

**Draft Variation No. 181 to the Territory Plan
Pearce Section 27 Block 3
(Former Child Care Centre)**

Report No 10

Standing Committee on Planning & the Environment

November 2002



Committee membership

Mrs Vicki Dunne, MLA (Chair)

Ms Katy Gallagher, MLA (Deputy Chair)

Mrs Helen Cross MLA

Ms Roslyn Dundas, MLA

Secretary: Derek Abbott

Administration: Judy Moutia

Resolution of appointment

- (1) (f) a Standing Committee on Planning and Environment to examine matters related to planning and land management, conservation and heritage, transport services and planning, environment and ecological sustainability. ...
- (3) 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 204 of the *Land (Planning 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, publication and circulation.

Minutes of Proceedings, No 2, Tuesday 11 December 2

Terms of reference

Section 25 of the *Land (Planning and Environment) Act 1991* states:

25 Consideration by a Legislative Assembly Committee

The Executive shall, within 28 days of receiving a draft plan variation under section 24, refer -

- (a) the draft plan variation; and
- (b) the documents referred to in subsection 24(1) that relate to the draft plan variation;

to an appropriate committee of the Legislative Assembly together with a request that the committee report on the draft plan to the Legislative Assembly.

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Recommendations

The committee recommends that draft variation 181 be endorsed by the Legislative Assembly.

1. Introduction

The *Land (Planning and Environment) Act 1991*

1.1. The *Land (Planning and Environment) Act 1991* (the Act) provides for a Territory Plan (the Plan) to “set out the planning principles and policies”¹ for the ACT. The objective of the plan is to ensure that the planning and development of the Australian Capital Territory provides an “ecologically sustainable, healthy, attractive, safe and efficient environment”² for the people of the Territory.

1.2. The Plan includes both a Written Statement, setting out general planning principals and more specific land use policies, and a map. The Act places conditions on development or land use within designated areas to meet the principles prescribed for that land on the Plan.

1.3. Land use requirements change over time and the Act sets in place a regime by which the stipulated land use can be altered or varied. Proposals to vary the Plan are prepared by the Territory planning authorities and are known as draft variations. Draft variations are required to be the subject of community consultation. There can be a number of versions of a draft variation depending on the consultation program.

1.4. After public consultation a draft variation, incorporating any amendments made as a result of public comment, and associated papers, is referred by the ACT government to the appropriate committee of the Legislative Assembly for the Australian Capital Territory. The Standing Committee on Planning and Environment is the committee established by the Fifth Assembly to do this.

1.5. The Act does not place any requirements on the committee’s consideration of the draft variation but does require the Government to consider any recommendation that the committee may make in relation to the “draft plan variation, background papers and reports submitted”³. The committee’s reports inform not only the Government but also all Members of the Assembly on the committee’s deliberations and provide a context for the Assembly to consider the Government’s approved variation.

2. Draft Variation No 181

2.1. This draft variation seeks to amend the Territory Plan by changing the land use policy applying to Section 27 Block 3 Pearce from Community Facility to Residential.⁴ A privately owned child care centre was operated on the land in question from the early 1970’s until May 1999.

¹ *Land (Planning and Environment) Act 1991*(the Land Act), section 7 (2).

² *ibid.*, section 7 (1).

³ *op.cit.*, the Land Act, section 26(2).

⁴ Draft Variation 181, May 2002, p.1

Public consultation

- 2.2. Draft variation 181 was released for public comment in February 2001.
- 2.3. The Conservator of Flora and Fauna, the National Capital Authority and the ACT Heritage Council indicated that the proposal did not raise any issues of concern within their respective areas of responsibility.
- 2.4. Three public submissions were received. One gave conditional support to the proposal if it were for single storey, older persons' accommodation. Two submissions opposed the variation and supported the use of the site by a community group, Subud Canberra.
- 2.5. Those submissions noted that there is no space available in Pearce Community Centre and that the site in question would be suitable to Subud's needs. They also argued that community use would be of benefit to Pearce and adjacent suburbs and the site is well located for community use. Subud had entered into negotiations with the proponent at an earlier stage in the process without success.
- 2.6. PALM in response noted that '... there are various options for accommodating future demand for community facilities in Pearce' including expansion to the existing community centre and development of another community facility site in the suburb.⁵

Discussion

- 2.7. After the closure of the child care centre the property was put up for auction as a community facility. The site is not a concessional lease thus any prospective purchaser would have to have been a community group willing to pay a market price for it. The auction in June 2002 was not successful. Subsequent to that discussions with other prospective private and public sector users also failed to produce a potential purchaser.
- 2.8. While the preliminary assessment for a change of use was being undertaken and the draft variation was in preparation two proposals to use the site for community purposes – from ACT Housing and an organisation called Subud - were considered but nothing came of them.⁶ As a result of these failures the lessee sought a change of land use policy to enable the site to be developed as residential accommodation.
- 2.9. The committee was also advised in mid-October 2002 of another attempt to retain the site as a commercially operated child-care centre. A purchaser wishing to re-establish a child-care centre did approach the current lease-holder. However, it appears that the site is now subject to a contract of sale to a residential developer which precludes it being sold to this other potential purchaser.
- 2.10. If adopted the draft variation will permit the construction of multi-unit housing on the site. While not remaining a community facility the new lease conditions will

⁵ Annexe C to dv 181, May 2002.

⁶ This sequence of events is explained in more detail in the Explanatory Statement to the final version of draft variation 181, May 2002.

require that the housing be designed in conformity with the relevant Australian Standards and guidelines applying to accommodation for the elderly.

2.11. This site is not a concessional lease. Thus the proponents have a reasonable expectation that they should be allowed to realise their investment in the site. The committee does not believe that the proponents should be denied this opportunity by further delay in finalising this draft variation.

2.12. The committee supports this proposal and therefore recommends that draft variation 181 be endorsed by the Legislative Assembly.

2.13. The draft variation does raise the question of the provision of affordable community facilities across Canberra. It is clear that demand exists for community space but that the cost, types of buildings and locations are often unsuitable. The committee was made aware of some the difficulties in planning for future demand for community space when it looked at the redevelopment of the Griffin Centre.

2.14. The committee understands that PALM is undertaking a community facility needs assessment and looks forward to the results of this study.

Vicki Dunne MLA

Chair