

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

***REVISED DRAFT VARIATION TO THE TERRITORY PLAN NO.82:
PROPOSED AREA SPECIFIC POLICY B11 AND B12 NORTH CANBERRA
AND
APPENDIX III.3 URBAN HOUSING CODE***

**REPORT NO.39
OF THE
STANDING COMMITTEE ON PLANNING AND ENVIRONMENT**

NOVEMBER 1997

STANDING COMMITTEE ON PLANNING AND ENVIRONMENT

Resolution of appointment of the Standing Committee on Planning and Environment:

[that] a Standing Committee on Planning and Environment [be established] to examine matters related to planning, land management, transport, commercial development, industrial and residential development, infrastructure and capital works, science and technology, the environment, conservation, heritage, energy and resources...

[And that the committee] inquire into and report on matters referred to [it] by the Assembly or matters that are considered by the committee to be of concern to the community.

[Further, that] if the Assembly is not sitting when the Standing Committee on Planning and Environment has completed consideration of a report on draft Plan variations referred pursuant to Section 25 of the *Land (Planning and Environment) Act 1991* or draft Plans of Management referred pursuant to Section 203 of the *Land (Planning and Environment) Act 1991*, the Committee may send its report to the Speaker or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing and circulation.

Minutes of Proceedings (Third Assembly) No.1 Thursday 9 March 1995,
amended 22 June 1995

Committee Membership

Mr Michael Moore MLA (Chair)

Ms Roberta McRae, OAM MLA (Deputy Chair)

Ms Lucy Horodny MLA

Mrs Louise Littlewood MLA

Secretary: Mr Rod Power

Background

1. Sections 25 and 26 of the *Land (Planning and Environment) Act 1991* require the Executive to refer draft Variations to the Territory Plan to an appropriate committee of the Legislative Assembly for report, and for the Executive to then have regard to the committee's recommendations before approving any Variation. The Standing Committee on Planning and Environment is the appropriate committee to consider such draft Variations.

2. On 21 October 1997 the Minister for the Environment, Land and Planning, Mr Gary Humphries MLA, referred to this committee the draft Variation and background papers relating to the revised draft Variation to the Territory Plan No.82: *Proposed Area Specific Policy B11 and B12 North Canberra and Appendix III.3 Urban Housing Code*.

The draft Variation

3. The draft Variation proposes to provide for two new Area Specific Policies identified as 'Area B11 Urban Housing (generally three storeys)' and 'Area B12 Urban Housing (maximum two storeys)'. These policies would replace the existing B1 policy for selected parts of inner north Canberra.

4. The revised draft Variation also proposes a new Urban Housing Code which would apply to the areas. The new Code would replace the existing B1 Guidelines and the Design and Siting Code for Multi-Dwelling Development (at Appendix III.2 of the Territory Plan) for the purposes of assessing applications for multi-unit redevelopment within the B11 and B12 areas.

5. The original draft Variation was advertised for public comment in May 1997 and has been revised twice since its release. The documentation provided to the committee included, at Annexe C, the original draft Variation as released for public consultation in May 1997; at Annexe B, the draft Variation as revised on 11 August 1997; and at Annexe A, the final revised Variation.

Consideration by the committee

6. The committee held three public hearings into the revised draft Variation. These took place on 31 October, 14 November and 21 November 1997. The committee also deliberated privately on the draft variation at a number of meetings.

7. Those attending the public hearings (in alphabetical order by organisation) were:

- *Braddon Progressive Association*: Mr Cummins;
- *Braddon Residents' Association*: Ms Sullivan, Ms Salisbury and Mr Pilcher;
- *Housing Industry Association*: Ms Dennis (Assistant Director, Planning & Development, NSW & A.C.T. Division) and Mr Maiuto;
- *Master Builders' Association*: Mr Bryant (Executive Director) and Mr Scott;

- *Planning & Land Management Group of the Department of Urban Services [PALM]*: Ms Fowler (Acting Executive Director), Ms Norman (Director, Metropolitan Policy), Mr Calnan (Manager, Territory Plan Coordination) and Mr Collett (Manager, Inner North including Civic); and
- *Turner Residents' Association*: Dr Dickins (President), Ms Stuart, Mr Holgate, Mr Key and Mrs Kellett (North Canberra Community Council).

Options available to the committee

8. The committee has identified four possible courses of action in relation to the revised draft Variation. It could:

- recommend to the Assembly that it be passed in its present form. If the Government acted on this recommendation on the first sitting day of the forthcoming sitting (2 December 1997), then the draft Variation could be gazetted this year (provided that it was not disallowed in the Assembly during that sitting period);
- recommend to the Assembly that it be passed with a series of modifications;
- recommend to the Assembly that it be rejected;
- make no report to the Assembly, which leaves the matter up in the air. In effect, it leaves the whole issue up to this committee's successor in the new Assembly to be elected in February 1998.

The committee's conclusions

9. *The committee does not consider it can recommend to the Assembly that the revised draft Variation be passed in its present form.* To do so would be to totally ignore the substantial, very real, concerns expressed by residents and business about elements of the revised draft Variation (see more below). Also, such a course of action would 'legitimise' an unfortunate procedural issue, namely, that the extent of changes made to the original document circulated for public comment by PALM are so great that it is proper the public have another opportunity to comment on the proposal now before the committee.

10. Resident associations told the committee that they either had not seen the revised draft Variation (incorporating the changes made by PALM in response to public submissions) or they had very little time to carefully consider the nature of the revisions. Nearly all those appearing before the committee wanted more time to clarify elements of the revised document.

11. *The committee does not consider it can recommend to the Assembly that the revised draft Variation be passed with a series of modifications* because there is insufficient time for (a) the committee to clarify the exact detail of such changes and (b) the community to comment and understand the full extent and ramifications of all elements of the revised proposal.

12. *The committee does not like the option of making no formal report to the Assembly because to do so would add to the climate of uncertainty surrounding the future of inner north Canberra which - in the committee's view - is not in anybody's interest. Members of this committee wish to give some guidance to residents, business and government officials alike, based on our knowledge of developments affecting the area over the life of the present Assembly.*

13. *This leaves the committee with the option of recommending to the Assembly that the revised draft Variation be rejected - but also recommending that certain work be done over the next few months to minimise the detrimental or more uncertain aspects of the Government's proposal and re-shape it to a more appropriate proposal. It then would be resubmitted to the Executive and, if the relevant Minister agrees, passed to this committee's successor in the Fourth Assembly for examination and report to the new Assembly.*

14. *The committee is aware that if the draft Variation is rejected by this Assembly, its provisions could continue to have interim effect until May 1998 (when the one-year period is up for an interim Variation to have effect). In the committee's view, the revised draft Variation now before the committee is not as acceptable to the wider community as the Variation that is dated August 1997. This is because the revised proposal creates greater uncertainty than its predecessor and some of its provisions appear to offer less opportunity for local residents to influence the preservation of their local amenity.*

Recommendation

15. *The committee recommends that the revised draft Variation No.82 'Proposed Area Specific Policy B11 and B12 North Canberra and Appendix III.3 Urban Housing Code' be rejected, revised in accordance with the matters set out below, and resubmitted to the new Executive (and planning committee) to be formed following the Assembly election on 21 February 1998. In the interim period, the committee considers that the draft Variation dated August 1997 should apply to the affected areas of inner north Canberra.*

16. *Specific matters to be addressed in the period of revision include:*

in relation to community consultation:

- *the need for an extensive period of community consultation (including with Housing Trust tenants) so that residents are made aware of all elements of the proposal for section master plans and for a new Urban Housing Code - and have time to discuss their ramifications*

in relation to section master plans:

- *the need for the development of section master plans to be subject to consultation at the whole-suburb level*
- *the need for clear guidelines about the nature of section master plans and about the right of residents to be consulted*

- *the need for section master plans to permit the retention of existing amenity for those residents who wish to remain in their existing homes in an area subject to developmental pressure*
- *the need to clarify the manner in which section master plans (once established) are to be varied, including considering the use of some sort of process similar to that involved in a draft Variation to the Territory Plan*
- *the need to set section master plans on a firm legislative footing, most likely by introducing the appropriate legislative amendments at the same time as a new draft Variation is submitted*

in relation to the role of PALM:

- *the need to stipulate that PALM has the responsibility to prepare section master plans. The committee considers it is beyond the resources of local residents, and even of many developers, to initiate and finalise section master plans. There is a legitimate role for PALM in this regard. The committee was told that PALM has commissioned one section master plan as a pilot project and is prepared to finance and prepare several others. The committee considers that the Government - any Government - should be prepared to devote sufficient resources to PALM to enable the proper functioning of section master plans*

in relation to precinct plans:

- *the need for PALM to prepare development and conservation plans for the Braddon and Turner precincts (similar to what is happening in Ainslie) so that an appropriate context is set for the operation of section master plans (which would then apply to a sub-set of each precinct)*
- *the need (especially in going ahead with precinct plans for the inner north) to take cognisance of the demand for residential development in Civic, rather than in the nearby suburbs*

in relation to staging multi-dwelling housing development:

- *there should be a review of whether the proposal to stage multi-dwelling housing development (whether by percentage of an area or actual hectares developed) is required at all, in light of the new emphasis upon precinct planning and section master plans*

in relation to the proposed Urban Housing Code:

- *the need to review the usefulness of adopting the proposed Urban Housing Code - especially given the particular circumstances that apply to planning in the national capital. Any Housing Code must take full account of resident concerns about such matters as overshadowing, height, setbacks and privacy. Also, the committee considers that a future Government must ensure that sufficient time is available to*

the community and to business for each to fully comprehend the detailed ramifications of whichever Code (or regulatory provision) is adopted.

17. The committee considers that revising the basis of planning of the inner north on the basis of what is outlined above will enable the area to retain its present diversity and not be overwhelmed by one particular type of development. In this regard, the committee considers the area should be treated like other Canberra suburbs - each of which has its own mix of housing types and each of which is likely to have specific areas that can cope with, and are ready for, some type of redevelopment pressure. The areas that are not ready for such development should not be forced to undergo this type of pressure.

*18. The committee hopes that its proposals set out in this report will facilitate the natural development of the inner north and point the way to a wider application across Canberra - the aim being to find **the appropriate balance** between preserving an existing amenity and facilitating redevelopment of one kind or other.*

A handwritten signature in black ink, reading "Michael Moore". The signature is fluid and cursive, with the first name "Michael" and the last name "Moore" clearly distinguishable.

*Michael Moore MLA
Chair*

27 November 1997

DISSENT BY MRS LITTLEWOOD MLA

I support the revised draft Variation to the Territory Plan No.82: *Proposed Area Specific Policy B11 and B12 North Canberra and Appendix III.3 Urban Housing Code*.

I support the revised draft Variation for there has been sufficient time for the community to have considered the proposed changes and the Variation represents a considerable improvement on the B1 policies.

The draft Plan Variation was released in May this year for comment. The proposed Variation is a result of a consultation process that has been on-going for over six months.

The revised draft Variation is an appreciable improvement on the B1 Guidelines, having lower plot ratios and the B12 height limit of two, rather than three, storeys.

Section master plans area proposed which would give an overall context for development.

The revised draft Variation does provide an appropriate balance between preserving existing amenity and facilitating re-development.

The changes that were made to the original draft Variation were a result of the consultation process, the net effect of which are to strengthen the residents' position and overcome the ambiguities in the original Variation. They do not substantively change the concept in any way. It is curious, therefore, that the committee Report refers to "unfortunate procedural issues", that is, the changes made as a result of the consideration of community comment.

The implementation of the Variation would give greater certainty to residents and developers and provide for additional housing in an area where there is a strong demand.

There are good planning reasons for higher density housing in the areas proposed as the areas are close to the employment and other opportunities provided by Civic and inner north Canberra generally, and are well served by public transport. Such a location is supportive of the development of a sustainable city.

Clearly, not all residents are supportive of additional housing opportunities being provided but such changes are inevitable and are appropriate for the development of an efficient and fair city.

Rejecting the revised draft Variation would simply delay the development of a sustainable Canberra and pander to those groups whose sole objective is to prevent needed change. It would further the uncertainty for both residents and developers and would inhibit the development of schemes catering to the expressed demand for inner city accommodation.

Louise Littlewood MLA (28 November 1997)



