

Assessment of the Performance of the Three Branches of Government in ACT against Latimer House Principles.

North Canberra Community Council Inc. (NCCC) Submission
15 March 2012

NCCC Recommendations:

- The number of MLAs should be increased according to the increase in Canberra population.
- There is a dysfunction in the Government branches operating in the ACT All branches should operate with maximum cooperation avoiding wastes and balancing their resources by solving their skill constraints
- The report requires an additional study on the position of the Community councils in the Act Governance framework covering the communication process between the ACT Government and the Community councils.
- The ACT Auditor General and ombudsman should become officers of parliament to increase the ACT Government integrity safeguard levels.
- To improve ACT governance integrity a Governance Integrity agency should be instituted in Canberra establishing formal coordination and links between designated integrity agencies.
- A Ministry of only 5 is insufficient for effective cabinet government, and raises questions about whether the ACT should continue to operate this type of system without an increase in its size. Given the complexities of running both a city and a state Government the span of Ministers' portfolio responsibilities is immense. The current number of ministers should be expanded proving better governance.
- The creation of an independent Community Advocate legal position in order to assist residential planning legal conflicts sent to the ACT Civil and Administrative Appeals Tribunal (ACAT).

Comments

Prof John Halligan deserves to be praised for the high quality and integrity of his report on ACT Governance. Beneath the praising of some advance of ACT Government to improve governance we alarmingly note that much more need to be done to get close to the Latimer House principles that should be the light on the hill for Governments democratic governance. It seems that previous and current ACT governments were quite complacent in this area.

From John Halligan report we see that a potential tension exists between the Latimer House Principles and constituent features of ACT government despite the extent that certain principles can be fully and appropriately realised in a small and intimate system of

government. The report found problems in Act Government branch processes independence that need to be reconciled with effective relations between branches.

Much depends on the adaptive ability and capacity of the branches in the ACT system in balancing resource and skill constraints with creative interpretation in the application of such principles. ACTPLA low quality planning approval practices during the recent ten years and their uncoordinated relation with other branches like Land Development, TAMS and ACT Environment are all there to validate the ACT executive governance dysfunctional aspects mentioned by the Halligan's report.

Statutory Office Holders, Oversight and Integrity

This report section indicates that much more needs to be done for the statutory Office holder's position to be aligned with the Latimer Principles. The report found that ACT is ten years behind in the integrity area comparing with the state of Victoria. This section should raise an alarm bell because involves important statutory officers such as the Auditor General, the Ombudsman, the Human Right Commissioner and the Director of Public Prosecution.

The statutory officers mentioned above should receive adequate resources and a higher level of independence.

In terms of the Latimer Principles certain statutory office holders should be made officers of the parliament. In New Zealand, UK and other English speaking countries the Ombudsman is a parliamentary officer to protect integrity and independence.

The same applies to Auditor's General role to promote public accountability. Point 78 of the report laments the lack of sensitivity and respect in the lack of consultation in appointing a new Auditor's General in ACT.

To improve ACT governance integrity a Governance Integrity agency should be instituted in Canberra establishing formal coordination and links between designated integrity agencies. This may be a precursor to the integrity branch concept. The report indicated that a parliamentary select committee in conjunction with the relevant oversight agencies should produce the elements of an ACT integrity system and recommend how oversight and integrity will be enhanced.

This is a vital democratic point and all the ACT Community Councils should request the lack of an Integrity System issue to be addressed urgently as a core political promise to be implemented now or at least in the next legislature. Dysfunctional ACT agencies we all know about will a hard time justifying their low quality practices if a proper ACT Integrity System is in place as suggested by the Latimer House Principles for good governance.

Judiciary

The timely delivery of justice is big issue in ACT and has been affected by the different views within the Executive and the Judiciary. We as a council should expect much more progress by the ACT Government in addressing the backlog of judicial work, to improve the Judiciary and Act citizen communication and to enhance the working relationship between the related branches.

ACT residents contemplating opposing a development application need to understand that for some reason, if it goes to the ACT Civil and Administrative Appeals Tribunal (ACAT), then the Planning Authority and the developers become joint parties in opposition to the residents.

There are problems in the way the ACAT. is handling complaints cases by residents against the inefficiency of the ACT Planning authorities. So your tax dollars are used to assist the developers in the case against you, the taxpayer and resident. And linked to this, to make such an appeal is an enormous commitment in time and possibly money. Your taxes are at work here, not for you but against you. The development industry fully understands this. No matter how bad the original submission, they allow in the budgeting for the possibility of dealing with opposition by residents knowing that the government assists the developer's cause as the Planning Authority needs to defend its decision to allow the developments to go ahead, no matter what evidence is presented to show how bad a decision has been made.

Significantly on the day of an appeal, the residents will have to face two legal teams, one each for the Planning Authority and the developer, who then work together to deal with the residents.

We believe that an ACT Community advocate to defend a wide range of planning complaints will be necessary.

Opportunities for Community Councils to have a greater role in government

The system of Community Councils has existed in the ACT for over a decade. John Halligan has not covered in his report the community sections like the Councils. This may be due to the limited scope, time and funding allowed for producing the report. Important missing elements in the report are the position and collaboration of ACT Community Councils. ACT Government should use more of the Councils feedbacks in order to better serve Canberra Governance quality.

Although Community Councils receive Government funding, they are neither formally elected by the areas they serve nor do they have any power to implement the matters on which they have an interest and opinion. In addition, the Legislative Assembly has no formal relationship with Community Councils.

Accordingly, whilst the Government generally accords the councils some courtesy, it can choose to ignore the concerns of Community Councils if it so wishes. This current situation wastes the wealth of local knowledge and expertise that the membership of Community Councils possesses.

Political Executive

Professor Halligan noted in his report that with a Ministry of only 5 members "the complexities of running both a city and a state government the span of Ministers' portfolio responsibilities is immense" (p.4). Given this immense task, it is unfortunate that the resource that Community Councils presents is not better used.

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15 March 2012