

**CONSULTATION REPORT**

**DRAFT AMENDMENT 92**

**Uncommitted Land Adjacent to the Australian National University**

October 2019

**Table of Contents**

Contents

[**1. Introduction** 3](#_Toc20920566)

[1.1 Purpose and background 3](#_Toc20920567)

[1.2 Draft Amendment 92 3](#_Toc20920568)

[**2. Consultation** 3](#_Toc20920569)

[2.1 Consultation activities 3](#_Toc20920570)

[2.2 Submissions received 3](#_Toc20920571)

[**3. Key Issues** 4](#_Toc20920572)

[3.1 Water quality in Sullivans Creek 4](#_Toc20920573)

[3.2 Heritage 4](#_Toc20920574)

[3.3 Building Height 4](#_Toc20920575)

[3.4 Road Layout 4](#_Toc20920576)

[**4. Conclusion** 5](#_Toc20920577)

[**5. Attachments** 5](#_Toc20920578)

[**Attachment A: Notice of release of Draft Amendment 92 for public comment published in The Canberra Times.** 7](#_Toc20920579)

[**Attachment B: Notice of release of Draft Amendment 92 for public comment published in the Commonwealth Notices Gazette.** 8](#_Toc20920580)

[**Attachment C: Summary of submissions and NCA response.** 9](#_Toc20920581)

# 1. Introduction

## 1.1 Purpose and background

The National Capital Plan (the Plan) sets out general planning policies and principles for overall development of the Australian Capital Territory (ACT). One of the functions of the National Capital Authority (NCA) is to keep the Plan under constant review and propose amendments to it when necessary.

This report summarises the issues raised during the public consultation process undertaken by the NCA on Draft Amendment 92 – Uncommitted Land Adjacent to the Australian National University (DA92) to the Plan.

## 1.2 Draft Amendment 92

DA92 proposed to change the land use of Block 1 Section 86 Acton from ‘Uncommitted land’ to ‘Community Facility’. The ANU is seeking to construct new accommodation for students on this site but there is no provision in the Plan to develop the land. The proposed land use is consistent with the existing land use policy for the remainder of the ANU Acton campus.

The ACT Government’s Emergency Services Agency (ESA) has also been investigating the use for part of Block 1 Section 86 Acton as a potential site to construct a City Ambulance and Fire and Rescue Station. A specific land use clause is proposed to be added to the ANU Precinct Code to facilitate an emergency services facility.

The ANU Precinct Code contains a series of drawings reflecting relevant written policies of the code. The drawings include those illustrating permitted building heights, location of open spaces, and built form. Several drawings have been amended to recognise the proposed land use change.

# 2. Consultation

## 2.1 Consultation activities

On 27 July 2019, DA92 was released for public comment. Public notices were published in *The Canberra Times* and the *Government Notices Gazette* on this day (Attachments 1 and 2 respectively).

In accordance with the NCA’s ‘Commitment to Community Engagement (August 2015)’ the period for public comment ran for 30 business days, concluding on 6 September 2019. DA92 was available on the NCA’s website, and hard copies were available on request.

Key activities during the consultation period for DA92 included:

* On 27 July 2019, the NCA published a public notice in *The Canberra Times*.
* On 27 July 2019, notice appear in the *Commonwealth Notices Gazette*.
* The NCA wrote to key stakeholders and community groups advising of the consultation process and inviting comments.
* On 6 August 2019, NCA held an information session. Four members of the public attended.

## 2.2 Submissions received

The NCA received three written submissions in response to DA92. Submissions were received from the Lake Burley Griffin Guardians (LBGG), the Director of National Parks (in capacity as Director of the Australian National Botanic Gardens) and the ACT Government. The key issues raised in submissions are identified below. Full details of submissions are available in Attachment 3.

The ACT Government submission provided advice concerning several issues that will need to be addressed at the detailed development stage, including sewerage and water services, and site contamination. These matters will be addressed by the proponent prior to development.

# 3. Key Issues

## 3.1 Water quality in Sullivans Creek

***Comments***

All submitters provided comment concerning the impact of development on the water quality of Sullivans Creek. The site subject to the draft amendment is adjacent to the creek and there is potential for site runoff directly into the creek if not managed appropriately. Submitters recognised that Sullivans Creek discharges into Lake Burley Griffin and development must also consider the potential impact on the water quality of Lake Burley Griffin.

***NCA response***

DA92 concerns land use policy change only. Environmental management, including site runoff, will be addressed during site preparation and construction. The ANU is aware of relevant environmental management requirements

## 3.2 Heritage

***Comments***

The LBGG advised that they did not object to DA92, however noted that the Indigenous and early settlement heritage values of Sullivans Creek are not recognised in the Plan.

The ACT Government advised that a heritage assessment of the subject site has recently been undertaken to assess whether there are any unrecorded Aboriginal places or objects present. Heritage sites identified in this assessment should be managed in accordance with the provisions of the *Environment Protection and Biodiversity Conservation Act 1999*, and in consultation with Representative Aboriginal Orgnaisations.

***NCA response***

The ANU Precinct Code appropriately identifies listed heritage and conservation areas. Policies of the Precinct Code require development to integrated sensitively within the campus and to enhance important natural and developed features. Heritage Impact Assessments are required where a proposal has the potential to affect a heritage place or conservation area.

Proponents of development are required to act in accordance with all relevant legislative frameworks, including concerning heritage matters. This matter is relevant during the next stages of planning and development.

## 3.3 Building Height

***Comments***

The ANBG raised concern with the revised building heights proposed by DA92. The ANBG is listed on the Commonwealth Heritage List, with a key heritage value being the vistas afforded to major Canberra features such as Parliament House and Lake Burley Griffin from the gardens. The ANBG cited concern that buildings constructed to the heights proposed may compromise this identified heritage value.

***NCA response***

The site subject of DA92 slopes downwards towards Sullivans Creek while the ANBG site extends upwards on the lower slopes of Black Mountain. The proposed building on the subject site is expected to reach a maximum height of approximately RL590. The ground level of the main administration and visitor buildings of the ANBG are located between approximately RL586 and RL590, and are located at a minimum several hundred metres from the subject ANU site. Views from the lower slopes of the gardens are limited due to topography and existing vegetation.

The base of the flagpole of Parliament House is RL617. NCA officers consider that that the values associated with vistas to Parliament House and views to the lake will not be compromised by buildings permitted by this planning amendment. Visual analysis, agreed by the ANBG, supports this view.

## 3.4 Road Layout

***Comments***

The ANBG indicated that it does not support the provision of an extension of Daley Road to Clunies Ross Street currently within the Plan.

***NCA response***

No change to the existing road network is proposed through DA92. The NCA has advised ANU that a proposed intersection with Daley Road and Clunies Ross Street.

# 4. Conclusion

On 27 July 2019, DA92 was released for public consultation. The public consultation period ran for six weeks in accordance with the NCA’s ‘*Commitment to Community Engagement*’ (August 2015), concluding on 6 September 2019.

Three written submissions were received in response to DA92. The submissions raised concerns about water quality and servicing, sewerage servicing, heritage, building heights and transport connections. In addressing the matters raised, no changes were made to the draft amendment.

# 5. Attachments

1. Notice of release of Draft Amendment 92 for public comment published in *The Canberra Times*.
2. Notice of release of Draft Amendment 92 for public comment published in the *Commonwealth Notices Gazette*.
3. Summary of submissions and NCA response.

# Attachment A: Notice of release of Draft Amendment 92 for public comment published in The Canberra Times.



# Attachment B: Notice of release of Draft Amendment 92 for public comment published in the Commonwealth Notices Gazette.



# Attachment C: Summary of submissions and NCA response

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| No | Submitter | Submission |
| 1 | Lake Burley Griffin Guardians | **NATIONAL CAPITAL PLAN - DRAFT AMENDMENT 92**  This submission is made on behalf of the Lake Burley Griffin Guardians in response to the invitation for public comment on Draft Amendment 92 to the National Capital Plan, which seeks to change the land use policy for Block 1 Section 86 Acton, from ‘Uncommitted Land’ to ‘Community Facility’.  Thank you for the public briefing, hosted by the National Capital Authority, and for the Australian National University’s willingness to respond to questions about proposed development on, and adjacent to, Block 1.  The Lake Burley Griffin Guardians do not have an objection to DA 92, on the basis that it is broadly consistent with the NCP and current and emerging uses of adjoining land by the ANU.  We acknowledge that the amendment only changes the permitted uses of the block. However, we wish to put a **statement of our interests** before the NCA and the ANU as part of the public consultation process. Due to the sensitive nature of the site adjacent to Sullivans Creek and close to Lake Burley Griffin, we believe further community engagement is required during the planning processes, ahead of the Works Approval stage.  The Guardians ask that the NCA and the ANU take note of our interest in Sullivans Creek and its littoral zone as part of our concerns regarding the protection of the heritage, cultural, natural environment, social and aesthetic qualities of Lake Burley Griffin and its foreshore landscape. A major concern to us is the potential threat posed by overdevelopment close to the lake.  Sullivans Creek is not included in the official boundary of Lake Burley Griffin but a considerable part of the creek flows through ANU campus (national land) and part of the NCA’s Designated Area. Apart from differences in permitted land use, and heritage protection, none of these boundaries has any biological bearing on the ecological continuity between Sullivans Creek and the Lake. The flooded lower reaches, the ‘estuary’, of Sullivans Creek and the bordering lands, in particular are an important component of the Lake and require fulsome protection to enable improvements in habitat and water quality.  So, the Guardians have a keen interest in the potential future use of this block and we earnestly wish to be involved in constructive engagement with the NCA, ANU and ACT Government well in advance of any proposed works. As a useful start, we welcome the offer by the ANU representatives of an on-site briefing regarding the ANU’s plans for the area.  **Site values and potential impacts**  Sullivans Creek has important cultural heritage, landscape, environmental, scientific and public access values that can easily be positively or negatively affected by development on this block. It is an important habitat for fauna, including platypuses and birds.  Land use adjacent to Sullivans Creek has the potential to affect the values not only of the creek but also of Lake Burley Griffin (e.g. international protected habitats for native and migratory birds).  We note that the National Capital Plan recognises that development adjacent to the creek must assist in enhancing it ‘as a multi-functional creek corridor that enhances environmental values, improves ecological connectivity and wildlife, and integrates Aboriginal heritage and culture into its design’.  Additionally, the NCP sets out requirements for development proposals, including that ‘the naturalisation of Sullivans Creek must be explored by proponents as a way of improving stormwater management of the waterway, and enhancing ecological values’.  We believe the ANU has demonstrated good stewardship of the approximately 2 km of Sullivans Creek on the Acton campus, including through management of the waterway, naturalising parts of the creek and recognising indigenous heritage.  The university is a major landowner and a developer in its own right. We note that it is currently developing facilities adjacent to and on Block 1. Works in progress or planned currently include the “Beyond Bergmann” SA8 student accommodation, relocation of the ANU Rowing Club, construction of a footbridge across the creek, and the major works associated with the Research School of Physics and Engineering redevelopment east of the creek.  The ANU Master Plan, released in August 2019, illustrates the intended future development of a “Sullivans Hub” which would include construction of further buildings on and near the site.  Together, these developments will change the character and use of the area around the lower reach of Sullivans Creek.  We note that the new proposed figure 136 (Restricted Development Zone) extends the open space corridor along the creek. Additionally, we note the potential improvements in access, amenity and environment that could be made to the eastern shore of Sullivans Creek as a consequence of the ANU moving the rowing sheds and pontoon to the SA8 site opposite and gaining access to the small park of Block 1 east of the creek and north of Parkes Way.  **Heritage**  We note that the Acton campus heritage framework (part of the Master Plan) does go some way toward a regime for protecting heritage sites, mostly in the built environment. But it does not appear to protect the values of Sullivans Creek @ ANU, as a whole. Sadly, this is also reflected in the draft amendment Figure 138, which does not designate heritage protection for Sullivans Creek despite its well-acknowledged Indigenous and early settlement values.  In the past, the ANU has recognised the need for better protection of the creek’s heritage values. Its own site inventory recommended a Heritage Management Plan for the waterway and that Sullivans Creek be nominated to the Commonwealth Heritage List.  It is also recommended that two additional tasks be undertaken in these circumstances:  “Referral to the current Biodiversity Management Plan for the campus is required when preparing advice for alterations to Sullivans Creek. If development is proposed in or nearby Sullivans Creek a heritage impact assessment would be a prerequisite according to EPBC Act requirements. A formal assessment of the aesthetic and social values of Sullivans Creek should be carried out.”  These actions need to be completed, if they have not been already.  **Emergency facility**  We note that the ACT Emergency Services Agency is investigating the use of part of Block 1 Section 86 Acton as a potential site to construct a city ambulance and fire and rescue station. The draft amendment states that “a specific land use clause is proposed to be added to the ANU Precinct Code to facilitate an emergency services facility”.  Our concerns with regard to this use include the need for adequate protection of Sullivans Creek from pollution by firefighting chemicals, hydrocarbons and spill from vehicle washdown.  **Botanic Gardens**  We also note that the Australian National Botanic Gardens Master Plan includes an area “under investigation” for potential future uses, immediately opposite Clunies Ross Street. Landscaping of this site could potentially alter the stormwater load onto Block 1 and into Sullivans Creek.  **Constraints on development and use of the site**  We are concerned at the capacity of the lower reach of the creek to deal with the impacts of multiple layers of development in succession. In this regard, works close to the creek need to be managed in a way that minimises the impact on wildlife of vibration, noise and habitat disturbance.  In our view, future users of Block 1 should be permitted to construct community facilities while enhancing the riparian environment and quality of runoff on both sides of the lower reach of Sullivans Creek.  This balance between built environment and ecological enhancement could be demonstrated by, for example, retention of a naturalistic buffer at the creek edge, adequate setback and natural landscaping around new buildings, management of the sometimes significant water flows across the site from the slopes of Black Mountain, and management of nutrients and minimisation of chemical runoff from the mooted ACT Emergency Services facility.  We note that development of SA8 has required extensive earthworks, yet the works approval application was not notified publicly, nor was it opened for public comment.  During the public briefing on the draft Amendment, the Guardians raised a potential issue of silt management at on the existing site works with the NCA and ANU and received assurances that the ANU would check compliance via the contractor.  We expect that the remainder of Block 1 will likely pose even more significant challenges for excavation and run-off protection and so the risks associated with these impacts will need to be addressed in detail prior to any works approval.  **Conclusion**  The Lake Burley Griffin Guardians do not oppose the amendment but, due to the sensitive nature of the site, wish to state our concerns and interests and to be involved in consultations with the NCA and the proponent(s) on future plans for development, ahead of the Works Approval process. |
| 2 | Australian National Botanic Gardens | I am writing on behalf of the Director of National Parks to provide a submission on the National Capital Plan Draft Amendment 92. The Director of National Parks is a corporation under section 514A of the *Environment Protection and Biodiversity Conservation Act 1999 (EPBC Act).* The Director of National Parks is responsible for managing the Australian National Botanic Gardens (ANBG) - a Commonwealth Reserve under the *EPBC Act.* The ANBG is located adjacent to the Australian National University (ANU) on Clunies Ross Street Acton and the proposed development site specified in Draft Amendment 92.  As Australia's national botanic garden and national institution the ANBG has a mandate to conserve its living and herbarium collections as key records of plant species as part of Australia's cultural and natural heritage; to encourage and support the cultivation, use and conservation of Australian plants and to be a custodian of the national story of Australia's unique flora. The ANBG is Australia's only national institution to focus solely on Australian plants and related flora, and its collections knowledge base and research are of both national and international significance. As a popular national attraction, over 500,000 visitors come to the ANBG each year from all over Australia and from around the world.  In relation to the Draft Amendment 92, the Director of National Parks submits the following issues for consideration in finalising Amendment 92 to the National Capital Plan.  **Commonwealth Heritage Listing - Australian National Botanic Gardens**  The ANBG is listed on the Commonwealth Heritage List under the *EPBC Act* in recognition of its national significance for its unique landscape, environmental character and outstanding examples of landscape design and horticulture using Australian native plants.  A key heritage value is the ANBG's aesthetic characteristics that includes *vistas of major Canberra features including Parliament House and many enframed attractive views across the lake.* The maintenance of these heritage listed vistas could be compromised should DA 92 proceed in its current form.  **National Capital Plan Precinct Code - Australian National Botanic Gardens**  A key objective within the National Capital Plan Precinct Code for the ANBG is for:   * Opportunities for the maintenance and enhancement of the linkages to adjacent sites and in particular the Central National Area, through paths and/or visual landscape corridors will be encouraged.   The maintenance and enhancement of visual landscape corridors with the ANBG does not appear to have been considered as part of draft DA 92.  DA 92 and the Precinct Code for the ANBG have significant strategic roles in the maintenance of heritage and landscape values in the ANU and Black Mountain precinct. It is recommended that DA92 better reflect the Precinct Code for the ANBG and its key objectives  **Impact on Visitors Accessing the ANBG**  Draft DA 92 currently proposes a new road to access Clunies Ross Street from the southern end of the site. It is unclear if this access road connects to Black Mountain Drive or the entrance of the ANBG. The Director of National Parks does not support any proposal that will require the redevelopment of the current entrance to the ANBG due to the potential impact on the heritage listed landscape, plant collection and vista.  Detailed traffic studies and consultation with the ANBG will be required to minimise impacts on visitors entering and exiting the ANBG including traffic flows along Clunies Ross Street. Opportunities exist for designing pedestrian friendly crossings along Clunies Ross Street to facilitate greater pedestrian movement across the precinct.  **Potential Impact on Water Quality in Sullivans Creek**  Sullivans Creek flows through the proposed development site detailed in Draft DA 92 and into Lake Burley Griffin. The ANBG draws its water supply for irrigation purposes from Lake Burley Griffin via a pump house located near to where Sullivans Creek enters the lake. The proposed management and treatment of storm water runoff from within the catchment of Sullivans Creek is an important consideration during the construction, and operation of the proposed development within the Australian National University. |
| 3 | ACT Government | **ACT Government comments on Draft Amendment 92 – Uncommitted Land Adjacent to the Australian National University – Block 1 Section 86 Acton**  I refer to your letter of 31 July 2019 regarding the Directorate’s view on the Draft Amendment to National Capital Plan (DA92) – Uncommitted Land Adjacent to the Australian National University – Block 1 Section 86 Acton.  The draft amendment is supported. However, we would like to raise potential impacts on the water quality of Sullivan’s Creek and Lake Burley Griffin as a matter for your consideration. This matter and other minor comments have been detailed in full in Attachment A for your consideration in finalizing the draft amendment.  I thank you for the opportunity to lodge a public submission in relation to DA92.  **Attachment A – Consolidated ACT Government Comments**  **DA 92 – Uncommitted Land Adjacent to the Australian National University**  1 Water pollution/stormwater  It should be noted that any water pollution or stormwater leaving the subject site (Block 1 Section 86 Acton) will directly enter Sullivan’s Creek and Lake Burley Griffin. Future development, including any planning for the site will need to consider how any future land use is consistent with the long-term objectives for Lake Burley Griffin.  Light industrial uses, including the possible emergency services facilities site, and the student accommodation are likely going to require significant water quality controls to be consistent with the desired condition of Lake Burley Griffin.  2 Contaminated land  Given the potential for contamination from past activities at the site and the proposed change in the land use, an environmental assessment in accordance with Environment Protection Authority endorsed guidelines (as detailed in the *Contaminated Sites Environment Protection Policy*) must be undertaken at the site to determine whether these past activities have impacted the site from a contamination perspective, and to determine whether the site is suitable for the proposed and permitted land use.  The consultation’s assessment report into the site’s suitability for the proposed and permitted uses from a contamination perspective must be reviewed and endorsed by the Environment Protection Authority prior to redevelopment of the site.  3 Existing community path  There is a community path within the subject site which must be relocated to an appropriate location for community use.  4 Sewerage servicing  A significant portion of this land cannot be serviced through gravity drainage to Icon Water’s existing sewerage network. Indicative assessments show that the land would not be viable for servicing by an Icon Water owned and operated Sewage Pumping Station due to the small size of this area and the economics of constructing and operating such a facility with the inherent environmental risk of sewage overflow to Sullivan’s Creek and Lake Burley Griffin.  Once the land use is changed, the landholder must provide adequate sewerage services and operate them on site that meet Icon Water’s requirements for connection to the existing gravity network.  5 Water supply servicing  While the existing water supply network is capable of accepting additional load from changed land-use in the subject site, future intensive growth proposed in DA92 may cause available pressure and fire flow non-compliance at this site.  Further analysis will be required at the development approval stage.  6 Heritage  A heritage assessment of the subject site was recently undertaken, in consultation with Representative Aboriginal Organisations (RAOs), to assess whether the any unrecorded Aboriginal places or objects are present. Any heritage sites identified by this assessment should be managed in accordance with provisions of the *Environment Protection and Biodiversity Conservation Act 1999*, and in consultation with RAOs |