

# APPENDIX 3

The Senate

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Finance and Public Administration  
Legislation Committee

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The performance of the Department of  
Parliamentary Services

Interim report

June 2012

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# MEMBERSHIP OF THE COMMITTEE

## 43<sup>rd</sup> Parliament

### Members

Senator Helen Polley (Chair)	ALP, Tasmania
Senator Scott Ryan (Deputy Chair)	LP, Victoria
Senator Richard Di Natale	AG, Victoria
Senator the Hon. John Faulkner	ALP, New South Wales
Senator Arthur Sinodinos	LP, New South Wales
Senator the Hon. Ursula Stephens	ALP, New South Wales

### Participating members for this inquiry

Senator Stephen Parry	LP, Tasmania
Senator the Hon. Michael Ronaldson	LP, Victoria
Senator Nick Xenophon	IND, South Australia



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## Preface

The Senate referred the inquiry into the performance of the Department of Parliamentary Services (DPS) to the committee in June 2011. The committee received both public and confidential submissions which raised significant issues particularly in relation to the employment culture of DPS, the issue of bullying and harassment within DPS, management of heritage values and, of course, the sale of the billiard tables from the Staff Recreation Room.

The committee, to date, has held two public hearings. At the first hearing in November 2011, the committee heard evidence from Mr Romaldo Giurgola, Mr Hal Guida and Ms Pamille Berg. The committee particularly wishes to thank Mr Giurgola, Founding Partner of Mitchell/Giurgola & Thorp and Design Principal for Parliament House, for making himself available to speak with the committee. The evidence provided by Mr Giurgola, Mr Guida and Ms Berg highlighted the design process for the building which encompassed not only the architecture but also the furnishings, art program and landscape design. The evidence also pointed to the architect's concerns for the survival of the design integrity of the building as it nears its 25 year anniversary. Mr Giurgola argued that there were no effective checks and balances to ensure that any changes to the building are undertaken to preserve its inherent architectural and design integrity.

At its hearing on 2 May 2012, the committee canvassed heritage issues with outside experts. The committee also sought evidence from DPS on the sale of the billiard tables, the culture within the Department and touched on heritage issues, including the completion of the Central Reference Document (CRD).

The committee considers that it has not completed its inquiry. The evidence received so far to its questions on bullying and harassment in DPS highlighted the need for further examination of these matters. In addition, the committee has yet to address appointment procedures in DPS. Other issues which still require examination to adequately address the terms of reference include projects undertaken by DPS which have raised heritage concerns, resource agreements for the provision of services within and by DPS and the delivery of information technology services and equipment. In relation to information technology services, the committee has received little evidence to date but notes that the Presiding Officers have initiated a review of information and communications technology for Parliament House and a Parliament-wide survey of DPS services, including information technology, is being conducted by ORIMA Research on behalf of DPS.

The committee will therefore seek an extension of time to finalise its examination of these matters. However, there are two significant issues which the committee discusses in this report: the sale of two billiard tables in 2010; and the overarching heritage strategy for the protection of the design integrity of Parliament House. In relation to heritage matters, the report canvasses issues raised but does not make any recommendations as the committee considers that further evidence is required on specific projects before it can make any recommendations on heritage management.

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Nevertheless, the committee has made one recommendation for the completion of the CRD.

The CRD was first commissioned by the former Joint House Department in 1999 and the draft was completed in 2004. Some eight years later the draft is still to be finalised. The CRD will provide an enduring record of the architect's design intent for Parliament House to be used to govern the approach to proposed changes to the building. This is a significant document and its completion should be undertaken as a matter of urgency given the age of Mr Giurgola and other members of the design team.



# Chapter 1

## Introduction

### Terms of reference

1.1 On 23 June 2011, the Senate referred the following matter, as an inquiry under standing order 25(2)(a), to the Finance and Public Administration Legislation Committee, for inquiry and report by 29 November 2011:

The performance of the Department of Parliamentary Services (DPS), with particular reference to:

- (a) matters raised at the Budget estimates hearing of the committee on 23 May 2011 and in answers to questions taken on notice;
- (b) policies and practices followed by DPS for the management of the heritage values of Parliament House and its contents;
- (c) asset management and disposal policies and practices;
- (d) resource agreements and/or memoranda of understanding for the provision of services within and by DPS;
- (e) an assessment of the efficiencies achieved following the amalgamation of the three former joint parliamentary service departments and any impact on the level and quality of service delivery;
- (f) the efficient use, management and delivery of information technology services and equipment; and
- (g) any related matter.<sup>1</sup>

1.2 The reporting date was subsequently extended to 28 June 2012.<sup>2</sup>

### Conduct of the inquiry

1.3 The inquiry was advertised in *The Australian* newspaper and on the committee's website. The committee invited submissions from interested individuals, organisations and relevant government departments.

1.4 The committee received 23 public submissions. A list of individuals and organisations which made public submissions, together with other information authorised for publication by the committee, is at Appendix 1. The committee held public hearings in Canberra on 16 November 2011, and 2 May 2012. A list of the witnesses who gave evidence at the public hearings is available at Appendix 2.

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1 *Journals of the Senate*, 23 June 2011, p. 1100.

2 *Journals of the Senate*, 8 November 2011, p. 1796.

1.5 Submissions, additional information and the Hansard transcript of evidence may be accessed through the committee's website at:

[http://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate\\_Committees?url=fapa\\_ctte/index.htm](http://www.aph.gov.au/Parliamentary_Business/Committees/Senate_Committees?url=fapa_ctte/index.htm)

### **Background to the inquiry**

1.6 During the February 2011 Additional Estimates hearings, the sale, in late 2010, of two billiard tables from Parliament House was canvassed.<sup>3</sup> The committee was told that a heritage assessment of the tables had been conducted before the sale.<sup>4</sup> The 'heritage assessment' was provided in an answer to a question on notice and consisted of a handwritten annotation by the Disposal Delegate on the *Register of all furniture installed in the New Parliament House*.<sup>5</sup>

1.7 The disposal of the tables was again pursued at the May 2011 Budget Estimates. During questioning, the then Secretary of DPS, Mr Alan Thompson, confirmed that the annotation was the heritage assessment.<sup>6</sup> Further, it was confirmed that the annotation was added after the Additional Estimates hearing.<sup>7</sup> It was also revealed that the Disposal Delegate had no qualifications for assessing heritage value of the tables.<sup>8</sup>

1.8 In its report to the Senate following the May 2011 Budget Estimates, the committee noted that it had requested that DPS provide the original version of the declaration of surplus or unserviceable items form and the asset register with the annotation. The committee indicated that it would consider the matter further following receipt of the documents requested.<sup>9</sup>

1.9 In speaking to the Estimates report, Senator the Hon. John Faulkner noted:

Precisely eight months to the day after the sale had occurred, and only after extensive questioning at the Senate Finance and Public Administration Legislation Committee—only after those processes did we find out that no

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3 *Estimates Hansard*, 21 February 2011, pp 16–17; 41–43.

4 Ms Judy Konig, Department of Parliamentary Services, *Estimates Hansard*, 21 February 2011, p. 42.

5 Additional Estimates 2010–11, Department of Parliamentary Services, *Answers to questions on notice*, No.27.

6 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Estimates Hansard*, 23 May 2011, p. 34.

7 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 62.

8 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Estimates Hansard*, 23 May 2011, p. 65.

9 Senate Finance and Public Administration Legislation Committee, *Budget Estimates 2011–12*, June 2011, p. 4.

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heritage assessment had been made prior to the sale, contrary to DPS policy; that the Senate's Finance and Public Administration Legislation Committee had been misled; that inaccurate evidence to the committee had not been corrected and that very serious questions remain unanswered about the status of documents provided to the committee.<sup>10</sup>

1.10 Senator Faulkner went on to comment that the Senate earlier that day had agreed to refer a range of matters to the committee for inquiry. He noted the reference had been supported by government, opposition and Greens senators.<sup>11</sup>

### **Structure of report**

1.11 The report is structured as follows:

- chapter 2 addresses the sale of the billiard tables;
- chapter 3 provides an overview of the heritage strategy for Parliament House;
- chapter 4 addresses concerns raised about the heritage management of Parliament House; and
- chapter 5 discusses progress on the completion of the Central Reference Document and the apparent loss of material from Mitchell/Giurgola & Thorp archived following completion of the building.

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10 Senator the Hon John Faulkner, *Senate Hansard*, 23 June 2011, p. 3707.

11 Senator the Hon John Faulkner, *Senate Hansard*, 23 June 2011, p. 3708.



## Chapter 2

### Sale of Parliament House billiard tables

#### Introduction

2.1 As noted in chapter 1, during the Estimates hearings of February and May 2011, the committee identified significant concerns with the disposal, in 2010, of two billiard tables from Parliament House. This chapter explores in depth the events surrounding the disposal of the billiard tables; the evidence provided to the committee during the Estimates hearings; and flaws identified in Department of Parliamentary Services (DPS) disposal practices.

#### Disposal process

2.2 DPS advised that on 26 June 1989 there were six billiard tables in Parliament House: two in the House of Representatives alcove; two in the Senate Alcove; and two in the Staff Recreation Room. There was also one pool table of unknown origin.

2.3 The tables housed in the Senate and House of Representatives Alcoves had been brought up from Old Parliament House in 1988. The Senate Alcove tables were returned to Old Parliament House in February 2000.

2.4 In 2009, DPS commenced plans to convert the Staff Recreation Room area to office accommodation. The Joint House Committee considered the proposed relocation of the Staff Recreation Room and its equipment on 14 September 2009 and 21 June 2010. The discussion included where the billiard tables might be transferred to and consultation with staff prior to any final decision being made about the future of the billiard tables. At its June 2010 meeting, the Joint House Committee noted that DPS had agreed on the disposal of the two billiard tables and pool table, having established that there were no bookings for the pool or billiards tables over the period November 2009 to May 2010. There was no discussion at either meeting of the Joint House Committee of any potential heritage value of the billiard tables or the pool table.<sup>1</sup>

2.5 The billiard tables in the Staff Recreation Room and the pool table were removed on 22 July 2010.<sup>2</sup> DPS sold the tables through a Canberra-based auction company AllBids. The first table was advertised for sale on 26 July 2010 with bids closing on 9 August 2010 and the second table was advertised on 12 August 2010 with bids closing on 26 August 2010.<sup>3</sup>

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1 Department of Parliamentary Services, *Answers to questions on notice taken at hearing of 2 May 2012*, No 5, received 15 May 2012.

2 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Estimates Hansard*, 23 May 2011, p. 65.

3 PriceWaterhouseCoopers, *Disposal of equipment from the former staff recreation room, Final Report*, July 2011, p. 13.

2.6 DPS indicated that it used AllBids for the majority of assets sales as it 'provides a good and quick return on the auction items; and clear paperwork'.<sup>4</sup> The listing on the AllBids website did not mention the Parliament House connection as AllBids does not disclose vendor details.<sup>5</sup> However, DPS advised that 'a DPS staff member has stated he bought one of the billiard tables' while the other was also purchased by another DPS employee.<sup>6</sup>

2.7 DPS put a reserve of \$2,500 on the billiard tables and \$2,000 on the pool table.<sup>7</sup> The pool table sold for \$2,000. One of the billiard tables sold for \$2,500 and although the other did not meet the reserve it was sold for \$2,488.<sup>8</sup> Subsequent advice indicated that \$2,500 was paid to AllBids for the second table. However, due to an error in calculating the sale price plus buyer's premium, AllBids underpaid DPS by \$11.12 and has undertaken to reimburse DPS for that amount.<sup>9</sup> DPS explained:

In the case of the apparent under-reserve sale of one of the billiard tables, an offer was made on the table for the full reserve, which was accepted by All Bids staff. When the person came in to pay, the sale price plus 12.5% buyer's premium was incorrectly calculated. All Bids has undertaken to reimburse DPS for \$11.12 underpayment.<sup>10</sup>

2.8 DPS also advised that:

The items sold were administered assets and, as such, the funds realised by the sale were returned to the Official Public Account.

The sale of all three tables was settled on 6 September 2010. Records available to DPS indicated that the billiard tables were purchased by the [Parliament House Construction Authority] for Parliament House and, prior to the 2010 sale, were owned by DPS. DPS has found no records about the acquisition of the pool table.<sup>11</sup>

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4 Budget Estimates 2011–12, Department of Parliamentary Services, *Answers to questions on notice*, No. 30.

5 Budget Estimates 2011–12, Department of Parliamentary Services, *Answers to questions on notice*, No. 31.

6 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4580; PriceWaterhouseCoopers, *Disposal of equipment from the former staff recreation room, Final Report*, July 2011, p. 6.

7 Ms Judy Konig, Chief Finance Officer, Department of Parliamentary Services, *Additional Estimates Hansard*, 21 February 2011, pp 42–43.

8 Ms Judy Konig, Chief Finance Officer, Department of Parliamentary Services, *Additional Estimates Hansard*, 21 February 2011, p. 43.

9 Budget Estimates 2011–12, Department of Parliamentary Services, *Answers to questions on notice*, No. 32.

10 Budget Estimates 2011–12, Department of Parliamentary Services, *Answers to questions on notice*, No. 33.

11 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4580.

2.9 In an answer to a question on notice about the original cost of the billiard tables in 1989, DPS advised that '[of] the six billiard tables previously located in Parliament House: (a) four tables cost \$2,860 each; and (b) two tables cost \$5,800 each'.<sup>12</sup> At the Budget Estimates of May 2011, the committee was advised that the tables originally costing \$5,800 each had been sold.<sup>13</sup>

2.10 The 'original cost' figures are those listed in the 'Register of all furniture installed in the new Parliament House' (the Register) created in 1988 by the Parliament House Construction Authority (PHCA). It shows that six billiard tables were installed, with date of acquisition as 04/26/89, supplier (Heiron & Smith), value and location. The location is given as area 4C.2.006 (House of Representatives Alcove); two in area 4A.2.005 (Senate Alcove) and two in area 4C.G.110 (staff recreation room). The relevant page of the Register is reproduced at appendix 3.

2.11 The committee was told that the book value of the tables sold was \$1,500. A valuation of the tables was undertaken by the Australian Valuation Office (AVO) in 2009–10. In explaining the way in which the book value was arrived at, Mr David Kenny, Deputy Secretary, DPS, stated that it was decided within the Chief Finance Officer's Branch. Further:

The AVO from time to time provides us with valuation advice, and then we have a depreciation schedule that is pretty standard in terms of the way accountants work. But that work is done within the CFO branch, also known as the Finance branch and about to be known as the Corporate branch.<sup>14</sup>

2.12 DPS noted that the valuation met the financial reporting requirements and standards of the Department of Finance and Deregulation and the Australian National Audit Office. The Finance Minister's Orders for heritage and cultural assets include the following:

37.2 Only assets that are primarily used for purposes that relate to their cultural, environmental or historical significance are to be accounted for as heritage and cultural assets.<sup>15</sup>

2.13 DPS noted that the tables were primarily used for recreational purposes. The AVO valuation report in 2009–10 did not contain any reference to heritage considerations.<sup>16</sup>

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12 Additional Estimates 2010–11, Department of Parliamentary Services, *Answers to questions on notice*, No. 25.

13 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 50.

14 Mr David Kenny, Deputy Secretary, Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 67.

15 Department of Finance and Deregulation, *Finance Minister's Orders for Financial Report*.

16 Budget Estimates 2011–12, Department of Parliamentary Services, *Answers to questions on notice*, No. 29 and No. 34; see also Mr David Kenny, Deputy Secretary, *Budget Estimates Hansard*, 23 May 2011, pp 52–53.

### *Heritage assessment of tables*

2.14 Of particular concern to the committee was the possible disposal of Parliament House assets which may have a significant heritage value without appropriate evaluation of the asset.

2.15 In an answer to a question on notice following the 2 May 2012 committee hearing, DPS stated that at the time that the billiard tables were removed in July 2010, DPS projects staff noted the tables were cedar, 'nothing special' and had a date of either 1987 or 1989. At that time, Projects Branch staff examined the tables in the House of Representatives Alcove and noted that they were older and made from silky wood.<sup>17</sup>

2.16 The answer went on further to state:

On 26 August 2010, the evening that the final AllBids auction had closed, a DPS staff member had a telephone conversation with Mr Kenny about the auction, and wondered if the auction could be extended to allow for a potential bid. Mr Kenny advised this would not be possible.

On 10 September 2010, an email from a DPS staff member included a comment that the Staff Recreation Room billiard tables "did not have any heritage value to Parliament House but did have historic value to [Old Parliament House]". This was the first time that the potential heritage value, or otherwise, was drawn to Mr Kenny's attention.

In September 2010, two DPS staff members raised concerns about the potential heritage value of the Staff Recreation Room billiard tables with Projects and CFO Branch staff. Projects staff confirmed there were no issues. That is, the "special tables" remained in the House of Representatives Alcove.

In October 2010, the CFO Branch Estimates brief documented that the billiard tables were general assets and did not have heritage value attributed to them.<sup>18</sup>

2.17 At the Additional Estimates hearing of 21 February 2011, the committee received evidence from Ms Judy Konig, then Chief Financial Officer, DPS, concerning DPS disposal policies:

We have a policy that requires a heritage assessment of any items that the department is getting rid of or that have been declared surplus. In this case, these [two billiard tables] were assessed as having no heritage value.<sup>19</sup>

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17 Department of Parliamentary Services, *Answers to questions on notice taken at hearing of 2 May 2012*, No. 4, received 15 May 2012.

18 Department of Parliamentary Services, *Answers to questions on notice taken at hearing of 2 May 2012*, No. 4, received 15 May 2012; the Estimates briefs were also received 15 May 2012.

19 Ms Judy Konig, Chief Finance Officer, Department of Parliamentary Services, *Additional Estimates, Committee Hansard*, 21 February 2011, p. 42.



2.18 Further, Ms Konig stated that DPS had to comply with the *Environment Protection and Biodiversity Conservation Act 1999* and 'the requirement to get the best outcome for the Commonwealth when we dispose of any goods'.<sup>20</sup>

2.19 Ms Konig was very confident that a heritage assessment had been undertaken in relation to the two billiard tables sold by DPS.<sup>21</sup>

2.20 At the hearing, the committee sought a copy of the heritage assessment that was said to be undertaken. What was provided in answer to a question on notice to the committee on 6 June 2011 consisted of a handwritten, undated annotation alongside the entry for all the billiard tables on the 'Register of all furniture installed in the new Parliament House' (the Register).<sup>22</sup> The annotation is signed by the Disposal Delegate.

2.21 The annotation reads:

Given tables purchased by PHCA around 1989 and are about 20 yrs old, thus no heritage value.<sup>23</sup>

2.22 At the May 2011 Budget Estimates, the committee again questioned DPS about the date that the heritage assessment was undertaken. Mr Alan Thompson, Secretary, DPS, was initially unable to provide this information to the committee.<sup>24</sup> Following investigation of the matter during the committee's proceedings, Mr Kenny stated that the 'heritage assessment' had been undertaken 'earlier this year'. Later in the hearing, Mr Kenny provided further information:

The unsigned document that you are talking about earlier was signed. The recollection of the officer is that it was signed after 21 February, so it was after the estimates hearing in February. He says the reason it was not dated is that it was an oversight. He is not sure exactly when it was signed, but it was not long after the estimates hearings and probably around the time he received this email, which I can read out an excerpt from, which is to Judy Konig from the manager of heritage and ICT, which is an interesting combination, at the Museum of Australian Democracy. It said:

I can now confirm that the two billiard tables in our collection were manufactured circa 1930, were reconditioned by Heiron and Smith, to be relocated in the new Australian parliament building for 1998 and will return to OPH.

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20 Ms Judy Konig, Chief Finance Officer, Department of Parliamentary Services, Additional Estimates, *Committee Hansard*, 21 February 2011, p. 42.

21 Ms Judy Konig, Chief Finance Officer, Department of Parliamentary Services, Additional Estimates, *Committee Hansard*, 21 February 2011, p. 43.

22 Additional Estimates 2010–11, Department of Parliamentary Services, *Answers to questions on notice*, No. 27, Attachment B.

23 Additional Estimates 2010–11, Department of Parliamentary Services, *Answers to questions on notice*, No. 27, Attachment B.

24 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, pp 34–35.

So our officers assessed that—confirmed their understanding that the old billiard tables with history had been returned to Old Parliament House, Museum of Australian Democracy, quite some time ago.<sup>25</sup>

2.23 DPS has informed the committee that the email noted by Mr Kenny was the first contact with Old Parliament House regarding the billiard tables.<sup>26</sup>

2.24 Mr Thompson added:

In this case our understanding of what had happened was that the disposal officer had received advice, like Mr Kenny has referred to, that the old tables had been returned to Old Parliament House. That information is true—they have been returned—but it is also clear that the relevant officer was not aware of it.<sup>27</sup>

2.25 Mr Kenny concluded that the advice given to the committee at the Additional Estimates concerning the heritage assessment was incorrect. He went on to say that he had only just become aware that the advice was incorrect. Mr Kenny also added:

You raised the matter, and, as we said before lunch, there was some more investigation being done internally as to the history, noting that the history of all the billiard tables, in terms of the records available to us, was not clear—therefore it took a little bit longer to work through—but at about 20 past one I was advised that the heritage assessment had not been done at the time of the sale.<sup>28</sup>

2.26 In addition, the committee sought evidence in relation to the Disposal Delegate's expertise in heritage matters. Mr Kenny was unable to say whether or not the Delegate had such expertise but noted that:

Our expectation is that officers like this officer will check to assess whether there is heritage. We are not driven by revenue or anything like that; we are simply trying to create the space and then achieve a reasonable return to the Australian taxpayer.<sup>29</sup>

2.27 Mr Kenny went on to state:

I think we need to have a look at our disposal processes to ensure that those staff who do have the appropriate qualifications have an opportunity to be

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25 Mr David Kenny, Deputy Secretary, Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 62; see also Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 52.

26 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4580.

27 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 64.

28 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 63.

29 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 51.

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involved, noting that we do dispose of a large volume of items from time to time.<sup>30</sup>

## **Reviews and other investigations of the disposal of the billiard tables**

2.28 On 4 July 2011, Mr Thompson wrote to the committee and outlined four actions taken as a result of the matters raised at the Estimates hearings: an internal audit investigation; asset disposal policy improvements; survey of heritage and cultural items; and a review of disposal practices.<sup>31</sup> In addition, an internal Code of Conduct investigation was undertaken.

### ***Internal audit***

2.29 DPS advised that it would commission an internal audit of the disposal process for the billiard tables and indicated that it would be provided to the committee.<sup>32</sup> Subsequently, two reports from PriceWaterhouseCoopers (PwC) were provided to the committee.<sup>33</sup>

2.30 The first report on the disposal process provided a history of the billiard tables in Parliament House from the records held by DPS. This clearly identified that four tables had been transferred from Old Parliament House, after being refurbished by Heiron and Smith, and that two new tables had been purchased in 1988.<sup>34</sup>

2.31 The audit found that the disposal of the billiard tables had been carried out in accordance with the Chief Executive Procedure (CEP) 4.3 – Disposal of Public Property. However, it identified a number of deficiencies. For example, the CEP required items, which may have some heritage value, be referred to the Art Services section to ascertain if the item was on the Art Services database. The focus of the database is the art collections and 'may not be a comprehensive list of items with cultural or heritage value within DPS'.<sup>35</sup> In addition, no documentation could be provided to support claims that discussions had taken place with the CFO about the potential for the tables to be identified as having Parliament House origin (section 20, CEP 4.3).<sup>36</sup>

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30 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 51.

31 Budget Estimates 2011–12, Additional information, Department of Parliamentary Services, *Letter relating to the evidence provided to the committee on billiard tables*, dated 4 July 2011.

32 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 68; see also Budget Estimates 2011–12, Department of Parliamentary Services, *Answers to questions on notice*, No. 35.

33 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Supplementary Budget Estimates Hansard*, 17 October 2011, p. 13.

34 PriceWaterhouseCoopers, *Disposal of equipment from the former staff recreation room, Final Report*, July 2011.

35 PriceWaterhouseCoopers, *Disposal of equipment from the former staff recreation room, Final Report*, July 2011, p. 8.

36 PriceWaterhouseCoopers, *Disposal of equipment from the former staff recreation room, Final Report*, July 2011, p. 5.

2.32 PwC's recommendations included that the policies and procedures used to carry out disposals be revised and strengthened particularly in relation to heritage/cultural/significant assets. The recommendations of the audit and DPS's response were provided in an answer to a question on notice arising from the Additional Estimates, February 2012. This is reproduced at appendix 4.

2.33 In its second report, PwC investigated the age and sought opinion on the value of the billiard tables from the makers of the tables and another billiard table making company as well as an independent valuer. In relation to the tables sold by DPS, the report stated that:

- the tables had a value between \$1,500 and \$3,000;
- the \$2,500 received for each table by auction was in line with the market estimates for this type of table;
- in the valuer's opinion, the tables had no real heritage weighting to them due to their homogeneous character, age and as they seemed to be of a standard stock; and
- the replacement cost of similar tables would be around \$10,000.<sup>37</sup>

2.34 In relation to the two tables remaining in Parliament House, the report stated that:

- the tables were estimated to be more than 50 years old;
- they appear to be in the design style of Old Parliament House but further work would be require to determine whether they were conceptual original pieces or commissioned at a later date;
- the estimated fair value of the tables was in the vicinity of \$10,000 each, the estimate formed by applying a heritage weighting or celebrity ownership value; and
- the replacement costs for a similar table would be in excess of \$12,000.<sup>38</sup>

### ***Review of DPS disposal practices***

2.35 In addition to the two PwC reports, the committee was advised that DPS had initiated a review of the DPS disposal policies and practices.<sup>39</sup> This review was

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37 PriceWaterhouseCoopers, *Department of Parliamentary Services: Valuation of Billiard Tables Located in Parliament House*, Final Report, September 2011, p. 5.

38 PriceWaterhouse Coopers, *Department of Parliamentary Services: Valuation of Billiard Tables Located in Parliament House*, Final Report, September 2011, p. 5; see also Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Supplementary Budget Estimates Hansard*, 17 October 2011, p. 17.

39 Budget Estimates 2011–12, Additional information, Department of Parliamentary Services, *Letter relating to the evidence provided to the committee on billiard tables*, dated 4 July 2011.

undertaken by Mr Robert Tonkin at a cost of \$30,000.<sup>40</sup> This review was undertaken as:

...it became very clear there were some deficiencies in the overall framework that had been in place for a number of years, and so it was time to ask somebody to come in from outside and give us an overview of our disposal processes and whether our staff were trained adequately.<sup>41</sup>

2.36 The Tonkin Review noted that as result of the issues raised during the estimates hearings and internal audit report, there had been improvements in the overall departmental procedures for the management of disposals, particularly in relation to assets or items of established or possible heritage value or significance. However, the review found that 'the revised departmental disposal procedures continue to rely on the judgement of the individual members of staff proposing a disposal that a particular item may have heritage or cultural value'. The report proposed a series of changes and improvements to achieve a clear, accountable and effective asset disposal process.<sup>42</sup> DPS agreed to all four recommendations made and as at February 2012 three were completed and the fourth (updating of the DPS Disposal Policy) was expected to be completed in June 2012.<sup>43</sup> The recommendations of the Tonkin Review and DPS's response are provided at appendix 4.

#### ***Survey of heritage and cultural items***

2.37 The committee was advised in July 2011 that DPS was undertaking an internal survey of heritage and cultural items as part of its response to the Tonkin Review.<sup>44</sup> Mr Thompson noted that DPS and its predecessors had categorised heritage and cultural items in accordance with the definitions provided through Finance Orders, in particular paragraph 37.2 (see para 2.12 above). It was noted that using this definition, the audited value of these assets over which DPS has stewardship was some \$77.6 million in 2009–10. These assets comprise the Parliament House Art Collection, the Historic Memorials Collection and the Gifts Collection. Mr Thompson went on to comment:

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40 Mr Alan Thompson, Department of Parliamentary Services, *Estimates Hansard*, 17 October 2011, pp 13, 18.

41 Mr Alan Thompson, Department of Parliamentary Services, *Estimates Hansard*, 17 October 2011, p. 17.

42 Mr R Tonkin, *Review of Department of Parliamentary Services Asset Disposal Policies and Practices*, 6 October 2011.

43 Additional Estimates 2011–12, Department of Parliamentary Services, *Answers to question on notice*, No. 60.

44 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Estimates Hansard*, 17 October 2011, p. 18; Budget Estimates 2011–12, Additional information, Department of Parliamentary Services, *Letter relating to the evidence provided to the committee on billiard tables*, dated 4 July 2011.

However, it is clear that some other items in and around Parliament House will have heritage, cultural or historic significance, even though they do not fall within the definition of heritage and cultural assets of paragraph 37.2.<sup>45</sup>

2.38 The committee was provided with a copy of the preliminary survey of heritage assets in September 2011. The survey identified 170 'new' items or groups of items. A number of recommendations were also put forward including that a comprehensive definition for items associated with Parliament House that have cultural or heritage significance be created.<sup>46</sup>

### ***Code of conduct investigation***

2.39 In addition to the reviews noted above, the committee was also advised that a code of conduct investigation was undertaken to determine whether there was a breach of the Parliamentary Service Code of Conduct by a DPS employee (Ms König, CFO) in relation to the sale of the billiard tables. Following advice from Dr Dianne Heriot, Acting Parliamentary Librarian, that the circumstances warranted an inquiry into a possible breach of the code by Ms König, Mr Thompson appointed an external investigator (Mr Peter Long, Centre for Public Management) to undertake an investigation.<sup>47</sup>

2.40 The investigation report found that the former CFO, Ms König, had breached the code of conduct in relation to the *Parliamentary Service Act 1999*:

- subsection 13(1) – behaving honestly and with integrity in the course of Parliamentary Service employment;
- subsection 13(2) – acting with care and diligence;
- subsection 13(9) – not providing false and misleading information in response to a request for information that is made for official purposes; and
- subsection 13(11) – behaving in a way that upholds the Parliamentary Service Values and the integrity and good reputation of the Parliamentary Service.<sup>48</sup>

2.41 The code of conduct investigation report recommended a reprimand and a fine by salary deduction.

2.42 The code of conduct investigation also considered whether or not the Disposal Delegate added the annotation on his own volition. Dr Heriot stated:

...there are some contested views about the circumstances of the annotation, but it would be fair to say that he [the Disposal Delegate] was asked to write his understanding of the heritage status.<sup>49</sup>

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45 Budget Estimates 2011–12, Additional information, Department of Parliamentary Services, *Letter relating to the evidence provided to the committee on billiard tables*, dated 4 July 2011.

46 Department of Parliamentary Services, *Identification of heritage assets for Parliament House (DPS)*, Additional information, dated 20 September 2011.

47 Dr Diane Heriot, Acting Parliamentary Librarian, *Committee Hansard*, 2 May 2012, p. 23.

48 Dr Diane Heriot, Acting Parliamentary Librarian, *Committee Hansard*, 2 May 2012, p. 26.

49 Dr Diane Heriot, Acting Parliamentary Librarian, *Committee Hansard*, 2 May 2012, p. 25.

2.43 Dr Heriot further stated that the Delegate had been asked to add the annotation by Ms Konig.<sup>50</sup> There was no consideration in the code of conduct investigation of whether any request to add the annotation had been made to Ms Konig by a more senior officer of DPS.

2.44 Upon reviewing the investigator's recommendations, Dr Heriot explained that she recommended not accepting the finding of four breaches and not imposing a fine, instead she recommended finding two breaches and imposing a lesser sanction, that is, a reprimand.<sup>51</sup> The reprimand was given and a note recorded on the file.<sup>52</sup> In coming to this recommendation, Dr Heriot noted that:

I think the issue was that while the information was incorrect there was an evidentiary issue around intention and knowingly providing false information. The evidence received by the investigator was not consistent in this regard and, as committees of privilege have often found when they consider the issue of false and misleading information, witness intention is a difficult evidentiary issue.<sup>53</sup>

2.45 The lesser sanction was agreed and approved by Mr Thompson. Ms Konig has since retired from DPS.

#### *Costs to date*

2.46 At the February 2012 Additional Estimates, DPS tabled the final costs associated with the sale of the billiard tables and subsequent audits and reviews.<sup>54</sup> The total expenses of the actual sale were \$3,015.34 as set out in Table 2.1.

**Table 2.1: Expenses associated with disposal of billiard tables**

Commission paid to auctioneer*	\$1,292.94
Dismantling and removal from staff dining room#	\$1,665.00
Labour, storage, advertising and administration paid to auctioneer	\$3.00
Item reserve price fees paid to auctioneer	\$54.00
Bidder SMS notifications paid to auctioneer	\$0.40
<b>Total Expenses (GST exclusive)</b>	<b>\$3, 015.34</b>

\* Commission charged at 18.5%

50 Dr Diane Heriot, Acting Parliamentary Librarian, *Committee Hansard*, 2 May 2012, p. 25.

51 Dr Diane Heriot, Acting Parliamentary Librarian, *Committee Hansard*, 2 May 2012, p. 26.

52 Mr David Kenny, Deputy Secretary, *Committee Hansard*, 2 May 2012, p. 27.

53 Dr Diane Heriot, Acting Parliamentary Librarian, *Committee Hansard*, 2 May 2012, p. 26.

54 Department of Parliamentary Services, *Billiard table disposal and subsequent investigations*, tabled, Additional Estimates, 13 February 2012.

2.47 The expenses incurred by DPS in relation to audits, reviews and the code of conduct investigation totalled \$94,168.14.

**Table 2.2: Expenses associated with audits, reviews and code of conduct investigation**

PriceWaterhouseCoopers audit, <i>Disposal of equipment from the former staff recreation room</i>	\$30,000.00
PriceWaterhouseCoopers audit, <i>Valuation of Billiard Tables located in Parliament House</i>	\$6,442.07
Mr Robert Tonkin, <i>Review of DPS Asset Management Policies and Practices</i>	\$30,000.00
Parliament House Cultural Heritage Items, Preliminary Survey*	\$5,300.00
The Centre for Public Management, <i>Code of Conduct Investigation</i>	\$22,467.07
<b>Total expenses (GST exclusive)</b>	<b>\$94,168.14</b>

\* Estimated DPS staff cost

2.48 In summary, the total net cost of the disposal of the billiard tables to DPS was \$92,183.48 (revenue from the sale of tables was \$5,000 and total costs were \$97,183.48).

**Committee comments and conclusion**

2.49 The disposal of two tables from Parliament House by DPS in 2010 was the initial event which led to the referral of the performance of DPS to the committee. The disposal of an asset by a Commonwealth agency is an everyday occurrence; the control and disposals of assets must be in accordance with Department of Finance and Deregulation regulations and an agency's own procedures.

2.50 The disposal of the billiard tables by DPS has exposed major weaknesses in the way in which DPS conducts its stewardship of assets within Parliament House on behalf of both the Parliament and the people of Australia. It included the unprecedented and unacceptable actions of a parliamentary department providing a Senate committee with misleading information and creation of an annotation on a file to support that evidence after it was given.

***Disposal of the billiard tables***

2.51 At the February 2011 Estimates, the committee was clearly told that a heritage assessment had been conducted before the billiard tables had been sold. It is apparent from the evidence received since that hearing, that no such assessment had been undertaken.



2.52 At the committee's public hearing of 2 May 2012, Mr Kenny noted that there was no heritage assessment, rather 'the annotation on the computer printout'.<sup>55</sup> Mr Kenny also agreed that by the May 2011 Budget Estimates, it had become clear that the information provided at the February 2011 Additional Estimates was not correct.<sup>56</sup> While the committee notes these comments, it was not until *during* the May Budget Estimates hearing, when difficult questions were being asked, that the DPS Executive sought clarification from the Disposal Delegate. It is obvious that little work had been undertaken, between the estimates hearings of February 2011 and May 2011, to undertake a full investigation of the disposal.

2.53 This lack of interest in investigating the matters surrounding the disposal of the tables and their possible heritage value is also evident from the very beginning of the disposal process. The committee notes that the Joint House Committee was not informed of any potential heritage value of the billiards tables. Another opportunity was ignored when the disposal of the tables came to the notice of DPS staff. In answer to the question on notice provided on 15 May 2012, DPS advised that:

In September 2010, two DPS staff members raised concerns about the potential heritage value of the Staff Recreation Room billiard tables with Projects and CFO Branch staff. Projects staff confirmed there were no issues. That is, the "special tables" remained in the House of Representatives Alcove.

2.54 The answer provided to the committee states that it was Projects Branch staff who confirmed that there were 'no issues'. The answer does not indicate, nor in any other evidence received is it indicated, that DPS heritage officers were consulted or involved in the decision to sell the tables.

2.55 The committee also notes that DPS advised the committee at the May Budget Estimates 2011 that the tables costing \$5,800 were sold and that the tables had been purchased new for Parliament House. However, the PwC in its audit report stated that:

At the time of disposal, DPS had been unable to accurately determine whether the billiard tables were purchased new for Parliament House, or whether they were transferred from Old Parliament House. Additional documentation was located in July 2011 which provides evidence that the billiard tables sold at auction were those purchased new by the Parliament House Construction Authority in 1989 for the Staff Recreation Room.<sup>57</sup>

2.56 As noted by PwC, until further documentation was located in July 2011, there was no certainty that the tables sold had been purchased in 1989. In addition, the committee notes the following comments from Mr Thompson:

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55 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 20.

56 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 21.

57 PriceWaterhouse Coopers, *Disposal of equipment from the former staff recreation room, Final Report*, July 2011, p. 4.

You are asking about why we sold off the dearer ones. I would make the point again that the two tables that are up in the House of Representatives side, at the top, are in very good condition. I looked around them carefully. I actually come from a family that used to rehabilitate billiard tables. So they are in good nick. The cost of moving those out and then moving the other ones up there would far outweigh any difference in revenue you might get. They are big and they are expensive to move and there would be no logic from the taxpayer's viewpoint in getting rid of those ones, and they are in very good condition.<sup>58</sup>

2.57 The tables in the House of Representatives Alcove that Mr Thompson is referring to are tables which came from Old Parliament House. According to the PwC report, these tables at the very least were made to the style of Old Parliament House and in fact may be 'conceptual original pieces'. The committee is indeed thankful that these tables were viewed as being too expensive to move as their sale would have been a significant loss of assets originally from Old Parliament House.

2.58 In addition, the committee notes that an incorrect date was included in the Supplementary Estimates brief prepared for the Secretary, that is, that the 'public auction on 22 July 2010 realised \$6,990 for the three tables'.<sup>59</sup> The first table auction for the first table closed on 9 August and the second on 26 August 2010.

2.59 The examination of the disposal of the billiard tables exposes a series of events which at best can be called slipshod and at worst a complete lack of understanding of the duties of officers of the Parliament and custodians of the assets of the Parliament. It opens staff of DPS to questions about competence and motivation. The committee considers it is important to state that it has no doubt that the Disposal Delegate acted as directed; rather, it is the failure of the leadership of senior level officers who must bear the fallout of this unedifying episode.

2.60 Senior level officers of DPS discussed matters with the Joint House Committee but did not discuss heritage issues. Estimates briefs were prepared and finalised by senior officers. In this regard, the committee notes that the brief for the Supplementary Estimates of 2010 contained incorrect information about the dates of sale of the tables. The Budget Estimates 2011 brief stated that there were no written records concerning the tables, yet two months later the PwC review was able to find documentation confirming the history of the tables.

2.61 The committee is concerned that senior level officers failed to adequately check the answers to the questions on notice before they were submitted to the committee. DPS received only 24 questions on notice at the Additional Estimates 2011, the answers to which the committee presumes should have been checked by senior officers. It seems incomprehensible to the committee that anyone reviewing the answers from the Additional Estimates of February 2011 would have believed that the

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58 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 53.

59 Department of Parliamentary Services, Additional information, *Supplementary Budget Estimates Brief, October 2010*, received 15 May 2012.

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annotation of the Asset Register constituted an acceptable heritage assessment raising questions about how the approval occurred. The committee also notes that the draft answers were provided to the President of the Senate. In effect, DPS sought to have the President approve an answer which contained fabricated evidence.

***Response to problems identified***

2.62 The committee notes that since the reviews, DPS has moved to improve its disposal procedures. DPS has also instituted a review of the heritage assets of Parliament House. Prior to the disposal of the billiard tables, it appears that if an asset was not listed on the Art Services database there was no need to discuss possible cultural and heritage value assets with Art Services.<sup>60</sup> The committee considers that this was a significant flaw in DPS policies. The committee also notes that the same problem occurred in relation to the terracotta planter pots removed from Senators' and Members' suites. The four large pots for the Members' Hall were commissioned as part of the art program. The same ceramicist also made the terracotta planter pots. However, the planter pots were not included in art program and indeed, not even included on the DPS assets register.<sup>61</sup>

2.63 The committee is pleased that the recommendations of the Tonkin review are being implemented and notes that they should be fully in place before the end of this financial year.<sup>62</sup>

2.64 While acknowledging the work done so far to change practices and implement new policies, the committee is of the view that it is only the pursuit of the billiard tables matter that has led to this outcome. Without the continued interest of the committee and this inquiry, the committee wonders if flawed disposal practices would have continued within DPS. It also raises questions about previous disposals and what Parliament House assets may have been lost forever.

2.65 In conclusion, the committee considers that the disposal of the billiard tables from Parliament House in 2010 has resulted in significant expense for DPS at a time of significant budget restraint and brought to light some very questionable practices in a department servicing the Parliament where only the highest levels of conduct should be maintained and only the best example set.

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60 PriceWaterhouseCoopers, *Disposal of equipment from the former staff recreation room, Final Report*, July 2011, p. 4.

61 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, pp 4593–94; see also Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 7.

62 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 28; see also Mr Judy Tahapehi, Director, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 45.



# Chapter 3

## Heritage status of Parliament House

### Introduction

3.1 The committee received evidence which raised the issue of the long-term protection of the design integrity and heritage values of Parliament House. In particular, submitters were concerned that the concepts which were included in the brief for the international competition were under threat as changes are made to the building to meet the demands of occupants, including the increasing number of people accommodated. This chapter covers the heritage status of Parliament House, including the intentions of the original architects in relation to the design integrity of the building and its assets and proposals to list Parliament House under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act).

### Design integrity and heritage values

3.2 The question of heritage management of Parliament House raises a wider issue of the preservation of its heritage and cultural value over time and the original Architect's intent for the building. In order to appreciate the original intentions for the building, the committee was fortunate to be able to speak with Mr Romaldo Giurgola, the Design Principal for Parliament House, and members of the original design team, Mr Hal Guida and Ms Pamille Berg. The design responsibility for Parliament House included 'not only the building's conception, siting and architecture, but also the interior design, furniture design, landscape, and our origination and coordination of the commissioned Art/Craft Program for Parliament House'.<sup>1</sup>

3.3 Mr Giurgola commented that his task, during design and construction, was to focus on clarifying the principles that define the character and meaning of the building. These design principles included:

...first, the significance of the building as a democratic forum for the nation of Australia; second, making the process of government visible and accessible to the public; third, the building design as a symbolic sequence of spaces with reference to Australia's historical and cultural evolution over time; and, finally, the design of Parliament House as a workplace which was intended to enhance the health and wellbeing of all occupants, which I think is important because it becomes a model for everyone to look to.<sup>2</sup>

3.4 Mr Giurgola concluded 'it is the **integrated whole** which must be understood and preserved within the inevitable process of adjustment and change which will

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1 Mr Romaldo Giurgola, *Submission 7*, p. 1.

2 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 1; see also Mr Romaldo Giurgola, *Submission 7*, pp 1–2.

continue to occur throughout the building's 200-year lifespan as required by the Parliament's original Brief'.<sup>3</sup>

3.5 Ms Pamille Berg also drew attention to the need to maintain the design intent and integrity of Parliament House over the long-term. She stressed that:

It is not simply a task of saying, 'As long as the flagpole doesn't disappear off the top of the building and the forecourt does not have cars parked in it, we're okay.' This is a building which was briefed and conceived not just to last 200 years but, so importantly, it was a building about which the brief said to the international design competition participants: 'This building must carry meaning. It must carry content. It must carry deep and enduring and multivalent symbolism.'<sup>4</sup>

3.6 Mr Giurgola highlighted that the building has now reached a critical time for its survival intact, including 'the essential and subtle design, symbolic, and functional relationships inherent within and among its architecture, interior design, landscape design, designated functions, furnishings, art program and precincts'.<sup>5</sup> Mr Giurgola went on to note:

...it is neither very new, which is a time in any building's life when change is usually resisted, nor old enough to be innately and widely valued for considered, careful preservation.<sup>6</sup>

3.7 The design brief for the building anticipated that some areas of the building would remain unchanged, while other areas would be subject to change in the face of changing requirements and technology.<sup>7</sup> The Department of Parliamentary Services (DPS) acknowledged the challenge to:

...preserve the design integrity of the building, and its other heritage values, while making progressive changes to respond to evolving needs of the Parliament.<sup>8</sup>

3.8 Mr Giurgola submitted to the committee that, after 25 years, appropriate mechanisms are not yet to be put in place and stated:

Neither the Parliament nor the nation has yet exercised the urgent responsibility of putting in place the essential strategic policy framework and professional management-of-change processes capable of preserving the complex value of this remarkable project for the nation.<sup>9</sup>

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3 Mr Romaldo Giurgola, *Submission 7*, p. 2.

4 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 3.

5 Mr Romaldo Giurgola, *Submission 7*, p. 3.

6 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 1.

7 Mr Hal Guida, *Submission 1*, p. 1.

8 Department of Parliamentary Services, *Submission 3*, p. 7.

9 Mr Romaldo Giurgola, *Submission 1*, p. 3.

3.9 The following discussion outlines proposal to protect heritage values of Parliament House.

### **Parliament House Advisory Panel**

3.10 In its annual report for 1989–90, the Parliament House Construction Authority (PHCA) noted that over time, changes to the building will be required to meet the emerging needs of the building's occupants. The PHCA commented that 'where change is ultimately deemed necessary, it should be carried out in a way which protects the overall design integrity'. The PHCA noted that it had been proposed that an advisory panel be established to monitor and advise on proposed changes to the building.<sup>10</sup>

3.11 In November 1989, the House of Representatives agreed to a motion moved by the then Minister for Administrative Services, the Hon Stewart West MP, to establish a Parliament House Advisory Panel. Panel members would be appointed from both Houses including the relevant responsible minister. The chair was to be eminent current or former member.

3.12 It was proposed that the panel would advise the Presiding Officers on proposals for significant works in Parliament House having regard to appropriate advice. Mr West stated that 'in this way, expert professional advice can be obtained on the potential effects of the works involved on the design of the building. The motion recognises that the effects of works on the architectural and aesthetic integrity of Parliament House will need to be considered.' The Presiding Officers were to table reports on proposals together with statements on intended actions.<sup>11</sup>

3.13 In moving the motion, Mr West commented on the significance of the building and the responsibilities of the Parliament to protect the building while ensuring its dual role as a functioning Parliament and a premier national asset were met. Mr West stated:

We as members of this Parliament have a trust as significant as almost any other we hold as the embodiment of Australia's political democracy. That trust is to the people of Australia to ensure we preserve what we have built here on Capital Hill. Since the decision to embark on this ambitious project was first taken 11 years ago, both Houses of Parliament have worked hard to ensure the outcome that we and all Australians enjoy. Both Houses of Parliament have approved the designs and the development of those designs for the building and its distinctive landscaped precincts. They have not been the decisions of governments or bureaucrats or architects or anyone else—only the decisions of this and previous Parliaments.

It was the design approved by the Parliament which has been built; and it is that design we now hold in trust on behalf of the people of Australia. We must, of course, recognise that the building is two things: it is first a

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10 Parliament House Construction Authority, *Annual Report 1989–90*, p. 13.

11 The Hon Stewart West, MP, Minister for Administrative Services, *House of Representatives Hansard*, 30 November 1989, p. 3335.

functioning Parliament and as such like any other operating entity it must grow and adapt to the changing requirements of the Parliament; secondly, it is a significant asset in our national heritage and as such its design must be protected to ensure its value as a national heritage asset is neither diminished nor destroyed.

It was the Government's belief that, together with Parliament, it had a responsibility to maintain and protect the high professional standards set and attained during the design and construction of this building. It was this belief which led to the Government seeking to provide for an expert panel to advise Parliament on proposed changes to the building. It has also been the Government's belief that no body of people or organisation other than the Houses of Parliament themselves should be able to decide on works that might have a significant impact on the design of the building and its precincts.

3.14 Mr West concluded:

As originally intended by the Government, the Houses of Parliament remain as the bodies ultimately responsible for and able to take decisions on works proposals with a potential to make a significant impact on the architectural and aesthetic integrity of Parliament House.<sup>12</sup>

3.15 While the motion was passed by the House of Representatives, it was eventually withdrawn in the Senate on 15 August 1991. In commenting on the proposal in June 1989, the then President, Senator the Hon. Kerry Sibraa, stated that he and the Speaker had 'serious reservations' about the proposal.<sup>13</sup>

### **Heritage listing of Parliament House**

3.16 The heritage status of Parliament House was raised in the mid-1990s. DPS provided information on the range of proposals for heritage listing of Parliament House. In 1995, the Australian Heritage Commission (AHC) proposed the inclusion of Parliament House on the Register of the National Estate. This proposal was not supported by the Presiding Officers 'on the grounds that the Joint House Department [JHD] was establishing its own internal procedures for protecting the design integrity of the building'.<sup>14</sup> These internal procedures included the development of an Interim Design Integrity Advisory Committee (IDIAC). Heritage processes under the JHD are discussed in chapter 4.

3.17 A further proposal by the chair of the AHC in October 2003 for the building to be included on the Register of the National Estate was again not supported by the Presiding Officers on the grounds that the Commission and its enabling legislation were about to be replaced.<sup>15</sup>

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12 The Hon Stewart West, MP, Minister for Administrative Services, *House of Representatives Hansard*, 30 November 1989, p. 3335.

13 Senator the Hon Kerry Sibraa, President of the Senate, *Senate Hansard*, 16 June 1989, p. 4255.

14 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4594.

15 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4594



3.18 Following amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act) in January 2004, National and Commonwealth Heritage lists were created. In June 2004, Parliament House and its surrounds were nominated for the National Heritage List by the Australian Institute of Architects. The Australian Institute of Architects provided the reasons for the nomination of Parliament House for heritage listing:

The Institute considers the Parliament House building and associated landscape to be of outstanding architectural merit and worthy of national and international recognition for its heritage values. The design excellence has been recognised by the Institute through a number of awards, particularly the National Sir Zelman Cowan Award in 1989 and the awarding of the Institute's Gold-Medal to Romaldo Giurgola in 1988. The Institute's citation and statement of significance for the place can be viewed on our website under Community/Heritage Buildings.<sup>16</sup>

3.19 A preliminary assessment for listing was undertaken by the AHC in 2005. It reported that Parliament House 'with its flagmast is Australia's national icon of democracy'. Parliament House was found to have outstanding heritage value in all criteria used in the assessment.<sup>17</sup> The AHC formally agreed that Parliament House 'might have one or more National Heritage values and one or more Commonwealth Heritage values'.<sup>18</sup>

3.20 The AHC requested comment from the Presiding Officers who responded that they wished to obtain legal advice on the effects of including Parliament House on the heritage lists. Following advice from the Australian Government Solicitor (AGS), in March 2006, the Presiding Officers responded to the then Minister for Environment and Heritage that 'we are of the view that it is both undesirable and unnecessary for Parliament House to be listed at this stage'. The Presiding Officers also noted that:

...significant changes to the building already require both parliamentary approval and approval from the National Capital Authority. We believe that, over the last 18 years, these requirements have operated satisfactorily to strike the appropriate balance between the needs of a working Parliament in a changing society on one hand, and the protection of architectural and other values on the other, and we also believe that those requirements will continue to do so in the foreseeable future.

We do not feel it is appropriate for the nation's Parliament House, the management of which is by law vested in the Presiding Officers, not the Government, to be placed under a regime whereby the permission of a Minister in the executive government of the day will be required in relation to a variety of building management decisions. We believe that the

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16 Australian Institute of Architects, *Submission 14*, p. 1.

17 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, Attachment Z, p. 4594.

18 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4594.

procedures already in place under the *Parliament Act 1974* and other legislation for managing significant works are appropriate.<sup>19</sup>

3.21 Responding to the Presiding Officers, the Minister commented that AHC's assessment 'provides compelling arguments for Parliament House and Surrounds inclusion on the National and Commonwealth Heritage lists'. The Minister noted that Parliament House was subject to the provisions of the EPBC Act and suggested that it may be possible to list the building and implement management arrangements without a significant additional burden.<sup>20</sup>

3.22 In May 2006, the Presiding Officers confirmed their view that heritage listing 'at this stage would impose an inappropriate constraint on the management of Parliament House as the home of a functioning Parliament, and an inappropriate burden on our departments which they are not currently funded to bear'.<sup>21</sup>

3.23 In August 2006, DPS received further correspondence from the Department of the Environment and Heritage noting that legal advice indicated that Parliament House was already subject to the provisions of the EPBC Act in relation to actions on Commonwealth land, actions by a Commonwealth Agency and the requirement to prepare a heritage strategy. It was stated that given these requirements, 'National and Commonwealth Heritage listing would not impose any additional obligations, apart from the requirement to prepare a management plan'.<sup>22</sup>

#### ***Application of the EPBC Act to Parliament House***

3.24 As outlined above, correspondence from both the then Minister for the Environment and Heritage in April 2006 and the then Department of the Environment and Heritage in August 2006 stated that Parliament House is subject to the Commonwealth agency provisions of the EPBC Act.

3.25 As part of the heritage considerations detailed above, in January and March 2006, AGS provided advice to DPS that 'Parliament House would be subject to the Heritage provisions of the EPBC Act and that the Secretary of DPS is probably a "Commonwealth agency" (under the EPBC Act) and has control of Parliament House'. However, the then Secretary of DPS, Ms Hillary Penfold, was concerned that if the advice was accepted, the authority to make decisions would be transferred from Parliament to an arm of executive government. DPS noted that the Presiding Officers concurred with this view.<sup>23</sup>

3.26 In response to the advice from AGS, DPS proceeded to formulate a heritage strategy for Parliament House as required under section 341ZA of the EPBC Act. The AHC noted:

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19 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, Attachment AD, p. 4594.

20 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, Attachment AE, p. 4594.

21 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, Attachment AF, p. 4594.

22 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, Attachment AG, p. 4594.

23 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4595.

The heritage strategy is a commitment by an agency to identify and manage its heritage assets within its overall property planning and management framework. There is also a general obligation (s.341Z) for Commonwealth agencies to assist the Environment Minister and [Australian Heritage] Council in the identification, assessment and monitoring of a place's Commonwealth Heritage values.<sup>24</sup>

3.27 In reviewing the draft heritage strategy in November 2008, the then Secretary, Mr Alan Thompson, raised concerns about 'the possible transfer of decision-making from the Parliament to the executive government'. DPS sought advice from Blake Dawson lawyers and noted that:

...more recent advice indicated that in accordance with the *Parliamentary Precincts Act 1988*, Parliament House is under the control and management of the Presiding Officers. The same advice notes that the Presiding Officers are not Commonwealth agencies.<sup>25</sup>

3.28 The advice from Blake Dawson included the following:

- (i) Parliament House is under the control and management of the Presiding Officers (not DPS, not the Secretary DPS).
- (ii) The Presiding Officers are not 'Commonwealth agencies' and are therefore not subject to some of the EPBC Act obligations on Commonwealth agencies (including the obligation to prepare a Heritage Strategy).
- (iii) 'actions' may be undertaken without approval under the EPBC Act if those actions fall within the scope of *Parliament's right to administer its internal affairs*.
- (iv) Parliament has the right to 'administer its own affairs' and this takes precedence over the EPBC Act. The relevant existing Parliamentary legislation is the *Parliamentary Precincts Act 1988* and the *Parliament Act 1974*.<sup>26</sup>

3.29 In response to this advice, DPS reported that the Presiding Officers:

...considered that the obligations under the EPBC Act for Parliament House were an issue for the management of heritage in the building and asked the three parliamentary service departments to develop a broad definition of parliamentary administration to clarify the authority of the Presiding Officers in relation to heritage management.

The Presiding Officers also reserve[d] the option of seeking amendments to the EPBC Act to exempt Parliament House from its most onerous heritage provisions.<sup>27</sup>

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24 Australian Heritage Council, *Submission 17*, p. 1.

25 Department of Parliamentary Services, *Submission 3*, p. 10.

26 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4595.

27 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4595.

3.30 DPS went on to state that it had consulted with the Chamber departments (the Senate and House of Representatives) 'about a definition of parliamentary administration and a draft Heritage Management Framework, accountable to the Presiding Officers'.<sup>28</sup>

3.31 The definition of Parliamentary Administration is included in Attachment A of the *Parliament House Heritage Management Framework*. In part, it states:

**Parliamentary Administration**

The Presiding Officers note:

- (i) The authority for the Australian Parliament to administer its own affairs comes primarily from the *Australian Constitution* (particularly sections 49 and 50), the *Parliamentary Privileges Act 1987*, the *Parliament Act 1974* (section 5) and the *Parliamentary Precincts Act 1988* (section 6).
- (ii) In administering its own affairs (including the control and management of buildings within the parliamentary precincts), Parliament is assisted by the three parliamentary departments.
- (iii) Parliament is responsible for administering its internal affairs, including:
  - supporting both Houses and their committees;
  - supporting individual Parliamentarians and their staff;
  - record keeping;
  - inter-parliamentary relations;
  - maintaining the buildings, landscapes, and objects; and
  - securing the safety of building occupants, visitor and the buildings...
- (v) Parliament retains the right to take decisions about its internal affairs unless and until there has been legislation that expressly transfers authority or limits decision-taking.

The Presiding Officers expect:

...

2 That parliamentary administration and operation are not subject to government policy without the express and separate approval of each House of Parliament.

3 That the Parliamentary Service departments will plan and deliver services on the basis of "good corporate citizenship". This would include services such as...landscape and gardening; building fabric services; information and technology services (including communications); visitor support services; and human resources and financial support.<sup>29</sup>

3.32 At the Budget Estimates hearing of May 2011, Mr Thompson confirmed that there was no heritage listing of Parliament House 'at this stage'. Mr Thompson went on to state that:

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28 Department of Parliamentary Services, *Submission 3*, p. 30.

29 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 42.

...there has been some interest out of the environment department in the heritage status of this building. Our reading of the legislation is that it is a building responsible to the two presiding officers who are not caught up in the environment department's legislation. We are at the moment developing our own heritage plan for the building but we do not believe it is subject to the heritage processes.<sup>30</sup>

3.33 This view was reaffirmed in correspondence from the Department of Sustainability, Environment, Water, Population and Communities in September 2011 which noted that 'Parliament House is under the control and management of the Presiding Officers who have the authority to administer the House's own affairs under a number of parliamentary Acts'. As a result, DPS as a Commonwealth agency is not obliged to prepare a Heritage Strategy or subject to other heritage provision of the EPBC Act.<sup>31</sup>

3.34 The committee notes, that although Parliament House itself is not heritage listed, the Parliament House vista is included in the Commonwealth Heritage List.<sup>32</sup> Parliament House has been listed by the International Union of Architects on its International Register of Significant World Architecture.<sup>33</sup>

#### ***Calls for the listing of Parliament House***

3.35 While it is clear that Parliament House does not fall within the scope of the EPBC Act, submitters argued that it should do so. The International Union of Architects, for example, stated:

Parliament House is recognised for its outstanding heritage values, not only for the building itself, also for the wonderful, specially commissioned artworks and its spectacular setting. The Department of Parliamentary Services should promote this complex in its entirety as strongly as possible so that it is entered onto Australia's National Heritage List.<sup>34</sup>

3.36 The benefits of the listing of Parliament House were outlined by Mr Paul Cohen in his submission as crystallising the heritage values into a set of written statements that allow Australians at large to appreciate the heritage value of their

30 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Budget Estimates Hansard*, 23 May 2011, p. 35.

31 Department of Parliamentary Services, *Supplementary information, Parliament House heritage issues, DPS Disposal policies and practices and terracotta pots*, Attachment A, dated 11 October 2011.

32 The vista landscape covers most of the Parliamentary Triangle including the area known as the Parliamentary Zone. The significance incorporates Walter Burley Griffin's vision for the area, as the focus of Commonwealth parliamentary and governmental activity as well as national cultural life. Information available from: [http://www.environment.gov.au/cgi-bin/ahdb/search.pl?mode=place\\_detail;search=state%3DACT%3Blist\\_code%3DCHL%3Blegal\\_status%3D35%3Bkeyword\\_PD%3D0%3Bkeyword\\_SS%3D0%3Bkeyword\\_PH%3D0;place\\_id=105466](http://www.environment.gov.au/cgi-bin/ahdb/search.pl?mode=place_detail;search=state%3DACT%3Blist_code%3DCHL%3Blegal_status%3D35%3Bkeyword_PD%3D0%3Bkeyword_SS%3D0%3Bkeyword_PH%3D0;place_id=105466) (accessed 27 January 2012).

33 International Union of Architects, *Submission 4*, p. 1.

34 International Union of Architects, *Submission 4*, p. 1.

Parliament House; conservation is based on an established statutory system; independent review and overview to ensure that the conservation process is not subjugated by the normal operational demands on the agency responsible for the place; professional input that ensures that the heritage management plan is effective in the short, medium and long term; and provision of a transparent and open process allowing the Australian community to participate in the evaluation phase of registration.<sup>35</sup>

3.37 The Walter Burley Griffin Society's submission was scathing of the approach adopted by DPS towards heritage management of Parliament House and its contents. The Society viewed as 'unacceptable' DPS's 'unilateral action', based on the Blake Dawson legal advice, to determine that Parliament House would not be subject to the heritage provisions of the EPBC Act.<sup>36</sup> Both the Walter Burley Griffin Society and the National Trust pointed out that listing would provide a statutory requirement to prepare a heritage management plan requiring public consultation and would provide statutory protection for Parliament House.<sup>37</sup>

3.38 The Walter Burley Griffin Society raised concerns with the failure to list the building on two grounds. First, that it was not until evidence was given to the committee that it became clear that legal advice to DPS had indicated that Parliament was not subject to the EPBC Act. Professor James Weirick, President, Walter Burley Griffin Society, commented 'only when we saw that did we understand the impediment to moving forward what we thought was a very sensible and important nomination'.<sup>38</sup>

3.39 Secondly, the Society voiced concern with the use of the 'separation of powers' argument to resist extension of the EPBC Act to Parliament House. The Society noted that 'separation of powers' had not affected the heritage listing of the Houses of Parliament, Westminster (listed under the Planning (Listed Buildings and Conservation Areas) Act 1990 as well as the UNESCO World Heritage List) or the United States Capitol (a National Landmark under Historic Sites Act 1935). The Society stated:

...in both instances, the statutory heritage listing of these legislative buildings is subject to executive oversight, an arrangement that brings the heritage management of these places in conformity with all other listed places in their respective nations, and has provoked no significant constitutional crises over the years.<sup>39</sup>

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35 Mr Paul Cohen, *Submission 8*, p. 3.

36 Walter Burley Griffin Society, *Submission 22*, p. 2.

37 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 1; Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, pp 8,9; Walter Burley Griffin Society, *Submission 22*, p. 1.

38 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 8.

39 Walter Burley Griffin Society, *Submission 22*, p. 3.

3.40 The Walter Burley Griffin Society concluded:

The most simple and practical strategy would be to bring Parliament House under the provisions of the EPBC Act, and for Parliament House to be inscribed on the National Heritage List in accordance with the nomination submitted by the Australian Institute of Architects in 2004.<sup>40</sup>

3.41 Mr Eric Martin, President, National Trust, suggested that the listing could be easily achieved and should be 'for the parliament to set best practice'. He went on to state:

...if each House of Parliament were to support this nomination and work within the controls that are under the EPBC Act, in my opinion that minor issue can be overcome. But I believe it is a problem between the Parliament and the department.<sup>41</sup>

3.42 Mr Russell Grove, Acting Secretary, DPS, responded to calls for the listing of Parliament House and stated:

...over a long period of time...[the] Presiding Officers have taken the view that Parliament House should not be listed and subject to executive government decision. That is sort of a fundamental principle...But, as you would appreciate from the evidence given this morning, these people feel very passionately about these issues, to the same extent that perhaps Presiding Officers have up until now felt very passionate about the fact that the building should not be on the Heritage List and therefore subject to executive government decision.<sup>42</sup>

3.43 Ms Judy Tahapehi, Director, DPS, added that DPS has consulted the Department of Sustainability, Environment, Water, Population and Communities:

One of the things we have also been working towards with them is any alterations to the EPBC Act which will allow the parliament to be listed but still remain within the administration of the Presiding Officers. We are also working towards that. That will enable us to do listing in the future but still enable the Presiding Officers to maintain administration.<sup>43</sup>

### Committee comments

3.44 The committee acknowledges the concerns of the Presiding Officers regarding the listing of Parliament House and possible executive government interference in parliamentary decision making processes. The committee notes the evidence from DPS that there are consultations underway to seek a way to list Parliament House but still allow for the Presiding Officers' role in its administration.

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40 Walter Burley Griffin Society, *Submission 22*, p. 3.

41 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 3.

42 Mr Russell Grove, Acting Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 43.

43 Ms Judy Tahapehi, Director, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 47.





# Chapter 4

## Heritage management in Parliament House

### Introduction

4.1 In chapter 3 of this report, the committee provided an outline of general heritage issues in Parliament House and proposals to list the building under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This chapter addresses the management of heritage matters by the former Joint House Department (JHD) and the Department of Parliamentary Services (DPS). It also canvasses other suggestions made in evidence to increase the heritage protections afforded to Parliament House.

### Joint House Department

4.2 When listing of Parliament House on the Register of the National Estate was proposed in 1995, it was not supported by the Presiding Officers as the JHD was establishing its own internal procedures for protecting the design integrity of the building.<sup>1</sup> As noted, the JHD developed the Interim Design Integrity Advisory Committee (IDIAC) which comprised representatives from the Chamber Departments, the JHD and Mitchell/Giurgola & Thorp (MGT).

4.3 The IDIAC was to:

- recommend an ongoing mechanism for the protection of the integrity of the original design of Parliament House;
- bind design integrity protection measures into Capital and Engineering Works procedures;
- review the annual Capital Works program before submission to the Presiding Officers;
- oversee the implementation of a five part strategy for the protection of design integrity;
- meet quarterly; and
- meet on an ad hoc basis at the direction of the Chairman (secretary of JHD) to consider specific matters.

4.4 The five part strategy included the nomination of a resource/reference person and panel of persons to provide informed advice and adjudication on design matters and development of a Central Reference Document (CRD) to provide a methodology for the screening of proposals for change.

4.5 The committee received a submission from the former Secretary of the JHD, Mr Mike Bolton, which set out the sequence of events that followed to 'preserve the heritage and design integrity of this building of national significance'. These included:

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1 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4594.

- creation of a position of Design Integrity Officer within its structure to liaise with the building's architects (MGT) to provide guidance and oversight to proposed changes to the building, its furniture and fittings;
- commissioning of Ms Pamille Berg to prepare a series of papers covering all aspects of the Parliament House design which eventually became the work entitled *The Architect's Design Intent for Parliament House Canberra: Central Reference Document*;
- not allowing assets within Parliament House to deteriorate to any great extent, that is, maintaining Parliament House and its assets at a level of 90 per cent of new; and
- engaging, on an annual basis, a building consultant who audited the JHD's performance in asset management.<sup>2</sup>

4.6 Mr Bolton outlined the reasons behind these proposals:

JHD did not want Parliament House to go the way of many other great buildings where original design concepts which very much establish the overall building character are forgotten and changes are made according to the whims of the time. Eventually it seems to be that when a building requires major refurbishment because of the ravages of time considerable extra expense is [in]curred as people realise the beauty or symbolism of the original design and seek to have the elements of the original design reinstated. There are many examples of this having occurred throughout the world.<sup>3</sup>

4.7 Ms Pamille Berg noted the developments under Mr Bolton and stated:

What is important is that, at the time that he determined that he was going to set up an integrated management process for design integrity and design intent, he had control of his department. He set up an interdepartmental committee, which at that time was called the IDIAC, that met to deal with the crossover issues involved in dealing with change. Within the Joint House Department as it existed at that time they already understood that there had to be a very formal process to create continuity in the decisions that were being made.<sup>4</sup>

### ***Committee comments***

4.8 The committee is not in a position to judge the success or otherwise of the JHD's regime to protect the heritage of the building. The committee notes Mr Bolton's comments that mistakes were made while the JHD established its stewardship of the new Parliament House and that a range of requests for changes to the building and accommodation were received once it was occupied. However, the committee notes the foresight of the JHD in commissioning the Central Reference Document, the

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2 Mr Mike Bolton, *Submission 12*, pp 1–2.

3 Mr Mike Bolton, *Submission 12*, p. 2.

4 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 9; see also Walter Burley Griffin Society, *Submission 22*, p. 4.

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appointment of a Design Integrity Officer and the use of a building consultant to undertake annual audits.

### **Department of Parliamentary Services**

4.9 The Department of Parliamentary Services was established in 2004 following the amalgamation of the Joint House Department, the Department of the Parliamentary Library and Department of Parliamentary Reporting Staff. Both the Presiding Officers and DPS have indicated that policies and procedures are in place to protect the heritage values of Parliament House.

4.10 In 2006, the Presiding Officers noted that significant changes to the building already require both parliamentary approval and approval from the National Capital Authority and that these requirements have operated satisfactorily for 18 years. Further, the procedures already in place under the *Parliament Act 1974* and other legislation for managing significant works are appropriate.<sup>5</sup> The legislation provides for the following:

- *Parliament Act 1974*: section 5 of the Act provides that no building or other work is to be erected on land within the Parliamentary zone unless:
  - in the case of works within the precincts – the Presiding Officers must cause a proposal for the work to be tabled in each House and the proposal must be approved by resolution of each House; or
  - in the case of works outside the precincts – the Minister responsible for administering the Act must cause a proposal for the work to be tabled in each House and the proposal must be approved by resolution of each House.
- *Australian Capital Territory (Planning and Land Management) Act 1988*: the Parliamentary Zone is a Designated Area under the Act. No works, including construction, alteration, extension or demolition of buildings or structures, can be undertaken without the approval of the National Capital Authority. Works inside buildings are excluded from this provision.

4.11 Parliamentary committees also have oversight with the resolution of appointment of the Joint Standing Committee on the National Capital and External Territories providing that the Committee may inquire into and report on:

- (a) matters coming within the terms of section 5 of the *Parliament Act 1974* as may be referred to it by:
  - (i) either House of the Parliament; or
  - (ii) the Minister responsible for administering the *Parliament Act 1974*; or
  - (iii) the President of the Senate and the Speaker of the House of Representatives;

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5 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, Attachment AD, p. 4594.

- (b) such other matters relating to the parliamentary zone as may be referred to it by the President of the Senate and the Speaker of the House of Representatives.

4.12 DPS also provides briefs to the Joint House Committee in relation to certain projects. For example, the Committee was briefed about the changes to the Staff Recreation Area to provide additional staff accommodation.

4.13 More recently, DPS stated that:

There is a very broad framework of governance and policy and procedural documents that apply to this asset and heritage management role of DPS. These documents range from 'whole-of-government' instruments—such as legislation, regulations, Finance Minister's Orders and Department of Finance guidelines—through to specific DPS policies, procedures and guidelines.<sup>6</sup>

4.14 DPS identified a number of matters which supported heritage values including:

- DPS reports against its environmental EPBC responsibilities in the Annual Report;<sup>7</sup>
- annual inspection and reporting against key performance indicators;
- all capital works projects are required to meet the requirements of the DPS Strategic Plans;
- maintenance and asset replacement programs must take into consideration design integrity requirements; and
- a range of Governance papers that address moral rights, design integrity and compliance with heritage principles.<sup>8</sup>

4.15 In relation to Governance papers, DPS noted that *Governance Paper No 33—Caring for Parliament's Assets*, notes:

For the next 200 years (at least), it is the intention of the Australian Parliament to base itself in the new Parliament House.

New Parliament House is recognised as a design icon and is part of Australia's heritage. This should not be compromised.

This leads to the asset management principle:

**Protect what we have**—we need to maintain the design integrity and heritage values of this building and preserve cultural heritage assets that have unique heritage assets that have unique national historic significance.<sup>9</sup>

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6 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4572.

7 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4594.

8 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4596.

9 Department of Parliamentary Services, *Governance Paper No 33—Caring for Parliament's Assets*, see *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4599.

4.16 DPS also noted that some heritage aspects are met by ensuring DPS specifications and standards are used. DPS went on to note:

However, many of these specifications and standards can result in very high costs. As a *Financial Management and Accountability Act 1997* Agency, DPS is required to ensure it manages public resources efficiently, effectively and ethically. To ensure the efficient and effective use of public money DPS evaluates alternative solutions and considers the application of the specifications and standards in relation to the significance of the space, fitness for purpose and cost implications.<sup>10</sup>

4.17 In addition, DPS stated that systems and procedures have been progressively developed for management of the Parliament House Art Collection and the approach to capital works to take account of heritage and design integrity considerations has been refined.<sup>11</sup> DPS has also finalised the Parliament House Heritage Management Framework and has sought completion of the CRD.

4.18 The following discussion provides an overview of the development of the Heritage Management Framework. Evidence received in relation to the success of DPS's practices and policies to protect the heritage values of Parliament House is then discussed. The CRD is discussed in chapter 5.

### ***Parliament House Heritage Management Framework***

4.19 DPS advised that over that last five to six years work has been undertaken to develop an 'overarching heritage policy or strategy for Parliament House'. The first version, the Heritage Strategy, was undertaken by the firm Heritage Management Consultants Pty Ltd and resulted in 15 drafts provided to DPS between November 2006 and May 2009 at a cost of \$17,000.<sup>12</sup> In May 2008, DPS provided a draft Heritage Strategy for the Australian Heritage Council's (AHC) advice. The AHC noted:

The [Australian Heritage] Council was satisfied with the way in which the draft heritage strategy addresses the requirements of the EPBC Act and provided its comments recommending minor amendments to DPS on 13 August 2008.<sup>13</sup>

4.20 The draft Heritage Strategy was based on the assumption that Parliament House was owned and controlled by a Commonwealth agency (the Secretary of DPS) and therefore 'the full powers' of the heritage provisions of the EPBC Act were considered to apply to Parliament House. Subsequent legal advice confirmed that

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10 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4602.

11 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4574.

12 Department of Parliamentary Services, *Submission 3*, p. 10. See also Budget Estimates 2011–12, Department of Parliamentary Services, *Answers to questions on notice*, No. 46.

13 Australian Heritage Council, *Submission 17*, p. 1.

Parliament House is under the control and management of the Presiding Officers who are not Commonwealth agencies.<sup>14</sup>

4.21 Following this legal advice, the Heritage Management Framework was developed by a DPS officer with postgraduate qualifications in cultural heritage management.<sup>15</sup> The Heritage Management Framework was approved by the Presiding Officers in December 2011.<sup>16</sup>

4.22 The document defines a Heritage Management Framework as follows:

A heritage management framework describes and assesses the heritage value of a site and guides the development of strategies and plans that protect and raise awareness of these values. A heritage management framework also provides information on management aspects to better protect heritage values on a day-to-day basis.<sup>17</sup>

4.23 This definition is based on the definition of a heritage management plan taken from the Defence Guide to Heritage Management Planning, Defence Heritage Toolkit (Guide 6).<sup>18</sup>

4.24 Action 3 of the Heritage Management Framework notes that:

All planning documents developed for Parliament House will refer to this Heritage Management Framework as a primary guide for the management of its heritage values.<sup>19</sup>

4.25 The Heritage Management Framework also establishes the Parliament House Heritage Advisory Board. The primary function of the Heritage Advisory Board is to provide advice to the Presiding Officers and to provide oversight of detailed heritage issues for Parliament House. To fulfil these functions of the Heritage Advisory Board is to:

- make recommendations to the Presiding Officers on heritage policies and major heritage issues;
- provide advice and guidance to the Parliamentary departments on heritage issues and policies;
- review proposals for significant change or conservation/preservation work in Parliament House;

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14 Department of Parliamentary Services, *Submission 3*, p. 10.

15 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Estimates Hansard*, 23 May 2011, p. 62.

16 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Letter to the committee*, dated 15 December 2011.

17 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 2.

18 *Defence Guide to Heritage Management Planning, Defence Heritage Toolkit*, Guide 6, p. 1.

19 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 21.

- provide practical heritage advice and innovative solutions to a range of Parliament House users; and
- as required, provide direction for capital works planning to ensure strategic heritage issues are adequately addressed and project delays are prevented.<sup>20</sup>

4.26 The Advisory Board consists of the Secretary of DPS, and an employee of each of the Chamber departments (Usher of the Black Rod and Serjeant-at-Arms). The Board is assisted by the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) and the National Capital Authority (NCA) as well as any stakeholders it may wish to consult.

4.27 DPS advised the committee that it had sought the views of DSEWPaC regarding the draft Heritage Management Framework. DSEWPaC acknowledged that DPS 'has prepared the draft Heritage Management Framework in the spirit of the EPBC Act for the management of the potential National and Commonwealth Heritage values of the Parliament House'. DSEWPaC noted that the draft Heritage Management Framework 'is consistent with the National and Commonwealth Heritage management principles (as contained in the Environment Protection and Biodiversity Conservation Regulations 2000) and the Burra Charter principles'.<sup>21</sup>

#### *Assessments of DPS heritage policies and practices*

4.28 Evidence provided to the committee called into doubt the level of heritage protection provided to Parliament House by DPS policies and practices. This evidence ranged from general concerns, such as the lack of adherence to best practice in heritage management, to specific issues related to the Parliament House Heritage Framework which was generally viewed in a less than favourable light.

4.29 The view was put to the committee that the heritage management of Parliament House should be of the highest order.<sup>22</sup> The International Union of Architects, for example, stated:

The UIA together with other international organisations interested in conserving world architecture such as UNESCO, ICOMOS and DOCOMOMO International require that the highest standards be used to conserve and manage the World's monuments. We are concerned that this has not been the case with Australia's Parliament House.<sup>23</sup>

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20 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 15; see also Department of Parliamentary Services, *Submission 3*, p. 11.

21 Department of Parliamentary Services, Additional information, dated 11 October 2011, Attachment A. The Burra Charter and its accompanying guidelines are considered the best practice standard for cultural heritage management in Australia. See <http://australia.icomos.org/publications/charters/> (accessed 16 January 2012).

22 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 9; Australian Institute of Architects, *Submission 14*, p. 2.

23 International Union of Architects, *Submission 4*, p. 1.

4.30 The National Trust also expressed concern that 'the appropriate conservation practice is not being followed' for Parliament House.<sup>24</sup> Mr Martin commented that DPS:

...needs a clearly structured plan and detail, which has been developed through a normal process of developing heritage management plans, to give them the guidance they need to look after this very important building.<sup>25</sup>

4.31 Mr Romaldo Giurgola commented that there is an absence of an approved strategic policy framework. Of particular concern:

...is the lack of sufficient measures which recognise and preserve the integrity or the wholeness of the design intent and the relatedness across all aspects of the Parliament House, ranging from its building fabric to the chair construction or carpet pattern or configuration of the park on the landscape.<sup>26</sup>

4.32 Mr Giurgola went on to argue that there is an urgent need for a strategy to manage change 'with an essential framework of checks and balances on the competing and different interests within the building'.

4.33 DPS has developed the Heritage Management Framework which it believes will 'provide an excellent basis for recognising heritage values, while still allowing the work of the Parliament to evolve over time'.<sup>27</sup> The following addresses evidence in relation to the Heritage Management Framework. Suggestions for alternative processes are outlined below.

#### *Parliament House Heritage Management Framework*

4.34 In relation to the Heritage Management Framework, the committee heard a range of criticisms. Mr Martin, National Trust, voiced concern that the Framework did not go far enough; that a Heritage Management Framework is only part of the heritage process. He commented that it is not consistent and is not 'rigorous enough in respect to what is accepted conservation practice today'.<sup>28</sup> Professor Weirick went further and stated that the Heritage Management Framework, in many ways, is:

...inadequate, misleading and indeed a dangerous document. In addition to all of the other concerns, what is not clear to us is the measure of ultimately parliamentary oversight of what takes place at parliament.<sup>29</sup>

4.35 Professor Weirick and Mr Martin pointed to a number of specific issues, including that the Heritage Management Framework did not cover the entire

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24 National Trust of Australia, *Submission 5*, p. 1.

25 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 1.

26 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 1.

27 Department of Parliamentary Services, *Submission 3*, p. 11.

28 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 2.

29 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 6.



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Parliamentary Precinct.<sup>30</sup> Of significant concern was that DPS had undertaken no serious public consultation with professional organisations or community organisations, which Professor Weirick saw as 'a very big disconnect'.<sup>31</sup>

4.36 While the Heritage Management Framework provides for strategies for stakeholder and community consultation, Mr Martin commented that the National Trust had no confidence that this consultation will actually occur. In relation to the Advisory Board, it was noted that it had 'limited heritage expertise to make serious decisions in respect to the heritage values'. Mr Martin also added the Framework fails to acknowledge some aspects of the architectural significance of the building and its importance within the Australian Institute of Architects and the International Union of Architects. Further:

There is inconsistency between the analysis and the statement of significance. There are things stated in the analysis of high value and then put into the statement of significance as exceptional. The statement of significance fails to acknowledge all the recognition of this building, nationally and internationally, on various awards and citations. I think that is a shortcoming in respect to the whole thing.

Because it has not gone through a public and professional assessment through a consultation process, I think the rigour evidenced in the statement of significance and the analysis is not there...Our concern is that, without this structure in place, the heritage values of this place are not fully recognised and will not be fully protected, and it needs that rigour in place.<sup>32</sup>

4.37 Mr Martin suggested that consultation processes could be improved through the use of a reference group:

That reference group can have a range of diverse interests. The National Trust sits on a number of territory related reference groups at the moment and we have that sort of input so that the views of the trust are heard at that reference group and then passed back. I strongly recommend that a reference group that is representative of a wider group of expertise that can contribute to issues relevant to potential change and the conservation of this building is the best way going.<sup>33</sup>

4.38 The Walter Burley Griffin Society asserted that the Heritage Management Framework drafted by DPS 'proposed a system of self-regulation, with no statutory basis, no checks and balances, and no meaningful provision for public consultation'.<sup>34</sup>

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30 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 6; Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 1.

31 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 8.

32 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 1.

33 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 4.

34 Walter Burley Griffin Society, *Submission 22*, p. 3.

The Society went on to argue that a comprehensive Heritage Management Plan for Parliament House should be prepared by 'eminent heritage consultants with expertise in the conservation of architecture, landscape architecture, urban design, engineering, furniture and art works'.<sup>35</sup>

4.39 The Australian Institute of Architects recommended that a Conservation Management Plan (CMP) should be in place:

Ideally, the CMP should be concerned with activities related to the built form, the views to and from the place, the landscape, and the craft and artwork all associated with the original design of the place.<sup>36</sup>

4.40 The National Trust also called for a detailed Conservation and Management Plan to be developed. Such a plan would need to consider all components such as the building, landscape, furniture, art collection and other objects associated with the building as well as full public consultation in the preparation of such a document.<sup>37</sup>

### ***Response from DPS***

4.41 In response to this evidence, Mr Grove, then Acting Secretary, DPS, stated that 'I accept that in the past some of the practices have not been ideal, but again during that process there were people who held very, very strong views one way or the other as to whether or not something should be kept or gone or how some sort of approach should be made'.<sup>38</sup> Mr Grove pointed to the views expressed about the listing of the building but noted that the Presiding Officers were firmly of the opinion that this should not occur. That being the case, he went on to comment:

...DPS has attempted to do in more recent years is to try to live within that decision. As a consequence, the framework was developed in consultation with the department responsible for the Heritage Council and their feedback. My understanding is that, within the constraints of that, they are quite comfortable with the way that is progressing. It is a work in progress.<sup>39</sup>

4.42 This was reinforced by Ms Judy Tahapehi, Director, DPS, who noted that even though DPS was not required to meet the obligations of the EPBC Act, DPS had done so, 'as far as possible'. DPS also ensured that the Heritage Management Framework was consistent with the National and Commonwealth heritage management principles in the Burra Charter. The principles have subsequently been embedded into the practices of DPS.

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35 Walter Burley Griffin Society, *Submission 22*, p. 3.

36 Australian Institute of Architects, *Submission 14*, p. 2.

37 National Trust of Australia, *Submission 5*, p. 1.

38 Mr Russell Grove, Acting Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 43.

39 Mr Russell Grove, Acting Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 43.

4.43 Ms Tahapehi also noted that the architects had not been consulted on the development of the Framework but 'we have made sure that the consultation with them is embedded into our actions and principles'.<sup>40</sup>

4.44 In relation to the Heritage Management Advisory Board, Mr Grove stated:

The advisory board does not claim to have any expertise in the area of architecture, design or whatever; they are bureaucrats who are attempting to live within that framework. But that advisory board, you would note, clearly has provision for expert advice to come in. It may be that that advisory board can have as part of its mechanism some sort of reference group, as was suggested this morning in the evidence given, to attempt to provide access for community consultation.<sup>41</sup>

4.45 Mr Grove concluded that it is hoped that the Heritage Management Framework:

...will be there in sympathy with the principles involved in relation to heritage and the proper keeping of an iconic building like this, because it is so much more than the building itself; it is its content, the way it appears et cetera...

I think the important thing is that there is clear recognition now that those issues cannot be ignored and, if there are difficult issues that need to be discussed in the broader community with the experts, that conversation needs to be held.<sup>42</sup>

### **Maintenance of design integrity by DPS**

4.46 The committee considers another measure of the success of the heritage protection of Parliament House is the maintenance of design integrity and the relationship between DPS and the buildings architects, in particular Mr Romaldo Giurgola as the moral rights holder. The following provides a discussion of general issues regarding consultations between DPS and the building's architects. The committee will examine in detail specific projects which have raised design integrity issues in its next report.

#### ***Moral rights***

4.47 Since 1988, Mr Giurgola holds and exercises the moral and intellectual property rights in the design of Parliament House.<sup>43</sup> The *Copyright Act 1968* (Copyright Act) sets out obligations in relation to moral rights and copyright holders.

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40 Ms Judy Tahapehi, Director, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 44.

41 Mr Russell Grove, Acting Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 43.

42 Mr Russell Grove, Acting Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, pp 43–44.

43 Mr Romaldo Giurgola, *Submission 7*, p. 3.

4.48 Moral rights obligations are recognised in a range of DPS documents. The *DPS Building and Security Projects Large Project Checklist* for example, requires that informal consultation be undertaken with the moral rights holder at the design options phase, and that formal notification be undertaken at the 80% stage.<sup>44</sup>

4.49 The Heritage Management Framework addresses moral rights. It is stated:

Any proposal for change that affects significant elements of the building and surrounds or conservation work will include a consultation period with stakeholders, especially with the designers and makers of the various aspects of the building and its commissioned furniture, art and craft.<sup>45</sup>

4.50 The Framework notes that moral rights holders must be consulted in accordance with provisions of the Copyright Act. DPS will also hold meetings with the building's architects:

DPS project officers will meet quarterly with representatives of the firm Guida Moseley Brown Architects to discuss proposals and seek advice.<sup>46</sup>

4.51 Moral rights holders cannot preclude DPS from carrying out the building changes that it wishes to make as long as it has complied with its obligations under the Copyright Act.

4.52 In its submission to the committee, DPS reported that proposals to change the building are assessed against the original design as expressed in the CRD and that there has been 'periodic consultation with the original architects'. This consultation:

...respects the moral rights of the architects, and also seeks their views about design integrity. It is noted that the original architects have not always been in full agreement with development proposals prepared by other firms. Nevertheless, the consultation process continues and is generally constructive. DPS also engages the original architects on a commercial basis from time to time.<sup>47</sup>

4.53 DPS advised that the evaluation process for a proposed project includes consideration of the effect on design integrity of the infrastructure. Further:

Historically, DPS staff, from time to time, have held discussions with Mr Giurgola and GMB Architects (which comprises a number of the original APH architects) about Parliament House design issues. This has now been formalised with regular meetings to provide a forum for DPS to advise Mr Giurgola and/or GMB Architects of projects identified for inclusion on the Capital Works Program (CWP). Additional discussions are scheduled on particular projects where necessary at the Concept drawing

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44 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, Attachment AT, p. 4600.

45 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 5.

46 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 5.

47 Department of Parliamentary Services, *Submission 3*, p. 7.

stage and sometimes at later design stages if there are particular issues to consider.

This consultation is conducted in addition to the 'Notice to Author of Artistic Work', Pursuant to Section 195AT(3A) of the *Copyright Act 1968* Regulation 25AA (2) (Moral Rights) which, if required, is provided once the project has commenced and a design is available for review.<sup>48</sup>

4.54 DPS went on to note that its consultation process with moral rights holders:

...provides an additional opportunity to comment on specific issues with the design.

Should the Moral Rights holder not agree with the plans, we arrange meetings to identify the key issues and possible alternative approaches. However, the regular meetings between the Director, BSP and Mr Giurgola, and additional informal discussions with GMB Architects are intended to reduce areas of concern at this stage of the design.<sup>49</sup>

4.55 Mr Guida and Mr Giurgola questioned whether DPS had maintained the design integrity of the building. Mr Giurgola commented that DPS is managing in a 'down to earth' way and gives 'an immediate response without a second thought'. Mr Giurgola continued:

They do the best that they can with their own structure, but they cannot rely only on the presence of a moral right holder like myself because I only come occasionally and they do not have to listen to what I say. So, if there are outside pressures that are bigger, they go ahead with that, as is the case with the occupancy of the storage space. I made it evident many times to them the insufficiency that they have. I think this is a problem that is of interest to the whole nation. Every citizen should be concerned about that.<sup>50</sup>

4.56 Mr Giurgola suggested that it should not be expected that the expertise for heritage management of Parliament House should lie within DPS. Rather, DPS performs the day-to-day role 'equivalent to those of a property management firm' while what is required is the 'expertise of highly trained professionals in multiple fields at the apex of their professions, equal in their experience and knowledge to the stature of the building which requires protection and preservation'.<sup>51</sup>

4.57 Mr Guida also commented on the management of heritage issues by DPS. He stated that while he thought that DPS did 'take the work seriously', there was a 'missing link' between the way they use the draft Central Reference Document and 'a comprehensive kind of guidance and concept of how management could take place using a document of this sort'.<sup>52</sup>

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48 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4600.

49 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4602.

50 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 4.

51 Mr Romaldo Giurgola, *Submission 7*, p. 3: see also Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 5.

52 Mr Hal Guida, *Committee Hansard*, 16 November 2011, p. 4.

4.58 Ms Berg raised the issue of loss of focus within DPS following the amalgamation of the three former departments:

What has happened in the interim period with the mega-department versus what the Joint House Department was doing at that time with more direct control over these processes after realising that there had to be formal overarching processes that led back to the Parliament is questionable.<sup>53</sup>

4.59 Ms Berg also agreed that it would be unrealistic that the expertise for a long-term strategic vision as well as the day-to-day running would reside in DPS. Ms Berg stated:

To expect that DPS has had in the past or will have in the future the in-house staffing capability and expertise in multiple fields **to generate** that highly specialised advice is unrealistic.<sup>54</sup>

4.60 Ms Berg emphasised the need for a different structure to deal with competing interests of those occupy the building, and who may demand changes to the building, which would take into consideration the need for independence.<sup>55</sup>

#### *Consultations/moral rights engagement*

4.61 The committee heard evidence relating to the consultations/moral rights engagement between Mr Giurgola and DPS. Ms Berg noted that the Copyright Act gives three rights to creators: the right of attribution; the right to not have their work misattributed; and the right of the nonviolation of the integrity of what that thing is.<sup>56</sup>

4.62 As noted above, DPS recognises across a range of documents, the need to consult moral rights holders. However, Mr Giurgola commented that he 'can **do little or nothing** as the holder of the moral rights to the design to prevent the weakening and denigration of this building's design integrity'. He went on to state that there is no requirement under the Copyright Act to consult moral rights holders or for the advice, when given, to be followed.<sup>57</sup>

4.63 Mr Giurgola and Ms Berg provided the committee with examples where no moral rights consultation had taken place or where advice had not been followed. Mr Giurgola stated that he had been 'extremely distressed' when elements such as 'lifetime' furniture designed and custom made for the building, custom light fittings and the complete fitouts for entire areas of the buildings had been sold off. In addition, the occupation of underground areas had violated one of the building's most essential design principles.<sup>58</sup> While he was informed of accommodation work underground as

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53 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 9.

54 Ms Pamille Berg, *Submission 13*, p. 4.

55 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 5.

56 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 11.

57 Mr Romaldo Giurgola, *Submission 7*, p. 6.

58 Mr Romaldo Giurgola, *Submission 7*, pp 6–7.

part of his moral rights notification, the timing was such that it was after much of the work had been done, which made the notification pointless. Mr Giurgola explained:

I found it was a tragic solution, really, because it is a place that does not have enough penetration of daylight and it is a very crowded office, on a different level of the space which implies connection between different levels and movements throughout and so forth. So I think that was something that was contradictory to the spirit of the design of the workplace. And I was too late. Then the thing obviously went mechanically through the process, with the economics that involved, and there was nothing to do about it.<sup>59</sup>

4.64 Ms Berg noted the fitting out of the endocroft space (former Staff Recreation Room) behind the staff cafeteria with offices was opposed 'very strongly' by Mr Giurgola. In a letter to the Presiding Officers regarding this project, Mr Giurgola stated:

I would be very embarrassed for any professional colleague to see the whole idea of what has been done here—for them to think that I could have been responsible for this degree of planning and execution and the placement of people in this zone of the building where the curved walls of the building are meant to hold the ceremonial, large-scale, monumental public places and the executive and there was to be no leakage of offices into that space, let alone the quality of the accommodation.<sup>60</sup>

4.65 Ms Berg went onto question who DPS relies on to undertake architectural work in Parliament House. She noted that Mr Giurgola and other members of the design team remained in Canberra following completion of the building and 'we could not have had a better circumstance of being able to keep that continuous vision of the why and what was appropriate and have a closer connection, a closer advisory capacity, about who the appropriate architect would be for these multiple projects that are happening within the building with multiple hands'.<sup>61</sup> Mr Giurgola also commented on the seemingly 'casual' choice of architects by DPS:

The fact is that in the near future the building will need quite a bit of enlargement because of the population increase and so on...Up to now the selection of professionals for changing inside has been very casual and very difficult to control. This is a building that will require a firm and clear hand at the top level of the profession, so it will be necessary to formulate a system that allows that, to guarantee the presence of the best quality of advice that you can get.<sup>62</sup>

4.66 However, Mr Giurgola described a positive experience with the child care centre where he had been contacted by the project architect:

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59 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 13.

60 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 11.

61 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 11.

62 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 6.

...I worked with him intensively on the project, and it became very much a possible thing in terms of the place in which it was put. So it was created. That was a good experience for me because we had a long discussion about the real necessity of the creche in that particular place. In fact, I suggested the area outside that and inside and so forth, and we came to a kind of intelligent approach, I think, to that problem—and very significant too. But that was the situation. Sometimes, of the people who are employed, some are aware of this problem, but to others it is nothing.<sup>63</sup>

4.67 The Walter Burley Griffin Society raised concerns about the nature of consultation between DPS and the original architects, as well as the changes to the building which are seen to have compromised the design integrity:

The Society is also deeply concerned that the DPS submission states that 'the original architects have not always been in full agreement with development proposals prepared by other firms' and the submission from Romaldo Giurgola AO LFRAIA LFAIA, dated 27 July 2011, draws attention to the 'weakening and denigration' of the building's design integrity by the development of permanent staff offices in the basement, 'remote from natural light...thereby violating one of the building's most essential design principles regarding the provision of good work-spaces for every worker'; and by the de-accessioning of custom designed furniture, light fittings, wall textiles and fitouts for entire areas of the building.

These depredations are not acceptable.

The problem is clearly the consequence of DPS establishing a self-regulated Design Integrity System, with no oversight and no accountability beyond self-generated compliance tables in the Department's Annual Report.<sup>64</sup>

4.68 The committee also received evidence from Mr John Smith, the artist commissioned to design, fabricate and install the furniture for the Leader of the Opposition's suite. Mr Smith noted that the terms of his contract with the Parliament House Construction Authority (PHCA) stated that the suite could not be modified or amended without his permission. However, shortly after installation, the furniture was removed and replaced at the request of the then Leader of the Opposition. Mr Smith stated:

These acts were clearly a breach of contract. A politician would not be permitted to cut out a third of a painting because it offended his or her sensibility. To remove a third or more of my suite is no different an act to this. The integrated suite as a whole constitutes a single artwork. The furniture was designed to last the projected life of the building (200 years) as was required by the design brief. It lasted only a couple of weeks before it was significantly violated. The suite belongs to the office of the Leader of the Opposition and to the people of Australia. It is not the property of any politician to be tampered with at will.

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63 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 13.

64 Walter Burley Griffin Society, *Submission 22*, p. 4.



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I urge this Inquiry to reinstate the suite in its entirety in line with the original design concept for the building.<sup>65</sup>

### ***Response from DPS***

4.69 At its hearing in May, DPS commented on its consultations with the building's architects. It was noted that the need to consult with the architects is embedded in the Heritage Management Framework's principles and actions. It was also stated that the DPS Projects Branch has meetings to discuss various issues related to different projects throughout the building. In addition, there is a quarterly meeting that looks at the capital works program.<sup>66</sup> The relationship with Mr Giurgola was described by DPS as 'very positive' and that he had 'expressed how grateful he is for the amount of consultation that we currently do with him'.<sup>67</sup>

4.70 Mr Kenny provided further information on consultations with the architects, in particular in relation to the changes to the Staff Recreation Room. Mr Kenny stated:

In 2010, when the planning for the staff dining room accommodation work was being done—and I think it is fair to say that the original architects had very strong views about that and were upset that they were not consulted—we had advice from our design integrity people at the time that consultation was not required because of the nature of the change. So we proceeded on the basis of that advice. We became aware that that decision was not the correct decision, and later that year, in 2010, we instigated with the original architect a regular meeting so that whatever else happened there would be consultation. I do not know how often they meet now. My recollection is that the decision was that quarterly meetings would be appropriate, plus others as required. So in 2010 we instigated a regular process to ensure that we had a forum where the original architects and our people would meet to discuss any relevant issues.<sup>68</sup>

### **Alternative approaches to ensuring the maintenance of heritage values**

4.71 It was argued in evidence that it was beyond the expertise of DPS to provide the standard of advice and expertise needed to maintain the design integrity and the highly developed and integrated symbolic elements of the building. Submitters pointed to the challenges facing DPS when varying, and often contradictory, interests of the building occupants need to be balanced. It was argued that appropriate consultation with outside experts was required. Ms Berg, for example, stated:

It is obvious that the process of determination of the best, most workable method for the protection of the building's design integrity and management

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65 Mr John Smith, *Submission 23*, p. 1.

66 Ms Judy Tahapehi, Director, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 44.

67 Ms Judy Tahapehi, Director, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 46.

68 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 46.

of ongoing change by experts in the field needs to be conducted in formal, ordered consultation and collaboration with the building's key external and internal stakeholders, including representatives from all of the Parliamentary Departments and the building's original architects. However, the provision of the expert advice needs to be independent and at arm's length from those Departments.<sup>69</sup>

4.72 Mr Giurgola also suggested that a wide range of advice needs to be sought to ensure that decision making is appropriate for the proper preservation of the architecture and symbolic integrity of the building:

...firstly, senior expertise from the relevant professions of architecture, urban design, landscape, interior design, history and heritage management; secondly, the expertise of key internal stakeholders—senior staff members of the House, the Senate and executive departments, members and senators, departmental library and so on—with respect to understanding and projecting the function and tradition of Parliament House; thirdly, the knowledge and vision of external stakeholders: carefully selected key members of the public, both local and national, who have distinguished themselves through their dedication to the perpetuation and preservation of living cultural icons in Australia such as this building; and, finally, the embedded knowledge and experience of the day-to-day management of this functional building within its long-term care givers, important technical staff and administrators.<sup>70</sup>

4.73 Mr Giurgola went on to state:

It is not my place to define here the structure of these checks and balances on decisions for change in Parliament House; however, I believe that, when the parliament has at last entrenched a model process of carefully crafted strategic policy in the protection of essential design values and management of change in the building, then the Australian people can feel assured that in the future such decisions on change will have been made as wisely as possible, utilising the expertise of both experts and stakeholders and forging a responsible way forward.<sup>71</sup>

4.74 The former Secretary of the JHD also put his view on this issue. Mr Bolton commented:

...is it sufficient to allow the maintenance of the design integrity of Parliament House to be left solely within the control of a part of the parliamentary administration, currently the DPS? Works need to proceed both in a regulated but also timely manner. I urge the Committee to suggest to the Senate that parties such as DPS, a representative of the Presiding Officers, the original partners of MGT, a noted heritage architect and representatives of other appropriate bodies be called together to develop an efficient and effective method of considering design integrity issues in the

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69 Ms Pamille Berg, *Submission 13*, p. 4.

70 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 2.

71 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 2.

building which does not unduly delay necessary works to accommodate the changing needs of the Parliament.<sup>72</sup>

4.75 The committee received evidence suggesting mechanisms to reinforce the maintenance of heritage values of Parliament House. Mr Guida, for example, noted that the PHCA was an independent body but was responsible to the Joint Standing Committee on the New Parliament House. He saw the PHCA's independence as providing 'a free-from-influence environment to seek the best solutions from all parties, and the reporting to the Committee ensured review and approval'. He went on to suggest that:

...it would be appropriate to establish an independent body (Architect of the Parliament?) outside of the various parliamentary departments to provide assessment of best practice of maintaining design integrity, and the development of strategies, policies, guidelines, and conservation management directions to allow for careful modifications of the building to occur over the next generation's occupancy. This position could be required to report to a joint committee for comment and approval and acceptance of directions from time to time.<sup>73</sup>

4.76 The Walter Burley Griffin Society also called for the establishment of an Office of Architect of Parliament House, as well as a Design Office to oversee the capital works program for Parliament. The Society noted that the JHD had a chief architect but that position no longer existed.<sup>74</sup> This was seen as a backward step as:

Given the complexity, sensitivity and heritage significance of Parliament House, a works program of this scale – which is expected to continue for many years – should be overseen by a Design Office with the highest levels of expertise in architecture, landscape architecture, urban design, interior design, industrial design, heritage conservation, environmental engineering and fine arts.<sup>75</sup>

4.77 The Society recommended that the Office of Architect of Parliament House be established through dedicated legislation. It was argued that this would 'ensure the maintenance, operation, development and conservation of the Australian Parliament House at a level commensurate with its outstanding heritage significance to the nation'.<sup>76</sup> The Society pointed to the role of the Architect of the Capitol in Washington D.C., established in 1793, with responsibility to the US Congress for the 'maintenance, operation, development and preservation' of the US Capitol building.<sup>77</sup>

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72 Mr Mike Bolton, *Submission 12*, p. 2.

73 Mr Harold Guida, *Submission 1*, p. 1; see also Mr Harold Guida, *Committee Hansard*, 16 November 2011, pp 2–3.

74 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 9.

75 Walter Burley Griffin Society, *Submission 22*, p. 6.

76 Walter Burley Griffin Society, *Submission 22*, p. 6.

77 Walter Burley Griffin Society, *Submission 22*, p. 6. See also <http://www.aoc.gov/aoc/architects/Stephen-T-Ayers.cfm> (accessed 29 February 2012).

4.78 The committee also notes that Mr Russell Cope, in his 2001 paper on the architecture of parliamentary buildings, commented that while there are annual reports by parliamentary departments 'there is no report published devoted to the actual parliamentary building and its preservation and use. It is almost impossible to obtain an informative and current picture of the present position of these buildings'. Mr Cope suggested that 'Australian parliament houses deserve their own periodic reports published for public benefit and general interest of all'.<sup>78</sup>

### **Committee comments**

4.79 The committee recognises that the preservation of heritage aspects of a building as significant as Parliament House attracts a wide range of views. On the one hand are those who consider that it should be viewed as a static entity, to remain in the state as handed over to the Parliament in 1988. This view is not shared by the committee as the building needs to evolve as the Parliament evolves. The building's architects also do not support this approach. Mr Giurgola commented that:

It cannot just be given by heritage agencies, because those agencies are there to save forever something. But here we have to save forever something that keeps changing all the time, inevitably, and I think it should be. What is important is maintaining the wholeness of the old system and the symbolism that is so particular to this place, to this nation—not borrow it from left and right and so on.<sup>79</sup>

4.80 However, it is this last point which needs to be addressed: how will change inevitably required in a working building be managed so that the inherent design integrity, symbolism and other interconnecting elements that make up Parliament House are not lost or degraded.

4.81 From the evidence received, the management of change has, in some cases, been less than successful. This was evident from the first years of occupation of the building when many changes were made, for example, the renovation of the Members' Dining Room and removal of furniture from suites. It appears that the Joint House Department recognised the need to protect the design integrity and sought to put in place processes to ensure that this occurred.

4.82 In recent years, concerns have again been raised about the rigor of mechanisms established to protect heritage values. The committee considers that these concerns are justified given the evidence of the lack of consultation with the architects in relation to the changes to the staff accommodation in 2010, the loss of heritage items and other matters which have been brought to the committee's attention are yet to be fully explored. The committee considers that this appears to indicate a lack of understanding of how the design intent can be incorporated in the changes required. The committee has yet to examine specific projects in this regard. It will do so in its

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78 Russell L Cope, 'Housing a Legislature: When Architecture and Politics Meet', *Papers on Parliament No 37*, November 2001.

79 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 6.

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next report. That these matters have arisen also points to a lack of transparency and accountability of the actions of DPS.

4.83 The committee notes that in President of the Senate's letter to the committee of 13 September 2011, the President notes that the Presiding Officers had tasked DPS:

to finalise arrangements for heritage management of the building which recognises its role as the home of a working parliament, and its status as a national icon.<sup>80</sup>

4.84 The President also indicated that 'DPS has sought external expert advice and will continue to do so, as well as continuing consultation with relevant stakeholders'.

4.85 The committee has received evidence from DPS pointing to improvements in policies processes to ensure that heritage concerns are fully addressed. However, witnesses did not consider that DPS's response was yet sufficient to fully address heritage concerns. The Parliament House Heritage Management Framework, in particular, was singled out for criticism with the Walter Burley Griffin Society commenting that it was inadequate, misleading and dangerous.

4.86 The committee is not in a position to adjudicate on such comments. However, it appears that there has been a paucity of public consultation in the formulation of the Heritage Management Framework with no heritage organisations being consulted and no involvement by the building's architects. The committee notes that heritage strategies for other buildings across Australia are more detailed and far more comprehensive than that produced by DPS. The committee also notes that it has received recommendations for the creation of detailed conservation plans to support the Heritage Management Framework. In addition, there were calls for more expert advisors to be available to or be members of the Heritage Advisory Board. The committee acknowledges that the Heritage Advisory Board is an important step in improving the protection of the heritage values of Parliament House but considers that independent expert advice must be available to the Heritage Advisory Board and that any expert views provided must be considered appropriately.

4.87 Further work also appears to be needed in relation to the understanding of what constitutes a 'significant change' to the building. Indeed, the architects were not consulted about changes to the Staff Recreation Room area as it was viewed that the 'nature of the change' did not require such a consultation. However, to most occupants of the building, the scale of the renovation in this area would constitute a 'significant change'.

4.88 The committee has taken note of comments in relation to the level of expertise within the staff of DPS to manage the complex considerations when changes to the building are proposed. In the late 2000s, many staff who had worked in the building from 1988, including some who had worked on the actual construction, left DPS employment. They took with them a great deal of knowledge of the building. However, the committee agrees that even with very knowledgeable staff, it is

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80 Senator the Hon John Hogg, President of the Senate, *Letter to the committee*, dated 13 September 2011.

unrealistic to expect DPS staff to have the expertise required to undertake comprehensive assessments of proposals and to provide comprehensive and balanced advice. This is particularly the case in a working building where many competing demands are made for change and enhancements.

4.89 The committee received a number of proposals aimed at ensuring that expert advice is available to DPS and to the Parliament. The committee is yet to come to a conclusion in this regard but considers that the availability of expert advice will be important as the Parliament continues to seek change to the building. For example, the establishment of the new Parliamentary Budget Office will require additional accommodation within the building which may result in renovation of some of the spaces in the Parliamentary Library.

4.90 A further matter raised was the level of consultation with the architects, particularly Mr Giurgola. DPS has indicated that in recent times regular meetings have been taking place and that the relationship has improved. While the committee is pleased to hear of this progress, it comes only after years of less than adequate interactions and even as late as 2010, DPS did not undertake consultation with Mr Giurgola in relation to the accommodations changes involving the Staff Recreation Room. The committee also notes comments from Mr Guida that while the level of consultation is an improvement this is an advisory process (voluntary and unpaid) and is only an alert. It does not provide DPS with detailed advice on the maintenance or infringement of design integrity within specific projects for change within Parliament House.

4.91 In this report, the committee has not come to a conclusion in relation to the matters noted above. It considers a number of issues require further consideration. These issues include:

- the need to improve the accountability and transparency of the Department of Parliamentary Services in relation to heritage matters;
- the role of the Presiding Officers and the Parliament in relation to heritage matters;
- the role of outside experts in guiding change in the building; and
- what constitutes a 'significant change' to the building.

4.92 The committee intends to explore these matters further and provide comments in its final report.

# Chapter 5

## Central Reference Document and other documents

### Introduction

5.1 Following completion of Parliament House, the former Joint House Department (JHD) commissioned the writing of a document to capture the original architect's design intent for the building. The document, *The Architect's Design Intent for Parliament House Canberra: Central Reference Document* (Central Reference Document–CRD), is yet to be completed. The following discusses the development of the CRD and progress towards its completion. The committee also provides information on the apparent loss of original documents from Mitchell/Giurgola & Thorp (MGT) following completion of the building.

### Development of the Central Reference Document

5.2 The Central Reference Document was commissioned by the JHD. Mr Mike Bolton, former secretary (1986–2004), JHD, informed the committee that the work was commissioned as:

In the first instance, JHD created a position of Design Integrity Officer within its structure to liaise with the building's architects (MGT) to provide guidance and oversight to proposed changes to the building, its furniture and fittings. A number of years later as the original architects involvement was diminishing and before their knowledge of the building was lost, JHD commissioned Ms P Berg of MGT to research and prepare a series of papers covering all aspects of the Parliament House design which eventually became the work entitled 'The Architect's Design Intent for Parliament House Canberra: Central Reference Document'. The intent was for this document to govern the approach to proposed changes to and within the building to ensure as far as possible that the original 'Developed Design' agreed to by the Parliament was maintained.<sup>1</sup>

5.3 Mr Bolton went on to comment that 'JHD did not want Parliament House to go the way of many other great buildings where original design concepts which very much establish the overall building character are forgotten and changes are made according to the whims of the time'.<sup>2</sup>

5.4 Ms Pamille Berg, former MGT Partner, informed the committee that she worked on the draft CRD between 1999 and 2004. The draft completed in August 2004 consists of 31 chapters and was prepared in consultation with Mr Romaldo Giurgola and Mr Hal Guida. Ms Berg also commented that the draft is incomplete and requires refinement, revision and additions in order to fulfil JHD's original intention 'that the document should stand as a basic record of the Architect's design intent to be

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1 Mr Mike Bolton, *Submission 12*, pp 1–2.

2 Mr Mike Bolton, *Submission 12*, p. 2.

utilized in the assessment and management of proposals for change and maintenance for the specified 200-year lifespan of the Parliament House building'.<sup>3</sup>

### ***Importance of the Central Reference Document***

5.5 The introduction of the draft CRD describes two primary uses and functions of the document. First, to provide a timeless, permanent record of the Architect's design intent prepared by a member of the design team for the building, rather than a person who did not have a central place in the design of the building. Secondly, that it will ensure DPS and the Presiding Officers have a reference for the daily management of the Parliament House 'when decisions on functional change, proposals for alterations, and replacement of fittings and furniture are required'. The CRD is also 'intended to facilitate that ongoing management process and the need for single-issue, intermittent reference within the expression of the building design's conceptual framework of the whole'.<sup>4</sup>

5.6 The importance of the document was emphasised in evidence by Mr Giurgola and other witnesses. Mr Giurgola stated that the CRD 'records in our words the intent of the brief requirement and our resulting design of the building, its interiors, its symbolism, its furniture and its landscape among other essential topics'.<sup>5</sup> He pointed to the essential nature of the CRD in maintaining the design integrity of Parliament House:

The content of this essential document recording the design intent of the Parliament House cannot be provided by the staff of the present Department of Parliamentary Services, who perform multiple day-to-day stewardship roles that are more equivalent to those of a property management firm for a complex office park. The refinement and the completion of the central reference document will be of great importance for the future preservation of the building's essential value. But of course it cannot provide the urgently needed management strategy which needs to be prepared at a high and independent level for the parliament's gratification. This CRD can only underpin that strategy.<sup>6</sup>

5.7 Both Mr Guida and Ms Berg commented on the importance of the CRD, with Ms Berg stating:

I would just like to add that I hope there is not a perception that we are saying that [the CRD must be completed] because we wish to aggrandise ourselves and the design of the building. On the contrary, all we are saying is that for DPS and the external architects that are drawn in from everywhere, the fixers of timber and the other things that are done, if they are to understand what the right solution is to a renovation or a problem or an augmentation, the only way they can understand what that right solution

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3 Ms Pamille Berg, *Submission 13*, p. 3.

4 Mr Romaldo Giurgola, *Submission 7*, p. 5.

5 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 1.

6 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, pp 1–2.



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might be is if they understand why it was ever done the way it was in the first place. So all we are trying to do is to make sure that, in the words of the primary designers and the team, this is recorded for all time as a reference.<sup>7</sup>

5.8 These views were supported by the Walter Burley Griffin Society which stated it was 'deeply concerned' that such a vital document as the CRD had not yet been completed. Professor James Weirick, President, commented:

Considering the significance of that document and the importance of the original architect of this building, Romaldo Giurgola, who is now in his 90s, it is essential that that document be completed.<sup>8</sup>

5.9 The Society went on to recommend that the CRD be completed as 'a matter of urgency'.<sup>9</sup>

### ***Completion of the Central Reference Document***

5.10 The importance of the CRD is recognised in the Parliament House Heritage Management Framework. The Framework provides a list of principles and actions 'to ensure effective heritage management of Parliament House'. Action 2 requires the development and maintenance of a record of building, landscape and movable heritage. The implementation strategies include that:

The Central Reference Document will be finalised. The Central Reference Document expresses the Architect's intent in the design of the building and its surroundings. The purpose of the Central Reference Document is also to ensure that the Presiding Officers and the Parliamentary departments have a text to which reference can continually be made in the daily management of the Parliament House when decisions on functional change, proposals for alterations, and replacement of fittings and furniture are required. The format of the text is intended to facilitate that ongoing management process and the need for single-issue, intermittent reference within the expression of the building design's conceptual framework of the whole.<sup>10</sup>

5.11 While the Heritage Framework proposes the completion of the CRD, attempts had been made by the original design team in the years between 2004 and 2011 to have the document completed. Ms Berg stated that since August 2004, fee quotes had been provided on four occasions for the completion of the CRD.<sup>11</sup> Mr Giurgola also commented that both the JHD and DPS had been repeatedly reminded over the past

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7 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 8; see also Mr Hal Guida, *Committee Hansard*, 16 November 2012, p. 9.

8 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 6.

9 Walter Burley Griffin Society, *Submission 22*, p. 4.

10 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 21.

11 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 8.

seven years that CRD has never progressed from its fifth full draft to final completion.<sup>12</sup>

5.12 At its hearing of 16 November 2011, Ms Berg informed the committee that the afternoon before the hearing she had received an email from DPS with a new statement of requirement for the completion, augmentation and refinement of the CRD. DPS required a quote and a detailed brief. Ms Berg commented:

It can be summarised as stating that some chapters, which we have identified many times in the past, need augmentation and completion. They have identified new chapters which they are particularly interested in because of the problems and issues they face. They have identified some larger issues about moral rights, symbolism et cetera. They have also identified an issue that we have pushed hard since 1988, and that is the saving and scanning of slide based images of the construction of the building, the human side of that construction, the design teams, the artists working et cetera, all of which are degrading fairly significantly now, as one knows, from 35-ml slide collections after what is really 30 years since many of them were taken. An additional group of those materials would be scanned, saved, used to illustrate the document and it would then be capable of being held both as the internal reference document but also potentially published as a book, which gives it an accessibility in libraries across the nation for researchers and others.<sup>13</sup>

5.13 Ms Berg stated that there is a substantial amount of work to do—probably two years of work to complete the document.<sup>14</sup> A draft response and quote was provided to DPS by Ms Berg on 15 December 2011 with the final response and quote provided on 17 February 2012.

5.14 At its hearing on 2 May 2012, the committee sought advice from DPS on the progress of the quote. Ms Judy Tahapehi, Director, DPS, stated that a quote had been received from Ms Berg. However, Ms Tahapehi stated:

We were surprised at the expense of it. We took that quote to the Heritage Advisory Board this week for their consideration. They have asked us to go back and talk to Ms Berg about some of the things that she has suggested needs to be done to see if we can reduce the quote.<sup>15</sup>

5.15 The Heritage Advisory Board met on 8 June 2012 to reconsider the quote for completion of the CRD. The committee notes that the briefing paper provided by DPS to the Heritage Advisory Board for its 8 June meeting included details of the history of the draft CRD and details of the work which DPS considered 'unessential' quoted for in the consultancy by Ms Berg. DPS proposed that the CRD could be finalised for

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12 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 1.

13 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 8.

14 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 8.

15 Ms Judy Tahapehi, Director, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 46.

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around 40 per cent of Ms Berg's quote. At its June meeting, the Heritage Advisory Board agreed:

Not to progress Ms Berg's Response to Statement of Requirement: Fee Quotation for Completion of the Central Reference Document given the scale of the proposal, size of the estimate and extended timeframe from Ms Berg.

The Board agreed in principle that it was appropriate to seek quotes through Open Tender or Expression of Interest.<sup>16</sup>

### ***Committee comments and conclusion***

5.16 The committee has noted comments from witnesses concerning the importance of the Central Reference Document for the maintenance of the design integrity and heritage values of Parliament House. Mr Giurgola, for example, stated that both day-to-day management and processes that define the design integrity and heritage values of iconic buildings are often hampered by the lack of documentation. In the case of Parliament House, a draft document—the CRD—going to the design integrity of the building and the Architect's intent is available but requires completion. The completion of the CRD has added urgency given the age of Mr Giurgola and other key design team members.

5.17 The committee notes that DPS acknowledges the importance of the CRD as 'any proposals to develop or change the building are assessed against the original design' through the CRD. In addition, as noted above, the completion of the CRD is a required action under the Parliament House Heritage Management Framework.

5.18 The committee has been informed that the Heritage Advisory Board has not agreed to proceed with Ms Berg's quote on the grounds of the scale of the proposal, cost and timeframe. DPS's project requirement is for the CRD to be completed within a year to a standard which it believes captures the Architect's essential design intent for Parliament House so that it can be used by DPS in its decision making. The way in which Ms Berg believes that this should be achieved does not accord with DPS's project requirement.

5.19 The committee is extremely concerned that no agreement between Ms Berg and DPS has been reached to finalise the CRD and that DPS is now proposing to go to open tender or expression of interest. The committee acknowledges that DPS must ensure that projects are 'fit for purpose' and that Commonwealth funds are expended in an appropriate manner. However, the committee believes that Ms Berg's proposal encompasses work that she, in good faith, considers is required to complete a 42 chapter document with appropriate photographic illustration to a standard necessary to describing the Architect's design intent and thus establishing a key component for the protection of heritage values of Parliament House. Furthermore, the committee considers that it must be remembered that the CRD will be the primary reference document for the remaining life of the building—175 years.

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16 Ms Carol Mills, Secretary, Department of Parliamentary Services, *Letter to the committee*, dated 20 June 2012.

5.20 The committee is also disappointed in the length of time it has taken the Heritage Advisory Board to consider the brief and quote provided by Ms Berg in light of its comments about the timeframe proposed by Ms Berg to complete the CRD. Ms Berg provided her preliminary quote in December 2011 and final quote in February 2012. The Heritage Boards decision was only finalised in early June. Given the importance and urgency for the completion of the CRD, the committee considers that the highest priority should be accorded to the completion of the CRD while providing appropriate time for it to be completed without undue haste.

5.21 The project to complete the CRD is at a critical point: the Heritage Advisory Board has not accepted the quote from Ms Berg to complete the CRD; at the same time, DPS and other stakeholders see the CRD as central to heritage protection of Parliament House. While the Heritage Advisory Board has agreed to go to open tender or expression of interest, the committee considers that it would be detrimental to the quality of the final document for someone, other than a member of the original design team, to undertake this work. In addition, any other contractor would have to familiarise themselves with a great deal of detailed information and build a relationship with Mr Giurgola. The committee does not believe that this is a viable approach and is unlikely to make the process shorter or less costly.

5.22 The committee therefore considers that the Heritage Advisory Board should re-consideration its decision and should also consider an expansion of the scope of work on the CRD to meet, fully, the vision for the completed CRD as expounded by Ms Berg.

5.23 The committee is aware of the funding constraints under which DPS is now working. With this in mind, the committee considers that a one-off additional appropriation from the Commonwealth Government of \$100,000 be provided to DPS for the completion of the CRD by Ms Berg. This appropriation, in addition to the expenditure already proposed by DPS, should enable the CRD to be completed to a standard acceptable to all parties.

### **Recommendation 1**

**5.24 The committee recommends that the Commonwealth Government provide the Department of Parliamentary Services a one-off additional appropriation of \$100,000 to be used, together with the existing Department of Parliamentary Services allocation of funds, for the completion of the document, *The Architect's Design Intent for Parliament House, Canberra: Central Reference Document*, by Ms Pamille Berg.**

### **Apparent loss of original documentation**

5.25 During its hearing in November, Ms Berg informed the committee that while putting together an exhibition to coincide with Mr Giurgola's 90<sup>th</sup> birthday in 2010, the loan of some major original perspective sketches and drawings was sought from the National Archives of Australia (NAA). However, the NAA was unable to locate the items requested for the exhibition.

5.26 Ms Berg commented that material from the original design firm, MGT, was handed over to the Parliament House Construction Authority. The material was then

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to have been transferred to the NAA. The material is recorded as being in the holdings of the NAA and consists of about 35 boxes containing rolls of drawings and other records. Ms Berg indicated at the November hearing that the NAA was investigating what had happened to the material. An initial investigation revealed that the material was held off-site. Ms Berg suggested that the boxes of material may have mistakenly ended up with the former Department of Administrative Services and 'I believe they may have been shredded. That is my personal opinion from the anecdotal evidence we have received.'<sup>17</sup>

5.27 Ms Berg also noted that a large amount of records including photographs are still in the hands of GMB, the successor firm to MGT. Ms Berg suggested that there needs to be a process to ensure that the documents still in existence are appropriately archived and accessible.

5.28 Following the hearing, the NAA undertook an internal review focussed on all records created and transferred to the NAA by MGT and all relevant records relating to the design competition and subsequent construction of new Parliament House transferred to the Archives by DPS and JHD.

5.29 The NAA's review located two original concept drawings of Parliament House by Mr Giurgola. No other records noted by Ms Berg in her evidence to the committee were located. The NAA also indicated that the Department of Finance and Deregulation has undertaken action to establish the location of records noted by Ms Berg. The Department of Finance and Deregulation advised the NAA that it had not located those records.<sup>18</sup>

### *Committee comments*

5.30 The committee has noted the efforts of the National Archives of Australia to locate the missing records. The committee wishes to record its grave disappointment that these significant and irreplaceable records are missing and are very unlikely to be recovered.

Senator Helen Polley  
**Chair**

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17 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 15.

18 National Archives of Australia, *Letter to the committee*, dated 20 June 2012.



# **APPENDIX 1**

## **Submissions and additional information received by the committee**

### **Submissions**

- 1 Mr Harold Guida
- 2 MS Australia
- 3 Department of Parliamentary Services
- 4 International Union of Architects (UIA)
- 5 National Trust of Australia
- 6 Joint Standing Committee on the Parliamentary Library
- 7 Mr Romaldo Giurgola
- 8 Mr Paul Cohen
- 9 Mr Peter Hicks
- 10 Mr Steve O'Neill
- 11 Mr Andrew Podger
- 12 Mr Michael Bolton
- 13 Ms M. Pamille Berg
- 14 Australian Institute of Architects
- 15 Australian Parliamentary Service Commissioner
- 16 Community and Public Sector Union (CPSU)
- 17 Australian Heritage Council
- 18 Mr Chris Bettle
- 19 Ms Anne Ferguson
- 20 Ms Rosemarie Willett
- 21 Mr Franco Colussi
- 22 Walter Burley Griffin Society Inc.
- 23 Mr John Smith

**Additional information**

- 1 Correspondence from the President of the Senate and the Speaker of the House of Representatives, received 14 September 2011
- 2 Department of Parliamentary Services, *Response to Questions on Notice* Additional information, received on 11 October 2011
- 3 Department of Parliamentary Services, *Valuation of Billiard Tables Located in Parliament House, Final Report*, September 2011 and Minute, Items with possible heritage value, provided 20 September 2011
- 4 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, provided 15 December 2011
- 5 Community and Public Sector Union, *DPS staff survey 2011: results*, tabled 2 May 2012
- 6 DPS People Management Paper No. 1.1 - Procedures For Investigating and Determining Breaches of the Code of Conduct
- 7 Department of Parliamentary Services, Email correspondence re: Comcare audit, tabled 2 May 2012
- 8 Mr Russell Grove, Acting Secretary, Department of Parliamentary Service, *Letter to clarify evidence provided to the Committee at the hearing of 2 May 2012*, dated 16 May 2012

**Answers to Questions on Notice**

- 1 Department of Parliamentary Services, *Response to Questions on Notice concerning staffing matters*, dated 19 January 2012
- 2 Department of Parliamentary Services, *Response to Questions on Notice taken at hearing of 2 May 2012*, dated 15 May 2012
- 3 Department of Parliamentary Services, *Estimates briefs*, received 15 May 2012
- 4 Department of Parliamentary Services, *Response to Questions on Notice concerning heritage and other matters*, dated 26 April 2012



## **APPENDIX 2**

### **Public hearings**

*Wednesday, 16 November 2011  
Members' Dining Room 3  
Old Parliament House, Canberra*

#### **Witnesses**

**Mr Romaldo Giurgola**

**Ms Pamille Berg**

**Mr Hal Guida**

*Wednesday, 2 May 2012  
Committee Room 2S1  
Parliament House, Canberra*

#### **Witnesses**

##### **National Trust of Australia (ACT)**

Mr Eric Martin, President

##### **Walter Burley Griffin Society**

Professor James Weirick, President

##### **Community and Public Sector Union**

Mr Alistair Waters, Deputy National President

Mr Leo Vukosa, CPSU Delegate, Department of Parliamentary Services

##### **Department of Parliamentary Services**

Mr Russell Grove, Acting Secretary

Mr David Kenny, Deputy Secretary

Dr Dianne Heriot, Acting Parliamentary Librarian

Mr Tristan Hoffmeister, Assistant Director, Heritage and Strategy, Strategy and Communications Section

Ms Karen Sheppard, Assistant Secretary, Corporate Services Branch

Ms Judy Tahapehi, Director, Strategy and Communications Section



## **APPENDIX 3**

**Extract from**

*Register of all furniture installed in the new Parliament  
House*



## **APPENDIX 4**

### **Department of Parliamentary Services response to billiard table audits<sup>1</sup>**

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1 Additional Estimates 2011–12, Department of Parliamentary Services, *Answers to questions on notice*, No. 60.

2 DPS commissioned the first of these—the initial internal audit by PwC, *Disposal of Equipment from the Former Staff Recreation Room*—following the May 2011 Budget Estimates hearing, directly as a result of questions raised by Senator Faulkner at the hearing. DPS received the final report in July 2011. The other two reports—a comprehensive *Review of asset disposal policies and practices*, conducted by an external consultant, Mr Rob Tonkin (the **Tonkin Review**) and an internal audit report to value billiard tables remaining and sold (*Valuation of Billiard Tables*)—were part of the response to the initial internal audit.

### ***Disposal of Equipment from the Former Staff Recreation Room***

#	Recommendation	DPS Response
1	DPS should consider undertaking valuations on the remaining billiard tables to gain an understanding of their origin, age and value.	<b>Agreed.</b> See audit report <i>Valuation of Billiard Table</i> . <b>Status: Complete</b>
	DPS should introduce a policy which formalises the Department's stance on whether to advertise that items are from Parliament House.	<b>Agreed.</b> DPS engaged an external consultant to conduct a comprehensive review of asset disposal practices (Tonkin Review).
	The assets disposal policy should be updated to require valuations of unusual sale items prior to them being disposed.	<b>Status: Complete</b>
2	Additional guidance on the definition and management of Heritage assets is required	<b>Agreed.</b> DPS included these factors in finalising the Parliament House Heritage Management Framework, which was approved by the Presiding Officers on 23 Nov 2011.  <b>Status: Complete</b>
	DPS should define cultural and heritage value and include this definition in the heritage framework that is currently being developed.	
	A definition of assets which may not meet the definition of cultural or heritage but could nevertheless be considered significant by sections of the community and a policy which guides their management, including disposal practices should also be developed.	
	Until the above framework has been developed and approved the Department may wish to specifically assess the heritage/cultural value of any items to be disposed of and specifically value all items for disposal, until this framework has been finalised.	
3	Updates to DPS Disposal Policy are required. DPS should update the current disposal policies and procedures to include the detail improvement recommendations.	<b>Agreed:</b> DPS included this recommendation in the parameters for the Tonkin Review. DPS has: (a) updated the Chief Executive's Procedure (CEP) on asset disposal to clearly identify the disposal officer's role and obligations; and (b) updated the Disposal Form to include an area to document reasons for the disposal, choice of disposal method and any assessments made on the proposed disposal method.  Work is underway (but not yet complete) on the development of a guide to staff on disposal. This guide

#	Recommendation	DPS Response
		<p>will be used in conjunction with the CEP and will provide detailed instructions and procedures on asset disposals in DPS</p> <p>Finally, DPS has reviewed the process for the selection of disposal agents and whether any additional contractual requirements were necessary. Improved contractual arrangements were identified and are about to be entered into.</p> <p><b>Status: partially complete—expected completion June 2012</b></p>
4	<p>Non compliance with the asset disposal policy has been noted. DPS should ensure that staff are aware of the requirements of CEP 4.3—<i>Disposal of public property</i> when undertaking disposals. To do so DPS should consider providing disposal training to staff who may be required to undertake a disposal. DPS should update the disposal form to include the detail improvement recommendations.</p>	<p><b>Agreed.</b> Using the findings of the Tonkin review, DPS strengthened the provisions in CEP 4.3 in relation to items which might have cultural or heritage values, and strengthened the disposal form.</p> <p><b>Status: Complete</b></p>

3 The Tonkin review of DPS asset disposal practices was initiated by DPS in response to recommendations made in the initial audit into the Disposal of Equipment from the Former Staff Recreation Room. DPS responses to the review's recommendations are as follows:

#### ***Review of asset disposal policies and practices***

Recommendation	Status
R1 The development, adoption and promulgation of a definition of heritage, cultural and artistic significance.	<p>The <i>Parliament House Heritage Management Framework</i> (approved in November 2011) includes the definition of heritage, cultural and artistic significance. This framework is available on the DPS staff portal and will form part of the training program being developed, reference R10.</p> <p><b>Status: Complete</b></p>
R2 An update of internal documentation to clarify the legislative authority on which DPS instructions and procedures are based.	<p>Governance Paper No.1 was updated on 15 November 2011 (now GP 2.1—<i>DPS Document Series</i>). Financial Paper No.1 is in the process of being updated.</p> <p><b>Status: Partially complete—expected completion April 2012</b></p>
R3 Amend the asset recognition criteria.	<p>DPS will be using its current financial management information system (FMIS) SAP to include all items with cultural or heritage significance. Configuration of the FMIS is underway.</p> <p><b>Status: Partially complete—expected completion June 2012</b></p>

Recommendation	Status
R4 The establishment of a consistent heritage assessment process to determine which additional items should be identified, recorded and managed as being items of heritage or cultural significance.	This process is outlined in the recently updated Chief Executive's Procedure (CEP) 4.3— <i>Disposal of Public Property</i> , para 10 (b).  <b>Status: Complete</b>
R5 Consideration of the establishment of a common policy and set of procedures and databases for the management of assets for Parliament House (ie across all parliamentary departments).	Discussions with Chamber departments yet to occur.  <b>Status: Not yet commenced—expected completion June 2012</b>
R6 The extension of the Art Services database to include all items of cultural or heritage significance.	Refer to status of R3  <b>Status: Partially complete—expected completion June 2012</b>
R7 & R8 An update of relevant procedures and forms relating to the disposal of items.	Amendments to the disposal form and CEP 4.3 were completed and approved on 31 October 2011  <b>Status: Complete</b>
R9 Disclosure of provenance on disposal of items.	This has been implemented and forms part of the policy outlined in CEP 4.3.  <b>Status: Complete</b>
R10 Additional training and awareness programs.	A new training program is currently being developed.  <b>Status: In progress—expected completion June 2012</b>

4 Also, in response to the recommendations made in the initial audit into the *Disposal of Equipment from the Former Staff Recreation Room*, DPS engaged PwC to value the sold and remaining billiard tables. PwC provided the results in its report, *Valuation of Billiard Tables*.

5 The report made no recommendations; but confirmed that the two sold tables were built in the 1987–88 period and the current market value for each table is between \$1,500 and \$3,000, excluding any provenance value connected to Parliament House.