



AUSTRALIAN
SENATE

Senate Standing Committee for the
Scrutiny of Delegated Legislation
Parliament House, Canberra ACT 2600
02 6277 3066 | sdlc.sen@aph.gov.au
www.aph.gov.au/senate_sdlc

12 November 2020

The Hon Sussan Ley MP
Minister for the Environment
Parliament House
CANBERRA ACT 2600

Via email: Sussan.Ley.MP@aph.gov.au

CC: DLOley@environment.gov.au; legislation@environment.gov.au


Dear Minister,

Reserve Bank of Australia Head Office, 65 Martin Place, Sydney Heritage Management Plan 2020 [F2020L01031]

The Senate Standing Committee for the Scrutiny of Delegated Legislation (the committee) assesses all legislative instruments subject to disallowance, disapproval or affirmative resolution by the Senate against scrutiny principles outlined in Senate standing order 23. The committee has identified scrutiny concerns in relation to the above instrument, and the committee seeks your advice in relation to this matter.

Instruments subject to copyright

Senate standing order 23(3)(f) requires the committee to scrutinise each legislative instrument as to whether it, and any document it incorporates, may be freely accessed and used, including whether it is subject to copyright or other similar restrictions.

The instrument sets out a framework for the Reserve Bank of Australia to manage the Commonwealth Heritage values of the Reserve Bank of Australia's Head Office. The covering pages for the instrument state that the instrument was prepared by NBRS & PARTNERS Pty Ltd and remains the property of NBRS & PARTNERS Pty Ltd, and may only be used for the purposes for which it was produced. The covering pages also provide that unauthorised use of the instrument in any form whatsoever is prohibited.

The committee's longstanding view is that legislative instruments should not be subject to copyright or other similar restrictions because such restrictions may inhibit the capacity of people to access and use the law. If, in practice, the statement in the covering pages is not intended to impact individuals' ability to access and use the instrument, the committee considers that it would be appropriate for the statement to be removed from the instrument to avoid confusion on the part of users of the instrument.

The committee therefore requests your advice as to whether the instrument could be amended to remove the statement relating to use of the instrument.

The committee's expectation is to receive a response in time for it to consider and report on the instrument while it is still subject to disallowance. If the committee has not concluded its consideration of an instrument before the expiry of the 15th sitting day after the instrument has been tabled in the Senate, the committee may give notice of a motion to disallow the instrument as a precautionary measure to allow additional time for the committee to consider information received.

Noting this, and to facilitate the committee's consideration of the matters above, the committee would appreciate your response by **26 November 2020**.

Finally, please note that, in the interests of transparency, this correspondence and your response will be published on the committee's website.

If you have any questions or concerns, please contact the committee's secretariat on (02) 6277 3066, or by email to sdlc.sen@aph.gov.au.

Thank you for your assistance with this matter.

Yours sincerely,


Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation



**THE HON SUSSAN LEY MP
MINISTER FOR THE ENVIRONMENT
MEMBER FOR FARRER**

MC20-018717

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the
Scrutiny of Delegated Legislation
Parliament House
CANBERRA ACT 2600
sdlc.sen@aph.gov.au

01 DEC 2020

Dear Chair

Thank you for your correspondence of 12 November 2020 concerning the Heritage Management Plan of the Reserve Bank of Australia Head Office, 65 Martin Place, Sydney [F2020L01031].

I note that under section 341S of the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act), the responsibility for making a written plan to protect and manage the Commonwealth Heritage values of a Commonwealth Heritage place lies with the Commonwealth agency which owns or controls the place. In this instance, the responsible agency is the Reserve Bank of Australia (RBA).

A Commonwealth agency may ask me to endorse a plan (subsection 341T(1) of the EPBC Act). My endorsement of the plan is made on the basis only of my considerations with respect to the conservation of the Commonwealth Heritage values of the place concerned. Accordingly, I believe that in this instance, the RBA would be more appropriately placed to assist you with the matters raised in your letter.

To assist the Committee, the Department of Agriculture, Water and the Environment has sought advice from the RBA. The RBA has advised it will promptly take steps to address the concerns raised in your letter by amending the instrument.

Thank you for writing on this matter. I have copied this letter to the Treasurer, the Hon Josh Frydenberg MP.

Yours sincerely

SUSSAN LEY

CC: The Hon Josh Frydenberg MP, Treasurer



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10 December 2020

The Hon Sussan Ley MP
Minister for the Environment
Parliament House
CANBERRA ACT 2600

Via email: Sussan.Ley.MP@aph.gov.au

CC: dloLey@environment.gov.au; legislation@environment.gov.au;
HarriesB@rba.gov.au

Dear Minister,

**Reserve Bank of Australia Head Office, 65 Martin Place, Sydney Heritage Management Plan 2020
[F2020L01031]**

Thank you for your response of 1 December 2020 to the Senate Standing Committee for the Scrutiny of Delegated Legislation, in relation to the above instrument. The committee considered your response at its private meeting on Wednesday, 9 December 2020.

The committee welcomes your advice that the Reserve Bank of Australia has undertaken to amend the instrument to resolve the committee's scrutiny concerns about potential restrictions on the instrument's use. On the basis of this undertaking, the committee has concluded its examination of the instrument and resolved to withdraw the notice of motion to disallow the instrument.

In the interests of transparency, I note that this correspondence will be published on the committee's website and recorded in the *Delegated Legislation Monitor*.

Thank you for your assistance with this matter.

Yours sincerely,

Senator the Hon Concetta Fierravanti-Wells
Chair
Senate Standing Committee for the Scrutiny of Delegated Legislation