

Changes to the Environmental Protection and Biodiversity Conservation Act will leave many heritage places in the ACT without adequate legislative protection.

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The December 2006 amendments to the EPBC Act and the Australian Heritage Council Act made very significant changes to the environment and heritage conservation landscape in Australia (For a broad overview of the changes see the ACNT article in this issue of Trust News). As well as all the changes that affect the whole country, there will be particular implications for heritage in the ACT. The repeal of the Register of the National Estate not only represents the end of an era and the loss of the only comprehensive heritage list in Australia, it also leaves many heritage places in the ACT with no statutory protection.

Currently, the Register of the National Estate (RNE) is the only mechanism to protect places in the ACT that are on designated land (owned by the Commonwealth) and therefore under the control of the National Capital Authority. Under the National Capital Plan, designated land must “have special characteristics of the National Capital.”¹ The Heritage Act 2004 (ACT) does not protect places on designated land. Places on this land fall under the federal jurisdiction and are therefore the responsibility of the federal authority, the NCA, rather than the ACT government, which cannot legislate to control activity on that land.



Duntroon Dairy, built c. 18., under threat with inadequate legal protection

The NCA is required under the Act ‘to take account of heritage listed places’ in its

¹ Australian Capital Territory (Planning and Land Management) Act 1988 - Sect 10 (1)

decision- making process, but there is no provision for public consultation and no explicit requirements to protect the heritage values of listed places. Examples of places that fall into this category of reliance on the RNE include:

- Canberra Olympic Pool
- City Hill
- Civic Square Complex
- Duntroon Woolshed
- Duntroon Dairy
- Hotel Canberra
- Hotel Kurrajong
- Yarralumla Woolshed
- St Johns Church Reid
- The Albert Hall
- Yarralumla Woolshed
- York Park North Tree Plantation

This issue was raised before the Senate Committee enquiry into the new environment and heritage laws. In giving evidence to the committee Dr Michael Pearson, the chair of the ACT Heritage council, said,

On designated land the planning authority is the National Capital Authority. There are at least 20 places around the central national area which are within designated land. While the ACT can put them on its register it has no impact, no effect, in terms of the ACT planning laws. They cannot go on the Commonwealth Heritage register because they are not managed by a Commonwealth authority. They are not of sufficient significance to go onto the national register (The National Heritage List).

In considering the amendments the Senate committee, which has a majority of government Senators, recommended that:

The government investigate the issue of heritage properties within the ACT that are located on designated commonwealth land to ensure their protection and heritage status are not compromised with the repeal of the Register of the National Estate.

In spite of the fact that it was government Senators making the recommendation, the government failed to make amendments to address the issue and passed the legislation without amendment.

There is a five year delay until the RNE is actually abolished as a statutory list. This is to give the States and Territories time to fill in the gaps created by the abolition of the RNE and to ensure that places of heritage significance are protected under State/Territory schemes. Given

that the ACT government does not have the jurisdiction to do anything for this group of heritage places, it will be interesting to see if the federal government can meet the obligations it has imposed on the State/Territory governments and legislate to ensure the continuing recognition and adequate protection of ACT heritage places.