



Australian Government
National Capital Authority

CONSULTATION REPORT

WORKS APPROVAL 18824 – BLOCK 13 SECTION 10 CITY 2 CONSTITUTION AVENUE ALTERATIONS AND ADDITIONS

AUGUST 2013

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PART 1 - 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 that 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 building or structure, 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 4 March 2013, the NCA received an application from Knight Frank Town Planning (ACT&NSW) for external alterations and additions at Block 13 Section 10 City, being 2 Constitution Avenue. The application comprises alterations and additions including changes to the façade design.

A map detailing the location of the application is at [Attachment A](#).

PART 2 - PUBLIC CONSULTATION REQUIREMENTS

2.1 National Capital Plan

Under the Plan, the requirements for public consultation apply, but are not limited to, certain residential developments, telecommunications facilities (that are not considered low impact) and amending or issuing an instrument under the Plan (including Development Control Plans).

2.2 Commitment to Community Engagement

The NCA's 'Commitment to Community Engagement (August 2011)' details how the NCA conducts consultation. The purpose is to achieve a greater level of consistency and transparency in the NCA's decision making process.

The Commitment to Community Engagement describes:

- the minimum requirements for consultation
- the timeframes for amendments to the Plan
- what is involved in preparing a new Development Control Plan
- the process for amending or issuing an instrument under the Plan
- the process by which WA applications, which are released for public consultation, will be assessed.

Part 2 (Consultation Protocol) of the NCA's 'Commitment to Community Engagement (August 2011)' describes the consultation process for WA applications. The consultation protocol includes criteria for which an application will be assessed, in order to determine whether the application should be released for public notification or full public consultation.

For development applications, the NCA undertakes a risk assessment of each proposal against the assessment criteria set out in the Consultation Protocol. The public notification process will include information about the NCA's risk assessment of the proposal against the assessment criteria below.

1. What is the likelihood that the proposal will adversely affect existing public space and / or community amenity?
2. What is the likelihood that the proposal will adversely affect existing environmental, heritage or landscape values?
3. What is the likelihood that the proposal is discordant with the general development and amenity of the locality in terms of materials, finishes, scale, massing, design and quality?
4. What is the likelihood that the proposal is inconsistent with an existing Heritage Management Plan (HMP)? (If there is no HMP, this question is not applicable).

The combination of the likelihood and consequence from the criteria described above categorises an overall perceived risk into five ratings being 'negligible', 'low', 'significant', 'high' or 'extreme'. Works assessed as having an 'extreme' risk will be rejected.

Full public consultation for WAs will be required where the NCA's perceived risk rating is 'significant' or 'high', and also for any development where consultation is a mandatory requirement under the Plan.

When a WA application is lodged and consultation is required, the applicant is required to consult with the community and stakeholders. The NCA may stipulate specific requirements for consultation and, for higher perceived risk proposals, may undertake the consultation process itself.

The NCA may set aside the requirement to undertake full public consultation where:

- (a) previous consultation has been undertaken
- (b) for minor amendments to previously approved works
- (c) proposals are exempt, as demonstrated in the 'Commitment to Community Engagement (August 2011)'
- (d) the NCA determines it unnecessary and no stakeholders will be affected.

The Plan has specific requirements in relation to consultation for telecommunications facilities, in relation to any new towers, masts or monopoles.

As the application for the alterations and additions to 2 Constitution Avenue, City was assessed as having a level of risk greater than 'low' the application was subject to full public consultation.

PART 3 – SUMMARY OF PUBLIC CONSULTATION

3.1 The public consultation process

The consultation took the form of:

- On Friday 11 May 2013, 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](#)).
- Between 11 and 31 May 2013, publishing details of the proposal, including the applicant's plans and supporting documentation on the NCA's website.

- Between 11 and 31 May 2013, three signs being installed on site, one each fronting Constitution Avenue, London Circuit and Allara Street City ([Attachment B](#)).
- the NCA writing to surrounding lessees and the Moral Rights holder, Philip Cox through Cox Architects inviting comments.

The NCA received two submissions objecting to the proposed works ([Attachment D and E](#)). One submission was received after the consultation period closed. The NCA's response to submissions is at [Attachment C](#). The submissions were provided to the applicant who provided a response ([Attachment F](#)).

3.2 Submissions received, comments and response

The NCA received two submissions raising concerns with the proposal. Emails of acknowledgment were sent to the submitters advising them that their submissions will be taken into consideration before a decision is made on the application. One of the submissions was received after the public consultation period had closed, but was considered by the NCA as though it was received during the public consultation period.

The applicant has provided a response to the submissions, refer [Attachment F](#).

PART 4 - COMMENT AND RESPONSE

A summary of the key themes raised and the NCA response is provided below. A summary of each submission and the NCA's response is provided at [Attachment C](#). The applicant's response to submissions is at [Attachment F](#).

Moral Rights

Cox Architecture, as the Moral Rights holders, provided a submission (see [Attachment D](#)) raising concern with the design of the alterations to the façade and with the notification/consultation process undertaken with them by the applicant.

NCA comment

The NCA requested as part of the application for works approval that the applicant address Moral Rights as required under the *Copyright Amendment (Moral Rights) Act 2000* legislation. The applicant has undertaken this process, notifying the original applicant and has considered their advice. They have provided copies of correspondence provided to the Moral Rights holder and the response received.

The NCA notes that the applicant has been unable to reach an agreement on a revised design with the Moral Rights holder. The NCA also notes that they have followed the process as required under the *Copyright Amendment (Moral Rights) Act 2000* legislation.

Walter Burley Griffin Society submission

The Walter Burley Griffin Society raised a number of issues with the development. These issues focussed on:

- The upgrade of Constitution Avenue
- Inconsistency with the National Capital Plan Amendment 60 Constitution Avenue
- Design aspects of the alterations and additions to 2 Constitution Avenue

NCA comment

- The upgrade of Constitution Avenue

The upgrade of Constitution Avenue by the ACT Government is a separate matter to the works approval under consideration. It should be noted however, that the design for the Constitution Avenue is currently being developed with initial works anticipated to commence late 2013 early 2014 at the London Circuit end.

- Inconsistency with the National Capital Plan Amendment 60 Constitution Avenue

The NCA believes the work to be consistent with the National Capital Plan.

- Design aspects of the alterations and additions to 2 Constitution Avenue

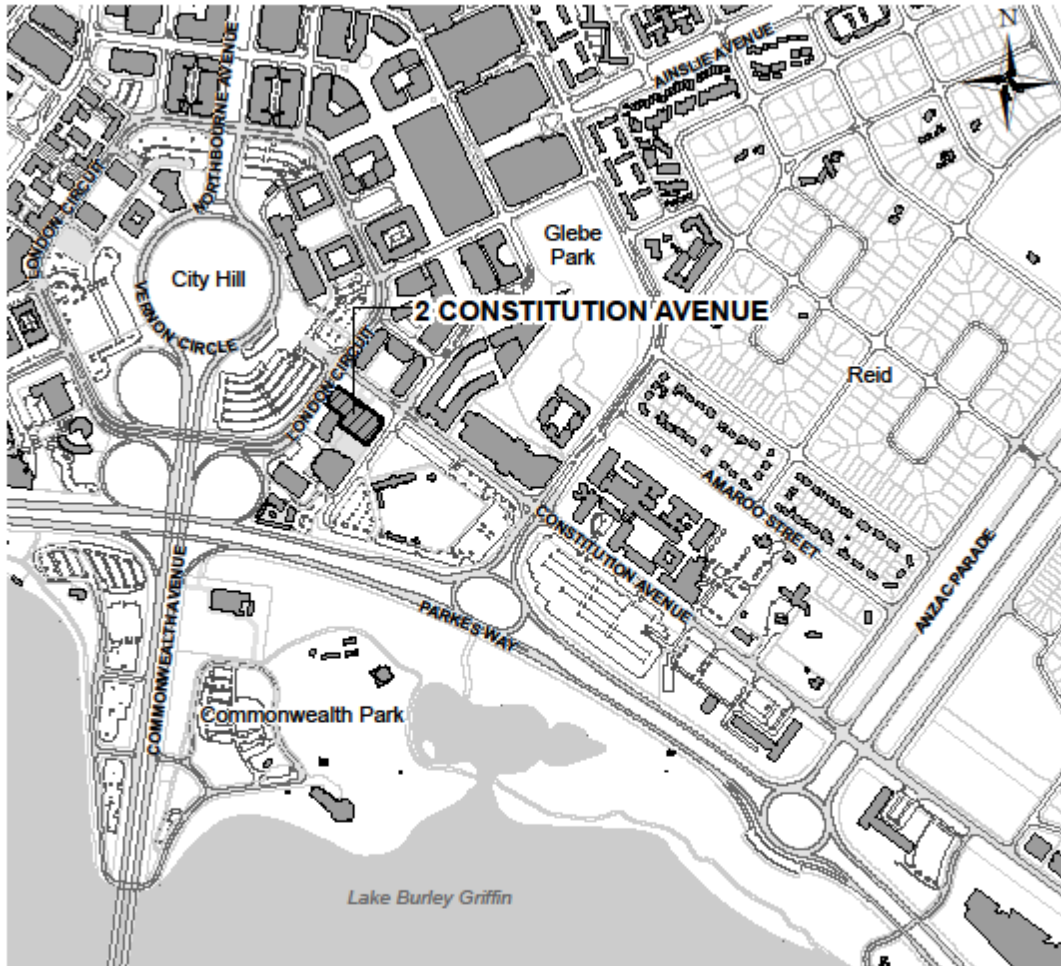
The applicant has advised that whilst they support the concepts in principle they have designed the building spaces to meet requirements of tenants. The above items are considered in detail in Attachment C.

Conclusion


The NCA's consultation process was carried out in accordance with the Plan and the NCA's 'Commitment to Community Engagement (August 2011)'.

Two written submissions were received. The applicant has provided a response to the submissions.

Attachment A – Location plan




Attachment B - Canberra Times – public notice


Australian Government
National Capital Authority

WORKS APPROVAL

Block 13 Section 10 City, 2 Constitution Avenue -
Alterations and additions to existing building.

The National Capital Authority (NCA) has received a works approval application from Knight Frank Town Planning (ACT&NSW) for alterations and additions to the existing building including alterations to the façade and extension to the building.



Information and plans for this application can be found at
www.nationalcapital.gov.au/haveyoursay

For any questions please contact Natalie Broughton on 6271 2888. Comments for the proposal are invited and should be sent to: worksapproval@natcap.gov.au or GPO Box 373 Canberra ACT 2601 by COB Friday 31 May 2013.

All submissions, including names and addresses will be made publicly available at the NCA office and on the website, subject to approval in writing by the submitter, in accordance with the NCA's Commitment to Community Engagement.

WWW.NATIONALCAPITAL.GOV.AU

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Attachment C – Summary of submissions

Note: The National Capital Authority (NCA) undertakes an open and transparent works application process. Works Approval documentation advised that the NCA would prepare a Consultation Report for publication on the NCA website, and that this Consultation Report would include a summary of each submission, along with the name of each person making the submission. Names of submitters have been omitted where a submitter requested confidentiality.

Issue	NCA response
Submission 1 - Cox Architecture	
<p>Cox Architecture in general and Philip Cox in particular is the original architect for 2 Constitution Avenue.</p> <p>In April 2012 Shead Management provided a copy of the proposal for review. Cox responded on 1 May 12 discussing the significance of the building and that the proposal was out of character and out of sympathy with the building and others on the Avenue. Offered to engage with them to develop an appropriate design. The architects of the new proposal SJB provided a response to Cox that they considered the proposal was respectful of the original architecture. Cox replied that they did not agree with this.</p>	<p>Noted</p> <p>The NCA in early discussions with Shead and SJB advised them that they would need to address Moral Rights issues as outlined in the legislation as part of the project.</p>
<p>Development Application – Cox reviewed the application and considered that the intervention to the façade has increased since their earlier review, their position is unchanged and they consider that it is now a worst impact.</p>	<p>The NCA requested that as part of the works approval application that the applicant provide formal written advice that they had met their obligations under the Moral Rights legislation and provide evidence of correspondence sent and received.</p> <p>The NCA also wrote to Cox Architecture during the consultation period notifying them of the application and that submissions could be made to the NCA.</p>
<p>Cox were not invited to participate in the design process</p> <p>Cox object to the proposal, it ignores the neo-classical manner of this and other buildings, is out of character, out of sympathy is completely different and inappropriate language. Cox offered to assist and were dismissed. The Architect has made no attempt to respond to our concerns.</p>	<p>Noted</p> <p>The applicant was asked to provide formal advice on how they have met their Moral Rights legislation. Formal Moral Rights advice is provided at Attachment F.</p>
Submission 2 – Walter Burley Griffin Society (WBGs)	
<p>A detailed submission was provided by the WBGs the Conclusions and Recommendations contained in the submission are responded to below.</p>	

Issue	NCA response
WBGs thanks NCA for providing the opportunity to comment.	Noted
The development is not contributing to the national significance of avenue.	The NCA considers that the proposal is consistent with the requirements of the National Capital Plan.
The proposal provides no improvement in street level activation and design excellence.	<p>There is no requirement in the National Capital Plan, where works to existing buildings are being undertaken for an increase in active frontage to be provided.</p> <p>The building will provide active frontage in the form of the main building entry centrally placed on Constitution Avenue and the expanded café providing activation on the London Circuit/ Constitution Avenue corner. Active frontage in the plan refers to building entries and shops.</p> <p>The applicant is also in discussion with the NCA to provide outdoor seating for the café.</p>
<p>Concerned that the application does not meet elements of the National Capital Plan (Amendment 60) 1.5.2</p> <p><i>Establish Constitution Avenue as a diverse and active grant boulevard lined with shops, cafes and a mix of commercial, entertainment and a residential uses.</i></p> <p><i>Develop a built environment which demonstrates design excellence</i></p>	<p>The proposed works involve the redesign of the building façade and a small increase in Gross Floor Area. This will result in the building continuing to be used for office use and a café on the ground floor.</p> <p>The café may expand into the now vacant shop next door and is considering providing outdoor seating when the Constitution Avenue duplication works have been undertaken. This will enhance the active nature of the street.</p> <p>The design of the façade refurbishment provides a high quality design outcome.</p>
Concerned that the application notes that the NCA has not provided a copy of the current proposal for Constitution Avenue to the applicant.	At the time of submission of the application, the design of the duplication of Constitution Avenue was still under development by the consultants. The consultants and ACT Government have now had discussions with the land owner in relation to the proposed design.
Recommendation 1: Refurbishment of 2 Constitution Avenue should not proceed without a substantial contribution to the redesign of Constitution Avenue as a 'Grand Boulevard' in accordance with the 2004 'Griffin Legacy' vision for Constitution Avenue and Amendment 60 to the National Capital Plan, approved in 2006.	The application for works at 2 Constitution Avenue should be seen as unrelated to the Constitution Avenue upgrade. The design drawings for the Constitution Avenue upgrade are being reviewed by the Steering Group with work anticipated to commence late 2013 at the London Circuit end.
Recommendation 2: The NCA and the ACT Government should resolve the 'Grant Boulevard' design of Constitution Avenue between London Circuit and Allara Street to end the degraded condition of this gateway location on the Municipal Axis of the Griffin Plan at City Hill.	See response above
Recommendation 3. The public domain in the gateway block of Constitution Avenue	The design for the Constitution Avenue upgrade is public domain work to provide a high quality and accessible urban

Issue	NCA response
<p>between London Circuit and Allara Street Avenue should be a tree-lined promenade, not a feature forecourt for a private development, as indicated in an early version of the 2 Constitution Avenue refurbishment scheme.</p>	<p>design space for pedestrians, cyclists and other road users, it is not related individual block development.</p>
<p>Recommendation 4: The ground floor level of the west wing, 2 Constitution Avenue – which opens directly from London Circuit– should be allocated entirely to active uses as a combination of an extended, publicly-accessible meeting place, a café and associated retail frontage.</p>	<p>A significant amount of the Constitution Avenue/London Circuit façade will be housing a café.</p>
<p>Recommendation 5: To activate the ground floor of the west wing, the following changes should be made to WA18824:</p> <ul style="list-style-type: none"> • maintain disabled access to the ground floor as currently configured, opening directly from the terrace under the colonnade of the west wing at London Circuit level; • open the entry lobby to the ground floor of the west wing to create a continuous interior space, or sequence of spaces, from the centre of the refurbished building to London Circuit; • maintain the ground floor of the west wing as publicly accessible space, with publicly-accessible toilets to serve the café and other communal and/or retail activities at the level of the London Circuit frontage; • provide security for the upper levels of the west wing by an elevator management system, not physical barriers at ground floor level, to maintain public accessibility to all parts of the ground floor, and to facilitate public access to the ground floor by elevator from the accessible parking bays at basement level; • retain the south colonnade of the west wing to maintain egress from the southern fire stair through double fire doors to London Circuit, and contribute to the active frontage of 2 Constitution Avenue with openings from the extended meeting 	<p>The applicant has advised that whilst they support the concepts in principle they have designed the building spaces to meet requirements of tenants. Details are provided in the response from the applicant at Attachment F.</p>

Issue	NCA response
<p>place lobby, café and/or associated retail uses to create a pedestrian lane of interest and character within Section 10 in accordance with the Laneways Policy of the City Hill Precinct (NCP, Appendix T7).</p>	
<p>Recommendation 6: The Stage 1 installation of mechanical plant on the roof of 2 Constitution Avenue as visually obtrusive elements which do not comply with the Civic skyline controls of the National Capital Plan should be screened as part of the Stage 2 works, with well-proportioned additions and alterations to the 1980s skyline screens.</p>	<p>A separate works approval application is to be provided to the NCA for screening of the roof top plant.</p>
<p>Recommendation 7: To meet the statutory requirement for Design Excellence on Constitution Avenue, WA18824 should be re-designed as follows, in accordance with the NCA's 2007 urban design principles for Context, Scale, Built Form and Aesthetics:</p> <ul style="list-style-type: none"> • change the colour scheme of the SJB central element; • replace dated design components of the flanking wings with more contemporary components, consistent in form, materials, colour and detailing with the design language of the new central element. 	<p>See comments from applicant at Attachment F on colours and flanking wings.</p> <p>The NCA considers that the colours and design of the extension/alteration to the façade is consistent with the National Capital Plan.</p> <p>The applicant has advised they will review the colour when the palette for the Constitution Avenue works are finalised.</p>
<p>Recommendation 8 : The colour scheme of the central element should be radically revised and brought in line with the predominant blue-green tones of the 1980s building:</p> <ul style="list-style-type: none"> • the zinc cladding on the 'lantern' element should be the natural zinc colour, grey-green (not black); • the window sills and reveals should be the same grey-green (not a 'feature' contrast in gold); • the aluminium shading louvres should be the natural aluminium colour, silver-grey (not black); • glass should be effectively shaded by the deep reveals of the 'lantern', and the horizontal louvres of the curtain wall, and be clear in both installations (not bronze – and not blue-green, but clear and crystalline, and therefore recessive). 	<p>See comments above for recommendation 7.</p>
<p>Recommendation 9: The aesthetics and built form of the flanking wings should be</p>	<p>See comments above for recommendation 7.</p>

Issue	NCA response
<p>upgraded to achieve a measure of continuity and consistency in the overall composition:</p> <ul style="list-style-type: none"> • the horizontal space-frames in white painted metal at Levels 2 & 3 should be replaced with horizontal aluminium louvres, in the same silver-grey colour and same profile as the horizontal louvres of the central element, fixed slightly proud of the glass to appear to be floating; thus giving a visual lift to the 1980s framed composition; • the white-painted metal 'bird-cage' elements at Level 5 – which WA18824 proposes to remove and not replace – should be removed and replaced with horizontal aluminium louvres, as above, to continue the unifying visual effect of silver-grey horizontal elements, and to shade the exposed blue-green glass at Level 5; • the new skyline elements needed to screen the Stage 1 mechanical plant should be horizontal, silver-grey aluminium louvres, again detailed to appear to be floating, to pick up the consistent horizontality of the refurbishment, combining shadow lines with reflective upper surfaces to visually dematerialise the rooftop structures. 	
<p>Recommendation 10: To meet the statutory requirement for Design Excellence on Constitution Avenue, WA18824 should be re-designed as follows in accordance with the NCA's 2007 urban design principles for Landscape, Public Domain, Amenity and Ease of Movement:</p> <ul style="list-style-type: none"> • include public domain works on Constitution Avenue commensurate with the 'Grand Boulevard' gateway location of the building; • fully activate the street frontage of the west wing at London Circuit level; • maintain disabled access to the lobby from the London Circuit level, as at present; • activate the rear lanes within Section 10, City; 	<p>The works to Constitution Avenue duplication are being undertaken by the ACT Government and are anticipated to commence in late 2013.</p> <p>The enlarged café will provide activation of the Constitution Avenue/London Circuit corner.</p> <p>The applicant has advised in their response that disabled access is being incorporated into the main building entry, consistent with DDA compliant design.</p> <p>In providing a redesigned entry lobby and street appearance the steps at the street frontage are revealed. The NCA</p>

Issue	NCA response
<ul style="list-style-type: none">• resolve the threshold condition of the main entrance on Constitution Avenue.	considers that it is not uncommon for steps to be required within the block boundary of developments. These are existing steps that will be appear slightly more prominent in the façade.