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PATRON: The Hon Margaret Reid AO

EPBC Act Review Secretariat

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Dear Sir/Madam

Introduction

The National Trust of Australia (ACT) is a non-government, non-profit, community organisation incorporated as a public limited company under the Australian Corporations Law (ACN 008 531 182). Membership is open to any individual, family, business or organisation.

Our purpose is to promote the conservation of, and foster public knowledge about, places, objects and issues that are significant to the heritage of the Australian Capital Territory.

The Trust therefore maintains several core values. These include:

- committing to heritage conservation, education, celebration and promotion, and defending of a sense of place in a changing world
- enabling the diverse range of members, supporters, staff and the community at large to participate and collaborate in the Trust's activities and business, encouraging debate, and valuing their participation and opinion
- working in a collegial fashion with like-minded organisations locally, nationally and internationally, to contribute to heritage policy development
- demonstrating integrity and ethics through the highest standards of governance

We welcome this current review of the EPBC Act 1999 and is appreciative of being able to provide recommendations to be considered for the future applications of the Act.

Our submission is presented in three parts:

- Cover letter (as required)
- Introduction
- Recommendations pertaining to the operation of the EPBC Act

Yours faithfully

Gary Kent
President
17 April 2020

NATIONALTRUST OF AUSTRALIA (ACT)

Recommendations pertaining to the operation of the EPBC ACT

- The Australian Heritage Council should be given stronger assessment and decision roles.

Under the present system the referral assessment of a planned development rests with the Department of Environment and the decision to refer or not to refer a development under the Act rests with the minister. The role played by the Australian Heritage Council in the referral process is unclear. The Australian Heritage Council should be given a stronger statutory power to assess and approve a referral.

- What are the determinants for a Federal/State/Territory bi-lateral agreement to allow the states/territories to carry out a conservation/environmental impact determination?

Bi-lateral agreements should be made solely on the heritage values of a place and free from political considerations and intervention. When a decision is to be made by a state/territory under a bi-lateral agreement it should meet with the approval of the Australian Heritage Council and should involve assessment by a professional and independent body.

- A future EPBC Act should have provisions to determine and assess the levels of climate change impacts on a development.

There is no assessment trigger in the Act for referrals addressing the impact a development would have under the current climate change conditions we are experiencing. The inclusion of a climate change trigger requiring Commonwealth assessment of a project with potential or real climate change impact must be included as an addition to the current nine triggers already in the Act.

- Is the National List of places representative of Australia's natural and social evolution? What places/themes are low in representation

The growth of the National List has been painfully slow since 2011-2016 with only twelve new places added leading to a total of 106 places and at the end of 2019 there are currently 116 places with 14 places under assessment. Assuming that the 14 places under assessment are to be added to the list in the near future, the National Heritage listing representing places of outstanding significance to the nation as expressed on the ANHL website will be just 130 places. Or, to put this another way, since the inception of the Australian National Heritage List in 2003 just 130 places of outstanding values have been inscribed on a list. This hardly seems adequate to represent Australia's natural and cultural evolution today especially so given that humans have been occupying the country for at least 65,000 years.

<https://www.environment.gov.au/heritage/places/national-heritage-list>

- The Australian Heritage Council to have stronger statutory powers and a decision-making role and be better funded and resourced as has been the case since the EPBC act was instituted.

The decision to include or not include a nominated place on the National Heritage List, or remove an existing place from the List should be vested in an independent and appropriate professional body and not rest wholly with the minister.

- Heritage protection in Australia requires a stronger and responsible commitment from the Commonwealth for places on the National and Commonwealth lists.

This commitment should be derived and underlined by advice from the Australian Heritage Council. The Commonwealth and States/Territories should use to their full extent their legislative powers to protect places identified as having heritage significance.

- Adequate time period and availability of all documents relating a referral to be made available to comprehensibly inform the public on a referral und the EPBC Act.

The National Trust has noted with some past referrals that the time period for community consultation and comments has extended over holiday periods such as the Easter period, Christmas period and the holiday period of January. These periods are when many members of community and not for profit organisations are absent on holiday breaks and are unable to give quality and informed comment on referrals, particularly when there may be impacts on the heritage integrity of places. The National Trust recommends that close consideration be given to deadlines for comments which do not cover such holiday periods.

The Trust also strongly recommends that all documentation relevant to a referral be made available at the beginning of the community referral period and extend through to the end of the period. This will enable better informed, practicable and professional advice and comment to the referral process.

- Adaptive reuse of a building or place should be a foremost consideration in sustainable conservation.

Conservation and the sustainability of a place needs to consider all aspects of prior and future energy expenditure and usage particularly when considering heritage places. This needs to include the energy cost of demolition and manufacturing as well as the running of and maintaining buildings. These factors need to be assessed before any decision is made re the future of the heritage asset.