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The Parliament of the Commonwealth of Australia

# **Etched in Stone?**

**Inquiry into the Administration of the *National Memorials Ordinance 1928***

**Joint Standing Committee on the National Capital and External Territories**

November 2011  
Canberra

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## Foreword

The commemoration of nationally significant events from our past is important. How we undertake such commemoration reflects on our identity and our aspirations. National memorials are particularly significant, because they reflect upon the past and identity of the nation as a whole. The National Capital is, in a sense, an act of commemoration. Its landscape, the names of its suburbs and streets, its public places and buildings, and its monuments and memorials, all reflect upon Australia as a nation, its past and its aspirations for the future.

The significance of Canberra, and the places within it, is what gave us the *National Memorials Ordinance 1928*, and the Canberra National Memorials Committee. The Ordinance and the CNMC were designed to give the Government a bipartisan mechanism by which enduring symbols, whether place names or memorials, could be scrutinised and endorsed in a way which reflected the nation as a whole.

The JSCNCET inquiry into the Ordinance has come about because of concerns that the Ordinance was no longer achieving what it was designed to do; and the evidence presented to the Committee has shown beyond doubt that the Ordinance is, at best, in much need of drastic reform and, at worst, in need of replacement.

After careful inquiry and consideration, the JSCNCET has come to the view that the Ordinance, a product of its time, should be replaced. There are more modern and sophisticated models for assessing and approving National Memorials. The Committee was impressed by the Washington model, which provides a comprehensive and sophisticated mechanism for assessing and approving commemorative works. While this model would be difficult to replicate in full in Canberra, the Committee believes its essence can be captured and incorporated into legislation reflecting local conditions.

The Committee has proposed the enactment of an Australian Commemorative Works Act to provide a comprehensive framework for defining commemorative

works, establish binding criteria for assessment and approval, and assure effective public participation in, and parliamentary oversight of, the approvals process. Commemorative works would be assessed at two stages, first for their 'commemorative intent', then, once this had been approved, for design and location. At the heart of the process would be the JSCNCET, which would provide the final assessment at both stages of the process on behalf of the Parliament.

As part of the inquiry, the JSCNCET has also had to consider how any changes to the approvals process would impact upon current proposals. This has been a difficult issue to address. The evidence presented to the Committee indicates that the approvals process has not operated as it should with regard to any of the proposals, and produced a highly contentious and flawed outcome with regard to one proposal in particular. This was not the fault of the proponents, who in all cases have engaged in the process in good faith. The Committee has recommended, therefore, that current approvals be allowed to stand, but only for the duration of current site leases. If the proposed memorials are truly viable, they will progress in the time available; if not, then it is probably fitting that they pass quietly into history themselves.

I would like to thank all those who have contributed to the inquiry through their appearances before the Committee and their submissions. There has been some lively discourse on a range of issues, and it has all been beneficial to the Committee's deliberations upon what has proved an intricate issue. I would also like to thank my Committee colleagues for their constructive, bipartisan, input into the inquiry and its outcome, and the secretariat for their efforts throughout the inquiry process.

**Senator Louise Pratt**  
**Chair**



## **Membership of the Committee**

**Chair** Senator Louise Pratt

**Deputy Chair** Mr Luke Simpkins MP

**Members**

The Hon Dick Adams MP	Senator Judith Adams
Ms Gai Brodtmann MP	Senator Trish Crossin
Dr Andrew Leigh MP	Senator Gary Humphries
Mr Patrick Secker MP	Senator Stephen Parry
The Hon Peter Slipper MP	

## **Committee Secretariat**

**Secretary**                      Mr Peter Stephens

**Inquiry Secretary**            Dr William Pender



## Terms of reference

The Committee was asked by the Hon Simon Crean, Minister for Regional Australia, Regional Development and Local Government:

1. To inquire into, and report on:
  - The administration of the National Memorials Ordinance 1928 (the Ordinance), with particular reference on:
    - The membership of the Canberra National Memorials Committee (CNMC);
    - The process for decision-making by the CNMC;
    - Mechanisms for the CNMC to seek independent, expert advice; and
    - Opportunities for improving transparency in the administration of the Ordinance.
  - The appropriate level of parliamentary oversight for proposed National Memorials.
  - The appropriate level of public participation in the development of proposed National Memorials.
2. If changes to current arrangements are recommended, inquire into and report on transition provisions for current proposals for memorials which have not yet been constructed.





## List of abbreviations

ACT	Australian Capital Territory
AHA	Australian Historical Association
CDHS	Canberra & District Historical Society
CFA	Commission of Fine Arts
CMP	Conservation Management Plan
CNMC	Canberra National Memorials Committee
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999</i>
FOI	Freedom of Information
JSCNCET	Joint Standing Committee on the National Capital and External Territories
HIS	Heritage Impact Statement
MHR	Member of the House of Representatives
NCA	National Capital Authority
NCMAC	National Capital Memorials Advisory Commission
NCPC	National Capital Planning Commission
NMAC	National Memorials Advisory Committee

PALM Act *Australian Capital Territory (Planning and Land Management) Act*  
1988



# List of recommendations

## 1 *National Memorials Ordinance 1928*

### Recommendation 1

The JSCNCET recommends to the Minister for Regional Australia, Regional Development and Local Government that, rather than attempting to amend the *National Memorials Ordinance 1928*, the Ordinance be repealed and replaced with a new Commemorative Works Act, as proposed in Chapter 4 of this report.

## 3 *Reforming the process*

### Recommendation 2

The JSCNCET recommends to the Minister for Regional Australia, Regional Development and Local Government that, while new systems are put in place, residents of the Australian Capital Territory be immediately appointed to the Canberra National Memorials Committee, as required under the *National Memorials Ordinance 1928*; and that these persons have acknowledged expertise in heritage matters, with one to be a member of the ACT Heritage Council nominated by the ACT Chief Minister.

### Recommendation 3

The JSCNCET recommends that, as part of the decision-making process for National Memorials, each proposal for a National Memorial be required to undergo heritage assessment, prior to final approval, including the creation of site specific Conservation Management Plans and Heritage Impact Statements.

**Recommendation 4**

The JSCNCET recommends that the National Capital Authority's *Commitment to Community Engagement* be applied to the decision-making process for National Memorials, with the NCA to report publicly on the public consultation process undertaken with regard to each National Memorial proposal.

**Recommendation 5**

The JSCNCET recommends that proponents of memorials provide resources and funds to conduct public consultation processes as part of the assessment and approval process for new National Memorials.

**Recommendation 6**

The JSCNCET, recommends that the National Capital Authority review its *Commitment to Community Engagement* to reflect the principles of deliberative democracy, and that it design and report upon public consultation processes for each National Memorial in accordance with these principles.

**Recommendation 7**

The JSCNCET recommends that the proposed Memorials Master Plan incorporate provisions for establishing a wider range of subjects for commemoration with a view to funding them through a combination of private and government subscription.

**Recommendation 8**

The JSCNCET recommends to the Australian Government that the Government consider the ongoing funding of a national commemoration program, with a particular focus on memorials that are unlikely to be built without government support.

**4 The New Model****Recommendation 9**

The JSCNCET recommends that the *National Memorials Ordinance 1928* be repealed and replaced with an Australian Commemorative Works Act, based on the United States model. This Act would provide for a two-pass assessment process for National Memorials, the first pass focused on commemorative intent, the second pass on character and location; and that:

- At the first pass, a motion be introduced to Parliament to approve the commemorative intent of a proposed National Memorial.

■ Following the introduction of the motion, the proposal be referred to the JSCNCET for consideration and report, based on the following approvals:

⇒ the memorial proposal be referred to the National Memorials Advisory Committee – a Committee made up of history and heritage experts, with one ACT Government representative, chaired by the National Capital Authority – to ensure that it complied with the *Criteria for Commemorative Works in the National Capital*

⇒ the National Capital Authority assess the proponent’s budget for the design, construction and maintenance of the proposed National Memorial, and capacity to finance the proposal.

■ Once approved by the National Memorials Advisory Committee, and with financial arrangements certified by the National Capital Authority, the JSCNCET would report upon the proposal. The motion would proceed at the pleasure of Parliament, and if passed, the commemorative intent of the proposed National Memorial would be approved.

■ Following passage of the motion establishing the commemorative intent of the proposed National Memorial, responsibility for identifying a location for the memorial and initiating a process for its design would pass to the National Capital Authority. This would require memorial proponents to develop a design completion brief and run a public design competition (if necessary); and undertake, in conjunction with the National Capital Authority, the following tasks:

⇒ Identify possible locations

⇒ Conduct mandatory public consultations

⇒ Seek independent expert advice

⇒ Seek planning advice from relevant authorities and, if required, advice from relevant government agencies

⇒ Have assessments made under the *Environment Protection and Biodiversity Conservation Act 1999*

⇒ Develop draft conservation management plans and/or heritage impact statements for proposed sites, if required

⇒ Develop the budget and business plan for construction, maintenance and associated infrastructure costs.

- At the second pass, assessing design and location, the proposal would be referred to the Joint Standing Committee on the National Capital and External Territories for consideration and approval on behalf of the Parliament. If required, the Committee would be able to invite submissions from the public and undertake public hearings.
- Second pass approval by the JSCNCET would provide the final approval for the proposed National Memorial.
- Commemorative works, as defined by the Act, could be initiated by the Commonwealth or ACT Governments.

### **Recommendation 10**

The JSCNCET further recommends that the proposed Commemorative Works Act:

- Define a 'commemorative work', encompassing both National Memorials and National Monuments as currently defined.
- Establish a National Memorials Advisory Committee, consisting of recognised experts in a range of disciplines, including history, heritage, architecture and planning; representatives of veterans, the services and relevant Commonwealth Departments; representatives of organisations with a strong focus on Australian history and culture at a national level; one representative of the ACT Government, appointed on the recommendation of the ACT Chief Minister; and chaired by a representative of the National Capital Authority. Membership to vary depending on the nature of the proposed National Memorial.
- Include the *Criteria for Commemorative Works in the National Capital* as a schedule to the Act.
- Include a Memorials Master Plan, including a map of existing memorials and potential sites for new memorials in accordance with the Criteria, as a schedule to the Act.
- Require the National Capital Authority to maintain a register (published on a specific National Memorials website) of all National Memorial proposals, including their current status, and all relevant decisions and approvals, along with all supporting documentation, including:
  - ⇒ Independent expert advice
  - ⇒ Public submission
  - ⇒ Reports of public consultations

- Define responsibilities of proponents in meeting design, construction and maintenance costs, including providing ten per cent of the overall costs towards ongoing maintenance of the new National Memorial.
- Prohibit the appearance of donor names or names of relatives on or near National Memorials and National Monuments, except where the specific object of the commemoration – its commemorative intent – is individuals, families or groups that have been found to be worthy subjects of commemoration.
- Exclude minor commemorative works, such as plaques or individual trees outside the Parliamentary Zone, from its operation.

## **5 Transitional Arrangements for Current Proposals**

### **Recommendation 11**

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.



## ***National Memorials Ordinance 1928***

- 1.1 On 17 August 2011, the Minister for Regional Australia, Regional Development and Local Government, the Hon Simon Crean MP, requested that the Joint Standing Committee on the National Capital and External Territories conduct an inquiry into the administration of the *National Memorials Ordinance 1928*, which defines the membership and responsibilities of the Canberra National Memorials Committee (CNMC).
- 1.2 The inquiry arose out of public concern about the processes underpinning the work of the CNMC, expressed publicly and in direct correspondence with both the Minister and the Committee.
- 1.3 The Committee was tasked with examining the membership of the CNMC, its decision-making processes, its ability to seek independent expert advice, transparency of administration, parliamentary oversight, public participation, and, if changes to these were recommended, transition arrangements for current memorial proposals.
- 1.4 The Committee has taken the following approach to its task:
  - Chapter 2 identifies problems with the Ordinance.
  - Chapter 3 outlines the reforms to the Ordinance, and the membership and functions of the Canberra National Memorials Committee, that would be required if a minimalist approach to reform were adopted.
  - Chapter 4 proposes an alternative model for the assessment of proposals for National Memorials, based on the Washington model.
  - Chapter 5 briefly discusses transitional arrangements for current proposals.
- 1.5 Of the two models for reform examined in this report, the Committee is strongly of the view that the repeal of the *National Memorials Ordinance 1928*, the disbanding of the Canberra National Memorials Committee, and

the substitution of a more modern and robust process for assessing National Memorials is the preferred option. The Committee is strongly of the view that the evidence placed before it reveals that the Ordinance is very much a creature of its time, has long since become moribund, and that any attempt to reform it will prove overly-complicated and unsatisfactory. The Ordinance and the CNMC were designed to achieve particular outcomes at a particular time in Canberra's development. That time has passed, and new policies and processes are required for the modern day.

### **Recommendation 1**

- 1.6 **The JSCNCET recommends to the Minister for Regional Australia, Regional Development and Local Government that, rather than attempting to amend the *National Memorials Ordinance 1928*, the Ordinance be repealed and replaced with a new Commemorative Works Act, as proposed in Chapter 4 of this report.**

### **A brief history of the *National Memorials Ordinance 1928***

- 1.7 The Canberra National Memorials Committee was created in 1927 in response to a perceived need for high level parliamentary consideration of the nomenclature of Canberra. The Committee's role was extended to consideration of memorials and formalised in the *National Memorials Ordinance* in 1928. Speaking to the House of Representatives in December 1927, Prime Minister Bruce stated:

In view of the historic interest attaching to the street nomenclature of Canberra, it is proposed to issue an ordinance to govern the matter and to set up a permanent body to review the proposals of the Federal Capital Commission and determine all matters connected with national or historic memorials, whether in the form of street names or monuments...

It is proposed that thereafter no modifications or additions to the street nomenclature or historic memorials of the national capital shall be made except on the recommendation of the Federal

Capital Commission and with the endorsement of the Canberra National Memorials Committee.<sup>1</sup>

## Original provisions

- 1.8 The original Ordinance provided for the establishment of the Canberra National Memorials Committee, consisting of the Prime Minister, the Minister of State for Home and Territories, the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, the Leader of the Opposition in the House of Representatives, the Chief Commissioner (of the Federal Capital Commission), and 'two members to be appointed by the Governor-General from amongst persons who are recognized as authorities on Australian history'.
- 1.9 The CNMC was essentially an executive committee with bipartisan representation. Its relationship was with the government rather than the parliament, its deliberations and decisions a matter for the executive government rather than the parliament or the people.
- 1.10 The Prime Minister was Chair of the Committee and meetings were to be summoned by the Chief Commissioner. The quorum was three. The Commission was to 'consider all matters referred to it by the Committee...with regard to the nomenclature of divisions of, or of public places in, the City District, or the location or character of national memorials in the City District'.
- 1.11 The Committee might 'approve, without alterations, or subject to such alterations as the Committee thinks fit, any proposal or recommendation made by the Commission; or reject any such proposal or recommendation; or return the proposal or recommendation to the Commission for further consideration...'.
- 1.12 Determinations of the Commission with regard to nomenclature were disallowable instruments, but determinations with regard to memorials were not subject to direct parliamentary scrutiny.

## Changes to the Ordinance

- 1.13 The Ordinance was first amended in 1931 to reflect the abolition of the Federal Capital Commission in 1930. The Minister and his department rather than the Commissioner became responsible for the operation of the Ordinance, with the CNMC operating in conjunction with the Minister (as

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<sup>1</sup> *Commonwealth Parliamentary Debates*, 14 December 1927, p. 3173.

is the case today). The Secretary of the Department was appointed to the CNMC in place of the Chief Commissioner; and the Civic Administrator, a position created under the *Advisory Council Ordinance 1930–1931*, was also appointed to the CNMC. With the abolition of the post of Civic Administrator (1932), the additional place on the CNMC was designated to ‘an officer appointed by the Minister’ (1933).

- 1.14 In 1937, the Ordinance was amended to allow the Minister to make contracts for the design and execution of national memorials.
- 1.15 In 1952, the Ordinance was amended to allow the Minister to determine the nomenclature of ‘public places’, having regard to certain names, without reference to the CNMC.
- 1.16 In 1953, the Ordinance was changed to allow two ‘residents of the Australian Capital Territory’ to be appointed to the CNMC instead of two persons ‘recognized as authorities on Australian history’.
- 1.17 In 1959, the term ‘City District’ was updated in line with changes to the Districts Ordinance.
- 1.18 In 1972, the term ‘Canberra City District’ was omitted and ‘the Territory’ inserted.
- 1.19 In 1989, with the commencement of self government in the Australian Capital Territory, the Ordinance was amended to apply ‘only in relation to National Land’.

## **Career of the Committee**

- 1.20 The first report of the Canberra National Memorials Committee, tabled in March 1928, developed principles, established by the Federal Capital Advisory Committee in 1926 and largely still in operation today (but perhaps with some variation in interpretation), by which the nomenclature of Canberra has been determined. This initial report did not deal with the issue of memorials, although these were always intended to be part of the Ordinance.<sup>2</sup>
- 1.21 After its initial period of activity, the CNMC appears to have endured long periods of total inactivity. The CNMC was designed to work in close cooperation with the Federal Capital Commission, and the early work of the Committee reflects a joint political and planning concern with resolving the potentially thorny issue of public nomenclature. The

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2 Canberra National Memorials Committee, *Report in regard to the Naming of Canberra’s Streets and Suburbs*, 29 March 1928 (Parliamentary Paper no. 187 of 1926–27–28).

abolition of the Commission, and the transfer of its role to the Minister and his Department, changed the dynamic under which the Committee operated. It is not clear what role, if any, the Committee played in the process of approving the handful of memorials extant by 1955. In its report, the Select Committee on the Development of Canberra (1955) noted:

There is a lack of monumental structures of a memorial nature. The fine Australian-American Memorial near Mt Pleasant has given a very necessary emphasis, with its high column, to the vista along King's-avenue from Capital Hill. The only other memorials are the King George V statue in front of Parliament House and the Robert Burns statue near Hotel Wellington. On Capital Hill is the uncompleted Commencement Column, which denotes the commencement of the city on the departmental plan and not the Griffin plan.<sup>3</sup>

- 1.22 The CNMC does not appear to have met at any time during the period of the Menzies Government and its successors, although it became active again under the Whitlam Government before once again lapsing into obscurity.<sup>4</sup>

### Recent developments

- 1.23 Renewed interest in the functions of the Canberra National Memorials Committee came from the renewed emphasis on the original intentions of the Griffin Plan. The Griffin Plan had an integral focus on 'deliberate and purposeful engagement with the potential meaning and symbolism of Australia's National Capital'.<sup>5</sup> In 2002, the National Capital Authority issued its *Guidelines for Commemorative Works in the National Capital*. These Guidelines provide a framework for positively addressing one of the central roles of the National Capital as 'a symbol of Australian national life and a location for memorials and national events'.<sup>6</sup>
- 1.24 The existence of the *National Memorials Ordinance* makes the Canberra National Memorials Committee central to any agenda focussed on

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3 Report from the Select Committee on the Development of Canberra, September 1955, p. 32 (Senate, 1954-55, vol. 1).

4 David Headon, *The Symbolic Role of the National Capital: from Colonial Argument to 21<sup>st</sup> Century Ideals*, National Capital Authority, Canberra, 2003, pp. 143-4.

5 David Headon, *The Symbolic Role of the National Capital*, p. 41.

6 National Capital Authority, *Guidelines for Commemorative Works in the National Capital*, August 2002, p. 3.

Canberra as a location for national memorials. Indeed, because of the Ordinance, the involvement of the Committee is a legal prerequisite.

- 1.25 This is the heart of the controversy over the way the Canberra National Memorials Committee has conducted its business. The Committee relies on the active involvement of its parliamentary members. In the absence of their active involvement, the decision-making process becomes dominated by bureaucrats, particularly those with a direct stake in the promotion of the proposals being put to the Committee. The result is that the Committee can be seen as a rubber stamp for the (legitimate) activities of the National Capital Authority in pursuit of its statutory responsibilities.

## **Problems with the Ordinance**

### **Membership of the CNMC**

- 2.1 Under the provisions of the Ordinance, the membership of the CNMC consists of:
- The Prime Minister
  - The Minister (currently the Minister for Regional Australia, Regional Development and Local Government)
  - The Leader of the Government in the Senate
  - The Leader of the Opposition in the Senate
  - The Leader of the Opposition in the House of Representatives
  - The Secretary of the Department (currently the Secretary of the Department of Regional Australia, Regional Development and Local Government)
  - An officer appointed by the Minister (currently the Secretary of the Department of Veterans Affairs; previously the Chief Executive of the National Capital Authority)
  - Two other members to be appointed by the Governor-General from amongst persons who are residents of the Australian Capital Territory (currently vacant, and probably never appointed).

### **Criticisms of current membership structure**

- 2.2 There are two main criticisms of the CNMC in its current format. Firstly, the reliance upon parliamentary members with high level responsibilities

has meant that much of the work of the Committee has been delegated to officials. In conjunction with a lack of transparency and accountability in the way the CNMC has conducted its business, this has led to perceptions that the proceedings of the Committee have been dominated by non-elected officials, particularly the NCA. On evidence presented to the Committee, a number of recent decisions of the CNMC have been taken with a bare quorum, in the absence of most of the parliamentary members, and with officials forming the majority of those in attendance.<sup>1</sup>

- 2.3 Secondly, despite almost universal agreement that ACT residents should be represented on the CNMC, as per the Ordinance, it would appear that such appointments have never been made, thus leaving ACT residents without an effective voice on the CNMC.

## Functions of the CNMC

- 2.4 The functions of the CNMC are broadly those of assessing and approving proposals with regard to the nomenclature of divisions of the Territory, or the location or character of national memorials. With the advent of self government for the ACT in 1989, the nomenclature function is arguably moribund. Indeed, the Department of Regional Australia has recommended that consideration be given to whether the power to name public places and Territory divisions remains relevant.<sup>2</sup>
- 2.5 With regard to CNMC functions, the Ordinance provides that the Minister shall consider all matters referred to him by the Committee and shall furnish a report to the CNMC on all matters referred to the Minister by the Committee. In practical terms, this means that the Minister refers proposals for National Memorials undertaken by proponents with the assistance of the National Capital Authority, such referral carrying the implicit recommendation of support by the NCA.<sup>3</sup> The Committee may approve, reject or recommend alterations to any proposal referred to it with regard to the nomenclature of divisions of the Territory, or the location or character of national memorials. Only determinations with
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1 Lake War Memorials Forum, Submission no. 27, pp. 14–16, 47–8; Walter Burley Griffin Society, Canberra chapter, Submission no. 7, pp. 1–2.

2 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 22.

3 National Capital Authority, Submission no. 30, p. 8. In its submission, the NCA notes that ‘in advising the CNMC to approve the location and character of a proposed National Memorial, the NCA is, whether explicitly or by implication, indicating that it is willing to provide works approval under the PALM Act’.

regard to nomenclature are to be published and laid before Parliament, where they are subject to disallowance.

- 2.6 The Ordinance states that the Prime Minister shall be chair of the Committee; that meetings of the Committee shall be summoned by the Secretary of the Department (currently Department of Regional Australia); that three members shall form a quorum; and that the Governor-General shall appoint certain members at the pleasure of the Governor-General and may appoint a person to a vacant office.
- 2.7 Beyond that, the Ordinance is largely silent on how the CNMC shall conduct itself. There is no formal decision-making process by which the CNMC is bound; no requirement to publish any record of proceedings or decisions; no requirement for public consultation; no formal criteria or guidelines by which the CNMC is bound when assessing memorial proposals; no requirement to seek independent expert advice; and no reference to heritage impacts or how these should be assessed and addressed. There is also no formal mechanism for effective parliamentary oversight of the approvals process.
- 2.8 The consequence of this, in the view of a number of submitters and witnesses, is a substantial failing in the decision making process.
- 2.9 In its submission, the Canberra chapter of the Walter Burley Griffin Society made a number of observations about the administration of the National Memorials Ordinance and the performance of the CNMC:

Elementary principles and administrative law have been ignored, more or less, in the processes and proceedings of the CNMC. Careful study under FOI of documents released by the NCA and the Department of Regional Australia, Regional Development and Local Government reveal the story.

Firstly, the CNMC would be convened routinely at short notice and with little guarantee that members would be available to attend or have time to examine agenda papers. Agendas would be indiscriminate and overloaded yet the Chairs would transact business in very short time for substantive discussion. Most regrettably, parliamentary representatives were rarely present and outnumbered by bureaucrats, including at two meetings the Secretary of the Department of Veterans Affairs.

Secondly, at least in the case of the World Wars I and II memorials (which were before the CNMC at five meetings), the agenda papers contained descriptions but no substantive analysis, assessments, alternatives, impact studies, policy guidelines or land

use and design framework. In the case of the War memorials, the NCA's agenda paper and the subsequent minutes of the relevant meetings contained just a one line, repetitive formulation: 'The proposals are consistent with the criteria contained within the Commemorative Guidelines.'

2.10 The Society's submission noted that this last assertion 'was, at best, misleading'.<sup>4</sup> The JSCNCET observes that the *Guidelines* provide that 'a commemorative proposal must not duplicate the themes or subject matter of an existing commemorative site'.<sup>5</sup> 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'.<sup>6</sup>

2.11 The Society's submission was critical of the NCA:

The NCA has no in house heritage or historical expertise. In the case of the World Wars I and II memorials they sought preliminary advice from the Department of Environment, Water and Heritage, which was watered down by advice from a private consultant and essentially omitted from the eventual design competition documents.

Even more remarkably, the NCA seems to have no policies or strategies regarding memorials, guidelines and land use planning for memorials. They are ambivalent about their *Guidelines for Commemorative Works* and they have adopted no strategy for monitoring and assessing the prospective demands for memorials, the diminishing land bank for memorials and the criteria for location and site selection of memorials and alternative forms of commemoration.<sup>7</sup>

2.12 In his submission to the inquiry, prominent military historian Dr Peter Stanley also raised questions about the role of the NCA, highlighting the failures in process during the approval of the World War I and II Memorials proposed for the Rond Terraces. He stated.

My comments on the administration by the National Capital Authority (NCA) of the National Memorials Ordinance 1928 arise

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4 Walter Burley Griffin Society, Canberra chapter, Submission no. 7, p. 2.

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

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

7 Walter Burley Griffin Society, Canberra chapter, Submission no. 7, pp. 2-3.

from my dismay at the way the ordinance has been used in the process of the NCA's approval and promotion of the proposed world wars memorials. I believe that the NCA's stewardship of the ordinance and its management of the Canberra National Memorials Committee has been seriously flawed – indeed, represents a disgraceful dereliction of its responsibilities.

- 2.13 In Dr Stanley's view, the CNMC had failed in its responsibilities at a range of levels and had become, in effect, an instrument of the NCA:

It is clear that the Canberra National Memorials Committee has in the case of the world wars memorials failed to operate effectively. It became evident, through documents obtained by the [Lake War Memorials] Forum through Freedom of Information requests, that the Committee had not only not included community representatives and had failed to consult as the ordinance envisaged, but that its deliberations had mostly not even included the political representation that it required in order to function properly. Rather than scrutinise and decide on NCA proposals, it has become a rubber stamp for the operation of the NCA's view of what should or should not proceed. My first recommendation therefore is that the present inquiry should ensure that the Committee operates at least as the 1928 ordinance stipulated.<sup>8</sup>

- 2.14 In its submission, the Management Committee of the Walter Burley Griffin Society observed that the problems associated with the World War I and II Memorials were not isolated to that proposal. Rather, this was one of a series of concerns connected with the administration of the Ordinance by the CNMC and NCA. The submission stated:

The CNMC has been managed, manipulated, and marginalised in the process of initiating and procuring National Memorials driven by the National Capital Authority.

The result has been a series of politically embarrassing, time wasting and totally inappropriate decisions that have deflected attention and scarce resources from the main task at hand: the planning, design and management of the National Capital.

Three memorial ventures promoted by the NCA since 2001 demonstrate this failure of process: (1) the Centenary of Women's Suffrage Memorial, Federation Mall, 2002–2003 ('The Fan'); the Immigration Bridge proposal, West Basin, Lake Burley Griffin,

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8 Dr Peter Stanley, Submission no. 9, pp. 1–2.

2002–2010; and the proposed World Wars I & II Memorials, Rond Terraces, 2005 to date.<sup>9</sup>

- 2.15 Giving evidence before the Committee, Professor James Weirick, President of the Walter Burley Griffin Society, raised the further issue of memorials being approved for construction regardless of the capacity of proponents to fund them. He stated:

The committee [CNMC] may need independent expert advice on the feasibility of a proponent's budget and business plan, a consideration that appears to have been ignored by the NCA in the support given to community groups seeking to build a \$30 million high – span bridge over Lake Burley Griffin or twin war memorials on the Rond Terraces, estimated to cost \$21 million, given that community groups in the past have struggled to raise sums in the order of \$1 million to \$2 million. Similarly, the committee may need independent expert advice to verify the NCA's estimates of associated infrastructure costs.<sup>10</sup>

- 2.16 In its submission, the Lake War Memorials Forum also presented a list of the perceived failings of the CNMC and the operation of the Ordinance:

- Proceedings of the CNMC probably flouted the provisions of the Ordinance.
- Key decisions seem to have been remade to remove defects.
- Key decisions were made on the basis of inadequate consideration of evidence.
- One key decision flouted the NCA's own mandatory guidelines.
- Deciding the location of the lakeside memorials separately from their "character" left key design decisions to middle level officials in cooperation with the memorials' proponents.
- One participant in key meetings had a conflict of interest.
- Public exposure of the proposed lakeside memorials was almost non-existent until the launch of the winning design in February 2009.
- Meetings were perfunctory and hurried.
- NCA records relating to key decisions cannot be found.<sup>11</sup>

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9 Walter Burley Griffin Society, Management Committee, Submission no. 32, pp. 9–10.

10 Professor James Weirick, Walter Burley Griffin Society, *Transcript of Evidence*, 14 September 2011, p. 3.

11 Lake War Memorials Forum, Submission no. 27, p. 5.

2.17 In evidence before the Committee, Dr David Stephens, representing the Lake War Memorials Forum, also highlighted the problem of funding, focussing on the World War I and II Memorials:

If you look at the papers, the original estimate of costs was \$6 million. Now, according to the NCA, it could be as much as \$25 million. Obviously that blow-out in cost is going to make it even harder to raise the money than it would have been if it was \$6 million. But the Canberra National Memorials Committee in 2010, knowing that the Memorials Development Committee were having trouble raising money, gave them three more years and said, 'If that is not enough, we will give you more after that.' That, to me, is a ludicrous use of power.<sup>12</sup>

2.18 Other problems raised in the evidence presented to the JSCNCET were:

- Lack of public consultation
- Lack of expertise on the CNMC
- The growing population of memorials
- Lack of an overall plan

2.19 In its submission, the Canberra & District Historical Society (CDHS) noted the lack of strategic planning and the increasing 'clutter' of memorials. The submission notes that 'current decisions are ad hoc and without future visions'. Nor, the Society notes, has there been any conversation with the community about what should be commemorated and in what ways:

The current impression the CDHS has is that the CNMC is reactive rather than proactive in taking up proposals for memorials in an ad hoc basis rather than having an overall vision of what work has been done.<sup>13</sup>

2.20 In her submission, Ms Juliet Ramsay, a member of the International Scientific Committee on Cultural Landscapes, questioned the proliferation of memorials in and around the Parliamentary Zone:

Central Canberra has rapidly become filled with memorials. It is questionable that Canberra needed a memorial to the Magna Carta. It is questionable that every Australian of the Year requires their own plinth memorial with an image, marching along the lake

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12 Dr David Stephens, Lake War Memorials Forum, *Transcript of Evidence*, 14 September 2011, p. 12.

13 Canberra & District Historical Society, Submission no. 31, pp. 1, 3.

edge, which will lead to an ongoing accumulation of such memorials. The valuable landscape of the lake edge that is supposed to be [the] setting for national buildings is beginning to resemble a cemetery.<sup>14</sup>

- 2.21 In its submission, the Australian Historical Association (AHA) expressed concern about the process undertaken with regard to the approval of the World War I and II Memorials:

The AHA has in recent times been particularly concerned about the procedures governing the meetings and decision-making processes of the CNMC, in particular with regard to the approval of a proposal from a private company, calling itself the 'Memorials Development Committee', to build two new, very imposing 20 metre high war memorials on designated 'national land' on the shores of Lake Burley Griffin. It would seem from the Minutes and records of the National Capital Authority (NCA) and CNMC that although the 'location' of the proposed new war memorials was discussed and approved, as required of the CNMC under the Ordinance, their precise 'character' and the issue of duplication was not.

Whether the duplication involved in this proposal – the Australian War Memorial was itself conceived by CEW Bean and explicitly designed as a memorial to those who served in World Wars 1 and 2 – was known by the three members of the CNMC who decided the issue is not clear. The *Guidelines for Commemorative Works in the National Capital* explicitly state that: 'A commemorative proposal must not duplicate the themes or subject matter of an existing commemorative site'.<sup>15</sup>

- 2.22 The AHA was also concerned with the role of the National Capital Authority and the Department of Veterans Affairs in recent decisions, as well as the lack of appropriate expertise on the CNMC.<sup>16</sup>
- 2.23 The lack of transparency in decision making and lack of public consultation in the approvals process was a matter of almost universal concern. Even the National Capital Authority noted that 'NCA advice on whether to support a location and character and decisions of the CNMC

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14 Ms Juliet Ramsay, Submission no. 4, p. 3.

15 Australian Historical Association, Submission no. 11, p. 2.

16 Australian Historical Association, Submission no. 11, p. 2.

about whether to approve a location and character is currently prepared without any community consultation or other public participation'.<sup>17</sup>

## Committee conclusions

- 2.24 The current operation of the Ordinance and the Canberra National Memorials Committee is obviously the subject of considerable community concern – much of it, it appears, well justified. The National Memorials Ordinance is in much need of reform.
- 2.25 In particular, the JSCNCET believes that the membership of the CNMC must be reviewed to make it more effective and more representative.
- 2.26 The CNMC's decision-making process needs to be reformed and modernised. There needs to be greater scope for public and expert input into its deliberations. Its proceedings must be transparent and its decisions capable of being justified against known criteria. In this regard, a reform of the *Guidelines for Commemorative Works in the National Capital* is also justified, as is the creation of a memorials strategy or master plan.
- 2.27 There is considerable scope for improving the level of public participation in the memorials approval process – and in improving the level of parliamentary oversight.
- 2.28 The resolution of these issues will be explored in the following chapters. Chapter 3 will look at possible reform of the Ordinance and the CNMC. Chapter 4 will examine a more thoroughgoing overhaul of the process for approving National Memorials.

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17 National Capital Authority, Submission no. 30, p. 8.



## Reforming the process

- 3.1 The preceding chapters, highlighting the history and problems with the Ordinance, raise two possibilities for reform:
- the Ordinance could be retained, but with both the Ordinance and the Canberra National Memorials Committee being substantially modernised; or
  - the Ordinance could be repealed and the CNMC could be consigned to history. In its place, a new model of approving National Memorials could be adopted. The JSCNCET strongly prefers this option.
- 3.2 The JSCNCET notes that much of the evidence presented to it presumes the continued existence of the Ordinance and the CNMC in some form. Indeed, the terms of reference for the inquiry invite consideration in these terms rather than addressing more radical alternatives.
- 3.3 Nonetheless, the JSCNCET believes that much of the evidence presented for the reform of the approvals process for National Memorials could just as easily support a more radical change. The principles that would need to be included in any reform of existing arrangements apply equally to the Committee's preferred option for a new process.
- 3.4 Regardless of whether the Ordinance is retained or replaced, there are a number of features of the approvals process which demand reform. The evidence presented to the JSCNCET, outlined in Chapter 2, indicates that there are significant problems with the Ordinance and therefore the operation of the CNMC. These problems include:
- Lack of clarity and structure in decision making
  - Inadequate treatment of heritage issues

- Inadequate access to independent expert advice
- Lack of transparency in decision making processes
- Lack of effective parliamentary oversight
- Lack of public participation in decision making
- Inadequate definition of important issues, such as ‘what is a National Memorial?’
- Lack of supporting documentation, such as plans and guidelines.

3.5 In this Chapter, the JSCNCET will look at the evidence focussed on the reform of the Ordinance and the CNMC, beginning with its membership, with a view to possible changes to the Ordinance, but also with a view to a moving beyond the Ordinance towards more comprehensive change.

## Proposals for change

3.6 The membership of the Canberra National Memorials Committee is one of the key areas of the *National Memorials Ordinance 1928* requiring reform. As noted in the previous chapter, there is a widespread view that as currently constituted the CNMC cannot effectively carry out its responsibilities.

3.7 A number of schemes for changing the membership of the CNMC have been suggested in the evidence placed before the JSCNCET. There has been a focus on three main issues (which are not mutually exclusive):

- Increasing the effective presence of parliamentary representation
- Increasing the presence of people with history/heritage expertise
- Providing for ACT representation.

3.8 There is a consensus that parliamentary representation is important and that the ACT community should be represented on the CNMC in some way. Opinion is divided on the presence on the CNMC of expert opinion, whether there should be history/heritage experts or persons representing particular sections of the community (such as the military or veterans), or whether such advice is best sought externally.

3.9 In its submission, the Department of Regional Australia supported the current membership of the Committee as provided by the Ordinance,

stating that the ‘bipartisan Committee, with senior Parliamentarians, appropriately reflects the national significance of national memorials’.<sup>1</sup>

3.10 The submission recommended filling all positions on the CNMC as soon as possible, suggesting a range of possible ways to fill the positions currently reserved for ACT residents, including:

- Open selection based on written applications
- Nomination by the ACT Chief Minister
- Nomination of two Members of the ACT Legislative Assembly
- Appointment of two federal MHRs or Senators representing the ACT
- A combination of the above options.<sup>2</sup>

3.11 The Department’s submission acknowledged the difficulties involved in senior parliamentarians attending CNMC meetings. It addressed the issue of non-participation of senior parliamentarians and officials by recommending a system of delegation:

The Department supports enabling Committee members to delegate their functions, including their voting rights...allowing Committee members to delegate their responsibilities would enable the Committee to meet face-to-face regularly and enable senior Parliamentarians to continue to contribute to the decision making process via their nominated delegate.

3.12 Delegations would be limited:

For example, ministers and shadow ministers may only delegate to other members of parliament or senators, and the Secretary of the Department may only delegate to a senior executive colleague.

3.13 An alternative proposal would be to specify ‘certain Parliamentary Secretaries and Shadow Parliamentary Secretaries as Committee members’, or to have members of the JSCNCET appointed to the CNMC while maintaining its bipartisan composition.<sup>3</sup>

3.14 As Chair of the Committee, the Prime Minister, rather than the Secretary of the Department, would be responsible for summoning meetings; and

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1 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 13.

2 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, pp. 13–14.

3 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 14.

the responsible Minister would also have the role of Deputy Chair of the CNMC, with the power, if required, to summon meetings.<sup>4</sup>

3.15 Expert advice would come through the NCA, as the 'expert advisor', and from external advice sought as required.<sup>5</sup>

3.16 In its submission, the NCA also emphasised the importance of high level political leadership on the CNMC. The submission stated:

The Prime Minister, the responsible Minister, the Leader of the Opposition in the House of Representatives and the Leaders of the Government and Opposition in the Senate should all retain their places as members of the CNMC. The NCA also suggests the Secretary of the department with broad responsibility for the territories, currently the Department of Regional Australia, Regional Development and Local Government retain membership of the CNMC.<sup>6</sup>

3.17 The NCA suggested replacing the ACT members of the CNMC with a local MHR or Senator and a nominee of the ACT Government. It also suggested the appointment of the Chair of the JSCNCET and a representative of the NCA to the CNMC. This would combine effective parliamentary representation with planning expertise.<sup>7</sup>

3.18 Independent expert advice could be sought as required.<sup>8</sup>

3.19 These minimalist approaches to changing the membership of the CNMC do not take into account the frustration felt by other groups with the current arrangements, and particularly with the role of the NCA. In their submissions, the Walter Burley Griffin Society and the Lake War Memorials Forum documented recent failures in memorial planning processes, which they attributed to a lack of checks and balances on the role of the NCA; and the failure of the parliamentary members of the CNMC to play an effective role in the Committee's deliberations, effectively abdicating responsibility for decision making to the Minister and officials.<sup>9</sup>

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4 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 15.

5 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 18.

6 National Capital Authority, Submission no. 30, p. 9.

7 National Capital Authority, Submission no. 30, p. 9.

8 National Capital Authority, Submission no. 30, p. 13.

9 Walter Burley Griffin Society, Management Committee, Submission no. 32, p. 16; Lake War Memorials Forum, Submission no. 27, pp. 20-2.

- 3.20 In its submission, the Canberra chapter of the Walter Burley Griffin Society proposed a substantial change in the membership of the CNMC to reflect the reality that senior parliamentarians would have little time to attend to the work of the Committee, and that both local representation and expert knowledge were essential to the work of the CNMC. The Society suggested the following membership structure for the CNMC:
- The Minister responsible for the Australian Capital Territory
  - Three Members of the House of Representatives
  - Three Senators
  - One or two residents of the ACT
  - One or two recognised authorities in Australian history from outside the ACT.<sup>10</sup>
- 3.21 In a separate submission, the Sydney-based Management Committee of the Walter Burley Griffin Society acknowledged the symbolic importance of the membership of the CNMC as originally conceived in the Ordinance. It also acknowledged that in recent years the CNMC had not functioned as intended. The submission argued that ‘ideally the CNMC should retain its political membership as established in 1928’, but that ‘as a return to these 1928 political arrangements appears unrealistic’ the membership recommended by the Society’s Canberra chapter was the best way forward.<sup>11</sup> In both cases, the role of the NCA was limited to providing advice to the CNMC and proponents ‘in strict accordance with the *Guidelines for Commemorative Works in the National Capital* and a Memorandum of Understanding with the proponent, posted as a public document.’<sup>12</sup>
- 3.22 In its submission, the Lake War Memorials Forum proposed three options for the make-up of the CNMC designed to achieve a membership ‘which is representative, interested, has access to expertise, and has time to devote to its business’ and which ‘should not be subject to capture by a single constituency’.<sup>13</sup>
- 3.23 Option A would provide a CNMC with a membership of five (quorum of four) consisting of:

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10 Walter Burley Griffin Society, Canberra chapter, Submission no. 7, p. 2.

11 Walter Burley Griffin Society, Management Committee, Submission no. 32, pp. 19–21.

12 Walter Burley Griffin Society, Management Committee, Submission no. 32, p. 16.

13 Lake War Memorials Forum, Submission no. 27, p. 17.

- The Minister (Chair of CNMC; departmental secretary as proxy)
  - Chair of JSCNCET (Deputy Chair of CNMC)
  - Another member of JSCNCET (elected by JSCNCET)
  - Two ACT residents (one nominated by the minister, one by the JSCNCET).
- 3.24 The focus in Option A is upon representativeness and political and community interest, with expertise drawn from outside. The JSCNCET would recommend that, if this option were adopted, the other member of the JSCNCET appointed to the CNMC be the Deputy Chair of the JSCNCET. This would ensure bi-partisan representation.
- 3.25 Option B would provide the CNMC with a membership of five (quorum of four) consisting of:
- The Chair of the Australian Council of National Trusts
  - The President of the Planning Institute of Australia
  - A representative of the Walter Burley Griffin Society
  - Two ACT residents (nominated by the community).
- 3.26 Option B focuses on expert knowledge and demonstrated interest in planning and heritage issues at the expense of political representation (which is currently often absent anyway).
- 3.27 Option C would provide a CNMC with a membership of six or seven (quorum of four) consisting of:
- The Minister (Chair of CNMC; departmental secretary as proxy)
  - Chair of JSCNCET (Deputy Chair of CNMC)
  - Another member of JSCNCET (elected by JSCNCET)
  - Two ACT residents (one nominated by the Minister, one by the JSCNCET)
  - Up to two temporary members with appropriate expertise, appointed by the Minister, for each memorial proposal.
- 3.28 Option C combines the strengths of Options A and B in a slightly larger committee.<sup>14</sup>
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14 Lake War Memorials Forum, Submission no. 27, pp. 17-19.

3.29 A number of submissions called for CNMC membership which included expertise in history and heritage matters and/or expertise in aesthetics, design and planning.<sup>15</sup> The National Gallery of Australia suggested that the deliberations of the CNMC would be 'enhanced if there was an opportunity for a suitably qualified person to comment on the merits of proposals from an aesthetic perspective'.<sup>16</sup> The RSL called for the appointment of representatives of both current service personnel and veterans (not to the exclusion of other sectors of the community) to ensure that both could have input into memorials, particularly those associated with military service and service in war, a call echoed in the submission from the proponents of the Australian Peacekeeping Memorial Project.<sup>17</sup>

## Committee conclusions

3.30 In the Committee's view there are five major issues surrounding the membership of the CNMC:

- The seniority of the parliamentary members of the Committee
- Membership with relevant experience and expertise
- Representation of the ACT community
- Quorum requirements
- The role of the NCA.

3.31 Traditionally, the status of the senior parliamentarians was seen as giving the CNMC a weight and national perspective fitting for something of such lasting national significance as National Memorials. As a matter of principle, this is a very attractive concept. However, as the senior parliamentarians appointed to the CNMC have not always been able to fulfil their role, much of the decision making has been left to officials. Whatever one may think of the results, this outcome is clearly the opposite of what was originally intended under the Ordinance.

3.32 In this regard, one option would be to follow the compromise solution suggested by the Department of Regional Australia. Keeping the senior parliamentarians on the CNMC, but allowing them to delegate their

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15 Australian Historical Association, Submission no. 11, p. 3; Australian Garden History Society, Submission no. 12, p. 2; Dr Jane Lennon AM, Submission no. 15, pp. 1-2; Canberra & District Historical Society, Submission no. 31, p. 2.

16 National Gallery of Australia, Submission no. 38, p. 1.

17 Returned & Services League, Submission no. 22, p. 1; Australian Peacekeeping Memorial Project, Submission no. 37, p. 1.

responsibilities to other parliamentarians would allow some balance between maintaining the status of the CNMC while ensuring that the parliamentary members of the Committee are effectively engaged in its work. These delegates could be officially appointed to the CNMC with fixed terms of three years or until they cease to hold a seat in Parliament (whichever occurs first).

- 3.33 Yet there are other options for improving the level of parliamentary input into, and oversight of the, memorials approval process. The Washington model (see Chapter 4) gives direct congressional input in the first stage of a memorial's development by requiring the passing of legislation; and high level input from the Government and Congress, through the various Commissions associated with the process, through the remaining stages. Another option, raised in the evident presented during the inquiry, is for the direct involvement of the JSCNCET in the approvals process. This would also ensure direct parliamentary involvement and ensure a high level of bi-partisanship.
- 3.34 The bi-partisan nature of the CNMC is vital to its function. The JSCNCET believes that if the Ordinance is to be retained it should always reflect this bi-partisan principle, either explicitly in the appointments (naming of office holders) made under the Ordinance or in a statement of principle within the Ordinance.
- 3.35 The JSCNCET is also of the view that experts in history and heritage have an important place in the approvals process. As originally conceived, the CNMC had two such members. The presence of acknowledged national authorities could only improve the deliberations of the CNMC, giving a deeper perspective on the national and historical significance of any given National Memorial and its place within the history and landscape of the National Capital. Such members would also add weight or balance to advice from other sources. If the CNMC is to be retained, the JSCNCET would suggest the appointment of two nationally recognised authorities in the field of Australian history, with a view to seeking independent advice and public input from other sources as required.
- 3.36 Another option is suggested by the Washington model – the creation of an advisory committee made up of experts in the field of history, heritage and culture, who could provide expert advice to Parliament and the National Capital Authority on a range of issues surrounding any given proposal. This option will be further explored below.
- 3.37 The JSCNCET also believes that some level of representation for the ACT community is essential to any approvals process given the proximity of

ACT residents to the outcome. Whether the Ordinance is to be retained or ultimately scrapped, the JSCNCET recommends the immediate appointment of two ACT residents, as currently required under the Ordinance, to give voice to the local community. These residents should be people with knowledge of heritage matters. The Committee recommends the appointment of one ACT resident by the responsible Minister and, in order to allow the ACT Government some input, the nomination of a member of the ACT Heritage Council by the Chief Minister.

- 3.38 To provide security of tenure and thus ensure robust discussion of issues within the CNMC, the two expert members and the two ACT residents should be appointed for a fixed term of three years. The terms of the two expert members and the ACT members of the CNMC should be staggered to achieve continuity.
- 3.39 The role of the NCA in the memorials approval process will be vital, however that process is constructed. The JSCNCET notes that an essential difference between Canberra and Washington is that the NCA effectively performs all the functions of a diverse range of institutions under the Washington model (see Chapter 4). This places a great deal of responsibility upon the NCA; and upon other elements of any approvals process, particularly on parliamentary oversight. Striking a balance in the NCA's role as advisor, regulator and (effectively) proponent is essential to any approvals process.
- 3.40 Other aspects of the NCA's role will be discussed below, and its role in the JSCNCET's preferred model for memorials approvals will be explored in Chapter 4, but the JSCNCET is of the view that if the CNMC is to be retained, the NCA should become an 'expert advisor' to the CNMC, without voting rights. This would strike an effective balance between the role of the NCA as a proponent and regulator of National Memorials and the need for the CNMC to seek input from the NCA in its deliberations.
- 3.41 The JSCNCET notes that the two other official positions on the CNMC are anomalous, historical anachronisms based on changes to the membership of the CNMC in its early days. The JSCNCET supports the Secretary of the Department retaining a role in the deliberations of the CNMC, but only as an expert advisor and without voting rights. If the CNMC is to be retained, the position of 'an officer appointed by the Minister' should be abolished.
- 3.42 The JSCNCET would also support the responsible minister in the role of Deputy Chair of the CNMC, with coordinate powers to the Chair,

believing this would provide robust and flexible leadership for the CNMC.

- 3.43 If the Ordinance is retained, these proposals would give the CNMC the following membership:
- The Prime Minister (CNMC Chair; position delegated to another MHR)
  - The Minister (Deputy Chair; currently the Minister for Regional Australia, Regional Development and Local Government)
  - The Leader of the Government in the Senate (position delegated to another Senator)
  - The Leader of the Opposition in the Senate (position delegated to another Senator)
  - The Leader of the Opposition in the House of Representatives (position delegated to another MHR)
  - Two members to be appointed by the responsible Minister for a term of three years from amongst persons who are recognized as authorities on Australian history
  - Two other members to be appointed from amongst persons who are residents of the Australian Capital Territory, with acknowledged expertise in heritage matters, to be appointed by the responsible Minister for a term of three years, one to be a member of the ACT Heritage Council nominated by the ACT Chief Minister.
- 3.44 This Committee would be able to draw upon external expertise in social, cultural and military history, and advice from the services and veterans organisations, as outlined in paragraphs 3.124–3.126.
- 3.45 Expert advisers, without voting rights, would be:
- The Secretary of the Department (currently the Secretary of the Department of Regional Australia, Regional Development and Local Government; position delegated to another senior officer of the department)
  - The Chief Executive of the National Capital Authority (position delegated to another senior officer of the NCA)
- 3.46 To ensure the effective working of the CNMC, effective parliamentary representation, and public confidence in its decisions, the quorum of the CNMC should be five, with a requirement that parliamentary members always make at least half the quorum. This sets a high standard, but the

significance and long-lasting impact of National Memorials demands nothing less.

## Recommendation 2

3.47 **The JSCNCET recommends to the Minister for Regional Australia, Regional Development and Local Government that, while new systems are put in place, residents of the Australian Capital Territory be immediately appointed to the Canberra National Memorials Committee, as required under the *National Memorials Ordinance 1928*; and that these persons have acknowledged expertise in heritage matters, with one to be a member of the ACT Heritage Council nominated by the ACT Chief Minister.**

## Decision-making processes

3.48 The decision-making processes of the CNMC have been identified as a critical area for reform.

3.49 In its submission, the Department of Regional Australia proposes greater flexibility in the working arrangements for meetings of the CNMC. Currently, the CNMC is required to make decisions face-to-face. The Department supports using new technologies such as telephone and video conference, and the CNMC making resolutions by correspondence.<sup>18</sup>

3.50 The Walter Burley Griffin Society opposes decision making 'on the papers, out of session'. The Society is concerned that this will dilute the involvement of parliamentary members of the CNMC and leave CNMC decision-making vulnerable to bureaucratic capture.<sup>19</sup>

3.51 The Department also supports amending quorum requirements to require a minimum number of parliamentarians to be present. Currently the quorum is three, with decisions requiring a simple majority of those present. As the Department notes:

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18 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 17.

19 Walter Burley Griffin Society, Canberra chapter, Submission no. 7, p. 3.

It is currently possible under the Ordinance for the Committee to meet and make decisions with no Parliamentarians present. This is inconsistent with the senior and representative nature of the Committee's membership.<sup>20</sup>

- 3.52 Such a proposal is also in keeping with other submissions to the inquiry, which recommend a more robust quorum and stronger parliamentary representation.<sup>21</sup> The JSCNCET has already dealt with this issue (see above).

### Secretariat

- 3.53 Until 2008, the vital role of secretariat to the CNMC was undertaken by the National Capital Authority. From 2008 to mid-2011, the secretariat was provided by the relevant government department (Attorney-General's, then Department of Regional Australia), during which the NCA had no official role on the CNMC. In mid-2011, the secretariat function was returned to the NCA.<sup>22</sup>
- 3.54 A number of submitters and witnesses have argued against the secretariat function being returned to the NCA.
- 3.55 In its submission, the Canberra chapter of the Walter Burley Griffin Society argued that giving the secretariat role to the NCA was inappropriate given its role in the planning and approvals process – there was too much scope for conflicts of interest:

**Recommendation 3** is that the Secretariat of the CNMC should be placed with the Department of the Minister responsible for the ACT. The NCA has too many conflicts of interest and there are no checks and balances in the governmental structure to control these conflicts. The NCA should not be, as at present, initiator or partner of project proposals, objective assessor and eventual approval body.<sup>23</sup>

- 3.56 In its submission, the Lake War Memorials Forum also argued that the 'secretariat function for the CNMC should reside in the responsible

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20 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 17.

21 Lake War Memorials Forum, Submission no. 27, pp. 17–19.

22 National Capital Authority, Submission no. 30, p. 7.

23 Walter Burley Griffin Society, Canberra chapter, Submission no. 7, p. 3.

Department, not in the NCA, as should the function of calling meetings of the CNMC'.<sup>24</sup> The Forum stated:

The NCA should be seen as an "institutionalised expert" and the potential manager of National Memorials and thus as having a conflict of interest in relation to decisions on them. It cannot successfully, or even ethically, play, simultaneously or successively, the roles of project initiator or partner, objective assessor, decision-maker and final custodian.

The NCA, if it were to be secretariat to the CNMC, would be the "gatekeeper" of the CNMC's business, giving the NCA a potentially powerful position.<sup>25</sup>

- 3.57 In evidence before the Committee, the Department of Regional Australia argued that it believed the NCA was the most appropriate body to provide the secretariat function to the CNMC, given the NCA's experience in the role and expertise in planning matters.<sup>26</sup>

### Planning and Guidelines

- 3.58 The lack of mandatory guidelines or detailed plans for National Memorials is widely perceived as one of the weaknesses in the decision making process. The need for a more rigorous approach to planning and guidelines has been identified as an important reform.
- 3.59 In his submission, Air Marshal David Evans, a former Chairman of the NCA, noted that the current *Guidelines for Commemorative Works in the National Capital* had been ignored in the approvals for the proposed World War I and II Memorials, and called for those guidelines to be made mandatory. He stated:

Legally they are only guidelines. This of course is unsatisfactory. The idea that the Authority might ignore them was simply not anticipated. In retrospect, once accepted by the Authority the protocols should have been put to the Canberra National Memorials Committee for ratification and then included in the National Capital Plan. This should now be put in place.<sup>27</sup>

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24 Lake War Memorials Forum, Submission no. 27, p. 5.

25 Lake War Memorials Forum, Submission no. 27, p. 24.

26 Mr Julian Yates, First Assistant Secretary, Territories Division, Department of Regional Australia, Regional Development and Local Government, *Transcript of Evidence*, 14 October 2011, p. 10.

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

3.60 In its submission, the Lake War Memorials Forum argued strongly for the creation of a Strategy for National Memorials, drawing upon the current *Guidelines for Commemorative Works in the National Capital*, which would be incorporated into the ordinance and provide *binding* criteria for a range of issues, including:

- aspects of Australian history and culture needing celebration, including what Australians want to commemorate and how commemoration can shape our view of ourselves and others' views of us;
- criteria defining a National Memorial, including the possibility of non-tangible memorials, such as scholarships, funds and other forms of commemoration not involving "bricks and mortar";
- consideration of whether proposed National Memorials will duplicate other memorials around Australia;
- planning aspects, including absorption capacity of central Canberra for memorials and commemorative structures, alternative sites outside central Canberra;
- protocols for dealing with memorials donated by other countries;
- circumstances under which privately proposed memorials are acceptable (including narrow guidelines for commercial confidentiality);
- funding arrangements for privately proposed memorials; and
- timing disciplines on projects.<sup>28</sup>

3.61 In its submission, the National Capital Authority also proposed a significant strengthening of decision making processes, including:

- Reviewing the existing *Guidelines for Commemorative Works in the National Capital*, and submitting them for consideration by the CNMC
- Formalising the guidelines within a regulatory instrument
- Clarifying and documenting the relationship between works approval under the PALM Act and assessment under the EPBC Act and CNMC approvals, including moving works approvals and EPBC Act assessments forward
- Creating a National Memorials Master Plan, as part of the legislative instrument, providing stronger assessment criteria and more detailed siting options.<sup>29</sup>

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28 Lake War Memorials Forum, Submission no. 27, p. 23.

29 National Capital Authority, Submission no. 30, pp. 11–12, 14.

3.62 Part of this process is actually defining the term 'National Memorial'. In its submission, the Department of Regional Australia stated:

Defining 'national memorial' in guidelines that support Committee [CNMC] decision making would reduce confusion about what proposals can properly be considered by the Committee as national memorials.<sup>30</sup>

3.63 In its submission, the National Capital Authority defines National Memorials as 'structures located on National Land that commemorate loss of life and personal sacrifice'.<sup>31</sup>

3.64 The NCA also argues for National Monuments to be included under the National Memorials Ordinance. National Monuments are defined as 'physical structures that celebrate achievements of the Nation and/or Australians'.<sup>32</sup> National Monuments are not currently covered by the Ordinance and therefore are not subject to scrutiny by the CNMC. National Monuments include the Centenary of Women's Suffrage and Magna Carta Place.<sup>33</sup>

3.65 The Draft Memorials Policy of the ACT Government also provides a definition of memorials:

An object established in memory of a person, organisation or an event. A memorial object may be a sculptural or other artistic work, fountain, seat or park bench, drinking fountain, or horticultural features such as a tree.<sup>34</sup>

3.66 For Washington DC, the Commemorative Works Act defines the term 'commemorative work' as :

Any statue, monument, sculpture, memorial, plaque, inscription, or other structure or landscape feature, including a garden or memorial grove, designed to perpetuate in a permanent manner the memory of an individual, group, event or other significant element of American history, except that the term does not include

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30 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 12.

31 National Capital Authority, Submission no. 30, p. 21.

32 National Capital Authority, Submission no. 30, p. 20.

33 National Capital Authority, Submission no. 30, p. 19.

34 ACT Government, *Draft Memorials Policy for land managed by Parks and City Services*, September 2003, p. 4.

any such item which is located within the interior of a structure or a structure which is primarily used for other purposes.<sup>35</sup>

### Improving transparency

3.67 Finally, a key element of the decision-making process is transparency. Lack of transparency in decision making has been one of the main criticisms directed at the CNMC.

3.68 In its submission, the Department of Regional Australia recommends improving the transparency of the decision-making processes of the CNMC by setting out the decision making process in publicly available guidelines and releasing records of Committee proceedings and decisions.<sup>36</sup>

3.69 In its submission, the NCA has stated that:

While it is proper for the Australian Parliament, through the CNMC, to have sole responsibility for determining the commemorative purpose of a proposed National Memorial, there is an opportunity to increase community confidence in the decisions of the CNMC by improving transparency around its operations.<sup>37</sup>

3.70 Possible ways of increasing transparency include:

- A public register of memorial proposals, including current status in the approvals process, the register to be published on a website maintained by the secretariat.
- Creation of a National Memorials Master Plan as an appendix to the National Capital Plan. This would build on the existing Guidelines.
- Publication of the agenda and proceedings of CNMC meetings.<sup>38</sup>

### Committee conclusions

3.71 The JSCNCET believes that the ultimate goal of its review of the Ordinance should be a more robust and transparent approvals process for National Memorials. To this end, the Committee has recommended a new

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35 *Commemorative Works Act 1986*, s. 8902.

36 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 19.

37 National Capital Authority, Submission no. 30, p. 14.

38 National Capital Authority, Submission no. 30, p. 14.

model for the approval of National Memorials. To retain the Ordinance is to risk a process which is overly cumbersome or insufficiently transparent and robust, as new provisions are bolted onto old in an attempt to save an Ordinance that is arguably long past its time.

- 3.72 Nonetheless, the JSCNCET offers the following views as to possible reform of the current process, drawing on the evidence presented to the Committee.
- 3.73 The JSCNCET acknowledges the arguments supporting a more flexible approach to the deliberations of the CNMC, but is mindful that there is currently a strong public perception that flexibility equates to inadequate consideration of important issues. To restore public confidence in CNMC decision making, the process must be robust and transparent. Quorum requirements must ensure the attendance of at least half the CNMC and the participation of senior parliamentary members or their delegates, as discussed earlier. The proposed system of delegation should ensure sufficient flexibility in this matter.
- 3.74 The JSCNCET also supports the use of telephone and video conferencing to allow individual CNMC members to participate in meetings remotely, but opposes decisions made 'on the papers'. Again, this will ensure the full and public participation of CNMC members in the work of the Committee.
- 3.75 With regard to the secretariat role, the JSCNCET is mindful of the criticism directed at the NCA for its role in the decision-making process of the CNMC in recent years. However, the JSCNCET agrees with the Department of Regional Australia that, given the NCA's acknowledged expertise in planning matters, its experience in managing memorials projects, its statutory role in the management of the National Capital, and reforms to the NCA's own public consultation processes, the NCA is the best location for the CNMC secretariat. This view is contingent, however, on the NCA not being a member of the CNMC, having instead the role of expert adviser, and publicly disclosing its interest in each memorial proposal. It is also contingent upon the NCA demonstrating that it is capable of fulfilling its role in an open and transparent approvals process. Should the proposed changes be adopted, the position should be reviewed after three years of operation.
- 3.76 The need for more robust planning and guidelines is another salient point brought out in the evidence before the JSCNCET. Moreover, these observations are relevant regardless of whether the Ordinance is reformed or replaced. The Committee is conscious of the Washington model (see

Chapter 4), with the strong guidelines set out in the *Commemorative Works Act 1986*, the clear definition of 'commemorative works', the planning framework established by the Museums and Memorials Master Plan, and the mapping of memorials that has been undertaken. All this allows for clarity in the decision making process, and greater transparency from the public point of view.

- 3.77 The JSCNCET therefore supports including the *Guidelines for Commemorative Works in the National Capital* as an Appendix to the *National Capital Plan*, thus giving them legal force, and renaming them as *Criteria for Commemorative Works in the National Capital* to reflect this legal status; the creation of a Memorials Master Plan, including the mapping of existing memorials and potential sites, to provide a detailed picture for decision-makers on what has been done and what can be done in the future; including a definition of 'memorials' or 'commemorative works' in the National Memorials Ordinance, based on that contained in the *Commemorative Works Act*; and, given the fundamental similarity in their nature and significance, including National Monuments within the scope of the *National Memorials Ordinance*. The JSCNCET notes that the definitions applied by the US or ACT Governments to memorials or commemorative works effectively encompasses monuments and memorials as defined by the NCA.
- 3.78 The JSCNCET is also of the view that the existing *Guidelines for Commemorative Works in the National Capital* should be revised in light of the recommendations in this report, and that the revised Criteria should be presented to the CNMC for approval.
- 3.79 The JSCNCET is also of the view that the Ordinance should exclude minor installations, such as plaques or individual trees, outside the Parliamentary Zone.
- 3.80 The JSCNCET is also strongly of the view that improving the transparency of the memorials approvals process is vital, regardless of whether the Ordinance is reformed or replaced. There should be a separate website where documentation regarding processes and decisions and memorial proposals are made publicly available. All decisions should be made according to publicly available guidelines which, if it is retained, should form a schedule to the Ordinance.
- 3.81 If the CNMC is retained, there should be a publicly available register of memorial proposals, including current status of each proposal, maintained by the secretariat and published on its website.

- 3.82 The agenda and proceedings of all CNMC meetings should be made publicly available and published on its website.
- 3.83 Decisions of the CNMC about each proposal should be made publicly available, and published on the CNMC website, together with reasons for approval, disallowance or amendment.
- 3.84 Supporting documentation, including independent expert advice, public submissions and reports of public consultations should be made publicly available and published on the CNMC website.
- 3.85 Maintenance of the CNMC website should be the responsibility of the secretariat.
- 3.86 Alternatively, if the CNMC is abolished, the NCA should still be responsible for making publicly available all documentation relating to the process, including a register of proposals (see Chapter 4).

## Decision-making structure

- 3.87 The decision-making structure is as important as the process, and is also clearly in need of reform. Much of the following discussion is pertinent whether the Ordinance is reformed or replaced.
- 3.88 In its submission, the Department of Regional Australia has recommended establishing a two stage approvals process, allowing greater flexibility in meeting procedures, and strengthening administrative processes.<sup>39</sup>
- 3.89 The two stage approvals process would involve a 'two-pass' assessment. In the first-pass assessment, the CNMC would consider the 'commemorative intent' of a proposed National Memorial, including its national significance and whether it meets the criteria specified in the guidelines for commemorative works.
- 3.90 The memorial proponent would then be required to prepare a more detailed proposal, undertaking mandatory public consultation, and environmental and heritage assessments, seeking planning advice and, if required, advice from the Department of Foreign Affairs and Trade.

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39 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 15.

- 3.91 Following this, the Committee would undertake its second-pass assessment, considering the location and character of a proposed national memorial.
- 3.92 Having passed through the CNMC, memorial proposals would be subject to ministerial determinations under the Ordinance. Proponents would be responsible for delivery within the parameters agreed by the CNMC.<sup>40</sup>
- 3.93 In its submission, the Department highlighted the advantages of this process:
- The proposed 'two-pass' decision making process would ensure the Committee [CNMC] is provided with comprehensive proposals before ministerial determinations are made reserving sites for proposed national memorials. The 'two-pass' process could require national memorial proponents who have been granted first-pass approval to work closely with the NCA to develop a design competition brief, run a public design competition, identify possible locations, consult with ACT residents and arrange for an *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) assessment to take place before the proposal moves to the second-stage assessment.<sup>41</sup>
- 3.94 In its submission, the Walter Burley Griffin Society proposed a ten step process, including:
- (1) Project Initiation;
  - (2) Determination of National Memorial Status and Commemorative Intent with respect to the Mandatory Criteria and Evaluation Criteria of the policy document, *Guidelines for Commemorative Works in the National Capital*;
  - (3) Nomination of Alternative Sites;
  - (4) Site Selection;
  - (5) Approval of Budget and Business Plan for Construction, Maintenance and associated Infrastructure costs;
  - (6) Selection of a Memorial Design through an open competitive process;

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40 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, pp. 15–17.

41 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 17.

- (7) Validation of the selected Memorial Design against Commemorative Intent, Budget, Business Plan and Infrastructure costs;
- (8) Approval of the Memorial Design in accordance with the National Capital Plan;
- (9) Certification of Construction Documentation;
- (10) Monitoring of the Commemorative Role and Maintenance of the Memorial against the Commemorative Intent.<sup>42</sup>

## Committee conclusions

- 3.95 The JSCNCET supports a two stage approvals process for National Memorials, the first pass assessment focusing on commemorative intent, including its national significance and whether it meets the criteria specified in the Guidelines, and its financial viability. A basic financial model, identifying sources of funding, should be developed at this stage.
- 3.96 As already stated, with a view to ensuring that these Guidelines are applied consistently, the JSCNCET is of the opinion that the Guidelines should be given legal status. The JSCNCET is also of the view that the steps outlined in the submission of the Walter Burley Griffin Society would fit neatly into the two pass process.
- 3.97 Following this first pass assessment, the memorial proponent would undertake to develop a design competition brief (if necessary), run a public design competition (if necessary), and undertake detailed development of the proposal, including working with the NCA to:
  - Identify possible locations
  - Conduct mandatory public consultations
  - Seek planning advice from relevant authorities and, if required, advice from relevant government agencies
  - Have assessments made under the *Environment Protection and Biodiversity Conservation Act 1999*
  - Develop draft conservation management plans and/or heritage impact statements for proposed sites, if required (see below)
  - Develop the budget and business plan for funding construction, maintenance and associated infrastructure costs.

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42 Walter Burley Griffin Society, Management Committee, Submission no. 32, p. 16.

- 3.98 The second pass assessment would focus on the location and character of the proposed National Memorial.
- 3.99 If the CNMC is retained, the proposal would then be subject to works approval by the NCA and a Ministerial determination subject to disallowance (see below).
- 3.100 At the first pass, the CNMC would publicise the proposal and seek public comment. It would also be required to seek independent expert advice. Both would be incorporated into the CNMC assessment of the commemorative intent of the proposed National Memorial.
- 3.101 At the second pass, the CNMC would again publicise the proposal and seek public comment. It would also be required to seek independent expert advice. Both would be incorporated into the CNMC assessment of the character and location of the proposed National Memorial.
- 3.102 If the Ordinance is replaced, then a similar process would occur, under the auspices of the JSCNCET and the NCA, as detailed in Chapter 4.

## Heritage management

- 3.103 An important part of the decision making process and structure is the management of heritage issues. This has been one of the main concerns brought up in evidence surrounding the conception, character and location of memorials. Inevitably, in the National Capital, any new memorial will be inserted into a location with existing heritage values. The ability to identify and address these values effectively under existing approvals processes for National Memorials appears to be limited to assessments under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), which currently occurs *after* CNMC approval.
- 3.104 In its submission, the Department of Sustainability, Environment, Water, Population and Communities recommended giving explicit reference in the ordinance to the possible need for approvals to be obtained under the EPBC Act.<sup>43</sup> In evidence, the Department also suggested the potential benefits of moving the EPBC Act assessment process to an earlier stage in the overall approvals process for National Memorials, in effect giving the CNMC final approval for all National Memorials.<sup>44</sup>

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43 Department of Sustainability, Environment, Water, Population and Communities, Submission no. 34, p. 1.

44 Mr Peter Burnett, First Assistant Secretary, Heritage and Wildlife, Department of Sustainability, Environment, Water, Population and Communities, *Transcript of Evidence*, 21 September 2011, p. 2.

- 3.105 In its submission, the Australian Heritage Council recommended that ‘the Ordinance should take into account any necessary statutory compliance processes’. It also suggested that ‘it would be prudent to incorporate early consideration of potential impacts on places listed on the National Heritage List or Commonwealth Heritage List’.<sup>45</sup> The Department of Regional Australia also recommended this as part of the development of memorial proposals after the first pass and in preparation for the second pass.<sup>46</sup>
- 3.106 In evidence before the Committee, Dr Dianne Firth, Acting Chair of the ACT Heritage Council noted that under ACT Government’s memorials policy, a memorial proposals ‘triggered immediately to the heritage unit and to council’ for heritage assessment. She noted that while a Heritage Management Plan was in place for the Parliament House Vista, this did not necessarily capture in fine detail the possible impacts of a particular proposal in a particular location. She told the Committee:
- This parliament house vista conservation management plan picks up the real significance of the axis. It picks up the importance of Commonwealth Park and Kings Park but it does not in fine detail pick up Rond Terraces. When it goes through it, it gives lists of compatible uses for these areas. It is generally a good document to give direction. For instance, if a proponent came with an idea that they wanted to have a specific memorial for World War I and World War II and the National Capital Authority offered them some sites, what should then come is a finer grain understanding of the significance of that localised space and how you can then develop an architectural brief.<sup>47</sup>
- 3.107 Dr Firth emphasised that when it came to assessing the importance of heritage values, ‘when you come to a specific site there has to be a judgement applied to that specific site, so the values and how they are expressed through that site might take a different hierarchy’.<sup>48</sup>
- 3.108 In its submission, the ACT Heritage Council argued that all memorial proposals should be subject to heritage impact assessments, and that such assessments should receive input from the Australian Heritage Council, and be released for public comment. The ACT Heritage Council was

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45 Australian Heritage Council, Submission no. 29, p. 1.

46 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 17.

47 Dr Dianne Firth, ACT Heritage Council, *Transcript of Evidence*, 21 September 2011, p. 8.

48 Dr Dianne Firth, ACT Heritage Council, *Transcript of Evidence*, 21 September 2011, p. 10.

concerned that a conservation management plan (CMP) had not been prepared 'for such an important place as the Rond Terraces and endorsed by the Australian Heritage Council', and that a heritage impact assessment had not been prepared 'which addresses the impact of the proposed memorials on the significance established by a CMP'.<sup>49</sup>

- 3.109 In her submission, Ms Rosemarie Willet of the Walter Burley Griffin Society, made similar points about the need for heritage assessment for each proposal to be made earlier in the process than is currently the case, and at a local scale. She stated:

National memorials are obviously intended for future generations as well as present Australians and overseas visitors. Whether or not they are listed in Heritage Registers, they are heritage places. It remains therefore to refer briefly to Reference Documents used in heritage practice, under specific heritage legislation and which can be requested under the EPBC Act. Such Reference Documents are the Conservation Management Plan (CMP) and the Heritage Impact Statement (HIS) which may warrant the input of a range of independent experts.

The CMP provides a full assessment of the place and, based on this assessment, ascribes the Statement of Significance; it is often the case that even when a CMP is done for a precinct, special places within the precinct merit their own CMP. The CMP can recommend opportunities for future directions and the consideration of options.<sup>50</sup>

- 3.110 Speaking before the Committee, Ms Willett highlighted the problems that could occur if heritage management were not undertaken with sufficient thoroughness early in the approvals process, citing the example of the World War I and II Memorials on the Rond Terraces:

The EPBC Act often requires a heritage impact statement and there should be a conservation management plan made prior to a heritage impact statement so that the proposal can be discussed against the assessment, the significance that is ascribed from that assessment to a place, and can be assessed against opportunities, different recommendations that could be made in a conservation management plan. You will have noticed that I say that this should have happened to such an important place as the Rond Terraces, which is on the lake shore and which is on the land axis.

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49 ACT Heritage Council, Submission no. 25, p. 4.

50 Ms Rosemarie Willett, Submission no. 33, p. 2.

Had a CMP been made for this place, I am sure that a lot of issues would have come forward to show that this place is very important in the conservation of Griffin's land axis, because the land axis is in fact an alignment. It is an alignment of natural monuments in our local landscape, and Mount Ainslie sets the definition of that land axis, which the NCDC took up using the width set by Griffin in his apices for the portal buildings and continuing across the lake for those government buildings that give you a full, uninterrupted vista of Parliament House. That would have come out in a conservation management plan, and then it would be seen that the war memorials on the Rond Terrace pinch that vista; they are closer in. In fact, they distract you from the full conical form of Mount Ainslie. In fact, they provide a central faux pas.<sup>51</sup>

## Committee conclusions

- 3.111 The JSCNCET notes that, in the case of the World War I and II Memorials, perceived failures in heritage management were one of the central concerns raised by the community. It would appear that this is a case where a more thoroughgoing heritage assessment, based on detailed conservation management plans and heritage impact statements, would have alerted regulators to the significant heritage issues surrounding the proposed memorials *before* final approval was given by the CNMC. Given that heritage values are an inherent part of the landscape of Canberra, and certainly in the national areas where National Memorials are likely to be located, detailed heritage management planning should be an essential part of any proposal *before* it achieves final approval, regardless of the process followed. Given that the JSCNCET has already advocated the creation of a two pass assessment process, the Committee recommends that, as part of each memorial proposal, individual heritage assessments automatically be required as part of the approvals process, before second pass assessment, including where necessary the creation of site specific Conservation Management Plans and Heritage Impact Statements. Such provisions should be included in the Ordinance, if it is retained, or form part of the decision-making process outlined in Chapter 4 if the Ordinance is replaced.

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51 Ms Rosemarie Willett, Walter Burley Griffin Society, *Transcript of Evidence*, 14 September 2011, pp. 7-8.

### Recommendation 3

- 3.112 **The JSCNCET recommends that, as part of the decision-making process for National Memorials, each proposal for a National Memorial be required to undergo heritage assessment, prior to final approval, including the creation of site specific Conservation Management Plans and Heritage Impact Statements.**

### CNMC and independent expert advice

- 3.113 The need to access independent expert advice will vary to some degree according to how the decision-making process for National Memorials is constituted, and from project to project. Different forms of expert advice may also be required for different facets of any given project. For example, in its submission, the Management Committee of the Walter Burley Griffin Society indicated that the focus of independent expert advice should be on the memorial proponent's budget and business plan.<sup>52</sup>
- 3.114 In its submission, the Australian War Memorial recommended that, given its military history expertise, it would be 'sensible to seek not only the Memorial's advice when proposals are being considered, but also its views', when proposals for military memorials, especially along ANZAC Parade, were being considered.<sup>53</sup>
- 3.115 The Canberra chapter of the Walter Burley Griffin Society highlighted the strengths of the American model, with its multi-stage approvals process with expert involvement at all stages:
- Particularly significant is the institutional integration with the US Commission of Fine Arts, the Architect of the Capitol and various heritage and land management agencies with responsibilities in the central symbolic areas of Washington. They represent routine sources of expertise.<sup>54</sup>
- 3.116 The Society recommended that the ability of the CNMC to access independent expert advice be incorporated into the Ordinance. The submission also noted the desirability of creating an Office of Government

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52 Walter Burley Griffin Society, Management Committee, Submission no. 32, p. 23.

53 Australian War Memorial, Submission no. 36, p. 2.

54 Walter Burley Griffin Society, Canberra chapter, Submission no. 7, p. 4.

Architect and a reformed NCA with enhanced planning, engineering and heritage expertise.<sup>55</sup>

- 3.117 The Ordinance is currently silent on the question of external advice to the CNMC, neither requiring it nor preventing it. Whether and how such advice is obtained is entirely at the discretion of the Committee.
- 3.118 In recent years, the NCA has been the principal source of expert advice to the CNMC on the location and character of proposed memorials, 'whether as a full member (up to 2008) or an invited adviser (2008-present)'.<sup>56</sup>
- 3.119 In its submission, the NCA supported the CNMC seeking independent expert advice. The NCA noted that it 'is not, and does not claim to be, expert on all commemorative intents relevant to Memorials', and that 'there may be proposals from time-to-time where it will not be possible for the NCA (even with its expertise) to give definitive advice on a matter'.<sup>57</sup>
- 3.120 The NCA recommended allowing the Chair of the CNMC to instruct the secretariat (the NCA) to obtain advice on any subject matter necessary for a decision to be made on a proposal, and that the Ordinance be amended to reflect this.<sup>58</sup>
- 3.121 In its submission, the Department of Regional Australia supported the CNMC seeking independent expert advice 'when appropriate'. The Department recommended:
- Establishing decision making guidelines that recognise independent expert advice should be sought by the CNMC as required; and
  - Clarifying the role of the NCA in advising the Committee and appointing a representative from the NCA as an 'expert advisor' to the Committee.<sup>59</sup>
- 3.122 On the role of the NCA, the Department stated:

The NCA has regularly been asked to provide expert advice to the committee [CNMC]. Given the NCA's statutory responsibility for the National Capital Plan and its role in the development and maintenance of national memorials, the NCA has provided the Committee with advice on the location and design of proposed

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55 Walter Burley Griffin Society, Canberra chapter, Submission no. 7, p. 4.

56 National Capital Authority, Submission no. 30, p. 7.

57 National Capital Authority, Submission no. 30, p. 13.

58 National Capital Authority, Submission no. 30, p. 13.

59 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 18.

national memorials. The Department supports a representative from the NCA being appointed as an 'expert advisor' to the Committee. However, to ensure there are no actual; or perceived conflicts of interest between the NCA's role in advising the Committee and its planning approval role, the 'expert advisor' should not have voting rights.<sup>60</sup>

## Committee conclusions

- 3.123 The JSCNCET notes that the question of the exercise of discretion in seeking independent expert advice, or rather failing to seek it, combined with the significant role the NCA has played in recent decisions, is one of the reasons for the current inquiry. If the Ordinance is reformed, the JSCNCET therefore supports the NCA being part of the CNMC in an expert advisory role, one source of advice amongst many (see above).
- 3.124 The JSCNCET notes that the need for independent expert advice was recognised in the original Ordinance, with its provision that two members of the CNMC be 'persons who are recognized as authorities on Australian history'. The JSCNCET has recognised the importance of this and proposed the restoration of this provision to the Ordinance (see above). However, the JSCNCET also recognises that each memorial proposal will have its unique concept, qualities and characteristics, and unique place within the Canberra landscape, all of which will require input from people with specialised expertise.
- 3.125 Several options for utilizing external expert advice are available. The widespread publication of the details of memorial proposals, combined with the opportunity for people to make submissions on such proposals, will elicit informed opinion. Moreover, those responsible for conducting the approvals process could specifically seek advice from acknowledged experts in particular fields and incorporate such advice into their deliberations. Certainly, the expertise of our national cultural institutions should be availed of, especially as it may often be the only expert advice readily available. The JSCNCET would argue that not only could this be done, but that it *should be required* in order to ensure that such advice is made available at the earliest opportunity.
- 3.126 A further possibility is the creation of a standing advisory committee, made up of recognised experts in a range of disciplines, including history, heritage, architecture and planning, representatives of veterans and the
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<sup>60</sup> Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 19.

services, and representatives of organisations with a strong focus on Australian history and culture at a national level (such as the National Gallery of Australia, National Library, National Museum, National Archives, National Portrait Gallery, Museum of Australian Democracy, National Film and Sound Archive, National Maritime Museum, High Court of Australia, Australian War Memorial or the relevant Commonwealth Department). The role of this committee would be to write advisory reports on each memorial proposal at each of the two stages in its development, such reports to inform CNMC deliberations and to be made publicly available. This committee could be called the 'National Memorials Advisory Committee'. Regardless of how the approvals process is structured, the involvement of a standing advisory committee would prove useful and has been incorporated into the recommendations of the JSCNCET in the following chapter.

## Parliamentary oversight

- 3.127 In its submission, the Department of Regional Australia notes that there is already some parliamentary oversight of proposed national memorials, including:
- JSCNCET oversight of the administration of the Ordinance
  - Appearance of Departmental and NCA officers at Senate Estimates and other hearings as required
  - The involvement of parliamentarians through the CNMC.
- 3.128 The Department has suggested that 'the JSCNCET could provide further Parliamentary oversight of national memorials by making recommendations to the Committee on the "commemorative intent" of memorials'.<sup>61</sup>
- 3.129 The Department also noted that the ministerial determinations regarding national memorials are not subject to tabling in Parliament or disallowance (unlike ministerial determinations about the nomenclature of divisions in the ACT). In the interests of consistency, the Department recommends that 'ministerial determinations under the Ordinance should not be required to be tabled as disallowable instruments'.<sup>62</sup>

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61 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 20.

62 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 20.

## Committee conclusions

- 3.130 The JSCNCET notes that the Department's submission actually highlights the lack of any formal, and at times any, mechanisms for parliamentary oversight of proposals for National Memorials.
- 3.131 The JSCNCET is of the view that while the recommended changes to the Ordinance already cited will improve the transparency and accountability of the CNMC, and the effectiveness of its parliamentary membership, additional layers of parliamentary oversight are justified given recent controversies. The preferred option of the JSCNCET is for the Committee to become the principal instrument for parliamentary engagement in the approvals process for National Memorials, as set out in Chapter 4. This will allow for a much more intimate and effective level of parliamentary oversight of the approvals process.
- 3.132 On the other hand, if the Ordinance is to be retained, the JSCNCET would suggest that, as the parliamentary committee directly responsible for matters affecting the National Capital, it should be informed about and be able to comment upon all proposals for new National Memorials. The JSCNCET therefore would recommend that the CNMC provide it with regular reports of new memorial proposals and updates on the status and progress of existing proposals, and that the JSCNCET be formally briefed on all final determinations of the CNMC with regard to National Memorial proposals.
- 3.133 Moreover, the JSCNCET believes that all ministerial determinations regarding proposed National Memorials should be disallowable instruments, in line with the current provisions of the Ordinance, and that such determinations should not be laid before the Houses until after the JSCNCET has been formally briefed regarding such determinations. Approvals for National Memorials are not a matter for haste – careful deliberation is essential.

## Public participation

- 3.134 The lack of opportunity for public participation in the approvals process for National Memorials is one of the critical shortcomings identified in the *National Memorials Ordinance 1928*. Currently, there is no public consultation regarding the location and character of proposed National Memorials. There is public consultation under the EPBC Act with regard to assessment of proposals, but these assessments are specific to the Act, and do not address commemorative intent, location and design *per se*.

3.135 In its submission, the Department of Regional Australia noted that:

Any consultation process adopted by the Committee [CNMC] should ensure that public consultation starts early in the development of a proposed national memorial, captures a diversity of interested stakeholders and provides stakeholders with sufficient time to respond to proposals.<sup>63</sup>

3.136 The Department suggested that the CNMC adopt guidelines for a mandatory national public consultation process, specifying the stages at which national memorial proposals are subject to public consultation, including consultation with the ACT community on matters of particular relevance to ACT residents, and how such consultation will be advertised to make the public and stakeholders aware of the process. The Department recommended that the NCA undertake national consultation on proposed memorials.<sup>64</sup>

3.137 In its submission, the National Capital Authority highlighted the need to balance national and local interests in public participation. The NCA believes that the elected representatives of the people in the Australian Parliament are best placed to judge the national interest regarding the commemorative intent of a memorial proposal, and has suggested three possible options:

- a direct motion in the Houses of Parliament seeking support for, or approval of, a proposed commemorative intent and new Memorial;
- referral of commemorative intent to the JSCNCET for consideration prior to referral to the CNMC; or
- weighting the membership of the CNMC in favour of Parliamentarians.<sup>65</sup>

3.138 According to the NCA, once commemorative intent had been approved, the community, and especially the local community, should be able to express views on the location and character of proposed memorials before the CNMC reaches a final decision.<sup>66</sup> The NCA would, as both secretariat and the agency responsible for works approval, undertake consultation with the community and incorporate an analysis of community views in

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63 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 21.

64 Department of Regional Australia, Regional Development and Local Government, Submission no. 39, p. 21.

65 National Capital Authority, Submission no. 30, p. 16.

66 National Capital Authority, Submission no. 30, p. 16.

its advice to the CNMC prior to any decision about the location and/or character of a memorial proposal. The NCA would publish details of this consultation process in its *Commitment to Community Engagement*.<sup>67</sup>

- 3.139 In its submission, the Lake War Memorials Forum called for ‘public participation to be possible at *every stage* of decision-making’ and ‘recognition of the *special need* for public participation in relation to decision-making on National Memorials, given the many facets of this work’, such as the need for community understanding, reflection of community values and the need to incorporate appropriate expertise.<sup>68</sup>
- 3.140 In its submission, the Management Committee of the Walter Burley Griffin Society argued that each stage of the approvals process should follow the definition of ‘consultation’ in the NCA’s own consultation protocol, the *Commitment to Community Engagement*, which expresses a commitment to:
- Inform the community and stakeholders
  - Listen to the community and stakeholders
  - Acknowledge submissions
  - Consider submissions
  - Provide feedback on how submissions have contributed to decision-making.<sup>69</sup>
- 3.141 The importance of meaningful public participation was emphasised in the evidence presented to the JSCNCET by Professor Janette Hartz-Karp, an authority in deliberative democracy from Curtin University. She noted the lack of

‘any clearly stated legislative or regulative format what one is obliged to do or even the precision or the delegation that is involved in terms of engaging the public. It would seem to me that one thing that could be done is to state much more clearly the level of obligation in terms of public participation, the legal commitment to do, so the bindingness of it, the level of precision, how much ambiguity can they have to ignore this or to take it on, and the level of delegation, what sort of authority would be

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67 National Capital Authority, Submission no. 30, p. 17.

68 Lake War Memorials Forum, Submission no. 27, p. 34.

69 Walter Burley Griffin Society, Management Committee, Submission no. 32, pp. 7–8; National Capital Authority, *Commitment to Community Engagement*, August 2011, p. 6.

granted to any sort of third party arrangement to be able to do anything at all.<sup>70</sup>

- 3.142 Professor Hartz-Karp highlighted the fact that all too often, public consultation processes were just ‘tick-box’ exercises:

So the big challenge for you is how you would create it, or how you could create the situation where we get innovation and we have what I began to call ‘authentic deliberation’ or ‘authentic public deliberation’, where people really understand that there are real options, that their collective intelligence is really needed in order to help government or any governing organisation to determine what the best option might be, and that this is a real civic opportunity to be able to do that.<sup>71</sup>

- 3.143 Professor Hartz-Karp emphasised that an effective process must be representative, deliberative and have influence over outcomes.<sup>72</sup> With regard to the memorials approval process, she proposed an overseeing committee, which would determine the need and extent for public consultation with regard to each proposal:

One of the ways to do that, as I see it, that you may have is to have some sort of overseeing committee. This is not an advisory committee in the way that we currently know it but much more the notion of being an honest broker in the process. What that overseeing committee would be doing, I would think, would be to take a look at proposals that come forward, work out whether or not this is a significantly large or small issue – in other words, is it likely to have big or small impacts – and determine the extent of deliberation.<sup>73</sup>

## Committee conclusions

- 3.144 Public participation in the processes of approving National Memorials is critical to successful outcomes. National Memorials are enduring national symbols. They must reflect the views and aspirations of the Australian community. The CNMC was originally formulated to give a national perspective through the participation of senior parliamentarians, and this

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70 Professor Janette Hartz-Karp, *Transcript of Evidence*, 14 October 2011, p. 15.

71 Professor Janette Hartz-Karp, *Transcript of Evidence*, 14 October 2011, p. 15.

72 Professor Janette Hartz-Karp, *Transcript of Evidence*, 14 October 2011, pp. 15–16.

73 Professor Janette Hartz-Karp, *Transcript of Evidence*, 14 October 2011, p. 15.

is certainly important. But the views of ordinary citizens and those able to bring some degree of relevant expertise are also vital to the process.

- 3.145 The JSCNCET is of the view that, at the bare minimum, public participation should involve public access to information about memorial proposals and deliberations upon these proposals (see the above section on Transparency). But it should also involve direct input through the medium of submissions and possibly public hearings at each of the two stages of the process outlined above, dealing firstly with commemorative intent, and secondly with location and design.
- 3.146 Given the probable role of the National Capital Authority in the process, it would be helpful if its own *Commitment to Community Engagement* was extended to the work of the memorials approvals, whether under the auspices of the CNMC or under the JSCNCET's preferred model.

#### **Recommendation 4**

- 3.147 **The JSCNCET recommends that the National Capital Authority's *Commitment to Community Engagement* be applied to the decision-making process for National Memorials, with the NCA to report publicly on the public consultation process undertaken with regard to each National Memorial proposal.**

- 3.148 Moreover, the JSCNCET is of the view that each proponent of a National Memorial should be under an explicit obligation to organise and fund public consultation processes, in conjunction with the National Capital Authority, as part of its bid to design and construct a new National Memorial.

#### **Recommendation 5**

- 3.149 **The JSCNCET recommends that proponents of memorials provide resources and funds to conduct public consultation processes as part of the assessment and approval process for new National Memorials.**
- 3.150 The JSCNCET is also attracted to the application of the concepts of deliberative democracy to the public consultation process. While the

Committee would question whether an elaborate public consultation process would be applicable to every proposal, the Committee endorses the principle of deliberative democracy in the case of major proposals. The Committee believes consultation and community involvement should reflect the values and commemorative needs of the entire Australian community. The NCA's *Commitment to Community Engagement* could be modified to reflect the principles of deliberative democracy, incorporating innovative and more representative forms of public participation. The NCA would design, and publicly stating its reasons for, a public consultation process at each stage of any given memorial proposal.

### **Recommendation 6**

- 3.151 **The JSCNCET, recommends that the National Capital Authority review its *Commitment to Community Engagement* to reflect the principles of deliberative democracy, and that it design and report upon public consultation processes for each National Memorial in accordance with these principles.**

## **Other key issues**

### **Funding memorials**

- 3.152 The JSCNCET is very interested in the way memorials are funded under the Washington model. This requires that ongoing maintenance be paid for in the first instance by proponents contributing ten per cent of construction costs towards ongoing maintenance. As in Washington, completed memorials in Canberra become the property and responsibility of the government, through the National Capital Authority. In response to questions put by the Committee the NCA advised:

The NCA would support placing an obligation on proponents to provide some funding toward the maintenance. However, this may not be a long term option. The NCA has in one instance (the National Police Memorial) retained funds (\$50,000) for post construction maintenance. This funding has since been expended and the NCA now maintains the memorial without receiving additional funding.

A longer term financially sustainable model would be a modest automatic increase in the NCA's base funding to align with the completion of new assets (such as memorials and artworks).<sup>74</sup>

- 3.153 The JSCNCET agrees that the NCA should receive funding adequate to maintain its responsibilities with regard to the maintenance of memorials, especially as the number increases over time. However, the Committee also believes that memorial proponents should contribute to this maintenance along the lines of the Washington model. The JSCNCET is of the view that such funding arrangements should be applied whether the Ordinance is reformed or replaced (see Chapter 4).

### Donor names

- 3.154 The JSCNCET supports the practice in the Washington model regarding donor names. Under the *Commemorative Works Act 1986*, donor names cannot appear on memorials or memorial sites. Mr Acosta explained:

I think the intent is that these are memorials that speak to the American people, that they are ultimately a completed piece of art that has to stand the test of time. I think many sponsors actually agree with that and they don't necessarily seek to have their names put on a donor wall or have some other sort of recognition. So to the extent that these are special, that they are unique and that, at the end of the day, they are contributions back to the public manages expectations with respect to how private members are celebrated or recognised.<sup>75</sup>

- 3.155 The rules applying to this matter in Canberra are less prescriptive. The names of donors have appeared on National Memorials, acknowledging their contribution to the design and construction of the memorial. However, as the National Capital Authority explained to the Committee, 'the controls over recognition have been pretty strict':

There are a number of monuments and memorials where significant contributions have been recognised in basically modest plaques somewhere in the precinct of the memorial.<sup>76</sup>

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74 National Capital Authority, Submission no. 30.1, p. 1.

75 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 5.

76 Mr Andrew Smith, Chief Planner, National Capital Authority, *Transcript of Evidence*, 14 October 2011, p. 5.

- 3.156 The JSCNCET is of the view that the prohibition on donor names enforced under the Washington model should also be applied to National Memorials and National Monuments in Canberra (See Chapter 4).

### **Process for nomination of unfunded memorials**

- 3.157 The JSCNCET is concerned that the need to find private sponsorship for memorial proposals may disadvantage potential sponsors of new memorials and significantly restrict the development of new memorials to a range of high profile issues. The JSCNCET believes that as part of the development of the Memorials Master Plan, consideration should be given to the funding of a wider range of subjects for commemoration with a view to funding them through a combination of private and government subscription.
- 3.158 Despite occasional public statements to the contrary, Australia's national capital, by comparison with other international capitals, has a modest commemorative fabric. This has occurred for a range of well-documented historical, cultural, social and political reasons.
- 3.159 This Report provides a model for a transparent approval process to be applied to national commemoration. However, the Government must also be mindful of the need for a working mechanism that is capable of generating worthy projects for consideration.
- 3.160 Noting the cultural stance outlined in the *Guidelines for Commemorative Works in the National Capital*, the committee believes it is desirable that the capital should be host to a broader expression of Australia's diverse cultural and historical fabric. As the Central National Area Design Study, *Looking to the Future*, put it: 'It is not too outlandish to regard the capital as a symbol of the ideals, dreams, aspirations, achievements, culture and history of the nation'.<sup>77</sup>
- 3.161 Such commemorative diversity will only be achieved in the medium-term with an ongoing, tangible, Government commitment – a commitment inviting the Australian community to initiate bold new expressions of national commemoration in their national capital.
- 3.162 In part this is a resource question, but the Committee notes that numerous precedents exist for active Government interest in, and financing of, significant national commemoration. Rather than a program of one-off funding (which naturally results in the projects supported by vocal

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77 National Capital Planning Authority, *Looking to the Future, Central National Area Design Study 1995*, Canberra, 1995.

interest groups), the Government should consider the ongoing funding of a national commemoration program, with a particular focus on memorials that are unlikely to be built without government support.

### **Recommendation 7**

- 3.163 **The JSCNCET recommends that the proposed Memorials Master Plan incorporate provisions for establishing a wider range of subjects for commemoration with a view to funding them through a combination of private and government subscription.**

### **Recommendation 8**

- 3.164 **The JSCNCET recommends to the Australian Government that the Government consider the ongoing funding of a national commemoration program, with a particular focus on memorials that are unlikely to be built without government support.**

## The New Model

- 4.1 While the evidence presented to the JSCNCET raises valid arguments for the reform of the CNMC, the Committee argues that the CNMC and the Ordinance should be abolished. The membership of the CNMC as currently constituted is not effective and any reforms are unlikely to make its operation more effective. A number of submissions have highlighted the problems of involving senior parliamentarians in the approvals process, and the high risk of bureaucratic capture, under the current Ordinance.
- 4.2 On the other hand, the Washington model provides a framework for direct legislative involvement, expert management and effective public consultation.

## The Washington Model

- 4.3 Washington DC shares with Canberra the attributes of being both a national capital and a planned city. As an expression of national aspirations in itself, and a site for commemoration of the nation's history, Washington, like Canberra, is subject to a detailed planning regime which must balance the legacy of the past with the requirements of the present and the possibilities of the future. Part of this is dealing with the challenge of choosing appropriate subjects for commemoration and choosing suitable designs and locations for new monuments and memorials.
- 4.4 The *Commemorative Works Act 1986* specifies requirements for the development, approval, and location of new memorials and monuments in the District of Columbia and its environs. The Act preserves the urban design legacy of the historic L'Enfant and McMillan Plans by protecting public open space and ensuring that future memorials and monuments in

areas administered by the National Park Service and the General Services Administration are appropriately located and designed. Specifically, the *Commemorative Works Act*:

- Defines commemorative works
- Provides guidelines for the subjects of commemorative works, such as national significance
- Separates the legislative process from the site and design process
  - ⇒ Requires Congress to authorise each new commemorative work (subject) by separate law
  - ⇒ Requires the National Capital Planning Commission (NCPC) and the US Commission of Fine Arts (CFA) to approve site and design
- Establishes a hierarchy of sites
- Establishes the National Capital Memorial Advisory Commission (NCMAC), which advises the Secretary of the Interior, Congress, and sponsors on topics related to commemoration
- Precludes the acknowledgement of donors on the sites of commemorative works
- Authorises NCPC and CFA to jointly develop design guidelines.

4.5 When amended in 2003, the Act established a Reserve, or no-build zone on the National Mall, a proposal called for by the NCPC in its 2001 Memorials and Museums Master Plan.<sup>1</sup>

4.6 The membership of the various bodies charged with the work of guiding memorials through the approvals process is diverse. NCMAC consists of:

- Director of the National Parks Service
- Architect of the Capitol
- Chairman of the American Battle Monuments Commission
- Chairman of the Commission of Fine Arts
- Chairman of the National Capital Planning Commission
- Mayor of the District of Columbia
- Commissioner of the Public Buildings Service of the General Services Administration

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<sup>1</sup> National Capital Planning Commission, Submission no. 40, pp. 1-2.

- Secretary of Defense
- 4.7 The NCMAC advises the Secretary of the Interior and the Administrator of General Services on policy and procedures for the establishment of, and proposals to establish, commemorative works in the District of Columbia and its environs and on other matters concerning commemorative works in the national capital as the Commission considers appropriate.
- 4.8 Commemorative works may only be established on federal land as specifically authorised by law. In considering legislation authorizing commemorative works in the District of Columbia and its environs, the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate are expected to solicit the views of the NCMAC.
- 4.9 The National Capital Planning Commission comprises 12 members. Commissioners represent federal and local constituencies with a stake in planning for the nation's capital. The President appoints three citizens, including the Chair. At least one member must reside in Virginia and another in Maryland. The Mayor of the District of Columbia appoints two citizens, who must be residents of the District of Columbia.
- 4.10 Remaining members serve ex-officio. These include the:
- Mayor of Washington, DC
  - Chair of the DC City Council
  - Heads of Executive Branch agencies with significant land holdings in the region (Secretary of Defense, Secretary of the Interior, Administrator of General Services)
  - Leaders of the U.S. House and Senate committees with DC oversight responsibility (Senate Committee on Homeland Security and Government Affairs, House Committee on Oversight and Government Reform)
- 4.11 Ex officio members usually appoint alternates to represent them at Commission meetings.
- 4.12 In evidence before the Committee, Mr Marcel Acosta, Executive Director of the NCPC, highlighted the benefits of this broad membership base:
- I think it is very important to have a broad based commission with a variety of interests that can review a project from their various perspectives. For instance, while obviously we are the nation's capital, having local representatives on our commission brings to

our meetings a lot of local issues and also a variety of points that they could raise in terms of how the memorial may fit into their city's master plan as well as the impacts such memorials may have on the various neighbourhoods that they are housed in. So they do bring a very important perspective to the table. By having other federal agencies such as the National Parks Service representatives or Department of Defense representatives you see they can also bring to the table their experiences in terms of how this fits into, for instance, a park or the historic nature of that park. Also, it can even bring in issues in terms of how to maintain it over time, which are very important issues. Also, some of the other members are presidential appointees or members of Congress and that brings into the discussion the importance of the memorial from a national narrative standpoint. So having that discussion and bringing all the various points of views to the table is a very important part of our process and I think it is something that makes our process work very effectively.<sup>2</sup>

- 4.13 Another important aspect of the Washington model is the inter-relationship between the various bodies working within the memorials approvals process. For example, the link between the NCPC and NCMAC ensures a level of integration between the various stages of the approvals process:

The chairman of the National Capital Planning Commission has a seat on the National Capital Memorial Advisory Commission. The benefit of that is that, at the very earliest stages for NCMAC, NCPC has an opportunity to weigh in on the types of issues that it will be interested in looking at as the project develops. We find that that is one of the best ways to sort out any controversial issues or any matters that we know will be of importance. It is important to note, though, that NCPC is not bound by a decision of the National Capital Memorial Advisory Commission, because that body is advisory. So we can always go back and re-examine matters once they come before the commission.<sup>3</sup>

- 4.14 The system of delegation, where high office holders delegate their role to expert officials, was also seen as a strength of the Washington model. Mrs

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2 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 2.

3 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 8.

Lucy Kempf, Urban Planner, Policy and Research Division, NCPC, explained:

For example, the mayor brings the State Historic Preservation Officer, who is very familiar and involved with local District of Columbia views and is an expert in memorial design. The Secretary of Defence usually brings to the table a person who is Chief of Land and Facilities Planning. So they bring the subject-matter experts to the table.<sup>4</sup>

4.15 Mr Acosta continued:

Also, given the fact that the responsibility of that commission is to opine on the subject matter for the proposed memorials – their appropriateness in terms of being a permanent memorial – bringing in the subject-matter experts helps make the determination in a clear fashion. Those are delegated responsibilities but the process does work well because the response back to Congress is typically based on professional guidance.<sup>5</sup>

4.16 The process by which memorials are approved falls into two basic phases, dealing with subject, then design and location. In the first phase, the sponsors of a proposal seek congressional approval for the subject for commemoration. In evidence before the JSCNCET, Mrs Kempf stated:

Usually the non-profit or constituency group will approach a single senator or representative and they will introduce the legislation. That will then go to the National Capital Memorial Advisory Commission, which is that diverse body Mr Acosta described earlier. They will provide views on whether or not the subject that is proposed meets the standards of the Commemorative Works Act. That is a public meeting, so there is an opportunity there for public input. From that point it goes back to congress and then it is for them to decide whether or not to pass a law that authorises that subject.<sup>6</sup>

4.17 Approval is then granted by Act of Congress.

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4 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 7.

5 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 7.

6 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 5.

- 4.18 In the second phase, the National Capital Planning Commission and the Commission of Fine Arts determine the location and design of memorials.
- 4.19 A sponsor authorized by law to establish a commemorative work in the District of Columbia and its environs may request a permit for construction of the commemorative work only after the following requirements are met:
- Consultation – The sponsor must consult with the National Capital Memorial Advisory Commission regarding the selection of alternative sites and design concepts for the commemorative work.
  - Submittal – Following consultation in accordance with clause (1), the Secretary of the Interior or the Administrator of General Services, as appropriate, must submit, on behalf of the sponsor, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission for their approval.
- 4.20 Decisions on subject matter are made against the guidelines within the *Commemorative Works Act 1986*. Decisions on location are made according to the Memorials and Museums Master Plan. This Plan:
- Identifies the 100 most suitable sites for future memorials and museums
  - Describes and evaluates site conditions
  - Establishes a commemorative zone policy for siting memorials and museums
  - Inventories existing memorials and museums
  - Forecasts demand for new museums and memorials
- 4.21 NCPC develops the plan in consultation with the two other review bodies that approve the location and design of commemorative works on federal land – the Commission of Fine Arts and NCMAC.
- 4.22 Two important features of the Washington model are Congressional approval and private sponsorship. As Mr Acosta explained to the Committee:

One of the key factors in siting memorials in the nation’s capital here in Washington is really that it is up to Congress first of all to make that determination. The second issue that distinguishes our process is that these memorials are proposed typically by outside groups or sponsors. The sponsors are responsible in almost all of the cases for fundraising to build the memorial and establishing a reserve fund to maintain it. I think it is somewhat different from

other countries, but in this case the process is initiated by an outside body that go to Congress to get legislation put forward and approved in order to have the memorial process triggered and then it moves forward in terms of a site design and review process.<sup>7</sup>

4.23 In Washington, the costs of memorials are met by the sponsors, who must also meet the cost of ongoing maintenance by allocating ten per cent of construction costs to this purpose. The memorial becomes the property of the National Park Service, which is responsible for care and maintenance in perpetuity. The cost of construction and the stringent rules for national memorials set out in the *Commemorative Works Act 1986* combine to ensure that the number of potential memorials is not in serious danger of surpassing the available sites.<sup>8</sup>

4.24 Projects are subject to the conditions set out in the *Commemorative Works Act 1986* and the guidance given to Congress by NCMAC. Proposals approved by Congress are then subject to the guidance of the NCPC. Mrs Kempf explained to the Committee

If it is a subject matter question then sometimes the proposals are refused because they do not meet the standards of the Commemorative Works Act, which provides very broad guidelines – for example, about the subjects of memorials. They should relate to an American experience. There are some timing restrictions in there that say that, if you are honouring a person or an event, a certain amount of time has to have passed. If the proposal does not meet these standards they initially will provide some guidance to congress, through the National Capital Memorial Advisory Commission, recommending that the proposal be changed or dismissed. Site selection and design is a process where the designs change over time and we work very closely with the sponsors. So they are not usually rejected but just modified through a design process.<sup>9</sup>

4.25 Another key feature of the Washington model is the attention given to heritage issues – the impact of proposals on the overall historic design of

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7 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 1.

8 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, and Ms Christine Saum, Chief Urban Designer & Acting Director, Policy and Research Division, *Transcript of Evidence*, 12 October 2011, pp. 5, 6.

9 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 3.

the city, upon particular existing heritage values and upon particular localities. Harmonising past and present is an essential part of the NCPC's work:

In the law that establishes the Commemorative Works Act there is a great deal of deference to the city's historic plans, including the L'Enfant plan, which is similar to the Walter Burley Griffin plan for Canberra. From our commission's standpoint we are very thorough in our analysis of how a memorial may affect the historic plans of the city in terms of the impacts on streets or parks or open space and also how it may affect the National Mall in terms of its historic aspects. We take that very seriously in our review. It is a very important part of our review process. We try to work it in a way that makes sure that whatever is developed and whatever is finally put up is respectful of its setting but also allows some flexibility and creativity to be exhibited in the memorial. There is always that tension that we are trying to deal with. It is a negotiation process between the sponsors and the various commissions that allow it to happen.<sup>10</sup>

4.26 Public consultation is also an integral part of the Washington model. Mr Acosta told the Committee:

In the creation of the legislation it obviously goes through a legislative process where Congress hears, through testimony and other means, from supporters and people who may oppose the memorial. It goes through that process. Within our process at the National Capital Planning Commission we do have public hearings where the public is invited to testify with respect to a memorial in terms of the location, for instance, or the design of the memorial. I think our sister agency, the Commission of Fine Arts, also does the same. With the National Capital Memorial Advisory Committee there are opportunities for the public, when that committee is making recommendations back to Congress, to also provide testimony with respect to the memorial even before Congress approves it. So there are multiple venues for the public to take in a discussion about how a memorial fits into the national narrative as well as issues with respect to its location and its design.<sup>11</sup>

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10 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 6.

11 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, pp. 1-2.

4.27 Typically, the NCPC conducts a formal overview of a project, with staff giving a recommendation to the Commission as to how and where a project should proceed. There is time set aside at the meeting of the Commission for the public to provide testimony. The public can also present testimony to the NCPC as part of its deliberations.<sup>12</sup> Having input from the local communities within Washington DC is seen as an important part of the memorials approval process:

We do have people from the communities and civic organisations who are based in DC come and testify at our commission meeting. I think that is one of the things that we try to do. Even if areas such as the National Mall are essentially of federal or national interest and are supposed to be places where the national stories are supposed to be told, they are also very important places for local residents to congregate to relax, as there are recreational areas. Also, there may be national parks in neighbourhoods where these memorials are located and the community residents have a vested interest in terms of what is developed and what may come out of this process. So we do feel that having residents of the District of Columbia or of the hills communities come in and bring their thoughts to the table is a very important part of the process and we do have that sort of participation at our meetings.<sup>13</sup>

4.28 The NCPC was also focussed on innovation, on looking at memorials from a holistic point of view and seeing commemoration in a more broadly representative way. Mr Acosta told the Committee:

Just to elaborate on that: from our staff perspective as well as the National Park Service's perspective, we've undertaken a major study of commemorative works in the national capital. We're really looking at it from what is there today, trying to analyse from a percentage standpoint – as Christine [Saum] mentioned, many of our memorials are military memorials – and trying also to get into the public's mindset that there are other types of memorials out there that may or may not be represented in the national narrative and that there may be opportunities to put those forward. But you have to construct the basic research first and let people know what is there today, in order to start having that discussion. Hopefully, over the next couple of years, by publishing this report and having

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12 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 2.

13 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 2.

discussions with members of Congress and others who might be interested to look at the state of commemoration today we can move that forward in terms of whether there are other things we should be thinking about to complete this narrative.<sup>14</sup>

- 4.29 As Mrs Kempf explained to the Committee, one innovation was the idea of temporary memorials. The NCPC was currently looking at 'a competition among artists and designers that would explore...how a temporary display can effectively convey perhaps similar issues as permanent memorialisation but in a very different way'.<sup>15</sup>

### Committee conclusions

- 4.30 The JSCNCET is of the view that any attempt to reform the Ordinance is an attempt to take a decision-making process relevant to the Canberra of the 1920s and adapt it to modern democratic expectations. However, that CNMC model is simply too unsuitable for it to be useful. Indeed, one could argue on the basis of the CNMC's history, that the CNMC has long ceased to have a meaningful role in the development of Canberra.
- 4.31 Traditionally, the status of the senior parliamentarians was seen as giving the CNMC a weight and national perspective fitting for something of such lasting national significance as National Memorials. As a matter of principle, this is a very attractive concept. However, as the senior parliamentarians appointed to the CNMC have not always been able to fulfil their role, much of the decision making has been left to officials. Whatever one may think of the results, this outcome is clearly the opposite of what was originally intended under the Ordinance.
- 4.32 Passing responsibility to less senior members of parliament should have the effect of increasing the practical effectiveness of the parliamentary membership of the CNMC, but possibly at a cost to the status of the Committee. Removing parliamentarians altogether from the membership of the Committee may also increase its effectiveness, but this would only reduce parliamentary engagement even further. The use of delegations, as suggested in the Department of Regional Australia's submission, does not obviate this problem – it merely moves it to persons with a lower level of responsibility and authority.

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14 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 5.

15 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 7.

- 4.33 Alternatively, by applying the Washington model to the local situation, effective parliamentary involvement could be regained.
- 4.34 The JSCNCET believes there is much to commend it in the Washington model. There is effective congressional involvement, through the initial legislative process and the participation of committee chairs on the various Commissions. There is effective public involvement, through public input at the various stages of the process. A variety of interests are represented in the various Commissions. No one entity dominates the process – diversity of views is not merely required but probably inevitable. There is a clearly established legislative framework, and detailed planning of commemorative works and available public space. There is also a high level of expert input into the approvals process.
- 4.35 There are, of course, difficulties in translating the Washington model to the Canberra scene. The National Capital Authority is effectively the only planning agency in the Parliamentary Zone, and would have to fulfil a number of the roles found within the Washington model, thus foregoing one of the central attributes of the Washington model – the diversity of inputs. The US apparatus is too large for Canberra, so could not be easily replicated. Creating diversity of views and inputs here would require a different set of arrangements.
- 4.36 Nonetheless, there are a number of features of the Washington model that are directly relevant to Canberra. Firstly, the importance of legislation underpinning the Washington model. This sets out in law what can be commemorated, broadly how and where it can be commemorated, what processes have to be gone through, and who is responsible for doing what in the process. A clear lesson for Canberra is that, at the very least, the *National Memorials Ordinance 1928* could be reformed to cover some or all of these issues and/or the *Guidelines for Commemorative Works in the National Capital* could be revised and made a legislative instrument, probably as an Appendix to the National Capital Plan.
- 4.37 Washington's Memorials and Museums Master Plan provides a strategic framework in which all proposals for new memorials may be placed. The mapping of memorials ensures that planning authorities and the public know what has been commemorated and where, and thus what can be commemorated without duplication or inappropriate location.
- 4.38 Importantly, the Washington model provides for the effective involvement of the local government and local community without loss of the overall national perspective. It also provides effective mechanisms for public

consultation and input through a range of agencies at various stages of the process.

- 4.39 Heritage management and planning are a priority. The *Commemorative Works Act 1986* protects Washington as both a planned city and as the national capital. A high value is placed on the city's original plan. Memorial proposals must meet stringent requirements in respecting the integrity of the original plan and the heritage value of the existing landscape.
- 4.40 The distribution of costs between sponsors and the National Parks Service is, from the Canberra perspective, an interesting innovation. Requiring proponents to contribute to the maintenance of memorials through a contribution of ten per cent of the overall cost seems fair and reasonable.
- 4.41 The JSCNCET also approves of the rule providing that no donor names appear on a memorial.
- 4.42 Lastly, the JSCNCET was impressed by the spirit of innovation shown in Washington in terms of seeking new ways to commemorate the past. Looking at the commemorative landscape from the point of view of what had *not* been commemorated can only lead to a more representative range of commemorative subjects, ones reflecting on society more broadly, not just the traditional range of memorial subjects. Other innovations, such as the use of temporary memorials, are also fertile ground for exploration.

## The way forward

- 4.43 The JSCNCET proposes a new process for approving significant National Memorials and National Monuments in Canberra, a hybrid of the present National Memorials process and the process used in Washington DC. The process would involve a two-pass assessment, the first pass focused on commemorative intent, the second pass on character and location (see Figure 4.1).

### First pass assessment

- 4.44 Each proposal for a National Memorial would in the first instance require a motion to be introduced in each House of Parliament approving the commemorative intent of a proposed National Memorial. The proponents would seek a sponsoring Member or Senator who would be responsible for the introduction and the passage of the motion.
- 4.45 Following the introduction of the motion, the memorial proposal would be referred to the JSCNCET for consideration and report. The National

Memorials Advisory Committee (NMAC), an advisory committee appointed to assist in the evaluation of each memorial's commemorative intent (see below), would ensure that the proposal complied with new *Criteria for Commemorative Works in the National Capital*, a revised, more prescriptive version of the current Guidelines. The National Capital Authority would be responsible for assessing the proponent's budget for the design, construction and maintenance of the proposed National Memorial, and capacity to finance the proposal. The approvals by NMAC and the NCA would form the basis for a report by the JSCNCET on the commemorative intent of the proposal. Upon the JSCNCET's report, the motion would proceed at the pleasure of Parliament, and, if passed, the commemorative intent of the proposed National Memorial is approved.

- 4.46 Once conceptually approved, the task of identifying a location for the memorial and initiating a process for its design would pass to the National Capital Authority. This would involve extensive public consultation, independent expert input, and the gaining of environmental and heritage approvals. The proponent of a memorial may be charged with sponsoring, or even funding, a design competition, but with the NCA remaining responsible for approval of any outcome of this process.

### **Second pass assessment**

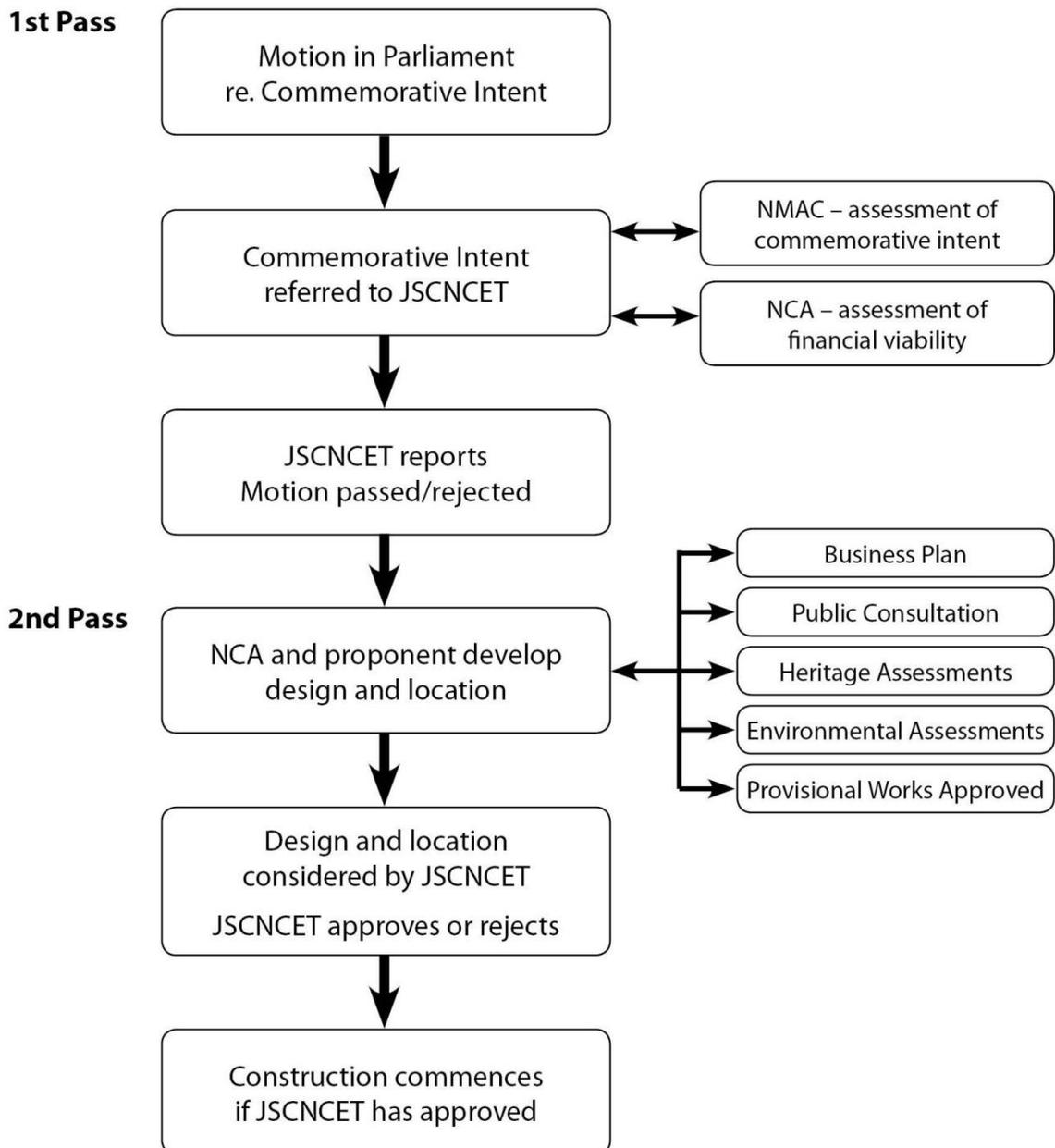
- 4.47 Once a design and location have been settled, the proposal would once again be referred to the Joint Standing Committee on the National Capital and External Territories for consideration and approval on behalf of the Parliament. If appropriate, the Committee would invite submissions from the public and undertake public hearings.
- 4.48 This second approval by the JSCNCET would not require further debate in either House. The Committee's endorsement of design and location would be the final approval required for the project. This would require specific legislative action to give the JSCNCET authority to act on behalf of Parliament. At this point construction can commence if funding is secured.

### **Commemorative Works Act**

- 4.49 This process would be underpinned by an Australian version of the *Commemorative Works Act 1986*, which would set out the process in detail.
- 4.50 An Australian Commemorative Works Act would:
- Define a commemorative work

- Define the legislative process by which commemorative intent is established and approved by Parliament
- Establish and define the responsibilities of the National Memorials Advisory Committee

Figure 4.1 Proposed assessment process for commemorative works.



- Give legal standing to the *Criteria for Commemorative Works in the National Capital*
  - Define the process to establish the character and location of a proposed National Memorial, including:
    - ⇒ the responsibility of the National Capital Authority
    - ⇒ the public consultation process
    - ⇒ mechanisms for seeking independent expert input
    - ⇒ the timing and nature of environmental and heritage approvals
  - The responsibilities of proponents in meeting design, construction and maintenance costs, including providing ten per cent of the overall costs towards ongoing maintenance of the new National Memorial.
- 4.51 The Act would also define the role of the JSCNCET in the final approvals process for National Memorials.
- 4.52 The definition of ‘commemorative work’ would encompass both National Memorials and National Monuments as currently defined by the National Capital Authority. The Act would not, however, apply to minor commemorative works, such as plaques or individual trees outside the Parliamentary Zone.
- 4.53 The Act would have the *Criteria for Commemorative Works in the National Capital* incorporated as a schedule, and the JSCNCET recommends, as per Chapter 3, that these Criteria be revised in line with the findings of this report. The Act would also incorporate a Memorials Master Plan as a schedule, as per Chapter 3, the Master Plan to include mapping of existing memorials, and potential sites for new memorials in accordance with the Guidelines.
- 4.54 The Act would require the NCA to maintain a register (published on a specific National Memorials website) of all National Memorial proposals, including their current status, and all relevant decisions and approvals, along with all supporting documentation, including:
- Independent expert advice
  - Public submission
  - Reports of public consultations
- 4.55 The Act will require memorial proponents to undertake the following tasks:
- Develop a design competition brief (if necessary)

- Run a public design competition (if necessary)
- 4.56 The Act will require memorial proponents to undertake the following steps in conjunction with the NCA (as per Chapter 3) after the passage of the motion approving commemorative intent:
- Identify possible locations
  - Conduct mandatory public consultations
  - Seek planning advice from relevant authorities and, if required, advice from relevant government agencies
  - Have assessments made under the *Environment Protection and Biodiversity Conservation Act 1999*
  - Develop draft conservation management plans and/or heritage impact statements for proposed sites, if required
  - Develop the budget and business plan for construction, maintenance and associated infrastructure costs.
- 4.57 The National Memorials Advisory Committee would be as proposed in Chapter 3, and consist of recognised experts in a range of disciplines, including history, heritage, architecture and planning, representatives of veterans and the services, and representatives of organisations with a strong focus on Australian history and culture at a national level (such as the National Gallery of Australia, National Library, National Museum, National Archives, National Portrait Gallery, Museum of Australian Democracy, National Film and Sound Archive, National Maritime Museum, High Court of Australia, Australian War Memorial or the relevant Commonwealth Department). It would also have one representative of the ACT Government, appointed on the recommendation of the ACT Chief Minister, and be chaired by a representative of the National Capital Authority. Membership would vary depending on the nature of the proposed National Memorial.
- 4.58 The Act would place restrictions on donor names to prohibit the appearance of donor names or names of relatives on or near National Memorials and National Monuments, except where the specific object of the commemoration – its commemorative intent – is individuals, families of groups that have been found to be worthy subjects of commemoration.
- 4.59 The Act would also provide that commemorative works, as defined by the Act, could be initiated by the Commonwealth or ACT Governments.

## Recommendation 9

4.60 The JSCNCET recommends that the *National Memorials Ordinance 1928* be repealed and replaced with an Australian Commemorative Works Act, based on the United States model. This Act would provide for a two-pass assessment process for National Memorials, the first pass focused on commemorative intent, the second pass on character and location; and that:

- At the first pass, a motion be introduced to Parliament to approve the commemorative intent of a proposed National Memorial.
- Following the introduction of the motion, the proposal be referred to the JSCNCET for consideration and report, based on the following approvals:
  - ⇒ the memorial proposal be referred to the National Memorials Advisory Committee – a Committee made up of history and heritage experts, with one ACT Government representative, chaired by the National Capital Authority – to ensure that it complied with the *Criteria for Commemorative Works in the National Capital*
  - ⇒ the National Capital Authority assess the proponent's budget for the design, construction and maintenance of the proposed National Memorial, and capacity to finance the proposal.
- Once approved by the National Memorials Advisory Committee, and with financial arrangements certified by the National Capital Authority, the JSCNCET would report upon the proposal. The motion would proceed at the pleasure of Parliament, and if passed, the commemorative intent of the proposed National Memorial would be approved.
- Following passage of the motion establishing the commemorative intent of the proposed National Memorial, responsibility for identifying a location for the memorial and initiating a process for its design would pass to the National Capital Authority. This would require memorial proponents to develop a design completion brief and run a public design competition (if necessary); and undertake, in conjunction with the National Capital Authority, the following tasks:

- ⇒ Identify possible locations
  - ⇒ Conduct mandatory public consultations
  - ⇒ Seek independent expert advice
  - ⇒ Seek planning advice from relevant authorities and, if required, advice from relevant government agencies
  - ⇒ Have assessments made under the *Environment Protection and Biodiversity Conservation Act 1999*
  - ⇒ Develop draft conservation management plans and/or heritage impact statements for proposed sites, if required
  - ⇒ Develop the budget and business plan for construction, maintenance and associated infrastructure costs.
- At the second pass, assessing design and location, the proposal would be referred to the Joint Standing Committee on the National Capital and External Territories for consideration and approval on behalf of the Parliament. If required, the Committee would be able to invite submissions from the public and undertake public hearings.
  - Second pass approval by the JSCNCET would provide the final approval for the proposed National Memorial.
  - Commemorative works, as defined by the Act, could be initiated by the Commonwealth or ACT Governments.

## Recommendation 10

4.61 The JSCNCET further recommends that the proposed Commemorative Works Act:

- Define a 'commemorative work', encompassing both National Memorials and National Monuments as currently defined.
- Establish a National Memorials Advisory Committee, consisting of recognised experts in a range of disciplines, including history, heritage, architecture and planning; representatives of veterans, the services and relevant Commonwealth Departments; representatives of organisations with a strong focus on Australian history and culture at a national level; one representative of the ACT Government,

- appointed on the recommendation of the ACT Chief Minister; and chaired by a representative of the National Capital Authority. Membership to vary depending on the nature of the proposed National Memorial.
- Include the *Criteria for Commemorative Works in the National Capital* as a schedule to the Act.
  - Include a Memorials Master Plan, including a map of existing memorials and potential sites for new memorials in accordance with the Criteria, as a schedule to the Act.
  - Require the National Capital Authority to maintain a register (published on a specific National Memorials website) of all National Memorial proposals, including their current status, and all relevant decisions and approvals, along with all supporting documentation, including:
    - ⇒ Independent expert advice
    - ⇒ Public submission
    - ⇒ Reports of public consultations
  - Define responsibilities of proponents in meeting design, construction and maintenance costs, including providing ten per cent of the overall costs towards ongoing maintenance of the new National Memorial.
  - Prohibit the appearance of donor names or names of relatives on or near National Memorials and National Monuments, except where the specific object of the commemoration – its commemorative intent – is individuals, families or groups that have been found to be worthy subjects of commemoration.
  - Exclude minor commemorative works, such as plaques or individual trees outside the Parliamentary Zone, from its operation.



## 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).<sup>1</sup>

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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<sup>1</sup> 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.<sup>2</sup>
- 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.<sup>3</sup>
- 5.6 Other evidence called for rescinding all current approvals and reassessing them all under a reformed approvals process.<sup>4</sup>
- 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.<sup>5</sup>
- 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.<sup>6</sup>
- 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.<sup>7</sup>
- 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:

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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.<sup>8</sup>

## 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

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

commemorative site'.<sup>9</sup> 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'.<sup>10</sup> 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.<sup>11</sup> A similar location for the Battle for Australia Memorial was rejected by the Canberra National Memorials Committee.<sup>12</sup>

- 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.

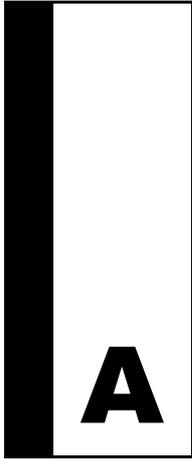
12 National Capital Authority, Submission no. 30, p. 25.

**Senator Louise Pratt**

**Committee Chair**

**16 November 2011**

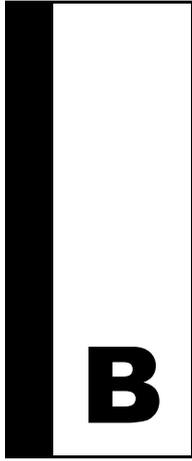




## **Appendix A – The Inquiry**

- 1.1 The inquiry into the administration of the *National Memorials Ordinance 1928* was referred to the Joint Standing Committee on the National Capital and External Territories by the Minister for Regional Australia, Regional Development and Local Government, the Hon Simon Crean MP, on 17 August 2011.
- 1.2 The inquiry was advertised in the *Canberra Times* and the *Australian*, and letters advising of the inquiry and inviting submissions were sent to the Prime Minister, several Commonwealth Ministers, the Leader of the Opposition, the National Capital Authority, the ACT Government and major stakeholders.
- 1.3 During the inquiry, the Committee received 44 submissions and several supplementary submissions. Submissions received are listed at Appendix C.
- 1.4 The Committee held four public hearings. A list of organisations and individuals who gave evidence before the Committee is at Appendix D.
- 1.5 Submissions and transcripts of evidence are available from the Committee website at <http://www.aph.gov.au/house/committee/ncet/index.htm>
- 1.6 A copy of the *National Memorials Ordinance 1928* is attached at Appendix B.





**Appendix B – National Memorials Ordinance  
1928**



AUSTRALIAN CAPITAL TERRITORY

## **National Memorials Ordinance 1928**

**Ordinance No. 18 of 1928 as amended**

made under the

*Seat of Government (Administration) Act 1910*

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This compilation was prepared on 13 May 2002  
taking into account amendments up to Ordinance No. 40 of 1989

Prepared by the Office of Legislative Drafting,  
Attorney-General's Department, Canberra

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**Section 3****An Ordinance to provide for the Location and Character of National Memorials, and the Nomenclature of Divisions of, and Public Places in, the Territory****1 Short title** [see Note 1]

This Ordinance may be cited as the *National Memorials Ordinance 1928*.

**1A Application**

This Ordinance applies only in relation to National Land.

**2 Interpretation**

In this Ordinance, unless the contrary intention appears:

*public place* includes any avenue, road, street and place which the public are entitled to use and any unleased lands belonging to the Commonwealth.

*the Committee* means the Canberra National Memorials Committee established by this Ordinance.

**3 Establishment of Committee**

- (1) For the purposes of this Ordinance there shall be a Canberra National Memorials Committee.
- (2) The Committee shall consist of the Prime Minister of the Commonwealth, the Minister, the Leader of the Government in the Senate, the Leader of the Opposition in the Senate, the Leader of the Opposition in the House of Representatives, the Secretary of the Department, an officer appointed by the Minister and two other members to be appointed by the Governor-General from amongst persons who are residents of the Australian Capital Territory.
- (3) The Prime Minister shall be the Chairman of the Committee.

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**Section 4**

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- (4) Meetings of the Committee shall be summoned by the Secretary of the Department.
- (5) In the absence of the Chairman from any meeting, the members present at the meeting may elect one of their number to be the Chairman of the meeting.
- (6) At any meeting of the Committee, the Chairman or the member presiding thereat shall have a deliberative vote, and in the event of an equality of voting, a second or casting vote.
- (7) Three members shall form a quorum at any Meeting of the Committee.
- (8) In the case of the illness or absence from Australia of any member of the Committee, or in the event of the office of a member of the Committee becoming vacant, the Governor-General may, if he thinks fit, appoint a person to act during the illness or absence of the member, or until the vacancy is filled, as the case may be, and the person so acting shall have all the powers and perform all the duties of the member.

**4 Expenses of members of Committee**

The members of the Committee shall severally receive, in re-imbusement of their travelling and other expenses, such sums as, or sums calculated at such rates as, the Governor-General approves.

**5 Period of office of members of Committee**

- (1) The members of the Committee appointed by the Governor-General shall hold office during the pleasure of the Governor-General.
- (2) Upon the happening of a vacancy in the office of a member of the Committee appointed by the Governor-General, the Governor-General may appoint a person to the vacant office.

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**Section 7****6 Powers and functions of Minister**

- (1) The Minister shall consider all matters referred to him by the Committee, and all communications, representations and recommendations made to him or to the Committee with regard to the nomenclature of divisions of the Territory, or the location or character of national memorials in the Territory, and for that purpose the Committee shall refer to the Minister all such communications, representations and recommendations made to the Committee.
- (2) The Minister shall furnish to the Committee a report with respect to all matters, communications, representations or recommendations referred to him by the Committee, and may, with respect thereto or to any communications representations or recommendations made to the Minister, or on his own initiative, submit to the Committee proposals or recommendations for the nomenclature of divisions of the Territory, or the location or character of national memorials in the Territory.

**7 Powers and functions of Committee**

- (1) The Committee may:
  - (a) approve, without alterations, or subject to such alterations as the Committee thinks fit, any proposal or recommendation made by the Minister; or
  - (b) reject any such proposal or recommendation; or
  - (c) return the proposal or recommendation to the Minister for further consideration and report and submission of a fresh proposal or recommendation.
- (2) Where the Committee approves of any proposal or recommendation submitted to the Committee by the Minister in pursuance of this Ordinance, the Committee shall forthwith notify the Minister of the approval, and shall furnish to the Minister a statement of the alterations (if any) subject to which the approval is given, and the Minister shall thereupon determine in accordance with the approval of the Committee, the nomenclature of divisions of the Territory, or the location or character of national memorials in the Territory, as the case may be.

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**Section 8**

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- (3) Every determination of the Minister under this section with regard to the nomenclature of divisions shall:
- (a) forthwith be published in the *Gazette*;
  - (b) be laid before each House of the Parliament within fifteen sitting days of that House after the making of the determination; and
  - (c) come into operation as provided in the next succeeding section.

**8 Disallowance of determination by Parliament**

- (1) If notice of a resolution disallowing the determination wholly or in part is not given in either House of the Parliament within fifteen sitting days after the determination is laid before that House the determination shall come into operation upon the expiration of that period.
- (2) If notice of a resolution disallowing the determination wholly or in part is given in either House of the Parliament within that period, the determination, except that portion referred to in the notice, shall come into operation upon the expiration of that period.
- (3) If either House of the Parliament passes any such resolution disallowing the determination wholly or in part so much of the determination as is not already in operation shall, except to the extent to which it is disallowed, thereupon come into operation, and the disallowed portion shall be again dealt with as if it were a matter referred to the Minister in pursuance of section six of this Ordinance:
- Provided that any new determination in respect of the disallowed portion shall not be laid before both Houses of the Parliament in the same session of the Parliament as that in which the resolution was passed.
- (4) Subject to subsections (1) and (2) of this section if neither House of the Parliament passes any such resolution so much of the determination as is not already in operation shall come into operation upon the day immediately following the last day of the session in which the notice was given.

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**Section 8B**

- (5) A new determination made in respect of a matter referred to in subsection (3) of this section shall not be disallowed either wholly or in part unless a resolution to that effect of which notice has been given in either House of the Parliament within fifteen sitting days after the determination is laid before that House is passed by both Houses of the Parliament.

**8A Minister to determine nomenclature of public places**

- (1) The Minister may determine the nomenclature of public places in the Territory.
- (2) The Minister may make a determination revoking or varying the determination of the nomenclature of a public place in the Territory, whether made before or after the commencement of this section.
- (3) Every determination made by the Minister under either of the last two preceding subsections shall forthwith be published in the *Gazette* and shall come into operation upon the date of publication.

**8B Objections to determinations**

- (1) If notice in writing objecting wholly or in part to a determination by the Minister under subsection (1) or (2) of the last preceding section is lodged with the Minister by any person within twenty-one days after the determination is published in the *Gazette*, the Minister shall forthwith refer the determination, or the part of the determination objected to, to the Committee for a determination by the Committee.
- (2) The Committee shall consider the objection and shall make a determination confirming, revoking or varying the determination of the Minister.
- (3) The determination of the Committee shall forthwith be published in the *Gazette* and shall come into operation upon the date of publication.
- (4) A reference under subsection (1) of this section does not affect the continuance in operation of the determination or part of a

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**Section 8C**

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determination pending the coming into operation of the determination of the Committee.

**8C Minister to have regard to certain names**

- (1) The Minister shall, in submitting to the Committee proposals or recommendations for the nomenclature of divisions of the Territory, and the Committee shall, in considering any such proposal or recommendation, have regard to the names of persons who have made notable contributions to the existence of Australia as a nation.
- (2) The Minister shall, in making a determination for the nomenclature of public places in the Territory, have regard to:
  - (a) the names of persons famous in Australian exploration, navigation, pioneering, colonization, administration, politics, education, science or letters;
  - (b) the names of persons who have made notable contributions to the existence of Australia as a nation;
  - (c) the names of Australian flora;
  - (d) the names of things characteristic of Australia or Australians; and
  - (e) the words of the aboriginal natives of Australia.

**9 Minister may make contracts**

Where the character of a national memorial in the Territory is determined by the Committee, and the cost of the execution of the design and of the erection of the memorial is to be borne by the Commonwealth, the Minister may make such contracts or agreements as he thinks fit for that execution and erection.

Notes to the *National Memorials Ordinance 1928***Table of Ordinances****Notes to the *National Memorials Ordinance 1928*****Note 1**

The *National Memorials Ordinance 1928* (in force under the *Seat of Government (Administration) Act 1910*) as shown in this compilation comprise Ordinance No. 18, 1928 amended as indicated in the Tables below.

**Table of Ordinances**

Ordinance	Year and number	Date of notification in Gazette	Date of commencement	Application, saving or transitional provisions
<i>National Memorials Ordinance 1928</i>	18, 1928	31 Aug 1928	31 Aug 1928	
<i>Seat of Government (Administration) Ordinance 1930</i>	5, 1930	1 May 1930	1 May 1930 (see <i>Gazette</i> 1930, p. 891)	—
as amended by <i>Seat of Government (Administration) Ordinance 1933</i>	4, 1933	2 Mar 1933	S. 4: 1 May 1930 (see s. 2 and <i>Gazette</i> 1930, p. 891) S. 8: 2 Mar 1933 Remainder: 12 Apr 1932	—
<i>National Memorials Ordinance 1931</i>	23, 1931	3 Dec 1931	3 Dec 1931	—
<i>National Memorials Ordinance 1937</i>	26, 1937	23 Dec 1937	23 Dec 1937	—
<i>National Memorials Ordinance 1952</i>	6, 1952	29 May 1952	29 May 1952	—
<i>National Memorials Ordinance 1953</i>	2, 1953	29 Jan 1953	29 Jan 1953	—
<i>Ordinances Revision Ordinance 1959</i>	21, 1959	23 Dec 1959	31 Dec 1959	—
<i>National Memorials Ordinance 1972</i>	12, 1972	13 Apr 1972	13 Apr 1972	—
<i>National Memorials (Amendment) Ordinance 1989</i>	40, 1989	10 May 1989	Ss. 1 and 2: 10 May 1989 Remainder: 11 May 1989 (see s. 2 (2) and <i>Gazette</i> 1989, No. S164)	—

Notes to the *National Memorials Ordinance 1928*

### Table of Amendments

### Table of Amendments

ad. = added or inserted    am. = amended    rep. = repealed    rs. = repealed and substituted

Provision affected	How affected
Title .....	am. No. 12, 1972
S. 1A .....	ad. No. 40, 1989
S. 2 .....	am. No. 5, 1930; No. 23, 1931; No. 21, 1959; No. 12, 1972
S. 3 .....	am. No. 5, 1930 (as am. by No. 4, 1933); No. 23, 1931; No. 2, 1953; No. 40, 1989
S. 6 .....	am. No. 23, 1931; No. 6, 1952; No. 12, 1972
S. 7 .....	am. No. 23, 1931; No. 26, 1937; No. 6, 1952; No. 12, 1972
S. 8 .....	am. No. 23, 1931; No. 12, 1972
S. 8A .....	ad. No. 6, 1952 am. No. 12, 1972
S. 8B .....	ad. No. 6, 1952
S. 8C .....	ad. No. 6, 1952 am. No. 12, 1972
S. 9 .....	ad. No. 26, 1937 am. No. 12, 1972





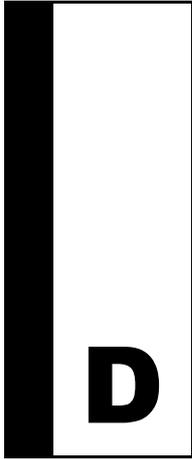
## **Appendix C – Submissions**

1. Dr Kristine Klugman OAM
2. Emeritus Professor Ken Taylor AM
3. C H Stuart
4. Ms Juliet Ramsay
5. Mr Steven Hurren
6. Mr Tim Coyle
7. Walter Burley Griffin Society (Canberra)
8. Dr Barry Price
9. Dr Peter Stanley
10. Mr David Nott
11. Australian Historical Association
12. Australian Garden History Society
13. Ms Jeanette Hahn
14. Mr Tom Worthington
15. Dr Jane Lennon AM
16. Mr Michael Selby
17. Caroline and William Curnow
18. Ms Christine Lawrence
19. Mr Michael Thomson
20. Medical Association for Prevention of War (Australia)

21. Caroline Le Couteur MLA
22. Returned and Services League of Australia
23. Ms Sarah Brasch
24. Lt Col (Rtd) Simon Hearder
25. ACT Heritage Council
26. Kerry and Robert McKillop
27. Lake War Memorials Forum
  - 27.1 Lake War Memorials Forum
28. National Trust of Australia (ACT)
29. Australian Heritage Council
30. National Capital Authority
  - 30.1 National Capital Authority
31. Canberra and District Historical Society
32. Walter Burley Griffin Society (Sydney)
  - 32.1 Walter Burley Griffin Society (Sydney)
33. Ms Rosemarie Willett
  - 33.1 Ms Rosemarie Willett
34. Department of Sustainability, Environment, Water, Population and Communities
  - 34.1 Department of Sustainability, Environment, Water, Population and Communities
35. Ms Joan Goodrum
36. Australian War Memorial
37. Australian Peacekeeping Memorial Project
38. National Gallery of Australia
39. Department of Regional Australia, Regional Development and Local Government
40. National Capital Planning Commission (USA)
41. ACT Government

- 42. National Boer War Memorial Association
  - 42.1 National Boer War Memorial Association
- 43 Mr Don Morris
- 44 Air Marshal David Evans AC DSO AFC RAAF (Ret.)





## **Appendix D – Hearings and Witnesses**

**Wednesday, 14 September 2011 – Canberra**

**Walter Burley Griffin Society**

Dr Bruce Kent, Committee Member, Canberra Chapter

Professor James Weirick, President

Ms Rosemarie Willett, Committee Member, Canberra Chapter

**Lake War Memorials Forum**

Dr David Stephens, Media and Political Liaison Officer

**Wednesday, 21 September 2011 – Canberra**

**Department of Sustainability, Environment, Water, Population and Communities**

Mr Peter Burnett, First Assistant Secretary, Heritage and Wildlife

**ACT Heritage Council**

Dr Dianne Firth, Acting Chair

**Wednesday, 12 October 2011 – Canberra (via videoconference)****National Capital Planning Commission, Washington DC**

Mr Marcel Acosta, Executive Director

Mrs Lucy Kempf, Urban Planner, Policy and Research Division

Ms Christine Saum, Chief Urban Designer, Acting Director, Policy and Research Division

**Friday, 14 October 2011 – Canberra****National Capital Authority**

Professor Don Aitkin AO, Chairman

Mr Gary Rake, Chief Executive

Mr Andrew Smith, Chief Planner

**ACT Government**

Mrs Fleur Flanery, Director of City Services - Parks and City Services – Territories and Municipal Services

**Returned and Services League**

Rear Admiral Ken Doolan AO RAN (Retd), National President

**Department of Regional Australia, Regional Development and Local Government**

Mr Julian Yates, First Assistant Secretary, Territories Division

**Australian War Memorial**

Major General Stephen Gower AO AO (Mil), Director

**Individual**

Professor Janette Hartz-Karp