

Introduction

- 1.1 The National Capital Plan (NCP) is the strategic plan for Canberra and the Australian Capital Territory. In particular, the NCP secures the Commonwealth's continuing interest in ensuring that 'Canberra and the Territory are planned and developed in accordance with their national significance.' The purpose of the NCP 'is to ensure that the Commonwealth's national capital interests in the Territory are fully protected, without otherwise involving the Commonwealth in matters that should be the prerogative of the Canberra community.' The NCP came into effect on 21 January 1990.
- 1.2 The *Australian Capital Territory (Planning and Land Management) Act 1988* provides the legislative framework for the NCP and also provides a process for amending the NCP through the introduction of draft amendments.
- 1.3 The Griffin Legacy amendments are some of the most significant amendments to be introduced. They seek to restate some of the key planning principles Griffin proposed and articulate specific strategic plans for the Central National Area (CNA). The amendments under consideration are:
 - Amendment 56: The Griffin Legacy - Principles and Policies;
 - Amendment 59: City Hill Precinct;
 - Amendment 60: Constitution Avenue; and
 - Amendment 61: West Basin.

NCA Consultation

- 1.4 The draft amendments were released by the NCA at different times in August 2006 and public submissions were provided to the NCA during September 2006. For each draft amendment, the NCA produced a 'Report on Consultation' together with a 'submission table' which summarised the key points made and the NCA's response. These documents were made publicly available and loaded on the NCA's website.
- 1.5 For each of the draft amendments, the NCA provided statistical information on the number of submissions received and the number of submissions for and against the amendment. The following table provides key dates and figures for each of the draft amendments. There are no demographic or additional data relating to these statistics.

Table 1.1 Draft Amendment Consultation Process – Key Dates and Submission Statistics

DA	Date Released	Submission deadline	Total Subs received	Support	Support with qualifications	Opposed
56	5 Aug 06	15 Sep 06	76	56	16	4
59	19 Aug 06	29 Sep 06	77	40	17	20
60	19 Aug 06	29 Sep 06	78	35	28	15
61	19 Aug 06	29 Sep 06	92	47	23	22

Source *National Capital Authority: Report on Consultation for DAs 56, 59, 60 and 61, November 2006*

- 1.6 The majority of these submissions were prepared on templates created by the NCA and made available at the public exhibition site. The templates contained three tick boxes where people could select 'I support this amendment', 'I support some of this amendment but have concerns', and 'I do not support this amendment.' Space was also provided for comments.
- 1.7 The NCA through its consultation process did respond to certain issues raised through submissions and made changes to the draft amendments. A summary of these recommended changes is included in each of the respective consultation reports.
- 1.8 The submissions provided to the NCA are confidential and on privacy grounds were not released in a way that could identify the contributors.
- 1.9 On 27 November 2006 the Minister for Local Government, Territories and Roads, the Hon Jim Lloyd, MP, wrote to the committee advising that the consultation process had been finalised, and sought advice from the committee whether it wished to inquire into the draft amendments. On 30 November 2006 the committee advised that it did wish to conduct an

inquiry into the draft amendments. On 6 December 2006 the amendments were tabled in both Houses of the Parliament and subject to a disallowance period which the NCA advised would expire on 29 March 2007.¹

Committee comment

- 1.10 The decision by the Minister, on the advice of the NCA, to table the amendments prior to the committee commencing its own inquiry is a break with convention. The Minister has in the past waited for advice from the committee as to whether it wishes to undertake an inquiry into a draft amendment. In those cases where the committee seeks to undertake an inquiry the Minister has waited for the committee to report before tabling the amendment. This ensures that improvements or modifications discovered by the committee can be considered for incorporation into the draft amendments before they are finalised and tabled in the Parliament. The Minister's 'urgency' in tabling the amendments has placed undue time pressures on the committee and restricted its scrutiny function to ensure transparency and accountability. In spite of this, the committee is pleased that it was able to conduct a highly effective roundtable hearing and table this report before the 29 March 2007 disallowance deadline.
- 1.11 Due process dictates that the committee should have been given sufficient time to scrutinise the Griffin Legacy Amendments. At the conclusion of this process the NCA could have utilised the findings of the committee and considered whether to incorporate them into the amendments before they were tabled in the Parliament. In rejecting this procedure, the Minister has ignored the role of a committee of the Parliament and the contribution that it is entitled to make.
- 1.12 Most significantly, the committee has revealed, through its roundtable public hearing, concerns and possible limitations with certain features of the amendments. These issues are discussed in the following chapters. The key point is that the committee is recommending that the Minister for Local Government, Territories and Roads move to disallow the amendments so that the committee's concerns with the amendments can be ameliorated. This course of action would have been unlikely if the Minister, on the advice of the NCA, had not prematurely sought to have the amendments tabled. This situation must not arise again.
- 1.13 A further issue that concerns the committee is the status of submissions made to the NCA as part of its consultation process. The NCA advised that these submissions are confidential and the names of submitters cannot be

1 Ms Annabelle Pegrum, Chief Executive, National Capital Authority, *Transcript*, p. 6.

released on privacy grounds. This point is accepted though the committee believes that on the grounds of transparency, submissions should where possible be publicly available. This could, for example, be achieved through including on NCA submission templates approval by the submitter to publicly release the submission. Where submissions are received other than on the templates, the NCA should as a matter of course seek approval from the submitter to publicly release the submission. If this situation became the norm, then submissions to the NCA would be public unless a person had a particular reason for not wishing their submission to be publicly available. The committee, therefore, recommends that the NCA explore options for ensuring that submissions to all consultation processes are made publicly available subject to full approval by the submitter and compliance with relevant privacy principles.

Recommendation 1

- 1.14 **The committee recommends that the Minister for Local Government, Territories and Roads in the future provides the Joint Standing Committee on the National Capital and External Territories with the option of inquiring into every Draft Amendment to the National Capital Plan.**

Where the committee requests an inquiry, the Draft Amendment under consideration should not be tabled until after the committee completes its inquiry.

Recommendation 2

- 1.15 **The committee recommends that the National Capital Authority explore options for ensuring that submissions to all the Authority's consultation processes are made publicly available subject to full approval by the submitter and compliance with relevant privacy principles and advise the committee.**

Committee objectives and scope

- 1.16 The committee examines draft amendments to the national capital plan with the purpose of ensuring that proper processes have been followed and the NCA, as an agency of the Executive, is held to account for its performance. In particular, the committee is seeking to ensure that the NCA has conducted an adequate consultation process. We have raised concerns about the adequacy of the NCA's consultation process in previous reports.²
- 1.17 The committee, however, is not another tier of planning. The committee does not have planning powers, nor should it, and it does not claim to have expertise in urban planning. However, the committee can, through its public consultation process, draw on the expertise of individuals and groups who do have expertise in these areas. We can, therefore, ensure that these views are adequately reflected in a report to the Parliament and, in addition, be brought expeditiously to the attention of the Minister and the NCA. The committee strongly believes that it is incumbent upon the Minister to ensure that he receives the best advice available. The committee through its inquiry process can assist with this aim.

Conduct of the review

- 1.18 On 29 November 2006 the committee resolved that it would undertake a roundtable public hearing on 23 February 2007 in which it would examine amendments 56, 59, 60 and 61 concurrently.
- 1.19 The committee advertised the inquiry in the *Canberra Times* on 22 January 2007 and sought expressions of interest to attend the roundtable public hearing.
- 1.20 Two submissions were received which are listed at Appendix A. The transcript of evidence from the roundtable public hearing can be found at the committee's website at <http://www.aph.gov.au/house/committee/ncet/Griffin/index.htm>
- 1.21 A lists of witnesses attending the roundtable public hearing can be found at Appendix B.

2 Joint Standing Committee on the National Capital and External Territories, Inquiry into the role of the National Capital Authority, July 2004, pp. 104-105.

Reader guide and structure of the report

- 1.22 The report has been kept as brief and concise as possible. Each chapter presents the key evidence provided through the roundtable public hearing. The conclusions at the end of each chapter provide a summary of the key issues under consideration and most importantly provide the committee's views on each of the amendments. The conclusions will also provide the rationale for any recommendations that are made.
- 1.23 Readers who do not have the time to read the report in full can read the conclusions separately. The conclusions have been prepared in a 'stand alone' format so that readers can quickly understand the key issues together with the committee's conclusions and reasons for the recommendations.
- 1.24 The chapters are divided according to the amendments. Chapter two focuses on Amendment 56, The Griffin Legacy – Principles and Policies. This is the overarching amendment which outlines the principles and policies that bring effect to the Griffin's legacy as articulated in the 1918 Griffin Plan.
- 1.25 Chapter three examines Amendment 59 – City Hill Precinct. This Amendment sets out the framework and land uses, planning and urban design policies to guide future development of the City Hill Precinct.
- 1.26 Amendment 60 – Constitution Avenue is examined in Chapter four. Constitution Avenue is central to the implementation of the Griffin Legacy.
- 1.27 The final chapter examines Amendment 61 – West Basin. A key objective of this amendment is extending the city to the lake.