

Statement of Expectations

ACT Heritage Council

Introduction

Section 16 of the *Heritage Act 2004* (the Act) establishes the ACT Heritage Council (the Council) and section 17 enables the Minister administering the Act to appoint members to the Council.

As the responsible Minister, this Statement of Expectations sets out my expectations of how the Council and its members will operate, behave and represent themselves in performing their collective and individual functions. My expectations are outlined on behalf of the ACT Government and the citizens of the ACT.

The Statement aims to provide guidance and clarity to the Council on the priorities, standards and outcomes to be delivered over the term of appointment. The Statement is not intended to impede or interfere with the Council in the discharge of its responsibilities, but rather to assist and focus it.

Functions of the Council

Under section 18 of the Act, the Council has the following functions:

- (a) to identify, assess, conserve and promote places and objects in the ACT with natural and cultural heritage significance;
- (b) to encourage the registration of heritage places and objects;
- (c) to work within the land planning and development system to achieve appropriate conservation of the ACT's natural and cultural heritage places and objects, including Aboriginal places and objects;
- (d) to advise the Minister about issues affecting the management and promotion of heritage;
- (e) to encourage and assist in appropriate management of heritage places and objects;
- (f) to encourage public interest in, and understanding of, issues relevant to the conservation of heritage places and objects;
- (g) to encourage and provide public education about heritage places and objects;
- (h) to assist in the promotion of tourism in relation to heritage places and objects;
- (i) to keep adequate records, and encourage others to keep adequate records, in relation to heritage places and objects;
- (j) any other function given to it under this Act or another Territory law.

In addition, the Council 'may do anything necessary or convenient to perform its functions'.

Exercising Council Functions

The Council is to exercise its functions in a way that achieves the objectives of the Act:

- (a) the conservation of—
 - (i) places and objects with heritage significance; and
 - (ii) Aboriginal places and objects;
- (b) the maximisation of the community's ability to benefit from the places and objects, without adversely affecting—
 - (i) the ongoing conservation of the places and objects; and
 - (ii) anything that forms an important part of the heritage significance of the place or thing.

The Council must exercise its functions with respect, care and due diligence for the heritage significance, conservation and responsible management of the ACT's natural and cultural heritage places and objects, including Aboriginal places and objects, and for the traditions, customs, rituals, institutions, beliefs and general way of life of First Nations people.

In working within the ACT's land planning and development system to achieve appropriate conservation outcomes, the Council must consider the objectives set out in the *Planning and Development Act*, the Territory Plan, the *Tree Protection Act*, and the *Nature Conservation Act*, and any reforms to this key legislation.

The Council must also consider the intersection of the ACT Government and Commonwealth planning and heritage responsibilities, including the National Capital Plan, the *Environment Protection and Biodiversity Conservation Act 1999* (Cth), and its relationship with the National Capital Authority.

Representation by Members

In appointing Council members, my expectation is that all members will represent heritage generally and, in addition, appointed public representatives must adequately represent their community or sector and that expert members must adequately represent their discipline. This means that members are expected to remain aware of current issues, engage with their community or professional groups, provide a balanced voice for their community, and bring fair and equitable consideration and judgement to bear in considering complex issues.

First Nations Engagement

A key priority for the Government is the protection and conservation of Aboriginal cultural heritage and places through active engagement with First Nations peoples in a way that harmonises with the present and future development needs of the ACT. Traditional Custodians must play a significant role in the conservation and management of their cultural heritage, the preservation and conservation of their culture places and objects, and in the planning and development of their traditional lands. I expect that the Council will continue to engage with Representative Aboriginal Organisations (RAOs) and other Aboriginal groups to ensure that heritage policies and decisions sensitively, genuinely and meaningfully consider Aboriginal history and culture. I expect the role of Traditional Custodians and the consideration of First Nations cultural heritage to be front and centre in the Council's approach.

Communication with Minister

As responsible Minister, it is my expectation that the Council will, through the Chair, provide me with regular information on its activities and performance and bring to my attention, in a timely manner, any information on significant issues affecting the Council's functions and work.

I expect the Council will, through the Chair, inform me in a timely manner of any issues affecting its capacity to exercise its statutory functions and powers under the Act.

Relationship with Government

The Council is established as a statutory body responsible for performing its functions and exercising its statutory powers at arms-length from Government, except where the Act specifies that the Minister has a role. However, while the Council is required to make independent decisions, it must do so within the ACT Government's established governance framework and the land and planning system of the ACT and in compliance with Government policies.

Government Policies

The Council's primary responsibilities are independent decision making on registration of places and objects with heritage significance, the conservation and responsible management of heritage within the ACT's land planning and development system, and the provision of an overarching framework within which this can occur. At times, this involves balancing competing objectives that require the attainment of quite specific heritage objectives on the one hand, and facilitation of economic development, social objectives and cultural sensitivities on the other. It may also involve advising the Minister on how heritage can contribute to wider economic, social, cultural and environmental outcomes, including well-being objectives.

It is my expectation that in making such decisions of balance, the Council has regard for the social, cultural, environmental and economic circumstances prevailing in the ACT and the objectives of the Government with respect to those circumstances.

Specific Government Policies and Strategies

To achieve appropriate heritage conservation outcomes in the ACT's land planning and development system, the Council is to consider published ACT Government policies and strategies, and those advised by me in writing, relevant to its functions.

For example:

- The Government is committed to promoting heritage in the ACT and has an annual ACT Heritage Grants Program and Heritage Festival aimed at increasing the utilisation, awareness and engagement in heritage places and objects through education and events, assisting the community to conserve, manage and facilitate the adaptive reuse of properties, and initiating or involving local Aboriginal communities in cultural heritage activities.
- The Government is committed to delivering climate change, sustainability and emissions reduction as well as to delivering heritage conservation outcomes. A balance must be struck so that heritage buildings and places can retain their character and other attributes that heritage

listing seeks to conserve, while being adapted to suit the needs of present and future occupants and ensuring they are accessible for all.

- The Government supports the growth of the Territory's tourism industry, and the important contribution that cultural/heritage visitors make to that industry. The presentation, interpretation, conservation, and management of our heritage is an important element of the ACT as the nation's capital and birthplace of Federal government, and celebrating its unique natural and Aboriginal heritage, and places of cultural and political significance.
- The ACT Planning Strategy aims to keep Canberra a city of choice in which to live and work by adopting agile and innovative approaches in response to our population growth and the shifts and challenges facing our city. The ACT Government recognises the importance of managing, conserving and protecting the ACT's natural and cultural heritage, including First Nation's heritage, and strengthening our heritage arrangements to better position the ACT to meet the current and future challenges of managing heritage within a growing city.
- The ACT Government is currently reviewing and reforming the ACT Planning System to deliver modern planning arrangements focused on delivering outcomes for the people of Canberra. This presents an opportunity to ensure the system recognises the heritage values of the ACT and specifies that the delivery of infrastructure and new development requires heritage investigations to consider cultural and heritage values.
- The ACT Government is implementing the National Construction Code (NCC) 2022 which includes the Liveable Housing and Energy Efficiency Provisions. Council must be aware of and informed by the NCC 2022 and consider how its provisions may impact heritage buildings. Through these standards the Government is supportive of sympathetic renovations of heritage residential buildings and adaptive reuse of heritage buildings to meet contemporary standards of accessibility and energy efficiency.
- The ACT Wellbeing Framework. The identity and belonging objective already includes arts and culture, connection to Canberra, sense of belonging and inclusion, support for multiculturalism, valuing Aboriginal and Torres Strait Islander cultures, and recognising Canberra's Traditional Custodians. The heritage of the ACT is clearly part of culture.

Legal advice

Unless the Council perceives a potential conflict of interest, any necessary legal advice and other legal services must be obtained from the ACT Government Solicitor. In making decisions the Council is to also be informed by ACT Heritage of past legal advice provided to the Council, and by relevant tribunal and court decisions.

Relationship with Stakeholders

It is my expectation that the Council will maintain clear lines of communication and receive advice from senior executives and staff from the Environment, Planning and Sustainable Development Directorate (EPSDD) (primarily ACT Heritage, the relevant business unit). It will work collegially, professionally and respectfully with the ACT Heritage team to achieve shared outcomes for the ACT, noting that ACT Heritage provides the secretariat for Council and is the source of advice and information to support

Council deliberations. It will work in accordance with the ACTPS Code of Conduct and Code of Ethics in its dealing with all stakeholders including the community, First Nations groups, industry, heritage interest groups, and other agencies and authorities.

The Council's statutory functions have direct and indirect links to regulatory responsibilities and functions performed by other agencies and authorities under other legislation, such as the Conservator of Flora and Fauna, Access Canberra, the Suburban Land Agency, the City Renewal Authority, Transport Canberra and City Services, Major Projects Canberra, and local planning authorities. It is my expectation that the Council will collaborate and maintain clear lines of communication with these bodies in relation to the administration of these functions.

Community and stakeholder engagement

Under the Act, the Council has specific functions associated with raising community awareness and understanding of heritage issues, and general functions that both serve and impact stakeholders and the community. It is my expectation that the Council maintains a communications program to inform the public of its statutory planning role within the ACT's land planning and development system and advise of its decisions in a timely manner. I expect the Council to engage broadly with relevant stakeholders when developing policy and heritage guidelines (section 26), and specifically to consult with Representative Aboriginal Organisations on matters relating to Aboriginal places and objects (section 31 of the Act).

Governance and operations

Corporate governance and values

It is my expectation that the Council will continue to develop and maintain good governance, transparency and accountability. Members are to act in an informed, impartial and professional manner, and exercise leadership in heritage management.

Reporting

In addition to statutory requirements to report to the responsible Minister (for example, under section 26B about public consultation), I expect the Council to provide me with an Annual Report that outlines progress against this Statement of Expectations, specifically the Government's priorities listed below, and achievements on delivering the outcomes to be agreed in the Council's annual Action Plan. The report is to be delivered to me by 31 October each year.

As a public authority under the *Annual Reports (Government Agencies) Act 2004*, the Council is also required to produce an annual report annexed to the EPSDD Annual Report. It is my expectation that the annexed Annual Report will also report on progress against this Statement and the Action Plan for that reporting period. Further, this Statement is to be published on the Council's website and made readily accessible to the public.

Policies and Procedures

The Council should regularly review and develop its operational policies and procedures to ensure it performs its functions effectively, efficiently, consistently and transparently, and in accordance with the provisions of the Act and this Statement.

I expect the Council to take particular care to ensure that its processes maximise certainty, provide for consistent and timely assessments and decisions, and that the degree of regulatory and administrative burden imposed on the ACT Heritage team is the minimum necessary to achieve appropriate heritage outcomes.

It is my expectation that the Council will develop policies, procedures and practices that simplify information and guidance, reduce unnecessary processes of complying with the Act and maximise certainty for property owners and developers, while encouraging sympathetic and innovative development.

Heritage Priorities

These heritage priorities are provided to assist the Council to set its strategic direction and inform its effort and focus. My expectations are that the Council will work to meet its statutory obligations and deliver the heritage priorities set out below. This will require working with ACT Heritage, noting many priorities may actually be delivered by or through ACT Heritage.

These are 'live' priorities and I recognise that they may require review in response to changes in the Government's position or within the Council's operating environment. I will ensure that the Council is informed of any changes to relevant Government policies and expect the Council to keep me informed of changes in heritage matters that impact its ability to deliver on these priorities.

1. Restore trust and confidence in the Heritage Council and ACT Heritage, including through the priorities noted below.
2. Strengthen the role of First Nations peoples in their role as Custodians of their cultural heritage and enhance protection for First Nations' cultural heritage.
3. Provide strategic guidance and assist in the development of a policy framework that creates an efficient working environment, embraces best practice, enhances the protection and conservation of heritage values, engenders social equity, and is accessible, easy to use, and suitable for relevant user groups.
4. Investigate and introduce measures that help to engage, develop and maintain strong supportive relationships with the owners of places entered on the Register or which may be registered.
5. Work with and support planning and land management authorities to protect and manage heritage.
6. Promote the value of heritage through the Heritage Festival, the Heritage Grants program and other opportunities, and support homeowners, tourism and business operators and heritage interest groups to access grants, and other incentive programs.
7. Promote the value of heritage in achieving wider government policy outcomes including social, economic, environmental and cultural outcomes.
8. Take a leadership role in the heritage sector and develop and maintain collaborative and supportive relationships with key sector stakeholders including owners and operators, First Nations groups, local planning authorities, the National Trust and other heritage interest groups.

9. Consider environmental, climate change and building code drivers in heritage conservation, including sympathetic options that achieve both heritage conservation and other objectives, and management decisions and policy that are balanced, contemporary and more climate ready.
10. Participate in and support the heritage reform program including the review and the development of a Heritage Strategy.

Period of Effect

This Statement of Expectations takes effect from the date of signing, for the period of the interim Council unless amended or revoked by me as the Minister beforehand.

A handwritten signature in black ink, appearing to read 'R. Vassarotti', with a stylized flourish at the end.

Rebecca Vassarotti MLA

Minister for Heritage

10 August 2023