



Australian Government
National Capital Authority

Consultation Report

Works Approval No WA103274

Works Associated with the Demolition of Existing Dwelling House and Construction of Two Dwellings (Block 13 Section 7 Forrest)

August 2024

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Introduction

Under the *Australian Capital Territory (Planning and Land Management) Act 1988*, the National Capital Authority (NCA) prepares and administers the National Capital Plan (the Plan) to ensure Canberra and the Territory are planned and developed in accordance with their national significance.

The Plan sets out the broad planning framework for the Australian Capital Territory (ACT). Areas designated as having special characteristics of the National Capital are subject to detailed planning policies and guidelines.

Any buildings or structures, demolition, landscaping or excavation works in Designated Areas require the approval of the NCA. The NCA considers such proposals in the context of the relevant provisions of the Plan.

On 24 October 2023 an application for works approval was received by the NCA from Thursday Architecture for the demolition of the existing residential dwelling and construction of two new residential dwellings with associated landscaping works located on Block 13 Section 7 Forrest (12 Hobart Avenue).

The proposed works will include the following elements for approval by NCA as the consent authority:

- Demolition of the existing residential dwelling
- Removal of 5 non-protected trees
- Construction of two residential dwellings
- Landscaping.

This Consultation Report outlines the NCA's review of the key issues raised during the consultation period and consideration of the Works Approval application.

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Public Consultation requirements

National Capital Plan

Under the Plan, requirements for public consultation apply to:

- Major developments proposed for Section 9 Barton;
- A landmark building to RL617 adjacent to Commonwealth Avenue (within the Constitution Avenue and Anzac Parade Precinct);
- Detailed plans for development at Academy Close, Campbell;
- High-impact telecommunications facilities;
- All residential proposals within the Deakin/Forrest Residential Area Precinct; and
- All residential and commercial development proposed for Section 5 Campbell.

The NCA determined that the Works Approval application required public consultation due to being located within the Deakin/Forrest Residential Area Precinct and due to the site's prominent location and the scale of development proposed on the site.

Commitment to Community Engagement

The NCA's *Commitment to Community Engagement* guides the way in which the agency engages with the community to keep people informed about decisions that have already been made and to offer opportunities for input to decision-making. The NCA considers how best to approach public participation processes having regard to the training curriculum delivered by the International Association for Public Participation.

The *Commitment to Community Engagement* sets out the following engagement principles:

Intentional

- Be clear about what we are trying to achieve.
- Be clear about the scope for people to influence outcomes and where other processes have made recommendations and decisions.
- Be clear about limitations and constraints for community comment and involvement.

Inclusive

- Use a variety of methods allowing as many Australians as possible to participate if they wish.
- Proactively seek appropriate participants where there are missing voices.

Timely

- Allow sufficient time for the community to participate in consultation processes.
- Begin engagement at the earliest appropriate stage in the life of a project.

Feedback

- Let people know how their input and feedback was used.
- Meet or exceed all statutory engagement requirements.

The NCA assesses whether a proposal is consistent with the National Capital Plan and if it requires public consultation. An assessment is made in relation to impacts on:

- public space and community amenity;
- environment, heritage, or landscape values;
- amenity of the locality in terms of materials, finishes, scale, massing, design, and quality; and
- consistency with an existing Heritage Management Plan.

When an application for works approval is lodged and consultation is required, consultation with the community and stakeholders may be undertaken by the applicant, the NCA, or both. Where consultation is undertaken by the applicant, the NCA may choose to stipulate specific requirements that the applicant is required to implement.

Summary of Public Consultation

2.1 The public consultation process

Public consultation was undertaken by the NCA between 26 January 2024 and 19 February 2024 in the following manner:

- On Saturday 27 January 2024, publishing a public notice in *The Canberra Times* detailing the proposed works and inviting submissions to be made to the NCA in relation to the proposal ([Attachment A](#))
- On 26 January 2024 publishing details of the Works Approval application on the NCA's website.
- Between 26 January 2024 and 19 February 2024, placing on A1 size signs on site
- On 25 January 2024 NCA writing to neighbours advising of the consultation process and inviting comments.

2.2 Submissions Received, Comments and Response

The NCA received a total of two submissions on the proposal. The submissions raised issues or objections in relation to elements of the proposal or the whole proposal. No submissions noted general support for the proposal.

The NCA received one public submissions by the closing date and one public submission following the closing date, with the agreement of the NCA.

Emails of acknowledgment were sent to all submitters advising them that their submissions will be taken into consideration before a decision is made on the application.

Key themes

Key themes in the submissions relate to:

- Non-compliance with the NCP
- Overshadowing and loss of privacy and solar access
- Boundary fencing
- Drainage
- Light pollution
- Structural damage to adjoining properties. Impacts on future adjoining development and property values.

A summary of the submission comments, grouped into key themes, and the NCA responses are provided in the section below.

Consultation Process

The Works Approvals Community consultation process has been designed with reference to the IAP2 Spectrum and in accordance with the NCA's principles. Under prescribed functions in the *Australian Capital Territory (Planning and Land Management) Act 1988*.

The NCA will make an assessment of whether a proposal is consistent with the National Capital Plan and if it requires public consultation. An assessment will be made in relation to adverse impacts on:

- public space and community amenity
- environment, heritage or landscape values
- amenity of the locality in terms of materials, finishes, scale, massing, design and quality
- consistency with an existing Heritage Management Plan.

All submissions are considered based on their merits and compliance with the National Capital Plan in the assessment of Works Approval applications.

Matters the NCA is not considering in this consultation

Impacts on future adjoining development and property values

The NCA received a submission that expressed opposition to the proposed development on the basis that the development is likely to hinder future enhancements that are being planned on an adjoining lot and property values.

The submission requested that the building setback be increased in order to enable an adjoining lot to develop their property.

Issues around the impacts on potential future property development on adjoining lots are not matters that are addressed in the National Capital Plan and do not form part of the NCA's assessment.

The NCA has assessed the proposed development against the provisions in the National Capital Plan (NCP).

Matters for consideration

Non-compliance with the NCP

Some of the comments received in relation to non-compliance with the NCP noted:

"For a proposal to be compliant and be in a state where it can be approved it must observe setback at all levels, above, at ground and below ground in all facets without exception. The proponents meekly state their case, admit to infringement and disregard of the planning rules. They also imply that part of their proposal is compliant because that portion is single storey as the two-storey part does not protrude as far forward and that therefore this makes the whole proposal acceptable. This proposition is rejected and cannot be permitted by the NCA to be acceptable."

NCA Considerations

The NCA has assessed the proposal as not inconsistent with the relevant planning provisions of the National Capital Plan and the NCA's *Landscape and Sustainability Guidelines - Deakin/Forrest Residential Area Precinct Code*.

The overall height of the dwellings at the front façade is approximately 7m from ground level to the highest parapet of the roof. The height of the dwellings to rear façade is approximately 6-6.6m from ground level to the top of the parapet. The height of the dwelling across the site is within the permissible height limit of 8m from natural ground level.

The dwellings are setback 7.5m from the front property boundary with a landscape buffer to the street frontage. The dwellings are setback 2.97m to 4.4m from the side boundaries to the north and south. The dwellings are setback 8-11m from the rear boundary, with a pool and open pergola located on the side boundary of House 2, which is permitted under the National Capital Plan.

The required quantitative setback from the southern boundary for House 1 is 4.925m with a minimum distance of 3m, which House 1 achieves. There are no balconies proposed along the southern façade of House 1, to protect the privacy of the neighbouring site and reduces the impact of the overlooking from the existing dwellings.

The required quantitative setback from the northern boundary for House 2 is 4.99m with a minimum distance of 3m. Whilst there are encroachments on the ground level setback of House 2 to 2.97m for a small portion of the northern side/front of the house, there will not be any overlooking, privacy, or overshadowing impacts due the boundary fencing and landscaping located along the boundary.

The balcony located on the northern façade of House 2 is setback 3.5m from the northern boundary and incorporates solid balustrades and louvres to protect the privacy of the neighbouring site and reduces the impact of the overlooking from the existing dwellings.

The NCA also considers that the soft landscape design and fencing/retaining walls are sufficient to provide an adequate landscape buffer/screening, capable of plants reaching full maturity, providing further screening and privacy to neighbours.

With regards to setbacks, the buildings are required by law to be designed in accordance with Building Code Requirements relating to fire.

The site is located within Figure 28 – Deakin Forrest Residential Precinct of the National Capital Plan (NCP). The land use policy for the site is Residential. The proposal will not alter the land use policy for the site.

This proposal does not change the character of the area as it already consists of a mix of single lot residential and multi-unit residential developments and will continue to be used for residential purposes.

The importance of the Deakin/Forrest residential area precinct stems from its frontage to the Main Avenue of State Circle and close proximity and relationship to Parliament House, its location within the Griffins' land axis, and as an example of twentieth century 'Garden City' planning concepts that the Griffins' adopted in their design for Canberra.

The NCA's 'Issues and Policy Response Paper' formed the first part of the NCA's investigation into the Deakin/Forrest Precinct, to ascertain whether current planning and design controls within the National

Capital Plan (NCP) were adequate to maintain the 'Garden City' and 'City Beautiful' concepts on which the area is based. The NCA determined that greater emphasis and clarification was required in regards to the landscape and sustainability policies within the NCP, therefore the NCA prepared *Landscape and Sustainability Guidelines* (the Guidelines), July 2018. The Guidelines are advisory only and aim to support existing objectives and policies of the NCP to preserve the Garden City character of the Precinct.

The NCP Guidelines for the Precinct do not place a limit on the quantity of dwellings per block, however future development, including single dwelling proposals, will need to comply with specific requirements outlined in the Guidelines.

The NCA considers that the proposal for two residential dwellings on the block allows sufficient space for landscaped areas, preserving and enhancing the City Beautiful and Garden City concepts and character of the residential environment.

Implementation of policies outlined in the NCP and the Guidelines naturally limit the built and hardscape environment in order to protect the Garden City and City Beautiful character of the Precinct.

The NCA considers the proposed works are not inconsistent with the provisions of the National Capital Plan.

Overshadowing and loss of privacy and solar access

Comments received in relation to overshadowing and loss of privacy and solar access noted:

- *"This proposal intrudes severely upon our privacy and amenity.*

House 2, a double-storey dwelling directly overlooking our single level home, outdoor living and entertaining areas, including our children's playground and backyard, in particular the almost fully open balcony located with minimal setback to our boundary (see above). This severe intrusion effectively eliminates our privacy, particularly given the almost unobstructed balcony.

Whilst we once had a secluded home, it eliminates our privacy, turning our front and backyards into a 'fishbowl experience' for our neighbours to watch our every move. Our former privacy will be 'fishbowl' exposure.

The House 2 balcony is deliberately anchored to the northern side and almost fully open, unashamedly to capitalise on the views of Parliament House. The proposal is shamelessly designed for the views (generating profits for the current owners) at our expense (privacy, amenity, quality of our lives and value of our forever home).

Our current privacy is rightfully a high value priority for us and the primary reason for purchasing our home. As immediate neighbours, the proposal's intrusion to our privacy is utterly and completely unsatisfactory!"

- *"My family and I live in the sunlit and warmed northern living areas throughout the winter. The consequential loss of warmth and light would damage immeasurably that amenity and winter living facility including the open space living areas (decks) cast into "overshadowed" areas.*

That the "overshadowing" does not impact throughout the early spring, summer and early autumn is an irrelevancy. During those periods of a Canberra seasonal year, life is not restricted to indoors due to the cold.

Based on Individual development proposals being assessed on their merit in respect to sunlight penetration, and amenity ... I seek consideration for adjustments to the reduce the overshadowing impacts in these Plans based on the "special circumstances" when the performance standards cannot be achieved without complete compliance with the qualitative standards.

I seek consideration based on the NCA belief "that an individual should, in the ordering of his own affairs, suffer the minimum restrictions and inconveniences imposed by administrative controls. ... this imposes responsibilities on persons planning the city and obligations on those carrying our development in it. This is particularly the case within Designated Areas".

NCA Considerations

The existing 2 storey residence has north facing bedroom windows, which is repeated on the first floor of this proposal. It is considered that the proposed House 2 upper-level windows present no change to the existing dwelling located on the site.

The NCA's *Landscape and Sustainability Guidelines - Deakin/Forrest Residential Area Precinct Code* require developments to place principal living areas and private open space areas oriented to the north to take advantage of natural sunlight.

These areas for House 1 and 2, are private and have a reduced outlook to the north as they are setback from the boundaries of the block and have incorporated landscaped areas and fences and retaining walls along the boundaries of the site.

The proposed dwellings are orientated to maximise solar access, together with appropriate façade selection to promote sustainability.

The NCA worked closely with the applicant to increase the setbacks of the buildings to minimise solar access and overshadowing of adjoining buildings, affording the proposed and existing adjoining buildings increased solar access and privacy.

The shadow diagrams submitted with the application show that from 9am on 21 June (Winter solstice) the buildings will create overshadowing, at varying levels, on the adjoining blocks. The overshadowing will primarily occur on a garage to the block located to the north of the site (10 Hobart Avenue) and to the west of the southern block (14 Hobart Avenue).

At 12pm in the Winter Solstice there will be overshadowing on the garage to the block to the north and overshadowing on the rear façade and backyard to the block to the south. At 3pm in the Winter Solstice the block to the north will experience overshadowing of the garage and backyard and the block to the south will experience the most shadowing to the north and east.

Similar to the existing residential buildings on the adjoining blocks, there will always be an element of overshadowing created by adjoining dwellings, which cannot be avoided. The proposed development will create elements of overshadowing on adjoining buildings, which is challenging to avoid in areas where residential developments, such as these detached dwellings, are permitted land uses in this location that comply with the National Capital Plan.

The NCA considers the proposed works are not inconsistent with the provisions of the National Capital Plan.

Boundary Fencing

Comments received in relation to boundary fencing noted:

- *“For the purposes of material on page 99 of the works approval application it states: ‘In an email dated 11 August 2023, the NCA requested Thursday Architecture to replace all sheet metal fencing with timber fencing, however the specifications of that fencing are not provided. It is our expectation that, as proponents of the development, that 12 Hobart Avenue incurs the cost of constructing this fencing, and that the posts holding up the fences and railings are positioned to face the garden of 12 Hobart Avenue with the fence frontage facing 10 Hobart Avenue.’”*

NCA Considerations

A 1.8 metre timber fence will be erected along the side and rear boundaries of the site. The boundaries of the site will be softened with substantial landscaping, including hedges, evergreen trees, feature planting and grasses.

Front gates/fences with a retaining wall and letterboxes are proposed in front of the building lines, along the front boundary, with a height of 1.2 metres. The proposed fence or wall will create no adverse effect on the streetscape character.

Open metal rail access gates are proposed from the front yards to the rear gardens of each dwelling and are setback behind the front building lines.

The NCA considers the proposed works are not inconsistent with the provisions of the National Capital Plan.

Drainage

Comments received in relation to draining concerns on adjoining lots noted:

“The proposal makes no allowance for where water run off from rainfall, including severe and heavy storms, which Canberra is prone to. The proposal fails to show where this water, including gutters will go. The water run off from the proposed development will increase significantly due to the increased impermeable built surface and what appears to be no or very limited gardens on the northern boundary to absorb it, as it is built to the boundary with hard-landscaping (paving). Due to the topography of the neighbourhood, the low point is in our back yard where the water is prone to pool. This is unsatisfactory and unsafe with our small children.”

NCA Considerations

The proposal incorporates box gutters with rainwater draining to the existing stormwater network.

The landscape plan includes deep rooted planting zones adequate for rainwater absorption.

The NCA considers the proposed works are not inconsistent with the provisions of the National Capital Plan.

Light Pollution

Comments received in relation to light pollution concerns on adjoining lots noted:

“The living area on the first floor, as shown in drawing A102 – Ground Floor Plan for House 2 being the Living, Dining and Lounge Rooms, as depicted in drawing A208 – Elevation Side – House 2 have very large ground to high-ceiling windows. Whilst not precisely stated, based on what we can deduce from the plans, we estimate these windows to have a height of 4 metres from floor to ceiling.

There are two significant concerns from this:

- *The illumination impact of the night lighting mandatorily shining into and onto our home is detrimental to our quality of life. This will naturally occur in the living areas as residents of the proposed development enjoy their life, but it will shine through the windows at us like a beacon – having streetlights in our back yard. This is especially so for our master bedroom, which will face the proposed House 2.*
- *During the daytime the glass will reflect the blinding glare through the seasons and result in increased heat in summer.*

The higher these windows are, the further this light will travel and the more difficult it is for a combination of the fencing and for us to use vegetation on the boundary to block this.”

NCA Considerations

The proposed lighting is internal to proposed House 2, which does not form part of the Works Approval application assessment. The NCA has an Outdoor Lighting Policy, however this does not apply to lighting within residential dwellings. Should the owner choose to incorporate outdoor lighting they would be required to use full cut-off light fittings in all landscape areas.

Similar to the existing residential buildings on the adjoining blocks, there will always be an element of light created by adjoining dwellings during night-time, which cannot be avoided. This is challenging to avoid in areas where residential developments, such as these detached dwellings, are permitted land uses in this location that comply with the National Capital Plan.

Structural Damage

Comments received in relation to structural damage on adjoining properties, as a result of construction, noted:

“We are concerned that with such extensive excavation taking place so close to our boundary that if appropriate precautions are not taken by the proponent, that it risks our property, including our house. We say this noting that there have been recent examples of slippages on adjoining properties in Canberra, most notably the Geocon construction of WOVA in Woden and another one in Dickson – refer to Canberra times article of 13 October 2022 [Lives are at risk when structures collapse | The Canberra Times | Canberra, ACT](https://www.canberratimes.com.au/story/7939748/lives-are-at-risk-when-structures-fail/) accessible at <https://www.canberratimes.com.au/story/7939748/lives-are-at-risk-when-structures-fail/>.”

“Are any excavation works planned on the driveway to underground car parks within the 3m side southern boundary? What protection to 14 Hobart Avenue residence night privacy and undisturbed amenity is in place with respect to multiple car lights entering and exiting the underground basement?”

NCA Considerations

Adjoining residents have raised concerns regarding the basement excavation being located close to the boundaries, with the proposal incorporating a basement car parking located along shared boundaries, and potential structural issues this may cause to adjoining properties.

The driveway will be located along the southern boundary of the site, similar to the existing driveway location. Grading works will be required for the driveway access into the basement, which be excavated 3m from the southern boundary of the site. Regarding light pollution from car lights, the boundary fence will prevent car light pollution on adjoining properties.

With regard to issues around potential construction methods and structural damage, the builder will be responsible for ensuring that the proposed works are constructed in accordance with the relevant industry standards.

Conclusion

The NCA's consultation process was carried out in accordance with the Plan and the NCA's 'Commitment to Community Engagement'.

The NCA has assessed issues raised by submitters and have been taken into account as part of the assessment process and final design of the proposal.

The NCA is satisfied that major concerns of the community have been addressed. The proposal is not inconsistent with the provisions of the National Capital Plan and is supported by the NCA.

Attachment A

The Canberra Times Public Notice and Onsite Sign



Australian Government
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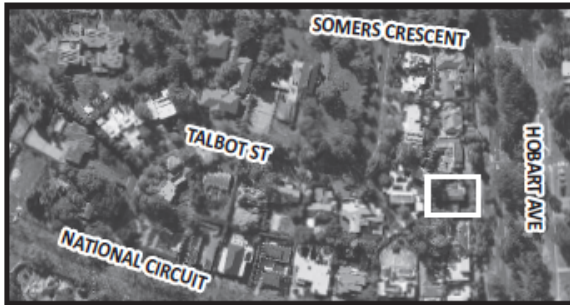
WORKS APPROVAL

Open for Public Consultation

Demolition of Existing Dwelling and Construction of two Residential Dwellings (Block 13 Section 7 Forrest)

The National Capital Authority (NCA) has received a works approval application for the demolition of the existing dwelling on site and the construction of two detached residential dwellings, with basement car parking and associated landscaping.

The proposed dwellings are two storeys with a below ground basement. The proposal retains the existing verge crossing for the driveway and includes new landscaped areas.



The plans and supporting documentation can be viewed at: www.nca.gov.au/planning/works-approval/wa-under-consultation

Submissions can be made by email to: WAconsultation@nca.gov.au.

The NCA welcomes feedback on this application by 5pm, Monday 19 February 2024.

.....
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Find out more at: www.nca.gov.au

HAVE YOUR SAY



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National Capital Authority

BLOCK 13 SECTION 7 FORREST DEMOLITION OF EXISTING DWELLING AND CONSTRUCTION OF TWO RESIDENTIAL DWELLINGS

The National Capital Authority (NCA) has received a works approval application for the demolition of the existing dwelling on site and the construction of two detached residential dwellings, with basement car parking and associated landscaping.



The proposed dwellings are two storeys with a below ground basement. The proposal retains the existing verge crossing for the driveway and includes new landscaped areas.

The plans and supporting documentation can be viewed at:
www.nca.gov.au/planning/works-approval/wa-under-consultation.
Submissions can be made by email to: WAconsultation@nca.gov.au.

The NCA welcomes feedback on this application by 5.00pm, 19 February 2024.

Please contact the NCA for further information on (02) 6271 2888

www.nca.gov.au



Attachment B

List of Submitters

| Submission No. | Submitter |
|----------------|------------------|
| 1. | Name withheld |
| 2. | Glenys Kauffline |