



Introduction

- 1.1 It is almost 20 years since self government and therefore 20 years since the former planning powers of the Commonwealth Government's National Capital Development Commission were divided in two, through an Act of parliament.
- 1.2 The decisions made then shaped the dual planning system we are contemplating during this inquiry. Governments of different persuasions, across the Commonwealth and Territory, have contributed to the evolution of a highly complex and sometimes confusing dual planning system.
- 1.3 The *Australian Capital Territory (Planning and Land Management) Act 1988* (PALM Act) provides the legislative framework for the National Capital Plan (NCP) and also provides a process for amending the NCP through the introduction of draft amendments. In addition, the PALM Act provides for the creation of a Territory Plan and the establishment of a Territory planning authority.
- 1.4 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 9 March 1990, following the granting of self government in the ACT.
- 1.5 In particular, the PALM Act states that the Territory Plan has no effect to the extent that it is inconsistent with the NCP.

- 1.6 These legislative arrangements have resulted in a dual planning framework which, in operation, has proved to be cumbersome and confusing. Concerns about the adequacy of the dual planning framework were raised when it was implemented in 1990. Former ACT Senator Margaret Reid stated:

...the ACT Government and the people of Canberra have concerns arising out of the dual planning system...the concerns are two-fold really - the additional costs that the National Capital Plan may impose upon the Territory, particularly the way in which it restricts land use, and the confusion which seems to be in existence created by a dual planning system.

ACT business has to contend with the concepts of the National Land and the Territory Land, land in Designated Areas and land subject to special requirements. Maybe it is because it is so new that it is still causing this confusion and it will all become clear, but I believe there are some grey areas and there are some areas which the Commonwealth has attempted to retain which I believe is not justified.¹

- 1.7 In 2004 the Joint Standing Committee on the National Capital and External Territories conducted an inquiry into the role of the National Capital Authority (NCA) and, in particular, the effectiveness of the dual planning regime.² The then committee proposed a series of reforms which would transfer more planning responsibility to the ACT planning authority. The committee's key recommendations were not implemented.

Committee objectives and scope

- 1.8 In February 2008, the Minister for Home Affairs, the Hon Bob Debus MP, reopened the debate about the role of the NCA by requesting the committee to conduct another review of its functions.
- 1.9 The Minister referred to the committee terms of reference focusing on the administration of the NCP, the governance arrangements for the NCA, the level of oversight required to maintain the highest standards of design in the ACT, opportunities for greater cooperation with local planning authorities and the promotion of the national capital and new infrastructure projects.
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1 Senator Margaret Reid, Senate *Hansard*, 6 December 1990, p. 5123.

2 Joint Standing Committee on the National Capital and External Territories, *a national capital, a place to live, Inquiry into the role of the National Capital Authority*, 2004.

- 1.10 The inquiry was timely and allowed the committee to build on the constructive work it undertook in 2004. The committee has addressed all aspects of the terms of reference and, in particular, proposed solutions that, if implemented, will significantly enhance the planning framework in the ACT by removing unnecessary and inefficient duplication between the two planning authorities. In addition, the committee has addressed community concerns about heritage protection and the NCA's role in promoting the national capital.
- 1.11 This inquiry also presents an opportunity to assess the merits of this evolved planning system against a series of objectives that the committee believes expresses the public interest. These objectives were arrived at through consideration of evidence and submissions received through the course of the inquiry.
- 1.12 Several common themes emerged, helping the committee to articulate the public interest objectives, which then guided the final recommendations the committee makes to the Commonwealth government.
- 1.13 The first was the almost universal view that the Commonwealth has a responsibility on behalf of all citizens of Australia to maintain a deep and abiding interest in the national capital of Australia in all its facets: design; national institutions and seat of democracy. Yet the feeling that often accompanied this view was this interest had been inadequately expressed and poorly resourced, particularly since self-government.
- 1.14 The committee concurs with this view and is convinced that there is a genuine and urgent need for the Commonwealth to re-engage with Canberra and articulate a renewed commitment to the national capital.
- 1.15 Consideration of the planning regime necessarily expands into other facets of the national capital, such as promoting the national capital to foster a greater awareness of our system of government and therefore democratic participation. This consideration led the committee to make recommendations relating to the NCA's role in promoting cultural icons and the need for a broader national capital tourism strategy.
- 1.16 The committee's inquiry is focussed on the planning of the physical city. The committee recognises that embedded in Griffin's plan for Canberra are specific relationships that guide the original design: relationships between urban development and the surrounding landscape; relationships between the institutions of government, cultural institutions and society are expressed by a hierarchy within the shape of a triangle; a triangle that is formed by the surrounding hills and bisected by both a water axis and a land axis, with the Parliament at the apex of a triangle shared by open spaces and iconic buildings.

- 1.17 This unique, geometric design and the relationships that are determined by it are essential to the intrinsic character of the national capital and are therefore worthy of both acknowledgment and preservation.
- 1.18 These features constitute in part the Commonwealth's national capital interests in the Territory. Specific features of this unique design include;
- the National Capital Open Space System, which creates channels of open, undeveloped land linking the natural environment into the heart of urban areas;
 - the prohibition on urban development on the inner hills, which creates and preserves the scenery and vistas of a natural landscape despite Canberra being highly urbanised;
 - the land and water axes;
 - the style and location of national institutions in and around the triangle and central Canberra; and
 - the presence of diplomatic missions.
- 1.19 These elements form the basis of a new *National Capital Land Use Plan* which is discussed in Chapter 11.
- 1.20 In light of this, the committee's first objective is to ensure the Commonwealth protect and promote the unique design of Canberra because it represents the intrinsic character of the National Capital.**
- 1.21 The second theme that emerged was a very practical consideration. The committee heard a great deal of evidence that the complexities of the current dual planning system were confusing. This confusion is added to significantly by the National Capital Plan having different requirements for land described as 'designated' or 'special requirements' even though it is land managed by the ACT government.
- 1.22 Nonetheless, the committee does not accept the argument that the Commonwealth should be the only planning authority. This would deny the ACT Government from preparing and administering a Territory Plan to provide the residents of Canberra with an attractive, safe and efficient environment in which to live and work and have their recreation.
- 1.23 The committee re-affirms the intent of the NCP '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.'³
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3 Senator Graham Richardson, Minister for the Arts, Sport, the Environment, Tourism and Territories, Senate *Hansard*, 7 November 1988, p. 2124.

- 1.24 The committee agreed with the view expressed by both the ACT Government and the National Capital Authority that a suitable principle would be to ensure that the Government that administers the land also have planning jurisdiction.
- 1.25 The Committee's second objective is, where possible, to align land administration with planning jurisdiction, provided the first objective is achieved.**
- 1.26 A corollary to this second objective is to ensure that proponents of developments and interested stakeholders and citizens deal with only one planning authority with respect to any particular land use.
- 1.27 Finally, the third major theme was the need for greater cooperation. The importance of preserving and promoting the unique design of Canberra was endorsed by the ACT Government, giving the committee confidence that there was a real opportunity to encourage the two planning authorities to collaborate to prepare a detailed program for achieving the first two objectives.
- 1.28 Hence the third objective is to foster greater collaboration and a genuine partnership between the NCA and ACTPLA to adopt common definitions in, and interpretation of, the National Capital Plan and the Territory Plan as well as a mutually agreed implementation strategy for both plans.
- 1.29 The committee's third objective is to foster greater cooperation and collaboration between the Commonwealth and ACT Government on planning and related matters.**
- 1.30 The committee was impressed with the apparent will and enthusiasm on behalf of both planning authorities, the ACT Government and most stakeholders to attempt an ambitious agenda to update the planning regime in the Australian Capital Territory in a way that respects the historical legacy of Griffin and addresses the challenges of the future.

Conduct of the inquiry

- 1.31 On 19 February 2008 the committee received a reference from the Minister for an inquiry into the role of the NCA. The Minister requested the committee to report by 30 June 2008. The Minister announced the inquiry in the House of Representatives chamber on 19 February as part of an

answer to a question without notice.⁴ On 25 June 2008 the committee sought and received approval from the Minister to report by 16 July 2008.

- 1.32 The membership of the committee was not finalised until 11 March 2008 when the House of Representatives appointed the remaining two non-government members to the committee. The committee could not meet for the first time until all members had been appointed. Therefore, the earliest the committee could meet to receive and adopt the terms of reference was on 12 March 2008.
- 1.33 The committee issued a media release about the inquiry on 12 March 2008 and advertised the inquiry in *The Canberra Times* on 15 March 2008 and *The Australian* on 19 March 2008 seeking submissions by 11 April 2008. In addition, information about the public hearings was advertised in *The Australian* on 16 April 2008. The committee received 135 submissions, which are listed at Appendix A.
- 1.34 Public hearings were held on 21, 22 and 23 April, 1, 2, 6 and 14 May 2008. The transcripts of evidence from the public hearings can be found at the committee's website at <http://www.aph.gov.au/ncet>.
- 1.35 A list of witnesses who attended public hearings can be found at Appendix C.
- 1.36 Mr David Wright assisted the committee by undertaking a technical edit of the report.

Reader guide and structure of the report

- 1.37 The report has been kept as brief and concise as possible. Each chapter presents the key evidence. The conclusions provide a summary of the key issues under consideration and most importantly provide the committee's views and proposed course of action. The conclusions also provide the rationale for any recommendations that are made.
- 1.38 Readers who do not have the time to read the report in full can read the conclusions and recommendations 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.

4 Hon Bob Debus MP, Minister for Home Affairs, House *Hansard*, 19 February 2008, p. 12.

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- 1.39 Chapter 2 provides an historical overview of the development of Canberra and its key design elements which make it a national capital of international significance.
 - 1.40 Chapter 3 provides an overview of the role and structure of the NCA.
 - 1.41 Chapter 4 examines the NCA's corporate governance focusing on enhanced independence, transparency and accountability.
 - 1.42 The NCA's responsibilities, record and performance in relation to community consultation is discussed in Chapter 5.
 - 1.43 Heritage considerations are discussed in Chapter 6. There are gaps in heritage assessment under the current arrangements. These issues are examined and solutions are proposed.
 - 1.44 Chapter 7 examines the NCA's role and effectiveness in promoting the National Capital.
 - 1.45 Chapter 8 looks at development in and around the Canberra International Airport, and more broadly at the Commonwealth's influence on employment location policies.
 - 1.46 Chapter 9 examines Canberra's transport system and how transport ought to be more effectively integrated into broader planning objectives.
 - 1.47 The dual planning framework and proposals designed to rationalise and update planning arrangements in the ACT are examined in Chapter 10.
 - 1.48 The final chapter focuses on a future planning framework that reduces red tape and responds to the challenges of the future. In particular, the development of a single integrated plan encompassing both the NCP and the Territory Plan is assessed.