



Appendix D – NCA: consultation processes

Draft Amendments

Only the National Capital Authority (NCA) can propose draft amendments to the NCP. Section 15 of the PALM Act provides for community consultation in relation to amendments to the NCP. In particular, the Act specifies that the NCA should invite interested persons to make written representations about the Draft Amendment within a specified period. In addition, the NCA should consult with the Territory planning authority about the Draft Amendment and ‘have regard to any representations made by the public; and, if it thinks fit, may alter the draft amendment.’

A draft general amendment is released for public consultation for 30 business days. For site specific amendments, such as Draft Amendment 52 – Zoo expansion, the consultation period is 20 business days. Minor Draft Amendments which may involve correcting a spelling mistake are circulated for 5 days.¹

Section 18 of the PALM Act states that the ‘authority shall submit the draft to the Minister for approval, together with a written report on its consultations under section 15.’

If the Territory objects to a draft amendment, which cannot be resolved by the NCA, the responsible Minister must consult with the ACT Government and can give a written direction to the NCA to either disregard the objection or to alter the draft amendment to accommodate the objection wholly or partly. The Minister’s direction must be gazetted and laid before both Houses of Parliament.

¹ National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, pp. 7-12.

When the Minister approves the amendment it is then subject to disallowance by either House of Parliament.² The Minister also has the option under section 19 of the Act to refer the amendment back to the NCA suggesting alterations and or requesting that it conduct further consultation.

The Minister may choose to refer the draft amendment to this committee for review but there is no legislative requirement that this occur. If the committee were to conduct an inquiry, there is no obligation on the Minister or the NCA to adopt the committee's recommendations.

The NCA has developed a new protocol to add detail to its statutory consultation requirements. Site specific and minor draft amendments are specified in the Consultation Protocol. The consultation periods vary between 5 and 30 days depending on the nature of the amendment. Less time is accorded to a site specific amendment. The rationale is that it is easier to identify the stakeholder and, therefore, less time will be needed than with a general amendment.

Development approval, development applications and DCPs

Section 12 of the PALM Act gives the NCA sole responsibility for development approval (called works approval) in designated areas. The NCP provides for public consultation in relation to works approval.³

The committee may be briefed on proposed works in the Parliamentary Zone but there is no legislative requirement for this.

For developments over \$6 million and located wholly or partly within the Parliamentary Zone, the proponent will undertake consultation with key stakeholders and submit a consultation report to the NCA, prior to the development application being lodged with the NCA.⁴

In some instances, special requirements of the NCP require the preparation of a development control plan (DCP) which is approved by the NCA.

A DCP may be 'maps, drawings, photographs, specifications and written statements' and 'should include sufficient detail for the guidance and management of development in the area, and may include design, siting, scale, purpose, timing and phasing, construction, landscaping and other relevant matters.'⁵

2 National Capital Authority, *Submission 55*, p. 21.

3 National Capital Authority, *Submission 55*, p. 35.

4 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 18.

5 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 13.

The NCA releases DCPs for public consultation for 20 business days. Notices are published in *The Canberra Times*. Any supporting information is available on request for public inspection at the NCA office and the National Capital Exhibition in hard copy on compact disc and on the NCA website. At least one public information session is held. A copy of every submission is made publicly available at the NCA office and on the NCA website until a decision is made. Each principal submitter is given an acknowledgement letter. A consultation report is made publicly available at the NCA office and on the NCA website for 20 business days from the decision. Each principal submitter is notified of the decision, how submissions were considered and the availability of the consultation report.⁶

Consultation for development applications is only necessary when required by the NCP. When a development application is lodged and consultation is required, the applicant is required to consult with the community and stakeholders about the proposal. The consultation period is 15 business days and the notices are published in *The Canberra Times*.⁷ For the entire consultation period a notice on a sign is placed on all road frontages of the site. In addition, notice is given to the lessees of all adjoining land. A copy of every submission is made publicly available at the NCA office and on the NCA website until a decision is made.

The proposed Consultation Protocol specifies the consultation requirements for DCPs, and development applications. Some of the key features of the consultation requirements are discussed below.

2007 consultation protocol

The NCA released the draft Consultation Protocol (the protocol) for public comment in August 2006. A supporting discussion paper was prepared outlining what sort of consultation should be considered in any consultation protocol. The NCA stated that the protocol 'aims to standardise and clarify consultation requirements on planning decisions by the NCA.'⁸

The NCA claims that the protocols, once finalised, will help the community and stakeholders understand the consultation processes to be undertaken by the NCA.⁹ In particular, the NCA stated:

It is our intention that the consultation protocol in its final form will be applied to our consultation processes," Mr Rohl said.

6 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 14.

7 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, pp. 15-16.

8 National Capital Authority, *NCA seeks views on consultation*, media release, 3 August 2006.

9 National Capital Authority, *NCA seeks views on consultation*, media release, 3 August 2006.

“Once comments are received and considered by the NCA the final consultation protocol will be developed and released.”¹⁰

In July 2007 the NCA released its final ‘Consultation Protocol’. The purpose of the protocol is ‘to formalise, clarify and provide guidance for the community and stakeholders and to ensure consistency in the application within the legislative requirements, as required by the Act and the NCP.’¹¹

The protocol sets out the minimum requirements which must be carried out:

- when the plan is being made or amended;
- when a DCP is being made or amended;
- on a development application; and
- when the NCA informs community and stakeholders on an annual basis.¹² [The protocol provides for an annual public forum to inform and engage community and stakeholders]

The protocol states that consultation is a commitment by the NCA to:

- inform the community and stakeholders;
- listen to the community and stakeholders;
- acknowledge submissions;
- consider submissions; and
- provide feedback on how submissions were addressed.¹³

The consultation protocol includes provision for review and monitoring. The NCA will review the protocol every two years focusing on the following ten key questions:

- what is consulted on?
- when is consultation carried out?
- who is responsible for carrying out consultation?
- how is consultation carried out?
- how is the information on consultation made available for inspection?

10 National Capital Authority, *NCA seeks views on consultation*, media release, 3 August 2006.

11 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 5.

12 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 6.

13 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 5.

- how long is consultation carried out?
- how can interested persons have their say?
- how are the submissions received during consultation addressed?
- how can interested persons access responses to the submissions and the decision?
- what is exempt from consultation?

Part 5 of the protocol provides for an annual public forum 'to inform and engage community and stakeholders.' In particular, the purpose of the forum is to provide the framework to initiate discussion between the NCA and the community and stakeholders on:

- the previous year's work of the NCA and the challenges and opportunities encountered; and
- the future directions and the anticipated challenges and opportunities.¹⁴

14 National Capital Authority, *Submission 55*, Appendix E, Consultation Protocol, p. 19.

