DRAFT VARIATION TO THE TERRITORY PLAN NO 309
TURNER BUS LAYOVER

STANDING COMMITTEE ON PLANNING, ENVIRONMENT AND TERRITORY
AND MUNICIPAL SERVICES

JUNE 2015

REPORT NUMBER 8
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RESOLUTION OF APPOINTMENT

On 27 November 2012 the ACT Legislative Assembly (the Assembly) agreed by resolution to establish legislative and general purpose standing committees to inquire into and report on matters referred to them by the Assembly or matters that are considered by the committees to be of concern to the community, including:

(e) a Standing Committee on Planning, Environment and Territory and Municipal Services to examine matters related to planning, public works, land management, municipal and transport services, heritage and sport and recreation and matters related to all aspects of climate change policy and programs, water and energy policy and programs, provision of water and energy services, conservation, environment and ecological sustainability.¹

The Assembly agreed that each committee shall have power to consider and make use of the evidence and records of the relevant standing committees appointed during the previous Assembly.

TERMS OF REFERENCE

In relation to a draft plan variation to the Territory Plan, section 73 (2) of the Planning and Development Act 2007 states:

The Minister may, not later than 20 working days after the day the Minister receives the draft plan variation, refer the draft plan variation documents to an appropriate Committee of the Legislative Assembly together with a request that the Committee report on the draft plan variation to the Legislative Assembly.

The Minister for Planning, Mr Mick Gentleman MLA, referred draft variation to the Territory Plan 309 - Turner Bus Overlay to the Standing Committee on Planning, Environment and Territory and Municipal Services on 23 October 2015.

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RECOMMENDATIONS

RECOMMENDATION 1

4.7 The Committee recommends that the ACT Government establish a mechanism whereby prohibited uses of land justified by “temporary use” provisions are reviewed on a regular basis regardless of whether the user of the land is a private entity or the Territory.

RECOMMENDATION 2

4.13 The Committee recommends that the Minister for Planning approve Draft Variation to the Territory Plan No 309 Turner Bus Layover, Turner Section 25 part Block 8.

RECOMMENDATION 3

4.22 The Committee recommends that the ACT Government considers a comprehensive upgrade of the Turner Parklands following completion of works on Haig Park.

RECOMMENDATION 4

4.23 The Committee recommends that TAMs proceed with landscape works as the bus layover is constructed with an emphasis of improving the appearance of the area and improving amenity and safety for pedestrians and cyclists.

RECOMMENDATION 5

4.24 The Committee recommends that ACTPLA, when considering proposed variations to Urban Open Space, and TAMS, when prioritising work on open space amenities, give proper weighting to the particular importance of urban open space and amenity in areas where there is an above average amount of higher density housing.
INTRODUCTION

CONDUCT OF THE INQUIRY

1.1 On 23 October 2014 pursuant to section 73 of the Planning and Development Act 2007 (the Act), the Minister for Planning, Mr Mick Gentleman MLA, referred draft variation to the Territory Plan No 309 - Turner Bus Layover, to the Standing Committee on Planning, Environment and Territory and Municipal Services (the Committee) for consideration and report to the Legislative Assembly (the Assembly).

1.2 The Committee released a media release announcing the inquiry on 13 November 2014 as well as directly emailing those who had provided submissions to the Environment and Sustainable Development Directorate public consultation process and others who might be affected by the draft variation. The Committee received 2 submissions and a list of these is provided at Appendix A.

1.3 The Committee held one public hearing and heard from six witnesses. A list of witnesses who appeared before the Committee is provided at Appendix B. The transcripts of proceedings are accessible at: http://www.hansard.act.gov.au/hansard/2013/comms/default.htm. There were three questions taken on notice at public hearings. Answers to these questions are available on the inquiry webpage: http://www.parliament.act.gov.au/in-committees/standing_committees/Planning,-Environment-and-Territory-and-Municipal-Services/draft-variation-to-the-territory-plan-no.-309-turner-bus-layover?inquiry=661124

ACKNOWLEDGEMENTS

1.4 The Committee would like to thank the Minister for Planning and officials from the Environment and Planning Directorate for their time appearing before the Committee and responding to its questions. The Committee would like to thank the Minister for Territory and Municipal Services (TAMS) for his response to the Committee's questions.

1.5 The Committee would like to extend its thanks to submitters and witnesses who appeared before the Committee.
2 PLANNING IN THE AUSTRALIAN CAPITAL TERRITORY

INTRODUCTION

2.1 This chapter outlines the planning framework in the Australian Capital Territory (ACT) and briefly outlines the evolution of the Territory Plan from its inception, through early reviews and restructures, to the present day review of the policy content of the Plan.

2.2 The Australian Capital Territory (Planning and Land Management) Act 1988 (Cwlth) sets out the overarching legal framework for the planning of, and management of the land in, the Australian Capital Territory. It establishes the National Capital Authority, one of the functions of which is to prepare and administer a National Capital Plan. The objective of the National Capital Plan is to ensure that Canberra and the Territory are planned and developed in accordance with their national significance.

2.3 The Australian Capital Territory (Planning and Land Management) Act 1988 also provided for the ACT Legislative Assembly to make laws to establish a Territory planning authority, and to confer on that authority the function of preparing and administering a Territory Plan. These requirements were incorporated into the Interim Planning Act 1990 (ACT) and subsequently, with expanded environmental assessment and heritage provisions, into the Land (Planning and Environment) Act 1991 (ACT).

2.4 In 2008, as part of the reform of the ACT planning system, the Land (Planning and Environment) Act 1991 was replaced by the Planning and Development Act 2007 (the Act), which includes the provision for the Planning and Land Authority (the Authority) and the Territory Plan.

2.5 The object of the Territory Plan is to ensure that, in a manner not inconsistent with the National Capital Plan, the planning and development of the ACT provides the people of the
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ACT with an attractive, safe and efficient environment in which to live, work and have their recreation.\(^{11}\)

2.6 Under section 50 of the Act, the ‘Territory, the Executive, a Minister or a territory authority must not do any act, or approve the doing of an act, that is inconsistent with the territory plan’.

2.7 The Act requires the Territory Plan to set out the planning principles and policies for achieving its objective in a way that gives effect to sustainability principles, including policies that contribute to achieving a healthy environment in the ACT.\(^{12}\)

2.8 The Territory Plan includes:
- a statement of strategic directions;
- a map;
- objectives and development tables applying to each zone;
- a series of general, development and precinct codes; and
- structure plans and concept plans for the development of future urban areas.

2.9 The Territory Plan graphically represents the applicable land use zones under the following categories:
- Residential;
- Commercial;
- Industrial;
- Community Facility;
- Urban Parks and Recreation;
- Transport and Services; and
- Non-Urban.\(^{13}\)

2.10 Recognising that land use policies may change over time, the Act provides for variations to the Territory Plan, prepared by the Authority for stakeholder comment.\(^{14}\) There can be a number of versions of a draft plan variation depending on the consultation program.

2.11 Under the Act the Minister has the discretion to refer a draft plan variation, within 20 working days of receiving it,\(^{15}\) to an appropriate committee of the ACT Legislative Assembly (the Assembly) for consideration and reporting.\(^{16}\)

\(^{11}\) Planning and Development Act 2007, section 48.
\(^{12}\) Planning and Development Act 2007, section 49.
\(^{14}\) Planning and Development Act 2007, section 60.
2.12 The Minister must not take action in relation to the draft plan variation until the committee of the Assembly has reported on it; unless the committee has not reported on the draft plan variation by the end of the period of six months starting the day after the day on which it was referred.

2.13 The Minister must take any recommendation of the committee into account before making his decision in relation to the draft plan variation. If the Minister approves it, the proposed plan variation and associated documents will be presented to the Assembly. Unless wholly or partially rejected by the Assembly on a motion for which notice has been given within five sitting days of its presentation, the plan variation will commence on the date nominated by the Minister.

2.14 If the Minister does not refer a draft plan variation to an appropriate committee of the Assembly, the relevant committee is not prevented from considering the draft plan variation documents.
3 THE DRAFT VARIATION

3.1 Draft Variation to the Territory Plan 309 concerns part of Block 8 Section 25 Turner and proposes to:
- Add MT4 in the Turner Precinct Map and Code to introduce ‘Public transport facility’ as an additional merit track development on the site.
- Remove the Public Land (Pe – urban open space) Overlay from the subject site and insert an ‘X Overlay’ (Urban Open Space, not public land) to the site.

3.2 The draft variation does not have interim effect.23

3.3 There is a currently a bus layover on Marcus Clarke Street. The Government has indicated that it is likely to sell the Marcus Clarke Street site to the Australian National University as part of the City West Precinct agreement.24 The bus layover needs to be relocated before this can occur.

3.4 Part of Block 8 Section 25 Turner is intended to become the western and primary City bus layover while a site on Coranderrk Street is intended to be the eastern and secondary City bus layover.

THE SITE

3.5 The proposed site for the bus layover is on the corner of Barry Drive and Watson Street. Block 8 consists of part of Sullivan’s Creek, an open space and a territory-owned gravel car park.

3.6 The site is zoned PRZ1 Urban Open Space Zone.

3.7 The site has been used for car parking, managed by TAMS, for over 20 years. This usage, prohibited under current zoning, was intended to be temporary.

CONSULTATION BY ACT PLANNING AND LAND AUTHORITY

3.8 DV309 was released for public comment between 11 April and 28 May 2014.

23 Draft Variation 309 – recommended version, September 2014, p. 6
24 Answer to Question Taken on Notice, 30 April 2015.
3.9 In response to public submissions the draft variation was altered. Originally the draft variation proposed changing the zoning of the block from PRZ1 urban open space to TSZ1 transport zone. The draft variation now retains the PRZ1 urban open space zoning but allows the layover development through an additional merit track and removal of an overlay. This means that if the bus layover relocates in the future, other uses permitted by TSZ1 would not be permitted on the site without a further variation.25

**STRATEGIC PLANNING**

3.10 The Minister noted that the draft variation was consistent with the ACT’s key strategic planning documents, the ACT Planning Strategy 2012 and Transport for Canberra 2012-31.26 Submitters suggested that the draft variation did not fit well with the ANU Master Plan or the discussions around the urban design planning framework around Northbourne Avenue being undertaken as part of preparations for the introduction of light rail.27

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25 Transcript of Evidence, 8 April 2015, p. 2.
26 Transcript of Evidence, 8 April 2015, p. 1.
27 Transcript of Evidence, 8 April 2015, p. 21.
4 Key Issues

The Temporary Car Park

4.1 Block 8 section 25 Turner is zoned Parks and Recreation Zone 1 — Urban Open Space (PRZ1). Under this zoning “car park” is a prohibited use. In spite of this, part of Block 8 has hosted a “temporary” car park for many years, since at least 1987.

4.2 Under the PRZ1 development table, “minor use” and “temporary use” are permissible. The Minister notes that “these uses may allow, in certain circumstance, a development which is normally prohibited in a zone to be developed due to its nature or scale”. The Minister states that the car park in Block 8 section 25 Turner could be considered both minor and temporary use.

4.3 The Minister states that the temporary car park was a “minor use” in the larger context of the wider open space strategy of the area. The car park serviced the open space system and the wider area. The draft variation describes the car park as providing “all day paid parking for workers in surrounding areas”.

4.4 “Temporary use” means the use of unleased land for a purpose that is temporary in nature and for which a licence may be issued to a private entity for a renewable three year term. As the car park is ACT Government owned and operated no licence needed to be issued. A temporary use may continue indefinitely. The car park is unsealed and has no permanent structures, barring parking ticket machines.

4.5 The Turner Residents Association stated that there was strong community resistance to the site becoming a temporary car park and that the government assured them that the site would revert to public open space once the short-term needs were met. However, it is not clear when or in what manner this assurance was made. The President of the Association said that they feel that, despite the decision to facilitate the bus layover by an overlay to PRZ1 Urban Open space rather than a rezoning to TSZ1 Transport Zone, the site will be developed and that it is “very hard to un-develop a site that is already developed”.

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28 Answer to Question Taken on Notice, 30 April 2015.
29 Answer to Question Taken on Notice, 30 April 2015.
31 Transcript of Evidence, 8 April 2015, p. 20.
32 Transcript of Evidence, 8 April 2015, p. 24.
4.6 The Committee notes the community's concern about this usage of urban open space. Of particular concern is the circular logic used to justify the siting of the bus layover. The planning study notes that "the existing surface car park means that the site is currently unsuitable for other recreational, social or environmental purposes". The site was unsuitable for the intended use of open urban space because the government had allowed a prohibited use on the site for nearly 30 years. The Committee notes concerns regarding the use of "Minor and ancillary use" provisions in a manner inconsistent with the Territory Plan generally and considers that a holistic review of these provisions may be warranted.

Recommendation 1

4.7 The Committee recommends that the ACT Government establish a mechanism whereby prohibited uses of land justified by "temporary use" provisions are reviewed on a regular basis regardless of whether the user of the land is a private entity or the Territory.

SITE SELECTION

4.8 ACTION considers the key requirements for a bus layover to include:

- A location for driver amenity and breaks;
- The design of a facility that reduces dead running and improves efficiency of the bus network; and
- Physical space for bus parking that caters for growth in the bus network to 2026 and beyond.

4.9 Professional services firm SMEC presented a City Bus Layover and City Interchange Feasibility Study in August 2013. This study had an initial long list of 24 possible layover sites refined down to 14. Block 8 section 25 Turner was identified as ACTION's preferred site. Officials noted that it was an efficient location, close to the university bus exchange and able to service the city centre from the western side.

4.10 Submitters expressed concern about the site selection process. The Turner Residents Association considered that "there must be better sites . . . and that they should look a bit harder". Another submitter stated that the Coranderrk Street site, currently a possible

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35 City Bus Layover and City Interchange Feasibility Study, 2 August 2013, p. 37.
36 Transcript of Evidence, 8 April 2015, p. 12.
37 Transcript of Evidence, 8 April 2015, p. 22.
location for a layover on the eastern side of the city, is a much more suitable location for a bus layover as it is separate from residential zones and has space to expand.\(^{38}\)

4.11 The Committee notes that considerable work went into site selection for the bus layover and acknowledges that the Turner site was considered the best site from the point of view of bus network efficiency. Having bus layovers both east and west of the city provides the greatest reduction in dead running.\(^{39}\) The Committee notes the suggestion that a single bus layover on Coranderrk Street would be preferable but accepts that it was not the preferred site because it does not have the necessary capacity for the required amount of buses, which would mean additional dead running, most notably due to drivers needing to use depot meal facilities in Belconnen and Tuggeranong rather than the city.

4.12 The Feasibility Study\(^{40}\) and the Minister for Territory and Municipal Services\(^{41}\) note that the Coranderrk Street site does not have the capacity to accommodate ACTION's layover requirements.

**Recommendation 2**

4.13 The Committee recommends that the Minister for Planning approve Draft Variation to the Territory Plan No 309 Turner Bus Layover, Turner Section 25 part Block 8.

**Urban Open Space in Turner**

4.14 A frequent concern of submitters to the original draft variation and to the Committee was the amount and quality of urban open space easily accessible to Turner residents.

4.15 Submitters state that the amenity of the Turner parkland area is eroded by a number of developments. Adjacent to the proposed bus layover is the Sullivan’s Creek gross pollutant trap. The trap performs an important role in improving water quality flowing into Lake Burley Griffin but its odour and appearance make it an unappealing area for recreation. North Oval, which occupies much of the southern parkland, no longer has unrestricted public access. A development application lodged in 2005 was approved allowing the oval to be fenced off.\(^{42}\) The fencing allowed the oval to be maintained to a higher level for formal recreational functions but removed a large area of open space from general public access. Major sewerage

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\(^{38}\) Submission 2.

\(^{39}\) Dead running is the operation of a bus when it is not accepting passengers e.g. positioning buses at the beginning of a route, moving to refuelling or travelling to and from layovers.

\(^{40}\) City Bus Layover and City Interchange Feasibility Study, SMEC, 2 August 2013, p. 41.

\(^{41}\) Letter from Minister for Territory and Municipal Services, dated 19 May 2015, p. 2.

\(^{42}\) Answer to Question Taken on Notice, Mr Gentleman MLA, 30 April 2015.
holding tanks partially buried in the centre of the parkland are another unfortunate feature of the area.

4.16 The Turner Residents Association noted that the Turner Parkland was the largest park close to the west side of Civic and that its equivalent on the east side was Glebe Park. The contrast between the two parks is notable. However, Haig Park is a significant and large area of urban open space located adjacent to Turner Parkland. Likewise the adjacent ANU grounds have considerable open space, of which much is available for general use.

4.17 Submitters noted that population density in the area had been increasing as multi-unit dwellings have become popular in Turner. Further developments, including those planned as part of the introduction of light rail in the Northbourne corridor, are expected to continue this trend. Where multi-unit dwellings have no, or very limited, green space, the importance of appropriate public outdoor recreation areas for residents is increased.

4.18 The Planning Study for the layover included a “Preliminary Landscape Concept Plan” for the Turner Parklands. This plan included various upgrades and additions to park amenities. Many of the submissions to the original draft variation objected to the variation but suggested that, if the variation was approved, the community should be “compensated” by the government proceeding with an upgrade of the Turner Parklands.

4.19 The Committee understands that the “Preliminary Landscape Concept Plan” is at this stage a planning document and the ACT Government may or not advance the proposals within it. The Committee wrote to the Minister for Territory and Municipal Services to seek further information about the ACT Government’s intentions for improving the Turner Parklands. The Minister informed the Committee that:

At this stage the upgrade of Haig Park is a higher priority than the upgrade of the Turner Parklands. When the Territory Plan variation is approved and the capital works associated with the bus layover are confirmed, TAMS intends to progress with a forward design and construction program (subject to funding) as presented in the concept plan.

This will include further development of the preliminary landscape plan including a number of improvements, particularly in the south-east area of the site close to the layover development. Works such as new tree planting, tree maintenance, cycle and pedestrian improvements will be considered.

4.20 The Committee notes the planned upgrade of Haig Park under the Haig Park draft Master Plan and acknowledges that this upgrade has the potential to provide considerable amenity to

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43 Submission of Turner Resident’s Association to DV309, 27 May 2014.
44 Turner Bus Layover — Part Block 8 Section 25 TURNER, Planning Study, CBRE, March 2014, Appendix D.
45 Letter from Minister for Territory and Municipal Services, dated 19 May 2015, p. 3.
Turner residents. The Committee encourages submitters to this inquiry to engage with TAMS on improvements to Haig Park.

4.21 The Committee agrees with submitters that the Turner Parklands are in need of revitalisation, although notes that, as with all issues, this will be subject to decision making that must consider the needs across the Territory. The landscape works around the proposed bus layover provide an opportunity for at least some improvement and the Committee encourages the Government to consider an upgrade of the area following its work on Haig Park renewal.

**Recommendation 3**

4.22 The Committee recommends that the ACT Government considers a comprehensive upgrade of the Turner Parklands following completion of works on Haig Park.

**Recommendation 4**

4.23 The Committee recommends that TAMS proceed with landscape works as the bus layover is constructed with an emphasis of improving the appearance of the area and improving amenity and safety for pedestrians and cyclists.

**Recommendation 5**

4.24 The Committee recommends that ACTPLA, when considering proposed variations to Urban Open Space, and TAMS, when prioritising work on open space amenities, give proper weighting to the particular importance of urban open space and amenity in areas where there is an above average amount of higher density housing.
5 CONCLUSION

5.1 The Committee has made five recommendations.

5.2 The Committee would like to reiterate its thanks to the Ministers, officials and submitters who contributed their time and effort to this inquiry.

Ms Meegan Fitzharris, MLA
Chair
9 June 2015
Appendix A Submissions

1. Turner Residents' Association
2. Peter Dey, Chairman, Units Plan 2873 "The Avenue"
Appendix B      Witnesses

Wednesday 8 April 015

- Mr Mick Gentleman, Minister for Planning
- Mr Tony Carmichael, Executive Director, Strategic Planning, Environment and Planning Directorate
- Mr Jim Corrigan, Executive Director, Planning Delivery, Environment and Planning Directorate
- Mr Neil Parsons, Turner Residents Association
- Ms Maggie Indian, Turner Residents Association
- Mr Peter Dey, Chairman, The Avenue apartments