Australian Heritage Commission Amendment Bill 1989

Date Introduced: 1 November 1989  
House: House of Representatives  
Portfolio: Arts, Sport and Environment

Digest of Bill

Purpose
To provide for advance notice for owners of land subject to a notice of intent to include the place in the National Estate; make minor amendments to the procedures for inclusion or removal from the register of the National Estate; and to alter the basis for grants for National Estate projects.

Background
The Australian Heritage Commission is a statutory authority established under the Australian Heritage Commission Act 1975 as the Commonwealth's policy advisory and administrative body responsible for the National Estate. The Commission consists of a part-time Chairman and six part-time Commissioners who have expertise and interest in the natural and cultural environment. The National Estate is defined in the Act as those places, being components of the natural environment of Australia, or the cultural environment of Australia, that have aesthetic, historic, scientific or social significance or other special value for future generations, as well as for the present community. The natural and cultural environment includes national parks, nature reserves and other places for the protection of native fauna and flora; the coastline and islands; Aboriginal rock art sites, ceremonial grounds and sacred sites; important historical and archaeological sites (both Aboriginal and European); and historic buildings and structures.

The Commission is responsible for preparing a Register of National Estate places; advising the Minister on all matters related to the National Estate; developing policies and programs for research, professional training, public interest and understanding, and education; and administering any gifts and bequests made to the Commission. The Register is an inventory of the significant parts of the cultural and natural environment of Australia. The Register has a direct protective role only in relation to actions proposed by the Commonwealth which might adversely affect the National Estate. There are no direct legal constraints on owners of private property, or on State or Local governments, caused by the entry of a place in the Register. The Commission has no power to direct private owners or State or Local governments on their actions which might...
affect a place in the Register, and may not acquire property entered in the Register. In addition, the entry of a place in the Register does not have the effect of granting public access to it. As at April 1989 there were 8826 places in the Register and 230 places on the Interim List.

The Commission accepts nominations for the inclusion of places in the Register from Government authorities, the National Trust of Australia and other conservation organisations, professional bodies and individuals. Nominations are assessed by Commission staff with the assistance of expert bodies and individuals. The decision on whether a property is of National Estate significance is made by the Commission, although the Minister has the power, after an environmental report to direct the Commission to enter a place in the Register or to remove a place from the Register. Before a place is entered in the Register, the Commission is required to place it on an interim list and to inform the public of this. The Commission is not allowed to make a final decision until it has considered any objection to the proposed listing.

In 1985, the Government initiated a review of the Commonwealth’s role in the conservation of the National Estate to assess whether after ten years, the legislative and administrative procedures for conservation of the National Estate were still adequate and appropriate. In August 1986, the Report of the Review of the Commonwealth Government’s Role in the Conservation of the National was presented to the Minister. The Report’s conclusions included that the Commonwealth continue to bear responsibility for the conservation of the national estate; that the classification of places into categories of relative significance within the Register is not desirable and that a graduated system of national, state and local registers could be pursued as an objective with potential for creating greater public awareness and participation than existing arrangement; and rejected proposals for greater Ministerial control, State and local government veto powers and the inclusion of other than national estate criteria in the registration process. The Report also concluded, although no recommendation was made, for an expansion of the functions of the Commission to incorporate within the one body the conservation of all Australia’s cultural heritage resources and a need for additional resources to be allocated to the National Estate Grants Program, the Australian Heritage Grants Program, and the Commission. Funding to the States under the National Estate Grants Program are currently provided under section 96 of the Constitution and the Urban and Regional Development (Financial Assistance) Act 1974.

In November 1988, the Government endorsed several recommendations of the Report, including that the criteria used to assess the National Estate significance of a place to be included in the Act; advice to owners of places on the Interim List should be improved; and the Commission should assist local governments with the development of heritage management plans.
Main Provisions

Clause 3 will amend certain definitions in section 3 of the Australian Heritage Commission Act 1975 (the Principle Act) and insert some new definitions. The meaning of 'authority of the Commonwealth' will be amended to exclude bodies established under a law of the Northern Territory, A.C.T., or Norfolk Island, and Australian Airlines Limited. Commonwealth authorities and companies in which the Commonwealth owns more than half of voting shares will continue to be included. 'National Estate project' is defined to be a project relating to the identification of a place for inclusion in the National Estate or the conservation, improvement or presentation of a listed place.

Section 4 of the Principle Act will be amended to insert a list of matters that may be considered in determining if a place has sufficient value to be included in the National Estate. The matters listed are indicative only and are not to be taken to limit the things that may be taken into account. They include: its importance to Australia's history; their ability to contribute information on natural or cultural history; its importance to demonstrate the characteristics of the natural or cultural environment; or its importance to a particular community or cultural group (clause 4).

The functions of the Heritage Commission will be expanded to include giving advise on expenditure, or the provision of financial assistance, by the Commonwealth (clause 5).

Where a person has objected to a notice of intention to put a place on the register of the National Estate and the Commission has not made a decision within 12 months, or such longer period as the Minister determines upon request by the Commission, the Commission will be taken to have decided that the place should not be put on the register (clause 8 which will amend section 23 of the Principal Act).

Proposed section 23A provides for the owners of land and the relevant local government authority in relation to a place which it is proposed should be subject to a notice of intention to include it on the register to be notified at least seven days before the notice of intention is made. A failure to comply with this requirement will not invalidate a notice (clause 9).

Clause 10 will amend section 24 of the Principal Act to provide that the Commission may, on its own motion, or must if directed by the Minister, inquire as to whether a place should be removed from the register. The clause will also require the Commission to consider an objection to the removal of a place from the register within 12 months or such longer period as the Minister determines on application by the Commission.

Proposed section 24C will allow the Commission to not disclose the exact location of a place on the register if of the opinion that the revelation of the exact location would result in significant damage by the presence of visitors.
A new Part VA, dealing with the National Estate Grants Program, will be inserted into the Principal Act by clause 14. A State, Territory or approved body may apply for a grant under the program (proposed section 31A), and the Commission may give advise to such a body on the preparation of a project for which funds will be requested (proposed section 31B). Proposed section 31C will allow the Minister to make grants to such bodies for National Estate projects on conditions determined by the Minister. A grant is not to be made to a State or Territory without prior consultation with the relevant State or Territory Minister. As well, the Minister is to have regard to any matters prescribed for the proposed section. Proposed section 31E provides that grants are to be funded by money appropriated for that purpose.

For further information, if required, contact the Science, Technology and Environment Group.

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Bills Digest Service
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This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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