

***Heritage* Guardians**  
***Equity for our cultural institutions***

Submission to National Capital Authority

Block 3 Section 39 Campbell – Australian War Memorial

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## Introduction

1. It is important that this ‘early works’ approval (EWA) application to the National Capital Authority (NCA) be vigorously opposed. It includes the demolition of Anzac Hall, one of the most controversial aspects of the whole Memorial project. It also provides for the removal of most of the mature eucalyptus trees in the grounds of the Memorial, including all the trees in front of the main building and flanking the Parade Ground. Finally, the application calls for ‘bulk excavation’ of a large area around the entrance of the Memorial. This will facilitate demolition of the Parade Ground and construction of a new underground entrance.

2. Heritage Guardians (HG) is [a small committee](#) set up to manage a community campaign against the Australian War Memorial project. This submission is written on behalf of [the hundreds of people who have supported the HG campaign](#) over the last two years.

3. HG note that decisions have been made:

- [by the Parliament, responding to a report of the Joint Parliamentary Standing Committee on Public Works \(PWC\)](#)
- [by the Minister for the Environment under the heritage provisions of the Environment Protection and Biodiversity Conservation \(EPBC\) Act.](#)

4. Despite the remarks by the NCA (on [its website page relating to this consultation, hereafter called ‘the NCA consultation page’](#)) about the above decisions, HG does not accept that the last word has been said on the need for the project or on its heritage aspects. Some of these matters are aired again in this submission.

5. Since March 2019, [the HG campaign diary](#) has tracked the history of the campaign against the War Memorial project. References for most of the statements in this submission can be found in that campaign diary or in the links hanging from it.

6. While the submission is wide-ranging it does not get into every one of this complex set of issues, including whether the Memorial should have pursued other development options (better use of its campus at Mitchell, repurposing parts of the Campbell site, digitisation), let alone whether it has done these things vigorously enough to satisfy the terms of section 341ZC of the EPBC Act, which refers to minimising adverse impacts on heritage values.<sup>1</sup> Other submissions may well cover these matters.

7. Nor does the submission get into the masses of spurious ‘survey’ material the Memorial has used since 2018 to justify its claims of wide support for the project. This material has been

characterised by leading questions, biased samples, low response rates, and misleading spruiking by public officials and contractors who should know better. The words ‘mendacious’ and ‘meretricious’ are appropriate for much of this ‘evidence’.

8. **Appendix 1** of the submission addresses what HG sees as serious problems in the NCA consultation process – and ones that need to be rectified before the Authority considers any main works approvals (MWA) applications from the Memorial. **Appendix 2** offers evidence that the War Memorial is taking the NCA part of the approval process less than seriously. The submission proper, however, relates directly to the consultation closing on 30 April.

### Works application approvals and the role of the National Capital Authority

9. Works application approval is the responsibility of the NCA. ‘Works’ is defined in the [Australian Capital Territory \(Planning and Land Management Act 1988 \(the PALM Act\)\)](#) and [the National Capital Plan \(NCP\)](#) to include the construction, alteration, extension or demolition of buildings or structures, landscaping, tree felling or excavation, but to exclude anything done inside buildings or structures. The NCA has advised HG that there is no formal definition of ‘early works’, but that the term generally refers to preparatory works in advance of major construction activities. Typically, the Authority says, this may or may not be limited to site establishment, excavation, demolition of structures, services relocation, tree removal and temporary structures.<sup>2</sup>

10. That lack of formal definition certainly leaves the Authority with room to manoeuvre. A definition of ‘major works’ is also difficult to pin down. According to page 82 of the NCP, ‘The determination of those applications that constitute major works is at the discretion of the National Capital Authority’. Dealing with works applications – major or not, there are 300 to 400 of them annually – has been delegated to the Authority’s Chief Planner and his staff, beneath the oversight of the Board of the Authority.<sup>3</sup>

11. The NCP contains broad planning principles and policies for Canberra and the Territory, as well as detailed conditions of planning, design and development for ‘Designated Areas’, which include the Constitution Avenue and Anzac Parade Precinct. ‘The NCA will make an assessment of whether a proposal is consistent with the National Capital Plan’, says [the Authority’s Commitment to Community Engagement](#) at section 2.7 ‘Works Applications’.

12. Section 2.7 goes on:

An assessment will be made in relation to adverse impacts on:

- public space and community amenity
- environment, heritage or landscape values
- amenity of the locality in terms of materials, finishes, scale, massing, design and quality
- consistency with an existing Heritage Management Plan.

This submission will come back to those key words.

### What the early works application covers and why it should not be dealt with in isolation from the main works applications

13. ‘The Early Works Packages within this WA [works application]’, according to [the pdf Planning Report by the Memorial’s consultants, Knight Frank \(attached to the NCA consultation page\)](#), ‘are to adequately prepare the three works sites of the New Southern Entrance, Anzac Hall and Glazed Link and Bean Building Extension and Central Energy Plant for construction’ (*Planning Report*, page 17). That fits with the NCA’s loose definition of ‘early works’ referred to above (para 9).

14. This match-up is not unexpected as, according to both the Authority and the Memorial, the two sides discussed the EWA before it was lodged. The Memorial admitted to HG that it was the Memorial’s idea to run up Anzac Hall demolition, massive excavation, and tree-felling as ‘early works’. Neither the Memorial nor the Authority, however, would tell HG whether the Authority agreed to this course of action by the Memorial.<sup>4</sup>

15. There are four Early Works Packages within the application, as set out in the Knight Frank *Planning Report* (page 5):

<b>EWP1</b>	<b>Early Works Package 1</b>	Project Perimeter Hoardings
<b>EWP2</b>	<b>Early Works Package 2</b>	Services Relocation and Ancillary Works
<b>EWP3</b>	<b>Early Works Package 3</b>	Demolition of Anzac Hall
<b>EWP4</b>	<b>Early Works Package 4</b>	Civil Works and Bulk Excavation

We are being played for mugs by this cynical abuse of process

16. What lies beneath that bland Knight Frank statement in para 13 above (‘adequately prepare’), on behalf of its client the War Memorial, becomes glaringly obvious in the list of works covered by the EW ‘Packages’ (*Planning Report*, page 6). We have added emphasis to the important items in case the reader misses them.

- Installation of project perimeter hoardings
- Services capping and relocations
- New timber workshop entry door and path into the existing Bean Building
- **Demolition of Anzac Hall**
- New roundabout to Poppy’s Carpark entry road
- Civil works, earth retention systems and **bulk excavation**.

17. The incongruity of the bolded items in that list is obvious: the destruction of an award-winning building less than 20 years old, and costing \$20m in today’s dollars, is set alongside the erection of a fence; the excavation of hundreds of square metres of historic earth on the southern side of the Memorial is mentioned in the same breath as knocking up a new door and pathway.

18. The NCA – and Canberrans and Australians – are played for mugs by documentation like this. It is a cynical abuse of process to bundle fundamental aspects of a project – works without the completion of which the project could not proceed – with minor site preparation. This is no more than a rort to seek approval for irreversible works – which will inevitably lead to massive permanent changes to the Memorial – at the same time as getting a tick for temporary modifications to improve access for or protect the safety of construction workers.

19. And the ‘early work’ of destroying at least 116 trees is not even listed above but first appears (on page 23 of the Knight Frank *Planning Report* document) as one of nine items in EWP4, and scattered entries after that. Played for mugs, again. (The [pdf Preliminary Arboriculture Assessment attached to the NCA consultation page](#) supports the number of 116 and perhaps more.)

20. ‘The Early Works will be undertaken to enable the major new build elements of the Development Project defined as the following Main Works Packages’, Knight Frank reminds us on page 5 of the *Planning Report*. These ‘Packages’ are listed in the *Planning Report* as below (page 6):

<b>MWP1</b>	<b>Main Works Package 1</b>	Southern Entrance and Main Building (Civil and Structural Works for Main Building only)
<b>MWP2</b>	<b>Main Works Package 2</b>	Bean Building Extension and Central Energy Plant
<b>MWP3</b>	<b>Main Works Package 3</b>	Anzac Hall and Glazed Link
<b>MWP4</b>	<b>Main Works Package 4</b>	Main Building Refurbishment other than MWP1 works

21. The Memorial’s Executive Director Development [told Senate Estimates recently](#) that the ‘Packages’ would be dealt with by the NCA in June-August, except for matters covered by MWP4, which will not be progressed until 2022. (The Memorial’s Director – a different officer – seemed not to be aware at Estimates that there were further applications to come to the NCA after the early works application. See **Appendix 2** to this submission.)

22. Comparison between the two tables above reveals the integral relationship between the key early works and the main works. While glitches with EWP1 Project Perimeter Hoardings and EWP2 Services Relocation and Ancillary Works might lead to OH&S problems or inconvenience, a failure to demolish Anzac Hall under EWP3 or perform the bulk excavation under EWP4 would be catastrophic to the whole project. It would stop in its tracks; MWP1 and MWP3 could not happen. EWP3 and EWP4 are not ‘site preparation’; they include essential works.

23. Further, MWP1, 2 and 3 all depend on the destruction of those 116 or more trees around the front of the building, to the east of the Bean Building and behind Anzac Hall. Again, the tree-felling is not site preparation but essential work, intricately connected to the future construction.

The early works application cannot be assessed in isolation from the prospective main works applications

24. The demolition of Anzac Hall, one of the most controversial aspects of the whole project, is inseparable from the rest of the project as a whole – the project depends upon it happening – and it should be considered as part of the total project, not sneaked through as an ‘early work’.

To go back to the language of the Knight Frank *Planning Report*, each EWP should be considered simultaneously with its associated MWP.

25. The destruction of at least 116 trees, some of them older than the Memorial itself, is wanton vandalism on a scale which would change the look of the Memorial for decades to come. It will destroy the essential link between the Memorial grounds and Mount Ainslie. Any replacement trees will – despite the architect’s fanciful illustrations in [the Memorial’s final preliminary documentation](#) – take decades to reach the size and grandeur of the destroyed trees. The tree-felling cannot possibly be considered an ‘early work’. It is a fundamental and integral part of the project.

26. The proposed ‘early works’ also include the massive excavation south of the existing Southern Entrance and across the Parade Ground. The map at page 7 of the [pdf Southern Entrance attached to the NCA consultation page](#) reveals the extent of this excavation (within the dotted blue line). An excavation of this magnitude cannot possibly be considered an ‘early work’. Again, it is an essential element of the project, without which key main works could not happen.

27. If we were looking at a ‘greenfields’ site, a bare paddock with a few trees, and, even, say, a derelict shearing shed, it might make sense to describe as ‘early works’ digging a great big hole, chopping down the trees, and bulldozing the shed. That might have been a rough description of the Memorial site in the 1930s when building commenced, but it is not at all a description of what we have now. The NCA should start from this point: the characteristics of the Memorial site in 2021 – a heritage building in a memorable landscape.

**The National Capital Authority’s 2019 decision on the early works application for carparking at the Memorial is not a precedent: these early works are on the same ground as the main works they relate to**

28. When the NCA recently provided HG with examples of its previous consideration of early works it mentioned projects in Constitution Avenue and at the Australian National University but, curiously, not the Authority’s consideration of the building of new carparking at the Memorial.<sup>5</sup> That consultation was in 2019 and [the consultation report is readily available on the NCA website](#). That works approval application was for the extension of Poppy’s Café Carpark at the Memorial and the installation of a temporary carpark nearby for use by workmen. The Authority decided as follows: ‘The proposal is not inconsistent with the provisions of the National Capital Plan, and is supported’.

29. The Memorial carparking application and the NCA decision is clearly relevant to the current application (because the carparking was at the Memorial) but it is by no means a precedent. While nowhere in its carparking report does the Authority use the term ‘early works’, that is clearly what the carparking was – early works for the big \$498m project. ‘This Works Approval is the first of the permanent works forming part of the broader redevelopment project’, according to [the NCA consultation page on the carparking](#). That sounds like an ‘early work’, even for an Authority that likes its definitions vague (see para 9 above), but let’s leave that aside for now.

30. When 18 of 22 submitters to the carparking consultation complained that the approval for the carparking work had been considered separately from the overall Memorial redevelopment proposal, the Authority responded to the objections thus:

The extension of the carpark is an independent structure [in a couple of renderings, “a standalone project”], not physically connected to the larger redevelopment project and is therefore able to be considered as a separate project. The extension of the carpark does not prejudice the NCA’s consideration of future works approvals associated with the redevelopment of the AWM.

31. As was [pointed out on Honest History at the time](#), the Authority’s language was clumsy but its intention was clear: the carparking work was only metres from the Bean Building, a building to be extended as part of the big project, but that short distance was enough to make it a separate project. (Even though it was also ‘the first of the permanent works forming part of the broader redevelopment project’!)

32. What is happening now, in 2021? Does the ‘separate project’ precedent help the Authority this time, even if we avoid the question of whether the carparking was an ‘early work’?

- The old Anzac Hall has to be demolished to enable the construction of a new, two level Anzac Hall, a central component of the whole project, not just ‘physically connected to the larger redevelopment project’ but to be built on virtually the same footprint as the old Anzac Hall (Main Works Package 3).
- The huge excavation to the south of the Memorial is not just ‘physically connected to the larger redevelopment project’ but is essential to allow construction of a new entrance and reconstruction of the Parade Ground, both key components of the project, and both within the space covered by the excavation (Main Works Package 1).

- The removal of at least 116 trees is essential to allow construction of the new entrance and reconstruction of the Parade Ground, extension of the Bean Building, and construction of the new Anzac Hall, in each case not just ‘physically connected to the larger redevelopment project’, but three areas of the Memorial grounds currently graced by those trees (Main Works Packages 1, 2 and 3).

To sum up, the carparking ‘separate project’ precedent does not apply to these three ‘early works’.

### Why the Memorial is doing it this way: ‘salami slicing’ or progressive approvals creating inevitability

33. The Memorial is encouraging the NCA to indulge in ‘salami slicing’, a rorting or gaming of an approvals process, where the approving authority progressively approves works of such importance and so inter-connected that it will be impossible not to approve the whole project when applications for further components are made. Indeed, the approvals in such cases make no sense unless it is assumed that later approvals will follow.

#### Two scenarios

34. Absent any further approvals, the carparking referred to above would be capable of standing alone, but that is clearly not the case with the demolition of Anzac Hall, the destruction of the 116 trees, and the massive southern excavation. If the Authority were to give *no further approvals* but work had already proceeded on the basis of the early works approval, Canberra and Australia would be left with the original Memorial, except for a big Anzac Hall-shaped hole at the rear already dug or being dug, all those trees gone or being chopped down, and a huge hole dug or being dug at the south of the building.

35. If, on the other hand, *no further approvals* were to be given by the NCA and work *had not* already proceeded on the basis of the early works approvals, the proponent, the War Memorial, would be loud in its protestations: ‘How can you possibly not give us approval to build a new Anzac Hall, when you have approved the demolition of the old one?’ ‘How can you possibly not give us approval to build stuff out the front when you have put a tick on digging a great big hole to build the new stuff in?’ ‘How you can possibly not approve these new constructions when you have approved our chopping down all those trees that stand in the way?’

36. Above all in the second case, the Memorial would say, ‘The prime minister said we had the money!’ and ‘The prime minister unveiled the plans!’ It would also point to the Parliament’s

decision in response to the PWC report and to the Minister's decision under the EPBC Act (see above para 3). The political pressures on the NCA are enormous. Yet, it still has a role to play.

37. In playing that role, the NCA should recognise that these so-called early works – the demolition, the big excavation, the mass tree-felling – are irreversible and fundamental and should not be dealt with in isolation from what is meant to happen in the future. Approval of these early works makes further consultation irrelevant and redundant.

38. Apart from anything else, why would people bother to provide their views on the new Anzac Hall, the new Southern Entrance and Parade Ground, and the new Bean Building, when the die had been cast by the early works approvals? [The NCA's commitment to community engagement](#) would look hollow indeed.

39. Which of the above two scenarios is more likely is unclear. The Memorial Director's delphic remarks to Senate Estimates about 'construction related activity' do not help (see **Appendix 2** to this submission).

#### **The National Capital Authority's claim that a decision on one approval does not affect its decision on a future related approval is simply implausible**

40. 'The extension of the carpark does not prejudice the NCA's consideration of future works approvals associated with the redevelopment of the AWM.' That was the Memorial's caveat in the carparking case referred to above (paras 28-32). The fig leaf of physical separation between the carpark and the rest of the Memorial makes that claim in that case moderately plausible. Were the Authority to make *no more decisions* approving aspects of the redevelopment, the Memorial would have at least gained a nice new carpark. But we are now in different territory: the early works approval and the potential future approvals are intricately connected; there is no physical separation between the key elements of the EWA and the key elements of the project proper.

41. 'The NCA', [the Authority reminds submitters on this occasion](#), 'has previously approved a number of earlier projects and preparatory works as part of the AWM redevelopment. These include new car parking, asbestos removal and temporary structures currently used for display, office purposes or site compounds.' These items were regarded as so minor, apart from the carparking, that they did not require public consultation. Surely, the Authority's previously waving through the carparking application made it easier for it to put a tick on all those other small salami slices? Can we really believe the Authority when it claims – as it probably will

again this time around – that its current deliberations will not be influenced by these earlier ones?

42. This is especially the case when, as noted above (para 14), the Authority and the Memorial discussed tactics, and the Authority has been represented on the relevant IDC since 2018.<sup>6</sup> And by its Chief Planner at that, [the role of whose Planning and Design staff includes assessing works approval applications \(at the rate of 300 to 400 a year\)](#).

Works approval functions have been delegated to the Chief Planner and his staff [the Authority’s Chief Executive told HG on 10 March 2021]. As you would appreciate, while the powers may be delegated, the accountability lies with the Authority.

Wearing my hat as Board member I know the Authority will wish to know the matter has been assessed against, and is consistent with, provisions in the National Capital Plan (the Plan).<sup>7</sup>

43. None of this work – and none of the NCA approvals where they have applied or will apply – makes any sense unless it is assumed that the big project will go ahead. The NCA should halt the salami slicing and defer consideration of these massively important so-called ‘early works’ (and the hoardings, paths, gateways and other relative trivia caught up in the application) till the relevant main works applications come forward.

#### [It is difficult to compare the early works approval application with the relevant National Capital Authority documentation](#)

44. Having said all of the above, this submission now tries to look at the current application in its own terms, testing or comparing it against the NCP. This is exactly what the NCA claims it has to do. The comparison task is not easy, however. The application was so obscure about which NCP provisions were relevant that HG had to seek further advice from the NCA while the consultation clock ticked on.

#### [The Memorial and the Authority are not even on the same page](#)

45. [The NCA consultation page](#) says:

The NCA will assess this works approval application and determine the consistency of the works **against the National Capital Plan (the Plan). The Plan focuses on planning matters and quality of design.** (emphasis added)

46. By contrast, the [Knight Frank Planning Report](#), the key document in the application on behalf of the Memorial, says:

**[G]uidelines in the National Capital Plan (NCP) do not relate to the works proposed under this application.** This application describes the works and provides background information for the overall development project. (page 6; emphasis added)

[T]he proposal [that is, the big project] is assessable against the NCP. The works proposed [in the EWA, on the other hand,] are limited to early works packages of site hoarding, services relocations and ancillary works, demolition and excavation. Guidelines within the Plan are developed to control the design outcomes of built form. As a result, **specific guidelines of the Plan do not relate to the works proposed and are therefore not addressed in this planning report.** (page 28; emphasis added)

This report has not addressed Detailed Conditions of Planning, Design and Development within the NCP because **the works proposed are not of a nature which may be assessed against design-based guidelines.** (page 36; emphasis added)

Despite all the above, however, ‘[t]his report has been provided in compliance with **NCA requirements for demolition and excavation works applications ...**’ (Knight Frank, page 6; emphasis added)

47. Prima facie, on this evidence, Knight Frank (for the Memorial) and the NCA are not even on the same page: Knight Frank is saying its early works application on behalf of the Memorial has nothing to do with what the Authority is supposed to be assessing, compliance with the NCP. On the other hand, the EWA is ‘in compliance with NCA requirements for demolition and excavation works applications’, whatever they are.

#### Planning Principles and Precinct Codes

48. HG asked the NCA what Knight Frank meant by ‘NCA requirements’ as above, and where these could be found.<sup>8</sup> The NCA referred HG to the definition of ‘works’ under the PALM Act and added:

Works are assessed by the NCA for consistency against the National Capital Plan. The National Capital Plan sets out planning and design requirements; and works, including demolition and excavation, are considered under **the Planning Principles and Precinct Code provisions of the [National Capital Plan](#).** (emphasis added)<sup>9</sup>

49. HG is puzzled as to why this useful information could not have been included on [the NCA consultation page](#) as an aid to people providing submissions. As it is, the consultation page

calls for ‘relevant’ submissions but provides minimal criteria for relevance beyond the bare reference to the National Capital Plan. It virtually sets up the process to generate a number of submissions which the Authority can regard as not relevant and thus can easily dismiss. Moreover, the supporting pdf documents are bundled together in a confusing way, with no guide or simple explanation as to which is which, and no clear linkage to the key Knight Frank *Planning Report*.

50. HG is puzzled also by the vagueness of the Knight Frank reference (‘NCA requirements for demolition and excavation works applications’). Did Knight Frank or the Memorial even look at the Planning Principles and Precinct Codes? Why did they not make more of an effort to match their material against these documents? Perhaps because there is virtually no mention in either the Planning Principles and Precinct Codes of demolition, excavation, or tree-felling, except in the definition of ‘Works’ right at the end of [the NCP](#).

51. The Planning Principles cover a wide range of matters but only small parts of them are relevant to the EWA. Under Principles 2.4 ‘Liveability’, there is this: ‘Substantial works of architecture, engineering and landscape within the Territory should be designed to contribute positively to the overall composition, symbolism and dignity of the National Capital’. One would have thought that was something that the Memorial and its consultants could have written eloquently about, even when talking about early works. But there is nothing on this in the crucial Knight Frank *Planning Report*.

52. The [pdf Heritage Impact Statement](#) provided with the EWA has one mention (page 14) of the demolition of Anzac Hall (‘This is a significant negative impact and the most detrimental aspect of the proposal’) but not a word about the NCP. The [pdf Ecological Impact Assessment](#) provided with the EWA has lots of references to individual trees but none to chopping lots of them down and its only reference to the NCP reminds us that the Plan includes Designated Areas.

53. Then, further down on the same page of the Planning Principles under ‘Liveability’, we find, ‘Vistas to major landscape features must be protected from and enhanced by development’. The only mentions of Vistas in the EW documentation are a single, solitary note in the 61-page *Heritage Impact Statement* and four passing references in the *Planning Report* (none of them anything to do with demolition, excavation or tree-felling, the key elements of the EWA). Amid the bundle of plans in the [pdf Southern Entrance](#), there is *not one* reference

to Vistas, even though that great big hole is being dug at one end of [the famous Parliament House Vista](#).

54. Even further down on the same Principles page, the NCA may require Heritage Management Plans (HMP) and Heritage Impact Statements (HIS) to accompany applications. As noted above, [the EW documentation includes an HIS](#), but the HMP is still pending, the 2019 draft having been withdrawn so it can be reworked to fit the reality of a destroyed Anzac Hall. The 2019 draft and its 2011 predecessor both assumed Anzac Hall would remain. There is more on this further down in this submission (paras 77-81).

55. It is a pity the NCA Principles only say the Authority ‘may’ require an HMP. That is not a very high bar for the Memorial to clamber over. On the other hand, the relevant Principle goes on to say, ‘Development should be consistent with the requirements of any relevant Heritage (or Conservation) Management Plan for that particular place’. It is only a ‘should’, but one would have thought parking an inconvenient HMP for years till the development caught up with it is against at least the spirit of the EPBC Act. Or it ought to be.

56. Similarly, the NCA’s Precinct Code 4.8 ‘Constitution Avenue and Anzac Parade’ is comprehensive but its relevance to the early works – demolition of Anzac Hall, big hole, tree-felling – is limited. Under Objective 4.8.3 we find ‘7. Develop a built environment which demonstrates design excellence’. You would think that was a free kick for Knight Frank and the Memorial, with all those design-focussed architects lined up to do the work. But again, there is no mention in the EW documentation; Knight Frank, on behalf of the Memorial, made it clear it would avoid the subject of design (see above paras 45-47).

57. Then again, it is difficult perhaps to make a design excellence case for a hole or a demolition or a mass tree-felling. Yet, this is part of the Precinct Code that the NCA tells us the EWA should be matching itself against.

58. There is more under 4.8.5 of the relevant Precinct Code ‘Detailed conditions of planning, design and development’ about how ‘[d]esign proposals should be site responsive’. Again, it is surprising the EWA does not say something about this: a hole dug large enough to accommodate some big new features is fairly site responsive, as is a demolition big enough to build a new structure on the same footprint, or tree-felling across the site. But, again, no joy.

59. It is not surprising that HG as a submitter to the process had difficulty matching the terms of the EWA to the NCA’s Planning Principles and Precinct Codes. Knight Frank did not even bother to do so, perhaps knowing that, despite the Authority’s claim that these are the ‘go-to’

documents, they do not help much on how to dig holes, demolish buildings, and chop down trees.

60. In sum, the Knight Frank-Memorial material contains insufficient evidence for public commenters to make an assessment against relevant criteria. The documentation is confused and confusing, if not deliberately misleading. It is a bundle of word salad, complex diagrams and plans, inadequately indexed, difficult to access, and difficult to read. (For an application which claims – see above paras 45-47 – *not* to be about design it contains a lot of designs.) The Memorial is going through the motions because it has to; the NCA is constrained by the previous approval history of the project. The NCA is not constrained, however, by its [‘commitment to community engagement’](#). If the community engages this time around it is despite the process, not because of it.

[Given that this may be the last chance for meaningful public input, it is important at this stage to summarise arguments against the prospective main works applications, covering the whole project](#)

61. We have argued so far that getting approval for irreversible early works is a surrogate for approval of the whole project, especially when these works are as important as the demolition of Anzac Hall, the big dig at the front of the Memorial, and the mass destruction of all those trees. Approval of these early works makes approval of the main works (MWP1, 2 and 3) redundant. The NCA’s approval of these three key components, under the subterfuge of ‘early works’, would make the Authority’s consideration of the rest of the project (due in June-August) a futile exercise. The die will have been cast irrevocably.

62. Against that prospect, we must look now at the whole \$498m redevelopment. [The NCP says](#) an assessment will be made in relation to adverse impacts on: public space and community amenity; environment, heritage or landscape values; amenity of the locality in terms of materials, finishes, scale, massing, design and quality; consistency with an existing Heritage Management Plan.

63. This section of the HG submission tries to summarise adverse impacts, taking account both of the EWA and of the information that has come to light in earlier approval processes (PWC, EPBC), in the Memorial’s final preliminary documentation, and in public comment.

#### Public space and community amenity

64. The Memorial and its grounds are a valued and revered part of the public space of Canberra and Australia. The current project, justified in part by [the argument that a bigger Memorial will be more attractive, have more heritage value, and bring more tourists](#), tramples on this tradition.

65. The attraction of the Memorial for 80 years has arisen from its careful balancing of the functions of memorial, museum and repository of records. That attraction will dissipate if the balance is lost. This development threatens to trash that balance.

66. ‘Destroying such an investment – of effort, culture, and family memories – is a waste and a mark of disrespect ... The Australian War Memorial is one of our nation’s most significant monuments.’ ([Australian Institute of Architects](#))

67. ‘Why the haste and enthusiasm to create cavernous, soulless spaces in concrete, glass and steel under and around the main building? There are other viable and suitable options at much less cost that do not threaten irreversible harm to this iconic place.’ ([Steve Gower, former Director of the Memorial, 2019](#))

#### Environment, heritage or landscape values

68. The argument that a larger Memorial will have greater heritage value is nonsense when the extension requires destruction of large parts of the existing fabric. It will be decades before the redeveloped Memorial has an external aspect as inspiring as the existing Memorial has within its setting.

69. The destruction of more than 116 trees will sever the link the Memorial has with Mount Ainslie and damage the reflective, solemn atmosphere of the space. More generally, there will be an imbalance created in the landscape by overdevelopment of the Memorial building in relation to the site. This will also affect the Vista up and down Anzac Parade.

70. It is important that the NCA look beyond the formal sign-off by Minister Ley on the equivocal advice (the ‘impacts were not unacceptable’!) from her Department of Agriculture, Water and the Environment (DAWE), to help her make the necessary decision under the heritage provisions of the EPBC Act. Both the Australian Heritage Council (AHC), the government’s principal adviser on heritage matters, and the Historic Heritage Section (HHS, the heritage experts within DAWE) have identified significant impacts from the project. [HHS referred particularly](#) to how the redevelopment reduces the relative importance of the commemorative compared with the exhibition spaces of the Memorial. Other critics have described this as the creation of [a ‘military Disneyland’](#).

71. The AHC, apart from identifying the demolition of Anzac Hall, the work on the Parade Ground, the inclusion of the Oculus, and the expansion of the Bean Building as negatively impacting the Memorial's heritage values, made a number of other points in its submission to the Memorial in July 2020. They cannot be ignored by an Authority charged with comparing projects with the NCP. Summing up, [the Council said](#) that it 'cannot support the conclusion that the proposed redevelopment will not have a serious impact on the listed heritage values of the site' (Preliminary documentation – Public comment, submission No. 152).

72. Finally, the NCA should not place great weight on [the 29 'conditions of approval' set by the Minister](#). Like the NCA's own 'separate project' argument discussed above (paras 28-32) the conditions were a fig leaf to justify a controversial decision. They do not remove or substantially reduce the heritage impacts identified by the AHC and HHS. More than a third of them are standard administrative conditions. Others, such as archival recording, training staff to talk about the meaning of the form of the Memorial now wrapped in the glazed addition, and more reports and approval for any further loss in the commemorative focus, do not reduce or change the actual identified heritage impact.

#### **Amenity of the locality in terms of materials, finishes, scale, massing, design and quality**

73. Regarding the effect of the development to the south of the building and on the Parliament House-Anzac Parade Vista, there will be significant changes to the size and shape of the Parade Ground, loss of flanking trees, a massive new bladed façade, and potential visibility of the Glazed Link above the main building. These changes are fundamental to the nature of the Memorial; they cannot be brushed over with the Memorial's marketing hype as 'Our Continuing Story'.

74. Under this heading, HG notes again the remarks of DAWE's own HHS experts, particularly about how the larger Anzac Hall will impact on the overall ceremonial landscape, how the Glazed Link will reduce the relative isolation of the Memorial building, and how the Oculus will detract from the monumental character of the Memorial building. Again, the changes are fundamental.

75. This heading is important for another reason, too. If the NCA approves the early works – and thus effectively settles the fate of the project, because any further approval process will be of minor importance – the Authority will have effectively reduced its role in this project to putting a tick on the quality of paint, the resilience of floor coverings, and the heat-resistant qualities of the roof in the Glazed Link. It will be constrained on what it can do regarding the

much more important elements, Anzac Hall, the Southern Entrance and the Parade Ground, and the Bean Building.

76. If that sort of minor tweaking is all that remains for the Authority to do, that is hardly the role of a major public sector player. Yet, that is the risk it runs by approving the early works application.

#### Consistency with an existing Heritage Management Plan

77. Both [the 2011 HMP](#) and [the draft 2019 HMP](#) call for the retention and conservation of Anzac Hall:

- HMP 2011: ‘Conserve, manage and interpret the ANZAC Hall as a part of the AWM main building’ (page 95)
- Draft HMP 2019: ‘Conserve, manage and interpret ANZAC Hall’ (page 94).

78. The 2019 draft also says:

9.9.1 Respect the important architectural qualities of ANZAC Hall, including its external architectural form and siting which is subservient and recessive in the landscape and to the main Memorial building. Manage future change to ANZAC Hall that is sympathetic to the heritage values of the AWM (page 94).

79. The 2019 HMP review has still not been completed and endorsed; [the draft was withdrawn, parked, suppressed when it became inconvenient](#). Those references above in the 2019 draft do not read like a building that is about to be demolished. No wonder the Memorial pulled the draft.

80. But the HMP is about to re-emerge, spruced up, as the Memorial’s Director and Executive Director Development [told Senate Estimates on 24 March](#):

Mr Anderson: We do have a heritage management plan. We were seeking to update it at the same time as we were seeking to go through the EPBC process. The advice I understand from the Department of Agriculture, Water and the Environment was to concentrate on –

Mr Hitches: I can add to that. Currently we are still operating under the 2011 plan. There was potentially a 2019 plan but, because the submission under the EPBC Act was going at the same time, the advice was to hold back to make sure that that process finalised under that current plan and then submit the revised plan. That’s going

through its final edits at the moment. I can't give you an exact time, but it's in its final throes, so it will go in shortly.

Senator KITCHING: Was that advice from the department?

Mr Hitches: Yes.

(The thrust of that exchange has been confirmed for HG by an independent and knowledgeable source, not the department.)

81. So, there is no current War Memorial HMP that is consistent with the plan to demolish Anzac Hall – though the Memorial is assiduously working to remedy this situation. The management plan is itself being managed. And when it finally arrives it will be rather late, since [the EPBC Act section 341X](#) requires HMPs to be reviewed every five years.

## Conclusion

82. Designating as 'early works' the demolition of Anzac Hall, the destruction of dozens of trees, and the massive southern excavation, is an abuse of process, a travesty, and an insult to the Parliament (the author of the Australian War Memorial Act), to the architects of Anzac Hall, and the people of Canberra and Australia, who continue to troop through the Memorial, barely aware of the destruction that is about to occur there. ([The prime minister's Anzac Day address this year](#), heavy with rhetoric, included not one word about the redevelopment project.)

83. These so-called 'early works' will cause permanent damage to the heritage-listed Memorial and its surrounds. All for the sake of an expensive and unjustified vanity project, opposed by many, many Australians.

84. The NCA should defer consideration of the 'early works' until it has received major works approval applications from the Memorial for the rest of the project. It should then consider all components of the project as a single package. (There might be a case for deferring MWP4 till 2022, as the Memorial proposes.)<sup>10</sup>

85. When that overall consideration occurs – and only then – will it be possible for the NCA to do what it is charged to do:

assess this works approval application and determine the consistency of the works against the [National Capital Plan](#) (the Plan). The Plan [the NCA knows and we

should remember] focuses on planning matters and quality of design. These policies ensure that Canberra is a city worthy of its status as the national capital.

The current EWA, on the other hand, is a charade and the NCA should not join the game.

86. If, on the other hand, the NCA does not exercise its authority vigorously – by rejecting this application and postponing consideration of the complete project – it will confirm that the project has been a ‘done deal’ ever since [the prime minister, on 1 November 2018](#), at a gala event [paid for by Memorial Council Chairman Kerry Stokes](#), announced the funding. It will show that everything since that date – successive methodologically questionable ‘surveys’ by the Memorial, the Public Works Committee inquiry, exhaustive consultation leading to the EPBC decision by the Minister, hundreds of hours of work by many people inside and outside government – has been so much window dressing. Regardless of how the Memorial looks by 2028, that is not a good look for a democracy.

## Appendix 1: Some problems with the National Capital Authority consultation process and documentation

1.1 [The advice about the consultation sent out on 19 March 2021 by the NCA](#) to people who had registered as Key Stakeholders was misleading in that it had no mention of the demolition of Anzac Hall, the bulk excavation at the front of the Memorial, or the mass tree removal. The language was generic and non-specific.

1.2 [The NCA consultation page](#) was again vague and non-specific but managed to mention the demolition of Anzac Hall in passing in the *ninth* paragraph.

1.3 The NCA consultation page and the whole process was unsatisfactory in the lack of information it provided to submitters (see para 49 in the submission proper).

1.4 The disparity between the Knight Frank documentation and the claimed role of the NCA was puzzling and the Authority's assistance to Heritage Guardians on the point did little to clarify the situation (see para 44 and following in the submission proper).

1.5 Given that NCA Works Approvals mostly deal with projects far smaller than the \$498m War Memorial project, the Authority needs to examine its processes for handling large projects.

1.6 The Authority needs to define 'major works' more precisely (see para 10 of the submission proper).

1.7 The NCA needs to define 'early works' more precisely, including how it deals with them. An exchange of emails between the Authority and Heritage Guardians revealed the Authority was unclear about its history of dealing with early works (see para 28 in the submission proper).

1.8 When it defines 'early works' the NCA needs to provide some examples of Works Approvals where early works were dealt with separately from major works, as is the case in the current EWA. It is not clear from NCA records what, if any, precedents there are for this course of action.

## Appendix 2: The Memorial is not taking the National Capital Authority consultation seriously: it has regarded the project as a 'done deal' since November 2018

2.1 In July 2019, Trippas White, the Memorial's events contractors, [were tempting clients with this exciting prospect](#): 'A new Anzac Hall will be larger and across two-levels ...' (23 July 2019). This was long before the Public Works Committee inquiry, the EPBC process, or the current NCA process.

2.2 War Memorial contract notices in AusTender from 2019 ([like REOI2020/0074](#)) said the Australian Government has 'approved' the project. Again, while the notices mentioned the prime ministerial funding announcement of 1 November 2018, they were well in advance of the PWC, the EPBC process, or the NCA round.

2.3 In August 2019, [the then Director of the Memorial, attacking critics of the redevelopment project, said](#), 'The train has left the station ...', meaning further resistance was fruitless.

2.4 The Memorial's Deputy Executive Director Development told a consultation in Melbourne in December 2019 that the project was happening and people who had complaints should contact their MP.

2.5 The Memorial's Directors have said the project is not about the Memorial building (the subject of the NCA approval process) but its contents. Most recently, [there was the current Director](#), echoing [his predecessor in 2019](#).

2.6 [The 24 March Senate Estimates hearings](#) showed the Memorial's spokespersons were not well prepared for accountability, as it related to the NCA and generally. There was:

- a misleading remark about how long the Memorial had been working with the NCA on the project, reducing this period by two years (see para 42 in the submission proper)
- the Memorial's Director seeming to be unaware that there would be more than one round with the NCA
- some evasive language about the Memorial's Heritage Management Plan (see paras 77-81 in the submission proper)
- an odd remark from the Director, when asked about the demolition of Anzac Hall, that 'we have not and we will not start any construction related activity without the necessary approvals in place'. Which raises the questions: is demolition a 'construction related activity'? Early works approval only or major works approval, too?

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## Endnotes

<sup>1</sup> [Environment Protection and Biodiversity Conservation Act 1999](#)

### **341ZC Minimising adverse impact on heritage values**

A Commonwealth agency must not take an action that has, will have or is likely to have an adverse impact on the National Heritage values of a National Heritage place or the Commonwealth Heritage values of a Commonwealth Heritage place, unless:

- (a) there is no feasible and prudent alternative to taking the action; and
- (b) all measures that can reasonably be taken to mitigate the impact of the action on those values are taken.

<sup>2</sup> Email, Chief Executive, NCA, to Convener, HG, 21 April 2021.

<sup>3</sup> Email, Chief Executive, NCA, to Convener, HG, 10 March 2021; [‘Our staff: Planning and Design’, NCA website](#).

<sup>4</sup> Emails: Convener, HG, to Deputy Executive Director Development, AWM, 23 March 2021; reply 29 March 2021; Convener, HG, to Chief Executive, NCA, 31 March 2021; reply, 1 April 2021. The Chief Executive said, ‘It is not unusual for an applicant to discuss the structure of an application with the NCA, particularly when the proposal is large and/or complex’.

<sup>5</sup> Email, Chief Executive, NCA, to Convener, HG, 15 April 2021.

<sup>6</sup> Email, Chief Executive, NCA, to Convener, Heritage Guardians, 10 March 2021. See also: Australian War Memorial Redevelopment Project Inter-departmental Steering Committee, Minutes, 4 April 2018-15 May 2019, released under FOI, linked from David Stephens, [‘War Memorial releases material under FOI relating to \\$498m expansion program: did a billionaire’s personal guarantee clinch the deal?’](#) *Honest History*, 4 October 2019 updated.

<sup>7</sup> Email, Chief Executive, NCA, to Convener, HG, 10 March 2021.

<sup>8</sup> Email, Convener, HG, to Chief Executive, NCA, 1 April 2021.

<sup>9</sup> Email, Chief Executive, NCA, to Convener, HG, 15 April 2021.