

ACT National Boer War Committee Submission

Process for Approval of National Memorials

In the National Capital

Overview:

This document outlines an improved process for the approval of memorials by both Government and Legislators in Canberra. The proposed process is intended to give a systematic, transparent approval process that involves public consultation at two significant stages.

This improved process will require legislation to implement it and this is explained.

Under the process there will be:

- Defined specific areas within the National Capital where memorials of national significance may be built;
- A definition of national significance which defines the type of memorial that may be built;
- Specific approval by the Parliament for each proposed memorial to proceed;
- Conditions for the building and maintenance of each proposed memorial;
- A special design committee to approval the design and building of each proposed memorial.

A special design committee will be established under Federal legislation that will govern the construction of future memorials in Canberra.

It will be independent of the Federal and ACT governments but be within the portfolio of the federal minister with responsibilities for territories.

Illustrative Process

The proposer of a memorial would seek a member of parliament or senator who will sponsor an authorising bill, as prescribed in the governing legislation, for the consideration of Parliament.

Once introduced to Parliament by the sponsor the authorising bill will, by provision of the governing legislation, be subject to a public enquiry by a joint standing committee.

The joint standing committee will then report to Parliament and the authorising bill will then be dealt with by the Parliament.

If passed by Parliament the authorising act will authorise the special design committee to conduct a public enquiry into the design of the proposed memorial. This would be conducted under the provisions of the governing legislation and the specific terms of the authorising act.

This stage should also require the submission of a detailed business plan with a fundraising component by the proposed memorial's governing body to enable assessment of the viability of the proposal.

At the conclusion of the enquiry the special design committee will publish a report giving its decision and details of the design and conditions for the future construction. An approved design will be put before the parliament as a disallowable instrument.

Legislation

Legislation by the Parliament will be required to implement the proposed approval scheme. This will repeal the National Memorials Ordinance 1928 and replace it with an act that details the process for approving

The legislation would set the criteria required for approval of future memorial proposals.

Detailed Process

The proposed process will require the Parliament to authorise each proposed memorial by special purpose legislation which will require the proposed memorial to be subjected to public consultation at both the intent and concept stage and later as a design.

At each of those stages there will be a specific mechanism for public consultation.

At the intent and concept stage the proposed memorial will be subject to a public enquiry conducted by a joint committee of the Parliament. This will require the proposer of a memorial to justify it against specific criteria laid down in legislation to govern memorials in a designated area or areas in Canberra. Any interested parties and members of the public will be invited to be involved in the enquiry and the committee will seek to encourage public involvement and debate.

The next part of that stage will be for the Parliament to pass a special purpose act to authorise the consideration of a design for the proposed memorial and approval of construction that design by a special approving committee created under the governing legislation.

The act will contain both specific requirements relating to the proposed memorial and the general requirements laid down in the governing legislation. This is to ensure that all requirements are stated clearly in a single legislative instrument.

Once the authorising act has been passed by the Parliament, the proposer of the memorial will be required to submit a detailed design incorporating the requirements authorising act to the approving body.

The approving body will then be required under the terms of the governing legislation to conduct a public enquiry into the design of and construction of the proposed memorial. Once the enquiry is concluded the approving body will publish a report with its recommendations including a draft approval as appropriate for final public comment.

The approving body will then give its formal decision in the form of a legislative instrument that is subject to disallowance by the Parliament. In the approval of a design the complete design and conditions will be included. In the case of Parliament disallowing a design approval the governing legislation will require the parliament to give the reasons for disallowance.

The role of experts should be strictly consultative and they will be called as “expert witnesses” as required by the Committee. This is to allow flexibility and to ensure that the legislators retain primacy in decision making. It would be difficult to find suitable experts with sufficient breadth of knowledge to cover all proposed memorials which are often disparate in subject matter. It would also prevent undue pressure being placed on local expert members by lobby groups pursuing a particular cause.

General Comments

- 10% of the money raised by the proposed memorial’s governing body should be allocated to maintenance of the future memorial and placed in a designated bank account.
- Completed memorials have dedication ceremonies which need to be scoped in terms of cost and logistical support required from the Federal Government. This should be included as part of the initial business plan submitted.
- When the NCA has completed its future Heritage Management Plan for ANZAC Parade this will enable a more rigorous process to be applied to future memorial proposals and assist organisations in formulating design proposals.
- The delegation of authority from the existing structure to the Standing Committee is a sound piece of business process re-engineering as the roles of the Prime Minister and the Leader of the Opposition do not now allow the luxury of devoting much time to the CNMC considering such proposals for public monuments. In 1928, Canberra was a much smaller place and the business of government less intense!

- Any new process adopted should create a more formalised process which ensures that the bodies proposing new memorials in the national capital can actually deliver the end product within agreed timeframes and on budget !

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