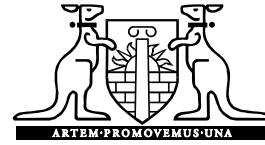


THE ROYAL AUSTRALIAN INSTITUTE OF ARCHITECTS



11 April 2008

Parliament of Australia
JOINT STANDING COMMITTEE ON THE
NATIONAL CAPITAL AND EXTERNAL TERRITORIES
Committee Chair Senator Kate Lundy

Dear Senator Lundy,

Inquiry into the role of the National Capital Authority

The Royal Australian Institute of Architects (RAIA) is an independent voluntary subscription-based member organisation with over 9,000 members. Members are bound by a Code of Conduct and Disciplinary Procedures. The RAIA actively works to improve the quality of our built environment by promoting quality, responsible and sustainable design.

Please find attached the RAIA submission to the Joint Standing Committee on the National Capital and External Territories on the inquiry into the role of the National Capital Authority. The RAIA appreciates the opportunity to submit comment to the Joint Standing Committee on this matter and would like to thank the Committee for providing this opportunity.

The RAIA is happy to provide any further information if required. We look forward to the opportunity to speak to our submission at the Standing Committee Roundtable.

Yours sincerely,

Alec Tzannes FRAIA
Royal Australian Institute of Architects
National President

David Parken FRAIA
Royal Australian Institute of Architects
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Please scroll down for the RAIA submission.



The Royal Australian
Institute of Architects

Submission to the
Inquiry into the
role of the National
Capital Authority

**Submission to the
Parliament of Australia
Joint Standing
Committee on the
National Capital and
External Territories**

April 2008

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PURPOSE

- This submission is made by the Royal Australian Institute of Architects (RAIA) to the Parliament of Australia Joint Standing Committee on the National Capital and External Territories
- This submission has been prepared by the RAIA National Office with the assistance of the RAIA ACT Chapter Planning Committee and the considerable contribution of RAIA ACT Chapter Councillor, Sheila Hughes.
- At the time of this submission the National Executive of the RAIA is:

Alec Tzannes (National President)
Howard Tanner (President Elect)
Carey Lyon (Immediate Past President)
Andrew Vorassi (Honorary Treasurer)
Rod Mollett (Honorary Secretary)

The Chief Executive Officer is David Parken.

ABOUT THE RAIA

Who is making this submission?

- The Royal Australian Institute of Architects (RAIA) is an independent voluntary subscription-based member organisation with over 9,000 members. Members are bound by a Code of Conduct and Disciplinary Procedures.
- The RAIA, incorporated in 1929, is one of the 96 member associations of the International Union of Architects (UIA) and is represented on the International Practice Commission.

Where does the RAIA rank as a professional association?

- At over 9,000 members, the RAIA represents the largest group of non-engineer design professionals in Australia.



The Royal Australian Institute of Architects

Submission to the Inquiry into the role of the National Capital Authority



RAIA SUBMISSION TO THE INQUIRY INTO THE ROLE OF THE NATIONAL CAPITAL AUTHORITY

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SECTION 01 INTRODUCTION

The Royal Australian Institute of Architects [hereinafter RAIA] welcomes this opportunity to make a submission to the Inquiry into the role of the National Capital Authority which is being undertaken by the Joint Standing Committee on the National Capital and External Territories.

The RAIA is a national peak body with over 9,000 members residing in all Australian states and territories as well as a number of countries around the world. The matters before the inquiry are therefore important to us as they are to the community.

The following submission is from the viewpoint of the architectural profession locally and nationally, a profession whose members have everyday dealings with planning authorities and whose members have made major contributions to the planning and design of the National Capital.

The Institute's members are concerned to preserve the special significance of Canberra as the Australian National Capital. Knowing that its unique character and special reputation is largely derived from its form - including its site, the original Griffin plan and the many infrastructural, architectural and landscape developments that have occurred under the auspices of the Commonwealth Government – the RAIA stresses the importance of the Commonwealth continuing to show leadership in the planning and development of the National Capital. The Commonwealth has a critical role to play in the long term development of the National Capital and the means by which it does this must be robust.

Accordingly the RAIA welcomes the statement by Senator Lundy that

“A key objective of the inquiry is to make findings and propose recommendations that achieve a more logical and simplified planning regime while ensuring that Canberra and the Territory are planned in accordance with their national significance”,

The **terms of reference for the inquiry** are:

- (a) 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;
- (b) Whether the governance arrangements for the NCA provide a sufficient balance between the independence of the Authority's planning decisions and its accountability for its operations;

-
- (c) The appropriate level of oversight required to achieve the highest standards in design for areas of national significance;
- (d) Opportunities to ensure cooperation with the ACT planning authority and increased engagement with the Canberra community;
- (e) 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 RAlA notes that the National Capital Authority is the agency by which the Commonwealth protects its interest in Canberra and the Australian Capital Territory which form the seat of government. Our submission will therefore address the key issue of how the Commonwealth through the NCA's role can best protect its interests, as well as providing comments to the Inquiry about the balance between its role and that of the ACT Government.

The RAlA submission is structured to respond to the Terms of Reference as follows:

Section 02 The Commonwealth Commitment to Canberra and the Australian Capital Territory addresses;

- The primacy of the Commonwealth interest in the development of the National Capital as the seat of government,
- The need to maintain a long term vision for the future of the city and a corresponding long term timeframe in structural planning for the future needs of the Commonwealth, and the need for ongoing Commonwealth investment in key infrastructure

Section 03 The Role of Commonwealth in Planning for the ACT addresses;

- The role of the Commonwealth
- The appropriateness of a statutory authority as the agency to administer planning on behalf of the Commonwealth,
- The role of the National Capital Plan (NCP) in setting the framework for development of the Australian Capital Territory (ACT),
- The clarity of the hierarchy of planning responsibility for the Territory and the degree of actual duplication experienced by the architectural profession,
- The need for augmentation and periodic review of the NCP and its protocols to address emerging spatial policy issues of the ACT Government,
- The opportunity to create a single integrated planning document, and

-
- The National Capital Authority's (NCA's) role as the Commonwealth's representative in planning of and advocacy for long term investment in infrastructure.

Section 04 **Governance of the National Capital Authority** addresses;

- The need to review the size and composition of the NCA Board to enable the ACT Government to have a minority representation and to increase the requirement for related professional experience among board members,
- The need to maintain the professional independence of the Chief Executive and the Authority,
- The need to maintain the requirement for any amendments to the NCP approved by the Minister to be endorsed by both houses of the Federal Parliament, and
- The role of consultation in setting planning policy and the suitability of the NCA's 2007 Consultation Protocol.

Section 05 **Development Assessment, Consultation and Appeal Rights** addresses;

- The profession's experience of the NCA as an approving authority,
- The need to maintain a focus on urban design and architectural excellence within Canberra and the Australian Capital Territory and in particular the Central National Area as currently defined ,
- The need for NCA to retain control of planning and development approval within designated areas
- The extent of fragmentation of planning responsibilities within the ACT Government and the impacts on planning and development assessments,
- The role of consultation in the development assessment and the application of the DAF model.

Section 06 **Resourcing of the NCA** addresses;

- The reduction in funding to the NCA prior to the Inquiry, and
- The need to restore funding to previous levels until the funding requirement for functions retained can be assessed.

Section 07 **Conclusion** sets out the RAlA's key recommendations to the Committee.

SECTION 02 THE COMMONWEALTH COMMITMENT TO CANBERRA AND THE AUSTRALIAN CAPITAL TERRITORY

Canberra represents an extraordinary investment by the Australian people in a National Capital of a quality and character appropriate to its symbolic role as the nation's seat of government. The young city, emerging from that investment, is internationally recognized for its design excellence. It has also seen several key elements of the original robust urban structure for the central area proposed by Griffin compromised by short term decision making.

The Commonwealth has an ongoing duty and responsibility to protect and enhance this investment for the benefit of the nation. While this must be balanced with meeting the aspirations and needs of the citizens of Canberra, the city's reason for being is to be the seat of the Australian Government.

It is the policies and actions of the NCA and its predecessors that have established and maintained the distinctive high quality character of Canberra which is recognised both nationally and internationally and the RAIA believes this is properly the ongoing primary responsibility of the Commonwealth.

The RAIA submits that an ongoing Commonwealth Government commitment to the planning and development of Canberra and the ACT is paramount due to:

- The primacy of the Commonwealth's interest in the development of the National Capital as the seat of government,
- The need to maintain a long term vision for the future of the city and a corresponding long term timeframe in planning for the future needs of the Commonwealth,
- The need for ongoing Commonwealth investment in key infrastructure and National Cultural Institutions,
- Continuous involvement and commitment on the part of the Commonwealth Government is required to maintain the design integrity of all that has been built to date and to monitor what is to be built in the future.
- The investment in the National Capital by the national community (including Canberrans) to whom Federal Representatives are responsible, needs to be protected to maintain the city for the benefit of all the people of the nation,
- Canberra's symbolic role as the nation's capital and the setting for many national institutions.

Consequently, the RAIA strongly endorses the principle embodied in the NCP that the framework within which local planning and development occurs needs to be set by the Royal Australian Institute of Architects Submission to the Inquiry into the role of the National Capital Authority

Commonwealth, based on the overarching objectives for development of the National Capital. We believe that this requires the Commonwealth to be actively engaged in the structural and strategic planning for the city and establishing standards for development within the city through the agency of its own planning authority. The RAIA notes that this is similar to state planning authorities setting overall strategic frameworks and making only major decisions with local government focusing on local planning policies and approvals.

Realisation of the strategic planning and urban design outcomes should be supported through ongoing funding commitments to key infrastructure and national institutions projects by the Commonwealth Government.

SECTION 03 THE ROLE OF COMMONWEALTH IN PLANNING FOR THE ACT

The Role

The Commonwealth Government's role requires it to protect the nation's investment in the National Capital, to ensure Canberra is developed in a way that is appropriate for a city of such symbolic significance to the people of Australia and to plan for the future to ensure that provision is made for all aspects of the future needs of a seat of government. Beyond this, the RAIA would argue there is a strong imperative now for Canberra to be an exemplar of how to develop a city that is sustainable into the future.

The Agency

The Commonwealth requires an agency to act on its behalf in planning and regulation of development in the ACT and to commission and maintain works required to fulfil Commonwealth Government needs both functional and symbolic. The latter is also managed by other Commonwealth departments on an individual project basis. What those Commonwealth departments do not bring, and should not be expected to bring to the process, is an overview of the quality and character of the broader public realm and context in which their building is sited and its place in the long term planning for the city.

In establishing an agency to administer planning on behalf of the Commonwealth at the time of transition to Territory Government, it was assessed that a statutory authority was an appropriate model. The RAIA submits this remains the case as detailed hereunder.

Independence is needed, and close association with any political party is undesirable in planning for a city whose primary function is to be the national seat of government as this requires a long timeframe to inform decisions made today. The nature of a statutory authority gives it a measure of independence from the day-to-day political processes of government and, ideally, stability during the transition between governments. The NCA was established in 1988 and has subsequently remained the constant entity in planning in the ACT. By contrast in that period there have been multiple changes in structure and distribution of planning responsibilities across various disparate ACT Government Departments responsible to different ministers. Placing planning within the Commonwealth departmental structure could be anticipated to have similar results.

The current requirement for amendments proposed by the NCA to the NCP to be made disallowable instruments is also important in maintaining independence and supports a national focus on planning for the capital.

In regulating development, impartiality and professional expertise are required. Again it is important to maintain independence from any suggestion of political direction in assessing development applications. Continuous development and the retention of corporate knowledge about the regulations are essential for its effective administration.

For these reasons RAIA strongly supports the retention of the National Capital Authority.

The Functions of the Authority

The functions of the Authority as currently defined are:

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

In broad terms the RAIA supports the functions of the NCA as defined.

The RAIA would argue that other Commonwealth Departments with land assets in the Territory should be required to negotiate with the NCA regarding any proposed use or disposal of such land to ensure that the outcome is consistent with the strategic planning objectives for the ACT as set out in the NCP. This is critical as other Departments, in making their decisions, cannot be expected to have the expertise or responsibility to appreciate or consider the impacts on the overall sustainability and form of the city.

In recent years the NCA has developed a successful series of events that activate the public places of the capital and have raised the city's profile nationally, fostering awareness of the capital. In the current environment of fiscal constraint the RAIA submits that events such as the Australian Day Concert should be funded by other Federally funded groups and the more innovative recent events that have primarily targeted a local or regional audiences should arguably be the responsibility of local industry and the ACT Government to support. This would allow NCA's resources to be focused on discharging its strategic planning and development regulation responsibilities and maintenance of the crown land it controls.

The National Capital Plan

The National Capital Plan (NCP) sets the framework for development of the Australian Capital Territory (ACT). The stated objective of the NCP is to ensure that Canberra and the Australian Capital Territory are planned and developed in accordance with their national significance.

The key objectives of the National Capital Plan are to:

1. Recognise the pre-eminence of the role of Canberra and the Territory as Australia's National Capital.
2. Further develop and enhance a Central National Area which includes the Parliamentary Zone and its setting, and the main diplomatic sites and national institutions as the heart of the National Capital.
3. Emphasise the national significance of the main approach routes and avenues.
4. Respect the geometry and intent of Walter Burley Griffin's formally adopted plan for Canberra.
5. Maintain and enhance the landscape character of Canberra and the Territory as the setting for the National Capital.
6. Protect the undeveloped hill tops (ridges) and the open spaces (buffers) which divide and give form to Canberra's urban areas.
7. Provide a plan offering flexibility and choice to enable the Territory Government to properly fulfil its functions.
8. Support and promote environmentally responsible urban development practices.

The RIAA believes these objectives as stated remain valid.

In the context of the need to address climate change, it is arguable the NCA's response to item 8 has increased in importance and should be more directly expressed in the strategic planning for the Territory. In collaboration with the ACT Government, the NCA could provide an exemplar model for long term planning for urban areas throughout the country.

Review of Strategic Planning by the NCA

The hierarchy of planning responsibility for the Territory is clear, as set out in the relevant legislation. While the system is based on dual authorities, the degree of duplication in regulating development experienced by the profession has been negligible. There has, however, been duplication arising from the ACT Government undertaking a review of the broad strategic planning for the city.

Similar to the rest of urban Australia, the inefficient use of land for low density suburbs over time and, in Canberra's case, some restrictions from an increased reserve system protecting habitat, the current urban land area defined in the Metropolitan Plan for

development has been consumed by a population significantly less than the 500,000 which the NCP was intended to accommodate.

The Territory Government has a legitimate interest in strategic planning for the city, in that it is inseparable from their capacity to achieve their policies for the local community. However, the creation of the Canberra Spatial Plan by ACTPLA is a direct duplication of strategic planning that the RAIA believes should be undertaken by the NCA on behalf of the Commonwealth and documented in the NCP. This should include national and arterial roads and public transport systems, as land use and infrastructure should be planned together.

The RAIA believes that the Metropolitan Plan, that sets out the development structure for Canberra, should be reviewed and augmented to better address the objectives of the NCP and to project how the Commonwealth's needs and the city's increases in population are to be accommodated.

The Territory Government is subject to a different range of pressures than the Commonwealth by nature of the size of its constituency and income base. One example is the degree to which land sales and charges related to development contribute to the budget funds of the government. This has the potential over time to generate short term decisions that compromise long term strategic planning, environmental and urban design objectives. In addition, the management of the planning responsibilities of the ACT Government has been very fragmented and changeable over time. For example, transport planning and land-use planning are currently with separate departments under separate Ministers.

Consequently, while the Canberra Spatial Plan and other elements of the Canberra Plan are a valuable statement of the ACT Government's aspirations and issues with regard to the long term planning of the city, it is too limited to form the basis for the strategic planning approach for the future of the city. It is obviously limited by the fact it does not address the national interest. It also does not address transport planning in any detail and largely results in filling the land within a 15km circle of the CBD, other than areas eliminated by environmental concerns or other pragmatic constraints. This approach would severely erode the city form and setting, and is not seen by the RAIA as an appropriate response.

The strategic planning framework to address future needs should be led by the Commonwealth through the NCA in collaboration with the ACT and surrounding NSW local governments. The work needs to be rigorous in addressing environmental, transport and city form issues and the legacy of thinking embodied not only in the Griffin Plan but in the work of the 1960's on the Y- Plan which set the current framework for urban growth.

The NCA needs to rebuild its strategic planning capacity commensurate with its role in overseeing the Commonwealth's interest. Resources in this area should be significantly enhanced.

It is noted in the 2007 Planning and Development Bill that the Canberra Spatial Plan is to be a basis for amendments to the Territory Plan. Not only does this appear to contravene the requirement for consistency with the NCP, but also the RAIAs would be concerned with the Commonwealth accepting such a limited model for development. The RAIAs submit that only the NCP should be used for the purpose of assessing proposed amendments to the Territory Plan to ensure the Commonwealth's interests and long term quality of the city are protected. We therefore strongly support an urgent review of the strategic elements of the plan.

Creation of an Integrated Planning Document

To facilitate increased clarity of responsibilities for people unfamiliar with the current system, and to ensure the same general codes apply across all relevant development in the ACT, the RAIAs would support over time the creation of a single integrated planning document. To deal with the need for the Commonwealth and the ACT Governments to have the capacity to amend their own statutory documents, an integrated planning document would require two statutory sections. Combined with the NCA proposal to modify its development controls to the DAF track-based code structure (as recently implemented by the ACTPLA), increased consistency, and therefore legibility, would be brought across the planning controls. Refer to Appendix 01 DAF Principles for information on the principles that would guide the changes.

In areas currently administered by ACTPLA such as arterial roads and other areas of special requirements, an integrated document (implemented via the equivalent of a national precinct plan) would provide the opportunity for NCA to further define objectives and development controls related to the national significance of the area. If the NCA and the ACT Government have a protocol that allows NCA to act as a referral agency, the process for early identification of issues of interpretation would be formalised.

The opportunity to undertake a review of the NCP would be welcomed. This process would promote thorough public debate on policy areas such as containment of urban sprawl, the future form of the city (and its relationship to the region), water & energy conservation, land use location and density relative to transport / parking and urban design and architectural design quality appropriate for the National Capital.

Advocacy of Infrastructure

The National Capital Authority's (NCA's) role as the Commonwealth's representative in planning of and advocacy for long term investment in infrastructure is fundamental. Individual agencies or Departments of the Commonwealth commissioning major works do not have a holistic vision of the city as a guiding principle; nor can they be expected to invest in planning for the public realm outside their sites. A central guiding vision and advocate is essential. This role needs to be based on a strategic view of the whole city development over time, as well as detailed studies of areas such as produced in the Griffin Legacy. Joint advocacy of projects as a result of joint engagement in the strategic planning process by both the NCA and ACT Government would be a welcome development.

A case in point is Constitution Avenue. There are several major developments proposed along this boulevard which is the public place that defines the edge of the Parliamentary Zone, and which will house several Commonwealth Departments and organisations. A coherent vision is required here to build the capacity of this central avenue, structure the public place created and inform the built form of developments that define it. This was provided through the Griffin Legacy and the subsequent amendments to the NCP. The NCA had successfully advocated for the timely Commonwealth investment in the Avenue reflecting its national significance and benefit to the Commonwealth. 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.

SECTION 04 GOVERNANCE OF THE NATIONAL CAPITAL AUTHORITY

As stated in Section 03, the RAIA strongly supports the retention of the NCA. Our Institute acknowledges that the duality of the NCA acting on behalf of the Commonwealth and ACTPLA and other departments acting on behalf of the ACT Government does produce some tensions around planning issues. This is not duplication per se, nor is it necessarily a symptom of a system in crisis. Some tension should be expected in that a balance needs to be struck between local and national requirements and local and national policy directions. These tensions also exist between state and local government planning authorities and are part of our successful system of checks and balances.

In broad terms, the governance structure set out in the *Australian Capital Territory (Planning and Land Management) Act 1988* is supported by the RAIA.

The RAIA notes that one of the requirements for the National Capital Plan is to provide flexibility and choice to enable the ACT Government to fulfil its functions. The inclusion of ACT Government representatives on the NCA Board would enable the NCA to be better informed of ACT Government planning issues. The RAIA would support the expansion of the Board of the Authority to provide for minority representation of the ACT Government. Ideally this would be a senior minister or his/ her delegate. This system of minority representation of local government has a precedent in the Authority responsible for planning Washington in the United States.

At present the NCA Board and the Minister are able to give only general direction to the Chief Executive. The RAIA believes the latter remains appropriate to maintain independence and to ensure that professional expertise is applied in assessing any issue. There may be an argument for the Board to be able to formally approve amendments, but if this position is adopted it is imperative that the Board's composition should require the majority of members to have both directly applicable professional expertise and considerable experience in relevant areas so that the Board has the capacity to provide peer review for any recommendation of the Authority's staff.

The RAIA would support the 2004 Recommendation by the Committee to expand the NCA Board, but would seek that the members be selected not only from the several States and Territories but also should have relevant expertise and experience.

For the reasons noted in Section 02, the RAIA believes it is essential to maintain the requirement for any amendments to the NCP approved by the Minister to be endorsed by both houses of the Federal Parliament.

One recommendation emerging from the 2004 Inquiry was that all amendments to the NCP should be referred to the Committee for review. The need for the Committee to review and therefore formally make recommendations on any amendment would appear to be an unnecessary duplication of the NCA Board and Minister's role, and potentially impact on the independence of the Authority.

Royal Australian Institute of Architects Submission to the Inquiry into the role of the National Capital Authority

11 April 2008

Another important part of maintaining accountability is community consultation on policy. The RAIA has been actively involved in developing the DAF model for Development Assessment. Refer to Appendix 01. A core principle of the DAF model is that policy governing planning and development regulation should be developed through “effective consultation with the community, professional officers and relevant experts”. This requirement for consultation is substantially met, being set out in the Act and the NCA’s 2007 Consultation Protocol.

SECTION 05 DEVELOPMENT ASSESSMENT, CONSULTATION AND APPEAL RIGHTS

Development Assessment

The NCA has both the calibre of staff with appropriate levels of experience and expertise to guide high standards of design in areas of national significance, and also a culture committed to achieving that aim. As a result, the profession's experience of the NCA as an approving authority is generally very favourable. The early engagement of professional staff, the focus on urban design, its capacity to work with proponents and their consultants to negotiate mutually satisfactory outcomes and the timeliness and efficiency of its responses, stand in sharp contrast to the ongoing difficulties experienced by the profession in dealing with the ACT Government's agencies.

The RAIA submits that there is a need to maintain a focus on urban design and architectural excellence within Canberra and the Australian Capital Territory; and in particular the currently defined Central National Area (CNA). The design quality achieved to date has been delivered through development of suitable controls in amendments to the NCP and DCPs, through the proactive approach to having those professionals actively engage with proponents to deliver high quality projects and NCA's own procurement of works on behalf of the Commonwealth. The RAIA fully support the use of National Design Competitions for important projects in our National Capital and have been pleased to endorse a number of competitions managed by the NCA which comply with our national competitions guidelines.

The RAIA would not support any move to reduce the NCA's role in both planning for and development assessment of projects in the designated areas as currently defined. These areas are critical to maintaining the setting for the principal national institutions within the Central National Area. While the Central National Area includes some leased land these sites typically define significant public places, boulevards or views in the core of the city. We perceive ACTPLA's focus on development assessment is based primarily on quantitative outcomes, and, based on the local profession's experience of the development assessment process, does not have the cultural base nor consistent level of expertise within its development assessment group to address quality of outcome in the same way.

In general terms, the extent of fragmentation of planning responsibilities within the ACT Government has a negative impact on development assessment in terms of timeliness and efficiency. The lack of a single point of authority within the ACT Government system, an issue the recent reforms did not address, makes resolution of any conflicting agency requirements extraordinarily difficult and a frequent source of delays to assessments and resolution of planning matters.

The RAIA believes it is critical to the protection of the long term character and quality of Canberra that the NCA should define urban design outcomes and architectural quality requirements in areas of national significance.

Notwithstanding, if leased land in the designated areas outside the CNA were uplifted and transferred to the ACT Government, the RAIA believes that the NCA would need to establish development codes for these areas reflecting their national significance for application by the ACT Government.

The RAIA notes the initiatives by the ACT Government to improve the local development codes and assessment procedures and would welcome a commensurate investment by the Commonwealth in updating the style, format and content of the NCP as part of the creation of an integrated document.

Consultation and Appeal Rights

Under the DAF Model, the role of community consultation in the development assessment process is to address aspects of projects where competing policy objectives require resolution. The RAIA submits that this should be the basis for requiring the notification of Works Approval Applications.

The principles that underpin the consultation processes, defined by the ACT Government in the 2007 Planning and Development Bill, are based on DAF, except that it has chosen to expand consultation to include any element of a project that is a response to a performance based criteria rather than a quantitative criteria. This is more onerous than anticipated by the DAF model. The NCP clearly states that the NCA's decisions are not appealable, except through the Administrative Decisions (Judicial Review) Act 1977 or common law processes. It assumes that the majority of developments with which the NCA deals are undertaken by Commonwealth agencies that are bound by the NCP. Only a limited number of sites within the designated areas were anticipated to be leased to citizens for whom appeal rights would normally be provided. Consequently, part of the reason given for not providing this is the cost imposed of setting up a tribunal relative to the benefit of allowing appeals on a limited number of developments on leased land.

One way of addressing this is to transfer development approval to leased land in designated areas to the ACT Government, which has established an Administrative Appeals Tribunal for this purpose. The RAIA would not support this for any areas within the current defined Designated Areas (refer Appendix 02 NCP Designated Area Plan) as the RAIA believes this represents a minimum area of control required to protect the setting for national institutions and the diplomatic precincts and where the highest standards of design quality should be sought. An alternate avenue of appeal by the proponent should be investigated if the currently available processes are seen to be deficient. One possible method is referral of decisions to a design review panel or peer review process.

Under the ACT Government legislation third party appeals are limited from those who are materially affected by the development in question and who have made a submission during the public notification period. It should be noted that the ACT Government has excluded from third party appeal by regulation development assessments in the City Centre and all town centres. The RAIA believes a similar

exclusion for the designated areas is reasonable with the possible exception of residential leases.

SECTION 06 RESOURCING OF THE NCA

The RAIA is extremely disappointed that funding to the NCA was so severely reduced prior to the completion of any review of its role. This has resulted in a substantial cut to staff levels, without any revision of the functions of the Authority, and the consequential loss of expertise and corporate knowledge reducing the organization's planning and administration capacity without the removal of any responsibilities. In the absence of any demonstrable duplication of roles that was the purported basis for the reduction in funding and the need for the Commonwealth to refocus on strategic planning for the ACT the RAIA submits that it is imperative that the funding levels be restored to pre-election levels.

The ACT Government's poor performance in completing DA assessments within its statutory timeframes indicates that even if we did support this it does not have spare capacity to take on additional development assessments at this time.

Subsequent to the completion of the Inquiry, and the adoption by Parliament of any recommendations made by the Committee, the RAIA suggests that the NCA should be required to complete a review of funding essential to discharge its obligations and identify any capacity to provide savings to the Commonwealth, or indeed any requirement for supplementary funding.

SECTION 07 CONCLUSION

The RAIA submits that an outcome of this Inquiry should be an acknowledgement of the importance of the NCA as the Commonwealth's agent for protection of the Commonwealth's interest in Canberra and the ACT and the investment required to achieve a city internationally recognized for its quality.

The RAIA submits that the Committee should recommend that:

- The NCA Board should be increased in size. The ACT Government should have minority representation on the board by either the ACT Chief Minister or the ACT Planning Minister or their delegate. The criteria for selection of Board members should require both geographic distribution and relevant expertise. Other than this, the current governance structure should be retained.
- Strategic planning for the ACT should be controlled by the Commonwealth to ensure a long term national focus, and that the NCA should enhance its capacity in, and undertake a detailed and rigorous review of, the strategic planning requirements for the ACT. The review should produce a fully integrated land use and infrastructure framework that provides a sustainable city into the future.
- The NCA should subsequently review the resultant strategic plan every five years in consultation with the ACT Government.
- A protocol for ensuring ACT Government policies and issues are fully presented and considered in the ongoing reviews of the Canberra Metropolitan Plan should be agreed between the NCA and the ACT Government.
- The ACT Government should establish protocols with the NCA for coordinated inter-departmental approaches to the Authority on planning related matters to ensure internal resolution of competing policy objectives and clarity of lines of communication with the NCA through one key agency.
- The Commonwealth should resource the NCA to undertake a comprehensive update and reformatting of the NCP with a view to facilitating the creation of an integrated document with the ACT Government within 5 years. The integrated document should include statutory sections for both the Commonwealth and ACT Government and shared general codes and definitions. The Commonwealth section should set out the strategic planning framework for the Territory.
- Funding to the NCA should be restored to the pre 2007 election levels. Subsequent to the completion of the Inquiry and the adoption of any recommendations made by the Committee, a detailed review of ongoing funding requirements to effectively meet the obligations of the Authority, in

protecting the Commonwealth's interest in the National Capital, to be undertaken.

While the RAIA would not support the transfer of development assessment responsibilities of leased land in designated areas outside the CNA to the ACT Government, if the Committee considers this the following additional recommendations would be sought:

- The NCA should retain the development assessment role over National Land and the Central National Area as currently defined. The NCA should provide development codes for leased land within other designated areas that inform and protect the national significance of the area and are in a form able to be administered under the ACT Government Planning and Development Bill 2007.
- No transfer of development assessment to the ACT Government should occur until there is a single point of authority on planning matters and the improvements in capacity and performance promised in establishing the ACT Government Planning and Development Bill 2007 are demonstrably and consistently achieved.

The RAIA would welcome the opportunity to address the Committee on the above matters.

APPENDIX 01 DAF PRINCIPLES

APPENDIX 02 NCP DESIGNATED AREA PLAN

A LEADING PRACTICE MODEL

FOR DEVELOPMENT ASSESSMENT IN AUSTRALIA



March 2005

Executive Summary Extract Only

EXECUTIVE SUMMARY

The Development Assessment Forum (DAF) believes there is potential to improve development assessment processes across Australia. Reforms will deliver very significant cost and time savings to a wide range of stakeholders in the creation, assessment, and determination of development applications.

DAF therefore proposes a leading practice model as a means of promoting efficient, effective and nationally harmonised development assessment systems across Australia.

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.

The DAF leading practice model proposes:

- 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.
- 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.

The development of the leading practice model has been informed by the work of the Centre for Developing Cities at the University of Canberra, which produced *Leveraging the Long Term: A Model for Leading Practice Development Assessment 2003a*, and by a national program of stakeholder consultation about the recommendations made in that report.

The ten leading practices proposed by DAF are:

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.

5 A single point of assessment	Only one body should assess an application, using consistent policy and objective rules and tests.
	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.
	Referral agencies should specify their requirements in advance and comply with clear response times.
6 Notification	Where assessment involves evaluating a proposal against competing policy objectives, opportunities for third-party involvement may be provided.
7 Private sector involvement	Private sector experts should have a role in development assessment, particularly in:
	<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	Most development applications should be assessed and determined by professional staff or private sector experts. For those that are not, either:
	Option A – Local government may delegate DA determination power while retaining the ability to call-in any application for determination by council.
	Option B – An expert panel determines the application.
	Ministers may have call-in powers for applications of state or territory significance provided criteria are documented and known in advance.
9 Applicant appeals	An applicant should be able to seek a review of a discretionary decision.
	A review of a decision should only be against the same policies and objective rules and tests as the first assessment.
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.

The six development assessment tracks proposed by DAF are:

- Exempt
- Prohibited
- Self assess
- Code assess

- Merit assess
- Impact assess.

Each track will be consistent with the ten leading practices and provide a process of assessment that is relevant to the project's complexity and impact on the built and natural environments. The track in which an application is to be assessed must be clear before an application is submitted.

The DAF commends the leading practice model to Australian Governments as an important first step in the process of development assessment reform and harmonisation.