



**A SUBMISSION FROM THE ACT
GOVERNMENT**

TO

**THE INQUIRY OF THE JOINT
COMMITTEE ON THE NATIONAL
CAPITAL AND EXTERNAL TERRITORIES
INTO THE ROLE OF THE NATIONAL
CAPITAL AUTHORITY**



**building our city
building our community**

ACT Government

JUNE 2003

CONTENTS

EXECUTIVE SUMMARYIII

<i>Strategic Outcomes</i>	<i>iii</i>
<i>Specific Recommendations:</i>	<i>iv</i>

INTRODUCTION 1

EARLY SIGNS OF CONCERN	1
STATE-LEVEL PLANNING RIGHTS FOR THE PEOPLE OF THE ACT	2
A PLAN FOR THE TIMES	3
THE WAY FORWARD	4

TOR 1: THE ROLE OF THE NATIONAL CAPITAL AUTHORITY AS OUTLINED IN THE AUSTRALIAN CAPITAL TERRITORY (PLANNING AND LAND MANAGEMENT) ACT 1988 5

LACK OF CLARITY IN PLANNING RESPONSIBILITIES	6
URBAN CAPABLE LAND	6
COMMONWEALTH EMPLOYMENT AND THE REVITALISATION OF CIVIC	7
ECOLOGICALLY SUSTAINABLE DEVELOPMENT	8
NATIONAL CAPITAL SIGNIFICANCE.....	8
NEW ACT PLANNING ARRANGEMENTS	8

TOR 2: THE AUTHORITY'S OVERALL MANAGEMENT OF THE NATIONAL CAPITAL PLAN 10

NATIONAL SIGNIFICANCE AND NATIONAL INTEREST	11
OVERARCHING ADMINISTRATIVE CONTROL OVER THE METROPOLITAN STRUCTURE OF THE TERRITORY	12

TOR 3: MANAGEMENT ISSUES RELATING TO THE DESIGNATED LAND UNDER THE NATIONAL CAPITAL PLAN 15

DESIGNATED LAND THAT IS ALSO NATIONAL LAND	15
DESIGNATED LAND THAT IS TERRITORY LAND	16
NATIONAL LAND WHERE SPECIAL REQUIREMENTS APPLY.....	17
AREAS OF SPECIAL REQUIREMENTS THAT ARE ON TERRITORY LAND	18
MANAGEMENT AND MAINTENANCE OF DESIGNATED LAND AND AREAS OF SPECIAL REQUIREMENTS.....	18
WORKS APPROVAL	19

TOR 4: THE RELATIONSHIP BETWEEN THE AUTHORITY AND TERRITORY PLANNING AUTHORITIES 20

PROMOTION OF TOURISM.....	20
RECOGNITION OF LOCAL HERITAGE	21

WATER MANAGEMENT OF LAKE BURLEY GRIFFIN.....	22
ENVIRONMENTAL MANAGEMENT	23
ARTS AND CULTURAL SERVICES.....	23
ACT HOUSING.....	24
ACT FORESTRY	24
TRANSPORT POLICIES AND ACT ROADS.....	25
PLANNING AND LAND MANAGEMENT.....	26

ANNEXE: SELECTED EXAMPLES OF ISSUES FOR THE ACT GOVERNMENT DUE TO THE NATIONAL CAPITAL AUTHORITY POLICIES 28

EMPLOYMENT POLICIES	28
WORKS APPROVAL FOR TERRITORY INITIATIVES ON TERRITORY, DESIGNATED LAND ...	29
<i>Main Avenues</i>	29
<i>Civic Square and Ainslie Avenue</i>	29
<i>Civic Library</i>	29
<i>Design and Management Standards</i>	29
<i>National Capital Open Space System</i>	29
<i>State Circle</i>	30
<i>Gungahlin Drive</i>	30
SALE OF COMMONWEALTH LAND AND THE PREPARATION OF DEVELOPMENT CONTROL PLANS	31
<i>Impact on Land Release</i>	31
<i>Benjamin Offices</i>	31
<i>Guardian House</i>	32
<i>Macquarie Hostel</i>	32
<i>Greenway</i>	32
<i>Barton</i>	32
TERRITORY ADMINISTERED LANDS AND DEVELOPMENT CONTROL PLANS	33
GENERAL METROPOLITAN STRUCTURE PLAN.....	33
<i>Urban Capable Land</i>	33
<i>Curtin and South West Belconnen</i>	33
<i>Gundaroo Drive</i>	33

MAPS

Map 1: Current Designated Land

Map 2: Current Special Requirements

Map 3: General Policy Plan – Metropolitan Canberra

EXECUTIVE SUMMARY

The ACT's view is that the original objectives of the Commonwealth's *Australian Capital Territory (Planning and Land Management) Act 1988* (ACTPLM Act) establishing the National Capital Authority (NCA), have not been met, and that a more streamlined, cost-effective planning regime for Canberra – one plan for one city – needs to be developed.

The objectives of the Commonwealth in passing the ACTPLM Act were two-fold:

1. To give practical effect to the purpose of the *Australian Capital Territory (Self-Government) Act 1988* to confer upon the citizens of the ACT the same rights over the development of their community as enjoyed by every other State and Territory of the Commonwealth; and
2. To create a clear 'unambiguous' separation between National and Territory planning responsibilities, with a strong emphasis on parliamentary scrutiny and public consultation and review to ensure openness.

A more streamlined regime – one that is genuinely a dual system – rather than an overlapping of two largely independent systems, should be introduced to give effect to these original objectives, delivering to the people of the ACT greater control over planning for their city, while at the same time protecting Canberra's National capital role and its unique planning heritage.

Recommendations

Strategic Outcomes

The Submission's overall recommendation is that a review of the *Australian Capital Territory (Planning and Land Management) Act 1988*, and the National Capital Plan (NCP), be undertaken to:

- a. facilitate more effective and accountable strategic planning of the Territory by the ACT Government;**
- b. ensure that the National Capital Authority is responsible to the Canberra community in its management of the National Capital Plan; and**
- c. more clearly define areas of genuine National capital significance within the National Capital Plan and limit the levels of control exercised by the National Capital Authority over other parts of the ACT.**

Amendments to the ACTPLM Act should enshrine the following principles:

- The National elements of the National capital should be clearly identified and protected.
- 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.

- Beyond the establishment of broad planning guidelines, the overall planning system for the ACT should eliminate multiple planning and development control responsibilities in any one area; and
- NCA Works Approval should apply only on Designated National land.

In respect of revision of the NCP, the ACT Government considers that:

- Designated land should only relate to areas that are truly of national significance (a realignment and coincidence of National land and National planning responsibilities is required to refocus on the key issues of strategic National importance); and
- Designated Territory land should be fully administered by the Territory with responsibility for implementing the principles and objectives of the NCP.

In support of these strategic outcomes, the Submission details the following nine specific recommendations to achieve a better planning regime for the ACT.

Specific Recommendations:

1. In a revised planning framework, the ‘special characteristics’ of a place or area that have led to its ‘Designation’ or being listed for Special Requirements are to be articulated in regard to:
 - the essential and symbolic contribution the area makes to the qualities of the Australian Capital;
 - the spatial attributes and qualities that are to be conserved or enhanced; and
 - the preferred or particular land uses.
2. The NCA formally consult with the ACT Community in regard to its planning activities, irrespective of whether they lead to a National Capital Plan variation.
3. ‘One Plan’ is essentially established for the Territory, with the NCA defining the those areas of the Capital that have ‘special characteristics of the Capital’ and outlining the planning principles and policies for these, with all other land being subject to planning policies prepared by the Territory.
4. The responsibility for the administration of the ‘One Plan’ resides predominantly with the Territory, with all Territory land, including Designated land subject to the Territory’s planning and legislative framework. The responsibility for the planning administration of all National land would reside with the Authority.
5. As part of this review, the requirement to set out the land uses and the arterial road system be removed from the ACTPLM Act, the General Metropolitan Structure Plan be removed from the NCP, and instead general planning principles and policies that protect the national interest be prepared in regard to land use and the national arterial road system.
6. A comprehensive review of the National Capital Plan be undertaken to consider the Designated Areas and Areas of Special Requirements, to identify the special characteristics of these areas and to outline the planning principles and framework for those areas that will protect those characteristics.
7. Territory, Designated land should be fully administered by the Territory in accordance with the Commonwealth’s interest as set down in planning principles identified by the NCA.
8. Designated Areas and areas of Special Requirements be reviewed and extend only to those areas considered to be truly of National prominence or significance for all Australians; and
9. NCA Works Approval should be limited to Designated National land only.

Introduction

The ACT Government welcomes the Joint Committee's Inquiry into the role of NCA. Given that 15 years have passed since the promulgation of the Commonwealth's *Australian Capital Territory (Planning and Land Management) Act 1988* (ACTPLM Act) establishing the NCA, it is appropriate to consider whether the central objectives of the ACTPLM Act have been realised.

This Submission argues that these objectives have not been fully met and that there is now the opportunity to develop a more streamlined, cost-effective planning regime for Canberra – one plan for one city – that will realise the original objectives of the ACTPLM Act of delivering to the people of the ACT greater control over planning for their city while protecting Canberra's National capital role and its unique planning heritage.

Early Signs of Concern

After the enactment of the ACTPLM Act – and the *Australian Capital Territory (Self-Government) Act 1988* that preceded it – there was a period of transition while the NCA prepared the National Capital Plan (NCP). A combined draft NCP was certified on 9 March 1990 and the NCP was gazetted and took effect on 21 December 1990. However, even before this gazettal, problems with the new arrangements had become sufficient enough for the issue to be raised in the Senate. Speaking on 6 December 1990, ACT Senator Margaret Reid expressed concerns that she said were held by both the newly constituted and elected ACT Government “and the people of Canberra”:

“The concerns are twofold really: the additional costs that the National capital plan may impose upon the Territory, particularly the way in which it restricts land use, and the confusion which seems to be in existence created by a dual planning system. Whether it is inevitable that there will be confusion because there are two, I do not know but the fact is that a lot of people find it confusing.” (Hansard, p. 5123)

Even at this early stage of the NCA's history, the concerns highlighted by Senator Reid were drawing attention to the fact that ACTPLM Act had delivered to Canberra not the integrated *dual* planning system that was promised but two *overlapping* systems. Instead of a system that provided a clear delineation of responsibilities for areas of national significance, the ACTPLM Act had instituted a system with unclear lines of authority and a confusing and costly duplication of planning arrangements, creating unforeseen barriers and disincentives to investment and economic activity in the ACT.

The ACT Government believes the time is right to overcome these limitations through the creation of a genuine dual planning system – a planning regime in which the NCA has administrative and development control over National areas of clear national significance, while the ACT Government, operating as necessary within broad planning principles identified to protect Canberra's National and planning heritage, has the surety of planning control over all other areas within the ACT. We believe that such a system will help *both* the NCA and the ACT Government to perform their respective roles more effectively.

State–Level Planning Rights for the People of the ACT

The key consideration in creating a better system is determining the level of planning responsibility that should be exercised under the direction of the ACT Government. On this issue, the framers of the ACTPLM Act were quite clear: within the unique constraints of Canberra’s National capital significance, it was appropriate for the newly self-governing Territory to have similar planning responsibilities to those exercised by Australia’s State governments.

While the ACTPLM Act established the NCA, the primary purpose of the Act was not so much to establish a federal planning authority for the National capital, as to *redefine* the responsibilities of federal planning. Immediately prior to the introduction of the Act, and for some decades before that, the Commonwealth had used its existing National planning authority, the National Capital Development Commission (NCDC), to execute National, state, and municipal planning controls throughout the ACT. Indeed, latter sections of the ACTPLM Act (cf. sections 62-85) deal with issues of continuity between the two organisations. The core purpose of the ACTPLM Act was to *divest* the NCDC of the state and municipal levels of control and transfer them to the self-governing entity of the ACT, and its democratically elected Assembly.

This was made clear by the Minister for the Arts and Territories, Mr Clyde Holding in the Second Reading Speech for the ACTPLM Bill on 19 October 1988 (Hansard p. 1928) when he declared the Bill to be: “...*further evidence of the Government's commitment to give the people of the Territory the same rights and responsibilities as their fellow Australians.*” The new arrangements, Mr Holding said, would create an “*unambiguous separation*” of responsibility for National Capital planning from Territory planning and development, that would, on the one hand, protect the National character of the ACT while, on the other, “*allow the people of the Territory to control the day-to-day planning and development of their home.*”

“*Fairness and equity*” Mr Holding declared “*requires that there now be an accompanying and unambiguous division between National and local responsibilities. ... The Commonwealth will accept administrative and financial responsibility to maintain and enhance the character of the Territory as the National capital. The Australian Capital Territory will accept the normal State-type administrative and financial responsibility to plan and develop the Territory. The Government will abolish the NCDC and set up a new National planning body, the National Capital Planning Authority, directly responsible to the Commonwealth Minister. This new Authority will prepare a National Capital Plan which will define the policies, aesthetic principles and any development requirements required to maintain and enhance the character of the National capital. ... The Bill requires of both governments parliamentary scrutiny, public consultation and review processes to ensure openness.*”

In essence then, the ACTPLM Act promised two complementary outcomes:

1. To give practical effect to the purpose of the *Australian Capital Territory (Self-Government) Act 1988* to confer upon the citizens of the ACT the same rights over the development of their community as enjoyed by every other State and Territory of the Commonwealth; and
2. To create a clear ‘unambiguous’ separation between National and Territory planning responsibilities, with a strong emphasis on parliamentary scrutiny and public consultation and review to ensure openness.

A Plan for the Times

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.

Like the States and the Northern Territory, the ACT has had to look to its own resources and expenditure priorities to provide for public infrastructure and social support services. This has been particularly difficult given the limited diversity of the ACT's resources. In an increasingly knowledge-based world economy, the ACT government is confident that, with the right support, the people of the ACT can continue to deliver the Territory a competitive advantage. However, given the ACT's lack of mining and agriculture revenues, planning efficiency and land development are more economically significant in the ACT than in any other Australian jurisdiction.

While the NCA, like its predecessor organisations, has continued to play a positive role in developing Canberra as a place for many important National institutions,¹ the generally prescriptive nature of the NCP has not allowed the Territory to respond flexibly to emerging and foreseen challenges that will optimise planning and development outcomes.

Notwithstanding the legislative requirement for the NCA to review the NCP, no review has taken place. This has meant that the existing plan has not kept pace with changing realities and further that elements of the Plan have come to assume the status of being unalterable. Aspects of this approach to planning have severely limited the ability of the ACT to respond to significant urban development pressures, limiting the choice available in terms of residential settlement and employment location, and making it particularly difficult to introduce sustainable public transport.²

The ACT Government is doing what it can do to address these challenges through the development of the Canberra Plan, a framework for Canberra's economic, social and spatial development for the next 25-30 years.³ As well, from 1 July 2003, ACT planning and land management is to be placed on a more independent legislative footing with the establishment of an ACT Planning and Land Authority.

Yet for all the independent work that the Territory is undertaking, in conjunction with the community, it is powerless to effect strategic change unless the NCA decides that the Territory's plans meet its definition of what is acceptable in terms of the NCP. As a consequence of this, the future of the people of Canberra can be determined by the NCA. This situation does not appropriately reflect the reality of ACT self-government or the reasonable expectations of the people of the ACT to exercise control and manage their own future.

¹ Prominent examples of where the NCA has exerted positive influence for the city include: ANZAC Parade, Commonwealth Place, the restoration of Old Parliament House, the upgrading of Commonwealth Park and Regatta Point, the Schools' promotion where '200,001' children visited in 2001, and the National Museum of Australia.

² The opportunity costs that accrue to the Territory as a result of retaining the 35-year-old General Metropolitan Structure Plan run into many tens of millions of dollars. The ACT's Submission to the Commonwealth Grants Commission 2004 Review outlined the additional costs the ACT faces in trying to respond to contemporary urban planning issues.

³ The Canberra Plan is scheduled to be finalised early in 2004.

The Way Forward

The hope the ACT Government has for this Inquiry is that a more relevant and efficient planning arrangement can be developed for the benefit of not only the people of the Territory but for all Australians.

While the people of the ACT suffer disproportionately from the existing planning confusion and duplication in the Territory, it is the ACT Government's belief that a more accountable NCA and a clearer and more efficient demarcation of planning responsibilities will also assist in the process of maintaining and developing a National capital of which all Australians can be proud.

The basis for this belief is a conviction that not only would all Australians expect a citizen of the National capital to enjoy the same kind of rights as every other Australian but also that they would expect the National capital to grow and adapt in ways which reflect the changing realities of the rest of the nation.

The Submission's overall recommendation is that a review of the *Australian Capital Territory (Planning and Land Management) Act 1988*, and the NCP, be undertaken to:

- a. facilitate more effective and accountable strategic planning of the Territory by the ACT Government;**
- b. ensure that the National Capital Authority is responsible to the Canberra community in its management of the National Capital Plan; and**
- c. more clearly define areas of genuine National capital significance within the National Capital Plan and limit the levels of control exercised by the National Capital Authority over other parts of the ACT.**

Amendments to the ACTPLM Act should enshrine the following principles:

- The National elements of the National capital should be clearly identified and protected;
- 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;
- Beyond the establishment of broad planning guidelines, the overall planning system for the ACT should eliminate multiple planning and development control responsibilities in any one area; and
- NCA Works Approval should apply only on Designated National land.

In respect of revision of the NCP, the ACT Government considers that:

- Designated land should only relate to areas that are truly of national significance (a realignment and coincidence of National land and National planning responsibilities is required to refocus on the key issues of strategic National importance);
- Designated Territory land should be fully administered by the Territory with responsibility for implementing the principles and objectives of the NCP.

Further argument, including a total of nine supplementary recommendations to give effect to these two strategic outcomes, is presented in the following pages against each of the Terms of Reference of the Inquiry.

First Term of Reference

The role of the National Capital Authority as outlined in the Australian Capital Territory (Planning and Land Management) Act 1988

The ACT Government considers that a review of the Australian Capital Territory (Planning and Land Management) Act 1988 is warranted to facilitate more effective and accountable strategic planning of the Territory by the ACT Government, and to refocus the activities of the NCA to strengthen its role of fostering and enhancing the significance of the National Capital.

In support of achieving a more relevant and streamlined planning regime for Canberra, that would follow a review of the ACTPLM Act, the ACT Submission outlines nine specific supporting recommendations under Terms of Reference 2 and 3.

At a more general level, it would be appropriate for amendments to the ACTPLM Act to enshrine the following principles:

- *The National elements of the National capital should be clearly identified and protected.*
- *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.*
- *Beyond the establishment of broad planning guidelines, the overall planning system should eliminate multiple planning and development control responsibilities in any one area; and*
- *NCA Works Approval should apply only to Designated National land.*

There is, and will always be, an important role for an authority in Canberra constituted under Commonwealth legislation, charged with the responsibility of protecting and enhancing aspects of the National capital that are of national significance. The issue is the extent of administrative responsibility that organisation has in the overall planning and management of the Australian Capital Territory.

Section 6 of the ACTPLM Act defines the functions of the NCA as being:

- a) to prepare and administer a NCP;
- 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.

The Territory is broadly supportive of the functions of the NCA but there are issues of clarity and accountability in regard to functions (a) and (b) and these are discussed in the remaining terms of reference. The discussion here examines a number of the broader implications of the NCA's role.

Lack of Clarity in Planning Responsibilities

The ACTPLM Act sets out the roles of both the Commonwealth and ACT Government's planning agencies and more importantly, entrusts both with the stewardship of the National Capital. However, while the intent and objectives of the Act are reasonably clear, a large measure of the problems of planning arises due to the lack of clarity in the roles and responsibilities of the NCA. This ambiguity has hampered both the NCA and the ACT Government in discharging their responsibilities as custodians of the city. For the NCA, it has taken resources away from the effective care and development of National assets and embroiled them in state and local government decisions. For the ACT Government, the consequence has largely been difficulty in effectively integrating its other state functions (including employment, economic development education, health, and transport) with the physical planning of the city.

While the ACTPLM Act was intended to give the Territory autonomy in its planning and management, its effect has meant the NCA (and the NCP) ultimately preside over the Territory's planning and development. The issues and problems that this has created for the ACT Government and the Canberra community is demonstrated more fully in our comments on the subsequent Terms of Reference, but as has been stated in the Introduction, the principal issue is that of the ability for the Territory to plan strategically for its own future.

Urban Capable Land

This principal concern is best illustrated by the difficulty the Territory faces in endeavouring to develop urban capable land that is not delineated for urban development in the General Metropolitan Structure Plan (See Map 3).

Under this plan, the ACT Government is largely constrained in its opportunities for 'greenfield' development to the northern extremity of the ACT. However, more detailed planning by the Territory has identified key constraints that have further limited the opportunities in this area, including the conservation of endangered woodlands. Given this situation, and the need to mitigate environmental and infrastructure costs associated with a dispersed city, the ACT Government is obliged to examine urban consolidation and other urban capable areas such as Stromlo, Bulgar Creek, Kowen and South-West Belconnen.

Previously, where the ACT Government has sought to use urban development to consolidate and improve utilisation of existing infrastructure, this has been refused by the NCA (eg South West Belconnen and Curtin). The NCA took the position that the areas were not identified as 'Urban' and, by inference, essential to the character of the National capital in their undeveloped state.

The NCP constraints on the Territory's ability to develop land to meet its housing requirements and to generate revenue have become especially problematic as new urban development pressures in the areas of New South Wales to the east of the ACT have grown. In addition to the broader planning issues raised by such developments, the current limitations of the NCP severely limit the ability of the ACT Government to foster competitive development opportunities. The existing constraints on the Territory's ability to respond flexibly to these pressures is likely to have an increasingly significant negative impact on the ACT's future revenue base.

Within the current planning hierarchy in the ACT, the NCA is not exposed to the demographic, environmental or social changes to which the Territory must respond. Nor is the NCA exposed to the Territory's development and competitive imperatives, and it is this lack of responsibility for the economic consequences of its decisions that distinguishes Canberra's dual planning arrangements from the States. In the States, there is a two-tier process for planning with local government undertaking detailed planning and the State governments being responsible for broader, economic, transport and social planning issues. The State governments are responsible for the integration between local areas and generally bear the economic costs of decisions and the capital expenditure for major infrastructure, such as major highways. This situation does not prevail in the ACT. The NCA is not responsible for the economic costs or economic impacts of its decisions.

Commonwealth Employment and the Revitalisation of Civic

It is paramount for the Territory to build its prosperity and develop a more diverse economic base. To do this, the ACT must build on its inherent strengths – its intellectual capital and its pleasant living environment. This broad strategy was endorsed by the OECD in its 2001 report on Canberra *Urban Renaissance – Canberra: A Sustainable Future*. Importantly, the OECD report also recommended the crucial need for Civic to be developed to provide Canberra with a strong, viable and vibrant city heart.

Unfortunately, the NCP's guiding policies on employment have contributed to limiting the growth of Commonwealth employment in the city centre. These guiding policies are based on the 1987 Commonwealth review of office accommodation which led to a strategy of restricting Commonwealth offices in Civic on the assumption that this would add significantly to traffic congestion, adversely affecting the environmental and visual quality of the Central Area and, ultimately, damaging the national significance of this area. These policies led to the drift of Commonwealth agencies to newer premises, close to Parliament in Parkes, Barton and Russell; and with these government agencies have gone many of the larger private sector businesses that service them.

As the NCA can no longer orchestrate the location of the Commonwealth offices, the ACT Government considers a review of these policies is warranted. The ACT furthermore questions the national significance of having any employment location policies in the NCP.

Currently, the national significance of Civic is threatened and it is now imperative to ensure its quality and attractiveness is not further eroded. To address this situation, the ACT needs

the Commonwealth's support for investment in the Civic area that will help foster private sector confidence Civic's development.

Ecologically Sustainable Development

The NCA has failed to respond to the increasing concerns regarding sustainable development in the Territory. The NCP has never been reviewed to incorporate ecologically sustainable development principles. The policy drivers in relation to ecologically sustainable development are coming from the Territory regarding higher densities near town centres and along public transport routes. The NCA has failed to introduce into the NCP sustainability guidelines or an associated assessment methodology.

National Capital Significance

The ACT Government is supportive of the NCA and its vision to '*build the National Capital in the hearts of all Australians*'. To this end, the ACT Government considers that the NCA's functions to sponsor capital works, to manage lands set aside for the purpose of the National Capital and for fostering an awareness of the Capital should be augmented.

There is a strong case for sharpening the focus of the NCA's mission on the symbolic role and qualities of the National Capital, and for enhancing its capacity to achieve that mission. Where the NCA has had the resources to commission works and to manage and maintain National assets it has had a profound and positive effect on the city's image, development and business. The improvements to ANZAC Parade, the completion of Commonwealth Place, the restoration of Old Parliament House, the upgrading of Commonwealth Park and Regatta Point, and the NCA's support of the schools' promotion encouraging school visits, have all reinforced the significance of Canberra as the National Capital.

New ACT Planning Arrangements

From 1 July 2003, the ACT will have an independent planning and land authority and a separate land development agency. While the ACT Government will retain its responsibility to set strategic policy directions, this new planning authority will be responsible for the development, implementation and management of sustainable planning for the ACT. Advising the Planning and Land Authority on policy and significant development applications will be a Planning and Land Council, appointed by the ACT Government. This Council will consist of recognised, eminent planning, design, legal and economic professionals.

The Land Agency will be responsible for the timely, transparent release and development of Territory land. Its activities will be scrutinised and managed by an independent Board.

To give scope to the development of Canberra as a modern city in the coming decades, more emphasis needs to be given in the ACT's planning systems and the relations between authorities, to client and community viewpoints. While the National perspective will remain pivotal, we should not presume that this perspective is incompatible with a more streamlined, consistent and publicly accountable approach. To this end, planning should align, not overlap, consultation should be mandatory, and notification and appeal on development approvals should be consistent across all areas.

The ACT Government has chosen to make planning and land management more transparent and accountable. To ensure the ACT Government and its agencies can be effective and responsive to the ACT community, it must have the capacity and ability to plan for its future and implement strategic initiatives. This requires that the role, responsibilities and mandate of the ACT's Planning and Land Authority be clear and separated from any overlap with the NCA. It is therefore timely that a review of the ACTPLM Act be undertaken to achieve the strategic outcomes outlined above.

Second Term of Reference

The Authority's overall management of the National Capital Plan

The Australian Capital Territory (Planning and Land Management) Act 1988 gives the NCA an overarching responsibility for the land use planning of the Territory. This overarching role does not require the NCA to consult with ACT Community and can limit the Territory's effectiveness in executing its 'state' functions. To make the NCA's overall management more accountable and, thereby, allow the Territory to more effectively plan and administer its policy and development decision, it is recommended⁴ that:

- 1. In a revised planning framework, the 'special characteristics' of a place or area that have led to its 'Designation' or being listed for Special Requirements are to be articulated with regard to the:
 - *essential and symbolic contribution the area makes to the qualities of the Australian Capital;*
 - *spatial attributes and qualities that are to be conserved or enhanced; and*
 - *preferred or particular land uses.**
- 2. The NCA formally consult with the ACT Community in regard to its planning activities, irrespective of whether they lead to a National Capital Plan variation.*
- 3. 'One Plan' is essentially established for the Territory, with the NCA defining the those areas that have 'special characteristics of the Capital' and outlining the planning principles and policies for these, with all other land being subject to planning policies prepared by the Territory.*
- 4. The responsibility for the administration of the 'One Plan' resides predominantly with the Territory, with all Territory land, including Designated land subject to the Territory's planning and legislative framework. The responsibility for the planning administration of all National land would reside with the Authority; and*
- 5. As part of this review, the requirement to set out the land uses and the arterial road system be removed from the ACTPLM Act, the General Metropolitan Structure Plan be removed from the NCP, and instead general planning principles and policies that protect the national interest be prepared in regard to land use and the national arterial road system.*

While the Territory enjoys many benefits as a consequence of being a planned city and because it is the nation's capital, a key issue for the ACT Government and the community is that sustainable and effective management of land is severely compromised as planning and administrative responsibilities are divided between Commonwealth and ACT planning agencies. Moreover, because the Territory does not have a legislative or administrative

⁴ Further specific recommendations supplementing the ACT's recommendation for a review of the ACTPLM Act and the NCP are outlined under the next Term of Reference.

mandate for strategic spatial planning, the ACT Government cannot fully integrate its other functions, such as economic development, provision of health, education and transport with the spatial planning of the city, nor can it be responsive to changing demographics, social values or environmental sensitivities. This is brought into particularly sharp focus in regard to the ACT's regional and cross border relationships.

Five combinations of planning and land management occur in the Australian Capital Territory:

1. Designated land that is also National land, (eg the Parliamentary Zone);
2. Designated land that is Territory land (eg the ACT Legislative Assembly);
3. National land where Special Requirements apply (eg Benjamin Offices);
4. Areas of Special Requirements that are Territory land (eg Canberra Avenue);
5. Territory land, administered by the Territory (Note: land use must still be consistent with the General Metropolitan Policy Plan in the NCP)

Maps 1 and 2 (attached) depict where the first four combinations occur in the Territory.

The issues in regard to the first four combinations are addressed in the subsequent Terms of Reference. The last combination most closely pertains to the NCA's overall administration of the NCP. The central issues for the Territory in this regard are:

- interpretation of national significance and national interest; and
- overarching administrative control over the metropolitan structure of the Territory.

National Significance and National Interest

The purpose of the NCP is to ensure 'Canberra and the Territory' are planned and developed in accordance with their national significance. However, there is no specific definition within the NCP of what constitutes the 'national significance' or 'national interest' where an area is Designated or listed for special requirements. While areas that are Designated are deemed to have 'Special Characteristics of the National Capital', these characteristics are not clearly specified.

Matters of 'national significance' in the planning and development of Canberra and the Territory are listed in the NCP (Section A, page 5) as including:

- The pre-eminence of the role of Canberra and the Territory as the National Capital.
- Preservation and enhancement of the landscape features that 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.

Under Section 6 of the ACTPLM Act, the NCA is both the creator and controller of the NCP. Further, the Act delegates to the Authority, and in turn to individual officers of the NCA, responsibility to administer the NCP. Only when an amendment to the plan is proposed is the NCA required to submit the recommendation to the Minister. It is only then that Parliamentary scrutiny of the NCA's administration of the NCP is invoked. For the most part, the NCA's administration of the NCP and its interpretation of what is of national significance, or national interest, are left open and untested by public debate.

Thus, while none of the stated 'Matters of National Significance' in the NCP are, of themselves, unreasonable they do not provide any effective guidance about how planning and development principles should apply to each of them. Without clearer guidelines, interpretation of national significance by NCA officers is inevitably prone to subjectivity; and without regular parliamentary scrutiny this natural tendency can go unchecked.

In the Central National Area, the significance of Walter Burley Griffin's formally adopted plan (dot point 3), and the implications for planning and development, is where the NCP is most articulate. The NCP regards honouring the Griffin Plan as a key element of national significance and yet, even in this area, there have been and are problems of interpretation. For example, the NCA has allowed a building to be located on Griffin's alignment that connected Hume Circle to the Russell apex of the Parliamentary Triangle. This was despite having required the Department of Defence redevelopment at Russell to adopt an alignment that reinforced this connection. Similarly, the NCA has not Designated or sought Special Requirements for Ainslie Avenue, yet it has argued the significance of this vista in limiting the height of the proposed Civic Library.

There are many examples in Civic where the interpretation of 'national significance' has been confused. Many of these are discussed in detail under the subsequent Terms of Reference and the Annexe to this Submission. However, some key issues relate to the NCA's interpretation of requirements for detailed design of buildings and open spaces, such as the redevelopment of Civic Square, the Playhouse Theatre and the Magistrates Court.

Outside the Central National Area, the national significance of Designated Areas and the national interest in areas of Special Requirements is far less prescribed. These areas have been defined as they provide a landscape setting for the capital and encapsulate the metropolitan road structure of the Y-plan. Clearly, they are an important part of the planning of the ACT, but their inherent symbolic value and quality is far less critical than the Parliamentary Triangle, the land and water axes, Kings, Commonwealth and Constitution Avenues and the Central National Area as a whole.

Overarching Administrative Control over the Metropolitan Structure of the Territory

Section 10 of the ACTPLM Act, 'Matters to be covered in Plan', states that the NCP:

(b) shall set out the general policies to be implemented throughout the Territory, being policies of:

- (i) land use (including the range and nature of permitted land use); and*
- (ii) the planning of National and arterial road systems;*

The General Metropolitan Structure Plan (**Map 3**) entrenched in the NCP sets out the extent and location of land uses and the arterial road system.

This Plan was essentially developed by the National Capital Development Commission (*Metropolitan Canberra, Policy Development Plan July 1984*) and confirms the concept of the “Y-Plan”, originally conceived in 1970 (*Tomorrow’s Canberra*). It is significant to note that the Y-Plan was influenced by the application of land use and transport theories espoused in the 1960’s and while the plan has produced a robust structure for Canberra, the concern for the Territory is the degree to which the plan can respond to the needs and aspirations of a community in the 21st Century.

In 1996/97, at considerable cost to the Territory and the NCA, a Joint Task Force was formed to review the Metropolitan Structure Plan. The work of this Task Force was never formally adopted by the NCA and so the structure plan has remained essentially unchanged since its initial development by the NCDC over twenty years ago.

As pointed out in the First Term of Reference under “Urban Capable Land”, it is within this framework and its strict interpretation that the ACT Government must try to plan and be accountable to the ACT community in regard to emerging ecological imperatives, changes in demographics and social values. The approach of routinely denying the ACT Government opportunities to consolidate urban development and instead giving precedence to the General Metropolitan Structure Plan – now over twenty years old and not tested against any sustainable development criteria – cannot continue.

The ACT Government’s ‘Canberra Plan’, due for completion in early 2004, will be the first extensive review of Canberra’s strategic planning in over twenty years. It will encompass an Economic White Paper, A Social Plan and a Spatial Plan within an overall policy framework – *People, Place, Prosperity* – for sustainability in the ACT. For the first time since self-government, this strategic planning approach will ensure that all of the Territory’s state-level planning functions will be comprehensively assessed and integrated to develop a sustainable and viable city. The Canberra Plan will, as it must, evaluate the contemporary worth and relevance of the Y-Plan and in turn the General Metropolitan Policy Plan.

The NCA’s clear support for the ACT’s Canberra Plan review and consequential public debate over the NCP is vital to the success of the Canberra Plan if it is to avoid the failure of the 1996/97 review. The Canberra Plan process also presents an opportunity for the NCA to define and specify those aspects of metropolitan Canberra that have National importance and then to extract itself from the administration of detailed, local planning issues.

It is worth noting that amendments to the NCP are required whenever there are administrative refinements or modifications that need to occur to the General Metropolitan Structure Plan as a consequence of more rigorous, detailed local planning. For example, to implement its Lowland Woodlands Strategy and to construct the realignment of the extension to Gundaroo Drive (essentially a local road in Gungahlin), the ACT Government will be seeking an amendment to the metropolitan structure and, hence, a variation to the NCP. By default, the Commonwealth Parliament will be asked to consider these local planning matters in the variation and to either ratify or deny the changes. There is no reasonable justification for this level of Commonwealth involvement in local ACT planning matters.

Further, while the NCA must refer all amendments to the Territory and consider the Territory’s comments in regard to any amendment, this consideration is the same as that extended to submissions from the general public. Unfortunately, while the NCA must consider the Territory’s comments they are not accountable for their decisions, even where

a proposed amendment will have an effect on the Territory's planning framework and land management.

Throughout Australia, strategic planning policy, administration and legislation is wholly a State responsibility and the Commonwealth is not involved in determining the final outcome. Allowing the Territory to administer all Territory land, in accordance with prescribed principles of national significance, or national interest, would confer to the Territory these same rights. It would also resolve the confusion in the regulatory overlays existent in the current planning system and obviate the need for the NCA to consider and undertake minor NCP amendments.

Finally, using the Territory's planning and legislative framework to plan and administer changes to the metropolitan structure of Canberra would ensure the community is consulted on these decisions. The engagement of the ACT community in planning activities is of paramount significance to the ACT Government.

Currently, the NCA does not have to publicly notify any Works Approval decisions, nor are these decisions subject to any appeal. Where these decisions are made in respect to Territory leases and other matters there is a problem with equity and accountability (this is further discussed in third Term of Reference on Designated Areas).

Third Term of Reference

Management Issues relating to the Designated land under the National Capital Plan

Designated Areas (and other areas subject to special requirements imposed by the NCP) have implications for the Territory's effective management of issues across broad public policy and not only metropolitan planning issues. These issues largely arise because of the ambiguity and overlap in responsibilities. Further to the five recommendations outlined under the previous Term of Reference designed to inform a review of the ACTPLM Act and the NCP, under this Term of Reference the ACT recommends the following four further specific recommendations relating to the management of Designated areas:

- 6. A comprehensive review of the National Capital Plan be undertaken to consider the Designated Areas and Areas of Special Requirements to identify the special characteristics of these areas and outline the planning principles and framework for those areas that will protect those characteristics.*
- 7. Territory, Designated land should be fully administered by the Territory in accordance with the Commonwealth's interests as set down in planning principles identified by the NCA.*
- 8. Designated Areas and areas of Special Requirements be reviewed and extend only to those areas considered to be truly of National prominence or significance for all Australians; and*
- 9. NCA Works Approval should be limited to Designated National land only.*

The central problem with the management of Designated Areas and Areas of Special Requirements is not that they have been defined as areas that have special characteristics of the National Capital, but that the planning role and the management responsibility of those areas are largely not aligned. The various planning and management combinations have been outlined in the previous Term of Reference (and depicted in Maps 1 and 2). Under this Term of Reference, the management issues relating to these areas are addressed.

Designated Land that is also National Land

This combination does not present any particular issue for the metropolitan planning of Canberra but does pose relationship problems in regard to the disposal of Commonwealth land and the promotion of tourism and investment in the city.

Where the Department of Finance and Administration disposes of land in Designated areas there are questions as to whether this land should remain 'Designated'; and whether leases in these areas should be administered by the Commonwealth or Territory. Where the land use changes from an exclusively National use there is a strong argument, at the very least, for the land to come back to the Territory and for its administrative arrangements to apply.

The issue of tourism promotion is more fully discussed under the last Term of Reference; however, it is worth noting here that for the Territory to stage a promotional event on Designated National land – while it is not charged for the use of the land – the costs in complying with Works Approval conditions and in restoring the land can nonetheless be disproportionately high, as is the case with the conduct of Floriade in Commonwealth Park.

Designated Land that is Territory Land

Under this combination, the NCA is the sole planning agency and is responsible to granting Works Approval. The Territory is the land manager and is responsible for administering the lease or for the development of the land. The Territory has no planning role and as a consequence:

- the Territory does not determine design and development objectives;
- Territory Plan policies do not apply;
- there is no statutory community consultation on any development or Works Approval decision; and
- neither the applicant, nor any third party, has any appeal rights.

There are issues here for the Territory in regard to equity, accountability, opportunity cost and the effective realisation of the Territory's urban planning strategies. It also involves the NCA, and can involve the Commonwealth Parliament, in decisions of only local prominence. There are many examples of this, notably the various developments and improvements to Civic Square. A number of such issues are discussed further in the Annexe to this Submission; however, it is appropriate to mention a few key cases in outline here.

A recent high profile example of the kind of problems associated with the current arrangements emerged following a development application on State Circle in the inner southern suburb of Forrest. Higher density residential development was approved by the NCA for properties on Territory land along State Circle, against the objections of the local community and contrary to the planning policies and principles of the ACT Government and its Territory Plan that are designed to protect the character of these areas. The NCA was not obliged to consult with the community nor listen to its views.

City Hill, and the land extending to London Circuit, is Designated. In Civic the interests of the ACT and the Commonwealth are inextricably intertwined, yet in some instances the Commonwealth's planning interests and processes have been counter-productive to the ACT Government's interests of building a strong, financially viable regional centre. To date, the Territory has had limited success in releasing or developing sites in this area.

The Civic Library and Link project has also been subject to significant delays as a result of the NCA having planning approval status over Civic Square. This project will redevelop the existing Link building between the Canberra Theatre and the Playhouse to create a new, multi-level building that will house both the Civic Library and theatre patron facilities for the Canberra Theatre Centre. The NCA's National capital requirements, especially the limitation on the height of the building in order to maintain the City Hill-Mount Ainslie view corridor, have led to the need for extensive design modifications in order to secure NCA approval, resulting in significant cost increases.

The key avenues in Canberra: Constitution, Commonwealth, Kings, Northbourne, also fall into this category. The problems experienced by the ACT Government in planning and managing these roads are discussed in further detail under the last Term of Reference.

National Land where Special Requirements apply

The Territory encounters similar issues of equity and accountability where National land is covered by Special Requirements. Areas that come under Special Requirements are deemed to be of national interest. In these areas, the NCA requires all development to be in accordance with a Development Control Plan (DCP) approved by the Authority. All National land that is not Designated is subject to Special Requirements.

Through the Commonwealth's land divestment program, much of this National land is now under the Territory's lease and administrative system.⁵ However, the decision relating to the applicability of special requirement status occurs prior to the transfer of the lease, when the development conditions and sale are subject only to the requirements set out in the NCA's DCP. Even though DCPs are to reflect the relevant provisions in the Territory Plan, in the case of the sale and redevelopment of the Benjamin offices in Belconnen, the proponent did not have to prepare a Preliminary Assessment (an initial form of Environmental Impact Statement, which would have been triggered under Territory legislation) nor meet the Territory's more onerous car parking provision requirements.

Furthermore, the Territory was not in a position to negotiate more significant off-site works associated with the redevelopment that would have aided in the delivery of key objectives in the Belconnen Master Plan. Nor was the Territory in a position to ensure that appropriate consultation with adjacent lessees and businesses was undertaken or that pedestrian connections and continued public access to adjacent developments was maintained.

For a period in excess of twenty years, the Benjamin Offices have been connected by walkways to the Churches Centre and a number of businesses in that centre have provided services to workers in the Benjamin Offices. Demolition and redevelopment work on the Benjamin Offices site has resulted in the removal of walkways connecting the offices to the Churches Centre and the subsequent loss of pedestrian traffic has had a significant detrimental effect on the viability of these businesses. Unfortunately, these affected businesses were not informed of the proposed works and changes. A temporary walkway has now been constructed between the Churches Centre and the now completed first stage of redevelopment of the Benjamin Offices. This walkway will have to be removed again to allow construction of a permanent walkway.

The ludicrous situation of preparing a DCP where National land is to be sold and the administration returned to the Territory, is also illustrated by the sale of Macquarie Hostel in Barton. On the sale of this land, Territory planning policies, *not* the DCP will apply. However, the DCP has increased the gross floor area allowable for the site and the Territory has now inherited this commitment.

In non-urban areas plans of management have replaced the need for DCPs. On National land there should be no DCPs as the Commonwealth should adhere to the provisions of the Territory Plan in accordance with the "good neighbour" principle that it adopts elsewhere in Australia.

⁵ This issue is also further addressed with specific examples in the Annexe to the Submission.

It is this issue of Special Requirements and the preparation of DCPs that has perhaps caused the greatest confusion for the community. The ACTPLM Act does not require the NCA to specify Special Requirements and the Territory submits that it would be useful to replace the Special Requirements with a statement of principles in the NCP and Territory Plan and that no further DCPs be prepared.

Areas of Special Requirements that are on Territory Land

As with National land, all development on Territory land covered by Special Requirements must conform to a DCP. Before any Territory land can be released in these areas it must ensure that a DCP has been approved by the NCA. This leaves the Territory vulnerable to the timing and priorities of the NCA. In addition, any lease and development conditions the Territory may wish to impose on these sites must also conform to the DCP.

Over the last few years, the number of DCPs required for Territory land has been increasing. Some of the more recent DCPs prepared include the Kamberra Wine Tourism Complex, section 33 Deakin (land fronting onto Adelaide Avenue) the Lachlan Court redevelopment in Brisbane Avenue, the U-Stowit site in Fyshwick and the Southcare Helicopter base in Hume. The National import of all these sites and uses is arguable.

Land flanking Canberra's main approach routes and avenues, as well as all of Civic and parts of the residential sectors of Turner and Braddon, are subject to Special Requirements. This further exacerbates the ability of the Territory to effectively and efficiently plan and implement its urban development strategies. As well as being administratively cumbersome, the requirement to seek NCA approval for a DCP gives rise to issues of consistency in interpretation for enforcing compliance. It is important that NCA and Territory planning staff reach concurrence on the details of a DCP and what it will, or will not, permit. This can then require additional negotiation with an applicant.

To have the NCA ruling on content and requirements in a DCP while it is being prepared and while negotiations with developers are in train creates an expensive and unresponsive system of development control. The preparation of a DCP in response to a development application represents *ad hoc* planning and complicates the assessment process.

Management and Maintenance of Designated Land and Areas of Special Requirements

The Territory incurs both real and opportunity costs in maintaining much of the open space set aside to retain the landscape setting of the Capital. The real costs accrue through the sheer extent of these spaces and through developing and maintaining them to the standards often required by the NCA.

The National Capital Open Space System (NCOSS) includes the hills, ridges, buffer spaces, river corridors, mountains and bush land. NCOSS is incorporated in the NCP under four separate land use categories as shown below. Each has a range of planning and management policies tailored to ensure protection of their natural qualities. Land use constraints are prescribed and special requirements are included for identified sites.

The land use categories defined in the NCP are:

- Lake Burley Griffin;

- hills, ridges and buffer spaces (including the inner hill nature reserves described as Canberra Nature Park);
- river corridors (including the Murrumbidgee River Corridor and the Molonglo River Gorge Nature Reserve); and
- mountains and bush land (including Namadgi National Park and Tidbinbilla Nature Reserve).

Management responsibility for the water body only of Lake Burley Griffin remains with the Commonwealth as it is considered National land, whereas management responsibility for the majority of parklands around the lake and the other three categories is largely vested with the ACT as it is Territory land.

The enormity of the task and the risks associated in maintaining and managing this extent of open space has been borne out by the recent tragedy of the January 2003 bushfires. Currently the Territory is reviewing how these risks and costs can be mitigated (*Non-Urban Lands Study and Urban Edge Review*). Ultimately, this will lead to recommended changes in land uses and management practices in NCOSS. However, under section IV of the ACTPLM Act, the ACT Government's land use options are severely restricted, and can effectively be overridden by the NCA. Again, a review of the ACTPLM Act in this area is warranted.

Works Approval

Legislative provisions enable the NCA to grant Works Approval in Designated areas, whether it is Territory or National land.

The granting of Works Approval means that the development is considered to be in accordance with the NCP – it is not a building approval. While the role of the private building certifier does not change (ie. they are approving the building in accordance with Building Code of Australia), the problem is ensuring compliance. Unlike the Territory, the NCA has no enforcement or compliance powers.

Similarly, NCA Works Approval does not necessarily mean that a high standard of design or safety has been achieved, as is evidenced by the approval of the vehicular circulation and parking at Canberra airport.

The problems of equity and accountability with the NCA granting works approval have been discussed previously under *Designated Land that is Territory Land*. The key concern for the Territory is the erosion of its responsibilities in these areas. While, arguably, all land in the ACT is Crown land, this should not give cause to erode the Territory's ability to plan and manage this land, as the majority of the land is vested and administered by the ACT under the *Land (Planning and Environment) Act 1991*.

For reasons of equity and administrative accountability, the ACTPLM Act should be amended to confine the NCA's works approval power to National land only. The Territory should be granted development control powers over all Territory land, including Designated areas, and exercise this in a manner consistent with development policies determined under the NCP.

In doing so, there must be a review of all Designated areas to ensure that such areas only include those areas of genuine national significance.

Fourth Term of Reference

The Relationship between the Authority and Territory planning authorities

There exists a sound working relationship between the NCA and the Territory's current planning agency. However, the role and responsibilities of the NCA impacts across all of the Territory's functions and hence, the relationships with other Territory agencies associated with the planning, development and management of the ACT. The ACT believes that a review of the ACTPLM and the NCP supported by the nine specific recommendations outlined under the previous Terms of Reference will serve to support and enhance constructive working relationships over the long term.

The activities and decisions of the NCA in administering the NCP have a profound effect on a number of Territory agencies. This is because the ACT Government, having been charged with the delivery of state level functions, cannot simply divorce the economic, environmental and social planning of the Territory from its spatial planning.

The issues canvassed below illustrate the integrated nature of these functions and the impact the administration of the current planning structure has on them.

Promotion of Tourism

As is the case for the rest of the Australian economy, tourism is a key generator of economic growth in the ACT. The tourism industry contributes \$1.1 billion across a range of sectors including accommodation, attractions and transport. Importantly, tourism impacts across the community, contributing to retail sales, with almost half of all tourism expenditure being on shopping, and reaching into services that are not traditionally seen as tourism such as the arts, education and sport. In the ACT, employment in tourism is the second largest in terms of all private industries, amounting to approximately 14,000 people.

The tourism sector in the Territory operates in a unique environment in Australia. A duplication of sorts arises through the ACT Government funded Canberra Tourism and Events Corporation (CTEC) and the Federal Government funded promotional work of the NCA. Both aim to raise the profile of the National Capital but each with a different focus. CTEC aims to raise the profile of the National Capital as a tourism destination and attract visitors to the ACT, while the NCA, as noted earlier, aims to '*build the National Capital in the hearts of all Australians*' – an objective that the ACT wholly endorses.

While the ACT does not see any fundamental conflict with the principle of having the two bodies promoting the ACT, there are many practical problems in regard to what often seems, from the ACT's perspective, to be the NCA's overly restrictive and legalistic approach to its management of the NCP with regard to tourism related activities.

To attract events of significance to the ACT, CTEC is obliged to utilise all the assets of the Territory, whether they be under Commonwealth or Territory administration, when competing against other jurisdictions. To a great extent, the major recreational facilities in

the city are located on Commonwealth controlled land and staging events on this land presents challenges. There has been significant progress with the development of guidelines for staging events in National areas but further understanding of site requirements, accessibility of advice and appropriateness of pricing is needed. Better relationships between the NCA and the ACT Government, are required to ensure that community groups receive the assistance they require to present events in Designated areas.

The ACT has also incurred disproportionately high compliance and restoration costs imposed by the NCA when utilising Designated and National land for individual events owned by the Territory and conducted *via* CTEC. The annual Floriade event and the, now defunct, Canberra 400 V8 car race are two examples. The ACT accepts that some costs will be unavoidable, however, many of the supplementary compliance and regulatory frameworks currently imposed by the NCA seem unnecessary, and form a distinct competitive disadvantage for the ACT compared with States and the Northern Territory.

Because the bulk of the ACT's marketing strength in terms of attractions mostly comprises Commonwealth institutions and assets, to a large degree the ACT's tourist strengths are outside its ownership and control. As a consequence, the ACT incurs additional tourism related costs when utilising its special strength – the city's role as the National Capital. All of the Commonwealth funded agencies also have an expectation that the Territory, through the CTEC, will promote visitation to their attractions in external markets.

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 experience. In summary, while the ACTPLM Act (Section 9e) requires the NCA to “foster an awareness of the National Capital”, 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.

Recognition of Local Heritage

The NCP states: *“It is considered necessary that the Commonwealth and ACT Governments should, as a matter of course, respect each other's heritage register. In any case, where either wishes to depart from the other's register, any differences should be subject to consultation between the two and with the public.”*

Notwithstanding this, in the past, the NCA has opposed the registration by the ACT Heritage Council of natural, historic and Aboriginal heritage places on National and Designated land. It has argued that the Australian Heritage Commission's Register of the National Estate reflects the Commonwealth's heritage obligations and that the ACT Heritage Council should not be registering places over which it has no planning or management control. However, consultation indicates that the ACT community expects to have a consolidated list of the ACT's heritage, regardless of ownership and management arrangements.

The NCP also states: *“Planning and development should give due protection to any natural or cultural heritage place in the ACT included on the Register of the National Estate and/or heritage register of the ACT Government.”* However, in practice, heritage places recognised by the ACT Government that are not included on the Register of the National Estate, that are on National or Designated land, generally slip through the net of recognition and protection.

This has had an adverse effect on the ACT's heritage. Notably, in the past, particular Aboriginal sites and natural sites (eg. Aranda Snow Gums) on National and Designated land have received no protection, despite the fact that the ACT Government and community value these sites and wish to protect them.

In preparing DCPs for National land, the NCA does not consult with the ACT Government's heritage agency or with the affected local communities. The result of the NCA's limited consultation approach is highlighted again at Benjamin offices where a significant remnant tree was at risk; and with Guardian House in Woden, where a property was placed on the interim ACT Heritage Places Register.

There is a need to find better co-operative arrangements to identify and document the outstanding heritage values of the Griffin plan and later layers of innovative planning in central Canberra.

Water Management of Lake Burley Griffin

The NCP states *“It is critical that water over which the Commonwealth has paramount rights should be allocated, as a matter of priority, to serve the needs of the National Capital.”*

The NCA administers Lake Burley Griffin and the water resources in the lake, and allows extraction of about 750 megalitres a year. The Territory administers other lakes and water bodies. The process for the administration of the extraction by the NCA is not transparent. The result is the perception that there are inconsistencies in the way water resources are administered by the NCA and the Territory, and inadequate controlling of water resources by the NCA. Of specific concern is the common perception among Territory authorised extractors that abstraction of water by Royal Canberra Golf Club is not adequately controlled by the NCA both in relation to the amount that is extracted and the environmental sensitivity with which it is used.

Administration of Lake Burley Griffin also includes the quality of the water in the lake. The nature and location of the lake has resulted in it having a significant water quality problem, without significant action from the NCA to address the issue.

The NCA has demonstrated a poor understanding of the needs of water users and during the drought has been unable to provide any long-term advice about how it would impose restrictions on users of water from the lake.

NCA's management of flows from Scrivener Dam has not always provided adequate environmental flows in line with the ACT's Environmental Flow Guidelines.

Water from Googong flows into the Queanbeyan and Molonglo Rivers, through Lake Burley Griffin and then back into the Molonglo and Murrumbidgee Rivers. This creates a nonsensical circumstance where jurisdiction over the same water passes from NSW to ACT to NSW to ACT to Commonwealth to ACT to Commonwealth to ACT to NSW as it passes downstream.

Consideration should be given to correcting part of this complication by removing Commonwealth jurisdiction over water resources in the ACT. This could be done without compromising the NCA's power to control the landscape setting of the Capital.

Environmental Management

The NCA no longer has an environmental planning unit and there is not a clear direction from the NCP or consistent approach from the NCA on environment management issues in areas for which it is responsible.

While Designated Areas for which the NCA has works approval responsibility, and large areas of National land, have high biodiversity values, the NCA lacks first hand expertise to discharge its environmental responsibilities with the depth of knowledge required.

With respect to environmental pollution, the NCA permits events, generally entertainment, on land under its control. Some events result in environmental pollution, usually noise, which is regulated in the ACT by the ACT *Environment Protection Act 1997*. The normal method of regulation is by the issue of an Environmental Authorisation.

There is no established procedure to ensure that events allowed by the NCA are brought to the attention of the Territory (Environment ACT) in time to ensure that environmental impacts are adequately controlled. The development of such a procedure, and the NCA's compliance with it, would facilitate more effective environmental pollution control for the benefit of the community.

In regard to land management, the NCP states: *“Action will be taken by the Authority in accordance with the Environment Protection (Impact of Proposals) Act 1974 where the scale or nature of a development proposal under its jurisdiction is likely to have a significant impact on the environment of the ACT and the adjoining region.”*

Management plans for public land subject to NCP land use policies need endorsement by the NCA as part of the approval process. Examples of such land include Designated areas in Canberra Nature Park and parts of the NCOSS that are subject to policy plans (e.g. Murrumbidgee River Corridor and Namadgi National Park). The purpose of such endorsement is to allow day-to-day land management activities or programs to proceed routinely that would otherwise require NCA approval on an individual basis.

A large proportion of the Inner Hills is managed by Environment ACT as nature reserve. Under ACT legislation, the Conservator of Flora and Fauna has statutory responsibility for any areas defined by the Territory Plan as public land with a mandatory referral of any development applications. However, where the land is Designated, the NCA can approve a development within an environmentally sensitive area without referral to either the Conservator, or ACT Parks and Conservation, as managers of the land. An example of this occurred when the NCA approved a telecommunications tower on Wanniasa Hills in an inappropriate location.

Currently, the NCA has no capacity or staff resource to consider either the strategic or detailed environmental issues that confront the ACT. Clearly the NCA is not in a position to understand or analyse the conservation and ecological imperatives confronting the ACT and, for this reason alone, should be deferring to the ACT's assessments on these matters.

Arts and Cultural Services

The NCA is developing an increased role in programming cultural events in the areas of national significance. Canberra's highly symbolic role as the National capital requires that this programming is strategically focussed to present high-quality events which reflect the

needs and aspirations of Australia's diverse society. Current NCA programming is animating National areas and is providing some opportunities for Canberra's citizens to participate in these highly significant parts of their city.

Programming for NCA events appears to be undertaken in isolation of the ACT Government and its community. As a result, coincident events can fail to benefit from each other's success and can even negatively affect each other through conflict generated by incompatible content, timing or approaches to pricing.

The NCA, the ACT Government and the Canberra community must work more collaboratively to ensure that events programmed for Designated Areas are complementary to events taking place elsewhere in the ACT. A more collaborative approach to planning events staged in the National areas that have accumulated effects on the Canberra community (eg parking overflows) is also required.

ACT Housing

Of particular concern to the ACT is the failure of the NCA to recognise existing rural properties. This means that although ACT Housing has an estate on the properties, no ACT leases can be granted and effectively the settlements must all remain public housing. There is no option to change the social mix over time or allow tenants to purchase their property in these areas. The level of NCA control in these areas extends to consultation by the ACT on issues such as whether or not the head tenant at Stockdill Drive can erect a garage or whether or not the Narrabundah Long-stay Caravan Park could have a lease as it was potentially inconsistent with the NCP.

The NCA's planning role even extends to a number of properties in Designated Areas and areas of Special Requirements under the NCP, in particular, along Northbourne Avenue, Canberra Avenue, Ainslie Avenue and Limestone Avenue where a very large number of ACT Housing's multi unit sites are located (Currong Flats, Allawah, Bega and Jerilderie Courts, Reid and Braddon Flats, Kanangra Court, Northbourne Flats and Lyneham Dickson, Owen, Karuah Flats, Stuart Flats).

A further concern for the ACT relates to the discovery late last year that some of the Stromlo Settlement had been gazetted as National land, despite the presence of an ACT Housing estate, and that there was no compensation. In relation to housing, the ACT Government considers it is inappropriate for the NCA to have a planning role. The Territory could perform the functions of the NCA in these areas in accordance with principles that clearly define national interests.

ACT Forestry

Until the January 2003 bushfires, commercial forestry was an important ACT private sector industry. Even before the bushfire catastrophe, however, the NCA's land use policies limited ACT Forests' ability to manage its commercial pine plantations in the most efficient manner, thereby impacting on ACT Forests' commercial viability. In the Stromlo forests, for example, ACT Forests had to obtain a NCA Works Approval to cut down trees, pay a percentage of its revenue to the NCA, and comply with many restrictive practices imposed by the NCA designed to avoid damage to the aesthetic quality of the ACT's Hills Ridges and Buffers.

These practices included insisting that trees be harvested in uneconomically small forest sections or retained beyond their commercial harvesting age. Meeting NCA requirements also often imposed significant delays or the postponement of harvesting operations. This often resulted in mature trees growing past their maximum sawlog size, making them unsaleable on local markets. On another occasion, ACT Forests was denied approval to harvest mature pines along Lady Denman Drive even though these trees were beyond their commercial life. Approval to fell dangerous trees in this area was quickly given by the NCA when some trees fell over the road damaging a passing car. ACT Forests bore the legal liability for the damage caused even though it was unable to remove the trees when it considered they should be harvested.

In relation to ongoing management of any replanted plantations that are covered by the NCA's planning system, it would be useful to develop a more strategic approach towards approvals of necessary plantation management works. This could be achieved by developing rolling three-year works plans that would provide the required flexibility to the managing agency but also alleviate the need for ongoing approval of each operation. It is also important to change the requirement for a proportion of the revenue generated by the harvesting operations to be paid to the NCA. The NCA does not bear any of the costs of growing or managing the forest. Therefore, any fees charged should not be related to the commercial returns from tree growing.⁶

Transport Policies and ACT Roads

The dual planning process can impose another layer of complexity and bureaucracy on the Territory's efforts to implement sustainable transport policies across Canberra. A basic component of urban transport planning is the use of strategies to reduce reliance on private vehicles and encourage greater use of public transport.

The Civic precinct has the highest parking fees in the Territory and enjoys the highest utilisation of public transport. A recent study of ACT Transport Demand Elasticities found that a 10% increase in parking fees in Civic would result in a reduction of 1.1% in the number of car trips, and of these trips approximately 50% would divert to buses.

In the 2003-04 Budget, the Territory announced the introduction of on-street pay parking in Barton. However, a pay parking strategy for Barton, and Parkes, will only be effective with complementary actions by the NCA and other Commonwealth agencies. While the NCA's proposed introduction of pay parking in Barton and Parkes is supported, it will only produce a meaningful shift from the use of the private car to public transport if the NCA imposes fully comparable fees.

A less significant issue, but nonetheless controversial for the ACT, is the NCA's requirement to keep the median in Northbourne Avenue fully irrigated, while other medians in Canberra have dry land grass. This requirement adds to the maintenance cost through increased watering and mowing.

As with the environmental matters addressed above, the NCA does not have the specific staff resources to consider, analyse and monitor the strategic transport issues for the

⁶ It should be noted that any criticism ACT Forests may have with regard to the NCA does not extend to cooperation in the aftermath of recent bushfires. Since the December 2001 fire in Stromlo plantation, the two organisations worked co-operatively to clean up the burnt forest in the minimum time possible. The NCA quickly granted Works Approvals to enable salvage logging around Lady Denman Drive to occur within a few days of the fire. This spirit of co-operation has continued in the aftermath of the January 2003 fires.

Territory. Given these circumstances, the ACT Government contends that the ACTPLM Act should be amended so that the NCP does not mandate arterial road planning.

The NCA has also impeded the Territory in regard to its operational management and planning of the ACT road system. In 1999, the Territory had access to Commonwealth black spot funding to improve traffic safety at ANZAC Parade, Limestone and Fairbairn Avenue intersection. The Territory, despite this area being National land, recognised the safety issues and prepared designs for the intersection that included traffic lights. While the NCA gave in-principle agreement to the lights, it later retracted this agreement in face of opposition from the RSL and Australian War Memorial. A roundabout has subsequently been constructed.

Planning and Land Management

Good working relationships exist between the two planning agencies and there is a strong correlation in many of the objectives of both Governments' planning policies. Nonetheless, tensions between the planning authorities inevitably arise. Firstly, because of the administrative processes effected by the ACTPLM Act; and, secondly, due to the differing planning agendas, timescales and legislative requirements each agency confronts.

The Introduction to this Submission noted the contribution made by Senator Margaret Reid to the debate in the Senate in December 1990 when she highlighted what she said was the two-fold nature of the problems of the ACT's new planning arrangements: "*the additional costs that the National capital plan may impose upon the Territory, particularly the way in which it restricts land use, and the confusion which seems to be in existence created by a dual planning system.*" Pertinently, Senator Reid went on:

"I believe there are some grey areas and there are some areas which the Commonwealth has attempted to retain which I believe is not justified. ...The ACT Government proposes the Territory Planning Authority be the only planning authority and act as an agent for the Commonwealth in relation to the National capital planning issues, and that is certainly one aspect of resolving the matter that should be looked at. The Federal Government has not yet acknowledged the importance of these issues, but I believe that it should do so and hope that it will" (Hansard p. 5123).

As has been demonstrated in this Submission, the "grey areas" and confusion noted in the Senate in 1990 and experienced by the community ever since, continue to hinder the ability of the NCA and the ACT Government to perform their respective roles effectively.

Similarly, the problems for the Territory in undertaking its responsibilities and its ability to enact its strategic planning objectives have been demonstrated. The NCA in its Submission to the Commonwealth Grants Commission 2004 Review argued that this was not an issue. It contended that dual planning systems, far from being unusual in Australia are, in fact, the norm; and that the ACT's position in relation to the Commonwealth, through the NCA, is analogous to the relationship between any State and the planning council of any local government. The ACT firmly rejects this assessment believing that it misunderstands the crucial change in the Territory's administrative responsibilities (and the Commonwealth's) consequent upon self-government. In no other comparable jurisdiction does the Commonwealth determine and enforce a metropolitan planning outcome.

The restraint imposed on the ACT Government to plan and develop for the ACT's future, is a consequence of the national significance of Canberra and the Australian Capital Territory.

This stewardship of the Australian Capital imposes costs on both jurisdictions. As was also noted in the Introduction to this Submission, when giving the second reading speech for the ACTPLM Act in the Commonwealth Parliament, the responsible Minister of the day, Mr Clyde Holding was clear in expressing the basic tenets of the legislation and the relationships between the Commonwealth and ACT planning bodies.

Mr Holding said the ACT was to be responsible for the normal range of State-type planning and development matters. The Territorial planning authority was to be responsible for developing and managing a Territory Plan not inconsistent with the NCP. It was also to be able to set out the detailed planning, design and development conditions for all land in the Territory except Designated National capital areas. Emphasis was placed on the need for consultation and open processes to give expression to the new democratic mandate of the ACT legislature.

It needs also to be said that to the extent there are difficulties in the professional relationship between the NCA and the ACT planners, much of this is beyond the control of the NCA. Commonwealth policies referred to above, over which the NCA's control is limited, have been the source of some of the ACT's most critical concerns. Chief amongst these has been the Commonwealth Government's policy in relation to the development and sale of Commonwealth land.

The ACTPLM Act may not have envisaged a situation where planning was effectively initiated by government bodies other than the NCA. Through its individual agencies that hold land in Canberra, notably the Departments of Defence and Finance and Administration (DOFA), the Commonwealth can seek to sell that land for a range of purposes it determines under the NCP. The Territory observes that, rather than being guided by the provisions of the ACTPLM Act, the NCA is obliged to meet the demands of other agencies.

Currently, DOFA is negotiating to sell land formerly used by the CSIRO at Crace. Should the ACT's offer and price not be acceptable, it is understood the land will be sold by DOFA on the open market with a DCP already in place for a substantial number of dwellings. ACT Government officers dealing with this issue are given to understand that the NCA will finalise planning to maximise a market return, rather than in a manner which acknowledges and complements the Territory Plan. Should the residential estate proceed under this basis, the Territory will be obliged to bring forward its own planning and budget appropriations for major roads, other infrastructure and a primary school. This will be years in advance of their projected timing, and to the detriment of other community needs.

To give scope to the development of Canberra as a modern city in the coming decades, more emphasis needs to be given in the ACT's planning systems and the relations between jurisdictions and authorities, to client and communities viewpoints. While the National perspective will remain central, we should not presume that this perspective is incompatible with a more streamlined, consistent and publicly accountable approach. To this end, planning should align, not overlap; consultation should be mandatory; and notification and appeal on development approvals should be consistent across all areas.

Selected Examples of Issues for the ACT Government due to the National Capital Authority Policies

This Annexe highlights the implications of NCA policies for ACT planning and land development as they have arisen in a number of specific case studies. These have been grouped under five broad issues headings:

1. Employment Policies.
2. Works Approval for Territory Initiatives on Territory, Designated land.
3. Sale of Commonwealth land and the preparation of Development Control Plans.
4. Territory administered lands and Development Control Plans; and
5. General Metropolitan Structure Plan.

Employment Policies

In 1987, prior to self-government, the Commonwealth undertook a review of its office accommodation. As part of this review, it put in place planning policies that would 'decentralise' the location of Commonwealth departments and support development around the Town Centres. The decision to spread the location of Commonwealth employment was driven by the concern that further development in Civic would lead to congestion and the deterioration of the environmental and visual quality of the Central Area.

These policies were underpinned by the Commonwealth retaining control of the location of offices. However, since self-government the NCA has relinquished any control or coordination function it has over the location of Commonwealth agencies; and these are now responsible for selecting their own locations and standard of accommodation.

As a consequence there has been an emerging trend for Commonwealth agencies to locate in the Russell and Parkes-Barton areas, where they can take advantage of the proximity to Parliament, free parking (currently) and move into modern, purpose designed accommodation. Moreover, the exodus of the larger departments from Civic has also seen the departure of many of the larger private businesses that serve them.

The major consequence of this new pattern of development has been a significant downturn in investment in Civic – a trend that is clearly contrary to the objective of establishing Civic as the metropolitan centre of Canberra. This objective is central to the future economic development of Canberra, and one endorsed by the OECD in its comprehensive 2001 study of Canberra, *Urban Renaissance – Canberra: A Sustainable Future*.

The NCA's previous policies and proposed amendments to increase business and employment opportunities at Canberra Airport will also impact on the attractiveness of Civic and the other Town Centres. This facility is already emerging as a significant employment centre and some tenants have already moved from Civic to the airport. The development of the Canberra International Airport is of great importance to the ACT economy but linking its development with the rest of the ACT would benefit from a more integrated planning approach to employment.

Works Approval for Territory Initiatives on Territory, Designated Land

Many of the Territory's most significant assets fall within Designated areas. This means that the Territory requires NCA Works Approval to not only enhance these assets but also to undertake routine, operational maintenance of these assets.

Main Avenues

All of Canberra's main avenues are 'Designated', and with the exception of ANZAC Parade, all are Territory land and, therefore, managed by the Territory. Hence, for the Territory to remove unsafe trees from any medians, to undertake road maintenance or improvements, it must first seek Works Approval from the NCA. In regard to Northbourne Avenue, the Territory is required to keep the medians irrigated, and when it sought to undertake street furniture improvements in the median between the Melbourne and Sydney buildings, the Territory was instructed to first prepare a comprehensive street furniture program for *all* of Civic.

Civic Square and Ainslie Avenue

The redevelopment of these spaces, to improve the pedestrian connection to City Walk, was all subject to Works Approval by the NCA and to delays in construction as a consequence.

Civic Library

The ACT Government has proposed to redevelop the existing Link building between the Canberra Theatre and the Playhouse, to create a new, multi-level building that will house both the Civic Library and theatre patron facilities for the Canberra Theatre Centre. The NCA's National capital requirements, especially the limitation on the height of the building in order to maintain the City Hill-Mount Ainslie view corridor, have led to the need for extensive design modifications in order to secure NCA approval. Again, this has meant significant delays in the project and cost increases due to the design limitations.

It is worth noting that improvements to the ACT Legislative Assembly and the Playhouse also required NCA Works Approval. The Magistrates Court also had to be redesigned by the ACT Government to accord with a revised City Hill Master Plan after the Parliamentary Joint Standing Committee disallowed the NCA's recommendations and instructed the Authority to undertake more work in regard to City Hill to resolve the traffic and pedestrian circulation problems.

Design and Management Standards

As with the median of Northbourne Avenue, in order to obtain Works Approval the Territory is required to meet design and maintenance standards considered appropriate for the National Capital. While the ACT Government supports good, responsible design, the standards of materials and detailing imposed do add considerable costs. The Territory must bear these costs 'up front' and endeavour to recoup them through the Commonwealth Grants Commission.

National Capital Open Space System

In regard to the maintenance of the NCOSS, the cost and difficulty is in its extent and the enormous length of interface with the urban areas. It has been estimated that the length of

the western open space/urban interface is as long as the NSW Coastline. The January 2003 bushfires have highlighted the difficulties for the Territory in managing an urban interface of this magnitude.

State Circle

The area of Forrest that abuts State Circle is 'Designated'. The NCA recently approved higher residential density development for this area despite the objections of the local community and contrary to the residential policies of the Territory.

Officers from PALM were involved in extensive discussion with the NCA over NCP Draft Amendment 39 in order to determine a mutually acceptable outcome. In November 2000, the proposal was to remove the Designated Area status from the residential areas in around State Circle and include policies and aesthetic principles in the NCP to protect the area's national significance.

This approach was supported by the ACT Government as it had the potential to assist in promoting unambiguous and transparent policies and provide a more effective interface between the respective planning instruments and their administration. It would also have ensured that this residential area was treated consistently and that the Territory's Residential Land Use Policies and the Design and Siting Codes would apply. (The policies include provisions for home business and allow for a restricted range of compatible uses subject to specific land use controls.)

In April 2002 Draft Amendment 39 was revised. The revisions attempted to address the differences in the land use policies between the Territory Plan and NCP by including the provisions for home business. However, this approach still does not achieve consistency. For example, the proposed definition for home business does not make allowance for those home-based activities that are below the threshold for home business and are defined by the Territory Plan as home occupations.

It is considered that the approach set out in the revised Draft Amendment will lead to greater complexities and further inconsistencies due to the separate process for reviewing the respective planning instruments.

This issue is particularly relevant in considering proposals for residential areas. PALM is currently carrying out a review of the Residential Land Use Policies in the Territory Plan and has recently released Draft Variation number 200. The Draft Variation aims to protect residential amenity and neighbourhood character, provide strategic guidance on the preferred location for residential development and promote sustainable development and housing choice. The Draft Variation also includes several amendments to the Design and Siting Codes that address the issues of building bulk, overshadowing and useable private open space. None of these are included in the revised NCP Draft Amendment.

Gungahlin Drive

Similarly, the NCA overturned the decision of the ACT Government to construct Gungahlin Drive on its preferred western route in favour of the nominated eastern route. In order to immediately resolve the acute traffic problems experienced by the residents of Gungahlin, the ACT Government has had to fast track the design of the eastern route in an attempt to meet its commitments.

Sale of Commonwealth Land and the preparation of Development Control Plans

Impact on Land Release

The Commonwealth's sale of unwanted land in the Territory impacts severely on the Territory's Land Release Program and the Development Control Plans (DCPs) prepared by the NCA for these sites have far from mitigated the effects.

At the time of self-government, all land in the Territory, except that reserved by the Commonwealth for National purposes, became Territory land. Various Commonwealth agencies retained large tracts of undeveloped land for its future use. The Commonwealth has now begun a process of divesting much of this land that is now judged to be surplus to requirements. It was the Territory's understanding (supported by correspondence between Ministers and officer level discussions at the time) that when the Commonwealth no longer requires land it had retained, it would be returned to the ACT at no charge, consistent with the treatment of all land at self-government. The Commonwealth's position on returning this land to the ACT is now that, in the absence of any written and signed agreement to return land to the Territory, it must be sold at full market value.

Land release is unique in the Territory, with the ACT Government providing all new development land to the market in accordance with a five-year land release program. Land is released to achieve three principal objectives:

- ensure the market has sufficient land to accommodate Canberra's residential and commercial growth, without allowing a significant surplus or deficit in supply to develop;
- to achieve both long and short term planning outcomes in terms of physical infrastructure utilisation, location of residential and commercial growth, business development and the provision of social and community infrastructure; and
- to generate revenue which, in part, is used to meet infrastructure costs, associated with the land release program. Net revenue generation runs at around \$45m per annum from these recurrent sales.

The Commonwealth's sale of undeveloped land outside of the ACT Government's land release program severely compromises these objectives. In the last two years and in the coming year, the Commonwealth is proposing to sell 25 sites totalling over 815 hectares. In comparison, the Territory released approximately 93 hectares in 2001-02 and 98 hectares in 2000-01. The massive impact of Commonwealth land sales is clearly evident, with the Commonwealth proposing to release the equivalent of more than eight years land supply at one time.

Apart from the impact this has on potential revenue, the Territory, on revocation of National land status, becomes responsible for all commitments and obligations entered into by the Commonwealth and is not in a position to enforce its own planning policies or negotiate significant off-site capital works. Development conditions are encapsulated in the DCPs prepared by the NCA.

Benjamin Offices

These offices, located close to the Belconnen Town Centre were sold to private developers. The conditions imposed in the DCP are actually less stringent than those that would be

evoked through the Territory's planning framework. For example, the proponent was not asked to prepare a preliminary assessment; there is inadequate provision for car parking; and the heritage status of significant vegetation was not identified. Nor did the DCP identify off-site works that would have contributed to the progressive implementation of the Territory's Belconnen Master Plan.

The manner in which the DCP was prepared is also of concern for there was no consultation with adjacent landholders or businesses. As a result, these stakeholders were not informed of construction works that would affect their businesses.

Guardian House

The Commonwealth sale of this old cafeteria in Woden Town Centre and the DCP prepared by the NCA has allowed the purchaser to propose a 12,000 square metre office building development. Unfortunately, insufficient research and analysis was undertaken on the building prior to the DCP being prepared.

The Institute of Engineers and the Royal Australian Institute of Architects both considered the building of some heritage value and the building was listed on the Interim Act Heritage Places Register after the DCP had been prepared. This placed the Territory in a difficult position, trying to fulfil the commitments imposed by the DCP as well as its own heritage obligations. The outcome is that there is no feasible or prudent alternative to the removal of the building.

Macquarie Hostel

The NCA has prepared a DCP for this site that greatly increases the gross floor area allowable under Territory planning provisions.

Greenway

The auction of Greenway Section 13 block 4 has caused the Territory particular concern because of its large size (53,502 square metres) and its location in Tuggeranong Town Centre precinct 'b' (Business area). The site was originally intended for National Archives, but its location next to the (former) Department of Social Security offices is of critical importance to achievement of metropolitan employment strategies. The Lake Tuggeranong Master Plan February 2001 envisaged this site for a major government department, commercial development or National institution. The DCP prepared allowed for residential.

Barton

The Commonwealth's land sale in Barton in February 2001 removed 300 car spaces from the Barton area parking, exacerbating an already critical parking shortage in the area. The NCA did not make provision in the lease for the purchaser to replace the parking thereby transferring a cost in the order of \$3.75m to the Territory to provide structured car parking.

The cost of providing enhanced traffic flow and access in the area, together with water and sewerage augmentation was likewise not imposed on the developer resulting in an additional cost impost of some \$400,000 on the Territory.

Likewise the cost of down stream storm water augmentation, traffic flow improvements and parking impacts resulting from the sale of the land were not passed to the developer by the Commonwealth, resulting in the Territory having to accept costs of some \$550,000.

Territory administered lands and Development Control Plans

As stated in the body of the Submission, the requirement to have these plans prepared and approved is increasing. This increase reflects the extent of redevelopment occurring in the central areas of Canberra, in Civic and along the main avenues. The issues of prime concern for the Territory are:

- the lack of consultation with the local community in preparing these DCPs;
- the *ad hoc* nature of their preparation in response to a development application; and,
- the duplication of planning effort by the NCA and the Territory.

Many of the DCPs prepared are arguably of little strategic National importance, for example, the Southcare Heliport in Hume and the U-Stowit storage site in Fyshwick.

General Metropolitan Structure Plan

Urban Capable Land

Under the General Metropolitan Structure Plan (Refer to Map 3), the ACT is limited to developing only land set out for urban use. However, the General Metropolitan Structure Plan does not identify all urban *capable* land in the ACT – such as parts of Stromlo, Kowen and parcels of unused CSIRO and Defence land (predominantly in Belconnen). The ACT would benefit from the development of such parcels of land as it could use the existing infrastructure, such as arterial roads and schools, and this would provide the ACT with an opportunity to defer the development of greenfield sites with associated infrastructure and travel-time savings.

Curtin and South West Belconnen

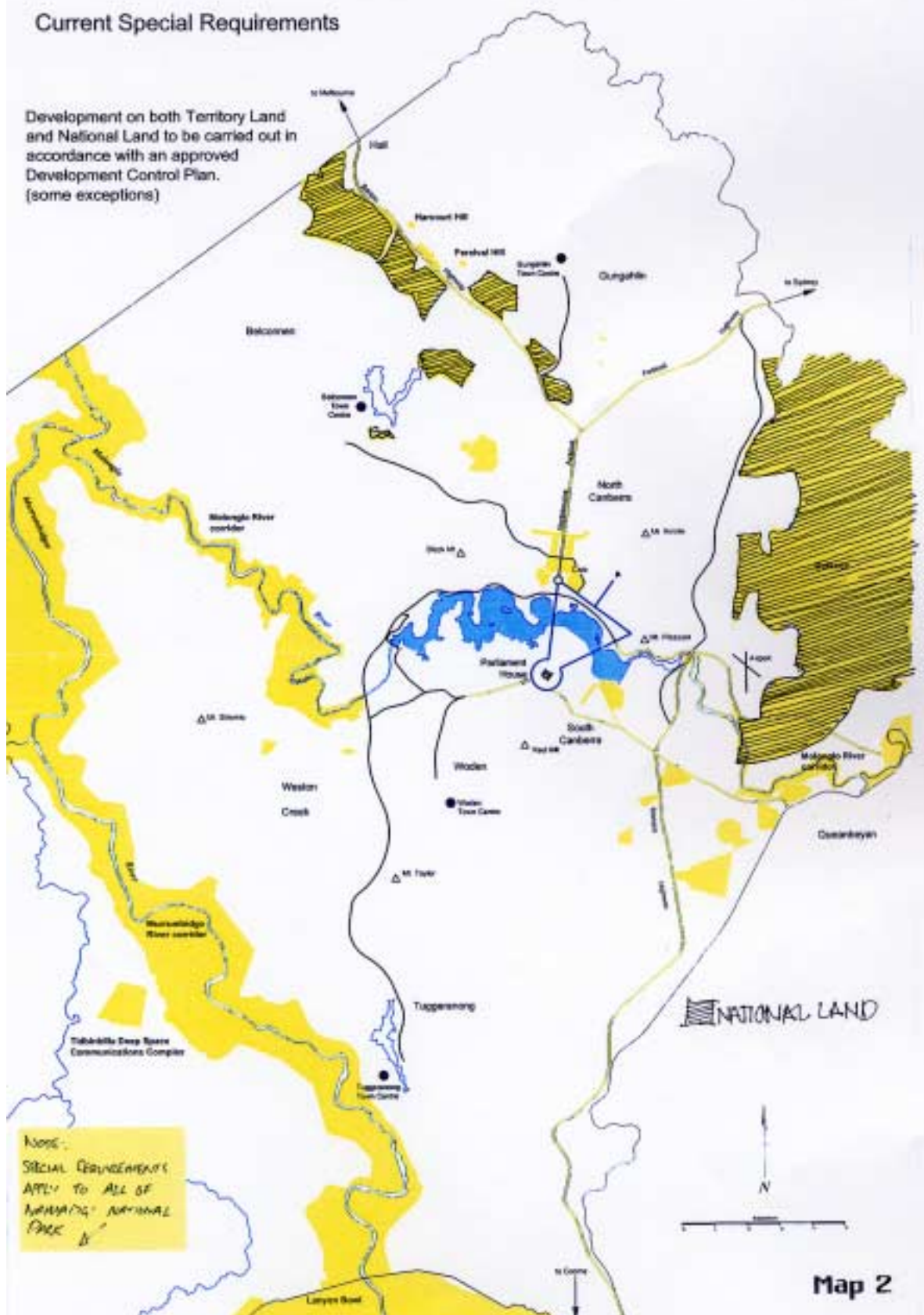
In the past, the Territory has sought to consolidate urban development in part of the open space adjacent to these suburbs. Development in these urban capable areas would provide substantial revenue for the Territory and allow for the Territory to maximise the use of the major infrastructure. In both cases, the Territory has been denied development as it has been considered that the landscape ‘setting’ of the Capital would be compromised.

Gundaroo Drive

The Commonwealth Parliament will be asked to consider and approve a district road, the extension of Gungahlin Drive as, by virtue of more detailed planning, its location on the Metropolitan Structure Plan has altered. The extension still provides the intent of providing a connection from Gungahlin to Gundaroo, however, its proposed new location responds to the environmental constraints and to the structure planning for the new suburbs.

Current Special Requirements

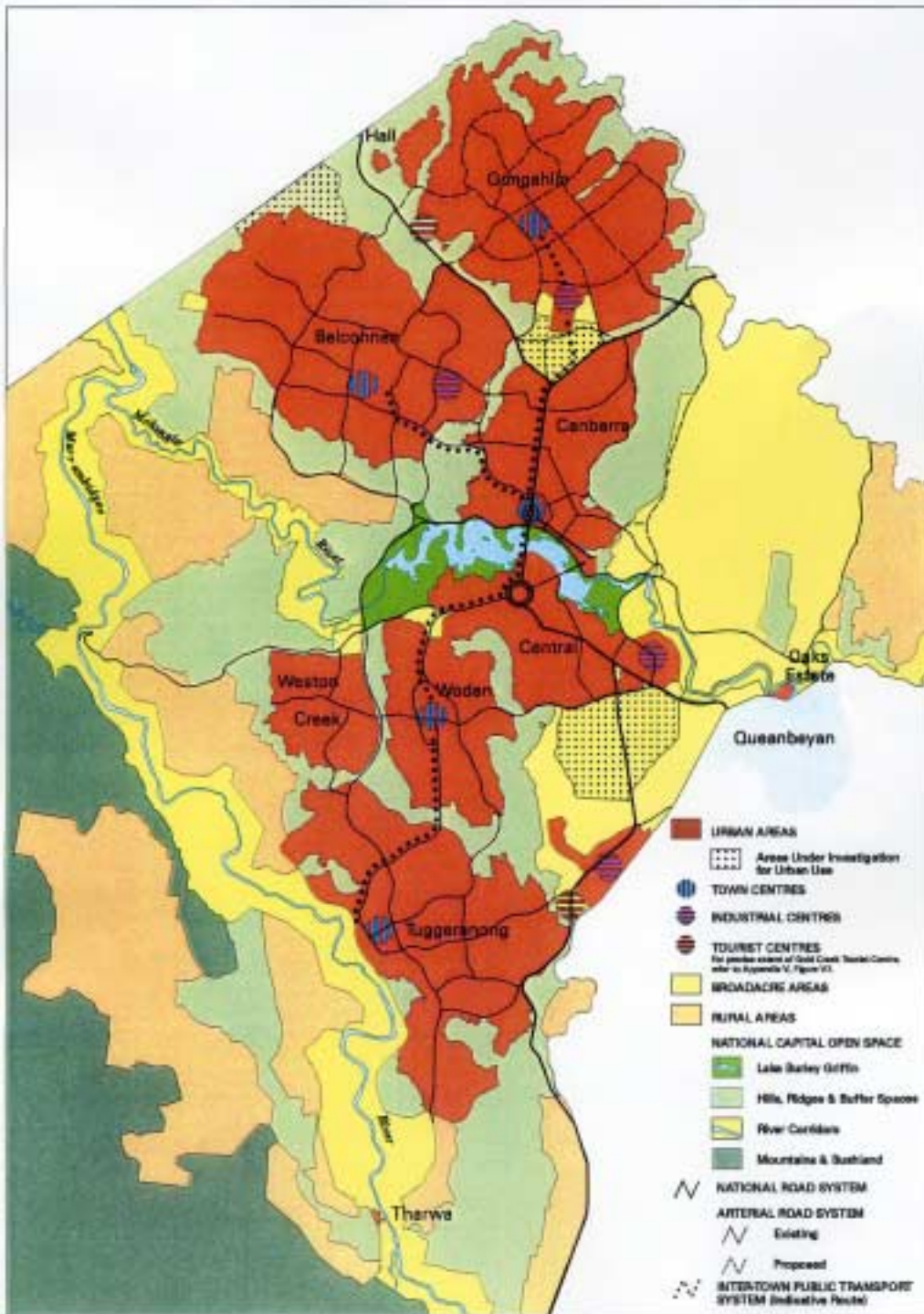
Development on both Territory Land and National Land to be carried out in accordance with an approved Development Control Plan. (some exceptions)



NOTE:
SPECIAL REQUIREMENTS
APPLY TO ALL OF
NARRATING NATIONAL
PARK &

Map 2

GENERAL POLICY PLAN - Metropolitan Canberra



Map 3