

The Role of the National Capital Authority

Structure of the Authority

3.1 The National Capital Authority consists of a Chairperson and four other members, including the full-time Chief Executive. Each member is appointed by the Governor-General. The Chief Executive manages the affairs of the Authority under the general directions of the Authority. Staff are employed under the *Public Service Act 1999* (Cth).¹ The organisational structure of the Authority comprises five work units:

- National Capital Plan;
- Corporate Governance;
- National Capital Promotions;
- National Capital Estate; and
- National Capital Projects.²

1 Section 46, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

2 National Capital Authority, *Annual Report 2001-02*, p 7.

The corporate governance structure includes an internal Management Committee, an Audit Committee, Tender Board and a number of internal coordination committees.³

Statutory Functions

3.2 The NCA is responsible for ensuring that Canberra and the Territory are planned and developed in accordance with their national significance and that the full range of functions to maintain, enhance and promote the national qualities of the national capital are met for the Commonwealth on behalf of the Australian people.⁴ The functions of the Authority, as set out in section 6 of the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth) are:

- a) to prepare and administer the National Capital Plan;
- b) to keep the plan under constant review and to propose amendments to it when necessary;
- c) on behalf of the Commonwealth, to commission works to be carried out in Designated Areas in accordance with the Plan where neither a Department of State of the Commonwealth nor any Commonwealth authority has the responsibility to commission those works;
- d) to recommend to the Minister the carrying out of works that it considers desirable to maintain or enhance the character of the national capital;
- e) to foster an awareness of Canberra as the national capital;
- f) with the approval of the Minister, to perform planning services for any person or body, whether within Australia or overseas; and
- g) with the Minister's approval, on behalf of the Commonwealth, to manage National Land designated in writing by the Minister as land required for the special purposes of Canberra as the national capital.⁵

3 National Capital Authority, *Business Plan 2003-04*, p 7.

4 Commonwealth Government Portfolio Budget Statement 2001-02.

5 Section 6, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

- 3.3 The NCA maintains that its statutory functions continue to be relevant for the best interests of the future development of Canberra. The NCA stated that:

The legislated functions of the Authority are comprehensive. Collectively, they provide a robust framework to secure the planning and development of Canberra and the Territory as the national capital. The positive benefits for the capital are self-evident. The functions should not be disaggregated or diluted.⁶

Table 3.1 Planning and Development Services Provided by the National Capital Authority

Planning and Development Services Provided by the National Capital Authority
Reviewing the National Capital Plan and proposing amendments to the plan
Providing advice on planning, urban design and development approval in accordance with the National Capital Plan
Assessing works applications for buildings and structures, demolition, tree felling, landscaping or excavation in areas which are designated as having the special characteristics of the national capital
Co-ordinating Parliamentary approvals for works proposed within the Parliamentary Zone
Preparing lease and development conditions for sites in areas which are designated as having the special characteristics of the national capital
Preparing Development Control Plans (DCPs) for areas which have special requirements applying under the National Capital Plan

Source *National Capital Authority, November, 2002*

A National Capital and a Local Community

- 3.4 Generally, the evidence received supports an ongoing role for the NCA in ACT planning matters. This is largely due to the fact that although the Authority's decisions are significant for local Canberra

6 National Capital Authority, Submissions, p 172.

residents, “the larger decisions and the totality of the smaller ones are important to the nation”.⁷ The contentious issue, however, is that the Authority is thought by some to exercise its powers in such a way that the Territory’s efforts to develop Canberra are being unnecessarily constrained. The ACT Government stressed that decisions undertaken by the Authority must not inadvertently undermine the efforts of the Territory to develop Canberra as a city in its own right:

Canberra is not, and cannot be, just a city of National monuments and institutions, valued as these are both nationally and by the people of the ACT. Canberra is home to over 320,000 Australians, and as the self-governing Territory has continued to develop, it has, inevitably, come under similar pressures to those experienced in other jurisdictions.⁸

Former member for Canberra, Mrs Roslyn Kelly, MP, acknowledged this dual character of the city:

...the simple truth is that Canberra is populated by ordinary Australians who have the same aspirations as their counterparts in the states, who are concerned about their future and that of their country ... who want merely a 'fair go' - no more, no less - and who are angry when they find that they are being made ideological scapegoats ... we should not forget the dual nature of this city. It is both a place to live and a national capital.⁹

- 3.5 The fact that their city is deserving of special attention as the national capital is not something which is lost on the ACT community. Canberra’s residents appreciate the Commonwealth’s desire to maintain an interest in the way in which the city is planned and developed. This was evidenced by comments from former Senator for the ACT, the Hon. Bob McMullan (now the Member for Fraser), in the period leading up to self-government, when he said of the new planning legislation:

... (This) is one matter that is properly the business of the national Parliament, which will continue to have a significant responsibility to protect the national interest and the national capital aspects of the wonderful city of this Territory...in all the discussions that I have had with people in Canberra, the

7 Wright, B., *The Impact of Systems of Governance on Federal Capitals*, p 20.

8 ACT Government, Submissions, p 222.

9 House of Representatives *Hansard*, 26 February 1981.

most fervent advocates of local autonomy have recognised that unique responsibility.¹⁰

- 3.6 This recognition still exists today as Canberra's residents embrace the significance attached to their city's status as the national capital. The ACT Government also recognises that there is an important ongoing role for a body such as the NCA to protect and enhance Canberra's national significance.¹¹ However, the Territory Government contends that some areas for which the NCA has planning control are "not as necessary in the points of detail for the preservation of the national capital interests".¹² Clearly, it appears the tension between locally based interests and those with the view that Canberra should uphold national interests, will be an ongoing issue.¹³

Extent of NCA Planning Control

- 3.7 The Committee acknowledges that there have been few arguments against the merit of a Commonwealth planning agency to oversee the development of Australia's national capital and to ensure that its national significance continues to be upheld. The majority view from submissions to the inquiry supports the National Capital Authority as the appropriate body to achieve this. As the Planning Institute of Australia stressed to the Committee, "there needs to be a National Capital Authority to bring us back into focus from time to time".¹⁴
- 3.8 During debate on the *Australian Capital Territory (Planning and Land Management) Bill 1988* (Cth), Senator Robert Hill suggested that the Commonwealth's decision to maintain a significant level of control over the Territory was a conservative measure:

Some feel that a little too much power is retained in the Commonwealth function. Nevertheless...this is a cautious approach...looking at our primary responsibilities in relation to the national capital aspect of the ACT and our national responsibility in that regard.¹⁵

10 Senate *Hansard*, 23 November 1988, p 2602.

11 ACT Government, Submissions, p 224.

12 ACT Government, Transcript, 15 August 2003, p 86.

13 Binning, Submissions, p 127.

14 Mr Paul Cohen, Transcript, 20 June 2003, p 4.

15 Senate *Hansard*, 23 November 1988, p 2591.

- 3.9 However, as already discussed, there is a view that, on occasion, the National Capital Authority interferes with what are essentially local planning issues.¹⁶ The Planning Institute of Australia (ACT) acknowledged that there is a “popular view” which supports confining the NCA’s powers to areas of national significance that have a visual content.¹⁷ According to the Planning Institute, this would include the areas around Lake Burley Griffin which encompass the national institutions, as well as the inner hills and the mountains which provide the backdrop to the city.¹⁸
- 3.10 While the NCA maintains that it is merely fulfilling its statutory functions under the *ACT (Planning and Land Management) Act 1988* (Cth), the ACT Government contends that, through its cautious approach, the Commonwealth has retained control over some areas which today bear little relevance to the city’s national significance.¹⁹ Accordingly, the Territory believes that the NCA should refocus their resources on the fundamental aspects of the Griffin plan which are still relevant to the significance of Canberra as the national capital today.
- 3.11 In arguing its case, the ACT Government considered that the most appropriate arrangement would see the Territory assume planning control on Territory Land which is currently designated under the National Capital Plan while conforming to a set of broad principles incorporated into the plan after consultation with the NCA.²⁰ The basis for the Territory’s argument is articulated in its submission:
- The citizens of the ACT should be able to exercise self-determination and be responsible for the economic and social implications of their decisions, including control of planning and residential and commercial development across all Territory land, subject to meeting any principles identified to protect the national interest.²¹
- 3.12 However, a concern was expressed that if the NCA’s planning responsibilities were to be reduced, an unfettered Territory
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16 See, for example, Wright, Submissions, p 88, and Mr Malcolm Smith, Transcript, 19 September 2003, p 243.

17 Planning Institute of Australia (ACT), Submissions, p 53.

18 Planning Institute of Australia (ACT), Submissions, p 53.

19 Mr Robert Tonkin, Transcript, 15 August 2003, pp 86, 112, 116. This view is also supported by the Planning Institute of Australia (ACT). See Submissions, p 55.

20 Stanhope, J., ACT Government unable to steer its own course, *The Canberra Times*, 14 June 2003.

21 ACT Government, Submissions, p 224.

Government may prejudice Canberra's national significance in pursuit of economic growth and development.²² The ACT Sustainable Rural Lands Group stated that the reason ACT residents have been granted "a restricted level of self-determination" is recognition that the whole of the ACT is the seat of Government.²³ Mr Paul Cohen from the Planning Institute of Australia believes that the Territory needs to be guided by a higher authority to ensure that it complies with the standards expected of a national capital:

I do not believe that a territory government can properly exercise the responsibility of planning, developing and constructing Canberra as the national capital with the pressures that are placed on it, politically and by the community, unless there is some power above it which acts to keep it confined.²⁴

Safeguarding the National Interest

3.13 The National Capital Plan identifies matters of national significance in the planning and development of Canberra and the Territory to include:

- 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.²⁵

3.14 The importance of the NCA's role in monitoring the development of Canberra was reinforced throughout the Committee's deliberations. Mr Ian Mickle, for example, described the Authority as "the manifest

22 See, for example, Conner, De Landelles, Stokes, Planning Institute of Australia, Submissions.

23 ACT Sustainable Rural Lands Group, Submissions, p 321.

24 Mr Paul Cohen, Transcript, 20 June 2003, p 9.

25 National Capital Authority, *Consolidated National Capital Plan*, updated February 2002.

presence of the Federal Government's obligation to ensure the highest possible standards of planning".²⁶ The Committee collected evidence which argued that any reduction in the NCA's responsibilities would threaten the character of the national capital and "lead to a deterioration of the nation's showplace city".²⁷ Former NCA member, Mr Wayne Stokes, stated that any move to reduce the powers of the Authority would pave the way for the ACT Government to undermine the integrity of the National Capital Plan by ignoring the significance of maintaining and enhancing Canberra as the national capital in its endeavours to address local issues.²⁸

- 3.15 Mr Malcolm Smith, a former Chief Planner at the NCA, is supportive of the Authority's role in protecting the Commonwealth interest in Canberra as the national capital and stated that this has "generally been discharged successfully by the Authority".²⁹ However, Mr Smith believes that the Committee's inquiry presents an opportune time to introduce reform which enhances both the NCA's important planning role, and also its relationship with the Territory.³⁰

National Land and Asset Management

- 3.16 The NCA maintains that its function of managing land and assets enhances the national capital's symbolic areas and protects Australia's investment for current and future generations.³¹ One of the NCA's statutory functions involves the management of National Land which has been designated by the Minister as land which is "required for the special purposes of Canberra as the national capital".³² Under the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth), the land shall not be declared by the Minister unless it is intended for use by, or on behalf of, the Commonwealth.³³ The National Capital Plan requires that proposals to develop, subdivide or

26 Miekle, Submissions, p 25.

27 Miekle, Submissions, p 25. See also, for example, Conner, De Landelles, Canberra International Airport, Submissions.

28 Stokes, Submissions, p 17.

29 Smith, Submissions, p 116.

30 Smith, Submissions, p 116.

31 Ms Annabelle Pegrum, Transcript, 19 Sept 2003, p 209.

32 Section 6, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

33 Section 27, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

lease National Land shall be referred to the Authority to assess their consistency with the provisions outlined in the plan.³⁴

- 3.17 The Authority's management role also includes national assets such as "the Captain Cook Memorial Jet, the National Carillon, national monuments including memorials on Anzac Parade, public artworks and large areas of landscape structure and soft plantings".³⁵ The NCA's annual report for 2002-03 states that:

The Authority's statutory functions give it the capacity to ensure national assets continue to be created and maintained, are of an appropriate standard, meet expectations of users, support appreciation and understanding of the role of the Capital and our democracy, and enrich the experience of the Capital.³⁶

- 3.18 As the centrepiece of Griffin's plan for Canberra, Lake Burley Griffin is also deemed to be National Land. The Authority's management of the lake includes administering powerboats, moorings, major events, abstraction of water for irrigation, and various other matters associated with the lake.³⁷
- 3.19 The Authority maintains that the land use and diversity of the national assets reflects the symbolic role of Canberra as the national capital and the seat of government and provides an appropriate setting for activities and events that one expects in their national capital.³⁸

Fostering an Awareness of the National Capital

- 3.20 Section 6 of the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth) provides that one of the primary functions of the NCA is "to foster an awareness of Canberra as the national capital".³⁹ In recent times the Authority has pursued an increasingly active role in this area with the staging of a number of promotional events including 'Celebrate! Christmas in the Capital',

34 National Capital Authority, *Consolidated National Capital Plan*, June 2002, p 142.

35 National Capital Authority, Submissions, p 168.

36 National Capital Authority, Annual Report 2002-03, p 90.

37 National Capital Authority, Annual Report 2002-03, p 81.

38 National Capital Authority, Submissions, p 170.

39 Section 6, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

'Sunday by the Lake', the *'Celebrate! Australia Day Live'* concert, as well as various commemorative events on Anzac Parade. The Authority stated that it has taken:

...a strategic approach to fostering awareness of the capital through research and national perception and expectation surveys, by encouraging participation, appreciation and celebration in the national capital, by information and education about the capital, and by promoting the attributes of Canberra that are of national significance.⁴⁰

- 3.21 However, there are conflicting views as to what extent the Authority should be involved in promoting Canberra as a tourist attraction, particularly given the existence of the Australian Capital Tourism Corporation (formerly the Canberra Tourism and Events Corporation), a statutory body which reports to the ACT Government and is charged with promoting the ACT as a tourist destination. Like the Authority, the Australian Capital Tourism Corporation also manages a number of major events in the ACT. There has also been a question raised as to whether the NCA is sufficiently resourced to contribute effectively in this area without its tourism role detracting from its vital planning and development role.⁴¹
- 3.22 Nevertheless, the Committee has also received evidence which supports the Authority's promotional role, particularly – as discussed above – given the success of a number of recent events staged by the Authority, and there have been calls for more resources to be concentrated in this area.⁴²
- 3.23 The Canberra Business Council stated that it has always supported an increased role for the NCA in the promotion and marketing of the national capital.⁴³ The Council noted that the Authority has carried this out in a “very strategic and successful manner”, particularly given constraints on resources.⁴⁴ Although the Property Council of Australia (ACT) supports the role of the Authority in marketing Canberra as the nation's capital, it emphasised that this activity should not overshadow the important role the Authority performs in

40 National Capital Authority, Submissions, p 165.

41 See, for example, Property Council of Australia (ACT), Submissions, p 140.

42 See, for example, Canberra Business Council, Murphy, National Australia Day Council, Submissions.

43 Canberra Business Council, Submissions, p 259.

44 Canberra Business Council, Submissions, p 259.

planning and development.⁴⁵ The Cultural Facilities Corporation also supports the NCA's promotion of cultural activities in the ACT, and suggested that the Authority's increasing role in events should facilitate close liaison with ACT cultural organisations.⁴⁶

- 3.24 In its submission, the ACT Government addressed the potential for conflict to arise as a result of two bodies pursuing what is essentially the same agenda. The Territory Government identified a number of difficulties arising from both the Authority and the Territory taking responsibility for promoting tourism in the ACT. While the ACT Government endorses the NCA's objective of helping to raise Canberra's profile, it feels that in reality, the NCA provides minimal resources to support this function:

The Commonwealth may own and operate the major attractions in the ACT, but it is the Territory that, by default, accepts the responsibility to inform the people of Australia, and international tourists, about the national capital experience⁴⁷

The Territory shoulders a significant part of that responsibility and the associated costs, yet often is able to exert little or no control in managing its tourism assets, or its potential in ways that could optimise results for the ACT.⁴⁸

- 3.25 The ACT Government also acknowledged that there have been a number of practical problems arising from having both the Authority and the ACT involved in promoting Canberra which it considers have been due to "the NCA's overly restrictive and legalistic approach to its management of the National Capital Plan with regard to tourism related activities".⁴⁹ In his submission to the inquiry, former NCDC Commissioner, Mr Tony Powell, asked the Committee to consider the deletion of the NCA's statutory responsibilities for tourism promotion. Mr Powell made his argument on the grounds that:

...the requisite skills and corporate attitudes (of the NCA) are fundamentally different to those demanded of a planning and urban development authority.⁵⁰

45 Property Council of Australia (ACT), Submissions, p 140.

46 Cultural Facilities Corporation, Submissions, p 108.

47 ACT Rejoinder Submission to the 2004 Commonwealth Grants Commission 2004 Review, February 2003, p 24.

48 ACT Government, Submissions, p 240.

49 ACT Government, Submissions, p 239.

50 Powell, Submissions, p 269.

- 3.26 This view is shared by community group Canberra Community Action on Acton Inc. which believes the Authority has been affected by changes in its functional priorities. The group proposed a reformed governance framework which included the suggestion that:

...the NCA focus on the important physical and symbolic design aspects of the expression of the national capital in the parliamentary triangle and its immediate environs, and not so much on events and promotional activities which impinge on the responsibilities of other departments and agencies.⁵¹

The Question of Resources

- 3.27 An issue which has emerged in light of the NCA's increasingly active promotional role is the question of whether the NCA is adequately resourced to perform its statutory functions. Concerns have been raised as to whether the Authority can maintain both a planning and promotional role without one having a detrimental impact on the other. The Australian Institute of Landscape Architects acknowledged that many landscape projects identified by the NCA have taken a long time to progress due to a seemingly inadequate financial resource base.⁵² Former NCDC Commissioner, Mr Tony Powell, believes that the Authority has not received sufficient funding to be able to perform its statutory functions:

The great difficulty that the National Capital Authority has in trying to exercise its statutory functions is that for the whole of its life it has had inadequate budgets. That has led in particular to an insufficient number and range of skilled professional planning resources.⁵³

This would appear to be at odds with the view of the Royal Australian Institute of Architects which stated that the Authority is "well resourced with professional staff".⁵⁴

- 3.28 Mr Malcolm Smith believes that the NCA's marketing and promotional activities have "for some time been at the expense of

51 Canberra Community Action on Acton Inc., Submissions, p 29.

52 Australian Institute of Landscape Architects, Submissions, p 69.

53 Mr Tony Powell, Transcript, 19 September 2003, p 250.

54 Royal Australian Institute of Architects, Submissions, p 414.

long term, visionary, planning and urban design”.⁵⁵ The Property Council (ACT) emphasised the need for the Authority to be able to undertake both a marketing and a planning role without one detracting from the other.⁵⁶ The National Trust of Australia (ACT) and the Housing Industry Association both believe that budgetary allocations to the National Capital Authority should be sufficient to allow the Authority to continue to discharge both its planning and its promotional functions.⁵⁷ The Canberra Business Council, however, urged that the Authority’s promotional function be given a higher priority and adequate funding to instil a greater sense of national pride in the national capital, in which all other jurisdictions are major stakeholders.⁵⁸

3.29 The Committee notes that the Authority has established an Events and Marketing Advisory Panel which illustrates the NCA’s increasing emphasis on promotional activities. However, some witnesses questioned the professional capacity within the Authority to balance the increasing focus on marketing and promotional with the Authority’s planning role. Mr Tony Powell, for example, stated that:

...the kinds of people, the kinds of skills and the kind of organisation that (the Authority) needs to promote tourism are quite different to the sorts of skills that you need amongst a mix of town planners, civil engineers, landscape designers et cetera. They are different sorts of human skills and they require different organisational environments to achieve their purposes.⁵⁹

The Committee’s Views

3.30 The Committee acknowledges that there is a legitimate ongoing role for the Commonwealth to play in Canberra’s planning to ensure the dual nature of the city continues to receive due recognition. While it is imperative that Canberra’s significance as the national capital is not neglected, it is equally important for the Commonwealth to recognise

55 Smith, Submissions, p 115.

56 Property Council of Australia (ACT), Submissions, p 140.

57 National Trust of Australia (ACT), Submissions, p 23.

58 Canberra Business Council, Submissions, p 259 and Housing Industry Association, Submissions, p 100.

59 Mr Tony Powell, Transcript, 19 September 2003, p 255.

the growth and progression of the ACT under self government. While the Committee believes that the National Capital Authority has played an invaluable role in safeguarding the characteristics and qualities Australians expect of their national capital, a number of concerns have been brought to the Committee's attention which relate to the role and operations of the Authority. The Committee has therefore sought to address some of these issues.

- 3.31 The Committee was encouraged by the positive comments regarding the quality of architecture and urban design for works in Designated Areas – some of which are recipients of design awards – which have been subject to NCA works approval. The Committee also notes that the Authority underlined its strong commitment to urban design excellence through the establishment of an Urban Design Team in November 2002.
- 3.32 With regard to the NCA's active approach in promoting the National Capital as a tourist destination, the Committee is satisfied that the Authority has acted in accordance with its statutory functions. While the Committee also notes the success of a number of recent events staged by the Authority, there should be an ongoing commitment from the NCA to maintain a collaborative relationship with the ACT Government as it adopts its own approach to tourism and promotion of the Territory.
- 3.33 In an effort to ensure that all Australians are afforded a voice in the future of their national capital, the Committee believes that extending representation on the National Capital Authority to include a wider cross-section of Australia's States and Territories would be a step in the right direction. This suggestion was raised in a submission from Canberra Community Action on Acton Inc., which noted that much of the evidence to the inquiry concerned the impact of inter-government relationships and community consultation on the role and functions of the NCA.⁶⁰ Such a move would require an amendment to the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth). The most effective way to ensure all the states and territories are able to contribute to matters affecting the national capital, would be for members to be appointed to the Authority on a rotational basis. The Committee further believes that the Chief Executive should continue to occupy a position on the Authority, but only in an ex-officio capacity as a non-voting member. This, too, would require an amendment to existing legislation.

60 Canberra Community Action on Acton Inc., Submissions, p 312.

Recommendation 3

3.34 That Section 33 of the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth) be amended to provide for an increase in the number of members on the National Capital Authority to six (excluding the Chairperson and Chief Executive), and that:

- three of the six members be appointed from other states and territories on a rotational basis; and
- the full-time Chief Executive be appointed in an ex-officio role as a non-voting member of the Authority.

