

MR CORBELL (continuing):

admirably. A follow-up audit 12 months after the AMC is opened for operation may be appropriate and the government would welcome this work on the part of the commission.

The government will respond to the audit formally in due course and within three months. In the interim, I would like to place on the record my thanks to the commissioner for human rights, Dr Helen Watchirs, her staff who were involved in the development of this audit and also the prisoners, remandees, corrections office staff and others involved in the remand and correction system in the ACT for their cooperation. Their contributions have been significant in providing a detailed and systematic audit of the issues facing our corrections staff and our corrections system as we move towards the establishment of the first ACT prison. The government will be drawing closely and heavily on the audit's functions in considering the future operations of the AMC.

Debate (on motion by **Mr Stefaniak**) adjourned to the next sitting.

Paper

Mr Corbell presented the following paper:

Administration of Justice—ACT Criminal Justice—Statistical Profile—March quarter 2007.

Territory plan—variation No 263

Papers and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations): For the information of members, I present the following papers:

Land (Planning and Environment) Act, pursuant to subsection 29 (1)—Approval of Variation No 263 to the Territory Plan—Change of Land Use Policy for Block 23 Section 117 Kaleen and Minor Amendments to Community Facility Land Use Policy, dated 2 July 2007, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

Planning and Environment—Standing Committee—Report 27—*Draft Variation to the Territory Plan No 263: Block 23 Section 117 Kaleen and Minor Amendments to Community Facility Land Use Policies*—Government response.

I ask leave to make a statement in relation to the papers.

Leave granted.

MR BARR: Draft variation No 263 to the territory plan proposes to change the land use policy for block 23 section 117 Kaleen, the former Bocce club site, from restricted access recreation to community facility to provide for supportive housing. Draft variation No 263 was released for public comment on 14 July 2006 and attracted 13 submissions during the consultation period. The original draft variation included changes to the territory plan map for the site to community facility and minor amendments to the written statement for community facility land use policies.

MR BARR (continuing):

The draft variation included the proposed changes in the land use policies to permit supportive housing on the site, which is in line with the ACT government's ageing in place strategy. The planning study which informed the draft variation demonstrated that the change would not adversely affect the provision of uses that are permissible under the restricted access recreation land use policies. The current building on the site could not be readily reused for another type of recreation facility.

The main issues raised in the public submissions were related to design issues such as the generation of additional traffic impacting on the surrounding residential developments, particularly the Huntington apartments and Kaleen high school. The comments also included design elements such as height, setbacks and amenity issues related to traffic noise for the residents of the area and safety in access to facilities for residents, pedestrians and cyclists.

The Standing Committee on Planning and Environment in its report released in May of 2007 made 10 recommendations, including a recommendation that the proposed variation proceed. The committee recommended that the ACT Planning and Land Authority ensure that all buildings comply with Australian standards for noise attenuation.

The recommendation also included safety and amenity issues such as overshadowing pedestrian and cyclist movement around Kaleen and the proposed suburb of Lawson. Recommendations were also made on developing a partnership between Kaleen high school, the new development and other residents. I understand that the Department of Disability, Housing and Community Services, through the schools as communities program, which involves community outreach work to enhance social and educational outcomes amongst children and young people, will take up this option. There is an allocated worker for Kaleen high school who will be available to facilitate such a partnership, and this is strengthened by the agreement of the proponent to secure the services of a social planner.

In addition, the committee recommended that the disruption to the residents of Huntington apartments and the school community be minimised during and after construction. The committee also recommended that the authority consider amending the Planning and Development Bill 2006 to include the requirement for a planning report for any proposal that would deplete community and recreational land. It is in situations like this under section 417 of the bill that I, as planning minister, have discretionary powers to require a planning report.

The bill also includes a mandatory trigger of an EIS when applications are lodged to vary a concessional lease. There is provision under section 257 to restrict the transfer of a concessional lease only to a transferee who meets the criteria of a concessional lease.

The recommendations also included that a planning report be prepared for concessional leases, direct grant land, any development application for a community facility use in areas other than the community facility zone and any proposal to vary the community facility zone. The committee also recommended that all planning reports and community needs assessments be publicly available and be referred to an interdepartmental committee upon completion.

MR BARR (continuing):

All recommendations relating to the design stage will be addressed through a design response at the development stage. A detailed government response has been prepared to all the recommendations made by the committee. I am very pleased to table variation No 263 to the territory plan.

Territory plan—variation No 276

Papers and statement by minister

MR BARR (Molonglo—Minister for Education and Training, Minister for Planning, Minister for Tourism, Sport and Recreation, Minister for Industrial Relations) (4.07): For the information of members, I present the following papers:

Land (Planning and Environment) Act, pursuant to subsection 29 (1)—Approval of Variation No 276 to the Territory Plan—ANU City West Precinct—"The ANU Exchange", dated 27 July 2007, together with background papers, a copy of the summaries and reports, and a copy of any direction or report required.

Planning and Environment—Standing Committee—Report 28—*Variation to the Territory Plan No 276—ANU City West Precinct "The ANU Exchange"*—Government response.

I ask leave to make a statement in relation to the papers.

Leave granted.

MR BARR: Draft variation No 276 to the territory plan proposes to formalise the implementation of the precinct deed agreed to between the ACT government and the Australian National University and the subsequent ANU Exchange master plan. Some changes to the land use policies contained within the territory plan are needed to implement the master plan; hence the requirement for a variation.

The ANU Exchange master plan was endorsed by the Chief Planning Executive of the ACT Planning and Land Authority and the Chief Executive of the Chief Minister's Department in December 2005. The major changes the variation proposes include: replacing the entertainment accommodation and leisure land use policy with commercial for block 2 section 30 City; realigning the intertown public transport route from the corner of Barry Drive and Marcus Clarke Street to link to Rudd Street through Section 21 City and amending building height controls on blocks west of Marcus Clarke Street and north of University Avenue and section 20 City to allow for increased building heights.

Draft variation 276 was released for public comment in November 2006 and attracted three public submissions. The main issues were: the context of the proposal within the national capital plan provisions and consistency with the plan's principle on the hierarchy of centres; the realignment of the intertown public transport route and indicative built form; car parking requirements, standards and strategy for adequate car parking provision; heritage issues relating to section 21 and section 20 and, finally, urban design and architectural issues relating to the buildings fronting Marcus Clarke Street and Barry Drive.

2007

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

GOVERNMENT RESPONSE TO THE STANDING
COMMITTEE ON PLANNING AND ENVIRONMENT -
REPORT NO 27

DRAFT VARIATION NO. 263
CHANGE OF LAND USE POLICY FOR
BLOCK 23 SECTION 117 KALEEN AND
MINOR AMENDMENTS TO
COMMUNITY FACILITY LAND USE POLICIES

Circulated by the authority of
Minister for Planning
Mr Andrew Barr MLA

21/8/07

Draft Variation Number 263 to the Territory Plan proposes to change the land use policy from Restricted Access Recreation to Community Facility for Block 23 Section 117 Kaleen. The change in land use policy will permit supportive housing on the site, which is in line with the Government's 'Ageing in Place' strategy.

The Standing Committee on Planning and Environment, in its Report No. 27, which was released in May 2007, recommended that the proposed Variation to the Territory Plan proceed. The Committee noted that the proposed Territory Plan Variation is consistent with the current planning policies and considered some aspects of the proposed new provisions in the restructured Territory Plan.

The Authority has prepared a response to the Summary of Recommendations as follows:

Recommendation 1

The Committee recommends that the proposed reference to Section Master Plan in the re-numbered 3.4 Performance Controls in Community Facility Land Use Policy in DV263 be omitted.

Response

Agreed. The final Variation has been amended to reflect this recommendation.

Recommendation 2

The Committee recommends that the Planning and Land Authority ensure that the disruption likely to be caused to residents of The Huntington and the school community at Kaleen High School, during and after the construction of the proposed new community facility, is minimised.

Response

Agreed. As part of the Development Application process, the developer is required to prepare a Temporary Traffic Management Plan, which requires approval from the Manager, Asset Acceptance, Department of Territory and Municipal Services. This plan is to address measures to be employed during construction to manage all traffic, including construction traffic, provision of safe pedestrian movement around the site and the provision of parking for construction workers.

Recommendation 3

The Committee recommends that the Planning and Land Authority require that all buildings on Block 23 Section 117 be built in such a way as to achieve an acceptable noise environment for people working in, living in, or visiting the site. This may require the Authority to require the developer to meet the criteria set out in appropriate Australian Standards as amended from time to time, such as AS/NZ 2107 'Recommended Design Sound Levels and Reverberation Times for Building Interiors' [AS/NZ 2107 – 2000], and AS 3671 'Acoustics – Road Traffic Noise-Building Siting and Construction' [AS 3671 – 1989].

Response

Any development on the site is subject to the requirements of the draft Noise Management Guidelines 1996 in relation to traffic related noise issues. Any noise effects from land use activities (except for noise from people and animals) will be subject to Environment Protection Act 1997 and Regulations.

As part of the Development Application process, the developer is required to prepare a report addressing how the building structure will -

- (i) limit internal noise levels (with windows and doors closed) within habitable rooms to not greater than 38 dB L_{A10} 18 hour for sleeping areas and not greater than 43 dB L_{A10} 18 hour for recreation and work areas, or*
- (ii) comply with Australian Standard AS 3671: Acoustics-Road Traffic Noise Intrusion, Building Siting and Construction whichever is the higher standard.*

Recommendation 4

The Committee recommends that the Planning and Land Authority ensure that the concerns expressed by the Kaleen High School Board about the potential adverse impacts of possible overshadowing be addressed and that regulatory measures be explained carefully to, and discussed with, appropriate representatives of the Kaleen High School community.

Response

Agreed. Overshadowing is a design related issue. This will require consideration and shadow diagrams at the Development Application stage, which will also be publicly notified.

Recommendation 5

The Committee recommends that the Minister for Planning encourage the development of partnerships between the proposed development on Block 23 Section 117 Kaleen, the Kaleen High School, and if possible, residents of The Huntington.

Response

The proponent has agreed to employ a social planner to facilitate an appropriate partnership model between the School, Huntington Apartment and the residents of the new development. The Department of Education and Training considers this approach to be appropriate and will facilitate the partnership.

The Department of Disability, Housing and Community Services (DDHCS) has a Schools as Communities program, which involves community outreach workers working with children and young people, families and the communities to enhance social and educational outcomes.

The DDHCS has recently allocated a Schools as a Communities worker to Kaleen High School and believes that this position will form an important part in delivering a good outcome for the School, Huntington Apartment and the wider community.

Recommendation 6

The Committee recommends that the ACT Planning and Land Authority pay particular attention to planning for pedestrian and cyclist movement around Kaleen High School, Block 23, The Huntington, and access points into the proposed suburb of Lawson.

Response

Agreed. This is a design related issue, which will be addressed at the Development Application Stage, to consider how the community facility will be linked to services and facilities in the surrounding area, which will also provide access to such facilities for the residents. It is anticipated that the developer will be required to provide pedestrian links around the development, connecting the existing footpaths, underpass and the footbridge/s through offsite works.

Traffic and access point into the new suburb will be addressed at the structure planning stage of Lawson.

Recommendation 7

The Committee recommends that the Planning and Development Bill 2006 be amended to require the Planning and Land Authority to prepare a Planning report for each proposal:

- that would have the effect of depleting the range of land available for community use or recreational facilities within an area;

Response

Noted. Where a variation to the Territory Plan would have the effect of depleting land available for community facilities within an area, the Minister has discretion under section 97 to require the preparation of a planning report.

In addition, there is already a general regulation making power under section 417 of the Bill, which enables regulations to be made in relation to planning reports should it become apparent, after testing the new system over time, that planning reports should be mandatory in certain circumstances.

- when an application is made to vary a concessional lease either by paying it out or transferring it or changing the lease purpose;

Response

Noted. For all proposals to remove the concessional status of a lease, the Bill currently includes a mandatory trigger for an EIS. Proposed regulations will ensure that the EIS, when scoped, includes a social impact assessment of the proposed depletion of the community asset, which may or may not include a change of use. These development applications are assessed in the impact track. This is a more appropriate level of assessment for a proposed deconcessionalisation of a lease. In such cases, a planning report is not necessary or appropriate.

There are other safeguards in the Bill under section 257 with respect to dealings with concessional leases, including transfers. Dealings are subject to consent, which may only be given if the proposed transferee would have been eligible for the original grant of the lease. That is, the proposed transferee must meet the eligibility criteria to be granted the concessional lease.

- where there is a development application for specified uses on land within a Community Facility Zone under the Territory Plan;

Response

Agreed in part. If the proposal involves a lease variation that would result in a change to the concessional status of the lease, as outlined above, the development application will trigger an EIS, scoped to include social impact assessment. The application will be assessed in the impact track.

Alternatively, if a lease is not concessional, the Territory Plan development tables and codes are the appropriate assessment tools to determine what use may or may not be undertaken within a Community Facility Zone. In such cases, a planning study is not necessary or appropriate.

- where there is a development application for a community facility in zones other than Community Facility Zone;

Agreed in part. Refer to the response as above.

- in relation to proposals for the direct grant of land for a community use;

Response

Noted. The direct grant process is currently being considered by an interdepartmental working group for the purpose of further streamlining the process and improving transparency. That working group will give further consideration to this recommendation.

In the meantime, the Minister has discretion under section 238 of the Bill to require the preparation of a planning report in relation to the grant of a lease.

As stated previously, there is a general regulation making power under section 417 of the Bill, which enables regulations to be made in relation to various matters, including planning reports, should it become apparent after testing the new system over time, that planning reports should be mandatory in certain circumstances.

- where there is a proposal to vary the land use policy from Community Facility Zone.

Response

Noted. As stated previously, where a variation to the Territory Plan would have the effect of depleting land available for community facilities within an area, the Minister has discretion under section 97 to require the preparation of a planning report.

In addition, there is a general regulation making power under section 417 of the Bill, which enables regulations to be made in relation to various matters, including planning reports, should it become apparent after testing the new system over time, that planning reports should be mandatory in certain circumstances.

Recommendation 8

The Committee recommends that the Minister ensure that all future Community Needs Assessments and Planning Reports be made publicly available as soon as practicable after completion.

Response

Noted. Planning reports associated with variations to the Territory Plan will be made publicly available as background papers, when the draft plan variation is made available under section 62 of the Bill for public comment. The Authority will develop administrative practices for the publication of Planning

Reports for the grant of lease. This will be refined over time as the new system is implemented and tested.

As Variation No. 263 removes the requirement for a Community Needs Assessment at the Development Application stage, future Community Needs Assessment will be undertaken at strategic level.

Recommendation 9

The Committee recommends that all Planning and Development Reports be referred upon completion to the inter-department committee with responsibility for the development of policy and rules to support future grants and administration of concessional leases.

Response

Noted. As stated previously, the direct grant process is currently being considered by an interdepartmental working group for the purpose of further streamlining the process and improving transparency. That working group will give further consideration to this recommendation.

Recommendation 10

The Committee recommends that this proposed variation to the Territory Plan proceed.

Response

Noted. A final Variation has been prepared for approval and tabling in the Legislative Assembly.

In tabling this response I would like to thank the Committee for considering the draft variation.