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JOINT STANDING COMMITTEE ON THE NATIONAL CAPITAL
AND EXTERNAL TERRITORIES

Reference: Draft amendment 39 National Capital Plan

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CANBERRA

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JOINT COMMITTEE ON THE NATIONAL CAPITAL AND EXTERNAL TERRITORIES

Monday, 26 August 2002

Members: Senator Lightfoot (*Chair*), Senator Crossin (*Deputy Chair*), The Deputy President and Chairman of Committees, the Deputy Speaker, Senators Greig, Lundy and Scullion and Ms Ellis, Mr Johnson, Mr Neville, Mr Snowdon and Mr Cameron Thompson

Senators and members in attendance: Senators Hogg, Lightfoot, Lundy and Scullion and Mr Causley, Ms Ellis, Mr Neville and Mr Cameron Thompson

Terms of reference for the inquiry:

To inquire into and report on:

Draft amendment 39 National Capital Plan

WITNESSES

HEWITT, Sir Lenox (Private capacity)70

Committee met at 12.01 p.m.

CHAIRMAN—I declare open this public hearing of the Joint Standing Committee on the National Capital and External Territories inquiry into draft amendment 39, National Capital Plan. The inquiry was referred to the committee by the Minister for Regional Services, Territories and Local Government, the Hon. Wilson Tuckey MP, on 16 May 2002. The purpose of the inquiry is to examine the merits of the revised draft amendment 39—that is, Deakin/Forrest residential area between State Circle and National Circuit—of the National Capital Plan. Canberra's role as Australia's national capital is of continuing and paramount importance. The heart of the national capital is the Parliamentary Zone and its setting. The proximity of the Deakin/Forrest residential area to the Parliament House gives it national significance. The committee has a duty to ensure that development in this area reflects the national significance of the area.

At the conclusion of the inquiry, the committee will table in the parliament its findings, conclusions and recommendations in a report, which will be publicly available. The committee has received 15 submissions from interested parties. The committee has also authorised these submissions for publication and they have been placed on the committee's web site. Some copies are also available here today from the secretariat staff. The committee held a public hearing on 21 June 2002. Eleven witnesses representing the ACT government, the National Capital Authority, the ACT division of the Royal Australian Planning Institute, residents, lessees and a developer gave evidence at the public hearing. If you would like further details about the inquiry, please ask any of the secretariat staff present at the hearing for assistance.

I now turn to the proceedings at hand. I call to give evidence Sir Lenox Hewitt OBE, a leaseholder of a residential property fronting State Circle. The committee hoped to have Sir Lenox Hewitt appear as a witness at the public hearing held on Friday, 21 June 2002. Unfortunately, Sir Lenox was unable to appear as he was receiving medical treatment abroad. The committee believes it is important to hear evidence from those affected, should draft amendment 39 be accepted, of the residents and lessees of the Deakin/Forrest residential area. Accordingly, the committee resolved at its last private meeting to invite Sir Lenox to appear before the committee.

[12.03 p.m.]

HEWITT, Sir Lenox (Private capacity)

CHAIRMAN—Welcome. These hearings are legal proceedings of the parliament and warrant the same respect as proceedings of the parliament itself. The giving of false or misleading evidence is a serious matter and may be regarded as a contempt of parliament—and I am sure, if anyone knows that, you do, Sir. Are there any corrections or amendments you would like to make to your submission?

Sir Lenox Hewitt—No, thank you.

CHAIRMAN—The committee prefers that evidence be taken in public. But, if you wish to give confidential evidence to the committee, you may request that the hearings be held in camera and the committee will consider your particular request. Before we ask questions, do you wish to make an opening statement?

Sir Lenox Hewitt—If I may.

CHAIRMAN—Please proceed.

Sir Lenox Hewitt—Thank you, first of all, for agreeing to hear me and giving me this opportunity; I regret that I could not attend at the previous public hearing. I have three quick preliminary remarks to make. Contrary to what is said in the authority documents in front of you, this particular subject—and I am referring in particular to State Circle fronting the ministerial entrance and not, as I think some of the documents refer to it, the backyard of Parliament House—has been under consideration for almost 15 years. In fact, it was in this very month of August 1988 that the Interim Territory Planning Authority recommended a variation for this strip of land from residential purposes to commercial and professional office use. A similar proposal put forward by the ACT government was that this premier avenue should be treated as the other premier avenues in the national capital have been treated, and that would provide for commercial office use as well as residential.

From reading the submissions and the *Hansard* of the previous hearing, it is interesting to see that, although the proposed draft amendment 39 and the two subsequent amendments to the amendment deal with sections 2, 3, 6 and 7 of Forrest, the deliberations of this committee are almost wholly centred on the strip of State Circle between Melbourne and Hobart Avenues and, in particular, to this pimple of residential housing. This small area of residential housing was established in 1958 and onwards, when the area was opened up for development and long before there was any suggestion that this magnificent edifice, the Parliament of the Commonwealth of Australia, should look across to these residential houses. I have one additional preliminary comment: I was greatly heartened to read the evidence given by the representative of the Royal Australian Planning Institute, who entered a plea for a sensible approach to the use of this strip of land.

Turning to my own submissions, I said in the first one—which was made to the previous committee but is now part of the record of this committee, I understand—that I have been a resident in the ACT for more than 60 years and, as a citizen of this nation, I was distressed to see the disgraceful degradation that took place on Northbourne Avenue year after year. Indeed, I have brought with me a photograph to remind myself—and it is available to the committee, if they would like—of the last remaining vestige of residential property on Northbourne Avenue and the disgraceful state which it had reached as recently as earlier this year. I sought and I have been seeking for a long, long period to convince the authorities—in particular the responsible authority, the National Capital Authority at the present time, and the territory administration—that this should not be allowed to happen to this stretch of State Circle. But it was already beginning to happen.

In my interviews over the years with various chairmen, chief executives and acting chief executives, I and my adviser and helper—who was always at my side in these meetings—came away convinced that we had made some impact of persuasion, and that this strip of State Circle should no longer give the appearance of cars and derelict cars on the nature strip and the front lawns, unkempt gardens, unkempt lawns and be in a state approaching that which the Northbourne Avenue houses took on over the years.

However, all our expectations and hopes were immediately dashed thereafter when we got a letter saying much as is said in the submissions that have been put to you by the National Capital Authority—that ‘this is an established, high-quality residential area’—which is a sheer nonsense now—‘and it is important that the established use of the land for residential purposes continues and that high standards of building and landscape development are maintained.’ That, sir, is laughable as a description of this area.

I turn now to the last submission which I made to this committee in June this year. In it, I took some quotations from the documents that I thought would be helpful to the committee. The proposals, the amendment, and the amendment to the amendment keep making the assertion, cited in paragraph 8 of my submission, that:

On sites fronting State Circle between Hobart and Adelaide Avenues ... the principal residential character of the area and established use of the land for residential purposes are to continue.

There is no reasoning or basis given for this particular point of view. It is asserted, asserted and reasserted without reasoning. The interim territory planning authority was not uninformed; the territory administration, which proposed the same treatment as for the other main avenues, was not uninformed; nor, I suggest, was the Royal Australian Planning Institute. The submissions of the authority do not state the reasons they gave for the original draft amendment 39 and the passing over of this administration to the territory for very good reasons which I have recalled in paragraph 5 of my submission. For example, they said:

It is important that these differences should be avoided ... and unintended confusion between administration of residential areas in the same locality be minimised.

6. The National Capital Authority does not offer any reasons in its proposed radical alterations of April 2002, for resiling from those laudable intentions, the very core of Draft Amendment 39, nor does it offer any justification for its continuing a state of confusion.

I simply submit again my belief that there should be a balanced and objective review of the proper use now, given the establishment of this seat of the parliament of the Commonwealth of Australia here, of this small section of State Circle between Hobart and Melbourne Avenues. I assert that it should be—as was proposed in 1988, as proposed by the territory and as I myself have said—the same as is given to the other premier main avenues. Thank you.

CHAIRMAN—Thank you for both your written and oral contributions today, Sir Lenox.

Senator LUNDY—Given that you have obviously spent some time looking at the arguments used by the NCA for changing the premise of amendment 39, do you care to speculate as to their motivation for that radical change in the purpose and intent of amendment 39? I am, of course, referring to the shift that originally saw the National Capital Authority have a proposal to uplift these areas from the National Capital Plan and place them under the auspices of the territory plan—which was then changed.

Sir Lenox Hewitt—It seemed to me to be a sort of fit of pique, like the schoolboy who will not play any more with his schoolmates and takes his bat and ball and goes off home. That was my reaction to reading this.

Senator LUNDY—Could I also ask you—and again, I am asking you to speculate, perhaps, on the motivation of the National Capital Authority—what do you think is the basis of their motivation to keep this land as ‘residential only’?

Sir Lenox Hewitt—I think it is just plain, simple, stubborn obstinacy—no more, no less. This particular group of individuals, for some reason that I do not know, has said: ‘Go away. It is going to be residential and that is it.’ There is no reasoning; there is no argument. In my earlier submission, the second one I made on the first set of amendments, I said that I sincerely hoped that the authority would come forward with its reasoning in support of its stand, so that one could consider it and discuss it, like any normal, adult conversation. But no reason is given. It is simply a series of assertions: ‘it must’, ‘it is’, ‘it will’, ‘it shall’. As I say, I think it is sheer bloody-mindedness, if you will forgive my expression. I do not think it has the slightest thing to do with the proper use of the land facing the ministerial entrance to this building.

Mr CAUSLEY—On the evidence you have given, Sir Lenox, it would appear that the residents of Canberra have voted with their feet. What you are saying is that it is no longer considered to be prime residential. People do not really want to live there as a residential address, and it is just cheap rental accommodation at the present time. Is that a fair assessment?

Sir Lenox Hewitt—I have a property there, and it so happens that the nature of it is such that I do not have difficulty in finding tenants to part of my own building. My son owned one of the other buildings there. Finally, after years of frightful experiences, he gave up hope and sold out. He sold to somebody who, surprisingly, within I think weeks had demolished what was there and removed every trace of vegetation. Suddenly all of us discovered that it had been bulldozed and cleared. There is a dual occupancy on it now. Of the owners of other houses there, I know a neighbour of my son, Mr O’Sullivan, has made a submission. I think his experience was more heart-rending than my son’s—which was bad enough. Certainly, I know one of the other two houses is used for business purposes: legal offices. The other, according to the sign on the outside, is a gallery and there are Persian carpets there.

It is anachronistic now. In 1958 it was wonderful and there was no thought of this being Parliament House. It was bush. As I remember, at the time there was a workman's village here. Nobody envisaged Parliament House. If that section had not been opened, and it was being opened up today, I venture to suggest that no-one would suggest that that strip, as distinct from all the other, premier avenues and the rest of State Circle, should comprise single storey or dual occupancy dwellings. I am sorry; that is a rather long-winded response to your question and I apologise.

Mr NEVILLE—Sir Lenox, you have been part of the continuum of Canberra. You have seen its various growth phases. Rather than criticising what is there and the various interpretations of amendment 39, what would your vision be for that strip?

Sir Lenox Hewitt—What I have always been saying is that it should be purpose-built office accommodation of high quality.

Mr NEVILLE—Should that be government or private?

Sir Lenox Hewitt—Whoever would care to occupy it; any tenants. One of the utterly nonsensical objections to my suggestion of this over the years given by the National Capital Authority in its documents—they are thoroughly documented in my submission and I will not, unless you ask me, give you the precise references—is that 'there are vacancies elsewhere in Canberra', 'not many people have asked for office space there' and—this was very naughty—'it would lead to commercial benefit and speculative developments'. All of that is sheer rubbish. In the territory there are very considerable planning requirements. If, for example, you tried to put up a tin shed there for offices it would not get development approval from the territory administration. To say 'speculative developments' is offensive. I find it offensive. It is not an intelligent response to an honestly offered and, on my part, reasoned argument.

Ms ELLIS—I have one quick question for the *Hansard* record. I know it is in here somewhere and I cannot find it quickly, but let us say, for the sake of the argument, that it becomes commercially zoned; who should operate it, in your view? Should it be the NCA or the ACT planning authority?

Sir Lenox Hewitt—I believe—not only for the reasons given by the National Capital Authority, very precisely given in black and white—that it should be transferred to the territory administration. It is not part of the parliamentary zone. It should be transferred to the territory administration, which I think has shown excellent results in the approvals it has given. If I may add one further point, it has the very great further desirable feature that there is no secret chamber of decision. Any development proposal under the territory legislation requires public notification to all and sundry. It requires an independent decision by a commissioner, and it provides a proper avenue for appeal by those affected by it. Having used that appeal system, I am wholeheartedly in favour of it.

I am highly critical even of the apology and the procedure that should have been followed by the National Capital Authority in relation to that block with dual occupancy now on it. I think it quite wrong that only the bordering occupiers had to be consulted, not by the authority but by the proposed developer, and that there was no right of appeal. I for my part have a considerable

grudge that I was not notified and given the opportunity to express my views about the proposal there.

If I may make one further comment, I think it was highly improper for the approval to be given for that to go forward when the whole question of the future use of this strip of land was under reference to a committee of the parliament. The decision to allow that to go ahead at that time, when this was before a committee of the parliament, was pre-empting, in my judgment, a decision of the parliament. In my day in the Public Service, no such practice, no such behaviour, would have been permitted or tolerated in any department which I or any of my colleagues had the honour of leading.

Ms ELLIS—Thank you. Mr Chair, please excuse me. I am due to speak in the House.

CHAIR—A very brief question, Senator Lundy.

Senator LUNDY—In your view, would it be appropriate, if the land were to pass back to the ACT government, for a subsequent process regarding whether or not it should be commercial or residential development on that front strip to proceed at that point, or do you think the process of passing the land back should determine the land use of the front strip of the block and sections in question?

Sir Lenox Hewitt—I believe it should be determined in the light of the outcome of this important committee's deliberations. I believe sincerely that it should be commercial or residential as for other premier main avenues, as was the view in 1988, as was the view of the territory and for some unexplained reason is not the view of the National Capital Authority. It ought to be determined as it is handed over and in the future there should be consultation as required.

CHAIR—Thank you, Sir Lenox. I am afraid we must end it there. I thank you for your attendance here today. If there are any matters on which we might need additional information, the secretary will write to you. You will be sent a copy of the transcript of your evidence, to which you can make editorial corrections. I thank you again for your attendance today and I thank the members and senators. While we have still got a quorum, I know that the committee authorises publication of the evidence given to it at the public hearing today. There being no objection, it is so resolved.

Committee adjourned at 12.29 p.m.