

**GOVERNMENT RESPONSE
TO THE REPORT OF THE 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***

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ROADS**

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Introduction

The Annual Report of the National Capital Authority (NCA) stands referred to the Joint Standing Committee on the National Capital and External Territories (the Committee) for any inquiry the Committee wishes to make. On 26 March 2003, the Committee resolved to use the NCA's Annual Report for 2001-02 as the basis for conducting an inquiry and reporting on the role of the NCA. On 31 March 2004, the Committee extended the inquiry to incorporate a review of the NCA's Annual Report for 2002-03.

The Australian Government (the government) established the NCA when self-government was introduced for the Australian Capital Territory (the Territory) in 1989. On behalf of the Commonwealth the NCA, through the National Capital Plan, is responsible for ensuring that "Canberra and the Territory are planned in accordance with their national significance". Under its establishing legislation the NCA also has responsibility for the maintenance, development, enhancement and promotion of the national capital aspects of Canberra and the Territory.

The ACT Government, through the Territory Plan, is responsible for ensuring "the planning and development of the Territory to provide the people with an attractive, safe and efficient environment in which to live and work and have their recreation". Any proposed variations to the Territory Plan are considered by the NCA to ensure their consistency with the National Capital Plan.

The ACT Government has established the ACT Planning and Land Authority (the ACT Authority) and the Land Development Agency which effectively manage planning for the majority of land in the Territory.

The Committee's Report

On 2 July 2004, the Committee presented to Parliament its report *a national capital, a place to live: Inquiry into the role of the National Capital Authority* (the report).

The report acknowledges those aspects of Canberra that make it unique – Canberra is a purpose built national capital on the one hand, and an evolving city and community on the other. The report further acknowledges the role that the NCA plays in securing the government's continuing interest in the planning and development of the national capital.

The report also notes that, in the Committee's view, there is considerable confusion and frustration in relation to the responsibilities of the NCA and the ACT Government for the various elements of planning in the Territory.

The report concludes that a critical issue to resolving any complications experienced by users of the current planning system is the matter of overlapping jurisdictions. It notes that both the NCA and the ACT Authority agree that it is desirable to eliminate multiple planning and development control responsibilities in any one area.

The report includes a series of recommendations which the Committee believes would simplify the planning regime in the ACT and create a more integrated approach to planning.

The report notes the imperative that the planning authorities' decision-making processes are consistent, transparent and accountable. To achieve this, the report recommends the introduction of statutory consultation and appeal processes, wider representation on the NCA and an independent and comprehensive review of the National Capital Plan. It also recommends a reduction in Designated Areas and that responsibility for planning arterial roads is transferred to the ACT Government.

THE GOVERNMENT'S RESPONSE

Recommendation 1: That the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)* be amended to include a requirement for all draft amendments to the National Capital Plan and proposed works in the Parliamentary Zone to be referred to this Committee for its consideration.

Disagree.

The Resolution of Appointment is the source of authority for the establishment and operations of the Committee. The current Resolution was passed by the House of Representatives and the Senate on 18 November 2004 and provides that the Minister for Local Government, Territories and Roads (the Minister) may refer draft amendments to the National Capital Plan to the Committee for its consideration. While it has generally been the government's practice to refer draft amendments to the National Capital Plan to the Committee, the government considers that the Minister should retain the discretion to do so.

Works within the Parliamentary Zone require the approval of the NCA as well as the approval of both Houses of Parliament. The current Resolution provides that matters coming within the terms of section 5 of the *Parliament Act 1974* (works in the Parliamentary Zone) may be referred to the Committee by either House of Parliament; the Minister responsible for administering the *Parliament Act 1974*; or the President of the Senate and the Speaker of the House of Representatives. Some works are not referred to Parliament because they are considered to be of a trivial or temporary nature. The practice is for a quarterly report of such works to be referred by the Minister to the Committee for information. The government is of the view that the current arrangements provide the Committee with adequate opportunity to consider works within the Parliamentary Zone.

Recommendation 2: That an integrated approach be adopted by the Territory and Commonwealth planning authorities for future planning projects affecting both Territory and Commonwealth planning policies.

Agree.

There are currently routine liaison meetings between the NCA and the ACT Authority. There is also cross representation on a number of committees, advisory panels and/or project working groups with some projects being co-funded. Since August 2004, the ACT Authority has been invited to attend each NCA meeting with a standing agenda item to discuss matters of mutual interest.

The *Australian Capital Territory (Planning and Land Management) Act 1988* (the Act) requires the NCA to consult with the ACT Authority regarding any proposed amendments to the National Capital Plan, to have regard to any views expressed by it and to alter the draft if it thinks fit. The NCA must advise the Minister in writing of the consultations and views of the ACT Authority. There is also provision in the Act

for the Minister to consult with the ACT Government in circumstances where the ACT Authority continues to object to a draft amendment.

Recommendation 3: That Section 33 of the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)* be amended to provide for an increase in the number of members on the National Capital Authority to six (excluding the Chairperson and Chief Executive), and that:

- **three of the six members be appointed from other states and territories on a rotational basis; and**

the full-time Chief Executive be appointed in an ex-officio role as a non-voting member of the Authority.

Recommendation 4: That the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)* be amended to include the provision for an independent appeals process against National Capital Authority decisions regarding works approvals, in addition to the current option for review under the *Administrative Decisions (Judicial Review) Act 1977 (Cth)*.

Recommendation 5: That, in addition to Recommendation 3, the Federal Government negotiate with the ACT Government to initiate reciprocal representation on the respective boards of the National Capital Authority and the ACT Planning and Land Council, and that Section 33(1) of the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)* and the relevant Territory legislation be amended to facilitate this.

Recommendations 3, 4 and 5: Noted, pending further consideration.

The government announced in August 2004 that responsible ministers are to assess their portfolio statutory bodies against principles and recommendations contained in the Review of the Corporate Governance of Statutory Authorities and Office Holders (the Uhrig report). The assessment of the NCA is expected to consider its roles and responsibilities, appropriate governance structure and stakeholder relationships. It is appropriate that the Committee's Recommendations 3, 4 and 5 are considered in the context of the application of the Uhrig report to the NCA.

Recommendation 6: That, in collaboration with the Territory Government, the Federal Government initiate an independent and comprehensive review of the National Capital Plan on the basis of the implementation of the recommendations of this report and the need for a more integrated approach by both planning bodies.

Recommendation 7: That Section 10 (2b) of the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)* be amended to remove planning of arterial road systems from the National Capital Plan and that responsibility for the planning of arterial roads be transferred to the Territory.

Recommendation 8: That the National Capital Plan be amended so that Designated Area status is uplifted from all Territory land with the exception of the Deakin/Forrest residential area, the Inner Hills and the main avenues and approach routes; and that in assuming planning responsibility for the areas to be uplifted, the Territory Government uphold the principles articulated in the National Capital Plan.

Recommendation 9: That the National Capital Plan be amended to incorporate a set of agreed planning principles for areas of Territory Land subject to special requirements, and that:

- **these principles to be developed jointly by the Commonwealth and Territory planning authorities;**
- **the Territory assume planning responsibility for these areas; and**
- **the Territory act in accordance with these agreed principles.**

Recommendations 6, 7, 8 and 9: Disagree.

The government considers that it is appropriate to maintain the Australian Government's powers in relation to the planning and development of Canberra and the Territory in accordance with their national significance.

Recommendation 10: That, for all sites fronting State Circle between Hobart and Adelaide Avenue (Blocks 1-8 Section 6 Forrest and Blocks 5-9 Section 3 Deakin):

- **building height be no more than two storeys and no point more than 8 metres above the natural ground level immediately below (regardless of whether the blocks are amalgamated or not); and**
- **plot ratio for residential development of existing blocks should remain at 0.4, and in the case of amalgamated blocks be up to a maximum of 0.8.**

Disagree.

This matter has been the subject of intensive consultation and protracted debate since 2000, including detailed consideration by the Committee in its October 2002 report *Striking the Right Balance: Draft Amendment 39, National Capital Plan*. The government's response to that report, tabled in Parliament on 16 June 2003, agreed that land in the Deakin/Forrest area should continue to be used for residential

purposes and that the area between State Circle and National Circuit should retain Designated Area status. The government's response also agreed in principle that development along State Circle between Hobart and Adelaide Avenues should occur in a manner that ensures the design and landscape outcome is appropriate to the setting of Parliament and reflects the role of State Circle as a Main Avenue.

Following the release of the report in July 2004 the NCA conducted a further workshop with residents, lessees and prospective developers to discuss the controls that should apply to properties fronting State Circle. Consensus was not reached at the workshop and further consultative processes were conducted during August 2004. Again, no agreement was able to be reached with residents/lessees.

It is not always possible to accommodate the views and preferences of all interested and affected parties in planning and development processes.

The government considers that the design and siting requirements in the February 2004 Draft Amendment 39 have been prepared to achieve balanced, quality urban outcomes and provide appropriate protection to the amenity of residents. These requirements include permission for three storey multi-unit developments on blocks fronting State Circle under certain conditions.

Recommendation 11: That the *Australian Capital Territory (Planning and Land Management) Act 1988 (Cth)* be amended to require public consultation by the National Capital Authority in relation to works proposals in Designated Areas.

Noted, pending further consideration.

It is appropriate that Recommendation 11 is considered in the context of the application of the Uhrig report to the NCA.