

Submission to Inquiry into the role of the National Capital Authority (NCA)

Keith Boardman

Summary

Overarching planning of a high standard for Canberra should be achievable by a genuine and cooperative interaction between the planners of the NCA and the ACT Government. My specific comments relate to the residential area of Deakin/Forrest that is close to the Parliament. Planning for the designated area should remain with the Federal Government and the NCA, but the consultation process between the NCA and the community needs to be more transparent and consistent. The NCA should in most instances provide reasons for a decision. Provision should be made in the National Capital Plan for a process of appeal against decisions of the NCA, particularly for decisions made in regard to the designated area of Deakin/Forrest.

o o o o o o o o

The Federal Government has a prime responsibility in the development of Canberra as the national capital. The Government of the ACT is responsible to the residents of Canberra for the local government and municipal functions that includes redevelopment of suburbs and the detailed planning of new suburbs.

There is sure to be some overlap in the planning responsibilities but it is generally acknowledged that the Federal Government and the NCA should be responsible for the planning of the central basin with its national institutions. But it is also important to the image and beauty of the national capital that the Federal Government and the NCA retain a responsibility for the major hills of Canberra (Mount Ainslie and Black Mountain) and Lake Burley Griffin. We must have creative and high standards of planning for areas of national importance. The Federal Government and the NCA should also retain responsibility for the planning of areas surrounding the national parliament, including the major avenues that radiate from Capital Hill and the salient features of the Griffin plan.

It is inevitable that there will be some duplication of planning functions between the ACT Government and the Federal Government through the NCA. The ACT Government relies quite heavily on the revenue it receives from the development of land in the ACT for the provision of infrastructure and services to the residents of the ACT. Obtaining the maximum return for a particular land development may not be commensurate with the highest standard of planning for the national capital.

Overarching planning of a high standard for Canberra and the Griffin plan should be achievable by a genuine and cooperative interaction between the planners of the NCA and the ACT Government. Broad plans should be agreed with details such as building architecture, roads and landscaping the responsibility of the appropriate Government. The community should be consulted at an early stage of planning with alternate proposals. Some of the angst generated by the plans for the land near the Albert Hall could have been avoided.

My specific comments relate to the residential area of Deakin/Forrest that is close to the national parliament. It is ACT land, but it is a designated area under the National Capital Plan and planning responsibility resides with the NCA. A difficulty for the residents of the designated area has been either a lack of or unsatisfactory consultation with the NCA.

For example, in 2001 the NCA approved a two-storey dual occupancy development on State Circle without even informing the neighbours or giving them the opportunity to comment on the plans. The NCA took the high-handed view that it was not required under the National Capital Plan to inform neighbours and there was no provision for appeal.

In 2001 the NCA did seek public comment on a draft amendment (draft amendment 39) to the National Capital Plan. The amendment proposed to pass jurisdiction for the designated residential area of Deakin/Forrest from the Commonwealth to the Government of the ACT. In my comments to the NCA I put the view that planning responsibility for the designated area should remain with the Commonwealth Government because of the close proximity of the area to Capital Hill and the Parliament. The area could be ideally suited for an expansion of the functions of the Commonwealth Parliament in say 50 or so years.

I was very disappointed with the consultation process between the NCA and the residents of the designated area over the period 2002-2006 in regard to the proposed changes to the National Capital Plan for developments on State Circle. (Attachment A). In spite of the erratic behaviour of the staff of the NCA in consultation with residents, I am still of the view that jurisdiction for planning for the designated area of Deakin/Forrest should remain with the Commonwealth Government and the NCA. But the consultation process between the NCA and the community needs to be more transparent and consistent. The NCA is not necessarily obliged to consider all comments from the community and it rarely provides reasons to a respondent for a decision. The NCA should be required in most instances to provide the reasons for a decision. Provision should be made in the National Capital Plan for a process of appeal against decisions of the NCA particularly for decisions made in regard to the designated area of Deakin/Forrest. There should be an Administrative Review Tribunal along the lines of those in the States and Territories to provide a realistic avenue for residents to appeal decisions of the NCA. The avenue of appeal via Judicial Review is cumbersome and expensive.

In view of the recent revelations regarding development applications to the Wollongong Council in NSW the Inquiry should consider whether some safeguards should be in place for the NCA.

8 April 2008

Includes Attachment A

Attachment A (submission to 2008 Inquiry into the role of the NCA)

State Circle Development

In April 2002 the National Capital Authority (NCA) proposed a Draft Amendment 39 to the National Capital Plan for the residential area between State Circle and National Circuit. The amendment included the provision that on sites fronting State Circle between Hobart Avenue and Adelaide Avenue any redevelopment or consolidation shall result in buildings achieving two storeys in height and a plot ratio for residential development on existing blocks of 0.4. Where sites are amalgamated the plot ratio may be up to 0.6.

In 2002 the NCA stated :- “the development along State Circle should continue to maintain the established residential land use and character of Deakin/Forrest and achieve a design and landscape quality that enhances the setting of Parliament”..... “The Deakin/Forrest residential area is a homogeneous precinct and in terms of planning and development must be treated as such”.

At the hearing of the Parliamentary Joint Standing Committee on the National Capital and External Territories on the 21st June 2002, the Chief Executive of the NCA said:- “from our point of view State Circle is not an approach avenue in the same sense as Canberra Avenue. This is a residential precinct that forms part of the immediate circle surrounding Parliament and from which the avenues radiate”.

Ms Pegrum went on to say:-“in an interesting way we think it is a beautiful statement to have a residential development in a position adjacent to Parliament House. The nature of the residential development over time has been largely two storey and single storey. Our feeling, looking at that and taking into account the overlooking of the blocks abutting it at the back was that two storey allowed for quality residential redevelopment but retained the garden city character of the existing subject area”.

Mr Mackenzie of the NCA told the Joint Standing Committee:- We are dealing here with an area that is one of the most distinguished garden suburbs in Canberra, if not the nation”.

The Joint Standing Committee recommended to Government that redevelopment on State Circle be limited to two storeys and a height of 8 metres above ground level. The plot ratio for amalgamated blocks could be up to 0.8. The decision of the Committee was unanimous.

There was surprise and very much concern among the residents of the Deakin/Forrest residential area in November 2003 when the NCA proposed some major change to Draft Amendment 39 that conflicted with the views expressed by the Authority to the Joint Standing Committee on 21st June 2002. The NCA proposed that for amalgamated blocks development on State Circle could be up to three storeys and generally 12 metres above ground level. This change of heart by the NCA followed the acquisition by State Circle Developments (a Becton subsidiary) of four adjacent blocks on State Circle.

The Parliamentary Joint Committee held a further public hearing on Draft Amendment 39 on 23rd March 2004. A submission was made to the Committee from a group of very concerned residents of the Deakin/Forrest residential area most affected by the proposal by NCA to allow 3-storey development for amalgamated blocks on State Circle. We argued that 3-storey development would have a major impact on the privacy of neighbouring residents. Mrs Bain gave a slide presentation to the Joint Committee to demonstrate visually why a 3-storey medium density unit development is not appropriate for the Deakin/Forrest section of State Circle. We tabled a petition signed by 97 residents from 68 residences strongly opposing the provision to allow 3-storey residential development on State Circle.

The Joint Committee in their report shared the concerns of the residents. The Committee again recommended that building height for sites fronting State Circle be restricted to no more than two storeys and at no point more than 8 metres above natural ground level immediately below. The Committee recommended that the plot ratio for the redevelopment of existing blocks remain at 0.4 and for amalgamated blocks the plot ratio could be up to 0.8.

In a submission to the NCA on 24th August 2004 the ACT Chapter of the Royal Australian Institute of Architects supported a 2-storey limit for redevelopment on the residential area of State Circle.

In July 2004 a group of residents as well as the developers were invited to a workshop to discuss development controls on sites fronting State Circle. Four options were displayed at the workshop: 2-storey and a plot ratio of 0.6, 2-storey and a plot ratio of 0.8, 3-storey and a plot ratio of 0.8 and 3-storey and a plot ratio of 1.0. The residents again voiced their opposition to any 3-storey development. The two very senior executives of the NCA at the meeting told the workshop that the NCA would not be supporting 3-storey residential development on State Circle.

Residents received a letter dated 24th August 2004 from the Managing Director Design at the NCA, Mr G Scott-Bohanna, with the provision for 2-storey development and a height of 8 metres except for sites on the corners of Melbourne and Hobart avenues where 3-storey elements would be permissible. I understand that the proposal was not approved by a majority of residents.

In early 2005 the residents were surprised to learn that the NCA had sent a new Draft Amendment 39 to the Minister for Local Government, Territories and Roads that allowed for 3-storey development on amalgamated blocks on State Circle and a maximum height of 12 metres. Residences were unable to obtain an appointment with the Minister but we were assured by his office that the privacy of neighbours was protected.

There are two conditions in Amendment 39 that relate to the privacy issue.

“ The minimum set back for buildings from rear boundaries for three storey development is generally 18 metres. Lower scale development may occur within the rear landscape zone subject to the protection of privacy, the avoidance of overshadowing and the retention of existing substantial trees.”

“The rear landscape zone is to provide for a substantial landscape buffer that will afford privacy to rear neighbours and maintain minimum winter sunlight to those properties”.

The plans displayed by the developer Becton at a meeting on 7th March 2006 indicate a high-density multiunit development comprising 57 units with four 3-storey blocks in the front facing State Circle and 2-storey and single storey components in the rear. Large terraces which face south have a major impact on the privacy of rear neighbours. It is proposed to remove almost all of the existing substantial trees. The rear landscape zone is to be sacrificed for the single storey buildings.

We contend that the plans displayed by Becton breach the conditions of Amendment 39.

Other concerns of the residents were expressed in the media release by Senator Lundy.

They are:-

A high density multiunit development of 57 units on 5 blocks is totally out of character with the distinguished garden suburb of Deakin/Forrest which includes the Prime Minister's Lodge, the Embassies of Switzerland Austria and Cambodia, Malaysia House and the green corridor between the Lodge and the Ministerial wing of Parliament House. There are only 90 dwellings in the designated Deakin/Forrest Residential area between State Circle and National Circuit and bounded by Melbourne and Adelaide avenues. The area of land owned by the developers is about 10,000sqm, less than 5% of the total area.

The provision for visitor parking is totally inadequate. It will lead to the effective closure of the State Circle inner lane to provide for visitor parking for the new apartments.

Traffic congestion and associated risks caused by the single access onto Melbourne Avenue for the underground garages. Its use by about 120 cars a day and for the collection of garbage will be very disturbing and most unfair to the residents occupying the dwelling on the corner of Melbourne Avenue and Somers Crescent.

Dr N Keith Boardman

10 March 2006

Attachment A (submission to 2008 Inquiry into the role of the NCA)

State Circle Development

In April 2002 the National Capital Authority (NCA) proposed a Draft Amendment 39 to the National Capital Plan for the residential area between State Circle and National Circuit. The amendment included the provision that on sites fronting State Circle between Hobart Avenue and Adelaide Avenue any redevelopment or consolidation shall result in buildings achieving two storeys in height and a plot ratio for residential development on existing blocks of 0.4. Where sites are amalgamated the plot ratio may be up to 0.6.

In 2002 the NCA stated :- “the development along State Circle should continue to maintain the established residential land use and character of Deakin/Forrest and achieve a design and landscape quality that enhances the setting of Parliament”..... “The Deakin/Forrest residential area is a homogeneous precinct and in terms of planning and development must be treated as such”.

At the hearing of the Parliamentary Joint Standing Committee on the National Capital and External Territories on the 21st June 2002, the Chief Executive of the NCA said:- “from our point of view State Circle is not an approach avenue in the same sense as Canberra Avenue. This is a residential precinct that forms part of the immediate circle surrounding Parliament and from which the avenues radiate”.

Ms Pegrum went on to say:-“in an interesting way we think it is a beautiful statement to have a residential development in a position adjacent to Parliament House. The nature of the residential development over time has been largely two storey and single storey. Our feeling, looking at that and taking into account the overlooking of the blocks abutting it at the back was that two storey allowed for quality residential redevelopment but retained the garden city character of the existing subject area”.

Mr Mackenzie of the NCA told the Joint Standing Committee:- We are dealing here with an area that is one of the most distinguished garden suburbs in Canberra, if not the nation”.

The Joint Standing Committee recommended to Government that redevelopment on State Circle be limited to two storeys and a height of 8 metres above ground level. The plot ratio for amalgamated blocks could be up to 0.8. The decision of the Committee was unanimous.

There was surprise and very much concern among the residents of the Deakin/Forrest residential area in November 2003 when the NCA proposed some major change to Draft Amendment 39 that conflicted with the views expressed by the Authority to the Joint Standing Committee on 21st June 2002. The NCA proposed that for amalgamated blocks development on State Circle could be up to three storeys and generally 12 metres above ground level. This change of heart by the NCA followed the acquisition by State Circle Developments (a Becton subsidiary) of four adjacent blocks on State Circle.

The Parliamentary Joint Committee held a further public hearing on Draft Amendment 39 on 23rd March 2004. A submission was made to the Committee from a group of very concerned residents of the Deakin/Forrest residential area most affected by the proposal by NCA to allow 3-storey development for amalgamated blocks on State Circle. We argued that 3-storey development would have a major impact on the privacy of neighbouring residents. Mrs Bain gave a slide presentation to the Joint Committee to demonstrate visually why a 3-storey medium density unit development is not appropriate for the Deakin/Forrest section of State Circle. We tabled a petition signed by 97 residents from 68 residences strongly opposing the provision to allow 3-storey residential development on State Circle.

The Joint Committee in their report shared the concerns of the residents. The Committee again recommended that building height for sites fronting State Circle be restricted to no more than two storeys and at no point more than 8 metres above natural ground level immediately below. The Committee recommended that the plot ratio for the redevelopment of existing blocks remain at 0.4 and for amalgamated blocks the plot ratio could be up to 0.8.

In a submission to the NCA on 24th August 2004 the ACT Chapter of the Royal Australian Institute of Architects supported a 2-storey limit for redevelopment on the residential area of State Circle.

In July 2004 a group of residents as well as the developers were invited to a workshop to discuss development controls on sites fronting State Circle. Four options were displayed at the workshop: 2-storey and a plot ratio of 0.6, 2-storey and a plot ratio of 0.8, 3-storey and a plot ratio of 0.8 and 3-storey and a plot ratio of 1.0. The residents again voiced their opposition to any 3-storey development. The two very senior executives of the NCA at the meeting told the workshop that the NCA would not be supporting 3-storey residential development on State Circle.

Residents received a letter dated 24th August 2004 from the Managing Director Design at the NCA, Mr G Scott-Bohanna, with the provision for 2-storey development and a height of 8 metres except for sites on the corners of Melbourne and Hobart avenues where 3-storey elements would be permissible. I understand that the proposal was not approved by a majority of residents.

In early 2005 the residents were surprised to learn that the NCA had sent a new Draft Amendment 39 to the Minister for Local Government, Territories and Roads that allowed for 3-storey development on amalgamated blocks on State Circle and a maximum height of 12 metres. Residences were unable to obtain an appointment with the Minister but we were assured by his office that the privacy of neighbours was protected.

There are two conditions in Amendment 39 that relate to the privacy issue.

“ The minimum set back for buildings from rear boundaries for three storey development is generally 18 metres. Lower scale development may occur within the rear landscape zone subject to the protection of privacy, the avoidance of overshadowing and the retention of existing substantial trees.”

“The rear landscape zone is to provide for a substantial landscape buffer that will afford privacy to rear neighbours and maintain minimum winter sunlight to those properties”.

The plans displayed by the developer Becton at a meeting on 7th March 2006 indicate a high-density multiunit development comprising 57 units with four 3-storey blocks in the front facing State Circle and 2-storey and single storey components in the rear. Large terraces which face south have a major impact on the privacy of rear neighbours. It is proposed to remove almost all of the existing substantial trees. The rear landscape zone is to be sacrificed for the single storey buildings.

We contend that the plans displayed by Becton breach the conditions of Amendment 39.

Other concerns of the residents were expressed in the media release by Senator Lundy.

They are:-

A high density multiunit development of 57 units on 5 blocks is totally out of character with the distinguished garden suburb of Deakin/Forrest which includes the Prime Minister's Lodge, the Embassies of Switzerland Austria and Cambodia, Malaysia House and the green corridor between the Lodge and the Ministerial wing of Parliament House. There are only 90 dwellings in the designated Deakin/Forrest Residential area between State Circle and National Circuit and bounded by Melbourne and Adelaide avenues. The area of land owned by the developers is about 10,000sqm, less than 5% of the total area.

The provision for visitor parking is totally inadequate. It will lead to the effective closure of the State Circle inner lane to provide for visitor parking for the new apartments.

Traffic congestion and associated risks caused by the single access onto Melbourne Avenue for the underground garages. Its use by about 120 cars a day and for the collection of garbage will be very disturbing and most unfair to the residents occupying the dwelling on the corner of Melbourne Avenue and Somers Crescent.

Dr N Keith Boardman

