

## SUBMISSION 59.1

### JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES

#### Question No. 1

**Senator Lundy asked the following question at the hearing on 21 April 2008**

What was the recommendation to the NCA at the time of the Uhrig Review?

**The answer to the honourable member's question is as follows:**

The Uhrig assessment considered the Authority against the Executive Management template. A two-stage approach was recommended:

The first stage would comprise two parts. A Ministerial Statement of Expectations would establish parallel reporting between the (then) Department of Transport and Regional Services and the Authority.

Parallel reporting would ensure that the Department of Transport and Regional Services received information from the Authority on key issues and activities at the same time as the Minister for Local Government, Territories and Roads. The development of the reporting system reflected the recommendation of the Uhrig Review that portfolio departments be advised of an Authority's activities to support that Department in advising the responsible Minister. A second part would comprise a joint review by the Authority and the Department of Transport and Regional Services of the Authority's performance indicators.

The second stage would comprise a review of the *Australian Capital Territory (Planning and Land Management) Act 1988* by the Authority, the Department of Transport and Regional Services and the (then) Department of Finance and Administration. The review would consider the nature and extent of the Authority's statutory independence, clarify the role of the Minister and the Authority and make recommendations about membership of the Authority.

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Question No. 2

Senator Crossin asked the following question at the hearing on 21 April 2008

Where do you think the PALM Act needs reviewing?

The answer to the honourable member's question is as follows:

The *Australian Capital Territory (Planning and Land Management) Act 1988* provides not only a role for the National Capital Authority but also principles and rules that must be followed by the Commonwealth and ACT. Those principles and rules are of fundamental importance in delineating and protecting the national interest in the national capital. In doing so, it should, as far as possible, also delineate the special issues and areas within the ACT which are associated with the national interest in the national capital.

These are primarily the bush capital setting (particularly represented through the buffer zones of hills and ridges that are protected from development), the commemorative zone, the national cultural institutions, Lake Burley Griffin and the Parliamentary precincts. Matters that impact upon those national interests, such as the planning and management of arterial roads, would be subject to appropriate principles but would not require management by a Commonwealth agency.

National Land outside the Central National Zone might similarly have a degree of protection through appropriate principles in the *Australian Capital Territory (Planning and Land Management) Act 1988* but otherwise be subject to the land management rules of the ACT.

The National Capital Authority has a role with respect to making the principles and rules. The *Australian Capital Territory (Planning and Land Management) Act 1988* should clearly lay out where the ACT is free to operate, without regard to the National Capital Authority, subject to the ACT's compliance with the *Australian Capital Territory (Planning and Land Management) Act 1988*'s principles and rules.

The Department believes that such a review could clearly establish the *Australian Capital Territory (Planning and Land Management) Act 1988* as the primary information and source of guidance for planning in the ACT, rather than using Commonwealth and ACT Government agencies, creating clear and separate roles for each.

In accordance with this, the *Australian Capital Territory (Planning and Land Management) Act 1988* should also contain the objectives of the National Capital Plan, unambiguously establishing the matters that should be included in the Plan, to ensure that it reflects a holistic approach to the Commonwealth's interest in the national capital.

The *Australian Capital Territory (Planning and Land Management) Act 1988* should provide greater direction to the Authority about the maintenance of the National Capital Plan as a contemporary document that reflects all aspects of the Commonwealth's interest in the national capital.



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**Question No. 3**

**Senator Humphries asked the following question at the hearing on 21 April 2008**

Have the funding arrangements been challenged or reviewed in recent years?

**The answer to the honourable member's question is as follows:**

The Department is aware that the Commonwealth Grants Commission was required, under its terms of reference for the *State Revenue Sharing Relativities Review 2004*, to review the need for allowances for any special circumstances of the ACT and to make appropriate assessments if necessary. The ACT Government sought, in a submission to the 2004 review, \$74.759 million in a 'national capital allowance'.

The Grants Commission concluded that the ACT continued to need some special allowances for:

- its status as the national capital and the impact of this on the operating requirements of the ACT Government; and
- special fiscal needs in the areas of police services, corporate affairs compensation, and roads.

The Commission recognised that the ACT Government incurs above standard costs in the certain areas but did not assess some of the ACT's claims. The Commission adjusted the ACT's national capital allowance in the 2004 review.

A copy of the Commission's report is available from the Commission's website, at  
<[http://www.cgc.gov.au/\\_\\_data/assets/pdf\\_file/0007/6001/2004\\_Review\\_Report.pdf](http://www.cgc.gov.au/__data/assets/pdf_file/0007/6001/2004_Review_Report.pdf)>

As outlined in the Department's submission, the Department also manages two administered programs to the ACT Government. The Department has not recently reviewed these programs.

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**Question No. 4**

**Mr Neville asked the following question at the hearing on 21 April 2008**

Paragraph 3.11 of your submission suggests that the ACT should be given 'a larger role'. What do you mean by that and would be involved?

**The answer to the honourable member's question is as follows:**

The statement in the submission envisages that the ACT's role could be reviewed in terms of its ability to make more decisions independently within a principle-based framework laid down in the *Australian Capital Territory (Planning and Land Management) Act 1988*, without being bound by other requirements such as the Authority's development control plans, as is currently the case.

What is envisaged is the ACT being able to make more decisions on its own, without a role for the NCA in those areas. It is not about the ACT assuming new functions, but rather removing a layer of regulation that currently applies to some of the ACT's decisions.

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**Question No. 5**

**Senator Humphries asked the following question at the hearing on 21 April 2008**

The NCA's proposal was that several thousand hectares of land would come under primary ACT responsibility. Is there cost associated with that and would it be expected that there would be an adjustment in favour of the ACT?

**The answer to the honourable member's question is as follows:**

The National Capital Authority has proposed the removal of designated land status from Territory Land (with some changes to the amount of land designated as National or Territory Land in the ACT).

The Department is not aware of the specific amount of land that would be affected by the change but accepts, based on maps developed by the Authority, that the change will affect a considerable amount of land.

The Department understands that removal of the Designated Land Status would move planning approval for works in those areas from the Commonwealth to the ACT. Approval of works within Designated Areas currently rests solely with the Authority and the proposed change could be expected to have some impact for the ACT Government.

The Department notes that the responsibility for land management of Territory Land that is in a Designated Area currently resides with the ACT and the proposed change would not increase the ACT's responsibility in this way.

If the Australian Government agreed to the removal of the Designated Land Status in accordance with the Authority's proposal, amendments to the National Capital Plan would need to be approved by the Minister for Home Affairs and subject to disallowance before both Houses of Parliament.

The Department notes that a decision about an adjustment and its quantum would rest with the Australian Government, within its budgetary and policy processes. The Department suggests that normal policy processes would include consultation with the ACT over the total effect of all changes to the planning regime, noting that in some cases (the removal of Special Requirements, for example), the planning system will be made less complex with a reasonable assumption of reduced costs for the ACT Government. The Department also notes that the ACT has recently reviewed its development approval processes to reduce costs for developers and the ACT Government.



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Question No. 6

**Mr Neville asked the following question at the hearing on 21 April 2008**

What functions would best be handled by the ACT Government?

**The answer to the honourable member's question is as follows:**

The Department suggests that some clear roles for the ACT Government are:

- the promotion of tourism type activities in and around Canberra;
- management of arterial roads that are not main approach routes to the national triangle/central national area;
- planning and approvals for residential areas near the Central National Area (Deakin and Forrest);
- detailed development control for areas outside the nationally significant aspects of Canberra (for example, the current development control plan over Tuggeranong);
- management of the General Policy Plan – metropolitan Canberra (for example, urban expansion into the Molonglo Valley); and
- the approval of works in areas outside National Land

In making these suggestions, the Department notes that the ACT Government would be required to perform those functions having proper regard to the *Australian Capital Territory (Planning and Land Management) Act 1988* and the National Capital Plan.

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Question No. 7

**Mr Neville asked the following question at the hearing on 21 April 2008**

Which areas of the *Australian Capital Territory (Planning and Land Management) Act 1988* and National Capital Plan could be amended to make a clearer distinction between the Commonwealth's involvement /national interest in the Territory and the Commonwealth's active management of the nationally significant aspects of the ACT?

**The answer to the honourable member's question is as follows:**

The Department suggests that the Commonwealth's national interest should be expressed at the principles level, for example, the hills and buffer system. Here, key aspects of the 'bush capital' can be preserved (reflecting the national interest) but are not subject to detailed planning requirements.

Essential principles (for example, the purpose and function of the National Capital Plan) should be given clear statutory authority through the *Australian Capital Territory (Planning and Land Management) Act 1988*, while more detailed guidance can be given through the National Capital Plan or an equivalent mechanism.

The *Australian Capital Territory (Planning and Land Management) Act 1988* does not expand on the way in which the National Capital Plan should achieve its objective of 'ensuring that Canberra and the Territory are planned and developed in accordance with their national significance object'. We consider that the content of the National Capital Plan should not be developed by the Authority in isolation and that the legislation should establish the key principles and objectives of the planning system.

For example, we suggest that the *Australian Capital Territory (Planning and Land Management) Act 1988* should contain the objectives of the National Capital Plan, providing unambiguous direction to the Authority about the matters that should be included in the plan. This change would ensure that the content of the National Capital Plan is not determined by the Authority in complete isolation and that the National Capital Plan will reflect a holistic approach to the Commonwealth's interest in the national capital.



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Question No. 8

**Senator Lundy asked the following question at the hearing on 21 April 2008**

What are the Uhrig recommendations relating to the National Capital Authority and the responses and actions to date by the National Capital Authority in response to those recommendations?

**The answer to the honourable member's question is as follows:**

The Uhrig assessment considered the Authority against the Executive Management template. A two-stage approach was recommended:

The first stage would comprise two parts. A Ministerial Statement of Expectations would establish parallel reporting between the (then) Department of Transport and Regional Services and the Authority.

Parallel reporting would ensure that the Department of Transport and Regional Services received information from the Authority on key issues and activities at the same time as the Minister for Local Government, Territories and Roads. A second part would comprise a joint review by the Authority and the Department of Transport and Regional Services of the Authority's performance indicators.

The second stage would comprise a review of the *Australian Capital Territory (Planning and Land Management) Act 1988* by the Authority, the Department of Transport and Regional Services and the (then) Department of Finance and Administration. The review would consider the nature and extent of the Authority's statutory independence, clarify the role of the Minister and the Authority and make recommendations about membership of the Authority.

The actions that were taken to implement the recommendations are:

- A statement of expectations was provided by the then Minister for Local Government, Territories and Roads, the Hon Jim Lloyd on 28 July 2006.
- The Authority responded to Mr Lloyd with a statement of intentions on 28 September 2006.
- Parallel reporting arrangements were implemented between the Authority and the then Department of Transport and Regional Services from August 2006.
- The review of the *Australian Capital Territory (Planning and Land Management) Act 1988* was discussed at working groups between the Authority and staff from the Department of Transport and Regional Services in 2006 and early 2007.



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**Question No. 9**

**Senator Lundy asked the following question at the hearing on 21 April 2008**

What changes or examples of governance and accountability related issues have occurred since the change of the administrative arrangements and the National Capital Authority coming under the auspices of the Attorney-General's Department?

**The answer to the honourable member's question is as follows:**

The Department prepared a Statement of Expectations for the Authority in April 2008 at the request of the Minister for Home Affairs. The new Statement of Expectations alters the parallel reporting framework to involve the Attorney-General's Department earlier in the Authority's briefings to the Minister.

The Statement establishes the Minister for Home Affairs' expectation that the Authority will consider the interests of relevant stakeholders, including the ACT Government and advise the Minister of matters that require inter-governmental consultation.

The Statement of Expectations also contains general expectations about the standards to be met by the Authority in its day-to-day business. These aspects of the Statement are rephrased but consistent with the expectations established by the previous Minister.

