

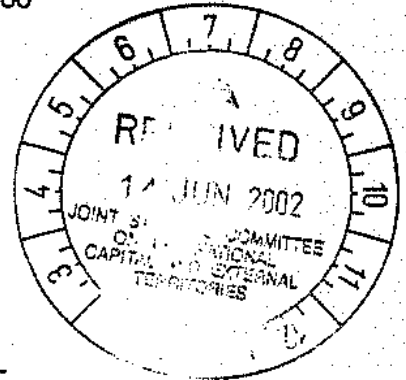


SUBMISSION 4

21 State Circle  
FORREST, ACT 2603  
Tel: 6295-1771  
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14 June 2002

The Chairman  
Parliament of Australia  
Joint Standing Committee On The  
National Capital and External Territories  
Parliament House  
CANBERRA ACT 2601



Re: INQUIRY INTO DRAFT AMENDMENT 39 (April 2002) OF THE  
NATIONAL CAPITAL PLAN

I refer to the Committee's letter of 22 May 2002 in respect of this matter.

I make the following submission regarding the design and siting requirements for the residential areas of Forrest and Deakin that are between State Circle and National Circuit.

#### SUMMARY OF MAIN POINTS

1. On 18 August 1999 Mr. James Birrell, Chairman of the National Capital Authority's ("the NCA") Parliamentary Zone Review Advisory Panel ("the Panel") handed down the Panel's views as to the future land use policies for the sixteen (16) residential blocks of land in Section 6, Division of Forrest.
2. One of the Panel's views was that medium density housing could be considered on its merits.
3. Whereas Draft Amendment 39 (November 2000) provides provisions in general terms for medium density housing, amendment "A" of the revised Draft Amendment 39 (April 2002) sets out specific requirements which could inhibit this type of development being considered on its merits. Thus the effect would be to nullify the Panel's decision.

#### RECOMMENDATION

That the Committee adopt the provisions set out in Draft Amendment 39 (November 2000) under the title "Deakin/Forrest Residential Area".

#### BACKGROUND

1. As early as March, 1988 Senator Margaret Reid commented that the new Parliament House would have an impact on some of the residential areas in its vicinity and wondered what the future would be for State Circle and the roads nearby. She referred to what had occurred on Barry Drive in the suburb of Turner, ACT where, due to the impact of expansion, houses were replaced by office buildings (Ref: Senate, Daily Hansard, 24 March 1988 at p. 1311).

2. On 28 October 1993, I attended a Canberra Real Estate Institute seminar at which the guest speaker was Mr. John Bolton, Director Planning Projects for the NCA who spoke on, *inter alia*, the future development of State Circle. In conclusion Mr. Bolton stated that a discussion paper on the future land use designation of lots facing State Circle would be issued for public comment during the month of December, 1993.
3. It was with some concern that in June, 1994 I found out that the NCA contemplated a joint study on this issue with the ACT Planning Authority to be scheduled sometime in the 1994/1995 financial year. I felt this to be an unreasonable delay and that the NCA could finalise the matter without detailed consultation with ACT Planning as the NCA had sole responsibility for such planning within this "Designated Area" being the Forrest/Deakin precinct of the Central National Area.
4. My views were expressed to the Chairman of the Joint Standing Committee on the National Capital and External Territories by letter dated 1 June 1994 (Annexure "A").
5. By letter dated 20 June 1994 the Joint Standing Committee replied that they could not assist me but that a copy of the my letter had been forwarded to Mr. Bolton who was then Acting Chief Executive of the NCA (Annexure "B"). No reply was received to my letter from the NCA. To the best of my knowledge the proposed study did not take place.
6. On 31 January 1999 Air Marshall David Evans (Retired), Chairman of the NCA announced in the Canberra Times that the aim of the NCA, as it entered its second decade, was to be more decisive and positive.
7. With this in mind the Forrest Section 6 Redevelopment Association was formed representing the owners of the sixteen blocks within the area bounded by Hobart Ave., State Circle, Melbourne Ave. and Somers Cres. to discuss issues regarding the future of Section 6 with a view of putting forward a development proposal to the NCA.
8. At the Association's first meeting on 21 April 1999 I was appointed Chairman of the Association. Messrs O'Sullivan and Whitem were appointed Committeemen. The members resolved that a letter be sent to the Chairman of the NCA seeking a meeting with the NCA to discuss and reach a mutually satisfactory decision on the most appropriate future use or uses of the land within Forrest Section 6.
9. The Association met with the NCA on 8 June 1999, and at the invitation of Mr. Birrell, the Association made a submission to the Panel reviewing the NCA's Parliamentary Zone Plan. (Annexure "C").
10. On 18 August 1999 at the invitation of Mr. Birrell, Mr. O'Sullivan and I attended the Panel's meeting where the Panel's views for land use policies for Section 6 Forrest were conveyed to us.
11. By letter dated 6 September 1999 the Association received from the NCA what in NCA's view was the Panel's decisions (Annexure "D"). This did not accord with the notes I took at the meeting of 18 August 1999.

12. In order to clarify the issues a letter was sent to the NCA on 8 November 1999 (Annexure "E"). The Association received a reply from the NCA on 8 December 1999 (Annexure "F").
13. NCA's letter of 8 December 1999 was tabled at the Association's meeting of the same date. It was decided by those present that no future meetings of the Association were necessary in view of the Panel's land uses decision for Forrest Section 6.
14. On November 16, 2000 I received, in my former capacity as chairman of the Association, a copy of NCA's Draft Amendment 39 (November 2000) which I arranged to have distributed to all lessees within Section 6 for their information.

#### NATIONAL CAPITAL PLAN - APPENDIX P

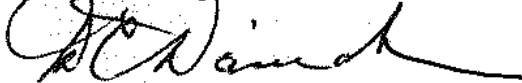
15. Appendix P-Dual Occupancy of Detached House Blocks came into effect as part of the National Capital Plan in 1990. It has not been revised to date. Appendix P-Location and Scope, so far as it is relevant, reads as follows:  
  
"Subdivision of a block into two separate parcels will not be permitted under the policy. Unit-titling would not be permitted under the provisions contained in the Unit Titles Act 1970."
16. Although the NCA has on many occasions stated that the current land use policies permit dual occupancy in Forrest Section 6, the above mentioned general policy has been a major deterrent for the lessees realising a proper return on the capital invested since a dual occupancy that has not been strata titled is difficult, if not impossible, to sell in Forrest. The only alternative would be to use Company Title, a system that unit titling was meant to replace.
17. It was with some consternation that I discovered, during the time the Association was in negotiations with NCA that, without the NCA's knowledge, Block 17, Section 5, Forrest (a corner residential block within the Central National Area known as 11 Melbourne Ave./ 65 National Circuit) had been built as a dual occupancy and then strata titled under the Unit Titles Act 1970.
18. A more recent event strengthens the concern that I have of the NCA not having in place proper control mechanism in administering the policies set out in the National Capital Plan in a fair and even handed manner when dealing with residential development matters.
19. The event in question was the failure of the NCA to satisfy itself that the lessee of Block 6, Section 6, Forrest (known as 15 State Circle) had informed adjacent lessees of his application for dual occupancy.
20. Appendix P-Specific Policies, so far as it is relevant, reads as follows:  
  
"Prior to consideration of an application for dual occupancy, the National Capital Planning Authority will require an assurance from the applicant that neighbours have been informed of the proposal. Neighbours for this purpose are considered to be lessees having a mutual boundary with the subject block."

21. It will be watched with interest to see if the NCA allows unit titling of 15 State Circle upon completion of the building works presently under way in view of the restriction in Appendix P as set out in paragraph 15 above.

#### CONCLUSION

It is hoped that the Committee will adopt, as a just and reasonable decision, the RECOMMENDATION suggested in this submission.

Yours faithfully,

A handwritten signature in cursive script, appearing to read 'D. Davidson', written in black ink.

DONALD C. DAVIDSON

# ANNEXURE "A"

9406999

1 June 1994

Mr R.L. Chynoweth, MP  
Chairman  
Joint Standing Committee on the National Capital  
and External Territories  
Parliament House  
Canberra

Dear Mr Chynoweth,

I refer to the following letters regarding proposed variation to the land use designation for houses facing State Circle between Hobart and Melbourne Avenues in the suburb of Forrest, ACT:-

- . Letter from you to Mr L.G. O'Sullivan dated 9/2/94.
- . Letter to you from Mr G.N. Prattley dated 13/1/94.

I have been requested by Mr O'Sullivan and Mr George Scott, lessee of 15 State Circle, to respond to the above mentioned letters. I am the lessee of 21 State Circle and remain the only owner residing in one of the eight houses the subject of this letter.

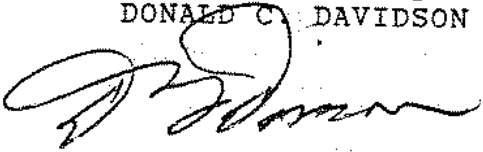
By way of background information I wish to inform you that Messrs Scott and O'Sullivan and myself attended a Real Estate Institute seminar on the morning of 28 October 1993 at the Ollims Hotel Canberra at which the guest speaker was Mr John Bolton, Director Planning Projects for the National Capital Planning Authority. Mr Bolton spoke on inter alia the future development of State Circle. In conclusion, Mr Bolton stated that a discussion paper on the future land use designation of lots facing State Circle would be issued for public comment during the month of December 1993.

It is with some concern that we now find that the National Capital Planning Authority is contemplating a joint study on this issue with ACT Planning Authority sometime in the 1994/95 financial year. We consider this to be an unreasonable delay in view of Mr Bolton's comments at the Institute's seminar and the fact that NCPA can finalise this matter without the detailed consultation with the ACT Planning Authority as the NCPA has sole responsibility for such planning within this "Designated Area".

It should be noted that a Draft Proposal for public comment was prepared by the Interim Territory Planning Authority in August 1988 addressing this very issue. At that time it was ITPA's recommendation that there be a variation from residential to commercial/professional office land use for these lots. We therefore feel that with little effort on NCPA's part that such a discussion paper as announced by Mr Bolton last October could be issued by mid-July 1994.

We therefore request an appointment with you to address these matters and formulate a plan of action so that NCPA can disseminate the discussion paper within this time frame. I await your reply to our request.

Yours faithfully,  
DONALD C. DAVIDSON



# ANNEXURE "B"



PARLIAMENT OF AUSTRALIA  
JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL  
AND EXTERNAL TERRITORIES

Parliament House  
Canberra ACT 2600  
Tel: 06 277 4355  
Fax: 06 277 8506

20 June 1994

Mr Donald C Davidson  
W H Johnston Davidson & Co.  
Barristers and Solicitors  
GPO Box 1862  
CANBERRA ACT 2601

Dear Sir,

## Future Development of State Circle

Thank you for your letter of 1 June 1994 to the Chairman of the Committee. Your letter has been distributed to, and considered by, members of the Committee.

As you are aware, this Committee has a role in reviewing proposals for the development of the National Capital. However the Committee can only inquire into and report on matters referred to it by the appropriate Minister or either House of the Parliament. The Committee is not responsible for the day to day planning or administration of National Capital land, nor can it initiate its own inquiries into National Capital issues.

The Committee does not presently have a reference to inquire into the development of State Circle. For this reason, it would not be appropriate for the Committee to pursue your concerns at this time. However, I have forwarded a copy of your letter to Mr John Bolton, Acting Chief Executive of the National Capital Planning Authority, for his information and action as appropriate.

The Committee is unable to assist you further in this matter.

Yours faithfully,

A handwritten signature in cursive script that reads "Meg Crooks".

Meg Crooks  
Secretary

# ANNEXURE "C"

FORREST SECTION 6 REDEVELOPMENT ASSOCIATION  
21 State Circle  
FORREST, A.C.T. 2603  
Tel: (02) 6295-1771  
Fax: (02) 6239-7780

15 June 1999

Ms Annabelle Pegrum  
Chief Executive  
National Capital Authority  
10-12 Brisbane Avenue  
BARTON, ACT 2600

HAND DELIVERED

Dear Ms Pegrum,

This letter is written in response to Mr Jim Birrell's invitation to the Association to make submissions to his Advisory Panel presently reviewing the NCA's Parliamentary Zone plan.

This invitation arose out of a meeting on 8 June 1999 attended by:

for the National Capital Authority

Mr Jim Birrell, Director  
Ms Annabelle Pegrum, Chief Executive  
Mr David Wright, Director ( Development Approvals)

for the Association

Mr Donald Davidson, Chairman  
Mr Laurie O'Sullivan, Committeeman  
Mr David Whittem, Committeeman

The blocks in Forrest, Section 6 were released by the Commonwealth Government in the late 1950's for standard residential dwellings. To ensure a high standard of quality each lease contained a covenant stipulating that the initial lessee had to erect one building (with the necessary and usual outbuildings and fences) at a cost not less than the sum of £12,000 to £10,000 on the block.

Since the early 1980's the high degree of residential amenity of these prestige blocks has suffered from the ever increasing impact of traffic flow and its associated ramifications (ie noise and air pollution, day long curb side parking) as a result of the extensive building of major Commonwealth offices as well as multi story commercial buildings.



Consequently many of these once high quality residential premises are no longer inhabited by single families with the result that present lessees are reluctant to outlay major capital funds which are required for these 35 to 39 year old dwellings.

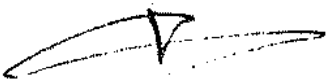
It is submitted that the blocks so severely affected should have their purpose clause amended by omitting the "residential". This very issue was the subject of a letter by the National Capital Planning Authority to Mr O'Sullivan dated 21 April 1989. There has been no decision since that time.

It is apparent that with ever increasing development in the Central National Area, and the Parliamentary Zone in particular, that the critical question for professional planners is: What is the appropriate purpose for the Forrest Section 6 blocks. The Association at its initial meeting on 21 April 1999 considered this question in the context of Walter Burley Griffin's plan for the area.

The consensus was that as certain blocks within Section 6 facing State Circle are in the designated area known as "The Avenues" as well as the Central National Area a uniform development of prominent office buildings would reinforce the image of both the Central National and the Parliamentary Zone Areas and remove the need to continue to develop less accessible sites (eg West Deakin) for national functions that ought to be located near Parliament House.

The Association thanks you for the opportunity to make this submission and awaits the Mr Birrell's Advisory Panel's decision regarding the redevelopment of Section 6, Division of Forrest.

Yours faithfully,



DONALD C. DAVIDSON  
Association Chairman

# ANNEXURE "D"



## NATIONAL CAPITAL AUTHORITY

File No. 97/372

Mr. Donald Davidson  
Forrest Section 6 Redevelopment Association  
21 State Circle  
FORREST ACT 2603

Dear Mr. Davidson,

### **SECTION 6 FORREST – LAND USE POLICIES**

I refer to your letter dated 15 June 1999 and to our meeting on 18 August 1999 at which the Chairman of the Authority's Parliamentary Zone Review Advisory Panel advised you and Mr. O'Sullivan of the Panel's views.

I confirm that, in the Panel's view, the demand for new buildings related to Canberra's function as the National Capital, including uses related to Parliament House, is not likely to be great over the next few years. As such it is in the interests of the National Capital to ensure that such uses are located in areas where they can contribute most to the continued enhancement of the National Capital. In the Panel's view, this is best achieved by concentrating such uses within the Parliamentary Zone.

On this basis the Committee does not support proposing an Amendment to the National Capital Plan to broaden the range of uses permitted in Section 6 Forrest beyond those normally permitted on, or in association with, residential leases. In this regard, I draw your attention to the fact that the National Capital Plan does not have retrospective effect. Consequently, any entitlements lessees had in their lease at the time the National Capital Plan came into effect were unaffected.

The possibility of sites being used for diplomatic purposes was discussed. While there would be no difficulty in leasing sites in the area to diplomatic missions for residential purposes, the introduction of chanceries would require both an Amendment to National Capital Plan and a lease variation for the relevant lease or leases. The Authority is unlikely to propose such an Amendment without the support of other relevant agencies of the Commonwealth, including the various security services. Such a proposal is also contrary to the long standing policy which encourages diplomatic missions currently located in residential areas to relocate to the diplomatic areas of Yarralumla, Deakin and O'Malley.

Should you require any further advice on the matter, please do not hesitate to contact me on 6271 2840.

Yours sincerely,

**DAVID T WRIGHT**  
Director (Development Approval)  
6 September 1999

# ANNEXURE "E"

FORREST SECTION 6 REDEVELOPMENT ASSOCIATION  
21 State Circle  
FORREST, A.C.T. 2603  
Tel: (02) 6295-1771  
Fax: (02) 6239-7780

# COPY

8 November 1999

Mr D.T. Wright  
Director (Development Approval)  
National Capital Authority  
10-12 Brisbane Avenue  
BARTON ACT 2600

HAND DELIVERED

Dear Mr Wright,

## SECTION 6 FORREST - LAND USE POLICIES

I refer to your letter dated 6 September 1999; postmarked September 17, 1999 and received by me upon my return to Canberra in mid-October.

Although I had received a copy of this letter by facsimile from you on September 13, 1999 I chose to wait with my reply until I had received the signed original.

I note in your letter the National Capital Authority's (NCA) Parliamentary Zone Review Advisory Panel's (the Panel) view regarding NCA's requirements that the National Capital Plan would need to be amended as well as a lease variation to a Section 6 Forrest lease in order that a particular block could in the future be used by a diplomatic mission as its chancellery office. This view accords with the notes I took at the meeting with the Panel on August 18, 1999.

I also note in your letter that the Panel does not support, at the present time, an amendment to the National Capital Plan to broaden the range of uses to be permitted in Section 6 Forrest to include office buildings. I note that your letter gives as the Panel's basis for its decision the lack of demand, over the next few years, for new buildings relating to Canberra's function as the National Capital including uses related to Parliament House.

Your letter goes on to say that in the Panel's view this demand will be best achieved by concentrating such use within the Parliamentary Zone as opposed the wider Central National Area of which Section 6 Forrest is included. It goes without saying that if the supply-demand situation changes in the next 2 to 3 years the Panel would entertain a

## ANNEXURE "F"

NATIONAL CAPITAL AUTHORITY

Mr. Donald Davidson  
Forrest Section 6 Redevelopment Association  
21 State Circle  
FORREST ACT 2603

Dear Mr. Davidson

**SECTION 6 FORREST - LAND USE POLICIES**

I refer to your letter of 8 November 1999 regarding the Authority's decision on the land use policies for Section 6 Forrest. I would like to take this opportunity to correct certain misunderstandings evident in your letter. The Authority's position is that there should be no Amendment to the National Capital Plan at this time to change the land use policies for Section 6 Forrest.

The Authority did cite as one of its main reasons that it wanted government uses and other uses generated by Parliament to be concentrated in the Parliamentary Zone. It adopted this position in order to harness such demands to the pursuit of the development objectives for the Parliamentary Zone. Achieving these objectives will take a considerable period of time, possibly several decades. On this basis, you and your colleagues should understand that the Authority does not intend to re-visit the issue for many years.

Throughout our discussions, the Authority has consistently recommended to the lessees in Section 6 Forrest that they consider the medium to long term use of their sites for residential purposes. In keeping with this view, the Authority advised that it would have no objection to the properties being used or redeveloped for other forms of residential use currently permitted by the Plan such as diplomatic residences or dual occupancies.

The Panel also expressed the view that medium density housing could be considered on its merits. Whether a lease variation or an Amendment to the National Capital Plan is required will depend on the entitlements contained in each lease. These may vary on an individual basis. I must emphasise that the amalgamation of two or more blocks for such purposes would require both a lease variation and the approval of the Authority.

Finally, I note your advice that *"the corner blocks in Section 6 Forrest were to be excluded from any plan put forward to National Capital Authority for this type of redevelopment"*. However, I do not recall such a statement being made, nor can I imagine the reasons for such an exclusion.

I trust you will convey this advice to the Section 6 lessees when you meet with them. Should you require any further advice, please do not hesitate to contact me on 6271 2840.

Yours sincerely,

DAVID T WRIGHT  
Director (Development Approval)  
8 December 1999