

**GOVERNMENT RESPONSE TO RECOMMENDATIONS OF JOINT
STANDING COMMITTEE ON THE NATIONAL CAPITAL AND
EXTERNAL TERRITORIES ON DRAFT AMENDMENT 39 (DEAKIN/
FORREST RESIDENTIAL AREAS)**

Recommendation 1—That Designated Area status applying to the Deakin/Forrest residential area between State Circle and National Circuit be retained.

Government Response:

The Government agrees with the recommendation of the Committee.

Recommendation 2—That the established use of the land in the Deakin/Forrest area for residential purposes continue and non-residential development be prohibited.

Government Response:

The Government agrees with the recommendation of the Committee.

Recommendation 3—That development along State Circle between Hobart and Adelaide Avenues continue to be residential and be required to achieve a design and landscape outcome appropriate to the setting of Parliament and which reflects the Main Avenue role of State Circle.

Government Response:

The Government agrees in principle with the recommendations of the Committee to investigate the detail development controls proposed to ensure the design and landscape outcome is appropriate to the setting of Parliament and reflects the role of State Circle as a Main Avenue. This will take the form of a final Draft Amendment 39 which, if approved, will be submitted to Parliament within 6 sitting days of the notice of approval appearing in the Commonwealth Government Gazette.

Recommendation 4—The Australian Capital Territory (Planning and Land Management) Act 1988 be amended to require public consultation by the National Capital Authority in relation to works proposals in Designated Areas.

Government Response:

The proposal to amend the Australian Capital Territory (Planning and Land Management) Act 1988 to require public consultation on all works proposed in Designated Areas is not supported.

The Deakin/Forrest area is the only area of standard residential development in the Designated Areas of the National Capital Plan.

The Government acknowledges that, as far as possible, proposed works in relation to residential development should be notified to local residents to the same extent that they are notified by the ACT Government for development proposals in residential areas outside of Designated Areas.

To achieve this does not require an amendment to the enabling legislation, the Australian Capital Territory (Planning and Land Management) Act 1988.

The National Capital Plan (a statutory document) already requires proposals for dual occupancy development to be notified to neighbours for comments. These requirements will now be applied to all residential development proposals as part of the provisions of Draft Amendment 39 that will provide statutory effect to consultation requirements.

Works approval applications from lessees of residential properties in the Deakin/Forrest area will be subject to the following process, including public consultation:

Step 1 Applicant submits sketch proposal

Step 2 Authority considers and advises on consistency with the National Capital Plan

Step 3 Revised Scheme submitted as formal application

Special Application Form used

Affected lessees identified

Step 4 Affected lessees advised and invited to a meeting with proponent and the Authority's Project Officer

Step 5 Affected lessees views considered

Step 6 Scheme amended as required

Step 7 Authority decision on Works Approval Application made

Step 8 Applicant advised of Works Approval decision

Step 9 Affected lessees advised of outcome

The proposal for an amendment to the legislation to require all works in Designated Areas to be subject to statutory public consultation is not supported.

Many of the applications for works approval in the Designated Areas involve works undertaken by the Commonwealth (such as the Department of Defence and the Department of Finance and Administration) as well as the Territory Government, the Diplomatic Community, National Institutions and other significant bodies. Where the interests of adjoining lessees could be affected then consultation can be undertaken without the need for legislation change. A precedent for such 'good neighbour' consultation by the Commonwealth is evident in relation to Commonwealth land development in other States.

In addition the Commonwealth Public Works Committee considers major Commonwealth projects (above a specified value) outside of the Parliamentary Zone. Development proposals in the Parliamentary Zone are required to be approved by both Houses of Parliament under the Parliament Act 1974 as well as by the National Capital Authority. This provides a significant level of consideration. Many works in Designated Areas are also informed by steering committees (or similar) and/or jury consideration (through design competitions).

In Designated Areas in the National Capital the Authority is responsible for decision making related to "national significance". To be meaningful, any new statutory consultation would need to be undertaken on a national (not just local) level as is already required for amendments to the National Capital Plan. The Authority considers 350 to 400 works approval applications annually. An approach requiring public notification of each such application would be unwieldy and seriously delay development in Designated Areas and therefore in the National Capital.

In the Committee's Report the view is expressed that the Authority was inclined, on the occasion of considering a development on No 15 State Circle when the DA 39 was under consideration by the Committee, "to have treated the Committee contemptuously".

The Government objects strongly to the contention that the Authority acted with contempt of the Committee in not advising the Committee of development applications lodged with the Authority for approval. The provisions of the National Capital Plan continue to have effect while a Draft Amendment is being considered. As such, consideration of a Draft Amendment to the National Capital Plan does not impose a moratorium on works approval applications or the carrying out of approved works. The development application was in accordance with the existing provisions of the National Capital Plan and would also have been permitted under the proposed Draft Amendment.

The National Capital Authority is obliged under the requirements of the Australian Capital Territory (Planning and Land Management) Act 1988 to consider all applications for development in Designated Areas and have regard to the consistency of those proposals with the provisions of the National Capital Plan at the time of the application. In respect of the application for development referred to by the Committee, the proposal was being assessed against the policies of the National Capital Plan as they then applied.

It is a matter of record that Ministers responsible for administering the Australian Capital Territory (Planning and Land Management) Act 1988 in this Government, have generally chosen to refer Draft Amendments to the National Capital Plan to the Joint Standing Committee on the National Capital and External Territories for consideration. Such was the case with Draft Amendment 39.

There is absolutely no evidence that the National Capital Authority has treated the Committee with contempt and such a contention is totally rejected by the Government.