
The Parliament of the Commonwealth of Australia

An Estate for the Future

The allocation of land to diplomatic missions in the ACT

Joint Standing Committee on the National Capital and External Territories

March 2013
Canberra

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Foreword

Canberra hosts over 80 diplomatic missions from around the world – a reflection of Australia’s strong cultural and economic links with many nations. These missions are also an important part of the fabric of our national capital, diverse and often attractive buildings that reflect both Canberra’s history and the architectural traditions of the nations that occupy them. The management of Canberra’s diplomatic estate brings with it unique challenges, which includes not only the need to manage the usual planning questions, but also the need to be sensitive to the national interests of the nations with a presence in our capital.

This report is the product of concern within the Committee, and amongst residents of the Canberra community, over the way land is allocated to diplomatic missions in the Australian Capital Territory. There are concerns that the method currently used for allocating land to diplomatic missions lacks coherence; that despite long term needs, it is not underpinned by a long term strategy; that it fails to provide any meaningful coordination between the Commonwealth and ACT Governments regarding the allocation of land for national use; and fails to take account of one fundamental issue – the shortage of National Land suitable for allocation to the diplomatic estate.

The specific impetus for the inquiry comes from a decision to reserve land adjacent to Stirling Ridge in Yarralumla for incorporation into the diplomatic estate. This decision, encapsulated in Draft Amendment 78 to the National Capital Plan, has aroused community anger, not just for the loss of open space used by local residents, but because it has highlighted the essentially ad hoc process by which land accrues to the diplomatic estate. Residents are concerned that this section of land has been chosen not because it is the most suitable, but because it is the most readily available. The Committee agrees that this is not the best criteria for assessment.

In addressing the problems raised by the inquiry, the Committee has undertaken two tasks. It has compared the experience of Canberra with other national

capitals – in particular Washington DC. The Committee has been impressed with the level of planning and coordination inherent in the Washington model, and its substantial use of free market methods in the allocation of land to diplomatic missions. The Committee has also explored various alternatives for allocating land to diplomatic missions, including: more stringent enforcement of lease conditions and resumption of leases; use of medium and high-density premises to house missions; subdivision of existing leases; and use of residential and commercial properties to house missions. The Committee has recommended some combination of all of these be applied, in conjunction with the application of market principles, in the belief that this will allow the Australian Government to meet the demand for new diplomatic premises without placing significant pressure on the available supply of undeveloped land.

The Committee has also recommended the development of a long term strategy for the allocation of land to diplomatic missions. This strategy would be developed in conjunction with the ACT Government and integrated with the National Capital and Territory Plans. The strategy would forecast demand and supply, and establish a range of mechanisms for allocating land to diplomatic missions. The Committee has also recommended that in deference to the development of this long term strategy, Draft Amendment 78 be withdrawn.

The Committee believes that in following its recommendations, the Australian Government will not only be addressing the problems inherent in the current method of allocating land, but will also provide the diplomatic community with a much more diverse and flexible suite of options for establishing diplomatic missions, and provide Canberra with a much more diverse and integrated diplomatic presence within its environs, to the betterment of all concerned.

I would like to thank all those who have contributed to the inquiry through their submissions and evidence before the Committee. The committee was presented with constructive evidence from a range of perspectives, all of which has been beneficial to the Committee's deliberations. I would also like to thank my Committee colleagues for their thoughtful and constructive input into the inquiry, and the secretariat for their work on the inquiry and the report.

Senator Louise Pratt
Chair



Membership of the Committee

Chair Senator Louise Pratt

Deputy Chair Mr Luke Simpkins MP

Members

The Hon Dick Adams MP	Senator Judith Adams (until 4/4/12)
Ms Gai Brodtmann MP	Senator Trish Crossin
Ms Anna Burke MP (until 9/10/12)	Senator Gary Humphries
Mrs Natasha Griggs MP (from 20/8/12)	Senator Stephen Parry
Dr Andrew Leigh MP	
The Hon Bruce Scott MP (from 9/10/12)	
Mr Patrick Secker MP (until 20/8/12)	
Hon Peter Slipper MP (until 24/11/11)	

Committee Secretariat

Secretary	Mr Peter Banson (from 13/2/13)
	Mr Peter Stephens (until 8/2/13)
Inquiry Secretary	Dr William Pender



Terms of reference

The Committee to inquire into and report on the allocation of land to diplomatic missions in the Australian Capital Territory with particular reference to:

1. The roles of the National Capital Authority, the Department of Foreign Affairs and Trade, the Government of the Australian Capital Territory (where applicable) and other relevant agencies.
2. Forecast levels of demand and supply.
3. The suitability of current property types and other options to meet the different needs of diplomatic missions.
4. Options for locations of future diplomatic estates.



List of abbreviations

ACT	Australian Capital Territory
AFP	Australian Federal Police
BZA	District of Columbia Board of Zoning Adjustment
DA	Draft Amendment
DC	District of Columbia
DFAT	Department of Foreign Affairs and Trade
FMA	Foreign Missions Act
ICC	International Chancery Centre
JSCNCET	Joint Standing Committee on the National Capital and External Territories
NCA	National Capital Authority
NCPC	National Capital Planning Commission



List of recommendations

1 The allocation of land to diplomatic missions in the ACT

Recommendation 1

The Committee recommends that, in order to better utilise limited resources for the allocation of land to diplomatic missions, the Australian Government implement:

- Strengthened policies and regulations surrounding diplomatic leases to ensure compliance, with the policy of resumption of land within 36 months where development has not commenced being rigorously enforced
- Medium- and high-density options for housing chanceries
- Policies to allow the subdivision of existing sites within the diplomatic estate
- A policy framework that allows more extensive use of residential and commercial properties to house chanceries, along the lines adopted in Washington DC
- In the future, a steady evolution towards a more commercial approach (as in Washington DC) should be encouraged.

Recommendation 2

The Committee recommends that the National Capital Authority develop a long term strategy for the allocation of land to diplomatic missions in the Australian Capital Territory. This strategy should be developed in conjunction with the Department of Foreign Affairs and Trade, Australian Federal Police and ACT Government and integrated with the National Capital Plan and the Territory Plan. It should forecast demand

and supply and establish the various mechanisms by which these forecasts may be met, including:

- Designating sites for future diplomatic enclaves
- Establishing a clear and binding framework for the granting and resumption of leases to diplomatic missions
- Establishing a policy for medium and high density properties
- Creating a mechanism for the subdivision of existing leases
- Establishing a framework for more extensive use of residential and commercial properties for chanceries
- Managing impacts on local residents
- Working out what role the private market might play.

The long term strategy should also involve a thorough review of land resources in O'Malley, Yarralumla and Deakin to ensure their optimal use for diplomatic purposes. The views of the diplomatic community should be sought during the development of the strategy.

Recommendation 3

The Committee recommends that Draft Amendment 78 be withdrawn.

The allocation of land to diplomatic missions in the ACT

Introduction

- 1.1 In November 2012, the Minister for Regional Australia, Regional Development and Local Government, the Hon Simon Crean MP, requested the Joint Standing Committee on the National Capital and External Territories to conduct an inquiry into the allocation of land to diplomatic missions in the Australian Capital Territory.
- 1.2 The inquiry arose out of public concern surrounding the process of allocating land to diplomatic missions under Draft Amendment 78 to the National Capital Plan, which proposes the creation of a new diplomatic estate to the south-west of Stirling Ridge, an area of as yet undeveloped land of significance to the local community in Yarralumla.
- 1.3 The Committee was tasked with examining the roles of various agencies involved in the allocation of land to diplomatic missions, including the National Capital Authority (NCA), the Department of Foreign Affairs and Trade (DFAT), and the Government of the Australian Capital Territory (where applicable). It was also tasked with investigating forecast levels of supply and demand for diplomatic missions; the suitability of current property types and other options to meet the needs of diplomatic missions; and options for the location of future diplomatic estates.
- 1.4 In undertaking its task, the Committee has examined the following:
 - the current planning structure for the allocation of land for diplomatic missions in the Australian Capital Territory and compared it to overseas examples, most particularly Washington DC
 - the roles of the various agencies involved, particularly the NCA, DFAT and the ACT Government

- forecast demand and supply for diplomatic missions
- various options for meeting future demand
- options for future locations, including Draft Amendment 78 concerning Stirling Ridge
- the need for an overall strategy to govern the allocation of land to diplomatic missions.

Diplomatic missions in the ACT

International and statutory obligations

- 1.5 Australia's obligations with regard to diplomatic missions are defined under the Vienna Convention on Diplomatic Relations. Article 21 of the Convention provides that any nation has an obligation to 'either facilitate the acquisition on its territory, in accordance with its laws, by the sending state of premises necessary for its mission or assist the latter in obtaining accommodation in some other way'.¹ Article 22 also provides a 'special duty to take all appropriate steps to protect the premises of the mission against any intrusion or damage and to prevent any disturbance of the peace of the mission or impairment of its dignity'.²
- 1.6 Australia's international obligations have been implemented under the following legislation:
- *Diplomatic Privileges and Immunities Act 1967*
 - *Consular Privileges and Immunities Act 1972*
 - *Public Order (Protection of Persons and Property) Act 1971*
 - *Crimes (Internationally Protected Persons) Act 1976*³
- 1.7 In addition, the AFP noted its responsibilities as set out in section 8 of the *Australian Federal Police Act 1979*, 'which includes the provision of police services in relation to the laws of the Commonwealth, the safeguarding of Commonwealth interests and performing such protective and custodial functions as the minister directs in the gazette'.⁴

1 DFAT, *Submission 10*, p. 1.

2 NCA, *Submission 12*, p. 3.

3 NCA, *Submission 12*, p. 3.

4 Assistant Commissioner Michael Outram, National Manager Protection, AFP, *Committee Hansard*, Canberra, 15 February 2013, p. 2.

Planning regime

1.8 The diplomatic estate in Canberra exists within the planning environment established by the National Capital Plan. The Plan identifies matters of national significance, including the 'pre-eminence of the role of Canberra and the Territory as the National Capital'. Within this context, one of the key objectives of the National Capital Plan is to 'further develop and enhance the Central National Area which includes the Parliamentary Zone and its setting and the main diplomatic sites and national institutions, as the heart of the National Capital'.⁵ There is no specific plan or policy governing the location of diplomatic missions. In its submission, however, the NCA noted that:

Diplomatic issues are a component of foreign affairs and thus a Commonwealth, rather than a Territory, function. This means that, ideally, all diplomatic missions would be located on National Land sites, identified for Diplomatic Use, within a Designated Area defined by the National Capital Plan.⁶

1.9 The NCA further noted that 'there are significant foreign policy advantages if land allocation and planning is controlled by the Commonwealth'.⁷

1.10 The result is that a substantial proportion of the diplomatic missions in Canberra are located within the three sections – in Yarralumla, West Deakin and O'Malley – of the diplomatic estate. In its submission, the Department of Foreign Affairs and Trade (DFAT) stated that of the ninety-nine diplomatic missions currently established in Canberra:

- Fifty-two are in the diplomatic estate
- Eight have undeveloped leases in the diplomatic estate
- Forty seven are in temporary accommodation:
 - ⇒ Five in commercially leased premises
 - ⇒ Nine in the central national area
 - ⇒ Thirty-five in residential leases – predominantly in areas adjacent to the diplomatic estate.⁸

1.11 With regard to missions located in residential areas DFAT noted:

The lack of capacity in the diplomatic estate and the nature of the zoning of land in Canberra mean that diplomatic missions which do not establish in commercial premises have to seek permission

5 National Capital Authority, *National Capital Plan*, p. 6.

6 NCA, *Submission 12*, p. 3.

7 NCA, *Submission 12*, p. 3.

8 DFAT, *Submission 10*, p. 3.

to use residential premises for their chanceries. The grant of relief from the purpose clause of Crown leases for residential premises can only be temporary – for a period of up to three years. Some diplomatic missions seek to have this extended, others move to new premises. This does not offer certainty for diplomatic missions.⁹

1.12 In its submission, DFAT emphasised that ‘the Australian Government supports the establishment of new diplomatic missions in Canberra, recognising that this reflects positively both on Canberra and Australia’. Diplomatic missions have sought to locate in central areas – in the diplomatic estates or in commercial office buildings. Smaller missions have rented commercial spaces in the same zones.¹⁰

1.13 Diplomatic missions generally seek locations against the following criteria:

- Ease of access to Parliament House, government departments – particularly central agencies, DFAT and Defence – and other decision makers in key sectors
- Proximity to other diplomatic missions
- Visibility in centrally located areas for symbolic and public diplomacy reasons
- The capacity to provide representational activities
- Ease of access for their nationals in order to provide consular representation among other services.¹¹

1.14 When assessing the suitability of sites for diplomatic use, the NCA takes account of the following:

- Centrally located to satisfy the business requirements and preferences of missions
- Ability to provide appropriate levels of security and emergency response times
- Capacity to meet the needs of a diversity of block sizes
- Ease of access
- Minimising environmental, heritage and servicing constraints
- Co-locating diplomatic missions in estates to minimise disruption to neighbouring properties from national days, receptions, and security requirements.¹²

9 DFAT, *Submission 10*, p. 3.

10 DFAT, *Submission 10*, p. 2.

11 DFAT, *Submission 10*, p. 2; NCA, *Submission 12*, p. 4.

12 NCA, *Submission 12*, p. 5.

- 1.15 Diplomatic leases are granted under the terms of the *Leases (Special Purposes) Ordinance 1925*. Special Purpose leases are for a period of 99 years. Diplomatic missions cannot sell their leases – they must be surrendered to the Commonwealth, although there is provision for compensation for improvements made (e.g. cost of buildings).¹³ The Ordinance requires diplomatic missions to commence development within 18 months of commencement of their lease and complete development within 36 months, although the NCA may grant extensions of time to construct.¹⁴
- 1.16 The current options for leasing National Land for diplomatic purposes are:
- Land exchange – negotiated between DFAT and the relevant country. This is a reciprocal arrangement and no monetary payments are involved. Four diplomatic land swaps have been completed to date.
 - Land rent – based on 5% per annum (2% prior to 1972) of the Unimproved Capital Value of the land (reappraised every 20 years). Currently 43 missions pay land rent (20 at 2%; 23 at 5%).
 - Upfront premium payment – paid at the commencement of the lease based on the Unimproved Capital Value of the land. No annual rent is paid. To date 27 missions have paid upfront premium payments for their blocks.¹⁵
- 1.17 The NCA notes that there has been a trend, over time, towards smaller block sizes, ‘although a significant proportion of diplomatic missions now seek to acquire two or more blocks’, allowing them to ‘construct not just a chancery, but also a co-located head of mission residence, staff accommodation and diplomatic ancillary buildings, such as cultural centres’.¹⁶
- 1.18 Reasons for desiring larger missions include:
- The status of a government recognised by the Australia Government
 - The status a foreign government applies to its relationship with the Australian Government
 - Political role of a government in the Asia-Pacific region
 - Need to accommodate more staff to support increasing consular and trade activities
 - Matters related to the management and/or security of the facility

13 NCA, *Submission 12*, p. 1.

14 NCA, *Submission 12*, p. 7.

15 NCA, *Submission 12*, p. 2.

16 NCA, *Submission 12*, p. 5.

- Individual preferences of each diplomatic mission.¹⁷

1.19 The result of this policy framework is that Canberra has a very distinctive diplomatic estate, largely confined to three areas in central Canberra. The missions display a variety of styles, from office accommodation (for example, Argentina in Barton or Columbia in Civic), to low key chanceries built very much in the style of the surrounding suburban residences, to high visibility buildings constructed in a distinctive national style. As DFAT noted in its evidence before the Committee:

There are physical presences that are identifiably the Papua New Guinea High Commission, the Solomon Islands High Commission, the American embassy and the South African Embassy, and the real sense that they have become part of the Canberra landscape.¹⁸

1.20 DFAT also noted the changing circumstances and shifting expectations of the diplomatic community over time, and the variety of needs and circumstances that DFAT and the NCA must respond to:

I do not think there is a consolidated diplomatic corps view. In my discussions with them they very much have different expectations depending on the size of their missions. Some feel that, since they have had to get smaller for certain reasons, they are not looking to get a different block of land. Others feel quite constrained; there are four or five of them in one office now where there were only two or three before. So there is this constant change. It is a very fluid situation.¹⁹

1.21 It is within this context that the NCA has proposed Draft Amendment 78, providing for a new diplomatic estate south-west of Stirling Ridge.

Overseas experience

1.22 Overseas experience sheds some light on current practices in Canberra. In evidence before the Committee, DFAT noted the similarities and the differences between Canberra and most other capitals:

Most countries have more open rental or purchase on the private market and the obligation on the host country will be to assist in making it happen. How they do that will vary. There are some that

¹⁷ NCA, *Submission 12*, p. 5.

¹⁸ Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 4.

¹⁹ Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 22.

do have estates, in the same way that Canberra has gone. But in most of the capital cities where we have a mission of some sort, either we have had property there for so long that it is almost not an issue now, or it tends to be in cities where we would negotiate with a private landholder, either for renting or purchasing, and then we would seek approval from the host government to locate a mission there.²⁰

- 1.23 DFAT emphasised, however, that Canberra was unique, and that practices elsewhere were not necessarily applicable to Canberra:

But Canberra is quite a different city in terms of the ACT regulatory guidelines and how you build and the 99-year leases and those sorts of things. So there are some things that I think will always be rather particular to Canberra, and a lot of that has contributed to the quality of life that we have here in Canberra and the sorts of things that I know the NCA is very concerned about in terms of broader planning. If you are comparing what we do in Canberra with what is done in London, it will be very different...A lot of it will go back to historic reasons – we have had a property for a zillion years and therefore there have not been any issues – or areas where there are particular security problems. For example, in Baghdad there are one-off issues that we are considering.²¹

- 1.24 One possible comparison is with the Canadian capital, Ottawa, which has a very different mix of diplomatic premises. According to the National Capital Commission's *Capital Core Area Sector Plan*, 'diplomatic missions and international organisations bring an international feeling to the Core Area and diversify the range of cultural activities and representations available to residents and visitors'. On the other hand, the Plan notes that the essentially unplanned mix of locations for diplomatic missions has its shortcomings:

While some of these occupy high profile sites, many diplomatic missions are located, out of view, in office towers. The potential for the totality of these uses to contribute to the symbolism and experience of the Core Area is constrained due to lack of visual identity and uncoordinated programing/information. At the same time, the extent of security measures employed at some diplomatic

20 Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 9.

21 Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 9.

missions detracts from, rather than contributes to, an enhanced public experience.²²

- 1.25 Another point of comparison is Washington DC, which provides a model of integrated national and civic planning incorporating the diplomatic estate.

Washington DC

- 1.26 Washington DC provides a useful comparison with Canberra in terms of managing the diplomatic estate. Both are purpose built capitals and planned cities with a substantial diplomatic presence. The National Capital Planning Commission (NCPC) notes in the Foreign Missions and International Organizations Element of the *Comprehensive Plan for the National Capital* that:

There are 191 countries in the world, and the United States maintains diplomatic relations with 180 of them, and with many international organizations. One hundred sixty nine of those countries have foreign missions in Washington. These missions are vital to the United States government in assisting it to manage diplomatic relations with international institutions, organizations and states.²³

- 1.27 The Foreign Missions Act (FMA) of 1982 governs the US Government's jurisdiction over diplomatic missions, including the 'mechanism and criteria relating to the location of foreign missions in the District of Columbia'.²⁴ The regulatory framework established by the FMA 'leaves the responsibility for identifying and acquiring sites for chanceries with the foreign governments under free market conditions with limited regulations depending upon the desired location'.²⁵
- 1.28 Areas where diplomatic missions may locate without regulatory review are known as 'matter-of-right', principally in areas zoned commercial, industrial, waterfront or mixed use. 'Prior to establishing a chancery in one of these areas, a foreign government need only receive clearance to proceed from the US Department of State Office of Foreign Missions.'²⁶
- 1.29 Other, 'non-matter of right areas', are 'areas zoned for medium-high or high density residential uses, and any other area within the District of

22 National Capital Commission, *Canada's Capital Core Area Sector Plan*, p. 31.

23 National Capital Planning Commission, *Foreign Missions and International Organizations Element, Comprehensive Plan for the National Capital*. p. 59.

24 National Capital Planning Commission, *Foreign Missions and International Organizations Element, Comprehensive Plan for the National Capital*. p. 59.

25 National Capital Planning Commission, *Submission 18*, p. 4.

26 National Capital Planning Commission, *Submission 18*, p. 3.

Columbia determined on the basis of existing uses'. Chanceries proposed in such areas are subject to review by the District of Columbia Board of Zoning Adjustment (BZA) in a public hearing. In making its determinations, the BZA is bound to specific criteria under the FMA:

Generally, these criteria relate to: the international obligation of the United States to facilitate acquisition of adequate and secure facilities for foreign missions, historic preservation, the adequacy of off-street parking and public transportation, the ability to provide adequate security, and other municipal and federal interests.²⁷

- 1.30 While the focus of the FMA is US national and diplomatic interests, it also seeks to strike a balance between federal interests and the potential impact of foreign missions upon surrounding neighbourhoods:

...the FMA stipulates that the US Department of State shall require foreign missions to substantially comply with District of Columbia building related codes in a manner that is not inconsistent with the international obligations of the United States, and that other laws applicable with respect to the location, replacement, or expansion of real property in the District of Columbia shall apply with respect to chanceries only to the extent that they are consistent with the FMA.²⁸

- 1.31 The result of this planning regime is that 91% of foreign missions are located on private property under leasehold or freehold arrangements.²⁹ While this arrangement potentially allows fairly widespread locations for diplomatic missions, in practice all chanceries are located in the Northwest quadrant of Washington DC, 'with the majority located in the area bounded by 16th Street on the east and Wisconsin Avenue on the west'. Within that area there are several distinct concentrations of chanceries.³⁰ The Northwest quadrant has attracted foreign missions due to historical developments, availability of land and buildings, proximity to government and other chanceries, 'and Comprehensive Plan policies that encouraged chanceries to locate in Northwest DC'.³¹

27 National Capital Planning Commission, *Submission 18*, p. 3.

28 National Capital Planning Commission, *Submission 18*, p. 4.

29 Mr Shane Dettman, Senior Planner, NCPC, *Committee Hansard*, Canberra, 13 March 2013, p. 5.

30 National Capital Planning Commission, *Foreign Missions and International Organizations Element, Comprehensive Plan for the National Capital*. p. 63.

31 National Capital Planning Commission, *Foreign Missions and International Organizations Element, Comprehensive Plan for the National Capital*. p. 63.

- 1.32 In addition, the International Centre Act of 1968 provided for the establishment of a diplomatic enclave known as the International Chancery Centre (ICC):
- The purpose of this Act was to facilitate the conduct of foreign relations by the US Department of State in Washington, DC, through the creation of a more favourable atmosphere for foreign missions to establish offices and other related facilities.³²
- 1.33 The Comprehensive Plan observes that:
- This enclave provides low-cost federal land that has allowed foreign missions to avoid protracted negotiations and regulatory review sometimes encountered when they initially locate, relocate, or expand their facilities on private land in the District of Columbia.³³
- 1.34 Developments within the ICC 'are not subject to local zoning and building requirements'. Instead, 'these developments are subject to review and approval by the National Capital Planning Commission'.³⁴
- 1.35 The US Government is now in the process of acquiring a site for a new foreign missions centre:
- Similar to the existing ICC, proposals for chanceries and similar facilities within the new foreign missions centre will be subject to NCPC review and approval, and therefore, NCPC is working closely with the US Department of State to develop a master plan that will guide the development. In addition, it is anticipated that a set of development controls, similar to the ICC, will be prepared which take into consideration not only the policies of the Comprehensive Plan and the programmatic needs of the diplomatic community, but also lessons learned from ICC, future development plans of the local government, impacts to the surrounding community, historic constraints, and sustainability goals and objectives.³⁵
- 1.36 The Comprehensive Plan highlights an expectation of future demand, both from new missions and existing missions wishing to expand or relocate within Washington DC. The Plan states:
- Trends of the past 20 years suggest that locations for as many as 100 new and relocated chanceries may have to be found in the next

32 National Capital Planning Commission, Submission 18, p. 4.

33 National Capital Planning Commission, Foreign Missions and International Organizations Element, *Comprehensive Plan for the National Capital*. p. 63.

34 National Capital Planning Commission, *Submission 18*, p. 5.

35 National Capital Planning Commission, *Submission 18*, p. 6.

25 years. This could require the identification of four to five chancery sites per year. Forty-eight foreign missions relocated within the nation's capital in the last 20 years, and if this trend continues, some 60 foreign missions will relocate by 2030. In addition, approximately 40 new foreign missions could locate new chanceries in the District.³⁶

- 1.37 In evidence before the Committee, the NCPC reiterated an expectation of future demand from a combination of sources – new missions, consolidation and relocation – and stated that ‘we do feel there is a need for additional land to accommodate these needs’. Hence the development of a new international chancery centre.³⁷ It also noted that while Washington had been well served by the private market, the market had changed:

... what we have also found over the course of the last 10 to 15 years is that, firstly, security requirements have made it more difficult for many of these chanceries to either remain in their current facilities or be able to retrofit their facilities to meet their security needs. Second, we have also found that many of our foreign missions have a main building but they also have a lot of satellite buildings. A lot of them want to consolidate into a single building, which leads to a second issue, which is that to do that they have to acquire a large tract of property to develop that sort of structure. In our city that is a very difficult thing to do unless you have a large piece of vacant land that you could subdivide, like at our International Chancery Centre, and then offer the sites up for new development. China, for example, had a very large facility in one of our neighbourhoods, but they have also moved to the International Chancery Centre because they needed the security and because they are growing. They also wanted to consolidate their many satellites. So I do think we have been well served, but the market has changed in terms of the needs of the embassies, and that is one of the things we have been seeing recently.³⁸

- 1.38 The NCPC highlighted several issues governing the location of diplomatic missions, including security, visibility and their impact on local neighbourhoods. With regard to security, the NCPC stated:

36 National Capital Planning Commission, Foreign Missions and International Organizations Element, *Comprehensive Plan for the National Capital*. p. 64.

37 Mr Marcel Acosta, Executive Director, NCPC, *Committee Hansard*, Canberra, 13 March 2013, p. 5.

38 Mr Marcel Acosta, Executive Director, NCPC, *Committee Hansard*, Canberra, 13 March 2013, pp. 2-3.

With regard to security, there is an overarching layer of security provided by the uniformed division of the US Secret Service. So at the International Chancery Center, there is a building and they have a permanent presence on the street. For those foreign missions that are located throughout the city in facilities that they own – for example, in an area of the city called 'Embassy Row' – you will often see the Secret Service patrolling the area by vehicle, but you will also find that a lot of the individual chanceries, or foreign missions, have their own security. They might have a security detail on premises. Some of them have fences or gatehouses that control access into the property. I would say that there is a combination of different types of security that you would find.³⁹

1.39 The NCPC further noted that:

The Secret Service provides the level of security that it deems appropriate working with the particular embassy, regardless of the location. Clearly, in what we call our embassy row or areas where there is a high concentration it is easier because they can have patrols working in tandem. For the outlying areas that you have defined, they still have the responsibility and must provide that security.⁴⁰

1.40 Visibility was regarded as an important attribute of location, the NCPC stating that 'foreign missions do enjoy their own visible presence and they tend to like to locate in very prestigious neighbourhoods in close proximity to each other'.⁴¹ The NCPC observed that:

In the area of the city that I referred to called 'Embassy Row' where there is a lot of existing and very historic building stock, that in and of itself provides the prestige that the foreign missions are looking for. Just being in such a historic neighbourhood and in such a high concentration of foreign missions, where their individual identity comes from displaying their flag out front, provides the prestige. In the international centre, the development controls were purposefully developed to be kind of loose and to define a general envelope within which a foreign government could come and build and express their own architectural identity native to their country. So you would find – and we would be happy to send you images of the international centre – the

39 Mr Shane Dettman, Senior Planner, NCPC, *Committee Hansard*, Canberra, 13 March 2013, p. 3.

40 Ms Anne Schuyler, General Counsel, NCPC, *Committee Hansard*, Canberra, 13 March 2013, p. 6.

41 Mr Shane Dettman, Senior Planner, NCPC, *Committee Hansard*, Canberra, 13 March 2013, p. 3.

architectural styles are very diversified. That provides their own presence in that way.⁴²

- 1.41 With regard to the impact on local neighbourhoods, the NCPC advised that there were some issues surrounding the location of chanceries in residential neighbourhoods. The NCPC stated:

We do have a neighbourhood that is considered to have an overconcentration of chanceries in a residential neighbourhood. The traffic that those office functions generate, both on a daily basis in conducting their business and also at larger events such as national day celebrations – it is traffic, it is parking – impacts on the public space. You might find visitors parking across sidewalks or in areas where they are not supposed to be located. Some issues are related to noise, oftentimes associated with a large celebration. We have had to address issues related to countries that have relocated to a new facility but retain ownership of the old one and it sits there vacant. They can see that it leads to overgrown yards and is falling into disrepair. The countries perhaps do not have the resources to maintain that property, and that has caused those types of issues in neighbourhoods.⁴³

- 1.42 The Comprehensive Plan notes a mix of building types amongst missions, including stand-alone multi-use chancery buildings, rehabilitated structures and commercial office spaces. Trends include an increase in lot size and increased security requirements, including larger setbacks. The Plan states that:

The availability of sites that meet the needs of foreign missions within traditional diplomatic areas is increasingly limited, and the International Chancery Centre has no available sites for chancery development. Therefore, additional development opportunities in areas zoned for chancery use may be required for the future location of chanceries within the nation's capital, and it may be necessary for foreign missions to look beyond traditional diplomatic enclaves. In addition, it may be necessary to establish new foreign missions centre development areas.⁴⁴

- 1.43 The *Foreign Missions in the District of Columbia – Future Location Analysis*, which informs the Comprehensive Plan, highlighted the problem of diplomatic overdevelopment in certain neighbourhoods, and growing resistance from residents and officials to new chanceries in these areas. It

42 Mr Shane Dettman, Senior Planner, NCPC, *Committee Hansard*, Canberra, 13 March 2013, p. 3.

43 Mr Shane Dettman, Senior Planner, NCPC, *Committee Hansard*, Canberra, 13 March 2013, p. 4.

44 National Capital Planning Commission, *Foreign Missions and International Organizations Element, Comprehensive Plan for the National Capital*. p. 65.

also highlights issues that can arise when planning regimes do not keep pace with reality on the ground.⁴⁵ The Future Location Analysis identifies a range of solutions, including revising planning regulations to open up new areas to diplomatic missions, make better use of established areas, take advantage of urban redevelopment schemes, and open up new foreign missions centres on the model of the current International Chancery Centre.⁴⁶ Under the Comprehensive Plan, establishing new foreign mission centres is seen as an important element in the future development of the diplomatic estate:

The anticipated demand for an average of four or five new chancery sites within the District of Columbia each year, the build-out of the existing International Chancery Centre, and increasing private-sector land and development costs demonstrate the need to plan and establish one or more additional foreign missions centres to assist in the accommodation of new and expanding foreign missions.⁴⁷

- 1.44 The Plan notes the opportunity to pursue a variety of development styles within such centres:

A high-density centre with urban characteristics incorporating a combination of attached townhouse-type chanceries and mid and high-rise structures could be developed at several scales: a large-scale centre could accommodate several dozen chanceries in one location and accommodate several years of demand, while one or more smaller centres that could accommodate a lower number of chanceries would offer geographic dispersion and a shorter time horizon. Ideally, new foreign mission centres would be developed on land that is already owned by the federal government.

However, foreign missions centres could also be built on privately owned land in new developments...⁴⁸

- 1.45 Within the policies elaborated by the Plan the federal government is encouraged to:

- Give priority consideration for the location of a new foreign missions centre at the Armed Forces Retirement Home.

45 National Capital Planning Commission, *Foreign Missions in the District of Columbia – Future Location Analysis*, October 2003, p. 1.

46 National Capital Planning Commission, *Foreign Missions in the District of Columbia – Future Location Analysis*, October 2003, pp. 7–9.

47 National Capital Planning Commission, *Foreign Missions and International Organizations Element, Comprehensive Plan for the National Capital*. p. 69.

48 National Capital Planning Commission, *Foreign Missions and International Organizations Element, Comprehensive Plan for the National Capital*. p. 69.

- Give priority consideration for the location of a new foreign missions centre in the South Capitol Street corridor.⁴⁹
- 1.46 Foreign missions are encouraged to:
- Locate chanceries within the diplomatic districts of the 16th Street corridor and the adjacent Columbia Heights, Adams Morgan, and Mt. Pleasant neighbourhoods.
 - Locate chanceries within the diplomatic districts of the South Capitol Street corridor and adjacent Anacostia waterfront development areas in the Southwest and Southeast quadrants of the District.⁵⁰
- 1.47 Policies governing the siting of chanceries include:
- Land Use and Zoning. Foreign missions are encouraged to:
 - ⇒ Locate their chancery facilities in areas where adjacent existing and proposed land use is compatible (e.g., office, commercial, and mixed use), giving special care to protecting residential areas.
 - ⇒ Ensure that chancery locations are compatible with existing or proposed zoning, giving special care to protecting the integrity of residential areas.
 - Urban Design. Foreign missions are encouraged to:
 - ⇒ Protect the historic open space system of the L'Enfant Plan, and develop structures and landscaping that enhance and preserve its historic qualities.
 - ⇒ Preserve and enhance the urban spaces, circles, squares, and plazas generated by the L'Enfant Plan and the unique views and vistas of the nation's capital.
 - ⇒ Protect the historic legacy of Washington, D.C. by ensuring that buildings and landscapes are consistent with the grandeur of a great world capital.
 - ⇒ Construct chanceries to complement or reflect neighbouring buildings and settings and ensure that the height, size, and spatial orientation of chanceries are consistent with the character of the neighbourhood.
 - ⇒ Construct buildings and landscapes that demonstrate an appreciation of the architectural style and landscape of the surrounding environs while representing the finest architectural thought of the corresponding nation.

49 National Capital Planning Commission, Foreign Missions and International Organizations Element, *Comprehensive Plan for the National Capital*. p. 71.

50 National Capital Planning Commission, Foreign Missions and International Organizations Element, *Comprehensive Plan for the National Capital*. p. 71.

- **Historic Preservation.** Foreign missions are encouraged to:
 - ⇒ Protect the integrity of historic districts and historic structures when locating chanceries in them.
 - ⇒ Ensure that chanceries in historic districts are sensitive to the character of the district.
 - ⇒ Protect and enhance historic landscapes by ensuring that development adjacent to such landscapes promotes their protection and integrity.
 - ⇒ Preserve and maintain the features and character of historic properties.
- **Access.** Foreign missions are encouraged to:
 - ⇒ Locate chanceries such that access is possible by different transportation modes, including walking, public transportation, and automobile.
 - ⇒ Consider urban design qualities, neighbourhood characteristics, and traffic capacity in the configuration of vehicular access.
 - ⇒ Provide pedestrian access and offer safe, clean, and pleasant environments for pedestrians that include sidewalks and other amenities.
 - ⇒ Provide adequate off-street parking that accommodates employees, visitors, and special event participants.
- **Open Space and Parkland.** Foreign missions are encouraged to:
 - ⇒ Preserve existing open space and parkland.
 - ⇒ Enhance and make accessible open space or parkland, including waterfront locations, when chanceries are located adjacent to it.
 - ⇒ Construct landscapes that promote a beautiful and healthy environment by preserving the tree canopy and avoiding the destruction of mature trees.⁵¹

Committee conclusions

- 1.48 The Committee notes that the practices for locating diplomatic missions in the Australian Capital Territory have evolved within bureaucratic control which is unsurprising considering Canberra is a planned city. This is in stark contrast to most capitals, where diplomatic missions have historically established in the best location available at the time, without any particular planning or direction. This is not to say, however, that the

51 National Capital Planning Commission, *Foreign Missions and International Organizations Element, Comprehensive Plan for the National Capital*. pp. 72–4.

allocation of land to diplomatic missions in the ACT has been conducted in accordance with an overarching plan, but rather that a certain set of principles and practices have been applied, more or less consistently, over time.

- 1.49 In this regard, the experience of Washington DC is instructive. There, the location of diplomatic missions has been explicitly incorporated into a broader planning framework which allows a great deal more flexibility in allocating land to diplomatic missions. Washington operates as an open market, with missions able to locate anywhere within prescribed zones according to clearly defined regulations. This allows for a much larger range of accommodation options in terms of location and style, without placing undue pressure on the US Government to find suitable locations. It also allows effective integration of the diplomatic community with the rest of the community.
- 1.50 This highlights the main shortcomings of the Canberra model: its lack of transparency; its ad hoc nature; and the lack of an obvious mechanism for coordinating the needs and aspirations of the national and local governments. It also points to the essential weakness in the model – its reliance on a limited and declining supply of National Land to meet the needs of the national government and the diplomatic estate. These issues will be elaborated below.

Agency role in the allocation of land

Role of Commonwealth agencies

- 1.51 The NCA has two roles in the allocation and administration of the diplomatic estate. It is responsible for the strategic planning for the selection and provision of National Land for lease, sub-division and servicing of diplomatic sites, issuing works approval for development applications and the management of unleased diplomatic sites on National Land.
- 1.52 It also administers diplomatic Crown Leases on National Land on behalf of the Commonwealth in consultation with the Department of Foreign Affairs and Trade (DFAT) and relevant security agencies. This involves:
- lease negotiations
 - organising valuations of diplomatic sites by the Australian Valuation Office
 - liaison with diplomatic missions
 - registration of leases with the ACT Land Titles Office

- invoicing and collection of land rent
 - debt recovery
 - conducting land rent reviews
 - lease compliance activities
 - surrender of leases
 - compensation arrangements for improvements when leased land is surrendered.⁵²
- 1.53 The NCA consults with DFAT, through the Protocol Office, on foreign policy considerations related to the management of leases. These include:
- the identification of land for offer
 - lease offers
 - lease surrender
 - termination and issues of non-compliance.⁵³
- 1.54 The principal role of DFAT is in identifying potential demand for diplomatic missions and acting as a liaison and first point of contact between the NCA, the AFP and diplomatic missions. In evidence before the Committee, DFAT noted that it worked ‘extremely closely’ with the NCA and the AFP in managing the diplomatic estate.⁵⁴
- 1.55 The role of the AFP is to provide protective security arrangements to foreign government missions, their staff and families. The AFP’s Diplomatic Protection Unit provides ‘high visibility mobile and foot patrols, alarm response and incident response to diplomatic missions in the ACT’. It also ‘performs static guarding functions at missions and residencies when threat levels become elevated, specific risks are identified or when assistance is requested’.⁵⁵
- 1.56 There was concern expressed amongst residents groups over the apparent conflict of interest in the NCA’s role. In its submission, Friends of Grasslands argued that ‘the NCA has competing roles in this exercise, as developer and manager of diplomatic estates versus that of custodian of natural and cultural heritage in the ACT’. Friends of Grasslands was ‘therefore concerned that achievement of the best environmental outcome is underweighted in the decision-making process’.⁵⁶

52 NCA, *Submission 12*, p. 1.

53 NCA, *Submission 12*, p. 1.

54 Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 2.

55 Assistant Commissioner Michael Outram, National Manager Protection, AFP, *Committee Hansard*, Canberra, 15 February 2013, p. 2.

56 Friends of Grasslands, *Submission 6*, p. 2.

- 1.57 Similar concerns were raised by the Save Stirling Park Group. It stated:
- NCA is not an independent agency when it comes to new diplomatic estates. It is the proponent of the development but it is also the planning authority that approves the development. There should be a separation of these two responsibilities as happens in other normal property development.
- In our view diplomatic property management should be the responsibility of either DFAT, because of the diplomatic relations aspects, or the Department of Finance and Administration because of their property management expertise.⁵⁷
- 1.58 The Save Stirling Park Group suggested instead that the role of developer be given to DFAT, with the NCA remaining the planning authority. This ‘would also have a financial disciplinary effect on DFAT if each new diplomatic block it requested became a cost to the DFAT budget’.⁵⁸
- 1.59 The NCA vehemently rejected the idea that it was incapable of both planning and managing the diplomatic estate, stating:
- At the start, we heard an assertion that the NCA is not independent in this work. For avoidance of all doubt, I would like to point out that we have no beneficial interest in the administration of leases. Revenue raised from diplomatic leases goes directly to Commonwealth consolidated revenue; it does not in any way fatten our budget. So I do believe the NCA is well placed to fill these two closely related roles. Some of the views we heard really bring together and typify the complexities of this issue. There are a number of competing demands. At least one of the submissions says we should hold on to Stirling Ridge and make it available for National Capital use. At the other end, there is a fair bit of support for the idea that we should put a fair bit of it into open space and protect the conservation issues. There is a tough issue for us to analyse there.⁵⁹

Role of ACT Government

- 1.60 Because of the structure of the planning regime in the Australian Capital Territory, the ACT Government has no direct role in the planning of the diplomatic estate while that estate remains confined to National Land. On the other hand, the potential use of Territory Land for the diplomatic estate does engage the ACT government directly. In its submission, the

⁵⁷ Save Stirling Park Group, *Submission 8*, p. 3.

⁵⁸ Save Stirling Park Group, *Submission 8*, p. 3.

⁵⁹ Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 20.

ACT Government recognised ‘the importance of diplomatic missions to the role of Canberra as the National Capital and the need to provide sites for diplomatic missions to enable the city to perform this role’. However, the ACT Government also noted that ‘it is important that the selection of sites for diplomatic missions do not compromise the Territory’s capacity for urban intensification along major transport corridors or near major centres’. It stated:

We are willing to assist the NCA in assessing the suitability of sites and/or identifying potential sites, taking into account the Territory’s planning and transport strategies, maintenance costs, location of infrastructure and possible revenue implications.⁶⁰

1.61 The ACT Government observed that it continues ‘to work effectively’ with the NCA ‘to identify appropriate sites to meet the growing needs of diplomatic missions’.⁶¹

1.62 For its part, the NCA was at pains to point out that it worked cooperatively with the ACT Government on these matters, and indeed had deferred to the ACT Government on the matter of the Yarralumla brickworks site. The NCA stated:

At the brickworks the primary blockage at this point is that the land is being actively considered by the ACT government. We are trying, and it is government policy that the NCA work so, to work cooperatively with the ACT government in this shared city and it is not an area that we think we want to start a fight with the ACT government on. If they have active plans on foot and we would have to usurp them in an aggressive way, it is not a space that we are in anymore. If the ACT decided that they thought it were suitable for diplomatic use, we would be very keen to talk and if the Commonwealth had to contemplate buying the land from the ACT we would mount that argument quite happily. But it was struck out because the ACT had alternate ambitions.⁶²

1.63 The lack of integrated planning between the ACT government and the NCA with regard to the diplomatic estate was criticised by Dr Alan Cowan, Secretary of the Save Stirling Park Group – a residents association focused on the future of Stirling Park and opposed to its use in the diplomatic estate:

60 ACT Government, *Submission 17*, p. 2.

61 ACT Government, *Submission 17*, p. 2.

62 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 5.

Planning for diplomatic estates is not integrated with planning for the ACT as a whole. It is done in isolation, yet it still has externalities that impact on Canberra.⁶³

1.64 In its submission, the Save Stirling Park Group stated:

There needs to be closer cooperation between ACT Government and the Australian Government/NCA to coordinate ACT urban development with the need for diplomatic accommodation. Major developments such as new diplomatic estates also impact on ACT government infrastructure such as roads and utilities as well as affecting the ACT community.⁶⁴

1.65 Mr Peter Wurfel, President of the Deakin Residents' Association, also expressed concern about the lack of planning coordination, stating:

Much of Deakin is subject to both the territory plan and the National Capital Plan, and this is true also for Yarralumla. These plans interrelate, and for this reason it is surprising and also disappointing that the ACT government, as far as I can see, is not at this public hearing. It is especially surprising, given the trend to high and medium development in Canberra and the need to protect streetscapes, maintain the character of inner South Canberra and manage the impact of traffic, parking and security with respect to any current and future diplomatic missions.⁶⁵

1.66 The Save Stirling Park Group also expressed concern about the lack of a clearly defined role for the ACT Government in addressing amendments to the National Capital Plan, arguing that that role should be clearly defined in law. It stated:

The ACT Government represents the community in Canberra and there may be occasions where a proposed Commonwealth development impacts unfavourably on that community to such an extent that the ACT Government should be able to step in and protect the community interest.⁶⁶

1.67 Mr Wurfel also believed that residents 'expected some leadership from the ACT government which would have been consistent with, and represented the needs of, ACT residents'.⁶⁷

63 Dr Alan Cowan, Secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 11.

64 Save Stirling Park Group, *Submission 8*, p. 3.

65 Mr Peter Wurfel, President, Deakin Residents' Association, *Committee Hansard*, Canberra, 15 February 2013, p. 12.

66 Save Stirling Park Group, *Submission 8*, p. 3.

67 Mr Peter Wurfel, President, Deakin Residents' Association, *Committee Hansard*, Canberra, 15 February 2013, p. 12.

Committee conclusions

- 1.68 The Committee is of the view that there should be no significant change to the current roles of federal agencies involved in the allocation of land to diplomatic missions. The role of the NCA, as both the development proponent and planning agency, is potentially problematic. However, the dual role is inevitable in most of the NCA's functions – proposals cannot advance without the NCA's support; and once they have that support they will advance. Moreover, the NCA is subject to a rigorous planning regime, which involves parliamentary and ministerial scrutiny, public consultation, and impact assessments. While it is unlikely to ever satisfy all stakeholders in any given planning process, the Committee believes that the role of the NCA has sufficient safeguards to ensure proper outcomes.
- 1.69 The Committee also believes that the NCA is best placed to carry out the administration of the diplomatic estate, as the agency with the expertise and experience in conducting this role. Transferring the role to other agencies could produce less than optimal outcomes and provide a distraction from their essential role.
- 1.70 The role of the ACT Government should also be considered. Its role, from its perspective, is to defend the needs and aspirations of Canberra as a city, as against a National Capital. It has primary responsibility for planning on Territory land, and is rightfully protective of its prerogatives. The NCA has deferred to the ACT Government upon planning issues on Territory land, while the Territory Government in turn has deferred to the NCA on planning issues affecting National Land. Yet, given the limited supply of National Land, it is almost inevitable that some coordination of planning processes will be required, that National functions will need to be accommodated on Territory land. The planning process needs to be adapted to accommodate this.

Demand and supply

Demand

- 1.71 Evidence presented by the NCA and DFAT indicates that there will be a steady increase in the number of new diplomatic missions wishing to establish a presence in Canberra. NCA stated that 'the DFAT Protocol Branch has advised that they expect one to two new missions to establish within the diplomatic estate annually over the next twenty years', and that 'this advice accords with the queries received by the NCA and the number of countries that have registered their interest in acquiring a site for

diplomatic use'. The NCA notes that 'the current demand for blocks outstrips the supply of viable sites' and that 'due to the lengthy timeframes involved in making additional diplomatic land available for lease, it is important that estates are established in advance of requirement'.⁶⁸

- 1.72 In its submission, the NCA notes that 60 countries currently hold 69 leases over 72 blocks within the diplomatic estate and that 'fifteen sites are likely to be needed in the short term for those countries that have formally expressed interest in obtaining a site or have leased or reserved a site now known to be affected by environmental constraints'. The submission further notes that:

The NCA is currently negotiating with two countries for alternative sites due to environmental constraints. Investigations are currently underway on a number of other sites which may also be affected. These investigations may result in a further three missions requiring alternatives to their reserved sites.⁶⁹

- 1.73 In its submission, DFAT noted that:

Current demand to establish new diplomatic missions in Australia reflects positively on Australia's growing profile in the international arena. We are a member of the G20 with a strong and growing economy and are engaged on international issues, highlighted by our current term as a non-permanent member of the United Nations Security Council, and the Commonwealth Ministerial Action Group.⁷⁰

- 1.74 DFAT further stated that the 'Australian Government supports the establishment of new diplomatic missions in Canberra, recognising that this reflects positively both on Canberra and Australia'.⁷¹

- 1.75 DFAT noted that there were several sources of demand – new missions and those wishing to relocate from temporary accommodation and those wishing to upgrade their presence. The Committee was advised that:

Last year, there were three new missions that established a presence in Canberra and the year before that there were two. I certainly think that over the next couple of years there will continue to be interest, and that may be more than one a year. We have a couple of missions that have at the moment a small what you might call 'post-opening' presence – for example, Kosovo, that

68 NCA, *Submission 12*, p. 4.

69 NCA, *Submission 12*, p. 4.

70 DFAT, *Submission 10*, p. 1.

71 DFAT, *Submission 10*, p. 2.

arrived last year and would be the fourth if we regard them as having established a presence. Often it takes a country 12 or 18 months to ramp up to the stage where they might be requiring a block of land from the NCA.

The forecast we have for the next couple of years is that there are certainly in the vicinity of seven or eight that have made those sorts of exploratory visits and who have sent an envoy out here to discuss how to go about acquiring land and what is available, and looking at things like costs and exploring the employment of local staff and so on. It is the full suite of issues that you might expect from someone who is going to come to Australia for the first time. The forecast we have is for that sort of ongoing growth. There was a little bit of a hike in the last two years and potentially there will be two or three next year and two or three the year after. Clearly, the number of countries in the world is not necessarily finite – we had a new one last year – but it is not going to go past a certain point.

A number of countries also have a representation in Australia in the form of an honorary consulate. While, for some countries, that continues to be adequate for their needs, there are some that are now looking to move to a more permanent residence. The exact type of land or the exact type of office arrangements they seek will vary from the first couple of years, where they might also start off smallish, getting to know Canberra and getting to know what their own needs will be, before they might come to the National Capital Authority and DFAT and say, 'Okay, we are ready to have land.' Certainly the forecast is for that continued, steady growth.⁷²

- 1.76 The level of anticipated demand was questioned by residents. Mr Mike Lewis of the Save Stirling Park Group argued that recent demand had been the factor of particular international conditions and was unlikely to continue indefinitely. He stated:

I think the point we were trying to make was that there has been an expansion of countries in recent years as a result of the breakup of the former Soviet Union and the breakup of the former Yugoslavia, and so there has been a bit of a spurt lately. But also most of the countries that we have major trade and diplomatic and defence relationships with are already here. I guess we are getting into diminishing marginal returns in terms of countries that might want to come here. It is very difficult to predict the number of

⁷² Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 3.

countries that will come here. Things change. Countries split, as you say. But we think that, say, 40 to 50 countries, which was one of the figures being bandied around, over the next 25 years is probably a bit excessive, but it is just difficult to forecast.⁷³

1.77 Mr Lewis also noted the other side of the equation, the number of countries leaving:

One of the other things we were concerned about is that all of the figures talk about the new countries that are coming here but seem to forget about those countries that actually leave – there are not many, I agree, but Syria has left, and North Korea left, though it might be coming back; who knows? You need to look at both countries that are coming here and those that are leaving.⁷⁴

1.78 DFAT argued that the current level of demand was unlikely to continue indefinitely, but that there was already a level of unmet demand, that some level of demand was expected to continue, and that ‘what we are expected to do as a department of the Commonwealth government is to accommodate reasonably, and there are certain countries who feel as though they have not been able to start when they wanted to’.⁷⁵ The NCA and DFAT argued that to some extent the need for a new estate was being driven by a backlog of missions, the NCA ‘trying to meet the needs of people who are here but may wish to change’.⁷⁶ The NCA stated: ‘Our current issue is a backlog that we do need to house and address, and we are just caught.’⁷⁷

1.79 The Committee notes that some trends in Canberra are similar to Washington. Many countries want to display flags, or occupy buildings that convey some national character and be close to where business in the capital is done. There is a general demand for a diversity of sites and some countries have a desire to move and consolidate on a single site.

Supply

1.80 The official view of the current availability of sites within the existing diplomatic estate is set out in the draft *Assessment of Three Sites for*

73 Mr Michael Lewis, committee member, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 16.

74 Mr Michael Lewis, committee member, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 16.

75 Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 4.

76 Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 22.

77 Ms Shelley Penn, Chair, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 22.

Diplomatic Use, prepared by SGS Economic & Planning Pty Ltd for the NCA in May 2012.⁷⁸ The assessment notes that currently the diplomatic estate consists of 101 blocks. Of these, 93 are located within three estates at Yarralumla, Deakin and O'Malley. The remaining eight blocks are within the Central National Area in Deakin, Forrest and Yarralumla. Within the diplomatic estate:

- 74 blocks are leased to 61 diplomatic missions; 52 missions are established and operating, with nine missions yet to develop their leased blocks
- One block is subject to final lease negotiations
- Seven blocks have been reserved for diplomatic missions wishing to relocate from premises outside the diplomatic estate
- 15 blocks have been deemed unsuitable for diplomatic use due to easements, environment or terrain
- Four blocks within the diplomatic estate remain suitable and vacant for new missions.

1.81 The assessment thus concludes that 'identification of new areas suitable for diplomatic estates is therefore necessary to meet the anticipated growing demand for the establishment of diplomatic missions'.⁷⁹

1.82 This assessment rests on the assumption that all reserved or undeveloped land within the diplomatic estate is unavailable for allocation to diplomatic missions, existing blocks will not be subdivided, or that alternatives cannot be found to current land allocation practices. These assumptions have been challenged by a number of groups.

1.83 Dr Cowan argued that there was a plentiful supply of land within the existing diplomatic estate. He told the Committee:

The need for a new diplomatic estate is not urgent. It is interesting to note that some 40 per cent of the diplomatic estate is actually undeveloped. We believe the current demand for 15 blocks can be met from the six vacant and the 22 undeveloped blocks within the existing diplomatic estate. There is also the potential for another 12 blocks from subdividing existing blocks. Countries wishing to establish a new diplomatic mission in Canberra can also be located in commercial office space or in O'Malley, where there is ample

⁷⁸ SGS Economics and Planning Pty Ltd, *Assessment of Three Sites for Diplomatic Use* – draft for review purposes – May 2012. The sites being assessed were land adjacent to the Federal Golf Course (Red Hill); land south-west of Stirling Ridge (Yarralumla); land near the Old Canberra Brickworks (Yarralumla).

⁷⁹ SGS Economics and Planning Pty Ltd, *Assessment of Three Sites for Diplomatic Use* – draft for review purposes – May 2012, p. 12.

accommodation available in the special residential area set aside for diplomatic use.⁸⁰

- 1.84 Other witnesses also highlighted the number of vacant blocks within the existing estate, particularly in O'Malley, and urged better use of the existing diplomatic estate before any move was made to allocate new land to diplomatic missions.⁸¹ Mr Brett Odgers, Convenor of the Walter Burley Griffin Society called for 'a proper review of the O'Malley estate', stating that 'it has been neglected, in that sense, as being a supply and as being an amenable area. It is designed to be so, and it is a very agreeable place to be in, as it is not far from anywhere else in the national capital.' He suggested that there might be as many as 23 readily available blocks in O'Malley alone.⁸²
- 1.85 The NCA conceded that a more flexible suite of options was possible, and that 'we probably do need to put more information into the community about developing new types of properties'. There was also the question of better managing or packaging some of the existing sites. On the other hand, there were sites which because of environmental constraints would have to be abandoned. The aggregate demand could be managed in a range of ways, but this would include new developments.⁸³
- 1.86 On the other hand, DFAT noted that there was already some flexibility in the options available to diplomatic missions, and that there were good reasons for some limits:

...that flexibility does exist at the moment. For example, a number of embassies, including those of Argentina and Colombia, are currently using office space. That choice has been available to them. Our concern is often where embassies are planning to rent or buy, because of our other responsibility, security. The NCA has the responsibility for managing those Crown leases, under the set of legal regulations under which we currently operate. So that has naturally been where the embassies will start. There is also the sense that Canberra is a different environment than many other capital cities, and to a certain extent they also take their lead from what other missions have done. There are physical presences that are identifiably the Papua New Guinea High Commission, the

80 Dr Alan Cowan, secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 11.

81 Mr Michael Lewis, committee member, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 16.

82 Mr Brett Odgers, Convenor, Walter Burley Griffin Society, *Committee Hansard*, Canberra, 15 February 2013, p. 17.

83 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 4.

Solomon Islands High Commission, the American embassy and the South African Embassy, and the real sense that they have become part of the Canberra landscape. So other missions see that that is how it works here. And we, of course, steer them into discussions with the NCA to explain to them the options under the existing regulations – that is in the set of guidelines that we operate under.⁸⁴

Committee conclusions

1.87 The Committee is of the view that given the information available to it, and the inherently unpredictable nature of future demand, the level of demand and supply of land for diplomatic missions presented by the NCA and DFAT is a reasonable assessment of the current situation, although the Committee notes that such assessments are difficult to make with any accuracy. This is not to say that improved management of the existing estate could not free up more blocks for disposal, or that other options could not be pursued to relieve pressure on National Land. Indeed, it is readily apparent to the Committee that if the anticipated demand for new diplomatic missions is to be met, we must improve the management of existing sites, new approaches must be developed, and a more flexible suite of accommodation options must be put in place. These will be discussed further below.

Property types and options

1.88 The need for an expanded suite of property types and other options to meet the different needs of diplomatic missions was agreed by all concerned. The constraints imposed by the current regime were to one degree or another recognised by everyone. There was, however, widespread disagreement as to the best alternatives to the current arrangements. A number of options were canvassed in the evidence presented to the Committee, including

- Resumption of leases
- Increased density
- Subdivision
- Use of residential premises
- Use of commercial premises

84 Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 4.

- Increasing the role of the market in land supply and for leaseholders relinquishing existing holdings.

Resumption of leases

1.89 The surrender or termination of existing leases on undeveloped sites has been raised as a possible option for freeing up land for diplomatic missions. Mr Wurfel argued that there 'are opportunities for the existing stock of sites to be better managed', that there were already incentives in place to ensure the proper and orderly development of existing sites and that those incentives should be used.⁸⁵ He stated that 'rather than identifying and allocating greenfield land, the key priority is to address the current stock of leases, including buyback of those already allocated, and to effectively manage development conditions for these leases in conjunction with the ACT government'.⁸⁶

1.90 Ms Marea Fatseas, President of the Yarralumla Residents Association, also expressed frustration at the apparent inability or unwillingness of the Australian Government to enforce the conditions of leases:

DFAT has protocol guidelines, which are not mentioned in their submission but are mentioned in the NCA's submission, that say that if land is allocated to a diplomatic mission, they should start building within 18 months and complete building within three years. Quite clearly, walking around Yarralumla, you can see a few vacant blocks that have been there for years and years. I guess that is a key problem with establishing a public policy when you cannot enforce it. Any policy that is developed should be able to be complied with. If you are going to establish a policy that you cannot enforce because of foreign policy considerations then what is the point of establishing policy of that kind?⁸⁷

1.91 In its submission, the NCA noted that it rigorously monitors the obligations of diplomatic missions under the Ordinance and had recently terminated two leases in O'Malley. It observed, however, that 'foreign policy and bilateral relationship issues significantly influence pursuit of site surrender or termination of leases due to non-compliance with lease conditions'.⁸⁸

85 Mr Peter Wurfel, President, Deakin Residents' Association, *Committee Hansard*, Canberra, 15 February 2013, p. 17.

86 Mr Peter Wurfel, President, Deakin Residents' Association, *Committee Hansard*, Canberra, 15 February 2013, p. 12.

87 Ms Marea Fatseas, President, Yarralumla Residents Association, *Committee Hansard*, Canberra, 15 February 2013, p. 16.

88 NCA, *Submission 12*, p. 7.

- 1.92 The NCA stated that while this matter has been under review, a more rigorous pursuit of lease condition would require clear protocols embodying flexibility and fairness to 'ensure that foreign policy objectives are upheld (avoiding any perception of inequality in treatment) while enabling efficient development of existing diplomatic land'. The NCA noted that 'lease termination could be achieved by consent – possibly using a financial incentive'; that unilateral termination could proceed following reminders or extensions, but that this course of action was 'constrained by foreign policy considerations'; and that 'unilateral action may compromise security and/or foreign policy ambitions in other areas'.⁸⁹
- 1.93 The difficulties surrounding the enforcement of lease conditions were also highlighted by DFAT, who also noted that allocated blocks, even if not developed, were not sitting there for free:
- The countries which have signed onto them are either paying rent for them or have made an up-front payment. So it is not as though there is no conditionality. There is a sense of there being an ongoing payment.⁹⁰

Increased density

- 1.94 In its submission, the NCA canvassed the possibility of developing high and medium density alternatives to the current property types available to diplomatic missions. The submission noted that:
- Canberra, like most cities around the world, is presently undergoing urban renewal and adopting new forms of development. The majority of renewal and new development is focused on more efficient land use, including medium and high density development. It is appropriate to consider whether such styles of urban development should also be adopted for Diplomatic development in the National Capital.⁹¹
- 1.95 The NCA suggested the possibility of a diplomatic 'office' building, with shared services and facilities. This would
- Allow efficient use of the limited number of diplomatic sites available and potentially allow use of the sites compromised by environmental constraints and topography (i.e. Deakin and O'Malley)

⁸⁹ NCA, *Submission 12*, p. 7.

⁹⁰ Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 21.

⁹¹ NCA, *Submission 12*, p. 9.

- Reduce costs for countries wishing to establish diplomatic representation in Australia in a prestigious site
 - Facilitate the effective provision of security services.⁹²
- 1.96 The NCA also canvassed the development of medium density diplomatic estates, thereby increasing the efficient use of vacant land and providing greater choice for diplomatic missions.⁹³
- 1.97 Potential issues were:
- Diplomatic missions may have a view about who they share services with
 - Facilities management function requires consideration (who would do it and how much would it cost?)
 - Potential difficulties liaising with multiple missions with differing views and priorities
 - May require the development of a new pricing regime for the new property types
 - Potential security implications of shared facilities
 - Possible private sector involvement
 - Would require consideration through a new policy and budget process.⁹⁴
- 1.98 In evidence before the Committee, the NCA acknowledged that there was a gap in the market as far as providing medium/high density or office style accommodation was concerned. The NCA stated:
- It is a gap that we have identified in the market. The missions that rent office accommodation at the moment are, with the greatest of respect, nothing more than premium tenants, so they are subject a lot to the views of their landlord. Where we have a gap is we do not have a Commonwealth controlled next step for them to take. So it might be that they quite like the idea of staying in office style accommodation but they – and perhaps even we – would prefer to have the formalities of a Commonwealth controlled agreement that is more tightly bound by international conventions and the parameters of our foreign relationship. We do not have that available, so it is one of the things we have on our list. We need to fill that gap.⁹⁵

92 NCA, *Submission 12*, p. 9.

93 NCA, *Submission 12*, p. 9.

94 NCA, *Submission 12*, p. 10.

95 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 7.

- 1.99 There was also a need to promote a cultural shift towards new types of accommodation by demonstrating new models to encourage missions to take them up.⁹⁶

Subdivision

- 1.100 The subdivision of existing blocks within the diplomatic estate is another option for increasing the supply of land for diplomatic missions. In its submission, the NCA stated:

A number of diplomatic missions have not fully developed their blocks. A sub-divided portion of these blocks is likely to produce viable sites for other diplomatic missions seeking to acquire land.⁹⁷

- 1.101 A possible incentive for subdivision could be a pro-rata buy back arrangement:

The pro-rata amount could be based on the time the mission has occupied the site, the premium or rent paid and the size of the block. The financial costs incurred for the 'buy-back' and subdivision would be recovered from the diplomatic mission acquiring the new block, thereby resulting in nil impost on the Commonwealth.⁹⁸

- 1.102 The NCA noted that 'this incentive scheme would require approval though the new policy and budget processes'.⁹⁹

- 1.103 The NCA believed that such lease variations could potentially yield up to 12 additional blocks in Yarralumla, of small to medium size, but emphasised that such lease variations would require mutual consent, would have to yield subdivided blocks that were viable, and be negotiated on a case by case basis.¹⁰⁰ A more conservative estimate was given in evidence at the public hearing, the NCA stating:

It is always a little bit hard until we actually settle down to site-specifics. We think we could free up potentially half a dozen realisable parcels in Yarralumla alone if missions will learn to come on board.¹⁰¹

96 Ms Shelley Penn, Chair, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 7.

97 NCA, *Submission 12*, p. 6.

98 NCA, *Submission 12*, p. 6.

99 NCA, *Submission 12*, p. 6.

100 NCA, *Submission 12*, p. 6.

101 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 8.

1.104 The NCA stated that it had ‘obtained advice confirming there is a legal mechanism which could be employed to affect a policy of sub-division by mutual consent including payment of an upfront financial incentive’.¹⁰²

1.105 There was some support for subdivision amongst residents groups, but this was conditional on good planning outcomes. Mr Wurfel stated that ‘you would not envisage subdividing and having a dual or triple or quadruple occupancy in an embassy location that would be out of character with a street and would bring with it a whole range of other problems’. His conclusion was that he had ‘no problems with subdivision but it has to be done sensibly’.¹⁰³ Likewise, Dr Cowan told the Committee:

You could only subdivide provided the resulting blocks were all individually sufficiently large to accommodate the traffic that comes with people coming for visas and so on, surely. It has got to be carefully regulated and examined, but some of those blocks are very large and we think could easily accommodate at least two buildings.¹⁰⁴

Use of residential premises

1.106 The possibility of following overseas practices and placing diplomatic missions in residential settings was also canvassed. Potential problems with this approach were raised by representatives of government agencies, but it also found little support from residents.

1.107 In its submission, DFAT noted that under the current regulatory regime, there were strict limits on diplomatic missions locating in residential areas. Missions had to seek specific permission to use residential premises for their chanceries and the ‘grant of relief from the purpose clause of Crown leases for residential premises can only be temporary – for a period of up to three years’.¹⁰⁵

1.108 Both NCA and DFAT emphasised the advantages of retaining the diplomatic estate on Commonwealth owned land. NCA stated:

Diplomatic issues are a component of foreign affairs and thus a Commonwealth, rather than a Territory function. This means that, ideally, all diplomatic missions would be located on National

102 NCA, *Submission 12*, p. 7.

103 Mr Peter Wurfel, President, Deakin Residents’ Association, *Committee Hansard*, Canberra, 15 February 2013, p. 18.

104 Dr Alan Cowan, Secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 18.

105 DFAT, *Submission 10*, p. 3.

Land sites, identified for Diplomatic Use, within a Designated Area defined by the National Capital Plan.¹⁰⁶

1.109 In its submission DFAT argued that:

Locating missions within a defined Commonwealth owned diplomatic 'estate' has foreign policy advantages. Primarily, this arrangement allows the Australian Government to visibly demonstrate our commitment to fulfilling our international obligations. We can enhance a bilateral relationship by actively assisting a foreign country to acquire land that meets the needs of a diplomatic mission.¹⁰⁷

1.110 Retaining diplomatic missions on Commonwealth land enhanced opportunities for reciprocity, including land swaps, and gave the Australian Government greater control over costs.¹⁰⁸

1.111 DFAT, the NCA and the AFP all argued against dispersal of missions in residential areas on security grounds. The AFP informed the Committee that 'the more geographically dispersed the diplomatic missions are, the harder it becomes from the security point of view – the AFP's resources being stretched'. This also had potential implications for the core business of community policing.¹⁰⁹ The NCA emphasised that the security arrangements typical of a diplomatic mission – fences, cameras and lighting – were out of place in a residential context.¹¹⁰ DFAT argued a diplomatic mission was not just another residence – it had different needs and should be judged by different criteria:

The difficulty is that it is a very different set of demands to what you are going to have from someone who buys the same block for a house or even for a business. So that security element is just something that is not going to go away. It will not apply equally, but you have to understand that, if the diplomatic estate idea goes away and the Australian government agrees that there can be houses here, there and wherever that are sold privately or rented for the long term by missions, there may well be quite complex security arrangements that that country will want to put in place. So it is certainly a factor. There are extremes. If you have a look at the American embassy and the Israeli embassy, clearly for them

¹⁰⁶ NCA, *Submission 12*, p. 3.

¹⁰⁷ DFAT, *Submission 10*, p. 3.

¹⁰⁸ DFAT, *Submission 10*, p. 4.

¹⁰⁹ Assistant Commissioner Michael Outram, National Manager Protection, AFP, *Committee Hansard*, Canberra, 15 February 2013, p. 21.

¹¹⁰ Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 10; Ms Shelley Penn, Chair, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 22.

security is a huge priority. There are others that take a much more relaxed approach, and we can expect those two extremes to continue. But increasingly the trend will be that governments will not want to leave properties unfenced, for example. So that is the most obvious first step that many governments are taking.¹¹¹

- 1.112 The use of residential premises for diplomatic missions was largely opposed by residents groups. They supported diplomatic enclaves, but questioned their location. Ms Fatseas thought 'the idea of having specific precincts that are planned to meet the needs of larger numbers of embassies is a good one'; the question was where it should be located and whether other options, such as commercial premises or subdivision, were also available.¹¹² Mr Lewis noted that 'chanceries are essentially office blocks...with all the associated traffic and that sort of stuff'. He stated that: 'We do not have commercial office blocks in residential areas and so I do not think we should have chanceries in residential areas'.¹¹³ Dr Cowan argued for a purpose built estate, based on a long term plan, separate from existing or proposed residential areas:

As we indicated we feel that sure, embassies should not really come into residential areas but in the long run we would like to see a diplomatic estate developed from the ground up in some such area – perhaps Molonglo Valley – where it could be planned from the beginning as a diplomatic estate and any adjacent suburban residential areas can be properly distanced and protected and the impact avoided and so on. So provided it is done as a long-term planning project, that would be our preferred long-term plan.¹¹⁴

Commercial

- 1.113 The use of commercial office space for diplomatic missions was actively promoted by residents groups. In its submission, the Save Stirling Park Group stated:

It would seem desirable and preferable, and ultimately inevitable, that office premises, presumably mainly in the CBD, should

111 Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 21.

112 Ms Marea Fatseas, President, Yarralumla Residents Association, *Committee Hansard*, Canberra, 15 February 2013, p. 17.

113 Mr Michael Lewis, committee member, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 18.

114 Dr Alan Cowan, Secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 19.

become the normal practice for accommodating chanceries. There is an abundance of quality office space and this makes obvious sense particularly to small countries seeking a low cost location.¹¹⁵

- 1.114 In its submission, the Yarralumla Residents Association noted that a number of embassies already used commercial premises, and that DFAT guidelines provided that diplomatic mission may be located in commercial office buildings. The Association could see ‘no reason why future diplomatic missions could not use commercial office space in this way’.¹¹⁶
- 1.115 As discussed above, the NCA certainly supports commercial office style accommodation as an option, but within the context of a diplomatic estate. The AFP has concerns about any move which may disperse diplomatic missions, thereby make security more difficult. Similar concerns were raised by DFAT concerning any move to locate diplomatic missions in residential or commercial accommodation:

A number of missions will always want to be on their own site so they can very much control the perimeter. It might be a small site; it might be multistorey. But there are a number of countries who will not want to share their premises. If we consider those – and do not worry about the size aspect for the moment – and they have a security concern, certainly fences and the exterior perimeter would be something they would want to put up.¹¹⁷

Committee conclusions

- 1.116 Of the potential options for expanding the supply of properties available for diplomatic missions, resumption of existing leases is the most fraught. Nonetheless, the Committee is concerned that valuable land is going to waste under present arrangements, including leases that have remained undeveloped for fifty odd years. The Committee is of the view that regulations need to be put in place to uphold the terms of diplomatic leases with regard to development timeframes, and diplomatic missions left with no uncertainty as to their obligations. The policy of resumption of land within 36 months where development has not commenced needs to be rigorously enforced.
- 1.117 Increasing the density of the diplomatic estate, pursuing medium or high density accommodation options, is something the Committee supports.

115 Save Stirling Park Group, *Submission 8*, pp. 7–8.

116 Yarralumla Residents Association, *Submission 11*, p. 6.

117 Ms Sally Mansfield, Branch Head, Protocol Branch, DFAT, *Committee Hansard*, Canberra, 15 February 2013, p. 21.

The Committee recognises the potential security implications of putting several missions in one locality, but believes that these can be managed, and that the efficiencies to be gained in terms of land use and property management outweigh the risks. Smaller, low profile, missions would probably find such accommodation preferable to stand alone buildings on large blocks. The Committee appreciates, however, that the move to this option will require something of a cultural change, not just on the part of the Australian Government and its agencies, but also on the part of the diplomatic corps. The Committee urges the Australian Government to pursue this option.

- 1.118 Subdivision of existing diplomatic properties is another option that the Committee believes should be pursued. Again, the Committee accepts that there are practical limits to the process of subdivision, and that subdivision will be subject to diplomatic as well as practical imperatives, but the opportunity to develop mutually advantageous mechanisms for releasing property through subdivision should be undertaken. The Committee notes that the NCA is already exploring the best mechanism for this option and urges the Government to adopt it at the earliest opportunity.
- 1.119 The Committee notes that the use of properties in residential areas is a common practice in other countries, and already occurs under certain circumstances in Canberra. The committee also notes that Canberra's historical growth pattern means that residential areas have grown side by side with diplomatic premises close to Government activity centres. There is an existing interface between the Canberra community and Canberra's diplomatic community.
- 1.120 Washington DC provides an excellent model of the way free market practices guided by appropriate regulation have allowed diplomatic missions to integrate into the fabric of the city. The Committee believes that this is a model that Canberra should follow. As in Washington, a planning regime could be put in place which encourages diplomatic missions to locate in certain areas which would meet the AFP's need for a defined security footprint – perhaps the inner north and the inner south – while allowing a great deal of flexibility within those areas. Potential problems surrounding security, traffic and public amenity are recognised, but they are manageable. Allowing access to residential areas has the further benefit of taking pressure off greenfield sites.
- 1.121 The Committee observes that the use of commercial premises is also a common occurrence in other countries. This option is already available to diplomatic missions in Canberra and a number have chosen to pursue it. As with residential properties, the use of commercial premises could be

encouraged on free market principles lightly constrained by regulation, and with preference given to some areas over others. There is no reason why the use of commercial premises would cause especial difficulties in terms of traffic or public amenity, and the security issue should be manageable. The Committee notes, for example, that existing missions in commercial premises are located within the security footprint provided by the AFP's Diplomatic Protection Unit. This is another option that should be directly encouraged.

Recommendation 1

1.122 The Committee recommends that, in order to better utilise limited resources for the allocation of land to diplomatic missions, the Australian Government implement:

- **Strengthened policies and regulations surrounding diplomatic leases to ensure compliance, with the policy of resumption of land within 36 months where development has not commenced being rigorously enforced**
- **Medium- and high-density options for housing chanceries**
- **Policies to allow the subdivision of existing sites within the diplomatic estate**
- **A policy framework that allows more extensive use of residential and commercial properties to house chanceries, along the lines adopted in Washington DC**
- **In the future, a steady evolution towards a more commercial approach (as in Washington DC) should be encouraged.**

Options for future locations

Potential locations

1.123 The discussion about potential locations for a new diplomatic enclave has been going on for a number of years. In 2008, consultants GHD produced a report for the NCA entitled *Report for Diplomatic Land Supply: Opportunities and Constraints*. This report canvassed 12 possible new sites, including:

- Block 3 Section 128 Yarralumla
- Block 3 section 94 & Block 7 Section 102 Yarralumla (brickworks)

- Block 4 Section 22 Yarralumla (Stirling Park)
 - Block 5 Section 100 Yarralumla
 - Part Block 4 Section 22 Yarralumla (western part of Stirling Park)
 - Block 11 Section 100 Yarralumla (Yarralumla Bay Oval)
 - Block 1 Section 44 Yarralumla (Casey House)
 - Block 5 Section 121 Curtin (Curtin horse paddocks)
 - Block 4 Section 106 Curtin
 - Block 1176 WDC (Parks, Conservation and Lands)
 - Block 664 WCD (Oakvale Stud)
 - East O'Malley (comprising 93 individual residential blocks).¹¹⁸
- 1.124 The report found that the Curtin horse paddocks, combined with the adjacent Parks, Conservation and Lands site, 'provides the optimal location for establishing a new diplomatic area'.¹¹⁹ The report recommended that those areas be declared National Land for the purpose of diplomatic use, along with the adjacent Oakvale Stud. It also recommended East O'Malley, Casey House and Block 3 Section 31 Yarralumla be made available for diplomatic use. The report recommended against using Stirling Ridge, the Yarralumla brickworks or Yarralumla Bay for the diplomatic estate. It also noted that Block 4 Section 106 Curtin (adjacent the horse paddocks) had been reserved for an Islamic school.¹²⁰
- 1.125 In October 2011, the NCA issued a consultation report on three proposed sites:
- Land to the south-west of Stirling Ridge
 - Land near the Old Canberra Brickworks
 - Land adjacent to the Federal Golf Club
- 1.126 As part of the of the consultation process the NCA received submissions proposing alternative sites, including:
- North Curtin Horse Paddocks
 - Land West of Empire Circuit
 - Land between Forster Crescent and Alexandrina Drive
 - Mugga Lane or Symonston

118 GHD, *Report for Diplomatic Land Supply: Opportunities and Constraints*, National Capital Authority, February 2008, p. 8.

119 GHD, *Report for Diplomatic Land Supply: Opportunities and Constraints*, National Capital Authority, February 2008, p. 46.

120 GHD, *Report for Diplomatic Land Supply: Opportunities and Constraints*, National Capital Authority, February 2008, p. 48.

- Majura Road
- Yarralumla Bay Oval
- Land between Mugga Way and Hindmarsh Drive
- Land South of Carruthers Street in Hughes
- Land along Northbourne Avenue¹²¹

1.127 This indicative list is interesting not so much because it represents a list of sites under serious consideration, but rather because in its submission to the inquiry the ACT Government has already effectively ruled them all out, stating:

The development of diplomatic missions in many of these areas does not present the most efficient use and would compromise the Territory's capacity for urban intensification; this is especially the case for sites on Northbourne Avenue and the North Curtin Horse Paddocks.¹²²

1.128 The result of the NCA's investigation of the three sites – adjacent the Federal Golf Course (Red Hill), near the Old Canberra Brickworks (Yarralumla) and south-west of Stirling Ridge (Yarralumla) – is that:

- the land adjacent to the Federal Golf Course has been ruled out for further consideration because of environmental constraints
- further consideration of the brickworks site has been deferred pending discussion with the ACT Government, which has its own priorities for the site
- the Stirling Ridge site is now the subject of Draft Amendment 78.¹²³

1.129 Draft Amendment 78 provides for most of Stirling Ridge to be converted from 'National Capital Use' (i.e. available to the Commonwealth to develop) to 'Open Space', with the concomitant protection of heritage and environmental values. It also provides for a Prime Minister's residence to be located at Attunga Point.

1.130 Draft Amendment 78 will:

- Reduce the area of land for 'National Capital Use' on Stirling Ridge
- Change the land use for the majority of Stirling Ridge to 'Open Space' in recognition of areas of high conservation values
- Remove Stirling Ridge from consideration as a possible future site for the Prime Minister's residence

121 NCA, *New Diplomatic Estate – Consultation Report*, October 2011, p. 17.

122 ACT Government, *Submission 17*, p. 3.

123 NCA, *Submission 12*, p. 11.

- Retain 'National Capital Use' for Attunga Point, recognising the potential partial realignment of the Alexandrina Drive road reserve
- Amend reference to consideration by the Official Establishments Trust of Stirling Ridge and Attunga Point as possible future sites for the Prime Minister's residence
- Remove provisional land use for the intended extension of Empire Circuit from 'National Capital Use' to 'Open Space' in recognition that the road will not be extended through Stirling Ridge and the former Westlake community site
- Change land use for part of the land adjacent to Stirling Ridge from 'National Capital Use' to 'Diplomatic Mission'.¹²⁴

Stirling Park

1.131 The critical reception to the proposal to use part of Stirling Park for the diplomatic estate has been the catalyst for the current inquiry. Community concern over the way that Stirling Park has been selected has raised broader issues about the overall process for planning the allocation of land to diplomatic missions.

1.132 From the point of view of the NCA, the selection of Stirling Park has been part of a rigorous process of matching requirements to constraints and coming up with the optimum outcome. In evidence before the Committee, the NCA stated:

We applied the process that I have just described in our assessment and subsequent selection of a portion of land at Stirling Ridge. We have identified that the nominated land is highly suitable in terms of the national interest. In particular, I want to draw the committee's attention to the fact that, although the vast majority of Stirling Ridge is of very high environmental value, there are no environmental values attached to the subject land, which is located at the fringe of the greater Stirling Ridge area. In relation to local community concerns, including issues such as traffic movements, design, character and the environmental buffers, the NCA is confident that these can be readily addressed through careful planning and approval controls.¹²⁵

1.133 Residents refuted this statement. Dr Cowan argued that the development would have a significant impact on 'an extremely precious environmental

¹²⁴ Draft Amendment 78, p. 10.

¹²⁵ Ms Shelley Penn, Chair, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 2.

area'.¹²⁶ He argued that the environmental assessment had been carried out under a false premise, comparing the environmental values of Red Hill bushland to those of the Stirling Park grassland. He stated:

I have lived in the vicinity of Stirling Ridge for 25 years, I have walked there every day and I have compiled a list of 95 bird species, as well as a number of mammals and reptiles. The site is of great value and consists of not only grassland but also the woodland on the ridge, and at the eastern end the pin oaks, which line Fitzgerald Street, and the pine plantation at the western end of the reserve.

Once you start this proposed development, it would involve the destruction of many of those pin oak trees and all or most of the pine trees, a substantial fringe of the native woodland along the ridge with a fire zone of unspecified width and, of course, all sorts of other threats to the environment there such as would come with development – noise, lights, security, domestic animals, weed invasion, water run-off and so on. So we regard it as an extremely valuable area, and those trees are not just exotic trees, they are also feeding and shelter trees for birds and they provide corridors along which birds can move from one part of the area to another. Once you start destroying things around the edges, you are degrading, you are fragmenting and you are greatly diminishing the environmental value of this area. It is probably the last extensive area of native woodland within the inner city. If it goes, it would be an unmitigated tragedy.¹²⁷

1.134 Dr Cowan argued for a new environmental assessment of the site.¹²⁸

1.135 Ms Fatseas argued that DA 78 was inconsistent with the Griffin plan and the Griffin legacy. She argued it was also inconsistent with the Lake Burley Griffin and Adjacent Lands Heritage Management Plan, which 'envisage natural woodland and a naturalistic foreshore'.¹²⁹ Mr Odgers also argued that the proposal was inconsistent with the Griffin plan and

126 Dr Alan Cowan, Secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 11.

127 Dr Alan Cowan, Secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 14.

128 Dr Alan Cowan, Secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 14.

129 Ms Marea Fatseas, President, Yarralumla Residents Association, *Committee Hansard*, Canberra, 15 February 2013, p. 12.

the Griffin legacy – indeed that much of the existing diplomatic estate was inconsistent with those concepts, and urged that DA 78 be withdrawn.¹³⁰

1.136 In response to the claim that DA 78 was inconsistent with the plan, the NCA argued that:

Plans, by their very nature, are subject to change. They are constantly developing to embrace the new world, the new environment. The planning system established in the fifties did not think about medium and high density, but we now know that we must think about that. So I think we have to allow for changing use over time.

... we did not understand all those environmental values as well. The purpose of putting forward DA78 is to have that discussion about a potential change. We have lost the original and intended use of places like Casey House and I am not sure it is helpful to try to drag them back. I do not think it helps move us forward.¹³¹

1.137 With regard to Stirling Park, the NCA noted that many of the trees on the site were ageing *Pinus radiata* that would be 'gone within five years regardless of this proposal' and would not be replaced.¹³² Nonetheless, the NCA conceded that as part of the Draft Amendment process, a further environmental evaluation 'would be appropriate':

If DA78 is to proceed, the NCA could make a formal referral to the Commonwealth environment department under the EPBC Act. That puts the highest test in the land on it. We believe that our work is robust. With that confidence, there is no reason for us not to submit to that process.¹³³

Alternative sites

1.138 In the evidence presented to the Committee, a number of other potential sites have been mentioned as possible alternatives to Stirling Ridge. These include:

- Curtin horse paddocks
- Yarralumla brickworks
- Carruthers Street, Hughes
- Molonglo

130 Mr Brett Odgers, Convenor, Walter Burley Griffin Society, *Committee Hansard*, Canberra, 15 February 2013, p. 13.

131 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 20.

132 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 20.

133 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 20.

1.139 In evidence to the Committee, Mr Wurfel stated:

If there is to be any consideration of future sites for estates, the Curtin horse paddocks – recommended by a consultant to the NCA – and the Yarralumla brickworks site – preferred by inner-south residents in a recent consultation process – should be considered ahead of Stirling Ridge, which is a green area well used and increasingly valued by both Deakin and Yarralumla residents.¹³⁴

1.140 The Yarralumla Residents Association certainly preferred the brickworks site to either of the alternatives – the diplomatic estate at Stirling Park or the ACT Government’s proposal for high-density residential development at the brickworks.¹³⁵

1.141 Ms Fatseas also raised the option of Molonglo – creating a new diplomatic estate on a greenfield site and integrating it with the surrounding developments. She stated:

I think the idea of having specific precincts that are planned to meet the needs of larger numbers of embassies is a good one. For example, the idea of having an area within Molonglo is something that would be a longer-term strategy, together with a mix. I think it is about having a diversity of approaches that could meet the needs of different diplomatic missions. So you might have some commercial office space, you might have some land in existing areas, in existing diplomatic precincts, and you might perhaps have an existing mission surrendering some land so that another mission can also have some of that land. It could also mean having custom-built areas in new areas like Molonglo.¹³⁶

1.142 Dr Cowan expressed a similar view, telling the Committee:

As we indicated we feel that sure, embassies should not really come into residential areas but in the long run we would like to see a diplomatic estate developed from the ground up in some such area – perhaps Molonglo Valley – where it could be planned from the beginning as a diplomatic estate and any adjacent suburban residential areas can be properly distanced and protected and the impact avoided and so on. So provided it is

134 Mr Peter Wurfel, President, Deakin Residents’ Association, *Committee Hansard*, Canberra, 15 February 2013, p. 12.

135 Ms Marea Fatseas, President, Yarralumla Residents Association, *Committee Hansard*, Canberra, 15 February 2013, pp. 14–15.

136 Ms Marea Fatseas, President, Yarralumla Residents Association, *Committee Hansard*, Canberra, 15 February 2013, p. 17.

done as a long-term planning project, that would be our preferred long-term plan.¹³⁷

- 1.143 The Save Stirling Park Group did 'not consider that proximity to Parliament House, government departments and other diplomatic enclaves or a prestigious location are relevant criteria in Canberra in the 21st century' given modern communications technology and ease of vehicular access. Nonetheless, they identified a number of locations 'which meet some or all of these guidelines include the following: the North Curtin horse paddocks, the Molonglo Valley, the Yarralumla brickworks, the south side of Carruthers Street, Hughes, sites to the north of Lake Burley Griffin and commercial zones'.¹³⁸
- 1.144 Two potential problems arise with all of the possible alternatives. The first is the view of the ACT Government. In its submission, the ACT Government noted that 'the Brickworks site presents an opportunity for the Territory to establish in the future a medium to high density development integrated with public transport'. The ACT Government did not support the use of the site for the diplomatic estate 'as it would be a lost opportunity to implement the directions of the ACT Planning and Transport strategies'.¹³⁹ As discussed above, the ACT Government has also expressed its reservations concerning most of the other alternatives proposed, including the Curtin horse paddocks.¹⁴⁰ The ACT Government expressed the view that it was important for the NCA to seek 'the Territory's views of potential sites as early as possible, given the Territory's knowledge of the constraints/opportunities on development of certain sites'.¹⁴¹ With regard to DA 78, the ACT Government stated that it 'is not opposed to the draft Amendment':

The proposed adjustment of land use boundaries results in a net increase in open space for the area while fulfilling the NCA's responsibility to provide sites for the purposes of diplomatic use to the south west of Stirling Ridge and for a future residence for the Prime Minister of Australia.¹⁴²

137 Dr Alan Cowan, Secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 19.

138 Dr Alan Cowan, Secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 11.

139 ACT Government, *Submission 17*, p. 3.

140 ACT Government, *Submission 17*, p. 3.

141 ACT Government, *Submission 17*, p. 2.

142 ACT Government, *Submission 17*, p. 2.

- 1.145 The other problem with alternative sites is that they are likely to run into the same sort of opposition from residents as the Stirling Ridge site. As the NCA explained to the Committee:

I think wherever we go, if it is an undeveloped site we are going to have a lot of community opposition. We need to focus on issues rather than pushing it from neighbour to neighbour. Even within the process that looked at the Federal Golf Club versus Stirling Ridge, the people who were interested in the land adjacent to the golf club said 'Stirling Ridge is ideal, go there' and the people who were interested in Stirling Ridge said 'The golf club is ideal, go there.' We do not want to get into a divisive thing. Let's look at the issues and try and resolve them.¹⁴³

- 1.146 With regard to the Curtin horse paddocks site, the NCA stated:

There are obviously community sensitivities around it. If it were to be developed for general ACT suburban use, that would be a proposal put by the ACT government and they would need to have that discussion separately with the community about the trade-off of current open space for future urban development. We would have to have the same discussion if we decided that it was suitable for diplomatic use if we wanted to proceed with that. In any part of Australia, any new green field development proposal is going to be controversial. One that deals with such a large area of open space in an older part of the city is going to be at the pointier end of that difficulty.¹⁴⁴

O'Malley

- 1.147 The other area raised in the evidence presented to the Committee is O'Malley, which includes the current diplomatic enclave on National Land and provision for a diplomatic presence on Territory Land. As noted above, it was recommended by consultants GHD in 2008 that East O'Malley be incorporated in the diplomatic estate. In 2008 there were 29 blocks in East O'Malley with a diplomatic presence either in the form of chanceries, consulates or residences.¹⁴⁵
- 1.148 In its submission, the Walter Burley Griffin Society noted that the 2006 census showed at least 51 residential blocks in O'Malley were leased to or

143 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 20.

144 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 5.

145 GHD, *Report for Diplomatic Land Supply: Opportunities and Constraints*, National Capital Authority, February 2008, p. 26.

occupied by diplomatic missions, all but one being Territory leases. The submission observed that:

O'Malley is manifestly a prime Diplomatic Estate with abundant planning, environmental and locational advantages. From the 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.'¹⁴⁶

- 1.149 The NCA view on O'Malley was focussed on the environmental constraints within the reserved section of National Land. The view was that certain sections could be repackaged, but others would be lost:

Where we have got land that has previously been unattractive, we may need to repackage it and make sure that we do get people on to it. Most of the problems are, theoretically at least, solvable; there are a couple where we are just not sure if the ground conditions are ever going to be solvable. We may have to abandon some sites. There are some sites – in O'Malley in particular – that could be developed in an engineering sense, but when they were set aside we did not really understand the environmental values of some of the remnant trees. There are some sites in the undeveloped portion of O'Malley that have land that would qualify as yellow box-red gum woodland. We would voluntarily take those sites out; we would not try to ruin that part by developing those.

Unfortunately, we will lose a couple of the sites in doing that.¹⁴⁷

- 1.150 Mr Lewis acknowledge the problem with the steep sites, but questioned the existence of other undeveloped blocks:

I do not have a problem with not developing those 12 steep blocks. They are very steep. In fact, I understand that the NCDC at one stage said they were never intended to be developed. In our calculations, for example, we have looked at the number of blocks in O'Malley as part of the national land for the diplomatic estate and I think there are something like 11 blocks there that are quite flat and level, without any environmental problems, yet there is only one building on them. The rest are reserved. The UAE I think has got four or five blocks reserved. There is another block reserved for Laos. The Syrians have just given up two blocks, which are now back in the pool. Of the diplomatic estate in O'Malley, there are 12 steep blocks. I do not think they could be

146 Walter Burley Griffin Society, *Submission 4*, p. 8.

147 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 4.

built—I do not know—although the NCA says they could perhaps sell them to the private sector. But of the remaining 11 blocks, there is only one building—the Croatian embassy, I think—and the rest of them are vacant.¹⁴⁸

- 1.151 Mr Odgers not only raised the vacant blocks in the current diplomatic estate, but looked at O'Malley as a whole. He believed that there was scope for some 23 blocks to be made available for lease:

In the last year, I have seen two new chanceries established in Dunoon Street. Dunoon actually runs into Culgoa and Jindalee. We are getting, right now, a sort of clustering of embassies, maybe of like mind. The newer ones, of course, are leased, presumably under the ACT leasehold system, from the market or dealing with the ACT government. So by my count we have something like 23 readily available blocks—and this is in O'Malley that could be developed—not counting those that are taken from the private sector. Therefore, what we need, because my figures can be questioned, no doubt, is a proper review of the O'Malley estate. It has been neglected, in that sense, as being a supply and as being an amenable area. It is designed to be so, and it is a very agreeable place to be in, as it is not far from anywhere else in the national capital.¹⁴⁹

Committee conclusions

- 1.152 The Committee believes that, in the absence of a long-term strategy designed to balance the future needs of the diplomatic estate against other planning requirements of Canberra as National Capital and as a living city, it is difficult to assess the relative merits of potential locations for new diplomatic estates. There are clearly options available, but all have drawbacks, and most bring the respective requirements of the Australian and ACT Governments into conflict with each other. This serves to highlight the need for a long-term strategy for the future of the diplomatic estate, conducted and developed in conjunction with the ACT Government.
- 1.153 There is also the question of the future of O'Malley, a suburb intended from inception as a diplomatic precinct. The division of the suburb between National and Territory land has brought about conceptual confusion. Topographical difficulties may or may not have ruled out

148 Mr Michael Lewis, committee member, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 16.

149 Mr Brett Odgers, Convenor, Walter Burley Griffin Society, *Committee Hansard*, Canberra, 15 February 2013, p. 17.

building on certain blocks. Other blocks may or may not be available for diplomatic use. The only certainty is that the diplomatic estate in O'Malley is currently underutilised, which in turn raises questions about the need to claim new land for the diplomatic estate. At the very least, the situation in O'Malley needs to be subjected to a thoroughgoing review, and clear and coherent decisions made about how the whole of O'Malley will be utilised for diplomatic purposes into the future. This should be undertaken in conjunction with the development and implementation of a long term strategy for the allocation of land to diplomatic missions in the ACT.

Long term strategy

- 1.154 The lack of a long term strategy for the diplomatic estate has been highlighted in much of the evidence presented to the Committee. The NCA noted that:

There is no extant statement of Government policy to guide the NCA in relation to the leasing of diplomatic land. Administrative arrangements have evolved over time since diplomatic land was first leased in Canberra in the 1940s.¹⁵⁰

- 1.155 The essentially ad hoc development of the diplomatic estate was highlighted in the evidence of the Walter Burley Griffin Society. The result, according to the society, has been something of a mess, neither in tune with current or previous plans, nor any obvious planning principles.¹⁵¹ Speaking on behalf of the Society, Mr Odgers stated:

Historically, going back to the 1960s the United Kingdom had imperial blocks on Commonwealth Avenue. In the 1940s the United States of America estate was more or less on the site that Walter Burley Griffin marked for the Governor-General's residence. Decisions even since then have paid no heed to the National Capital Plan and alternative prospective demands on the national land bank. Land in the central national area of Canberra is now becoming scarce at the same time as numerous prospective demands for national land are emerging. Even the earlier DA66 directly impacted on the purposes of Casey House, once reserved as a residence for the federal Treasurer, and Darwin Avenue, the last of the state and territory radials symbolising Federation.¹⁵²

150 NCA, *Submission 12*, p. 2.

151 Walter Burley Griffin Society, *Submission 4*, pp. 4–5.

152 Mr Brett Odgers, Convenor, Walter Burley Griffin Society, *Committee Hansard*, Canberra, 15 February 2013, p. 13.

1.156 The Society contrasted this to the situation in Washington DC, where the allocation of land to diplomatic missions was incorporated into an overall plan:

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.¹⁵³

1.157 Dr Cowan noted that 'there are no agreed guidelines as to where a new diplomatic estate might be located'. This meant that development had been ad hoc and piecemeal.¹⁵⁴ In its submission, the Save Stirling Park Group listed a range of criteria for new estates, including:

- Meets long term need
- Appropriate price signals should apply
- Consistent with Canberra's urban development
- Community use not alienated
- Does not harm the environment
- Minimal impact on local residences
- Has community support
- Will not impact on local traffic
- Protected from bushfire
- Protects both Indigenous and European heritage
- Ability to provide acceptable security.¹⁵⁵

1.158 The Group recommended a strategy which included the following options:

- Commercial premises
- Subdivision of existing blocks

¹⁵³ Walter Burley Griffin Society, *Submission 4*, p. 5.

¹⁵⁴ Dr Alan Cowan, Secretary, Save Stirling Park Group, *Committee Hansard*, Canberra, 15 February 2013, p. 11.

¹⁵⁵ Save Stirling Park Group, *Submission 8*, pp. 8-10.

- Residential (mainly for diplomatic residences)
- Private sector (e.g. business park).¹⁵⁶

1.159 The Yarralumla Residents Association also had agreed criteria for new diplomatic precincts:

These are to minimise traffic congestion in the suburb, to ensure there is adequate parking, to maximise the visual buffer between developments and existing residential areas, to ensure that relevant government departments consult with the YRA on subdivision plans, to minimise the impact on existing trees, to ensure adherence to advice from the environmental experts on measures to minimise the impact of development, including firebreaks and pedestrian access, and to ensure continued easy pedestrian access to open green spaces and pedestrian safety.¹⁵⁷

1.160 In evidence before the Committee, the NCA conceded the need for a more transparent process for identifying diplomatic sites and long term planning:

We probably need to say: 'Let's presume two sites a year for 20 years. Let's look for 40 sites. Where would 40 sites be?' That gives us a couple of decades forward plan. Let us look at how that occurs. If ultimately that was something the committee asked us to do, we would do it and I think it is something we probably need to turn our minds to anyway. We have the component pieces but we have never joined them together and said, 'Here's the holistic view.'¹⁵⁸

1.161 The NCA believed that it would be easier to manage the whole process of land allocation if there was a comprehensive plan setting out a range of options:

It would certainly be easier for us to have discussions with missions about what their future options were if we had a more comprehensive forward plan and were able to say you can start with private office rental and be a premium tenant and then you can transition to a Commonwealth managed style of office accommodation and if the relationship grows and you want to upgrade the premises you can look to stronger, larger and more expensive property. It would be easier for our dealings with those missions. It would be much better for the community to know in

156 Save Stirling Park Group, *Submission 8*, pp. 7-8.

157 Ms Marea Fatseas, President, Yarralumla Residents Association, *Committee Hansard*, Canberra, 15 February 2013, p. 13.

158 Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 6.

the long term what our thinking was, rather than having to respond to individual proposals as they come forward. I think that is pretty important.¹⁵⁹

- 1.162 The NCA also noted that such a plan would ‘give clarity around government policy in relation to diplomatic relations at the level of diplomatic mission provision. What does government think it should, at minimum, provide? It would be good if that could be codified.’¹⁶⁰

Committee conclusions

- 1.163 Washington DC demonstrates the benefit of having a coherent long term policy for the allocation of land to diplomatic missions. Given that example, and the shortcomings of the current arrangements in Canberra, the Committee is of the view that the need for a long-term strategy for allocating land for diplomatic missions is obvious. This strategy should be developed in conjunction with the Department of Foreign Affairs and Trade, Australian Federal Police and ACT Government and integrated with the National Capital Plan and the Territory Plan. It should forecast demand and supply and establish the various mechanisms by which these forecasts may be met, including:

- Designating sites for future diplomatic enclaves
- Establishing a clear and binding framework for the granting and resumption of leases to diplomatic missions
- Establishing a policy for medium and high density properties
- Creating a mechanism for the subdivision of existing leases
- Establishing a framework for more extensive use of residential and commercial properties for chanceries
- Managing impacts on local residents
- Working out what role the private market might play to complement the existing leasing arrangements.

Recommendation 2

- 1.164 **The Committee recommends that the National Capital Authority develop a long term strategy for the allocation of land to diplomatic missions in the Australian Capital Territory. This strategy should be developed in conjunction with the Department of Foreign Affairs and**

¹⁵⁹ Mr Gary Rake, Chief Executive, NCA, *Committee Hansard*, Canberra, 15 February 2013, pp. 8–9.

¹⁶⁰ Ms Shelley Penn, Chair, NCA, *Committee Hansard*, Canberra, 15 February 2013, p. 8.

Trade, Australian Federal Police and ACT Government and integrated with the National Capital Plan and the Territory Plan. It should forecast demand and supply and establish the various mechanisms by which these forecasts may be met, including:

- Designating sites for future diplomatic enclaves
- Establishing a clear and binding framework for the granting and resumption of leases to diplomatic missions
- Establishing a policy for medium and high density properties
- Creating a mechanism for the subdivision of existing leases
- Establishing a framework for more extensive use of residential and commercial properties for chanceries
- Managing impacts on local residents
- Working out what role the private market might play.

The long term strategy should also involve a thorough review of land resources in O'Malley, Yarralumla and Deakin to ensure their optimal use for diplomatic purposes. The views of the diplomatic community should be sought during the development of the strategy.

- 1.165 The Committee is of the view that, in the absence of a long-term strategy identifying the need for the inclusion of part of Stirling Park in the diplomatic estate, and given the concerns of residents about the potential impacts of Draft Amendment 78 on the environmental values and social amenity of the site, Draft Amendment 78 should be withdrawn.

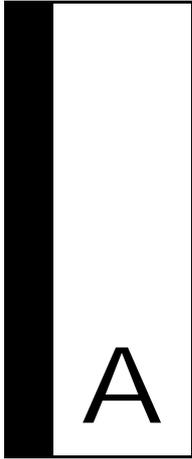
Recommendation 3

- 1.166 The Committee recommends that Draft Amendment 78 be withdrawn.

Senator Louise Pratt

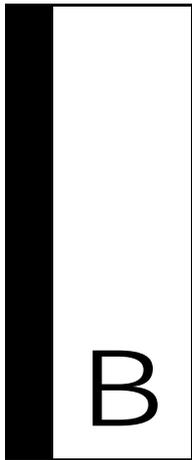
Chair

26 March 2013



Appendix A – The Inquiry

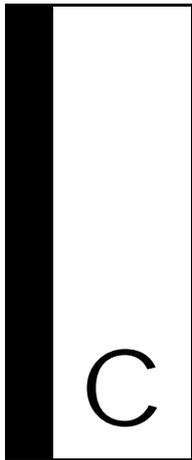
- 1.1 The inquiry into the allocation of land to diplomatic missions in the Australian Capital Territory was referred to the Joint Standing Committee on the National Capital and External Territories by the Minister for Regional Australia, Regional Development and Local Government, the Hon Simon Crean MP, in November 2012.
- 1.2 The inquiry was advertised in the *Canberra Times* and the *Australian*, and letters advising of the inquiry and inviting submissions were sent to the Minister for Regional Australia, Regional Development and Local Government, the Attorney-General, the Minister for Foreign Affairs, the Chief Minister of the ACT, the Australian Federal Police and the National Capital Authority. The diplomatic corps was also informed of the inquiry through the Dean of the Diplomatic Corps, His Excellency Mr Pedro Villagra Delgado, Ambassador of the Argentine Republic.
- 1.3 During the inquiry, the Committee received 18 submissions and several supplementary submissions. Submissions received are listed at Appendix B.
- 1.4 The Committee held two public hearings. A list of organisations and individuals who gave evidence before the Committee is at Appendix C.
- 1.5 Submissions and transcripts of evidence are available from the Committee website at <http://www.aph.gov.au/house/committee/ncet/index.htm>



Appendix B – Submissions

- 1 Mrs Ann Gugler
- 2 Mr V and Mrs J McMahon
- 3 Mr AM Aylott
- 4 Walter Burley Griffin Society
- 5 Balloon Aloft Canberra
- 6 Friends of Grasslands
- 7 Mr Don Anderson
- 8 Save Stirling Park Group
- 9 Mr Allan and Mrs Pamela O'Neil
- 10 Department of Foreign Affairs and Trade
- 11 Yarralumla Residents Association
- 12 National Capital Authority
12-1 National Capital Authority

- 13 Deakin Residents' Association Inc
13-1 Deakin Residents' Association Inc
- 14 Ms Joanna Bowan
- 15 Mr Stephen Koukoulas
- 16 CONFIDENTIAL
- 17 ACT Government
- 18 National Capital Planning Commission (Washington DC, USA)



Appendix C – Witnesses appearing at public hearings

Friday, 15 February 2013 – Canberra

Australian Federal Police

Assistant Commissioner Michael Outram, National Manager Protection

Deakin Residents' Association

Ms Diane Johnstone, Secretary

Mr Peter Wurfel, President

Department of Foreign Affairs and Trade

Mr Mark Donovan, Director, Protection, Privileges and Immunities,
Protocol Branch

Ms Sally Mansfield, Branch Head, Protocol Branch

National Capital Authority

Ms Shelley Penn, Chair

Mr Gary Rake, Chief Executive

Save Stirling Park Group

Dr Alan Cowan, Secretary

Mr Michael Lewis, Committee Member

Walter Burley Griffin Society

Mr Brett Odgers, Convenor

Yarralumla Residents Association

Ms Marea Fatseas, President

Mr David Harvey, Vice President

**Wednesday, 13 March 2013 – Canberra
(*via video-conference*)****National Capital Planning Commission (Washington DC, USA)**

Mr Marcel Acosta, Executive Director

Ms Anne Schuyler, General Counsel

Mr Shane Dettman, Senior Planner