

Submission to the Inquiry into the Role of the National Capital Authority

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This submission proposes the creation of a joint planning body for the Australian Capital Territory. The submission argues that a joint planning body will address the difficulties that afflict the current, bifurcated planning system in the Territory.

The interests of the two levels of government

Both the Commonwealth Government and the Territory Government have an interest in the town planning of Canberra. This submission does not attempt to characterise the interests of the two governments, suffice to say that the Commonwealth's interest stems primarily from the fact that Canberra is the seat of federal Parliament. The Territory's interest mirrors that of any municipal government.

Occasionally, the interests of the two governments are discordant, or even in direct conflict.

The current planning regime in the Territory

There are two planning regimes operating within the Territory. Under the federal *Australian Capital Territory (Planning and Land Management) Act 1988*, decisions about development in 'designated areas' are made by the National Capital Authority (**the Authority**). Land is marked as a 'designated area' by the National Capital Plan (**the Plan**).

In all other places within the Territory, decisions about development are made by the Australian Capital Territory Planning and Land Authority (**ACTPLA**) under the *ACT Planning and Development Act 2007*.

Furthermore, the Authority has responsibility for preparing and maintaining the Plan. The Plan sets high-level planning objectives for the Territory. All decisions of the Authority and of ACTPLA are required to be in accordance with the Plan.

ACTPLA is responsible for preparing a Territory Plan, which it must take into account in all of its decisions.

The Authority has no formal role in relation to development applications that are not in a designated area; conversely, ACTPLA has no formal role in relation to development applications that are in a designated area. Each organisation is able to make submissions on each other's applications, which happens frequently.

Why the current system does not work

The proposal to develop the Molonglo area is an example of the duplication which occurs when the two systems intersect. In that case, the proposal involved partly designated areas, and some non-designated areas. Both the Authority and ACTPLA were required to assess proposals against criteria which are very similar (for example, consistency with the Plan).

Where the two systems intersect, it is submitted that delays and inefficiencies are introduced.

Where, however, the systems do not directly intersect, it is submitted that problems still arise. The type of problem is best illustrated by example. Suppose ACTPLA made a series of decisions about developments in a particular area. Each one of those *individual* decisions was consistent with the Plan. However, suppose the cumulative impact of the *all* decisions may raise questions about consistency with the Plan. Short of commencing legal action to challenge all or some of ACTPLA's decisions, the Authority is powerless to do anything.

Another example (with the shoe on the other foot) might be that the Authority made a decision on a development application to build a monument in a designated area which would permanently interfere with traffic. Again, other than legal action, ACTPLA would be powerless to do anything.

A joint approach to planning

It is submitted that the most efficient and effective method to achieve reductions in red-tape, better cooperation between the Territory and the Commonwealth and better planning outcomes is the establishment of a joint Commonwealth and Territory body responsible for planning in the Territory. The Authority and ACTPLA should be disbanded.

The body would be governed by a board appointed in equal numbers by the Territory and the Commonwealth. The members of the board would be chosen for their independence and specialist experience, skills or knowledge.¹ The body would be staffed drawn from the Authority and ACTPLA, and would be funded by the Commonwealth and the Territory.

The board would develop procedures for examination of routine development applications by staff. High-level strategic decisions and high-profile or contentious development applications would be decided by the board itself.

The board could also adopt procedures for public hearings for very high-profile matters. It is envisaged that the constituting legislation would set out a range of efficient and effective review mechanisms to review decisions of the board and the staff of the board.

Advantages to the joint planning body

- Economic efficiency (only one body instead of two)
- Reduced disputation between the Commonwealth and the Territory over planning decisions
- Harmonisation of two planning systems into one
- Reduction in red-tape
- High-level oversight by an independent, expert board
- Decisions made independent from both the Commonwealth and the Territory governments

¹ An example of such a body with a similar board is Food Standards Australia New Zealand.