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CHIEF MINISTER'S DEPARTMENT
Chief Executive



The Secretary
Joint Standing Committee on the
National Capital and External Territories
Parliament House
Canberra ACT 2600

Dear Secretary

As you would be aware the ACT Government appeared before the Joint Standing Committee on the National Capital and External Territories, Inquiry into the role of the National Capital Authority, for the second time on 2 May 2008. Supplementary information was requested for provision to the Committee.

Please find attached the ACT Government supplementary submission which includes responses to questions on notice as well as clarification of the ACT Government position on an "integrated planning document" and the need to consider in detail the proposals tabled by the NCA.

The ACT Government appreciates the opportunity to clarify in more detail the ACT Government position. Please do not hesitate to contact me to discuss this matter if necessary.

Yours sincerely



Andrew Cappie-Wood
Chief Executive

14th May 2008

ACT Government Supplementary Submission

Joint Standing Committee on the National Capital and External Territories

Inquiry into the role of the National Capital Authority

Matters requiring clarification

The ACT Government would like to take the opportunity to further clarify its view on 'integrated planning' following the hearing conducted by the Committee on 2 May 2008.

It is fair to say that much of the difference of opinion between the ACT Government and the National Capital Authority (NCA) on the future role of the NCA relates to how the "Matters of National Significance" are described, represented in planning instruments and actioned. There are also differences about the responsibility for Canberra's metropolitan planning (strategic plan).

The NCA evidence provided to the Committee at the hearing on 2 May 2008 suggested that the NCA integrated planning scheme would restrict the ACT Government to the 'local detail' of planning, and enhance the NCA role in strategic planning decisions.

The ACT's position remains that the NCA's role and responsibilities should be defined in relation to Commonwealth administered land post de-designation and the "Matters of National Significance".

As set out in the Territory's Supplementary Submission, this would be achieved through "de-designation" of agreed areas of the National Capital Plan (and appropriate zoning under the Territory Plan to reflect current use) accompanied by clear definition of what is meant by "Matters of National Significance". The *Australian Capital Territory (Planning and Land Management) Act 1988* (PALM Act) does not currently define this with any clarity.

Matters of National Significance should be agreed by both the Commonwealth and the ACT and be clear in definition and scope and associated with identifiable actions (such as preserve, enhance, construct). Where these Matters apply to land administered by the ACT Government, the Commonwealth Government interest should be backed by appropriate funding to achieve the desired National Significance outcome.

The process of arriving on agreement on scope definition and other actions pertaining to "Matters of National Significance" should not be left to the NCA. Consideration should be given to the Joint Standing Committee undertaking such a role.

If an integrated plan was to be pursued, it could be achieved quickly by having the Matters of National Significance represented in both the National Capital Plan and the Territory Plan. A harmonised framework could be achieved through common language and definitions. This approach is set out at Attachment A.

The Committee has indicated its interest in identifying an agreed position between the ACT approach (i.e. a harmonised planning framework but with clear areas of operation, with the NCA role located within well defined areas and issues of

national significance), and the NCA approach (an integrated planning system, with the NCA apparently resuming a wider strategic planning role and the ACT Government taking a “local” role that is subsidiary to the NCA and the National Capital Plan).

The ACT position remains:

- That a robust model of self-government requires an equally robust planning framework for the ACT that reflects not just the nation’s interests but also the accountabilities of the ACT Government and its capacity to plan for the long term interests of the Territory and the needs of its community.
- A harmonised approach, with clear areas of operation between the two planning authorities, will support both ACT and national interests and reduce overlap and duplication.
- That national interests and investment in areas outside direct Commonwealth control will be supported by a clear definition of “Matters of National Significance” in the National Capital Plan and the Territory Plan. This would embed national interests in ACT planning, as well as clearly define the role of the Commonwealth planning agency.
- As well as national interests, there is a need to understand “Matters of Territory Significance” reflecting the Territory Government’s responsibility and accountability for planning for both the urban area and rural context of the ACT, its economy, society and its environment. This reflects the integrated role of planning in wider strategic planning and decision-making for the sustainable future of the Territory and its community.
- In this context, it is no longer appropriate or necessary for a General Policy Plan – Metropolitan Canberra or a Metropolitan Structure Plan to be part of the national planning framework. Commonwealth interests should be clearly reflected in the definitions of “Matters of National Significance” which will apply to the ACT Government planning and development of the ACT through incorporation in the National Capital Plan and the Territory Plan.
- If the interest is in closer integration of plans, the Territory’s view is that better outcomes will be achieved through a harmonised approach that reflects the realities of two different governments, but brings together a harmonised Capital Planning Scheme for all of Canberra. The ACT Government’s view of an integrated plan and is at Attachment B.

The ACT Government does not agree that the integrated approach presented by the NCA is an appropriate model as it does not reflect the role, responsibilities and accountabilities of a self-governing Territory. A fundamental question with regard to the approach proposed by the NCA is the Commonwealth Government’s willingness to provide secure and ongoing funds for involvement in the strategic planning of the entire Territory, when the responsibility for delivery of the Territory’s economy and social conditions is that of the ACT Government.

The ACT Government does not support the proposition of providing the NCA with a veto or oversight function over ACT planning. However, it appreciates that there are possible concerns around how to ensure that ACT Government compliance with the requirements of national significance, particularly after de-designation.

The ACT Government's preferred approach is to ensure that "Matters of National Significance" are upheld in areas that were previously designated is along the following lines:

- It is suggested that the areas of de-designation be identified as a "consultation area". Any Non-technical Variations to the Territory Plan within those areas would be referred to the NCA to determine consistency with the agreed "Matters of National Significance". The NCA would need to respond within a statutory time period.
- If there is a difference of view, the matter will be escalated to the Commonwealth and Territory Ministers. On the rare occasion that the matter could not be resolved at this level, the respective Executives could jointly appoint an independent arbitrator to advise on compliance.
- Once the Territory Plan and any Non-technical Variations are agreed and passed by the Legislative Assembly, they are deemed to comply with the "Matters of National Significance" so that no further appeal could be brought to argue inconsistency.

This approach could be the basis of future legislative amendments.

The Territory agrees that long term strategic planning would benefit from joint reviews between the ACT and the Commonwealth, but with the result reflected in the respective plans. Embedding Territory-wide outcomes in the National Capital Plan distorts the self-governing Territory's accountability and responsibility for long term planning. The recommended approach to longer term reform is to achieve better integration through harmonisation of the two plans, while retaining two fully effective planning Acts and roles.

Currently, the "Matters of National Significance" outlined in the National Capital Plan are as follows:

- *The pre-eminence of the role of Canberra and the Territory as the National Capital.*
- *Preservation and enhancement of the landscape features which give the National Capital its character and setting.*
- *Respect for the key elements of Walter Burley Griffin's formally adopted plan for Canberra.*
- *Creation, preservation and enhancement of fitting sites, approaches and backdrops for national institutions and ceremonies as well as National Capital Uses.*
- *The development of a city which both respects environmental values and reflects national concerns with the sustainability of Australia's urban areas.*

As indicated above, the ACT considers these are too broad and general and require greater definition to support a robust planning framework. The ACT Government should be involved in the defining of new "Matters of National

Significance". These principles should be more specific, and have associated actions, supported by appropriate funding from the Commonwealth whether those actions are required by the NCA or the ACT Government. An example of this would be the on-going management and planning for the hills, ridges and buffers, and the national open space system.

It is also considered appropriate that thought be given to formalising definitions for "Matters of Territory Significance" to clearly articulate the scope and nature of the responsibility of the ACT Government for planning Canberra on behalf of the Canberra Community.

In defining "Matters of Territory Significance" reflecting the role of the Territory in managing both the urban area and rural context of the ACT, the following have been derived from the Canberra Spatial Plan, updated by additionally referencing Government policy positions such as the *Affordable Housing Action Plan* and *'Weathering the Change'*.

"Matters of Territory Significance" may relate to the following:

- an integrated planning framework that is sustainable (socially, environmentally and economically); reflects the current and future needs of the ACT community; and supports Canberra as the National Capital;
- incorporates and integrates long term planning for economic, population, infrastructure, transport and social needs;
- promotes sustainable development and growth;
- acknowledges Canberra's role in the region as an employment and service centre and the relationship between the ACT and NSW through the Regional Management Framework;
- identifies land use across the Territory, consistent with the National Capital Plan and Matters of National Significance;
- metropolitan development sequence for land supply including structure planning and concept planning for future urban areas as well as planning for commercial and industrial areas;
- planning and land tenure systems that provide affordable housing options;
- commercial centres growth scenarios which ensure that infrastructure needs keep pace with private investment, redevelopment and land release;
- managing nature reserves and other land which provides significant habitats for wildlife within the urban and non-urban areas for biodiversity conservation with regional linkages for wildlife movement;
- planning for major transport connections, including public transport;
- planning for critical national and regional transport links to improve regional connectivity;
- utilisation of the leasehold system of land tenure to ensure that the non-urban areas that form the rural setting of the city (outside of nature conservation areas) will be primarily used for sustainable agriculture with historical rural settlements forming part of the rural setting;
- planning regimes for bushfire mitigation and abatement; and

- protecting water security and quality within for the ACT and Queanbeyan.

The Committee also raised the question of passing responsibility for the water in Lake Burley Griffin to ACTEW. This would remove duplication and have the water cycle in the ACT under the operational management of one agency. ACTEW supports this approach.



