

# Chapter 2

## Planning – a dual challenge

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# Planning – a dual challenge

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## Introduction

The introduction of self-government for the ACT in 1988 created a situation where the Commonwealth government and the ACT government share responsibility for the future development of Canberra and the territory. This chapter attempts to explain the two related, yet distinct, planning systems.

All land in the territory belongs to the Commonwealth. However, pursuant to the *Australian Capital Territory (Planning and Land Management) Act 1988* (Cth) (*'Planning and Land Management Act'*), land within the territory is divided into two categories:

- national land which is declared by the Commonwealth minister to be national land under section 27 of the *Planning and Land Management Act* and is managed by the National Capital Authority (NCA)
- territory land which is the remainder of the land that has not been declared national land and is managed by the ACT Planning and Land Authority (ACTPLA) (s 28 of the *Planning and Land Management Act*).

The Commonwealth's planning responsibility for Canberra as a national capital is established through the National Capital Plan (NCP). The Australian Capital Territory's planning responsibility for Canberra as a city is established through the Territory Plan (TP). Although the two plans are intended to be complementary, the *Planning and Land Management Act* makes it clear that the NCP prevails over the TP (s 26).

The *Planning and Land Management Act* and the NCP provide for 'designated areas' which have the special characteristics of the National Capital and for areas outside of the 'designated areas' that are important to the National Capital, the latter of which are subject to 'special requirements' additional to the requirements of the TP (s 10).

Designated areas and areas subject to special requirements include both national land and territory land. Under this complex and overlapping planning regime the NCA has planning responsibility for designated areas (s 12). The designated areas and any conditions for the planning and development of these areas are set out in the NCP, which is administered by the NCA. Areas (other than designated areas) subject to 'special requirements' are also set out in the NCP. The development of these areas must be in compliance with the special requirements specified in the NCP. Developments on territory land may therefore require approval from the NCA or other Australian government agencies. In general, areas with special requirements require the preparation of Development Control Plans which are approved by the NCA to guide development in association with the TP. Both the [NCA](#) and [ACTPLA](#) have informative websites (see Contacts list at the back of this book).

The system of land tenure in the ACT is leasehold. This differentiates the capital territory from the rest of Australia and is a factor in the planning of Canberra.

## **Leasehold system**

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The Commonwealth owns all land in Canberra. Unlike other cities in Australia, Canberra does not have freehold ownership of land; instead, there is a leasehold system. People buy the right to use leased land for a fixed term, usually 99 years. At the end of the 99 years lease, a new lease will be granted without payment (excluding administrative fees) to the person holding the expired lease, provided that the land is not required by ACT or the Commonwealth (s 254(3)).

The Commonwealth ensured that the form of land tenure in the ACT would be different when it adopted the *Seat of Government (Administration) Act 1910* (Cth). Section 9 of that Act states 'no Crown lands in the territory shall be sold or disposed of for any estate of freehold'. Leasehold tenure was adopted so that speculation in undeveloped land could be avoided, and future increases in the value of land remained in the public purse

The leasehold system also has planning advantages. The government, being the landowner and responsible for development decisions, can try to ensure that planning and development policies are implemented in an orderly and efficient manner. The aim is to avoid the problems apparent in systems used in other states, such as fragmented development fronts and mismatches between the demand for amenities and their provision.

The division of land into national land and territory land is also relevant to the leasehold system. The Commonwealth is responsible for leasing arrangements and management of national land and the ACT is responsible for leasing arrangements and management of territory land. However, there is a complication. Some territory leases may be in designated areas, in which case there is a shared jurisdiction, although outcomes are subject primarily to the NCP and the NCA's decisions.

Regardless of which type of land is involved, it is essential to consider the provisions of the lease to decide whether or not it permits a particular development proposal to go ahead. Leases contain a permitted use clause that will restrict the purposes for which land may be used and many leases contain other provisions that may affect the design and siting of a development. In some cases it may be necessary to vary the provisions of the lease before a development project can be approved.

Permitted use clauses of leases of land managed by ACTPLA can be varied by lodging a development application with ACTPLA (see Chapter 3 in this Handbook for more information on development applications). Permitted use clauses of leases of land managed by the NCA can be varied by making an application to the NCA. There is no special form for such an application.

## **Commonwealth planning responsibility**

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The Commonwealth's planning responsibility relates to Canberra as the National Capital. It is established through the NCP, which describes the broad pattern of land uses that can be adopted in the development of the ACT. This ensures that Canberra broadly retains the characteristics with which it was originally planned. The NCP is managed by the NCA, pursuant to the *Planning and Land Management Act*.

At the time of writing, the NCA was undertaking its first review of the NCP since its inception in 1990. Amendments to the planning arrangements between the Australian and ACT governments were forecast with an intent to achieve certain outcomes including a revision and update of the NCP, changes to planning arrangements to provide a greater flexibility to the ACT government to meet the challenge of a growing city, removing special requirements in order to reduce duplication and making minor adjustments to the designated areas.

### ***National Capital Plan***

The object of the NCP is to ensure that Canberra and the territory are planned and developed in accordance with their national significance (*Planning and Land Management Act*, s 9). In essence, the NCP is a blueprint for the future development of Canberra. It provides a framework of land uses within which the TP sits, as well as managing those aspects of Canberra and the territory that are special to the national capital role.

The key matters of national significance include:

- pre-eminence of the role of Canberra and the territory as the national capital
- preservation and enhancement of the landscape features that give the national capital its character and setting
- respect for the key elements of Walter Burley Griffins 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
- development of a city which respects both environmental values and reflects national concerns with the sustainability of Australia's urban areas.

More specifically, as stated in the second reading of the Planning and Land Management Bill 'the purpose of the National Capital Plan 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 'national interest' in the capital is reflected throughout the territory and is essential to the development of the ACT as the garden city and bush capital, and the symbolic centre of Australia.

## ***Role of the National Capital Authority***

The NCA is established under section 5 of the *Planning and Land Management Act*. Its functions include preparing and administering the NCP, reviewing the NCP and proposing amendments where necessary, recommending development where desirable to maintain or enhance the character of the National Capital and the fostering an awareness of Canberra as the national capital (s 6). While the NCA is responsible for developing and reviewing the NCP, any amendments to the plan must be approved by the Commonwealth minister responsible for territories and are disallowable by the Commonwealth Parliament (Division 2 of Part III of the *Planning and Land Management Act*).

The NCA is also responsible for the detailed planning and development controls in what are called 'designated areas' (s 10). Designated areas are those areas of the ACT that have been identified as having the special characteristics of the National Capital, comprising of:

- Canberra's system of inner hills and ridges which form the landscape setting of the city, for example, Mt Ainslie, Black Mountain and Red Hill
- the main avenues and approach routes to the city, for example: Northbourne Avenue, Adelaide Avenue, State Circle, Kings Avenue, Canberra Avenue, and the Barton, Federal and Monaro Highways
- the Central National Area, including the Parliamentary Zone and adjoining urban areas
- the diplomatic areas
- Lake Burley Griffin its foreshores and adjoining urban areas
- the main national institutions and symbols of Commonwealth governance.

## ***Main features of the NCP***

The NCP sets out planning principles and policies for the maintenance and enhancement of the character of the national capital, plus standards and aesthetic principles to be adhered to in the development of Canberra and the territory. It also contains detailed conditions of planning, design and development for designated areas because of their particular importance to the special character of the national capital. The NCP is set out with an introduction, two main parts and a set of appendices. Maps are included as figures when relevant, for example maps depicting the location of designated areas.

### ***Introduction***

The introduction explains the development of a planning system for Canberra and the establishment of the NCP and the NCA. It also explains the concept of national significance as well as outlining the different elements of the plan.

## ***Part 1: Principles, policies and standards, designated areas and special requirements***

Part 1 establishes broad principles and policies that set out permitted uses for different land use categories. These categories include:

- urban areas
- broadacre areas
- hills, ridges and buffer spaces
- river corridors
- mountains and bushlands
- rural areas.

For each category the NCP sets out planning policies, including a range of permitted uses. The land use policies contained in the TP are then chosen from this range of permitted uses.

Part 1 details general policies covering national and arterial roads, location of Commonwealth employment, heritage issues and other relevant matters of broad policy; it identifies areas which have the special characteristics of the National Capital, being the designated areas, and sets out detailed conditions for their planning, design and development. Part 1 also identifies 'special requirements' for development of areas in the interests of the National Capital that are not 'designated areas'. These areas are subject to special requirements additional to the requirements of the TP. These areas include parts of Civic, land fronting the main avenues and approach routes to the National Capital, Tidbinbilla Deep Space Complex, Telopea and Haig Parks, Namadgi National Park, river corridors and National Land sites.

## ***Part 2: Administration and implementation***

Part 2 details provisions for administration and implementation of the NCP, including the relationship to the TP and the development and management of national land.



## **Appendices**

There are sixteen appendices relating to a variety of issues including Lake Burley Griffin Technical and Management Guidelines (Appendix J), Civic Centre Townscape Conditions (Appendix L) and Federal Highway Detailed Conditions of Planning, Design and Development (Appendix X).

## **Amending the NCP**

The NCA is required to keep the NCP under review and to prepare amendments where necessary (s 6). In doing so, the NCA must consult ACTPLA, and make the draft amendment available for public comment (see below for more detail). When this consultation is finalised, the NCA may either revise the draft amendment or simply submit the amendment, and a report on the consultation, to the minister for approval. The minister, in turn, can either decide to approve the draft amendment, or refer it back to the NCA for further consultation or specific amendment (s 19). Once the minister approves the draft amendment, notice of this approval must be advertised in the Commonwealth Gazette, and it is also advertised on the NCA's website. The amendment takes effect upon publication of this notice of approval. The amendment is then laid before each House of the Commonwealth Parliament for six sitting days, within which time either House can disallow it in whole or in part (s 22).

The minister may refer draft amendments to the Joint Standing Committee on the National Capital and External Territories for inquiry and report (see below for more detail).

Under section 16 of the *Planning and Land Management Act*, the minister may certify a draft amendment for six months, pending consideration of the draft amendment. Re-certification for one or more periods of six months is also possible. Certification simply gives temporary effect to a draft amendment, that is, the draft amendment is considered to apply for the period of certification, whilst the consultation processes described above occur.

It is worth noting that the *Planning and Land Management Act* makes specific provision for a deadlock between the NCA and the ACTPLA concerning draft amendments (s 20A). The minister, in consultation with the executive, can direct the NCA either to disregard ACTPLA's objections, or to vary the amendment, in whole or in part, to accommodate the objection. Such a direction must be notified in the Commonwealth Gazette and laid before both Houses of Federal Parliament within six days. To date, no such action has been required.

## **Public participation in the NCP amendment process**

The NCA is required to consult the public on draft amendments, and must advertise this consultation in the Commonwealth Gazette and the *Canberra Times* (s 15). It also appears on the NCA website. Draft amendments are available for public inspection

at a place specified in the notice, as well as on the [NCA website](#). The *Planning and Land Management Act* only requires that the NCA provide a ‘reasonable period’ for public comment (s 15(1)(b)(ii)).

Many people provide written comments in order to object to a draft amendment. In most cases, it is useful to provide such comments within the context of the objectives of the NCP and the importance of national significance. Once the NCA has received comments, it is required to consider them, and also to provide a report on the consultation to the minister for consideration during the approval process (ss 15(2), 18).

People may also have an opportunity to comment on a draft amendment if it is referred to the Joint Standing Committee on the National Capital and External Territories for inquiry and report. This often involves a call for submissions and may involve an opportunity to give evidence before the committee.

## **The Territory’s planning responsibility**

### ***Introduction***

The Australian Capital Territory’s planning responsibility relates to Canberra as a city. It is established through the Territory Plan (TP), managed by the ACT Planning and Land Authority (ACTPLA), under the *Planning and Development Act 2007* (ACT) (*‘Planning Act’*). At the time of writing the ACT Minister for Planning was responsible for the *Planning Act*.

Like all territory legislation the *Planning Act* has no effect to the extent that it is inconsistent with the NCP, but under section 11 of the Commonwealth *Planning and Land Management Act*, it is taken to be consistent with the NCP to the extent that it can operate concurrently with it.

### ***Sustainable development within the territory***

Throughout the *Planning Act* and the TP there is a strong emphasis on sustainable development. The object of the *Planning Act* (s 6) is to provide a planning and land system that contributes to the orderly and sustainable development of the ACT, consistent with the social, environmental and economic aspirations of the people of the ACT; and in accordance with sound financial principles.

Sustainable development in this Act (s 9) means the effective integration of social, economic and environmental considerations in decision-making processes, achievable through implementation of the following principles:

- the precautionary principle— if there is a threat of serious or irreversible environmental damage, a lack of full scientific certainty should not be a reason to postpone preventative measures

- the inter-generational equity principle—ensure that the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations
- conservation of biological diversity and ecological integrity
- appropriate valuation and pricing of environmental resources.

Under section 12(3), ACTPLA is required to exercise its functions in a way that, as far as practicable, gives effect to sustainable development. In addition there are several clauses within Part 5 of the *Planning Act* which require ‘sustainability principles’ and ‘principles for sustainable development’ to be taken into account in administering the Act.

## ***The Territory Plan***

The TP, like the NCP, is established under the Commonwealth *Planning and Land Management Act* (s 25). The object of the TP is to ensure, in a manner not inconsistent with the NCP, the planning and development of the ACT provides the people of the ACT with an attractive, safe and efficient environment in which to live, work and have their recreation (s 48 of the *Planning Act* and s 25(2) of the Commonwealth *Planning and Land Management Act*). Section 50 of the *Planning Act* states that the Territory, the executive, a minister or a territory authority, cannot do or approve an act that is inconsistent with the TP. Nor can the Territory or a territory authority do anything that is inconsistent with the NCP.

The *Planning Act* also requires that the TP contain a statement of strategic directions (s 51) which may contain planning principles covering areas of national, regional and territory interest, including principles for sustainable development (s 52). The function of the statement is: to contain broad strategic principles to guide long-term planning for the ACT; guide the preparation and making of variations to the TP; and guide environmental impact statements, planning reports and strategic environmental assessments. Chapter 5 of the *Planning Act* sets out the framework for the TP, which must include the following:

- a statement of strategic directions
- objectives for each zone
- development tables
- codes
- a map (the TP map) (ss 51-56).

The TP map must set out, in map form, zones and precincts (s 56). The map is probably the most used part of the TP. It identifies the geographical application of the particular policies that are set out in the TP and show which policies correspond to which area.

Copies of the TP are available through the ACT government shopfronts and libraries (see Contacts list at the back of this book). However, as the TP is constantly being

varied, it is best to check [ACTPLA's website](#) to guarantee that you are looking at the most up-to-date version.

It is worth noting that the TP may, but need not, identify future urban areas and include the structure plans that apply to those areas; identify areas of public land reserved in the plan (for example national parks and nature reserves) and make provisions in relation to affordable residential housing.

At the time of writing, ACTPLA was reviewing the policy content in the TP. The review's stated aims are to ensure the TP remains a contemporary best practice document outlining planning requirements in the ACT and meets the recommendations of the National Development Assessment Forum by identifying policies that may need amending and any provisions that need to be added.

The TP is divided into the following parts: the Territory Map; Statement of Strategic Directions; the seven zone categories; precinct maps and codes; general codes; overlays; definitions; structure plans; concept plans; and development codes. The last three parts relate to the development of future urban areas.

### ***Statement of Strategic Directions (part 2)***

The Statement of Strategic Directions sets out the principles that give effect to the main objects of the TP. It provides a policy framework and gives guidance on the more specific policies in the TP. The Statement of Strategic Directions comprises two sets of principles: sustainable development, and spatial planning and urban design.

### ***Zones (parts 3 to 9)***

Land in the territory is divided into zones. This is designed to provide a system of land uses that can be applied to particular land. Parts 3 to 9 set out the seven zones, most of which have sub-zones. Zones include:

- residential (part 3)
- commercial (part 4)
- industrial (part 5)
- community facility (part 6)
- parks and recreation (part 7)
- transport and services zone (part 8)
- non-urban zone (part 9), these are further divided into the broadacre zone; rural zone; hills, ridges and buffer zone; river corridor zone; and mountains and bushlands zone.

Each zone includes the specific objectives for that particular zone, a development table and applicable codes. The zone objectives set out the broad policies for that particular zone. The development table specifies whether a particular type of development is exempt, prohibited or assessable and the minimum assessment track for development applications in that zone (see Chapter 3 of this Handbook for

more information on development applications). The development table also sets out the applicable codes.

Codes identify planning, design and environmental controls for different land uses, development types, zones and precincts. There are three different types of codes: precinct codes, development codes and general codes. Precinct codes apply to geographical areas which may include more than one zone or parts of zones, development codes apply to specific zones or development types and general codes may apply to defined development types and/or planning and design issues throughout ACT and to territory authorities.

If there are any inconsistencies between the provisions of the different codes that apply to a development, precinct codes take precedence over development codes which in turn take precedence over general codes.

Each zone is given a separate and distinctive colour on the TP map.

It should be noted that the TP does not imply any right to proceed with a particular development even if it falls within a permitted land use. A development application is usually still required and an environment impact assessment may also be required (see Chapter 3 in this Handbook for development application procedures and Chapter 4 for more information on environmental impact assessments).

### ***Precinct maps and codes (part 10)***

Precinct codes apply to the geographical area stated in the name of the code. Each code may include more than one zone or parts of zones. There are three categories of precincts: suburb precincts (part 10.1; e.g., Acton), district precincts (part 10.2: e.g., Belconnen District), or other precincts (part 10.3: e.g., Northbourne Avenue).

ACTPLA uses these to assess development applications and are also used by applicants as guidance in preparing development applications.

### ***General codes (part 11)***

General codes may apply to defined development types and/or planning and design issues throughout the ACT and to territory authorities. The general codes include:

- parking and vehicular access
- bicycle parking
- access and mobility
- crime prevention through environmental design
- community and recreation facilities location guidelines
- communications facilities and associated infrastructure
- signs
- water use and catchment
- home business

- waterways—water sensitive urban design
- planning for bushfire risk mitigation
- residential boundary fences
- lease variation.

### **Overlay provisions (part 12)**

Part 12 details more specific policies/purposes for different areas that are then marked on the TP. Overlays identify special attributes of land that are sensitive to the effects of development or may constrain development. Overlay provisions relate to:

- *special requirements of the NCA*—areas subject to special requirements under the NCP are marked with a blue border and an ‘S’ or shown by black dashed lines flanking a main avenue or approach route, for example, Northbourne Avenue
- *future urban areas*—areas which are identified for future urban development for the purposes of s 51(2)(a) of the *Planning Act* are marked on the map by a blue border with ‘FUA’ (the principles and policies for the development of this land are set out in a structure plan, part 14 of the TP)
- *draft variations*—land the subject of a draft variation which has interim effect is marked on the map by a blue border with a ‘V’
- *public land*—including wilderness areas marked ‘Pa’; national parks ‘Pb’; nature reserves ‘Pc’; special purpose reserves ‘Pd’; urban open space ‘Pe’; cemeteries or burial grounds ‘Pf’; water supply catchments ‘Pg’; lakes ‘Ph’; and sport and recreation reserves ‘Pi’ (except land zoned urban open space)
- *urban open space zones*—reserved as public land in the ‘Pe’ category unless specifically excluded or covered by another public land category
- *inter-town public transport routes*—the approximate alignments of the inter-town public transport routes are marked by circles
- *public utilities*—the approximate alignments of major electrical, sewer or water conduits are included for information purposes (but do not form part of the plan).

### **Definitions (part 13)**

Part 13 sets out the definitions of the extensive list of categories of development and the general terms used in the TP.

### **Future urban areas (parts 14-16)**

The TP identifies land that will be developed in the future to accommodate the city’s expanding population (for example, West Belconnen or Lawson South). Structure plans (part 14) set out the principles and policies for development of the future urban area. It is essentially a framework of the planning intent for the area and may include

information on environmental and heritage matters, future major infrastructure requirements, key features, zoning and residential densities. The related concept plans (part 15) apply the principles and policies of a structure plan for the future urban area to identify the specific planning requirements that will apply to the future planning and development of the suburb. The concept plan, through a variation to the Territory Plan, will become a Precinct Code in the new Territory Plan. The Precinct Code guides the preparation and assessment of development in future urban areas to which the concept plan relates. Development codes (part 16) apply to specific zones or development types. Currently, an estate development code is the only code set out under this section. The estate development plans set out the proposed subdivision pattern and infrastructure works for an estate. It contains various planning elements for the different zones and is required to be approved (via a development approval) before works are undertaken and leases are granted.

### ***Role of ACTPLA***

Section 12 of the *Planning Act* sets out ACTPLA's functions and requires that it must exercise these functions in a way that, as far as practicable, gives effect to sustainable development. There are 15 functions listed in s 12(1)(a) to (o), including: to prepare, administer, review and propose amendments to the TP; plan and regulate development; advise on planning and land policy; manage leases; decide development applications; regulate the building industry; take compliance and enforcement action; review its own decisions; promote public education of the planning system; and provide opportunities for community consultation.

### ***Varying the Territory Plan***

If an area of land is needed for a use that is inconsistent with the current land use policy, ACTPLA can initiate a variation to the TP by preparing a draft variation. As part of this process, under section 61, it must inform the minister that it is preparing a draft variation and consult with a range of entities: the NCA; the Heritage Council (see Chapter 9 of this Handbook for more information on heritage law in the ACT); the Conservator of Flora and Fauna (see Chapters 5 and 7 for more information on the role of the Conservator); the Environment Protection Authority (see Chapter 10 for more information about the EPA) and the custodian of the land that is likely to be affected. ACTPLA must also consider any relevant environmental assessments or reports (see Chapter 4 for more information about EIA) and must make the variation available for public comment (see below for more detail). After the end of the consultation period, ACTPLA may revise or withdraw the draft; any withdrawal is a notifiable instrument (s 68). ACTPLA must also publish the withdrawal in a daily newspaper on the same day or as soon as practicable. In revising or withdrawing a draft variation ACTPLA must consider written comments (including consultation comments) about the draft variation received from any entity. In addition, ACTPLA may revise the variation to correct a formal error at any time before the draft is given to the ACT minister.

After the consultation and under section 69 of the *Planning Act*, ACTPLA must give the draft plan variation to the minister for approval, together with background papers relating to the variation; a written report setting out the issues raised in any written comments (including public consultation comments) about the variation; a written report about its consultation with the above mentioned authorities; and a copy of any written document given to the minister by the NCA in relation to the draft plan variation. Where the draft plan variation would, if made, be likely to affect unleased land or leased public land, the report must also include the consultation with each custodian for the land likely to be affected (s 61(b)(v)).

ACTPLA must prepare a public availability notice (which is a notifiable instrument) stating that the documents mentioned, including the draft plan variation, are available for public inspection during office hours within a certain period and at the places stated in the notice (s 70). During this period, government authorities must not do or approve anything that would be inconsistent with the TP if it were varied in accordance with the draft plan variation (s 72), if the notice states that this section is applicable.

## ***Public participation in the variation process***

### ***Draft plan variations***

The public's first opportunity for participation in the process is when ACTPLA prepares the mandatory consultation notice stating that copies of the draft plan variation and the background papers are available for public inspection and for purchase during the consultation period, which must not be less than 30 working days (s 63(a)). The [ACTPLA website](#) provides a link to the consultation notice and also details the places where the variations and background documents are sold.

ACTPLA invites people to give written comments (consultation comments) about the draft plan variation via its website or at a stated address during the consultation period. Copies of any written comments received from the public and the NCA will be made available (unless exempted) for public inspection for a period of at least 15 working days, starting after the day the consultation period ends, at stated places (s 63(c)).

ACTPLA may (by an extension notice), extend or further extend the consultation period. The consultation notice and any extension notice are notifiable instruments: (s 63(3) of the *Planning Act*; s 10 of the *Legislation Act 2001* (ACT)).

ACTPLA must also publish the consultation notice and any extension notice in a daily newspaper. A consultation notice must state whether or not section 65 applies in relation to the draft plan variation, or part of the draft variation; and where further information about the draft plan variation can be found. Section 65 essentially gives the draft variation interim effect. If it is stated that section 65 applies it means that the territory, the executive, a minister or territory authority must not (for a certain interim period) do or approve the doing of anything that would be inconsistent with the TP if it was varied in accordance with the draft variation.

The public's second opportunity for participation arises if a draft variation is referred under section 73 of the *Planning Act* to a relevant Legislative Assembly committee, such as the Planning, Public Works and Territory and Municipal Services Committee. The minister must give a copy of the documents given to the minister under section 69, listed above, to that committee. The committee will usually call for written comments on the draft variation and may hold public hearings. Public hearings are usually held for the more high profile variations.

Comments to the committee may take many forms, ranging from a simple letter of objection through to a detailed analysis of the 'problems' with the draft variation. It is important to mention that you would like the opportunity to discuss the issues further at a public hearing. Although it is not necessary to be objecting to the draft variation to provide comment; the committee regularly receives comments in support of draft variations.

Once the committee has received submissions and held any public hearings, it prepares a report on the inquiry to the Legislative Assembly (ss 73 and 74). This report includes the basis for the inquiry, a summary of comments and submissions made to it, and recommendations to the minister. Sometimes a majority and a minority report are prepared when one of the three members cannot agree with the recommendations of the other two.

The committee is responsible for considering the draft variation and making recommendations to the minister. The minister may then approve the variation to the TP, taking into account the recommendations of the committee (s 76(4)). If the minister does not approve the variation, he or she may refer it back to ACTPLA with directions to, among other things, revise the variation, undertake further consultation, withdraw the variation, or consider any relevant planning report or strategic environmental assessment (s 76(3)(b)) (see Chapter 4 in this Handbook for more information on EIAs).

If the minister approves the variation, he or she has five sitting days within which to table it in the Legislative Assembly (s 79). The Assembly then has five sitting days in which it can disallow the variation (s 80). This gives interested persons some time to lobby Assembly members on whether the variation should be accepted or not. If the variation is not disallowed, the relevant minister then sets a day from which the variation is to commence. Notice of commencement is published in the *Canberra Times* and on the ACTPLA website.

It should be noted that once a variation to the TP has been approved, that decision may be reversed by another variation, provided it goes through the same process.

### ***Technical amendments***

The *Planning Act* outlines what plan variations are technical amendments (Part 5.4). These include: error variations that are concerned with correcting a formal error only; code variations that would change a code only and are consistent with policy; variations in relation to future urban developments under section 95, estate

development under section 96, change of boundary of a zone under section 96A; variations that bring the TP into line with the NCP; an omission of something that is redundant in the TP or clarification or relocation of TP text (s 87(a)-(l)).

Consultation is not required for a technical amendment, unless it is a code variation, a variation relating to future urban areas or estate development plans, a clarification of language or relocation of a provision (s 88). In such circumstances, limited consultation is required for which ACTPLA must publish a notice in the daily newspaper describing the amendment and stating where a copy of relevant information is available for inspection, as well as inviting the public to make written comments on the variation. The authority must allow at least 20 working days for public comments and must make the consultation comments available for inspection (s 90). The NCA must also be notified of the amendment. ACTPLA must consider both the consultation comments and the NCA views.

If ACTPLA is satisfied a variation is a technical variation and any limited consultation has taken place then they may put the variation into writing and fix a day for when the variation will commence. The plan variation is a notifiable instrument and must be published by notice in the daily newspaper no later than five working days after the variation is notified (s 89).

## ***Planning strategy***

Under section 105, the Australian Capital Territory Executive is required to make a planning strategy for the ACT that sets out long term planning policy and goals to promote the orderly and sustainable development of the ACT, consistent with the social, environmental and economic aspirations of the people of the ACT. The primary object of the strategy is to promote the development of the ACT as described and in accordance with sound financial principles.

The Canberra Spatial Plan formed the transitional planning strategy for the ACT under the *Planning Act*. The purpose of The Canberra Spatial Plan was to provide clear strategic directions for the development of Canberra.

In June 2012, the ACT Government adopted the Planning Strategy to replace the Canberra Spatial Plan. The Planning Strategy outlines long term planning policies for the future development of the ACT, up until the year 2030. The Strategy aims to identify areas where growth and change is needed, areas where specific planning is required and areas where investment and resources should be prioritised. An overview of the [ACT Planning Strategy](#) can be found on the Environment and Planning Directorate's website.

The ACT Planning Strategy outlines five outcomes that it aims to achieve by 2030:

- Canberra will be a city where people are able to choose to live sustainably. This includes increasing housing by 50%, specifically attached housing whilst showing improving environmental trends in the ACT State of the Environment Report

- The citizens of Canberra will be able to enjoy a vibrant civic and cultural life, with well-established centres, open spaces and transport. This includes the development of the light rail, improving facilities in shopping centres and encouraging physical activity
- Canberra will have established a clean economy and a wide range of jobs. This includes increasing ACT's proportion of jobs in the private sector, encouraging businesses to be environmentally sustainable and encouraging post-secondary education
- Canberra will have improved its public spaces and buildings. This includes encouraging buildings to achieve 6 star Greenstar rating, increasing the number of tourists visiting Canberra each year and increase the number of recognized developments and buildings in Canberra
- Canberra will be the centre of a region known for its natural beauty. This involves improving natural resource management and decreasing land-take per person.

The Strategy outlines 9 specific ways it intends to achieve these outcomes:

1. Focusing on urban intensification in town centres
2. Improving transport networks
3. Increasing variety in housing options
4. Improving local centres as community hubs
5. Improving the safety and accessibility of urban parks
6. Investing in sustainable building and landscaping
7. Incorporating innovative technologies and clean initiatives into infrastructure
8. Conserving agriculturally productive land
9. Developing a more diverse economy by creating new enterprises in different town centres.

In particular, the Planning Strategy focuses on improving the town centres in Belconnen, Woden and Tuggeranong and developing transport networks to connect these town centres to the City. Master plans for these areas will be reviewed, with new master plans envisioned for Mawson centre, intensification along Northbourne Avenue from the City to Mitchell, development of the University of Canberra and continued development of Kingston Foreshore. The Strategy also includes plans for the continued development of Gungahlin and the Molonglo Valley.

## ***Master plans***

Master planning allows for detailed planning of a specific area. For example, at the time of writing, the Environment and Planning Directorate was working on master plans for the Belconnen, Woden and Curtin centres. The master planning process allows for community consultation at a number of steps along the way. This includes public and stakeholder meetings as part of the development of the draft master plan as well as a formal submission process on a final draft master plan. Once a

master plan is underway, information about public consultation can be found on the ACT governments 'Time to Talk' website. 'Time to talk' purports to keep the public updated on the progress of a master plan, gives detail about how to make written submissions and provides dates and locations of information sessions on various aspects of the plan. The 'Time to Talk' home page provides a link to all master plans which are currently open for consultation as well as the date upon which consultation will close. Master plans often result in proposed amendments to the TP to allow implementation of the proposals contained in the master plan.

## ***Greenfield sites***

The Land Development Agency (LDA) is an agency within the economic development portfolio and its core business is developing and selling land on behalf of the ACT government. Its objectives are to achieve new standards of innovation, excellence and value in urban design and sustainable development, as well as building sustainable communities through Greenfield and urban renewal projects.

For example, at the time of writing, Throsby Estate is a Greenfield residential development located in East Gungahlin. It covers 106 hectares and is defined by undulating grass land and some mature trees. The project will include development of a residential estate consisting of single residential blocks, townhouse blocks, a community facility and a mixed use centre. Information sessions for the public were held prior to construction and the information provided at these sessions was made available online at the LDA website.

## **Simplifying the dual system**

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As outlined above, at the time of writing, the NCA was reviewing the NCP. An Exposure Draft of the revised NCP was available on the NCA website and the public were invited to register their interest for regular updates on the Exposure Draft.

It is expected the objectives of the revised NCP will:

- maintain the critical role of the National Capital as the seat of government and the Australian Government's responsibility for that role
- clarify the roles and responsibilities for planning in the ACT between the NCA and ACT government agencies
- revise the format and structure of the NCP to reflect contemporary planning practice and accommodate future planning reform.