



Deakin Residents' Association Inc.
PO Box 3310
Manuka ACT 2603
<http://deakinresidents.asn.au/>

Communications Officer, National Capital Authority,
Treasury Building, King Edward Terrace, Parkes ACT 2600

Dear sir/madam,

NCA Community Engagement Consultation Draft Protocol

Deakin Residents Association Inc. appreciates the NCA's action to improve the consultation protocols for engagement of stakeholders in decisions affecting residents, while recognising the special factors that apply to the National Capital character of Canberra. This responds to your request for comments.

In reviewing the draft protocols, we note particularly the proposals regarding representation of stakeholders in formal processes, and the kinds of discretion the NCA will apply in deciding, case by case, on how the protocols are to be implemented.

The comments attached relate to our reading of particular paragraphs on which we believe clarification would be helpful for the confidence of stakeholders, particular Resident groups immediately adjoining National Capital Areas.

Deakin is bordered on three sides by NCA-affected areas: designated land between State Circle and National Circuit; the Development Control Plan along Adelaide Avenue; and the West Deakin diplomatic zone. Our proximity to the Parliamentary triangle and Yarralumla diplomatic zone creates an extended stakeholder interest in developments in those areas – as exemplified by recent transport, traffic and parking issues. We anticipate being entitled to Key Stakeholder status on such issues.

The pressure for re-development and residential intensification in zones adjacent to the National Capital Area accentuates the need for adequate consultation of existing resident stakeholders. On these matters, the ACT Government is often in a conflicted role, with related agencies acting both as commercial developer and as supposedly independent planning authority. This leaves the NCA as the only authority with long-term planning as its unambiguous driving principle.

Our detailed comments follow.

Yours sincerely,

Peter Wurfel
President
Deakin Residents Association Inc.

ATTACHMENT: Deakin Residents Association comments by section:

NCA Consultation Framework draft protocol

1.7 Stakeholder Representation

Inclusion of stakeholder group representatives is welcome, but the basis on which such representatives are to be selected has not been made clear and this should be established. For example, different group representatives may espouse radically different views reflecting different agendas.

- Where appropriate, we recommend that such representatives be nominated by existing representative organisations at the appropriate level. In some cases an appropriate Community Council may be appropriate, but in other cases it will be appropriate for neighbourhood resident associations such as the Deakin Residents' Association Inc to be separately represented. Any such representatives should be required to have some accountable mandate to claim a representative role.
- We commend the existing structure of Community Councils as a starting point.
- NCA involvement in representative selection should only occur where representative structures do not already exist.

2.3 Consultation Exemptions

We recognise there can be grounds for exemption, but we note that there has been a very poor recent history of discretionary exemptions being exercised in the ACT to favour economic interests over other considerations including legitimate resident stakeholder rights for consultation and appeal. In this context:

- The two example exempt categories of "like for like" and "non-sensitive" capital works are both capable of broad interpretation, and therefore represent a discretion that ought to be constrained by an obligation to refer to at least the relevant key stakeholders, and with an opportunity for appeal when this is not done.
- Exemption on the grounds of "previous consultation" is also hazardous, unless some standard exists to determine when previous consultation has been adequate. DRA experience has been that ACT proponents and planning agencies take advantage of such provisions to claim consultation has occurred when in fact it has been limited and cursory, if anything.
- Similarly, the NCA may not be able to determine whether stakeholders will be affected unless some protocol is in place to inform all potentially affected stakeholders of the nature of proposed works. An appropriately maintained mailing list of all registered stakeholder groups would be a safe and efficient means to give all potential affected stakeholders the opportunity to identify interests that might otherwise be unknown to NCA. This could be administered together with the Register discussed at point 2.4.

2.4 Register of Key Stakeholders

Management of this register is of great importance and relates to the previous comment on identification of interests case by case.

- Deakin Residents' Association Inc. would expect to be on this register and informed of all potential issues affecting Canberra residents, not only those specifically involving land or facilities in Deakin.
- The membership of the register should also be public information.
- We do not agree that the register should be used only in cases of major projects, since the NCA has no other transparent process to determine what interest stakeholders may have in projects that may be minor in scope, but significant locally.
- The register must be effectively maintained, to ensure its integrity.

2.7 Works Applications

DRA supports public notification of all applications for works, irrespective of proposed capital expenditure, as noted in comments on the Register of Key Stakeholders (above).

However, we are concerned that the draft protocol indicates "the applicant or the NCA may undertake the consultation with the community and stakeholders. The NCA may stipulate specific requirements". This seems to indicate that consultations are discretionary.

- We agree with the specific examples put forward, but note that the text says "might" require consultation rather than "would". Furthermore, we would be concerned that a list of examples can be misconstrued, willfully or otherwise, to mean an exhaustive list of cases, excluding all others.

Finally on Works Applications, we note that NCA reserves the right to set aside the requirement for full public consultation on applications for works exempted under 2.3 above.

- We recognise that it is sensible to provide for exemptions, but we believe communities would have more confidence in the process if exemptions were subject to a known and fairly detailed set of criteria agreed in advance by the group of Key Stakeholders through an initial consultation process.

2.8 NCA Projects

We support NCA's role with regard to projects in the Central National Capital Area and the proposed process for consultation when undertaken. However, we note again that "The NCA will seek, where appropriate, to undertake public consultation about its proposed projects".

- Stakeholders need clear understanding as to where NCA might consider consultation not to be appropriate, and
- We recommend that criteria be established as for the exemption criteria to be applied to Works Applications (2.7 above).

2.9 Estate and Asset Management

Issues concerning the definition of stakeholders and the triggers for consultation obligations are similar to previous points referenced above.

- The definition of “relevant stakeholder” needs to be very broad for public recreational assets such as Lake Burley Griffin and surrounds.
- Public and recreational amenity is not limited to active and organised users of lake facilities, but also is valued by residents and visitors who use and appreciate these assets passively, for example as scenic value and appreciation of unspoiled natural environment.
- As an example, the southern lakeshore areas adjacent to Yarralumla are particularly valued by residents of Deakin and other suburbs within walking distance, but this extends to legitimate concerns about the health and aesthetics of the lake as a whole.