

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

**STANDING COMMITTEE ON
PLANNING, DEVELOPMENT
AND INFRASTRUCTURE**

REPORT No. 7

CITY HILL BILLBOARD

FEBRUARY 1991

TERMS OF REFERENCE

On 14 June 1990 the Standing Committee on Planning, Development and Infrastructure resolved that :

The Committee inquire into the circumstances and future of the City Hill Billboard.

On 29 November 1990 the Legislative Assembly passed the following motion :

That :

- (1) if the Assembly is not sitting when the Standing Committee on Planning, Development and Infrastructure has completed its inquiry on the City Hill Billboard, the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker who is authorised to give directions for its printing and circulation; and
- (2) the foregoing provisions of this resolution have effect notwithstanding anything contained in the standing orders.

COMMITTEE MEMBERSHIP

Mr Norm Jensen (Chairman)

Mrs Robyn Nolan

Mr Wayne Berry

Secretary : Greg McIntosh

Keyboard/Clerical : Kim Blackburn

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1. INTRODUCTION

Background

1.1 The Standing Committee on Planning, Development and Infrastructure was formed on 23 May 1989 and its general terms of reference are to inquire and report on matters :

- (a) referred to it by the Assembly;
- (b) considered by the Committee to be of concern to the community; and
- (c) public works proposals that may be referred to it by the Assembly.

1.2 City Hill, bounded by Vernon Circle in Civic, has historically been an important part of the Griffin based design concept for Canberra...

"He selected it as :

- . the northern corner of the Parliamentary Triangle;
- . the focus for the Northbourne Avenue approach into Canberra;
- . the focus of the other City Avenues of Ainslie Avenue, Edinburgh Avenue and University Avenue."¹

1.3 The National Capital Development Commission developed successive Plans for the orderly growth of Canberra and in each of these Plans particular emphasis was placed on City Hill ...

"always recognising its functions as a focus for city activities, its role in linking together the two flanks of Civic, and its role as the northern corner of the Triangle."²

1.4 The "knoll" that is City Hill acts as the physical termination point of Canberra's main avenue – Northbourne Avenue – and as such its location places it at the heart of the city. The Billboard, which faces Northbourne Avenue, has a prominent location and is seen by all motorists and pedestrians as they proceed along the southern reaches of Northbourne Avenue towards Commonwealth Bridge.

1.5 The Committee was of the view that the siting and prominence of the City Hill Billboard warranted investigation and inquiry, particularly in view of the fact that the structure was originally intended to be a temporary feature on the city landscape. Given the now apparent permanence of the Billboard and the degree of anecdotal concern expressed to members of the Committee about the structure it was agreed that a formal inquiry was necessary.

¹ Submission No 48, Attachment 1, page 2, 29 November 1990.

² ibid page 3.

Inquiry Process

- 1.6 The Committee called for written public submissions on the circumstances and future of the Billboard by advertising in the Canberra Times on 13 October 1990 and in the main ACT suburban newspapers in the week following 13 October 1990. The Committee received fifty-one written submissions from organisations and individuals on the issue – see Appendix 1 for a list of submissions received. While formal public hearings were not conducted, the Committee held informal discussions with representatives from the Canberra Festival Inc and the Floriade Board. The Committee also conducted an on site inspection of the Billboard and its functional relationship with City Hill and Northbourne Avenue.

Acknowledgement

- 1.7 The Committee appreciates the cooperation and assistance provided to it by Commonwealth and ACT government officials as well as members of the community during the inquiry.

2. HISTORY OF THE CITY HILL BILLBOARD

2.1 In 1983 The Canberra Festival Inc applied to the then Commonwealth Department of Territories for permission to erect a temporary mural on City Hill. Permission was duly granted and since that time the structure (now commonly called "The Billboard") has been, at first a temporary and then a permanent, feature on City Hill.

2.2 Strict guidelines were drawn up for use of the structure but, according to The Canberra Festival Inc ...

"these guidelines have been increasingly ignored. The original guidelines were: permission for a mural would only be given to events which were seen of major community significance and the use of the site was to be only temporary. The design of the murals was to be clearly a "work of art" with no advertising component (dates being permissible) and with no commercial signage. The design should clearly not be an "advertisement" while it could promote an event."³

2.3 Until 1988 the mural was held in place by temporary scaffolding and was only on display for approximately six to eight weeks per year. For the bicentennial year in 1988 it was decided that the Billboard should be in place for the entire year. In December 1987 the Manager, Operational Support, ACT Parks and Conservation Service, stated that ...

"It is planned that the framework will be in place for the complete calendar year 1988. In subsequent years it may be erected as required for special occasions."⁴

2.4 Accordingly ...

"the Engineering Services Unit received instructions from a member of the Portfolio Bicentennial Committee to build a structure which would accommodate a mural being prepared by ACTAID. The structure was to be 3.375 metres by 25.2 metres and was to be at least 2 metres above ground level at its lowest point. The structure was to be removable ..."⁵

2.5 The normal process whereby all physical structures are authorised by the appropriate authorities was not followed on this occasion because ...

"Given the temporary nature of the billboard planning approval was not sought. Neither had approval been sought for Canberra Festival's use of the site."⁶

3 Submission No 24, page 1, 31 October, 1990.

4 Submission No 49, Attachment B, page 1, 14 December 1990.

5 Submission No 49, page 1, 14 December 1990.

6 ibid page 2.

2.6 According to The Canberra Festival Inc ...

"It was emphasised at that time [1988] that it was still seen as a temporary structure to be used only for special events. However, the "bolting on" system was not used and the uprights were concreted firmly into the ground! Since then, by default, the Administration has been left with a permanent structure. This has meant that signs have been left on for long periods and there is a need to always have something in position."⁷

⁷ Submission No 24, page 2, 31 October 1990.

3. ARGUMENTS FOR AND AGAINST THE SITING OF THE BILLBOARD ON CITY HILL

Arguments Against the Permanent Retention of the Billboard

- 3.1 Thirty-seven of the fifty-one written submissions received by the Committee advocated the removal of the Billboard from City Hill. The common theme in arguments for the removal of the structure was that of aesthetics. It was argued that the Billboard significantly detracted from the "garden city" concept that is so central to Canberra's history and landscape character. Significantly, the two main planning authorities – the National Capital Planning Authority (NCPA) and the Interim Territory Planning Authority (ITPA) strongly put the view that the Billboard was totally inappropriate on City Hill.
- 3.2 The NCPA expressed similar concerns to The Canberra Festival Inc (see 2.2) with respect to the ad hoc way in which the Billboard became effectively permanent ...

"At the beginning of the Bicentennial year, the ACT Administration decided to erect a large version of the Bicentennial logo. Instead of using the scaffold system which had been utilised previously, a specially designed and constructed frame was erected. It is our understanding that this frame was to be bolted onto concrete supports so as to be removable. However, it is understood that this is not the case and that the supporting structural elements have been concreted into position and are, in effect, "permanent". This is a matter for concern as it indicates an intention that there may always be a sign or mural on this central and significant site."⁸

- 3.3 The essence of the NCPA's concern about the Billboard is that City Hill, along with Capital and Russell Hills, are the three principal corners of the National Triangle which is an integral part of Griffin's plan for Canberra. It is considered that City Hill has such primary cultural significance that special planning policies should apply and that ...

"retention of the billboard is inconsistent with that objective and the National Capital Plan (NCP)." Accordingly, the NCPA ... "recommends that the billboard on City Hill be removed at the earliest possible opportunity."⁹

- 3.4 The Department of Environment, Land and Planning (DELP), which includes the ITPA, argued for the removal of the Billboard along the same lines as the NCPA. For DELP ... "the existing situation is that the mural is a "non approved" structure which does not conform to planning policy."¹⁰

⁸ ibid pages 1 – 2.

⁹ ibid, page 9.

¹⁰ Submission No 48, page 2, 29 November 1990.

3.5 The Committee was informed that the ITPA does not believe that independent billboard structures, such as the one on City Hill, are appropriate for Canberra. The ITPA was of the view that allowing such structures to remain may lead to a wider application and use of similar billboard advertising throughout the city.

3.6 However, the Committee was also informed that ...

"other elements of the Department of Environment, Land and Planning consider ... that it should be possible to design and produce some form of Community Information Panel which does not take the form of a traditional billboard"¹¹

– also see section 4 headed Issues and Other Options Relevant to the Billboard.

3.7 Canberra Festival Inc, the organisation that first applied to have the Billboard erected, argued that the mural concept has strayed from its original purpose and intent and therefore the structure should be removed. The Festival also commented that the constant presence of the Billboard detracted from its effectiveness and that a number of the designs and displays that have been used on the Billboard were of a poor standard.¹²

3.8 The National Trust of Australia (ACT) informed the Committee that City Hill had been classified by the Trust on the basis that it is ... "so important, in a heritage sense, that it is paramount to be conserved for future generations." The Trust has also taken action to have City Hill listed on the Register of the National Estate and the proposed ACT Heritage Register.¹³

3.9 The Trust argued that the Billboard should be removed because it ...

"has compromised the landscape, integrity, purpose and aesthetic value of City Hill in the following ways:

- . Visual interruption of City Hill from Northbourne Avenue
- . Visual intrusion of Northbourne Avenue from apex of City Hill
- . Intrusion into landscape setting
- . Intrusion into symmetrical layout of City Hill
- . An introduced element of no historical significance to the original design."¹⁴

¹¹ ibid page 3.

¹² Submission No 24, page 2, 31 October 1990.

¹³ Submission No 10, page 1, 11 October 1990.

¹⁴ ibid, pages 1 – 2.

- 3.10 The Australian Institute of Landscape Architects (ACT) submitted to the Committee that the presence of the Billboard comprised Griffin's design for City Hill and that the Hill has ...

"aesthetic, historic and social importance which does not lend itself to accommodating a billboard."¹⁵

- 3.11 The impact on heritage values was the key argument advanced by the ACT Heritage Committee in favour of removing the Billboard. The Heritage Committee argued that City Hill has important heritage values by virtue of it being a fundamental element of the 1911 Griffin plan for Canberra. According to the Heritage Committee the Billboard ...

"interrupts the view of the Hill from the north and the view north from the Hill. It is also a very intrusive element in an important landscape setting."¹⁶

- 3.12 Associate Professor Ken Taylor from the Faculty of Environmental Design, Australian National University, argued that City Hill is an important part of Canberra's cultural history and that ...

"the siting of the Billboard on such an historic place is contrary to the tenets and practice of cultural heritage conservation and management. One cannot imagine the American National Park Service placing such a structure on the Mall in Washington DC or at the focal points of the Mall. City Hill is as important to Canberra as the Mall in Washington, and is a dominant focal point."¹⁷

Arguments In Favour of Retention of the Billboard

- 3.13 Only ten of the fifty-one submissions received were in favour of the retention of the Billboard on City Hill. A common element of the submissions in favour was the view that the Billboard serves a useful community service as well as "livening" up and enhancing the Canberra landscape.

¹⁵ Submission No 42, page 1, 13 November 1990.

¹⁶ Submission No 39, page 2, 9 November 1990.

¹⁷ Submission No 18, page 1, 23 October 1990.

- 3.14 The ACT Tourism Commission stated that it had used the Billboard on several occasions ...

"as an element in its marketing strategies, designed to raise the level of local awareness of the tourism industry. Whenever the Billboard has been used we have received a good deal of favourable feedback ... Visitors have indicated that the sign adds a sense of community to the city area and its colourful messages are often informative and artistic ... it is important to break the sterile image Canberra has built up over many years. A strong body of research developed by the Commission indicates that many Australians are alienated by Canberra "boring" and difficult to read signs ... we feel that it would be unfortunate if one of the only unstructured signs in Canberra were to be removed. On occasions, however, the Commission has received some negative feedback in relation to the sign. This has focused on a number of displays which have been considered "amateurish" in that they have been poorly designed and finished. This criticism highlights the need to ensure that if the Billboard is to remain we should ensure that it is only used as a backdrop to quality displays."¹⁸

- 3.15 The Royal National Capital Agricultural Society, like the Tourism Commission, has been a regular user of the Billboard and advocates its retention on City Hill. The Society argued that it "has never heard one criticism about its content or about where it is located" and that the Billboard has been one of the contributing factors to the Canberra Show reaching its target audience and making the Show, on a per capita basis, one of the highest attended events in Australia. In terms of the heritage significance of the site, the Society ...

"does not believe that the historic value, integrity, purpose or aesthetic value of City Hill is compromised by the siting of the Billboard/Mural in its present position ..."¹⁹

- 3.16 The ACT Region of the Australian Federal Police also supported the retention of the Billboard on City Hill. Earlier this year the Federal Police used the Billboard to promote "Crime Prevention Week" and according to the submission ...

"There was considerable comment received from the public and businesses on the use of the mural and I am pleased to say that all of it was positive ... It is the ACT Region's view that with the current guidelines for its use, the mural clearly enhances community involvement with the city of Canberra and adds to the character that is quickly developing in the National Capital."²⁰

¹⁸ Submission No 47, page 1, 23 November 1990.

¹⁹ Submission No 45, page 4, 15 November 1990.

²⁰ Submission No 9, page 1, 29 August 1990.

3.17 A submission argued that the Billboard should be retained in its present location for the following reasons:

- " . The scarcity of any other such features which normally garland any major town or city
- The role such a facility can (and does) play in publicising social issues, community groups and ACT features (I see no need to have commercial billboards in Canberra although I miss them from other cities – yet the use of images, colour and text in public spaces is a fundamental human activity and should not be stifled in the all encompassing "garden city" image/idea ...).²¹

3.18 Another submission argued that the Billboard was a welcome addition to the "public information channels" in the ACT and that "contrary to the implication in press reports, the billboard is not too prominent or too obvious." She further argued that the ACT Government could save money in its advertising budget by retaining and fully utilising the Billboard.²²

3.19 Other comments made in the submissions were that the Billboard:

- "was an important feature of life in the Capital City and a means to get a message across."²³
- "is the only real indication that there is a local community... In a town that is renowned for its lack of "soul" the billboard strikes a blow against the sterility of the place. The billboard adds interest and humour, as well as being informative. It does not detract from the image of Canberra, the National Capital."²⁴

Arguments in Favour of Retention of the Billboard for Special Events

3.20 The Billboard, because of its prominent location at the end of Northbourne Avenue, is seen by pedestrians and motorists and provides a central location for promoting special events.

3.21 The original intention was that the Billboard would be only erected for special occasions such as the Canberra Festival and the Floriade. The Canberra Festival Inc, referring to the original guidelines for the use of the Billboard, argued

²¹ Submission No 29, page 1, 3 November 1990.

²² Submission No 6, page 1, 2 July 1990.

²³ Submission No 2, page 1, 14 October 1990.

²⁴ Submission No 1, page 1, 12 October 1990.

that ...

"over the years these guidelines have been increasingly ignored. The original guidelines were: Permission for a mural would only be given to events which were seen to be of major community significance and the use of the site was only to be temporary."²⁵

During the informal discussions with a representative from the Floriade Management Committee the view was expressed that the Billboard was an important part of their promotional activity.

- 3.22 The ACT Tourism Commission, in supporting the retention of the Billboard, advised that they had used the sign as an element of their marketing strategy,²⁶ "designed to raise the level of local awareness of the tourism industry." However, the Commission also expressed concern at some of the "amateurish" displays that have been posted on the Billboard (see 3.14).
- 3.23 The Committee noted widespread concern in the community that the Billboard was not being used as it was originally intended. This has led to the use of the Billboard for community advertisements which did not comply with the high standards that had been developed for the original art work, despite attempts by the ACT Administration to develop appropriate guidelines for design and artwork on the Billboard. If the use of the Billboard was restricted to special occasions, such as the Canberra Festival and the Floriade, then the high standards expected of the art work would be more likely to be attained.

²⁵ Submission No 24, page 1, 31 October 1990.

²⁶ Submission No 26, page 1, 23 November 1990.

4. OTHER ISSUES RELEVANT TO THE INQUIRY

The Role of the National Capital Planning Authority

- 4.1 Under the Australian Capital Territory (Planning and Land Management) Act of 1988 the National Capital Planning Authority was given authority to develop a National Capital Plan for Canberra. The Act provides that the Plan may specify areas that have special significance (Designated Areas). In these areas of special significance the NCPA is responsible for the approval of works and overall planning, design and development. In January 1991 the National Capital Plan came into force and included in the Plan is the listing of City Hill and environs as Designated Areas. In its submission (written before the Plan came into force) the NCPA stated that ...

"if the proposal [the Billboard] were submitted to the Authority for works approval, as it would have to be once the National Capital Plan is approved, the structure would not be approved."²⁷

- 4.2 As at the time of the finalisation of this report the Committee understands that the ACT Administration has not received any written advice from the NCPA with respect to the removal of the Billboard.

The Planning Process

- 4.3 A subsidiary issue is the adequacy of the planning process as it applies to structures like the Billboard that are erected by ACT government agencies, individuals or other organisations. Whilst the Committee recognises the difficulties that will arise when there are two planning authorities (the ITPA and the NCPA) and two governments (the Commonwealth and the ACT) involved in the planning process, particularly in the early years of self-government, it nevertheless is difficult to comprehend why the Billboard was allowed to become permanent when the guidelines for its use were quite specific.

- 4.4 The NCPA, when commenting on the fact the Billboard had in effect become "permanent" in 1988, said that ...

"This is a matter for concern as it indicates an intention that there may always be a sign or mural on this significant site... In March 1990, the Authority wrote to the ACT Administration expressing its strong opposition to the retention of the current billboard, recommending that consideration be given to more appropriate, alternatives sites ..."

²⁷ Submission No 44, page 9, 12 November 1990.

The NCPA also commented that ...

"A valid view which has been repeatedly expressed is that the sheer scale of the billboard exceeds design standards which control approvals for commercial signs on leased land in the ACT. These standards are set out in the NCDC "DESIGN AND SITING POLICIES" which remain current and are applied by both the NCPA and the ITPA in assessing applications for signs approval. The Government agencies responsible for establishing and administering design standards for signs in our community should be guided by those very standards in the design of community signage provided by Government."²⁸

- 4.5 The Committee is concerned that no decisive action had been taken by the two planning bodies to either provide formal planning approval for the continued use of the Billboard or seek its removal. Notwithstanding problems caused by the delay in approval of the National Capital Plan, evidence provided to the Committee showed that both Authorities did not approve of the current structure. It is clear that during this interim period there has been an unfortunate policy vacuum in areas proposed as "designated areas" by the draft and certified National Capital Plan.

Community Information Panels Located Elsewhere?

- 4.6 Many of the submissions that advocated the removal of the Billboard nevertheless believed that there was a need for some type of "signage" that would enable the promotion of local events and campaigns. A common sentiment was: "I/we have no objection to the mural/billboard concept, but please not on City Hill."

- 4.7 DELP argued that ...

"if the mural is to be retained at a site other than City Hill then it needs to be located at a place that provides prominence, satisfactory line of sight, and does not constitute a safety problem. The location of the mural on any of the major traffic routes into and out of Canberra would require consultation with the NCPA ... while space might be made available for the provision of community information and promotion of community activities, this should not be in free-standing, billboard style."²⁹

- 4.8 The NCPA said that it was ...

"concerned to ensure that there are reasonable opportunities for well placed, well designed advertising displays in appropriate locations adjoining Canberra's major avenues... The Authority believes there is merit in investigating a series of sites for signs at or near the tourist "lay-bys" which already exist on the main access routes entering the ACT."³⁰

²⁸ Submission No 44, page 6, 12 November 1990.

²⁹ Submission 48, pages 3 – 4, 19 November 1990.

³⁰ Submission No 44, page 6, 12 November 1990.

4.9 Various other submissions were put to the Committee advising of possible alternatives to the Billboard as presently sited on City Hill. For example:

- . "the erection of a mural type, night lit welcoming gate in the median of Northbourne Avenue and on the southern side of Barry Drive. Designs of such a gate should be sought through a design competition, amongst resident landscape architects and architects practising in Canberra."³¹
- . community messages could be attached to ACT Administration buildings, including the Assembly, and that smaller billboards be permitted around Vernon Circle.³²
- . the space in the lay-by adjacent to the Information Centre in Northbourne Avenue be used for billboard type promotion of special events.³³

4.10 It became obvious to the Committee during the course of the inquiry that the whole of issue of signage needs to be addressed, particularly in the light of the fact that planning responsibility in the ACT is divided between the two tiers of government.

4.11 The Committee considers that the two authorities responsible for planning approvals in the ACT should prepare draft guidelines for the construction and location of signage, as the Committee proposes to review the entire issue.

³¹ Submission No 36, page 2, 6 November 1990.

³² Submission No 43, page 1, undated.

³³ Submission No 24, page 2, 31 October 1990.

5. CONCLUSION AND RECOMMENDATION

5.1 The Committee noted wide ranging support for the removal of the permanent Billboard from City Hill. Accordingly, the Committee concludes that the current Billboard is inappropriate and should be removed as soon as existing commitments for its use have been finalised.

5.2 **The Committee recommends that :**

the current Billboard on City Hill is inappropriate and should be removed as soon as existing commitments for its use have been finalised.

Norm Jensen
(Presiding Member)
15 February 1991

Appendix

LIST OF SUBMISSIONS RECEIVED

1. Ms Julie McCarron-Benson
 2. Mr Geoff Smith
 3. Mrs Jean Main
 4. I R Jones
 5. Mr Robert Story
 6. Ms Kaarina Sutinen
 7. Mr W R Morris
 8. Ms Beverly Whitten
 9. Asst. Commissioner Brian C Bates
 10. Mr Peter Michelson
 11. Dr David W Wilson
 12. Mr Don Bradford
 13. Mr & Mrs H Trowbridge
 14. Mrs Helen Crisp
 15. Ms Claire Law
 16. Mrs L R Bliss
 17. Mr Ron Metcalfe
 18. Associate Professor Ken Taylor
 19. Ms Dorothy Filshie
 20. Mrs Betty Brand
 21. G C Shannon
 22. Mr Bernard V Fennessy
 23. Mr Dale Budd
 24. Ms Ellen Blunden
 25. Mr John C Erskine
 26. Mr Paul Bombardier
 27. Mrs J Brighton
 28. Ms Wendy Cosford
 29. Mr Stuart Read
 30. Ms Nancy E Reid
 31. Dr M H Doobov
 32. Mrs Elizabeth Hall
 33. Mr Maurice Day
 34. Mrs F M Barrell
 35. D Lubach
 36. Mr John Gray
 37. Ms Barbara Wain
 38. Miss K J Walker
 39. Mr Eric Martin
 40. Ms Janice Horne
 41. Ms Audrey Peters
 42. Ms Jane Easthope
 43. John & Moira Rowland
 44. National Capital Planning Authority
 45. Royal National Capital Agricultural Society
 46. Ms Frederica Dascarolis
 47. ACT Tourism Commission
 48. Department of Environment Land and Planning
 49. DELP (Supplementary Submission)
 50. ITPA (Supplementary Submission)
 51. ACT Consumer Affairs Bureau
- The Smith Family
- Australian Federal Police
National Trust of Australia (ACT)
- Faculty of Environmental Design, ANU
- Canberra Festival
- ACT Heritage Committee
- Australian Institute of Landscape Architects

ADDITIONAL STATEMENT BY MRS ROBYN NOLAN MLA

It is with some regret that it is necessary to add an additional statement to this report. The reference was adopted by the Committee after a motion was put forward by myself following considerable comments made by members of the community about the quality of information appearing on the Billboard and that the nature and purpose of the original structure had changed.

Even in 1988 (after it was erected for 12 months to promote the bicentennial year) the Billboard was still seen as a temporary structure to be used only for special tourism events. It is unfortunate that it has become a permanent structure.

There is no doubt that now, in 1991, the permanent structure should be removed. However, I believe that there is still a need to promote special events such as the Canberra Festival and the Floriade. A temporary structure only to be erected to promote special tourism events based on the original nature and purpose of the Billboard would achieve the required promotion for these special events.

Many of those who forwarded written submissions, argued for the removal of the Billboard but given no public hearings were conducted it was difficult to ascertain whether those who put forward submissions fully understood the original intention for the structure. Many of those who argued for its removal may well accept a temporary structure to promote significant special events.

There is no doubt as it is stated in paragraph 3.20 that

the Billboard, because of its prominent location at the end of Northbourne Avenue, is seen by pedestrians and motorists and provides a central location for promoting special events.

My view is that while I agree with the main recommendations of the report, I believe a second recommendation should have been added.

A temporary structure be erected to promote special events such as the Canberra Festival and the Floriade. The structure should be smaller than it is now, and erected only for the duration required to promote these two very significant tourism activities.

R Nolan MLA

**ADDITIONAL STATEMENT BY MR WAYNE BERRY MLA
CONCERNING COMMITTEE PARTICIPATION
BY AUSTRALIAN LABOR PARTY MEMBERS**

On 27 March 1990 (Hansard page 879) the Leader of the Opposition, Ms Follett, said in relation to the Government's restructure of committees:

"Ms Follett: ... I have said many times before that we stand ready to participate fully in the life and the work of Assembly committees. But committees must be an arm of the Assembly and not simply a rubber stamp for Government decisions ... It is extremely important that there is a clear separation of powers between the Executive Government and the Assembly and this separation must not only occur in fact but it must be seen to occur – even to the casual observer ... The Labor Party will not be seen as part of a committee which appears to be an Executive Committee ... we will not serve on a committee which is chaired by an Executive Deputy who has portfolio responsibilities in that committee's area of responsibility."

I agree that there must be and must be seen to be a clear separation between Assembly committees and the Executive if these committees are to have a credible independence from the Executive Government. In my view, there is no logic in Mr Jensen's continuing as chair of the Standing Committee on Planning, Development and Infrastructure if there is a wish by Government to preserve this important concept of parliamentary government. In other words, it is reprehensible for the ACT Government to persist with a mechanism of parliamentary democracy which so arrogantly ignores the requirement to preserve the independence of standing committees of this Assembly and to be seen so to do.

On the other hand, the Government is apparently keen to ensure that executive deputies are given something as important to do as the recently invented title suggests. It is also apparent that as part of forming the alliance, it had to be attractive to new members to accept their new role – though not as ministers – and personal preference as well as party political interests formed the basis for the allocation of Executive Deputy assignments and the chairs of committees.

It is this later assignment where the Government and its members, in the Labor Party's view, failed to give due consideration to the need to properly separate the Executive role from that of the Assembly. Unfortunately it also appears that the Government, having made its decision, has no process available to it whereby its attitude to this important issue might change.

On 15 May 1990 at a meeting of the Standing Committee on Planning, Development and Infrastructure, I drew the above mentioned position to the attention of Mr Jensen, the Liberal, Residents Rally and Independents Group ACT Government Executive Deputy responsible for planning.

I then requested that because of Mr Jensen's Executive Deputy responsibilities for planning, that he stand down as chair of the committee. Mr Jensen declined.

I note that the Labor Opposition is not alone in the Assembly in its concerns about the future functioning of Assembly committees. It is a matter of record that Mrs Nolan made statements to the Standing Committee on Planning, Development and Infrastructure expressing her concern that the composition of the committee, consisting of two Government members only, might be seen as improper.

I also requested that Mr Stefaniak not make himself available for the position of presiding member of the Standing Committee on Legal Affairs on the grounds of bias. He refused, though at the same time, acknowledged that there would be instances where the question of conflict of interest between his Executive Deputy duties and his position as presiding member of the committee would cause him to stand down.

On the issue of bias, one needs only to turn to the courts for guidance and while the attention of the courts is directed at those who might carry out a judicial function, it is nevertheless the case in my view that the same rules should apply in determining the propriety of executive deputies performing the duties of presiding member on committees where there is an overlap between the respective executive deputies and the committees on which they serve.

The courts have made clear the point and as Lord Denning said in *Metropolitan Properties Co. v Lannon* 1969:

"The court looks at the impression which would be given to other people. Even if he was an impartial as could be, nevertheless if right minded persons would think that in the circumstances, there was a real likelihood of bias on his part then he should not sit ..."

I repeat that the Labor Opposition is keen to participate fully in an Assembly committee system which is not under a cloud regarding its independence. In my view it is an issue for the parties to the ACT Government whether or not they too wish to have the Assembly committee system seen to be independent by the ACT community.

W Berry MLA