

The new system is schizophrenic. The Federal Government has set up its own National Capital Planning Authority to look after the National Capital interests in planning and development of Canberra and the Territory Government is to have its own Territory Planning Authority. Each will be responsible for the formulation and administration of its own plan, both of which are still in preparation.

At the present time only the Federal Government legislation is in place. The Territory aspects of the system are still being developed. The old planning policies of the abolished National Capital Development Commission continue in effect but fit very uncomfortably within the new legislative structure. The result has been that a perplexed planning authority has ceased to give approvals in respect of the Central Business District and a number of other areas. That somewhat extreme response has been tempered a little now that the relationship between the planning and legal processes is becoming better understood.

These and other kinks are being ironed out. Moreover, the fact that the situation could not be much worse has meant that a great deal of attention is being focussed on it leading to real hope that some good will come of it all.

There are several pieces of the picture still to come. The National Capital Planning Authority is in the process of preparing its National Capital Plan and the Territory Government is shortly to advance the Territory Planning system to the bill stage. The Territory Plan will come at the end.

The National Capital Plan will deal comprehensively with some areas of the city and will set standards and guidelines for planning and development in other parts. The shape of this plan will determine the demarcation line between the National Capital and Territory Planning Authorities and the extent of its clarity and definition of its parameters will determine to a large extent the smoothness of operation of the whole system.

The Territory Planning system will be the central part of the picture for developers, since it will establish development approval processes and deal with most design and siting details. The legislative scheme proposed attempts to integrate all aspects including controls and heritage and environment protection. Building approvals will remain a separate system.

The new system, when it eventually gets underway, will undoubtedly be better than the old. For a start the lack of distinction between planning approvals and development approvals which has dogged the development scheme in Canberra for several years will be overcome.

A feature will be that formulation of the Plans, and variations to the Plans, will be made after extensive public consultation and political input. The ability to appeal against adverse development approval decisions will be given to developers, a right that does not exist presently.

The extent of the rights of appeal to be given to third parties is a big question. If the system is to work efficiently, the heavy concentration on public input at the Plans preparation stage should mean that there will be

minimal opportunity for third parties to object at subsequent stages. The present proposals are along these lines. If they are not maintained, however the potential exists for a very slow and cumbersome process particularly in relation to redevelopments requiring planning changes.

The picture will be complete by about the middle of 1990. At that time all legislation and both Plans will have been finalised. The Plans will, however, be largely a pastiche of existing NCDC policies and will be subject to revision over time.

The new system is such a departure from the old that it will take a lot of education and some time before both its administrators and its users have some confidence in it. It is too early to be pessimistic, however, since what is happening is full scale redevelopment, not just refurbishing. There is potential, with the right design and with full cooperation between the Federal and Territory authorities, for a reasonably efficient and effective system.

8. NPWC, NBCC AND AFCC CLAIMS AND DISPUTES JOINT WORKING PARTY

The NPWC, NBCC and AFCC Claims And Disputes Joint Working Party reported in Item 9 in Newsletter #7, at page 8, which is developing proposals to address claims and disputes in response to the industry report "Strategies For The Reduction Of Claims And Disputes In The Construction Industry", presented reports in draft form to a joint meeting of the National Public Works Conference and National Building and Construction Council at the end of October 1989.

The Joint Working Party has further work to do in response to comments by NPWC and NBCC on the draft reports. The Joint Working Party intends to finalise the reports for submission to the next NPWC/NBCC meeting in April 1990. The finalised NPWC/NBCC/AFCC Report should be available to the industry shortly after that date.

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9. NEW SOUTH WALES LAW SOCIETY'S SUBMISSION TO BUILDING SERVICES CORPORATION

This submission to the New South Wales Building Services Corporation was prepared by the Law Society of New South Wales' Dispute Resolution Committee and was first referred to in the Newsletter in Item #5 in the July/August 1989 Issue #6, at page 3.

The submission is reproduced with the kind permission of both the Law Society and its Dispute Resolution Committee, due to the importance of the comments and analysis it contains. Although directed at residential building contracts, the submission has a wider relevance to dispute resolution in the industry generally and should be of general interest to all subscribers and not just NSW readers in relation to the NSW Building Services Corporation.