

2003

**AUSTRALIAN CAPITAL TERRITORY
LEGISLATIVE ASSEMBLY**

**STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT REPORT NO 15 –
VARIATION TO THE TERRITORY PLAN NO 200**

GOVERNMENT RESPONSE

Circulated by authority of
Simon Corbell MLA
Minister for Planning

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Recommendation 1

The Committee recommends that the Government, in consultation with the community, identify which urban areas need to be preserved (in addition to those areas already afforded protection under Heritage Places Register) and prepare guidelines for their protection.

Noted.

A well-established system for the identification and protection of areas that need to be preserved already exists in the form of the heritage registration processes under the Land (Planning and Environment) Act 1991 (Land Act). This process includes mechanisms for the nomination of places to the Heritage Council and for the Council to determine whether the entry of the places on the interim Heritage Places Register is warranted. Places entered on the interim Heritage Places Register receive immediate statutory protection under the relevant provisions of the Land Act.

It would be not be appropriate for Draft Variation 200 to bypass this statutory process by separately identifying additional areas of heritage value. If the places referred to during the Committee hearings are identified by or are nominated to the Heritage Council, they will be considered under that process.

The Government will ensure that the Heritage Council is made aware of the places referred to during the Committee's hearings. Where the Council enters places on the interim Heritage Places Register, the registers will subsequently be referred to Planning and Land Management (PALM) for inclusion in the Territory Plan and will be considered by the Government and the Assembly as part of that process.

Recommendation 2

The Committee recommends that the Government not proceed with Draft Variation 200.

Not agreed.

The Government believes it is imperative to finalise Draft Variation 200 as soon as possible to establish a clear policy framework for development and redevelopment in Canberra's residential areas. Not proceeding with Draft Variation 200 would mean that the policy framework on which the assessment of residential development proposals is based would revert to the pre-October 2001 situation. Under this regime, there would be no statutory limitations on the extent of multi-unit residential redevelopment that could occur in established residential areas and there would be no statutory restriction on the extent and scale of dual occupancy development. This would be a clear departure from the Government's policy commitment to protect Canberra's Garden City character.

Recommendation 3

Should the Government choose to ignore Recommendation 2, the Committee recommends that specific changes be made in accordance with recommendations in the following chapters to meet the community's basic demands.

Agreed in part.

While the Government does not support Recommendation 2, it can only agree with Recommendation 3 in part. It is clearly not possible for Draft Variation 200 to fully deliver everything that everybody wants in relation to residential land use policies. The views and interests of the various stakeholders are too diverse and polarised. The Government has taken the view that its role after listening to all of the stakeholders' views is to arrive at a policy that is an appropriate balance. The Government believes the Committee's report is an important input in this regard and thanks the Committee for its views. While the Government is able to accept many of the Committee's recommendations, it still believes strongly that a modified Draft Variation must be progressed to ensure Canberra's Garden City character receives greater protection.

The Government proposes to approve a modified Variation No 200 and to table it in the Legislative Assembly. In doing this, the Government accepts some, but not all, of the Committee's proposed changes to Draft Variation 200. Modifications to Draft Variation 200 in response to the Committee's report are referred to below. The final approved Variation also includes some other minor changes to correct formal errors and clarify the intent of the Variation.

Recommendation 4

The Committee recommends that before another Draft Variation is developed to reflect a finalised Spatial Plan, detailed analysis and investigations are undertaken and reported on publicly in the following areas:

- a) specific areas for urban intensification based on infrastructure capacity, public transport corridors, diversity of housing types, affordable housing;**
- b) the effectiveness of the performance based approach of the existing Residential Design and Siting Codes contained in Appendix III of the Territory Plan;**
- c) a long-term public transport strategy that will effectively support changed residential frameworks and patterns that will result from this or any similar Draft Variation.**

Agreed in part.

Without wishing to pre-empt the outcome of the Spatial Plan process, the Government is prepared to commit to undertaking detailed analysis and investigations of specific areas identified in it for urban intensification before releasing any further draft Variation to the Territory Plan for such areas. The Spatial Plan process is progressing very well. It is important to the future growth in the ACT and the Government looks forward to the Committee playing a very constructive role in its future preparation and implementation.

The effectiveness of the performance based approach of the Residential Design and Siting Codes at Appendix III of the Territory Plan has already been the subject of extensive consideration and public feedback, both in conjunction with Draft Variation 200 and the discussion paper relating to the proposed Residential Land Use Policies and the ACT Code for Residential Development (ACTCode) released in 2001 by the former Government. The issue was also the subject of extensive discussions by the Government's ACTCode Community Reference Group during 2002. A very clear understanding has emerged recognising the benefits of practically applied performance based planning. The Government does not propose at this point in time to initiate further changes to the Codes beyond what is proposed in Draft Variation No 200.

It is envisaged that an integrated sustainable transport plan (including public transport) will be a fundamental component of the Spatial Plan and therefore will be an important part of identifying potential areas for further urban development or urban intensification.

Recommendation 5

The Committee recommends that the Government devise some broader guidelines for the suitable siting of dual occupancies that take into account topography, orientation, and the shape and size of the block.

Not Agreed.

The Government is seeking to avoid the proliferation of separate guideline documents dealing with dual occupancy issues. The Government believes strongly that the suitability of blocks for dual occupancy housing will be determined by the new policies established by Draft Variation No 200. The Government is also confident that the High Quality Sustainable Design (HQSD) process will be effective in identifying blocks that are not suitable for dual occupancy. If the proposed development cannot meet the requirements as set out in the revised policies, then dual occupancy housing will not be supported.

Recommendation 6

The Committee recommends that the Government undertake further research into more intensive residential development along public transport corridors.

Agreed.

Again, without wishing to pre-empt the outcome of the Spatial Plan process, the Government envisages that the principle of more intensive residential redevelopment on at least some public transport corridors is a likely outcome. Subject to the Spatial Plan, the Government is prepared to commit to undertaking detailed analysis and investigations of any such areas identified for more intensive residential redevelopment.

Recommendation 7

The Committee strongly recommends that the 800m² block limit for dual occupancies be maintained and the proposed sliding scale plot ratios be abandoned.

Agreed in part.

In response to the Committee's recommendation and strong views expressed in the community, Draft Variation 200 has been modified to prohibit dual occupancies on blocks less than 800m².

However, the Government does not agree to abandon the sliding scale plot ratio control applying to dual occupancy housing in Suburban Areas. This control is a fundamental component of Draft Variation 200 and the Government's policy to protect the Garden City character of Canberra's Suburban Areas, while also responding to the community's changing housing needs and preferences. The Government believes it will be successful in achieving this objective and is fairer and more effective than a first come, first served quota system. The Government is concerned that abandoning the sliding scale in favour of a flat plot ratio control such as 35%, would not have the same rationing effect and would lead to the continuation of overly large dual occupancy dwellings in Suburban Areas, especially on large blocks. Other options such as limiting dual occupancy to even larger blocks will only serve to concentrate dual occupancy activity in certain areas.

Recommendation 8

The Committee recommends that the relationship of the private open space ratios to the plot ratios needs further definition in respect of topography, orientation, ground quality (is the land rocky, soft clay base, subject of a previous land fill, containing dry or wet waterways), suitability in terms of suburban amenity, design compatibility with surroundings.

Not agreed.

The two concepts (private open space and plot ratio) are clearly defined in Draft Variation No 200 and perform different though related functions. The proposed modifications to private open space standards apply to all development that is subject to the Single Dwelling and Multi- Dwelling Design and Siting Codes (Appendices III.1 and III.2 of the Territory Plan), i.e. they apply to all single dwellings, dual occupancy and multi-unit housing. Their prime function is to ensure that there is an appropriate amount of space for landscaping and thus is a fundamental component of Draft Variation No 200's strategy to provide better protection to Canberra's Garden City character. They are performance measures (not controls), which means that there is some flexibility in their application, subject to meeting the relevant performance objectives. There is no need to modify the standards with respect to topography, orientation, etc and this would only serve to unnecessarily complicate the policies and make the development approval process more costly and complex for applicants.

The prime function of the plot ratio controls in Draft Variation No 200 is to control building bulk and the overall amount of development permitted on a block. Unlike the private open space standards, they are controls and not performance measures, i.e. they must be adhered to in all circumstances. The sliding scale plot ratio control applies only to dual occupancy development in Suburban Areas. Other plot ratio controls are as specified in the Variation.

Recommendation 9

Given that there is a minimum lead-time of twelve months between the Development Application approval and construction commencement, and that its retrospectivity places an unreasonable impost on current projects, the Committee recommends that the Government not introduce any changes to the Change of Use Charge until 1 July 2004.

Agreed.

The provision has been modified to extend the cut-off date for which an application for subdivision must be lodged from 1 December 2003 to 1 July 2004.

Recommendation 10

The Committee recommends that new residential land use policies be devised in the light of the forthcoming Spatial Plan.

Noted subject to the outcome of the Spatial Plan.

The role of the Spatial Plan, amongst other things, is to broadly determine where future residential development will take place, not the detailed policies that will apply to it. The Government is not prepared to commit to undertaking another review of residential land use policies at that time, though it does envisage that some changes to the Territory Plan are likely to be required in order to give effect to elements of the Spatial Plan. Should the Spatial Plan outcomes suggest adjustments to aspects of the residential land use policies, a Variation to the Territory Plan may need to be pursued at that time.

Recommendation 11

The Committee recommends that PPN6 remain in place until the spatial planning process is concluded and further consideration is given to the best means of protecting the Garden City and other elements of 'Territorial Significance'.

Not agreed.

PPN 6 ('Guidelines for Multi-Unit Redevelopment including Dual Occupancy in Residential Areas' also known as the 'Lansdown Guidelines') was released as a draft document in 1994 in response a review undertaken by Mr Robert Lansdown. It has never been subject to a formal consultation process or scrutiny by the Legislative Assembly. It also does not have any formal statutory effect. While Draft Variation 200 proposes different policy responses on some matters, it essentially covers the same scope of issues as PPN 6. For example Draft Variation 200, like PPN 6, includes policies on block size and plot ratio for dual occupancy development, building height, private open space, etc. Retaining PPN 6 in conjunction with the modified policies under Variation 200 is unnecessary and would only serve to complicate and confuse the proposed policy framework. It should also be recognised that although PPN6 separately identifies so-called areas of Territorial Significance, it does not contain policy provisions for these areas that are not already covered by similar provisions in Draft Variation 200 and relevant Heritage Places Registers.

Recommendation 12

The Committee recommends that all the planning reviews and processes currently underway be integrated as a matter of urgency, as there is already evidence that high levels of inconsistency is occurring between them.

Noted.

The Government acknowledges that it has a wide-ranging planning agenda but does not accept that there is inconsistency between the various reviews and processes that are taking place.

Recommendation 13

The Committee recommends that:

- a. any documents which outline the future planning principles for Canberra include as a pre-requisite, i) specific areas of National Significance (National Capital Planning Areas); ii) specific areas of Territorial Significance (to include historical elements); iii) areas of environmental concern; iii) areas which can only be designated for medium density housing; and**
- b. a monitoring framework for spatial distribution of dual occupancies and multi-unit developments be implemented, based on the objectives of PPN6 and the Spatial Plan as it is phased in.**

Noted.

The Territory Plan already covers the scope of matters referred to in Recommendation 13a. The Spatial Planning process is being undertaken in close consultation with the National Capital Authority and will reflect issues identified by that Authority relating to National significance. The Spatial Plan will also identify areas of Territorial significance, particularly areas of environmental significance, as well as the preferred pattern of urban development including areas identified for higher density housing. As mentioned above, well-established process already exists for the identification of areas of heritage significance.

PALM will continue to monitor dual occupancy development that occurs under the new policy framework including statistical trends analyses and design evaluation.

Recommendation 14

The Committee recommends that any future Draft Variation on residential land use policy align its headings with the ACTCode for Residential Development, which are:

- a. Neighbourhood Planning and Movement Networks**
- b. Physical Infrastructure**
- c. Stormwater and Integrated Catchment Management**
- d. Streetscape and Neighbourhood Character**
- e. Siting Planning and Design**

Noted.

The Government is not proposing a further review of residential land use policies at this point in time.

Recommendation 15

The Committee recommends that the Government instructs the Planning and Land Management Group (PALM) to:

- a. adopt practices that are more responsive to community input;**
- b. produce documentation that is easily understood by interested lay members of the community; and**
- c. responds fully and in a timely fashion to requests from the Committee for information.**

Noted.

The Government is confident that PALM's practices are responsive to community input and is happy to make available the report on consultation prepared by PALM in relation to Draft Variation 200 to any members who would be interested in scrutinising it. However, the Government also points out that it is not practical or even possible to respond positively to all of the diverse range of views and opinions expressed by different stakeholder groups on issues such as residential land use policies. It is the role of Government in these circumstances to weigh up the views expressed to it, including those of PALM's professional planning staff and decide on an appropriate policy response.

PALM makes every effort to ensure its documentation is as accurate and easy to understand as possible. However it must be acknowledged that the Territory Plan is a legal instrument that covers a diverse and complex range of issues and sits within a statutory framework. Like much other legislation and regulation, it must be legally precise and can at times appear somewhat complicated to the lay reader. Nevertheless, PALM has made very significant strides to humanise the planning system and introduce plain English tools.

The Government is confident that PALM's staff have been responsive to the Committee's requests. PALM's staff attended all of the public hearings on Draft Variation 200 and assisted the Committee whenever requested. Despite comments about the complexity of the documentation, the Committee declined requests for PALM to give an overview of the material in Draft Variation 200 at the commencement of the hearings. The Committee only scheduled PALM to appear at 10.30 pm on the third day of Committee hearings and then deferred PALM's presentation at the last moment. PALM officers were only allowed to give their presentation on the last day of hearings and then only after insisting that the material needed to be put on the public record.

The specific issue referred to in the Committee's report was really a result of a misunderstanding about whether the material was still required by the Committee after the scheduled opportunity for oral responses had passed. However to avoid this issue in the future, it would be helpful if the Committee could, as a rule, put this type of request for additional information in writing.

The Government also believes it would be of benefit to the Planning and Environment Committee to accept a technical briefing on Draft Variations to the Territory Plan prior to commencing public hearings. In this way, all Committee members could assess hearing submissions from an informed position.