

Celebrating heritage in a growing city

ACT Heritage Jurisdictional Review

Consultation Report - Final

November 2023



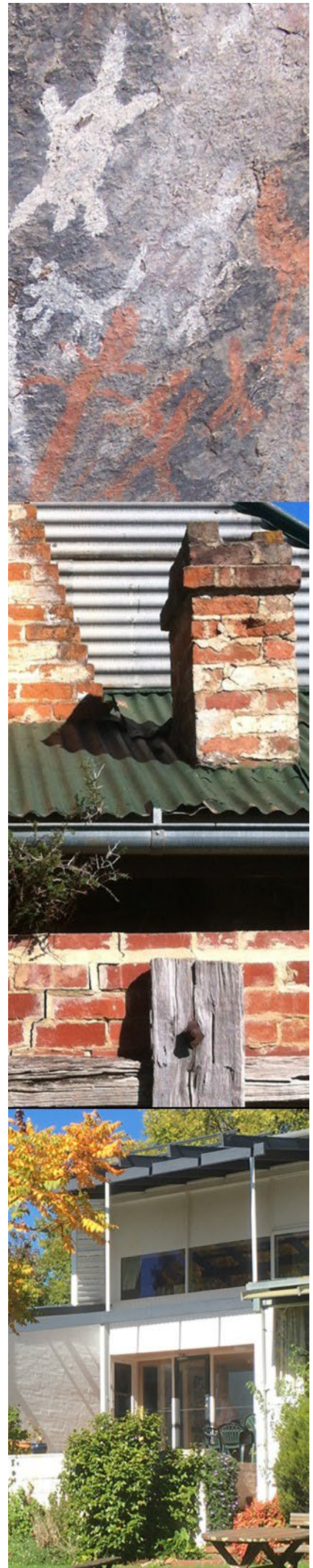
SIMPLIFYING GOVERNMENT

In association with

New Insights

Paul Knight

Communication Link



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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 Phase 2 of 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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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 |
| RAO | Representative Aboriginal Organisation |

Executive summary

Minister Rebecca Vassarotti MLA, as Minister for Heritage, commissioned a review of ACT's heritage framework in December 2022.

Phase 1 of this review resulted in the report *Celebrating heritage in a growing city - ACT Heritage Jurisdictional Review Final Report, July 2023*. It recommended two reform themes, involving 9 strategic reforms and 43 supporting actions. Phase 2 involved public consultation on the Phase 1 report recommendations.

At a high level, the public and agency consultation feedback validated and reinforced the thrust of the Phase 1 report, revealing broad overall support for the proposed reform themes, strategic reforms and actions. There was particularly strong support for:

- establishing ACT Aboriginal People as the determinants of their cultural heritage
- increased resourcing and appropriate skillsets within the Heritage Council and ACT Heritage
- improving policies and procedures
- improving the timeliness of advice and decisions
- greater transparency in Heritage Council operations and availability of materials and advice.

Consequently, the proposed reform themes, strategic reforms and proposed actions were considered generally robust.

This report highlights a small number of first order issues that required a material response:

1. strengthening the relationship between heritage and planning
2. the need to identify the rightful custodians for Country
3. the need to determine the decision-making powers and processes of the proposed Aboriginal Cultural Heritage Body
4. the need to recognise local heritage
5. the proposal to remove pre 2003 registration nominations
6. the backlog of advice requests.

Where necessary, refinements have been made to the Phase 1 report recommendations to respond to these issues, including the addition of a new theme to provide an appropriate focus on a series of proposed strategic reforms and actions designed to strengthen the consideration of heritage matters within the ACT planning system. A range of second order issues raised have given rise to minor adjustments or clarifications to the Phase 1 report proposed strategic reforms and actions.

Section 3 outlines the refined and expanded reform pathway, which now includes three proposed themes, 11 proposed strategic reforms and 46 proposed actions.

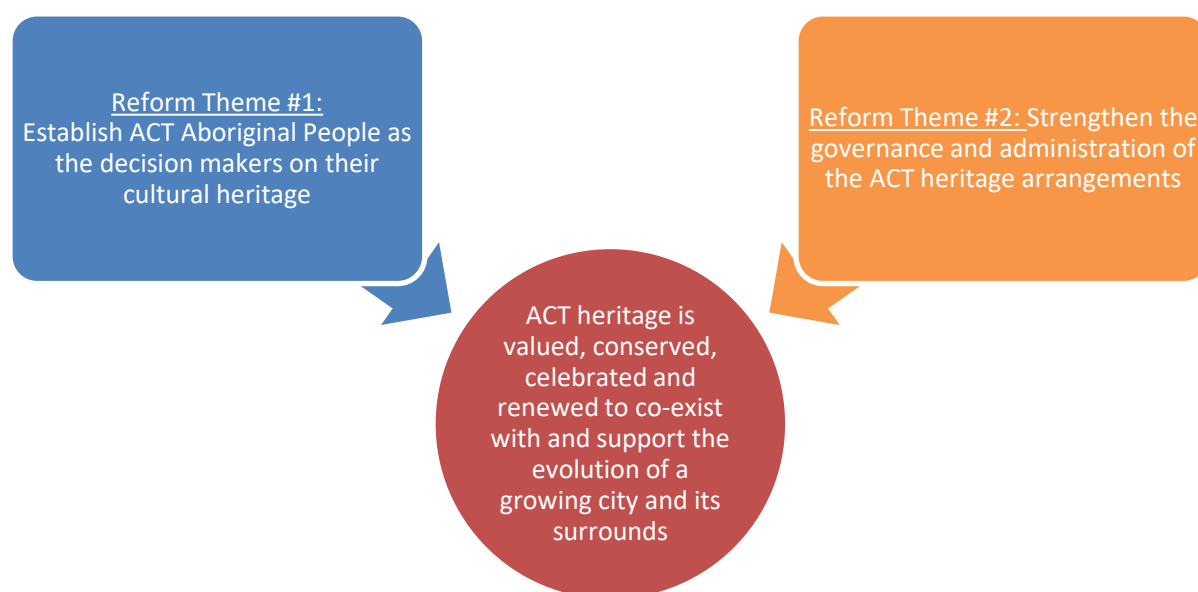
1 Introduction

Minister Rebecca Vassarotti MLA, as Minister for Heritage, commissioned a review of ACT's heritage framework in December 2022. This arose from the 2022 review by the Nous Group of the workings of the ACT Heritage Council and its supporting agency, ACT Heritage.

Stenning & Associates, in conjunction with New Insights and Paul Knight, undertook Phase 1 of this review of ACT's heritage framework. This resulted in a report titled *Celebrating heritage in a growing city - ACT Heritage Jurisdictional Review Final Report, July 2023*.

The Phase 1 report identified two reform themes (see Figure 1), comprising a total of 9 strategic reforms and 43 proposed actions.

Figure 1: Strategic Reform Themes



The consulting team, with the addition of community engagement specialist Communication Link, then undertook Phase 2, which involved public consultation on the proposed reform themes. The outcomes of the public consultations are summarised in a Listening Report (see [Attachment A](#)) developed by Communication Link, which is a companion document to this Consultation report.

Alongside the public consultation, feedback on the Phase 1 report was also received from agencies and the Heritage Council.

The consultation feedback fell into three distinct categories:

- First order issues that require the material adjustment of the proposed reform themes, strategic reforms or actions contained within the Phase 1 report
- A range of second order issues that give rise to minor adjustments or clarifications to the Phase 1 report proposed strategic reforms or actions
- A range of useful feedback and suggestions that do not require changes, but which will inform the implementation of the proposed reforms. It is understood that the Heritage Council and ACT Heritage will reference these during the implementation stage.

Section 2 of this report outlines the key and other issues highlighted by the public and agency feedback. It sets out the proposed response that has been collaboratively developed by the consulting team with the Steering Committee, the Heritage Council and ACT Heritage. Section 3

outlines the revised proposed reform themes, strategic reforms and actions for the ACT Government's consideration.

1.1 Consultation Process

The Phase 2 consultations included discussion with the ACT community, industry and Aboriginal community from September – October 2023, as well as separate consultations with ACT Government agencies.

The objective of the consultation was to collect feedback on the proposed themes, strategic reforms and actions contained within the Phase 1 report.

Promotion efforts by the ACT Environment, Planning, and Sustainable Development Directorate (EPSDD) included paid advertising and organic social media posts.

Consultation feedback reflected in this report was gathered through consultation undertaken between 11th September and 13th October 2023 through the following activities:

- Surveys of community and industry, and Aboriginal people on the ACT Government's YourSay web page
- Community and industry workshops
- Aboriginal community workshops and consultations with Aboriginal groups
- ACT Government agency workshops
- Submissions from the public.

The participation in consultation activities is summarised in Table 1.

Table 1: Consultation participation

| Event | Participants |
|---------------------------------------|--------------|
| Community and industry workshop #1 | 9 |
| Community and industry workshop #2 | 16 |
| Community and industry workshop #3 | 5 |
| Aboriginal Workshop #1 | 10 |
| Aboriginal Workshop #2 | 2 |
| Community and industry YourSay survey | 44 |
| Aboriginal YourSay survey | 3 |
| Aboriginal 1:1 consultation | 7 |
| Submissions from the public | 14 |
| ACT Government Agency Workshop #1 | 11 |
| ACT Government Agency Workshop #2 | 13 |

2 Consultation Outcomes and Responses

At a high level, the public and agency consultation feedback validated and reinforced the thrust of the Phase 1 report, revealing overall support for the broad direction of the proposed reform themes, strategic reforms and actions. In particular, there was strong support for:

- establishing ACT Aboriginal People as the determinants of their cultural heritage
- increasing resourcing and appropriate skillsets within the Heritage Council and ACT Heritage
- improving policies and procedures
- improving the timeliness of advice and decisions
- improving the transparency of the operations of the Heritage Council and the availability of materials and advice.

Consequently, for the most part, the proposed reform themes, strategic reforms and actions were considered robust.

2.1 First Order Issues

Consultations identified feedback about a small number of key issues that require a material response:

1. the relationship between heritage and planning
2. the need to support Native Title Processes through appropriate bodies to identify the rightful custodians for Country
3. the need to determine the decision-making powers and processes of the proposed Aboriginal Cultural Heritage Body (ACHB)
4. the need to recognise local heritage
5. the proposal to remove pre 2003 registration nominations
6. the backlog of advice requests.

These issues and the proposed responses to them are outlined in Table 2.

Table 2: First Order Issues

| Commentary | Response |
|---|---|
| Issue #1: The relationship between heritage and planning | |
| <p>Feedback was consistently raised about the relationship between heritage and planning. This feedback was manifest through:</p> <ul style="list-style-type: none">• a view that heritage matters needed to take precedent in planning decisions• concerns regarding how the new Planning Act will deal with heritage matters• views that ACT Heritage needed to be independent of EPSDD• calls for greater collaboration between Government agencies on heritage and planning matters. | <p>Given the strength of the feedback, a new theme has been proposed to provide an appropriate focus on a series of strategic reforms and actions designed to strengthen the consideration of heritage matters within the planning system.</p> <p>The proposed new theme is: 'Champion Heritage as a compelling and valued consideration in the planning and development of Canberra'.</p> <p>It incorporates three proposed strategic reforms addressing the linkages between heritage and planning:</p> |

| Commentary | Response |
|---|---|
| <p>The feedback that heritage matters needed to take precedent in planning decisions reflected concerns that heritage issues are just one consideration that is weighed up when determining planning matters. The feedback is not new, reflecting feedback received in the recent review of the ACT planning system. That review has resulted in the introduction of a new <i>Planning Act 2023</i> that is now being implemented.</p> <p>Consequently, in broad terms the role of heritage in the planning system has already been considered and determined by the ACT Government through that recent review. This includes the way in which the planning system considers Heritage Council advice in planning and development processes.</p> <p>The new Planning Act seeks to ensure that heritage considerations are fully integrated into the development assessment process at an early stage. Accordingly, the implementation of the new Act provides the Heritage Council and ACT Heritage with an excellent opportunity to work with the Territory Planning Authority to ensure a comprehensive consideration of heritage matters within the ACT's integrated planning system.</p> <p>It is noted that evidence from the implementation of the new Planning Act can inform future consideration of whether there is a need for the Heritage Council to have a more determinative role in the planning system, as is the case in some other Australian jurisdictions.</p> | <ul style="list-style-type: none"> • Develop an ACT Heritage Strategy that inspires community and industry to value heritage • Promote the value of heritage in place making and as a contribution to the life of the city • Strengthen operations between the ACT's heritage, planning and development arrangements. <p>A range of existing proposed actions have been relocated under these strategic reforms. Several of these actions have been streamlined or consolidated to sharpen the focus or remove overlap. In this respect:</p> <ul style="list-style-type: none"> • A revised proposed action has been created: '<i>Continue to work with the Territory Planning Authority to develop operational policy, guidelines and processes to enhance consideration of heritage values (including Aboriginal Cultural Heritage) early in the planning processes.</i>' This proposed action replaces two previous proposed actions that overlapped to a degree and reflects the fact that the Heritage Council is already working with the Territory Planning Authority regarding this issue. • The proposed action requiring the development of a policy to clarify the circumstances in which the Territory Planning Authority may deviate from Heritage Council advice has been refined to broaden the options for resolution that may be considered. • The proposed action to establish an '<i>Office of Heritage</i>' has been amended to allow a broader range of options to be considered. • The wording of several proposed actions involving potential amendments to the Planning Act have been modified to clarify that the action is to work with the Territory Planning Authority to establish the need for legislative change. <p>It is also noted that the ACT Government has established a review of the governance framework of the new ACT</p> |

| Commentary | Response |
|------------|--|
| | <p>planning system and the key statutory positions and decision-making roles within it to ensure it represents good governance and is fit for purpose. The outcomes of that review could potentially assist in improving operations between the ACT's heritage, planning and development arrangements.</p> <p>Additionally, a proposed action has been developed that encourages the Heritage Council to strengthen collaboration with the Territory Planning Authority and the development arms of Government (especially the Suburban Land Agency and the City Renewal Authority) to ensure early consideration of heritage in the ACT's strategic planning, district planning strategies, and urban renewal, estate development and urban design activities.</p> <p>A further proposed action has been added to improve the community and industry understanding of the role of the ACT Heritage Council in the planning system and as a referral entity under the <i>Planning Act</i>.</p> <p>Finally, following agency feedback, an existing action has been extended to propose that an existing informal referral arrangement be enacted in legislation. This refers to the current arrangement where a development proposal that involves a place or object that has been nominated for inclusion on the ACT Heritage Register is referred to the Heritage Council for advice by the Territory Planning Authority.</p> |

Issue #2: The rightful custodians for Country

A consistent issue raised in consultations with the Aboriginal community was the need to determine the rightful custodians for Country. Resolution of this issue is required to inform the composition of the proposed ACHB.

Feedback from the Aboriginal community indicated support for a process for determining the composition of the ACHB that is based on apical ancestry¹ and which aligns with expectations of the Native Title claimant evidence process. A current community driven process was identified, but there were concerns that it required some adjustment to be

A new proposed action has been added to Strategic Reform 1 to provide a process for determining the composition of the ACHB – it will rely on the outcomes of an appropriate existing community led process. This process should be based on apical ancestry and align with expectations of the Native Title claimant evidence process as well as the expectations of all Aboriginal groups claiming cultural authority in the ACT.

¹ In anthropology, an apical ancestor is a common ancestor from whom a lineage or clan may trace its descent. Source: [Traditional Laws Meet Emerging Biotechnologies: The Impact of Genetic Genealogy on Indigenous Land Title in Australia](#), Elizabeth Watt, Emma Kowal, and Carmen Cummings, 2020

| Commentary | Response |
|--|---|
| <p>more inclusive of the various groups who consider they have cultural authority in the ACT.</p> <p>It was noted that adequate resources are required to remunerate Representative Aboriginal Organisation (RAOs) and Aboriginal people who provide support or advice in the development and operation of the ACHB, and that this remuneration should be on par with Heritage Council remuneration.</p> | <p>It is noted that the resolution of this cultural authority issue is already a priority for the ACT Government as it seeks to refine its protocol for the recognition of Aboriginal groups in the ACT.</p> |
| Issue #3: The decision-making powers and processes of the proposed ACHB | |
| <p>A strategic reform under Reform Theme One was to establish an ACHB. Much of the feedback provided went into detail about the process and decision-making powers that an ACHB would have.</p> <p>There was a clear desire for a level of detail on the design of the ACHB that has yet to be developed. It is considered that developing this detail is best achieved by a co-design process with the Aboriginal community. This will allow the new arrangements to be designed to fit with the capacity of the Aboriginal community to participate in those arrangements.</p> <p>This process will allow the investigation of the extent to which legislative change is necessary to support the functions of the ACHB, including any consequential impacts on the current RAO arrangements.</p> | <p>In light of the feedback received, the proposed action to establish an ACHB has been modified to:</p> <ul style="list-style-type: none"> • Provide for a co-design process with the Aboriginal community to determine the structure, decision making processes and timelines, operational arrangements and resource requirements for the ACHB • Require the investigation of the extent to which legislative change is necessary to support the functions of the ACHB. |
| Issue #4: Local heritage | |
| <p>There was consistent feedback that local heritage is not recognised or conserved within the existing heritage registration system.</p> <p>The current threshold for significance for heritage registration under the <i>Heritage Act 2004</i> used by the Heritage Council focuses on heritage that is significant at the Territory level. This is consistent with the approach in other Australian jurisdictions. It is not considered appropriate to expand this threshold to include heritage that is only significant at the local level. Such local heritage is best dealt with through the planning system, as is predominately the case in other Australian jurisdictions.</p> <p>The new <i>Planning Act 2023</i> provides the appropriate mechanisms to recognise local heritage through the planning system. It does this by including local heritage within the definition of cultural heritage conservation principles. The Act requires these principles (amongst others) to be applied when developing planning strategies, plans and policies.</p> | <p>This issue can be adequately dealt with by the existing strategic reform which is aimed at working with the Territory Planning Authority to develop policy, guidelines and processes regarding heritage under the new <i>Planning Act 2023</i>.</p> <p>The Heritage Council is actively engaging with EPSDD and the Territory Planning Authority to identify how local heritage will be dealt with in the revised planning system.</p> <p>The role of the Heritage Council on this issue is to advocate the clarification of how planning will deal with local heritage and providing materials that can assist the consideration and management of local heritage - it will have no decision-making role on local heritage.</p> |
| Issue #5: Pre 2003 nominations | |
| <p>The Phase 1 report contained a proposed action that included the proposed removal of all nominations for provisional registration to the ACT Heritage Register that were made under the previous <i>Land, Planning and</i></p> | <p>A new approach is proposed that involves amending the <i>Heritage Act 2004</i> to enable nominations made under the previous <i>Land, Planning and Environment Act 1991</i></p> |

| Commentary | Response |
|--|---|
| <p><i>Environment Act 1991</i> (i.e., pre-2003). ACT Heritage advises that, of the current backlog of 78 nominations, 41 involve pre-2003 nominations under the previous Act.</p> <p>Significant feedback was received in relation to this proposal. There was a strong view expressed that there should be a level of assessment applied to these nominations before removing them. This would ensure that no important nominations were dismissed and that this process should not be used as an opportunity to sidestep controversial nominations.</p> <p>To address concerns on this issue, an alternative approach will be pursued which will require an initial merit assessment of those nominations.</p> | <p>to be subject to the initial merit assessment process that applies to the acceptance of nominations under the current Heritage Act.</p> <p>This process will ensure an assessment is undertaken whether to accept the nomination, with the Heritage Council able to reject nominations which do not meet specified requirements.</p> |
| Issue #6: Backlog of advice | |
| <p>There was significant feedback (both through public/industry consultations and agency consultations) on the need for timely provision of advice and decision making.</p> <p>While there are proposed reform strategies and supporting actions proposed to resolve this issue, it is noted that ACT Heritage has a significant backlog of requests for advice that needs to be resolved. As at 25th October 2023 there were 205 outstanding requests for advice.</p> <p>Resolving this issue is an important step towards re-building community confidence and trust in the work of the ACT Heritage Unit and the Heritage Council.</p> | <p>A new proposed action has been incorporated to establish and resource a program to resolve the existing backlog of advice requests to ACT Heritage.</p> |

2.2 Second Order Issues

A range of other issues were raised in consultations that give rise to minor adjustments or clarifications to the Phase 1 report proposed strategic reforms or actions. These issues and the proposed responses are outlined below.

ACH assessments

In the Phase 1 report, one of the proposed actions was '*ACT Heritage to engage staff/contractors to undertake all Aboriginal cultural heritage (ACH) assessments, including those required for developments proposed under the Planning Act 2023.*' There was agency concern regarding the quantum of resources that would be required. This action was based on the approach in New Zealand for Maori cultural heritage and was included primarily to address the conflict-of-interest issues that can arise when a developer pays for a cultural heritage assessment and to improve the quality of assessments. ACT Heritage has advised that it has no evidence that these are real issues in the ACT and notes that implementing this action would require significant ongoing resources. Arguably, the ACT's resources are better deployed in the first instance in establishing the ACHB. Accordingly, this action has been removed.

A strategic approach to ACH

Agency consultations indicated that strengthening the inclusion of Aboriginal Heritage into placemaking provides a great opportunity for city-making and urban renewal. To harness this

opportunity, several actions have been consolidated and strengthened into a new proposed action to establish a strategic approach to the early identification, mapping, assessment and recognition of ACH.

Increased community involvement in heritage processes

Consultations indicated a desire for the community to have an increased role in heritage identification, assessment and management, particularly as it relates to new development areas. It is considered that this issue can be appropriately dealt with under the proposed strategic reform *'Raise and improve the profile, understanding and engagement with heritage in the ACT'* and more specifically, its supporting proposed action *'Establish a proactive stakeholder and community engagement strategy that will contribute to building trust in the ACT heritage arrangements'*.

Advocacy for post decision appeals and enforcement mechanisms

There was feedback that there is a need for an appeals mechanism in the heritage application process and a compliance and enforcement mechanism with enforceable penalties to ensure compliance with heritage rulings.

Changes have not been made to the proposed strategic reforms or actions in response to the issue regarding appeals mechanisms, as:

- Development approvals that involve the Heritage Council as a referral body are reviewable under the *Planning Act 2023*.
- There are several Heritage Council decisions – e.g., on Statements of Heritage Effect and Conservation Management Plans – that are not reviewable decisions. While, arguably, as administrative decisions they should be subject to review, this approach is not recommended as there is no evidence of a widespread issue to be resolved (it is understood Statements of Heritage Effect and Conservation Management Plans are subject to significant comment and review processes and very few are refused).

Regarding the issue of compliance and enforcement mechanisms, these mechanisms already exist:

- under the *Planning Act 2023* in relation to development approvals granted
- under the *Heritage Act 2004* in relation to heritage decisions (Heritage directions, heritage orders, repair damage directions, etc).

It was considered that the key concern underlying this issue was a lack of monitoring and compliance activity by the Heritage Council and ACT Heritage – an issue that was also raised during consultations. This will be addressed by a new proposed action *'Ensure appropriate resourcing of monitoring and compliance activities under the Heritage Act 2004'*.

In addition, an existing proposed action regarding the development of an enforcement and compliance policy has been strengthened by rewording as follows: *'Develop, in conjunction with Access Canberra, a policy to guide monitoring and compliance activities under the Heritage Act 2004'*.

Concern that heritage is adversely affected by exempt development arrangements under the Planning Act

Some feedback was received that suggests that the exempt development pathway under the *Planning Act 2023* should not apply when changes to properties on the Heritage Register are proposed. The underlying feedback appears to be that adverse impacts on registered heritage are occurring due to the activity being exempt development.

It is noted that compliance with the exempt development requirements is the remit of the Planning Authority, not the Heritage Council. Regardless, advice from ACT Heritage indicates that exempt development status does not provide an avenue for avoiding heritage requirements. Authority for

work that impacts on registered heritage is required to be assessed by the Heritage Council, either through the development approvals process or direct with the Heritage Council if a development approval is not required.

It is considered that this issue will be sufficiently addressed by the proposed actions to strengthen and resource monitoring and enforcement activities.

Improving access to heritage information

There was consistent feedback that there is a need to improve accessibility to heritage materials and information generally.

There is already a proposed strategic reform and supporting actions aimed at improving the profile, understanding and engagement with heritage in the ACT. It is proposed to extend one of these actions to include improving consumer and visitor access to relevant heritage information. This would involve providing a consumer centric experience in accessing a wide range of heritage related materials and information. For example, it could provide a consolidated view of the ACT Heritage Register, and ACT entries on the National Heritage and Commonwealth Heritage registers.

The need to review the implementation of the reforms

A number of those consulted indicated there would be a need to review the implementation of the proposed reforms after 12 months.

The Action Plan that has been developed alongside this Consultation Report proposes that regular implementation reviews be undertaken.

Other issues

Other feedback was received and implemented where appropriate to clarify or refine the wording of a range of strategic reforms and proposed actions, with the more notable of these changes being:

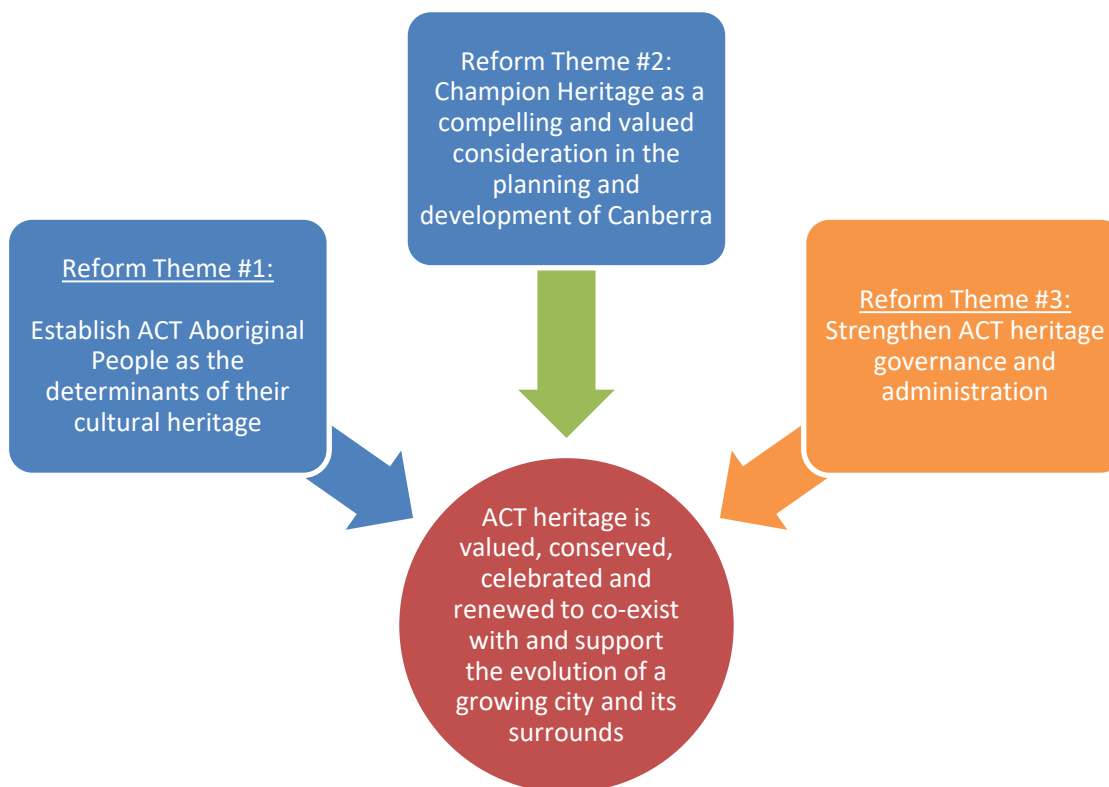
- The proposed action regarding establishing a layered approach to heritage has been revised to clarify that policy needs to be developed to enhance decision-making processes to formalise a layered approach. This reflects the fact that the foundations for a layered approach currently exist (through a single piece of legislation and one Heritage Register), however it is not formalised in any way. The Heritage Council, in conjunction with the ACHB, will need to develop policy and processes to operationalise a formal layered approach where ACH is the starting point for heritage recognition, conservation and management. Reference should be had to the approaches in NSW and New Zealand when developing such policy and processes, including recourse to external advice where appropriate
- The proposed strategic reform '*Establish and resource a program to resolve outstanding ACT Heritage Register nominations and review the ACT Heritage Register*' has been replaced with a broader and higher-level strategic reform to '*Ensure that the Heritage Register is accurate, comprehensive and reflects the ways of life in the ACT*'
- Extending the proposed action to develop or strengthen ACH policy and supporting practices to require that appropriate due diligence is undertaken for the management of ACH on existing developed land
- The proposed strategic reform suggesting the development of an ACT Heritage Strategy has been strengthened by amending to '*Develop an ACT Heritage Strategy that inspires the community and industry to value heritage*'
- The proposed action '*To develop a thematic approach to guide the growth in the Heritage Register*' has been broadened to require a strategic study of registrations – this will enable the consideration of other approaches as well as thematic, for example typological or

geographic approaches. The revised proposed action has been relocated under the strategic reform *'Ensure that the Heritage Register is accurate, comprehensive and reflects the stories of the ACT'*.

3 Revised Themes, Strategic Reforms and Actions

Following consideration of the consultation outcomes, the proposed reform pathway has been refined and expanded to three themes (see Figure 2), involving 11 strategic reforms and 46 actions for government consideration.

Figure 2: Strategic Reform Themes



The revised proposed themes, strategic reforms and actions are outlined below.

3.1 Theme One: Establish ACT Aboriginal People as the determinants of their cultural heritage

| Proposed Strategic Reform | # | Proposed Actions |
|--|-----|---|
| 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 | 1.1 | Progress consultation with a view to establishing an ACHB with appropriate delegations to recognise, conserve and manage ACH within the context of the <i>Heritage Act 2004</i> . This should involve: <ul style="list-style-type: none"> establishing a co-design process with the Aboriginal community (including Representative Aboriginal Organisations (RAOs)) to determine the structure, decision making processes and timelines, operational arrangements and resource requirements for the ACHB investigating the extent to which legislative change is necessary to support the functions of the ACHB, including any consequential impacts on the current RAO arrangements. |
| | 1.2 | Identify an appropriate Aboriginal community led process for determining who has cultural authority to speak for Country in the ACT. |

| Proposed Strategic Reform | # | Proposed Actions |
|---------------------------|-----|--|
| | | The community led process should be based on apical ancestry and align with expectations of the Native Title claimant evidence process as well as all Aboriginal groups claiming cultural authority in the ACT. The outcomes of the community led process should be used to inform the process for determining the composition of the ACHB. |
| | 1.3 | Ensure adequate resources are provided to support the establishment and ongoing operation of the ACHB and to enable ACT Heritage to support ACHB functions. |
| | 1.4 | <p>Adopt a strategic approach to the early identification, mapping, assessment and recognition of ACH that involves:</p> <ul style="list-style-type: none"> • consideration of oral histories, ethnographic and anthropological information • Reviewing known ACH sites to identify significant sites for listing on the Heritage Register, as well as developing a strategic priority for future ACH listings. |
| | 1.5 | <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 • 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 • an appropriate due diligence is undertaken for the assessment and (where applicable) management of ACH on existing developed land. |
| | 1.6 | Explore the priority establishment of 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. |
| | 1.7 | <p>When established, the 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>. This should include considering how to:</p> <ul style="list-style-type: none"> • provide for the conservation, management and repatriation of Indigenous Ancestral Remains (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. |

| Proposed Strategic Reform | # | Proposed Actions |
|--|-----|---|
| 2. Develop and implement a layered approach to heritage in which ACH is the starting point for heritage recognition, conservation and management | 2.1 | The Heritage Council, in conjunction with the ACHB, should explore the development and implementation of a policy to enhance decision-making processes that formalise a layered approach to heritage in which ACH is the starting point for heritage recognition, conservation and management in the ACT. |
| 3. Build the capacity of the ACT Aboriginal People to participate in ACH recognition, conservation and management | 3.1 | Explore the establishment of a program to build the ongoing capacity of ACT Aboriginal People to participate in the recognition, conservation and management of ACH. |

3.2 Theme Two: Champion Heritage as a compelling and valued consideration in the planning and development of Canberra

| Proposed Strategic Reform | | Proposed Actions |
|--|-----|--|
| 4. Develop an ACT Heritage Strategy that inspires the community and industry to value heritage | 4.1 | Progress the design and development of a long-term ACT Heritage Strategy. |
| | 4.2 | Strengthen links between the value of heritage and the ACT's Wellbeing Framework. |
| 5. Promote the value of heritage in place making and as a contribution to the life of the city | 5.1 | Investigate the economic, environmental and social (non-tangible) value of heritage to the ACT. |
| | 5.2 | Strengthen the contributions of ACT's heritage to planning and development outcomes through working with the Territory Planning Authority and the development arms of Government (especially the Suburban Land Agency and the City Renewal Authority) to facilitate early consideration of heritage in the ACT's strategic planning and urban renewal, estate development and urban design activities. |
| 6. Improve operations between the ACT's heritage, planning and development arrangements | 6.1 | Consider reviewing the administration and structure of ACT Heritage to deliver the independent statutory obligations of the Heritage Council and other appropriate heritage related activities to raise and improve the profile, understanding and engagement with heritage in the ACT. |
| | 6.2 | Strengthen community and industry understanding of the role of the ACT Heritage Council in the planning system and as a referral entity under the <i>Planning Act 2023</i> . |

| | |
|-----|---|
| 6.3 | Continue to work with the Territory Planning Authority to develop operational policy, guidelines and processes to enhance consideration of heritage values (including Aboriginal Cultural Heritage) early in the planning processes. |
| 6.4 | Progress discussions with the Territory Planning Authority to consider the need for a policy or other means of ensuring clarity of the circumstances where the Territory 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). |
| 6.5 | Progress discussions with Territory Planning Authority to consider the need for legislative amendments to allow the Heritage Council to be a referral entity in cases where: <ul style="list-style-type: none"> a development proposal is made for a place or object where a nomination to the ACT Heritage Register has been accepted for consideration under the <i>Heritage Act 2004</i> a place subject to a development proposal is adjacent to a site on the Heritage Register. |

3.3 Theme Three: Strengthen ACT heritage governance and administration

| Proposed Strategic Reform | # | Proposed Actions |
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| 7. Explore ways to strengthen the permanent capacity and specialised capability within ACT Heritage to deliver its support functions and improve the customer service experience | 7.1 | Review the structure and resourcing of ACT Heritage to ensure it can adequately support the Minister for Heritage, the Heritage Council, and the ACHB including requisite skills / knowledge / experience. |
| | 7.2 | Consider the reclassification of positions within ACT Heritage to be more competitive with the private sector to attract and retain staff with appropriate specialist skills and to ensure appropriate executive oversight of the ACT's heritage support arrangements. |
| | 7.3 | Consider strengthening the heritage support arrangements by separating the responsibilities of Secretary, ACT Heritage Council and Senior Director, ACT Heritage into two distinct positions. |
| | 7.4 | Ensure appropriate resourcing of monitoring and compliance activities under the <i>Heritage Act 2004</i> . |
| | 7.5 | Explore options to provide permanent administrative support capacity for specialist teams within ACT Heritage. |
| | 7.6 | Explore options to increase the remuneration budget for the Heritage Council to provide for adequate composition and meeting frequency of the Council Taskforces, enabling greater assessment capacity. |
| | 7.7 | Establish an effective triage system to appropriately guide work priorities informed by a risk management approach. |

| Proposed Strategic Reform | # | Proposed Actions |
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| | 7.8 | Explore suitable business systems that could support specialised ACT Heritage operations and improve responsiveness, triaging and case management. |
| | 7.9 | Explore the establishment of an enhanced pre-lodgement engagement and customer support services (e.g., gateway teams) to streamline customer service and manage workloads. |
| | 7.10 | Explore resourcing the establishment of a new online Heritage Register that is accurate, searchable and discoverable. |
| 8. Ensure that the Heritage Register is accurate, comprehensive and reflects the stories of the ACT | 8.1 | <p>Considering amending the <i>Heritage Act 2004</i> to:</p> <ul style="list-style-type: none"> enable nominations made under the previous <i>Land, Planning and Environment Act 1991</i> to be subject to the initial merit assessment process that applies to the acceptance of nominations under the current Heritage Act expand the grounds for dismissal of a nomination application to the Heritage Register establish a one-year time limit for a decision on provisional registration pertaining to new nominations. |
| | 8.2 | Explore options to strengthen the resourcing available to research, assess and process outstanding nomination applications to the ACT Heritage Register. |
| | 8.3 | Plan and consider 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. |
| | 8.4 | Plan and consider a strategic study of registrations (covering thematic, typological, geographic and other approaches to ensure the Heritage Register is representative of ways of life in the ACT) to guide the growth in the Heritage Register. |
| 9. Establish a strategic management approach to guide Heritage Council decision-making and operations and provide clarity around roles and responsibilities | 9.1 | Establish clear strategic expectations between the Minister for Heritage and the Heritage Council. |
| | 9.2 | Explore the design and implementation of a strategic management framework to guide Heritage Council decision-making and operations, including appropriate risk management and an induction process for Heritage Council members. |
| | 9.3 | Progress a Stakeholder Engagement and Communications Plan. |
| | 9.4 | Assist the Heritage Council to establish a transparent performance review program to assess its performance in relation to its roles and responsibilities. |
| | 9.5 | Plan 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 and strengthen the perceived independence of ACT Heritage operations. |

| Proposed Strategic Reform | # | Proposed Actions |
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| | 9.6 | 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. |
| | 9.7 | Consider amendments to 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. |
| 10. Review the Heritage Council's policy and processes to clarify and improve its decision-making capacity and capability and to guide and inform stakeholders | 10.1 | 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. |
| | 10.2 | Progress amendments to the Heritage Assessment Policy to set clear expectations on the size/format for new Registrations, and principles to guide future development of registered sites. |
| | 10.3 | Considering developing, in conjunction with Access Canberra, a policy to guide monitoring and compliance activities under the <i>Heritage Act 2004</i> . |
| | 10.4 | Strengthen and build on public policies and guidance materials that proactively support, encourage and enable improved sustainable heritage outcomes, including adaptive re-use, the use of solar panels and accessibility. |
| 11. Raise and improve the profile, understanding and engagement with heritage in the ACT | 11.1 | Strengthen the transparency of the operations of the Heritage Council (including the new ACHB), including publishing the expanded suite of policy and guidance material. |
| | 11.2 | Develop a program to strengthen and promote the importance and understanding of heritage in the community, including improving consumer and visitor access to relevant heritage information. |
| | 11.3 | Progress a proactive stakeholder and community engagement strategy that will contribute to building trust in the ACT heritage arrangements. |