

Building the National Capital in the hearts of all Australians

Ms Margaret Swieringa
Secretary
Joint Standing Committee on the
National Capital and External Territories
Room R119
Parliament House
CANBERRA ACT 2600



Dear Ms Swieringa

Please find attached the submission by the National Capital Authority to the Joint Standing Committee on the National Capital and External Territories Inquiry on Draft Amendment 39 (Deakin/Forrest Residential Area) of the National Capital Plan. Fourteen copies are included.

It is confirmed that the Authority intends to supplement the submission with additional graphic material, in the form of information panels, on the day of the Inquiry. This information will be provided to assist the Committee in its consideration of the urban design aspects of the matter.

It is confirmed that three officers of the Authority will be attending the Inquiry. Namely, Annabelle Pegrum, Chief Executive, David Wright, Director National Capital Plan and Ted Schultheis, Principal Planner National Capital Plan Unit.

Please contact me on 6271 2860 to discuss any of the above or if I can be of assistance.

Yours sincerely

David Wright
Director National Capital Plan

17 June 2002

NATIONAL CAPITAL PLAN
DRAFT AMENDMENT 39

DEAKIN/FORREST RESIDENTIAL AREA

Submission to
The Joint Standing Committee on the National Capital
and External Territories



National Capital Authority

14 June 2002



**NATIONAL CAPITAL PLAN DRAFT AMEMDMENT 39
DEAKIN/FORREST RESIDENTIAL AREA**

**Submission to
The Joint Standing Committee on the National Capital
and External Territories**

National Capital Authority

14 June 2002

Contents

	Page
INTRODUCTION	1
PART 1 LEGISLATIVE FRAMEWORK	2
1.1 ACT (Planning and Land Management) Act 1988	2
1.2 National Capital Plan Amendments	3
1.3 Designated Areas	5
1.4 Office of Regulation Review	5
1.5 National Land	6
1.6 Territory Land	6
1.7 Territory Plan	6
PART 2 STATUS	7
2.1 National Significance of the Deakin/Forrest Residential Area	7
2.2 Current Status of Draft Amendment 39 (April 2002)	8
PART 3 PLANNING PROCESS	9
3.1 Land Use Policy	9
3.2 Progress of Draft Amendment 39	11
3.3 Consultation on Draft Amendment 39	14
3.4 Recent Changes in the ACT Government's Residential Policies	14
PART 4 URBAN DESIGN AND BUILT FORM	16
4.1 Urban Design Opportunities of Draft Amendment 39 (as at April 2002)	16
4.2 Planning Policy Scenarios	17
ATTACHMENTS	
A Aerial photograph of location	
B Block layout	
C National Capital Plan Designated Areas	
D Griffin's Initial Concepts	
E Figure 7 of the National Capital Plan	
F Parliamentary Zone Review Background Report	
G Draft Amendment 39 as at April 2002	
H Consultation Report April 2002	
I Correspondence on alleged redevelopment proposal	
J Correspondence from Authority to residents January 2002	
K Correspondence received since announcement of inquiry	

**SUBMISSION BY THE NATIONAL CAPITAL AUTHORITY TO
INQUIRY BY THE JOINT STANDING COMMITTEE ON THE
NATIONAL CAPITAL AND EXTERNAL TERRITORIES IN RELATION
TO DRAFT AMENDMENT OF THE NATIONAL CAPITAL PLAN 39:
DEAKIN/FORREST RESIDENTIAL AREA**

INTRODUCTION

The Joint Standing Committee on the National Capital and External Territories is inquiring into the revised Draft Amendment 39 to the National Capital Plan *to clarify issues surrounding the changes embodied in the amendment.*

The Draft Amendment proposes to establish detailed conditions of planning, design and development for a residential area of Deakin and Forrest that is a Designated Area under the National Capital Plan.

This submission addresses the preparation of Draft Amendment 39:

- **Part 1 Legislative Framework**
The statutory framework associated with the National Capital Plan and amendments to the Plan.
- **Part 2 Status**
The national significance of the Deakin/Forrest Residential Area, land use considerations underpinning the initiation of the draft amendment, and the current provisions of Draft Amendment 39 (at April 2002).
- **Part 3 Planning Process**
Land use policy review of the Deakin/Forrest Residential Area and other background to the progress of, and changes embodied in Draft Amendment 39, including public consultation and changes in ACT Government planning policy.
- **Part 4 Urban Design Outcomes**
Development and urban design opportunities under Draft Amendment 39 (at April 2002) and implications under different planning policy scenarios (related to changes in Draft Amendment 39).

The Authority would appreciate the opportunity to make a presentation to the Committee at the public hearing on 21 June 2002 and understands that it is appropriate, at that time, to provide additional graphic material.

PART 1

LEGISLATIVE FRAMEWORK

The Legislative framework for amendments to the National Capital Plan is set down in the *Australian Capital Territory (Planning and Land Management) Act 1988* (the Act).

The Act provides for the National Capital Authority to propose draft amendments to the Plan and, having regard to comments and representations (including consultation with the Territory planning authority), to alter the draft amendment if it thinks fit.

The Authority submits a draft amendment to the Minister (responsible for administering the Act) for approval. The Minister may approve the amendment or suggest alteration, or refer it back to the Authority for further consultation. The Authority will alter the draft amendment if it thinks fit.

Once approved by the Minister, the amendment may be disallowed by either House of Parliament (if such a motion is moved within six sitting days after tabling and carried).

By its nature, opportunities to consult, test and change, are embodied in the statutory process associated with the development and approval of an amendment to the National Capital Plan.

1.1

Australian Capital Territory (Planning and Land Management) Act 1988

The National Capital Authority (the Authority) was established by, and operates under, the *Australian Capital Territory (Planning and Land Management) Act 1988* (the Act).

The purpose of the Authority is to manage the Commonwealth Government's continuing interest in the planning and development of Canberra as the Australian National Capital.

The functions of the Authority are prescribed in the Act and include:

to prepare and administer the National Capital Plan (S.6a)

The National Capital Plan (the Plan) came into effect on 21 December 1990 following approval by the Minister for the Arts, Tourism and Territories. The Act prescribes that:

the object of the National Capital Plan is -

to ensure that Canberra and the Territory are planned and developed in accordance with their national significance (S.9)

the object of the Territory Plan is -

to ensure, in a manner not inconsistent with the National Capital Plan, the planning and development of the Territory to provide the people of the Territory with an attractive, safe and efficient environment in which to live and work and have their recreation (S.25 (2))

1.2

National Capital Plan Amendments

The functions of the Authority in the Act also include:

to keep the Plan under constant review and to propose amendments to it when necessary (S.6(b)).

The statutory processes required in relation to an amendment to the National Capital Plan are set out in Sections 14 to 23 of the Act.

Section 14 provides that:

The Authority shall prepare a draft Plan in accordance with this Division.

Section 23 provides that:

Amendments of the Plan shall be prepared in the same way as the Plan, and sections 14 to 22 (both inclusively) apply to amendments as if references in those sections to the Plan were references to amendments.

Draft Amendments of the Plan are made available for public consultation purposes in accordance with Section 15 of the Act. Section 15 of the Act provides that:

(1) After preparing the Draft Plan (Amendment), the Authority shall:

- (a) submit a copy to the Territory planning authority;*
- (b) by notice published in the Commonwealth Gazette and in the principal daily newspaper published and circulated in the Territory:*
 - (i) state that the Draft Plan (Amendment) has been prepared, and that copies will be available for public inspection at the places and times, and during the period, specified in the notice; and*
 - (ii) invite interested persons to make written representations about the Draft Plan (Amendment) within a reasonable period specified in the notice and specify the address to which the representations may be forwarded; and*
- (c) make the draft Plan (Amendment) available for inspection accordingly.*

(2) *The Authority shall:*

- (a) *consult with the Territory planning authority about the draft Plan (Amendment) and have regard to any views expressed by it; and*
- (b) *have regard to any representations made by the public; and, if it thinks fit, may alter the draft Plan (Amendment).*

Section 18 of the Act provides that:

The Authority shall submit the draft Plan to the Minister for approval, together with a written report on its consultations under section 15.

Section 19 sets out the Minister's powers on submission of a draft Plan (Amendment) under section 18 as follows:

(1) *Subject to subsection (2), on receipt of the draft Plan (Amendment) submitted for approval, the Minister shall, after such consultation, if any, as the Minister thinks necessary:*

- (a) *approve the draft Plan (Amendment) without alteration; or*
- (b) *refer the draft Plan (Amendment) to the Authority with either or both of the following:*
 - (i) *directions to conduct further consultations;*
 - (ii) *suggested alterations.*

(2) *If the Authority reports under section 18 that the Territory planning authority objects to any aspect of the draft Plan (Amendment), the Minister shall not act under subsection (1) except after consultation with the Executive.*

Action on referral by the Minister under section 19 is set out in section 20 as follows:

If the Minister refers the draft Plan (Amendment) to the Authority, the Authority shall:

- (a) *reconsider the draft Plan (Amendment);*
- (b) *have any further consultations directed by the Minister and such other consultations as the Authority thinks necessary;*
- (c) *consider any suggestions made by the Minister;*
- (d) *if it thinks fit, alter the draft Plan (Amendment); and*
- (e) *re-submit the draft Plan (Amendment) to the Minister for approval;*

and subsection 19(1) and, if necessary, this section, apply again.

Section 20A deals with the situation where the Territory planning authority continues in its objection to the draft Plan (Amendment) and the requirements of the Minister in this case.

Where the Minister approves the Plan (Amendment), section 21 requires that a notice of the approval be published in the *Commonwealth Gazette* and the Minister shall specify where copies of the Plan (Amendment) may be inspected and bought.

Under section 21(2) the Plan takes effect on publication of the notice of approval.

Subsections 22 (1) and (2) of the Act require that:

(1) The Plan (Amendment) shall be laid before each House of the Parliament within 6 sitting days of that House after the Plan has taken effect, and if it is not so laid before each House of the Parliament, ceases to have effect.

(2) If either House of Parliament, in pursuance of a motion of which notice has been given within 6 sitting days after the Plan has been laid before that House, passes a resolution disallowing the Plan (Amendment) or a part of the Plan (Amendment), the Plan (Amendment) or part so disallowed thereupon ceases to have effect.

Other subsections of section 22 go on to deal with the situation if Parliament is dissolved, expires or is prorogued during the process.

1.3

Designated Areas

Designated Areas are defined in subsection 10(1) of the Act as areas that the National Capital Plan may specify as Designated Areas being areas of land that have the special characteristics of the National Capital.

Subsection 10(2) paragraph (c) of the Act provides that the National Capital Plan

may set out the detailed conditions of planning, design and development in Designated Areas and the priorities in carrying out such planning, design and development.

Section 12 of the Act requires that works in a Designated Area are subject to approval by the Authority.

1.4

Office of Regulation Review

The Office of Regulation Review is within the Productivity Commission which is an independent Commonwealth agency. The Office is required to be consulted in relation to the need to prepare a Regulation Impact Statement where a 'regulation' is proposed by a Government body. It has been determined that a Draft Amendment is a form of 'regulation' and assessment of potential impact is required in accordance with the *Guide to Regulation – Second Edition: December 1998*.

1.5

National Land

National Land means land defined in section 27 of the Act:

(1) The Minister may, by notice published in the Commonwealth Gazette declare specified areas of land in the Territory to be National Land.

(2) The Minister shall not declare an area to be National Land unless the land is, or is intended to be, used by or on behalf of the Commonwealth.

(3) If an Act vests the management (however described) of specified land in the Territory in a person or body, the land is National Land for the purposes of this Act.

(4) Subsection (3) does not apply to the vesting of an estate in land.

1.6

Territory Land

Territory Land means land defined in section 28 of the Act:

At any time when any land in the Territory is not National Land, that land is Territory Land for the purposes of this Act.

1.7

Territory Plan

The Territory Plan is defined in sections 25 and 26 of the Act. The Territory Plan refers to land not included in Designated Areas of the National Capital Plan. The Territory Plan has no effect to the extent that it is inconsistent with the National Capital Plan, but the Territory Plan shall be taken to be consistent with the National Capital Plan to the extent that it is capable of operating concurrently with the National Capital Plan.

PART 2

STATUS

2.1

National Significance of the Deakin/Forrest Residential Area

The Deakin/Forrest residential area, which is the subject of this Draft Amendment 39 (DA39), is the area bounded by State Circle, National Circuit and Hobart and Adelaide Avenues and is in proximity to Parliament House (aerial photograph **Attachment A** and block layout **Attachment B**). The area excludes the diplomatic sites that are National Land.

The area is part of the Central National Area and is considered to be of national significance. It is defined in the National Capital Plan as a Designated Area (**Attachment C**). All of the subject land is Territory Land. The subject area is the only standard residential area of the ACT (single dwelling house area) that comes under the planning jurisdiction of the Commonwealth.

The Deakin/Forrest residential area is a post war extension of Blandfordia, one of the first residential suburbs in Canberra (**Attachment D**). Part of the area adjoins the Forrest Housing Precinct, which is listed on the ACT Heritage Places Register as culturally significant for its architecture and landscape elements demonstrating early planning and social patterns of the day. There are no heritage-listed places in the subject area.

The significance of the Deakin/Forrest residential area should be appreciated within the context of the land immediately surrounding the Parliamentary Zone, between Capital and State Circles. These parcels of land form the immediate landscape setting for Parliament House. The nature and quality of development along State Circle is critical to the way Australians and international visitors perceive and experience Parliament House and the National Capital.

Land fronting State Circle falls into visibly recognisable precincts. The Yarralumla Diplomatic Area consists of diplomatic missions, usually large buildings on very generous blocks each contributing in its own distinctive way to the architectural richness of the National Capital. To the east of Kings Avenue, in the Forrest and Barton areas, office complexes have been developed. Typically these buildings have been developed to three or four storeys on large blocks and, where not occupied by the Commonwealth Departments or agencies, have generally been divided to provide accommodation for a wide range of small and medium sized private sector organisations. St. Andrew's Cathedral stands alone as a distinctive and individual architectural statement.

The land between and flanking Kings and Commonwealth Avenues defines the Parliamentary Zone. Buildings within the Zone, include large Government offices and major National Institutions such as the National Library of Australia, the High Court of Australia and the National Gallery of Australia.

Each is an architectural and urban design statement in its own right, and the location, generous siting and landscape character of these important buildings are all intended to contribute to the overall composition of the Parliamentary Zone.

The Deakin/Forrest residential precinct abutting State Circle to the south is at the 'back door' of Parliament. The low scale residential development and its associated landscaping presents as a residential precinct with all the best hallmarks of the Garden City. While it (currently) may do little to contribute in a positive sense to the surrounds of Parliament House, the existing development does not intrude on the Parliament and its setting. Nevertheless, the proximity of this area to Parliament House demands a high standard of both development and maintenance.

This established, high quality residential area is directly opposite Parliament House. Flanked by larger parcels of land of national significance, the Deakin/Forrest residential area serves to emphasise, in a prominent and critical location, the dual role of Canberra as the National Capital and as a city for its residents. It is important that the established use of the land for residential purposes continues and that high standards of building and landscape development are maintained.

2.2

Current Status of Draft Amendment 39 (most recent draft: April 2002)

Under the current provisions of the National Capital Plan the Deakin/Forrest residential area is to be used in accordance with the detailed conditions of planning design and development as shown on Figure 7 of the National Capital Plan (**Attachment E**). The area is also subject to the relevant Appendices H, M, N, O & P relating to residential development and associated uses.

The most recent version of Draft Amendment 39 (at April 2002) proposes to allow for residential redevelopment of the Deakin/Forrest residential area, whilst ensuring that the national significance of the area, and the residential character and land use, is maintained.

Specific requirements would apply for redevelopment of sites fronting State Circle to ensure a consistent design outcome and landscape character along this frontage (which is opposite the Parliament House).

Draft Amendment 39 also provides for Home Businesses (essentially the same as those available under the Territory Plan).

Detail on the requirements, and the associated development and urban design opportunities of the proposed amendment (as drafted at April 2002), and the implications of changes under different planning scenarios are set out at Part 4.

PART 3

PLANNING PROCESS

3.1

Land Use Policy

The national significance of the Deakin/Forrest residential area and the reason for its inclusion in the National Capital Plan as a Designated Area is summarised in Section 2.1

The existing land use policy for this area is residential and this is set out in the National Capital Plan. Some lessees of residential properties fronting State Circle commenced canvassing the Authority as long ago as 1993 with a view to having the land use changed. A planning study was undertaken for the Authority by Morris Consultants in April 1998 which presented a series of options for consideration by the Authority for the State Circle (between Adelaide and Hobart Avenues). The land use of this area was considered by the Parliamentary Zone Review Advisory Panel for the Parliamentary Zone Review which was conducted by the Authority in 1999. Some lessees of the area met with the Panel during the Review. A background paper of the Parliamentary Zone Review titled "State Circle Residential Area Planning Review" and the Outcomes Report for the Review were made publicly available in March 2000. Both can be accessed on the Authority's website. A copy of the background report is provided at **Attachment F**.

The Parliamentary Zone Outcomes report of March 2000 includes the statement:

There have been suggestions that State Circle's land uses should be changed from residential to allow for future growth in parliamentary requirements. At present there are no sound planning reasons or evidence to support this position. (page10).

The analysis of alternative Land Use Policies such as Diplomatic Uses, Offices and Commercial Accommodation led the Authority to conclude that to propose an amendment to the National Capital Plan (for such uses) would be inappropriate for the following reasons:

- The demand for change is not widespread among the lessees of the ninety or so residential properties in the study area.
- The argument for change is based on commercial benefit and changing the land use policy is likely to lead to speculative developments on a block by block basis.
- There is ample opportunity available elsewhere in Canberra to provide for the various uses proposed as alternative land uses.
- Many of these areas are not fully utilised, especially in the small to medium office markets in Barton and Deakin.

- The use of the area for Diplomatic Missions, as opposed to diplomatic residences, does not align with a long-standing policy of locating Diplomatic Uses in defined diplomatic areas. To permit such uses to locate in the study area would dilute the efforts of the Commonwealth Government's land release programmes for such uses.
- Commercial Accommodation uses are inappropriate so close to Parliament and have the potential to adversely affect residential amenity.
- The current ownership pattern and the need for extensive co-operation between lessees to achieve a comprehensive approach and appropriate outcome, suggest that such an outcome is unlikely without some form of Government intervention or participation.
- The Parliamentary Zone Review did not reveal any additional reason to promote a change in land use policies in this area. On the contrary, at present there is a low level of demand for a wide range of uses directly associated with the city's role as the National Capital and Seat of Government. There are also vacancies in the commercial offices in the Barton and Deakin areas which will need to be taken up along with other developments in Forrest and Barton.

For these reasons the Authority considered that the current residential land use policies should be maintained at least until such time as other critical planning objectives for the National Capital have been met. Any demand for a change in land use policy would need to be sufficiently widespread to have full local support and the momentum to produce a comprehensive urban design outcome befitting the area's location close to Parliament House.

A request from ACT Planning and Land Management (PALM) of 28 March 2000, sought an amendment of the National Capital Plan to remove Designated Area status of the Deakin/Forrest residential area. The reason given was to avoid residents in the area from having to be subject to development controls and terminology that were different from other residential areas in Canberra that are not in a Designated Area.

The Authority responded on 4 May 2000 that it did not agree with the proposal to remove Designated Area status. However the Authority advised that it would explore whether changes (by amendment) to development controls in the Plan, would overcome the differences that existed for residential areas between the National Capital Plan and the Territory Plan (consistent with the national significance of the area).

In November 2000, the Authority agreed to prepare DA39 on the basis that residential land use was retained.

DA39 (at November 2000) proposed to uplift the Designated Area status from all residential blocks within the area and to introduce aesthetic principles and guidelines into the Plan to ensure that the residential character of the area would be maintained. Under these arrangements, development would be subject to the same set of planning controls as the rest of the residential areas of Canberra. Of particular concern were provisions relating to Home Businesses and to residential redevelopment. PALM would be responsible for

approving development in the area through the Territory Plan, the provisions of which must not be inconsistent with the National Capital Plan.

3.2

Progress of Draft Amendment 39

The background to the Authority's consideration of land use policy related to the Deakin/Forrest residential area is detailed at Part 3.1 of this submission.

The following provides a chronology of the progress and consideration of Draft Amendment 39 (DA39):

Year 2000

- 28 March 2000. Letter from PALM to Authority seeks amendment to the National Capital Plan to remove (uplift) Designated Area status (refer 3.1).
- May 2000. Authority letter to PALM declines to uplift Designated Area status. Authority advises it will explore changes to development controls related to differences between the Plan and the Territory Plan (refer 3.1)
- 3 November 2000. Authority agrees to propose DA39 which retained residential land use and included specific policies and aesthetic principles to guide residential development with the Designation Area status uplifted (refer 3.1)
- 13 November 2000. Letter from Authority to PALM formally referring DA39 for comment.
- 15 November 2000. Letter to residents advising of exhibition for public comment from 18 November 2000 to 12 January 2001 and including a copy of DA39.
- 18 November 2000. *Canberra Times* public notification of DA39 exhibition.
- 22 November 2000. *Government Gazette* notice (GN 46) giving notice of DA39 exhibition.
- 15 December 2000. Letter sent from Authority to Office of Regulation Review advising of DA39 seeking advice as to the whether a Regulation Impact Statement (RIS) would be required.
- 21 December 2000. Letter from Office of Regulation Review to Authority advising that RIS not required.

Year 2001

- 3 January 2001. Letter from PALM to the Authority advising of preference for mixed uses such as professional offices, national associations, serviced apartments and other forms of commercial accommodation fronting State Circle.
- 12 January 2001. Public comment closing date for submissions - 10 written submissions received from residents and lessees on DA39.
- 23 February 2001. Email from Authority to PALM confirming proposed changes arising from discussions with PALM on 13 February 2001.
- 26 February 2001. Email from Authority to PALM clarifying proposed alterations to go to Authority for consideration and seeking comments.
- 28 February 2001. First briefing on DA39 provided by Authority to Joint Standing Committee on the National Capital and External Territories (JSC)
- 8 March 2001. Letter from PALM to Authority regarding discussions on proposed "B12" residential policy for the area and supporting DA39 on this basis.
- 13 March 2001. Letter from Authority to PALM raising concerns about possible scope for commercial uses in the preliminary draft Territory Plan Variation (DTPV for this area) as proposed by PALM for this area.
- 14 March 2001. Acknowledgment letters sent by Authority to those who provided written submissions on DA39.
- 3 April 2001. Letter from PALM to Authority advising that it is still considering forms of commercial uses in area related to residential uses.
- 4 April 2001. Second briefing provided by Authority to JSC on DA39.
- 1 May. PALM refers a DTPV to the Authority which continued to include provisions for commercial development (serviced apartment, boarding apartments, restaurants, shops with residential etc).
- 15 May 2001. E-mail sent from Authority to PALM regarding the proposed DTPV, reiterated concerns about commercial development.
- 16 July 2001. Letter from Authority to those who wrote on DA39 inviting comment on proposed changes to DA39 (more prescription in relation to landuse – preventing serviced apartments - and limiting building height to 2 storey – 8 metres - and more detail on landscape for block fronting State Circle).
- 20 July 2001. Letter from Authority to PALM inviting comment on changes proposed to DA39.

- 10 August 2001. Letter from PALM to Authority supporting proposed changes to DA39.
- 15 August 2001 the Authority discussed briefings of the JSC and agreed to changes to DA39 (generally according to those outlined in correspondence of 16 July, and as discussed with PALM in July and August).

ACT Government elections held in October 2001

Commonwealth Government elections held in November 2001

On 6 December 2001 the ACT Government introduced DTPV192 (Residential Land Use Policies and Triple Occupancy Housing) to have immediate effect. A blanket control on dual and triple occupancy developments pending new residential policies (refer Part 3.4)

- 7 December 2001. The Authority agreed to reconsider the merit of uplifting Designation as a consequence of the newly elected ACT Government's announced restrictions on dual (and triple) occupancy development (DTPV192) and intent to prepare local plans .

In January 2001 there was significant local media regarding DA39 generated by an allegation about a major redevelopment in the area. These reports inaccurately suggested that the Authority was considering an application for such a proposal.

Year 2002

- 25 January 2002. Letter from Authority to all residents/lessee explaining status of DA 39 in response to the media allegations about a multi-unit development.

On 1 February 2002 the Hon Wilson Tuckey MP, was formally appointed as the Minister for Regional Services, Territories and Local Government.

- 6 February 2002. The Authority reaffirmed the December 2001 decision that Designated Area status should not be uplifted, and agreed that the other provisions of the DA39 (including the capacity for block amalgamation for residential redevelopment) should be progressed.

On 14 February 2002 the JSC (in the new Commonwealth Parliament) was appointed. On 21 March 2002 the JSC met for the first time.

- 15 April 2002. The Minister, the Hon Wilson Tuckey MP, referred DA39 to the JSC seeking their views and asking if the JSC wished to inquire into the matter. A copy of DA 39 as at April 2002 is at **Attachment G**.
- 15 May 2002. The Authority briefed JSC on DA39 (draft at April 2002). The Committee resolved to hold a one day hearing into DA39 in order to clarify issues surrounding the changes embodied in the amendment.

On 30 May 2002 the ACT Minister for Planning, Simon Corbell MLA, announced that Draft Variation to the Territory Plan No. 200 (Residential Land Use Policies, Modification to Residential Codes and Master Plan Procedures) had been released with immediate interim effect (colloquially referred to as the Garden City Variation) (refer Part 3.4)

3.3

Consultation on Draft Amendment 39

The chronology of consultation associated with DA39 (statutory and otherwise) is outlined under the progress of DA39 at Part 3.2.

The report on the statutory consultation prepared by the Authority in April 2002 is included at **Attachment H**.

Correspondence regarding the January 2002 alleged redevelopment in the area covered by DA39 is included (with the agreement of the author) at **Attachment I**.

Correspondence from the Authority to the residents/lessees regarding the January 2002 alleged redevelopment in the area covered by DA39 is included at **Attachment J**.

Correspondence received since the announcement of the Inquiry is included (with the agreement with the authors) at **Attachment K**.

3.4

Recent Changes in the ACT Government's Residential Policies

The Residential Land Use Policies of the National Capital Plan and the Territory Plan were essentially similar before the change of the ACT Government following the ACT elections in October 2001. Both the National Capital Plan and the Territory Plan allowed for dual occupancy development, two storey residential development (including for dual occupancies).

On 6 December 2001 the new ACT Government introduced Draft Territory Plan Variation No. 192 (Residential Land Use Policies for Dual and Triple Occupancy Housing) to have immediate effect. A limit of 5% per section on dual and triple occupancies was effectively a moratorium on such developments.

It was announced that these restrictions were to apply for 12 months and would be withdrawn when a more comprehensive framework for residential development was prepared.

The Authority reconsidered DA39 at its 7 December 2001 meeting. At the 6 February 2002 meeting, the Authority determined not to uplift designation. The Authority also confirmed that the other provisions of DA39 (including the capacity for block amalgamation for residential redevelopment) should be progressed because of urban design consideration given to this area by the

Authority over previous years and the new uncertainty regarding the intentions of the ACT Government for residential redevelopment.

The results of the ACT Government's residential review were published on 30 May 2002 as Draft Territory Plan Variation No. 200 (Residential Land Use Policies, Modification to Residential Codes and Master Plan Procedures) - the 'Garden City Variation' (DTPV200).

While the Authority was aware that the review was being undertaken by the ACT Government, it was given notice of the Draft Policies only after their publication.

The summary of the main changes introduced in DTPV200 are set out in the following terms:

A key provision of the revised Residential Policies is the introduction of a definition and explicit controls on 'residential redevelopment'. The controls are split into two groupings - 'General' and Suburban Areas'.

The general controls will introduce a number of requirements aimed at reducing the impacts of residential redevelopment throughout the city.....

The 'Suburban Area' provisions introduce a further layer of controls aimed at protecting the low rise, leafy character of the Suburban Areas. These areas are defined as being residential sections located wholly outside an area bounded by a line drawn 200 metres from the nearest edge of a Local Centre or 300 metres from the nearest edge of a Group or Town Centre (including Civic)....

In Suburban Areas it is proposed to reduce the pressure for speculative residential development by restricting subdivision or consolidation of single dwelling housing blocks. Whilst provision is made for modest dual occupancy housing in these areas primarily to meet social needs, it will be required to meet a range of restrictions aimed at reducing its impact and will not be able to be separately titled.

DTPV 200 has interim effect. Restrictions on plot ratios, single storey limits for a second dwelling, and prohibition of block amalgamation or unit titling are designed to direct redevelopment pressures away from 'Suburban Areas'.

It is the understanding of the Authority that as the area subject to DA39 would fall within the definition of a 'Suburban Area' under DTPV200, multi unit redevelopment would be prohibited (and dual occupancy would be limited) if the Territory had planning control. The positive urban design outcomes underpinning the provisions of DA39 for this nationally significant area would thereby be compromised.

PART 4

URBAN DESIGN AND BUILT FORM

4.1

Urban Design Opportunities of Draft Amendment 39 (as at April 2002)

The Deakin/Forrest residential area is specified in the National Capital Plan as a Designated Area. Consequently the area falls within the planning jurisdiction of the National Capital Authority (although the residential leases are on Territory Land managed by the ACT Government).

Draft Amendment 39 (DA 39) proposes to allow for continuing residential redevelopment of the Deakin/Forrest area, whilst ensuring that the national significance of the area and the residential character and land use is maintained. Specific requirements apply for the redevelopment of sites fronting State Circle to ensure a consistent design outcome and landscape character along this frontage opposite the Parliament House. The Draft Amendment also incorporates provisions for Home Businesses (essentially the same as those available under the Territory Plan).

The provisions proposed in Draft Amendment 39 (at April 2002) include a number of principles and polices. In particular:

Residential Character and land Use

The residential character and established use of the land for residential purposes would continue. Commercial accommodation, including serviced apartments, is not permitted. Appendix M of the Plan dealing with Residential Land Use is amended to allow for residential types other than single dwelling houses or dual occupancy development, such as multi-unit development.

Home Businesses

Modification to the provisions in Appendix N of the Plan deal with home businesses and home occupations to make these provisions similar to those applying elsewhere in residential areas of the Territory.

Building Height

Controls are included to ensure that development in the area is not more than two storeys - and at no point more than 8 metres above ground level.

Specific height and setback controls apply for redevelopment along the State Circle frontage. For these properties the requirement is for all new buildings to be two storeys in height to present a uniform and appropriate urban scale and profile to this frontage.

Setback and Landscape

Appendix H of the Plan currently provides setbacks in relation to side and rear boundaries for residential development. Appendix P of the Plan currently provides standards for dual occupancy of detached house sites (including setbacks similar to that in Appendix H) with increased setbacks when the

circumstances of the site require this to gain maximum advantages of privacy, daylight and ventilation. Qualitative landscape outcomes are currently also specified in Appendix P for dual occupancy developments.

Under DA 39 new provisions for sites fronting State Circle require a minimum 10 metre set back for landscape purposes. Courtyard walls are permissible subject to meeting certain design criteria (including a minimum of 6 metres from the State Circle property boundary and a height not exceeding 1.8metres). Generally large expanses of exposed hard surfaces visible from the State Circle, except for driveways, would not be permitted.

Plot Ratio

Under DA 39, current plot ratio provisions of the Plan in Appendix H are augmented by the provision of a 0.6 plot ratio for amalgamated sites fronting State Circle (for multi unit development). This higher plot ratio is considered necessary because of the requirement for two storey redevelopment.

All other current plot ratio provisions in the Plan for single dwelling houses and other residential buildings continue to apply, including those for dual occupancy. Development.

Architectural Treatment

For sites fronting State Circle the architectural treatment will be required to reflect the principal design character of the area. Under DA 39 the primary facades would be required to avoid solid unarticulated walls, the repetitive use of design elements in large building complexes, and the use of materials and colours that would tend to dominate the streetscape.

In addition, buildings in proximity to the Prime Minister's Lodge would be required to reflect the dominant urban design character of that specific locality.

Access

Under DA 39 there is a requirement to encourage the reduction of the number of vehicle access points to and from State Circle, in the interests of traffic safety and convenience.

4.2

Planning Policy Scenarios

The following scenarios describes urban development and design outcomes that could occur in the Deakin/Forrest residential area under the National Capital Plan if the following provisions applied:

- Current Provisions (with no changes – Designated Area applies)
- Draft Amendment 39 (November 2000 - Designated Area status uplifted)
- Draft Amendment 39 (April 2002 – Designated Area status retained).

Each scenario is described as it would apply under current Commonwealth and Territory planning structures.

Graphic material is being prepared for the hearing to illustrate the urban outcomes of these scenarios.

Scenario 1 – Current Provisions of the National Capital Plan

Under this scenario:

- the current provisions of the National Capital Plan would continue to apply with the Authority having responsibility for planning and development;
- The current pattern of residential development will continue, with redevelopment restricted to single dwelling houses and dual occupancy;
- The current pattern of redevelopment of sites fronting State Circle will remain as single dwellings mixed with dual occupancy. The incentive (as afforded through the amendment) for new residential redevelopment would continue to be limited. The Authority could require all new buildings in this area to be 2 storey through Development Conditions;
- Plot ratio for dual occupancy (maximum 0.4) will continue effectively to make block amalgamation an improbable option;
- The requirement for the owner to reside in a Home Business (which is not required under the Territory Plan) will continue. Differences in terminology would remain; and
- The requirement to ensure consultation with neighbours for proposed dual occupancy developments would remain.

Scenario 2 – DA39 (November 2000 – Designated Area status uplifted)

Draft Amendment 39 was first put forward for public comment in November 2000. In summary the proposals in the DA39 (at November 2000) were to:

- include policies and aesthetic principles to ensure that the established residential use and character continued, good urban design outcomes were achieved and adverse impacts on traffic movement and safety were avoided;
- amend the land use policies to allow other forms of residential development to occur (such as multi unit) in addition to single dwelling houses and dual occupancies; and
- allow other provisions of the Territory Plan to apply (such as for Home Business and residential development policies). This would have the effect of transferring planning and development approval to the Territory Government through PALM. (As a consequence Appendices M, N, O & P of the National Capital Plan would be deleted as redundant provisions).

This version of the draft amendment was subject to public comment, Territory planning consultation and representation. Changes were agreed by the Authority in August 2001 to exclude serviced apartments (and similar) and to include specific design controls (building height and setback) (refer 3.2).

Under this scenario:

- The Territory, through PALM, would have responsibility for planning and development approval;
- redevelopment in the area would need to be consistent with both the National Capital Plan and the Territory Plan. The policies of the Territory Plan (including DTPV200 and DTPV192) would apply. The land use policies and aesthetic principles specified for the area through DA 39 under the National Capital Plan would apply;
- The area would be defined as a 'Suburban Area' under the Territory Plan (DTPV200);
- Triple occupancy or multi unit development would be prohibited;
- All redevelopment would be required to be of a small scale;
- Dual occupancy would be significantly limited. While scope exists in DTPV200 for small scale dual occupancies, the 5% rule of DTPV192 would also apply. The subject area already has two built dual occupancy developments, one approved ready for construction and one expected in the near future for consideration by the Authority – constraining further opportunity for such redevelopment;
- The incentive for urban design enhancement and redevelopment of blocks fronting State Circle would be significantly lost;
- The quality landscape character would be extended;
- The Territory Plan policies and terminology for Home Businesses would apply; and
- The Territory's redevelopment consultation, notification and appeal mechanisms would apply.

The Territory Government could agree to create area specific policies as a change to their DTPV200 (including changes to uplift the further restrictions of DTPV192) in order to provide for the same outcomes as proposed in the latest version of DA 39.

However, this would represent an anomaly in the Territory planning objectives under the "Garden City" Variation. Such a scenario creates unnecessary planning acrobatics to achieve the positive outcomes embodied in a simple way under DA39 (at April 2002) to the National Capital Plan.

Scenario 3 – DA39 (April 2002 – Designated Area status retained)

The April 2002 version of Draft Amendment 39 is the current proposal for the Deakin/Forrest residential area. This proposal responds to consideration of comments received on the November 2000 exhibited proposal and recent changes in ACT Government planning policy, and incorporates changes agreed by the Authority in August 2001 (refer 3.2). Details of DA39 (at April 2002 are at 4.1).

Under this scenario:

- The provisions of the National Capital Plan will apply and the Authority will continue to have responsibility for planning and development approval;
- Residential land use is retained with maximum two storey redevelopment;
- Multi unit redevelopment and block amalgamation is permissible;
- On sites fronting State Circle special design conditions would apply including;
 - building height of 2 storeys
 - increased plot ratio (0.6) for amalgamated sites
 - landscaped set back of minimum 10 metres (with courtyard walls subject to a minimum setback of 6metres, maximum height 1.8metres)
 - a reduction of vehicular access points
 - architecture responsiveness to the design character of that area
- The architecture of buildings in proximity to the Prime Minister's Lodge would reflect the character of that area;
- Quality residential redevelopment, including dual occupancy and multi unit accommodation, would be achieved without compromising the National Capital values of the area;
- The quality landscape character would be enhanced and extended through setbacks and plot ratio controls;
- Owners will not have to reside in a Home Business, and such uses will be closely aligned to those in the Territory Plan; and
- The requirement to ensure consultation with neighbours to proposed dual occupancy developments would remain.

Draft Amendment 39 (at April 2002) will secure a positive future for residential redevelopment in this prominent and nationally significant area of the National Capital – the Deakin/Forrest residential area.

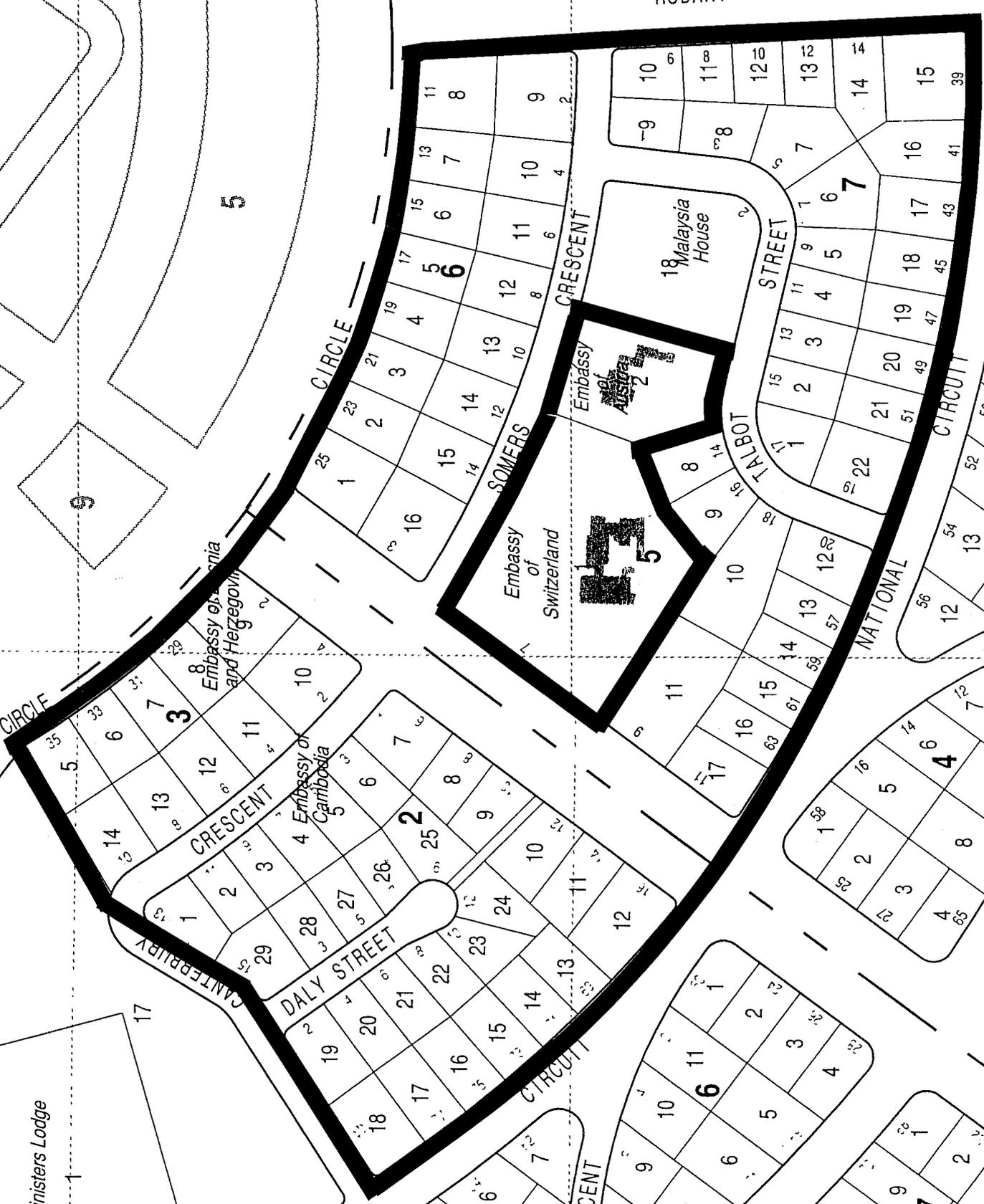
**NATIONAL CAPITAL PLAN DRAFT AMEMDMENT 39
DEAKIN/FORREST RESIDENTIAL AREA**

APPENDICES



HOBART AVENUE

5
Childcare
Centre



Prime Ministers Lodge

Embassy of
Armenia
and Herzegovina

Embassy of
Cambodia

Embassy
of
Switzerland

Embassy
of
Austria

18 Malaysia
House

CANTERBURY
CIRCLE

CRESCENT

DALY STREET

NATIONAL
CIRCUIT

HAM
CRESCENT

NORMANBY
CRESCENT

NATIONAL
AVENUE

SOMERS
CRESCENT

TALBOT
STREET

NATIONAL
CIRCUIT

BARK
CRESCENT

Designated Areas

C

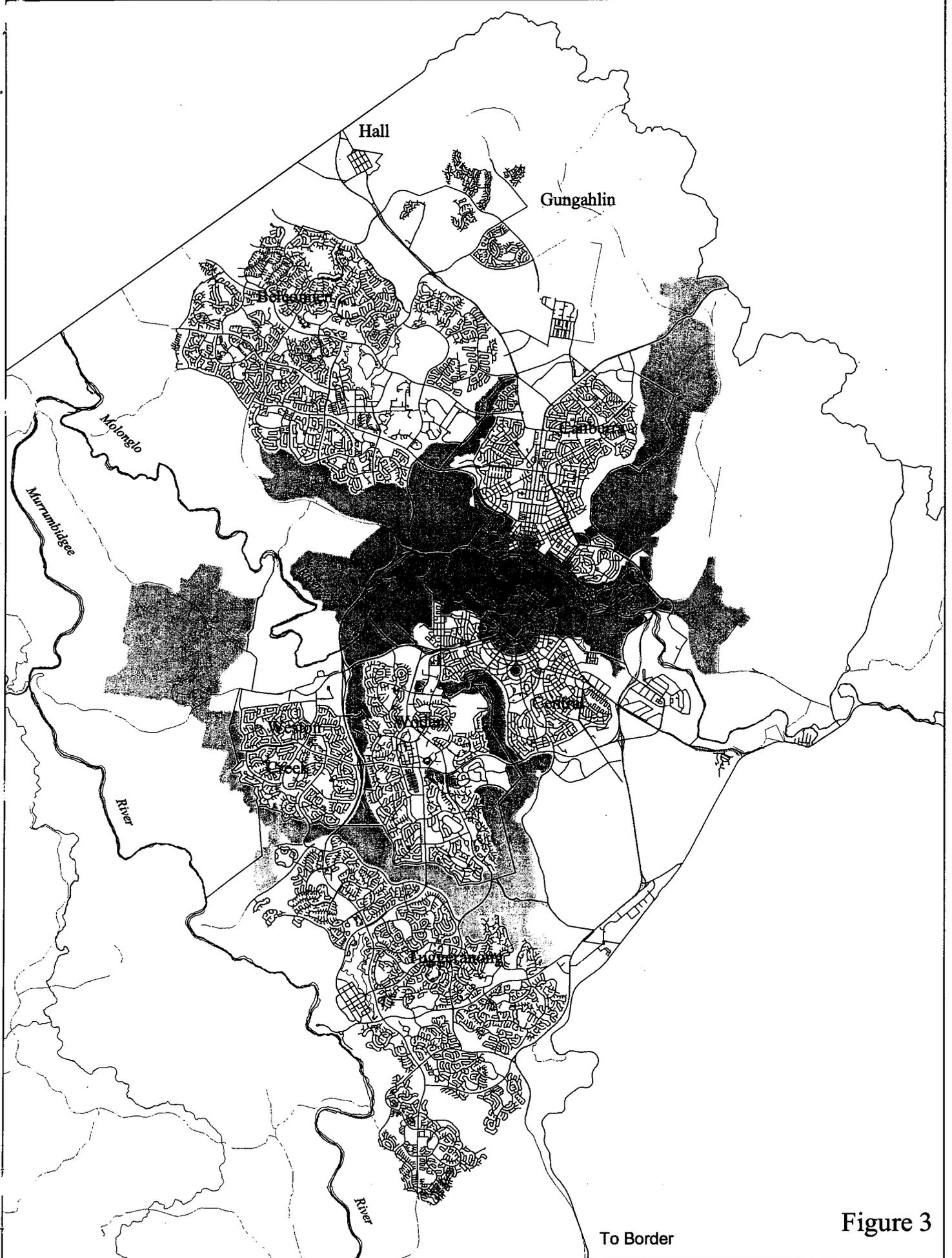
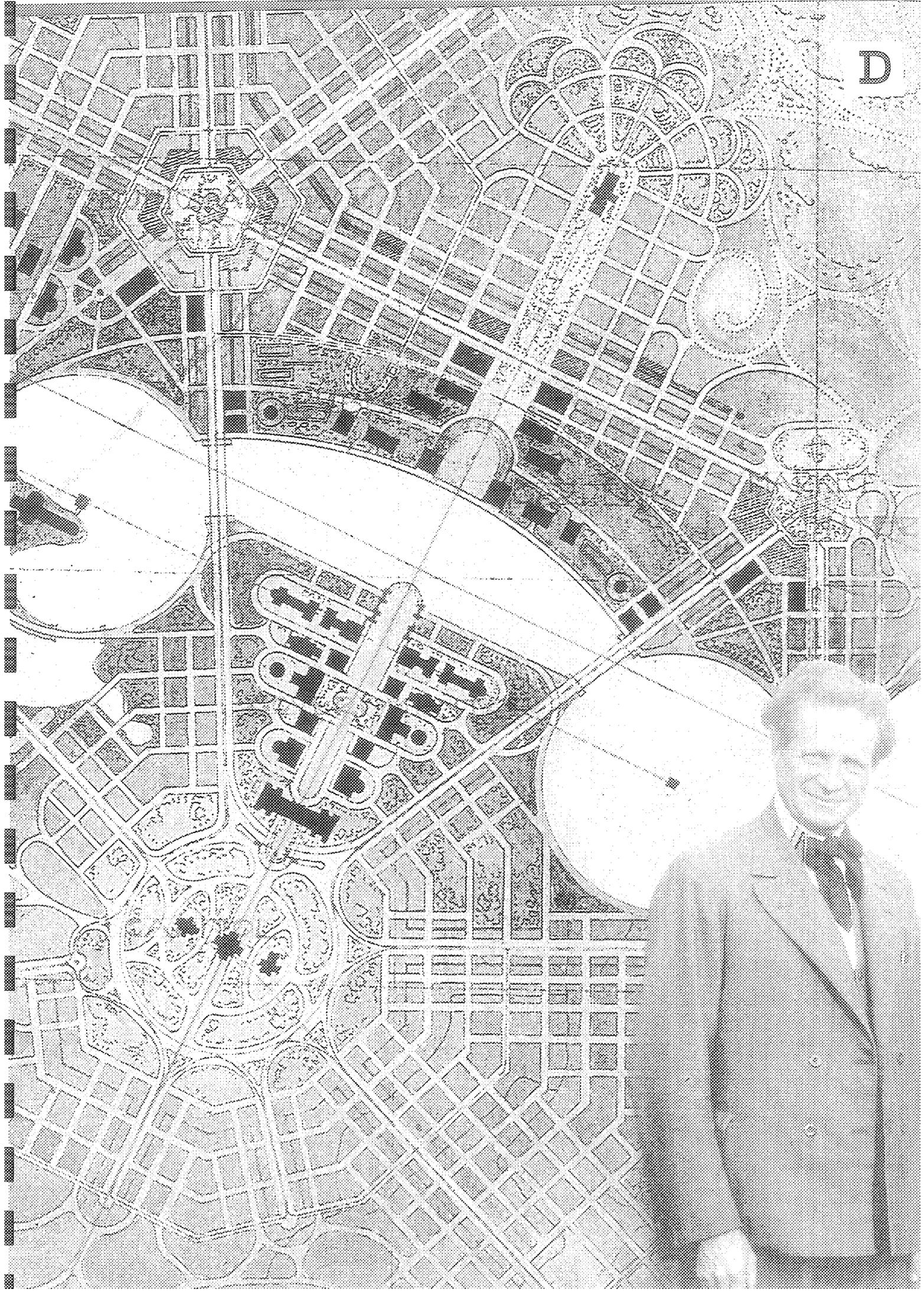


Figure 3





-  National Capital Use
-  Diplomatic Mission
-  Community Facility
-  Road
-  Residential
-  Open Space - Park
-  Adjoining Central National Area Maps

* For all blocks located within Residential Areas, refer to Appendices for the following policies which apply:
 Appendix M Residential Land Use
 Appendix N The Conduct of Business on Residential Land
 Appendix O Aged Persons Accommodation
 Appendix P Dual Occupance of Detached House Blocks
 * Refer to Appendix H for Design and Siting Conditions which apply to all blocks

Figure 7
**The Central National Area
 (Deakin, Forrest & Red Hill)**

*Parliamentary Zone Review
Background Paper*

*State Circle Residential Areas
Planning Review*

*National Capital Authority
March 2000*

Contents

<u>1. Introduction</u>	<u>3</u>
<u>2. The Review</u>	<u>5</u>
<u>3. Existing Land Use Provisions.....</u>	<u>5</u>
<u>4. Existing Development and Character.....</u>	<u>7</u>
<u>5. Subdivision Pattern</u>	<u>7</u>
<u>6. Alternative Land Uses.....</u>	<u>8</u>
6.1 Residential - Single Dwelling Houses.....	8
6.2 Residential - Multiple Residential Units.....	9
6.3 Commercial Accommodation.....	9
6.4 Diplomatic Missions	10
6.5 Offices	10
<u>7. The Parliamentary Zone Review</u>	<u>11</u>
<u>8. Urban Design</u>	<u>11</u>
<u>9. The Process of Change.....</u>	<u>12</u>
<u>10. Summary Evaluation</u>	<u>12</u>

**Parliamentary Zone Review
Background Paper**

**State Circle Residential Areas
Planning Review**

1. Introduction

The land fronting State Circle, surrounding Parliament, is of national significance. It provides part of the physical context for the Parliament House of the Commonwealth of Australia. The land has been included in the Central National Area – a Designated Area as defined in the *Australian Capital Territory (Planning and Land Management) Act 1988* and set out in the National Capital Plan.

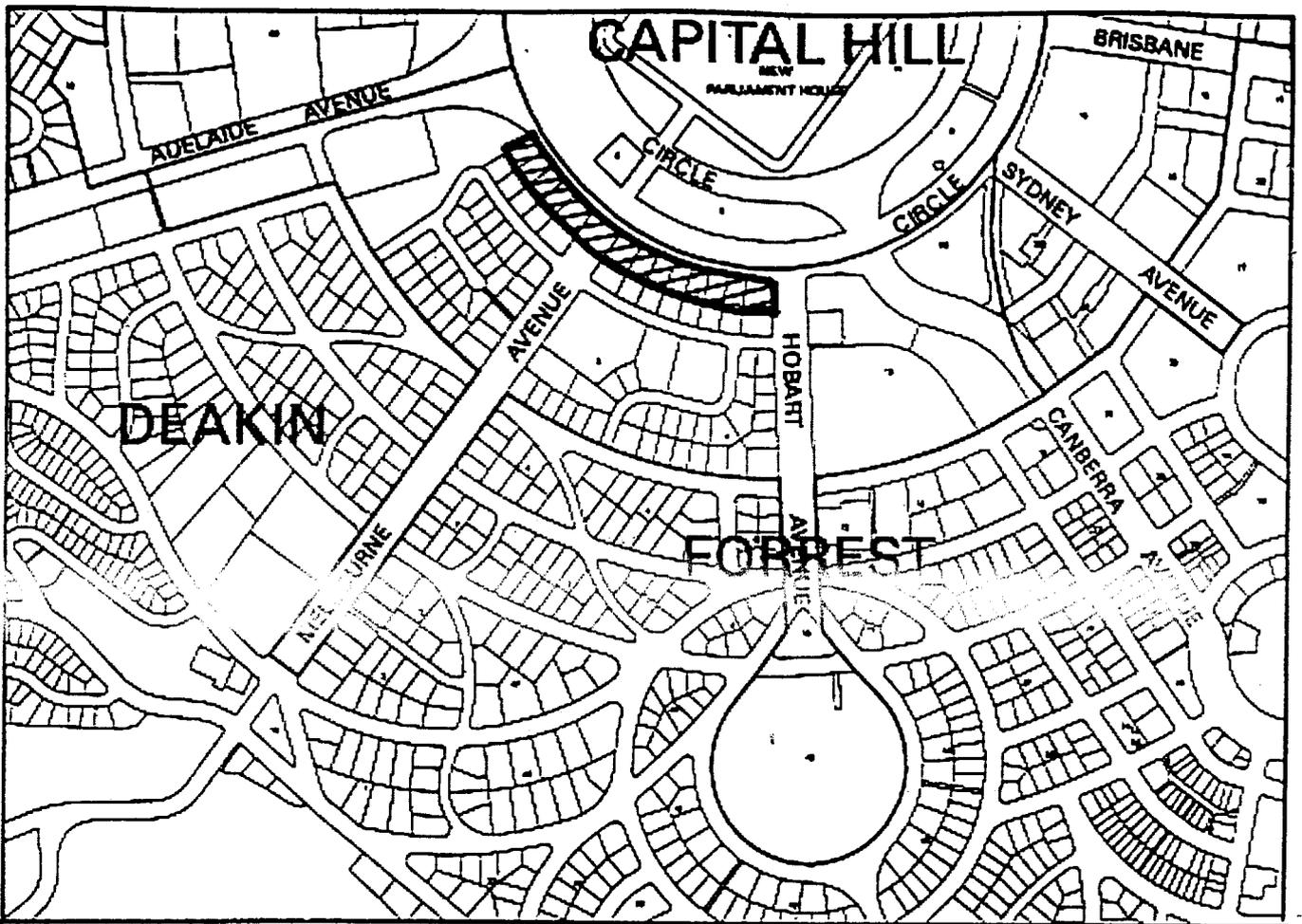
Typically, land fronting State Circle has been subdivided into large parcels to accommodate a range of important National Capital functions including the Diplomatic Areas of Yarralumla, National Capital uses, including Commonwealth offices, and St. Andrew's Cathedral. The land between Hobart Avenue and Adelaide Avenue – the subject area (Figure 1) - is Residential, having been established in the 1950s. Although the blocks in this area are large by normal residential standards in Canberra, they are small by comparison with the other blocks accommodating non-residential uses fronting State Circle.

The residential blocks, the site of St Andrew's Cathedral and State Circle itself are all Territory Land administered by the Australian Capital Territory (ACT) Government. The rest of the land fronting State Circle is National Land administered by either the National Capital Authority or the Commonwealth Government's Department of Finance and Administration.

The Authority has received a number of representations since 1993 from some lessees of residential properties in Section 6 Forrest, fronting State Circle, seeking a change of land use policy to permit a higher use. In the main, the representations have been from lessees who are not current residents of the area. They claim they have difficulty letting their properties, notwithstanding their prime location, because of the loss of amenity arising from the increasing traffic on State Circle experienced since Parliament House was opened in 1988.

These lessees have met with the Authority on a number of occasions and have formed themselves into the Forrest Section 6 Redevelopment Association. They have sought to persuade the Authority to propose a Draft Amendment to the National Capital Plan. Such an amendment is a necessary precursor to a lease variation that, in turn, is required to enable the redevelopment of their sites for a use with a higher return.

The Authority has also received representations from another lessee of Section 6 expressing concern that the existing policies be retained and urging the Authority to safeguard residential amenity. A recent residential redevelopment in an adjacent section caused considerable concern and has led to many in the area calling for the Authority to be vigilant in defence of their residential amenity.



STUDY AREA

**DEAKIN/FORREST RESIDENTIAL AREA ON
STATE CIRCLE ADJACENT TO PARLIAMENT
HOUSE : LAND USE POLICY REVIEW**



**National Capital
Authority**

Prepared by: *VB*

Checked by:

FIGURE 1 - LOCALITY MAP

Scale: -1:12500

Date: August 1998

The Authority considered the future of the area at some length in 1998. The Authority concluded that it did not see any justification for a change in land use policy at that time. Following further representations the Authority did, however, undertake to re-examine the issue in the context of the Parliamentary Zone Review.

2. *The Review*

This review covers the matters considered both in 1998 and, more recently, in the context of the recently completed Parliamentary Zone Review. This review considers the potential impacts of alternative land uses in an endeavour to define the most appropriate land use or uses for this location taking into account :

- the significance of the location adjacent to Parliament House;
- the effect of broadening the range of permissible uses for those blocks on State Circle on other lessees in the area;
- the effect of such a change on those currently marketing similar opportunities elsewhere in Canberra, including the Commonwealth and Territory Governments;
- the objectives for ensuring that development fronting State Circle as a Main Avenue is of a high standard and promotes awareness of the symbolic and functional significance of the National Capital.

3. *Existing Land Use Provisions*

The study area covers those ninety or so blocks between State Circle and National Circuit between Hobart Avenue and Adelaide Avenue with the main focus being on the land immediately fronting State Circle.

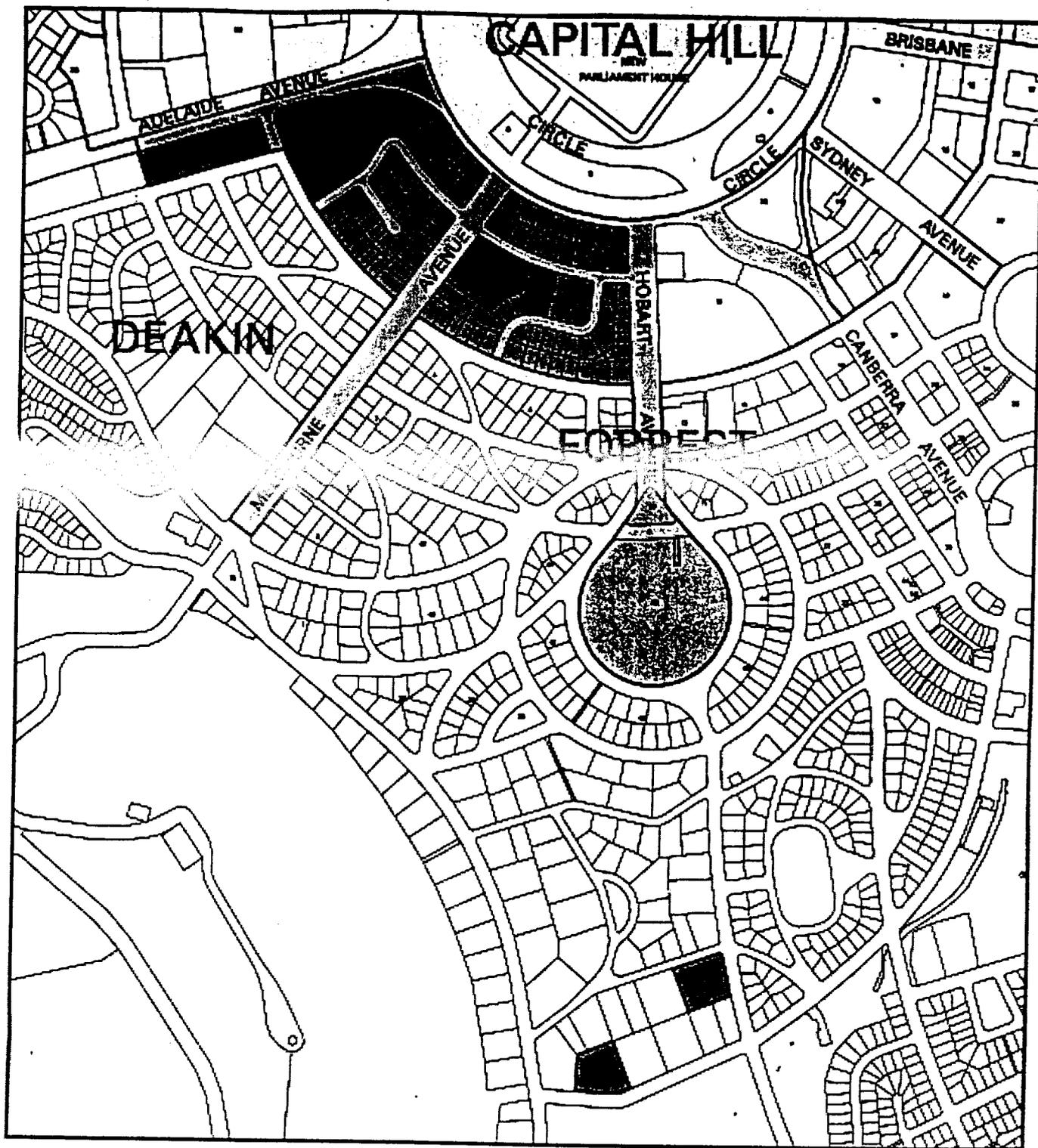
Detailed Conditions of Planning, Design and Development have been prepared for the study area and these are shown in Figure 7 of the National Capital Plan (page 29 in Part 1). A copy of that Figure is included as Figure 2 to this report. The current Land Use Policy which applies to the land fronting State Circle between Hobart Avenue and Adelaide Avenue is primarily Residential and this policy also largely applies to the area behind State Circle.

The land use definitions in Appendix A of the National Capital Plan describes Residential use as :

The use of land for the primary purpose of providing shelter for human habitation together with such outbuildings as are incidental to and ordinarily associated with residential use of land.

The policies for design and development governing residential land uses are set out in the National Capital Plan in :

- Appendix H: Design and Siting Conditions;
- Appendix M: Residential Land Use;
- Appendix N: The Conduct of Business on Residential Land; and
- Appendix P: Dual Occupancy of Detached House Blocks.



-  National Capital Use
-  Diplomatic Mission
-  Community Facility
-  Road
-  Residential
-  Open Space - Park
-  Adjoining Central National Area Maps

* For all blocks located within Residential Areas, refer to Appendices for the following policies which apply:
 Appendix M Residential Land Use
 Appendix N The Conduct of Business on Residential Land
 Appendix O Aged Persons Accommodation
 Appendix P Dual Occupance of Detached House Blocks
 * Refer to Appendix H for Design and Siting Conditions which apply to all blocks

Figure 7
 The Central National Area
 (Deakin, Forrest & Red Hill)

These policies have been effective in managing the general development of the relatively small amount of residential land coming under the provisions of the National Capital Plan. The issues raised in the submissions received are more about the investment value of the subject land than about the appropriateness of the residential policies for managing residential leases.

4. Existing Development and Character

The land within the study area is all Territory Land except for the two Diplomatic Mission sites of Switzerland and Austria and "The Lodge" site, each of which is National Land.

The study area contains a range of single and two storey detached buildings developed specifically for residential use. Construction throughout the precinct is mostly of brick with terra cotta tile roofs. Most of the houses in the study precinct have been significantly upgraded and modified or redeveloped since their original construction in the 1950s and the landscape has matured to create a well-established residential environment.

The Territory Land, apart from the parkland on the corner of Adelaide Avenue and State Circle, is the subject of leases that permit single dwelling house purposes. Some approvals have been granted for home businesses to operate. These activities are operating in accordance with the criteria established for home businesses as set out in Appendix N of the National Capital Plan.

The diplomatic community uses some houses in the precinct. These properties are being used for residential purposes consistent with the Land Use Policy. However, two dwellings are also being used for mission purposes in addition to residential purposes.

The Embassy of Cambodia (Block 5 Section 2 Deakin in Canterbury Crescent) was established some time prior to 1988 but is contrary to the lease purpose for that site. The Embassy of Bosnia and Herzegovina (Block 6 Section 6 Forrest in State Circle) is also using a dwelling as a temporary use for its Head of Mission. The Embassy of Bosnia and Herzegovina is soon to relocate to the Deakin Diplomatic Area where new premises are under construction.

5. Subdivision Pattern

The layout and subdivision of the study precinct reflects one of the first residential subdivisions in the inner south of Canberra. It was originally part of 'Blandfordia' (now Deakin, Griffith and Forrest). Sections of Blandfordia were periodically released for subdivision by auction with the first occurring in December 1924. By 1927, ninety-one houses had been constructed in Blandfordia and street and park planting commenced.

The subdivisions in Forrest were specifically designed to be larger than in other parts of Blandfordia and that pattern has generally remained. The average block size for

Sections 5, 6 and 7 Forrest (excluding the diplomatic blocks) is 1743 square metres. The average block size for Sections 2 and 3 in Deakin is 1573 square metres.

6. *Alternative Land Uses*

The submissions received have sought to have the range of currently permissible uses changed to include Diplomatic Missions or offices. This is to improve the financial return on the sites that have been claimed to be unsuitable for continued residential use. It is also claimed that the location adjacent to Parliament House warrants a change in land use.

While the suitability of the environment for residential use is one consideration, land use planning in this location also needs to take account of a number of key aspects of importance to the National Capital. These are :

- the significance of the location adjacent to Parliament House;
- the objectives of ensuring that development fronting State Circle, as a Main Avenue, is carried out to a high standard;
- the suitability of the area for Diplomatic Missions and related security issues; and
- that development should seek to promote awareness of the symbolic, historic and functional significance of the National Capital.

There is also a need to take account of the impact of any proposed use of the land fronting State Circle on the residential character of the adjoining Deakin/Forrest precinct and of diplomatic and commercial land use opportunities elsewhere in Canberra.

The types of uses that have been considered are :

- Residential - Single dwelling houses
- Residential - Multiple residential units
- Commercial Accommodation
- Diplomatic Missions
- Offices

6.1 Residential - Single Dwelling Houses

This is the current use of the land. The area has been maintained in accordance with its historic land use when it was initially subdivided as a prestigious, residential area for inner south Canberra.

Use of the sites for housing has included housing for some of the diplomatic community and for some home businesses. The introduction of these uses to the area has been carried out in a manner that has retained the essential residential character of the area.

There has been an argument raised that the sites are unsuitable for standard residential use due to the increase traffic that has occurred on State Circle. While traffic counts

are not available for this exact location, traffic data for Limestone Avenue, Northbourne Avenue and Canberra Avenue, where there are also dwellings on a busy road frontage, shows volumes at least twice the load experienced on State Circle.

In terms of road safety, it should be noted that the block sizes fronting State Circle are large and as a consequence there are opportunities available for circular driveways. This provides the opportunity for vehicles to turn around on-site and thus avoid having to back onto a busy arterial road. This opportunity is not often available on the other arterials cited.

The question of residential amenity is a separate one. Typically, traffic noise is the most serious threat to residential amenity where houses are located next to arterial roads. Consideration could be given to the provision of a service road and landscape screening if this was considered necessary to maintain the residential amenity of the area. Such expensive measures, if funded from the public purse, would set a significant precedent for the ACT Government. Mounding, landscaping and double glazing are all measures available to the individual lessees.

6.2 Residential - Multiple Residential Units.

There is scope for dual occupancy dwellings to be erected in the subject residential area. This includes, subject to conditions, the addition of a further dwelling on a block or a conversion of an existing dwelling to two dwellings. It should be noted, however, that this opportunity is available without the need to amend the National Capital Plan and such use would be consistent with the policy of encouraging a wider choice of housing in the Canberra market.

Wholesale redevelopment within the study area would be likely to generate significant opposition. Some scope for increased density on the State Circle frontage may be appropriate if lessees wished to investigate that possibility with the ACT Government. However, at this stage, there has been no indication that the ACT Government would want to pursue such a change.

Experience elsewhere in Central Canberra suggests that such change would not be well received. Submissions made to the Territory Government in relation to the wider *Forrest/Red Hill/Deakin/Griffith Historic Areas Draft Guidelines* in 1993 indicated strong opposition to change in those areas. There was strong support for retention of the historic urban qualities and characteristics associated with the old inner south suburbs as part of the picturesque backdrop to the Parliamentary Zone.

6.3 Commercial Accommodation

Commercial Accommodation is defined in Appendix A to the National Capital Plan and includes a hotel, motel, guest house and serviced apartments. Their transient populations, higher traffic rates and hours of operation can affect the amenity of residential areas.

A broad policy of Commercial Accommodation could also affect the urban design outcome close to Parliament House. The nature of such development often includes major signage not considered appropriate so close to Parliament House.

6.4 Diplomatic Missions

Historically there are two Diplomatic Missions established in the study area. However, the policy of the Authority is to focus the location of new missions in particular areas of Yarralumla, Deakin and O'Malley.

Those areas have been selected and identified in the National Capital Plan as sites suitable for the further development of Head of Missions and Embassies. Sites are reserved in these locations specifically to encourage co-location of such uses for security reasons as well as avoiding the impacts that such uses can have on residential areas in general. A policy has been pursued over a number of years for those embassies located in other residential areas to be relocated in the areas designated for Diplomatic Purposes under the National Capital Plan.

There are also areas in O'Malley that the Territory Government has set aside to allow Heads of Missions to include their chancelry functions in association with their residence. Any increase in the locations available for similar purposes in other suburbs would diminish the effectiveness of these policies pursued by both the Commonwealth and the Territory over a number of years.

The dwellings on State Circle can, under the existing policies, be used as residential accommodation for members of diplomatic missions but not as mission sites.

6.5 Offices

Main Avenues have often been defined, and given much of their character, by office buildings. They have provided for a significant built edge to be established which helps to define the Avenues with buildings of some architectural and urban design significance. This has been the case further around on State Circle where the RG Casey Building makes a substantial architectural and urban design statement. In this case, site planning has been able to provide large sites appropriate for such uses and to avoid the adverse impacts of commercial developments such as traffic, parking, and amenity impacts on residents nearby.

Small scale offices, such as conversions of the existing houses on State Circle, would not contribute to the status of the location adjacent to Parliament House, especially when the potential effects of traffic, parking, servicing and signage are considered. It would also be likely that there would be a considerable impact on the adjoining residences to the rear.

Commercial benefit is not considered a sufficient or even an appropriate justification for a change in land use, particularly when there is a potential negative impact on residential amenity and a marked visual change to the setting of Parliament.

7. *The Parliamentary Zone Review*

The Parliamentary Zone Review was undertaken by the Authority to provide a framework for development designed to enhance the National Capital and Parliamentary functions of the Zone. The outcomes will most likely be reflected in an amendment to the National Capital Plan that would replace the 1986 Parliamentary Zone Development Plan. The Review has produced a series of initiatives that address some of the many problems of access, legibility, attraction and so on evident in the Zone today.

In a period of low growth and outsourcing of functions more traditionally carried out by Government, every opportunity needs to be harnessed to the task of promoting appropriate development in the Parliamentary Zone. For this reason, the land use policies of the Plan which encourage critical uses into areas planned specifically to accommodate them in and near the Parliamentary Zone need to be retained.

The Advisory Panel overseeing the Review were also concerned that uses related to the National Capital functions should be located, as far as practical, within the Parliamentary Zone itself. Where this was not possible or appropriate, they should be located on the flanks of the Zone below Parliament House in the Barton area rather than at Parliament's 'back door'.

8. *Urban Design*

The land immediately surrounding the Parliamentary Zone, between Capital and State Circles, forms the landscape setting for Parliament House. The development fronting State Circle determines the relationship of Parliament House to the rest of the National Capital functions nearby. The nature and quality of that development is critical to the way both Australians and foreign visitors perceive and experience Parliament House and the National Capital.

The land fronting State Circle falls into visibly recognisable precincts. The Yarralumla Diplomatic Area consists of diplomatic missions, usually large buildings on very generous blocks each contributing in its own distinctive way to the architectural richness of the National Capital. To the east of Kings Avenue, in the Forrest and Barton areas, office complexes have been developed. Typically these buildings have been developed to three or four storeys on large blocks and, where not occupied by the Commonwealth Departments or agencies, have generally been divided to provide accommodation for a wide range of small and medium sized private sector organisations.

St. Andrew's Cathedral stands alone as a distinctive and individual architectural statement, while the land between and flanking Kings and Commonwealth Avenues define the Parliamentary Zone itself. The buildings tend to be large office buildings and, within the Zone, major National Institutions such as the National Library of Australia, the High Court of Australia and the National Gallery of Australia. Each is an architectural statement in its own right, and the location, generous siting and landscape character are all intended to contribute to the overall composition of the Parliamentary Zone.

The final precinct – the residential area on State Circle – is at the ‘back door’ of Parliament. It is viewed, in the main, on the way out of the Parliamentary Zone or on the way to Woden or Fyshwick moving away from Parliament House. The visual links from Parliament House tend to be over the Zone and along the radiating Avenues rather than into this precinct. This is articulated in the entry of the *Parliament House Vista* in the *Register of the National Estate*. However, the very proximity of this area to Parliament House demands a high standard of both development and maintenance. At present the low scale residential development and its associated landscaping tends to blend into a residential precinct with all the best hallmarks of the Garden City. In short, while it does little to contribute in a positive sense to the surrounds of Parliament House, the existing development does not intrude on the Parliament and its setting.

A change in land use policy and the stimulus that could have for change in this area is, in the view of the Parliamentary Zone Advisory Panel and the Authority itself, not warranted and is unlikely to be so for many years. When that time comes, it will be vital to produce a new subdivision pattern designed to produce a comprehensive and timely redevelopment which achieves an urban design quality befitting the location of the precinct close to Parliament House.

9. *The Process of Change*

Pressures for a change in land use policy on State Circle have come largely from investors in properties fronting State Circle. The Forrest Section 6 Redevelopment Association has been established to promote such a change.

Lessees in this area of Forrest have the right to use their leases for residential purposes and have the right to expect that the land use policy provisions of the lease and the National Capital Plan will protect those rights. While the current use of the properties in the study area is generally confined to standard residential use, there is scope under the current policies for lessees to ‘add value’ to their investment. This can be achieved through existing policies on Dual Occupancy (Appendix P to the National Capital Plan) and for the Conduct of Business on Residential Land (Appendix N).

10. *Summary Evaluation*

The analysis of alternative Land Use Policies such as Diplomatic Uses, Offices and Commercial Accommodation has lead the Authority to conclude that to propose an Amendment to the National Capital Plan would be inappropriate for the following reasons:

- The demand for change is not widespread among the lessees of the ninety or so residential properties in the study area.
- The argument for change is based on commercial benefit.
- There is ample opportunity available elsewhere in Canberra to provide for the various uses proposed as alternative land uses.
- Many of these areas are not fully utilised, especially in the small to medium office markets in Barton and Deakin.

- The use of the area for Diplomatic Missions, as opposed to diplomatic residences, does not align with a long-standing policy of locating Diplomatic Uses in defined diplomatic areas. To permit such uses to locate in the study area would dilute the efforts of the Commonwealth and Territory Government's land release programmes for such uses.
- Commercial Accommodation uses are considered inappropriate so close to Parliament and because of the potential to adversely affect residential amenity.
- The location of the study area so close to Parliament is a vital consideration. Any change must be on the basis of a comprehensive approach. The current ownership pattern and the requirement for extensive co-operation between lessees to achieve an appropriate outcome suggest that such an outcome is unlikely without some form of Government intervention or participation. At this stage, however, neither Commonwealth nor Territory Government has shown any real interest, and such an approach has not been suggested by the Redevelopment Association.
- Changing the land use policy is likely to lead to speculative developments on a block by block basis. If alternative uses are to be considered in the future, a revised subdivision pattern, involving considerable block amalgamation, will be required to secure a comprehensive approach to redevelopment.
- The Parliamentary Zone Review did not reveal any additional reason to promote a change in land use policies in this area. On the contrary, at present there is a low level of demand for a wide range of uses directly associated with the city's role as the National Capital and Seat of Government. There are also considerable vacancies in the commercial offices in the Barton and Deakin areas which will need to be taken up along with other developments in Forrest and Barton which the ACT Government is trying to market.

For these reasons the Authority believes that the current residential land use policies should be maintained at least until such time as other critical planning objectives for the National Capital have been met. The demand for a change in land use policy needs to be sufficiently widespread to have full local support and the momentum to produce a comprehensive urban design outcome befitting the area's location close to Parliament House.



NATIONAL CAPITAL AUTHORITY

*Australian Capital Territory
(Planning and Land Management) Act 1988*

NATIONAL CAPITAL PLAN

**AMENDMENT 39
(Deakin/Forrest Residential Area between State Circle
and National Circuit)**

April 2002

AMENDMENT 39 TO THE NATIONAL CAPITAL PLAN

Amend the National Capital Plan by:

1) Inserting on the page following Figure 7:

"A

Objective:

To ensure that the residential areas of Deakin and Forrest that lie between State Circle and National Circuit maintain and enhance the character of the National Capital and are planned and developed in accordance with its national significance.

Principles and Policies

The following principles and policies apply:

- The principal residential character of the area and the established use of the land for residential purposes are to continue. This will necessitate the prohibition of Commercial Accommodation (including serviced apartments, guest houses, boarding houses and the like) and commercial land uses not normally permitted as home occupations or home businesses.
- Development throughout the area shall not be more than two storeys in height and at no point more than 8 metres above the natural ground level immediately below.
- Design of buildings in proximity to the Prime Minister's Lodge should reflect the dominant urban design character of the locality.
- Roof mounted aerials, masts and satellite dishes should be located to have a low visual impact.
- On sites fronting State Circle between Hobart and Adelaide Avenues:
 - (i) any redevelopment or consolidation shall result in buildings that address State Circle achieving two storeys in height;
 - (ii) the Plot Ratio for residential redevelopment of existing blocks is 0.4; where sites are amalgamated the Plot Ratio of any medium density residential redevelopment may be up to 0.6;
 - (iii) architectural treatment shall reflect the principal design character of the area. The primary façades should avoid solid unarticulated walls, the repetitive use of design elements in large building complexes, and the use of materials and colours that would tend to dominate the streetscape;
 - (iv) a landscape area at least 10 metres in depth across the front of the block shall be developed to provide a soft landscape setting. No structures, other than courtyard walls are to be permitted in this area. Any such courtyard walls shall

be no closer than 6 metres to the State Circle property boundary, no higher than 1.8 metres and shall have an aggregate frontage not greater than half the width of the block measured at the wall line;

- (v) large expanses of exposed hard surfaces as seen from the street shall, except for necessary vehicle driveways, be avoided; and
- (vi) the number of vehicular access points to and from State Circle should be reduced in the interests of traffic safety and convenience as opportunities arise through redevelopment.”

- 2) Deleting clause 1 of Appendix M – Residential Land Use and renumbering subsequent clauses.
- 3) Replacing the existing Appendix N – The Conduct of Business on Residential Land with the revised Appendix N set out below:

“Appendix N

THE CONDUCT OF BUSINESS ON RESIDENTIAL LAND

Preamble

The National Capital Authority's planning policies are intended to provide inter alia, a high level of amenity in residential areas and to prevent the erosion of this amenity through the introduction of unsuitable commercial uses. The *City Area Leases Act 1936* enables approval to be given to residents to carry out a home business provided that the use is not offensive, dangerous or a nuisance or it is not contrary to the public interest to do so. Home business means the use of residential land for carrying on a profession, trade, occupation or calling on the land.

The National Capital Authority's policies establish, in planning terms, the necessary criteria to determine whether a proposed user of land meets the requirements for approval for permission to conduct a business on land leased for residential purposes.

Policy

The National Capital Authority may recommend that consent to be given to an application made under the provisions of Section 10 of the *City Area Leases Act 1936* for a home business that is incidental to residential use of the site provided that:

- (a) at least one worker is a bona fide resident of the land;
- (b) the operation of the home business does not cause unreasonable annoyance, offence, nuisance or danger to any tenant or occupant of adjoining land;
- (c) goods related to the home business are not displayed in windows or outside the building;

- (d) provision is made for the parking of all customer/client vehicles on existing driveways on the land or in a suitably screened location on the land;
- (e) the home business does not, or is unlikely to cause, pollution, create a health hazard or present a danger which is prohibited under any relevant Territory legislation and/or Code of Practice (as may vary from time to time);
- (f) traffic generated by the home business does not unacceptably affect the flow of local traffic;
- (g) the use does not result in the storage on the land of materials obtained for or generated by the home business other than within the confines of approved structures; and
- (h) retailing associated with home business does not, or is unlikely to generate an increase in traffic, parking demand or noise, which is unreasonably deleterious to the amenity of the surrounding area.

Except that where a home business had previously been regularly approved under Section 10 of the *City Area Leases Act 1936*, variation from the above controls may be permitted provided they are consistent with the conditions under which previous approval was granted.

Standards

In order to restrict the agglomeration of non-residential activities and ensure that the scale of home business is compatible with the residential character of the locality, the following performance standards apply:

1. there shall be a maximum of two home business per section;
2. the maximum gross floor area of business (including storage) shall not exceed 40 m²;
3. there shall be a maximum of three persons (including resident workers) employed on the site; and
4. there shall be a maximum of one commercial vehicle operating from or parked within the site."

Definitions

In this policy:

Amenity means in relation to an area, a planning area or a locality, includes such quality or condition in the area, planning area or locality as contributes to its pleasantness and harmony and to its better enjoyment.

Home Business means the use of residential land for carrying on a profession, trade, occupation or calling on the land.



NATIONAL CAPITAL AUTHORITY

*Section 18
Australian Capital Territory
(Planning and Land Management) Act 1988*

**REPORT ON CONSULTATIONS
DRAFT AMENDMENT 39 TO THE
NATIONAL CAPITAL PLAN
(Deakin/Forrest Residential Area between
State Circle and National Circuit)**

April 2002

STATUTORY BACKGROUND TO CONSULTATION AND AMENDMENT PREPARATION PROCESS

Australian Capital Territory (Planning and Land Management) Act 1988

Section 14 of the *Australian Capital Territory (Planning and Land Management) Act 1988*, (the Act) provides that the National Capital Authority shall prepare draft Amendments to the Plan in accordance with provisions in the Act.

Section 15(1) of the Act provides that the Authority submit a copy of the draft Amendment to the Territory planning authority; publish a notice in the Commonwealth Gazette and in the principal daily newspaper that the draft Amendment has been prepared and released for public consultation.

Section 15(2) provides that the Authority consult with the Territory planning authority about the draft Amendment and have regard to any views expressed by it and by the public. The Authority may alter the draft Amendment accordingly. When the Authority fulfils the requirements of section 15 it may, according to section 18 of the Act, submit the draft Amendment to the Minister for approval, together with a consultation report.

Section 19 of the Act outlines the Minister's powers with respect to draft Amendments to the National Capital Plan. Section 19(1) provides that the Minister may approve the draft Amendment without alteration; may refer the draft Amendment to the Authority with directions to either conduct further consultations or provide the Authority with suggested alterations. Section 19(2) provides that if the Territory planning authority objects to any aspect of the draft Amendment the Minister shall not act under subsection (1) except after consultation with the Executive (Executive is defined in the *Australian Capital Territory (Self-Government Act) 1988* as the Australian Capital Territory Executive established by section 36 of that Act).

Under section 20 of the Act, if the Minister chooses to refer the draft Amendment to the Authority, the Authority shall reconsider the draft Amendment; have any further consultations directed by the Minister and such other consultations as the Authority thinks necessary; consider any suggestions made by the Minister; alter the draft Amendment if it thinks fit; and re-submit the draft Amendment to the Minister for approval.

Section 21(1) provides that where the Minister approves the draft Amendment a notice of approval will be published in the Commonwealth Gazette, which specifies where copies of the Amendment may be bought or inspected. Under section 21(2) the Amendment takes effect upon publication of the notice of approval.

Section 22 provides that the Amendment must be laid before each House of Parliament within six (6) sitting days after Gazettal. The document is tabled as a disallowable document. Each House has six (6) sitting days in which it may pass a resolution disallowing all or part of the Amendment. If the Amendment is subject to a disallowance motion then that whole or part of the Amendment ceases to have effect.

**RELEVANT EXTRACTS – AUSTRALIAN CAPITAL TERRITORY (PLANNING AND
LAND MANAGEMENT) ACT 1988**

6. *The functions of the Authority are:*
- (a) *to prepare and administer the National Capital Plan;*
 - (b) *to keep the Plan under constant review and to propose amendments to it when necessary;*
14. *The Authority shall prepare a draft Plan (amendment) in accordance with this Division (ie Division 2 – Preparation of the National Capital Plan).*
- 15.(1) *After preparing the draft Plan (or an amendment under section 23), the Authority shall:*
- (a) *submit a copy to the Territory planning authority;*
 - (b) *by notice published in the Commonwealth Gazette and in the principal daily newspaper published and circulated in the Territory:*
 - (i) *state that the draft Plan has been prepared, and that copies will be available for public inspection at the places and times, and during the period specified in the notice; and*
 - (ii) *invite interested persons to make written representations about the draft Plan within a reasonable period specified in the notice and specify the address to which the representations may be forwarded; and,*
 - (c) *make the Plan available for inspection accordingly.*
- (2) *The Authority shall:*
- (a) *consult with the Territory planning authority about the draft Plan and have regard to any views expressed by it; and*
 - (b) *have regard to any representations made by the public; and if it thinks fit, may alter the draft Plan.*
18. *The Authority shall submit the draft Plan to the Minister for approval, together with a written report on its consultations under section 15.*
- 19.(1) *Subject to subsection (2), on receipt of the draft Plan submitted for approval, the Minister shall, after such consultation, if any, as the Minister thinks necessary:*
- (a) *approve the draft Plan without alteration; or*
 - (b) *refer the draft Plan to the Authority with either or both of the following:*
 - (i) *directions to conduct further consultations;*
 - (ii) *suggested alterations.*
- (2) *If the Authority reports under section 18 that the Territory planning authority objects to any aspect of the draft Plan, the Minister shall not act under subsection (1) except after consultation with the Executive.*

REPORT ON CONSULTATIONS
DRAFT AMENDMENT 39 TO THE NATIONAL CAPITAL PLAN
(Deakin/Forrest Residential Area between State Circle and National Circuit)

INTRODUCTION

Section 6.(b) of the *Australian Capital Territory (Planning and Land Management) Act 1988* (the Act) requires the Authority to keep the National Capital Plan under constant review and to propose amendments to it when necessary.

The Deakin/Forrest residential area lying between State Circle and National Circuit is specified in the National Capital Plan as a "Designated Area". Consequently and although the residential leases are Territory Land, managed by the ACT Government, the area falls within the planning jurisdiction of the National Capital Authority. Draft Amendment 39 proposed to uplift the area's "Designated Area" status, thereby passing planning jurisdiction to ACT Planning and Land Management (PALM). The Draft Amendment also proposed to introduce planning policies to ensure that the residential land use and character of the area will be maintained and that any redevelopment of sites fronting State Circle will achieve appropriate standards of urban design and landscape.

CONSULTATION

Draft Amendment 39 was notified for public consultation purposes on 18 November 2000 in *The Canberra Times* and on 22 November 2000 in the *Commonwealth of Australia Gazette No. GN 46*. The period for receipt of written comments expired on 12 January 2001. All residents in the affected area were notified of the Draft Amendment by mail and ACT Planning and Land Management (PALM) was notified in accordance with requirements of the Act. Advice was forwarded to the Secretary of the Official Establishments Trust, the High Commissioners for Malaysia and Malta and the Ambassadors for Austria, Cambodia and Switzerland, and an information copy of the Draft Amendment was forwarded, through the Minister's office, to the Joint Standing Committee on the National Capital and External Territories. In December 2000 an explanation of the Draft Amendment was forwarded to the Office of Regulation Review within the Productivity Commission and the Authority was advised that a Regulation Impact Statement was not mandatory.

The Joint Standing Committee on the National Capital and External Territories was briefed on 28 February 2001 and in greater detail on 4 April 2001. The Joint Standing Committee was provided with information on heritage aspects and issues arising from consultation with lessees/residents and PALM.

Eleven written submissions were received, seven from local residents and lessees and one representing the Deakin residents Association, with the remainder from ACT Planning and Land Management (PALM), the Malaysian High Commission and the Embassy of Switzerland.

As a result of some of the representations received and to address concerns expressed by the Joint Standing Committee, it was considered necessary to alter the Draft Amendment. Details

of proposed alterations were forwarded to PALM and to local residents/lessees in July 2001 for a further round of consultation. (The Malaysian High Commission and the Embassy of Switzerland did not raise ongoing concerns and, for that reason, were not forwarded details of the proposed alterations). In addition to a supporting letter from PALM, two sets of additional comments were received from lessees of land in the affected area.

On 15 August 2001, after considering the issues raised in both rounds of consultation, the Authority resolved to alter the Draft Amendment. The altered Amendment will, if approved, prevent buildings exceeding 2 storeys and 8 metres in height and will prohibit commercial land uses that would not normally be permitted as home occupations. Additionally, for blocks fronting State Circle, the alterations introduce greater detail in respect of the front landscape area and ensure that any redevelopment on sites fronting State Circle will achieve a substantial built form in keeping with the area's significance.

On 7 December 2001, after considering additional redevelopment issues impacting on State Circle, the Authority resolved to alter Draft Amendment 39 further to retain the Designated Area status.

ISSUES ARISING FROM THE CONSULTATION PROCESS

PALM responded to both the initial invitation to comment and the second round of consultation following proposed alterations to the Draft Amendment. PALM's initial comments supported the proposal to remove the Designated Area status but did not support the intention to restrict the use of sites fronting State Circle to Residential. PALM considered the area suitable for a range of medium scale mixed uses such as professional offices, national associations, serviced apartments and other forms of commercial accommodation. PALM considered the State Circle locality unsuitable for low scale residential use due to traffic noise and general amenity issues associated with State Circle's role as a major transport route. PALM suggested that Special Requirements should apply, similar to those applying through the National Capital Plan to other Main Avenues comprising the final approaches to the Parliamentary Zone. The Authority discussed these issues further with PALM and, in its response to the second round of consultation, PALM noted the proposed alterations and advised: "*PALM remains committed to facilitating proposals to remove the Designated Area status from Territory Land and therefore supports the revised Draft Amendment*".

The Swiss Ambassador noted that "the Draft Amendment will not affect the land on which the Embassy is located" and raised no issues.

The High Commissioner for Malaysia was concerned that the Draft Amendment proposed to take away the Designated Area status of Malaysia House but did not similarly affect the adjacent Swiss and Austrian Embassies. In responding via a meeting and a letter, the Authority explained the reason for the apparent discrimination – Malaysia House is on a standard residential lease of Territory Land, managed by the ACT Government, while the Swiss and Austrian Embassy's are on National Land sites, managed by the Commonwealth and subject to a "special purpose lease for Diplomatic purposes. The High Commissioner subsequently advised that his concerns were allayed and he made no objection to the proposed amendment.

The main issues arising from comments from local residents/lessees and the Deakin Residents Association are summarised below under the separate headings of *Designated Area Status*; *Land Use*; and *Development Controls*:

Designated Area Status

Three submissions supported the proposal to remove the Designated Area status, three did not support and for two the matter was not an issue. Reasons given for not supporting the proposal included proximity to Parliament House; the differences between the controls of the National Capital and Territory Plans do not justify the proposal; and the change in status would lead to overdevelopment and redevelopment with a consequent loss of amenity and character.

Land Use

Two submissions considered the area fronting State Circle to be suitable for mixed commercial uses and unsuitable for low scale residential development due primarily to noise impacts and traffic nuisance. Declining visual quality, reduced rating valuations, and difficulties in obtaining reasonable rentals and retaining residential tenants, were cited to support this position. One submission, while not specifically critical of residential usage on State Circle, considered that that PALM's responsibility for land use planning should not be fettered. Another submission generally opposing the Draft Amendment considered it would be unreasonable to suggest that the area should for ever remain residential. Three submissions supported retention of the current land use policy. In one submission, prohibition of commercial development was requested.

Development Controls

The issue of maintaining standards of development was of concern in several submissions, with the possibility of height exceeding two storeys the most commonly expressed concern.

One submission called for appropriate planning and development controls to be established for the area no matter which planning authority administers the controls.

The submission from the Deakin Residents Association considered planning controls were warranted to limit plot ratio and density; prevent streets from becoming overflow parking areas as development densities increase; control building height; regulate roof forms and materials capable of being viewed from Parliament House; manage façade design, fenestration and massing along State Circle; safeguard heritage features of the area; and preserve and maintain trees and landscape quality.

The Authority agreed that the development control policies proposed to be incorporated in the Plan should be strengthened. While it acknowledged that the State Circle sites, due to traffic noise and access difficulties, had limited suitability for standard density housing, the Authority considered that commercial/mixed use redevelopment on these sites would not be appropriate and that the National Capital Plan should instead encourage site amalgamation and provide specifically for medium density residential redevelopment. The Authority agreed that an absolute height limitation of two storeys (and not more than 8 metres) should be introduced throughout the area, that redevelopment fronting State Circle should achieve two storeys in height, and that more specific landscape and front setback policies should be introduced for State Circle.

The Authority resolved to retain the Designated Areas status for the area but to consequentially alter the Draft Amendment to provide for the controls for Home Businesses to reflect those in the Territory Plan and to allow for block amalgamation for residential redevelopment as this could have occurred if the Designated Area status was uplifted.

SUPPORTING DOCUMENTS

All public comments are available for inspection at the offices of the National Capital Authority, 10-12 Brisbane Avenue, Barton, ACT. The following documents are attached in support of the Consultation Report:

- | | |
|------|---|
| SD 1 | <i>Commonwealth of Australia Gazette</i> notice of Draft Amendment 39 appearing in <i>Gazette No. GN 46</i> of 22 November 2000 |
| SD 2 | Notice of Draft Amendment 39 for public comment appearing in <i>The Canberra Times</i> of 18 November 2000 |
| SD 3 | Letter dated 21 December 2000 from Office of Regulation Review advising that the proposal did not require the preparation of a Regulation Impact Statement. |

CONCLUSION

- The statutory processes in respect of Draft Amendment 39 of the National Capital Plan for public consultation as required by the *Australian Capital Territory (Planning and Land Management) Act 1988* have been satisfied.
- ACT Planning and Land Management generally supports the Draft Amendment except that its views on not uplifting the Designated Area status will need to be obtained following consideration of the Draft Amendment by the Joint Standing Committee on the National Capital and External Territories.

**SMITH KOSTYRKO COHEN MIDDLETON
PTY LTD**

TOWN PLANNERS AND ARCHITECTS
15 DUNDAS COURT PHILLIP ACT 2606
PO BOX 3506 WESTON CREEK 2611
TELEPHONE (02) 62851234
FACSIMILE (02) 62820266
EMAIL: skcm@interact.net.au

FACSIMILE TRANSMITTAL SHEET

TO: Senator Kate Lundy	FROM: Malcolm Smith
COMPANY:	DATE: 22.1.02
FAX NUMBER: 6230 0413	TOTA NO. OF PAGES INCLUDING COVER:
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
RE: Re: State Circle	YOUR REFERENCE NUMBER:

NOTES/COMMENTS:

Dear Senator Lundy

I am a town planning consultant currently working on a project in State Circle. Following the article on the front page of today's Canberra Times, I thought it might be useful if I explained the status of this project, particularly so that it may assist you in any on-going discussions with NCA. I did ring your office earlier today and was told that one of your advisors (Simon Katz) would ring me back. I have not heard from Simon as yet, and given that I might be difficult to catch over the next few days, thought it may be prudent to offer you the following written briefing.

In terms of my involvement in this project I am acting for Richard Drummond, who represents a range of development interests. I understand that Richard's group has secured options on four contiguous properties fronting State Circle (19, 21, 23 and 25). Richard has also advised me that he has also commenced negotiations with the owner of No. 17 and is confident of securing an option on that property.

We had our first meeting with David Wright of NCA yesterday, and presented to him some site analysis drawings and preliminary concepts. Neither David nor anyone else at NCA had seen these drawings before yesterday. Indeed they have only been produced over the last few days. Our aim is to achieve a high quality, low rise development, with generous landscaping, commensurate with the important location of the site opposite Parliament House. We envisage a mix of town houses and

apartments, and although it is too early in the planning process to be specific about dwelling numbers, we envisage about 40 being appropriate. David Wright was open and forthright at our meeting, and explained that the only development which could be considered under the National Capital Plan at present is dual occupancy. However it is in nobody's interest to have five sets of dual occupancy developments similar to the one illustrated in the Canberra Times today.

We were also advised that the only way a development of the type we envisage could be considered is if the current Draft National Capital Plan Amendment allowed such development, and was approved by the Minister following advice from the Joint Standing Committee.

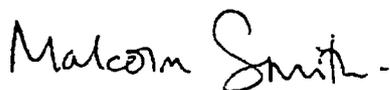
Mr Wright therefore suggested a two stage process. Firstly consideration of the matter by the Authority at its Board Meeting on 8 February. If the Authority accepts the principle of type of development proposed, then the second stage would involve Mr Drummond and his team undertaking extensive consultation with the local community.

The results of this consultation would then be considered by the Authority in determining the final form of the Amendment, as referred to the Minister and your Committee.

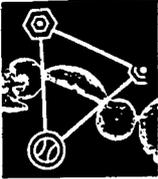
We have been given no promises by the Authority, and fully understand that there is a long process to go through, including Authority assessments, community consultation, Joint Standing Committee Inquiry, Ministerial approval, and tabling in Parliament, all before any plans we submit can formally be dealt with.

Far from hiding information, Mr Wright has asked us to subject our proposals to an open and transparent process. If you would like me to brief you personally and show you our sketches please let me know.

Regards



Malcolm Smith



Dear Resident/Lessee

STATE CIRCLE – RECENT MEDIA COVERAGE

The Canberra Times has published a number of articles, including an editorial recently, about possible developments on State Circle. The articles and some radio interviews may have created some confusion. I am writing to you in the interests of accuracy.

There have been suggestions over several years that State Circle's land uses should be changed from residential to allow for commercial development, Diplomatic uses and future growth in parliamentary requirements. The land use policy for the area was considered in detail as part of the Parliamentary Zone Review in 1999/2000. The relevant Background Paper has been on our web site: www.nationalcapital.gov.au since early in 2000 and is still accessible. The Advisory Panel on the Parliamentary Zone Review and the Authority do not support commercial development such as offices for this area. Our policy continues to be that it should remain 'Residential'.

Draft Amendment 39 was released for public comment in November 2000 in accordance with the process set out in the *Australian Capital Territory (Planning and Land Management) Act 1988*.

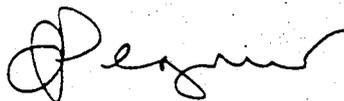
Under the current National Capital Plan, a multi unit development cannot be approved however dual occupancies are permissible. Under the current Draft Amendment to the Plan residential land use is retained and multi unit development excluding serviced apartments and boarding houses would be permissible. These provisions are still in draft form and no Amendment has been approved.

The Territory planning authority (PALM) has formally supported all of the inclusions of the current Draft Amendment. The Authority has also briefed the Joint Standing Committee on the National Capital and External Territories on the Draft Amendment on two occasions last year and their views, together with those received through the consultation programme, have been considered in reviewing the Draft Amendment. Approval of a Draft Amendment is subject to a statutory Commonwealth Parliamentary process that has yet to be undertaken. -

On Tuesday 22 January 2002 *The Canberra Times* reported that the Authority was "covering up plans for a giant residential development on State Circle". The first time officers of the Authority saw any drawings related to a possible multi unit development on State Circle was at a meeting in the afternoon of Monday 21 January 2002. Those attending the meeting were told that such a scheme is inconsistent with the current provisions of the National Capital Plan and cannot be approved and that the Draft Amendment has yet to be submitted for Ministerial approval.

I hope this advice clarifies issues raised in the media this week. If you wish to discuss this matter any further please do not hesitate to contact David Wright, the Authority's Director, National Capital Plan on 6271 2888.

Yours sincerely



ANNABELLE PEGRUM
Chief Executive
25 January 2002

From: Val Jhonston <vjhonston@sneddenhall.com.au>
To: "Ted.Schultheis@natcap.gov.au" <Ted.Schultheis@natcap.gov.au>
Date: 6/3/02 12:21pm
Subject: DRAFT AMENDMENT 39 DEAKIN/FORREST

Dear Ted

We are strongly in favour of NCA retaining control over this sensitive area.
We are against any control being directed to the ACT Government.

As original respondents, please convey these sentiments to the Committee.

Regards
Poppy and Dennis Martin
70 National Circuit
DEAKIN ACT 2600