Australian Capital Territory (Planning and Land Management) Bill 1988

Date Introduced: 19 October 1988
House: House of Representatives
Presented by: Hon. Clyde Holding, M.P., Minister for the Arts and Territories

Digest of Bill

Purpose
To establish the National Capital Planning Authority (NCPA), responsible for the development and administration of a National Capital Plan (NCP), and a Territory Planning Authority (TPA), responsible for the development and administration of a Territory Plan (TP).

Background
Refer to the Digest for the Australian Capital Territory (Elections) Bill 1988

Main Provisions
Proposed Part II (clauses 5 – 8) deals with the establishment, functions and powers of the NCPA.

The NCPA is to prepare and administer a NCP. In addition, the NCPA may, with Ministerial approval, perform planning services for any person or body within Australia or overseas (clause 6). The Minister may give general directions as to how the NCPA is to perform its functions (clause 7).

Proposed Division 1 of Part III (clauses 9 – 24) deals with the NCP. The object of the NCP is to ensure that Canberra and the Territory are planned and developed in accordance with their national significance (clause 9). The NCP will define the planning principles and policies to give effect to the object of the NCP (clause 10) and may specify areas of land, that have the special characteristics of the National Capital, as designated areas. Development in designated areas may occur only with the approval of the NCPA, and must be in accordance with the NCP (clauses 10 and 11). In addition, the NCP is to set out the policies to be implemented with respect to land use and the planning of national and arterial road systems throughout the Territory (clause 10). The Commonwealth, the Territory, and their authorities will be bound by the provisions of the NCP, and laws which are inconsistent with the NCP have no effect to the extent of the inconsistency (clause 11). The NCP will not affect existing land uses permitted under an interest in land for the duration of the term of that interest (clause 13).
Proposed Division 2 (clauses 14 - 24) deals with the preparation of the NCP and public consultation. The NCPA is to prepare a draft NCP, which is to be made available for public comment. The NCPA is to have regard to any public submissions and comments made by the TPA in determining what, if any, changes are to be made to the draft plan (clause 15). The Minister may approve the draft NCP, refer it to the NCPA with directions to conduct further consultations, or suggest alterations. Where the TPA has objected to any aspect of the draft NCP, the Minister is not to act until after consultations with the Territory Executive. Clauses 21 and 22 provide for notice of the approved NCP to be published in the Gazette, and for Parliamentary scrutiny of the NCP, with either House having power to disallow all or part of the NCP.

Clauses 25 and 26 deal with the establishment of a TPA. The Territory Assembly will establish a TPA which will prepare and administer a TP. The object of the TP is to ensure the planning and development of the Territory. The TP will define the planning principles and policies for giving effect to the object of the TP. The TP may include detailed conditions of planning, design and development of land and the priorities in carrying out such planning and development. The procedure for making the TP and amendments to the TP, will include a procedure for public consultation (clause 25). The TP will have no effect to the extent that it is inconsistent with the NCP. However, the TP will be held to be consistent with the NCP to the extent that it is capable of operating concurrently with the NCP (clause 26).

Proposed Part V (clauses 27 - 32) deals with the management of Commonwealth and Territory land. The Minister may declare land in the Territory to be National Land. This will return control of the land to the Commonwealth. The Minister is not to declare an area to be National Land unless the land is, or is intended to be, used by or on behalf of the Commonwealth (clause 27). The Territory Executive will have responsibility for the management of Territory land, subject to intervention by the NCPA in review proceedings relating to the administration of estates in Territory land (clause 29).

Proposed Part VI (clauses 33 - 44) deals with the constitution and meetings of the NCPA. The NCPA is to consist of five members appointed by the Governor - General. Members may be appointed for a period of up to five years. The Part also contains the standard provisions relating to dismissal, remuneration, etc. The NCPA may hold as many meetings as is necessary to efficiently perform its functions and three members will constitute a quorum.

Proposed Part VII (clauses 45 - 50) deals with the administration of the NCPA. The Governor - General will appoint a Chief Executive of the NCPA who will manage the affairs of the NCPA (clauses 45 and 46). The staff of the NCPA will be Commonwealth employees, and the NCPA will be able to engage consultants (clauses 47 and 48).
Miscellaneous provisions are contained in proposed Part VIII (clauses 51–53). The Territory will be indemnified by the Commonwealth for any claims made against it in respect of any matter arising from the Commonwealth's management, actions or inactions concerning National land or before self-government. The Governor-General will be given power to make regulations.

Proposed Part IX (clauses 54 and 55) deals with repeals and amendments. Clauses 54 and 55 will repeal existing National Capital Development Commission legislation, and make consequential amendments to various Commonwealth Acts as specified in the Schedule.

Proposed Part X (clauses 56–85) deals with transitional provisions to allow a transition from the existing planning system to the new system. During this period, relevant National Capital Development Commission policies will continue in effect. The Governor-General will be required to declare an end to the transitional period within a year of self-government commencing.

For further information, if required, contact the Law and Government Group.

14 November 1988

This Digest does not have any official legal status. Other sources should be consulted to determine the subsequent official status of the Bill.

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