

## Governance and administration

### Introduction

- 4.1 According to the Commonwealth Government, a good governance framework helps bodies to implement government policies, deliver services well, meet their organisational goals and achieve sustainable outcomes.<sup>1</sup>
- 4.2 As the body charged with maintaining the Commonwealth's interest in the planning and development of the national capital, it is important that the National Capital Authority (NCA) is accountable to the Parliament of Australia and through it, to all Australians.
- 4.3 This chapter is divided into two sections. The first section, governance, addresses problems arising from the existing arrangements and considers measures for a new governance model which accommodates a stronger, more accountable, independent NCA board. This section also considers the merits of establishing the position of a Commonwealth Architect to provide high level design advice to the Government.
- 4.4 The second section on administration addresses the general administrative function with a specific focus on the impact of budget reductions on the NCA's operations, with a particular focus on the NCA's management of assets.

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1 Commonwealth Department of Finance and Administration, *Governance Arrangements for Australian Government Bodies*, August 2005, p. v.

## Governance

### Accountability and reporting: an 'unusual arrangement'

4.5 Under the existing governance arrangements, the Chief Executive is responsible for the day-to-day administrative functions of the organisation and is accountable to the Minister for Home Affairs. Yet, under the *Australian Capital Territory (Planning and Land Management) Act 1988* (PALM Act), the Minister cannot direct the NCA board, which includes the Chief Executive.

4.6 Witnesses who appeared before the inquiry were unable to point to a similar model whereby such a degree of power is vested in the chief executive as is presently the case with the NCA. Mr Stephen Bartos, who provided evidence in his capacity as an expert on public sector governance, stated:

I am not aware of a circumstance where that degree of power exists. It is a situation where the board in effect is deprived of a lot of its governance authority because the CEO has a separate reporting line. That puts the board in a peculiar situation of being the authority under the legislation and in theory having power but in practice having rather too little and having very little capacity to act as a governing body.<sup>2</sup>

...in this particular case, we have this relationship where the CEO is responsible for all of the running of the NCA as well as being on the board, as well as being accountable to the minister. That, I think, results in something of an imbalance of power. And that, I think, is part of the problem.<sup>3</sup>

4.7 Similarly, the Attorney-General's Department discussed the unique nature of the governance arrangements, while also recognising the unusual role that the NCA's board is tasked with. The Department stated:

I am not aware of any comparable authorities. It is an unusual arrangement, but it is also an unusual role that the board has in that it is not actually, for example, running an organisation. It is simply seeking to deal with the various obligations and requirements of the PALM Act and reviewing the National Capital Plan and things like that. It is not like a board that is itself

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2 Mr Stephen Bartos, *Transcript T7*, p. 16.

3 Mr Stephen Bartos, *Transcript T7*, p. 15.

managing an organisation or advising on the management of an organisation.<sup>4</sup>

- 4.8 The status of the NCA as a statutory body gives a strong impression of independence with the board fully engaged in governance, policy and management oversight, however as the following outline of the existing governance arrangements of the NCA illustrates, this is not the case.
- The NCA board consists of five members including a Chairperson and a Chief Executive, all of whom are appointed by the Governor-General with the Chief Executive full-time and the other members serving on a part-time, non-executive basis.<sup>5</sup>
  - Other than the Chief Executive, the Chairperson and other board members do not have any responsibilities under the *Public Service Act 1999* (Public Service Act) or the *Financial Management and Accountability Act 1997* (FMA Act) and therefore have no corporate responsibility and no responsibility for the management of other resources, including NCA staff.<sup>6</sup>
  - The Chief Executive has all of the responsibilities and powers of an Agency Head under the Public Service Act and the FMA Act. The office of Chief Executive is a Principal Executive Officer (PEO) under the *Remuneration Tribunal Act 1973*.
  - The Minister for Home Affairs is the employing authority and is responsible for determining the Chief Executive's eligibility to receive performance pay. This move to the PEO structure occurred from 17 September 2001. Prior to this arrangement, remuneration, including access to performance pay, was determined by the Remuneration Tribunal on advice from the Chairperson of the NCA.<sup>7</sup>
- 4.9 The Act also has a requirement that the Chief Executive act under the general direction of the board. The NCA acknowledged that under these arrangements, 'you could get a scenario where that became difficult to manage'.<sup>8</sup> The NCA stated:

The PALM Act says that the chief executive acts under the general direction of the Authority. But you are not employed by the Authority; you are employed under the Public Sector Act. When the Principal Executive Officer status was brought in under the Remuneration Tribunal provisions, the employing body became

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4 Attorney-General's Department, Mr Iain Anderson, *Transcript T1*, p. 58.

5 Under the PALM Act, the Chairperson can also be the Chief Executive, in which case the four other members are appointed on a part-time basis.

6 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 33.

7 National Capital Authority, *Submission 55.8*, p. 3.

8 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 32.

the Minister. I did make comment at that time about those issues in writing, but at the moment I have a performance agreement with the Minister and have since the PEO structure was brought in. I am definitely answerable under the FMA, the Public Sector Act and the Code of Conduct, of course, as are the other members of the Public Service.<sup>9</sup>

- 4.10 The PALM Act predates the primary governance legislation that applies to Commonwealth bodies – the FMA Act 1997 and the *Commonwealth Authorities and Companies Act 1997*. Mr Bartos made the observation that if the NCA were being set up today, it is likely that it would not be set up the way it was. He believes that the current structure is ‘not in accordance with what you might consider to be good governance’ under the FMA Act.<sup>10</sup>
- 4.11 The 2003 Uhrig review – tasked with examining the structures for good governance as well as the relationship between statutory authorities and office holders – found that the governance arrangements of statutory authorities are unclear and inadequate<sup>11</sup> and recommended the application of either an ‘executive management’ or ‘board’ template. The NCA were assessed against the Uhrig executive management template, which was seen to be the closest fit with the NCA’s operating and governance arrangements established under the PALM Act.<sup>12</sup>
- 4.12 One outcome of the Uhrig review was the suggestion that statutory agencies like the NCA use ‘Statements of Intent’ to respond to their Ministers and outline ‘how the authority intends to undertake its operations, and how its approach to operations will be consistent with the Statement of Expectations.’<sup>13</sup>
- 4.13 Accordingly, a Statement of Expectations was provided to the NCA by the then Minister for Local Government, Territories and Roads, the Hon Jim Lloyd MP, in July 2006, to which the NCA responded with a Statement of Intent in September 2006. The Attorney-General’s Department told the committee:

There are no formal requirements as to the content of the statement of expectations or of the statement of intent. It really operates by way of the minister simply setting out his or her

9 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 55.

10 Mr Stephen Bartos, *Transcript T7*, pp. 14-15.

11 Grant R, *Research Note no. 50 2004–05 The Uhrig Review and the future of statutory authorities*.

12 Senate Rural and Regional Affairs and Transport Legislation Committee, *Transcript*, Senate Estimates, 23 May 2006, p. 162.

13 Uhrig J, 2003. *Review of the Corporate Governance of Statutory Authorities and Office Holders*, Canberra, p. 60.

expectations of the authority and the board, and the board then saying how it is actually going to respond to and seek to implement those expectations.<sup>14</sup>

- 4.14 There was insufficient evidence to draw a conclusion as to whether the respective statements of expectations and intent contributed to improved accountability of the Chief Executive or the board of the NCA.

## A new governance model

- 4.15 A broad range of views were put forward as to what a reconstituted NCA board should look like. A common criticism of the existing constitution of the board was the absence in legislation of any requirement for the non-executive appointees to have professional qualifications or experience in planning or architecture. In the view of the Friends of the Albert Hall Inc., this arrangement has created an imbalance between the NCA's planning decisions and its accountability for operations. The Friends stated:

None of the present members of the Authority, with the exception of the Chief Executive, has the experience and professional qualifications to provide the desired independence and due diligence in respect of planning proposals that are submitted for approval.<sup>15</sup>

- 4.16 It has also been suggested that the existing model has, in recent times, been 'perceived as being in some ways too close a reflection of the government of the day.'<sup>16</sup>

- 4.17 NCA Chairman, Mr Michael Ball, strongly refuted suggestions that the NCA has been influenced by the Government:

I can attest, as can every member and executive of the NCA, that at no time has any one politician of any persuasion tried to improperly influence any decision or action of the Authority – and, had any such approach been made, the Authority would have reported that approach to the government at the highest levels. To suggest otherwise is an assault on... the integrity of every member, executive and staff member, of the Authority.<sup>17</sup>

- 4.18 Nevertheless, the existence of such perceptions reinforces the need for a governance structure which promotes greater independence, accountability and transparency.

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14 Attorney-General's Department, Mr Iain Anderson, *Transcript T1*, p. 58.

15 Friends of the Albert Hall Inc., *Submission 25*, p. 4.

16 Dr David Headon, *Transcript T7*, p. 9.

17 National Capital Authority, Mr Michael Ball, *Transcript T1*, p. 26.

- 4.19 The NCA supported future board appointments being made on the basis of professional qualifications and/or experience directly relevant to the functions of the NCA.<sup>18</sup>
- 4.20 Mr David Wright suggested that whatever governance system is established needs to allow for representation by relevant design institutes nominated from the states to ensure a national perspective is brought to the NCA's operations.<sup>19</sup>
- 4.21 It was widely argued that there should be an increase in membership from the current arrangements which accommodate five members. The NCA acknowledged that increasing membership across the States and Territories would 'increase the sense of ownership by Australians in their national capital.'<sup>20</sup>
- 4.22 A pertinent point made in the Uhrig review was that:
- ...Boards with less than six members may have difficulty in meeting their statutory responsibilities due to workload pressures and the potential lack of breadth of views.<sup>21</sup>
- 4.23 The NCA stated that in line with the review's suggestions, it recommended at the time that the NCA board be constituted with seven members.<sup>22</sup>
- 4.24 The ACT Government sought permanent representation on the NCA board to allow it to work more collaboratively with the NCA in areas of mutual interest. The ACT Government also considered that board representation would be beneficial for situations where the NCA sought to introduce policy content to the NCP that had the potential to impact on the planning administration of Territory Land.<sup>23</sup>
- 4.25 ACT Government representation on the board was also supported by other groups including the Canberra Business Council and the Royal Australian Institute of Architects.<sup>24</sup>

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18 National Capital Authority, *Submission 55*, p. 19.

19 Mr David Wright, *Transcript T4*, p. 31.

20 National Capital Authority, *Submission 55*, p. 20.

21 Uhrig J, *Review of the Corporate Governance of Statutory Authorities and Office Holders*, June 2003, Canberra, p. 96.

22 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 47.

23 ACT Government, Mr A Cappie-Wood, *Transcript T5*, p. 30.

24 See, for example: Canberra Business Council, Ms Christine Faulks, *Transcript T2*, p. 34; and Royal Australian Institute of Architects, Mr Alec Tzannes, *Transcript T1*, p. 69.

- 4.26 Mr Stephen Bartos, however, cautioned that ACT Government representation on the board could be problematic from a 'good governance' perspective. Mr Bartos stated:

From the perspective of good governance of the organisation, it is a problem. From the perspective of ensuring that there is that very important set of interests taken account of, I think it is a great thing. Maybe the solution is to have a mechanism that ensures that the various interests of stakeholders in the ACT, including the Chief Minister and the Chief Minister's Department, are taken care of in some way, but maybe not as part of the board. It could be conceived as maybe a reference group or advisory board. That would keep the relationship between CEO and minister under the FMA Act a little purer as well.<sup>25</sup>

- 4.27 Several witnesses were concerned that there were no members on the board (except the Chief Executive) who had a depth of experience in ACT planning matters or who even lived in the ACT.<sup>26</sup>

## Commonwealth commitment to excellence

- 4.28 The committee's inquiry attracted support for the establishment of an office or a position, which would provide high-level advice to the Commonwealth Government on matters of design and aesthetics as they affect the Commonwealth interest in the national capital.
- 4.29 It was suggested that such an office should be located within the Department of Prime Minister and Cabinet where it would be able to provide the highest level of strategic policy advice.<sup>27</sup>
- 4.30 The Royal Australian Institute of Architects drew the committee's attention to the Office of Victorian Government Architect and the value this position had provided in recent times to highlight the importance of having a government architect. The Office of the Victorian Government Architect resides within the Victorian Department of Premier and Cabinet and the Institute described the Government Architect's oversight and guidance to ensure design quality and fair process as 'exemplary'.<sup>28</sup>
- 4.31 Attention was also drawn to the model provided by the United States of America's Commission of Fine Arts. Professor James Weirick suggested that this model could be used to establish an eminent Design Advisory Panel who would provide advice to the NCA, which would be made

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25 Mr Stephen Bartos, *Transcript T7*, p. 18.

26 Friends of the Albert Hall Inc, Ms Di Johnstone, *Transcript T1*, p. 21; Dr David Headon, *Submission 8*, p. 9; Walter Burley Griffin Society, *Submission 40*, p. 13.

27 See, for example: Association of Consulting Architects Australia, *Submission 16*, p. 1.

28 Royal Australian Institute of Architects, Mr Alec Tzannes, *Transcript T1*, p. 78.

public.<sup>29</sup> The Commission of Fine Arts is established by an Act of Congress and is charged with giving expert advice to the President, Congress and the heads of government departments on matters of design and aesthetics as they affect the Federal interest and preserve the dignity of the national capital.<sup>30</sup>

4.32 The Association of Consulting Architects Australia suggested that the Government Architect, among other duties, would:

- Provide the NCA with clear direction and advice in its role for the ACT;
- Develop and coordinate the role of the NCA providing skills and support as an arm of the Commonwealth.<sup>31</sup>

4.33 The NCA supported the appointment of a Commonwealth Architect and supported the Architect having a mandated position as a member of the board, but considered that the role would have a much broader role than only serving on the board.<sup>32</sup>

4.34 Others were more circumspect about the suggestion of establishing an advisory design position. Mr David Wright argued against the idea on the basis that it would create an 'unnecessary additional layer' which would duplicate and compromise the role of the NCA.<sup>33</sup> Mr Wright stated:

Such an arrangement fails to recognise that the Authority already engages independent design advice and many of the major public works are the subject of design competitions and these are subject to competition juries composed, in the main, of eminent design professionals. It also fails to recognise that works approval is a function exercised by a delegate of the Authority under the PALM Act. The delegate is responsible and accountable for the decision, not the Authority or a third party such as the Commonwealth Architect.<sup>34</sup>

4.35 The ACT Division of the Property Council of Australia considered that rather than creating a separate office of government architect, the same outcome could be achieved by having planning bodies and professional associations such as the Royal Australian Institute of Architects nominate representatives to the board.<sup>35</sup>

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29 Professor James Weirick, *Submission 77*, p. 3.

30 U.S. Commission of Fine Arts website: <http://www.cfa.gov/>

31 Association of Consulting Architects Australia, *Submission 16*, p. 1.

32 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 47.

33 Mr David Wright, *Transcript T4*, p. 17.

34 Mr David Wright, *Submission 68.1*, pp. 4-5.

35 Property Council of Australia – ACT Division, Ms Catherine Carter, *Transcript T2*, p. 59.



- 4.36 The committee believes that there is a great deal of symbolism vested in the aesthetic qualities of the national capital of Australia. The quality of the aesthetic appearance is a reflection of national character, and the pride we have in ourselves as a nation. For example, contrast the poor impression a shabby, under-maintained, overgrown central national area invariably gives citizens and visitors compared to the inspiring impression a crisp, visually stimulating precinct reflecting excellence in landscape design to architecture, gives to citizens and visitors.
- 4.37 The committee therefore believes that a Commonwealth fine arts commissioner or chief architect would be able to assist the Commonwealth Government to achieve the highest levels of design excellence by providing strategic advice across government.

## Conclusions

### Improving accountability

- 4.38 Resolving the complex question of what governance arrangements are the most effective for the functioning of the NCA is fundamental to yielding the best outcomes for the future planning and development of the national capital.
- 4.39 While the NCA is an independent statutory authority, the current governance arrangements in practice vest most power over the operation of the NCA with the position of Chief Executive. In addition, the Minister cannot direct the Chief Executive. This situation means the board cannot be held directly accountable to the Parliament for the day-to-day functioning and activities of the NCA nor can the Minister be held accountable for the actions of the Chief Executive.
- 4.40 The committee has therefore determined that a new governance model is needed.
- 4.41 The committee supports the retention of the NCA as a statutory authority and considers that the NCA's functions as prescribed in the PALM Act are appropriate. However, the committee strongly believes that the new governance model should enhance the NCA's statutory independence.
- 4.42 A new model also presents an opportunity for the Commonwealth to strengthen, clarify and update its commitment to the planning and development of the national capital. This new governance model should also incorporate a new, more formal channel of accountability to the Parliament.
- 4.43 The committee concurs with the views of architect Dr Enrico Taglietti who stated that the NCA should have 'total freedom in submitting their professional beliefs'. Dr Taglietti also expressed the view that if the NCA

is made accountable directly to the Parliament, the 'balance between the independence of the authority's planning decision and its accountability for its operations' will be a non issue.<sup>36</sup>

4.44 To this extent, the committee supports an arrangement whereby the NCA Chairperson appears before this committee twice a year to report on the activities of the organisation. This arrangement could be formalised through the Minister's Statement of Expectations and the NCA's Statement of Intent, or become a legislated requirement of the board.

4.45 The committee believes that such an arrangement would enhance the public's confidence in the independence of the NCA, while at the same time ensuring that the NCA is held accountable to the Parliament for its decisions relating to the planning and development of the national capital.

### **Stronger, more accountable, independent Board**

4.46 The evidence before the committee suggests that the constitution of the NCA established under section 33 of the PALM Act needs to be amended to accommodate an expanded board with a composition more befitting of the NCA's independence and its critical role in managing the Government's continuing interest in the planning, promotion, enhancement and maintenance of Canberra as the national capital.

4.47 The new board should have the full powers of an independent statutory board. The criteria of appointment should be demonstrable expertise and experience ranging across, but not limited to, the professions and fields of landscape architecture, urban design, planning, including transport and sustainability. The board is accountable for expenditure of public moneys and the performance of the NCA staff in delivering the outcomes required by the Act.

4.48 The current composition of the NCA board was criticised as being too small and lacking relevant expertise to allow for robust decision making. Evidence strongly supported a board comprising representatives who possess professional qualifications and/or experience directly relevant to the functions of the NCA under Section 6 of the PALM Act.

4.49 Some witnesses made various suggestions about nominees being appointed from each State and Territory, possibly on a rotational basis, to promote a sense of ownership of the national capital to all Australians. While representation across a wide range of States and Territories would be a favourable outcome, the committee believes that it is paramount that appointees to the board are selected solely on merit, rather than creating

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36 Dr Enrico Taglietti, *Submission 42*, p. 1.

the possible scenario where highly suitable candidates are restricted on account of geographical association.

- 4.50 However, the committee is sympathetic to the concern regarding the lack of corporate knowledge and experience from a Canberra and region perspective and therefore recommends that at least two of the seven members be from the Canberra region.
- 4.51 The committee heard evidence that the unusual status of the Chief Executive created an imbalance of power. To assist in clarifying the position of Chief Executive, the committee believes the appointment should be made on recommendation of the board. The Chief Executive should be fully accountable to the board rather than the Minister.
- 4.52 The committee also recommends that the Chief Executive no longer have ex-officio status on the board.

### **National Capital Consultative Council**

- 4.53 The committee has advanced the governance model proposed because of clarity it brings to the accountability of the NCA and the role of the board. The model proposed does not, however, provide for representative positions, as recommended in the previous Inquiry into the role of the National Capital Authority. In the previous report, the committee recommended reciprocal representation on the respective boards by each planning authority.
- 4.54 This is not possible in the case of the Australian Capital Territory as there is no longer an ACT planning authority advisory council. The committee is also unwilling to undermine the principles of statutory independence and professional merit by allocating representative positions to the board in the governance model it is proposing.
- 4.55 Nonetheless, the committee believes there needs to be a mechanism to permit the NCA, and indeed the ACT Planning and Land Authority to receive input from time to time on a range of planning related matters and recommends that the suggestion of the Canberra Business Council and other business groups for a National Capital Consultative Council be generally adopted in order to create such a forum for shared interest in planning and related matters to be expressed and conveyed.
- 4.56 In the final chapter of this report, the committee foreshadows an important role for the Consultative Council in the major planning reforms the committee recommends.

## Appointment of Commonwealth Architect

- 4.57 The committee recommends the establishment of the position of Commonwealth Architect to deliver independent strategic advice to the Commonwealth Government with the aim of achieving high quality, sustainable design outcomes.
- 4.58 As advocated by groups including the Walter Burley Griffin Society and the Association of Consulting Architects, the committee considers that the position of Commonwealth Architect should reside within the Department of Prime Minister and Cabinet, ensuring that it is appropriately positioned to provide the highest level of strategic policy advice to the Government.
- 4.59 The committee envisages that advice provided to the Prime Minister by the Commonwealth Architect would inform the strategic objective of the highest design and aesthetic standards where the Commonwealth has an interest. The committee expects that, where appropriate, the NCA would consult with the Commonwealth Architect on significant design projects.
- 4.60 The model of governance favoured by the committee is guided by the following series of recommendations:

### Recommendation 2

- 4.61 **That the *Australian Capital Territory (Planning and Land Management) Act 1988* be amended to include the following provisions:**
- **That the National Capital Authority board consists of a Chairperson and seven members.**
  - **That a minimum of two National Capital Authority board members be from the ACT region.**
  - **That a person appointed as a National Capital Authority board member by the Commonwealth Government must have qualifications or expertise relevant to a field related to the Authority's functions as set out in Section 6 of the *Australian Capital Territory (Planning and Land Management) Act 1988*.**
  - **That the Chief Executive no longer have ex-officio status on the National Capital Authority board.**
  - **That the appointment of Chief Executive should be made on recommendation of the National Capital Authority board and the Chief Executive be fully accountable to the board.**

**Recommendation 3**

- 4.62 That the *Australian Capital Territory (Planning and Land Management) Act 1988* be amended to require the Chairperson of the National Capital Authority to appear twice a year before the Joint Standing Committee for the National Capital and External Territories.

**Recommendation 4**

- 4.63 That a National Capital Consultative Council be established. This Council would have representatives from the Commonwealth Government and the ACT Government, the community and business. The Council would be co-chaired by the responsible Minister and the ACT Chief Minister.

**Recommendation 5**

- 4.64 That the Commonwealth Government establish the position of Commonwealth Architect within the Department of Prime Minister and Cabinet.

## Administration

### Introduction

- 4.65 The Commonwealth Government requires agencies to measure their intended and actual performance in terms of outcomes. The NCA's outcome is:

A National Capital which symbolises Australia's heritage, values and aspirations, is internationally recognised, and worthy of pride by Australians.<sup>37</sup>

- 4.66 The NCA's budget has three outputs against which its performance is measured which are aligned to the NCA's statutory functions. The budget allocations against these outputs are reflected in Table 4.1. The outputs are:

- Output 1: Canberra and the Australian Capital Territory are planned and developed in accordance with their national significance

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37 Portfolio Budget Statements 2008-09, Attorney General's Portfolio.

- Output 2: Promotion and awareness of the significance of Canberra as the national capital, and
- Output 3: Advocacy, enhancement and management of the national capital estate.

Table 4.1 Total resources available for Outcome 1 (National Capital Authority)

	2008-09 total estimate of available resources (\$'000)	2007-08 estimated actual (\$'000)
<b>Outcome 1</b>		
<b>Administered program appropriation*</b>		
Administered expense items	11,070	11,886
<b>Output 1: Canberra and the Australian Capital Territory are planned and developed in accordance with their national significance</b>		
Departmental outputs	2,236	2,382
Revenues from other sources (s 31)	175	175
<b>Subtotal for Output 1</b>	<b>2,411</b>	<b>2,557</b>
<b>Output 2: Promotion and awareness of the significance of Canberra as the National Capital</b>		
Departmental outputs	1,526	3,422
Revenues from other sources (s 31)	5	5
<b>Total for Output 2</b>	<b>1,531</b>	<b>3,427</b>
<b>Output 3: Advocacy, enhancement and management of the national capital estate</b>		
Departmental outputs	9,895	12,946
Revenues from other sources (s 31)	1,422	1,422
<b>Total for Output 3</b>	<b>11,317</b>	<b>14,368</b>
<b>Total resources for Outcome 1</b>	<b>26,329</b>	<b>32,328</b>
<b>Average staffing level (number)</b>	<b>51</b>	<b>56</b>

\* Administered program appropriation

In 2008–09 the NCA will receive appropriations of:

- \$10.188m for activities it administers on behalf of government, representing a decrease of 4% from 2007–08. This appropriation is directly linked to the estimated depreciation expense on the administered assets managed by the NCA and depreciation funding is used for capital expenditure, and
- \$0.882m for supplier expenses.

Revenue from administered activities includes lease revenue on diplomatic land, the value of assets funded from external sources, including commemorative works constructed and transferred from departmental activities to administered assets, and proceeds from the sale of national land for diplomatic purposes. Revenues associated with the diplomatic estate are paid directly to the Official Public Account.

Source: Portfolio Budget Statements 2008-09, Attorney General's Portfolio, p. 325.

## Impact of the budget reduction

4.67 The NCA's total revenue for 2008–09 is estimated to be \$15.313m, a decrease of \$5.093m (approximately 25% from the 2007–08 revised estimate (see Table 4.2).

Table 4.2 NCA Budgeted departmental income statement (for the period ended 30 June)

	Estimate d actual 2007-08	Budget estimate 2008-09	Forward estimate 2009-10	Forward estimate 2010-11	Forward estimate 2011- 2012
	(\$'000)	(\$'000)	(\$'000)	(\$'000)	(\$'000)
<b>INCOME</b>					
<b>Revenue</b>					
Revenue from government	18,750	13,657	14,017	14,171	14,449
Goods and services	1,656	1,656	1,656	1,656	1,656
<b>Total revenue</b>	<b>20,406</b>	<b>15,313</b>	<b>15,673</b>	<b>15,827</b>	<b>16,105</b>
<b>Gains</b>					
Other	45	45	45	45	45
<b>Total gains</b>	<b>45</b>	<b>45</b>	<b>45</b>	<b>45</b>	<b>45</b>
<b>Total income</b>	<b>20,451</b>	<b>15,358</b>	<b>15,718</b>	<b>15,872</b>	<b>16,150</b>
<b>EXPENSES</b>					
Employees	7,672	6,029	6,416	6,609	6,721
Suppliers	11,844	8,377	8,256	8,217	8,383
Depreciation and amortisation	889	893	986	986	986
Finance costs	46	59	60	60	60
<b>Total expenses</b>	<b>20,451</b>	<b>15,358</b>	<b>15,718</b>	<b>15,872</b>	<b>16,150</b>
<b>Surplus (deficit) attributable to the Australian Government</b>	-	-	-	-	-

Source: Portfolio Budget Statements 2008-09, Attorney General's Portfolio, p. 330.

4.68 The decrease in revenues and expenses is attributable to three factors:

- a. an election commitment savings measure in recognition of overlapping responsibilities between the NCA and the ACT Government;
- b. the reversal of *Griffin Legacy* infrastructure maintenance funding for upgrading Constitution Avenue into a boulevard; and
- c. the one-off 2% increase in the efficiency dividend imposed by the incoming Labor Government.

4.69 The election commitment saving in recognition of overlapping responsibilities consisted of \$1.6m in 2007-08 and will increase to \$3.7m in 2008-09 and \$3.5m per annum thereafter. However, these figures are at variance with evidence received during the committee's inquiry. The

committee heard that the anticipated increased costs of the ACT having sole responsibility for development applications in areas for which the NCA currently has jurisdiction would involve a recurrent figure of around \$300,000 to \$350,000. The ACT Planning and Land Authority stated:

We have had a discussion with the National Capital Authority and asked them to articulate to us what the number of equivalent full-time employees might be for the areas that were previously or are currently under their jurisdiction if they were to be administered by the ACT government. They indicated between three and four full-time staff, so we translate that into a recurrent budget of around \$300,000 or \$350,000.<sup>38</sup>

4.70 The Government's decision to reverse the 2007-08 measure for upgrading Constitution Avenue into a boulevard as part of the *Griffin Legacy* Infrastructure returned a forecast saving of \$46.3m over four years. This measure was announced by the Minister for Finance and Deregulation on 6 February 2008.

4.71 Furthermore, like all public sector agencies, the NCA has been required to meet the one-off 2% increase in the efficiency dividend imposed by the incoming Labor Government.

4.72 The reductions to the NCA's budget are reflected in Table 4.3.

Table 4.3 National Capital Authority—Additional estimates and variations to outcomes

	2007–08 (\$'000)	2008–09 (\$'000)	2009–10 (\$'000)	2010–11 (\$'000)
<b>Outcome 1</b>				
<b>Increase in estimates (administered)</b>				
Purchase of a site for diplomatic purposes	3,000	–	–	–
<b>Decrease in estimates (administered)</b>				
Reversal of 2007–08 measure	(4,252)	(19,552)	(10,852)	(2,252)
<b>Total changes in administered appropriation</b>	<b>(1,252)</b>	<b>(19,552)</b>	<b>(10,852)</b>	<b>(2,252)</b>
<b>Decrease in estimates (departmental)</b>				
Election commitment savings: National Capital Authority	(1,600)	(3,700)	(3,500)	(3,500)

38 ACT Planning and Land Authority, Mr Neil Savery, *Transcript T2*, p. 10.



Reversal of 2007–08 measure—Griffin Legacy Infrastructure—Constitution Avenue	–	(3,000)	(3,150)	(3,250)
Election commitment savings: 2% efficiency dividend	(87)	(339)	(349)	(354)
Efficiency dividend: increase in rate from 1% to 1.25% per annum	–	(13)	(13)	(14)
<b>Total changes in departmental appropriation</b>	<b>(1,687)</b>	<b>(7,052)</b>	<b>(7,012)</b>	<b>(7,118)</b>

Source: Attorney-General's Portfolio Additional Estimates Statements 2007-08.

### Reversal of funding for upgrade to Constitution Avenue

The decision to reverse this measure was criticised in some submissions to the inquiry. Mr Graham Humphries, for example, called on the Government to 'immediately reinstate the Federal funding to upgrade Constitution Avenue and continue to implement the infrastructure required to realise the *Griffin Legacy* objectives'.<sup>39</sup>

The Royal Australian Institute of Architects (RAIA) was also critical of the decision to reverse the measure for upgrading Constitution Avenue. The RAIA stated:

The RAIA understands this project was supported by the ACT Government and notes with regret the subsequent abandonment of this project. It is important that the Commonwealth continue to invest in key infrastructure required for the city into the future. Not only is Commonwealth Government involvement in planning for infrastructure critical, funding the delivery of infrastructure projects should be a fundamental commitment by the Commonwealth Government to the long term sustainability and functional efficiency of the city.<sup>40</sup>

The committee is concerned that unless the decision is made to reinstate the Constitution Avenue funding, this could have significant negative flow-on effects for the precinct including higher densities and associated greater traffic flows contributing to an already congested area. The committee also notes that the proposed upgrade of Constitution Avenue is an element of a broader strategy that involves investment in the King's Avenue intersection and the construction of buildings for Commonwealth agencies along and near Constitution Avenue.

**The Committee strongly encourages the Commonwealth Government to reinstate funding for the proposed upgrade of Constitution Avenue as part of the *Griffin Legacy* infrastructure.**

39 Mr Graham Humphries, *Submission 38*, p. 4.

40 Royal Australian Institute of Architects, *Submission 44*, p. 12.

- 4.73 The NCA was asked to provide a breakdown of its budget reduction by output. This information was provided in submission 55.3 and has been reproduced in Table 4.4.
- 4.74 As Table 4.4 shows, the NCA has undertaken to reduce its staff from 89 people to 51 people. This includes a reduction in 16 staff from its promotions section, 9 staff from the section responsible for enhancing and maintaining the national capital, 8 from corporate support, and 5 from the planning section.
- 4.75 Output 2 with responsibility for promoting the national capital was subject to the most significant cuts, with the loss of more than half of the allocated staff and the NCA's decision that it can no longer fund *Australia Day Live* or support events such as *Summer in the Capital* and *Tropfest*.<sup>41</sup>

Table 4.4 Breakdown of NCA budget reduction by Output

Staff # before proposed saving	Output	Net saving 2007-08	Net saving 2008-09 & beyond	Staff # after proposed saving	Reduction in staff
Output 1: 14 people	Output 1 Plan	\$0.190m	\$0.330m	Output 1: 9 people	Output 1: Reduce by 5 people (36%)
Output 2: 28 people	Output 2 Promote	\$0.754m	\$1.945m	Output 2: 12 people	Output 2: Reduce by 16 people (57%)
Output 3: 22 people	Output 3 Enhance & Maintain	\$0.040m	\$3.220m	Output 3: 13 people	Output 3: Reduce by 9 people (41%)
Govern & Report: 25 people	Corporate Support	\$0.703m	\$1.545m	Govern and Report: 17 people	Govern & Report: Reduce by 8 people (32%)
<b>Total: 89 people</b>	<b>Total net saving</b>	<b>\$1.687m</b>	<b>\$7.040m</b>	<b>Total: 51 people</b>	<b>Total: Reduce by 38 people (43%)</b>

Source: National Capital Authority, Submission 55.3

- 4.76 The NCA was asked to explain the rationale for the application of the cuts. The NCA emphasised that the quantum of cuts was announced with no direction as to where they should occur and its first obligation was to meet its statutory requirements. Furthermore the NCA told the committee that it could not compromise its role related to the maintenance of assets for which the NCA has a duty of care and legislative requirements under the *Environmental Protection and Biodiversity Conservation Act 1999* (EPBC).<sup>42</sup>

41 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 53.

42 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, pp. 51-52.

4.77 As a result, Output 2 was targeted on account of being the least tangible of the NCA's statutory responsibilities. The Authority stated:

If you look at the original budget we had for the outputs against those considerations you will see that the area where we had most discretion was in output 2, with fostering and awareness of Canberra as the capital, and in some of our governance areas.

... I put it to the committee that we have made [the cuts] as responsibly as we could, that we have a profound interest in the promotion of the capital. We have made very hard-won steps forward in animating the capital through our work and through working with the territory as best we can, but our defined statutory responsibilities needed to come first, and we certainly needed to meet our duty of care. That did not give us a great deal of latitude.<sup>43</sup>

4.78 The outputs published in the portfolio budget statements do not dictate or provide a hierarchy of relative importance. Therefore, the NCA has a statutory responsibility to perform against all outputs including Output 2: Promotion and awareness of the significance of Canberra as the national capital.

4.79 The NCA made the greatest proportion of cuts in Output 2. The implications of this approach by the NCA are discussed in more detail in Chapter 7: *Promoting the national capital*.

### Community views on the cuts

4.80 A number of submissions were critical of the operational budget cuts imposed on the NCA. The view of these submissions was that the cuts had been made prematurely given that they were made before a review of the NCA's role had been completed.<sup>44</sup>

4.81 The Royal Australian Institute of Architects, for example, stated that it was 'extremely disappointed' that the NCA's budget was reduced prior to the completion of any review of its role.<sup>45</sup>

4.82 Parks Forum also expressed concerns about the impact of the cuts on the NCA:

Regardless of the outcome of this inquiry, the permanent loss of skills and expertise through redundancies caused by funding cuts may have a long term impact on the facilities overall.<sup>46</sup>

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43 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, pp. 52-53.

44 See, for example: Mr David Flannery, Submission 22, p. 1, and Law Society of the ACT, Submission 54, p. 5.

45 Royal Australian Institute of Architects, *Submission 44*, p. 18.

## Asset management

- 4.83 In addition to its statutory responsibility of recommending and developing works to maintain and enhance the character of the national capital, the NCA also manages assets, including National Land, required for the special purposes of Canberra as the national capital.
- 4.84 At present, the NCA receives funding for the maintenance of the assets it manages as revenue from government. There are no individual lines in the budget for administered assets or their future maintenance and/or replacement.
- 4.85 The NCA has received a capital injection of \$1.5m each year since July 2004 to fund new works and depreciation of approximately \$10m per year for the replacement of administered assets. As new assets are built and completed on National Land, they are transferred to the NCA as administered assets to maintain on behalf of the Commonwealth.<sup>47</sup>
- 4.86 The NCA advised that from time to time it also receives capital from other agencies, normally under a memorandum of understanding, which is for a specific purpose. This is usually for the delivery of commemorative works such as national memorials.<sup>48</sup>
- 4.87 During its presentation to the committee, the NCA expressed significant concern about funding for the maintenance of assets. The primary source of concern is that there is no automatic funding for the maintenance of assets. This means that an increase in the number of assets over recent years has not been supplemented by a corresponding increase in maintenance or departmental funding. The NCA explained to the committee:

By the end of June this year, the authority will be responsible for maintaining over \$600 million of assets. Over the past five years, the value of these has increased by 36 per cent. As new assets, like memorials, are built, there is absolutely no guarantee of additional funds for their maintenance. This has created an ongoing and growing financial sustainability issue. What this means is that five years ago we spent \$1 maintaining \$35 of asset value. By next year, we will be expected to stretch that \$1 to \$60 of asset value.<sup>49</sup>

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46 Parks Forum, Submission 76, p. 1.

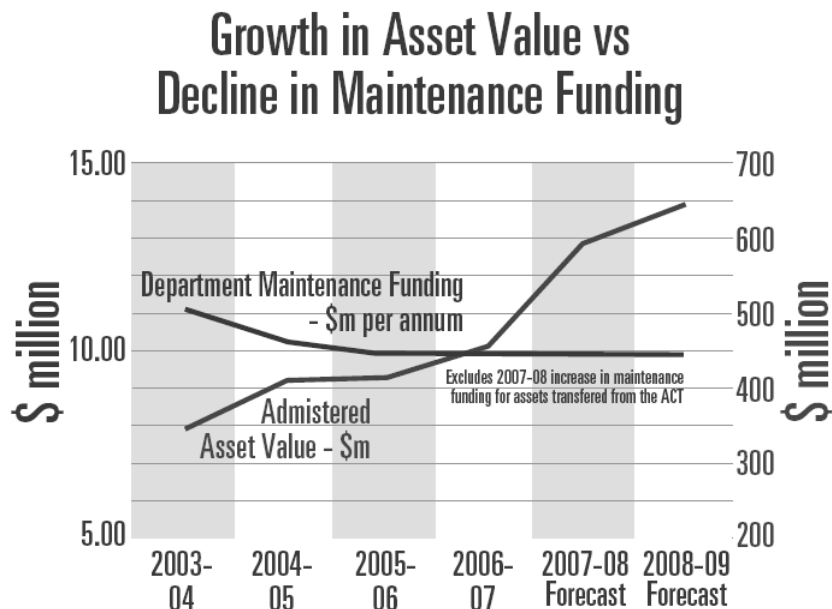
47 National Capital Authority, *Submission 55*, p. 42.

48 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 5.

49 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, pp. 32-33.

4.88 This point is illustrated by the graph in Figure 4.1 provided by the NCA which almost forms an 'x' shape, leading to what the NCA described as 'financial sustainability problems that are now becoming extreme.'<sup>50</sup>

Figure 4.1 NCA department maintenance funding vs administered asset value



Source: National Capital Authority, Submission 55.1.

4.89 The NCA said that it had been forced to reduce the level of maintenance over recent years, but that 'there comes a point where that is just not acceptable' once duty of care obligations, quality and use and compliance with environment and heritage legislation are taken into account. The NCA submitted that a sustainable funding model for maintenance is urgently required.<sup>51</sup>

50 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 7.

51 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, pp. 32-33.

### Case Study: Scrivener Dam and the performance audit

In May 2008, the Auditor-General released a report on the NCA's management of national assets. The audit examined the NCA's asset management systems and the management of selected contracts that the NCA has in place to maintain specific assets.

While the report found that 'the NCA has generally appropriate asset management policies and a documented asset management framework', it did identify a number of shortcomings, particularly in relation to the NCA's management of Scrivener Dam. Specifically, the report found that the NCA 'has not funded a number of major, non-routine maintenance tasks that the NCA's expert consultants had recommended be carried out.'<sup>52</sup>

The NCA's response to the Auditor-General's report suggests that priority asset maintenance works at Scrivener Dam are subject to the availability of funding.

**The committee encourages the Commonwealth Government to allocate financial resources for priority asset maintenance works, noting the urgent works which remain outstanding and ongoing maintenance issues relating to Scrivener Dam.**

4.90 The committee notes that as the NCA funds have been appropriated as departmental expenses, the allocation of funds to asset maintenance has been a decision of the Chief Executive, presumably endorsed by the board at some point.

4.91 The committee believes that the quality of asset management by the NCA reflects a shortfall in funding. The Auditor-General's report stated:

In April 2008, the NCA advised the ANAO that it is currently facing challenges in relation to the financial sustainability of its operations in the context of its asset management responsibilities. It further advised that there has been a decrease in real funding of more than 20 per cent over the past five years despite increases in the number and diversity of assets maintained by NCA.

4.92 In relation to the adequacy of the NCA's governance, the audit report suggested that the Scrivener Dam issue 'highlights the need for improved governance arrangements to ensure any identified shortcomings in the

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52 The Auditor General, *The National Capital Authority's Management of National Assets*, Performance Audit Report No. 33, 2007-08, p. 12.

condition of national assets are brought to attention and addressed in a timely manner.<sup>53</sup>

- 4.93 When asked how long it had been raising the issue of asset maintenance funding with the previous Government, the NCA responded that it had flagged the issue of funding for asset maintenance in annual reports and in its certificate of compliance. The NCA stated:

...I think it would be true to say that for at least five years this has been a growing and significant problem.<sup>54</sup>

- 4.94 However, the committee could not find a reference to any shortfalls in asset funding in the NCA's 2006/07 Annual Report. The committee is not able to comment on the Certificate of Compliance as it is not a public document and has not been provided to the committee.
- 4.95 The committee sought an estimate from the NCA on what level of funding would be required to maintain assets in such a manner that they would not depreciate in the longer term to the extent that large injections of funding would be required in the future. The NCA responded that in order to maintain assets and reflect their national capital importance, the increase in annual appropriation required would be \$2 million per annum.<sup>55</sup>
- 4.96 The NCA does not have clearly segregated funds for particular outputs. Therefore there is no connection between the number of assets and the funding that the NCA receives for their maintenance, which means that the NCA is required to bid for funding that is not tied to a program for individual assets in the longer term. The NCA explained that this was the only way it has been able to apply for appropriations, adding that from time to time the NCA had made a case for increased funding but this had not been accepted.

## Conclusions

- 4.97 There are clearly issues relating to the NCA's management of assets which are of significant concern to the committee. The recent Auditor-General's report on the NCA's management of assets showed that these are long-standing issues that have no connection with the recent reduction in the NCA's funding.
- 4.98 The NCA has not undertaken essential maintenance work on the assets for which it has responsibility. The NCA must ensure that maintenance of

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53 The Auditor General, *The National Capital Authority's Management of National Assets*, Performance Audit Report No. 33, 2007-08, p. 12.

54 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 8.

55 National Capital Authority, *Submission 55.10*, p. 1.

national assets is brought to the attention of the responsible Minister in a timely fashion. The committee notes that there has been inadequate effort by the NCA to resolve these issues in the past.

- 4.99 The committee believes that the recommended changes in governance and accountability should improve the NCA's performance in relation to asset management.