

Joint Standing Committee on the
National Capital and External Territories

Submission No:31.....

Date Received:

Secretary:

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Parliamentary-in-Confidence

Subject: Inquiry into the role of the National Capital Authority

We are the owner/operators of a local business, Mr Spokes Bike Hire and Café, which sits in West Basin and has been operating for more than 30 years, providing bike hire to locals and tourists alike. The vast majority of our clients ride the 'bridge to bridge' in the Parliamentary Triangle.

We lease the land on which our business sits, from the ACT Government, and pay rates, and land tax and land rent, both of which are independently evaluated every 3 years. Situated on designated land, the NCDC approved the site for bike hire many years ago and stipulated that the original owner would need to fund the construction of the building. We purchased the business (which including the building), in late 2006.

Commonwealth Place Kiosks

We have been advised that the NCA have offered a licence and location (Commonwealth Place kiosk) to another bike hire operator, following an EoI process. Given a NCA media release mentioned bike hire as a possible use, we submitted an expression of interest, and attended an interview, but were deemed unsuitable. Three EoI's were received, two of the three being bike hire operators. The NCA did not perform any market research to determine whether a second bike hire operator would be viable in a town of 350,000 with a highly seasonal climate.

On two occasions prior to the commencement of the EoI process we were advised by senior NCA staff that these kiosks would not attract rent, and the occupier would be required at most to pay for utilities used. Subsequent to our complaints that this created an uneven playing field, we were advised that market rent would be charged and that the AVO had been asked to determine such rent. More recently again, the NCA have advised that it would not be 'rent' as such, but rather a 'licence fee'. Both the AVO and an independent evaluator have been asked to come up with possible licence fee. This fee

will be determined in part by the forecast turnover of the business operator who is to hold the licence. This fee will also remain commercial-in-confidence. As the NCA have also said to us on a number of occasions that vibrancy in this area is the goal of the project rather than raising revenue for the Commonwealth Government, we believe the conditions for such a business operator will be very supportive.

The NCA claims they are following all required rules and regulations in their business decisions, and states the National Lands Ordinance Act prevents them from charging rent for public land in certain situations. What are lease and licence holders in the Parliamentary Triangle being charged? If their conditions are more lucrative than the commercial conditions of the free market, why are Australian taxpayers in effect, subsidizing small businesses in Canberra? We sit just outside the parliamentary triangle, and also hire bikes to people who wish to ride around the Lake. If a direct competitor establishes a bike hire business from a highly salubrious location has little in the way of overheads, we hold grave concerns for our ability to survive.

Temporary Traders Program

This program run by the NCA (although dormant at the moment) is the equivalent of the ACT Government's Hawkers Licence program, however the conditions and parameters of the program are different. Temporary Traders pay no fee for the privilege of trading, and may apply to the delegate to expand their trading hours. They have the privilege of trading in the lucrative times only if so preferred ie: public holidays, weekends, school holidays and if preferred, in fine weather only. There is no policy framework that restricts the hours of operation for a Temporary Trader, nor are decisions regarding Temporary Traders subject to Ministerial approval. If the delegate permits, a temporary trader may in affect become a permanent trader.

The NCA takes into consideration the affect a temporary trader might have on other traders *in the Parliamentary Triangle*, but again, does not need to consider the affect such a trader will have on businesses outside this jurisdiction. There is nothing to stop a bike hire operator from obtaining such a permit, and again, the affect on our business would not be one of the NCA's considerations. The bike hire business that has just been offered a kiosk, traded under a Temporary Traders permit for two years.

Consideration of Existing Traders

We brought to the attention of the NCA the affect their commercial decisions may have on our own ability to survive, and we asked them to consider Mr Spokes, especially in light that we offer the 'vibrancy' they seek in the Parliamentary Triangle. The NCA responded on two occasions that they are not obliged to consider the affect of their decisions on Mr Spokes as we sit on Territory land and are a Territory concern. However, the NCA declares they consider other lease/licence holders *within the Parliamentary Triangle* when they issue new leases/licences.

The NCA spoke publicly in support of Civic traders against the proposed Epicentre, saying that Civic traders could not afford a dilution of their pedestrian traffic, yet no such support holds for Mr Spokes Bike Hire.

Conclusion

In short, we believe there are completely different parameters and conditions for businesses operating inside the Parliamentary Triangle (regardless of whether they have a lease or licence with the NCA) than there are for businesses such as ours, that sit outside the Parliamentary Triangle, in the ordinary, market driven world. Unfortunately, Mr Spokes is *just* outside the Parliamentary Triangle and is about to face competition from a player who will sit inside the Parliamentary Triangle, and we suggest to the Committee that the clients of both businesses will be riding the very same circuit.

The NCA may be acting within their legislative framework, but our livelihood is being jeopardized by the Commonwealth Government. We are local Canberrans as well as business holders, and we are not consulted or considered when it comes to these commercial decisions. Ironically, if we were to seek a variation to our lease purpose clause, or even if we wished to paint our building a different colour, the ACT Government has advised, permission would ultimately have to come from the NCA.

On several occasions when discussing the uneven playing field, the NCA advised us to seek a waiver of our land rent from the ACT Government, in order to achieve some degree of equity.

We recommend that the Committee;

- a) investigates the nature of the commercial conditions for the lease holders and licence holders within the parliamentary triangle;
- b) compares these conditions and parameters with the free market and the equivalent regulatory arrangements in the rest of the ACT and makes appropriate recommendations to achieve a fair and level playing field across the whole ACT;
- c) considers the appropriateness of a Commonwealth planning body involving itself in issuing licences and leases to local businesses; and
- d) considers the possibility that all commercial activity within the Parliamentary Triangle be referred to the ACT Government for approval.

We request a time to speak to the Committee on these issues and can support claims referred to above regarding statements by the NCA.

Martin Shanahan
Director

Jillian Edwards
Director