In the spirit of reconciliation, Communication Link acknowledges the Ngunnawal people, Traditional Custodians of the land on which our head office resides. We acknowledge and respect their continuing culture and the contribution they make to the life of our community in Canberra and the region. We also acknowledge all other Aboriginal and Torres Strait Islander peoples as the Traditional Custodians of all land on which our work and connections may reach, and pay our respect to their Elders, past and present.

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Glossary

| Term	Definition
ACH	Aboriginal Cultural Heritage
ACHB	Aboriginal Cultural Heritage Body
ACT	Australian Capital Territory
ACT Heritage	ACT Heritage Unit located in EPSDD
EPSDD	Environment, Planning and Sustainable Development Directorate
Exemption	Document confirming minor works are permitted to proceed

1. Executive Summary

Canberra's growth necessitates the careful consideration of heritage preservation amid development. The Heritage Council, governed by the *Heritage Act 2004*, plays a vital role. 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. Phase one of the review identified two key reform themes: empowering ACT Aboriginal People in heritage decisions and enhancing governance and administration.

Phase two of the review involved extensive consultation from August to October 2023. The consultation was promoted by the ACT Environment, Planning, and Sustainable Development Directorate (EPSDD), including paid advertising and organic social media posts. The goal was to ensure broad engagement from diverse stakeholders.

This report summarises feedback gathered during consultations with the ACT community, industry, and Aboriginal community. Consultation methods included YourSay surveys, workshops, and submissions. Strategic reforms were explored, and participants provided insights on the importance and challenges of the proposed changes. This report details participant numbers and contributions across various events and surveys.

The communication strategy engaged community members, industry representatives, and Aboriginal communities. A dedicated YourSay page facilitated surveys, while workshops delved into strategic reform rankings, ACT Heritage processes, and ACT Aboriginal Heritage. Aboriginal workshops adopted a discussion format. Submissions were also accepted, and summaries are provided in the report.

718 items of feedback were received. These were analysed and resulted in 1109 data points or separate pieces of feedback. Analysis of the feedback provided identified that reforms were largely supported with some suggested alternatives or omissions highlighted, included reflection of local heritage and interactions with the planning system. Figure 1 below shows the outcome of this analysis and the main feedback categories. These are explored further in section 5 of this report.
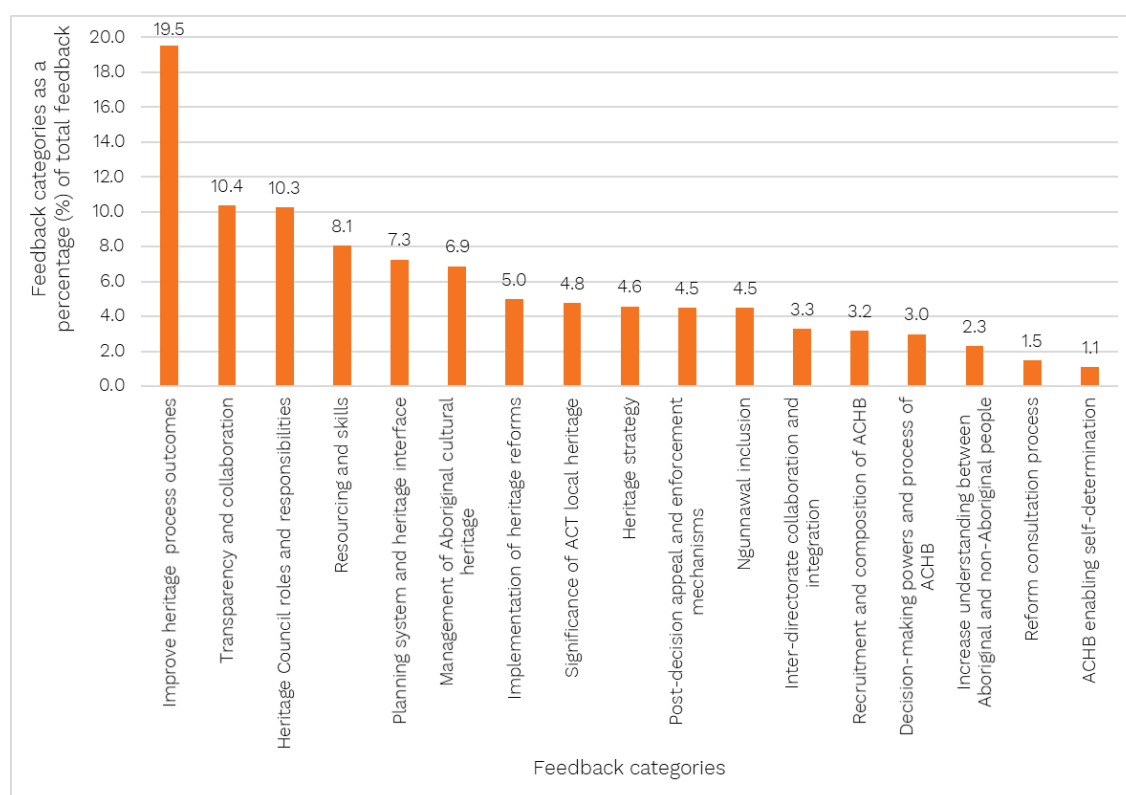
Figure 1. Feedback categories reflected as percentage of total feedback received

2. Introduction

As Canberra continues to grow, there is a strong importance in ensuring that we value, protect and celebrate our heritage with future development. The Heritage Council is an independent, statutory body responsible for a range of provisions under the *Heritage Act 2004*. ACT Heritage within the Environment, Planning and Sustainable Development Directorate, provides the Heritage Council with administrative support and advises the Minister for Heritage about heritage matters.

The Heritage Council, supported by ACT Heritage, provides advice and assistance to heritage property owners and other members of the community, industry and government. This includes the heritage registration process and providing heritage advice on proposed works and development.

On 7 December 2022, the Minister for Heritage announced a comprehensive jurisdictional review of the ACT Heritage arrangements, and this included the dissolution of the then ACT Heritage Council. An interim Council has subsequently been established.

Phase one of the review 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'. The report for phase one of the review was submitted in July 2023 and identified 9 strategic reforms and 43 supporting actions spanning two key reform themes:

- **Reform theme one** – Establishing ACT Aboriginal People as the decision makers on their cultural heritage.
- **Reform theme two** – Strengthening the governance and administration of the ACT's heritage arrangements.

The ACT Heritage Jurisdictional Review Phase 1 Final Report is available here.

Phase two of the reform involved consultation on the proposed reform themes and strategic reforms, which will guide the development of an Action Plan. This included consultation with the ACT community, industry and Aboriginal community from September – October 2023. Stenning & Associates, in conjunction with Communication Link, New Insights and Paul Knight undertook Phase two of this review.

2.1   Purpose of this listening report

This listening report describes what we heard from consultation with the ACT community, industry and Aboriginal community members between Friday 25 August to Friday 13 October 2023, through community and industry and Aboriginal surveys on YourSay, community and industry workshops, Aboriginal workshops and submissions.

This report reflects the feedback and sentiment captured from participants. The worksheets used to capture feedback in the workshop are provided in Appendix B of this report.

2.2   Documents

This plan should be read in conjunction with the following documents:
- ACT Heritage Jurisdictional Review Phase 1 Final Report
- ACT Heritage Jurisdictional Review Phase 2 Consultation Report.

3. Consultation structure

3.1 Consultation objectives and approach

To support the ACT Heritage Jurisdictional Review, the ACT Government sought to engage with community members, industry representatives and the Aboriginal community in the ACT. The consultation objective was to deliver broader community, industry and Aboriginal consultation to gather feedback on the ACT Heritage Jurisdictional Review reform recommendations.

Communication Link was engaged by Stenning & Associates to develop an engagement approach, implement engagement activities and report on community engagement for this Project.

The consultation focused on exploring the reform themes and their strategic reforms outlined in the Phase 1 report. These are listed below.

Reform theme one: ACT Aboriginal People – Establishing ACT Aboriginal People as the decision makers on their cultural heritage.

1. Establish and resource an Aboriginal Cultural Heritage Body (ACHB) that gives Aboriginal People the role of determining Aboriginal Cultural Heritage (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 two: Governance and administration – Strengthening the governance and administration of the ACT's heritage arrangements.

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.

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.

3.2   Activities

Consultation activities were designed to gather feedback on the proposed reform themes and identify any other elements of heritage in the ACT that participants felt were.

Throughout the consultation period, the following consultation activities were used to collect data from key audiences:

3.2.1   YourSay consultation page and survey

A dedicated YourSay consultation page was created and included two surveys, one for the community and industry to complete and the second for Aboriginal community members to complete.

The broader community and industry survey focused mainly on Reform theme two, and the Aboriginal survey focused on Reform theme one.

The Community and Industry YourSay survey is in Appendix B, and the Aboriginal YourSay survey is in Appendix C.

3.2.2   Community and industry workshops

In total, three community and industry workshops were conducted, with two in-person and one online. During the workshops, participants were provided with activity worksheets, and they were guided by the facilitator to provide feedback on the following three key focus areas:

1. **Strategic Reform Rankings** – Participants were asked to rank the strategic reforms from most important to least important based on their knowledge and experience as a community or industry member. Participants were also encouraged to provide any additional feedback they wished to provide on the strategic reforms and identify why they had ranked them in the way they had. The worksheet for this activity is in Appendix A.

2. **ACT Heritage processes –** Participants were asked to provide their feedback on ACT Heritage processes across categories, including information, advice, application, submission, decision, management and ongoing communication and engagement. Participants were asked what they would like to see in the future and why. The worksheet for this activity is in Appendix A.

3. **ACT Aboriginal Heritage** – Participants were asked for their views on the implementation issues and opportunities that might be presented through Reform theme one through the following questions: 1. What opportunities do you think this reform theme would present, and 2. What issues would need to be addressed in implementing this reform theme? The worksheet for this activity is in Appendix A.

3.2.3   Aboriginal workshops and one-on-one consultation

Two Aboriginal community workshops were conducted, with both workshops being held in person. The workshops followed the same format as the community and industry sessions, focusing on the strategic reforms under each reform theme, ACT Heritage processes and ACT Aboriginal heritage. However, rather than using activity sheets, participants were guided by the facilitator to have an open discussion about each topic and how they impact ACT Aboriginal heritage.

Following the Aboriginal community workshops, Paul Knight, an Aboriginal specialist consultant, engaged directly with other Aboriginal groups to seek their additional feedback.

3.2.4   Submissions

All stakeholders had the opportunity to provide a submission directly to ACT Heritage. Summaries of all the submissions received are outlined in section 5.6 of this report.

3.3   Promotion

EPSDD managed the promotion of engagement activities. The promotion activities aimed to raise awareness of the consultation period and provide information on how people could participate in engagement activities. Promotional activities included:

- **Paid advertising** – advertising spend was put towards boosting organic social media posts on the EPSDD social media channels.
- **Organic social media** – posts were shared on the EPSDD social media channels to promote the consultation and encourage people to complete the survey or attend a workshop.

4. Participation

4.1 Participant numbers

This section outlines the participation of individuals throughout the consultation activities. It identifies both the number of attendees at each event as well as the number of data points yielded from contributions made. A data point represents a single idea, suggestion, or piece of feedback resulting from analysis of the feedback given. Individual piece of feedback may be further analysed to produce multiple data point representing each singular idea included in the feedback provided.

In undertaking the analysis of the consultation feedback, each piece of feedback has been considered independently. It should be noted that some people attended more than one event.

Table 1. Summary of participation and contributions

| Event	Event date	Location	Participants	Data points
Community and industry workshop 1	Monday 11 September 2023	Ramada Encore, Belconnen	9	123
Community and industry workshop 2	Tuesday 19 September 2023	Griffith Hall, Griffith	16	149
Community and industry workshop 3	Wednesday 20 September 2023	Online	5	50
Aboriginal Workshop 1	Monday 18 September 2023	Wildbark, Throsby	10	29
Aboriginal Workshop 2	Tuesday 19 September 2023	Griffith Hall, Griffith	2	33
Community and industry YourSay survey	25 August – 13 October 2023	Online	44	546
Aboriginal YourSay survey	25 August – 13 October 2023	Online	3	35
Aboriginal 1:1 consultation	25 August – 13 October 2023	Various	7	41
Submissions	25 August – 13 October 2023	Online	14	103

5. Outcomes

5.1   Overarching feedback categories

An analysis was undertaken across all data received (from sources listed above) to show the most recurrent feedback.

718 items of feedback were received. These were analysed and resulted in 1109 data points or separate pieces of feedback. The feedback was categorised to identify recurring or similar feedback.

Figure 1 shows the main feedback categories and the percentage of total feedback represented by each. It is important to note that consultation is not market research and represents the views of those who are impacted by a proposal, influential to a proposal or are interested in a proposal. Therefore, it is not always about responding to the issue that is raised most frequently first. This form of analysis is a way to show areas of particular interest and group feedback in a way that enables further consideration and response.
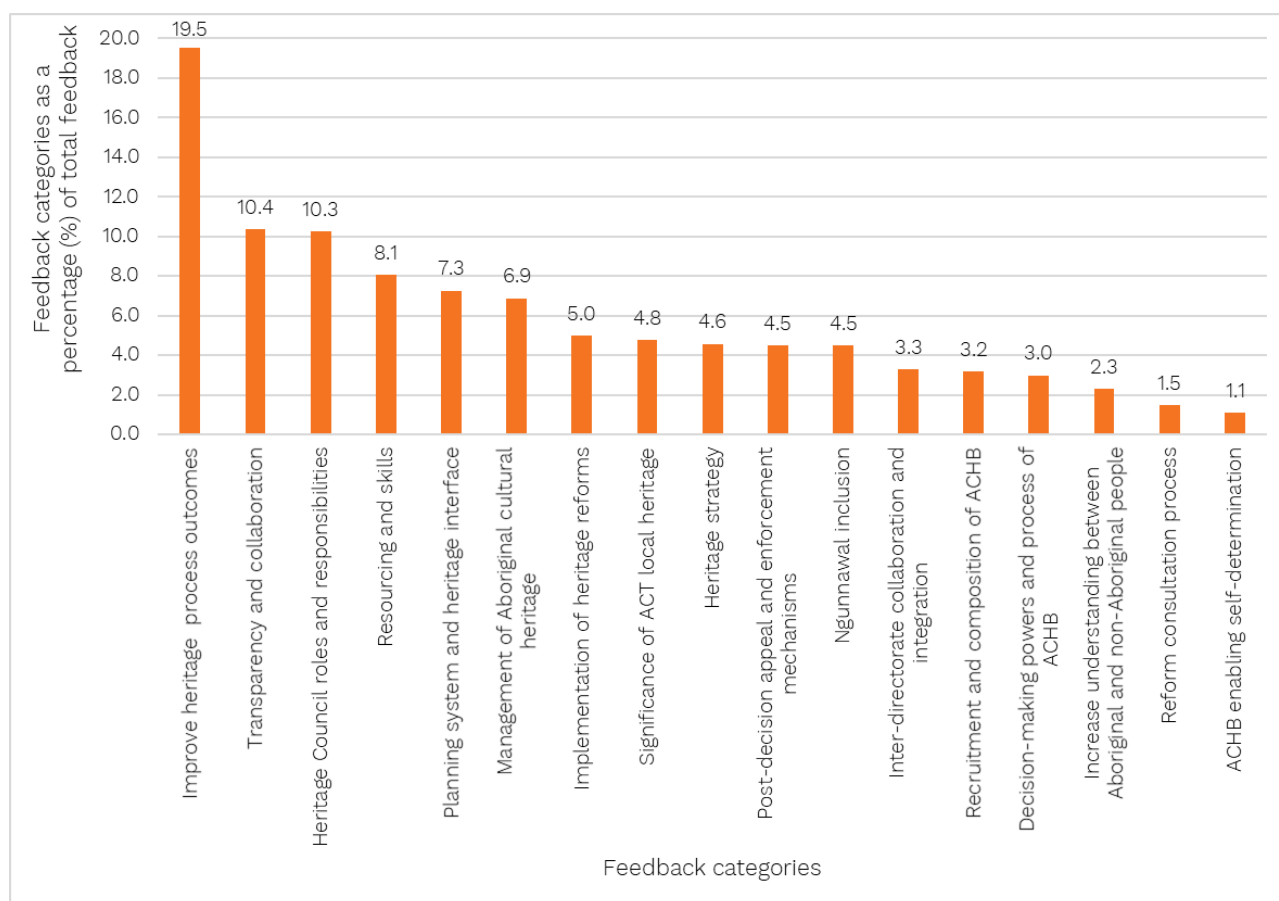
**Figure 2.**   Feedback categories reflected as percentage of total feedback received

5.1.1   Improve heritage process outcomes

19.5% of total feedback

Nearly one fifth of the overall feedback received related to the expectations of community and industry for improvements to heritage identification, nomination and assessment processes.

This feedback has been further refined and categorised into three sub-categories. Figure 2 shows this category broken down further.
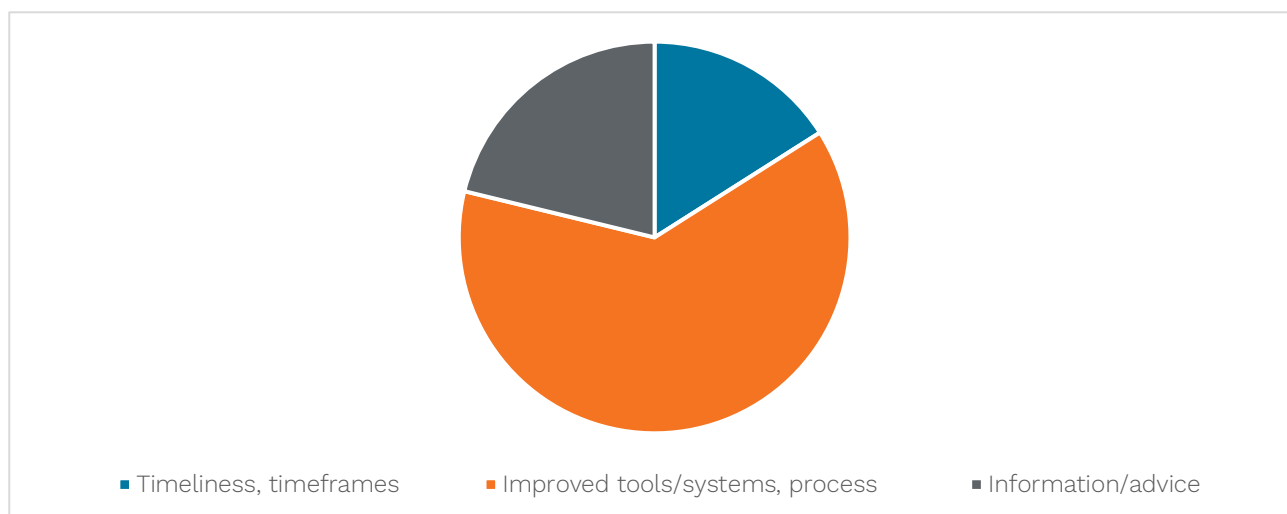
Figure 3. Heritage identification, nomination and assessment process sub-categories

5.1.1.1 Improved systems/tools or processes

Under the sub-category of improved systems/tools or processes, feedback focussed on ways to improve or reform the current ACT heritage processes, as well as suggested specific tools or ways to improve the user experience. This sub-category was often linked to the other sub-category of advice and information. Tools suggested, across all heritage including Aboriginal Cultural Heritage, mainly focussed on modernising the approach and making it easier to access, including an online portal where information can be more easily accessed, a map where information can be more easily found, and a modern digital register with the ability to add more documents (e.g., Conservation Management Plans) and increase the level of self-service available.

There was various feedback provided on ways to reform or improve heritage processes, including streamlining approaches on advice and approvals and ensuring a systematic and accountable approach to the review and application of new heritage listings in the ACT. The desire to resolve the backlog of nominations to the ACT Heritage list was also raised in the context of the reforms. However, concerns were raised around heritage outcomes resulting from the removal of pre-2003 nominations as proposed under Reform theme two, particularly in submissions to the consultation process.

5.1.1.2 Information and advice

Under this sub-category, feedback focussed on being able to have effective and easier access to information, as well as ways to be able to receive clearer advice. Feedback suggested a range of improvements to concerns raised, including easier direct access to heritage officers and the ability to talk through projects, clear guidance on the application process, process maps, and being able to access information more easily in relation to applications and processes.

5.1.1.3 Timeliness and timeframes

The timeliness and timeframes sub-category feedback related to delays in processing and long approval and response times, as well as the possibility of implementing timeframes for approval, advice or decisions. Feedback focussed on timeframes across receiving advice or correspondence to decisions and approvals. Feedback suggested timeframes could be enforceable or statutory. However, it was also noted in some feedback received that this may cause applications to be refused to meet statutory deadlines.

5.1.2   Transparency and collaboration

10.4% of total feedback

A significant category in the consultation was a desire from respondents for a more active role in heritage identification, assessment and management processes. A hallmark of this was the desire for a significant increase in transparency to build trust and increase participation.

Suggested opportunities to increase transparency included:

- Ensuring Heritage Council processes, including minutes, agendas, decision outcomes and reasonings, were made publicly available
- Heritage Council member nomination and selection process
- Removing uncertainty around continued lease arrangements for heritage sites
- Increasing the visibility of heritage nominations
- Increasing ease of availability for Conservation Management Plans
- Developing an enforcement/compliance policy in collaboration with Access Canberra
- Establishing policy guidelines for ACT planning decisions to ensure consideration of heritage values
- Amending the Planning Act to clarify the circumstances allowing deviation from Heritage Council advice.

In addition, participants voiced a desire to play a more active role in these processes as collaborative partners, providing community knowledge. Suggested methods of inclusion included the establishment of local heritage values, establishing community heritage care programs, ongoing and mandatory community consultation to inform heritage decisions, and further involvement of Community Councils in celebrating and conserving local heritage.

The Heritage Festival was noted as a positive way that heritage is celebrated and collaboration encouraged in the ACT.

Clear communication was viewed as a key enabler of increased transparency and collaboration, with feedback citing the need for a communication strategy and increased communication through heritage assessment processes. Timely responses to emails and clear information available through accessible channels were suggested as ways to enhance trust.

5.1.3   Heritage Council roles and responsibilities

10.3% of total feedback

The majority of feedback in this category related to the low awareness levels that exist in the community and industry relating to the role of the Heritage Council and confusion around processes relating to its remit and functions. It was suggested that this was in part due to a lack of information and the Heritage Council performing other roles due to resourcing issues. Further definition of the roles and responsibilities of the Heritage Council was endorsed, and feedback supported clear documentation and communication to stakeholders and community of what the decided roles and responsibilities were. This feedback aligned with the proposed reform strategy: *Review the Heritage Council's policy and processes to clarify and improve its decision-making capacity and capability and to guide and inform stakeholders.* Feedback also indicated support for a strong Secretariat to support the Heritage Council in fulfilling these defined roles.

Further knowledge gaps relating to the Heritage Council correlated to the processes used to come to decisions relating to heritage items. In particular, where there is conflict with planning matters or environmental matters, some feedback indicated that heritage is not always protected in these

instances, with other feedback indicating that heritage protection is standing in the way of affordable housing construction.

Suggestions for improvement in the operations of the Heritage Council included developing a range of Council committees that could be augmented with additional knowledge from experts, such as in other jurisdictions. Suggestions were made to increase the effectiveness of the Heritage Council as a referral agency for planning applications. However, it was also suggested that acting as a referral agency should be outside of the remit of the Heritage Council, and their focus should remain on heritage promotion and engagement. Some feedback suggested the role of the Heritage Council could be replaced from expertise that already exists within the government.

In relation to the role of the Heritage Council in the planning system, support was given for greater timeframes for the Heritage Council to respond to development applications and for the inclusion of community engagement in formulating responses to these applications.

The membership of the Heritage Council was included in the feedback, indicating that it is essential to ensure the membership is broad with diverse skill-sets beyond simplistic categories of 'cultural' and 'natural'. Support was offered for giving the Minister the ability to appoint new members with expertise in areas such as biodiversity and environment.

Although covered in another feedback category, there was feedback relating to the role of the Heritage Council in fairly investigating complaints and advocating for the inclusion of an appeals mechanism for certain decisions of the Council.

5.1.4   Resourcing and skills

8.1% of total feedback

A strong feedback category throughout the consultation was the need for additional resourcing within ACT Heritage and the need for diverse, available skillsets contributing to heritage management in the ACT.

A lack of resourcing was raised as a barrier for the completion of business-as-usual processes and the effective implementation of new or refined processes, including:

- Compliance
- Implementation and management of Conservation Management Plan work
- Timeliness of assessment and advice
- Provide additional assistance to the application of submissions
- Earlier engagement with the community
- Earlier engagement with experts or across government
- Heritage tourism promotion
- Increased resource availability for strategic planning
- Review and streamlining of heritage register.

Specialist skillsets suggested during the consultation include:

- Geo-heritage
- Aboriginal cultural heritage
- Parks management
- Community and stakeholder engagement
- Liaison with developers
- Disaster management specialist
- Conservator

- Built Heritage specialist
- Environmental heritage specialist
- Indigenous specialist
- Intangible heritage specialist
- Movable heritage specialist
- Urban planner specialist
- Stakeholder engagement specialist
- Linguistic specialist
- Public art specialist.

It was suggested that processes for engagement specialist consultants could be streamlined and improved. It was also suggested that micromanagement from ACT Heritage reduces the effectiveness of the specialist skills of consultants, and this results in a reduction in the resourcing support that these roles could offer with less intervention.

Under-resourcing and fragmentation of management across other heritage areas in the ACT were mentioned, including Archives ACT and the ACT Heritage Library.

The economic benefit of heritage to the ACT and the nation was noted as significant and a key reason to ensure adequate resourcing to protect it.

There was a clear alignment between the feedback captured in this category and Reform theme one, calling for increased capacity building of the ACT Aboriginal People to participate in Aboriginal Cultural Heritage recognition, conservation and management. It was noted that this increased capacity also had to be supported from an economic perspective to ensure that expertise was valued and continuity was ensured as people would be able to draw an income from their involvement. The employment of Ngunnawal people within ACT Heritage was also proposed.

5.1.5   Planning system and heritage interface

7.3% of total feedback

The interface between heritage and the ACT Planning System was the fourth most common feedback category. This is primarily related to the role of the new Planning Act and system in heritage protection.

Feedback indicated participants had a strong desire to understand more about how the new planning system would align with the heritage review and how the new planning system processes would protect heritage. This was highlighted through particular reference to areas including zoning changes, outcomes-based planning system, call-in powers, lack of heritage references in the new Planning Act, impact of development on adjacent heritage properties, and development of clear policy and process documents guiding outcomes.

Other feedback related to needing increased surety that Heritage Council advice would prevail when in conflict with other planning or environmental advice. Feedback suggested that heritage is often overlooked in planning outcomes.

Conversely, some feedback indicated that heritage cannot be used to prevent the development of a modern city, and some social and economic values would present a higher priority, such as urban infill and affordable housing.

Exempt developments were another feature of planning system related feedback, highlighting a need for increased expert scrutiny on exempt developments and a need to understand circumstances where allowed outcomes deviate from the Heritage Act.

5.1.6 Management of Aboriginal cultural heritage

6.9% of total feedback

This feedback category focused on ensuring the heritage system does more to recognise and protect cultural heritage – both tangible and intangible. It also spoke to the need to increase education to ensure that found Aboriginal cultural heritage items would be protected and reported rather than being destroyed out of fear or ignorance. This included suitable integration of appropriate Aboriginal cultural management processes into the remits and practices of other parts of the ACT Government.

Suggested strategies for ensuring this focus in the implementation of proposed Reform theme one included increasing the amount of education, increasing the understanding of heritage processes and protections, and renaming significant sites.

Feedback in this category highlighted the gaps in our current system to protect intangible heritage such as landscapes and vistas, flora, trees and traditional practices. This feedback acknowledged the need for appropriate storage, such as in an Aboriginal Cultural Centre or appropriate repatriation of artefacts onsite if found during development activities.

It was further suggested that in implementing the themes of Reform theme one, there are good examples of project-based works where the identification and management of artefacts was prioritised, which led to good outcomes, such as the construction of the enlarged Cotter Dam.

5.1.7 Implementation of heritage reforms

5.0% of total feedback

Feedback in this category related to feedback that identified how the reforms should be implemented. It also related to feedback that identified priorities or processes that should be used in determining the order of implementation under the reform themes.

Feedback indicated that implementation should be primarily driven by responding to the most critical needs, the most important needs, and in considering dependencies between actions to ensure that foundational systems, knowledge, skillsets, etc, were in place before other actions were commenced.

When asked to rank the reforms, some refrained, stating that they could not rank them as they were all important. Further information on the ranking of proposed strategic reforms is found in section 5.3 of this report.

The implementation of the reform themes was often coupled with feedback about the proposal to remove pre-2003 nominations from the Heritage Register. Feedback indicated that there should be a level of assessment applied to these nominations before removing them to ensure that no important nominations were missed and that this process should not be used as an opportunity to sidestep controversial nominations.

Feedback consistently noted that implementation of Reform theme one would take time and would perhaps need more time allocated. However, the reform was seen as an important priority.

Appropriate resourcing was also viewed as critical to the implementation of reform themes. Specific suggestions to support the implementation included:

- Upgrading online customer interfaces
- Undertaking a comprehensive thematic analysis to determine gaps in the current register (it was suggested this should take place prior to removing anything from pre-2003 from the register) or to reflect changes in heritage values
- Undertaking a comprehensive study/audit to identify potential heritage sites
- Implementing a simpler way to update heritage listings.

Some suggested that they would welcome further involvement in the development and finalisation of the Action Plan that is being prepared for the reforms.

This feedback also advocated for the importance of ensuring the implementation of the reform themes is accompanied by a review in 12 months' time.

5.1.8 Significance of ACT local heritage

4.8% of total feedback

This feedback category proposed a need for a two-tiered heritage management system in the ACT. It reflected a strong call to recognise and assess heritage with 'local' value, challenging the perception that local heritage holds no intrinsic value. The unique status of Canberra as the nation's capital was emphasised, urging that the Heritage Act be modified to establish two tiers of heritage value—territory and local levels—to preserve the city's significance on both national and local scales. Stakeholders stressed the importance of retaining the city's distinct identity while incorporating technological advancements like digitisation for a comprehensive understanding of heritage.

Inclusivity in heritage management was also noted. Respondents noted the need to incorporate diverse voices, including Canberra-born knowledge beyond Indigenous perspectives, and advocate for a more inclusive representation of women in planning and design and community-held values.

It was suggested through the consultation that more could be done to protect and celebrate local heritage, including promoting heritage tourism.

5.1.9 Heritage strategy

4.6% of total feedback

The development of a Heritage Strategy was one of the proposed reform strategies. Feedback relating to this proposal made up just under five per cent of the total feedback received and was supportive overall. However, concern was raised that the development of a Heritage Strategy should not occur at the expense of resourcing other, more pressing issues, such as determining roles and responsibilities or elevating the role of Aboriginal people in managing their cultural heritage. A small number of respondents indicated they were not supportive.

The proposed Heritage Strategy was viewed as a means to create a strong vision and core principles for heritage in Canberra, both locally and as the nation's capital. It was also seen as a place to include references to the impacts on heritage of things like climate change and to reflect community values and benefits drawn from heritage, such as wellbeing.

This feedback included suggestions that a heritage strategy would need to be proactive and identify potential heritage across the ACT, including those of local heritage significance and Aboriginal cultural heritage.

It would need to consider processes and timeframes, such as those for the heritage listing nomination and assessment process.

It should also outline clear, enforceable community and industry engagement processes, including clear identification of ways to promote the value of heritage.

5.1.10 Post-decision appeal and enforcement mechanisms.

4.5% of total feedback

This feedback sought additional processes and resources for the heritage management process post-application decision. This feedback focused on two areas – the need for an appeals mechanism in the heritage application process and the need for a compliance and enforcement mechanism, with enforceable penalties, to ensure that heritage rulings were being adhered to. For the latter, it was

suggested that there could be additional support offered by way of financial incentives or grants to assist with making adherence easier.

5.1.11   Ngunnawal inclusion

4.5% of total feedback

A strong feedback category through Aboriginal workshops was a request for the term 'Aboriginal cultural heritage' to be replaced by 'Ngunnawal cultural heritage', as the Ngunnawal People identified themselves as the traditional custodians of the lands of the ACT. It was also suggested that exemptions for the undertaking of traditional practices should be limited to Ngunnawal traditional practices. This reflected the composition of the Aboriginal workshops being attended by Ngunnawal representatives.

It was noted in other meetings held with representatives of other Aboriginal groups that this view was not supported by them, and other groups should be included when implementing Theme One strategic reforms.

5.1.12   Inter-directorate collaboration and integration

3.3% of total feedback

The need for the ACT Government to collaborate and integrate better on matters relating to heritage was noted in this category. This category also reflected feedback noting that in the ACT, the ACT Government has responsibilities at what would be a state and local level in other jurisdictions.

The need for parts of government to work together for the nomination, assessment, protection, and management of heritage items and locations was reiterated many times. The lack of coordination across government for elements such as entity referrals was noted. As was the coordination needed to protect significant heritage sites such as the Sydney and Melbourne buildings, noting that these sites show a visible reminder if coordination is not achieved. This was also highlighted as important for the customer service experience of those in the community and industry seeking to protect or manage heritage.

The structural functions of heritage management were also referenced, citing concern that the co-location of heritage and planning were resulting in planning 'gazumping' heritage, leading to negative outcomes for heritage. A suggested solution for this, highlighted mainly in the submissions, was to have the heritage management functions of government separated from the planning directorate.

5.1.13   Recruitment and composition of Aboriginal Cultural Heritage Body (ACHB)

3.2% of total feedback

The proposal for an appropriately resourced ACHB was supported throughout consultation across Aboriginal, broader community and industry groups.

The processes used for recruitment of the ACHB and the composition of members was discussed during Aboriginal workshops and in subsequent meetings. Opportunities and issues potentially raised by the proposal of an ACHB were also canvassed in community and industry workshops.

The question of who speaks for Country was a key part of these discussions. Through conversations it was expressed that the current Registered Aboriginal Organisation process was not supported as a means to determine ACHB membership. Apical ancestry was suggested, and this was supported through Aboriginal workshop discussions. However, it was noted that the anthropology process needed to be carefully managed.

It was suggested by some that the research group investigating apical ancestry needs to include an Aboriginal person or persons to ensure cultural safety.

It was suggested by some that an independent arbitrator needs to be appointed to ensure that any investigation into apical ancestry is inclusive of all groups and meets the standard that would be expected for Native Title evidence.

Ngunnawal groups reflected that as the recognised traditional owners of the ACT, the ACHB should comprise only Ngunnawal members. The Dhawura Ngunnawal Caring for Country Committee was suggested as a potential avenue for the ACHB. However, it was noted that not all Ngunnawal family groups were represented in this forum.

Other conversations noted that the ACHB needs to be inclusive of all groups with 'cultural rights' within the ACT, not just Ngunnawal, and these groups include Ngambri and Ngarigo.

The structure and composition of the ACHB was also discussed with suggestions of male and female representatives, as well as the inclusion of those with cultural expertise and commitment, as well as knowledge of heritage management legislation and processes. Remuneration was also flagged as a necessary requirement.

Representation on the ACT Heritage Council was also raised with a suggestion that the Council should have a fifty per cent representation of Ngunnawal members.

5.1.14   Decision-making powers and process of ACHB

3.0% of total feedback

Although the reform themes only propose the concept of an ACHB, much of the feedback provided went into detail about the process and decision-making powers that an ACHB would have.

Feedback sought:
- Clearer information about how the heritage protection system works in the ACT, especially with respect to Aboriginal cultural heritage values
- Guidance on how to handle conflicting advice from Registered Aboriginal Organisations
- Understanding of how management would occur in sites where cultural knowledge has been lost
- Guidance on how ACHB would engage with proponents
- To understand how conflicts would be managed
- To understand how decision-making would interact with other government agencies.

5.1.15   Increase understanding between Aboriginal and non-Aboriginal people

2.3% of total feedback

In response to the proposed Reform theme one, it was suggested that the sharing of appropriate stories could foster a much greater appreciation of cultural heritage, recognition of cultural heritage, and sensitive responses that are inclusive.

There was also strong support for the development of structures to provide the broader community with a strong appreciation and understanding of the value of ACH, including within Government agencies. It was also suggested this would be a great tool for truth-telling and understanding both the good and bad parts of our history.

Overall, it was suggested that this reform could lead to a better understanding of Aboriginal cultural heritage by both Aboriginal and non-Aboriginal people.

5.1.16   Reform consultation process

1.5% of total feedback

Some feedback was provided through the consultation process that focused on the mechanisms and processes used for the consultation process. Throughout, this feedback was monitored, and timely action taken to amend or change the approach is possible.

A summary of this feedback included that the YourSay questions were too directive, that heritage consultants should have been engaged separately to the community, and the development sector should have been approached separately as well. Some expressed concern about the ranking activity in the workshops.

The authenticity of the process was questioned and whether 'anyone was listening' was also raised at time when providing responses, particularly in workshop activities. This suggested a lack of trust.

A small amount of feedback focused on the consultation process used to develop the *ACT Heritage Jurisdictional Review – Phase 1 report*, noting that there should have been broader ACT Government agency consultation. Also, concern was expressed that the *ACT Heritage Jurisdictional Review – Phase 1 report* did not appear to reflect on the insights from 65 submissions to the Legislative Assembly inquiry into heritage arrangements. It was noted in all community and industry workshops that the report did draw upon these submissions to inform its findings.

## 5.1.17   ACHB enabling self-determination

1.1% of total feedback

A small amount of feedback noted that the ACHB was an important step in enabling self-determination for Aboriginal people, with some feedback indicating that it still did not go far enough and citing that the frameworks, structures and language used, which it would be required to work within, were still 'colonial' in nature.

5.2   YourSay data – interactions with ACT Heritage

Surveys conducted on the ACT Government's feedback platform YourSay sought to understand current interactions with ACT Heritage and to identify where barriers had been experienced.

70% of respondents had directly interacted with ACT Heritage before, with the remaining 30% of respondents indicating they had not. Furthermore, the survey sought to understand where respondents experienced barriers or issues, as illustrated in Figure 3.
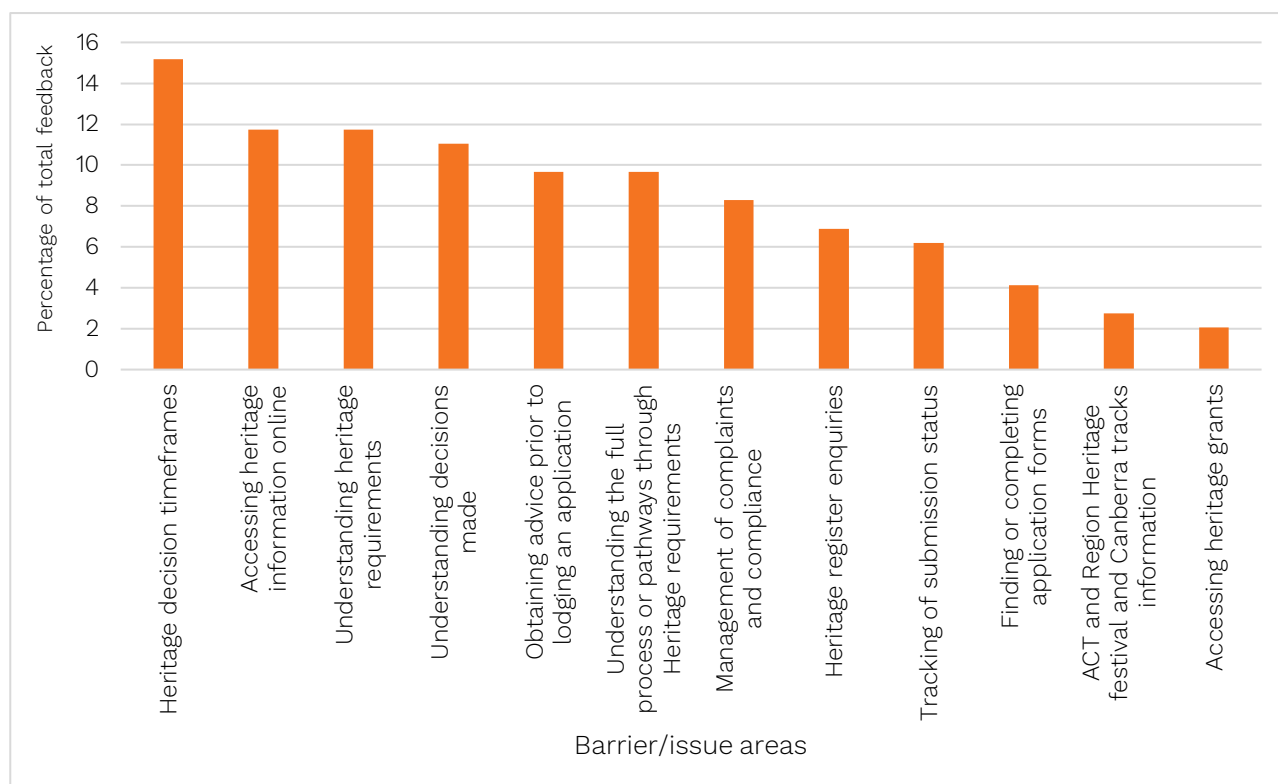
Figure 4.   YourSay data showing areas where respondents had experienced barriers or issues in interacting with ACT Heritage.

Areas suggested by respondents on *what areas they would you like to see more information available on the policies and processes guiding heritage decision-making* included:

- Exempt developments
- Heritage assessment and decision-making process, including minimum standards for archaeological test excavation and impact assessment
- Aboriginal engagement policies
- Process for accessing restricted information
- Visibility of the Heritage Register, including information on the nature of the heritage
- Planning development applications and approvals
- Clear guidelines on what is considered heritage (not just buildings)
- Priorities and processes for managing where there are conflicts between policy outcomes
- Publicly available Conservation Management Plans.

5.3 Ranking strategic reforms

Community and industry workshops and YourSay surveys sought to ask participants to rank the nine proposed strategic reforms under the reform themes in terms of importance to them.
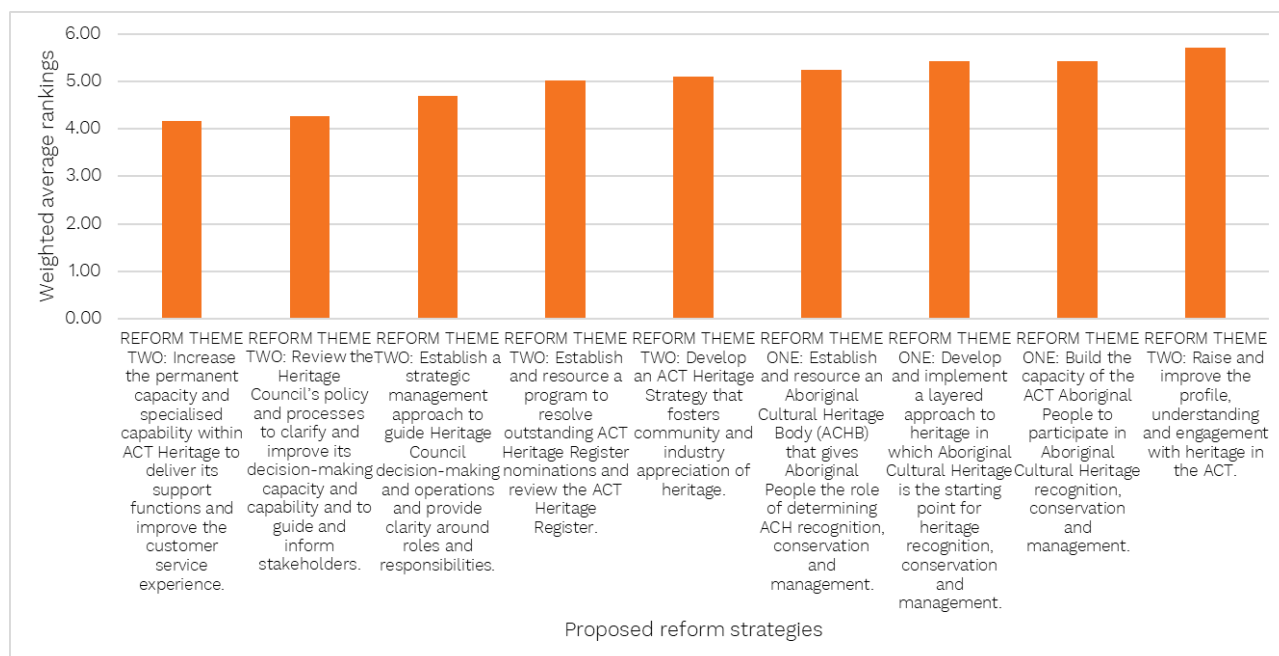
5.3.1 YourSay outcomes

Figure 4 provides the weighted average of the outcomes of this activity from the YourSay page. Participants were asked to rank the proposed strategic reforms from 1 being most important to 9 being the least important. A weighted average was applied to each of the responses to determine if any of the proposed strategic reforms were viewed as a higher priority than others across all respondents. A lower weighted average score indicates that the strategic reform was viewed as being more important across the responses. The higher the weighted average, the less important the strategic reform was deemed across the responses.

After analysing the responses from YourSay for this exercise, the weighted averages across the different strategic reforms don't vary very much (from 4.16 to 5.7 across all 9 themes). This indicates that there was a large amount of variability in which strategic reforms were viewed as a more or less important by respondents, and no strong outliers deemed to be of greater importance across all respondents.

Figure 4 shows that the strategic reform from Reform theme two: *Increase the permanent capacity and specialised capability within ACT Heritage to deliver its support functions and improve the customer service experience* scored the lowest average weighting. This indicates that it was ranked as most important by more people.

The strategic reform from Reform theme two: *Raise and improve the profile, understanding and engagement with heritage in the ACT* scored the highest average weighting. This indicates that it was ranked as least important by more people.

Figure 5. Weighted average responses to the ranking of proposed strategic reforms from YourSay respondents.

5.3.2   Community and industry workshop outcomes

This same activity was also undertaken through community and industry workshops. In this instance, the effectiveness of the activity as a ranking exercise was compromised by a significant amount of respondents choosing not to rank the strategic reforms as presented, instead choosing to provide feedback on the strategic reforms and, in some instances, highlighting other strategic reforms not included. Only about one third of respondents in the workshops ranked the strategic reforms as they were presented, with the remaining two thirds offering changes prior to ranking the strategic reforms.

5.3.2.1   Summary of suggested wording changes

There were suggestions for wording changes for reform themes one and two. These suggested wording changes focussed on clarifications and ensuring language was appropriate and was not misinterpreted.

For Reform theme one, feedback mostly focussed on '*Build the capacity of the ACT Aboriginal People to participate in Aboriginal Cultural Heritage recognition, conservation and management'.* Feedback suggested this could be viewed as paternalistic, and the language should be changed to 'empowering ACT Aboriginal People …'.

For Reform theme two, feedback mostly focussed on the strategic reforms *'Review the Heritage Council's policy and processes to clarify and improve its decision-making capacity and capability and to guide and inform stakeholders'* and *'Increase the permanent capacity and specialised capability within ACT Heritage to deliver its support functions and improve the customer service experience'.* Feedback suggested that the word 'review' could be replaced with 'clarify' earlier in the sentence to make it simpler to read and that the word 'accountability' should be included. 'Increase' was suggested to be changed to 'strengthen' to reflect the broader capacity focus of this theme. Additional words were also suggested in relation to policies and processes to include additional elements, including exempt developments, guidelines, appeal processes, and register access.

Other feedback focussed on the Heritage Strategy strategic reform, with suggestions for this to be further expanded to include language that focuses on building industry and community capacity to engage and enhance the appreciation of heritage.

Other feedback suggested that where the Heritage Council is mentioned, 'and directorate' should be added where relevant.

Preparing a territory heritage study was also suggested for inclusion under the strategic reform '*Establish and resource a program to resolve outstanding ACT Heritage Register nominations and review the ACT Heritage Register'.*

5.3.2.2   Summary of suggested additional themes

Suggested additional themes focussed on enhancing heritage management in the ACT, including effective communication and enforcement and the role of the Heritage Council, legislation consideration and alignment, Aboriginal capacity and participation, and ensuring compliance through effective communication and enforcement measures. This included:

- **Heritage Council status and role:** Further reform was suggested in relation to the statutory independence and ability to review decisions made by the ACT or Federal Government with heritage impact and where the Heritage Unit sits within government.
- **National significance and structure of the ACT:** Canberra's natural and built environment and its national role and the application of the Burra Charter, recognising there is no local council, allowing local-level heritage nomination, and recognising community-held values.
- **Legislation:** Clarity around natural and other heritage permits, clarifying the relationship between heritage and planning within their relevant Acts, and reviewing the Heritage Act to include identification, assessment and protection of local community-held values and places.

- **Compliance:** including ways to implement and enforce, informing the public on steps to comply, and ensuring compliance is considered.

5.4 Feedback relating to Reform theme one

5.4.1 Establish and resource an Aboriginal Cultural Heritage Body (ACHB) that gives Aboriginal People the role of determining ACH recognition, conservation and management.

This proposal was generally supported. Feedback relating to this are covered in sections 5.1.10, 5.1.13 and 5.1.14 of this report and generally pertain to who speaks for Country, the composition and recruitment of the ACHB and the remit and decision-making powers and processes of the ACHB.

5.4.2 Develop and implement a layered approach to heritage in which Aboriginal Cultural Heritage is the starting point for heritage recognition, conservation and management.

This strategic reform featured least across all consultation processes but was a direct line of inquiry and focus in Aboriginal workshops and representative meetings.

The proposal was supported, but it was noted that it would be important to ensure that clear processes and structures supported it so that the base layer outcomes weren't altered to fit as other layers were added.

Feedback indicated that education and increased understanding of the proposal would be an important factor in ensuring it was implemented effectively, and this would need to happen across the community, industry and government.

5.4.3 Build the capacity of the ACT Aboriginal People to participate in Aboriginal Cultural Heritage recognition, conservation and management.

This strategic reform was also supported, and it was explored along with other capacity/resourcing issues in section 5.1.5 of this report. Capacity building supported included supporting cultural practice, knowledge and transfer, as well as understanding of legislative frameworks.

Feedback supported the proposal but noted that there would be areas where extra effort would be required, such as including and encouraging the participation of young people to be part of their cultural heritage management without overwhelming them with the size of the responsibility.

It was also suggested this strategic reform should be altered to speak more of 'Empowering Aboriginal people' rather than 'building the capacity of Aboriginal people'. It was suggested the current theme wording is paternalistic.

5.5 Feedback relating to Reform theme two

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

Feedback relating to resourcing and appropriate skillsets within ACT Heritage is provided in section 5.1.5 of this report. This was a significant feedback category, with almost all feedback supporting the need for an increase in both overall resourcing and the provision of specialised capabilities.

This need crossed over to Reform theme one, with support for increased capability within Aboriginal communities to enable Aboriginal people to have control of their own heritage.

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

This proposal was also largely endorsed through the feedback received.

Feedback related to the role of the Heritage Council is provided in section 5.1.3 of this report.

Further to this, YourSay respondents were asked to identify what measurements they thought could be used to determine how the Heritage Council is performing in relation to its roles and responsibilities. Feedback suggested a range of measurement options that focussed on accountability, timeframes and transparency in relation to the Heritage Council's roles and responsibilities.

In implementing measurements on these identified topics, a range of suggestions were provided, including Key Performance Indicators (KPIs), performance reviews, reporting requirements (e.g., annual reporting), independent evaluations of heritage site maintenance, satisfaction surveys, mandatory timeframes, statutory options, and having both qualitative and quantitative measures.

Timeframes for decisions and assessments were raised in the context of ensuring timely decisions and outcomes.

Feedback also focussed on the need for transparency and accountability, including the provision of correspondence or guidance and accountability for decision-making, distribution/representation across the three heritage categories, and closing out all items systematically.

Additionally, there is an emphasis on public feedback and consultation, involving the community through surveys and open discussions to ensure transparency and informed decision-making.

Comments also suggested breaches may not have been detected.

The economic cost of restrictions on development caused by the heritage register was also raised as to whether there would be value in producing the estimates of the cost of this.

One comment also questioned the need for a Heritage Council or whether it can be done within government.

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

This proposal was also supported in feedback, although it did not feature significantly in the categories resulting from the analysis of the feedback received.

5.5.4 Establish and resource a program to resolve outstanding ACT Heritage Register nominations and review the ACT Heritage Register.

The proposal to remove pre-2003 nominations from the register was met with some consternation in responses received, particularly in submissions.

Feedback indicated that there should be a level of assessment applied to these nominations before removing them to ensure that no important nominations were missed and that this process should not be used as an opportunity to sidestep controversial nominations.

It was also noted that whilst the backlog did need to be managed, setting quotas or similar may result in a rush to reject or approve nominations to meet these requirements.

5.5.5 Develop an ACT Heritage Strategy that fosters community and industry appreciation of heritage.

Feedback relating to the proposal of developing an ACT Heritage Strategy is provided in section 5.1.9 of this report.

The proposal was largely supported but not at the expense of resourcing that could be utilised to achieve more pressing reforms first.

5.5.6 Raise and improve the profile, understanding and engagement with heritage in the ACT.

Feedback provided via the YourSay survey suggested ways to improve communication and stakeholder and community engagement to ensure that everyone can appreciate ACT's heritage. The proposed suggestions included:

- Inclusion of information in OurCBR newsletter
- Greater support and more community programming for the Heritage Festival
- Collaboration or partnership with EventsACT for delivery of the Heritage Festival
- Broader inclusion and collaboration with the Aboriginal community for the interpretation and celebration of Aboriginal places and stories
- Heritage management practices that don't stop or stifle progress (e.g., focusing on facades rather than whole buildings)
- Greater utilisation of social media
- Physical presence at Canberra Museum and Gallery
- ACT Library promotions
- More consistent heritage protection decisions to maintain public support for the heritage system.
- More community involvement.

5.6   Submissions

Submissions were provided directly to ACT Heritage and hand-delivered at workshop activities. Issues raised in the submissions have been included in the overall feedback analysis outcomes (section 5.1 of this report). This section provides a summary of the key issues raised in each submission.

5.6.1   Submission summaries

Eric Martin & Associates

The submission highlighted several key concerns regarding the management of heritage in the ACT. It emphasised the need for timely responses and appropriate allocation of resources to ACT Heritage. It also suggested broader recognition of local significance and community input. It acknowledged concerns about negative perceptions of heritage and requested a review of who constitutes the ACT community in assessments. Heritage should be celebrated.

Raising the profile of the Heritage Council was supported but highlighted the need for it to be more effective in its operation.

The submission recommends establishing reasonable timeframes for ACT Heritage and requested the backlog of nominations be resolved.

The submission suggested that access to information contained in Conservation Management Plans will assist in providing better outcomes, including a suggestion of an online database.

This submission supported the inclusion of Aboriginal input in evaluating Aboriginal places.

National Trust ACT

The submission advocates for quick and competent responses to heritage matters to ensure the celebration and promotion of Canberra's heritage.

The submission proposes a change to the Act, or a revised interpretation, to recognise local heritage significance. The submission supports Aboriginal input in the assessment of Aboriginal places.

The submission mentions the backlog of nominations and the potential disregard of these. The submission cautions against time limits on nominations and requests a review of who constitutes the community in assessing the criteria.

The submission expresses scepticism about the effectiveness of the new Planning Act and mentions the lack of coordination between planning entities and heritage outcomes.

While the submission highlights support for the development of a Heritage Strategy, it cautions against diverting resources. The submission supports enhancing the Heritage Council's skills, with a need for effective operations.

The submission emphasises the importance of timeline responses and accessibility to Conservation Management Plans and information.

Member of the public, Anne Forrest

The submission emphasises the need to clarify, simplify and legislate the pathway for assessing development. Two scenarios were listed in the submission to illustrate issues.

The submission highlights that a previously well-defined pathway for development proposals involving heritage-listed properties was abolished more than 10 years ago, leaving a gap in the decision-making process.

The submission lists a range of unanswered questions in the process, including but not limited to whether the real estate agent marketing the property knows that it is on or nominated, what legislation lists the necessary steps, and whether staff members in the Heritage Unit hold qualifications relevant to respond to proposals.

The submission highlights there is no legislation pathway to pursue enquiries about properties with heritage protection, leading to RZ1 rules being applied without understanding mandatory requirements if an owner approaches a private certifier and builder. Questions raised include whether the Territory Planning Authority (formerly ACT Planning and Land Authority) has any role in this process, whether there is a legislated retirement to respond to concerns of neighbours and no right to appeal, and whether anyone checks whether informative signage has been erected on the property.

The submission suggests that the exempt development approval pathway should not apply to proposed changes to properties with heritage protection, with the final approving body to be the Heritage Council, independent of day-to-day political pressures.

Member of the public, Richard Johnston

This submission focussed on concerns about the treatment of heritage under the new Planning Act and Territory Plan. It raised a question on how advice from the Heritage Council may be treated under the new system.

The submission lists concerns about the lack of specific mention of 'heritage' in the new or former planning acts, even though there is a Heritage Act in place. The submission highlighted the broad discretion given to planning under the new Planning Act and the potential for poor decision-making in development applications.

The submission lists an example to highlight the potential for poorly based decision-making on Das under the new Planning Act and Territory Plan. The submission requests a need to enhance the Heritage Act so that the Heritage Council's advice and the registration process has to consider the context that the heritage place sits within.

The submission specifically asks for a proposed action under Strategic Reform 7, which includes amending the Heritage Act and the Planning Act to allow the Heritage Council to be a referral entity for development proposals adjacent to sites on the Heritage Register. The submission also requests under the same reform for policy guidelines and processes be developed to ensure that all ACT planning decisions have regard to valuing, conserving and prompting heritage early in the development processes and amend the Planning Act 2023 to clarify the circumstances where the planning authority can deviate from Heritage Council advice.

Reid Residents' Association Inc.

This submission emphasised several crucial points aimed at improving the management and promotion of heritage. Their suggestions include fifteen points for consideration.

Considerations proposed included conducting a thorough analysis of heritage legislation both domestically and internationally, appointing an environmental expert to the Heritage Council, establishing a vision, increasing the capacity to enforce breaches actively, and establishing a clear understanding of the interplay between the Planning Act and the Heritage Act.

The considerations also advocate for transparency in decision-making, broadening the scope of conservation areas like grasslands, augmenting the expertise and staffing, and fostering a greater appreciation for heritage among legislators, educators, public servants, and the community.

The submission also suggests empowering Aboriginal groups in relation to heritage matters.

Member of the public, Susanne Tongue

This submission highlights a range of concerns regarding the lack of transparency, fairness and trust in the consultation process.

The submission also provides endorsement on five submissions and recommendations made by others, acknowledging the goodwill in the community towards efforts to improve heritage arrangements in the ACT.

The submission highlights the importance of protecting heritage rights amidst changes to the ACT planning framework. It suggests changes in the structure and functioning of the Heritage Unit, advocating for its independence from EPSDD. The need for territory-wide heritage and local heritage is also highlighted in the context of the ACT government having the role of both local and state governments.

The submission also mentions antagonism and biases among different groups in the ACT and the need for respectful discussion of differences.

Griffith Narrabundah Community Association

The submission reflects support for several recommendations while also raising concerns with a few proposed changes. It suggests and lists modifications for specific actions, focusing on increasing transparency and addressing potential conflicts.

The submission suggests separating the heritage function from the planning function in the ACT government and the need for recognition of the ACT government's responsibilities for both local and state heritage. There is mention of a need for a detailed explanation of the new Planning Act's alignment with the review and amended to ensure Heritage Council advice on DAs.

The submission opposes deleting outstanding nominations and requests transparency and consultation instead.

There is also support for various actions to increase the capacity and capability within the Heritage Unit, including customer service, stakeholder engagement and communication.

The submission supports the ACT Heritage Strategy with a recommendation to clarify the assessment of the monetary value of heritage assets.

Recommendations to enhance the profile, understanding, and engagement with heritage in the ACT are mentioned in the submission. The submission also lists concerns about community consultation, selective quoting of submissions and the need for great explanation and integration of the submitted report with the Legislative Committee's report.

Inner South Community Council

The submission primarily focuses on strengthening governance and administration while also acknowledging recommendations made by other member groups and only one of the four proposed legislative amendments being problematic.

The submission recommends the separation of the heritage function from the planning function within the government structure, recognition of the ACT government's responsibilities, and detailed explanations regarding the alignment of the new Planning Act with the review.

The submission opposes the deletion of outstanding nominations, highlighting the need for transparency and community consultation in addressing this issue.

The submission also emphasises the importance of amending the Planning Act to prioritise Heritage Council advice, addressing exempt developments, clarifying deviations from the Heritage Act, and conducting a comprehensive review of new arrangements after 12 months. Additionally, it calls for the provision of heritage information to purchasers of heritage properties.

The submission raises a concern about the exclusion of insights from submissions to the Legislative Assembly inquiry and consultation on the preparation of the final report.

Canberra & District Historical Society Inc.

The submission discusses several key issues regarding the Heritage Act and its relationship with the Planning Act, emphasising various concerns and proposing constructive suggestions for improvement. The submission asks for a more detailed explanation regarding the interaction between the two and the need for a clear delineation of roles and the criteria for deviating from the Heritage Council's advice.

The submission stresses the importance of effective governance and active community involvement in preserving and promoting the heritage assets of the ACT. The submission mentions the alignment of ACT with best practices for Aboriginal cultural heritage.

The submission suggests increased community involvement and transparency in addressing the backlog of heritage nominations, along with the disagreement on deleting nominations.

The submission also mentions the ACT Heritage Strategy's integration into the Territory Plan, comprehensive Works Guidelines, and an updated, accessible ACT Heritage Register. The recognition of locally significant heritage and its role in fostering a strong community identity is also emphasised.

The submission strongly disagrees with nominations before 2003 being removed, suggesting nominations be subject to an initial community consultation to identify any that have a substantial case.

The submission states there is much to be commended in the final report as part of the considerations.

Member of the public, Nick Swain

The submission raises concerns about the ACT's reluctance to let the Heritage Council be consent authorities, emphasising their expertise. It calls for clarity on when the Planning Authority can deviate from Heritage Council advice.

Support for aligning the Act with best practices on Aboriginal Cultural Heritage is voiced, with concerns about potential overruling by the Planning Act. The submission advocates leveraging community resources for ACT Heritage's work.

The value of heritage assets is emphasised for creative planning outcomes, citing examples like Ginninderry. Concerns about redeveloping individual heritage dwellings without relevant planning and consultation are raised.

Strong disagreement is expressed against deleting nominations made before 2003, advocating for community consultation. The need for a publicly available list of outstanding nominations is highlighted.

The shelving of the ACT Heritage Strategy is criticised, urging its statutory standing. Works, guidelines, pre-lodgement engagement, and detection of unapproved work are discussed.

Recommendations for updating the ACT Heritage Register's technology, filling gaps, and providing Heritage Grants for community input are made. The need for publicly accessible Conservation Management Plans and updating inadequate conservation requirements is emphasised.

The submission argues for reintroducing recognition of locally significant heritage, citing Canberra's growth and the strengthening sense of place in local communities.

Member of the public

This submission expresses strong support for incorporating Aboriginal cultural heritage, mentioning the significance of the Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia.

The submission stresses the importance of recognising and respecting the diversity of Aboriginal groups with connections to the ACT. An inclusive approach to acknowledging the different Aboriginal groups and their connections to the region is suggested and highlighted in the submission, including in relation to establishing the proposed ACHB by considering the unique considerations of each group and proposing the involvement of a panel of independent experts to oversee the process.

Kingston and Barton Residents Group

The submission broadly supports the recommendations presented in the report, with particular emphasis on several concerns raised. The removal of nominations (under Strategic Reform 5) is highlighted as a key concern. The submission stresses the importance of preserving nominations and prioritising their progression, especially for sites with significant historical value.

The submission expresses scepticism about safeguarding heritage under the new Planning Act, citing concerns about discretionary power in granting development approvals and the lack of reinforcement for compliance policies.

The submission advocates for the development of an enforcement and compliance policy, the integration of heritage considerations into the decision-making process under the new Planning Act 2023, and the clarification of circumstances allowing deviation from Heritage Council advice. It also supports amending the Heritage Act 2004 and the Planning Act 2023 to enable the Heritage Council to serve as a referral entity for adjacent sites on the Heritage Register affected by development proposals.

Paul Girrawah House JP, Ngambri (Kamberri) Custodian

The submission highlights supports for the preferred approach of establishing a single integrated statute with a layered approach, as it places Aboriginal cultural heritage as the first layer in all heritage matters. The submission highlights challenges in implementing this.

The submission highlights the need for a critical review of the Dhawura Ngilan: A vision for Aboriginal and Torres Strait Islander heritage in Australia, as the first reform theme relies heavily on it. The submission states it was not developed in consultation with all Aboriginal groups claiming connections to the ACT. The submission states the necessity for local applicability, considering the presence of multiple distinct groups, including the Ngambri (Kamberri) and Ngarigu, with connections to the ACT and its surrounding areas. The submission notes the historical assumption by the ACT Government that all Aboriginal people with connections to the ACT should identify as Ngunnawal.

The submission requests the ACHB composition must consider the outcomes of the House and House v ACT matter before the ACT Supreme Court and avoid any discriminatory practices as mandated by the ACT Human Rights Act 2004.

Riverview Group

The submission emphasises several key changes necessary for the effective functioning of heritage in the ACT.

These changes include implementing statutory timeframes for the consideration and endorsement/approval of conservation plans and approval of Statements of Heritage Impact.

The submission also calls for additional resources with the appropriate skills to assess and provide advice in a timely manner. The submission suggests that any issues that arise should be able to me solved with site meetings and direct dialogue rather than lengthy correspondence.

The submission also calls for access to existing documentation online to avoid duplication and enhance timeliness.

5.7   Evaluation outcomes

At the end of each workshop, participants were asked to complete a short survey to provide feedback about how effective they thought the workshop was. Out of 42 workshop participants, 16 completed the workshop evaluation. The feedback was mostly positive, with participants stating that it was great that the facilitators were able to adjust the session to accommodate passionate participants and that the workshop was well run. Other feedback included a request for a session just for industry professionals and that some participants felt they should have read the phase one report prior to attending the session.

One member of the community submitted concerns about the consultation process after attending an in-person community and industry workshop. Some of the feedback included concern about how the workshop facilitator had limited the time available for questions, also having a limited number of technical experts to answer questions and the need for submissions to the Legislative assembly to be included in the final listening report.

Appendix A – Community and industry worksheets

ACTIVITY 1:
stenning @associates   CommunicationLink

ACT Heritage
Strategic Reform rankings

The Phase One review identified 9 areas of strategic reform across 2 reform themes.
Please rank the Strategic Reforms according to how important you think they are:

1.

2.

3.

4.

5.

6.

7.

8.

9.

Why did you rank the strategic reforms in this way?

REFORM THEME ONE:	Establish and resource an Aboriginal Cultural Heritage Body (ACHB) that gives Aboriginal People the role of determining ACH recognition, conservation and management.
REFORM THEME ONE:	Develop and implement a layered approach to heritage in which Aboriginal Cultural Heritage is the starting point for heritage recognition, conservation and management.
REFORM THEME ONE:	Build the capacity of the ACT Aboriginal People to participate in Aboriginal Cultural Heritage recognition, conservation and management.
REFORM THEME TWO:	Increase the permanent capacity and specialised capability within ACT Heritage to deliver its support functions and improve the customer service experience.
REFORM THEME TWO:	Establish and resource a program to resolve outstanding ACT Heritage Register nominations and review the ACT Heritage Register.
REFORM THEME TWO:	Establish a strategic management approach to guide Heritage Council decision-making and operations and provide clarity around roles and responsibilities.
REFORM THEME TWO:	Review the Heritage Council's policy and processes to clarify and improve its decision-making capacity and capability and to guide and inform stakeholders.
REFORM THEME TWO:	Raise and improve the profile, understanding and engagement with heritage in the ACT.
REFORM THEME TWO:	Develop an ACT Heritage Strategy that fosters community and industry appreciation of heritage.

ACTIVITY 2: **ACT Heritage processes**

INFORMATION	ADVICE	APPLICATION/ APPROVALS	SUBMISSION	DECISION	MANAGEMENT	ONGOING COMMUNICATION AND ENGAGEMENT
Finding out information • Understanding heritage requirements • Understanding the full process or pathways through heritage requirements • Finding out what heritage places and objects are on the Heritage Register • Heritage grants • ACT and region Heritage Festival and Canberra tracks information	**Obtaining advice prior to lodging an application/seeking approval** • Accessing Heritage Information online • Accessing the Heritage Advisory Service • Enquiries regarding applications and approvals under the *Heritage Act 2004* • Heritage register enquiries and/or nomination applications • ACTmapi Heritage layer • Heritage guidelines for registered places • Conservation Management Plans • Advice regarding development applications and conservation work on heritage places/objects	**Finding or completing forms for applications or approvals** • Accessing forms • Support completing the forms	**Tracking application/approval status** • Accessing status updates • Application/approval support	**Application/approval decision outcome** • Decision timeframes • Understanding decisions made • Transparency in decision-making	**Management of complaints and compliance** • Accessible channels for complaints and compliance • Timely responses to complaints and compliance enquiries	**Customer service, communication and community engagement** • Communication throughout the application process • Communication about changed policies • Communication about decisions
Based on your experience, what would you like to see in the future and why?						

ACTIVITY 3: **ACT Aboriginal Heritage**

The Phase One review identified a key reform theme to establish ACT Aboriginal People as the decision makers on their cultural heritage.
What opportunities do you think this reform would present? What issues would need to be addressed in implementing this reform?

Provide your feedback below:

Opportunities	Implementation Issues

Appendix B – Community and industry YourSay survey

Focus areas and suggested consultation questions for YourSay (questions will be refined and turned into workshop activities for stakeholder sessions)	Related action from Phase 1 report
The Phase 1 review process identified a range of ways that heritage processes could be improved relating to customer service, communication and information available to the community.	4.6, 4.7, 4.8, 5.2, 6.3, 7.1, 8.3, 8.4

Customer service

4. Have you interacted with ACT Heritage previously? Y/N

    a.   If yes, where have you experienced barriers/issues:

(pre-approved list – *to be developed with Stenning team* - with 'other' option, to include:

- Accessing heritage information online
- Understanding heritage requirements
- Pre-lodgement engagement
- Application forms
- Tracking of submission status
- Heritage decision timeframes
- Understanding decisions made
- Management of complaints and compliance
- Heritage register enquiries and/or nomination applications
- Accessing heritage grants, festival and Canberra tracks information
- Understanding the full process or pathways through Heritage requirements
- Lack of ability to run processes in parallel

2.   What would have improved your experience with pre-lodgement?

Responses to questions 1 and 4 will also be used to identify feedback that may relate to policy areas identified in actions 7.2, 7.3, 7.5, 7.6, 8.1, 8.2

Information available

3.   What areas would you like to have access to improved information for heritage management in the ACT? (pre-approved list – *to be developed with Stenning team* - with 'other' option, to include:

- ACT Heritage Register
- ACTmapi Heritage layer
- Online application forms
- Heritage guidelines for registered places
- Conservation Management Plans
- New and improved policies to guide development and conservation works

4.   ACT Heritage Strategy The Phase 1 review found opportunities to increase transparency in decision-making, through the inclusion of additional policies to guide application submissions and decision-making processes. What areas would you like to see an increase in decision-making transparency?

| Focus areas and suggested consultation questions for YourSay (questions will be refined and turned into workshop activities for stakeholder sessions) | Related action from Phase 1 report |

Communication and engagement

5. Heritage can be anything from the (recent or distant) past that we want to keep for current and future generations.

    What ways could the ACT Government work to improve communication and stakeholder and community engagement, to ensure everyone has access to heritage?

Heritage Act amendments and actions

5.1, 5.3, 6.7, 7.7

6. The Phase 1 review identified a range of potential amendments and related reviews that could be considered for the *Heritage Act 2004*, these are listed below:

    - Amend the Heritage Act 2004 to:
        - remove all nominations for provisional registration to the ACT Heritage Register that were made under the previous *Land, Planning and Environment Act 1991* (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.
    - Undertake a systematic review of all Registrations on the ACT Heritage Register to ensure listing information meets current Heritage Act 2004 requirements and supporting Heritage Guidelines are made, where applicable.
    - Amend the Heritage Act 2004 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.
    - Amend the Heritage Act 2004 and the Planning Act 2023 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.

    For each item, identify if you see any risk or unintended consequences that may occur if these amendments were implemented. (open-ended text field).

Heritage Council

6.4

7. The Heritage Council is an independent, statutory body responsible for a range of provisions under the Heritage Act 2004 including identifying, assessing, conserving and promoting heritage places and objects.

    The Phase 1 review identified an opportunity for the Heritage Council to establish a performance review program to assess its performance in relation to its roles and responsibilities.

    What measurements do you think could be used to determine how the Heritage Council is performing in relation to its roles and responsibilities?

Focus areas and suggested consultation questions for YourSay (questions will be refined and turned into workshop activities for stakeholder sessions)	Related action from Phase 1 report
ACT Heritage Strategy 8. The Phase 1 review suggested the creation of an ACT Heritage Strategy. If this were to be created, what do you think a long-term Heritage Strategy should focus on?	9.1, 9.2, 9.3, 9.4

Strategic Reform ranking

9. The Phase 1 review identified 9 areas of strategic reform, across 2 reform themes. Rank the following according to how important you think they are:
    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 Aboriginal Cultural Heritage is the starting point for heritage recognition, conservation and management.
    3. Establish a program to build the capacity of the ACT Aboriginal People to participate in Aboriginal Cultural Heritage recognition, conservation and management.
    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.
    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 theme 1
 	
10. The Phase 1 review identified a key reform theme to establish ACT Aboriginal People as the decision makers on their cultural heritage. This included three key strategic reforms:
  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. Establish a program to build the capacity of the ACT Aboriginal People to participate in Aboriginal Cultural Heritage recognition, conservation and management.
 	
What opportunities do you think these reforms would present? What issues would need to be addressed in implementing these reforms? (free text response).
	1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 2.1, 3.1

Appendix C – Aboriginal community YourSay survey

Focus areas and suggested consultation questions (duplication of questions on YourSay is being considered)	Related action from Phase 1 report

Aboriginal Cultural Heritage Body
 	
1. The report recommends the establishment of an Aboriginal Cultural Heritage Body as a heritage decision-making body for the management of Aboriginal Cultural Heritage (ACH).
 	
   • Do you agree that this is an important step in ensuring Cultural Rights holders have a genuine say in the management of ACH?
 	
• Do you agree that the recognised Cultural Rights holders (i.e., the Registered Aboriginal Organisations under the Heritage Act) should determine the structure of this body?
 	
• To allow for capability building, governance and working within the context of the ACT, it has been recommended to focus on establishing an administration structure before considering it within legislative reform. Do you agree with this approach and why?
 	
   • What challenges do you see with the implementation of an Aboriginal Consultative Body?
	1.1, 1.2, 1.3, 1.4, 1.5, 1.6, 1.7, 1.8, 2.1, 3.1

Heritage Management
 	
2. The Report recommends that a layered approach to the management of heritage in the ACT be taken. This would require Aboriginal Cultural Heritage (ACH) to be identified as the first layer and therefore needs to be considered as a starting point for heritage management. This recommendation aims to ensure that ACH is not overlooked in any assessment relating to heritage.
 	
   • Do you agree this will be valuable? Why?
   • Do you agree this will enable improved protection of ACH? Why?
   • Do you agree that this will enable improved identification and listing of ACH? Why?
   • What other benefits or challenges do you see in relation to this approach? Why?	

Legislation and governance 3. The report recommends building capacity in relation to understanding legislation and organisational governance within the Aboriginal community of the ACT to improve the management of ACH by Cultural Rights holders. • Do you agree that capacity building should be a focus?	
Understanding legislation 4. The capacity building focus will be in relation to improving the understanding of governance and legislation that impacts Aboriginal Cultural Heritage, including the ACT Heritage Act and the Planning Act.	

Focus areas and suggested consultation questions (duplication of questions on YourSay is being considered)	Related action from Phase 1 report
The ACT Government aims to support the Cultural Rights Holders to ACH to make more effective decisions by providing development opportunities in understanding legislation such as the Heritage Act and Planning Act • Do you agree that this will be valuable? Why? • Do you agree that understanding the frameworks for the management of ACH will empower the community to better manage ACH? • Are there areas of ACH management that you would like to better understand? If so, what?	
• What other areas of capacity building do you think are needed within the community to ensure that the right people speaking for Country are able to participate in decision making to enable the long term sustainability of Cultural Heritage management?	

Engagement

5. The report highlights the need to engage and improve the understanding of the broader community in relation to the important and understanding of Aboriginal Cultural Heritage management.

   • Do you agree that the management of ACH will be improved by broader community understanding and engagement?

   • Do you agree that everybody in the ACT should be provided with opportunities to better understand ACH and the expectation of ACT Cultural rights holders?

Appendix D – Submissions

All provided submissions has been provided separately to this report for further reference.