

Review of the ACT Heritage Council – Report for internal use

ACT Environment, Planning, and Sustainable Development Directorate

November 2022



Nous Group acknowledges Aboriginal and Torres Strait Islander peoples as the First Australians and the Traditional Custodians of country throughout Australia. We pay our respect to Elders past, present and emerging, who maintain their culture, country and spiritual connection to the land, sea and community.

This artwork was developed by Marcus Lee Design to reflect Nous Group's Reconciliation Action Plan and our aspirations for respectful and productive engagement with Aboriginal and Torres Strait Islander peoples and communities.

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Introduction

The ACT Environment, Planning, and Sustainable Development Directorate, on behalf of the ACT Minister for Heritage (the Minister), commissioned Nous Group (Nous) to undertake a comprehensive review of the state of the ACT Heritage Council (the Council), including:

- its relationship with the ACT Heritage Unit (the Heritage Unit)
- the impacts on its performance and ability to delivery statutory functions under the *Heritage Act 2004*
- options to address the findings of the review.

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 in the ACT
- making decisions about the registration of heritage places and objects
- providing advice on works and development matters in accordance with the ACT's land planning and development system
- encouraging and assisting with appropriate management of heritage places and objects
- encouraging public interest in, and awareness of, heritage places and objects in the ACT.

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

Scope of the review

The terms of reference (16 August 2022) state that the scope of the review is "to examine and report to the Minister for Heritage on:

- The nature and effectiveness of the relationships between members of the Heritage Council
- The nature and effectiveness of Council's relationship with ACT Heritage [the Heritage Unit]
- The current performance of ACT Heritage Council and its ability to discharge its functions under the *Heritage Act 2004*
- Options to address the findings from the review.

The review will not specifically address procedural, administrative, or statutory processes of Council but may note these for future consideration."

Note that this report does address some procedural and administrative processes of the Council and of the Heritage Unit at a high level, as they were found to be directly relevant to the core scope of the review.

Methodology

Nous conducted 13x1 hour individual interviews with all nine appointed Council members and four key members of the Heritage Unit. We reviewed four written responses from interviewees. We also reviewed documents from the Council and the Heritage Unit to obtain data regarding resources, workload, workplans and performance.

Our findings reflect comments made independently by many interviewees. Based on the number of similar comments, and our review of the documentation, we are confident that they reflect systematic issues that require attention. Nous has synthesised the outputs from consultation and from the data and desktop review to provide an overview of the main factors that have contributed to the current situation.

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

1. Relationships among Council members, and between the Council and the Heritage Unit, have become strained



2. Frustration with structural and workload issues has contributed to stress

Council business has become strained

- Council members do not have a unified understanding of priorities and governance processes.
- Trust among Council members has become eroded, with no clear paths to resolution.

Understandings of roles and responsibilities between the Council and the Heritage Unit are misaligned

- Councillors and Heritage Unit staff feel that a better working relationship is needed.
- Some Council members feel they should have a more strategic and directive role. They feel that the Heritage Unit does not recognise or enable this.

There is frustration on both sides regarding how to work together to improve

- Some Council members want to assist in creating more efficient ways of working, but have not been mindful of the operating context.
- Heritage Unit staff feel that they do not currently have the capacity to respond to requests that fall outside of their day-to-day work.

Unprofessional behaviour has created stress in the work environment

- Some Council members have shown unprofessional behaviour towards other Council members, Heritage Unit staff, and external proponents.
- At times some Heritage Unit staff have shown unprofessional behaviour towards Council members.

The Council lacks a unified direction and understanding of their strategic outlook and processes

- The Council does not have a unified understanding of its strategic priorities, roles and responsibilities.
- The Council's business processes for triaging tasks and delegating workflow need clarification.

Governance arrangements between the Heritage Unit and the Council are unclear

- The current Council and the Heritage Unit do not have a common understanding of how they should work together. Attempts to resolve this misalignment have been unsuccessful.
- There is dissatisfaction and misalignment of expectations between some Council members and the Heritage Unit regarding each other's work processes.

Heritage Unit resources do not match the increasing demand or complexity of the work required

- The Heritage Unit's workload has increased substantially in recent years, without a corresponding increase in budget and resources.
- COVID and stress-leave absences caused by tensions in the work environment have exacerbated this issue over a six-month period.


Inefficient business systems put stress on staff

- The Heritage Unit's internal workflow and business processes are inefficient, including the Heritage Database and linkages to development applications.
- While work has commenced, a digital transformation would improve the efficiency and functioning of the Heritage Unit and the Council and would reduce current stressors.


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2 Frustration with structural and workload issues has contributed to stress

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The current Council and the Heritage Unit do not have a common understanding of how they should work together. Attempts to resolve this misalignment have been unsuccessful.



There is dissatisfaction and misalignment of expectations between some Council members and the Heritage Unit regarding each other's work processes.

Heritage Unit resources do not match the increasing demand or complexity of the work required

The Heritage Unit's workload has increased substantially in recent years, without a corresponding increase in budget and resources.

- Within the Heritage Unit, the Advice and Approvals team and the Registration team have the most direct contact with the Council.

Advice and Approvals team

- The Heritage Unit team provides roughly 90% of all Council advice and approvals under delegation. This allows relatively minor matters to be more easily expedited by the Heritage Unit on behalf of the Council. Complex, contentious or sensitive submissions are referred to Taskforces for assessment. These referrals are informed by preliminary assessment by the Heritage Unit.
- The amount of Council advice issued has increased by 70% from 2014 to 2022 – from 436 in 2014–15 to 741 in 2021–22. By comparison, the Advice and Approvals team staffing has only increased by 45% over the same period, from 4 to 5.8 full-time equivalents (FTE). They currently have two vacant positions, one filled by a temporary contract. They have limited access to temporary contract staff. Temporary contract staff add value but require more training and supervision, which impacts the rest of the team's productivity.

- As at 25 August 2022, there are 245 active submissions awaiting Council advice. The Heritage Unit reports that the proportion of major and complex submissions in this work program is greater than ever before. For example, there are currently 17 major project submissions on the list requiring high levels of heritage advice and 13 more are expected in the coming months. Historically, there were only one to two comparable major projects on the program at any one time. Advice for these major projects typically take Heritage Unit staff four to six weeks to prepare. At times it can use up to 40% of team resources.
- Council taskforce activity has increased 480% since 2014, reflecting the general increase in submissions. The Heritage Unit coordinates taskforce meetings by preparing preliminary assessments, agendas, meeting papers and minutes, and completing background requirements.
- The Heritage Unit undertakes other reviews that are not reflected in Council advice statistics. For example, in 2021–22, the Heritage Unit reviewed 785 land access and activity notifications (LAANs) to identify whether proposed telecommunications works would have heritage impacts. Advice was only provided on 16 of these applications, but all had to be reviewed.
- These conditions have affected Council response timeframes. For example, for referred development applications (DAs) in 2021–22, only 64% of advice was issued on time according to statutory requirements. In 2020–21, 83% of responses were on time. The target is 90%.
- Private owners are disproportionately affected by Council advice delays, as most private submissions do not have statutory timeframes. These response times have worsened in the past year. Many owners wait over 60 working days for advice, and some have been waiting 80 to 120 working days.

Registration team

- The Registration team complete preliminary assessments for nominations to the Heritage Register to assist Council decisions and coordinate the statutory registration process, such as notifications of decisions. They also coordinate the register taskforce, prepare agendas, meeting papers and minutes, and complete background requirements.
- There are currently 77 nominations awaiting assessment for the Heritage Register. New nominations are submitted regularly. New nominations are usually made in response to proposed or approved development. This adds urgency and legal complexity to an already lengthy process.
- In 2020–21 the Council made 20 decisions on heritage registration (for example, to accept or dismiss a nomination, to provisionally register a site or not) and sent 359 letters to interested parties. In 2021–22, the Council made 16 decisions and sent 69 letters. Council members and Heritage Unit staff report that they usually only process 35% to 40% of the priority list of nominations each year, a number both feel is unsatisfactory.
- The Registration team only has 3.1 FTE to address this significant workload.

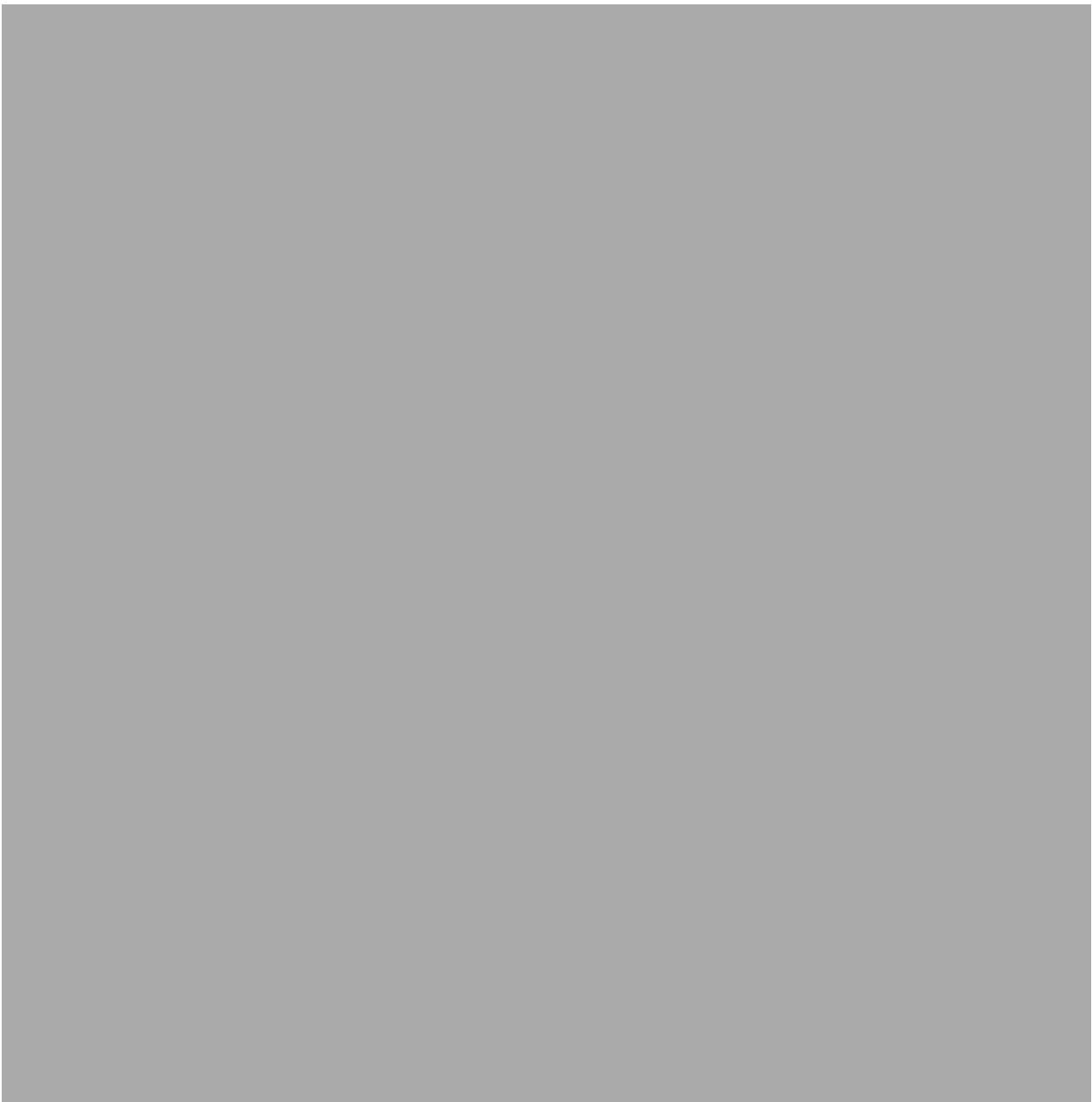
COVID and stress-leave absences caused by tensions in the work environment have exacerbated this issue over a six-month period.





Inefficient business systems put stress on staff¹

The Heritage Unit's internal workflow and business processes are inefficient, including the Heritage Database and linkages to development applications.



While work has commenced, a digital transformation would improve the efficiency and functioning of the Heritage Unit and the Council and would reduce current stressors.

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Australia | New Zealand | UK | Ireland | Canada

600

PEOPLE

70

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