

WALTER BURLEY GRIFFIN SOCIETY Inc.

Brett Odgers

The Secretary

Joint Standing Committee on the National Capital and External Territories

PO Box 6021

Parliament House

Canberra ACT 2600

**Inquiry into allocation of land
to diplomatic missions in the ACT**

This submission is made by the Walter Burley Griffin Society.

The Walter Burley Griffin Society Inc. (WBGSI) aims to promote a better understanding of the lives and works of Walter Burley Griffin and Marion Mahony Griffin. WBGSI is especially concerned with the conservation and unrealised potential of the Griffins' competition-winning design, being an integral part of the development of Canberra as a great National Capital.

The subject matter of this Inquiry is particularly significant and most timely. WBGSI appreciates the opportunity provided by the PJSCNCET to comment on the manifest and accumulating issues regarding allocation of land in Canberra to diplomatic missions.

This submission incorporates much of a submission tendered by Brett Odgers on 28 November 2012 to the National Capital Authority (NCA) with regard to National Capital Plan Draft Amendment 78 *Stirling Ridge and Attunga Point*. That submission drew on principles and assessments articulated by WBGSI in regard to DA 66 *Diplomatic Mission Yarralumla* (June 2007) and DA 56 *The Griffin Legacy – Principles and Policies* (February 2007). The broad terms of reference of the present Inquiry and the preparation of this submission have been canvassed among WBGSI members in Canberra and Sydney and cleared with the Society's Executive.

Given the Society's close interest since 2007 in the issues, our submission is comprehensive. It reaches these conclusions and recommendations:

- A. The roles of the NCA, Department of Foreign Affairs and Trade and the Department of Sustainability, Environment, Water, Population and Communities need to be clarified, transparent and clearly understood, especially with respect to respective powers, procedures, responsibilities and the processes of public consultation and approvals.
- B. The demand by DFAT and embassies for blocks of land should be carefully appraised and not subject to specious requests or facile assumptions of one-size-fits-all, urgency or preferred locations.

- C. The supply of diplomatic blocks is much more plentiful and elastic than NCA asserts.
- D. There should be no presumption that Yarralumla is better than O'Malley and it is time NCA managed O'Malley to the potential for which it has been planned and developed by both the public and private sectors.
- E. On the unsatisfactory presentation of DA 78, it is high time for the NCA to review altogether its Diplomatic Land Estates policies.
- F. DA 78 should be withdrawn for the following reasons:-
 - a) DA 78 excision from Stirling Park has not previously been indicated and thus represents a departure from existing policies for Diplomatic Estates.
 - b) The determination of Attunga Point as the site for the PM's Lodge is not an urgent matter (it is not mentioned in NCA's Annual report 2011-2012), there is a better option namely redevelopment of the present Lodge site, and the proposal is not really connected with the expansion of the Diplomatic Estate into Stirling Park.
 - c) DA 78 (NCA, November 2012) presents a very dubious, contestable and inadequate case.
 - d) DA 78 gives no evidence of being tested for consistency with the National Capital Plan, the Griffin Legacy (NCA, 2004), NCA Griffin Legacy Amendment 56 (2007) or with Walter Burley Griffin's plans and vision for the National Capital.
 - e) DA 78 is, in our considered assessment, in fact seriously inconsistent with the National Capital Plan, the Griffin Legacy, Griffin's plans and vision for the National Capital, and the Lake Burley Griffin and Foreshores Heritage Management Plan.
 - f) It cannot be argued, as NCA presumes, that the highest and best use of this portion of Stirling Park is diplomatic estate, compared with other National Capital purposes.
 - g) On the evidence of heritage management studies commissioned by the NCA and the National Trust, Stirling Park is a very high value nature, landscape, environmental, ecological, heritage, recreational, amenity, sporting and educational asset. The NCA has apparently ignored these studies and the manifest ecological and social values of Stirling Park.
 - h) The DA 78 proposal lacks proper studies and an adequate data base of demand for and supply of diplomatic estates, opportunity costs and evaluation of community interests and values. NCA is unable therefore to adduce any elementary benefit-cost analysis and environmental impact assessment to support DA 78.
 - i) The high opportunity costs, or benefits of existing and potential land uses, compared to the proposed diplomatic estate amount to a strong case for rejecting DA 78.
- G. The issues of land supply and land use values demand collaboration and integrated planning by the federal and Territory governments jointly.
- H. The mass of embassies in East Yarralumla and around State Circle has distorted and unbalanced land uses close to Capital Hill and excludes other potential federal elements and land uses under the National Capital Plan. This unbalanced development is contrary to Walter Burley Griffin's vision and plans for the symbolism, functions and layout of the Capital Hill precinct and Lake foreshores.
- I. The national land bank for national capital purposes in the Central National Area of Canberra is scarce and likely to become rapidly scarcer as the NCA and the Territory Government proceed with their plans under the auspices of the so-called Griffin Legacy Amendments (2007) to the National Capital Plan.
- J. The National Capital is a work in progress and Canberra has to serve the nation in the long term. It is not difficult to envisage future demands for national land. In the Stirling Park

Yarralumla precinct there are longstanding proposals for a house for the federal Treasurer and other high officials. With Australia elevating its international status and regional role, one can envisage requests for sites to accommodate international institutions. Sites for commemorative purposes are in steady demand.

- K. The NCA would do well to consider the work of the National Capital Planning Commission in Washington. The NCCC has produced a *Comprehensive Plan: Federal Elements* (2004) that identifies seven sources of demand for federal or national land and a broad vision of how to develop and balance land uses in the long term. Foreign Missions and International Organisations are one of the sources and the subject of detailed planning.
- L. There are abundant potential areas around Canberra for future diplomatic estates, but the presumption would always be in favour of clustering. Hence O'Malley, Deakin and Curtin are obvious options.

The Walter Burley Griffin Society would be pleased to answer any questions from the Committee and clarify or provide further information if required.

Brett Odgers

Committee member

on behalf of the Walter Burley Griffin Society Inc.

20 January 2013

Detailed submission follows pages 4-11

ALLOCATION OF LAND TO DIPLOMATIC MISSIONS IN THE ACT

Submission to JSCNCET Inquiry by the Walter Burley Griffin Society Inc.

At the public meeting on 13 November 2012, NCA officers expressed confidence that the proposed DA 78 was valid unless new 'killer issues' were uncovered. In our view, the Inquiry terms of reference highlight exactly such 'killer' issues. The NCA officers also disclosed that they had employed only a very limited form of cost effectiveness analysis upon which the public interest advice would be given to the Authority and the Minister. The Inquiry terms of reference provide a much more comprehensive framework for assessing and quantifying all material costs and benefits.

Term of reference 1: the roles of the NCA, DFAT, ACT Government and other relevant agencies

2. To paraphrase from NCA's Annual report 2011-2012, in common understanding, the *Overview* of NCA's vision, mission and goals encompasses:-

- ✓ Symbolise Australia's heritage, values and aspirations
- ✓ Develop and maintain the special character of the National Capital estate
- ✓ Shape the National Capital into the future
- ✓ Protect the national interest in the planning, development and heritage of the National Capital.

3. The Yarralumla diplomatic land estate, if DA 78 were enacted, will have exceeded reasonable dimensions against all other present, envisioned and prospective National Capital Plan land uses in this area. The NCA is responsible for developing the Central National Area across a range of national uses: institutional, symbolic, governmental, cultural, commemorative, landscape and amenities. Diplomatic missions altogether have an inordinate occupation of the national land around and close to Capital Hill.

4. Respect for the key elements of Walter Burley Griffin's formally adopted plan appears forgotten or ignored by NCA's land planning and disposal. Griffin's formally gazetted plan of 1925 and the so-called Griffin Legacy Amendments of 2007 require that this respect be upheld. In the case of DA 78, these responsibilities seem not even to have been addressed:-

- a. Capital Hill is now encircled by embassies north, west and south. With the completion of the China Block 2/128 and Blocks 2, 3 and 25 Section 44 on State Circle adjacent to Casey House, this inordinate embassy presence will become most apparent.
- b. The mass clustering around Parliament House is now looking very odd, encroaching on the Parliamentary Triangle, intruding on the visual layout of parliamentary and government functions, removing natural bushland and crowding out alternative National Capital uses, even in time the Prime Minister's residence itself and potential sites for other Ministerial and official residences, federal and State Government offices, national institutions and memorials or monuments.
- c. Conversely, the NCA is indiscriminately running down the land bank held for National Capital purposes other than embassies.
- d. The diplomatic estate in this area also crowds out local Canberra heritage, cultural, recreational and sporting amenities.

- e. Why has this been allowed to happen? Why is NCA pursuing this preference for congregating embassies around the Parliament, Capital Hill and the Parliamentary Triangle? Capital cities such as Vienna, London and Washington present entirely different models.
- f. In his *Canberra Following Griffin* (NCA, 2002) Paul Reid argues that the decision in 1942 to locate 'British Empire offices on Commonwealth Avenue [eventually the UK, Canada and NZ] was a significant departure from Griffin' (pp 203-4) and 'the American Embassy was built on the site marked on Griffin's 1913 plan for the Governor-General's residence (p. 217).
- g. Griffin's Plan and the Griffin Legacy (NCA, 2004) show Stirling Park as an 'open space domain' and natural woodland, with a roadway esplanade and ready community access to the Lake foreshores.
- h. The balance of natural open space, landscape features, recreation and the built environment is a fundamental precept in Griffin's Plan. He had a very high regard for Australian bushland values.
- i. The radials from Capital Hill pointing to Perth and Darwin were to be part of the overall symbolic diagram of Australia's federal constitution and democracy.

5. The National Capital Planning Commission in Washington has a comprehensive plan for foreign missions and international organisations within the overall *Comprehensive Plan: Federal Elements* (2004, pages 57-76). Foreign missions occupy all kinds of buildings from custom-designed to commercial office buildings. There are no designated diplomatic estates; instead 'foreign missions contribute to the vibrancy and diversity of Washington's neighbourhoods (all quadrants).' There is an historic concentration in the Northwest quadrant, whilst new developments are being encouraged [2004] to locate in congenial or harmonious areas and in the Anacostia waterfront redevelopment area.

6. There is a host of land use, recreational, environmental, ecological and heritage values that are jointly relevant to both the NCA and the ACT Government. The impacts of proposed Stirling Park development or sub-division are not confined by cadastral or designated 'national' boundaries.

7. What is the highest and best use of the subject land? Quite obviously, the highest value could be accorded residential blocks, due to the central location, Yarralumla postcode, the natural bushland surrounds, relatively flat land and existing infrastructure. The planned diplomatic estate entrance off Hopetoun Circuit and immediate proposed blocks are less than 400m from the water's edge of Yarralumla Bay, remarkably close and accessible to Lake Burley Griffin. It cannot be argued that the highest and best use of this land is diplomatic estate.

8. A second obvious prime land use option is retaining the land in Stirling Park for the very high bushland values and ecological integrity of this special environmental and amenity asset in central Canberra.

- Thus, Stirling Park, being held for National Capital purposes, is appropriately retained as a bushland and landscape setting for the Central National Area in the vicinity of Parliament House and Lake Burley Griffin.
- It can readily be argued that the environmental, ecological, heritage and recreational values of Stirling Park are far more valuable than the southern area of Red Hill in and around the section of the Federal Golf Club that the NCA dismissed for diplomatic leases.

- It is mandatory that NCA prepare and make public a full *Ecological Values Report* for the subject DA 78 land.
- According to the *Lake Burley Griffin and Adjacent Lands Heritage Management Plan* (adopted by the NCA in 2009) the region of Westlake should, as a high priority, 'conserve the naturalistic foreshore precincts.' Conservation of the heritage values of Stirling Park is also accorded high priority.
- Both of the reports presented to the NCA in 2009 by the consultants Godden Mackay and Logan, which assessed the heritage value of Lake Burley Griffin and its adjacent lands and included a management plan, gave a high conservation value to Stirling Ridge, most of Stirling Park and Attunga Point. Stirling Ridge and Stirling Park have a major remnant forest of various species and the Park and Attunga Point are also a refuge for the endangered button wrinklewort. This is classified as a matter of National Environmental Significance under the EPBC Act due to the flora being a threatened ecological community.
- The area has also been nominated for the ACT Heritage Register and is on the National Trust of Australia Register. The Park does contain a significant heritage sewerage vent that is an indicative place on the Commonwealth Heritage List. There are also endangered grasslands at Attunga Point. As Stirling Ridge, Stirling Park and Attunga Point possess heritage values which meet the criteria for Commonwealth Heritage listing, a written management plan is required under the EPBC Act to protect this threatened habitat and its native species.
- NCA is obliged under the Nature Conservation Act 1980 (ACT) to recognise matters protected in ACT legislation, which does cover the species and ecological communities mentioned above. The consultants conclude that the high value of the flora in this area warrants a management plan designed to rehabilitate the ridge, parkland and point to ensure the future of this endangered Commonwealth asset.

9. NCA officers advised incorrectly at the 13 November 2012 public meeting on DA 78 that environmental impact assessment would only be required under the EPBC Act administered by the **Department of Sustainability, Environment, Water, Population and Communities**. On the contrary, the EPBC process should not exempt NCA from carrying out environmental, ecological and heritage assessments before submission to their Authority and Minister:-

- under NCA policies of public participation, such studies should also be released for public scrutiny and expression of values
- the EPBC Act has of course a very limited scope
- the EPBC process is usually too late in the process to alter decisions **and**
- moreover, DSEWPC has delegated to NCA the task of preparing environmental and heritage impact assessments under the EPBC Act.

10. **The ACT Government** should acknowledge that it has significant and manifest interests in the matters of this Inquiry as well as in DA 78. Access to the Lake's recreational amenities is of very high value. Conversely, it is these amenity and sports resources of Yarralumla Bay that have turned the area into a significant community asset. The waters, shaded areas, picnic places and traditions of triathlon, swimming, cycling and orienteering events regularly attract large crowds. If the proposed diplomatic estate went ahead it would create significant parking and access issues for participants and spectators who come to these events.

11. With the proposed development of the PM's Lodge on Attunga Point, Alexandrina Drive would presumably be re-aligned in effect resembling the roadway and community access boulevard that Griffin envisaged for the foreshores of Westlake. NCA's *Griffin Legacy* (2004, NCP Amendments 2007) shows Yarralumla Bay as a 'recreational hub.' It ascribes special value, for south side Canberra in particular, to the area's 'open space and bushland setting' contiguous with the Lake foreshores. The proposed DA 78 alienation of land for diplomatic missions would conflict with and impact adversely on these land uses.

Conclusions *The mass of embassies in East Yarralumla and around State Circle has unbalanced land uses close to Capital Hill and excludes other potential federal elements and land uses under the National Capital Plan. This development is contrary to Walter Burley Griffin's vision and plans for the symbolism, functions and layout of the Capital Hill precinct and Lake foreshores.*

The opportunity costs of the existing and prospective land uses of Stirling Park and Westlake greatly outweigh the diplomatic estate benefits claimed by the NCA. The ACT Government also has a manifest interest in protecting and developing the alternative land uses.

Term of reference 2: Forecast levels of demand and supply

12. DA 78 Background states that 'only four [remaining allocated] blocks are suitable and vacant for new missions.' 'Sixteen sites are required to meet short-term demand. ... DFAT anticipates a strong interest in new missions.' 'All diplomatic missions [should] be located on National Land.'

13. These are dubious, contestable and incomplete statements.

- Are we to understand that 20 missions are awaiting sites?
- The purported demand figure is a 'black box.' Who are in the queue? Are there preferences? What expectations does DFAT have of land allocations under NCA auspices? Are diplomatic estates continuing to be clearly designated? What alternatives have evolved for embassies and chanceries, as well as ambassadors' residences and offices (other suburbs, business districts and town centre tenancies, as mentioned by NCA officers at the 13 November public meeting)?
- The average block size of 0.5 ha is also questionable, even in the light of all the past extravagant allocations.
- The supply figures do not allow for the availability, resumption or sub-division of existing allocations, some of which have been excessive and/or idle for years.
- How many blocks are 'reserved for development' and are there any time or other constraints?
- Why have 15 designated Diplomatic Estate sites been 'deemed unsuitable?' The answer given at the 13 November meeting was as specious as the DA 78 Background paper.
- It can surely be envisaged that diplomatic missions may seek Territorial land or rent private sector properties (there are many such cases already)
- Garran, Red Hill, Griffith and Forrest have notable presences of embassies outside designated estates on National Land.

- It has not been shown why this fast track alienation of 5-7 Blocks in Stirling Park is warranted over the use of available blocks in **Deakin** (apparently 8 in number) and **O'Malley** (up to 15) and **alternatives outside designated Diplomatic Estates**. The available block numbers of 8 and 15 (a total of 23) in these two diplomatic estates have been carefully calculated by carefully considered and expert observation.

14. The preference by NCA for new land in Yarralumla over O'Malley is highly questionable and regrettable. It looks like the DA 78 project is being handled as a comparatively easy, quick fix tied opportunistically to the determination of a site for the new Prime Minister's Lodge.

15. **O'Malley** is a perfectly suitable yet currently neglected Diplomatic Estate. It appears that the NCA has not carried out any thorough study of O'Malley as an evolving and future Diplomatic Estate for at least five years and now only as a very superficial and unsatisfactory up-to-date assessment in the context of DA 78.

- There appear to be 10 vacant reserved or undeveloped Diplomatic Estate designated blocks in O'Malley and potential for another 5 in the immediate precinct.
- These blocks include the four inordinately large blocks allocated to the United Arab Emirates and lying unused for a decade or more.
- Diplomatic leases legislation places an obligation on the NCA, provided Australia's diplomatic relations allow, to resume reserved leases if there is no development after 18 months.
- At the 13 November meeting Gary Rake said the available or 'unsuitable' O'Malley blocks faced three problems – topography, woodlands conservation and security.
- On topography he could only be referring to land between Jindalee and Dunoon Streets, which indeed NDCDC decided would never be developed. The blocks enumerated above exclude this hillside area of O'Malley Section 4 alongside Yamba Drive.
- The ten designated blocks between Culgoa and Jindalee Streets, and possibly five more adjacent blocks along Jindalee Street to the south, however, are eminently suitable and amongst the best vacant real estate in Canberra.
- There are manifestly no woodland or nature conservation issues in the designated Diplomatic Estate. In the past the Territory Government spent over \$1m reserving the high value woodland and wildlife corridors, which exist in East O'Malley, a kilometre away.
- The security problem claimed by Mr Rake has no substance given that an effective and longstanding security system operates in O'Malley.
- The 2006 Census showed that at least 51 residential blocks in O'Malley are leased to or occupied by diplomatic missions, including embassies (32 in number around 2009), Ambassadors' residences and offices, all except Croatia being Territory leases. China occupied at least six blocks, which could of course be vacated when the Chinese complex at Block 5 Section 128 Yarralumla (allocated in 2005) is finally built.
- O'Malley is manifestly a prime Diplomatic Estate with abundant planning, environmental and locational advantages. From its beginning it has been the object of vast private sector investments and building designs in expectation of leasing to embassies. Real estate advertisements regularly refer to O'Malley as a 'well regarded and secure diplomatic suburb.' Some blocks are unoccupied, under-used or likely (as with the Chinese) to be vacated in the foreseeable future.

- In December 2007 the NCA proposed to rezone more land in O'Malley for diplomatic missions [Planning and Urban Design Director Todd Rohl, *Canberra Times* 28.12.07]
- It was a surprise and puzzling to hear Gary Rake's remark at the 13 November public meeting that the allocation of diplomatic blocks in O'Malley was presently 'deadlocked.'

Conclusions *The supply of diplomatic blocks is much more plentiful and elastic than NCA asserts. There should be no presumption that Yarralumla is better than O'Malley and it is time NCA managed O'Malley to the potential for which it has been planned and developed by both the public and private sectors. On the unsatisfactory rationale presented as DA 78, it is high time for the NCA to review altogether its Diplomatic Land Estates policies.*

Similarly the demand by DFAT and embassies for blocks of land should be carefully appraised and not subject to facile assumptions of one-size-fits-all, urgency or preferred locations. DFAT should not be able to place NCA under unreasonable pressure by conveying specious or false demands for sites.

Term of reference 3: The suitability of current property types and other options to meet the different needs of diplomatic missions

16. The discussion of O'Malley leases and references to other suburbs above indicate the wide array of current lease holdings and tenancies. National Capital Plan Amendment 39 in 2000-2001 removed "Designated Area" status of residential land in Deakin and Forrest lying between State Circle and National Circuit, yet a number of embassies are today located in that area. At the 13 November 2012 public information meeting on DA 78 Gary Rake predicted that diplomatic missions would very likely in the future give increasing consideration to location in main business and political centres, such as Barton, Canberra Airport and Civic.

Term of reference 4: Options for the locations of future diplomatic estates

17. Again this topic is an instance of where the federal and Territory governments need to collaborate and integrate their joint planning and land management responsibilities. As with issues of higher density development and redevelopment of inner Canberra areas, there are abundant potential areas for future diplomatic estates, but the presumption would always be in favour of clustering. Hence O'Malley, Deakin and Curtin are obvious options.

18. Conclusions and recommendations

- A. The roles of the NCA, Department of Foreign Affairs and Trade and the Department of Sustainability, Environment, Water, Population and Communities need to be clarified, transparent and clearly understood, especially with respect to respective powers, procedures, responsibilities and the processes of public consultation and approvals.
- B. The demand by DFAT and embassies for blocks of land should be carefully appraised and not subject to specious requests or facile assumptions of one-size-fits-all, urgency or preferred locations.
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Yarralumla precinct there are longstanding proposals for a house for the federal Treasurer and other high officials. With Australia elevating its international status and regional role, one can envisage requests for sites to accommodate international institutions. Sites for commemorative purposes are in steady demand.

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- L. There are abundant potential areas around Canberra for future diplomatic estates, but the presumption would always be in favour of clustering. Hence O'Malley, Deakin and Curtin are obvious options.

The Walter Burley Griffin Society would be pleased to answer any questions from the Committee and clarify or provide further information if required. The opportunity to participate in this Inquiry is appreciated.

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