

The New Model

- 4.1 While the evidence presented to the JSCNCET raises valid arguments for the reform of the CNMC, the Committee argues that the CNMC and the Ordinance should be abolished. The membership of the CNMC as currently constituted is not effective and any reforms are unlikely to make its operation more effective. A number of submissions have highlighted the problems of involving senior parliamentarians in the approvals process, and the high risk of bureaucratic capture, under the current Ordinance.
- 4.2 On the other hand, the Washington model provides a framework for direct legislative involvement, expert management and effective public consultation.

The Washington Model

- 4.3 Washington DC shares with Canberra the attributes of being both a national capital and a planned city. As an expression of national aspirations in itself, and a site for commemoration of the nation's history, Washington, like Canberra, is subject to a detailed planning regime which must balance the legacy of the past with the requirements of the present and the possibilities of the future. Part of this is dealing with the challenge of choosing appropriate subjects for commemoration and choosing suitable designs and locations for new monuments and memorials.
- 4.4 The *Commemorative Works Act 1986* specifies requirements for the development, approval, and location of new memorials and monuments in the District of Columbia and its environs. The Act preserves the urban design legacy of the historic L'Enfant and McMillan Plans by protecting public open space and ensuring that future memorials and monuments in

areas administered by the National Park Service and the General Services Administration are appropriately located and designed. Specifically, the *Commemorative Works Act*:

- Defines commemorative works
- Provides guidelines for the subjects of commemorative works, such as national significance
- Separates the legislative process from the site and design process
 - ⇒ Requires Congress to authorise each new commemorative work (subject) by separate law
 - ⇒ Requires the National Capital Planning Commission (NCPC) and the US Commission of Fine Arts (CFA) to approve site and design
- Establishes a hierarchy of sites
- Establishes the National Capital Memorial Advisory Commission (NCMAC), which advises the Secretary of the Interior, Congress, and sponsors on topics related to commemoration
- Precludes the acknowledgement of donors on the sites of commemorative works
- Authorises NCPC and CFA to jointly develop design guidelines.

4.5 When amended in 2003, the Act established a Reserve, or no-build zone on the National Mall, a proposal called for by the NCPC in its 2001 Memorials and Museums Master Plan.¹

4.6 The membership of the various bodies charged with the work of guiding memorials through the approvals process is diverse. NCMAC consists of:

- Director of the National Parks Service
- Architect of the Capitol
- Chairman of the American Battle Monuments Commission
- Chairman of the Commission of Fine Arts
- Chairman of the National Capital Planning Commission
- Mayor of the District of Columbia
- Commissioner of the Public Buildings Service of the General Services Administration

¹ National Capital Planning Commission, Submission no. 40, pp. 1-2.

- Secretary of Defense
- 4.7 The NCMAC advises the Secretary of the Interior and the Administrator of General Services on policy and procedures for the establishment of, and proposals to establish, commemorative works in the District of Columbia and its environs and on other matters concerning commemorative works in the national capital as the Commission considers appropriate.
- 4.8 Commemorative works may only be established on federal land as specifically authorised by law. In considering legislation authorizing commemorative works in the District of Columbia and its environs, the Committee on Natural Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate are expected to solicit the views of the NCMAC.
- 4.9 The National Capital Planning Commission comprises 12 members. Commissioners represent federal and local constituencies with a stake in planning for the nation's capital. The President appoints three citizens, including the Chair. At least one member must reside in Virginia and another in Maryland. The Mayor of the District of Columbia appoints two citizens, who must be residents of the District of Columbia.
- 4.10 Remaining members serve ex-officio. These include the:
- Mayor of Washington, DC
 - Chair of the DC City Council
 - Heads of Executive Branch agencies with significant land holdings in the region (Secretary of Defense, Secretary of the Interior, Administrator of General Services)
 - Leaders of the U.S. House and Senate committees with DC oversight responsibility (Senate Committee on Homeland Security and Government Affairs, House Committee on Oversight and Government Reform)
- 4.11 Ex officio members usually appoint alternates to represent them at Commission meetings.
- 4.12 In evidence before the Committee, Mr Marcel Acosta, Executive Director of the NCPC, highlighted the benefits of this broad membership base:
- I think it is very important to have a broad based commission with a variety of interests that can review a project from their various perspectives. For instance, while obviously we are the nation's capital, having local representatives on our commission brings to

our meetings a lot of local issues and also a variety of points that they could raise in terms of how the memorial may fit into their city's master plan as well as the impacts such memorials may have on the various neighbourhoods that they are housed in. So they do bring a very important perspective to the table. By having other federal agencies such as the National Parks Service representatives or Department of Defense representatives you see they can also bring to the table their experiences in terms of how this fits into, for instance, a park or the historic nature of that park. Also, it can even bring in issues in terms of how to maintain it over time, which are very important issues. Also, some of the other members are presidential appointees or members of Congress and that brings into the discussion the importance of the memorial from a national narrative standpoint. So having that discussion and bringing all the various points of views to the table is a very important part of our process and I think it is something that makes our process work very effectively.²

- 4.13 Another important aspect of the Washington model is the inter-relationship between the various bodies working within the memorials approvals process. For example, the link between the NCPC and NCMAC ensures a level of integration between the various stages of the approvals process:

The chairman of the National Capital Planning Commission has a seat on the National Capital Memorial Advisory Commission. The benefit of that is that, at the very earliest stages for NCMAC, NCPC has an opportunity to weigh in on the types of issues that it will be interested in looking at as the project develops. We find that that is one of the best ways to sort out any controversial issues or any matters that we know will be of importance. It is important to note, though, that NCPC is not bound by a decision of the National Capital Memorial Advisory Commission, because that body is advisory. So we can always go back and re-examine matters once they come before the commission.³

- 4.14 The system of delegation, where high office holders delegate their role to expert officials, was also seen as a strength of the Washington model. Mrs

2 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 2.

3 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 8.

Lucy Kempf, Urban Planner, Policy and Research Division, NCPC, explained:

For example, the mayor brings the State Historic Preservation Officer, who is very familiar and involved with local District of Columbia views and is an expert in memorial design. The Secretary of Defence usually brings to the table a person who is Chief of Land and Facilities Planning. So they bring the subject-matter experts to the table.⁴

4.15 Mr Acosta continued:

Also, given the fact that the responsibility of that commission is to opine on the subject matter for the proposed memorials – their appropriateness in terms of being a permanent memorial – bringing in the subject-matter experts helps make the determination in a clear fashion. Those are delegated responsibilities but the process does work well because the response back to Congress is typically based on professional guidance.⁵

4.16 The process by which memorials are approved falls into two basic phases, dealing with subject, then design and location. In the first phase, the sponsors of a proposal seek congressional approval for the subject for commemoration. In evidence before the JSCNCET, Mrs Kempf stated:

Usually the non-profit or constituency group will approach a single senator or representative and they will introduce the legislation. That will then go to the National Capital Memorial Advisory Commission, which is that diverse body Mr Acosta described earlier. They will provide views on whether or not the subject that is proposed meets the standards of the Commemorative Works Act. That is a public meeting, so there is an opportunity there for public input. From that point it goes back to congress and then it is for them to decide whether or not to pass a law that authorises that subject.⁶

4.17 Approval is then granted by Act of Congress.

4 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 7.

5 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 7.

6 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 5.

- 4.18 In the second phase, the National Capital Planning Commission and the Commission of Fine Arts determine the location and design of memorials.
- 4.19 A sponsor authorized by law to establish a commemorative work in the District of Columbia and its environs may request a permit for construction of the commemorative work only after the following requirements are met:
- Consultation – The sponsor must consult with the National Capital Memorial Advisory Commission regarding the selection of alternative sites and design concepts for the commemorative work.
 - Submittal – Following consultation in accordance with clause (1), the Secretary of the Interior or the Administrator of General Services, as appropriate, must submit, on behalf of the sponsor, site and design proposals to the Commission of Fine Arts and the National Capital Planning Commission for their approval.
- 4.20 Decisions on subject matter are made against the guidelines within the *Commemorative Works Act 1986*. Decisions on location are made according to the Memorials and Museums Master Plan. This Plan:
- Identifies the 100 most suitable sites for future memorials and museums
 - Describes and evaluates site conditions
 - Establishes a commemorative zone policy for siting memorials and museums
 - Inventories existing memorials and museums
 - Forecasts demand for new museums and memorials
- 4.21 NCPC develops the plan in consultation with the two other review bodies that approve the location and design of commemorative works on federal land – the Commission of Fine Arts and NCMAC.
- 4.22 Two important features of the Washington model are Congressional approval and private sponsorship. As Mr Acosta explained to the Committee:

One of the key factors in siting memorials in the nation’s capital here in Washington is really that it is up to Congress first of all to make that determination. The second issue that distinguishes our process is that these memorials are proposed typically by outside groups or sponsors. The sponsors are responsible in almost all of the cases for fundraising to build the memorial and establishing a reserve fund to maintain it. I think it is somewhat different from

other countries, but in this case the process is initiated by an outside body that go to Congress to get legislation put forward and approved in order to have the memorial process triggered and then it moves forward in terms of a site design and review process.⁷

4.23 In Washington, the costs of memorials are met by the sponsors, who must also meet the cost of ongoing maintenance by allocating ten per cent of construction costs to this purpose. The memorial becomes the property of the National Park Service, which is responsible for care and maintenance in perpetuity. The cost of construction and the stringent rules for national memorials set out in the *Commemorative Works Act 1986* combine to ensure that the number of potential memorials is not in serious danger of surpassing the available sites.⁸

4.24 Projects are subject to the conditions set out in the *Commemorative Works Act 1986* and the guidance given to Congress by NCMAC. Proposals approved by Congress are then subject to the guidance of the NCPC. Mrs Kempf explained to the Committee

If it is a subject matter question then sometimes the proposals are refused because they do not meet the standards of the Commemorative Works Act, which provides very broad guidelines – for example, about the subjects of memorials. They should relate to an American experience. There are some timing restrictions in there that say that, if you are honouring a person or an event, a certain amount of time has to have passed. If the proposal does not meet these standards they initially will provide some guidance to congress, through the National Capital Memorial Advisory Commission, recommending that the proposal be changed or dismissed. Site selection and design is a process where the designs change over time and we work very closely with the sponsors. So they are not usually rejected but just modified through a design process.⁹

4.25 Another key feature of the Washington model is the attention given to heritage issues – the impact of proposals on the overall historic design of

7 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 1.

8 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, and Ms Christine Saum, Chief Urban Designer & Acting Director, Policy and Research Division, *Transcript of Evidence*, 12 October 2011, pp. 5, 6.

9 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 3.

the city, upon particular existing heritage values and upon particular localities. Harmonising past and present is an essential part of the NCPC's work:

In the law that establishes the Commemorative Works Act there is a great deal of deference to the city's historic plans, including the L'Enfant plan, which is similar to the Walter Burley Griffin plan for Canberra. From our commission's standpoint we are very thorough in our analysis of how a memorial may affect the historic plans of the city in terms of the impacts on streets or parks or open space and also how it may affect the National Mall in terms of its historic aspects. We take that very seriously in our review. It is a very important part of our review process. We try to work it in a way that makes sure that whatever is developed and whatever is finally put up is respectful of its setting but also allows some flexibility and creativity to be exhibited in the memorial. There is always that tension that we are trying to deal with. It is a negotiation process between the sponsors and the various commissions that allow it to happen.¹⁰

4.26 Public consultation is also an integral part of the Washington model. Mr Acosta told the Committee:

In the creation of the legislation it obviously goes through a legislative process where Congress hears, through testimony and other means, from supporters and people who may oppose the memorial. It goes through that process. Within our process at the National Capital Planning Commission we do have public hearings where the public is invited to testify with respect to a memorial in terms of the location, for instance, or the design of the memorial. I think our sister agency, the Commission of Fine Arts, also does the same. With the National Capital Memorial Advisory Committee there are opportunities for the public, when that committee is making recommendations back to Congress, to also provide testimony with respect to the memorial even before Congress approves it. So there are multiple venues for the public to take in a discussion about how a memorial fits into the national narrative as well as issues with respect to its location and its design.¹¹

10 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 6.

11 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, pp. 1-2.

4.27 Typically, the NCPC conducts a formal overview of a project, with staff giving a recommendation to the Commission as to how and where a project should proceed. There is time set aside at the meeting of the Commission for the public to provide testimony. The public can also present testimony to the NCPC as part of its deliberations.¹² Having input from the local communities within Washington DC is seen as an important part of the memorials approval process:

We do have people from the communities and civic organisations who are based in DC come and testify at our commission meeting. I think that is one of the things that we try to do. Even if areas such as the National Mall are essentially of federal or national interest and are supposed to be places where the national stories are supposed to be told, they are also very important places for local residents to congregate to relax, as there are recreational areas. Also, there may be national parks in neighbourhoods where these memorials are located and the community residents have a vested interest in terms of what is developed and what may come out of this process. So we do feel that having residents of the District of Columbia or of the hills communities come in and bring their thoughts to the table is a very important part of the process and we do have that sort of participation at our meetings.¹³

4.28 The NCPC was also focussed on innovation, on looking at memorials from a holistic point of view and seeing commemoration in a more broadly representative way. Mr Acosta told the Committee:

Just to elaborate on that: from our staff perspective as well as the National Park Service's perspective, we've undertaken a major study of commemorative works in the national capital. We're really looking at it from what is there today, trying to analyse from a percentage standpoint – as Christine [Saum] mentioned, many of our memorials are military memorials – and trying also to get into the public's mindset that there are other types of memorials out there that may or may not be represented in the national narrative and that there may be opportunities to put those forward. But you have to construct the basic research first and let people know what is there today, in order to start having that discussion. Hopefully, over the next couple of years, by publishing this report and having

12 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 2.

13 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 2.

discussions with members of Congress and others who might be interested to look at the state of commemoration today we can move that forward in terms of whether there are other things we should be thinking about to complete this narrative.¹⁴

- 4.29 As Mrs Kempf explained to the Committee, one innovation was the idea of temporary memorials. The NCPC was currently looking at 'a competition among artists and designers that would explore...how a temporary display can effectively convey perhaps similar issues as permanent memorialisation but in a very different way'.¹⁵

Committee conclusions

- 4.30 The JSCNCET is of the view that any attempt to reform the Ordinance is an attempt to take a decision-making process relevant to the Canberra of the 1920s and adapt it to modern democratic expectations. However, that CNMC model is simply too unsuitable for it to be useful. Indeed, one could argue on the basis of the CNMC's history, that the CNMC has long ceased to have a meaningful role in the development of Canberra.
- 4.31 Traditionally, the status of the senior parliamentarians was seen as giving the CNMC a weight and national perspective fitting for something of such lasting national significance as National Memorials. As a matter of principle, this is a very attractive concept. However, as the senior parliamentarians appointed to the CNMC have not always been able to fulfil their role, much of the decision making has been left to officials. Whatever one may think of the results, this outcome is clearly the opposite of what was originally intended under the Ordinance.
- 4.32 Passing responsibility to less senior members of parliament should have the effect of increasing the practical effectiveness of the parliamentary membership of the CNMC, but possibly at a cost to the status of the Committee. Removing parliamentarians altogether from the membership of the Committee may also increase its effectiveness, but this would only reduce parliamentary engagement even further. The use of delegations, as suggested in the Department of Regional Australia's submission, does not obviate this problem – it merely moves it to persons with a lower level of responsibility and authority.

14 Mr Marcel Acosta, Executive Director, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 5.

15 Mrs Lucy Kempf, Urban Planner, Policy and Research Division, National Capital Planning Commission, *Transcript of Evidence*, 12 October 2011, p. 7.

- 4.33 Alternatively, by applying the Washington model to the local situation, effective parliamentary involvement could be regained.
- 4.34 The JSCNCET believes there is much to commend it in the Washington model. There is effective congressional involvement, through the initial legislative process and the participation of committee chairs on the various Commissions. There is effective public involvement, through public input at the various stages of the process. A variety of interests are represented in the various Commissions. No one entity dominates the process – diversity of views is not merely required but probably inevitable. There is a clearly established legislative framework, and detailed planning of commemorative works and available public space. There is also a high level of expert input into the approvals process.
- 4.35 There are, of course, difficulties in translating the Washington model to the Canberra scene. The National Capital Authority is effectively the only planning agency in the Parliamentary Zone, and would have to fulfil a number of the roles found within the Washington model, thus foregoing one of the central attributes of the Washington model – the diversity of inputs. The US apparatus is too large for Canberra, so could not be easily replicated. Creating diversity of views and inputs here would require a different set of arrangements.
- 4.36 Nonetheless, there are a number of features of the Washington model that are directly relevant to Canberra. Firstly, the importance of legislation underpinning the Washington model. This sets out in law what can be commemorated, broadly how and where it can be commemorated, what processes have to be gone through, and who is responsible for doing what in the process. A clear lesson for Canberra is that, at the very least, the *National Memorials Ordinance 1928* could be reformed to cover some or all of these issues and/or the *Guidelines for Commemorative Works in the National Capital* could be revised and made a legislative instrument, probably as an Appendix to the National Capital Plan.
- 4.37 Washington's Memorials and Museums Master Plan provides a strategic framework in which all proposals for new memorials may be placed. The mapping of memorials ensures that planning authorities and the public know what has been commemorated and where, and thus what can be commemorated without duplication or inappropriate location.
- 4.38 Importantly, the Washington model provides for the effective involvement of the local government and local community without loss of the overall national perspective. It also provides effective mechanisms for public

consultation and input through a range of agencies at various stages of the process.

- 4.39 Heritage management and planning are a priority. The *Commemorative Works Act 1986* protects Washington as both a planned city and as the national capital. A high value is placed on the city's original plan. Memorial proposals must meet stringent requirements in respecting the integrity of the original plan and the heritage value of the existing landscape.
- 4.40 The distribution of costs between sponsors and the National Parks Service is, from the Canberra perspective, an interesting innovation. Requiring proponents to contribute to the maintenance of memorials through a contribution of ten per cent of the overall cost seems fair and reasonable.
- 4.41 The JSCNCET also approves of the rule providing that no donor names appear on a memorial.
- 4.42 Lastly, the JSCNCET was impressed by the spirit of innovation shown in Washington in terms of seeking new ways to commemorate the past. Looking at the commemorative landscape from the point of view of what had *not* been commemorated can only lead to a more representative range of commemorative subjects, ones reflecting on society more broadly, not just the traditional range of memorial subjects. Other innovations, such as the use of temporary memorials, are also fertile ground for exploration.

The way forward

- 4.43 The JSCNCET proposes a new process for approving significant National Memorials and National Monuments in Canberra, a hybrid of the present National Memorials process and the process used in Washington DC. The process would involve a two-pass assessment, the first pass focused on commemorative intent, the second pass on character and location (see Figure 4.1).

First pass assessment

- 4.44 Each proposal for a National Memorial would in the first instance require a motion to be introduced in each House of Parliament approving the commemorative intent of a proposed National Memorial. The proponents would seek a sponsoring Member or Senator who would be responsible for the introduction and the passage of the motion.
- 4.45 Following the introduction of the motion, the memorial proposal would be referred to the JSCNCET for consideration and report. The National

Memorials Advisory Committee (NMAC), an advisory committee appointed to assist in the evaluation of each memorial's commemorative intent (see below), would ensure that the proposal complied with new *Criteria for Commemorative Works in the National Capital*, a revised, more prescriptive version of the current Guidelines. The National Capital Authority would be responsible for assessing the proponent's budget for the design, construction and maintenance of the proposed National Memorial, and capacity to finance the proposal. The approvals by NMAC and the NCA would form the basis for a report by the JSCNCET on the commemorative intent of the proposal. Upon the JSCNCET's report, the motion would proceed at the pleasure of Parliament, and, if passed, the commemorative intent of the proposed National Memorial is approved.

- 4.46 Once conceptually approved, the task of identifying a location for the memorial and initiating a process for its design would pass to the National Capital Authority. This would involve extensive public consultation, independent expert input, and the gaining of environmental and heritage approvals. The proponent of a memorial may be charged with sponsoring, or even funding, a design competition, but with the NCA remaining responsible for approval of any outcome of this process.

Second pass assessment

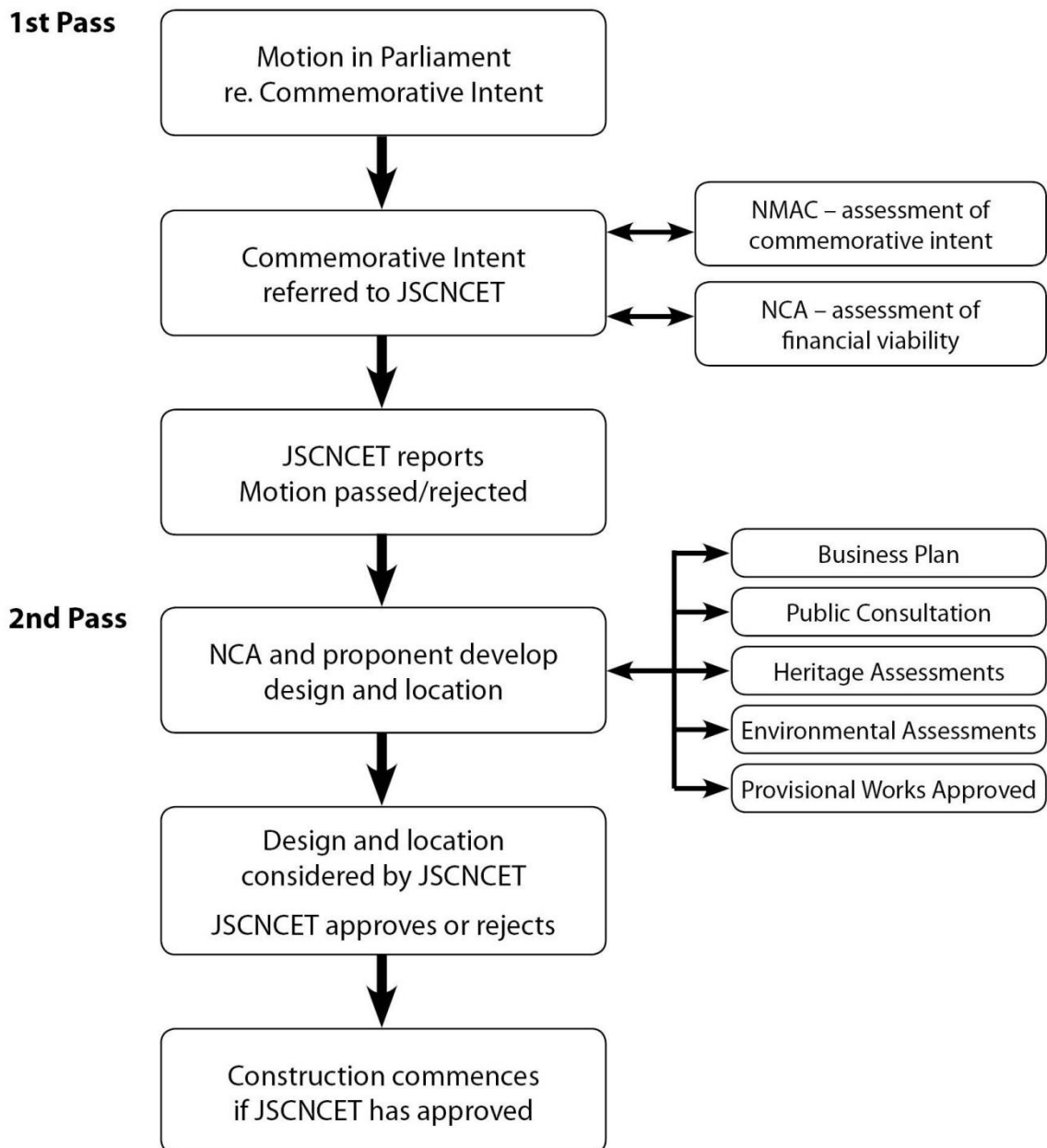
- 4.47 Once a design and location have been settled, the proposal would once again be referred to the Joint Standing Committee on the National Capital and External Territories for consideration and approval on behalf of the Parliament. If appropriate, the Committee would invite submissions from the public and undertake public hearings.
- 4.48 This second approval by the JSCNCET would not require further debate in either House. The Committee's endorsement of design and location would be the final approval required for the project. This would require specific legislative action to give the JSCNCET authority to act on behalf of Parliament. At this point construction can commence if funding is secured.

Commemorative Works Act

- 4.49 This process would be underpinned by an Australian version of the *Commemorative Works Act 1986*, which would set out the process in detail.
- 4.50 An Australian Commemorative Works Act would:
- Define a commemorative work

- Define the legislative process by which commemorative intent is established and approved by Parliament
- Establish and define the responsibilities of the National Memorials Advisory Committee

Figure 4.1 Proposed assessment process for commemorative works.



- Give legal standing to the *Criteria for Commemorative Works in the National Capital*
 - Define the process to establish the character and location of a proposed National Memorial, including:
 - ⇒ the responsibility of the National Capital Authority
 - ⇒ the public consultation process
 - ⇒ mechanisms for seeking independent expert input
 - ⇒ the timing and nature of environmental and heritage approvals
 - The responsibilities of proponents in meeting design, construction and maintenance costs, including providing ten per cent of the overall costs towards ongoing maintenance of the new National Memorial.
- 4.51 The Act would also define the role of the JSCNCET in the final approvals process for National Memorials.
- 4.52 The definition of ‘commemorative work’ would encompass both National Memorials and National Monuments as currently defined by the National Capital Authority. The Act would not, however, apply to minor commemorative works, such as plaques or individual trees outside the Parliamentary Zone.
- 4.53 The Act would have the *Criteria for Commemorative Works in the National Capital* incorporated as a schedule, and the JSCNCET recommends, as per Chapter 3, that these Criteria be revised in line with the findings of this report. The Act would also incorporate a Memorials Master Plan as a schedule, as per Chapter 3, the Master Plan to include mapping of existing memorials, and potential sites for new memorials in accordance with the Guidelines.
- 4.54 The Act would require the NCA to maintain a register (published on a specific National Memorials website) of all National Memorial proposals, including their current status, and all relevant decisions and approvals, along with all supporting documentation, including:
- Independent expert advice
 - Public submission
 - Reports of public consultations
- 4.55 The Act will require memorial proponents to undertake the following tasks:
- Develop a design competition brief (if necessary)

- Run a public design competition (if necessary)
- 4.56 The Act will require memorial proponents to undertake the following steps in conjunction with the NCA (as per Chapter 3) after the passage of the motion approving commemorative intent:
- Identify possible locations
 - Conduct mandatory public consultations
 - Seek planning advice from relevant authorities and, if required, advice from relevant government agencies
 - Have assessments made under the *Environment Protection and Biodiversity Conservation Act 1999*
 - Develop draft conservation management plans and/or heritage impact statements for proposed sites, if required
 - Develop the budget and business plan for construction, maintenance and associated infrastructure costs.
- 4.57 The National Memorials Advisory Committee would be as proposed in Chapter 3, and consist of recognised experts in a range of disciplines, including history, heritage, architecture and planning, representatives of veterans and the services, and representatives of organisations with a strong focus on Australian history and culture at a national level (such as the National Gallery of Australia, National Library, National Museum, National Archives, National Portrait Gallery, Museum of Australian Democracy, National Film and Sound Archive, National Maritime Museum, High Court of Australia, Australian War Memorial or the relevant Commonwealth Department). It would also have one representative of the ACT Government, appointed on the recommendation of the ACT Chief Minister, and be chaired by a representative of the National Capital Authority. Membership would vary depending on the nature of the proposed National Memorial.
- 4.58 The Act would place restrictions on donor names to prohibit the appearance of donor names or names of relatives on or near National Memorials and National Monuments, except where the specific object of the commemoration – its commemorative intent – is individuals, families of groups that have been found to be worthy subjects of commemoration.
- 4.59 The Act would also provide that commemorative works, as defined by the Act, could be initiated by the Commonwealth or ACT Governments.

Recommendation 9

4.60 The JSCNCET recommends that the *National Memorials Ordinance 1928* be repealed and replaced with an Australian Commemorative Works Act, based on the United States model. This Act would provide for a two-pass assessment process for National Memorials, the first pass focused on commemorative intent, the second pass on character and location; and that:

- At the first pass, a motion be introduced to Parliament to approve the commemorative intent of a proposed National Memorial.
- Following the introduction of the motion, the proposal be referred to the JSCNCET for consideration and report, based on the following approvals:
 - ⇒ the memorial proposal be referred to the National Memorials Advisory Committee – a Committee made up of history and heritage experts, with one ACT Government representative, chaired by the National Capital Authority – to ensure that it complied with the *Criteria for Commemorative Works in the National Capital*
 - ⇒ the National Capital Authority assess the proponent’s budget for the design, construction and maintenance of the proposed National Memorial, and capacity to finance the proposal.
- Once approved by the National Memorials Advisory Committee, and with financial arrangements certified by the National Capital Authority, the JSCNCET would report upon the proposal. The motion would proceed at the pleasure of Parliament, and if passed, the commemorative intent of the proposed National Memorial would be approved.
- Following passage of the motion establishing the commemorative intent of the proposed National Memorial, responsibility for identifying a location for the memorial and initiating a process for its design would pass to the National Capital Authority. This would require memorial proponents to develop a design completion brief and run a public design competition (if necessary); and undertake, in conjunction with the National Capital Authority, the following tasks:

- ⇒ Identify possible locations
 - ⇒ Conduct mandatory public consultations
 - ⇒ Seek independent expert advice
 - ⇒ Seek planning advice from relevant authorities and, if required, advice from relevant government agencies
 - ⇒ Have assessments made under the *Environment Protection and Biodiversity Conservation Act 1999*
 - ⇒ Develop draft conservation management plans and/or heritage impact statements for proposed sites, if required
 - ⇒ Develop the budget and business plan for construction, maintenance and associated infrastructure costs.
- At the second pass, assessing design and location, the proposal would be referred to the Joint Standing Committee on the National Capital and External Territories for consideration and approval on behalf of the Parliament. If required, the Committee would be able to invite submissions from the public and undertake public hearings.
 - Second pass approval by the JSCNCET would provide the final approval for the proposed National Memorial.
 - Commemorative works, as defined by the Act, could be initiated by the Commonwealth or ACT Governments.

Recommendation 10

4.61 The JSCNCET further recommends that the proposed Commemorative Works Act:

- Define a 'commemorative work', encompassing both National Memorials and National Monuments as currently defined.
- Establish a National Memorials Advisory Committee, consisting of recognised experts in a range of disciplines, including history, heritage, architecture and planning; representatives of veterans, the services and relevant Commonwealth Departments; representatives of organisations with a strong focus on Australian history and culture at a national level; one representative of the ACT Government,

- appointed on the recommendation of the ACT Chief Minister; and chaired by a representative of the National Capital Authority. Membership to vary depending on the nature of the proposed National Memorial.
- Include the *Criteria for Commemorative Works in the National Capital* as a schedule to the Act.
 - Include a Memorials Master Plan, including a map of existing memorials and potential sites for new memorials in accordance with the Criteria, as a schedule to the Act.
 - Require the National Capital Authority to maintain a register (published on a specific National Memorials website) of all National Memorial proposals, including their current status, and all relevant decisions and approvals, along with all supporting documentation, including:
 - ⇒ Independent expert advice
 - ⇒ Public submission
 - ⇒ Reports of public consultations
 - Define responsibilities of proponents in meeting design, construction and maintenance costs, including providing ten per cent of the overall costs towards ongoing maintenance of the new National Memorial.
 - Prohibit the appearance of donor names or names of relatives on or near National Memorials and National Monuments, except where the specific object of the commemoration – its commemorative intent – is individuals, families or groups that have been found to be worthy subjects of commemoration.
 - Exclude minor commemorative works, such as plaques or individual trees outside the Parliamentary Zone, from its operation.