Draft Variation No 182 to the Territory Plan

Public Land – Nature Reserve – Yellow Box/Red Gum Grassy Woodland

Report No 6

Standing Committee on Planning and Environment

August 2002

Legislative Assembly for the Australian Capital Territory

Committee membership

Mrs Vicki Dunne, MLA (Chair)

Ms Katy Gallagher, MLA (Deputy Chair)

Ms Roslyn Dundas, MLA

Secretary: Derek Abbott

Administration: Judy Moutia

Resolution of appointment

(1) The following general purpose standing committees be established and each committee to 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:

(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 2001, pp 11 to 13

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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Summary of recommendations

Recommendation 1

The committee recommends that a draft variation to the Territory Plan to incorporate designated areas of yellow box/red gum grassy woodland located in East O'Malley into the Mt Mugga Mugga Reserve be released as a matter of urgency.

Recommendation 2

The committee recommends that the Legislative Assembly endorse Draft Variation 182.

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.

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[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).

2. Draft Variation No 182

2.1 Draft Variation No 182 proposes to vary the Territory Plan by designating four areas of natural woodland as Public Land Nature Reserve. Yellow Box/Red Gum Grassy Woodland was declared an endangered ecological community in 1997 under the provisions of the *Nature Conservation Act 1980.* Three areas of this type, in Mt Majura, Tuggeranong Hill and Mulligans Flat, included in this variation. The fourth site to be included is Aranda Snow Gums site, an area of considerable conservation value being the only extant example of a frost hollow community in or near Canberra.

2.2 The designation of these sites as Public Land Nature Reserves will facilitate their management. The Conservator of Flora and Fauna is required to prepare plans dealing with the land management issues for such areas. While preservation of the natural environment is the primary objective of this designation, the land will be available for appropriate recreational, educational and research activities.

Community consultation

2.3 Draft variation 182 is widely supported by the community and relevant agencies. In view of this and the nature of the changes proposed the committee did not call for submissions or conduct hearings. The committee had before it comprehensive documentation describing the proposed variation and summarising the outcomes of the public and other consultations conducted by PALM. It also received a briefing from officials of PALM.

2.4 One adverse comment on the draft variation came from the Australian Heritage Village in Watson. Concern was expressed that the designation of the Mt Majura land as Public Land Nature Reserve might inhibit future development of residential accommodation on that part of the land that is of little conservation value. The committee notes PALM's advice that 'residential' is not currently a permitted use for the land. Thus a variation to the Territory Plan would be required to permit residential development even under the existing policy.

East O'Malley

2.5 Draft variation 182 seeks to designate certain areas of public land, containing yellow box/red gum grassy woodland of high conservation value, as nature reserve. The draft variation, in its original form released in May 2001for public comment, notes that an area of similar vegetation type is located in East O'Malley and is currently included in an area designated as residential.

2.6 It was the intention of the previous ACT government to include that land in the adjacent Mt Mugga Mugga Reserve. However it was not included in dv 182 because '[f]urther detailed planning studies [were] required before the final boundary [could] be determined'.[4] That statement was made in May 2001 thus it is difficult to

[4] Draft Variation to the Territory Plan No 182, May 2001, p.5.

accept that there is any further justification for delay. The East O'Malley area is being made available for residential development and this matter should be finalised.

2.7 The committee believes that it is important to release a draft variation to cover this area as a matter of urgency. The committee notes that the Minister for Planning expressed a similar view during the recent Assembly Estimates committee hearings.[5] **The committee recommends that a draft variation to the Territory Plan to incorporate designated areas of yellow box/red gum grassy woodland located in East O'Malley into the Mt Mugga Mugga Reserve be released as a matter of urgency.**

Conclusion

2.8 This draft variation is important in ensuring the preservation and proper management of significant and endangered ecological communities. The committee is satisfied that there are no significant objections to the draft variation. **The committee recommends that the Legislative Assembly endorse Draft Variation 182.**

Vicki Dunne MLA

Chair

14 August 2002

[5] Uncorrected Proof Transcript, Legislative Assembly Estimates Committee, 31 July 2002, p 22.