

Its all about jurisdiction

Short comment

General Comments regarding s125 of Constitution and the agency relationship between the Commonwealth and ACT Government

1. As the ACT government is the agent of the Commonwealth and does not hold title of land in the ACT itself, its legislative powers being restricted to the ACT, can only represents what land that the Commonwealth holds under both the corresponding Seat of Governments Act 1909 between the Commonwealth and NSW which includes the Schedules, then any proposed NCA amendment must reflect any existing or likely constitution limitation for both the Commonwealth and the ACT government. As well, both the NCA and ACT are both not immune from the Commonwealth Native Title Act.

In sum, as the legislative agent of the Commonwealth, validity, purpose and jurisdiction of any exercise of statutory powers ACT on behalf of the Commonwealth require the exercise of having the Commonwealth authority in the first place within the ACT. The ACT cannot just recite itself into powers akin to a state nor if such Commonwealth power is not there for the ACT government to do so. The ACT government legislative powers and jurisdiction began in the ACT and stops at its borders.