
The Parliament of the Commonwealth of Australia

The Way Forward

Inquiry into the role of the
National Capital Authority

Joint Standing Committee on the National Capital and External Territories

July 2008
Canberra

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Chair's Foreword

Canberra is one of only a small number of the world's capital cities which have been planned since their inception. It is a city of both national and international significance. All Australians should be proud not only of the achievements of our democracy but also of our national capital which embodies many of the democratic ideals which define us as a nation.

Since Canberra's inception in 1913 the key design elements of Walter Burley Griffin and Marion Mahony-Griffin have been given effect. Their plan integrated the existing natural landscape of the area and provided for a symbolic hierarchy of land uses designed to reflect the order and functions of democratic government. This was set in a geometric plan with the central triangle formed by grand avenues terminating at Capital Hill, the symbolic centre of the nation.

The challenge for all Australians is to ensure that Canberra as our national capital continues to be planned with the high ideals first articulated by the Griffins. The Commonwealth was solely responsible for planning the capital up until self-government in 1989. Since that time the Australian Capital Territory has been subject to a dual planning system. The National Capital Plan (NCP) administered by the National Capital Authority (NCA) secures the Commonwealth's continuing interest in ensuring that Canberra is planned and developed in accordance with its national significance. All remaining aspects of planning are subject to the Territory Plan, administered by the ACT Government.

The committee, through this inquiry, has examined the current planning arrangements with a view to reducing red tape and confusing duplication but at the same time ensuring that the Commonwealth has a direct and enduring role in the future planning of Canberra, the nation's capital. The committee focused on the administration of the NCP, the governance arrangements of the NCA, the level of oversight required to maintain the highest standards of design in the ACT, opportunities for greater cooperation with ACT Government planning authorities, and the promotion of the national capital.

The NCA should continue to exist but is in need of structural renewal. The committee has proposed that the governance arrangements be changed to give more independence to the NCA board commensurate with its status as a statutory authority. Persons appointed to the board should have qualifications or expertise relevant to a field related to the NCA's functions. Transparency and accountability to the Parliament will be enhanced through the Chairperson of the board appearing twice a year at public hearings before this committee.

The most important feature of the report is the future planning framework. The principles and policies that define the Commonwealth's interest in the national capital can be enhanced by their inclusion in the Australian Capital Territory (Planning and Land Management) Act. The NCP is in need of updating to respond to the modern challenges of climate change and ecological sustainability as well as providing for more effective consideration of future transport needs. In this way, the Commonwealth continues to set the framework for future planning.

The committee recommends the development of a single integrated planning document which comprises the NCP and the Territory Plan, with agreed definitions and clear geographic boundaries between the two plans. Where possible, these boundaries should be based on the objective that land administration be aligned with planning jurisdiction. In this way, proponents, stakeholders and the community would deal with just one planning authority.

There was a great deal of goodwill expressed by both the NCA and the ACT Government to achieve such an alignment of the respective plans, as contained in their submissions. However it became clear that there were many important details to be ironed out. Many witnesses and submitters to the inquiry were not able to express a view or contribute to the discussion about the proposals because the inquiry represented the first public exposure of the ideas.

The committee recommends a working group comprising the NCA and the ACT Planning and Land Authority (ACTPLA) should prepare detailed proposals of an integrated, co-operative approach which would be considered as part of a broader package of updating the NCP and any legislative amendment. It is envisaged that this process could take around 18 months.

The committee, therefore, has proposed that as an interim measure in order to resolve planning duplication: the Commonwealth consider amendments to the Australian Capital Territory (Planning and Land Management) Act to permit the NCA and ACTPLA to negotiate a memorandum of understanding to delegate the planning jurisdiction for Territory Land which has designated status.

The NCA and ACTPLA will also have the opportunity to receive advice on a range of planning matters through the creation of the National Capital Consultative Council (NCCC). The NCCC would consist of representatives from the Commonwealth and ACT governments, the community and business and be

co-chaired by the responsible Commonwealth Minister and the ACT Chief Minister.

The committee has also made recommendations to remove the 'gap' in heritage protection on Territory Land that fall within designated areas of the NCP.

There was a great deal of interest in the role the NCA has promoting the National Capital. The committee clarifies the NCA's role to be one focussed on the national cultural icons and events in the central national area.

The committee identified three key objectives that have guided deliberations through the course of this inquiry:

- the committee's first objective is to ensure that the Commonwealth protect and promote the unique design of Canberra because it represents the intrinsic character of the National Capital;
- the committee's second objective is, where possible, to align land administration with planning jurisdiction, provided the first objective is achieved;
- the committee's third objective is to foster greater co-operation and collaboration between the Commonwealth and the ACT Government on planning and related matters.

The committee is confident that these objectives are met through the key recommendations. I believe these recommendations and the others contained in the report provide a solid foundation for the way forward for planning in the Australian Capital Territory. They will ensure that Canberra continues to be planned in accordance with its national significance and tap into the opportunities that cooperation with the ACT Government can bring.

In conclusion, and on behalf of the committee, I thank all groups, organisations and individuals who contributed to this inquiry. The interest in, passion for and commitment to their National Capital by so many Australians was inspiring and uplifting throughout the course of the inquiry.

Senator Kate Lundy
Chair



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Membership of the Committee

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Mr Jim Turnour MP

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Inquiry Secretary Ms Stephanie Mikac

Principal Research Officer Mr Justin Baker

Senior Research Officer Ms Margaret Atkin

Administrative Officers Mrs Frances Wilson

Ms Natasha Petrovic



Terms of Reference

On 19 February 2008, the Minister for Home Affairs, the Hon Bob Debus MP, requested the committee to inquire into and report on:

- 1) the administration of the National Capital Plan with particular emphasis on the reduction of red tape and duplication of municipal and local planning functions, the jurisdiction of ACT spatial policy and harmonisation of planning systems;
- 2) whether the government arrangements for the NCA provide a sufficient balance between the independence of the Authority's planning decisions and its accountability for its operations;
- 3) the appropriate level of oversight required to achieve the highest standards in design for areas of national significance;
- 4) opportunities to ensure cooperation with the ACT planning authority and increased engagement with the Canberra community;
- 5) the effective national promotion of the National Capital, and the roles of the NCA and the ACT Government in advocacy for new infrastructure projects including responsibility for events and developing the distinctive character of the National Capital.

The Minister requested that the committee table its report by 30 June 2008.



List of abbreviations

3D	Three Dimensional
ACT	Australian Capital Territory
ACTPLA	ACT Land and Planning Authority
AILA	Australian Institute of Landscape Architects
ANU	Australian National University
Board	The National Capital Authority board
CBC	Canberra Business Council
CD	Compact Disc
CE	Chief Executive
CMP	Conservation Management Plan
CNA	Central National Area
COAG	Council of Australian Governments
DAF	Development Assessment Forum
DAS	Department of Administrative Services
DCP	Development Control Plan
EOI	Expression of Interest
EPBC Act	<i>Environment Protection and Biodiversity Conservation Act 1999 (Cth)</i>

FMA Act	<i>Financial Management and Accountability Act 1997 (Cth)</i>
GDE	Gungahlin Drive Extension
NCA	National Capital Authority
NCC	Canadian National Capital Commission
NCDC	National Capital Development Commission
NCP	National Capital Plan
NCPA	National Capital Planning Authority
PALM Act	<i>Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)</i>
PCA	Property Council of Australia
PEO	Principal Executive Officer
PIA	Planning Institute Australia
RAIA	Royal Australian Institute of Architects
T1	Transcript of evidence 1 - 21 April 2008
T2	Transcript of evidence 2 - 22 April 2008
T3	Transcript of evidence 3 - 23 April 2008
T4	Transcript of evidence 4 - 1 May 2008
T5	Transcript of evidence 5 - 2 May 2008
T6	Transcript of evidence 6 - 6 May 2008
T7	Transcript of evidence 7 - 14 May 2008
TTF	Transport and Tourism Forum Australia
WBGS	Walter Burley Griffin Society



Recommendations

2 Canberra—a planned capital city

Recommendation 1 (para 2.65)

That the Commonwealth Government affirm its direct and enduring commitment to the future of Canberra as a planned national capital on behalf of all Australians.

4 Governance and administration

Recommendation 2 (para 4.61)

That the *Australian Capital Territory (Planning and Land Management) Act 1988* be amended to include the following provisions:

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

Recommendation 3 (para 4.62)

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

Recommendation 4 (para 4.63)

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

Recommendation 5 (para 4.64)

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

5 The NCA's consultation with the community

Recommendation 6 (para 5.58)

That the *Australian Capital Territory (Planning and Land Management) Act 1988* be amended to require all draft amendments to the National Capital Plan and all proposed works (with the exception of de-minimus works) in the Parliamentary Zone to be referred to the Joint Standing Committee on the National Capital and External Territories for its consideration and report, if necessary, within three months.

Recommendation 7 (para 5.59)

In the interest of improving uniformity between the two planning systems, the Development Assessment Forum model should be assessed by the National Capital Authority for its relevance and application to the National Capital Plan and a report provided to the Joint Standing Committee and Minister within three months from the date of the Government Response to this report.

6 Securing our heritage

Recommendation 8 (para 6.31)

That existing relevant Commonwealth and Territory legislation be amended to protect the heritage of all Designated Areas in Canberra.

7 Promoting the national capital

Recommendation 9 (para 7.64)

That the role of the National Capital Authority be clarified to include promotion of the national cultural icons located in the Central National Area.

Recommendation 10 (para 7.65)

That the National Capital Consultative Council prepare a domestic and international tourism and marketing plan for the national capital for consideration by both the ACT and Commonwealth Governments in their next respective budgets. In addition, the committee recommends that such a plan factor in the Centenary of Canberra celebrations in 2013.

8 The Canberra International Airport and employment location strategies

Recommendation 11 (para 8.37)

That the Department of Infrastructure, Transport, Regional Development and Local Government consult with the National Capital Authority to ensure that the Airport Master Plan and the major development plan is in line with the National Capital Plan.

Recommendation 12 (para 8.56)

That the National Capital Consultative Council make recommendations to the Commonwealth Government for a policy to govern future locations of Commonwealth Government agencies in Canberra.

9 Canberra's transport system

Recommendation 13 (para 9.63)

That the Commonwealth and the ACT Government prepare a joint Sustainable Transport Plan which is recognised in both the National Capital Plan and the Territory Plan.

10 The dual planning framework

Recommendation 14 (para 10.108)

That, as a possible interim measure to resolve duplication, the Commonwealth consider amendments to the *Australian Capital Territory (Planning and Land Management) Act 1988* to permit the National Capital Authority and ACT Planning and Land Authority to negotiate a memorandum of understanding to delegate the planning jurisdiction for Territory Land which has designated status under the National Capital Plan from the NCA to ACTPLA.

Such a delegation would need to be accompanied by the necessary resources to fulfil these functions.

Recommendation 15 (para 10.109)

That, in the interests of removing unnecessary complexity and red tape:

- 'Special Requirements' be removed from the National Capital Plan;
- All areas of National Land previously subject to Special Requirements be converted to Designated Areas; and
- Any areas of Territory Land previously subject to 'Special Requirements' where the Commonwealth has a significant and enduring planning interest be converted to Designated Areas until a broader review of the National Capital Plan and Territory Plan is undertaken to assess whether such areas should be considered for future gazettal as National Land.

11 A vision for future planning

Recommendation 16 (para 11.58)

The strategic goal of ecologically sustainable development should be embedded as a major principle in the *Australian Capital Territory (Planning and Land Management) Act 1988*.

Recommendation 17 (para 11.83)

That the *Australian Capital Territory (Planning and Land Management) Act 1988* be amended to enshrine the policies and principles of national significance as described in the proposed National Capital Land Use Plan in a schedule of the Act, and that the proposed Implementation Strategy be included as a disallowable instrument.

The Act should also be amended to specify a requirement for the National Capital Land Use Plan and Implementation Strategy to be reviewed every three to five years.

Recommendation 18 (para 11.132)

That the National Capital Authority and ACT Planning and Land Authority form a joint working group to achieve a single integrated document which:

- comprises the two statutory plans, and agrees on clear geographic boundaries between the two plans based on the committee's objective that, where possible, land administration be aligned with planning jurisdiction;
- includes a harmonised language, definitions and structure;
- provides guidelines for interpretation of the two plans;
- provides advice to the Commonwealth Government on enshrining the policies and principles relating to national significance across the Australian Capital Territory in the form of the National Capital Land Use Plan in the *Australian Capital Territory (Planning and Land Management) Act 1988*; and
- provides advice to the Commonwealth and ACT Governments on the key elements of the Implementation Strategy.

Recommendation 19 (para 11.133)

That the National Capital Authority be resourced to participate in the working parties and reviews as required.

Recommendation 20 (para 11.134)

That any draft amendment(s) to the National Capital Plan proposing uplift of Designated Areas and a formal geographic re-alignment of planning jurisdiction be referred to the Joint Standing Committee on the National Capital and External Territories for inquiry.

Recommendation 21 (para 11.135)

That, in the interest of aligning the National Capital Authority's planning system with the ACT's, the *Australian Capital Territory (Planning and Land Management) Act 1988* be amended to include a provision for decisions on development applications made under the Act to be subject to review through the Commonwealth Administrative Appeals Tribunal.

Recommendation 22 (para 11.153)

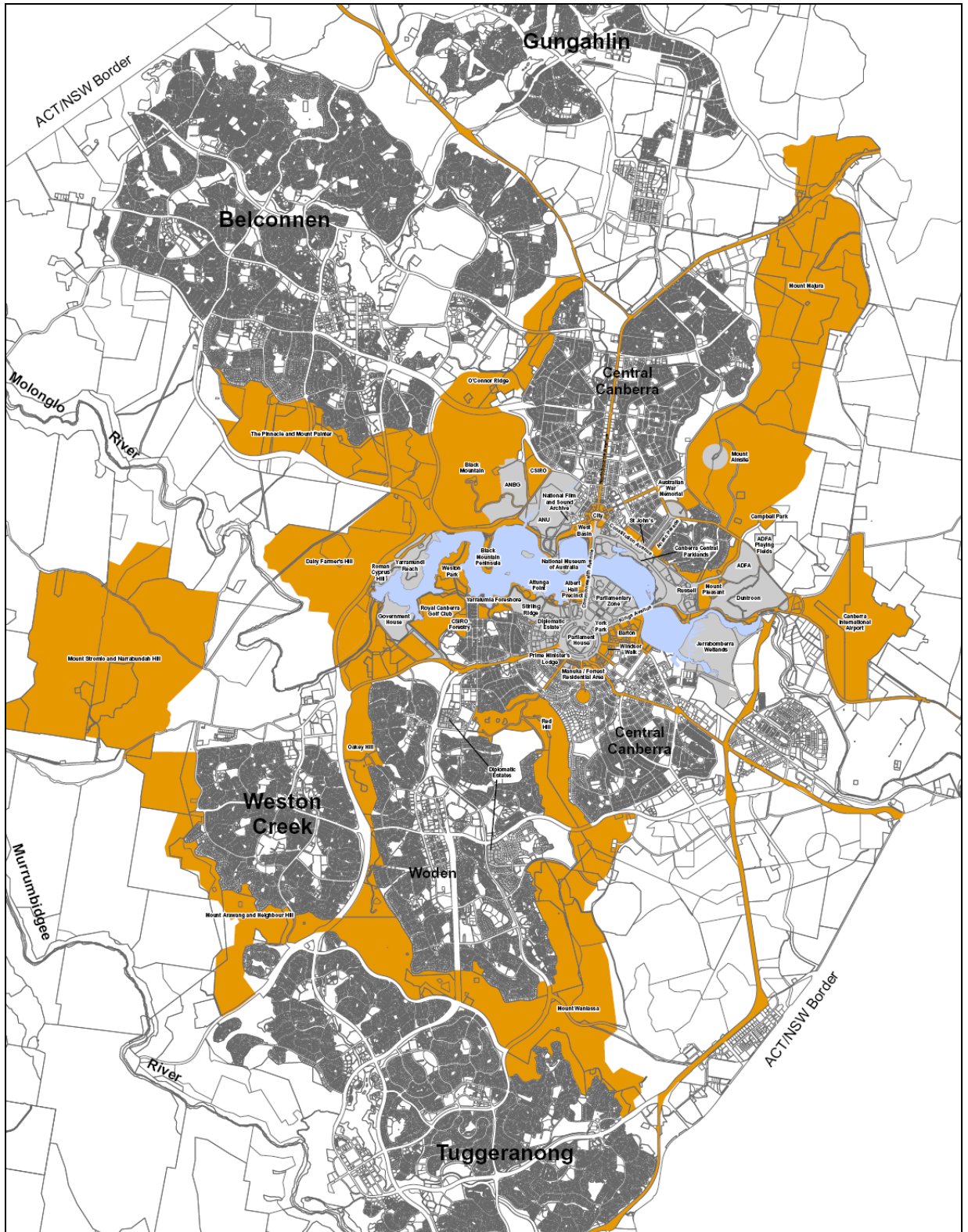
That the Commonwealth provide resources to the National Capital Authority to continue the development of a cost effective three-dimensional integrated plan in digital format which is available online with the purpose of gaining efficiencies in planning and enhancing consultation.

Figure i 1912 Plan, Walter Burley Griffin's competition winning design



Source: Image courtesy of the National Archives of Australia.

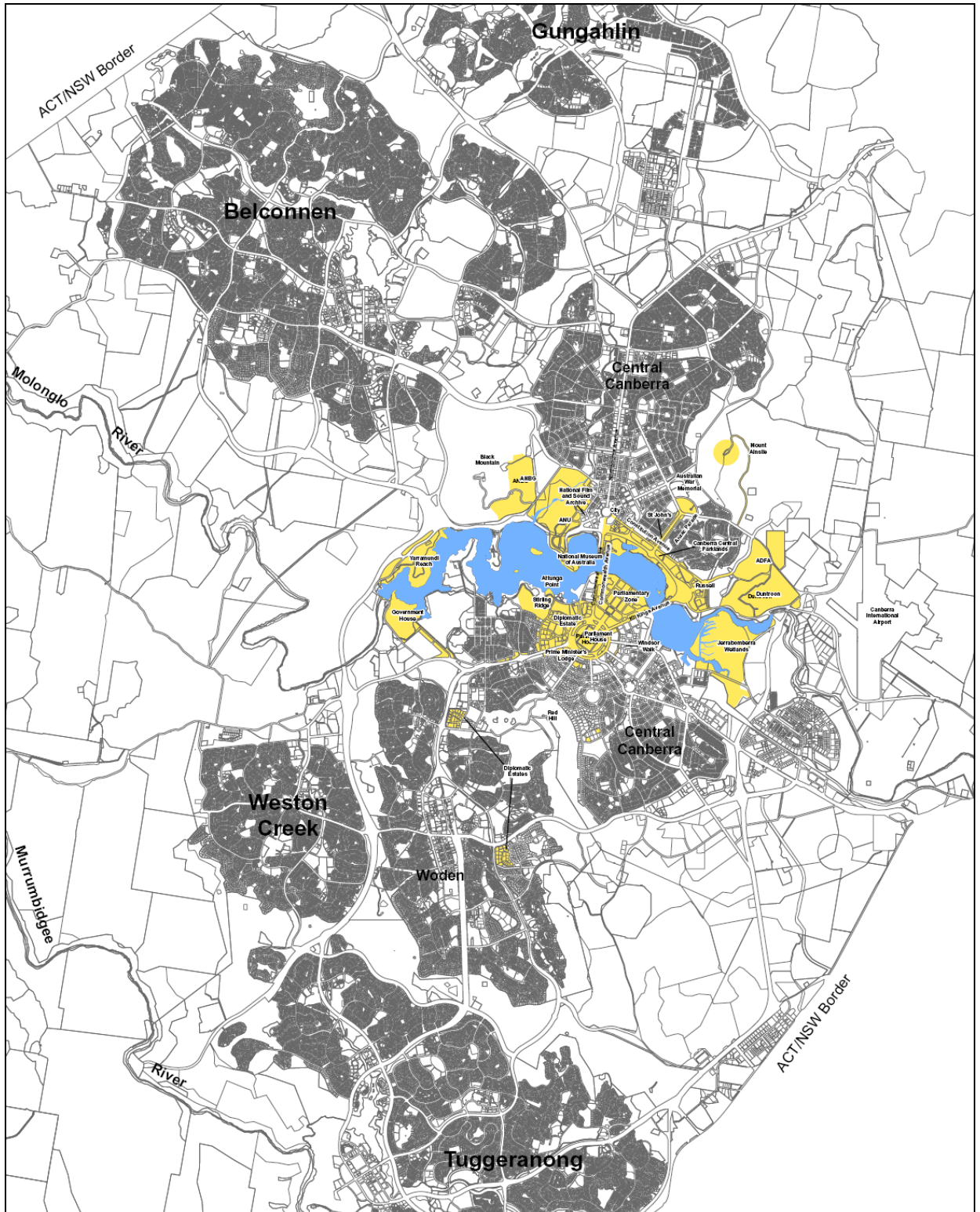
Figure ii NCA Submission: Proposed Designated Areas to be Removed



- Block Boundaries
- Lake Burley Griffin (LBG)
- Proposed Areas of Special National Importance (Includes LBG and all roads as indicated)
- Designated Areas to be Removed

Source: National Capital Authority, Submission 55.

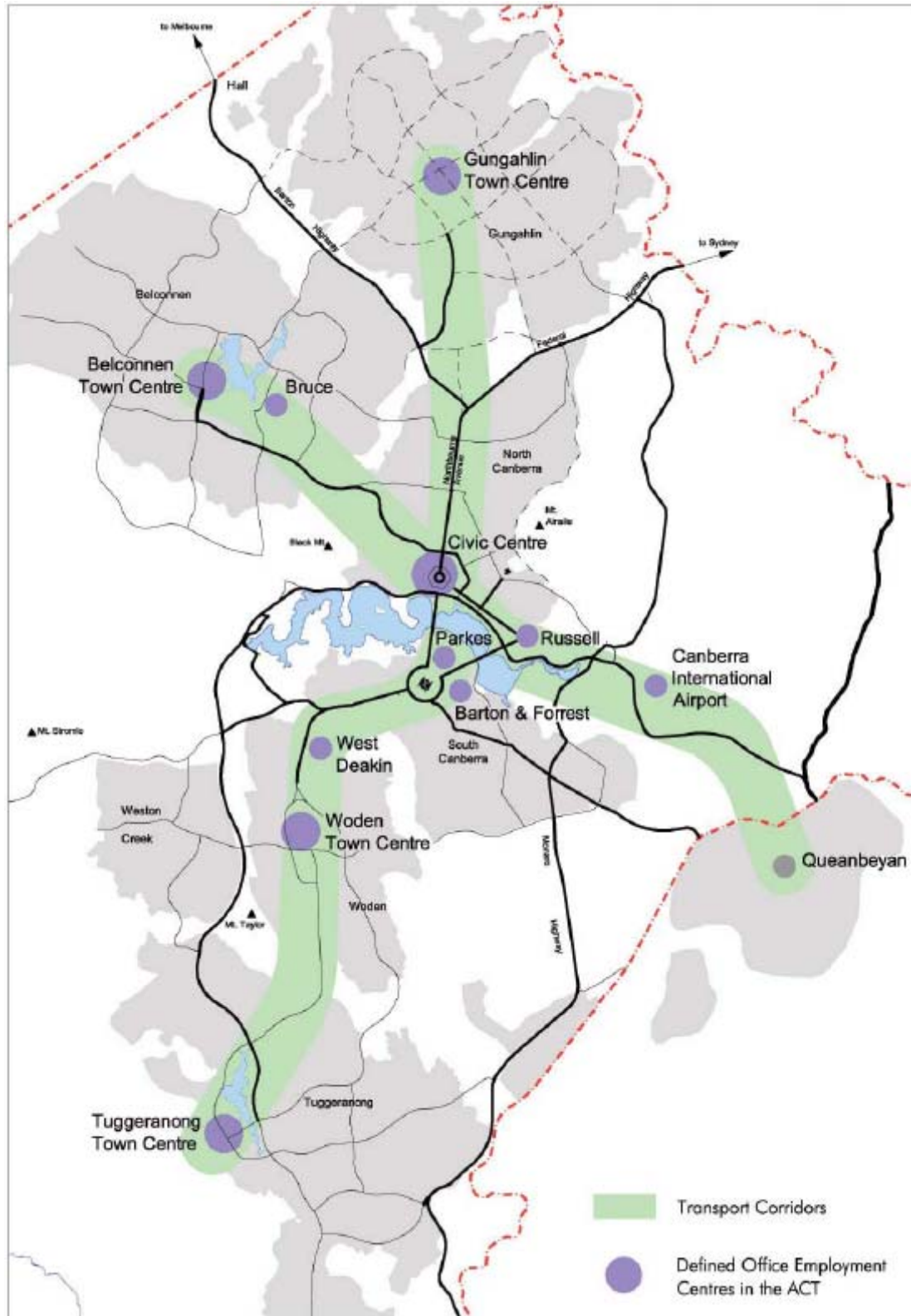
Figure iii NCA Submission: Proposed Areas of Special National Importance



- ACT Block Boundaries
- Lake Burley Griffin (LBG)
- Proposed Areas of Special National Importance (Includes LBG and all roads as indicated)

Source: National Capital Authority, Submission 55.

Figure iv Defined Office Employment Centres



Source: National Capital Authority, Amendment 44, National Capital Plan.

Figure v Examples of three dimensional planning model - View of Lake Burley Griffin and surrounds from Black Mountain



Figure vi Examples of three dimensional planning model - View of Lake Burley Griffin from Parliament House



Introduction

- 1.1 It is almost 20 years since self government and therefore 20 years since the former planning powers of the Commonwealth Government's National Capital Development Commission were divided in two, through an Act of parliament.
- 1.2 The decisions made then shaped the dual planning system we are contemplating during this inquiry. Governments of different persuasions, across the Commonwealth and Territory, have contributed to the evolution of a highly complex and sometimes confusing dual planning system.
- 1.3 The *Australian Capital Territory (Planning and Land Management) Act 1988* (PALM Act) provides the legislative framework for the National Capital Plan (NCP) and also provides a process for amending the NCP through the introduction of draft amendments. In addition, the PALM Act provides for the creation of a Territory Plan and the establishment of a Territory planning authority.
- 1.4 The NCP secures the Commonwealth's continuing interest in ensuring that 'Canberra and the Territory are planned and developed in accordance with their national significance.' The purpose of the NCP 'is to ensure that the Commonwealth's national capital interests in the Territory are fully protected, without otherwise involving the Commonwealth in matters that should be the prerogative of the Canberra community.' The NCP came into effect on 9 March 1990, following the granting of self government in the ACT.
- 1.5 In particular, the PALM Act states that the Territory Plan has no effect to the extent that it is inconsistent with the NCP.

- 1.6 These legislative arrangements have resulted in a dual planning framework which, in operation, has proved to be cumbersome and confusing. Concerns about the adequacy of the dual planning framework were raised when it was implemented in 1990. Former ACT Senator Margaret Reid stated:

...the ACT Government and the people of Canberra have concerns arising out of the dual planning system...the concerns are two-fold 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.

ACT business has to contend with the concepts of the National Land and the Territory Land, land in Designated Areas and land subject to special requirements. Maybe it is because it is so new that it is still causing this confusion and it will all become clear, but 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.¹

- 1.7 In 2004 the Joint Standing Committee on the National Capital and External Territories conducted an inquiry into the role of the National Capital Authority (NCA) and, in particular, the effectiveness of the dual planning regime.² The then committee proposed a series of reforms which would transfer more planning responsibility to the ACT planning authority. The committee's key recommendations were not implemented.

Committee objectives and scope

- 1.8 In February 2008, the Minister for Home Affairs, the Hon Bob Debus MP, reopened the debate about the role of the NCA by requesting the committee to conduct another review of its functions.
- 1.9 The Minister referred to the committee terms of reference focusing on the administration of the NCP, the governance arrangements for the NCA, the level of oversight required to maintain the highest standards of design in the ACT, opportunities for greater cooperation with local planning authorities and the promotion of the national capital and new infrastructure projects.
-

1 Senator Margaret Reid, Senate *Hansard*, 6 December 1990, p. 5123.

2 Joint Standing Committee on the National Capital and External Territories, *a national capital, a place to live, Inquiry into the role of the National Capital Authority*, 2004.

- 1.10 The inquiry was timely and allowed the committee to build on the constructive work it undertook in 2004. The committee has addressed all aspects of the terms of reference and, in particular, proposed solutions that, if implemented, will significantly enhance the planning framework in the ACT by removing unnecessary and inefficient duplication between the two planning authorities. In addition, the committee has addressed community concerns about heritage protection and the NCA's role in promoting the national capital.
- 1.11 This inquiry also presents an opportunity to assess the merits of this evolved planning system against a series of objectives that the committee believes expresses the public interest. These objectives were arrived at through consideration of evidence and submissions received through the course of the inquiry.
- 1.12 Several common themes emerged, helping the committee to articulate the public interest objectives, which then guided the final recommendations the committee makes to the Commonwealth government.
- 1.13 The first was the almost universal view that the Commonwealth has a responsibility on behalf of all citizens of Australia to maintain a deep and abiding interest in the national capital of Australia in all its facets: design; national institutions and seat of democracy. Yet the feeling that often accompanied this view was this interest had been inadequately expressed and poorly resourced, particularly since self-government.
- 1.14 The committee concurs with this view and is convinced that there is a genuine and urgent need for the Commonwealth to re-engage with Canberra and articulate a renewed commitment to the national capital.
- 1.15 Consideration of the planning regime necessarily expands into other facets of the national capital, such as promoting the national capital to foster a greater awareness of our system of government and therefore democratic participation. This consideration led the committee to make recommendations relating to the NCA's role in promoting cultural icons and the need for a broader national capital tourism strategy.
- 1.16 The committee's inquiry is focussed on the planning of the physical city. The committee recognises that embedded in Griffin's plan for Canberra are specific relationships that guide the original design: relationships between urban development and the surrounding landscape; relationships between the institutions of government, cultural institutions and society are expressed by a hierarchy within the shape of a triangle; a triangle that is formed by the surrounding hills and bisected by both a water axis and a land axis, with the Parliament at the apex of a triangle shared by open spaces and iconic buildings.

- 1.17 This unique, geometric design and the relationships that are determined by it are essential to the intrinsic character of the national capital and are therefore worthy of both acknowledgment and preservation.
- 1.18 These features constitute in part the Commonwealth's national capital interests in the Territory. Specific features of this unique design include;
- the National Capital Open Space System, which creates channels of open, undeveloped land linking the natural environment into the heart of urban areas;
 - the prohibition on urban development on the inner hills, which creates and preserves the scenery and vistas of a natural landscape despite Canberra being highly urbanised;
 - the land and water axes;
 - the style and location of national institutions in and around the triangle and central Canberra; and
 - the presence of diplomatic missions.
- 1.19 These elements form the basis of a new *National Capital Land Use Plan* which is discussed in Chapter 11.
- 1.20 In light of this, the committee's first objective is to ensure the Commonwealth protect and promote the unique design of Canberra because it represents the intrinsic character of the National Capital.**
- 1.21 The second theme that emerged was a very practical consideration. The committee heard a great deal of evidence that the complexities of the current dual planning system were confusing. This confusion is added to significantly by the National Capital Plan having different requirements for land described as 'designated' or 'special requirements' even though it is land managed by the ACT government.
- 1.22 Nonetheless, the committee does not accept the argument that the Commonwealth should be the only planning authority. This would deny the ACT Government from preparing and administering a Territory Plan to provide the residents of Canberra with an attractive, safe and efficient environment in which to live and work and have their recreation.
- 1.23 The committee re-affirms the intent of the NCP 'to ensure that the Commonwealth's national capital interests in the Territory are fully protected, without otherwise involving the Commonwealth in matters that should be the prerogative of the Canberra community.'³
-

3 Senator Graham Richardson, Minister for the Arts, Sport, the Environment, Tourism and Territories, Senate *Hansard*, 7 November 1988, p. 2124.

- 1.24 The committee agreed with the view expressed by both the ACT Government and the National Capital Authority that a suitable principle would be to ensure that the Government that administers the land also have planning jurisdiction.
- 1.25 The Committee's second objective is, where possible, to align land administration with planning jurisdiction, provided the first objective is achieved.**
- 1.26 A corollary to this second objective is to ensure that proponents of developments and interested stakeholders and citizens deal with only one planning authority with respect to any particular land use.
- 1.27 Finally, the third major theme was the need for greater cooperation. The importance of preserving and promoting the unique design of Canberra was endorsed by the ACT Government, giving the committee confidence that there was a real opportunity to encourage the two planning authorities to collaborate to prepare a detailed program for achieving the first two objectives.
- 1.28 Hence the third objective is to foster greater collaboration and a genuine partnership between the NCA and ACTPLA to adopt common definitions in, and interpretation of, the National Capital Plan and the Territory Plan as well as a mutually agreed implementation strategy for both plans.
- 1.29 The committee's third objective is to foster greater cooperation and collaboration between the Commonwealth and ACT Government on planning and related matters.**
- 1.30 The committee was impressed with the apparent will and enthusiasm on behalf of both planning authorities, the ACT Government and most stakeholders to attempt an ambitious agenda to update the planning regime in the Australian Capital Territory in a way that respects the historical legacy of Griffin and addresses the challenges of the future.

Conduct of the inquiry

- 1.31 On 19 February 2008 the committee received a reference from the Minister for an inquiry into the role of the NCA. The Minister requested the committee to report by 30 June 2008. The Minister announced the inquiry in the House of Representatives chamber on 19 February as part of an

answer to a question without notice.⁴ On 25 June 2008 the committee sought and received approval from the Minister to report by 16 July 2008.

- 1.32 The membership of the committee was not finalised until 11 March 2008 when the House of Representatives appointed the remaining two non-government members to the committee. The committee could not meet for the first time until all members had been appointed. Therefore, the earliest the committee could meet to receive and adopt the terms of reference was on 12 March 2008.
- 1.33 The committee issued a media release about the inquiry on 12 March 2008 and advertised the inquiry in *The Canberra Times* on 15 March 2008 and *The Australian* on 19 March 2008 seeking submissions by 11 April 2008. In addition, information about the public hearings was advertised in *The Australian* on 16 April 2008. The committee received 135 submissions, which are listed at Appendix A.
- 1.34 Public hearings were held on 21, 22 and 23 April, 1, 2, 6 and 14 May 2008. The transcripts of evidence from the public hearings can be found at the committee's website at <http://www.aph.gov.au/ncet>.
- 1.35 A list of witnesses who attended public hearings can be found at Appendix C.
- 1.36 Mr David Wright assisted the committee by undertaking a technical edit of the report.

Reader guide and structure of the report

- 1.37 The report has been kept as brief and concise as possible. Each chapter presents the key evidence. The conclusions provide a summary of the key issues under consideration and most importantly provide the committee's views and proposed course of action. The conclusions also provide the rationale for any recommendations that are made.
- 1.38 Readers who do not have the time to read the report in full can read the conclusions and recommendations separately. The conclusions have been prepared in a 'stand alone' format so that readers can quickly understand the key issues together with the committee's conclusions and reasons for the recommendations.

4 Hon Bob Debus MP, Minister for Home Affairs, House *Hansard*, 19 February 2008, p. 12.

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- 1.39 Chapter 2 provides an historical overview of the development of Canberra and its key design elements which make it a national capital of international significance.
 - 1.40 Chapter 3 provides an overview of the role and structure of the NCA.
 - 1.41 Chapter 4 examines the NCA's corporate governance focusing on enhanced independence, transparency and accountability.
 - 1.42 The NCA's responsibilities, record and performance in relation to community consultation is discussed in Chapter 5.
 - 1.43 Heritage considerations are discussed in Chapter 6. There are gaps in heritage assessment under the current arrangements. These issues are examined and solutions are proposed.
 - 1.44 Chapter 7 examines the NCA's role and effectiveness in promoting the National Capital.
 - 1.45 Chapter 8 looks at development in and around the Canberra International Airport, and more broadly at the Commonwealth's influence on employment location policies.
 - 1.46 Chapter 9 examines Canberra's transport system and how transport ought to be more effectively integrated into broader planning objectives.
 - 1.47 The dual planning framework and proposals designed to rationalise and update planning arrangements in the ACT are examined in Chapter 10.
 - 1.48 The final chapter focuses on a future planning framework that reduces red tape and responds to the challenges of the future. In particular, the development of a single integrated plan encompassing both the NCP and the Territory Plan is assessed.

Canberra—a planned capital city

I have planned a city like not any other city in the world. I have planned it not in a way that I expected any governmental authorities in the world would accept. I have planned an ideal city – a city that meets my ideal of the city of the future.

– *Walter Burley Griffin, 1912*

Introduction

- 2.1 Canberra is one of only a small number of the world's capital cities which have been planned and developed from their inception. Successive Commonwealth Governments have helped to ensure that the national capital has retained many of the fundamental design elements of the original Griffin design for Canberra.
- 2.2 This chapter addresses the Commonwealth's role and interest in the national capital, reflecting on Commonwealth involvement in the city's development from its inception right through to today. It also looks briefly at the major reforms and reviews that have occurred along the way. The chapter concludes by examining the significant design elements of the national capital which have endured and reflects on Canberra's status as a city of national and international significance.

The Commonwealth's role and interest in the national capital

- 2.3 Since Canberra was first confirmed as the Seat of Government of the Commonwealth, successive governments have maintained an ongoing commitment to its progression, notwithstanding that some governments proved to be more devoted to the development of the national capital than others. When self-government was introduced into the ACT, the Commonwealth ensured that it retained an ongoing responsibility for planning and development as it related to Canberra's role as the national capital.
- 2.4 The NCA stated:
- There has always been a national interest in the way in which the Commonwealth has governed its responsibilities in the capital. At a strategic level, the aspirations and intentions of the Australian parliament have been identified in successive plans, which have been given legislative authority.¹
- 2.5 The following section of the report provides a brief account of the development of Canberra, which demonstrates the Commonwealth's continuing role and interest in the national capital.

The city that Federation created

...The Federal Capital should be a beautiful city occupying a commanding position, with extensive views and embracing distinctive features which will lend themselves to the evolution of a design worthy of the object, not only for the present but for all time...

- *Hugh Mahon, Minister for Home Affairs, 1908*

- 2.6 Section 125 of the Constitution provided that the seat of government 'shall be in the State of New South Wales, and be distant not less than 100 miles from Sydney.'²
- 2.7 Following a period of some dispute and the consideration of many potential sites, in 1908 the Commonwealth Parliament eventually determined that the seat of government would be in the Yass-Canberra district.

1 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 27.

2 Section 125, *Commonwealth of Australia Constitution Act 1900* (Cth).

- 2.8 The then Minister for Home Affairs, the Hon Hugh Mahon MP, directed the District Surveyor, Mr Charles Scrivener, to examine the district to determine the most suitable territory for the seat of government. Mr Scrivener reported that:
- A city could be located at Canberra that would be visible on approach for many miles; streets with easy gradients would be readily designed, while prominent hills of moderate altitude present suitable sites for the principal public buildings. The capital would probably lie in an amphitheatre of hills with an outlook towards the north and north-west, well-sheltered from both southerly and westerly winds, and in the immediate vicinity of the capital there are large areas of gently undulating country...³
- 2.9 The site of Canberra was accepted and ratified by the *Seat of Government Acceptance Act 1909*.⁴
- 2.10 In 1911, an international design competition for the design of Canberra was launched. The competition attracted 137 designs. The winning design, by Chicago-based architects Walter Burley Griffin and Marion Mahony-Griffin, was announced on 23 May 1912 along with prize winners for second and third place. (Griffin's design for Canberra is described later in this chapter.)
- 2.11 The original drawings by Marion Mahony-Griffin are held in the National Archives of Australia collection.
- 2.12 Walter Burley Griffin and Marion Mahony met in Chicago at the Oak Park Studio of prominent American architect Frank Lloyd Wright. The 'living city' and 'organic' concepts promoted by Frank Lloyd Wright at the time influenced Griffin's plan, which integrated the city with the natural environment.
- 2.13 The three prize-winning entries were referred to a departmental board which prepared a new design incorporating elements of all three. This plan was approved in January 1913 and the name Canberra was unveiled at a ceremony on 12 March 1913.⁵
- 2.14 Following a change of government from Labor to Liberal in mid-1913, the departmental board was disbanded and its plan abandoned, and Griffin

3 Senate Select Committee appointed to inquire into and report upon the Development of Canberra, September 1955, *Report on the Development of Canberra*, CGP, Canberra, p. 13.

4 National Capital Development Commission, 1970, *Tomorrow's Canberra: Planning for Growth and Change*, ANU Press, p. 3.

5 National Capital Development Commission, 1970, *Tomorrow's Canberra: Planning for Growth and Change*, ANU Press, p. 6.

- was appointed as Federal Capital Director of Design and Construction to oversee the development of Canberra.
- 2.15 Little progress was made as funds were directed to the war effort and Griffin faced controversy amid a dispute with various Federal government bureaucrats. A Royal Commission was appointed in 1916 to inquire into aspects of Canberra's development and administration. The Commission found that Griffin's authority had been undermined and exonerated him of any blame.⁶
- 2.16 Griffin's contract as Director of Design and Construction expired in 1919 and was not renewed. Griffin declined an offer to serve on a new Federal Capital Advisory Committee, which was appointed in 1921.
- 2.17 The *Seat of Government (Administration) Act 1924* established the Federal Capital Commission which, in January 1925, assumed responsibility for the planning, construction and administration of Canberra. The gazettal of the 1925 Plan of Layout of the City of Canberra and its Environs – the Griffin plan with a few amendments – 'gave substance to the commitment of the Commonwealth Government to the planning and development of the national capital.'⁷
- 2.18 It was only in 1927 that the seat of government was transferred from Melbourne to Canberra, and the Federal Capital Commission set about the task of transferring Commonwealth departments to the national capital.⁸
- 2.19 The onset of the Great Depression meant that the government reduced expenditure on the capital and, in 1930, the Commission was disbanded and the development of Canberra reverted to control by a divided departmental system of administration.⁹
- 2.20 In 1938, the National Capital Planning and Development Committee was established. It operated until 1957 but was an advisory body only and lacked any executive power.
- 2.21 The period from the 1930s through to the 1950s is widely recognised as a period of stagnation in the development of Canberra. This was a period, as Dr David Headon described, when 'war, economic depression, political

6 National Archives of Australia, 2002, *A vision splendid: How the Griffins imagined Australia's Capital*, Canberra p. 23.

7 National Capital Authority, *Submission 55*, p. 4.

8 Senate Select Committee appointed to inquire into and report upon the Development of Canberra, September 1955, *Report on the Development of Canberra*, CGP, Canberra, p. 13.

9 National Capital Authority, 2008, viewed 18 June 2008
<http://www.nationalcapital.gov.au/corporate/history/03_1925-1930.asp>.

expediency and a lack of cultural confidence led to the near disappearance of the Griffin Plan.’¹⁰ Karl Fischer remarked of the era :

The best that can be said about that period, and its surviving contribution to Canberra, is that it gave the trees a chance to mature, or that it did no permanent harm to the city.¹¹

The Senate Select Committee, Holford’s observations and the rise of the NCDC

2.22 By 1954, the Commonwealth Government was dissatisfied with the lack of progress in the development of Canberra, as evident from its decision to appoint a Senate Select Committee to ‘enquire into and report upon the development of Canberra in relation to the original plan and subsequent modifications, and matters incidental thereto’.¹²

2.23 Among the report’s conclusions were the observations that ‘Canberra’s development has not been worthy of a national capital’¹³ and that ‘the present form of administration is unsatisfactory for the task required of it.’¹⁴

2.24 On the progression of Griffin’s plan for the national capital, the Select Committee noted:

Little has been done to develop the main features of the Griffin plan... After 40 years of city development, the important planned areas stand out, not as monumental regions symbolizing the character of the national capital, but, more as graveyards where departed spirits await a resurrection of national pride.¹⁵

2.25 In response to the Select Committee’s report, in 1957 the government established the National Capital Development Commission (NCDC) which began operations in 1958 as ‘a comprehensive urban development

10 Dr David Headon, *Submission 8*, p. 20.

11 Australian Institute for Urban Studies (ACT Division), 1988, *Canberra: A people’s capital?*, Canberra, AIUS (ACT Division), p. 12.

12 Senate Select Committee appointed to inquire into and report upon the Development of Canberra, September 1955, *Report on the Development of Canberra*, CGP, Canberra, Terms of reference.

13 Senate Select Committee appointed to inquire into and report upon the Development of Canberra, September 1955, *Report on the Development of Canberra*, CGP, Canberra, p. 48.

14 Senate Select Committee appointed to inquire into and report upon the Development of Canberra, September 1955, *Report on the Development of Canberra*, CGP, Canberra, p. 23.

15 Senate Select Committee appointed to inquire into and report upon the Development of Canberra, September 1955, *Report on the Development of Canberra*, CGP, Canberra, p. 54.

authority charged to plan, develop, and construct Canberra as the national capital.’¹⁶

2.26 Renowned British planner Sir William Holford was commissioned by the Government to report on Canberra’s development. In his 1958 report, ‘Observations on the future development of Canberra’, Sir William recommended three objectives for the future of the national capital:

- that the Garden City concept be retained;
- that an improved traffic system needed to be developed; and
- that Canberra should be developed as a cultural centre.¹⁷

2.27 But, perhaps the most critical of the report’s recommendations was the reinstatement of the lake to ‘act as a unifying feature’. Sir William stated:

I can think of nothing more attractive or more exciting than the creation of water surfaces in the midst of the city.¹⁸

2.28 The person appointed as Commissioner of the NCDC, Sir John Overall, reflected in his personal memoir that ‘after forty years of stop-start progress on Canberra the NCDC had to be seen to be doing something, and doing it quickly.’¹⁹ And so a period of intense development and expansion begun which saw major projects including Civic Square, Kings and Commonwealth Avenue bridges, Anzac Parade and Lake Burley Griffin completed by 1965.²⁰

2.29 In 1957, the Commonwealth Parliament established a Joint Committee on the Australian Capital Territory to oversee matters related to the planning and development of the Territory.

2.30 In 1964, the NCDC identified *Areas of Special National Concern* which would later form the basis of ‘Designated Areas’ which were incorporated into the 1990 NCP. The Areas of Special National Concern comprised the central area, the Yarralumla Diplomatic Area, Lake Burley Griffin and its Foreshores, the inner hills and ridges, the main avenues and approach routes, the Molonglo River corridor and some regional open spaces.²¹

16 National Capital Development Commission, 1970, *Tomorrow’s Canberra: Planning for Growth and Change*, ANU Press, p. 6.

17 Holford W, 1958, *Observations on the future development of the Canberra, ACT, made at the request of the Commonwealth Government*, CGP, Canberra.

18 Holford W, 1958, *Observations on the future development of the Canberra, ACT, made at the request of the Commonwealth Government*, CGP, Canberra, p. 11.

19 Overall J, 1995, *Canberra: Yesterday, today and tomorrow: A personal memoir*, Federal Capital Press Australia, Canberra, p. 52.

20 National Capital Authority, *Submission 55*, p. 5.

21 Mr David Wright, *Submission 68*, p. 15.

- 2.31 In 1966, American transport consultants Alan M. Voorhees and Associates assisted the NCDC in updating its transport plan to cater for increasing population projections. This resulted in the 1970 Y-Plan (so-called because of the basic Y configuration of the new towns around the central national area) which was predicated on the reliance on the car as the primary mode of transportation and was designed to sustain long-term growth.²²
- 2.32 The Metropolitan Policy Plan/Development Plan of 1984 confirmed the basic structure of the Y-Plan and retained the basic principles of the 1970 Plan as a valid basis for guiding metropolitan growth for a population capacity up to 400 000.²³
- 2.33 The NCDC was abolished in 1989, having seen the population of Canberra grow from 40,000 to 270,000.²⁴

ACT self-government and the establishment of the National Capital Planning Authority

- 2.34 The next significant change in the planning and development of Australia's national capital occurred in 1989 when self-government was introduced for the ACT. The advent of self-government for the ACT created a dual-planning regime whereby responsibilities for the planning and development of the Territory would be shared between the Commonwealth Government and the ACT Government.
- 2.35 The *Australian Capital Territory (Planning and Land Management) Act 1988* (PALM Act) created the new provisions for planning and land management in the Territory. Under the Act, the Commonwealth created the National Capital Planning Authority (NCPA) through which it retained responsibility for planning and development related to Canberra's role as the national capital.²⁵ In 1996 the NCPA's name was changed to the National Capital Authority (NCA) in recognition of the breadth of activities being undertaken by the NCA and an increase in activity in the areas of strategic development and promotion.²⁶
- 2.36 The PALM Act also facilitated the preparation and separate administration of two separate plans – the NCP and the Territory Plan. The object of the NCP is *to ensure that Canberra and the Territory are planned*

22 Overall J, 1995, *Canberra: Yesterday, today and tomorrow: A personal memoir*, Federal Capital Press Australia, Canberra, pp. 79-81.

23 National Capital Development Commission, 1984, *Metropolitan Canberra: Policy Plan, Development Plan*, Canberra, NCDC, pp. iii-iv.

24 National Capital Authority, *Submission 55*, p. 5.

25 National Capital Authority, *Submission 55*, p. 6.

26 Senate Environment, Recreation, Communications and the Arts Legislation Committee, *Estimates Transcript*, 25 September 1996, Canberra, p. 383.

and developed in accordance with their national significance. The PALM Act states that the Territory Plan has no effect to the extent that it is inconsistent with the NCP.

- 2.37 During debate on the PALM Act in Parliament, former Senator and now Member for Fraser the Hon Bob McMullan, MP, addressed the Commonwealth Government's desire to maintain an interest in the future planning and development of Canberra:

This is one matter that is properly the business of the national Parliament, which will continue to have a significant responsibility to protect the national interest and the national capital aspects of the wonderful city of this Territory. Canberra does perform diverse functions and one of those functions is its role as the national capital. People in the ACT accept the uniqueness of that arrangement. They accept that the total planning autonomy that other States and Territories have is not appropriate in the ACT because of the peculiar national capital aspects of the city. That is as it should be. I welcome the fact that this principle is reflected in this legislation. In all the discussions that I have had with people in Canberra, the most fervent advocates of local autonomy have recognised that unique responsibility.²⁷

The NCA's *Griffin Legacy Project* (2004)

- 2.38 Thirteen years after self-government, the NCA embarked upon a major review of the Central National Area.

- 2.39 The aim of the *Griffin Legacy Project*, launched in 2002 by the NCA, was, among other things, to:

- appraise the Griffin Plan and its relevance to the planning and development of Canberra, the nation's capital, in the 21st century;
- extend the *Griffin Legacy* through a series of strategic initiatives which restore, where possible, the spirit and intent of the Griffin Plan; and
- protect the integrity of the Griffin Plan, recognising its stature as a work of both national and international significance.²⁸

- 2.40 Upon launching the project the NCA stated:

We need to be clear about what of Griffin's vision has been developed, what remains to be developed, what needs to be retained, what no longer has continuing relevance, what elements

27 Senator R. McMullan, Senate *Hansard*, 23 November 1988, p. 2602.

28 Wensing, Crocket and Howorth, *Submission 32*, Attachment A, pp. 14-15.

can change, what elements should be considered inviolate and to reignite the philosophy of innovation in Canberra's planning.²⁹

- 2.41 After two years of study, the project culminated in the release in December 2004 of *The Griffin Legacy: Canberra the nation's capital in the 21st Century* – a strategic blueprint for the development of the central national areas of Canberra. The work has been recognised through a number of awards.
- 2.42 The *Griffin Legacy* was developed with the participation and support of the ACT Government.
- 2.43 At the launch of the document, the then Minister for Local Government, Territories and Roads, the Hon Jim Lloyd MP, remarked:
- The *Griffin Legacy* is not a piece of esoteric academic research. It is a bold and ambitious plan for the nation's capital. It meets the challenges of the 21st century with a set of proposals to guide city revitalisation, to improve links to public attractions and open spaces, to enhance public waterfronts and to improve public transport.³⁰
- 2.44 The NCA also developed a model, located at the National Capital Exhibition at Regatta Point, which demonstrates how the *Griffin Legacy* seeks to transform West Basin into 'a vibrant and spacious lakeside promenade', City Hill into 'the heart of Civic' and Constitution Avenue into 'a grand boulevard'.
- 2.45 Implementation of the *Griffin Legacy* required as a starting point a series of amendments to the NCP. The NCA prepared four amendments which sought to articulate specific strategic plans for the Central National Area.³¹
- 2.46 The *Griffin Legacy* amendments were the subject of an inquiry by the committee in the 41st Parliament. That committee recommended that the amendments (which were presented to Parliament prior to the committee concluding its investigations) be disallowed so that the NCA had the opportunity to refine the amendments taking into account issues raised in the committee's report.

29 Joint Standing Committee on the National Capital and External Territories, March 2007, *Review of the Griffin Legacy Amendments*, Parliament of Australia, Canberra, p. 5.

30 Lloyd J, Minister for Local Government, Territories and Roads, *Walter Burley Griffin's New Plan Launch*, media release, Parliament House, Canberra, 8 December 2004.

31 The Central National Area includes the Parliamentary Zone and its setting; Lake Burley Griffin and Foreshores; the Australian National University; the Australian Defence Force Academy; Duntroon; Canberra Park and Canberra Airport/RAAF Base Fairbairn. Also included are the diplomatic lands at Yarralumla, O'Malley, West Deakin and Red Hill.

- 2.47 The then Government did not support the committee's recommendation and the Amendments are now incorporated in the NCP.

The significant design elements of the national capital

- 2.48 Despite some modifications to problems which could not be foreseen in Griffin's time, the key features of the Griffin design which create the character and setting for the national capital remain intact today.
- 2.49 The Griffin design (*see Figure i*) placed Capital Hill at the centre of Canberra, forming a symbol of democratic national identity. The plan integrated the existing natural terrain of the area with the design, delineating a 'Land Axis' to link what is now Capital Hill and Mount Ainslie and a 'Water Axis' extending from Black Mountain through a proposed series of lake basins to the east formed by damming the Molonglo River. A third 'Municipal Axis' (now Constitution Avenue) ran parallel to the Water Axis from City Hill to Russell Hill.
- 2.50 The Land Axis bisects a triangle which is formed by Capital Hill, City Hill and Russell Hill. Within the triangle, which encloses the symbolic heart of the city, Griffin placed the most important buildings belonging to the Government and the people.³²
- 2.51 Other key aspects of Griffin's plan include the inner hills which remain free from urban development and provide the scenic backdrop and natural setting for Canberra's urban areas; the main avenues which provide vistas to the topographic features of the city; and the formal approach routes to the Central National Area.³³
- 2.52 The NCA reflected on the enduring significant design elements of the Griffin design in its *Griffin Legacy* document:

The Griffin Plan continues to provide a model city plan generated by civic and environmental values, and a public realm drawing together the finest of historical and modern principles of city living: a vast central park, gracious boulevards, garden suburbs, cultural places, monuments and integration with nature. While the

32 National Archives of Australia, 2002, *A vision splendid: How the Griffins imagined Australia's Capital*, Canberra pp. 6-8.

33 National Capital Authority, 2004, *The Griffin Legacy: Canberra, the nation's capital in the 21st Century*, NCA, Canberra, p. 109.

original design has in the past been characterised as too ambitious, in 2004 this criticism is no longer valid.³⁴

2.53 The NCP identifies four main elements in Griffin's design for Canberra. These elements are:

- the use of **topography** as an integral design feature and as a setting;
- a **symbolic hierarchy** of land uses designed to reflect the order and functions of democratic government;
- a **geometric plan** with the central triangle formed by grand avenues terminating at Capital Hill, the symbolic centre of the nation; and
- a **system of urban centres**.³⁵

2.54 The key elements of the Griffin plan were identified as 'Areas of Special National Concern' by the NCDC in 1964. The Areas of Special National Concern later formed the basis of 'designated areas' and 'areas subject to special requirements' in the NCP, ensuring that the Commonwealth has retained responsibility for any planning and development affecting these areas. The issue of planning responsibility is discussed further in Chapter 6.

The national and international significance of Canberra

2.55 The NCA noted that Canberra's character and planning administration have 'made it a world class city with international standing.'³⁶ The stated objective of the National Capital Plan (NCP) is to ensure that 'Canberra and the Territory are planned and developed in accordance with their national significance.'

2.56 In its publication *National significance and Australia's National Capital – a perspective from Ottawa*, the National Capital Planning Authority stated that 'national significance implies recognition and appreciation by the nation':

34 National Capital Authority, 2004, *The Griffin Legacy: Canberra, the nation's capital in the 21st Century*, NCA, Canberra, p. 109.

35 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 10.

36 National Capital Authority, *Submission 55*, p. 24.

Ultimately the significance of the Capital and its components is judged by the people of Australia... and is designed in the national consciousness.³⁷

2.57 The NCP attempts to convey the concept of 'national significance' as it is presented in the object of the plan. The NCP states:

The character and setting of Canberra are unique. Many elements of the planning which has produced today's Canberra are of great practical import: they have produced a city in which the work of government and national institutions, as well as the life of its citizens, can be conducted efficiently. Of no less import are the visual elements of the plan, those which have created fitting spaces, approaches and backdrops for the institutions, symbols and ceremonies of our federal democracy, and those which create the setting for the National Capital. This achievement is the realisation of the dreams and aspirations of those charged with expressing the national interest in the first days of Federation. Almost from the time of Federation the setting of the National Capital and its structure, its beauty and its efficiency, were seen by the representatives of the people as of national significance.³⁸

2.58 Matters of national significance in the planning and development of Canberra which are articulated in the NCP include:

- The pre-eminence of the role of Canberra and the Territory as the national capital.
- Preservation and enhancement of the landscape features which give the national capital its character and setting.
- Respect for the key elements of Walter Burley Griffin's formally adopted plan for Canberra.
- Creation, preservation and enhancement of fitting sites, approaches and backdrops for national institutions and ceremonies as well as National Capital Uses.
- The development of a city which both respects environmental values and reflects national concerns with the sustainability of Australia's urban areas.³⁹

2.59 Canberra's significance on the world stage is derived from its origin as a planned national capital and 'because of its design and principles

37 Wright B, 1994, *National Significance and Australia's National Capital – A perspective from Ottawa*, National Capital Planning Authority, Canberra, p. 4.

38 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 6.

39 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 10.

embodying social, economic and environmental sustainability.’⁴⁰ The Royal Australian Institute of Architects added that:

Anyone who walks or drives along Anzac Parade, connecting parliament with the War Memorial, or oversees from Mount Ainslie not only the city but the natural setting and unique landscape of the area feels and, in some way, understands that these works define Australia and the commitment of all Australians to a fair and democratic society.⁴¹

2.60 The international significance of Canberra is such that some groups, including the National Trust of Australia, believe that as Canberra approaches its centenary, there is cause for a debate on whether Canberra should be considered for nomination for World Heritage listing. The Trust told the committee that the World Heritage values and significance of Canberra would need to be articulated and defined before it gets to the stage of being nominated, but the Trust acknowledged that it is eager to advance debate on the issue.⁴²

2.61 A recent opinion piece in *The Canberra Times* by Professor Ken Taylor spoke about the rising international interest in planned cities, including capitals. Professor Taylor wrote:

This has found an outlet in representative examples accorded World Heritage listing. Brasilia (1987), the White City of Tel Aviv (2003), Le Havre (2005), with Chandigarh (India) placed on the Tentative World Heritage list in 2006 pending full inscription.

... As we approach Canberra’s centenary is it not timely to look at Canberra's absence from this list of cities recognised internationally as outstanding planning achievements?⁴³

2.62 Dr David Headon also spoke in favour of raising debate on the issue:

...even if Canberra were to have the debate and then finally decide it was not for us, the fact is that between now and at least 2013 it is going to raise the bar to where we want it. So we are having the kinds of discussions we should be having.⁴⁴

40 Royal Australian Institute of Architects, Mr A. Tzannes, *Transcript T1*, pp. 68-69.

41 Royal Australian Institute of Architects, Mr A. Tzannes, *Transcript T1*, pp. 68-69.

42 National Trust of Australia – ACT Division, Mr Eric Martin, *Transcript T3*, p. 52.

43 Professor Ken Taylor, ‘Think outside the triangle’, *The Canberra Times*, 14 April 2008, p. 9.

44 Dr David Headon, *Transcript T7*, p. 6.

Conclusions

- 2.63 The Commonwealth has a genuine interest and responsibility for its custodianship of the national capital.
- 2.64 The committee recognises that the particular challenges presented by self-government mean that a dual planning system was a feature of the negotiated split between planning functions at that time.

Recommendation 1

- 2.65 **That the Commonwealth Government affirm its direct and enduring commitment to the future of Canberra as a planned national capital on behalf of all Australians.**

The role of the NCA

Introduction

3.1 This chapter provides a brief overview of the structure and functions of the National Capital Authority (NCA) today to provide an accurate context for this report. Information in this chapter is sourced primarily from the NCA or from the *Australian Capital Territory (Planning and Land Management) Act 1988* (the PALM Act). Some of the NCA's functions – in particular the NCA's planning and promotional functions – are addressed in further detail in subsequent chapters. Hence this chapter does not delve into the question of whether any of these functions should be expanded or diluted.

Structure of the NCA

3.2 The NCA consists of the Chairperson and four other members, one of whom is the full-time Chief Executive. Each member is appointed by the Commonwealth. The Chief Executive manages the affairs of the NCA under the general direction of the board.¹

3.3 The NCA is supported by a team of persons across multiple disciplines employed under the *Public Service Act 1999*. The NCA delegates its powers to appropriate professionals employed in the agency and engages consultants as necessary.²

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

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

- 3.4 The NCA has recently been required by the Commonwealth Government to absorb a 35 per cent reduction of its former budget (this is examined in more detail in Chapter 4), which has led to a reduction in 38 positions from its staff, most of whom have now left the NCA. The classification structure as at 9 May 2008 is shown in Table 3.1 below, although Portfolio Budget Statements for the NCA indicate that staff numbers will be further reduced to 51 people.

Table 3.1 2007-08 National Capital Authority Classification Structure (as at 9 May 2008)

Classification	No.
Chief Executive	1
SES Band 1	5
EL 2	7
EL 1	8
APS 6	12
APS 5	6
APS 4	6
APS 3	4
APS 1/2	11
Total Staff	60

Source: National Capital Authority, Submission 55.10.

- 3.5 Most of the national assets in the capital managed by the NCA are maintained under competitively tendered contracts.

Statutory functions

- 3.6 The statutory functions of the NCA are set out in section 6 of the PALM Act. They are:
- to prepare and administer a National Capital Plan (NCP);
 - to keep the Plan under constant review and to propose amendments to it when necessary;
 - 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;
 - to recommend to the Minister the carrying out of works that it considers desirable to maintain or enhance the character of the national capital;

- to foster an awareness of Canberra as the national capital;
 - with the approval of the Minister, to perform planning services for any person or body, whether within Australia or overseas; and
 - 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.³
- 3.7 Subject to the PALM Act, the NCA has power to do 'all things necessary or convenient to be done for or in connection with the performance of its functions.'⁴
- 3.8 Under the Act, the Minister responsible for the NCA is given a range of specific powers, including the power to give the NCA general directions in writing as to the performance of its functions.⁵
- 3.9 The NCA submitted that its statutory functions 'are the right ones to comprehensively and collectively provide a robust framework to secure the planning and development of Canberra as the national capital.'⁶
- 3.10 The suite of functions enshrined in legislation have been appropriately summarised by the NCA which describes its role as **to plan, promote, enhance and maintain** the national qualities of the capital. The following section briefly examines how the NCA carries out these functions.

Planning the national capital

- 3.11 The NCA secures the Commonwealth's ongoing interest in the planning and development of Canberra and the Territory. The national interest in Canberra is expressed in the NCP and the NCA is charged with the administration of the plan. The NCP's statutory object is *to ensure that Canberra and the Territory are planned and developed in accordance with their national significance.*⁷
- 3.12 Planning and development approval functions of the NCA include:
- reviewing the NCP, and proposing amendments to the plan;
 - providing advice on planning, urban design and development approval in accordance with the plan;

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

4 Section 8, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

5 Subsection 7 (1), *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

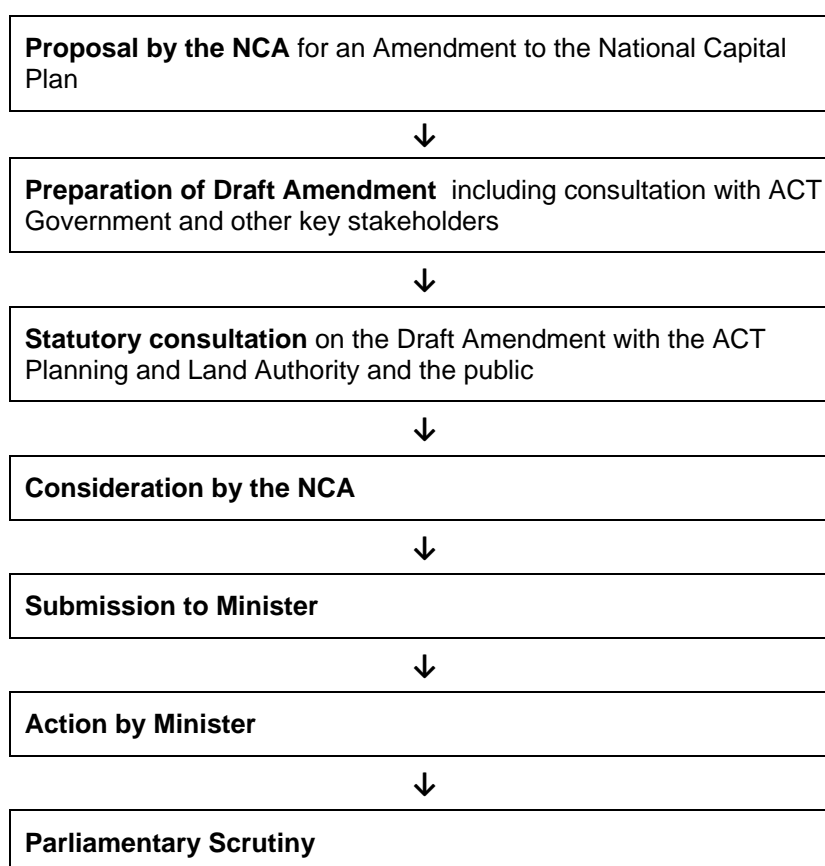
6 National Capital Authority, *Submission 55*, p. 19.

7 Section 9, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

- assessing works applications for buildings and structures, demolition, tree felling, landscaping or excavation in areas which are designated as having the special characteristics of the national capital;
- co-ordinating parliamentary approvals for works proposed within the parliamentary zone;
- preparing detailed conditions of planning design and development for sites in areas which are designated as having the special characteristics of the national capital; and
- preparing Development Control Plans for areas which have special requirements applying under the NCP.

3.13 Table 3.2 outlines the various steps required for an amendment to the NCP.

Table 3.2 Amendments to the National Capital Plan: Process Flow Chart

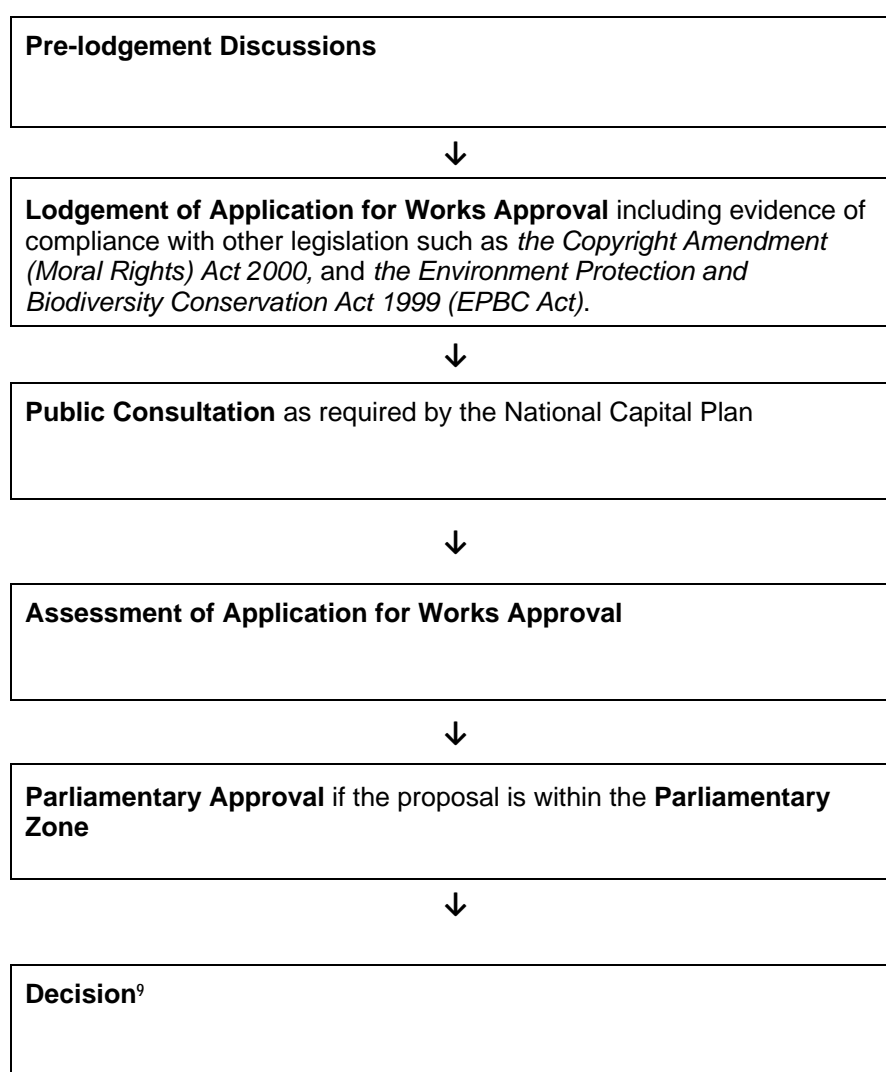


Source: National Capital Authority, Submission 55, p. 24.

3.14 The NCA is responsible for works approvals in 'Designated Areas' - areas which have been identified as having the special characteristics of the national capital. The NCA considers proposals for works in Designated Areas on the basis of relevant provisions set out in the NCP. The NCA's role is 'to assist applicants through a process of negotiation and design

development to achieve outcomes appropriate to those areas which embody the special characteristics of the national capital.⁸ Part of this process includes ensuring compliance with obligations under the *Environment Protection and Biodiversity Conservation Act 1999*. Table 3.3 below provides a flow chart describing the various steps in the works approval process.

Table 3.3 Works Approval Process: Flow Chart



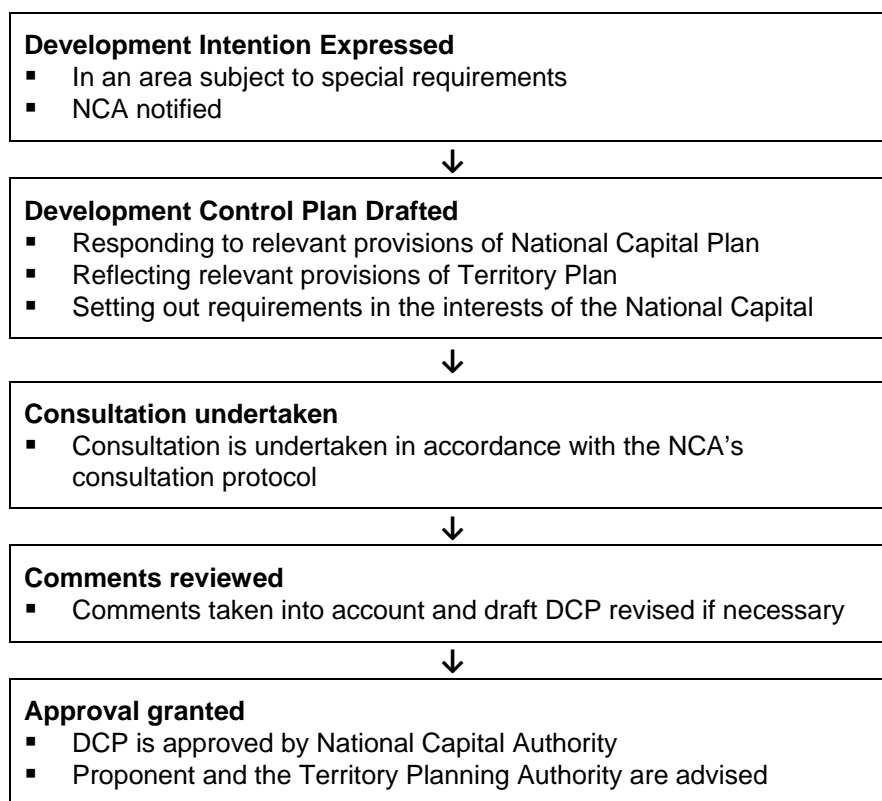
Source: National Capital Authority, Submission 55, p. 25.

3.15 Table 3.4 outlines the process through which a Development Control Plan is prepared for 'Areas Subject to Special Requirements' under the NCP.

8 National Capital Authority, viewed 18 June 2008, <<http://www.nationalcapital.gov.au>>.

9 There is the opportunity for recourse under the *Administrative Decision (Judicial Review) Act 1977* (Cth) to determine if a decision of the Authority is correctly made, or to normal common law processes.

Table 3.4 Development Control Plan Process: Flow Chart



Source: National Capital Authority website: www.nationalcapital.gov.au

Promoting the national capital

- 3.16 The NCA's role in the promotion of the national capital is set out in its statutory function to *foster an awareness of Canberra as the National Capital*.
- 3.17 The NCA maintains that its promotional role complements the activities of the Commonwealth cultural institutions and the role played by ACT Government tourism.¹⁰
- 3.18 In recent years, the NCA has contributed to a number of events in the national capital. These include *Australia Day Live* on the lawns of Parliament House; *Summer and Winter in the Capital*; VP Day and the *Tropfest* short film festival. In addition, the NCA stated that it has been proactive in encouraging acclaimed performers such as Sir Elton John and Cirque du Soleil to national venues.¹¹
- 3.19 The NCA's outreach programs include: the *National Capital Exhibition* at Regatta Point, Commonwealth Park, which tells the story of Canberra; a range of information and on-line education tools (including primary and

10 National Capital Authority, *Submission 55*, p. 62.

11 National Capital Authority, *Submission 55*, p. 12.

secondary school education kits and virtual tours of the Exhibition; the National Carillon and Blundells Cottage); guided walking tours to prominent locations within the Central National Area; and school holiday programs.

- 3.20 The NCA advised the committee that in order to meet the recent savings measures required by the Government, the NCA 'has reduced its deliverables in promotions and is concentrating on the National Exhibition, some venue marketing and on-line outreach.'¹² The NCA's promotion of the national capital is addressed in more detail in Chapter 7.

Enhancing the national capital

- 3.21 In its role of commissioning capital works for the national public areas in Canberra, the NCA seeks to ensure that 'national places continue to be created which will enrich the experience of Canberra and increase the understanding of and involvement in the capital.'¹³
- 3.22 The NCA receives a capital injection of \$1.5m to fund new public works (since July 2004) and depreciation of approximately \$10 million per annum for the replacement of assets.¹⁴
- 3.23 Works carried out by the NCA on National Land include core infrastructure and services, memorials and artworks, and the development of parks and gardens and new public places.¹⁵
- 3.24 Some significant projects undertaken by the NCA in recent years include:
- National Police Memorial (September 2006);
 - RG Menzies Walk (February 2006);
 - Australian of the Year Walk (January 2006);
 - Old Parliament House Gardens reconstruction (December 2004);
 - Women's Suffrage Commemorative Fountain (December 2004);
 - National Emergency Services Memorial (July 2004);
 - Commonwealth Place (July 2002);
 - Reconciliation Place (July 2002);
 - Magna Carta Monument (October 1997);

12 National Capital Authority, *Submission 55*, p. 12.

13 National Capital Authority, *Our Nation, Your Capital*, p. 11 viewed 18 June 2008, <http://www.nationalcapital.gov.au/downloads/publications/the_role_of_the_NCA.pdf>.

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

15 National Capital Authority, *Submission 55*, p. 10.

- Memorials on Anzac Parade; and
 - Anzac Parade street lighting, paths, seats and interpretive plaques.
- 3.25 The NCA believes that its capital works role is critical to ensuring that national public assets continue to be created, and to an appropriate standard so that they meet the expectations of users and ‘enrich the understanding and experience of the national capital.’¹⁶

Maintaining and protecting the national capital

- 3.26 Consistent with its statutory functions, the NCA develops and manages assets, including National Land declared by the responsible Commonwealth Minister to be *land required for the special purposes of Canberra as the National Capital*. Most of this land is located in the central areas of Canberra.
- 3.27 The NCA administers leases granted in respect of National Land and manages the assets which include memorials, artworks, fountains, parks and gardens, public amenities, signage, lights and other infrastructure.¹⁷ The NCA is therefore charged with maintaining and protecting some of the nation’s most significant cultural landscapes and assets. These include Lake Burley Griffin, Commonwealth and Kings Parks, Anzac Parade and its memorials, Commonwealth Place, Reconciliation Place, the National Carillon, the Captain Cook Memorial Jet and the Diplomatic Estate (comprising sites of foreign embassies and high commissions in the national capital).
- 3.28 The majority of maintenance services on National Land are contracted out by the NCA on a competitive basis.¹⁸ Lake Burley Griffin is governed by the *Lakes Ordinance 1976 (Cth)* and the NCA administers powerboats, moorings, major events, abstraction of water for irrigation and various other matters associated with the lake. Lake Burley Griffin and Scrivener Dam are managed and maintained through service delivery contracts.¹⁹

16 National Capital Authority, *Submission 55*, p. 11.

17 National Capital Authority, *Submission 55*, p. 50.

18 National Capital Authority, *Submission 55*, p. 13.

19 National Capital Authority, viewed 18 June 2008, <http://www.nationalcapital.gov.au/enhancing_and_maintaining/lake_burley_griffin/>.

Governance and administration

Introduction

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

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

Governance

Accountability and reporting: an 'unusual arrangement'

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

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

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

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

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

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

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

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

managing an organisation or advising on the management of an organisation.⁴

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

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

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

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

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

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

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

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

- 4.10 The PALM Act predates the primary governance legislation that applies to Commonwealth bodies – the FMA Act 1997 and the *Commonwealth Authorities and Companies Act 1997*. Mr Bartos made the observation that if the NCA were being set up today, it is likely that it would not be set up the way it was. He believes that the current structure is ‘not in accordance with what you might consider to be good governance’ under the FMA Act.¹⁰
- 4.11 The 2003 Uhrig review – tasked with examining the structures for good governance as well as the relationship between statutory authorities and office holders – found that the governance arrangements of statutory authorities are unclear and inadequate¹¹ and recommended the application of either an ‘executive management’ or ‘board’ template. The NCA were assessed against the Uhrig executive management template, which was seen to be the closest fit with the NCA’s operating and governance arrangements established under the PALM Act.¹²
- 4.12 One outcome of the Uhrig review was the suggestion that statutory agencies like the NCA use ‘Statements of Intent’ to respond to their Ministers and outline ‘how the authority intends to undertake its operations, and how its approach to operations will be consistent with the Statement of Expectations.’¹³
- 4.13 Accordingly, a Statement of Expectations was provided to the NCA by the then Minister for Local Government, Territories and Roads, the Hon Jim Lloyd MP, in July 2006, to which the NCA responded with a Statement of Intent in September 2006. The Attorney-General’s Department told the committee:

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

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

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

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

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

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

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

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

A new governance model

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Commonwealth commitment to excellence

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusions

Improving accountability

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

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

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

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

Stronger, more accountable, independent Board

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

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

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

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

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

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

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

National Capital Consultative Council

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

Appointment of Commonwealth Architect

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

Recommendation 2

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

Recommendation 3

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

Recommendation 4

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

Recommendation 5

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

Administration**Introduction**

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

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

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

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

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

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

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

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

* Administered program appropriation

In 2008–09 the NCA will receive appropriations of:

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

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

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

Impact of the budget reduction

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

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

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

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

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

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

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

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

We have had a discussion with the National Capital Authority and asked them to articulate to us what the number of equivalent full-time employees might be for the areas that were previously or are currently under their jurisdiction if they were to be administered by the ACT government. They indicated between three and four full-time staff, so we translate that into a recurrent budget of around \$300,000 or \$350,000.³⁸

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

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

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

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

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

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

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

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

Reversal of funding for upgrade to Constitution Avenue

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

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

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

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

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

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

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

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

Table 4.4 Breakdown of NCA budget reduction by Output

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

Source: National Capital Authority, Submission 55.3

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

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

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

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

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

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

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

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

Community views on the cuts

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

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

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

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

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

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

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

Asset management

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

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

46 Parks Forum, Submission 76, p. 1.

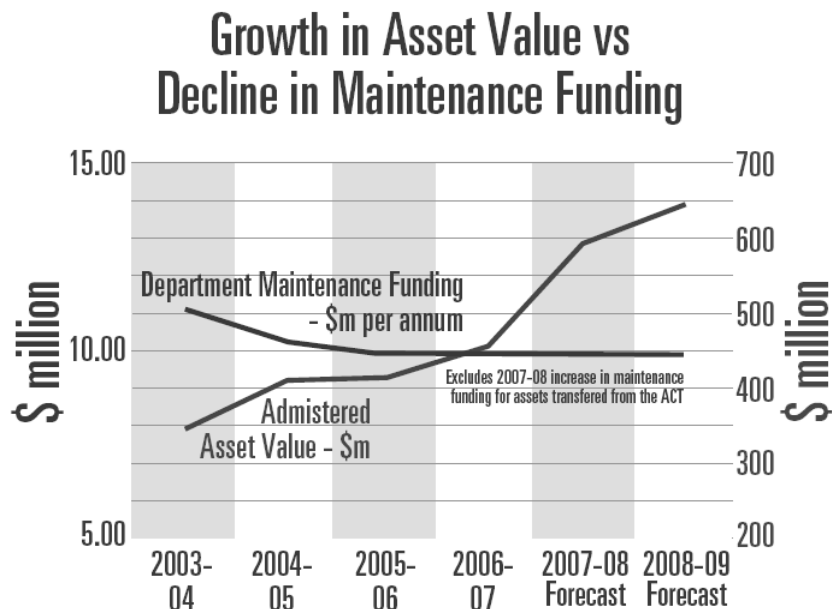
47 National Capital Authority, *Submission 55*, p. 42.

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

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

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

Figure 4.1 NCA department maintenance funding vs administered asset value



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

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

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

Case Study: Scrivener Dam and the performance audit

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

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

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

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

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

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

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

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

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

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

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

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

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

Conclusions

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

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

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

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

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

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

The NCA's consultation with the community

Introduction

- 5.1 Changes to urban design plans, in any jurisdiction, are important to the communities affected. These changes can be wide ranging or very specific. It is essential that communities are consulted about proposed changes to urban plans and their views taken into account. Often they will have an insight into the potential impact of a planning proposal that may not be appreciated by a planning authority.
- 5.2 The *Australian Capital Territory (Planning and Land Management) Act 1988* (the PALM Act) requires the National Capital Authority (NCA) to keep the National Capital Plan (NCP) under review and to propose amendments when necessary. The PALM Act also specifies that there be public consultation in relation to amendments to the NCP. In particular, it can propose Draft Amendments which can have a general or site specific outcome. In addition, the NCA is responsible for initiating Development Control Plans (DCP) and assessing development applications in certain places. These processes involve consultation with the community.
- 5.3 This chapter will examine the NCA's consultation performance and possible options for enhancing community consultation.
- 5.4 The NCA's consultation procedures for Draft Amendments, Development Approvals, Development Applications and Development Control Plans, as submitted by the NCA, are contained in Appendix D.

Consultation performance, community concerns and expectations

- 5.5 The NCA's opinion of its consultation is widely dissimilar to the views expressed by individuals publicly and through the committee's current and previous inquiries. These diverging views are examined in the following discussion.
- 5.6 In relation to the adequacy of consultation on draft amendments, the NCA stated that the 'consultation on draft amendments provides an appropriate level of engagement for any interested member of the Australian public, including the local community, in the making of the National Capital Plan.'¹
- 5.7 Submissions pointed to the difference between the NCA's assessment of its own performance in this area and the widespread dissatisfaction in the community with the quality of the NCA's public consultation.
- 5.8 Dr Jenny Stewart brought attention to the NCA's appraisal of its performance and that of the community. Dr Stewart stated:
- We have on paper at the moment quite elaborate consultative arrangements whereby the NCA is supposed to consult with the community, amongst others, about planned changes to the National Capital Plan. From their perspective – and I have looked at the NCA's submission – they do it splendidly. However, from the community's perspective they do it very badly indeed.²
- 5.9 Dr Enrico Taglietti, an eminent Canberra architect, advised that his experience at NCA workshops was a 'waste of time.'³
- 5.10 Mr David Wright, stated:
- ...what you really need is a good set of rules and regulations governing public consultation that in some ways define what people's legitimate expectations of a consultation process are so that they engage in matters that are relevant and which can be addressed in dealing with a particular issue.⁴
- 5.11 In particular, Mr Wright noted that while consensus was ideal, if you cannot achieve that 'you should at least be able to get across that people's

1 National Capital Authority, *Submission 55*, p. 36.

2 Dr Jenny Stewart, *Transcript T5*, p. 64.

3 Dr Enrico Taglietti, *Transcript T5*, p. 87.

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

views that were not incorporated were in fact taken seriously and responded to.⁵

5.12 Similarly, Dr N Keith Boardman commented that when the NCA makes a decision 'they should set out the salient features of why they made the decision and possibly why they have rejected views which were put forward by community groups.'⁶

5.13 In contrast to criticisms of the NCA's consultation, the ANU stated:

In regard to engagement with the community, the NCA has recently introduced a consultation protocol that has significantly enhanced engagement and consultation with the Canberra community. Examples of this engagement have been the Molonglo development, *Griffin Legacy*, and developments along Anzac Parade.⁷

5.14 Similarly, the Master Builders Association of the ACT stated:

We do not subscribe to the notion of NCA not consulting. In our view, NCA has clearly moved towards more publicly accountable protocols for community liaison without unnecessary and often spuriously motivated third party appeals. This seems to have provided a more acceptable form of consultation than the situation in the Territory, where third party appeals can cause, and have cause, delays for many developments, often with detrimental consequences.⁸

5.15 During hearings the NCA's perception of its consulting performance remained the same. The NCA stated:

An important component of any modern planning regime is accountability and consultation in planning and development. It has been suggested by some that there is an inadequate opportunity for consultation about planning and development by the Commonwealth, through the authority, in the central areas of Canberra. This is not so. Let me start with amendments to the plan. The process to change the National Capital Plan, which most people refer to as amendments to the plan, are fully set out in the PALM act and described in our submission. This chart summarises that process, from proposals by the authority, statutory consultation, approval by the minister and scrutiny by the

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

6 Dr Norman Boardman, *Transcript T4*, p. 56.

7 Australian National University, *Submission 35*, p. 4.

8 Master Builders Association of the ACT, *Submission 49*, p. 3.

parliament. I do not have time to enumerate all of the steps now, but we put it to you that the current statutory plan amendment process is transparent and effective and demands a high level of public engagement, ACT government involvement, accountability and scrutiny.⁹

- 5.16 The committee believes that this continued assertion of the adequacy of consultation provisions is contradicted by the evidence.
- 5.17 This is particularly so when despite such assurances, the NCA in its submission noted that one of its key achievements in the period 1989-2008 was the publication of the 2007 Consultation Protocol. It was also noted that the protocol was the subject of a commendation for social and community based planning of the Planning Institute of Australia (ACT Division).¹⁰
- 5.18 When the NCA introduced the consultation protocol, they did so acknowledging the problems it has with consultation. In 2006, prior to the implementation of the consultation protocol, the NCA commented:
- I will not get into whether or not I would agree that there have been gaps, but certainly there have been issues raised associated with consultation. In our business plan for this financial year, we are looking at establishing a consultation protocol and, as part of that, we have been looking at the kinds of consultation that exist in other jurisdictions, and also the development assessment forum recommendations in association with that. The consultation associated with amendments is statutory and appears to have worked fairly well over the years. Obviously not everybody can be happy all of the time, but they have proved to be fairly robust in relation to making amendments to the plan.¹¹
- 5.19 The committee notes that to date there has been insufficient evidence of the use and effectiveness of the consultation protocol.

9 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 31.

10 National Capital Authority, *Submission 55*, Appendix C, p. 69 and p. 73.

11 Senate Rural and Regional Affairs and Transport Legislation Committee, National Capital Authority, Ms Annabelle Pegrum, *Transcript*, 17 February 2006, p. 79.

Case Study: *Griffin Legacy* Amendments

In relation to consultation for the *Griffin Legacy* Amendments, the Chief Executive of the NCA commented that 'I still stand by the authority's position that consultation on the *Griffin Legacy* in particular was exemplary and it has been recognised as that.'¹²

The committee examined the *Griffin Legacy* Amendments and, in particular, the NCA's consultation.¹³ As part of the consultation for these Draft Amendments, the NCA was keen to publicise the number of submissions received and those supporting and those opposed to the Draft Amendments.

The majority of the submissions to the *Griffin Legacy* Draft Amendments were prepared on templates created by the NCA and made available at the public exhibition site. The templates contained three tick boxes where people could select 'I support this amendment', 'I support some of this amendment but have concerns', and 'I do not support this amendment.' Space was also provided for comments. The NCA was willing to accept templates with a simple tick and no name provided. These anonymous so-called submissions were then counted as supportive submissions for the purposes of the NCA's reporting of the percentage of supportive submissions as compared with submissions opposing the *Griffin Legacy* proposals. The NCA failed to differentiate between written submissions and these 'tick-a-box' submissions.

The committee noted at the time that these details of the methodology for consultation were initially withheld on claimed 'privacy grounds' with the NCA arguing that they had not obtained submitters permission to publish. The committee responded by obtaining the submissions in confidence and the method of compiling and reporting community feedback was exposed.

The committee will continue to take a close interest in the performance of the NCA in relation to their consultation practices and performance.

5.20 The committee as part of its 2004 inquiry into the role of the NCA also examined the NCA's record on consultation in view of the repeated complaints that the NCA has failed to engage in adequate consultation. As part of that report, the committee brought attention to consultation problems with:

- the Benjamin Office Development;
- the public artwork to celebrate the centenary of women's suffrage;

12 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 14.

13 Joint Standing Committee on the National Capital and External Territories, 2007, *Review of the Griffin Legacy Amendments*, Parliament of Australia, Canberra.

- the suffrage memorial;
- Draft Amendment 39 – Deakin/Forest Residential area;
- the proposal for pay parking in the Parliamentary Zone;¹⁴
- York Park Oaks heritage protection; and
- the proposed National Library Forecourt development.

5.21 The then committee concluded:

The issue of the consultation process employed by the NCA has been of concern to the committee for some time. Despite the committee relaying its concerns to the Authority, on the basis of complaints the committee has received, the situation does not appear to have been rectified.

...

The committee is particularly concerned that the Authority appears to consider that simply informing stakeholders of its proposal, rather than actively engaging in a two-way process, is sufficient consultation¹⁵

5.22 During 2007, Draft Amendment 53: Albert Hall brought further attention to the NCA's consultation. Draft Amendment 53 sought to develop the area to the north of Albert Hall and make significant changes to the existing traffic arrangements. Under the original proposal, Flynn Place would be removed and Commonwealth Avenue would have more 2 to 4 storey buildings, and an 8 storey building. The NCA stated:

The National Capital Authority proposes Draft Amendment 53 - Albert Hall Precinct to the National Capital Plan to set out a framework of land uses and planning and urban design principles and policies to guide future development of the Albert Hall Precinct as a mixed use and open space precinct with increased tourist activities and links to surrounding national attractions.¹⁶

5.23 The NCA conducted its first public information session at the Albert Hall on 5 March 2007. The conduct of the information session as well as the

14 Joint Standing Committee on the National Capital and External Territories, 2004, *a national capital, a place to live, Inquiry into the role of the National Capital Authority*, Parliament of Australia, Canberra, pp. 99-104.

15 Joint Standing Committee on the National Capital and External Territories, 2004, *a national capital, a place to live, Inquiry into the role of the National Capital Authority*, Parliament of Australia, Canberra, p. 105.

16 National Capital Authority, Draft Amendment 53, viewed 18 June 2008, <<http://www.nationalcapital.gov.au>>.

proposed redevelopment was met with significant criticism. The Friends of the Albert Hall stated:

When the NCA put forward its proposal for Draft Amendment 53 for development in this precinct, they announced a public consultation process, and it took place here in the Albert Hall on 3 March. That was their idea of public consultation. For those of us who were here on 3 March 2007, there were no site boards or glorious displays – as we are about to enjoy – there were not enough chairs and there was no audio system, so clearly not many people were assumed to be interested in this. It was quite an exciting event to be part of, perhaps a little bit like the citizens' rally here in the late 1920s demanding representation in the federal parliament for the ACT as taxation was paid by its citizens. The 5 March debacle was followed by another attempt to have something that they could refer to as a community consultation process, which took place at Regatta Point and which was much more like we are about to witness here.

I have to say, that is a very unsatisfactory mode of proceeding and a very unsatisfactory assumption about what constitutes public consultation. Public consultation, as we have said in our submission, is not red tape, it is not a complication; it is the very lifeblood of processes of democratic government, including planning processes.¹⁷

5.24 Dr David Headon noted similar concerns about the NCA's consultation record. Dr Headon stated:

The first two public meetings convened by the NCA on the Albert Hall will not be forgotten in a hurry. The organisation appeared to be ill prepared, arrogant and dismissive.¹⁸

5.25 The NCA acknowledged that there were some concerns with the consultation. The NCA stated:

At the time of the proposal, we did call a public meeting. I heard the comments about that meeting and I accept the criticism that there was insufficient material available here, but I do not accept the criticism that our officers behaved improperly. In fact, I had to deal with officers who felt they were harassed and bullied at that public consultation meeting and with the facilitator that we had

17 Friends of the Albert Hall, Dr Lenore Coltheart, *Transcript T1*, p. 18.

18 Dr David Headon, *Submission 8*, p. 10.

here, who found it almost impossible to even stand up and have his voice heard.¹⁹

- 5.26 Mr David Wright commented that the NCA responded positively to community comment about preserving the cultural and heritage values of the building. Mr Wright stated

The proposals set out in Draft Amendment 53 took the proposals set out in *The Griffin Legacy* to its next level of detail and this generated considerable opposition from people concerned that the proposals in some way diminished the historic, cultural and heritage values associated with the Albert Hall. The Authority responded positively to these concerns by making significant changes to the proposals they first exhibited.²⁰

- 5.27 The NCA argued that it took into account community views and committed to more community consultation when it became obvious that there was significant community concern. The NCA stated:

Having heard the critique of the draft amendment, we did exactly what we are supposed to do, which is to continue to consult and commit to more consultation on the issues that people were raising – namely, transport issues, heritage issues and general urban design. We committed to workshops; we committed to additional work.²¹

Case Study: Albert Hall Precinct

On 2 April 2007 the NCA announced revisions to Draft Amendment 53. Specifically, the NCA agreed not to proceed with the 25-metre high landmark building north of Albert Hall, 'and to ensure primary users will not be commercial and to consider as an alternative the benefits or otherwise of providing for future low-scale public buildings, such as a performing arts centre or concert hall with ancillary users.'²²

In addition, the NCA 'agreed to conduct a series of special community and professional workshops on heritage, traffic, and urban design and on any other significant matters identified in the submissions on Albert Hall received by the close of public consultation on 4 May 2007 and prior to finalisation of the Draft Amendment for consideration by the Minister.'²³

19 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 49.

20 Mr David Wright, *Submission 68.3*, p. 7.

21 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 49.

22 National Capital Authority, Special Authority Meeting, *minutes SA2007*, 1 and 2 April.

23 National Capital Authority, Special Authority Meeting, *minutes SA2007*, 1 and 2 April.

At an NCA board meeting on 22 May 2008, the board:

Agreed that because significant changes have been made to the draft amendment to date (and that there may be further revisions after the NCA has conducted the community and professional workshops and concluded discussions with the ACT Government) Draft Amendment 53 would be re-released for a further period of public consultation. This re-release will follow the workshops to be conducted in the near future.²⁴

The handling of Draft Amendment 53 by the NCA resulted in extensive community criticism.

The committee is also aware that there was very little comprehension of the changes possible arising out of the Parliamentary Zone Review and notes that once this detail became public, it attracted criticism from the public. The Friends of the Albert Hall Inc. commented:

The friends was formed as a direct result of the failure of the National Capital Authority's planning in this precinct. We arose directly out of intense and widespread community anger about Draft Amendment 53 to the National Capital Plan. We reflect the views of the 3,364 people who were so outraged about Draft Amendment 53 that they signed a community petition calling for it to be withdrawn. This petition was lodged in the federal parliament. The intention of Draft Amendment 53 was to allow for massed commercial development in the precinct. It would have effectively allowed the absorption of Albert Hall by the adjoining international hotel. The elements of the original Draft Amendment 53 would have seriously damaged the heritage precinct, led to the loss to the Canberra community of a much-loved municipal facility with an 80-year history, damaged significant national listers, removed green spaces and produced major traffic complications for all travellers along a key transport route.²⁵

Perhaps the NCA's insistence in its approach notwithstanding significant community concern illustrates the organisation's failure to comprehend the importance of informed public consultation and the process that underpins that engagement.

Therefore, the committee proposes that Draft Amendment 53, Albert Hall Precinct, not proceed and that proposed changes to traffic conditions south of the Lake on Commonwealth Avenue bridge also not proceed.

24 National Capital Authority, 2007, 'Albert Hall: NCA Listens Draft Amendment-53', 22 May, viewed 18 June 2008, <<http://www.nationalcapital.gov.au>>.

25 Friends of the Albert Hall Inc., Dr Lenore Coltheart, *Transcript T1*, p. 14.

Case Study: Mr Spokes Bike Hire

The evidence received from Mr Spokes Bike Hire owners Mr Martin Shanahan and Ms Gillian Edwards about the ongoing complex problems they have experienced in the dealings with the NCA is an example of the frustration experienced by a local business in the central national area of Canberra.

Mr Spokes Bike Hire operates its business in the West Basin precinct and many of its clients ride around the central basin of the lake. The business is clearly one which operates around Lake Burley Griffin as well as the Parliamentary Triangle and West Basin.

The owners of Mr Spokes Bike Hire gave evidence that they have needed to be assertive and proactive in their efforts to secure consultation from the NCA. Their representations have related to two concerns: Draft Amendment 61 for the West Basin (One of the *Griffin Legacy* group of amendments) and, subsequently, the Commonwealth Place Kiosk expression of interest (EOI) process.

In September 2006, the owners of this operating business were ignored in the original round of public consultation by the NCA for Draft Amendment 61. It transpired that the NCA had deemed the business as one, which did 'not provide a service that utilised the lake' and therefore did not fit within the gambit of responsibility held by the NCA for consultation. This is despite the business being party to the NCA's Lake Users Consultation Group.

The owners offered the following time line of events to explain to the committee what they had endured:

- In September 2006, a meeting was held with the Managing Director, Planning and Urban Design, NCA to discuss the West Basin Development and its impact on Mr Spokes Bike Hire which resulted in email correspondence documenting the outcomes, inclusive of a general understanding that options would be explored to accommodate Mr Spokes Bike Hire in the event of the development proceeding.
- That subsequent correspondence of September 2007 from the Chief Executive of the NCA renounced any implied commitment that resulted from these discussions, declaring that the issues impacting on Mr Spokes Bike Hire were primarily a matter for the ACT Government.
- Despite the NCA holding this view, it is understood that if the owners of Mr Spokes Bike Hire were to make changes or amendments to their operation, in addition to consulting the ACT Government under their lease provisions, they would still ultimately need to seek permission from the NCA.

The owners of Mr Spokes Bike Hire and other West Basin businesses hold the view that the NCA has not acted in good faith, nor in the broader interests of the community in its approach to these discussions.²⁶

In relation to the EOI process in pursuit of securing businesses for the kiosks, their particular complaint is the NCA's failing to take into account the impact on existing businesses that are already providing similar or complimentary services in the lake precinct, and failing to provide a genuine opportunity to participate in the EOI.²⁷

The committee notes the apparent failure of the NCA to determine what type of service(s) the community would need or benefit from in order to meet the NCA's objective to 'enliven' the Parliamentary Triangle/Foreshore precinct, prior to entering into a public EOI process.²⁸

The committee recognises that owners of Mr Spokes Bike Hire have made representations to the NCA, local Members and Senators, former and current Ministers, with a view to gaining a fairer outcome from the process.

Further, this has been pursued with a view to finding alternative options, pursuant to original commitments dating back to September 2006. It is understood that the NCA was requested to return to the discussions with a view to finding options in early 2008. To date no solution or options have been tendered by the NCA, with the NCA resolved that it has done all it can and/or is obliged to in accordance with its legislative responsibilities.

The committee suggests that the NCA undertake immediate consultation with the operators of Spokes Bike Hire to find a resolution to the outstanding complaints.

ACT planning consultation and the DAF model

5.28 The ACT Government reported that it has introduced the Development Assessment Forum's (DAF) leading practice model for development assessment, which responds to the Council of Australian Governments (COAG) national reform agenda.²⁹ The DAF model proposes:

26 Spokes Bike Hire, *Submission 31*, p. 3; Spokes Bike Hire, Ms Jillian Edwards, *Transcript T2*, p. 77; Canberra Region Tourism Operators Association, *Submission 30*.

27 Spokes Bike Hire, *Submission 31*, p. 2.

28 Spokes Bike Hire, *Submission 31*, p. 2.

29 ACT Government, *Submission 69*, p. 3.

- ten leading practices that a development assessment system should exhibit. These practices articulate ways in which a system can demonstrate that it is efficient and fit for purpose; and
- six tracks that apply the ten leading practices to a range of assessment processes. The tracks are designed to ensure that, at the time it is made, an application is streamed into the most appropriate assessment pathway.³⁰

5.29 The ten leading practices proposed by DAF are:

Table 5.1 Ten leading planning practices proposed by the DAF model

1 Effective policy development	Elected representatives should be responsible for the development of planning policies. This should be achieved through effective consultation with the community, professional officers and relevant experts.
2 Objective rules and tests	Development assessment requirements and criteria should be written as objective rules and tests that are clearly linked to stated policy intentions. Where such rules and tests are not possible, specific policy objectives and decision guidelines should be provided.
3 Built-in improvement mechanisms	Each jurisdiction should systematically and actively review its policies and objective rules and tests to ensure that they remain relevant, effective, efficiently administered, and consistent across the jurisdiction.
4 Track-based assessment	Development applications should be streamed into an assessment 'track' that corresponds with the level of assessment required to make an appropriately informed decision. The criteria and content for each track is standard. Adoption of any track is optional in any jurisdiction, but it should remain consistent with the model if used.

30 Development Assessment Forum 2005, *A Leading Practice Model for Development Assessment in Australia*, DAF, p. 1, viewed on 18 June 2008, <http://www.daf.gov.au/reports_documents/leading_practice.aspx>.

5 A single point of assessment	<p>Only one body should assess an application, using consistent policy and objective rules and tests.</p> <p>Referrals should be limited only to those agencies with a statutory role relevant to the application. Referral should be for advice only. A referral authority should only be able to give direction where this avoids the need for a separate approval process.</p> <p>Referral agencies should specify their requirements in advance and comply with clear response times.</p>
6 Notification	<p>Where assessment involves evaluating a proposal against competing policy objectives, opportunities for third-party involvement may be provided.</p>
7 Private sector involvement	<p>Private sector experts should have a role in development assessment, particularly in:</p> <ul style="list-style-type: none"> • Undertaking pre-lodgement certification of applications to improve the quality of applications. • Providing expert advice to applicants and decision makers. • Certifying compliance where the objective rules and tests are clear and essentially technical. • Making decisions under delegation.
8 Professional determination for most applications	<p>Most development applications should be assessed and determined by professional staff or private sector experts. For those that are not, either:</p> <p>Option A – Local government may delegate Draft Amendment determination power while retaining the ability to call-in any application for determination by council.</p> <p>Option B – An expert panel determines the application.</p> <p>Ministers may have call-in powers for applications of state or territory significance provided criteria are documented and known in advance.</p>
9 Applicant appeals	<p>An applicant should be able to seek a review of a discretionary decision.</p> <p>A review of a decision should only be against the same policies and objective rules and tests as the first assessment.</p>

10 Third-party appeals

Opportunities for third-party appeals should not be provided where applications are wholly assessed against objective rules and tests.

Opportunities for third-party appeals may be provided in limited other cases.

Where provided a review of a decision should only be against the same policies and objective rules and tests as the first assessment.³¹

- 5.30 In August 2005, the Local Government and Planning Ministers' Council recognised the DAF model. The Council 'agreed that the model was an important reference for individual jurisdictions in advancing reform of development assessment and acknowledged the work of the Development Assessment Forum.' In addition, the Council 'noted that the Australian Capital Territory has already announced it will adopt most of the model in its new planning legislation.'³² The DAF stated:

The DAF leading practice model is a toolkit that can be adapted and adopted by jurisdictions to suit their specific needs. Application of the model in each jurisdiction will result, over time, in the increased harmonisation of systems across Australia.

Development assessment should not operate in isolation but within a framework of good planning policy. To be efficient, assessment must operate in conjunction with effective policy development. DAF emphasises that any review or implementation of a new development assessment process must include the formulation of strategic and statutory planning policies that meet community expectations.³³

- 5.31 The advantages of the DAF model and its relevance to NCA planning and development approval were examined as part of the inquiry. The Law Society of the ACT noted the value of the DAF model and commented that 'there are elements in the model that can be considered by the NCA'.³⁴
- 5.32 The Royal Australian Institute of Architects (RAIA) noted that 'under the DAF model, the role of community consultation in the development

31 Development Assessment Forum 2005, *A Leading Practice Model for Development Assessment in Australia*, DAF, pp. 2-3, viewed on 18 June 2008, <http://www.daf.gov.au/reports_documents/leading_practice.aspx>.

32 Local Government and Planning Ministers' Council, 'Communiqué', 4 August 2005.

33 Development Assessment Forum 2005, *A Leading Practice Model for Development Assessment in Australia*, DAF, p. 2, viewed on 18 June 2008, <http://www.daf.gov.au/reports_documents/leading_practice.aspx>.

34 Law Society of the ACT, Mr Chris Wheeler, *Transcript T2*, p. 63.

assessment process is to address aspects of projects where competing policy objectives require resolution.³⁵

- 5.33 The Planning Institute of Australia discussed the key processes and outcomes of the DAF model:

It is a system that basically streamlines development applications into what are called 'tracks'. The most complex development applications get the most complex assessment process, and the simplest get the simplest development assessment process. In some instances you can say there are some 'as of right' developments or there are some developments that should be treated quickly, efficiently, in accordance with a code. What the ACT government have done is to put into effect that tracking system with their new Territory Plan. It comes back to dealing with simple development applications quickly and efficiently in accordance with the code but making more difficult and complex development assessments able to be either considered in accordance with the code or given a more difficult and therefore slightly longer merit assessment.³⁶

- 5.34 The NCA noted that the new Territory Plan embraces the DAF model, and concluded that 'we support the implementation of the DAF leading practice model.'³⁷
- 5.35 A range of organisations also endorsed the DAF model. The committee notes the uptake of the DAF model but at this early stage will wait for further advice about its effectiveness.
- 5.36 The committee notes that the DAF model weights the community consultation towards the beginning of the process, where policies are set for geographically defined areas. The DAF model limits appeals unless certain actions have been taken earlier in the process.
- 5.37 The committee also notes that while the DAF model is now recognised as best practice, if it is adopted by the NCA, the process of developing and approving draft amendments will still require scrutiny through this committee.
- 5.38 The committee believes that the application of the DAF model to the NCA's consultation processes may be a positive step.

35 Royal Australian Institute of Architects, Mr David Flannery, *Transcript T1*, p. 73.

36 Planning Institute of Australia, Ms Sue Holliday, *Transcript T3*, p. 23.

37 National Capital Authority, Mr Todd Rohl, *Transcript T5*, p. 18.

The role of the committee

- 5.39 The committee has a history of scrutinising and reporting on draft amendments to the NCP but there is no legislative basis for this process. Previously, the Minister of the day has advised the committee of receipt of a draft amendment from the NCA which is subject to Ministerial approval and tabling in the Parliament. When the amendments are tabled in the Parliament they are subject to a 15 sitting day disallowance period.
- 5.40 The Minister may ask the committee if it wishes to conduct an inquiry into the draft amendment before Ministerial approval occurs, and in most cases before it is tabled in Parliament. This course of action is at the discretion of the Minister. In addition, there are no protocols on the length of time the committee may take to conduct an inquiry.
- 5.41 The treatment of the *Griffin Legacy* amendments highlights some of the problems that can occur with this process. The amendments were tabled in the Parliament in December 2006 and subject to a disallowance period that would expire in March 2007. The time pressures placed on the committee were significant. The committee conducted a roundtable forum on 23 February 2007 and was just able to report before the end of the disallowance period. These amendments were complex and were the subject of significant public interest.
- 5.42 The question of whether referral of a draft amendment to the committee for inquiry should be discretionary or compulsory was examined. Mr David Wright stated:
- I agree with a proposition ... that rather than the Minister having the discretion to refer a draft amendment to the joint standing committee there should be a compulsory referral. Whether the committee then chooses to inquire is up to the committee. I think that would provide a new level of assurance about the openness of the system.³⁸
- 5.43 Proposed works by the Commonwealth in the Parliamentary Zone may be referred to the committee by either House of Parliament, the Minister or the President of the Senate and the Speaker of the House of Representatives to inquire and report. These types of inquiries are rare. The last inquiry of this nature was into the King George V Memorial in May 1995.
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- 5.44 It should be noted that the Parliamentary Standing Committee on Public Works is precluded under section 5AA (1) of the *Public Works Committee Act 1969* from scrutinising works in the Parliamentary Zone.
- 5.45 The practice in recent times has been for the Minister to offer the committee a briefing from the NCA on a proposed work. Later the Minister then tables notice of the work in both Houses of Parliament and usually cites that the committee has been briefed. These briefings **do not constitute approval** by the committee of the work.

Conclusions

- 5.46 The NCA's record on consultation is generally poor. Individuals and community groups have expressed concern that the NCA is inflexible and fails to even address the concerns raised through its community consultation processes. These criticisms are juxtaposed against the NCA's own appraisal of its consultation record where on several occasions during the current inquiry it suggested that its consultation was 'exemplary.'
- 5.47 This divergence of views between what the NCA perceives and what some community groups perceive about the consultation process is a serious issue that must be addressed. The committee urges the NCA to apply continuous improvement to its consultation process.
- 5.48 It was often the case that people who criticised the NCA's consultation process understood that individual views could not always be incorporated into a planning proposal. However, there was a strong view that in any consultation, community views, whatever their quality, should be acknowledged and reasons given for why they are not being used.
- 5.49 The relevant legislative provisions and the new consultation protocol seem to provide a sound structure for consultation. There is a legislative requirement for consultation in relation to draft amendments. In addition, the consultation protocol outlines the framework of consultation relating to draft amendments, development approval, development applications and development control plans. The protocol, in particular, sets out the timeframes required for various approval processes. The committee will follow with interest the level of compliance by the NCA with its consultation protocol.
- 5.50 There is a more fundamental issue here. The NCA is an advocate for its own development proposals creating a disincentive for acknowledging criticism and perhaps contributing to poor consultation processes. This

effect may be mitigated by the committee's extensive scrutiny of the NCA's consultation processes.

- 5.51 To enhance compliance, consideration should be given to inserting the consultation protocol into the NCP.
- 5.52 The committee has in the past inquired into draft amendments. These inquiries tend to focus on the processes used by the NCA and the community impact. This is a constructive and important part on increasing accountability for adherence to consultation requirements.
- 5.53 Currently, there is no automatic referral of draft amendments to the committee. Where draft amendments have been referred to the committee the Minister usually waits until the committee has reported before deciding to table the amendments.
- 5.54 Some groups have proposed and the committee agrees that there should be an automatic referral of draft amendments to the committee for any inquiry it may wish to make prior to the amendments being tabled in the Parliament. The committee should be required to undertake the inquiries as efficiently as possible, and certainly within three months. It should be noted that some amendments may be of a less significant nature and may not need a committee inquiry. The committee would make this decision.
- 5.55 In addition, all proposed works in the Parliamentary Zone, not of a de minimus nature, should be referred to the committee for its consideration. These works should be subject to scrutiny by the committee.
- 5.56 The committee believes dramatic improvements in the NCA's handling of consultation will be required to restore public confidence in the capacity of the organisation to perform its duties. In this regard, the committee will be keeping a close watching brief on all matters relating to consultation by the NCA.
- 5.57 As part of the effort to restore public confidence the committee has urged specific action in relation to the failure in consultation processes in relation to both the Albert Hall and the situation facing local business, Mr Spokes Bike Hire.

Recommendation 6

- 5.58 That the *Australian Capital Territory (Planning and Land Management) Act 1988* be amended to require all draft amendments to the National Capital Plan and all proposed works (with the exception of de-minimus works) in the Parliamentary Zone to be referred to the Joint Standing Committee on the National Capital and External Territories for its consideration and report, if necessary, within three months.

Recommendation 7

- 5.59 In the interest of improving uniformity between the two planning systems, the Development Assessment Forum model should be assessed by the National Capital Authority for its relevance and application to the National Capital Plan and a report provided to the Joint Standing Committee and Minister within three months from the date of the Government Response to this report.

Securing our heritage

Introduction

- 6.1 The committee is aware of several disputes between heritage advocates and the National Capital Authority (NCA) over the years. Examples include the York Park Oaks and the National Library forecourt. In these cases, the quality of the oversight by the NCA to ensure compliance with heritage protection by the lead department in the proposed development was challenged.
- 6.2 In more recent times, the Albert Hall debacle stands out as a clear example of the complexities associated with heritage protection in areas where the NCA has jurisdiction.
- 6.3 The passions ignited when the heritage of such a profound example of Canberra's civic history was scrutinised led to the formation of a friends group.
- 6.4 The committee believes that Canberra's status as the national capital places an extremely high priority on heritage protection in all areas of Canberra, but perhaps nowhere more so than areas identified as having national significance. Ironically, it is these areas that the processes and guidelines are at best unclear and, at worst, lacking completely.
- 6.5 This Chapter analyses the situation and offers some remedies.

Background

- 6.6 The National Capital Plan (NCP) provides that ‘the Territory’s natural and cultural heritage should be identified, preserved, protected and conserved in accordance with internationally accepted principles, and in order to enhance the character of Canberra and the Territory as the National Capital.’¹
- 6.7 This Chapter outlines the adequacy of NCA control, protection and consultation relating to protection for places with heritage values on Territory Land in Designated Areas.
- 6.8 The ACT Heritage Council stated:

The mechanisms adopted by the NCA to protect heritage places in designated areas are not robust, transparent or comprehensive and they do not guarantee the identification and conservation of the heritage values of the ACT.

While the National Capital Plan requires the NCA to give due protection to any natural or cultural heritage places in the ACT included in the Register of the National Estate or the ACT Heritage Register, there is no transparent mechanism for carrying out that function, there is no guarantee of the provision of professional heritage advice in the NCA’s decision-making processes and there is no obligation placed on owners of heritage places in territory land within designated areas to protect or conserve the heritage values of those places.²

The heritage legislation ‘gap’

- 6.9 The *Environment Protection and Biodiversity Conservation Act 1999* protects all registered heritage places in Canberra. There are 4 national heritage places, 44 Commonwealth heritage places and 55 heritage places listed on the Register of the National Estate (the Register).

1 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 130.

2 ACT Heritage Council, Dr Michael Pearson, *Transcript T3*, p. 30.

- 6.10 The *Heritage Act 2004* (ACT) protects heritage places under Territory management. The *Heritage Act* establishes the ACT Heritage Council (the Council), which is primarily responsible for ‘identifying, assessing, conserving and promoting places and objects in the ACT with natural and cultural heritage significance, including Aboriginal places and objects.’ The Council is advisory and liaises with the NCA about heritage issues.³
- 6.11 The committee is aware of serious flaws in the heritage protection in certain areas in the national capital and understands that many of the problems are a product of amendments by the previous Government to the heritage laws in the Commonwealth’s *Environment Protection and Biodiversity Conservation Act 1999*.
- 6.12 The ACT Heritage Council outlined their concerns in their submission in this way:
- There is considerable confusion, duplication of effort, and unnecessarily complicated division of responsibilities between the NCA and the Heritage Council in the field of heritage identification and management embedded in the National Capital Plan (NCP). The Heritage Council’s view is that the heritage of the ACT is often put at risk because of these problems. The specific area where confusion abounds is in the Designated Areas.⁴
- 6.13 The *Heritage Act 2004* (ACT) is enacted by the ACT Legislative Assembly and has no statutory effect on Territory Land within Designated Areas. This shortcoming is an identified ‘gap’ in heritage protection for Canberra. The National Trust ACT had this to say:
- There are problems with the current structure in that heritage places on NCA controlled land which have no Commonwealth interest are not protected by the EPBC Act and not protected by the ACT Heritage Act. This is clearly untenable and needs to be rectified. There needs to be some legal and /or administrative arrangement implemented between Territory/Federal Authorities to correct this anomaly.⁵

3 ACT Heritage Council, *Submission 34*, p. 1.

4 ACT Heritage Council, *Submission 34*, p. 1.

5 ACT Heritage Council, *Submission 34*, p. 1.

- 6.14 In relation to the Albert Hall issue, the Walter Burley Griffin Society also commented on the gap in encompassing protective legislation for heritage:

Its heritage significance is effectively in limbo because it is not on the Commonwealth list... and its heritage status is entirely dependent upon analysis by the NCA.⁶

- 6.15 The NCA also commented on the 'gap' in regard to heritage:

The authority does recognise that there has been confusion related to heritage places on territory land that are in the current designated areas, such as the Albert Hall. This confusion derives from the overlap – or should I say lack of it – of ACT and Commonwealth heritage legislation, asset management and development approval.⁷

- 6.16 The committee believes that this 'gap' needs to be rectified as part of general planning reforms to ensure that a suitable level of heritage protection is applied, maintained and updated as necessary.

The NCA's role in heritage protection

- 6.17 The NCP provides that 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.⁸

- 6.18 The NCP provides for management of heritage places through conservation management plans, which are based on the principles of the Australia ICOMOS⁹ Guidelines for the Conservation of Places of Cultural Significance (The Burra Charter).¹⁰ Planning policies and

6 Walter Burley Griffin Society, Professor James Weirick, *Transcript T1*, pp. 8-9.

7 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 33.

8 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 130.

9 International Council on Monuments and Sites (ICOMOS) formed in Moscow 1979 is an international body, which administers the treaty on the International Charter for the Conservation and Restoration of Monuments and Sites adopted by Australia in Burra Burra on 19 August 1979. Peter Marquis Kyle Conservation Architect, viewed 18 June 2008, <<http://www.marquis-kyle.com.au/burra88.htm>>.

10 The Burra Charter (so called because it was adopted in Burra, South Australia), provides guidance for the conservation and management of places of cultural significance (cultural heritage places), and is based on the knowledge and experience of Australia's ICOMOS members., viewed 18 June 2008, <<http://www.icomos.org>>.

applications for development are required to adhere to conservation management plan (CMP) requirements.

- 6.19 The committee notes that the only protection for heritage places on Territory Land in Designated Areas is through the NCP. Only the NCA is empowered with planning approval in those areas.

The provisions of the ACT Heritage Act have no statutory effect in Designated Areas. While the NCP requires the NCA to give 'due protection' to any natural or cultural heritage places in the ACT included in the Register of the National Estate (RNE) and/or the ACT Heritage Register, there is no transparent mechanism for that carrying out that function, no guarantee of the provision of professional heritage advice in the NCA's decision making, and no obligation placed on owners of heritage places on Territory Land within Designated Areas to protect and conserve the heritage values of those places.¹¹

- 6.20 The ACT Heritage Council advised that CMPs designed to protect heritage places are not sufficient and only partially provide for best practice management heritage planning in Australia. The ACT Heritage Council stated:

The NCA believes that the preparation of conservation management plans, or CMPs, for RNE – the Register of the National Estate – and ACT heritage listed places in the designated areas is sufficient protection for those places. However, CMPs would only be required where appropriate in the terms of the National Capital Plan and, generally, that is only considered appropriate in relation to major works proposals. However, CMPs only provide a part of best practice heritage planning systems in Australia. For the designated territory land there is, for example, no equivalent of a heritage impact assessment process for works.¹²

Options for reform

- 6.21 The ACT Heritage Council believes that to incorporate heritage issues into planning in addition to amending legislation to increase

11 ACT Heritage Council, *Submission 34*, pp. 1-2.

12 ACT Heritage Council, Dr Michael Pearson, *Transcript T3*, p. 31.

protection for relevant areas, that there should be a heritage advisory body created at the Commonwealth level within or parallel to the NCA. This would have the effect of incorporating heritage expertise into the NCA. The ACT Heritage Council advocated:

The high standards of design, including heritage planning, would be enhanced by the establishment by the NCA of a heritage advisory body with direct involvement in the NCA's ongoing planning processes. One of my perceptions of the NCA is that it sees itself primarily as a planning and a design body. It is not a heritage conservation body. It does not have any formal mechanisms for ensuring that heritage considerations are slotted into its planning considerations at an early enough stage for them to be effective. The Heritage Council would welcome the expansion of the NCA's advice-seeking processes to include the establishment of such a heritage advisory body with direct involvement in its ongoing planning projects. The NCA in fact itself flagged its intention to establish such an advisory body as long ago as 2003, but the Heritage Council is not aware of any progress in this matter.¹³

6.22 The Council also commented on the need for earlier and expanded public consultation with the Canberra community in relation to NCA planning for places with heritage values. The Council believes that best practice standards should be applied to planning in Canberra.¹⁴

6.23 Friends of the Albert Hall mirrored this sentiment and stated that they would like to see the NCA take more of an active role in incorporating heritage issues into planning decisions. The Friends of the Albert Hall stated:

We want an NCA or a successor body that understands, respects and takes account in its planning of the particular history and heritage values of our city, including in the Albert Hall precinct.¹⁵

6.24 Friends of the Albert Hall advocate that extensive community consultation should take place where development in nationally significant areas is concerned.¹⁶

13 ACT Heritage Council, Dr Michael Pearson, *Transcript T3*, p. 31.

14 ACT Heritage Council, Dr Michael Pearson, *Transcript T3*, p. 31.

15 Friends of the Albert Hall Inc., Dr Lenore Coltheart, *Transcript T1*, p. 14.

16 Friends of the Albert Hall Inc., Dr Lenore Coltheart, *Transcript T1*, p. 15.

- 6.25 Another way to protect Canberra's heritage is to seek world heritage listing for the city. Dr David Headon advocated that the advantage of world heritage listing Canberra is that the original planning intentions for Canberra would remain protected. Dr David Headon stated:

The most obvious disadvantage is that you have constrictions placed upon you, but they are not constrictions that overwhelm. So, to answer the second part, the advantages that come through are ones that pertain to tourism and to getting the best kind of input into a city, because it has the stature of that World Heritage listing. It is naturally going to lead to decisions made about your city being placed at a higher level rather than at a lower level. Any debate you have about changes is going to be based on the best kinds of attitudes and the best responses to the plan of the past.¹⁷

- 6.26 On a related matter, the committee notes with concern the RNE will cease to exist in 2012, placing at risk the heritage protection of territory assets on the RNE in designated land after that time. The ACT Heritage Council noted:

The Register of the National Estate, one of the triggers under the NCP, ceases to exist in 2012 under amendments to the *Environment Protection and Biodiversity Conservation Act 1999* (EPBC). The provisions of the EPBC Act for the identification of a Commonwealth Heritage List do not apply to Designated Territory Land, as the places on Territory Land are specifically defined in the EPBC Act as not being Commonwealth Areas, and hence not eligible for the Commonwealth List.¹⁸

Conclusions

- 6.27 The committee acknowledges the gaps in legislation and policy protecting the heritage of Canberra and agrees that there should be better Commonwealth heritage management in Designated Areas. This situation should be remedied by amending existing heritage

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

18 ACT Heritage Council, *Submission 34*, p 3.

legislation so that the appropriate government agency can take responsibility for the heritage management of such areas.

- 6.28 As heritage matters affect the Canberra community and the national community, there should be thorough and consistent consultation with the ACT Heritage Council and The National Trust ACT in relation to the preparation and consideration of draft amendments to the NCP.
- 6.29 The committee believes that a heritage advisory council consisting of people with relevant experience and qualifications similar to that in operation in the ACT jurisdiction would be well placed to advise the National Capital Authority on heritage matters.
- 6.30 The committee supports the ACT Heritage Council suggestion that it represents an appropriate body to be formally consulted by the NCA on ACT heritage matters.

Recommendation 8

- 6.31 **That existing relevant Commonwealth and Territory legislation be amended to protect the heritage of all Designated Areas in Canberra.**

Promoting the national capital

Introduction

- 7.1 The *Australian Capital Territory (Planning and Land Management) Act 1988* (the PALM Act) provides that one of the key functions of the National Capital Authority (NCA) is to ... 'foster an awareness of Canberra as the national capital.'¹
- 7.2 The NCA outlined its role of promotion of Canberra as the national capital of Australia and provided that it:
- ...takes a strategic approach to fostering an awareness of the capital through research; by encouraging participation, appreciation and celebration in the national capital; by information and education about the capital; and by promoting the attributes of Canberra that are of national significance.²
- 7.3 The NCA pointed to evidence of this contribution through the number of events held in Canberra such as *Australia Day Live 2007*, *Australia Day in the Capital*, *Tropfest*, *Summer in the Capital*, *Winter in the Capital* and the *Canberra Biennial*.³
- 7.4 The ACT Government observed that 'in a promotional sense, the NCA budget has had its focus almost totally on spreading the message about Canberra within Canberra itself.'⁴

1 Part II, Subsection 6(e) of the *Australian Capital Territory (Planning and Land Management) Act 1988*.

2 National Capital Authority, 2007, *Annual Report 2006-07*, NCA, Canberra, p. 54.

3 National Capital Authority, 2007, *Annual Report 2006-07*, NCA, Canberra, p. 58.

4 ACT Government, *Submission 69*, p. 16.

- 7.5 This approach has seen limited resources being stretched beyond promotion and maintenance of nationally significant icons resulting in poorer outcomes for those national icons.

The NCA's role in promoting the national capital

- 7.6 The committee notes the NCA's comment that its funding for promotion has never been adequate and that other cultural institutions also receive funds individually for promotion activity.

There has certainly never been adequate funding for the promotion of the national capital through our agency and, as far as I can tell, with the national cultural attractions. I say 'as far as I can tell'. So there are buckets of money held by the National Museum or the War Memorial. If you were to interrogate them as to that, I would imagine they would say they could do much, much more with more, but there has certainly never been a consolidated fund and there has certainly never been sufficient funding for the National Capital Authority for this.⁵

- 7.7 There appeared to be some confusion within the NCA with respect to their role relating to tourism. On the one hand, the NCA was clear that promoting tourism was not its role:

We do not think it is the role of the Commonwealth to take the tourism role from the ACT government, but to do anything like comprehensive major marketing or promotion of the capital requires appropriate funding, and that has never been there.⁶

- 7.8 Conversely, it emerged that the NCA has developed a strategic tourism plan for the national and cultural icons that it controls, endorsing a 'Destination Marketing Plan' in November 2007, which is yet to be implemented. The NCA is now proposing to implement this plan if it receives additional funding to do so.⁷ This initiative makes it clear the NCA was in fact pursuing a role in promoting tourism, albeit in an environment in which it was known no resources would be available to create this new role for the NCA.

- 7.9 The ACT Government offered useful clarification that the role of Australian Capital Tourism (AC Tourism) is to 'market Canberra as a
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5 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 54.

6 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 54.

7 National Capital Authority, *Submission 55*, Attachment 1 – Promotion of the National Capital – Proposed new arrangements.

holiday destination. In contrast, the NCA's emphasis in a promotion sense, is to highlight the relevance of Canberra, as a capital for all Australians to take pride in (whether they visit or not).⁸

- 7.10 The aspirations of the NCA to become involved in tourism serve to highlight the underlying fact that there is a gap in Commonwealth support for promotion of the national capital aspects of Canberra, and a lack of clarity in the roles of Commonwealth and ACT institutions in this area.

Funding tourism in the national capital

- 7.11 The role of AC Tourism is focused on assisting the capital region⁹ tourism industry ... 'to create and implement a range of marketing and development programs that will significantly increase the economic return from domestic and international visitation'¹⁰ to Canberra.

- 7.12 AC Tourism within the ACT Department of Territory and Municipal Services is tasked with assisting the capital region tourism industry with the aim of increasing:

- awareness of the ACT and surrounding region;
- positive perceptions in target markets;
- brand awareness; and
- visitor numbers in domestic and international markets.¹¹

- 7.13 The ACT Government in its 2004 submission to the Commonwealth Grants Commission stated that there are practical problems in regard to having two bodies promoting the national capital:

...while the [PALM] 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

8 ACT Government, *Submission 69*, p. 16.

9 The Capital Region includes the ACT and the following NSW Local Government Areas of: Bega Valley, Bombala, Boorowa, Cooma-Monaro, Eurobodalla, Goulburn-Mulwaree, Harden, Palerang, Queanbeyan, Snowy River, Tumut, Upper Lachlan, Yass Valley and Young. Capital Region Development Board, <<http://www.capitalregion.org.au/category.php?id=4>>

10 ACT Department of Territory and Municipal Services, viewed 18 June 2008, <<http://www.tams.act.gov.au>>.

11 ACT Department of Territory and Municipal Services, viewed 18 June 2008, <<http://www.tams.act.gov.au/play/tourism>>.

assets, or its potential in ways that could optimise results for the ACT.¹²

- 7.14 The ACT Government sought \$5.7 million through its 2004 submission to the Commonwealth Grants Commission to 'recognise the impact of Commonwealth regulations and obligations imposed on the Canberra Tourism and Events Corporation (CTEC) regarding the staging of events within the Parliamentary Triangle.' The Commonwealth Grants Commission subsequently refused the request on the grounds that 'the Commission is inclined to regard the events in question as being the product of the ACT government's policy decisions, and of a commercially motivated nature.'¹³
- 7.15 The committee notes that this amount was similar to the reduction in funding for AC Tourism over the period 2004-05 until 2007-08 with budget cuts of approximately \$6 million over the period 2004-05 until 2007-08.¹⁴
- 7.16 It is relevant to this committee's considerations that the ACT Government sought Commonwealth compensation through the Commonwealth Grants Commission for a tourism and promotion role in relation to the national capital assets located in Canberra. The rejection of this request is further evidence of an ongoing gap in Commonwealth funding for tourism for the national capital aspects of Canberra.

Implications of under-investment in tourism and promotion

- 7.17 The Transport and Tourism Forum Australia (TTF) stated that the implications of the reduced budget for AC Tourism and now the NCA will hinder the effective marketing of Canberra and the capital region. Further, the budget cuts to marketing and promotion could possibly negatively affect the level of domestic tourism to Canberra.¹⁵
- 7.18 TTF advocated that it is important that the promotion and maintenance of nationally and culturally significant icons continues to be a priority for the NCA as these sites draw the most visitors to Canberra.¹⁶
- 7.19 TTF estimated that in 2004 between \$249 and \$265 million per annum flowed from the ACT tourism sector.¹⁷

12 ACT Department of Treasury, 2003, *Final Submission to the Commonwealth Grants Commission 2004 Review*, ACT Government, Canberra, p. 427.

13 ACT Department of Treasury, 2003, *Final Submission to the Commonwealth Grants Commission 2004 Review*, ACT Government, Canberra, p. 429.

14 Tourism and Transport Forum Australia, Miss Caroline Wilkie, *Transcript T4*, p. 44.

15 Tourism and Transport Forum Australia, Miss Caroline Wilkie, *Transcript T4*, p. 44.

16 Transport and Tourism Forum Australia, *Submission 62*, p. 2.

17 Transport and Tourism Forum Australia, *Submission 62.1*, p. 3.

- 7.20 The financial impact on supporting industries translated into approximately \$85 million per annum for the accommodation sector, \$76 million per annum for the food and beverage sector, \$43 million per annum for the retail sector, \$28 million per annum for transport and \$5 million per annum for the entertainment sector.¹⁸
- 7.21 TTF also stated that the maintenance and promotion of national icons ‘falls well outside the realm of the Territory’s tourism organisation Australian Capital Tourism’ and should remain a Commonwealth Government responsibility.¹⁹

Support for a Commonwealth role in promotion

- 7.22 The committee notes the distinction between ‘promotion’ and ‘tourism’.
- 7.23 Several suggestions have been made about a way forward in relation to both promotion of the national capital, and tourism for the national capital.
- 7.24 There is support for the NCA to maintain its responsibility for the promotion of Canberra as the capital of Australia both nationally and internationally.
- 7.25 The ACT Government supported the Commonwealth Government’s continuing role of promotion of Canberra as the national capital, in addition to celebrations like *Australia Day in the Capital*. The ACT Government suggested that the NCA be provided with adequate funding to increase its outreach capacity in relation to promoting the ‘historical, political and symbolic role of the capital.’²⁰
- 7.26 The ACT Government suggested that with adequate funding for promotion the NCA could enhance cooperation with the ACT Government for events and promotion activities.
- 7.27 The Commonwealth Attorney-General’s Department advocated that the NCA should continue promoting Canberra as the national capital.²¹
- 7.28 The Australian National University suggested that it is interested in advancing the creation of a positive awareness and perception of Canberra which overcomes ignorance and prejudices about the city.²²

18 Transport and Tourism Forum Australia, *Submission 62.1*, p. 3.

19 Transport and Tourism Forum Australia, *Submission 62*, p. 2.

20 ACT Government, Mr Andrew Cappie-Wood, *Transcript T2*, p. 5.

21 Attorney-General’s Department, *Submission 59*, p. 7.

- 7.29 In the context of promoting national icons and institutions, the Australian National University (ANU) observed that there is no coordinated approach to marketing Canberra and that past efforts to do so have been largely unsuccessful.²³
- 7.30 To overcome this problem, the ANU proposed the ‘establishment of a (statutory) Marketing and Promotion Committee with broad terms of reference to promote Canberra as a city as the national capital of Australia.’ The committee would have an independent chair appointed by the Minister for Home Affairs in consultation with the ACT Chief Minister.²⁴
- 7.31 The ANU argued that if promotion activities were centrally funded this would encourage stakeholder contributions to promotion.²⁵
- 7.32 Other cultural institutions, while they did have promotional budgets, have in many cases been negatively impacted by the efficiency dividend, which has been 1.25% for many years and for the next 4 years, an additional 2% will be applied.

Support for a Commonwealth role in tourism

- 7.33 TTF confirmed that there is no coordinated approach to marketing the national cultural icons and that there are ‘no complimentary linkages to other tourism sites that exist in or around these sites and no formal linkages to the promotion works of Australian Capital Tourism.’²⁶
- 7.34 TTF suggested that ‘by not integrating and consolidating the cultural icons that are on offer in the Territory, promotion and recognition of these icons will never reach its true potential.’²⁷ TTF stated that:

If the NCA is to achieve its goal of planning and coordinating the development of the Territory in accordance with its significance, all planning, infrastructure and event development conducted by the NCA needs to have a greater strategic and long-term sustainable vision in order to drive visitation. A tourism plan that integrates all icons including the importance of these icons to the Nation, and to one another, needs to be developed.²⁸

22 Australian National University, *Submission 35*, pp. 2-3.

23 Australian National University, *Submission 35*, p. 2.

24 Australian National University, *Submission 35*, p. 4.

25 Australian National University, *Submission 35*, p. 4.

26 Transport and Tourism Forum Australia, *Submission 62*, p. 2.

27 Transport and Tourism Forum Australia, *Submission 62*, p. 3.

28 Transport and Tourism Forum Australia, *Submission 62*, p. 3.

- 7.35 The committee also received evidence that neither AC Tourism nor the national institutions are sufficiently funded for their individual marketing.²⁹
- 7.36 The committee is convinced that the ongoing void in the Commonwealth's contribution to tourism and marketing of the national capital needs to be filled.
- 7.37 The committee believes that the management and coordination of such a Commonwealth contribution to national capital tourism should **not** fall to the NCA. Rather, the NCA would be one of a number of Commonwealth agencies contributing to a broader tourism strategy.

The NCA's application of budget cuts on promotion activities

- 7.38 During 2007-08, the NCA made approximately \$750 000 in savings to the following promotion initiatives and activities. Savings of approximately \$2 million will continue in the same area in 2008-09. These savings for the periods 2007-08 and 2008-09 appear in Table 7.1.

Table 7.1 – National Capital Authority implementation of promotion savings measures

Activity	Net saving 2007-08 (\$ millions)	Net saving 2008-09 (\$ millions)
Withdraw NCA contribution to the Australia Day Live concert	0.300	0.730
Cease animation events in Canberra such as 'Summer in the Capital', 'Tropfest' and 'Australia Day in the Capital'	0.086	0.275
Significantly reduce promotional publications	0.030	0.095
Reduce visitor services at the National capital Exhibition, Regatta Point	0.200	0.523
Cease travelling exhibition of the Capital. Cease recruitment of volunteers and reduce natural attrition (savings achieved through reduction of insurance, training, uniforms and staff coordination)	0.030	0.095
Close the NCA archival library housed at the Royal Institute of Architects.	0.013	0.037
Cancel the National Carillon Director contract. Negotiate new retainer agreement.	0.065	0.130
Honour existing carillonists contracts. Seek 08-09 carillon recital sponsorship.	0.030	0.060
TOTAL	0.754	1.945

Source: National Capital Authority, *Submissions 55.3 and 55.4*, Table.

29 Transport and Tourism Forum Australia, Miss Caroline Wilkie, *Transcript T4*, p. 51.

- 7.39 Savings in relation to Output 2: Promotion and awareness of the significance of Canberra as the national capital, represent 44.9 per cent of the overall savings made.³⁰

The impact of funding cuts to the National Carillon, Blundells Cottage and the National Capital Exhibition

An obvious and immediate impact of the reduction in budget is apparent in the reduction of the National Carillon's budget from approximately \$200 000 per annum to \$10 000 per annum.³¹

This will mean a vastly reduced performance program. The Carillonists put the view that with a continuing reduced performance schedule it is likely that the protection of the National Carillon's acoustic environment will be in question, if the instrument is not regularly played to prevent gradual erosion.³² Ms Lyn Fuller, a carillonist explained:

The Carillon is held in high regard internationally and consistently attracts attention to the national capital. However, current funding arrangements operate on an ad hoc basis, with no guarantee of funding from year to year. The gains that the instrument has made over the past seven years could very easily be lost. The cuts to the funds available for the Carillon operations imposed this year fundamentally threaten the continued successful operation of the instrument. In fact, the Carillon needs to be played to remain operational. The Carillon is like the engine of a car: if you leave it in the garage and you do not use it, the motor seizes, it will not turn over and it does not hum as motors should. The Carillon needs to be played each day. If it is not, it gets cranky. Its mechanism corrodes, it seizes up and it refuses to sing. So it needs to be played each day.³³

The budgetary reduction has also affected the operation of the National Capital Exhibition on Regatta Point. National Capital Exhibition opening hours have been reduced³⁴ and staff numbers have been reduced by more than half which has meant that guided tours for school students have also been reduced. This will have the effect of depriving visiting school students from learning about the significance of Canberra as the national capital in a concise and tailored way. While there are volunteers on hand to offer guided tours at the National Capital Exhibition, there are often too many visitors at one time for volunteers to offer

30 National Capital Authority, *Submission 55.4*, Table.

31 Ms Annette Ellis, *Transcript T2*, p. 100.

32 Ms Annette Ellis, *Transcript T2*, p. 100.

33 Ms Lyn Fuller, *Transcript T2*, p. 97.

34 Canberra Region Tourism Operators Association, Mr Jim Paterson, *Transcript T3*, p.72.

comprehensive, meaningful information to manageable groups.³⁵ Ms Sandra Whichelo commented:

Since we have had our staff cut by more than 50 per cent, the exhibition can no longer offer guided tours for school children. Thousands of children are going to be deprived of this educational experience; that is how many children we get in. We are known to sometimes have 500 to 600 children through in one day. They are not going to get any experience or, as I described in my submission, if the volunteers have the strength to do it, they could get a most ridiculous tour of farcical proportions so quick, so ridiculous, that I feel quite ashamed. I find myself constantly apologising to schools and saying, 'I'm sorry that was so fast and not very comprehensive.' But the teachers are so grateful that they have not been given the task themselves because they have not been trained to do it.³⁶

Blundells Cottage was also identified as having been affected as a result of NCA cuts to its promotional budget.³⁷ The impact on Blundells Cottage is reduced opening times to Saturday only from 10.00 am to 3.00 pm and public programs have ceased.³⁸

The committee was divided as to how the cuts to the NCA's budget should be interpreted. The committee majority considers that the cuts to programs that make heavy use of volunteers is an inefficient way of making cuts because it reduces output by much more than the inputs involved. It reduces long term capability because volunteers disperse and then need to be attracted and trained in the future, involving even more resources. The committee majority considers the NCA has gone for high impact savings and rather than minimising disruption on the community has used volunteer managed programs to leverage up the impacts on the community.

The Coalition members of the committee regard the nature of the cuts determined by the NCA to have been almost entirely beyond the NCA's control. These members accept the NCA's view that volunteer based programs were in fact the only areas where the NCA's budget could be cut without compromising its core mission to the Australian community. The Coalition members note that in the course of the inquiry no plausible alternatives were advanced in place of those that had in fact been decided upon, eg claims that the NCA could reduce the size of its executive were never seriously advanced. Community anger at the effect of

35 Mrs Sandra Whichelo, *Transcript T5*, p.75.

36 Mrs Sandra Whichelo, *Transcript T5*, p. 75.

37 Mrs Sandra Whichelo, *Transcript T5*, p. 76.

38 National Capital Authority, *Submission 55*, Attachment 1 – Promotion of the National Capital – Proposed new arrangements.

these cuts is rightly directed, these Senators and Members feel, at the overarching budget decisions made by the Federal Government rather than at the NCA which is the victim of those decisions.

However the committee as a whole believes that steps should be taken to insulate the important community based activities sponsored by the NCA from future cuts. It believes that separately identifying these items within the NCA's budget allocation will go some way towards ensuring that they receive earmarked funding in future.

The committee urges that the following be classified as administered items in the National Capital Authority's financial statements and receive appropriate funding to restore former services and use:

- **the National Carillon**
- **Blundells Cottage**
- **the National Capital Exhibition; and**
- **The National Capital Authority's contribution to *Australia Day in the National Capital* which includes *Australia Day Live*.**

Participation in the Capitals Alliance

7.40 The Capitals Alliance was formed in 2001 to 'provide a global forum for senior planners and urban designers in capital cities around the world. Through Capitals Alliance, planners and public policy officials exchange ideas and solutions with international colleagues on the unique challenges facing national capitals.'³⁹ The NCA's participation in the Capitals Alliance relates to *Output 2: Promotion and significance of Canberra as the national capital*. While the NCA does not have a required international component of Output 2, the NCA includes the 2007 conference as a highlight of its achievements.⁴⁰

7.41 The Alliance offers the opportunity to share knowledge and best practice in relation to the special challenges facing planned cities of international significance. To this end, participation can provide access to insights and experience that will build capacity with the NCA.

7.42 The Capitals Alliance includes the planned cities of Canberra, Ottawa, Washington DC and Brasilia. The equivalent NCA organisations in these cities provide for the events that are outlined in Table 7.2.

39 National Capital Authority, *Submission 55, The Capitals Alliance: Governance Snapshot: About Capitals Alliance*, p. 35.

40 National Capital Authority, 2007, *Annual Report 2006-07*, Canberra, p. 55.

Table 7.2 – Promotion and outreach activities undertaken by The Capitals Alliance partners

City	Promotion and outreach activities
Ottawa, CANADA	The NCA equivalent organises a four season cycle of free outdoor public events and gives support for key events such as: Canada Day, Parliament Sound and Light Show, Fall Rhapsody, Christmas lights across Canada, the Tulip Legacy, Winterlude, Rideau Canal Skateway.
Washington DC, UNITED STATES OF AMERICA	The NCA equivalent hosts open houses, conducts urban design education programs, issues publications, creates exhibitions for public venues such as Union Station and the Smithsonian Institute.
Brasilia, BRAZIL	The NCA equivalents organise the main cultural events: Via Sacra in Planaltina, Brazilian States fair, street carnivals, celebration of the birthday of the Federal District and Brasilia Cinema Festival.

Source: National Capital Authority, Submission 55, 'The Capitals Alliance: Governance Snapshot', p. 23.

- 7.43 The committee believes the Capitals Alliance offers the framework for programs that celebrate the unique status of the national capital of Australia as a planned city, for example, events and exhibitions that celebrate excellence in design. For example, the Capitals Alliance potentially provides the context for greater engagement between the NCA and the diplomatic community in Canberra.
- 7.44 The committee believes the contribution of this program to the objectives of the NCA needs to be further substantiated.

Centenary of Canberra, the national capital: a national celebration

- 7.45 The centenary of the founding of Canberra as Australia's national capital is in 2013. Perhaps more than any other issue, this impending national celebration is a catalyst for increased investment, vision and collaboration in both promotion and tourism for the national capital.
- 7.46 Carriage of the planning for the centenary celebration should be the responsibility of the Commonwealth as it is the founding of the nation's capital, a city built for this purpose, that is being celebrated.
- 7.47 The ACT Government suggested, as Canberra's centenary in 2013 approaches, that the NCA is the logical choice of agency for partnership opportunities with the ACT Government with the expectation that the NCA is properly funded to fulfil its role in terms of promotion.⁴¹

41 ACT Government, *Submission 69*, p. 17.

- 7.48 For this celebration to be truly national, it is incumbent on the Commonwealth Government to ensure that all national institutions have a strategy of outreach and participation to enable all citizens of Australia to be a part of the centenary celebrations.
- 7.49 Engagement by the Commonwealth in the planning for this important national celebration is now urgently required. This is the case with respect to both promotion of the national capital by the NCA and other national institutions **and** with respect to the need for a coordinated national capital tourism strategy.

Conclusions

- 7.50 The committee can identify five key issues for consideration:
- the resources provided by the Commonwealth Government to the National Capital Authority (NCA) for promotional activities, as required in the PALM Act;
 - the discretion with which the NCA chooses to apply these resources to the promotion function;
 - the pressure on individual promotion budgets within national institutions as a result of long-standing budget pressures and more recently, an increase to the efficiency dividend;
 - the lack of actual investment by the Commonwealth into tourism for the national capital aspects of Canberra, and the Commonwealth Grants Commission's refusal to compensate the ACT Government for expenditure in this area; and
 - the lack of co-ordination between national institutions and across Commonwealth and Territory governments for national capital tourism and marketing for the ACT.
- 7.51 The committee concurs with the general view that the NCA has an important role promoting the national capital icons, which reside primarily within the central national area of Canberra. The committee strongly believes that as assets of the whole nation, the Commonwealth has a deep and abiding responsibility not just to make the national institutions and icons accessible to all citizens of Australia, but also to promote their presence and seek out engagement in an active way.
- 7.52 Education programs are an important part of active engagement, and the committee urges great care and commitment to ensure that education programs continue to grow and expand.

- 7.53 The committee believes 2013 presents an extraordinary opportunity to re-introduce Canberra to the rest of Australia as a capital to be proud of, inspired by, involved with, and urges the Commonwealth to take this opportunity.
- 7.54 The committee notes that despite the recent efforts of the NCA, the NCA has never been and is unlikely to be resourced in the future to the level necessary to coordinate a tourism plan for the national capital.
- 7.55 The committee also notes the past efforts by the ACT Government to fill the gap of Commonwealth funding for tourism.
- 7.56 The committee believes there is a long-standing omission in Commonwealth tourism resources commensurate to the status of the national capital.
- 7.57 The committee is concerned that the lack of Commonwealth investment, leadership and coordination may have contributed to prevailing negative perceptions of Canberra and prejudices about Canberra, as suggested by the ANU.
- 7.58 A coordinated, resourced national capital tourism plan for Canberra is urgently required. Such a tourism plan will be best served by being a joint initiative with the ACT Government.
- 7.59 The committee recommends that the National Capital Consultative Council advise both the ACT Government and the Commonwealth Government on the best approach. The committee believes that the ANU's suggestion of a marketing and promotion committee could be adapted to fit within this broader consultative council to progress the initiative and make recommendations to both governments.
- 7.60 The committee believes the NCA has a particular role relating to the Central National Area and national icons under their responsibility such as the Carillon. The NCA, therefore, should participate as one of many national institutions in the National Capital Tourism Plan.
- 7.61 In order to ensure that the national icons within the NCA's jurisdiction are duly cared for and maintained, the committee strongly urges that their funding be restored and protected as administered items within the budget of the NCA.
- 7.62 The committee urges the NCA as a contributing agency to a tourism strategy to improve signage across the whole Central National Area to assist tourist navigation. The committee notes recent efforts by the NCA to improve signage in the Parliamentary Triangle.

- 7.63 The committee hopes that all national institutions would want to be involved in the preparation of such a plan, as it is these very institutions, which sit at the heart of the national capital interest and appeal to the citizens of Australia.

Recommendation 9

- 7.64 **That the role of the National Capital Authority be clarified to include promotion of the national cultural icons located in the Central National Area.**

Recommendation 10

- 7.65 **That the National Capital Consultative Council prepare a domestic and international tourism and marketing plan for the national capital for consideration by both the ACT and Commonwealth Governments in their next respective budgets. In addition, the committee recommends that such a plan factor in the Centenary of Canberra celebrations in 2013.**

The Canberra International Airport and employment location strategies

Introduction

- 8.1 The National Capital Plan (NCP) encourages office employment in the city centre - Civic, in the town centres and in other defined office employment centres within two transport corridors.¹
- 8.2 Underlying the office location policy is the aim of maintaining the intended character of Canberra as the national capital in respect to transport and environment.
- 8.3 Other defined office locations outside of the town centres more recently include the Canberra International Airport (the Airport). Unlike other office locations, the privately managed airport is subject to its own Master Plan and is regulated by the Department of Infrastructure, Transport, Regional Development and Local Government in terms of the planning and building activities that may be undertaken there.
- 8.4 There is divided opinion about employment and retail development at the Airport. There are concerns that the Airport is now subject to its own Master Plan and not subject to the planning controls of the National Capital Authority (NCA) or the ACT Planning and Land Authority (ACTPLA). These concerns are exacerbated by the possibility that current planning arrangements at the Airport could change the nature of metropolitan planning in Canberra. In addition, the current and future

1 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 6.

traffic and transport considerations as development in and around the Airport precinct continues to grow are of concern.

Sale of the Airport

- 8.5 With the enactment of the *Airports Act 1996*, the Commonwealth Government moved to divest its interest in airports. Under specific Commonwealth airport legislation² 'all major Australian airports, including all capital city airports [became] governed by the same set of planning and building control laws.'³ In the case of Canberra Airport, however, a regulation of the *Airports Act 1996* also made it subject to the NCP. This provision was removed in 2006.
- 8.6 In 1998, the Commonwealth Government granted a long-term lease to Canberra International Airport Pty Ltd.⁴ The granting or sale of this lease included an 'extensive set of development rights.' The Commonwealth Government currently has an extensive planning system in place to guide the use of these development rights.⁵
- 8.7 The acts and regulations that govern airports provide for comprehensive planning control of airports and include all building activities. The Airport states that in many cases these provisions are 'significantly more onerous than either the requirements of Territory planning laws or the National Capital Plan.'⁶
- 8.8 These laws require the development of a master plan, environment strategy, major development plans and submission of a range of different types of planning approval processes for developments.⁷

2 *Airports Act 1996; Airports Regulations; Airports (Building Control) Regulations 1996; Airports (Control of On-Airport Activities) Regulations 1997; Airports (Environmental Protection) Regulations 1997; Environment Protection Biodiversity and Conservation Act 2000.*

3 Canberra International Airport, *Submission 70*, p. 1.

4 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 81.

5 Canberra International Airport, *Submission 70*, p. 2.

6 Canberra International Airport, *Submission 70*, p. 1.

7 Canberra International Airport, *Submission 70*, p. 1.

Airport planning controls

The Airport Master Plan

- 8.9 The Airport Master Plan is the primary planning document for the Airport and outlines 'a range of issues, including the development proposals for the airport and the proposed land uses on the airport'.⁸ The Master Plan has a timeframe of 20 years and beyond and must be revised every five years.⁹
- 8.10 The review of the Master Plan involves an extensive 90-day public consultation process at which point the plan is then subject to ministerial approval. The consultation process includes making the Draft Master Plan available to the public for comment. The relevant minister (Minister for Transport) also receives all public submissions.¹⁰
- 8.11 Further to undertaking a Master Plan, all major developments at the Airport are subject to public consultation under the 'Major Development Plan process'.¹¹ This requires that a development proposal undergoes an additional 90-day public consultation process similar to that applicable for the Master Plan with all submissions taken into consideration and passed on to the relevant Minister.
- 8.12 Approval of the development application is at the discretion of the Minister. The Minister may also approve an application with conditions attached.¹²
- 8.13 In addition, all works must be approved by the Airport Building Controller (the Controller). The Controller is located within the Department of Infrastructure, Transport, Regional Development and Local Government.¹³ The Controller ensures that the development is in line with all relevant legislation and primarily in line with the Airport's Master Plan.¹⁴
- 8.14 Any development at the Airport is also subject to environmental regulation under the *Environment Protection and Biodiversity Conservation Act 1999* and the *Airports (Environment Protection) Regulations*. The Act and related regulations provide that where there is a significant environmental

8 Canberra International Airport, *Submission 70*, p. 2.

9 Canberra International Airport, *Submission 70*, p. 2.

10 Canberra International Airport, *Submission 70*, p. 2.

11 Canberra International Airport, *Submission 70*, p. 3.

12 Canberra International Airport, *Submission 70*, p. 2.

13 Canberra International Airport, *Submission 70*, p. 3.

14 Canberra International Airport, *Submission 70*, p. 3.

impact as a result of a development application, it must be referred to the Minister for the Environment. The Minister for the Environment then makes a draft determination regarding the proposed development and invites public comment. Once public comment is received, the Minister must make a final determination.¹⁵

Airport compliance with the NCP and the Metropolitan Canberra Policy Plan

8.15 Prior to 2006, the *Australian Capital Territory (Planning and Land Management) Act 1988* (the PALM Act) provided that the Airport was subject to the NCP. With the enactment of the Airports Amendment Bill 2006, the Airport became excluded from the PALM Act and its planning obligations brought in line with those of other leased federal airports.¹⁶ These obligations are outlined in the previous section.

8.16 In contrast to the fact that the Airport is subject to its own Master Plan, and not subject to the NCP or the Metropolitan Canberra Policy Plan, the Airport argued that its strategic plan is consistent with the NCP in terms of town centre location and transport provisions. The Airport stated:

The strategic location of the Airport as a Defined Employment Centre and on one of the two Transport Corridors highlights its suitability as an employment location and indicates the consistency of the Airport's activities with the National Capital Plan. Further, the development of Brand Depot was approved by the National Capital Authority as being a permissible land use as well as being consistent with the retail hierarchy outlined in the National Capital Plan.¹⁷

8.17 The Airport recounted how it had merged its Master Plan into the NCP and the ACT planning system:

... the four to five years worth of integration of the airport's planning into both the national capital Commonwealth's planning and also the ACT government's planning. It began in August 1999 when our own master plan was approved following the purchase of the airport in May 1998. What followed first of all was amendment 30 to the National Capital Plan that was around in January 2000, and that enmeshed much of that master plan into the National Capital Plan. Then in mid-2000 we signed a memorandum of understanding with the ACT government to look

15 Canberra International Airport, *Submission 70*, p. 4.

16 Vaile M, Minister for Transport and Regional Services, *Airports Amendment Bill 2006, Explanatory Memorandum*, p. 2.

17 Canberra International Airport, *Submission 70*, p. 6.

at the embracing of that master plan, to look at how that would be enmeshed into the ACT planning system and also how the transport infrastructure would be delivered, both on and off the airport, to facilitate the delivery of the master plan.¹⁸

8.18 The Airport further advised that it meets the requirements of the ACT Government's Canberra Spatial Plan in terms of the definition of an Activity and Employment Node and as a 'priority one' employment area.¹⁹

8.19 The ACT Government put the view that it would be helpful to have a mechanism in place for airport master plans to have regard to Territory planning interests and take into consideration infrastructure implications for the ACT Government. Further, the ACT Government put forward the view that both the Commonwealth and ACT Governments should have an oversight role where planning at the Airport is concerned. The ACT Government stated:

I think the situation can be improved, but I am speaking from a national perspective in terms of our participation in both the Local Government and Planning Ministers Council and the Australia Transport Council, which I think have modified their proposals of recent years, which were demanding that airports be the subject of local planning control – in our case, the subject of the Territory Plan administered by the ACT Planning and Land Authority – to acknowledge that the Commonwealth government sees these as major ports, if you like, that are critical to the national economy and therefore our concern about a lack of appropriate recognition of the impact of airports on local infrastructure and metropolitan systems could be addressed through a greater level of independent scrutiny of their master plans and their proposals when they are placed with the Commonwealth transport department to ensure that they are not inappropriately impacting on that local metropolitan system. We think that that is a reasonable way of both acknowledging the Commonwealth's ongoing interest in these critical pieces of national infrastructure and acknowledging that there are implications on local systems as a result of that. I believe those proposals are going to be articulated in much greater detail in response to Minister Albanese's discussion paper.²⁰

8.20 In relation to future planning control arrangements, the Airport stated that it would not be opposed to returning to NCA planning control. The

18 Canberra International Airport, Mr Stephen Byron, *Transcript T2*, p. 44.

19 Canberra International Airport, *Submission 70*, p. 6.

20 ACT Planning and Land Authority, Mr Neil Savery, *Transcript T2*, p. 14.

Airport prefaced its response by stating that it would prefer to be subject to the planning controls of one jurisdiction only, either the Commonwealth or Territory governments and not both. The Airport stated:

If it were to come under that jurisdiction, then we ought to get out of the other Commonwealth planning jurisdiction. We would like to not be a piece of land that became the only one in the ACT with two planning jurisdictions. So we would like an outcome where we had one planning jurisdiction. We would probably have the view that, given the all-encompassing nature of the Airports Act regime, that is probably the better place. But, if we were to come out of that place and go to the National Capital Authority place, then the National Capital Plan would need to be updated – and it could be – to reflect, firstly, the nature of the land uses that were sold to the airport and, secondly, what is in our current master plan. If that were done, and we were out of all the other regimes, we could do that.²¹

Commercial and retail development at the Airport

8.21 There is ongoing concern about continuing development at the Airport. Concerns centre around the impact that developments at the Airport are having in terms of growing an artificial town centre, which has no supporting population and the impact this is having on traffic congestion as commuters now make their way across Canberra to their place of employment. A further concern about the impact this is having on the metropolitan structure of Canberra was also highlighted. The changing nature of Canberra's metropolitan policy plan is discussed in more detail in Chapter 9.

8.22 The Walter Burley Griffin Society suggested that developments around the Airport were not in line with the national interest or expanding the city centre. The impact on transport was also commented on. The Walter Burley Griffin Society stated:

The decision to develop Canberra airport as a commercial and retail hub was not in the national interest or in the interest of this city. It is an interesting development and I commend the company for seizing the entrepreneurial opportunity that it presented, but the opportunity should never have been presented. The function of the Canberra airport is to move people in and out of the national capital as efficiently as possible. That is almost impossible

21 Canberra International Airport, Mr Stephen Byron, *Transcript T2*, pp. 44-45.

to achieve today. The only validity of this type of land use in this location is to provide efficiency in terms of coming in and out of the airport. To the extent that you can do your business without coming in to the city at all, the new development is not only not in the national interest but also not in the interests of the city. The sale and redevelopment of the airport is a public policy debacle. The long-term lease of the airport was sold for \$66.5 million in 1998. The cost of road improvements to the airport, as far as I can determine from the available record, is already in the area of over \$130 million.²²

- 8.23 The ACT Government added that while the Canberra Spatial Plan recognises the Airport precinct as an employment hub, it also acknowledges that there is no longer a limit on the amount of commercial development in the area as Amendment 44 to the NCP does not apply. This would leave the Airport free to continue developing its precinct without restriction. The ACT Government stated:

Again, I stress that we are not saying there should be no development at the airport. The Canberra Spatial Plan recognises it as part of a potential employment hub. The ACT government back in 2004-05, when draft amendment 44 of the National Capital Plan was considered, supported up to a maximum of 120,000 square metres of office development at the airport. It felt that was an adequate balance. But now that the National Capital Authority's controls have been removed, there is potentially unfettered commercial development opportunity at the airport.²³

- 8.24 To counter the possible negative impact on the town centre structure of the NCP, the ACT Government was of the view that some development at the Airport could have taken place in Gungahlin. The ACT Government advocated that continued developments at the Airport have the potential to further negatively impact on the metropolitan planning of Canberra, especially with the removal of NCA planning control. The ACT Government stated:

It has the potential to skew the metropolitan planning of Canberra. Certainly our spatial plan and the current metropolitan structure plan do not anticipate the airport being a commercial town centre, if you like. It still has a little way to go, because it does not have a significant retail component, but the commercial office component alone is starting to be comparable with our two larger town centres, Belconnen and Woden. That ultimately has to have some

22 Walter Burley Griffin Society Inc., Professor James Weirick, *Transcript T1*, p. 5.

23 ACT Planning and Land Authority, Mr Neil Savery, *Transcript T2*, p. 16.

impact. For instance, some of the development that has occurred at the airport could potentially or foreseeably have occurred in Gungahlin, as an emerging town centre where we are looking for some local employment opportunities. No-one is suggesting that you can achieve self-containment, that everyone who works in a town centre is going to live adjacent to the town centre. That is not the nature of things, but nonetheless it is changing the distribution of the development pattern that would otherwise have occurred under the metropolitan planning.²⁴

- 8.25 The Airport argued that over the last six to eight years there has been growing demand for land to develop for retail and office space in Gungahlin, Civic and Barton, but that the ACT Government would not release land in these areas. Consequently, the Airport met the demand for commercial office space within its own precincts. The Airport stated:

Six times a year we told them to sell more land. We even put up our hand and bought some and developed some product in Civic when we could, and we said three years ago we wanted to buy land in Gungahlin. If the ACT government had sold more land in Civic, Barton or Gungahlin five, six, seven or eight years ago – as we told them to – there would be less development at the airport now. They did not do it – and if we had not done it then where would these people be?²⁵

Traffic management issues

- 8.26 With employment growth in and around the airport and growth of the satellite of Gungahlin, traffic congestion on Majura Avenue and around the Airport at Pialligo Avenue has increased. In addition, the duplication of the road between the airport and Civic, which would relieve traffic pressure, has been delayed.²⁶
- 8.27 The ACT Government also raised concerns about the traffic congestion around the Airport as a result of growth in Gungahlin and expansion of the Airport precinct. The ACT Government stated:

The amount of office development at Canberra airport is now reaching a figure that is comparable with Woden Town Centre, which is the second largest commercial centre in the ACT. We have had no capacity to effectively plan for that, yet the imposition – particularly of traffic implications but potentially of

24 ACT Land and Planning Authority, Mr Neil Savery, *Transcript T2*, p. 16.

25 Canberra International Airport, Mr Stephen Byron, *Transcript T2*, pp. 46-47.

26 Canberra International Airport, *Submission 70*, p. 9.

the erosion of the functionality of that development – is something that the ACT government has to wear. We are not saying that all of the traffic issues around the airport are the result of traffic being generated by the airport. It is accepted that there is growth in Gungahlin and, obviously, in Queanbeyan that is bringing traffic there, but it is undeniable that a commercial centre approaching the scale of Woden is going to have traffic implications. We have limited capacity to be involved in the planning of that exercise, other than through the master plan. But at the end of the day the master plan does not go through the sort of scrutiny that we believe – and other jurisdictions believe, in their situations – is appropriate in the context of metropolitan planning.²⁷

8.28 The Airport stated that traffic congestion was attributable to the delay in road duplications along significant routes.²⁸ However, traffic congestion is expected to be reduced with the completion of road works, which are being undertaken, jointly by the Airport and the ACT Government, in particular, the completion of the Monaro Highway extension.²⁹

8.29 The breakdown of the costs of a shared funding arrangement for roads infrastructure between the Commonwealth and Territory governments was commented on by the ACT Government:

The ACT Government will fund \$25 million of these works and have already allocated funds of \$15 m as part of the 2007/08 Capital Works Program with another \$10.0m under consideration for the 2008/09 Capital Works Program – Canberra Airport Group will also make a financial contribution of more than \$5.0 m. The Federal Government funding of \$30.0m is likely to be identified in the 2009/10 Federal Roads Program.³⁰

8.30 It is expected that with the completion of the upgrades to the road system, that traffic congestion in and around the Airport area will be eased.³¹ A bus service also now regularly runs directly between the airport and all town centres except Belconnen³², which will also serve to alleviate pressure on traffic.

27 ACT Planning and Land Authority, Mr Neil Savery, *Transcript T2*, p. 14.

28 Canberra International Airport, Mr Stephen Byron, *Transcript T2*, pp. 45-46.

29 Canberra International Airport, *Submission 70*, p. 10.

30 ACT Government, *Submission 69.1*, p. 4.

31 ACT Government, *Submission 69.1*, p. 4.

32 Canberra International Airport, *Submission 70*, p. 11.

Conclusions

- 8.31 The committee notes that development at the Airport has not been subject to the control of the NCA since the *Airports Amendment Act 2006*. Since then, commercial and retail development has continued to grow without being limited by the NCP as was the intention of Amendment 44.
- 8.32 The committee received evidence that the Airport area has grown to the point where it is an employment centre, but without the residential population to support it as a functioning town centre. As an increased number of commuters travel daily to the Airport, traffic congestion is created across Canberra in areas where significant traffic congestion was not previously experienced.
- 8.33 The committee received evidence that the emergence of the Airport precinct as an employment centre and the resulting increased reliance on the existing transport network is skewing the metropolitan planning of Canberra. Further, these development and transport outcomes have the potential to change the intended character of Canberra.
- 8.34 The committee believes that while the planning controls that exist within the Airport Master Plan allow for some level of consultation, there is no real provision to limit the amount of office and retail space that may be developed at Canberra Airport in the future.
- 8.35 The committee acknowledges that regular consultation and discussion takes place between the Airport, the NCA and the ACT Government. However, the committee believes that there is no onus on either the NCA or the ACT Government to inform the Airport if a proposal is inconsistent with either the NCP or the Territory Plan and there is no formal mechanism for the Airport to act on such advice.
- 8.36 The committee believes that if further development at the Airport is not consistent in some way with the NCP, then the distinct character of the national capital as envisaged by the Griffin Plan may be eroded over time.

Recommendation 11

- 8.37 **That the Department of Infrastructure, Transport, Regional Development and Local Government consult with the National Capital Authority to ensure that the Airport Master Plan and the major development plan is in line with the National Capital Plan.**

Planning of commercial and government office space

- 8.38 The 1984 Metropolitan Canberra Policy Plan, which for the most part has been incorporated into the NCP. The Metropolitan Canberra Policy Plan, based on a projected population of 400 000, included Civic and the town centres of Woden, Belconnen, Tuggeranong and Gungahlin. All centres included a significant level of employment and retail space. Civic would retain the largest proportion of employment at an estimated 25 000 people, with the central area around the city at 64 000.³³
- 8.39 Amendment 44 to the NCP provided for that ‘major office employment should be located within Defined Office Employment Centres located within the two transport corridors developed from Belconnen Town Centre to Queanbeyan and from Gungahlin Town Centre to Tuggeranong Town Centres in other defined office locations’³⁴ (which include Canberra Airport). See *Figure iv: Defined Office Employment Centres*.
- 8.40 The NCP recommends the adoption of a number of broad principles in terms of identifying the locations of office space in Canberra. These all include the underlying objective of retaining the ‘quality and significance of the national capital’ and aim to:
- avoid traffic congestion in the “Central National Area”;
 - avoid deterioration of the environmental and visual quality of the Central National Area of Canberra;
 - maintain the option of further employment in the Town Centres;
 - preserve the setting and significance of the Central National Area as a location for major national institutions;
 - ensure the dominant role of Civic is maintained in the hierarchy of centres; and
 - recognise the market demand for small and medium scale offices for the private sector in the commercial areas of Town, Group and Local Centres in other defined office locations.³⁵

Commonwealth Government office location strategy

- 8.41 In 1988, following recommendations by the Joint Committee on the Australian Capital Territory in its report: *Metropolitan Canberra*, the

33 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 80.

34 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 82.

35 National Capital Authority, 2008, *Consolidated National Capital Plan: Figure 19, Defined Office Employment Centres*, NCA, Canberra, p. 82.

Commonwealth Government developed a long-term Commonwealth office location strategy.³⁶

- 8.42 The Commonwealth office location strategy would:
- limit further growth of Commonwealth Offices in the city centre (Civic);
 - give priority to the development of office space in town centres, in particular Tuggeranong and Belconnen; and
 - limit office accommodation in Parkes and Barton to those Commonwealth Departments requiring close proximity to the Executive and Parliament.³⁷
- 8.43 In the early 1990s, there was a reduction in demand for Commonwealth Government office space following changes to the Commonwealth public sector (the public sector). The greatest changes to the public sector, which directly influenced the reducing demand for Commonwealth Government office space, included cuts in public sector employment, new outsourcing and competition policies and a Commonwealth property divestment program. With the addition of new approaches to public sector management and the greater freedom of choice of office location, the need for office space diminished over the decade 1990 to 2000.³⁸
- 8.44 With enactment of the *Financial Management and Accountability Act 1997* (the FMA Act), responsibility for property decisions for Commonwealth agencies was divested to the departmental secretary of each agency. Prior to the enactment of provisions in the FMA Act, one central agency was responsible for the coordination of property decisions of all Commonwealth agencies.³⁹
- 8.45 In addition to divestment of responsibility for decisions relating to office property, the Commonwealth Government also sought to divest its interest in airports. The sale of the Canberra airport lease to the Canberra Capital Airport Group in 1998 created a unique planning arrangement within Canberra as the Airport was subject to the NCP, and requirements under the *Airport Act 1996* to develop its own Master Plan. In 2006 the requirement to be subject to the NCP was removed.
- 8.46 On this basis, the Airport has undertaken significant development within its precincts and has attracted employment to the area through the leasing of office and retail space as discussed in the first half of this chapter.

36 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 81.

37 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 81.

38 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 81.

39 Mr David Wright, *Transcript T4*, pp. 21-22.

Consulting in relation to the location of Commonwealth Government offices

- 8.47 Prior to the diminished requirement for Commonwealth Government office space in the period 1990 to 2000, the former Commonwealth Department of Administrative Services (DAS) was responsible for the coordination of Commonwealth property services.
- 8.48 With the disbanding of DAS, the coordination function for locating Commonwealth agencies was relinquished. Mr David Wright recounted the situation:
- ...one dimension of the divestment program that tends to be forgotten is that the loss of DAS [Department Administrative Services] and the transfer of responsibility for property decisions by individual departments to the secretary of the department meant that the ability of the territory, or indeed a Commonwealth agency like the National Capital Authority, to influence employment decisions in a proactive way was gone.⁴⁰
- 8.49 Mr Ed Wensing advised of the National Capital Development Commission's (NCDC - the precursor to the NCA) role in relation to decisions about commonwealth agency location. Mr Wensing advocated that a central agency responsible for locating commonwealth agencies balances employment and residential activities and creates a more sustainable city. Mr Wensing stated:
- ...in the days when the NCDC was around, it had a much greater degree of control over employment location by Commonwealth agencies than is currently the case. Clearly in a city where you are trying to balance employment and residential activities and you are trying to create a more sustainable city, someone needs to be given a much greater degree of influence over Commonwealth agency decisions about employment location.⁴¹
- 8.50 The ACT Government explained that in the past it had been consulted about the proposed locations of Commonwealth agencies, but that this was no longer the case. The ACT Government expressed that it would again like to be informed about proposals for agency locations. The ACT Government stated:
- In the past, the ACT government had a more engaged process with the Commonwealth about the location of Commonwealth facilities. Obviously, before self-government, decisions were made very deliberately by the Commonwealth government, not by

40 Mr David Wright, *Transcript T4*, pp. 20-21.

41 Mr Ed Wensing, *Transcript T3*, p. 60.

individual departments, as to where they would be located. There was a strategy, as you know, in relation to the development of the town centres. That process has changed over time. I am not necessarily saying that that is altogether a bad thing, but it would be very useful for us through our strategic land supply process to have an earlier awareness of what the intentions of Commonwealth departments are.⁴²

- 8.51 The Walter Burley Griffin Society argued that the NCA should be given greater responsibility and resources in relation to decisions about Commonwealth agency location. The Walter Burley Griffin Society stated:

The NCA in particular needs much greater powers and resources to fulfil its role where powerful Commonwealth departments and agencies, aided by land tenure and privatisation policies, can so readily undermine both the National Capital Plan and the Territory Plan.⁴³

Conclusions

- 8.52 The committee finds that since the devolution of responsibility for property decisions of individual departments, there is little consultation with relevant stakeholders. Further, it is evident that there is no coordination in relation to liaison with either the ACT Government or the community about future sites or developments for Commonwealth Government agencies.
- 8.53 The committee believes that a ministerial advisory body should be established to take responsibility for all property decisions involving locating agencies, which would identify a strategic approach to the location of Commonwealth Government offices.
- 8.54 The advisory body would be responsible for consulting with relevant stakeholders on behalf of the Commonwealth Government to formulate a Commonwealth agency location policy. In addition to providing general advice to the Government on a range of issues affecting Canberra, the advisory council could also be tasked with advising the Commonwealth Government on proposed future agency locations.
- 8.55 The ministerial advisory body should be the National Capital Consultative Council (as recommended by the committee in Chapter 4), co-chaired by the Minister for Home Affairs and the ACT Chief Minister, and
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42 ACT Planning and Land Authority, Mr Neil Savery, *Transcript T2*, pp. 22-23.

43 Walter Burley Griffin Society, Mr Brett Odgers, *Transcript T1*, pp. 3-4.

comprising other relevant Commonwealth and ACT Government ministers co-opted as necessary, representatives of the National Capital Authority, businesses, and the community within Canberra and the capital region.

Recommendation 12

- 8.56 **That the National Capital Consultative Council make recommendations to the Commonwealth Government for a policy to govern future locations of Commonwealth Government agencies in Canberra.**

Canberra's transport system

Introduction

- 9.1 Transport is an essential element of successful regional, urban and city planning. With the social and economic priorities driving action to address climate change and improve the long-term sustainability of communities, the spotlight is firmly on transport as a major contributor to carbon emissions.
- 9.2 The Y-Plan has formed the basis for planning and development of Canberra since its publication in 1970. Through the Y-Plan Canberra was designed on a transport system, which facilitated rapid mobility using cars as the primary mode of transport. This approach was firmly reflected in the National Capital Plan (NCP), which guides the fundamental structure of Canberra today.
- 9.3 Despite the aspirations of the plan to facilitate rapid and easy mobility by car, population growth, changing demographics and lifestyle choices have placed enormous pressure on our road transport system.
- 9.4 These pressures are being felt in communities all around Australia where increasing population densities test the boundaries of existing road infrastructure.
- 9.5 At the same time, traditional approaches to transport and planning are being challenged and tested in the new paradigm of climate change.
- 9.6 This confluence of events has brought to a head the urgent need for significant attention to be paid to the issue of transport sustainability. This is as true for Canberra as it is everywhere else. Only here, these problems have been exacerbated in part by the current dual planning system.

- 9.7 The committee believes that the updating of the planning system in the national capital as proposed in Chapter 11 offers a unique and timely opportunity to apply visionary thinking to the future transport plans for the national capital to ensure that Canberra is a leader in addressing climate change through holistic, innovative transport planning.
- 9.8 This chapter analyses the current situation and recommends a way forward.

Background

- 9.9 Canberra's road transport system consists of its road network, public transport and car parking facilities. The 'efficiency of the road system depends, not only on the physical provision of infrastructure, but also on the system and the physical fabric of the city.'¹
- 9.10 This chapter outlines a range of social, environmental and economic concerns about the current and future transport needs of Canberra. These needs take into consideration the relative responsibilities of the Commonwealth and ACT Governments in relation to public transport, reliance on private vehicles and the provision of parking. In addition, concerns about the impact that commercial and residential development is having on future transport planning and options for reform are discussed.
- 9.11 The committee notes that the National Capital Authority (NCA) has not had an active involvement in transport and traffic planning except in the Parliamentary Triangle, where it is has the sole jurisdiction for planning. This observation was made by a traffic engineer:

The most important role of the NCA is one that seems to have been forgotten in the past decade - namely the safeguarding of the National Capital against the unwanted effects of congestion that come with continuing population growth. The National Capital Development Commission gave special attention to finding ways of planning Canberra's metropolitan growth so as to give some protection to its formal central area from the traffic and parking problems [and consequent chaos of unforeseen responses] that are the unhappy lot of most cities.²

1 National Capital Authority, 2008, *Consolidated National Capital Plan*, Part 1, NCA, Canberra, p. 104.

2 Mr Ian Morrison, *Submission 12*, p. 1.

Canberra's national and arterial road networks

- 9.12 Canberra's national and arterial road networks are identified in the 'General Policy Plan', part of the NCP. The NCP states that the 'National Road System' supports the role of Canberra as the nation's capital by:
- providing the principal means of access between the National Capital and the State Capitals, and between Canberra and the major national highways;
 - being designed for symbolic, formal or National Capital purposes;
 - being roads whose principal purpose is to provide access to National Capital facilities and vantage points within the Territory or, being roads located on land declared as National Land under the Act.³
- 9.13 Roads that support across town traffic are categorised as 'arterial roads' or parkways. The arterial roads support Canberra's 'urban structure'⁴
- 9.14 The NCP acknowledges that the 'interaction between land use activities and transport is important. The disposition and size of the centres for major employment and other uses places different demands and stresses on the transport system and the physical fabric of the city.'⁵
- 9.15 The NCP also states that in addition to the transport and planning considerations of function and symbolism, the transport system should 'support the urban design, environmental, heritage and land use requirements of the corridor in which they are located.'⁶
- 9.16 The committee notes that in addition to the NCP being very dated in relation to transport, it is also completely out of date with regard to a range of contemporary issues that guide city and urban planning in the twenty-first century, such as environmental sustainability, climate change, water restriction, rising fuel costs, safety, healthy lifestyles, urban amenity, and 'creative communities'. These modern priorities in planning and design are addressed further in Chapter 11.

3 National Capital Authority, 2008, *Consolidated National Capital Plan*, Part 1, NCA, Canberra, p. 104.

4 National Capital Authority, 2008, *Consolidated National Capital Plan*, Part 1, NCA, Canberra, p. 104.

5 National Capital Authority, 2008, *Consolidated National Capital Plan*, Part 1, NCA, Canberra, p. 104.

6 National Capital Authority, 2008, *Consolidated National Capital Plan*, Part 1, NCA, Canberra, p. 104.

The impact of new town centres on transport networks

- 9.17 Developments at the Canberra International Airport (the Airport) and the proposed development of Molonglo are having an impact on the structure of Canberra and influencing the flow of traffic across Canberra. Developments at the airport have already begun to shift Canberra's original 'Y' shape plan to resemble more of an 'X' shape (as visible in *Figure iv*). The issues about the changes to the Y-Plan are addressed in the context of the Molonglo development and development in the Central National Area. The concerns about the impact that development at the Airport is having on the metropolitan structure of Canberra are addressed in Chapter 8.
- 9.18 Engineers Australia explain how the Y-Plan aided the efficiency of Canberra's transport system and enabled a convenient, high capacity, high frequency transport system:
- ...the public transport system of the general plan concept and the Y plan actually had a linear public transport system. That enabled a high-capacity, very high-frequency convenient public transport system. By dispersing the employment centres – like out to the airport and out to Molonglo – you suddenly go from a linear system to something that goes in all directions.⁷
- 9.19 Using the example of the proposed development of Molonglo, Engineers Australia stated that future developments should take into account the impact such development could have on the existing transport system and planning framework. With this foresight, future possible congestion on particular roads could then be discussed and addressed before becoming problematic.⁸
- 9.20 The committee notes the impact that Canberra's structure has on public transport, namely that the lower density of population in each town centre is the driving force behind an unsustainable public transport system.⁹
- 9.21 The Canberra Business Council and the Walter Burley Griffin Society also highlighted the inefficiencies of the current transport system, the unsustainable nature of Canberra's public transport system and the reliance on private vehicle use.¹⁰ Mr Ed Wensing commented 'that the critical element that is missing in our sustainability is a decent public

7 Engineers Australia, Mr Tom Brimson, *Transcript T4*, pp. 13-14.

8 Engineers Australia, Mr Tom Brimson, *Transcript T4*, p. 13.

9 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 44.

10 Canberra Business Council, Ms Christine Faulks, *Transcript T2*, p. 42; Walter Burley Griffin Society, Mr Brett Odgers, *Transcript T1*, p. 10.

transport system and better balanced employment between the employment nodes.’¹¹

- 9.22 The Walter Burley Griffin Society commented on the impact on the transport system that development in the Central National Area would have in relation to the *Griffin Legacy* Amendments. The Walter Burley Griffin Society stated:

In relation to the *Griffin Legacy* amendments, they represent a very considerable concentration of employment and new, high-density residential development in the centre of Canberra. The problem for the ACT is that it has inherited a plan from the NCDC which is predicated upon separate centres across the territory. That plan, as it was modelled in the sixties and seventies, was based upon analyses of traffic movements and of retail markets. Therefore, the centres policy of the NCDC required a balanced approach to all of the centres of this city. The concentration of a totally new centre in the symbolic lands of Canberra throws out that balance. However, it is in the interest of the ACT government to agree to something which is to their short-term benefit because it will suddenly increase the value of territory land that is associated with the *Griffin Legacy* amendments, even though these amendments work against the longer strategy of the plan for the city overall. This creates the problems of traffic congestion which we can experience everyday now in the centre of Canberra. It is a city of 340,000 people and should have no traffic congestion. The two governments and their two planning agencies are working against each other and against the longer-term interests of the city itself and of the nation.¹²

- 9.23 The committee, in Chapter 4, has expressed the view that in order not to exacerbate transport congestion the funding for Constitution Avenue should be reinstated.

Transport system planning responsibility

- 9.24 The ACT Government is responsible for part of the planning of arterial roads and receives some compensation for transport planning from the Commonwealth Government through the Commonwealth Grants Commission. By way of explanation, the NCA stated:

11 Mr Ed Wensing, *Transcript T3*, p. 54.

12 Walter Burley Griffin Society, Professor James Weirick, *Transcript T1*, p. 11.

We are moving more to an X plan now where you have significant distances to cover for arterial roads and where you have a population that has not reached the projected levels that we are anticipating for the towns – which, from memory, was something like 100,000 per town. I do not think any of them have reached that, which means that you do not have a level of population that creates a sustainable financial model to drive public transport.

That is part of the strategic plan for Canberra – this concept of towns and town centres. Moves like the urbanisation of some of the central areas and, say, Molonglo Valley, are starting to address that. But I think, other than that, that is the sort of primary level of the National Capital Plan. The detail of where the bus lanes go and how the roads work, the traffic markings and the traffic assessments, unless they are national roads, remain the province of the territory. I think the issue of transport and arterial roads would go to: what is the inheritance that the ACT government has of administering those on behalf of the Commonwealth, and is there a cost impost? I think I am right in saying, for example, that part of the Grants Commission provides for the fact that ACT roads are wider than roads in other areas, so that there is some funding to the territory for that, but transportation, public transport which goes to population and scale, is a significant issue.¹³

- 9.25 The ACT Government commented that the Commonwealth Grants Commission advised that the Commonwealth Government should directly fund any costs associated with the planning of Canberra as the national capital, which included the public transport system and road network system. The ACT Government explained:

The Grants Commission, in its 2004 review, considered other cost imposts of the urban form of Canberra. The relative inefficiencies of the ACTION public transport system due to low density development, as well as additional parks, land management costs and extensive road network to service the low density suburbs, were all considered by the Grants Commission. However, the Grants Commission was of the opinion that these measures should be funded directly from the Commonwealth rather than forming part of the Grants Commission funding distribution model.¹⁴

- 9.26 The ACT Government outlined that it has developed the 'Canberra Sustainable Transport Plan', the principles of which are included in the
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13 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 44.

14 ACT Government, Mr Andrew Cappie-Wood, *Transcript T5*, p. 28.

Canberra Spatial Plan. In its plans, the ACT Government has advised that it has addressed transport planning in the context of incorporating a climate change strategy into its planning documents and the implications this has for land use, transport and funding of associated infrastructure. The ACT Government stated:

There is obviously a lot more that sits behind simply saying 'integrated land use and transport planning'. The ACT government is a signatory to the National Charter of Integrated Land Use and Transport Planning, which contains 11 principles of good practice in land use and transport planning. Many of those are reflected in the development of the Canberra Spatial Plan and the Canberra Sustainable Transport Plan, which is a companion document to the Canberra Spatial Plan. That is still at a very high level. It ultimately comes down to the application of policy or the development of policy and its application. There is always going to be an issue around any government's ability to fund that type of infrastructure.¹⁵

- 9.27 The committee acknowledges the challenge to implement forward thinking policy given the limited capacity to invest in the infrastructure necessary to affect positive change. The ACT Government also stated:

More importantly, since the Canberra Spatial Plan was prepared, the ACT government has adopted the *Weathering the Change: the ACT climate change strategy*, which introduces a whole new meaning to both land use and transport planning in the sense of the impact of those activities on climate change, both in mitigation and adaptation. Increasingly, both in the ACT and nationally, all planning agencies and transport agencies have to work collaboratively to identify spatial planning arrangements that reduce the impact of land use and transport on climate change.¹⁶

- 9.28 The committee believes this is a critical point and endorses the ACT Government's point regarding the dramatic increase in the need for collaboration portfolios within government if the modern challenge of climate change is to be addressed.
- 9.29 This collaboration must extend across the territory and federal spheres of government and for the ACT, across the border to NSW and the broader region.
- 9.30 Finally, the committee notes this increased necessity to collaborate at both policy and program level requires additional resources.

15 ACT Government, Mr Neil Savery, *Transcript T2*, p. 25.

16 ACT Government, Mr Neil Savery, *Transcript T2*, p. 25.

Cycling and walking

9.31 The committee heard some evidence of pedestrian and cycle access having poor outcomes in the Central National Area. While these issues were not central to the discussion, the committee believes they illustrate how the basic principles of a sustainable, liveable city require careful and ongoing attention.

9.32 The first example relates to pedestrian management on Northbourne Avenue. This is an important point because this major avenue divides Civic in half, inhibiting pedestrian flows through the city.

Professor Patrick Troy stated:

The planning ambition is to encourage more people to walk yet the traffic management cycle on Northbourne Avenue takes two 'cycles' of the lights for pedestrians to cross which is a serious discouragement and that such small businesses that do operate in the west of Civic do so 'disconnected' from the economic life of the [Civic] centre.¹⁷

9.33 The committee believes that while the planning authorities are not directly responsible for traffic lights, this is a useful insight to the relationship and collaboration necessary between planning and function.

9.34 The next example is from the ACT Cross Country Club, a member of the Lake Users Group. This Club conducts both road and cross country distance racing in the ACT and region. The Club holds three major events every year aimed at attracting interstate runners coming to compete and stay in Canberra.

The Central Basin is Canberra's 'Hyde Park or Central Park' yet it is not possible to walk, run or cycle around the area after dark due to the lack of good lighting and maintained paths. The lake has been in place for 40 years and to get onto or off of Kings Avenue Bridge when undertaking a lap of the Central Basin; one must cross the very busy Bowen Drive. Why a footbridge has never been put in place in this area is beyond belief.¹⁸

9.35 Further to this, the committee notes that a growing proportion of weekends are host to charity walks and runs involving families and children around the central basin and that the approximate 4km distance is ideal for a lunchtime walk or jog for employees in Civic, Russell and the Parliamentary triangle. The same point is relevant for cyclists.

17 Professor Patrick Troy, *Submission 80*, p. 3.

18 Mr Ken Eynon, *Submission 88*, p. 1.

- 9.36 The community use of this popular walk and running track has been recognised by the NCA as they have invested in the southern lake foreshore extensively over recent times. The committee believes that continuous safe access and egress around the Central basin is highly desirable.
- 9.37 The committee believes that both of these examples serve to illustrate that good planning involves an understanding of how people move around in public space. Many stakeholders are involved, and community groups, such as members of the Lake Users Group, often have the sharpest insight into the practical necessities for safe amenity and deserve to have a voice in the planning system.

Public transport and parking

- 9.38 Parking is increasingly becoming an issue as private car use increases. There is a trade off between using urban space for other purposes such as open space or replacing it with car parks to cater for the increasing use of private vehicles. This has the impact of changing the landscape and the nature of the national capital as well contributing to the creation of traffic congestion and increasing pollution levels.
- 9.39 The Canberra Business Council places the blame for the continued need for car parking on an inefficient public transport system, albeit acknowledging the cause is the large distances between town centres. The Canberra Business Council stated:
- There is no efficient public transport system in the ACT. We are a very spread-out city and we are reliant on cars. If you drive across the bridge, you will see a whole area right down to the lake that is going to be converted into tarmac, with parking meters for parking. That does not really sit well with the national capital, but the reality is that it is a city planned around cars and we now have climate change on top of that. There needs to be a substantial investment, I would say, from the Australian government as well as the ACT government into addressing those issues.¹⁹
- 9.40 The growing pressures on parking are symptomatic of the design legacy of Canberra and the transport inefficiencies that arise. Inevitably these pressures elicit a response. For example, this committee conducted an inquiry into pay parking in the Parliamentary Triangle. Currently there is no pay parking in the Parliamentary Triangle.

19 Canberra Business Council, Ms Christine Faulks, *Transcript T2*, p. 42.

- 9.41 Dr John Gray also commented on the ACT Government's decision with the support of the NCA to provide parking adjacent to Commonwealth Avenue and the impact this has on the landscape in the Central National Area:

Today and every working day of the week hundreds of cars are being parked on a piece of public open space, which is quite extraordinary. Obviously the ACT government is looking after the interests of its electorate. I think that Acton Park and the other foreshores merit much stronger protection than that. I submit that public parking is a use of public open space that is just unacceptable.²⁰

- 9.42 The committee notes with regret that the undeveloped land adjacent to West Basin and Commonwealth Avenue has been required for parking.

- 9.43 The ACT Government advised that it was absorbing all the economic, social and environmental costs associated with parking and stated:

...the NCA choose to adopt ACT government policy when it comes to parking ratios within commercial buildings. I understand that there is also a diminishing ratio of car parking spaces per square metre, in line with policy to address climate change. To me, that is a direct cost shift onto the ACT government, because associated with the NCA choosing to adopt ACT policies there is an impact on public transport infrastructure in the ACT by default or by implication. Is there any recognition of that, either in Commonwealth grants or in any special recompense for that cost shift from the Commonwealth to the ACT government?²¹

- 9.44 The committee is concerned about some costs relating to public transport that are borne by the ACT Government which is not compensated through the Commonwealth Grants Commission. The committee notes that the relative inefficiencies of the public transport system exist because of design features determined by the Commonwealth.

- 9.45 The committee is also concerned about some costs relating to parking that are borne by the ACT Government which is not compensated through the Commonwealth Grants Commission. The committee commends the NCA's choice to apply ACT Government parking ratios to the areas under its jurisdiction. This may increase reliance on the public transport system because the ACT parking ratios for these buildings reduce over time as part of their climate change policy.

20 Dr John Gray, *Transcript T5*, p. 72.

21 ACT Government, Mr Neil Savery, *Transcript T2*, pp. 25-26.

Options for reform

- 9.46 The ACT Government suggested that 'transport' should be incorporated into the NCP. This suggestion formed part of a recommendation that the Metropolitan Canberra Policy Plan be updated and brought into line with sustainability principles.²²
- 9.47 The Royal Australian Institute of Architects (RAIA) believed that the Metropolitan Canberra Policy Plan needs to be brought into line to better address NCP principles and further include transport planning.²³ Further, RAIA advocated that a transport plan should be developed with consideration to sustainability.²⁴
- 9.48 Engineers Australia advocated that there was no strategic approach to the transport implications of planning in relation to developments around the Airport and in Molonglo. Engineers Australia believed that the ACT Government should employ transport planners responsible for drafting, monitoring and revising a transport plan which includes all facets of Canberra's transport system. The need for specific transport planners and a transport plan would ensure that as the city grows the impact on transport is also progressively addressed.²⁵
- 9.49 Engineers Australia also advocated that the transport plan should be incorporated into the NCP.²⁶

Conclusions

- 9.50 Transport, traffic and parking have emerged as a major problem in Canberra over the years. The committee is concerned that the current dysfunction in the ACT affects transport in the wider region.
- 9.51 The committee also makes the observation that while the ACT Government invested in the development of the Canberra Sustainable Transport Plan, this plan has been criticised for not being comprehensive enough.
- 9.52 The committee notes the out-of-date approach to transport in the NCP. Leaving aside the question of policy priority, the committee recognises

22 ACT Government, Mr Andrew Cappie-Wood, *Transcript T2*, p. 4.

23 Royal Australian Institute of Architects, Mr Alec Tzannes, *Transcript T1*, p. 70.

24 Royal Australian Institute of Architects, Mr Alec Tzannes, *Transcript T1*, p. 80.

25 Engineers Australia, Mr Daverin, *Transcript T4*, p. 13.

26 Engineers Australia, Mr Daverin, *Transcript T4*, p. 13.

that neither planning authority currently holds the necessary combination of powers and resources to resolve the problem. The committee supports the view that this weakness could be ameliorated through a new, joint Commonwealth and ACT 'Sustainable Transport Plan'.

- 9.53 A joint Commonwealth and ACT Sustainable Transport Plan would address the broader range of transport issues that draw in climate change, reduction of emissions, public transport, safe cycling for both recreational activities and commuters, safe pedestrian access, traffic and parking.
- 9.54 The Sustainable Transport Plan should be incorporated into the NCP and Territory Plan and permeate all stages of planning.
- 9.55 The Sustainable Transport Plan would also serve to outline specific Commonwealth Government and ACT Government responsibilities in terms of road: funding, maintenance and policy planning.
- 9.56 The committee has been advised that there are no ongoing transport planners employed by either the NCA or the ACT Planning and Land Authority. This ought to be urgently rectified.
- 9.57 The committee notes the current administrative arrangements in both the ACT and the Commonwealth have many contributing elements of a successful transport policy in different portfolios to that of planning. This indicates that any attempt to formulate a Sustainable Transport Plan must begin with a whole-of government approach. Climate change, health (active life styles) and transport/ traffic are obvious stakeholders and where much of the policy expertise to guide policy development is likely to reside.
- 9.58 The committee believes that for the Sustainable Transport Plan to be effective it should remain a whole-of -government working policy document, which takes into consideration all new major commercial and residential developments.
- 9.59 The committee advocates that discussion between the Commonwealth and ACT governments should also be informed at the appropriate stages with community consultation.
- 9.60 The committee acknowledges that the ACT Government carries the financial burden of providing public transport and parking directly attributable to Commonwealth policies, as a result of legacy decisions or determined and/or applied by the NCA now, which are not recognised and compensated by the Commonwealth Grants Commission. As such, the committee urges exploration by the Commonwealth for fairer compensation for the ACT Government on the broad range of transport infrastructure, public transport, parking and cycling amenity.

- 9.61 The committee notes the Canberra Business Council and the Conservation Council of the South East Region initiative to jointly promote a light rail system as necessary infrastructure for Canberra's future and notes the ACT Government's support for this proposal to Infrastructure Australia.
- 9.62 The committee believes that light rail ought to be thoroughly investigated in the sustainable transport strategy.

Recommendation 13

- 9.63 **That the Commonwealth and the ACT Government prepare a joint Sustainable Transport Plan which is recognised in both the National Capital Plan and the Territory Plan.**

The dual planning framework

Introduction

- 10.1 The *Australian Capital Territory (Planning and Land Management) Act 1988* (the PALM Act) seeks to ensure that Canberra and the Territory are planned and developed in accordance with their national significance. This land consists of the *Designated Areas* referred to in the PALM Act and the National Capital Plan (NCP). The Designated Areas are almost identical to the 1964 Areas of Special National Concern. At that time, however, there was one planning body for the Australian Capital Territory (ACT) -the National Capital Development Commission (NCDC).
- 10.2 The PALM Act provided for two plans and two planning bodies. Since that time there has been increasing confusion about how the planning framework operates.
- 10.3 These arrangements have given rise to anomalies and inconsistencies in planning and development within the ACT. The dual planning framework inevitably leads to conflict and some overlap between the ACT and National Capital Authority (NCA). The complexity and ambiguity continues to be a source of confusion and frustration for planners, developers and residents.
- 10.4 This chapter elaborates on these concerns and sets out a pathway for reducing perceived duplication is the objective to align land administration with planning jurisdiction, where possible.

Background and origins of the dual planning framework

- 10.5 Australia's national capital experienced a significant change in 1989 when self-government was introduced in the ACT. The Federal Government established the NCA to manage the Commonwealth's continuing interest in Canberra as Australia's national capital.¹ The NCA was later given responsibility for managing National Land and associated assets required for the special purposes of the capital.
- 10.6 The ACT Government's statutory agency responsible for planning is presently the ACT Planning and Land Authority (ACTPLA). ACTPLA's functions are to administer the Territory Plan; to grant, administer, vary, and end leases on behalf of the Executive, to review and approve decisions for development applications and to regulate the building industry. ACTPLA operates under the *Planning and Development Act 2007 (ACT)*, and, in addition, cannot be inconsistent with the provisions in the NCP.
- 10.7 Despite the introduction of self-government some 19 years ago, there appears to remain a large degree of uncertainty, at least among ordinary citizens, about the areas for which the NCA has statutory planning responsibilities. The ambiguity arising from the dual-planning regime continues to create confusion and frustration for planners, developers and residents.
- 10.8 The likelihood of confusion and conflict resulting from the dual planning arrangement was foreseen shortly after the advent of self-government, when Senator Margaret Reid stated:

...the ACT Government and the people of Canberra have concerns arising out of the dual planning system...the concerns are two-fold 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.

ACT business has to contend with the concepts of the National Land and the Territory Land, land in Designated Areas and land subject to special requirements. Maybe it is because it is so new that it is still causing this confusion and it will all become clear, but 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.

¹ The National Capital Authority was previously known as the National Capital Planning Authority, see *Table 1.1*.

Contending with planning authorities, I am sure all would realise, can be complicated in the best of circumstances, but where there are two bodies answerable to two different governments in a city the size of Canberra, I think it is confusing.²

10.9 The inevitability of conflict arising from the new planning arrangements was also recognised by Mr John Langmore MP, during debate on the *Australian Capital Territory (Planning and Land Management) Amendment Bill 1990*. Mr Langmore stated:

The matter will not always be free of conflict. Inevitably there will be conflict over issues. There was conflict over the division of land between National Land and local land. Inevitably there is conflict over the use of powers, the powers of designation, and over the use of special conditions which the National Capital Planning Authority can impose on the Territory.³

10.10 The confusion and frustration emerging from the current planning environment has led to calls for reform to the planning framework. The present arrangement whereby the ACT Government is required to seek works approval from the NCA where works occur on Territory Land in Designated Areas remains a contentious issue. During 2004 the tension between the two was intensified by the conflict concerning the Gungahlin Drive Extension (GDE) which led ACT political parties to call for a reduced role for the Federal Government in ACT planning matters.

10.11 In drawing attention to the complexity of the planning framework, the ACT Government noted that there were five combinations of planning and land management which currently occur in the ACT:

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

2 Australia, Senate 1990, *Debates*, 6 December, p. 5123.

3 Australia, House of Representatives 1990, *Debates*, 15 November, p. 4256.

4 ACT Government, *Submission 69*, p. 9.

Designated Areas

10.12 Section 10 of the PALM Act states that the NCP may specify areas of land that have the special characteristics of the national capital to be Designated Areas; and:

...set out the detailed conditions of planning, design and development in Designated Areas and the priorities in carrying out such planning design and development.⁵

10.13 The NCP identifies three primary factors for determining those areas of land which have the 'special characteristics of the national capital' and the extent to which they are Designated Areas:

- Canberra hosts a wide range of national capital functions – activities which occur in Canberra because it is the national capital and which give Canberra a unique function within Australia.
- Griffin's strong symbolic design for Canberra Central has given the national capital a unique and memorable character.
- Canberra's landscape setting and layout within the Territory have given the Capital a garden city image of national and international significance.⁶

10.14 'National capital functions' include parliamentary buildings, Commonwealth agencies, official residences of the Prime Minister and Governor General, embassies, national institutions and major national associations.⁷

10.15 As outlined in the plan, the Designated Areas comprise:

- Lake Burley Griffin and its Foreshores
- the Parliamentary Zone
- the balance of a Central National Area adjoining the lake and the Zone, and extending from the foot of Black Mountain to the airport
- the Inner Hills which form the setting of the Central National Area
- the Main Avenues and Approach Routes between the ACT border and the Central National Area.⁸

10.16 The NCA explained that:

5 Section 10, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

6 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 14.

7 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 15.

8 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, pp. 15-161.

In addition to establishing that broad strategic framework for Canberra, the National Capital Plan also identifies those places that are thought to have the special characteristics of the capital and which warrant more detailed planning and design attention because of their use, location or topography and because they play a much more significant part in establishing the layout and the character of the capital than other places do. These places are currently called the 'designated areas' and they have been recognised by the Commonwealth since 1964, when they were called 'areas of special national concern'.⁹

- 10.17 The fact that Designated Areas include both Territory Land and National Land continues to be the source of much confusion among both planners and the wider ACT community.
- 10.18 Various complexities emerge where Territory Land is also designated land under the NCP. Although leasing matters are the responsibility of the Territory, specific works approval for developments must be obtained from the NCA. The NCA stated:
- Within the designated areas, the authority currently has responsibility for development approval. However, because the designated areas cover territory land as well as national land, there is a perception of planning duplication and some public confusion in relation to territory land.¹⁰
- 10.19 The NCA is responsible for approving the construction, alteration, extension or demolition of building or structures, landscaping, tree felling or excavations in Designated Areas. This excludes alterations within buildings or structures. Changes proposed in Designated Areas must meet any detailed conditions of planning, design and development set out in the National Capital Plan.¹¹
- 10.20 One way this layering of planning responsibility and the resulting involvement of two authorities in the approval process can be streamlined is to remove one layer. When the layer created by the NCP is removed, this has been described as 'uplifting Designated Areas'.

9 National Capital Authority, Ms Annabelle Pegrum, *Transcript*, T1, p. 30.

10 National Capital Authority, Ms Annabelle Pegrum, *Transcript*, T1, p. 30.

11 Section 4, *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth).

Special Requirements

- 10.21 The NCP includes ‘Special Requirements’ for some areas of Territory Land and National Land, outside Designated Areas, where that is considered to be desirable in the interest of the National Capital.
- 10.22 Areas that are subject to Special Requirements include the land fronting the main avenues and approach routes because they enhance the role and experience of Canberra as the National Capital, and the river corridors and open space system because they are part of the character and setting for the Capital and are environmentally sensitive.¹²
- 10.23 A Development Control Plan (DCP) must be approved by the NCA for land, which may be either Territory Land or National Land, which is subject to Special Requirements. In addition, development on Territory Land subject to a DCP also requires development approval by the Territory Government. The NCA noted that ‘this is a statutory duplication of administration and creates considerable confusion for the developer and community.’¹³ The NCA further stated:
- Development on National Land subject to a DCP requires consideration by the Authority for consistency (with the DCP) but not development approval. This too can result in confusion and administrative red tape.¹⁴
- 10.24 The NCA was particularly pointed in its criticism of Special Requirements commenting that as a planning tool they ‘are clumsy and create unwarranted red tape.’¹⁵ The NCA proposed that Special Requirements be removed from the NCP. The NCA commented that this ‘would eliminate the need for a DCP and enable the ACT Government to administer Territory Land without any references to the Authority.’¹⁶
- 10.25 In addition, the removal of Special Requirements would ‘exempt Commonwealth Government agencies (such as Defence and Finance) from preparing a DCP and referral to the Authority.’¹⁷ The NCA noted that both the Commonwealth and ACT Government would continue to be bound by the general provisions of the NCP. The NCA advised that ‘if the Commonwealth retains broad strategic control then the general land use is

12 National Capital Authority, *Submission 55*, p. 33.

13 National Capital Authority, *Submission 55*, p. 33.

14 National Capital Authority, *Submission 55*, p. 33.

15 National Capital Authority, *Submission 55*, p. 34.

16 National Capital Authority, *Submission 55*, p. 34.

17 National Capital Authority, *Submission 55*, p. 34.

protected and there is little risk in removing additional planning processes and giving control to the ACT government.¹⁸

- 10.26 The committee notes that there was some concern about removing Special Requirements from National Land. Mr David Wright stated:

So when the NCA say, 'We'll relinquish or set aside the use of special requirements,' I would caution very seriously against doing that. And I think that problem will be exacerbated if the designated areas are rolled back to reveal more national land sites, because those national land sites, if they are not in designated areas and there are no special requirements as currently provided for in the National Capital Plan, are literally holes in this one plan, and the Commonwealth basically has a free hand. It can spout all it likes about good neighbour relations with the planning authorities, but in fact it has all the power and all the money and it will make its decisions. So I would caution very seriously about withdrawing special requirements.¹⁹

- 10.27 The committee also heard evidence of a more fundamental issue in that, with the benefit of hindsight, it may be the case that the original declaration of National Land did not extend to certain areas where the Commonwealth has a legitimate planning interest. These areas may include the Australian Institute of Sport, the Australian National University, the Tidbinbilla Deep Space Tracking Station and roads within the Diplomatic Estates, all of which are Territory Land which is either currently designated or subject to special requirements.²⁰ The committee notes the NCA's proposal for 'uplift' included some areas of existing Territory Land being gazetted as National Land.²¹ The committee believes that one of the issues to be addressed in the future should be to determine exactly which areas of Territory Land should be gazetted as National Land.

Possible options for reform

- 10.28 The NCA's proposal for uplift of Designated Areas, as shown in *Figure iii*, is extensive. In particular, the NCA has proposed that the inner hills and those areas comprising the National Capital Open Space System and main avenues and approach routes be uplifted.

18 National Capital Authority, Ms Annabelle Pegrum, *Transcript*, T1, p. 30.

19 Mr David Wright, *Transcript T4*, p. 24.

20 Mr David Wright, Submission 68, p. 16.

21 See National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 37.

- 10.29 This aspect of the NCA's proposal caused concern as the evidence suggests that one area that warrants particular protection under the NCP is the inner hill, ridges and buffers, which is the aspect of the NCP that prevents development in these areas, a central feature of the original design of Canberra as a city in the landscape.
- 10.30 The NCA proposed that other areas, primarily in the Central National Area, and described as areas of national significance 'should continue to be identified in the NCP that are vital to the functioning and quality of the built environment and landscape setting and to the protection of the character of the National Capital.'²²
- 10.31 The NCA acknowledged that the name Designated Areas 'does nothing to help understand the national significance of these sites' and 'the fact that this title relates to both National Land and Territory Land creates a perception of duplication of planning processes.'²³ In view of this confusion, the NCA proposed that Designated Areas in the NCP should be reviewed in scope and renamed as *Areas of Special National Importance*. The NCA stated:
- The proposed Areas of Special National Importance should continue to cover those places at the heart of the Capital that accommodate national capital functions, symbolic and cultural places, national public places, the geometry and layout of the city and the diplomatic precincts.²⁴
- 10.32 The NCA noted that 'ideally, all of the land within the proposed Areas of Special National Importance should be National Land declared as required for the special purposes of Canberra as the National Capital.' The NCA further proposed that 'the places within the proposed Areas of Special National Importance that are currently on Territory Land should be gazetted as National Land to ensure the alignment of planning and land status.'²⁵
- 10.33 The proposed Areas of Special National Importance would continue to be under the planning responsibility of the NCA. The NCA commented that 'this is the proper way to ensure that planning, design and urban outcomes are of a standard of excellence commensurate with the value of these areas.'²⁶

22 National Capital Authority, *Submission 55*, p. 31.

23 National Capital Authority, *Submission 55*, p. 31.

24 National Capital Authority, *Submission 55*, p. 31.

25 National Capital Authority, *Submission 55*, p. 31.

26 National Capital Authority, *Submission 55*, p. 31.

10.34 In relation to those areas that would have their status uplifted and planning approval transferred to the Territory, the NCA noted the need for ongoing consistency with the NCP. The NCA stated:

Many places that are within the current Designated Areas and on Territory Land (such as City Hill, the Albert Hall precinct, West Basin, Barton, and the inner hills, ridges and buffers) would not be within the new Areas of Special National Importance. Because the development of these places over time will affect the quality and character of the heart of the Capital, their general land use must continue to be defined in the National Capital Plan.²⁷

10.35 The results of these changes would ensure that 'planning administration arrangements would be aligned with land status such that the ACT Government is solely responsible for development approval on Territory Land.'²⁸ With these changes, the NCA suggested that the 'perceived duplication of national planning and local planning and confusion over land administration will be eliminated.'²⁹

10.36 The NCA was confident that there would be sufficient oversight to achieve the highest standard in design because:

- the quality of detailed planning and design outcomes is protected in Areas of Special National Importance; and
- the general land use and character of Canberra and the Territory is protected through the NCP.³⁰

10.37 The NCA advised the committee that its proposal would not lead to a diminution in the quality of planning or compromise those areas of national significance provided the NCP retained its essential principles. The NCA stated:

I think it would be fair to say that our strongest recommendation to this committee is that the strategic vision for the whole of the territory – that metropolitan plan – needs to be retained by the parliament through the National Capital Plan, because what it does is say what is urban and what is not urban. It does not say that in the urban areas you can have townhouses or hotels or whatever. It just says urban and non-urban. It establishes the framework for growth. It says where the major roads should be – not their exact alignment, not what they look like, but simply

27 National Capital Authority, *Submission 55*, p. 31.

28 National Capital Authority, *Submission 55*, p. 31.

29 National Capital Authority, *Submission 55*, p. 32.

30 National Capital Authority, *Submission 55*, p. 32.

where they should be – and, importantly, it protects that setting and character of the National Capital Open Space System. If the National Capital Plan continues to do that, if the parliament continues to have that control, then our view is that it is safe for the detailed planning to be reduced to those areas that are more important. To use an example, if the Commonwealth relinquished that strategic control and the area of detailed control were reduced to that shown on the map on your right, there would be nothing to stop an ACT government deciding that the land on the inner hills looks awfully good for residential development.³¹

10.38 The NCA's proposal for uplift of Designated Areas was met with a variety of responses and not all were favourable. The extent of the areas to be uplifted is significant in scope and there was limited time for people and organisations to interpret the scale and planning implications.

10.39 The ACT Government supported the proposal. The ACT Government stated its commitment to the adherence to the principles embedded in the NCP:

To the extent that we are looking at removing the duplication, and if we can get to the point of a combined planning approach, the planning outcome sought by the National Capital Plan, if you like, would be embedded in that with the lifting of those designations et cetera. If we go back to the principle that the planning jurisdiction would reside with whoever administers the land, the capacity for effectively a veto power by the NCA would be removed accordingly but the planning controls that would be in place for the administration, whoever administers the land, would be consistent with the National Capital Plan.³²

10.40 Other than the ACT Government, most groups responded to the proposed reform with varying levels of opposition. The Property Council of Australia's ACT Division did not 'wish the National Capital Authority and the Commonwealth Government to withdraw from any of the areas.'³³ The Property Council stated that 'one of the primary reasons for that is that we believe the ACT government do not have the capacity to undertake additional planning responsibility.'³⁴

31 National Capital Authority, Ms Annabelle Pegrum, *Transcript*, T1, pp. 36-37.

32 ACT Government, Mr Andrew Cappie-Wood, *Transcript* T2, p. 7.

33 Property Council of Australia (ACT Division), Ms Catherine Carter, *Transcript*, T2, p. 55.

34 Property Council of Australia (ACT Division), Ms Catherine Carter, *Transcript*, T2, p. 55.

- 10.41 Similarly, the Royal Australian Institute of Architects stated that it ‘does not support the reduction of the NCA role in both planning and development management in Designated Areas, as currently defined.’³⁵
- 10.42 The Canberra Business Council (CBC) disagreed with the NCA proposal in relation to some of the central areas that are proposed to be uplifted from the NCP.³⁶ The CBC stated that in addition to the proposed Areas of Special National Importance, ‘there are other elements – hills, ridges, the lake foreshores, the entire central area and some of the access routes into Canberra – that need to be protected as well.’³⁷
- 10.43 Professor Ken Taylor suggested that the area around Lake Burley Griffin should continue to be subject to planning approval by the NCA. Professor Taylor commented that ‘most planners – international ones – who know anything about Canberra, would find it difficult to disagree that the area around the lake – the lake itself and the area around it – is of critical national importance to the standing of this city – its tangible and intangible meanings.’³⁸ In relation to the National Capital Open Space System, Professor Taylor stated:
- ...if the NCA relinquishes planning control on the designated land, which is substantially inner parts of the National Capital Open Space System, a robust form of Commonwealth that has national oversight of planning of this integral aspect of the open space system is vital. It cannot be left to a local planning authority, whether it is in Canberra or anywhere else.³⁹
- 10.44 The National Capital Open Space System is made up of 4 key elements comprising:
- Lake Burley Griffin and foreshores;
 - the inner hills;
 - the river corridors; and
 - Namadgi National Park.
- 10.45 During the hearings some groups commented on the possibility of enshrining the National Capital Open Space System in legislation. Mr David Wright who was opposed to this proposal stated:

35 Royal Australian Institute of Architects, Mr Alec Tzannes, *Transcript*, T1, p. 70.

36 Canberra Business Council, Ms Christine Fualks, *Transcript*, T2, p. 31.

37 Canberra Business Council, Ms Christine Faulks, *Transcript*, T2, p. 32.

38 Professor Ken Taylor, *Transcript*, T3, pp. 66-67.

39 Professor Ken Taylor, *Transcript* T3, p. 62.

It needs to be recognised that NCOSS covers more than 80% of the total land (and water) area of the ACT. Each of the four elements is vastly different but contributes to an integrated whole. Each of the four elements needs specific policies but such detail is inappropriate in legislation. It should properly reside in the National Capital Plan and the Territory Plan as appropriate.⁴⁰

- 10.46 Mr Wright, in contrast to the NCA, believed that Lake Burley Griffin Foreshores and the Inner Hills should remain Designated Areas. He noted that ‘where elements of the system are not in a designated area then the detailed policies and standards for such areas should remain in the Territory Plan.’⁴¹
- 10.47 Mr Wright, in arguing against the need for legislation protecting the National Capital Open Space System, noted that the NCP ‘has the force of law and provides the same level of protection as legislation would but in a much less cumbersome way.’⁴² Mr Wright concluded that ‘any change to the policies governing the National Capital Open Space System would require the NCA to propose a draft amendment to the NCP and that cannot be given effect without the consent (through disallowance) of the Australian Parliament.’⁴³
- 10.48 Dr John Gray also advised that the lake foreshore should remain under the control of the NCA ‘because it is an integral part of the Griffin Plan.’⁴⁴ Dr Gray stated that ‘it is essential that it remain under the same level of protection that is afforded the Parliamentary Triangle and Anzac Parade.’⁴⁵
- 10.49 Mr Wright commented that the reduction in Designated Areas proposed by the NCA was not in the interests of the national capital. In particular, Mr Wright warned that the removal of designation would reduce controls on telecommunications carriers. Mr Wright stated:

What removing designation does – perhaps unintentionally – is actually removes all control, other than under the Telecommunications Act, over the activities of the telecommunication carriers to build towers where they like. If you drive down the Hume Highway to Sydney, you see some awful sights that are blots on the landscape. We could be faced with the

40 Mr David Wright, *Submission 68.2*, p. 2.

41 Mr David Wright, *Submission 68.2*, p. 2.

42 Mr David Wright, *Submission 68.2*, p. 2.

43 Mr David Wright, *Submission 68.2*, p. 2.

44 Dr John Gray, *Transcript T5*, p. 70.

45 Dr John Gray, *Transcript T5*, p. 70.

situation where any telecommunication carrier operating under that act could erect a tower on, for example, Red Hill or Mount Ainslie without any reference to ACTPLA or the National Capital Authority.⁴⁶

Administration of the proposed reforms

10.50 The administrative arrangements and implementation of planning powers if the proposed uplift of Designated Areas occurred could be challenging for both the ACTPLA and the NCA. The committee found however that neither agency had a reasonable understanding of their respective roles after uplift. Indeed scrutiny by the committee through the testing of certain scenarios revealed significant differences in opinion between the planning agencies as to how the new system would operate.

10.51 The committee explored a hypothetical situation where in an area of land where designation has been uplifted, and is no longer under the control of the NCA, the Territory proposes something that appears to be inconsistent with the NCP. The NCA confirmed that it would no longer have planning control.⁴⁷ The NCA was clear that as is the case now, 'the territory's decisions are the territory's and the authority's decisions are the authority's.'⁴⁸

10.52 In response to this scenario, the ACT Government stated:

If ACTPLA wished to, or by agreement with the National Capital Authority they were still matters of national significance, the National Capital Authority could act as a referral entity. Our legislation has provisions for that. The submission details the technicality in relation to Commonwealth legislation that would need to be covered off. The National Capital Authority would then have a right of comment on a development application and the ACT Planning and Land Authority would be required to take those comments into account, unless for any reason they considered them to be irrelevant.⁴⁹

10.53 The NCA quickly responded that this would be unworkable, and that the NCA would not be second guessing ACTPLA on its decisions. The NCA stated:

We have not seen that before. We would find that extremely difficult to manage. The delegate is the delegate. There is debate,

46 Mr David Wright, *Transcript T4*, p. 22.

47 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 45.

48 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 46.

49 ACT Government, Ms Jacqui Lavis, *Transcript T5*, p. 46.

discussion, controversy and determination around amendments or variations to plans. That is the DAF model. But, when it comes to a development application and the open consultation on that, then the delegate makes a decision. If the territory kept referring for advice to the authority, then you would get duplication again. We do not believe that that would be workable.⁵⁰

- 10.54 This divergence of views between the ACT Government and the NCA was illustrative and indicated that the work ahead relating to uplift would require much cooperation and consultation between these two planning bodies. Both agencies confirmed that, notwithstanding these initial differences, uplift of Designated Areas was fully supported and could be achieved.⁵¹
- 10.55 Uplift of Designated Areas has funding implications. If uplift occurs then the ACT Government will have additional planning responsibility. The ACT Government consulted with the NCA about funding issues. The ACT Government confirmed that the NCA had between three and four full-time staff responsible for planning which if shifted to the Territory would translate to a recurrent budget of around \$300 000 or \$350 000. An additional \$100 000 would be required for analysis currently undertaken by the NCA into urban design work for major developments.⁵²
- 10.56 The Property Council of Australia (ACT) was critical of ACTPLA's performance and suggested that more than just additional funding would be necessary. The Council stated:
- It needs to be understood, and it needs to be understood very clearly, that it is not simply a matter of money. Three or four positions, if they were transferred from the Commonwealth, and \$300,000 to \$400,000 will not solve the problems that are inherent in the ACT planning system.⁵³
- 10.57 The Property Council of Australia (ACT) was particularly concerned about ACTPLA's performance and time taken for planning approval. The Council stated:
- There is a major crisis in ACTPLA. It is taking an inordinate amount of time to get material through and approved. Given a choice between dealing with the National Capital Authority and dealing with ACTPLA, every person involved in the property

50 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 47.

51 ACT Government, Mr Andrew Cappie-Wood, *Transcript T5*, p. 38; National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 38.

52 ACT Government, Mr Neil Savery, *Transcript T2*, p. 10.

53 Property Council of Australia (ACT Division), Ms Catherine Carter, *Transcript T2*, p. 56.

industry in Canberra would prefer to deal with the National Capital Authority. That is the stark reality of the current situation. A transference of responsibility – for example, in that area of Barton I think you mentioned before when the Canberra Business Council was here – would lead to a significant delay, it would lead to a significant decline in quality and it would not be supported by the Property Council.⁵⁴

- 10.58 The Australian Institute of Landscape Architects commented that ‘ACTPLA faces some far more immediate demands on their time and sometimes do not meet absolute perfect performance because of the sheer volume of the work that they have to deal with and the sheer volume of the level of service that they are providing, from such a small-scale through to quite major national areas with the NCA.’⁵⁵
- 10.59 A further issue arose relating to the potential for ACTPLA to reconsider and even revoke decisions of the NCA after dedesignation. For example, once ACTPLA assumes planning control of Designated Areas currently under the planning jurisdiction of the NCA it could review past decisions of the NCA and make changes provided that there was no inconsistency with the NCP. Mr Graham Anderson raised concerns about this possibility.⁵⁶
- 10.60 Similar concerns were raised by the Canberra Property Council, and the Royal Australian Institute of Architects who support the continuing role of the NCA in managing Commonwealth land.⁵⁷
- 10.61 Mr Anderson advised that the NCA has approved a development application for dual occupancy development on his property. Mr Anderson commented that if the planning function was to be transferred to the ACT ‘we would like to be satisfied that the dual occupancy approval we now have would still apply and would not be subject to removal or review.’⁵⁸

ACTPLA’s compliance with NCP principles

- 10.62 As part of the debate about implications of uplifting designated status, some groups raised concerns about the adequacy of ACTPLA to apply the principles in the NCP. Under the proposal for uplift, discussed in the

54 Property Council of Australia (ACT Division), Mr Anthony Hedley, *Transcript T2*, p. 56.

55 Australian Institute of Landscape Architects, Mr Neil Hobbs, *Transcript T2*, p. 73.

56 Mr Graham Anderson, *Submission 15*, p. 1.

57 Canberra Property Council, Ms Catherine Carter, *Transcript T2*, pp. 53-55; The Australian Institute of Architects, *Transcript T1*, pp. 69-70.

58 Mr Graham Anderson, *Submission 15*, p. 1.

previous sections, ACTPLA would have planning jurisdiction over land that was once designated. ACTPLA in performing this function would need to comply with the principles in the NCP just as the NCA does now.

- 10.63 There was concern that if ACTPLA made a decision that appeared to be inconsistent with the principles, would it be appropriate for the NCA to have some form of veto power. In response to this hypothetical situation, the Attorney-General's Department stated:

We are still thinking about the details of this. It is very much a case of, say, if the ACT were to do something that transgressed the principles enshrined in the legislation – for example, if it decides to build on the top of Red Hill or something like that. It would need to be a meaningful trigger rather than potentially being an incentive for the NCA to act prematurely or be encouraged to act prematurely. It would also need to be a very real trigger so that the NCA was able to take whatever action it wanted to – presumably, seeking an injunction or something like that – before too much had actually occurred. We are still working through the details of how that might operate.⁵⁹

- 10.64 The committee looks forward to being advised of the Department's views on this matter.
- 10.65 The CBC commented that if the ACT Government made decisions that were in conflict with the NCP 'then there should be a procedure or a mechanism for the Australian government to step in and override that on behalf of the citizens of Australia.'⁶⁰ Similarly, the Property Council of Australia (ACT) stated that 'so, as to the question of whether the NCA ought to be able to overturn decisions of the territory, the answer to that, given the NCP has precedence, has to be yes.'⁶¹
- 10.66 The Australian Institute of Landscape Architects also agreed that if different land boundaries were adopted then 'for those key parts of the NCP, some statutory authority would have that oversight or review process.'⁶²
- 10.67 In contrast to these views, some groups advised that if a decision is made to transfer planning jurisdiction to the ACT then, for planning certainty, those arrangements must be accepted. The Planning Institute of Australia stated:

59 Attorney-General's Department, Mr Iain Anderson, *Transcript T1*, p. 66.

60 Canberra Business Council, Ms Christine Faulks, *Transcript T2*, p. 33.

61 Property Council of Australia (ACT Division), Ms Catherine Carter, *Transcript T2*, p. 55.

62 Australian Institute of Landscape Architects, Mr Neil Hobbs, *Transcript T2*, p. 72.

Once you agree that those lands are to be administered by the ACT government they should be administered by the ACT government. My personal view is that it all hangs on getting that agreement about the vision and strategic direction for the future of Canberra. I do not believe that the ACT government will approve things that are completely inconsistent with that if they have been part of setting that direction.⁶³

10.68 The ACT Government was not supportive of a veto power and argued that such a situation would undermine planning certainty and destroy confidence in the planning system.

10.69 There is also evidence that this ambiguity is being broadly interpreted as time goes on. As an example of what could happen, the ACT Government drew attention to planning dispute over EpiCentre at Fyshwick:

I will give you the example: EpiCentre at Fyshwick, which we are all familiar with. It is very contentious. Is that the situation we want arising every time? If that is the outcome of even strengthening the capacity to intervene in our decisions, having uplifted designation and saying, 'We think you've got a greater capacity and ability to undertake this role,' the cost to the whole community of going through those exercises every time someone wants to play a game of cat and mouse between what the National Capital Plan says and what the territory plan says and who is making the right interpretation, I think that is where we have a planning system that is almost dysfunctional.⁶⁴

10.70 The heart of this problem according to both planning authorities, lies in the ambiguity of the definitions contained in the NCP relation to what constitutes 'national significance'. The committee notes that both the NCA and ACTPLA have strongly endorsed the need to remove this ambiguity. The NCA stated:

Where we have complete agreement, I suspect, with the territory is a very clear definition of national significance and a very clear – and as unambiguous as is possible in planning – line from the top in the statements of significance through to the detail planning that the territory ultimately would be doing outside of the areas of special importance.⁶⁵

10.71 The ACT Government similarly stated:

63 Planning Institute of Australia, Ms Sue Holliday, *Transcript T3*, p. 18.

64 ACT Government, Mr Neil Savery, *Transcript T2*, p. 9.

65 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 43.

Twenty years on, 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 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. The ACT Government believes that such a system will help *both* the NCA and the ACT Government to perform their respective roles more openly and effectively.⁶⁶

- 10.72 The committee believes aligning the definitions in both the NCP and the Territory Plan is a worthy and important initiative. The committee believes it would form an essential part of major planning reforms which are discussed in Chapter 11.

Solving the immediate problem

- 10.73 The committee notes that the NCA proposal to uplift Designated Area status still puts the NCA in the box seat in defining national capital principles thereby impacting on planning decisions by the ACT Government or ACTPLA despite handing over development approval to the ACT. This does not resolve a key complaint about the dual planning system, which is the uncertainty of the prospect of the NCA disagreeing with the ACT Government’s interpretation of the NCP, and overriding that decision, in other words, acting to veto that decision. Hence the committee’s objective of planning jurisdiction aligned with land administration would not appear to be achieved with the NCA’s proposal for uplift.
- 10.74 The committee also notes the NCA proposal for uplift included additional areas of Territory Land being gazetted as National Land. The logic of the proposal for uplift relied heavily on these land transfers occurring.
- 10.75 In addition, there is no formal agreement on the geographic boundary of where uplift would apply. All that is on the record is the NCA’s proposal. The committee heard different views on where the boundaries should be and why.
- 10.76 In particular, the Canberra Business Council’s concerns about the boundaries are discussed in paragraph 10.43 and include elements such as
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66 ACT Government, *Submission 69*, p. 4.

hills, ridges and the lake foreshores. Professor Ken Taylor focuses on the lake foreshores (paragraph 10.44).

- 10.77 Despite the genuine concern by many witnesses that the NCA's proposed uplift of Designated Areas would result in a loss of key principles of the NCP, in particular protection from development of the inner hills, ridges and buffers and the National Capital Open Space System, the committee notes that most of the protections would be retained because the principles and policies of the NCP would still apply.
- 10.78 Nonetheless it should be noted that the committee did not hear any convincing evidence that there was a threat from the ACT Government or developers to these critical features of the NCP. Importantly, the ACT Government reiterated their commitment to these principles which give Canberra its character as a city within the landscape, such as no development on the hills and the open space system.
- 10.79 In the absence of major reforms that protect the principles and policies, as discussed in Chapter 11, the committee believes there is an opportunity for an interim measure that resolves the overlap in land administration and planning jurisdiction on Territory Land in Designated Areas.
- 10.80 This opportunity could be in the form of the NCA formally delegating the planning jurisdiction to ACTPLA for Territory Land in Designated Areas, once they were assured that the relevant national capital principles and policies would be protected through a Memorandum of Understanding. The NCP would still function as is, resulting in no risk to national significance.
- 10.81 This would provide for an interim measure to remove duality, provide the necessary protections for national capital principles and ensure the arrangement was based on agreement between the two authorities.
- 10.82 The committee notes this idea has not been tested with either authority and it would obviously be subject to negotiation and agreement to be useful and successful.

Conclusions

- 10.83 The *Australian Capital Territory (Planning and Land Management) Act 1988* states that the National Capital Plan (NCP) may specify areas of land that have the special characteristics of the national capital to be Designated Areas. Designated Areas may include land administered by the Commonwealth or the Territory Government. The Commonwealth has sole planning control over these areas.

- 10.84 Currently, the ACT Government administers Territory land within Designated Areas and the NCA has planning jurisdiction. This aspect of the planning arrangements has created confusion and led to calls for the reform of the planning framework.
- 10.85 The theory behind uplifting Designated Area status from certain areas would be to align land administration and planning jurisdiction. The NCA's proposal for uplifting designated status is shown in *Figure iii*.
- 10.86 However, the committee notes that the proposal to uplift was itself ambiguous and despite evidence that consultation with the ACT Government had occurred, there was a difference of opinion about the implications and effects of such an uplift.
- 10.87 The proposal is extensive and there was a particular concern about the NCA removing itself from planning over areas of land that exhibit the special characteristics of the national capital.
- 10.88 The committee believes that the process for pushing ahead with the uplift of designated status requires consideration of a range of complex issues.
- 10.89 As such, the committee believes that uplift ought to be considered in the context of major planning reforms, including a consultative approach to establishing clear and formal geographic areas of planning jurisdiction, as discussed in the final chapter (Chapter 11) of this report.
- 10.90 The committee notes however, that there is a pressing need for interim action to remove duplication and increase clarity for Territory Land with designated and special requirements status. The committee feels compelled to offer a short term option until uplift of Designated Areas can be examined through comprehensive considerations of planning reforms including a draft amendment to the NCP.
- 10.91 The PALM Act is quite clear in its directive that the Territory Plan cannot be inconsistent with the NCP. Therefore, there is an opportunity for development applications and works approval on Territory Land which is within Designated Areas, to be formally 'delegated' by the Commonwealth (via the NCA) to the ACT. This will require an amendment to the PALM Act.
- 10.92 The committee believes this approach will enable the NCA to focus its efforts on maintaining and enhancing those areas which are undoubtedly significant to the national capital.
- 10.93 There were significant criticisms made about the ability of ACTPLA to perform its present planning functions effectively due to workload. While this is an issue for the ACT Government, the committee suggests that the ACT Government will need to address these criticisms and reassure the

community that it can perform these additional planning functions if they are delegated. In saying this, the committee acknowledges recent changes to the Territory Plan and that ACTPLA is still bedding down these changes.

- 10.94 **Accordingly, the committee suggests that any delegation must be accompanied by assurances that adequate resources will be available within ACTPLA to guarantee timely approvals including factors relating to national capital considerations.**
- 10.95 While the NCP will continue to provide planning protection for Designated Areas, some groups were particularly concerned about the future protection of the National Capital Open Space System. The National Capital Open Space System is an enduring feature of Canberra's design and development and will be protected regardless of which planning authority is administering it. The committee, in the final chapter (Chapter 11) of this report proposes that these areas not just be protected through the NCP but, in addition, through an amendment to the PALM Act so that the National Capital Open Space System is protected in perpetuity.
- 10.96 During the inquiry it was brought to the attention of the committee that the removal of designation will remove all controls over the activities of telecommunications carriers to build towers where they like without reference to ACTPLA or the NCP. This is not acceptable. **The committee proposes that any delegation of the planning jurisdiction of Designated Areas must ensure that this 'unintended consequence' does not prevail and the same limits that apply to telecommunications carriers now will exist.**
- 10.97 During hearings ACTPLA repeatedly argued the need for planning certainty. This same need also applies to individuals and organisations who have had development applications already approved by the NCA. A concern has been raised that upon possible dedesignation, or as recommended by the committee, formal delegation, ACTPLA could review development applications previously approved by the NCA and even retrospectively revoke those decisions. This would provide no planning certainty. **Therefore, if delegation occurs, ACTPLA should not be able to retrospectively revoke decisions of the NCA without the approval of the NCA.**
- 10.98 A further issue raised during the inquiry was the possible need for the NCA to have veto power over ACTPLA in the event that ACTPLA makes decisions inconsistent with the NCP. While there were some persuasive arguments supporting this position, there were also very strong arguments opposed to this proposal. The committee does not support a

- veto power as it would create too much planning uncertainty. As discussed above, ACTPLA will still need to comply with the NCP and the PALM Act which provides that the Territory Plan cannot be inconsistent with the NCP. The committee has also outlined further reforms in Chapter 11 that address removing the veto power by having both planning authorities working to a legislated set of principles and policies.
- 10.99 In concluding this section, the proposal to uplift Designated Area status is seen by the committee as most appropriately part of a much larger, second major stage of reform. The committee supports the approach that ultimately, the planning jurisdiction should reside with the body that administers the land and that this is the first key element of reform to Canberra's future planning.
- 10.100 Until the major reforms are undertaken, the committee recommends an interim measure which reduces red tape and duplication: that the NCA and ACTPLA negotiate an MOU to delegate the planning jurisdiction of Territory Land with designated status from the NCA to ACTPLA.
- 10.101 Such an MOU may contain conditions as to the circumstances in which the delegation is exercised and the geographic areas covered by the delegation.
- 10.102 The committee also recommends that such a transfer would need to include a transfer of resources from the Commonwealth to ACTPLA necessary to support these functions.
- 10.103 With possible further reform pending, as recommended in Chapter 11, this process of delegation would remove in the short term the duplication of the two planning authorities in relation to Territory Land which is within a Designated Area, a term in the inquiry reference.
- 10.104 The committee notes that areas subject to Special Requirements under the NCP do create confusion and additional red tape. The NCA proposed that Special Requirements be removed from the NCP. The committee supports the need to reduce red tape but believes that safeguards should still apply to sensitive areas. The committee therefore recommends that Special Requirements be removed from the NCP and that all areas of National Land subject to Special Requirements be converted to Designated Areas.
- 10.105 Further, the committee is concerned that removing 'Special Requirements' would remove any Commonwealth role in development approval, through the creation of a development control plan, for areas of Territory Land where the Commonwealth may still have a legitimate ongoing planning interest. This could include, for example, areas such as the Australian Institute of Sport, which is a Commonwealth asset on Territory Land.

- 10.106 The committee therefore recommends that areas of Territory Land where the Commonwealth has a significant and enduring planning interest be converted to Designated Areas until the broader review outlined in Chapter 11 which seeks to align land administration with planning jurisdiction. One of the aims of this broader review should be to determine which existing areas of Territory Land have ‘national significance’ and should therefore be considered for future gazettal as National Land.
- 10.107 Until such a review, the committee notes that removing Special Requirements from the NCP would establish three types of land:
- National Land which is Designated;
 - Territory Land which is Designated (pending the broader review to consider possible gazettal as National Land); and
 - Territory Land where the ACT Government has sole responsibility for development approval.

Recommendation 14

- 10.108 **That, as a possible interim measure to resolve duplication, the Commonwealth consider amendments to the *Australian Capital Territory (Planning and Land Management) Act 1988* to permit the National Capital Authority and ACT Planning and Land Authority to negotiate a memorandum of understanding to delegate the planning jurisdiction for Territory Land which has designated status under the National Capital Plan from the NCA to ACTPLA.**

Such a delegation would need to be accompanied by the necessary resources to fulfil these functions.

Recommendation 15

- 10.109 **That, in the interests of removing unnecessary complexity and red tape:**
- **‘Special Requirements’ be removed from the National Capital Plan;**
 - **All areas of National Land previously subject to Special Requirements be converted to Designated Areas; and**
 - **Any areas of Territory Land previously subject to ‘Special Requirements’ where the Commonwealth has a significant and**

enduring planning interest be converted to Designated Areas until a broader review of the National Capital Plan and Territory Plan is undertaken to assess whether such areas should be considered for future gazettal as National Land.

A vision for future planning

Introduction

- 11.1 This chapter outlines the planning framework to realise a future vision for the national capital. This vision is built on the belief that Canberra, Australia's national capital has the strongest of foundations to enable it to become world leading in planning and design for a sustainable future.
- 11.2 The committee firmly believes that this inquiry has presented a unique and timely opportunity to take planning in the Australian Capital Territory (ACT) to a level of international best practice.
- 11.3 Achieving this very ambitious aspiration will be dependent on the political commitment and will to coordinate activity across both the Territory and Federal spheres of Government in the coming months and years.
- 11.4 While the previous recommendations for Chapters 1 to 10 constitute a robust and comprehensive response to the terms of reference, and set a course for immediate action, the recommendations in this Chapter map a second, far reaching course of action to achieve the highest possible outcomes for Australia's national capital in the medium to long term.
- 11.5 The complexity of the planning arrangements requires many changes to be made at both the strategic and practical level. This chapter offers a path forward addressing both aspects of the challenge.
- 11.6 The chapter is divided into four sections and the committee's conclusions and recommendations appear at the end of each section. The four sections are:

- Sustainability planning and climate change;
- Strategic planning policies for the ACT;
- Proposal for an integrated plan; and
- 3D digital modelling of the National Capital Plan.

Elements of the way forward

- 11.7 The first section of this chapter looks at sustainability planning and climate change. It is imperative that any future planning for Canberra and the Territory includes a strategic focus on sustainability. The most effective way of ensuring sustainability is at the forefront of future planning considerations is to incorporate the goal of ecological sustainable development as a major principle in the *Australian Capital Territory (Planning and Land Management) Act 1988* (the PALM Act).
- 11.8 The second section looks at strategic planning policies for the ACT. With respect to the future planning regime for the ACT, the committee foreshadows that the two statutory plans – the National Capital Plan (NCP) and the Territory Plan – would sit side by side so that the existing hierarchical arrangement is mitigated. Instead, the Commonwealth’s interest in the national capital would be established through principles and policies set out in a **National Capital Land Use Plan** which would be enshrined in a schedule to the PALM Act and would sit across the two statutory planning documents. The National Capital Land Use Plan would be accompanied by an **Implementation Strategy** which the committee proposes should be included as a disallowable instrument to the PALM Act. The Implementation Strategy should establish a timeframe on how the two Governments propose to implement the National Capital Land Use Plan.
- 11.9 The third section of this chapter considers the proposal for an integrated plan. The goal of achieving a single integrated planning document with a harmonised language, definitions and structure should be guided by the committee’s objective that where possible, land administration be aligned with planning jurisdiction. In the event of Designated Area status being uplifted from areas of Territory Land, the committee envisages that the NCA would not have any overriding powers to overturn ACT Government development applications. Instead, the committee suggests that the PALM Act be amended to include a provision for decisions on development applications made under the Act to be subject to review through the Commonwealth Administrative Appeals Tribunal. The PALM Act’s provision for the Federal minister to issue a written direction to the NCA to disregard the ACT’s objection in the event of a dispute over a

draft amendment is retained under the committee's proposal set out in this section.

- 11.10 Finally, the fourth section of this chapter examines the possibility of utilising technological advancements to establish a three-dimensional digital planning document as a planning tool. The three-dimensional modelling software offers many potential benefits including enabling planners to gain a visual understanding of what development is permissible under provisions in the NCP. The software would also aid planning authorities in the process of public consultation.

Background

- 11.11 On the very first day of public hearings the concept of integrating the National Capital Plan (NCP) and the Territory Plan was presented to the committee. In light of this, the committee sought to clarify this proposal and gather feedback and responses from witnesses along the way on their views of such an idea. This chapter explores this discussion and concludes that there is an opportunity for long term planning reform that would serve Canberra as the national capital and the Canberra community.
- 11.12 Evidence presented during the inquiry suggested that support for an integrated planning framework has gathered further momentum since the 2004 inquiry into the role of the National Capital Authority. However, the question of how such a framework would be implemented, and how it would fit in with the existing legislation, was the subject of discussion and debate. There was some confusion with how the concept of an integrated plan, as presented by the NCA on the very first day of hearings, would operate. With the PALM Act specifically providing for two plans, administered by two separate jurisdictions, the pre-requisite of creating an integrated plan is close collaboration and agreement.
- 11.13 The discussions that took place during public hearings reinforced the critical need for a spirit of cooperation to exist between the ACT Planning Authorities and the NCA, and the ACT Government and the Commonwealth Government if positive outcomes are to be achieved.
- 11.14 The Walter Burley Griffin Society presented arguments for full unification of the two planning bodies into one under the auspice/jurisdiction of the Commonwealth. The Society proposed that this single national planning body would administer a single plan. The Society argued that the ACT Government was faced with an inherent conflict between its planning responsibilities and its needs to raise revenue from the sale of Territory Land.

11.15 The NCA presented a proposal based on its view that both the NCP and Territory Plan are still relevant and should be retained as complementary plans.

11.16 The NCA supported a fully integrated planning document with common language and definitions. The NCA clarified that it ‘was not necessarily talking in statutory terms about an integrated plan’, but rather an ‘integrated planning document’.¹ Under this proposal, there would still be two plans but with far greater clarity and absolute consistency with respect to the definition of ‘national significance’ in both statutory plans. The NCA stated:

But the levels of integration are significantly higher than now because you do not feel like you are reading two books by two different authors. There is a common tone, a common language, a common understanding of meaning, a common development application process, a common set of maps. Where we have complete agreement, I suspect, with the Territory is a very clear definition of national significance and a very clear – and as unambiguous as is possible in planning – line from the top in the statements of significance through to the detail planning that the territory ultimately would be doing outside of the areas of special importance.²

11.17 The ACT Government referred to a ‘harmonised framework’ which would bring the elements of the NCP and the Territory Plan together in an ‘information document’. The ACT Government stated:

The ACT government has not agreed to an integrated plan because that is a commitment to legislation, and clearly there is a lot of detail to work through there, but it has agreed to harmonisation. I think harmonisation is still recognising that there are two legislative bases.³

An overarching “plan” can be produced that brings together the two elements from different planning schemes. This would be an information document – not a statutory planning instrument. Ideally there would be common language used (definitions etc) however this may take some time to resolve and modify the respective plans.⁴

11.18 The NCA elaborated on how its proposed integrated plan might look:

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

2 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 42.

3 ACT Government, Mr Andrew Cappie-Wood, *Transcript T5*, p. 22.

4 ACT Government, *Submission 69.2*, p. 6.

The first part, the National Capital Plan, would be owned by the Australian parliament on behalf of all Australians. It would articulate one strategic vision for Canberra and the ACT, being matters of national significance, the general policy plan for metropolitan Canberra and the ACT, and supporting principles, policies and land uses. It would be prepared completely and jointly with the ACT government every five years. In our view it should include targets or key performance indicators to measure the success or otherwise of our plans. Detailed planning provisions for areas of special national importance should be structured in a format as articulated in the DAF model and as illustrated in the recently completed Territory Plan.

The second part of an integrated plan would be the Territory Plan. This part of the plan would be owned by the ACT Legislative Assembly on behalf of the local community. It would articulate the detailed planning provisions for those areas outside the areas of special national importance, as it does now.

A third and important part would be a part which has one set of definitions for the whole of the Australian Capital Territory and guidelines for how to implement, interpret and assess using those plans.

In summary, an integrated plan provides an opportunity, if adequately resourced, to create effective planning instruments for the ACT, a simplified, accessible and harmonised planning regime, a more effective policy development through collaborative efforts between the Commonwealth and the Australian Capital Territory, greater certainty and clarity for all, and a planning hierarchy clearly set out and unambiguous.⁵

- 11.19 The NCA approach preserves the existing hierarchy of the National Capital Plan over the Territory Plan. This fails to remove the possibility of conflict arising because of differences in interpretation by the NCA and the Territory Government and, importantly, retains the NCA's effective right of veto as a result of the NCA's interpretation of the plan being unchallengeable.
- 11.20 The committee was not convinced by arguments for the retention of this hierarchy, and the associated effective veto by the NCA when in disagreement with the ACT Government's interpretation of the NCP, provided there was some formal avenue of appeal in which to test the decisions, if challenged.

5 National Capital Authority, Mr Todd Rohl, *Transcript T5*, p. 19.

- 11.21 Hence, a key point of discussion regarding the future planning framework was whether the Territory Plan should sit within the NCP or that the two plans should fit together with clear geographic boundaries. The NCA support the former, the ACT Government the latter. The NCA supported the uplift of Designated Areas, as shown in *Figure ii*, only if the Territory Plan sat within and remained subject to the NCP.
- 11.22 The committee believes there is a practical compromise that allows clear geographic boundaries to be developed over time by agreement.
- 11.23 The committee also believes that the retention of the principles and policies of the NCP need to be independently preserved in both the National Capital and Territory statutory plans. Hence Recommendation 17, which preserves beyond doubt the important defining principles and policies of the NCP.
- 11.24 To embody agreed principles and policies of the NCP in a schedule of the PALM Act requires both planning authorities and statutory plans to be consistent with these principles and policies as described in the proposal for a new National Capital Land Use Plan.
- 11.25 The committee believes that removing the hierarchical relationship between the respective planning authorities can mitigate some of the concerns expressed by the ACT Government about its difference of opinion with the NCA on the strategic metropolitan planning for Canberra and their concerns over what constitute 'matters of national significance'.
- 11.26 It will also permit a genuine and informed negotiation between the parties of where the geographic boundaries of the Territory Plan and NCP are appropriately placed as such negotiations will not be clouded by the fear of loss of the principles and policies in the current NCP.

Sustainability planning and climate change

- 11.27 The majority of people in the twenty-first century live in cities. Historically, cities have been viewed as polluting and environmentally inefficient. Canberra does not carry this burden as heavily for many reasons, but most importantly because it is a planned city that was originally designed with consideration to its natural environment. Subsequent generations of planners have at various times, had the insight and power to preserve these principles.
- 11.28 Cities around the world are changing in response to pressure relating to pollution, public health and mobility. Cities use about 75 per cent of the

world's energy and produce about 80 per cent of the world's greenhouse gas emissions, thus they are becoming places to test new ideas about how to tackle climate change. In fact, the concentration of economic resources within cities has seen them emerge as leaders in innovation with respect to addressing climate change.

- 11.29 Canberra is well placed to consider large-scale use of photovoltaics in new urban areas and the presence of significant research and investment at the Australian National University (ANU) and in private business. Greater focus is required on measurable emissions reductions through ideas such as 'green transformers' which use waste heat from local energy generation to heat and cool offices and homes.
- 11.30 The committee notes the comments of the ACT Commissioner for Sustainability and the Environment with respect to the ACT Government's stated emissions target:

On a per capita basis, the ACT continues to be a high greenhouse gas-emitting region. Reasons for this include our climate, our urban design and our lifestyle. Electricity consumption is far and away the ACT's greatest single source of greenhouse gas emissions. This is followed by transport.

The ACT Government has set itself the target of reducing Greenhouse gas emissions to their 1990 level by 2008, followed by a further 20% reduction by 2018.

The ACT Greenhouse Strategy: 2002 Review of performance and options for the future indicates that this will be hard to achieve using existing measures. The situation is made more difficult because of the existence of Commonwealth Government land and activities within the ACT, over which the ACT Government has no control.⁶

- 11.31 The release of the Garnaut Climate Change Review Draft Report in early July 2008 strongly reinforced the urgency for coordinated action on climate change.

Background

- 11.32 Sustainability as referred to in this section encompasses social, economic and environmental considerations in relation to planning. Arguments have been expressed that the concept of sustainability should be inherent in all levels of planning as this one issue ultimately decides whether a course of action is successful and long term.

6 ACT Commissioner for Sustainability and the Environment, viewed 18 June 2008, <<http://www.envcomm.act.gov.au>>.

- 11.33 Many submissions from individuals and community organisations addressed a wide range of issues related to the planning function including sustainability and heritage, climate change and resource use, public transport and the design of healthy and liveable urban spaces.
- 11.34 The committee notes that, in general, planning authorities are presently under-resourced and do not appear to be sufficiently empowered to take a lead in linking the separate government agencies with responsibilities in these areas. The committee sees an opportunity for a more coordinated approach to urban planning that draws on the best international thinking about how to improve the quality and sustainability of our cities. The committee also notes that the ACT Chief Minister's Department is taking a leadership role in the ACT.
- 11.35 The committee supports the view expressed by Professor Patrick Troy that it is 'in the interest of each level of government to ensure the balanced growth of the region in accordance with the notion of ecologically sustainable development.'⁷
- 11.36 This Chapter provides some thoughts about building a better approach to the future development of Canberra as a world city. A number of concerns are raised about sustainability and how it relates to Canberra's transport system; locating Commonwealth buildings; and how concepts of sustainability and connectedness only partially permeate through the National Capital Plan (NCP) and Territory Plan.

The Griffin Plan and environmental considerations

- 11.37 Some groups have suggested that Griffin's plan for Canberra was drafted with environmental considerations in mind, setting an example for future planning of the city. Ms Rosemarie Willett explained:

The way they thought of things was that the built environment should, in effect, have the same laws as the natural environment – that in the built environment we should practise according to the laws of nature and that that should be the way we should move ahead. So using the concept of the built environment being a parallel environment but tied into the natural environment would be one of the best ways of going ahead.... It is very hard to put it into a few words, but it is this understanding of the natural environment and this ability to move ahead in sympathy with it that is what Griffin was looking to do.⁸

7 Professor Patrick Troy, *Submission 80.1*, p. 2.

8 Ms Rosemarie Willett, *Transcript T3*, p. 84.

Achieving sustainability

- 11.38 Walter Burley Griffin's incorporation of the urban planned elements of Canberra's infrastructure with its natural environment is an important element of the planned city, as it gives it a unique character.⁹
- 11.39 Griffin was influenced by the Chicago-Prairie School of architecture that embraced 'a deep reverence for nature' and identified himself as a naturalist in architecture. Griffin stated:
- I am what may be termed a naturalist in architecture. I do not believe in any school of architecture. I believe in architecture that is the logical outcome of the environment in which the building in mind is located.¹⁰
- 11.40 It is in the context of the environment and the present day search for sustainable outcomes for planning and the associated issues of transport and development that Walter Burley Griffin's comments give relevance to the modern Canberra.
- 11.41 The Planning Institute Australia (PIA) advocated that achieving sustainability is a matter of changing how sustainability is perceived and incorporating it into the motivations behind planning:
- If you are thinking about the future, sustainability and climate change and its impacts, all of those need to be evaluated and incorporated into how best to ensure Canberra can grow and people can invest in Canberra, while achieving some of those sustainability outcomes. That is a process of thinking; it is not a process of saying, 'There's only one way of doing it.'¹¹
- 11.42 Further, PIA stated that the next big challenge facing society is 'climate change' and then government taking responsibility to incorporate initiatives, which address climate change into all facets of planning: including design, development, transport and economic decisions. This is how planning will adopt sustainability principles. PIA stated:
- The Commonwealth's responsibility for the national capital can be partly exercised through ensuring that the planning and development of Canberra meets the highest standards of planning and design. This responsibility also extends, however, to ensuring that Canberra, as the national capital and Australia's largest inland

9 Griffin, D (Ed), 2008, *The Writings of Walter Burley Griffin*, Cambridge University Press, Melbourne, p. 23.

10 Griffin, D (Ed), 2008, *The Writings of Walter Burley Griffin*, Cambridge University Press, Melbourne, p. 23.

11 Planning Institute Australia, Ms Sue Holliday, *Transcript T3*, p. 22.

city, is economically, socially and environmentally sustainable and able to respond to new challenges such as climate change.

Ensuring an economically robust and sustainable future for the national capital and its unique setting is, as a result of self-government in 1989, a joint responsibility, in PIA's view, both in terms of planning and in terms of the provision of infrastructure.¹²

- 11.43 Mr Ed Wensing made the point that planning should take a longer term perspective and address a projected Canberra population of 1.5 million people, and then look at the various impacts on sustainability. Mr Ed Wensing stated:

A fresh look at the longer term for a population of one million or 1½ million people is urgently required, taking into account the sustainability of an inland city within the Murray-Darling catchment and Canberra's potential to be a model of the sustainable metropolis. Among the Rudd government's key priorities are climate change and sustainable cities. Canberra is the Commonwealth's only option for playing a direct role in demonstrating how urban form can be adapted to achieve sustainable development and to pressures of climate change.¹³

Sustainability, the NCP and the Metropolitan Canberra Policy Plan

- 11.44 The NCP acknowledges that 'long term metropolitan planning must incorporate recognised guidelines and goals for water quality (particularly in the built environment) and reflect national and international concerns for efficient use of energy and effective responses on the Greenhouse Effect. Use of national resources and the impact of development on environmental systems in both the ACT and the surrounding region must reflect national goals for sustainable development and regional needs.'¹⁴

- 11.45 The Royal Australian Institute of Architects (RAIA) advocated that a sustainable city could be achieved through one plan for Canberra. This would involve continuous dialogue between all tiers of government and across different parts of government. RAIA stated:

There are a couple of key principles that might be worth backgrounding. We believe that the future is about sustainability – that one of the most important questions facing us is the ability for governments of different persuasions and from different constituencies to effectively work together in the design

12 Planning Institute Australia, Ms Sue Holliday, *Transcript T3*, p. 12.

13 Mr Ed Wensing, *Transcript T3*, p. 50.

14 National Capital Authority, 2008, *Consolidated National Capital Plan*, NCA, Canberra, p. 131

and management of our cities to achieve sustainable cities. This will be a major contributor to lowering greenhouse emissions if we can achieve it. We therefore believe that in an area such as the ACT there need only be one effective plan and, within that plan, recognition of the two levels of government coordinated and integrated through processes relevant to the issues identified within the objectives of the plan. We do not think that is a complicated document to construct. We also see this as being vital to effective and coordinated investment in management of the built environment. Also, because sustainability crosses many broad areas, it is vital that it is a coordinated dual government document.¹⁵

- 11.46 In addition, the Walter Burley Griffin Society proposed that the Metropolitan Canberra Policy Plan should be revised to include sustainability, environmental and strategic directions.¹⁶
- 11.47 It has already been mentioned in previous sections of this chapter that sustainability impacts on all aspects of planning including the transport system, locating government departments, developments and development applications. RAIAs proposed planning guidelines should incorporate environmental principles, which would inform planning in areas such as transport.

There are a number of different avenues for achieving innovative planning guidelines. But, if there was a general principle to apply, it would be that any new planning initiative, any control mechanism must now have a firm environmental basis to it – that the design and management of the public environment in particular, but also, effectively, the private environment through the public environment, is a sustainability issue. That of course informs every decision that planners make related to massive issues such as public transport or general transportation.¹⁷

Enabling sustainability planning

- 11.48 The Walter Burley Griffin Society advocated that the NCA needs to be given greater powers to meet the climate change challenge. With these powers, the NCA could incorporate sustainability principles into all aspects of planning so that Canberra continues to be a model of urban development into the 21st Century. The Walter Burley Griffin Society stated:

15 Royal Australian Institute of Architects, Mr Alec Tzannes, *Transcript T1*, p. 79.

16 Walter Burley Griffin Society, *Submission 40.1*, p. 2.

17 Royal Australian Institute of Architects, Mr Alex Tzannes, *Transcript T 1*, p. 80

The NCA in particular needs much greater powers and resources to fulfil its role where powerful Commonwealth departments and agencies, aided by land tenure and privatisation policies, can so readily undermine both the National Capital Plan and the Territory Plan. Equally important, the roles of both the NCA and ACTPLA must be measured against the imperatives of sustainability, which is now bracketed with climate change. Back in 2002, the OECD review of Canberra concluded:

Canberra can be as important a model for urban development in the 21st Century as it has been in the 20th if it can ... create new assets that take advantage of its role as a national capital, and maintain the high quality of its environment ... while making progress toward sustainability.

Neither of the two planning bodies has a strong or consistent record, especially of late. A critical mass of renewed political, intellectual, professional and organisational effort needs to be applied to the planning of Canberra as national capital and major city. The respective governments should start to transition towards a fully integrated and accountable planning system. The time frames for putting Canberra's national capital planning back on track necessitate different intervals: a longer interval for reconstituting the legislation, plans and organisations; in the more immediate future, there are readily available integration measures and improved democratic processes for improving the situation and facilitating this transition.¹⁸

11.49 RAIA has also advocated that the NCA should make decisions which impact on the overall planning of Canberra. These decisions would include deciding the location of government agencies, which would have avoided the current transport and sustainability issues emerging at the Airport.¹⁹

11.50 The ACT Division of the Property Council of Australia advocated a stronger role for the NCA so that the structure of Canberra could be protected, especially in relation to the development at Molonglo:

In terms of specific planning, strategic planning of the ACT is critical to the future viability and strong growth of the nation's capital, which also doubles as a significant regional centre. The NCA must play a lead role to protect the overall metropolitan structure and its impact on the central national area. That is to say,

18 Walter Burley Griffin Society, Mr Brett Odgers, *Transcript T1*, pp. 3-4.

19 Royal Australian Institute of Architects, Ms Sheila Hughes, *Transcript T1*, p. 81

the Property Council believes the NCA should monitor ACTPLA's strategic planning to ensure the metropolitan structure is maintained. For example, it is important to ensure the proposed development at Molonglo, which is supported by both the Commonwealth and the ACT governments, does not detrimentally impact on the traffic circulation and visual setting of the central national area and on greater metropolitan infrastructure such as the Majura Parkway.²⁰

- 11.51 Another method of achieving a more sustainable urban and environmental transport mix is through the introduction of light rail for Canberra as proposed by the Conservation Council of the South East Region (Conservation Council). The Conservation Council asserts that light rail

...delivers efficient mass transport with zero local air pollution and has the potential to be run from renewable energy thus providing the most feasible zero emission transport option for a city. Light rail also causes less noise pollution. It has cheaper operating costs if high volume patronage is achieved... Light rail has faster acceleration and deceleration and vehicles last longer. It can carry more bikes than buses and is aesthetically pleasing as grass can be grown between tracks.²¹

- 11.52 The committee notes that the ACT Government supports a joint approach with the Commonwealth to developing light rail as a sustainable public transport option for Canberra.

Conclusions

- 11.53 The committee believes that Walter Burley Griffin's 'naturalist' approach to planning is still relevant for Canberra and especially important in terms of meeting the climate change challenge and addressing sustainability.
- 11.54 The committee acknowledges that the current issues that have arisen during the course of the inquiry can in a number of instances be attributed to a lack of strategic focus on sustainability. This is especially apparent with planning decisions made at the Canberra International Airport. It does not appear that any real consideration has been given to the impact

20 ACT Division, Property Council of Australia, Ms Catherine Carter, *Transcript T2*, p. 56.

21 Conservation Council of the South East Region and Canberra, 2005, *CCSERAC Position on the Belconnen to Civic Bus Way Route*, July, viewed 2 July 2008, <<http://www.consact.org.au/images/stories/sub.busway.July05.pdf>>.

on transport and the long-term impact on the environment in these instances.

11.55 The committee believes that the National Capital Authority (NCA) needs to be innovative and systematic in its approach to incorporating sustainability into its planning activities and develop its approach in consultation with the ACT Government and the community. Further, the NCA should be proactive in communicating its approach.

11.56 The committee concurs with the view of Mr Ed Wensing, who stated:

Canberra is the Commonwealth's only option for playing a direct role in demonstrating how urban form can be adapted to achieve sustainable development and to pressures of climate change.²²

11.57 The committee also concurs with the views expressed by Professor Patrick Troy:

The guiding principle for the planning and development of the ACT would then be to develop the region as a sustainable centre. This would mean that it was in the interest of each level of government to ensure the balanced growth of the region in accordance with the notion of ecologically sustainable development. Such an approach would automatically take into account problems of adaptation to climate change and the challenges wrought by considerations of energy supply and availability. It would also give due weight to the issues of water independence and security and of the need for the development of transport services to meet national, regional and local demands. Of course it would also embrace the obligations to ensure that the economic and socio-cultural aspects of Canberra's growth and management were consistent with the ambitions of both levels of government and of the community.

In short, the kind of planning such a system would entail might be described as the integrated assessment of the various environmental, social and economic opportunities, limitations and challenges provided in the ACT and would lead to a planning system which was beyond the limited range of physical determinism pursued by current planning agencies and provide the appropriate institutional architecture to ensure that environmental, social and equity aspects of the growth and management of the Nation's Capital were given proper weight.

22 Mr Ed Wensing, *Transcript T3*, p. 50.

The development of such a desirable planning system would depend heavily on an information base being developed the critical review of which would provide the evidence base for development initiatives and management strategies.

It would also depend heavily on developing an open, transparent planning system one of the benefits of which is that it would lead to a public more informed and supportive of the two levels of government in their joint endeavours to create a sustainable creative city as the nation's capital.²³

Recommendation 16

- 11.58 **The strategic goal of ecologically sustainable development should be embedded as a major principle in the *Australian Capital Territory (Planning and Land Management) Act 1988*.**

Strategic planning policies for the ACT

- 11.59 Commonwealth strategic planning policies for the ACT are currently expressed in the National Capital Plan (NCP), through the *General Policy Plan – Metropolitan Canberra* (herein referred to as the Metropolitan Canberra Policy Plan) and *General Policy Plan – Australian Capital Territory*.
- 11.60 The ACT Government's strategic planning policies are currently expressed in the Canberra Spatial Plan.
- 11.61 The Metropolitan Canberra Policy Plan broadly adopted the National Capital Development Commission's 1984 *Metropolitan Canberra Policy Plan/Development Plan* which was based on a comprehensive review of the Y-Plan.
- 11.62 The Metropolitan Canberra Policy Plan 'identifies urban and non-urban areas, general land use and national and arterial roads in the broadest sense.'²⁴ The plan also identifies the setting and character of the city in the form of the National Capital Open Space System, which includes protection from development on the inner hills, ridges and buffers.

23 Professor Patrick Troy, *Submission 80.1*, pp 1-3.

24 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 29.

- 11.63 Any significant departure from the Metropolitan Canberra Policy Plan requires an amendment to the NCP.
- 11.64 This is a source of frustration for the ACT Government, which has called for the replacement of the Metropolitan Canberra Policy Plan with a set of principles incorporated into the NCP.²⁵ The ACT Government stated:
- The approach of routinely denying the ACT government opportunities to shape urban form and development outside the parliamentary triangle and instead giving precedence to the Metropolitan Structure Plan, which is now over 20 years old and not tested against any sustainable development criteria, really cannot continue.²⁶
- 11.65 The ACT Government is concerned that its decision-making in terms of the provision of more efficient infrastructure is 'potentially hampered by the need to design it in a way that accords with the metropolitan structure plan.'²⁷ In its submission, the ACT Government stated:
- A fundamental question with regard to the approach proposed by the NCA is the Commonwealth Government's willingness to provide secure and ongoing funds for involvement in the strategic planning of the entire Territory, when the responsibility for delivery of the Territory's economy and social conditions is that of the ACT Government.²⁸
- 11.66 The Territory considers that the Metropolitan Canberra Policy Plan is dated and that the Canberra Spatial Plan is 'a more contemporary planning document' which 'provides the preferred basis on which we can design our infrastructure in the most efficient manner possible'.²⁹
- 11.67 The ACT Government's argument that the Metropolitan Canberra Policy Plan is dated was supported by David Wright, who argued that the plan was need of urgent review³⁰, and Professor Taylor, who said of the plan:
- That was a plan that the NCDC did and it was passed on in self-government. It is part of the National Capital Plan. It is referred to in various planning documents, but it is time it was upgraded and reviewed to look at transport, sustainability, future housing areas

25 ACT Government, Mr Andrew Cappie-Wood, *Transcript T2*, p. 3.

26 ACT Government, Mr Andrew Cappie-Wood, *Transcript T2*, pp. 3-4.

27 ACT Planning and Land Authority, Mr Neil Savery, *Transcript T2*, p. 13.

28 ACT Government, *Submission 69.2*, p. 2.

29 ACT Planning and Land Authority, Mr Neil Savery, *Transcript T2*, p. 13.

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

and those sorts of land use planning decisions which are critical to this city.³¹

- 11.68 The Walter Burley Griffin Society used the example of the Molonglo Valley proposal – ‘the most significant change to the overall metropolitan plan since the 1970s’ – to advance its argument for a fully integrated approach for planning. The Society stated:

At the moment [the Molonglo] proposal does not conform to the National Capital Plan. It has been put forward by the ACT government under Canberra Spatial Plan, which does not have statutory force. A key series of decisions and important consultancies and so on have been commissioned without any basis of approval and, by the stage it comes to approval, in a sense it will already be a *fait accompli*. That is no way to plan this city. What is needed is an integrated approach which would look at the overall structure of the city, in which direction it should grow, on what principles – for example, sustainability – and, on that basis, have an accepted metropolitan strategy against which detailed provisions can then be evaluated. Now we have to evaluate a detailed proposal without the structure in place.³²

- 11.69 Mr Ian Morrison, a former traffic engineer and transport planner with the National Capital Development Commission, believes the Metropolitan Canberra Policy Plan is still relevant, but was critical of the National Capital Authority (NCA) for its failure to utilise the plan to provide adequate protection against transport and parking problems. Mr Morrison stated:

Despite the addition of planned development in the Lower Molonglo, this town-based structure is still relevant. However the NCA has failed to look ahead and use it effectively. If it had done so we would have witnessed strategic thinking at a metropolitan level to help safeguard against rapidly worsening transport and parking problems – those for example around Civic and along the approaches to the airport.³³

- 11.70 The NCA acknowledged that the ACT Government should be more formally engaged in the development of the strategic plan for the Territory, given that strategic planning recognises local objectives.³⁴

31 Professor Ken Taylor, *Transcript T3*, p. 63.

32 Walter Burley Griffin Society, Professor James Weirick, *Transcript T1*, p. 8.

33 Mr Ian Morrison, *Submission 12*, p. 1.

34 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 30.

11.71 The NCA proposed what it described as a ‘simple and very effective solution’ which would involve amending the *ACT (Planning and Land Management) Act 1988* to require that a comprehensive review of the Metropolitan Canberra Policy Plan, conducted jointly by the NCA and ACT Government, be required every five years.³⁵

11.72 The ACT Government agreed that long-term strategic planning would benefit from joint reviews, but with the result reflected in the respective plans. The ACT Government stated:

Embedding Territory-wide outcomes in the National Capital Plan distorts the self-governing Territory’s accountability and responsibility for long term planning.³⁶

11.73 Contrary to the ACT Government’s views, the NCA stressed the importance of the Metropolitan Canberra Policy Plan being retained in the NCP:

...our strongest recommendation to this committee is that the strategic vision for the whole of the territory – that metropolitan plan – needs to be retained by the parliament through the National Capital Plan, because what it does is say what is urban and what is not urban. It does not say that in the urban areas you can have townhouses or hotels or whatever. It just says urban and non-urban. It establishes the framework for growth. It says where the major roads should be – not their exact alignment, not what they look like, but simply where they should be – and, importantly, it protects that setting and character of the National Capital Open Space System. If the National Capital Plan continues to do that, if the parliament continues to have that control, then our view is that it is safe for the detailed planning to be reduced to those areas that are more important.³⁷

Conclusions

11.74 The committee concurs with the view that the strategic vision for the national capital and the ACT should be retained by the Commonwealth Parliament.

11.75 The committee accepts that the ACT Government is concerned about its strategic planning being affected by a document over which it has little or no input. These are legitimate concerns and the Territory’s lack of

35 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 30.

36 ACT Government, *Submission 69.2*, p. 3.

37 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, pp. 36-37.

participation in the development of the strategic plan has been recognised by the NCA. The committee believes that the ACT Government should be a partner to the Commonwealth in the development of strategic planning.

- 11.76 However, the committee believes that the general policy plans in the National Capital Plan are in need of an overhaul. The committee believes these plans should be replaced with a new **National Capital Land Use Plan** which would be accompanied by an **Implementation Strategy**.
- 11.77 The National Capital Land Use Plan should reflect the need to preserve the Commonwealth's national capital interests in the Territory, including the features of the capital's unique design, namely:
- the National Capital Open Space System, which creates channels of open, undeveloped land linking the natural environment into the heart of urban areas;
 - the prohibition on urban development on the inner hills, which creates and preserves the scenery and vistas of a natural landscape despite Canberra being highly urbanised;
 - the land and water axes;
 - the style and location of national institutions in and around the triangle and central Canberra; and
 - the presence of diplomatic missions.
- 11.78 The National Capital Land Use Plan might, for example, articulate major land uses, settlement areas, location and distribution of major centres and industrial areas, and major roads and infrastructure.
- 11.79 Under the committee's proposal, the National Capital Land Use Plan would be supported by an Implementation Strategy which establishes a timeframe on how the two Governments propose to implement the Land Use Plan. The Implementation Strategy would include office employment location policies, settlement strategies and an infrastructure investment program. It would also include a Sustainable Transport Plan prepared jointly by the ACT Government and the NCA as recommended in chapter 9 (Recommendation 13).
- 11.80 To emphasise the importance of the proposed National Capital Land Use Plan, the committee recommends that it be enshrined in legislation through a schedule to the *Australian Capital Territory (Planning and Land Management) Act 1988*. This would ensure that an amendment to the schedule, rather than relying on intervention through disallowance, would be required to affect changes at this significant policy level. The committee

recommends that the Implementation Strategy be included as a disallowable instrument.

- 11.81 The committee supports the idea put forward by the NCA whereby both the NCA and the ACT Government come together to consider the content of a new National Capital Land Use Plan and Implementation Strategy at intervals specified in legislation. The NCA proposed a period of five years.
- 11.82 In a period of change, the committee recommends leaving the option open for more frequent reviews, that being every three years.

Recommendation 17

- 11.83 **That the *Australian Capital Territory (Planning and Land Management) Act 1988* be amended to enshrine the policies and principles of national significance as described in the proposed National Capital Land Use Plan in a schedule of the Act, and that the proposed Implementation Strategy be included as a disallowable instrument.**

The Act should also be amended to specify a requirement for the National Capital Land Use Plan and Implementation Strategy to be reviewed every three to five years.

Proposals for an Integrated Plan

- 11.84 The ACT Government agreed on the need to align the structure, format and language used in the respective planning documents. The Territory's submission stated:

The two planning administrations should work together, in the future, to prepare advice to both Governments on a program for achieving greater alignment of the structure and format, including language and alignment of zones, between the DAF Leading Practice compliant restructured Territory Plan and the NCP, with a view to developing a single planning instrument that would be implemented by the two jurisdictions for their respective areas of interest.³⁸

- 11.85 One of the primary causes of confusion under the current planning regime is that the NCP and Territory Plan are 'literally structured completely

38 ACT Government, *Submission 69*, p. 11.

differently' and that the two plans also have different definitions.³⁹ The NCA pointed out that between the two plans there are currently approximately 400 definitions, some of which are the same, some which are partly the same and some which are different.⁴⁰ The NCA reinforced the need to clarify these definitions using the example of a recent amendment to the NCP:

...the caravan park amendment recently derived purely from a difference of what is a caravan in the National Capital Plan and in the Territory Plan. That is just silly. At least all speaking the same language is crucial. What we call 'housing' or even 'urban' should be the same in both plans. The language should be plain language and the hierarchy unambiguous.⁴¹

- 11.86 Mr David Wright advocated standardising definitions so that they are common to both the NCP and the Territory Plan.⁴²
- 11.87 The Royal Australian Institute of Architects made a similar point in that an integrated planning document would 'ensure the same general codes apply across all relevant development in the ACT'.⁴³
- 11.88 The committee notes that standardising definitions and codes is possible with the retention of two statutory plans.
- 11.89 One of the points of confusion in the dual planning regime is how and where to access the planning detailed information relevant to the geographic area in question. When the information is held separately by two planning authorities, it becomes a complicated exercise for the citizen or business to actually determine what rules apply from which authority.
- 11.90 Therefore the committee recommends a simple and practical solution by encouraging both planning authorities to have available on request, and host on their respective web sites a complete set of planning information, with the relevant jurisdiction noted within the documentation. The committee believes that this service-oriented approach would be of assistance in the immediate term to reduce the frustration of having to source different information from different authorities for the same area of land.

39 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 40.

40 National Capital Authority, Mr Todd Rohl, *Transcript T5*, p. 19.

41 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 40.

42 Mr David Wright, *Submission 68*, p. 10.

43 Royal Australian Institute of Architects, Mr David Flannery, *Transcript T1*, p. 72.

Defining 'matters of national significance'

11.91 From the ACT Government's point of view, much of the difference of opinion between itself and the NCA on the NCA's future role relates to 'how the "matters of national significance" are described, represented in planning instruments and actioned.'⁴⁴

11.92 The NCA agreed that matters of national significance need review, and argued that they 'should not be dumbed down by there not being a statutory process.'⁴⁵ The NCA stated:

I do not think there is any doubt about the fact that matters of national significance must to be reviewed and defined. We need a clear and unambiguous hierarchy from a strategic point through to the detail that the territory requires.⁴⁶

11.93 Dr David Headon argued that defining 'national significance' was crucial to reaching a clear understanding on what the role of the NCA should play in the immediate future. He stated:

When one looks at the 1990 plan – and it certainly has, rightly, troubled the National Capital Authority in recent years – there is no working definition of 'national significance', and yet the term and notions of national significance run throughout the document. We do need to have a sound definition. We do need to have that definition clarified in terms of what the designated areas are. Once we are clear on that, for reasons that definition would be determined by appropriate consultation, then the sometimes bitter debates that have dogged interaction between the ACT government and the federal government custodian body should be things of the past.⁴⁷

...you have got any amount of literature on which to base your working definition of 'national significance'. One thing is certain: our notion of national significance in 2008 is going to be different to the notion of national significance in 2050 or 2088. There, it is a work in progress, a working definition.⁴⁸

11.94 Dr Headon also spoke about the need to attract 'the right people around the table' to form a 'working definition' of national significance. Dr Headon stated:

44 ACT Government, *Submission 69.2*, p. 1.

45 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 24.

46 National Capital Authority, Ms Annabelle Pegrum, *Transcript T5*, p. 25.

47 Dr David Headon, *Transcript T7*, p. 4.

48 Dr David Headon, *Transcript T7*, p. 7.

Let us have the right discussion with the ACT Government and all appropriate people involved, likewise the National Capital Authority, and likewise former members of custodian bodies. ...I would look to the scholarly area and look to past experience. Then...I would want to draw on some of the expertise of planners around the country, as well as internationally.

You want to build on – and this does not happen enough in this day and age – the expertise and experience of key people who can still give us that experience.⁴⁹

Community consultation

- 11.95 The framework put forward by the NCA provides for considerable opportunity for community consultation. The two planning authorities would be required to undertake statutory consultation on proposed amendments to the NCP and Territory Plan in accordance with their respective Acts.
- 11.96 An additional layer of opportunity for public comment would then be accommodated through any amendment to the NCP being referred to this committee for inquiry. An inquiry would also give the committee the opportunity to assess the extensiveness of the NCA's own consultation process.
- 11.97 Further, the Federal Parliament may wish to inquire into the legislative amendment to the PALM Act that will be necessary if this approach were to be adopted by the Government.

Appeal rights

- 11.98 The omission in the PALM Act for development approval decisions to be subject to administrative appeal has long been a source of contention. The ACT Government argued that if the right to an appeal for a commercial development in the ACT exists, then that same right should exist for the NCA's administration.⁵⁰
- 11.99 Similarly, the National Trust of Australia (ACT) stated:

Planning decisions throughout Australia are subject to some appeal mechanism as part of good governance and this needs to be available for NCA planning matters as well. This has become particularly relevant with several NCA proposals which have been

49 Dr David Headon, *Transcript T7*, pp. 10-11.

50 ACT Planning and Land Authority, Mr Neil Savery, *Transcript T2*, p. 21.

put forward without appropriate consultation and have only been subject to a review as a result of intense public pressure.⁵¹

11.100 Professor James Weirick also elaborated on the anomalous situation created by the existing appeals framework for planning decisions in the ACT. Professor Weirick stated:

The mismatch between Commonwealth and ACT endeavours occurs at every level. The Griffin Legacy Amendments to the National Capital Plan simultaneously permit large-scale urban development on National Land without any right of appeal, and on Territory Land with the right of appeal.⁵²

11.101 If the Development Assessment Forum (DAF) model were to be adopted by the NCA, this could impact on existing arrangements concerning appeal rights.

11.102 The DAF model, as discussed in chapter five, provides that an applicant should be able to seek a review of a discretionary decision, but only against the same policies and objective rules and tests as the first assessment.

11.103 In relation to third-party appeal rights, the DAF model seeks to avoid unnecessary review where objective rules and tests have already been established by a consultative process. The DAF model provides that:

- Opportunities for third-party appeals should not be provided where applications are wholly assessed against objective rules and tests.
- Opportunities for third-party appeals may be provided in limited other cases.
- Where provided a review of a decision should only be against the same policies and objective rules tests as the first assessment.⁵³

11.104 The DAF model also states that:

If the rules and expectations associated with the public notification of development proposals are clear and these processes are undertaken in accordance with policy, there should be no need for

51 National Trust of Australia (ACT), *Submission 33*, p. 2.

52 Professor James Weirick, *Submission 77*, p. 7.

53 Development Assessment Forum 2005, *A Leading Practice Model for Development Assessment in Australia*, DAF, p. 27, viewed on 18 June 2008, <http://www.daf.gov.au/reports_documents/leading_practice.aspx>.

third-party appeal rights on many matters of merit, although there may be some benefit derived from notification.⁵⁴

Protecting the Commonwealth interest in the National Capital

- 11.105 The committee considers that much of the friction perceived to exist between the roles of the Commonwealth and Territory planning authorities draws on a prejudice that each level of planning is unable to fully embrace the “mission” of the other, e.g. that ACTPLA, if given approval powers over the Parliamentary Triangle, would allow inappropriate commercial development to occur there, and so forth.
- 11.106 The committee regards these perceptions as having poor foundations. It is evident that ACT residents have as strong a vested interest in preserving the “national capital values” of their city as any other Australians, indeed arguably more so. Nonetheless the committee weighed up the argument for some kind of “backstop” or “safety net” to exist to ensure that, where the Commonwealth delegates or assigns planning jurisdiction to the ACT over Territory Land within Designated Areas, the ‘National Capital’ interest is protected.
- 11.107 One such mechanism may be for the Commonwealth minister to have the power to “call in” a development or works approval given by ACTPLA which the minister regards as in breach of the principles contained in the NCP. Such a device, even on a transitional basis, would provide some assurance that the strategic vision exercised by the NCA in both its planning and approval roles would not be lost should the latter be partially transferred to the ACT.
- 11.108 The committee did not reach a position on this question, but recommends that it be the subject of further debate within the Parliament and the community. We believe that the extent of risk associated with a delegation or assignment of the Commonwealth role to the ACT has been exaggerated, but accepts that the perception of such risk should be addressed in any arrangements entered in to between the two governments.

Timeframe for implementation

- 11.109 The committee is of the view that a period of 18 months represents a tight timeframe to give effect to this new vision for planning in the ACT. The committee also acknowledges the high levels of goodwill and co-operation

54 Development Assessment Forum 2005, *A Leading Practice Model for Development Assessment in Australia*, DAF, p. 25, viewed on 18 June 2008, <http://www.daf.gov.au/reports_documents/leading_practice.aspx>.

that must exist across both the Federal and ACT spheres of government as well as a collaborative and cooperative approach with both the NCA and the Territory Planning Authority.

- 11.110 The committee harbours some reservations as to whether 'national significance' is something which can be accurately defined, but was satisfied through its discussions with witnesses that incorporating the advice of an appropriately constituted advisory committee and a thorough consultation process, an acceptable working definition of what constitutes 'matters of national significance' may be attainable, and there would be merit in such an attempt.
- 11.111 If the proposed joint working group develop the structure, language, format and definitions of the respective statutory planning documents, there is an opportunity that some of the problems that have plagued the ACT planning community for the last two decades, can finally begin to be resolved. It is therefore essential that the respective planning authorities be provided with adequate resources, both human and financial, to conduct this work on the respective planning documents and participate in associated advisory and consultative bodies.
- 11.112 A key component of this review will be community consultation. While the committee has long-standing concerns about the NCA's track record with community consultation, the NCA's recent development of a consultation protocol portends an improvement in this area of NCA activity.
- 11.113 A key area of concern has been the inability for any party to challenge decisions or interpretations made by the NCA with respect to the NCP. The committee believes that once definitions are agreed, and this hierarchical relationship removed, any dispute or disagreement at the development approval level should be arbitrated by the Commonwealth AAT.

Conclusions

- 11.114 The committee's vision for the way forward is guided by the objectives outlined in the introduction to the report:
- **The first objective is to ensure the Commonwealth protect and promote the unique design of Canberra because it represents the intrinsic character of the National Capital.**
 - **The second objective is to align land administration with planning jurisdiction where possible, provided the first objective is achieved.**

- **The committee's third objective is to foster greater cooperation and collaboration between the Commonwealth and ACT Government on planning and related matters.**
- 11.115 The committee notes that the proposal of the National Capital Authority (NCA) essentially differs little from the current hierarchical planning structure, albeit with agreed definitions.
- 11.116 This would enable the NCA to retain the power to express an un-reviewable opinion as to whether the ACT Government is acting consistently or not with the NCP. In the view of the committee, this does not achieve the objective of removing red tape, complexity and duplication from the planning system.
- 11.117 Further, the committee believes that in the interests of ensuring that the overarching principles, policies and general land uses pertaining to matters of national significance remain in the first instance purely under the jurisdiction of Commonwealth, that these principles should be enshrined in the *Australian Capital Territory (Planning and Land Management) Act 1988* (PALM Act).
- 11.118 This will strengthen the protection of the major principles and policies of the NCP, including description of general land use, national and arterial roads in the broadest sense and the setting and character of the National Capital Open Space System, which includes protection from development on the inner hills, ridges and buffers.
- 11.119 Both the NCP and the Territory Plan would need to be drafted so as to be consistent with this legislation. Consistent language of both plans would enable the sort of integrated presentation of both the NCP and Territory Plan described later in this chapter. The principles and policies would need to be regularly reviewed.
- 11.120 This approach will have the effect of removing the oversight (veto) power of the NCA with respect to the Territory Plan, as both planning authorities would be equally subservient to the requirements of the PALM Act and the interpretation thereof. This would enable the prospect of the two planning authorities to determine formal lines of demarcation.
- 11.121 The committee recognises that there is some concern about the proposed areas of formal demarcation between the proposed new NCP and Territory Plan.
- 11.122 However, with the principles and policies agreed and enshrined in the PALM Act, demarcation lines can become a basis for consideration of what is appropriate and practical in a range of future circumstances.

- 11.123 In the event of conflict, there should be no right of veto by the NCA to override decisions by the ACT planning authority.
- 11.124 The committee notes that if the Development Assessment Forum (DAF) model is adopted by the NCA, this would impact on existing arrangements concerning appeal rights. In chapter five, the committee recommended that, in the interest of improving consultation, the NCA assess the DAF model for its relevance and application to the National Capital Plan.
- 11.125 However, given that there is no certainty that the DAF model will be adopted by the NCA, the committee is supportive of decisions on development applications made under the PALM Act being subject to review through the Commonwealth Administrative Appeals Tribunal.
- 11.126 The committee accepts that this could create difficulties where Commonwealth departments relating to defence and national security are involved, and suggests that a provision be available for appeal to be removed in such instances.
- 11.127 The committee envisages that consideration of proposed legislative amendments to the PALM Act and associated draft amendments to the NCP would be considered concurrently at a full public inquiry conducted by the committee.
- 11.128 The committee recognises that, notwithstanding a high level of cooperation, the final form of legislation will ultimately be determined by the Federal Government and considered by both Houses of the Commonwealth Parliament.
- 11.129 The scheme the committee envisages in this chapter is one which confers much greater equality than before on the city's two planning authorities with respect to day-to-day planning approvals, such as development applications. Its intention is that each authority should be supreme within its own geographic area of responsibility, subject to the terms of the overarching national legislation and to the review of any appellate tribunal.
- 11.130 However the committee acknowledges that the blueprint for each authority's role is the *Australian Capital Territory (Planning and Land Management) Act 1988* and the National Capital Plan made under it. These are instruments serving a national purpose, designed so that the Commonwealth's superior interest as the custodian of the nation's vision for the capital will always prevail in overall planning terms. The

committee's plan to modify the hierarchical nature of Territory planning does not interfere with this reality.

- 11.131 The PALM Act provides that, in the event of disagreement between the NCA and the ACT Government over a draft amendment to the NCP, the Federal minister can issue a written direction to the NCA to disregard the ACT's objection. This committee's proposals do not dislodge that power. Further, the PALM Act itself will from time to time be amended by the Federal Parliament at the behest of the Federal minister, possibly without the support of the ACT Government. The Commonwealth's dominant interest must be protected through the option of such devices.

Recommendation 18

- 11.132 **That the National Capital Authority and ACT Planning and Land Authority form a joint working group to achieve a single integrated document which:**
- **comprises the two statutory plans, and agrees on clear geographic boundaries between the two plans based on the committee's objective that, where possible, land administration be aligned with planning jurisdiction;**
 - **includes a harmonised language, definitions and structure;**
 - **provides guidelines for interpretation of the two plans;**
 - **provides advice to the Commonwealth Government on enshrining the policies and principles relating to national significance across the Australian Capital Territory in the form of the National Capital Land Use Plan in the *Australian Capital Territory (Planning and Land Management) Act 1988*; and**
 - **provides advice to the Commonwealth and ACT Governments on the key elements of the Implementation Strategy.**

Recommendation 19

- 11.133 **That the National Capital Authority be resourced to participate in the working parties and reviews as required.**

Recommendation 20

- 11.134 That any draft amendment(s) to the National Capital Plan proposing uplift of Designated Areas and a formal geographic re-alignment of planning jurisdiction be referred to the Joint Standing Committee on the National Capital and External Territories for inquiry.

Recommendation 21

- 11.135 That, in the interest of aligning the National Capital Authority's planning system with the ACT's, the *Australian Capital Territory (Planning and Land Management) Act 1988* be amended to include a provision for decisions on development applications made under the Act to be subject to review through the Commonwealth Administrative Appeals Tribunal.

3D digital modelling of the National Capital Plan

Background

- 11.136 The NCA is looking at the possibility of applying three-dimensional (3D) digital software to create a digital version of the NCP. A 3D digital version of the NCP would allow for computer modelling to be used as a planning tool. Three-dimensional modelling takes the form of a piece of specific software that can be applied as required to a land use plan.

How 3D modelling works and its accessibility

- 11.137 The 3D digital computer representation (consisting of a number of merged software programs) allows the user to place buildings, other developments, particular landscape features such as trees, people, cars, buses etc., within a particular area such as a park, town or city. This model has the benefit of allowing the user to view the impact a particular planning proposal such as a building development would have on a particular urban landscape, including where an object's (such as a building) shadow may be cast. The model is considered 'state of the art' and is currently very expensive, but would offer an improvement in terms of consultation.⁵⁵ The PIA stated:

55 Planning Institute Australia, Ms Sue Holliday, *Transcript T3*, p. 26.

The potential is a significant improvement in terms of online access through the course of development proposal and development application processes. There are a lot of challenges, though, in ensuring that it is affordable and that the technology really does drive efficiencies and is accessible to everybody. There is still a lot of work to be done in terms of protocols and integration.⁵⁶

- 11.138 The greatest benefit of using 3D modelling for planning purposes is that it allows planners to gain a visual understanding of the implications of a proposed development resulting in greater efficiency. The Planning Institute Australia explained the benefits of 3D modelling in the area of planning. The PIA stated:

The ultimate benefit is about creating greater efficiency and allowing people to understand the implications of a development in a visual way. One of the things that we have argued in terms of electronic development assessment is that it is no good taking a paper based system and turning it into an electronic one without gaining the potential efficiencies that such a system can provide. We are now seeing some leading local governments taking that technology and really driving efficiency to improve throughput of development proposals and the like. But it is also a useful tool when taken to the next stage and fully integrated with GIS topographical information to provide people with that capacity in a community consultation context to better understand what a proposal's implications are.⁵⁷

- 11.139 The PIA emphasised that 3D modelling was the latest technology and that while it is a very useful tool for consultation purposes; it should not replace face-to-face consultation.⁵⁸

- 11.140 In relation to how 3D modelling could be applied for the purpose of manoeuvring through the commonalities of the proposed integrated (National Capital) plan, the PIA stated:

With a 3D model – as I said, there are two. The tracking is one technology, and then there is 3D technology. So, for example, if there were going to be a proposed change in the densities at Gungahlin Town Centre and it was all modelled, you could get a very good and quick sense, as could the community, of what it might look like. With the Molonglo proposals, I think people are

56 Planning Institute Australia, Ms Sue Holliday, *Transcript T3*, p. 27.

57 Planning Institute Australia, Ms Di Jay, *Transcript T3*, p. 27.

58 Planning Institute Australia, Ms Di Jay, *Transcript T3*, p. 27.

still thinking, 'What is it going to look like as I come around that corner?' If you put that into the model you can get an immediate sense of that.⁵⁹

- 11.141 The committee was shown a working example of 3D digital modelling and how it could be used to view proposed developments. Some examples of images of Canberra generated from the 3D digital planning model appear at *Figures v and vi*.⁶⁰

3D modelling and a proposed integrated National Capital and Territory Plan

- 11.142 The graphic representation of plans has developed significantly in recent years and the committee believes that the idea of an integrated plan will be complemented with the use of the type of 3D digital graphic representation demonstrated privately to members of the committee.
- 11.143 In the context of the proposal for an integrated plan, the NCA has stated that 3D modelling provides scope for better presentation of the NCP and the Territory Plan and for gaining clarity in the planning context. The NCA put forward the view:

... there is significant scope for both plans to be better presented and for the planning hierarchy to be set out and made unambiguous. With that objective in mind, the authority supports a fully integrated planning document with a common language and common definitions. For good communication of this type, we need to think beyond two-dimensional planning documentation and take the lead by augmenting that traditional documentation with a three-dimensional fully digital plan. This virtual plan could also be layered with visitor information and would be used to model national and local development applications – a 21st century approach to articulating the planned vision for the capital.⁶¹

- 11.144 The NCA added that a digital format for both the NCP and the Territory Plan is achievable, as the groundwork required for digitalisation in terms of geospatial mapping has been undertaken over the last 15 years. The NCA stated:

We think the digital plan is incredibly important. It is easy to achieve. Within the authority we have one of the largest geospatial mapping capacities in Australia. It has been put together over at

59 Planning Institute Australia, Ms Sue Holliday, *Transcript T3*, p. 27.

60 The images are for representation purposes only and do not represent any current or future developments.

61 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, p. 31.

least 15 years and the territory also has excellent digital information. If they were combined, there is the prospect of a fully three-dimensional digital plan that you could not only visit but also drop development applications into and look at them on the web. You could also have detailed planning information pop up, which would be a huge jump forward. There are two legislative plans. There is separation of ownership of the plans but they speak the same language, they form the same document and the hierarchy is unambiguous. That should not be too hard to achieve if we set our minds to it and work hard together.⁶²

11.145 The ACT Government is supportive of an integrated plan in a 3D digital format and stated:

Let me state from the outset that the ACT government is supportive of a range of elements set out by the NCA, including' ... 'that one integrated planning document which incorporates the two current statutory regimes be developed and made available in 3D digital format.⁶³

11.146 The ACT Government is also keen to gain access to the 3D digital modelling software and has made a recommendation in its submission to the effect requesting:

the ACT Government be given access to the NCA's 3D modelling software to enable its consolidation by ACTPLA with its GIS and make the consolidated system mutually available under an agreed administrative arrangement.⁶⁴

11.147 The committee believes that additional resources from the ACT Government would be a useful contribution to the development of this project.

11.148 There are a number of local councils using the technology to assist with planning decisions. The Gosford City Council is one recent example.⁶⁵

Conclusions

11.149 The committee believes that the 3D digital modelling in the planning context is useful as a tool to aid planners and assist the community in gaining a better understanding of proposed developments during the consultation phase.

62 National Capital Authority, Ms Annabelle Pegrum, *Transcript T1*, pp. 40-41.

63 ACT Government, Mr Andrew Cappie-Wood, *Transcript T2*, p. 3.

64 ACT Government, *Submission 69*, p. 19.

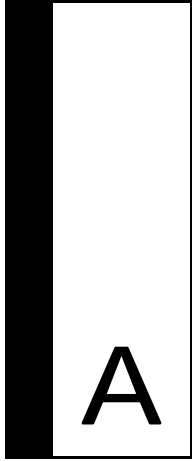
65 Planning Institute Australia, Ms Sue Holliday, *Transcript T3*, p. 25.

- 11.150 The committee is aware that the use of 3D digital modelling is costly, and is concerned that much needed resources for the level of consultation and collaboration are a higher priority for the NCA in the short term.
- 11.151 Nonetheless, the committee believes that it would be a useful tool for both the NCA and ACT Planning Authority and could, as suggested by the NCA and ACT Governments, be used for an integrated plan.
- 11.152 The committee is of the view that the concept of the digital plan fulfils its potential only if it able to be accessed online.

Recommendation 22

- 11.153 **That the Commonwealth provide resources to the National Capital Authority to continue the development of a cost effective three-dimensional integrated plan in digital format which is available online with the purpose of gaining efficiencies in planning and enhancing consultation.**

Senator Kate Lundy
Chair
8 July 2008



Appendix A - Submissions

No.	Individual / Organisation
1	Mr Cain Sibley
2	Mr Ernst Willheim
3	Mr Carlos Smitz
4	Ms Rosemarie Willett
5	Mr Anthony Hordern
6	Confidential
7	Mr Stan Marks
8	Dr David Headon
9	Ms Sandra Whichelo
10	Mr Jack Kershaw
11	Mr Timothy Hurd
11.01	Ms Judith Sutton
11.02	Ms Meryl Bollard and Sr Lorraine Gatehouse
11.03	Ms Anne-Kristine Christiansen
12	Mr Ian Morison
13	Australian Institute of Landscape Architects
13.01	Australian Institute of Landscape Architects

- 14 Mr Brian Binning
- 15 Mr Graham Anderson
- 16 Association of Consulting Architects Australia
- 17 Dr Keith Boardman AO
- 18 Burringiri Association Incorporated
- 19 Mr and Mrs Bill and Arati Sardana
- 20 Colin Stewart Architects Pty Limited
- 20.01 Colin Stewart Architects Pty Limited
- 21 Ms Juliet Ramsay
- 22 Mr David Flannery
- 23 Professor Mads Gaardboe
- 24 Planning Institute of Australia
- 24.01 Planning Institute of Australia
- 25 Friends of the Albert Hall Inc.
- 25.01 Friends of the Albert Hall Inc.
- 25.02 Friends of the Albert Hall Inc.
- 25.03 Friends of the Albert Hall Inc.
- 26 Dr David Bagnall
- 27 Dr John Gray OAM
- 27.01 Dr John Gray OAM
- 28 Pedal Power ACT Inc.
- 29 Canberra Carillonists
- 29.01 Canberra Carillonists
- 29.02 Canberra Carillonists
- 29.03 Canberra Carillonists
- 30 Canberra Region Tourism Operators Association
- 30.01 Canberra Region Tourism Operators Association
- 31 Mr Spokes Bike Hire
- 31.01 Mr Spokes Bike Hire

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- 32 Mr Edward Wensing, Mr Grahame Crocket and Mr Paul Howorth
- 32.01 Mr Edward Wensing, Mr Grahame Crocket and Mr Paul Howorth
- 33 National Trust of Australia, ACT
- 34 ACT Heritage Council
- 34.01 ACT Heritage Council
- 35 Australian National University
- 35.01 Mr Warwick Williams
- 36 Engineers Australia, Canberra Division
- 36.01 Engineers Australia, Canberra Division
- 37 Professor Ken Taylor AM
- 37.01 Professor Ken Taylor AM
- 38 Mr Graham Humphries
- 39 Ms Georgina Pinkas
- 39.01 Ms Georgina Pinkas
- 40 Walter Burley Griffin Society Inc.
- 40.01 Walter Burley Griffin Society Inc.
- 40.02 Walter Burley Griffin Society Inc.
- 41 Dr Dianne Firth
- 42 Dr Enrico Taglietti
- 43 Dr Jenny Stewart
- 44 Royal Australian Institute of Architects
- 44.01 Royal Australian Institute of Architects
- 45 Fender Katsalidis Architects
- 46 Mr Greg Wood
- 47 Professor Emeritus John E Courter
- 48 Ms Melinda Dodson
- 49 Master Builders Association of the ACT
- 50 Mr Andrew Wilson
- 51 Property Council of Australia (ACT)

- 52 Mr Geoff Campbell
- 53 Questacon - National Science and Technology Centre
- 53.01 Questacon - National Science and Technology Centre
- 54 Law Society of the Australian Capital Territory
- 55 National Capital Authority
- 55.01 National Capital Authority
- 55.02 National Capital Authority
- 55.03 National Capital Authority
- 55.04 National Capital Authority
- 55.05 National Capital Authority
- 55.06 National Capital Authority
- 55.07 National Capital Authority
- 55.08 National Capital Authority
- 55.09 National Capital Authority
- 55.10 National Capital Authority
- 55.11 Confidential
- 55.12 National Capital Authority
- 55.13 National Capital Authority
- 55.14 National Capital Authority
- 56 Immigration Bridge Australia
- 57 Yarralumla Residents Association
- 58 Small Quinton Coleman Architects
- 59 Attorney-General's Department
- 59.1 Attorney-General's Department
- 60 Canberra Business Council Ltd
- 61 City West Property Holdings Pty Limited - Leighton Properties Pty Limited
- 62 Tourism and Transport Forum Australia Ltd
- 62.01 Tourism & Transport Forum Australia Ltd

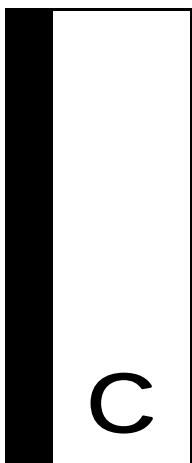
-
- 63 Confidential
 - 64 Mr Patrick Stein
 - 65 National Capital Commission - Canada
 - 66 National Capital Planning Commission - USA
 - 67 Mr Christopher L Watson
 - 68 Mr David T Wright
 - 68.01 Mr David T Wright
 - 68.02 Mr David T Wright
 - 69 ACT Government
 - 69.01 ACT Government
 - 69.02 ACT Government
 - 69.03 ACT Government
 - 69.04 ACT Government
 - 70 Canberra International Airport
 - 71 Police Federation of Australia
 - 72 Built Environment Australia - Australian Council of Built Environment
Design Professions Limited
 - 73 Hindmarsh Group
 - 73.01 Hindmarsh Group
 - 74 Confidential
 - 75 Mr Arthur Kenyon AM
 - 76 Parks Forum Ltd
 - 77 Professor James Weirick
 - 78 National Gallery of Australia
 - 79 Government Architects Network Australia
 - 80 Professor Patrick Troy AO
 - 80.01 Professor Patrick Troy AO
 - 81 Mr Tony Powell AO
 - 82 Mr Don Morris

- 83 Mr David Evans
- 84 Mr Keith Storey
- 85 Mr Paul D Cohen
- 86 Mr W A Higgin OAM
- 87 Mr Brett Odgers
- 88 Mr Ken Eynon
- 89 Mr Stephen Bartos



Appendix B - Exhibits

- 1 Vernon, Christopher, *Canberra Central Parklands Competition*, Landscape Architecture Australia, no 115 (August 2007): 37-38.
- 2 Vernon, Christopher, *Griffin Legacy: Canberra the Nation's Capital in the 21st Century*, Landscape Architecture Australia, no 113 (February 2007): 38-40.
- 3 Wood, Greg, *Christening Canberra*, National Library of Australia News Jan 08, 18-21. [Related to Submission 46]
- 4 Kershaw, Jack, *Stop rushing City Hill*, City News, Volume 14, Number 7, 21 February 2008, p 13. [Related to Submission 10]
- 5 National Capital Authority, *3D Planning Model screen shots*. [Related to Submission 55]
- 6 Police Federation of Australia, *Memorandum of Understanding for the proposed Australian National Police Memorial* [Related to Submission 71]
- 7 Police Federation of Australia, *Australian National Police Memorial*, photographed 30 April 2008. [Related to Submission 71]
- 8 Immigration Bridge Australia, *Meet us... on the bridge* pamphlet, www.immigrationbridge.com.au. [Related to Submission 56]
- 9 Immigration Bridge Australia, *Essential elements of the Immigration Bridge Project*, April 2008. [Related to Submission 56]
- 10 Kershaw, Jack, *The future of the NCA*, 19 May 2008.
- 11 ACT Government, *Media Release, ACT Government contributes land for Immigration Bridge*, 17 August 2006.



Appendix C - Hearings and witnesses

Monday, 21 April 2008 - Canberra [T1]

Attorney-General's Department

Mr Iain Anderson, First Assistant Secretary, Territories and Native Title Division

Ms Claire Pitham, Director, ACT and JBT Sections, Territories East Branch, Territories and Native Title Division

Ms Karen Stewart, Director, ACT and JBT Sections, Territories and Native Title Division

Friends of the Albert Hall Inc

Dr Lenore Coltheart, Vice-President

Ms Diane Johnstone, Secretary

Mr Ian Morison, Member

National Capital Authority

Mr Michael Ball AM, Chairman

Mr Peter Byron, Director, Exhibition and Outreach

Mr Alan Harrison, Acting Managing Director, Governance

Ms Annabelle Pegrum AM, Chief Executive

Mr Gary Rake, Managing Director, Finance and Estate

Ms Ros Ransome, Principal Adviser, Environment and Heritage, Planning and Urban Design

Mr Todd Rohl, Managing Director, Planning and Urban Design

Mr Andrew Smith, Acting Managing Director, Projects

Ms Alison Walker-Kaye, Managing Director, International Relations and Leasing

Royal Australian Institute of Architects

Mr David Flannery, ACT Chapter President

Ms Sheila Hughes, ACT Chapter Councillor

Mr Alec Tzannes, National President

Walter Burley Griffin Society Inc.

Dr Bruce Kent, Vice-Chair, Canberra Chapter

Mr Brett Odgers, Chair, Canberra Chapter

Professor James Weirick, President

PUBLIC FORUM

Individuals

Ms Anne Forrest

Ms Jean Geue

Dr Bruce Kent

Mr Les Landau

Mr Ian Morison

Ms Georgina Pinkas

Mr Ray Saunders

Mr David Shorthouse

Mrs Jean Thomson

Mr Ernst Willheim

Walter Burley Griffin Society Inc.

Mr Brett Odgers, Chair, Canberra Chapter

Professor James Weirick, President

Tuesday, 22 April 2008 - Canberra [T2]**ACT Government**

Mr Andrew Cappie-Wood, Chief Executive, Chief Minister's Department

Ms Pamela Davoren, Deputy Chief Executive, Chief Minister's Department

Ms Jacqui Lavis, Executive Director, Planning Services Branch, ACT Planning and Land Authority

Mr Neil Savery, Chief Planning Executive, ACT Planning and Land Authority

Australian Institute of Landscape Architects

Mr Neil Hobbs, National President

Canberra Business Council Ltd

Mr Michael Capezio, Board Member

Ms Christine Faulks, Chief Executive Officer

Canberra Carillonists

Ms Susan Antcliff

Ms Astrid Bowler

Ms Lyn Fuller

Mr George Howe

Ms Kerry Milligan

Canberra International Airport

Mr Stephen Byron, Managing Director

Mr Noel McCann, Director of Planning

Hindmarsh Group - Canberra

Mr Darren Dougan, Chief Executive Officer

Mr Gerard Ryan, Development Manager ACT

Law Society of the Australian Capital Territory

Mr Lawrence King, Executive Director

Mr Chris Wheeler, Appointed Representative, Property Law Committee

Mr Spokes Bike Hire

Ms Jillian Edwards, Director

Mr Martin Shanahan, Director

Property Council of Australia (ACT Division)

Ms Catherine Carter, Executive Director

Mr Anthony Hedley, President

Ms Meg Osmond, Appointed Representative

Wednesday, 23 April 2008 - Canberra [T3]**Individuals**

Professor Ken Taylor AM

Mr Edward Wensing

Ms Rosemarie Willett

ACT Heritage Council

Dr Michael Pearson, Chair

Mr Gerhard Zatschler, Manager, ACT Heritage Unit

Canberra Region Tourism Operators Association

Mr Jim Paterson, Secretary

Mr John Williams, President

Master Builders Association of the ACT

Mr Jerry Howard, Deputy Executive Director

National Trust of Australia, ACT

Mr Eric Martin AM, President

Planning Institute of Australia

Ms Sue Holliday Immediate Past National President

Ms Di Jay, Chief Executive Officer

Mr Hamish Sinclair, Acting President (ACT Division)

Thursday, 1 May 2008 - Canberra [T4]**Individuals**

Dr Keith Boardman AO

Mr Graham Humphries

Mr Colin Stewart

Mr David Wright

Australian National University

Professor Lawrence Cram, Acting Vice-Chancellor

Mr Warwick Williams, Director, Facilities and Services Division

Engineers Australia, Canberra Division

Mr Thomas Brimson, Deputy President

Mr David Daverin, Fellow and Past Chairman

Police Federation of Australia

Mr Mark Burgess, Chief Executive Officer

Questacon - National Science and Technology Centre

Professor Graham Durant, Director

Ms Lorraine Neish, General Manager, Operations

Mr Craig Whelan, Manager

Tourism and Transport Forum (TTF) Australia Ltd

Ms Caroline Wilkie, National Manager, Tourism & Events

Friday, 2 May 2008 - Canberra [T5]**Individuals**

Dr John Gray OAM

Dr Jenny Stewart

Dr Enrico Taglietti

Mrs Sandra Whichelo

ACT Government

Mr Andrew Cappie-Wood, Chief Executive, Chief Minister's Department

Ms Pamela Davoren, Deputy Chief Executive, Chief Minister's
Department

Ms Jacqui Lavis, Executive Director, Planning Services Branch, ACT
Planning and Land Authority

National Capital Authority

Ms Annabelle Pegrum AM, Chief Executive

Mr Gary Rake, Managing Director, Finance & Estate

Mr Todd Rohl, Managing Director, Planning & Urban Design

Mr Andrew Smith, Acting Managing Director, Projects

University of Canberra

Dr Jenny Stewart, Associate Professor of Public Policy

Tuesday, 6 May 2008 - Canberra [T6]

Immigration Bridge Australia

Mr Andrew Baulch, Campaign Director

Mr Graham French, Director

Lieutenant General (Retired) Lawrence O'Donnell, Chairman

National Gallery of Australia

Mr Alan Froud, Deputy Director

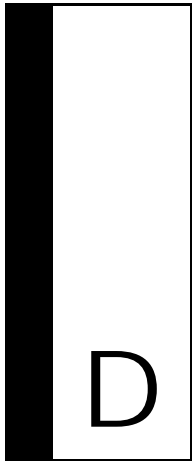
Dr Ron Radford AO, Director

Wednesday, 14 May 2008 - Canberra [T7]

Individuals

Mr Stephen Bartos

Dr David Headon



Appendix D – NCA: consultation processes

Draft Amendments

Only the National Capital Authority (NCA) can propose draft amendments to the NCP. Section 15 of the PALM Act provides for community consultation in relation to amendments to the NCP. In particular, the Act specifies that the NCA should invite interested persons to make written representations about the Draft Amendment within a specified period. In addition, the NCA should consult with the Territory planning authority about the Draft Amendment and ‘have regard to any representations made by the public; and, if it thinks fit, may alter the draft amendment.’

A draft general amendment is released for public consultation for 30 business days. For site specific amendments, such as Draft Amendment 52 – Zoo expansion, the consultation period is 20 business days. Minor Draft Amendments which may involve correcting a spelling mistake are circulated for 5 days.¹

Section 18 of the PALM Act states that the ‘authority shall submit the draft to the Minister for approval, together with a written report on its consultations under section 15.’

If the Territory objects to a draft amendment, which cannot be resolved by the NCA, the responsible Minister must consult with the ACT Government and can give a written direction to the NCA to either disregard the objection or to alter the draft amendment to accommodate the objection wholly or partly. The Minister’s direction must be gazetted and laid before both Houses of Parliament.

¹ National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, pp. 7-12.

When the Minister approves the amendment it is then subject to disallowance by either House of Parliament.² The Minister also has the option under section 19 of the Act to refer the amendment back to the NCA suggesting alterations and or requesting that it conduct further consultation.

The Minister may choose to refer the draft amendment to this committee for review but there is no legislative requirement that this occur. If the committee were to conduct an inquiry, there is no obligation on the Minister or the NCA to adopt the committee's recommendations.

The NCA has developed a new protocol to add detail to its statutory consultation requirements. Site specific and minor draft amendments are specified in the Consultation Protocol. The consultation periods vary between 5 and 30 days depending on the nature of the amendment. Less time is accorded to a site specific amendment. The rationale is that it is easier to identify the stakeholder and, therefore, less time will be needed than with a general amendment.

Development approval, development applications and DCPs

Section 12 of the PALM Act gives the NCA sole responsibility for development approval (called works approval) in designated areas. The NCP provides for public consultation in relation to works approval.³

The committee may be briefed on proposed works in the Parliamentary Zone but there is no legislative requirement for this.

For developments over \$6 million and located wholly or partly within the Parliamentary Zone, the proponent will undertake consultation with key stakeholders and submit a consultation report to the NCA, prior to the development application being lodged with the NCA.⁴

In some instances, special requirements of the NCP require the preparation of a development control plan (DCP) which is approved by the NCA.

A DCP may be 'maps, drawings, photographs, specifications and written statements' and 'should include sufficient detail for the guidance and management of development in the area, and may include design, siting, scale, purpose, timing and phasing, construction, landscaping and other relevant matters.'⁵

2 National Capital Authority, *Submission 55*, p. 21.

3 National Capital Authority, *Submission 55*, p. 35.

4 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 18.

5 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 13.

The NCA releases DCPs for public consultation for 20 business days. Notices are published in *The Canberra Times*. Any supporting information is available on request for public inspection at the NCA office and the National Capital Exhibition in hard copy on compact disc and on the NCA website. At least one public information session is held. A copy of every submission is made publicly available at the NCA office and on the NCA website until a decision is made. Each principal submitter is given an acknowledgement letter. A consultation report is made publicly available at the NCA office and on the NCA website for 20 business days from the decision. Each principal submitter is notified of the decision, how submissions were considered and the availability of the consultation report.⁶

Consultation for development applications is only necessary when required by the NCP. When a development application is lodged and consultation is required, the applicant is required to consult with the community and stakeholders about the proposal. The consultation period is 15 business days and the notices are published in *The Canberra Times*.⁷ For the entire consultation period a notice on a sign is placed on all road frontages of the site. In addition, notice is given to the lessees of all adjoining land. A copy of every submission is made publicly available at the NCA office and on the NCA website until a decision is made.

The proposed Consultation Protocol specifies the consultation requirements for DCPs, and development applications. Some of the key features of the consultation requirements are discussed below.

2007 consultation protocol

The NCA released the draft Consultation Protocol (the protocol) for public comment in August 2006. A supporting discussion paper was prepared outlining what sort of consultation should be considered in any consultation protocol. The NCA stated that the protocol 'aims to standardise and clarify consultation requirements on planning decisions by the NCA.'⁸

The NCA claims that the protocols, once finalised, will help the community and stakeholders understand the consultation processes to be undertaken by the NCA.⁹ In particular, the NCA stated:

It is our intention that the consultation protocol in its final form will be applied to our consultation processes," Mr Rohl said.

6 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 14.

7 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, pp. 15-16.

8 National Capital Authority, *NCA seeks views on consultation*, media release, 3 August 2006.

9 National Capital Authority, *NCA seeks views on consultation*, media release, 3 August 2006.

“Once comments are received and considered by the NCA the final consultation protocol will be developed and released.”¹⁰

In July 2007 the NCA released its final ‘Consultation Protocol’. The purpose of the protocol is ‘to formalise, clarify and provide guidance for the community and stakeholders and to ensure consistency in the application within the legislative requirements, as required by the Act and the NCP.’¹¹

The protocol sets out the minimum requirements which must be carried out:

- when the plan is being made or amended;
- when a DCP is being made or amended;
- on a development application; and
- when the NCA informs community and stakeholders on an annual basis.¹² [The protocol provides for an annual public forum to inform and engage community and stakeholders]

The protocol states that consultation is a commitment by the NCA to:

- inform the community and stakeholders;
- listen to the community and stakeholders;
- acknowledge submissions;
- consider submissions; and
- provide feedback on how submissions were addressed.¹³

The consultation protocol includes provision for review and monitoring. The NCA will review the protocol every two years focusing on the following ten key questions:

- what is consulted on?
- when is consultation carried out?
- who is responsible for carrying out consultation?
- how is consultation carried out?
- how is the information on consultation made available for inspection?

10 National Capital Authority, *NCA seeks views on consultation*, media release, 3 August 2006.

11 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 5.

12 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 6.

13 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 5.

- how long is consultation carried out?
- how can interested persons have their say?
- how are the submissions received during consultation addressed?
- how can interested persons access responses to the submissions and the decision?
- what is exempt from consultation?

Part 5 of the protocol provides for an annual public forum 'to inform and engage community and stakeholders.' In particular, the purpose of the forum is to provide the framework to initiate discussion between the NCA and the community and stakeholders on:

- the previous year's work of the NCA and the challenges and opportunities encountered; and
- the future directions and the anticipated challenges and opportunities.¹⁴

14 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 19.

