

Chapter 4

Heritage management in Parliament House

Introduction

4.1 In chapter 3 of this report, the committee provided an outline of general heritage issues in Parliament House and proposals to list the building under the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC Act). This chapter addresses the management of heritage matters by the former Joint House Department (JHD) and the Department of Parliamentary Services (DPS). It also canvasses other suggestions made in evidence to increase the heritage protections afforded to Parliament House.

Joint House Department

4.2 When listing of Parliament House on the Register of the National Estate was proposed in 1995, it was not supported by the Presiding Officers as the JHD was establishing its own internal procedures for protecting the design integrity of the building.¹ As noted, the JHD developed the Interim Design Integrity Advisory Committee (IDIAC) which comprised representatives from the Chamber Departments, the JHD and Mitchell/Giurgola & Thorp (MGT).

4.3 The IDIAC was to:

- recommend an ongoing mechanism for the protection of the integrity of the original design of Parliament House;
- bind design integrity protection measures into Capital and Engineering Works procedures;
- review the annual Capital Works program before submission to the Presiding Officers;
- oversee the implementation of a five part strategy for the protection of design integrity;
- meet quarterly; and
- meet on an ad hoc basis at the direction of the Chairman (secretary of JHD) to consider specific matters.

4.4 The five part strategy included the nomination of a resource/reference person and panel of persons to provide informed advice and adjudication on design matters and development of a Central Reference Document (CRD) to provide a methodology for the screening of proposals for change.

4.5 The committee received a submission from the former Secretary of the JHD, Mr Mike Bolton, which set out the sequence of events that followed to 'preserve the heritage and design integrity of this building of national significance'. These included:

1 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4594.

- creation of a position of Design Integrity Officer within its structure to liaise with the building's architects (MGT) to provide guidance and oversight to proposed changes to the building, its furniture and fittings;
- commissioning of Ms Pamille Berg to prepare a series of papers covering all aspects of the Parliament House design which eventually became the work entitled *The Architect's Design Intent for Parliament House Canberra: Central Reference Document*;
- not allowing assets within Parliament House to deteriorate to any great extent, that is, maintaining Parliament House and its assets at a level of 90 per cent of new; and
- engaging, on an annual basis, a building consultant who audited the JHD's performance in asset management.²

4.6 Mr Bolton outlined the reasons behind these proposals:

JHD did not want Parliament House to go the way of many other great buildings where original design concepts which very much establish the overall building character are forgotten and changes are made according to the whims of the time. Eventually it seems to be that when a building requires major refurbishment because of the ravages of time considerable extra expense is [in]curred as people realise the beauty or symbolism of the original design and seek to have the elements of the original design reinstated. There are many examples of this having occurred throughout the world.³

4.7 Ms Pamille Berg noted the developments under Mr Bolton and stated:

What is important is that, at the time that he determined that he was going to set up an integrated management process for design integrity and design intent, he had control of his department. He set up an interdepartmental committee, which at that time was called the IDIAC, that met to deal with the crossover issues involved in dealing with change. Within the Joint House Department as it existed at that time they already understood that there had to be a very formal process to create continuity in the decisions that were being made.⁴

Committee comments

4.8 The committee is not in a position to judge the success or otherwise of the JHD's regime to protect the heritage of the building. The committee notes Mr Bolton's comments that mistakes were made while the JHD established its stewardship of the new Parliament House and that a range of requests for changes to the building and accommodation were received once it was occupied. However, the committee notes the foresight of the JHD in commissioning the Central Reference Document, the

2 Mr Mike Bolton, *Submission 12*, pp 1–2.

3 Mr Mike Bolton, *Submission 12*, p. 2.

4 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 9; see also Walter Burley Griffin Society, *Submission 22*, p. 4.

appointment of a Design Integrity Officer and the use of a building consultant to undertake annual audits.

Department of Parliamentary Services

4.9 The Department of Parliamentary Services was established in 2004 following the amalgamation of the Joint House Department, the Department of the Parliamentary Library and Department of Parliamentary Reporting Staff. Both the Presiding Officers and DPS have indicated that policies and procedures are in place to protect the heritage values of Parliament House.

4.10 In 2006, the Presiding Officers noted that significant changes to the building already require both parliamentary approval and approval from the National Capital Authority and that these requirements have operated satisfactorily for 18 years. Further, the procedures already in place under the *Parliament Act 1974* and other legislation for managing significant works are appropriate.⁵ The legislation provides for the following:

- *Parliament Act 1974*: section 5 of the Act provides that no building or other work is to be erected on land within the Parliamentary zone unless:
 - in the case of works within the precincts – the Presiding Officers must cause a proposal for the work to be tabled in each House and the proposal must be approved by resolution of each House; or
 - in the case of works outside the precincts – the Minister responsible for administering the Act must cause a proposal for the work to be tabled in each House and the proposal must be approved by resolution of each House.
- *Australian Capital Territory (Planning and Land Management) Act 1988*: the Parliamentary Zone is a Designated Area under the Act. No works, including construction, alteration, extension or demolition of buildings or structures, can be undertaken without the approval of the National Capital Authority. Works inside buildings are excluded from this provision.

4.11 Parliamentary committees also have oversight with the resolution of appointment of the Joint Standing Committee on the National Capital and External Territories providing that the Committee may inquire into and report on:

- (a) matters coming within the terms of section 5 of the *Parliament Act 1974* as may be referred to it by:
 - (i) either House of the Parliament; or
 - (ii) the Minister responsible for administering the *Parliament Act 1974*; or
 - (iii) the President of the Senate and the Speaker of the House of Representatives;

5 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, Attachment AD, p. 4594.

- (b) such other matters relating to the parliamentary zone as may be referred to it by the President of the Senate and the Speaker of the House of Representatives.

4.12 DPS also provides briefs to the Joint House Committee in relation to certain projects. For example, the Committee was briefed about the changes to the Staff Recreation Area to provide additional staff accommodation.

4.13 More recently, DPS stated that:

There is a very broad framework of governance and policy and procedural documents that apply to this asset and heritage management role of DPS. These documents range from 'whole-of-government' instruments—such as legislation, regulations, Finance Minister's Orders and Department of Finance guidelines—through to specific DPS policies, procedures and guidelines.⁶

4.14 DPS identified a number of matters which supported heritage values including:

- DPS reports against its environmental EPBC responsibilities in the Annual Report;⁷
- annual inspection and reporting against key performance indicators;
- all capital works projects are required to meet the requirements of the DPS Strategic Plans;
- maintenance and asset replacement programs must take into consideration design integrity requirements; and
- a range of Governance papers that address moral rights, design integrity and compliance with heritage principles.⁸

4.15 In relation to Governance papers, DPS noted that *Governance Paper No 33—Caring for Parliament's Assets*, notes:

For the next 200 years (at least), it is the intention of the Australian Parliament to base itself in the new Parliament House.

New Parliament House is recognised as a design icon and is part of Australia's heritage. This should not be compromised.

This leads to the asset management principle:

Protect what we have—we need to maintain the design integrity and heritage values of this building and preserve cultural heritage assets that have unique heritage assets that have unique national historic significance.⁹

6 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4572.

7 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4594.

8 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4596.

9 Department of Parliamentary Services, *Governance Paper No 33—Caring for Parliament's Assets*, see *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4599.

4.16 DPS also noted that some heritage aspects are met by ensuring DPS specifications and standards are used. DPS went on to note:

However, many of these specifications and standards can result in very high costs. As a *Financial Management and Accountability Act 1997* Agency, DPS is required to ensure it manages public resources efficiently, effectively and ethically. To ensure the efficient and effective use of public money DPS evaluates alternative solutions and considers the application of the specifications and standards in relation to the significance of the space, fitness for purpose and cost implications.¹⁰

4.17 In addition, DPS stated that systems and procedures have been progressively developed for management of the Parliament House Art Collection and the approach to capital works to take account of heritage and design integrity considerations has been refined.¹¹ DPS has also finalised the Parliament House Heritage Management Framework and has sought completion of the CRD.

4.18 The following discussion provides an overview of the development of the Heritage Management Framework. Evidence received in relation to the success of DPS's practices and policies to protect the heritage values of Parliament House is then discussed. The CRD is discussed in chapter 5.

Parliament House Heritage Management Framework

4.19 DPS advised that over that last five to six years work has been undertaken to develop an 'overarching heritage policy or strategy for Parliament House'. The first version, the Heritage Strategy, was undertaken by the firm Heritage Management Consultants Pty Ltd and resulted in 15 drafts provided to DPS between November 2006 and May 2009 at a cost of \$17,000.¹² In May 2008, DPS provided a draft Heritage Strategy for the Australian Heritage Council's (AHC) advice. The AHC noted:

The [Australian Heritage] Council was satisfied with the way in which the draft heritage strategy addresses the requirements of the EPBC Act and provided its comments recommending minor amendments to DPS on 13 August 2008.¹³

4.20 The draft Heritage Strategy was based on the assumption that Parliament House was owned and controlled by a Commonwealth agency (the Secretary of DPS) and therefore 'the full powers' of the heritage provisions of the EPBC Act were considered to apply to Parliament House. Subsequent legal advice confirmed that

10 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4602.

11 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4574.

12 Department of Parliamentary Services, *Submission 3*, p. 10. See also Budget Estimates 2011–12, Department of Parliamentary Services, *Answers to questions on notice*, No. 46.

13 Australian Heritage Council, *Submission 17*, p. 1.

Parliament House is under the control and management of the Presiding Officers who are not Commonwealth agencies.¹⁴

4.21 Following this legal advice, the Heritage Management Framework was developed by a DPS officer with postgraduate qualifications in cultural heritage management.¹⁵ The Heritage Management Framework was approved by the Presiding Officers in December 2011.¹⁶

4.22 The document defines a Heritage Management Framework as follows:

A heritage management framework describes and assesses the heritage value of a site and guides the development of strategies and plans that protect and raise awareness of these values. A heritage management framework also provides information on management aspects to better protect heritage values on a day-to-day basis.¹⁷

4.23 This definition is based on the definition of a heritage management plan taken from the Defence Guide to Heritage Management Planning, Defence Heritage Toolkit (Guide 6).¹⁸

4.24 Action 3 of the Heritage Management Framework notes that:

All planning documents developed for Parliament House will refer to this Heritage Management Framework as a primary guide for the management of its heritage values.¹⁹

4.25 The Heritage Management Framework also establishes the Parliament House Heritage Advisory Board. The primary function of the Heritage Advisory Board is to provide advice to the Presiding Officers and to provide oversight of detailed heritage issues for Parliament House. To fulfil these functions of the Heritage Advisory Board is to:

- make recommendations to the Presiding Officers on heritage policies and major heritage issues;
- provide advice and guidance to the Parliamentary departments on heritage issues and policies;
- review proposals for significant change or conservation/preservation work in Parliament House;

14 Department of Parliamentary Services, *Submission 3*, p. 10.

15 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Estimates Hansard*, 23 May 2011, p. 62.

16 Mr Alan Thompson, Secretary, Department of Parliamentary Services, *Letter to the committee*, dated 15 December 2011.

17 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 2.

18 *Defence Guide to Heritage Management Planning, Defence Heritage Toolkit*, Guide 6, p. 1.

19 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 21.

- provide practical heritage advice and innovative solutions to a range of Parliament House users; and
- as required, provide direction for capital works planning to ensure strategic heritage issues are adequately addressed and project delays are prevented.²⁰

4.26 The Advisory Board consists of the Secretary of DPS, and an employee of each of the Chamber departments (Usher of the Black Rod and Serjeant-at-Arms). The Board is assisted by the Department of Sustainability, Environment, Water, Population and Communities (DSEWPaC) and the National Capital Authority (NCA) as well as any stakeholders it may wish to consult.

4.27 DPS advised the committee that it had sought the views of DSEWPaC regarding the draft Heritage Management Framework. DSEWPaC acknowledged that DPS 'has prepared the draft Heritage Management Framework in the spirit of the EPBC Act for the management of the potential National and Commonwealth Heritage values of the Parliament House'. DSEWPaC noted that the draft Heritage Management Framework 'is consistent with the National and Commonwealth Heritage management principles (as contained in the Environment Protection and Biodiversity Conservation Regulations 2000) and the Burra Charter principles'.²¹

Assessments of DPS heritage policies and practices

4.28 Evidence provided to the committee called into doubt the level of heritage protection provided to Parliament House by DPS policies and practices. This evidence ranged from general concerns, such as the lack of adherence to best practice in heritage management, to specific issues related to the Parliament House Heritage Framework which was generally viewed in a less than favourable light.

4.29 The view was put to the committee that the heritage management of Parliament House should be of the highest order.²² The International Union of Architects, for example, stated:

The UIA together with other international organisations interested in conserving world architecture such as UNESCO, ICOMOS and DOCOMOMO International require that the highest standards be used to conserve and manage the World's monuments. We are concerned that this has not been the case with Australia's Parliament House.²³

20 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 15; see also Department of Parliamentary Services, *Submission 3*, p. 11.

21 Department of Parliamentary Services, Additional information, dated 11 October 2011, Attachment A. The Burra Charter and its accompanying guidelines are considered the best practice standard for cultural heritage management in Australia. See <http://australia.icomos.org/publications/charters/> (accessed 16 January 2012).

22 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 9; Australian Institute of Architects, *Submission 14*, p. 2.

23 International Union of Architects, *Submission 4*, p. 1.

4.30 The National Trust also expressed concern that 'the appropriate conservation practice is not being followed' for Parliament House.²⁴ Mr Martin commented that DPS:

...needs a clearly structured plan and detail, which has been developed through a normal process of developing heritage management plans, to give them the guidance they need to look after this very important building.²⁵

4.31 Mr Romaldo Giurgola commented that there is an absence of an approved strategic policy framework. Of particular concern:

...is the lack of sufficient measures which recognise and preserve the integrity or the wholeness of the design intent and the relatedness across all aspects of the Parliament House, ranging from its building fabric to the chair construction or carpet pattern or configuration of the park on the landscape.²⁶

4.32 Mr Giurgola went on to argue that there is an urgent need for a strategy to manage change 'with an essential framework of checks and balances on the competing and different interests within the building'.

4.33 DPS has developed the Heritage Management Framework which it believes will 'provide an excellent basis for recognising heritage values, while still allowing the work of the Parliament to evolve over time'.²⁷ The following addresses evidence in relation to the Heritage Management Framework. Suggestions for alternative processes are outlined below.

Parliament House Heritage Management Framework

4.34 In relation to the Heritage Management Framework, the committee heard a range of criticisms. Mr Martin, National Trust, voiced concern that the Framework did not go far enough; that a Heritage Management Framework is only part of the heritage process. He commented that it is not consistent and is not 'rigorous enough in respect to what is accepted conservation practice today'.²⁸ Professor Weirick went further and stated that the Heritage Management Framework, in many ways, is:

...inadequate, misleading and indeed a dangerous document. In addition to all of the other concerns, what is not clear to us is the measure of ultimately parliamentary oversight of what takes place at parliament.²⁹

4.35 Professor Weirick and Mr Martin pointed to a number of specific issues, including that the Heritage Management Framework did not cover the entire

24 National Trust of Australia, *Submission 5*, p. 1.

25 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 1.

26 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 1.

27 Department of Parliamentary Services, *Submission 3*, p. 11.

28 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 2.

29 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 6.

Parliamentary Precinct.³⁰ Of significant concern was that DPS had undertaken no serious public consultation with professional organisations or community organisations, which Professor Weirick saw as 'a very big disconnect'.³¹

4.36 While the Heritage Management Framework provides for strategies for stakeholder and community consultation, Mr Martin commented that the National Trust had no confidence that this consultation will actually occur. In relation to the Advisory Board, it was noted that it had 'limited heritage expertise to make serious decisions in respect to the heritage values'. Mr Martin also added the Framework fails to acknowledge some aspects of the architectural significance of the building and its importance within the Australian Institute of Architects and the International Union of Architects. Further:

There is inconsistency between the analysis and the statement of significance. There are things stated in the analysis of high value and then put into the statement of significance as exceptional. The statement of significance fails to acknowledge all the recognition of this building, nationally and internationally, on various awards and citations. I think that is a shortcoming in respect to the whole thing.

Because it has not gone through a public and professional assessment through a consultation process, I think the rigour evidenced in the statement of significance and the analysis is not there...Our concern is that, without this structure in place, the heritage values of this place are not fully recognised and will not be fully protected, and it needs that rigour in place.³²

4.37 Mr Martin suggested that consultation processes could be improved through the use of a reference group:

That reference group can have a range of diverse interests. The National Trust sits on a number of territory related reference groups at the moment and we have that sort of input so that the views of the trust are heard at that reference group and then passed back. I strongly recommend that a reference group that is representative of a wider group of expertise that can contribute to issues relevant to potential change and the conservation of this building is the best way going.³³

4.38 The Walter Burley Griffin Society asserted that the Heritage Management Framework drafted by DPS 'proposed a system of self-regulation, with no statutory basis, no checks and balances, and no meaningful provision for public consultation'.³⁴

30 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 6; Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 1.

31 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 8.

32 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 1.

33 Mr Eric Martin, President, National Trust of Australia, *Committee Hansard*, 2 May 2012, p. 4.

34 Walter Burley Griffin Society, *Submission 22*, p. 3.

The Society went on to argue that a comprehensive Heritage Management Plan for Parliament House should be prepared by 'eminent heritage consultants with expertise in the conservation of architecture, landscape architecture, urban design, engineering, furniture and art works'.³⁵

4.39 The Australian Institute of Architects recommended that a Conservation Management Plan (CMP) should be in place:

Ideally, the CMP should be concerned with activities related to the built form, the views to and from the place, the landscape, and the craft and artwork all associated with the original design of the place.³⁶

4.40 The National Trust also called for a detailed Conservation and Management Plan to be developed. Such a plan would need to consider all components such as the building, landscape, furniture, art collection and other objects associated with the building as well as full public consultation in the preparation of such a document.³⁷

Response from DPS

4.41 In response to this evidence, Mr Grove, then Acting Secretary, DPS, stated that 'I accept that in the past some of the practices have not been ideal, but again during that process there were people who held very, very strong views one way or the other as to whether or not something should be kept or gone or how some sort of approach should be made'.³⁸ Mr Grove pointed to the views expressed about the listing of the building but noted that the Presiding Officers were firmly of the opinion that this should not occur. That being the case, he went on to comment:

...DPS has attempted to do in more recent years is to try to live within that decision. As a consequence, the framework was developed in consultation with the department responsible for the Heritage Council and their feedback. My understanding is that, within the constraints of that, they are quite comfortable with the way that is progressing. It is a work in progress.³⁹

4.42 This was reinforced by Ms Judy Tahapehi, Director, DPS, who noted that even though DPS was not required to meet the obligations of the EPBC Act, DPS had done so, 'as far as possible'. DPS also ensured that the Heritage Management Framework was consistent with the National and Commonwealth heritage management principles in the Burra Charter. The principles have subsequently been embedded into the practices of DPS.

35 Walter Burley Griffin Society, *Submission 22*, p. 3.

36 Australian Institute of Architects, *Submission 14*, p. 2.

37 National Trust of Australia, *Submission 5*, p. 1.

38 Mr Russell Grove, Acting Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 43.

39 Mr Russell Grove, Acting Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 43.

4.43 Ms Tahapehi also noted that the architects had not been consulted on the development of the Framework but 'we have made sure that the consultation with them is embedded into our actions and principles'.⁴⁰

4.44 In relation to the Heritage Management Advisory Board, Mr Grove stated:

The advisory board does not claim to have any expertise in the area of architecture, design or whatever; they are bureaucrats who are attempting to live within that framework. But that advisory board, you would note, clearly has provision for expert advice to come in. It may be that that advisory board can have as part of its mechanism some sort of reference group, as was suggested this morning in the evidence given, to attempt to provide access for community consultation.⁴¹

4.45 Mr Grove concluded that it is hoped that the Heritage Management Framework:

...will be there in sympathy with the principles involved in relation to heritage and the proper keeping of an iconic building like this, because it is so much more than the building itself; it is its content, the way it appears et cetera...

I think the important thing is that there is clear recognition now that those issues cannot be ignored and, if there are difficult issues that need to be discussed in the broader community with the experts, that conversation needs to be held.⁴²

Maintenance of design integrity by DPS

4.46 The committee considers another measure of the success of the heritage protection of Parliament House is the maintenance of design integrity and the relationship between DPS and the buildings architects, in particular Mr Romaldo Giurgola as the moral rights holder. The following provides a discussion of general issues regarding consultations between DPS and the building's architects. The committee will examine in detail specific projects which have raised design integrity issues in its next report.

Moral rights

4.47 Since 1988, Mr Giurgola holds and exercises the moral and intellectual property rights in the design of Parliament House.⁴³ The *Copyright Act 1968* (Copyright Act) sets out obligations in relation to moral rights and copyright holders.

40 Ms Judy Tahapehi, Director, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 44.

41 Mr Russell Grove, Acting Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 43.

42 Mr Russell Grove, Acting Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, pp 43–44.

43 Mr Romaldo Giurgola, *Submission 7*, p. 3.

4.48 Moral rights obligations are recognised in a range of DPS documents. The *DPS Building and Security Projects Large Project Checklist* for example, requires that informal consultation be undertaken with the moral rights holder at the design options phase, and that formal notification be undertaken at the 80% stage.⁴⁴

4.49 The Heritage Management Framework addresses moral rights. It is stated:

Any proposal for change that affects significant elements of the building and surrounds or conservation work will include a consultation period with stakeholders, especially with the designers and makers of the various aspects of the building and its commissioned furniture, art and craft.⁴⁵

4.50 The Framework notes that moral rights holders must be consulted in accordance with provisions of the Copyright Act. DPS will also hold meetings with the building's architects:

DPS project officers will meet quarterly with representatives of the firm Guida Moseley Brown Architects to discuss proposals and seek advice.⁴⁶

4.51 Moral rights holders cannot preclude DPS from carrying out the building changes that it wishes to make as long as it has complied with its obligations under the Copyright Act.

4.52 In its submission to the committee, DPS reported that proposals to change the building are assessed against the original design as expressed in the CRD and that there has been 'periodic consultation with the original architects'. This consultation:

...respects the moral rights of the architects, and also seeks their views about design integrity. It is noted that the original architects have not always been in full agreement with development proposals prepared by other firms. Nevertheless, the consultation process continues and is generally constructive. DPS also engages the original architects on a commercial basis from time to time.⁴⁷

4.53 DPS advised that the evaluation process for a proposed project includes consideration of the effect on design integrity of the infrastructure. Further:

Historically, DPS staff, from time to time, have held discussions with Mr Giurgola and GMB Architects (which comprises a number of the original APH architects) about Parliament House design issues. This has now been formalised with regular meetings to provide a forum for DPS to advise Mr Giurgola and/or GMB Architects of projects identified for inclusion on the Capital Works Program (CWP). Additional discussions are scheduled on particular projects where necessary at the Concept drawing

44 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, Attachment AT, p. 4600.

45 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 5.

46 Department of Parliamentary Services, *Parliament House Heritage Management Framework*, 2011, p. 5.

47 Department of Parliamentary Services, *Submission 3*, p. 7.

stage and sometimes at later design stages if there are particular issues to consider.

This consultation is conducted in addition to the 'Notice to Author of Artistic Work', Pursuant to Section 195AT(3A) of the *Copyright Act 1968* Regulation 25AA (2) (Moral Rights) which, if required, is provided once the project has commenced and a design is available for review.⁴⁸

4.54 DPS went on to note that its consultation process with moral rights holders:

...provides an additional opportunity to comment on specific issues with the design.

Should the Moral Rights holder not agree with the plans, we arrange meetings to identify the key issues and possible alternative approaches. However, the regular meetings between the Director, BSP and Mr Giurgola, and additional informal discussions with GMB Architects are intended to reduce areas of concern at this stage of the design.⁴⁹

4.55 Mr Guida and Mr Giurgola questioned whether DPS had maintained the design integrity of the building. Mr Giurgola commented that DPS is managing in a 'down to earth' way and gives 'an immediate response without a second thought'. Mr Giurgola continued:

They do the best that they can with their own structure, but they cannot rely only on the presence of a moral right holder like myself because I only come occasionally and they do not have to listen to what I say. So, if there are outside pressures that are bigger, they go ahead with that, as is the case with the occupancy of the storage space. I made it evident many times to them the insufficiency that they have. I think this is a problem that is of interest to the whole nation. Every citizen should be concerned about that.⁵⁰

4.56 Mr Giurgola suggested that it should not be expected that the expertise for heritage management of Parliament House should lie within DPS. Rather, DPS performs the day-to-day role 'equivalent to those of a property management firm' while what is required is the 'expertise of highly trained professionals in multiple fields at the apex of their professions, equal in their experience and knowledge to the stature of the building which requires protection and preservation'.⁵¹

4.57 Mr Guida also commented on the management of heritage issues by DPS. He stated that while he thought that DPS did 'take the work seriously', there was a 'missing link' between the way they use the draft Central Reference Document and 'a comprehensive kind of guidance and concept of how management could take place using a document of this sort'.⁵²

48 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4600.

49 *Senate Hansard*, 16 August 2011, Question on Notice, No. 682, p. 4602.

50 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 4.

51 Mr Romaldo Giurgola, *Submission 7*, p. 3: see also Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 5.

52 Mr Hal Guida, *Committee Hansard*, 16 November 2011, p. 4.

4.58 Ms Berg raised the issue of loss of focus within DPS following the amalgamation of the three former departments:

What has happened in the interim period with the mega-department versus what the Joint House Department was doing at that time with more direct control over these processes after realising that there had to be formal overarching processes that led back to the Parliament is questionable.⁵³

4.59 Ms Berg also agreed that it would be unrealistic that the expertise for a long-term strategic vision as well as the day-to-day running would reside in DPS. Ms Berg stated:

To expect that DPS has had in the past or will have in the future the in-house staffing capability and expertise in multiple fields **to generate** that highly specialised advice is unrealistic.⁵⁴

4.60 Ms Berg emphasised the need for a different structure to deal with competing interests of those occupy the building, and who may demand changes to the building, which would take into consideration the need for independence.⁵⁵

Consultations/moral rights engagement

4.61 The committee heard evidence relating to the consultations/moral rights engagement between Mr Giurgola and DPS. Ms Berg noted that the Copyright Act gives three rights to creators: the right of attribution; the right to not have their work misattributed; and the right of the nonviolation of the integrity of what that thing is.⁵⁶

4.62 As noted above, DPS recognises across a range of documents, the need to consult moral rights holders. However, Mr Giurgola commented that he 'can **do little or nothing** as the holder of the moral rights to the design to prevent the weakening and denigration of this building's design integrity'. He went on to state that there is no requirement under the Copyright Act to consult moral rights holders or for the advice, when given, to be followed.⁵⁷

4.63 Mr Giurgola and Ms Berg provided the committee with examples where no moral rights consultation had taken place or where advice had not been followed. Mr Giurgola stated that he had been 'extremely distressed' when elements such as 'lifetime' furniture designed and custom made for the building, custom light fittings and the complete fitouts for entire areas of the buildings had been sold off. In addition, the occupation of underground areas had violated one of the building's most essential design principles.⁵⁸ While he was informed of accommodation work underground as

53 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 9.

54 Ms Pamille Berg, *Submission 13*, p. 4.

55 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 5.

56 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 11.

57 Mr Romaldo Giurgola, *Submission 7*, p. 6.

58 Mr Romaldo Giurgola, *Submission 7*, pp 6–7.

part of his moral rights notification, the timing was such that it was after much of the work had been done, which made the notification pointless. Mr Giurgola explained:

I found it was a tragic solution, really, because it is a place that does not have enough penetration of daylight and it is a very crowded office, on a different level of the space which implies connection between different levels and movements throughout and so forth. So I think that was something that was contradictory to the spirit of the design of the workplace. And I was too late. Then the thing obviously went mechanically through the process, with the economics that involved, and there was nothing to do about it.⁵⁹

4.64 Ms Berg noted the fitting out of the endocroft space (former Staff Recreation Room) behind the staff cafeteria with offices was opposed 'very strongly' by Mr Giurgola. In a letter to the Presiding Officers regarding this project, Mr Giurgola stated:

I would be very embarrassed for any professional colleague to see the whole idea of what has been done here—for them to think that I could have been responsible for this degree of planning and execution and the placement of people in this zone of the building where the curved walls of the building are meant to hold the ceremonial, large-scale, monumental public places and the executive and there was to be no leakage of offices into that space, let alone the quality of the accommodation.⁶⁰

4.65 Ms Berg went onto question who DPS relies on to undertake architectural work in Parliament House. She noted that Mr Giurgola and other members of the design team remained in Canberra following completion of the building and 'we could not have had a better circumstance of being able to keep that continuous vision of the why and what was appropriate and have a closer connection, a closer advisory capacity, about who the appropriate architect would be for these multiple projects that are happening within the building with multiple hands'.⁶¹ Mr Giurgola also commented on the seemingly 'casual' choice of architects by DPS:

The fact is that in the near future the building will need quite a bit of enlargement because of the population increase and so on...Up to now the selection of professionals for changing inside has been very casual and very difficult to control. This is a building that will require a firm and clear hand at the top level of the profession, so it will be necessary to formulate a system that allows that, to guarantee the presence of the best quality of advice that you can get.⁶²

4.66 However, Mr Giurgola described a positive experience with the child care centre where he had been contacted by the project architect:

59 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 13.

60 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 11.

61 Ms Pamille Berg, *Committee Hansard*, 16 November 2011, p. 11.

62 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 6.

...I worked with him intensively on the project, and it became very much a possible thing in terms of the place in which it was put. So it was created. That was a good experience for me because we had a long discussion about the real necessity of the creche in that particular place. In fact, I suggested the area outside that and inside and so forth, and we came to a kind of intelligent approach, I think, to that problem—and very significant too. But that was the situation. Sometimes, of the people who are employed, some are aware of this problem, but to others it is nothing.⁶³

4.67 The Walter Burley Griffin Society raised concerns about the nature of consultation between DPS and the original architects, as well as the changes to the building which are seen to have compromised the design integrity:

The Society is also deeply concerned that the DPS submission states that 'the original architects have not always been in full agreement with development proposals prepared by other firms' and the submission from Romaldo Giurgola AO LFRAIA LFAIA, dated 27 July 2011, draws attention to the 'weakening and denigration' of the building's design integrity by the development of permanent staff offices in the basement, 'remote from natural light...thereby violating one of the building's most essential design principles regarding the provision of good work-spaces for every worker'; and by the de-accessioning of custom designed furniture, light fittings, wall textiles and fitouts for entire areas of the building.

These depredations are not acceptable.

The problem is clearly the consequence of DPS establishing a self-regulated Design Integrity System, with no oversight and no accountability beyond self-generated compliance tables in the Department's Annual Report.⁶⁴

4.68 The committee also received evidence from Mr John Smith, the artist commissioned to design, fabricate and install the furniture for the Leader of the Opposition's suite. Mr Smith noted that the terms of his contract with the Parliament House Construction Authority (PHCA) stated that the suite could not be modified or amended without his permission. However, shortly after installation, the furniture was removed and replaced at the request of the then Leader of the Opposition. Mr Smith stated:

These acts were clearly a breach of contract. A politician would not be permitted to cut out a third of a painting because it offended his or her sensibility. To remove a third or more of my suite is no different an act to this. The integrated suite as a whole constitutes a single artwork. The furniture was designed to last the projected life of the building (200 years) as was required by the design brief. It lasted only a couple of weeks before it was significantly violated. The suite belongs to the office of the Leader of the Opposition and to the people of Australia. It is not the property of any politician to be tampered with at will.

63 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 13.

64 Walter Burley Griffin Society, *Submission 22*, p. 4.

I urge this Inquiry to reinstate the suite in its entirety in line with the original design concept for the building.⁶⁵

Response from DPS

4.69 At its hearing in May, DPS commented on its consultations with the building's architects. It was noted that the need to consult with the architects is embedded in the Heritage Management Framework's principles and actions. It was also stated that the DPS Projects Branch has meetings to discuss various issues related to different projects throughout the building. In addition, there is a quarterly meeting that looks at the capital works program.⁶⁶ The relationship with Mr Giurgola was described by DPS as 'very positive' and that he had 'expressed how grateful he is for the amount of consultation that we currently do with him'.⁶⁷

4.70 Mr Kenny provided further information on consultations with the architects, in particular in relation to the changes to the Staff Recreation Room. Mr Kenny stated:

In 2010, when the planning for the staff dining room accommodation work was being done—and I think it is fair to say that the original architects had very strong views about that and were upset that they were not consulted—we had advice from our design integrity people at the time that consultation was not required because of the nature of the change. So we proceeded on the basis of that advice. We became aware that that decision was not the correct decision, and later that year, in 2010, we instigated with the original architect a regular meeting so that whatever else happened there would be consultation. I do not know how often they meet now. My recollection is that the decision was that quarterly meetings would be appropriate, plus others as required. So in 2010 we instigated a regular process to ensure that we had a forum where the original architects and our people would meet to discuss any relevant issues.⁶⁸

Alternative approaches to ensuring the maintenance of heritage values

4.71 It was argued in evidence that it was beyond the expertise of DPS to provide the standard of advice and expertise needed to maintain the design integrity and the highly developed and integrated symbolic elements of the building. Submitters pointed to the challenges facing DPS when varying, and often contradictory, interests of the building occupants need to be balanced. It was argued that appropriate consultation with outside experts was required. Ms Berg, for example, stated:

It is obvious that the process of determination of the best, most workable method for the protection of the building's design integrity and management

65 Mr John Smith, *Submission 23*, p. 1.

66 Ms Judy Tahapehi, Director, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 44.

67 Ms Judy Tahapehi, Director, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 46.

68 Mr David Kenny, Deputy Secretary, Department of Parliamentary Services, *Committee Hansard*, 2 May 2012, p. 46.

of ongoing change by experts in the field needs to be conducted in formal, ordered consultation and collaboration with the building's key external and internal stakeholders, including representatives from all of the Parliamentary Departments and the building's original architects. However, the provision of the expert advice needs to be independent and at arm's length from those Departments.⁶⁹

4.72 Mr Giurgola also suggested that a wide range of advice needs to be sought to ensure that decision making is appropriate for the proper preservation of the architecture and symbolic integrity of the building:

...firstly, senior expertise from the relevant professions of architecture, urban design, landscape, interior design, history and heritage management; secondly, the expertise of key internal stakeholders—senior staff members of the House, the Senate and executive departments, members and senators, departmental library and so on—with respect to understanding and projecting the function and tradition of Parliament House; thirdly, the knowledge and vision of external stakeholders: carefully selected key members of the public, both local and national, who have distinguished themselves through their dedication to the perpetuation and preservation of living cultural icons in Australia such as this building; and, finally, the embedded knowledge and experience of the day-to-day management of this functional building within its long-term care givers, important technical staff and administrators.⁷⁰

4.73 Mr Giurgola went on to state:

It is not my place to define here the structure of these checks and balances on decisions for change in Parliament House; however, I believe that, when the parliament has at last entrenched a model process of carefully crafted strategic policy in the protection of essential design values and management of change in the building, then the Australian people can feel assured that in the future such decisions on change will have been made as wisely as possible, utilising the expertise of both experts and stakeholders and forging a responsible way forward.⁷¹

4.74 The former Secretary of the JHD also put his view on this issue. Mr Bolton commented:

...is it sufficient to allow the maintenance of the design integrity of Parliament House to be left solely within the control of a part of the parliamentary administration, currently the DPS? Works need to proceed both in a regulated but also timely manner. I urge the Committee to suggest to the Senate that parties such as DPS, a representative of the Presiding Officers, the original partners of MGT, a noted heritage architect and representatives of other appropriate bodies be called together to develop an efficient and effective method of considering design integrity issues in the

69 Ms Pamille Berg, *Submission 13*, p. 4.

70 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 2.

71 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 2.

building which does not unduly delay necessary works to accommodate the changing needs of the Parliament.⁷²

4.75 The committee received evidence suggesting mechanisms to reinforce the maintenance of heritage values of Parliament House. Mr Guida, for example, noted that the PHCA was an independent body but was responsible to the Joint Standing Committee on the New Parliament House. He saw the PHCA's independence as providing 'a free-from-influence environment to seek the best solutions from all parties, and the reporting to the Committee ensured review and approval'. He went on to suggest that:

...it would be appropriate to establish an independent body (Architect of the Parliament?) outside of the various parliamentary departments to provide assessment of best practice of maintaining design integrity, and the development of strategies, policies, guidelines, and conservation management directions to allow for careful modifications of the building to occur over the next generation's occupancy. This position could be required to report to a joint committee for comment and approval and acceptance of directions from time to time.⁷³

4.76 The Walter Burley Griffin Society also called for the establishment of an Office of Architect of Parliament House, as well as a Design Office to oversee the capital works program for Parliament. The Society noted that the JHD had a chief architect but that position no longer existed.⁷⁴ This was seen as a backward step as:

Given the complexity, sensitivity and heritage significance of Parliament House, a works program of this scale – which is expected to continue for many years – should be overseen by a Design Office with the highest levels of expertise in architecture, landscape architecture, urban design, interior design, industrial design, heritage conservation, environmental engineering and fine arts.⁷⁵

4.77 The Society recommended that the Office of Architect of Parliament House be established through dedicated legislation. It was argued that this would 'ensure the maintenance, operation, development and conservation of the Australian Parliament House at a level commensurate with its outstanding heritage significance to the nation'.⁷⁶ The Society pointed to the role of the Architect of the Capitol in Washington D.C., established in 1793, with responsibility to the US Congress for the 'maintenance, operation, development and preservation' of the US Capitol building.⁷⁷

72 Mr Mike Bolton, *Submission 12*, p. 2.

73 Mr Harold Guida, *Submission 1*, p. 1; see also Mr Harold Guida, *Committee Hansard*, 16 November 2011, pp 2–3.

74 Professor James Weirick, President, Walter Burley Griffin Society, *Committee Hansard*, 2 May 2012, p. 9.

75 Walter Burley Griffin Society, *Submission 22*, p. 6.

76 Walter Burley Griffin Society, *Submission 22*, p. 6.

77 Walter Burley Griffin Society, *Submission 22*, p. 6. See also <http://www.aoc.gov/aoc/architects/Stephen-T-Ayers.cfm> (accessed 29 February 2012).

4.78 The committee also notes that Mr Russell Cope, in his 2001 paper on the architecture of parliamentary buildings, commented that while there are annual reports by parliamentary departments 'there is no report published devoted to the actual parliamentary building and its preservation and use. It is almost impossible to obtain an informative and current picture of the present position of these buildings'. Mr Cope suggested that 'Australian parliament houses deserve their own periodic reports published for public benefit and general interest of all'.⁷⁸

Committee comments

4.79 The committee recognises that the preservation of heritage aspects of a building as significant as Parliament House attracts a wide range of views. On the one hand are those who consider that it should be viewed as a static entity, to remain in the state as handed over to the Parliament in 1988. This view is not shared by the committee as the building needs to evolve as the Parliament evolves. The building's architects also do not support this approach. Mr Giurgola commented that:

It cannot just be given by heritage agencies, because those agencies are there to save forever something. But here we have to save forever something that keeps changing all the time, inevitably, and I think it should be. What is important is maintaining the wholeness of the old system and the symbolism that is so particular to this place, to this nation—not borrow it from left and right and so on.⁷⁹

4.80 However, it is this last point which needs to be addressed: how will change inevitably required in a working building be managed so that the inherent design integrity, symbolism and other interconnecting elements that make up Parliament House are not lost or degraded.

4.81 From the evidence received, the management of change has, in some cases, been less than successful. This was evident from the first years of occupation of the building when many changes were made, for example, the renovation of the Members' Dining Room and removal of furniture from suites. It appears that the Joint House Department recognised the need to protect the design integrity and sought to put in place processes to ensure that this occurred.

4.82 In recent years, concerns have again been raised about the rigor of mechanisms established to protect heritage values. The committee considers that these concerns are justified given the evidence of the lack of consultation with the architects in relation to the changes to the staff accommodation in 2010, the loss of heritage items and other matters which have been brought to the committee's attention are yet to be fully explored. The committee considers that this appears to indicate a lack of understanding of how the design intent can be incorporated in the changes required. The committee has yet to examine specific projects in this regard. It will do so in its

78 Russell L Cope, 'Housing a Legislature: When Architecture and Politics Meet', *Papers on Parliament No 37*, November 2001.

79 Mr Romaldo Giurgola, *Committee Hansard*, 16 November 2011, p. 6.

next report. That these matters have arisen also points to a lack of transparency and accountability of the actions of DPS.

4.83 The committee notes that in President of the Senate's letter to the committee of 13 September 2011, the President notes that the Presiding Officers had tasked DPS:

to finalise arrangements for heritage management of the building which recognises its role as the home of a working parliament, and its status as a national icon.⁸⁰

4.84 The President also indicated that 'DPS has sought external expert advice and will continue to do so, as well as continuing consultation with relevant stakeholders'.

4.85 The committee has received evidence from DPS pointing to improvements in policies processes to ensure that heritage concerns are fully addressed. However, witnesses did not consider that DPS's response was yet sufficient to fully address heritage concerns. The Parliament House Heritage Management Framework, in particular, was singled out for criticism with the Walter Burley Griffin Society commenting that it was inadequate, misleading and dangerous.

4.86 The committee is not in a position to adjudicate on such comments. However, it appears that there has been a paucity of public consultation in the formulation of the Heritage Management Framework with no heritage organisations being consulted and no involvement by the building's architects. The committee notes that heritage strategies for other buildings across Australia are more detailed and far more comprehensive than that produced by DPS. The committee also notes that it has received recommendations for the creation of detailed conservation plans to support the Heritage Management Framework. In addition, there were calls for more expert advisors to be available to or be members of the Heritage Advisory Board. The committee acknowledges that the Heritage Advisory Board is an important step in improving the protection of the heritage values of Parliament House but considers that independent expert advice must be available to the Heritage Advisory Board and that any expert views provided must be considered appropriately.

4.87 Further work also appears to be needed in relation to the understanding of what constitutes a 'significant change' to the building. Indeed, the architects were not consulted about changes to the Staff Recreation Room area as it was viewed that the 'nature of the change' did not require such a consultation. However, to most occupants of the building, the scale of the renovation in this area would constitute a 'significant change'.

4.88 The committee has taken note of comments in relation to the level of expertise within the staff of DPS to manage the complex considerations when changes to the building are proposed. In the late 2000s, many staff who had worked in the building from 1988, including some who had worked on the actual construction, left DPS employment. They took with them a great deal of knowledge of the building. However, the committee agrees that even with very knowledgeable staff, it is

80 Senator the Hon John Hogg, President of the Senate, *Letter to the committee*, dated 13 September 2011.

unrealistic to expect DPS staff to have the expertise required to undertake comprehensive assessments of proposals and to provide comprehensive and balanced advice. This is particularly the case in a working building where many competing demands are made for change and enhancements.

4.89 The committee received a number of proposals aimed at ensuring that expert advice is available to DPS and to the Parliament. The committee is yet to come to a conclusion in this regard but considers that the availability of expert advice will be important as the Parliament continues to seek change to the building. For example, the establishment of the new Parliamentary Budget Office will require additional accommodation within the building which may result in renovation of some of the spaces in the Parliamentary Library.

4.90 A further matter raised was the level of consultation with the architects, particularly Mr Giurgola. DPS has indicated that in recent times regular meetings have been taking place and that the relationship has improved. While the committee is pleased to hear of this progress, it comes only after years of less than adequate interactions and even as late as 2010, DPS did not undertake consultation with Mr Giurgola in relation to the accommodations changes involving the Staff Recreation Room. The committee also notes comments from Mr Guida that while the level of consultation is an improvement this is an advisory process (voluntary and unpaid) and is only an alert. It does not provide DPS with detailed advice on the maintenance or infringement of design integrity within specific projects for change within Parliament House.

4.91 In this report, the committee has not come to a conclusion in relation to the matters noted above. It considers a number of issues require further consideration. These issues include:

- the need to improve the accountability and transparency of the Department of Parliamentary Services in relation to heritage matters;
- the role of the Presiding Officers and the Parliament in relation to heritage matters;
- the role of outside experts in guiding change in the building; and
- what constitutes a 'significant change' to the building.

4.92 The committee intends to explore these matters further and provide comments in its final report.