



LAKE BURLEY GRIFFIN
GUARDIANS INCORPORATED

National Capital Authority decision on Australian War Memorial Early Works: Request for Statement of Reasons under the *Administrative Decisions (Judicial Review) Act 1977*

To: Works Approval Team, National Capital Authority

This request is made under Section 13 of the *ADJR Act* and we believe that we have the required standing to do so.

I refer to the submission from Lake Burley Griffin Guardians (LBGG) and to your publication of the *Consultation Report WA No102272 for the Australian War Memorial Early Works*, on Website of the National Capital Authority dated 7 May 2021.

I request that you provide us with a Statement of Reasons in writing:

- setting out the findings of the Authority on material questions of fact regarding the Memorial's works approval application;
- referring to the evidence or other material on which those findings were based; and
- giving the reasons for the decision.

The NCA considered submissions on the AWM Early Works that addressed their responsibilities as set out in the National Capital Plan (NCP). The Lake Burley Griffin Guardian's submission to the Authority specifically referred to the failure of the NCA to address its own policies (NCP Item 2.4 Principles for Objective two – Urban design and heritage, 2.4.4 a- e) (Refer Attachment A).

Please provide evidence on findings and reasons for your decisions on the following matters:

In our view, the proposed development, within the Designated Area, is **not** consistent with the Burra Charter as required in the NCP. The proposal and the process of determining appropriate works are grossly inconsistent with following the suite of Burra Charter Articles:

- 2 Conservation and Management
- 3 Cautious Approach
- 5 Values
- 6 Burra Charter Process
- 7 Use
- 8 Setting
- 10 Contents
- 17 Preservation
- 21 Adaptation

22 New Work
24 Retaining Associations and Meaning
26 Applying the Burra Charter process, and
27 Managing Change.

These NCP obligations are separate to those assessed under the *EPBC Act* by Minister Ley in approving the action referred, and even if there be some overlap, these obligations need to be seen to be considered by the NCA to ensure their legal obligations have been met. This is particularly so as the Minister is able to take into account a range of matters in her referral consideration (see *EPBC Act* s5.03A) and the NCA's compliance with, its guiding document, the NCP, is not necessarily one of them. The NCA has simply stated in its Consultation Plan WA No 102272 (2021:10) that 'the approval by Minister Ley satisfies the heritage conditions of the (National Capital) Plan'. Please explain how that is so?

The following points were made in our submission relating to the NCP (Item 2.4.4.e) and the Burra Charter Articles 2,3,4,5,6, 8,10 which should have been applied but were not addressed in the NCA's Consultation Report and there has been no evidence from the NCA that these points have been addressed.

- The lack of a full cultural heritage landscape impact assessment required for the entire NHL place being the 'AWM and Memorial Avenue'. This omission is inconsistent with the Burra Charter Articles 2,3,4,5,6, as well. of the NCP.
- The National Heritage Listed Place, of the 'AWM and the Memorial Avenue' is one, integrated heritage place and the heritage values of the designed landscape of this nationally listed place were not fully considered. There should have been a specialist assessment of the 'AWM and Memorial Avenue's' cultural landscape including a heritage impact study that included the Memorial Avenue.
- The importance of the existing landscape design with the straight pathways directly fanning out from the Memorial, linking to the Memorial Avenue is unrecognised. We noted that the new landscape design does not respect the clear design of the existing heritage landscape pathway layout. That comment was ignored in the Consultation Report and this is inconsistent with the Burra Charter Articles 2,3,4,5,6,
- The Guardians noted the importance of the planted trees in the place's cultural landscape. In the consultation report, the NCA has provided their generic comment on tree planting based on their perceived requirement of the *EPBC Act*. However, the trees in the forecourt of the AWM are trees making a contribution to a cultural landscape that should also be addressed through a heritage cultural landscape impact assessment as per Item 2.4.4 e, and the Burra Charter Articles 8 and 10. That assessment does not appear to have been undertaken and is not referred to if it has been. The culturally significant trees in this case are the *Eucalyptus maidenii*, being a smaller species of Blue Gums to those on Anzac Parade but visually linking the Memorial Avenue with the AWM. The Consultation Report notes replacing all trees with endemic, local, unspecified species without acknowledging how appropriately *E.maidenii* fits with the overall, intended design of the cultural heritage landscape and that it is a species that has performed well in the Canberra environment. Furthermore, *E.maidenii* is present at the opposite end of the Land Axis vista adjacent to Old Parliament House, thus linking each end of the Land Axis Vista. These trees are culturally designed elements of the larger cultural heritage landscape that should not be replaced with another species, even if a local one.

Please advise LBGG how the Authority's approval addressed these matters. In particular, what findings of fact were made, what was the evidence and what were the reasons for not accepting these objections?

A handwritten signature in black ink that reads "R. G. Morrison". The signature is written in a cursive style with a long horizontal stroke at the end.A handwritten signature in blue ink that reads "Juliet Ramsay". The signature is written in a cursive style.

Richard Morrison and Juliet Ramsay
Lake Burley Griffin Guardians
25 June 2021

National Capital Plan

2.4.4 Principles for Objective two – Urban design and heritage

- a. The National Capital Authority will consider heritage places in Designated Areas as Commonwealth Areas for the purposes of protecting the environment in the manner currently afforded under the *Environmental Protection and Biodiversity Conservation Act 1999 (EPBC Act)* and any subsequent legislation.
- b. Within Designated Areas, the National Capital Authority may require Heritage (or Conservation) Management Plans to accompany development applications for heritage places which should be prepared to meet requirements equivalent to those in the *EPBC Act*. The National Capital Authority may require Heritage Impact Statements to accompany development applications for a heritage place.
- c. Development should be consistent with the requirements of any relevant Heritage (or Conservation) Management Plan for that particular place.
- d. The management of heritage places should ensure that their use and presentation is consistent with their heritage values. Heritage places will be presented and interpreted to increase public awareness, understanding and enjoyment of the natural and cultural heritage of the National Capital and its conservation, subject to any reasonable requirements for privacy or confidentiality.
- e. The National Capital Authority will adopt the Australian Natural Heritage Charter and the Burra Charter as key guiding documents respectively for natural and cultural heritage places within Designated Areas.