

Transitional Arrangements for Current Proposals

- 5.1 There are six proposed National Memorials yet to be constructed which have current CNMC approvals:
- Australian Peacekeeping Memorial
 - Boer War Memorial
 - Immigration Place
 - National Workers' Memorial
 - World War I and II Memorials
 - Battle for Australia (the site for which is yet to be approved).¹
- 5.2 While the World War I and II Memorials are controversial, questions of due process and procedural fairness mean that all these proposals are potentially subject to review.
- 5.3 The evidence presented to the Committee presents a range of options on how to deal with current proposals for National Memorials:
- All current approvals to stand
 - All current approvals to be subject to reappraisal under the amended Ordinance/new Commemorative Works Act
 - Most current approvals to stand as approved on the grounds that they have not offended any particular principles, but the World War I and II Memorials to be reconsidered on the grounds that they transgress the Guidelines and the Griffin legacy in ways that have offended a considerable number of people, organisations and institutions.
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¹ National Capital Authority, Submission no. 30, pp. 22-5.

- 5.4 In its submission, the Department of Regional Australia argued that any changes to the procedures of the CNMC should only apply to new memorial proposals, not to those that had already been considered by the CNMC. The submission also noted that under current arrangements, the CMNC may review its decisions and the Minister may revoke previous determinations.²
- 5.5 The National Capital Authority also argued for the preservation of existing approvals in the 'interests of natural justice and procedural fairness for all interested parties'. It also argued that existing approvals should not be automatically renewed if they expire, and any renewed approvals should be granted under a reformed process.³
- 5.6 Other evidence called for rescinding all current approvals and reassessing them all under a reformed approvals process.⁴
- 5.7 The Lake War Memorials Forum proposed two options: specifically rescinding the approvals for the World War I and II Memorials (its preferred option) or placing a moratorium on all current proposals until they can be evaluated against an approved process.⁵
- 5.8 The Management Committee of the Walter Burley Griffin Society argued that, given the question mark over the validity of all recent proceedings of the CNMC, all decisions should be subject to review under a reformed process, although its principal concern was the World War I and II Memorials.⁶
- 5.9 In its submission, the Canberra chapter of the Walter Burley Griffin Society called for the approvals given the World War I and II Memorials to be rescinded by the Minister on the grounds that the approvals had failed to follow correct process, were likely invalid under administrative law, and had proved contentious. The proposals could be reconsidered after the reform of the Ordinance.⁷
- 5.10 In his submission, Air Marshal Evans also recommended that the World War I and II Memorials be rejected, highlighting their inconsistency with current planning protocols. He stated:

2 Department of Regional Australia, Submission no. 39, p. 22.

3 National Capital Authority, Submission no. 30, p. 18.

4 Ms Sarah Brasch, Submission no. 23, p. 3; Dr Jane Lennon AM, Submission no. 15, p. 3; Ms Juliet Ramsay, Submission no. 4, pp. 7-8.

5 Lake War Memorials Forum, Submission no. 27, pp. 38-9.

6 Walter Burley Griffin Society, Management Committee, Submission no. 32, p. 29.

7 Walter Burley Griffin Society, Canberra chapter, Submission no. 7, p. 5.

It is stressed that the current protocols give consideration to other activities that are part of community use of the Central Area. For instance Rond Terrace is designated as an area for public gathering and entertainment. It currently caters for up to 100 events each year. In August 2005 I Chaired the committee staging the celebration of VP [Victory in the Pacific] Day – the end of World War II. The veterans were given pride of place in Rond Terrace. The whole area on both sides of the lake – Rond Terrace and Commonwealth Place – formed a perfect amphitheatre and crowds estimated at 200,000 viewed and enjoyed the celebration over two days. Placing two large Memorials to war and sacrifice would create a sombre atmosphere that would simply destroy the Rond Terrace as a place for the community to enjoy a variety of entertainment.⁸

Committee conclusions

- 5.11 The JSCNCET concedes that there are difficult issues involved in applying transitional arrangements to current proposals. Procedural fairness might suggest that any recommendations the Committee makes should apply equally to all proposals, and it could be argued that all the current proposals have been subject to the shortcomings identified in the existing process. This would suggest that all the current proposals should be subject to review under a reformed process, or that all current approvals should be allowed to stand.
- 5.12 On the other hand, most current proposals for memorials fit within the *Guidelines for Commemorative Works in the National Capital* and reflect past practice of integrating new memorials within the existing landscape. The Boer War and Peacekeeping Memorials are both proposed to be located on ANZAC Parade in locations set aside for such memorials. Immigration Place (Kings Avenue adjacent to East Block) and the National Workers' Memorial (King's Park) are both proposed to be located in areas where there is a precedent for similar memorials. These memorials would not be controversial but for the fact that they have coincided with another, more controversial, proposal.
- 5.13 The World War I and II Memorials have aroused controversy because they do not fit within the *Guidelines* and represent a substantial alteration to the existing landscape. The *Guidelines* provide that 'a commemorative proposal must not duplicate the themes or subject matter of an existing

8 Air Marshal David Evans AC, DSO, AFC RAAF (Ret.), Submission no. 44, pp. 1-2.

commemorative site'.⁹ The World War I and II Memorials duplicate the role and function of the Australian War Memorial. The *Guidelines* also provide that 'sites adjacent to the Rond Terraces serve as a transition from Anzac Parade and should be reserved for commemoration of non-military sacrifice, service and achievement in Australia, in times of peace'.¹⁰ The World War I and II Memorials clearly contravene this prescription. They also represent a departure from the *Griffin Legacy*, which contained proposals for the development of the Rond Terraces more in line with Griffin's original proposal for an amphitheatre placed in sympathy with the surrounding landscape and the Central Axis.¹¹ A similar location for the Battle for Australia Memorial was rejected by the Canberra National Memorials Committee.¹²

- 5.14 The JSCNCET is of the view that, as a matter of procedural fairness, all current approvals for proposed National Memorials should stand. All the proponents have undertaken the CNMC process in good faith, and it would be unfair on any of them to terminate the proposals or force them to resubmit their proposals for reappraisal under a new process. Having said that, the JSCNCET is also of the view that none of the current proposals should have their site reservations extended beyond the expiration of their current life. If these proposals are truly viable, and it would appear that the CNMC's decision-making process failed to test this, then the proposals should be able to advance to the construction phase in the time currently available.

Recommendation 11

- 5.15 **The JSCNCET recommends to the Minister for Regional Australia, Regional Development and Local Government that the current approved National Memorial proposals stand for the life of their current site reservations, but that these site reservations not be extended beyond their current terms.**

9 National Capital Authority, *Guidelines for Commemorative Works in the National Capital*, August 2002, p. 7.

10 National Capital Authority, *Guidelines for Commemorative Works in the National Capital*, August 2002, p. 13.

11 National Capital Authority, *Griffin Legacy*, Commonwealth of Australia, 2004, pp. 186-7.

12 National Capital Authority, Submission no. 30, p. 25.

Senator Louise Pratt

Committee Chair

16 November 2011