

1988

THE PARLIAMENT OF THE COMMONWEALTH OF AUSTRALIA

SENATE

AUSTRALIAN CAPITAL TERRITORY  
PLANNING AND LAND MANAGEMENT BILL 1988

EXPLANATORY MEMORANDUM

(Circulated by authority of the Minister for the Arts,  
Sport, the Environment, Tourism and Territories,  
Senator the Hon Graham Richardson)

THIS MEMORANDUM TAKES ACCOUNT OF AMENDMENTS MADE BY THE  
HOUSE OF REPRESENTATIVES TO THE BILL AS INTRODUCED



**AUSTRALIAN CAPITAL TERRITORY PLANNING AND LAND MANAGEMENT  
BILL 1988**

**OUTLINE**

The purpose of this Bill is to repeal the National Capital Development Commission Act 1957 and make provision for the planning and land management of the Australian Capital Territory consequent upon the establishment of self-government for the Territory. Accordingly, the Bill should be read in conjunction with the Australian Capital Territory (Self-Government) Bill 1988.

**Commonwealth Responsibilities**

Under the Bill, the Commonwealth will retain responsibility for National Capital planning through a National Capital Plan (the Plan) to be prepared and administered by a new National Capital Planning Authority (NCPA).

The object of the Plan will be to ensure that Canberra and the Australian Capital Territory (the Territory) are planned and developed in accordance with their national significance.

The Plan will define the planning principles and policies to apply throughout the Territory for National Capital reasons and indicate the broad land use policies and the range and nature of permitted land use.

The Plan will allow detailed planning, design and development conditions for designated National Capital Areas and may set special development requirements for any other area that are desirable in the interests of the National Capital.

The Plan will be legally binding on both the ACT and the Commonwealth.

The development of the Plan will involve a statutory process of public notification, exhibition and consultation. In particular, consultations with the ACT will be required. The Plan will be submitted to the responsible Commonwealth Minister for approval and will be subject to Parliamentary scrutiny.

The NCPA will have a Chairperson and 3 other members (all part-time) as well as a full-time Chief Executive who is also a member of the NCPA. Alternatively, the Chairperson may be appointed as the full-time Chief Executive in which case there will be 4 other part-time members. The NCPA will be subject to the general directions of the Minister.

### **Territory Responsibilities**

The ACT will be responsible for establishing a Territory planning authority (TPA) which will prepare and administer a Territory Plan, not inconsistent with the National Capital Plan.

The object of the Territory Plan will be to ensure the planning and development of the Territory will provide its residents with an attractive, safe and efficient environment in which to live and work and have their recreation.

The Territory Plan will set out the Territorial planning principles and policies other than those required for National Capital reasons, and will allow detailed planning, design and development conditions for all land (except designated National Capital Areas) to be included.

The Bill will require public notification, exhibition and consultation of the draft Territory Plan as well as an accessible process for just and timely review of planning and development decisions.

Consultations with the Commonwealth about the Territory Plan will also be required.

### **Land Management**

Land in the Territory will remain vested in the Commonwealth and it is proposed to preserve the present leasehold system.

However, all land except land reserved by the Commonwealth for its own purposes is to become the responsibility of the ACT. Reserved Commonwealth land is to be known as 'National Land' while the remainder is to be known as 'Territory Land'.

In relation to Territory land, the ACT will assume responsibility for its management and control and for the granting and administration of leases.

The ACT will be required to discharge its responsibilities in accordance with the following principles:

- . that new leases and other interests in land be granted in accordance with publicly notified processes; and
- . that there be accessible processes for just and timely review of leasing decisions.

Where, following the commencement of this Bill, a portion of unleased Territory Land becomes National Land, provision will be made so that the Commonwealth will recompense the ACT on just terms.

### Transitional Provisions

From the time of the repeal of the NCDC Act to the completion of the first National Capital Plan, certain transitional provisions will apply. The transition period will last for 12 months from the date of self-government. This will ensure both a speedy and smooth transition from the existing planning system to the new system which reflects the division of responsibility between the Commonwealth and the ACT.

Accordingly, during the transition period, the planning and development policies of the NCDC are to continue in force and will be binding on both the NCPA and the ACT. However, changes to policies as they affect individual sites will be allowed after public consultation. If the TPA proposes changes, then the Commonwealth will be able to object but only on National Capital grounds, and the proposed changes will not take effect. If the NCPA proposes changes, it must consult with the TPA and then seek the approval of the Commonwealth Minister before the changes become operative. However, if the TPA raises any objections, the Commonwealth Minister must consult with Territory Ministers before making a final decision.

Provision has also been made for the establishment by Ordinance of an interim Territory planning authority to assume the Territory planning functions from the date of the repeal of the NCDC until the ACT establishes the TPA.

The Bill includes a number of amendments to other Acts consequential upon the repeal of the NCDC Act and the enactment of this Bill. In particular amendments will be made to the Canberra Water Supply (Googong Dam) Act 1974 which will transfer management responsibility for the Googong Dam area to the ACT, subject to any conditions determined by the Commonwealth.

### FINANCIAL IMPACT STATEMENT

The integration of NCDC functions into the ACT Administration and the Department of Administrative Services together with the creation of an NCPA will result in savings estimated at some 120 staff yielding \$6.6m per year. Initial integration of NCDC functions has provided a saving of about 80 positions this year and a further saving of about 40 positions is expected to be brought to account in 1989.

## NOTES ON CLAUSES

### PART I - PRELIMINARY

#### Clause 1 : Short Title

This clause cites the short title of the Act.

#### Clause 2 : Commencement

This clause provides for the commencement of the Act. It is intended to proclaim most provisions of the Act as soon as practicable after Royal Assent. Some provisions will not be brought into effect until commencing day of self-government.

#### Clause 3 : Location of definitions

This clause points out that different expressions are used in various Parts of the Bill.

#### Clause 4 : Definitions for whole Act

This clause provides definitions relating to the interpretation of the Bill.

### PART II - ESTABLISHMENT, FUNCTIONS AND POWERS OF AUTHORITY

#### Clause 5 : Establishment of Authority

This clause establishes the National Capital Planning Authority (NCPA).

#### Clause 6 : Functions of the Authority

This clause sets out the functions of the NCPA. In addition to preparing and administering a National Capital Plan, the NCPA is charged with a number of associated activities relating to maintaining and enhancing the character of Canberra as the National Capital.

#### Clause 7 : Ministerial directions

This clause enables the Minister to give general directions to the NCPA in connection with its functions.

#### Clause 8 : Powers of Authority

This clause ensures that the NCPA is able to carry out its functions effectively.

**PART III - THE NATIONAL CAPITAL PLAN**

**Division 1 - Object and effect of National Capital Plan**

**Clause 9 : Object of Plan**

This clause sets out the objectives which will govern the Plan. This clause should be read in conjunction with sub-clause 25(2) which sets out the objectives of the Territory Plan.

**Clause 10 : Matters to be covered in Plan**

Sub-clause 10(1) allows the Plan to designate, for planning purposes, areas of special significance to the National Capital.

Sub-clause 10(2) details the scope of the Plan.

Paragraphs (a) and (b) set out matters which must be included in the Plan while paragraphs (c) and (d) specify matters which the Plan may also include.

**Clause 11 : Effect of Plan**

Sub-clause 11(1) provides that the Plan prevails over a law of the ACT Legislative Assembly (the Assembly) which is inconsistent with the Plan but the validity of a law which may operate concurrently with the Plan is not affected.

Sub-clause 11(2) provides that the Plan binds both the Commonwealth and the ACT and their respective agencies.

**Clause 12 : Works in Designated Areas to be subject to Plan and approval by the Authority**

The purpose of this clause is to ensure that works in Designated Areas are undertaken in accordance with the Plan and are not undertaken without design and siting approval from the NCPA. 'Works' for the purposes of this clause is defined in clause 4.

**Clause 13 : Plan not to have retrospective effect**

This clause ensures that when the Plan becomes operative, it will not affect existing land uses permitted under a lease or other interest in land for the duration of the term of the lease or interest.

**Clause 14 : Draft Plan to be prepared**

This clause charges the NCPA to prepare a draft Plan. Clause 24 allows the Plan to be prepared progressively in separate stages or parts.

**Clause 15 : Public consultation**

The purpose of this clause is to ensure that a process of public consultation is undertaken in the preparation of the Plan. By virtue of clause 23, this same process must be followed when amendments of the Plan are proposed. The requirement in sub-paragraph 15(1)(b)(ii) that written comments from the public must be submitted within a 'reasonable time' enables appropriate deadlines to be set having regard to the scope and complexity of the draft stages or amendments of the Plan.

Sub-clause 15(2) ensures that the NCPA specifically consults with the Territory planning authority (TPA) and requires the NCPA to take into account any comments received from the TPA or the public.

**Clause 16 : Certification of draft Plan**

**Clause 17 : Effect of certification of draft Plan**

These clauses provide a mechanism to ensure that pre-emptive action is not taken while the draft Plan is under consideration. They allow the responsible Commonwealth Minister to issue a certification to protect the draft Plan after the ACT has been consulted. While the certification remains in force, the provisions of clause 11 apply on the same basis as if the Plan were in operation.

**Clause 18 : Submission to Minister for approval**

This clause requires the NCPA to submit the draft Plan to the Minister for approval.

**Clause 19 : Minister's powers**

This clause sets out the powers of the Minister in considering the draft Plan. In particular, it provides for consultation with Territory Ministers if the TPA objects to any part of the draft Plan.

**Clause 20 : Action on referral by Minister**

This clause sets out the steps the NCPA must follow if the Minister refers the draft Plan back to it for consideration.

**Clause 21 : Publication and commencement of approved Plan**

This clause provides for notice of the approved Plan to be published in the Commonwealth Gazette and for the Plan to take effect on and from the date of such publication.



**Clause 22 : Parliamentary scrutiny of Plan**

This clause provides for the tabling of the Plan in the Parliament and possible disallowance of the Plan provided notice of such disallowance is given within 6 sitting days after tabling. The requirement for 6 sitting days notice in sub-clause 22(2) reflects the present provision in section 12A of the Seat of Government (Administration) Act in relation to the plan of layout of the City of Canberra. If the Plan or part of the Plan is disallowed, it ceases to have effect from the date of disallowance.

Sub-clause 22(4) provides that where a disallowed part of the Plan amended or repealed another part of the Plan, the disallowance revives the Plan (as it stood before the disallowance) but only from the date of disallowance.

**Clause 23 : Amendments of Plan**

This clause ensures that the processes and steps necessary to bring the Plan into effect apply equally to desired amendments of the Plan.

**Clause 24 : Plan may be prepared in stages or parts**

This clause allows the Plan to be prepared progressively but each stage must be prepared in the same manner required to bring the Plan as a whole into force.

**PART IV - THE TERRITORY PLAN**

**Clause 25 : Territory Plan**

This clause defines the responsibilities of the ACT in the planning and development of land in the Territory other than Designated Areas.

Sub-clause 25(1) requires the establishment of a TPA to prepare and administer a Territory Plan, not inconsistent with the National Capital Plan.

Sub-clause 25(2) sets out the objectives of the Territory Plan, and should be read in conjunction with clause 9 which defines the objectives of the National Capital Plan.

Sub-clause 25(3) defines the scope of the Territory Plan but does not limit the form of the Plan.

Sub-clause 25(4) ensures that an open and public process is followed in preparing the Territory Plan, that review rights are provided in respect of appropriate planning, design and related development decisions and the TPA consults with the NCPA and

reports to the ACT Executive (the Executive) on its consultations.

Sub-clause 25(5) makes it clear that this clause does not affect the Assembly's general legislative power to make other provision concerning planning and development matters (provided, of course, that such other provision is not inconsistent with the terms of this clause).

**Clause 26 : Territory Plan not to be inconsistent with National Capital Plan**

This clause makes it clear that the National Capital Plan prevails over the Territory Plan but the Territory Plan is not to be held invalid unless it can be shown that it cannot operate concurrently with the National Plan.

**PART V - LAND MANAGEMENT**

**Clause 27 : National Land**

This clause enables the Commonwealth to reserve land in the Territory for its own purposes by notice in the Commonwealth Gazette - such land to be known as National Land.

It should be noted that there is no requirement that Designated Areas (for planning purposes) be declared National Land for management purposes. Further, the gazettal of land as National Land does not result in any interest in that land being acquired by the Commonwealth. Such gazettal merely reverts control of the land back to the Commonwealth subject to any existing interests.

This clause should also be read in conjunction with section 33 of the Acts Interpretation Act 1901 which allows the revocation of a notice which has gazetted land as National Land.

**Clause 28 : Territory Land**

This clause provides that the land not required by the Commonwealth is to be known as Territory Land and, by virtue of the remaining clauses in this Part, will be the responsibility of the ACT.

**Clause 29 : Administration of Territory Land**

The Commonwealth remains the owner of land in the Territory. However, this clause vests responsibility for the management of Territory Land, on behalf of the Commonwealth, in the Executive.

[Note that 'management' is defined in clause 4 as including care, control and maintenance.]

Sub-clause 29(1) also authorises the Executive to issue and administer estates in Territory Land.

[Note that 'estates' is defined in section 22 of the Acts Interpretation Act 1901 to include any estate or interest, charge, right, title, claim, demand, lien or encumbrance at law or in equity while section 9 of the Seat of Government (Administration) Act 1910 prevents land in the Territory from being sold or disposed of for any estate of freehold.]

It is intended that as from the day land becomes Territory Land, existing estates granted by the Commonwealth will be administered by the Executive and all the powers exercisable by the Commonwealth will be exercisable by the Executive.

Sub-clause 29(2) requires the Executive to observe certain principles in undertaking its land management responsibilities and makes it clear that the Assembly may make laws governing the manner in which the Executive may perform its functions.

Sub-clause 29(3) preserves the present 99 year leasehold system in the Territory but the regulations will allow the maximum term of estates in land to be varied to meet changing circumstances.

Sub-clause 29(4) will enable the NCPA to intervene in review proceedings relating to the administration of estates in Territory Land to ensure consistency with the National Capital Plan.

**Clause 30 : Territory liable as manager of Territory Land**

The purpose of this clause is to provide that the ACT and not the Commonwealth is liable for any acts or omission in respect of its management of land at any time when it is Territory Land. Conversely, the ACT is not liable for acts or omissions in respect of the management of land at any time when it is National Land (see clause 51).

**Clause 31 : Money in respect of land**

Sub-clause 31(1) makes it clear that any monies due (eg rates and rents) in respect of a portion of land at a time when it is Territory Land are payable to the ACT instead of the Commonwealth.

Sub-clause 31(2) ensures that when the Commonwealth resumes responsibility for a portion of unleased Territory Land by declaring it to be National Land, it does so on just terms.

**Clause 32 : Application of Lands Acquisition Act to Territory Land**

This clause clarifies the application of Commonwealth lands acquisition legislation in relation to Territory Land and to acquisitions by the ACT of an estate in Territory Land. Section 4 defines 'Lands Acquisition Act' to mean the Act for the time being in force relating to the acquisition of land by the Commonwealth and associated matters - as well as the existing Lands Acquisition Act 1955, it is intended to refer to the Lands Acquisition Bill 1988 (presently before the Parliament) when it comes into operation and these provisions are intended to provide exceptions to the application of the existing Act and that Bill.

**PART VI - CONSTITUTION AND MEETINGS OF AUTHORITY**

This Part deals with constitution and operation of the NCPA.

**Clause 33 : Constitution of Authority**

This clause provides that the NCPA is constituted by a total of 5 members. Two alternative organisations are possible: a full-time Chief Executive and 4 part-time members (including the Chairperson); or a full-time Chairperson and 4 part-time members. Part-time members are referred to as 'non-executive members' for the purposes of this Part of the Bill.

**Clause 34 : Vacancies not to invalidate actions of Authority**

This clause ensures that actions of the NCPA are not affected because of a vacancy or vacancies in the membership of the NCPA.

**Clause 35 : Remuneration**

This clause provides for the remuneration and allowances of members of the NCPA to be determined by the Remuneration Tribunal.

**Clause 36 : Period of appointment of members**

This clause provides for the period of appointment of members with particular provision restricting the appointment of a full-time member if he or she has, or will reach, age 65 years.

**Clause 37 : Acting Appointments**

This clause makes provision for acting appointments to be made to both full-time and part-time offices of the NCPA when there is a vacancy in such an office or where the occupant is unable to perform the duties of the

office. This clause should be read in conjunction with section 33A of the Acts Interpretation Act 1901.

**Clause 38 : Leave of Absence**

This clause provides for leave of absence to be granted to members to avoid the consequence of having their membership terminated pursuant to clause 41.

**Clause 39 : Outside employment**

This clause requires all members to seek the approval of the Minister to outside employment in the circumstances specified in the clause. It is designed to avoid a conflict of interest.

**Clause 40 : Resignation of members**

This clause allows members to resign by delivering a written instrument to the Governor-General. No acceptance by the Governor-General is required.

**Clause 41 : Termination of appointments**

This clause enables the Governor-General to terminate the appointment of a member in the circumstances specified in the clause.

**Clause 42 : Disclosure of interests**

This clause makes provision for disclosure of interests by members of the Authority.

**Clause 43 : Meetings**

This clause makes provision for the holding of meetings of the NCPA and the procedure at those meetings.

**Clause 44 : Advisory committees**

This clause enables the Minister, on the advice of the NCPA, to establish advisory committees to assist, or provide advice to, the NCPA.

**PART VII - ADMINISTRATION OF AUTHORITY**

**Clause 45 : Chief Executive**

This clause establishes the office of Chief Executive.

**Clause 46 : Functions of Chief Executive**

This clause vests authority in the Chief Executive to manage the affairs of the NCPA, subject to the general directions of the NCPA.

**Clause 47 : Staff of the Authority**

This clause provides that staff of the NCPA shall be employed under the Public Service Act 1922 and allows the Chief Executive to make secondment arrangements with any person or body.

**Clause 48 : Consultants**

This clause allows the NCPA, on behalf of the Commonwealth, to engage consultants.

**Clause 49 : Delegations**

This clause enables the NCPA to delegate its powers.

**Clause 50 : Annual Report**

This clause requires the NCPA to prepare an annual report and provides for Parliamentary scrutiny of the report.

**PART VIII - MISCELLANEOUS**

**Clause 51 : Commonwealth to indemnify Territory**

This clause provides an indemnity to the ACT concerning any claims that may be brought against the ACT in respect of matters under this Bill which are properly

the responsibility of the Commonwealth (in particular, in respect of matters arising from the Commonwealth's management of National Land or of land in the Territory before self-government).

**Clause 52 : Application of Acts Interpretation Act**

This clause ensures that the Acts Interpretation Act 1901 does not apply to the interpretation of instruments which are to be the responsibility of the Territory.

**Clause 53 : Regulations**

This clause enables the Governor-General to make regulations for the purposes of this Bill.

**PART IX - REPEALS AND AMENDMENTS**

**Clause 54 : Repeal of National Capital Development Commission Acts**

This clause repeals the various Acts making provision for the National Capital Development Commission (NCDC) and its operations.

**Clause 55 : Consequential amendments**

This clause authorises consequential amendments to various Commonwealth Acts as set out in the Schedule. The most important of these concern amendments to the Canberra Water Supply (Googong Dam) Act 1974.

**PART X - TRANSITIONAL PROVISIONS**

This Part sets out provisions necessary to allow a smooth transition from the existing planning system to the new system reflecting the division of responsibility between the Commonwealth and the ACT. One of the important objects of this Part is to ensure, during this transition period, continuity in works and planning projects with minimum disruption to the services provided to the community. Accordingly, provision is made for existing NCDC planning and development policies to continue in force until they are varied or revoked by the Commonwealth or the ACT in accordance with the provisions of this Part.

**Division 1 - Preliminary**

**Clause 56 : Definitions for this Part**

This clause provides special definitions applicable to this Part only and, in particular, defines the 'transition period' to mean the period starting on the day this Part commences and ending on the day 12 months after self-government (see sub-clause 57(2)).

**Clause 57 : Declaration of end of transition period**

This clause enables the Governor-General to declare an end to the transition period but such a declaration is required to be made no later than 12 months after the day self-government commences.

This clause also requires the Minister to notify the Parliament of:

- (a) the end of the transition period (that is, the period before the completion of the first National Capital Plan); and
- (b) the policies of the NCDC which are still in force at that time and which have not been incorporated into that Plan.

**Division 2 - Before establishment of Executive and Territory Planning Authority**

It is intended to have this Bill come into force before the day self-government commences. Accordingly, this Division makes provision for the operation of the transition arrangements during the intervening period before self-government.

**Clause 58 : Interim authority to take preliminary steps to prepare Territory Plan**

This clause should be read in conjunction with clause 60 and the definition of 'interim authority' in clause 56. It is proposed to establish an interim Territory planning authority by Ordinance under the Seat of Government (Administration) Act 1910 to undertake Territory planning functions immediately upon the abolition of the NCDC and until such time as the Assembly makes provision under clause 25 for its own planning system.

**Clause 59 : Procedures before establishment of Executive**

This clause vests in the responsible Commonwealth Minister the powers that, after self-government day, will be vested in the Executive and makes other consequential provision to enable the transition arrangements to operate before self-government commences.

**Clause 60 : Procedures before establishment of Territory planning authority**

As it is intended to repeal the NCDC Act before self-government day, there is a need for some body to perform planning functions which were previously performed by the NCDC and which, after self-government commences, will be performed by a Territory planning



authority (TPA) to be established under Assembly law (pursuant to clause 25).

This clause provides that the interim authority may perform the functions of the TPA to enable the transition arrangements to operate immediately upon the repeal of the NCDC Act.

**Clause 61 : Application of Canberra Water Supply (Googong Dam) Act before establishment of Executive**

By virtue of clause 55 and the provisions of the Schedule, the management of the Googong Dam Area (including planning and development functions previously undertaken by the NCDC) will be vested in the Executive after self-government day.

This clause contains transitional provisions, which among other things, vest the powers to be exercised by the Executive in the responsible Commonwealth Minister during the period before self-government.

**Division 3 - Continuation of NCDC policies**

**Clause 62 : NCDC policies to continue in effect**

This clause provides for the published policies of the NCDC to continue in force after the abolition of the NCDC until such time as they are varied or revoked in accordance with the provisions of clauses 65 and 66.  
[Note: 'NCDC policy' is defined in clause 56.]

**Clause 63 : Administration of NCDC policies**

This clause provides for the administration of NCDC policies by the NCPA and the TPA according to their respective responsibilities.

**Clause 64 : Effect of NCDC policies during transition period**

This clause provides that NCDC policies continued in force bind the NCPA and the ACT and its agencies during the transition period.

**Clause 65 : Variation or revocation of NCDC policies during the transition period**

This clause makes it clear that, during the transition period, NCDC policies may only be revoked by the National Capital Plan.

This clause also ensures that, during the transition period, any NCDC policy that is revoked by the National Capital Plan is revived if its revocation is disallowed by the Parliament.

The provisions of Divisions 4 and 5 of this Part should also be read in conjunction with this clause.

**Clause 66 : NCDC policies after transition period**

This clause allows the Parliament to determine whether any NCDC policies still in force at the end of the transition period (which could form part of the National Capital Plan but which have not been incorporated into the Plan) should form part of the National Capital Plan. Any remaining policies will form part of the Territory Plan.

The clause enables the Parliament to make any necessary determination within 6 sitting days after the end of the transition period.

**Division 4 - Variation of NCDC policies by Authority**

This Division deals with the procedure to be followed by the NCPA if it wishes to vary an NCDC policy during the transition period other than by way of the National Plan.

**Clause 67 : Variation of NCDC policies by Authority during transition period**

This clause allows the NCPA to vary NCDC policies as they relate to particular sites for National Capital reasons.

**Clause 68 : Public consultation**

This clause provides for a process of public consultation to be followed by the NCPA in relation to a proposed variation of an NCDC policy - it mirrors that required for the preparation of the National Capital Plan (see clause 15). In particular, consultation with the TPA is required.

**Clause 69 : Submission to Minister approval**

This clause requires the NCPA to submit the draft variation to the responsible Commonwealth Minister for approval.

**Clause 70 : Minister's powers**

This clause sets out the powers of the Minister in considering the draft variation. In particular, it provides for consultation with Territory Ministers if the TPA objects to any aspect of the draft variation.

**Clause 71 : Action on referral by Minister**

This clause sets out the steps the NCPA must follow if the Minister refers the draft variation back to it for consideration.

**Clause 72 : Publication and commencement of approved variation**

This clause provides for notice of the approved variation to be published in the Commonwealth Gazette and the variation to take effect on and from the date of such publication.

**Division 5 - Variation of NCDC policies by Territory Planning Authority**

This Division deals with the procedure to be followed by the TPA if it wishes to vary an NCDC policy during the transition period other than by way of the Territory Plan.

**Clause 73 : NCDC policies may be varied by Territory planning authority**

This clause allows the TPA to vary NCDC policies as they relate to particular sites provided that the proposed variation is not inconsistent with a variation made by the NCPA under Division 3.

**Clause 74 : Public consultation**

This clause provides for a process of public consultation by the TPA to be followed in relation to a proposed variation of an NCDC policy - it mirrors that to be followed by the NCPA (see clause 61). In particular, consultation with the NCPA is required.

**Clause 75 : Submission to Executive for approval**

This clause requires the TPA to submit the draft variation to the Executive for approval.

**Clause 76 : Executive's powers**

This clause sets out the Executive's powers in considering the draft variation.

**Clause 77 : Action on referral by Executive**

This clause sets out the steps the TPA must follow if the Executive refers the draft variation back to it for consideration.

**Clause 78 : Submission to Minister**

This clause allows the responsible Commonwealth Minister to consider the draft variation as approved by the Executive and, if he or she considers it in the National Capital interest to do so, may veto the proposed variation.

**Clause 72 : Publication and commencement of approved variation**

This clause provides for notice of the approved variation to be published in the Australian Capital Territory Gazette and the variation to take effect on and from the date of such publication.

**Division 6 - Plan of Lay-out of the City of Canberra**

**Clause 80 : Modification of section 12A of Seat of Government (Administration) Act 1910**

Clause 55 and the Schedule repeal section 12A of the Seat of Government (Administration) Act 1910 but by virtue of sub-clause 2(2), this repeal does not take effect until the Governor-General declares an end to the transition period under clause 57.

Accordingly, this clause modifies the operation of section 12A during the transition period to take into account the respective responsibilities of the Commonwealth and the ACT.

It is not intended to proclaim this clause to come into operation until self-government day.

**Division 7 - Transfers following repeal of NCDC Act**

**Clause 81 : Transfer of persons employed by NCDC**

The purpose of this clause is to facilitate the re-integration of certain employees of the NCDC (upon its abolition) to the Australian Public Service. Where such employees are also unattached officers of the Australian Public Service and they have not exercised their right to return to duty in the Public Service by the time of the abolition of the NCDC, this clause enables such staff to be re-integrated in the Public Service at the level they held with the NCDC.

**Clause 82 : Contracts**

The purpose of this clause is to enable the transfer of contracts (to which the NCDC was a party) to the Commonwealth or other appropriate body.

**Clause 83 : Assets, rights and liabilities**

The purpose of this clause is to enable the Minister to distribute all the assets, rights and liabilities of the NCDC to appropriate bodies (including the Commonwealth) having regard to which body or bodies will assume the functions of the NCDC upon its abolition. It is intended that 'assets' encompass the entire property owned by the NCDC.

**Clause 84 : Court proceedings**

The purpose of this clause is to preserve Court proceedings to which the NCDC is a party pending or in train at the time the NCDC is abolished.

**Clause 85 : Transfer of appropriate money**

The purpose of this clause is to transfer to the Department of Administrative Services moneys appropriated to the NCDC for national works. That Department will take over responsibility for such works upon the abolition of the NCDC.

## **SCHEDULE**

The Schedule makes necessary amendments to various Acts consequential upon the repeal of the NCDC Act and the establishment of self-government for the Territory.

### **Canberra Water Supply (Googong Dam) Act 1974**

The object of the amendments to this Act is to place the management and control of the Googong Dam Area in the Executive, on behalf of the Commonwealth (see in particular the amendments to section 4).

Proposed new section 6A ensures that, in its management of the Googong Dam Area, the Executive exercises its powers in accordance with any conditions determined by the Commonwealth and relevant Assembly law.

### **Parliament House Construction Authority Act 1979**

#### **Sub-section 10(1)**

The amendment to this section is a direct consequence of the abolition of the NCDC.

#### **Sub-paragraph 40(a)(ii)**

This amendment substitutes the NCPA for the NCDC.

#### **Paragraph 40(b)**

This amendment won't be proclaimed to come into operation until the end of the transition period is declared by the Governor-General under clause 57 of the Bill.

However, from that day, the amendment ensures that the Parliament House Construction Authority may not depart from the provision of the National Capital Plan.

### **Public Works Committee Act 1969**

These amendments remove references to the NCDC in this Act. Unlike the NCDC, the NCPA will not undertake any works in its own right.

### **Seat of Government (Administration) Act 1910**

See notes on clause 80.



