

[Subject] National Capital Authority meeting and approval decision on Australian War Memorial Early Works: Request for Statements of Reasons under the *Administrative Decisions (Judicial Review) Act 1977*

To: Works Approval team, National Capital Authority WAconsultation@nca.gov.au

This request is made under section 13 of the ADJR Act.

I refer to the Heritage Guardians submission to the recent consultation and to your email dated 7 June 2021 and headed ‘Australian War Memorial Early Works’.

My request is in three parts: (a) relating to the meeting of the NCA on 2 June 2021; (b) relating to the decision of the NCA on 4 June 2021 to approve the early works approval application from the Memorial; (c) relating to the receipt of 601 submissions on the early works approval application.

a. Relating to the meeting of the NCA of 2 June 2021

I request that you provide me with a Statement of Reasons in writing:

- setting out the findings of the Authority on material questions of fact regarding the Memorial’s early works approval application;
- referring to the evidence or other material on which those findings were based; and
- giving the reasons for the Authority’s noting or concluding¹ ‘that the early works application is not inconsistent with the National Capital Plan’.

[My submission \(on behalf of Heritage Guardians\) to the Authority](#) (see paras 44-60) referred particularly to the claim by Knight Frank (on behalf of the Memorial) in its Planning Report submitted to the Authority as part of the early works application. Knight Frank claimed that the application had nothing to do with what the Authority was assessing, that is, compliance with the National Capital Plan.

Please advise me how the Authority’s consideration addressed this matter. Is it not the case that the Knight Frank-Memorial material contained insufficient evidence for the Authority to make an assessment that the Memorial project was not inconsistent with the National Capital Plan? Did the Authority advise Knight Frank or the Memorial how the application material could be worded to facilitate a finding that the application was not inconsistent with the National Capital Plan?

b. Relating to the decision of the NCA on 4 June 2021 to approve the application from the Memorial

I request that you provide me with a Statement of Reasons in writing:

- setting out the findings of the Authority on material questions of fact regarding the Memorial's early works approval application;
- referring to the evidence or other material on which those findings were based; and
- giving the reasons for the Authority's decision to approve the application.

[My submission \(on behalf of Heritage Guardians\) to the Authority](#) (see paras 44-60) referred particularly to the claim by Knight Frank (on behalf of the Memorial) in its Planning Report submitted to the Authority as part of the early works application. Knight Frank claimed that the application had nothing to do with what the Authority was assessing, that is, compliance with the National Capital Plan.

Please advise me how the Authority's approval decision addressed this matter. Is it not the case that the Knight Frank-Memorial material contained insufficient evidence for the Authority to make an approval decision based on an assessment that the Memorial project was not inconsistent with the National Capital Plan? Did the Authority advise Knight Frank or the Memorial how the application material could be worded to facilitate a finding that the application was not inconsistent with the National Capital Plan and the approval of the application?

c. Relating to the receipt of 601 submissions on the early works approval application

There were 601 submissions to the Authority, 590 of which expressed concerns about some or all of the proposal.

Please advise me how the Authority approved the application in the face of this overwhelming weight of objections. In particular, what findings of fact were made, what was the evidence and what were the reasons for not accepting these objections?

David Stephens for Heritage Guardians

28 June 2021

¹ The Public Record of the meeting says the Authority ‘noted’. The Consultation Report says the meeting ‘concluded’. The difference is puzzling (and careless for a public authority). The two words mean different things: ‘concluded’ implies a reasoned judgement; ‘noted’ is something less than that. Given that the Public Record of the meeting is *not* the Minutes of the meeting, what word do the Minutes use? What word best describes what happened?