



Legislative Assembly for the ACT

STANDING COMMITTEE ON PLANNING AND  
ENVIRONMENT

## Draft Variation to the Territory Plan No. 248 Aged Care Facility Hughes

JANUARY 2005

**Report 2**



## Resolution of appointment

On 7 December 2004 the ACT Legislative Assembly agreed to establish general purpose standing committees as follows:

- (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: ...

- (e) a Standing Committee on Planning and Environment to examine matters related to planning, public works and land management, conservation and heritage, transport services, and environment and ecological sustainability.

...

The Assembly also agreed 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 or draft plans of management referred to the Committee by the Minister under 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, publication and circulation.<sup>1</sup>

## Terms of reference

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

The Minister 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 section 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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<sup>1</sup> Legislative Assembly of the ACT, *Minutes of Proceedings*, No. 2–7 December 2004, pp.12–16.



## Preface

Both Federal and ACT law and policy governs planning in the ACT. The *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth)<sup>2</sup> establishes the National Capital Authority, which prepares and administers the National Capital Plan. The Act also enables the Legislative Assembly to establish a statutory planning authority – now the ACT Planning and Land Authority – to develop and implement the Territory Plan. The *Land (Planning and Environment) Act 1991* (ACT)<sup>3</sup> (the Act) requires the Territory Plan to set out the planning principles and policies for giving effect to its object,<sup>4</sup> which is:

to ensure, in a manner not inconsistent with the national capital plan, that the planning and development of the ACT provides the people of the ACT with an ecologically sustainable, healthy, attractive, safe and efficient environment in which to live, work and have their recreation.<sup>5</sup>

The Plan includes both a written statement and a map. The written statement contains general planning principles (Part A), specific land use policies (Part B), overlay provisions (Part C) and definitions of terms (Part D). The Territory Plan map shows which land use policies and overlays in the written statement apply to particular sections of land in the Territory. The Territory Plan is developed and implemented taking account of other strategic ACT Government policy documents such as *The Canberra Plan* and *People Place Prosperity: A Policy for Sustainability in the ACT*.<sup>6</sup>

Recognising that land use policies may change over time, the Act provides for variations to the Territory Plan. The ACT Planning and Land Authority prepares these for stakeholder comment. There can be a number of versions of a draft variation depending on the consultation program.

The Minister is required by the Act to refer each draft variation, within 28 days of receiving it, to an appropriate committee of the Assembly –

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<sup>2</sup> Accessible at <<http://scale.law.gov.au/html/pasteact/0/160/top.htm>>.

<sup>3</sup> Accessible at <<http://www.legislation.act.gov.au/a/1991-100/current/pdf/1991-100.pdf>>.

<sup>4</sup> Land (Planning and Environment) Act 1991, sub-section 7(2)).

<sup>5</sup> Land (Planning and Environment) Act 1991, sub-section 7(1).

<sup>6</sup> Accessible at <<http://www.cmd.act.gov.au/canberraplan/>> and <<http://www.sustainability.act.gov.au/policy.html>>

currently the Standing Committee on Planning and Environment – for consideration and report.<sup>7</sup> The Minister is required to have regard to the Committee’s recommendations before approving the proposed variation and tabling it in the Assembly (see below), or returning it to the ACT Planning and Land Authority with written directions for further action.<sup>8</sup>

The Territory, the Executive, a Minister or a Territory authority must not do or approve anything that is inconsistent with the Territory Plan, or the proposed draft variation, in relation to land that is subject to a draft variation, once the draft variation has been notified for public consultation under the Legislation Act and until it commences operation, is disallowed by the Legislative Assembly, or is withdrawn.<sup>9</sup>

Following the Committee’s tabling of its report in the Legislative Assembly, the Minister must take the findings of the committee into account before making his decision in relation to the draft plan variation.<sup>10</sup> If the Minister approves it, he will table the proposed variation and associated documents in the Legislative Assembly.<sup>11</sup> Unless wholly or partially disallowed by the Assembly within five sitting days, the variation will commence on the date nominated by the Minister.

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<sup>7</sup> Land (Planning and Environment) Act 1991, section 25.

<sup>8</sup> Land (Planning and Environment) Act 1991, paragraphs 26(1)(a) and (b), sub-section 26(2).

<sup>9</sup> Land (Planning and Environment) Act 1991, section 9.

<sup>10</sup> Land (Planning and Environment) Act 1991, sub-section 26(2).

<sup>11</sup> Land (Planning and Environment) Act 1991, section 29.

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## Summary of recommendations

### **RECOMMENDATION 1**

24. The Committee recommends that Roads and Traffic ACT install traffic calming measures in Groom Street to promote safety and deter unnecessary use of the street by out-of-area traffic. Such measures could include a 40kmph zone, prominent signage and/or traffic humps. The effectiveness of these measures should be monitored, and a review report should be prepared for the Committee within 12 months of the measures being undertaken, highlighting particularly the identified incidence of breaches of the speed limit.

### **RECOMMENDATION 2**

25. The Committee recommends that Roads and Traffic ACT construct a safe pedestrian crossing near the proposed development (with pram/wheelchair ramps, a traffic island and other safety features), at a safe distance from bus stops.

### **RECOMMENDATION 3**

26. The Committee recommends that Draft Variation No. 248 proceed.



## Introduction

1. On 16 December 2004 the Minister for Planning, Mr Simon Corbell MLA, referred a copy of Draft Variation to the Territory Plan No. 248 (DV248) to the Standing Committee on Planning and Environment for consideration and report.
2. DV248 proposes to replace the Urban Open Space Land Use Policy over part Block 12 Section 28 Hughes with Community Facility Land Use Policy.
3. The current Territory Plan policies in relation to this area are represented in map form in Appendix 1, and the proposed variation in Appendix 2.
4. The Committee considered DV248 on 11 and 18 January 2005. Members considered the Preliminary Assessment prepared by GHD for the ACT Government, the GHD Consultation Report, and the Consultation Report prepared by the ACT Planning and Land Authority. The Committee noted that there had been adequate opportunity for community comment on the proposal, and that many views had been expressed during the consultation process. The Committee decided to proceed directly to report and not call for submissions or hold public hearings.

## Background

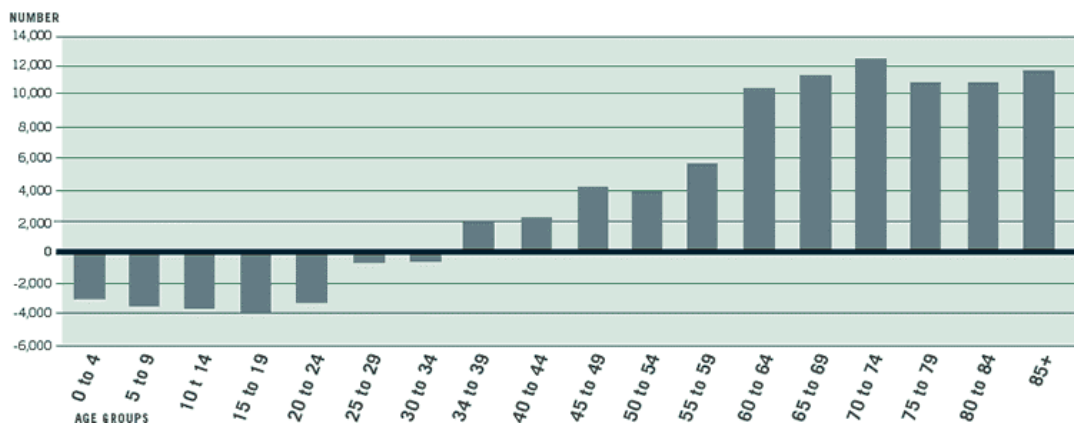
5. The Presbyterian Church Property Trust (ACT) Inc (St Andrews), an accredited aged care provider, is seeking a direct grant of land from the Land Development Agency. It proposes to construct a 74-bed aged care hostel on part of Block 12 Section 28 in Hughes, with associated dining, kitchen, administration and lounge area, with a gross floor area of 4500m<sup>2</sup>. The proposed development would include a 92-space basement car park.
6. The pressing need for aged care facilities has been identified in the ACT Government publication *Australian Capital Territory Population Projections 2002-2032 and Beyond*.<sup>12</sup> The former Committee's Report 34 also recommended that the Government prioritise the allocation of land for the development of

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<sup>12</sup> Demographic Unit, Policy Group, ACT Chief Minister's Department, 2003.

residential aged care places, and increase land allocated for such purposes.<sup>13</sup> According to data reproduced in the Canberra Spatial Plan<sup>14</sup> there will be a significant increase in numbers of people in the 60–85 years age bracket within the next thirty years.

**GRAPH 4** POPULATION CHANGE BY AGE GROUP (BETWEEN 2002 AND 2032)  
**Source** *The Australian Capital Territory Population Projections 2002–2032 and Beyond*, ACT Government 2003



7. The ACT Planning and Land Authority released DV248 for public comment on 23 July 2004, with comments closing on 3 September 2004. Since the draft variation involves replacing land designated as Urban Open Space with a Community Facility land use, the proponent (nominated as the ACT Land Development Agency) had to submit a mandatory Preliminary Assessment to the ACT Government.<sup>15</sup> This was released for public comment with the Draft Variation.

8. The Land Development Agency also sought community feedback at a public meeting held on 11 May 2004, which was attended by 115 people.<sup>16</sup> This meeting had been advertised in local newspapers, and a letterbox drop in the vicinity of the proposed development invited comment on the proposal.

<sup>13</sup> Recommendation 2, para. 5.12.

<sup>14</sup> ACT Government, *The Canberra Spatial Plan*, ACT Planning and Land Authority, Dickson, 2004, p.7, accessible at [http://www.actpla.act.gov.au/spatialplan/1\\_future/1b\\_context/graph4.htm#](http://www.actpla.act.gov.au/spatialplan/1_future/1b_context/graph4.htm#).

<sup>15</sup> Under *Land (Planning and Environment) Act 1991* (ACT) section 114 and Schedule II.I, Appendix II of the Territory Plan.

<sup>16</sup> GHD Pty Ltd and Land Development Agency, *Part of Block 12 Section 28 Hughes: Preliminary Assessment: Final Report to ACT Government*, July 2004, Attachment A: Consultation Report.

9. Following an evaluation of the Preliminary Assessment the ACT Planning and Land Authority decided that no further environmental assessment was required.

## Consultation comments

10. The GHD Consultation Report presents a summary of the public meeting held on 11 May 2004. The existing St Andrews Village was said to be a well-respected community facility. The advantages of the proposed site were said to include proximity to the existing village, the shops and local community hall, and Woden Town Centre. Residential views of the site, traffic and parking, lighting, possible spectator noise, flooding and urban water reuse were other issues raised. The report concluded:

The meeting concluded on a positive note with the majority of people expressing desire for the government to provide more housing for the aged in Canberra...[A] number of recent newspaper articles ...demonstrate wide public support for such facilities. St Andrews has also previous (sic) (and recently) circulated a questionnaire to surrounding residents and their responses are all positive towards the expansion provided sensible design is incorporated.<sup>17</sup>

11. Three written submissions were made to the ACT Planning and Land Authority on DV248. Two submissions were very supportive of the proposal and highlighted the need for more aged persons accommodation in Woden.

12. Housing ACT, and the Federal Member for Canberra, Annette Ellis MP, strongly support the proposal on the ground that there are insufficient aged care beds available to meet current and projected need. Ms Ellis noted that the Preliminary Assessment provided a thorough assessment of relevant issues.

13. The third written submission made to the Planning Authority, from the Australian Institute of Landscape Architects – ACT, opposes DV248, arguing that the proposed change will result in the loss of urban open space. The Institute also comments that alternative sites are available.

14. The ACT Planning and Land Authority responds that Hughes currently has more open space than neighbouring suburbs with about 12.5

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<sup>17</sup> GHD Pty Ltd and Land Development Agency, Attachment A: Consultation Report, p.2.

hectares per 1000 population.<sup>18</sup> Some open space will remain near the proposed facility. These treed slopes contain various significant trees that have statutory protection, and there is an overland flow path that will remain as open space. In addition, DV165 proposes to replace the Urban Open Space with the X (Subject to Review) overlay from part Block 5 Section 28, which is just along Yarra Glen Drive from the proposed development. When DV165 commences<sup>19</sup> full statutory protection will be conferred on that open space.<sup>20</sup>

15. In accordance with the *Land (Planning and Environment) Act 1991*, the ACT Planning and Land Authority also sought and considered the views of the ACT Planning and Land Council, National Capital Authority, ACT Heritage Council and Conservator of Flora and Fauna. These views were compiled in the Authority's Consultation Report. In summary:

- The ACT Planning and Land Council required DV248 to take account of the Urban Open Space Network Project and DV165 and further assess the design concept, visual intrusion and compatibility with surrounding uses.

The Planning Authority says that it has since addressed these issues in the Preliminary Assessment, and design issues will be addressed through the Development Application process.

The existing St Andrews Retirement Village is already adjacent to the tennis club on Block 28.

- The National Capital Authority advised that the draft Variation is not inconsistent with the National Capital Plan.
- The ACT Heritage Council advised that they have no concerns about the proposed variation.
- The Conservator of Flora and Fauna advised that provided that protection of significant trees was taken into account in any development proposals, the Conservator had no concerns about the proposal.

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<sup>18</sup> ACT Planning and Land Authority, Report on Consultation with the Public and Government Agencies, *Draft Variation to the Territory Plan No. 248 – Extension of St Andrews Village Aged Care Facility Hughes*, December 2004, p.3.

<sup>19</sup> DV165 was released for public comment in July 2004 until September 2004. It has not yet been referred to the Committee.

<sup>20</sup> Under the Part C Overlay Provisions of the Territory Plan, if the code 'X' is applied to public land this means that it will be reviewed in future to determine whether it should be reserved as public land.

## Committee assessment and recommendations

16. This proposal concerns a proposed direct grant from the Land Development Agency to St Andrews. It is the second draft variation concerning proposed new aged care accommodation that the Committee has considered since the sixth Assembly convened in December 2004. Clearly the ACT Government is responding to current and projected aged care needs and is working to meet the policy commitments it adopted in *Building our Ageing Community*.<sup>21</sup>

17. DV 248 also appears to respond well to the strategic planning principles contained in Part A2 of the Territory Plan (sustainable development, community well-being and housing diversity), the *Canberra Spatial Plan*, the *Canberra Social Plan*, and the *Sustainable Transport Plan*. For example:

- Hughes will retain a significant amount of urban open space and the proposed removal of the 'X' overlay from part Block 5 Section 28 reduces the prospect of a further reduction of urban open space in Section 28. This enables health-promoting activities to continue on this and other urban open space areas in Hughes.
- The elderly who reside in the proposed development will have enhanced opportunities for social interaction and exercise since a tennis club is adjacent to the proposed development. The indicative design of the proposed development for the site also promotes social interaction, with common reception, dining and lounge areas located in a semi-circular central area joined to five accommodation wings.
- Ease of movement for the elderly is not impeded by this proposed draft variation and there are incentives to use public transport. There is a bus stop in front of the site. A shopping centre, which includes medical facilities, is located within walking distance, and Canberra Hospital and specialist medical services are readily accessible by bus.

18. However the Committee has particular concerns about traffic arrangements, and the safety of the site from flooding.

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<sup>21</sup> Accessible at <[http://www.cmd.act.gov.au/Documents/ageing\\_community.pdf](http://www.cmd.act.gov.au/Documents/ageing_community.pdf)>.

19. The Preliminary Assessment analysed access and traffic issues and a detailed Traffic Report was prepared. The additional traffic generated by the proposed development is not expected to be significant given the likely advanced age of the residents of the proposed development, and an upgrade of the intersection of Groom and Caruthers Streets is not considered necessary. The Traffic Study found that Groom Street was heavily used by traffic that was not local, since it was used as an alternative to Yamba Drive by people ('rat runners') wishing to avoid the Yamba Drive traffic lights. It was also noted that this traffic might exceed the permitted 50kmph along the street. The Preliminary Assessment suggested that this could be addressed through increased speed enforcement and traffic calming measures.<sup>22</sup>

20. The Preliminary Assessment also refers to requests from the Hughes Residents' Association for a safe pedestrian crossing adjacent to the existing St Andrews Retirement Village, which was being considered by Roads and Traffic ACT.<sup>23</sup> Public transport is readily accessible from the site, and more than an adequate amount of car parking is to be provided on-site, to absorb some of the overflow parking from the current St Andrews Retirement Village.<sup>24</sup>

21. While accepting that the traffic increase generated by the proposed development is not expected to be significant, because of the high incidence of out-of-area traffic along Groom Street, it would be desirable for Roads and Traffic ACT to create a 40kmph zone in Groom Street so that elderly residents can travel in the area with reduced risk. A 40kmph zone could also be beneficial for slowing traffic waiting or turning into side streets off Groom Street. Additional traffic calming measures could include prominent signage about the facility (e.g. aged persons crossing), and/or traffic humps.

22. Roads and Traffic ACT should also to construct a safe pedestrian crossing near the proposed development (with pram/wheelchair ramps, a traffic island and other safety features), at a safe distance from bus stops.

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<sup>22</sup> GHD Pty Ltd and Land Development Agency, *Part of Block 12 Section 28 Hughes: Preliminary Assessment*, p.22.

<sup>23</sup> GHD Pty Ltd and Land Development Agency, *Part of Block 12 Section 28 Hughes: Preliminary Assessment*, pp.14, 23.

<sup>24</sup> GHD Pty Ltd and Land Development Agency, *Part of Block 12 Section 28 Hughes: Preliminary Assessment*, p.23.

23. The Committee notes that flooding was one of the issues raised at the public meeting about the proposed development, and requested clarification from the ACT Planning and Land Authority that this issue had been addressed in the technical studies done for the proposed development. Through the Authority, the consultant to the Department of Urban Services advised:

The design of the extension to St Andrews village takes into account the proximity of the indicative flood line at one part of the proposed site, as such this portion of the building is some 12 metres above the actual ground level. This is well above any likely flood event.

The ground floor portion of the building consists of ornamental gardens, which in the event of a flood would not impede the flow of water and is likely to reduce the impact of erosion and contamination further down stream. Due to the limited mobility of aged care residents it is important that the facility has good flood immunity, as such the design of St Andrews extension as proposed is elevated to ensure there is little possibility of any evacuation of the building even in the highest flood event.<sup>25</sup>

In the Committee's view, it appears from this advice that it need not make any specific recommendation regarding the unlikely event of a flood impacting adversely on the proposed development or residents' health and safety.

## **RECOMMENDATION 1**

24. The Committee recommends that Roads and Traffic ACT install traffic calming measures in Groom Street to promote safety and deter unnecessary use of the street by out-of-area traffic. Such measures could include a 40kmph zone, prominent signage and/or traffic humps. The effectiveness of these measures should be monitored, and a review report should be prepared for the Committee within 12 months of the measures being undertaken, highlighting particularly the identified incidence of breaches of the speed limit.

## **RECOMMENDATION 2**

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<sup>25</sup> Text in email communication from Executive Services, Act Planning and Land Authority, to Committee Secretary, 14 January 2005.

25. The Committee recommends that Roads and Traffic ACT construct a safe pedestrian crossing near the proposed development (with pram/wheelchair ramps, a traffic island and other safety features), at a safe distance from bus stops.

**RECOMMENDATION 3**

26. The Committee recommends that Draft Variation No. 248 proceed.

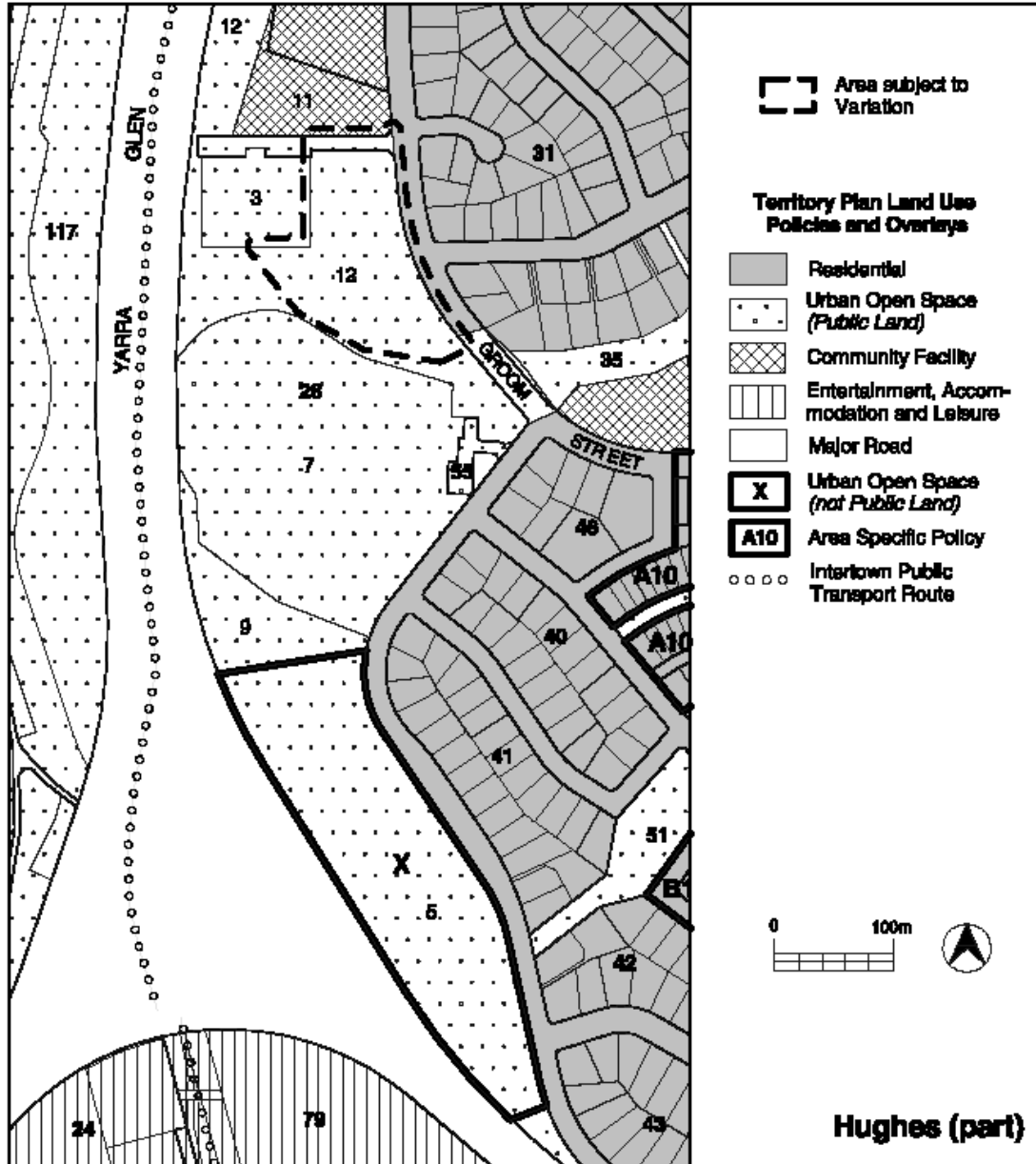
Mick Gentleman MLA

Chair

January 2005

# Appendix 1 – Current Territory Plan Policies

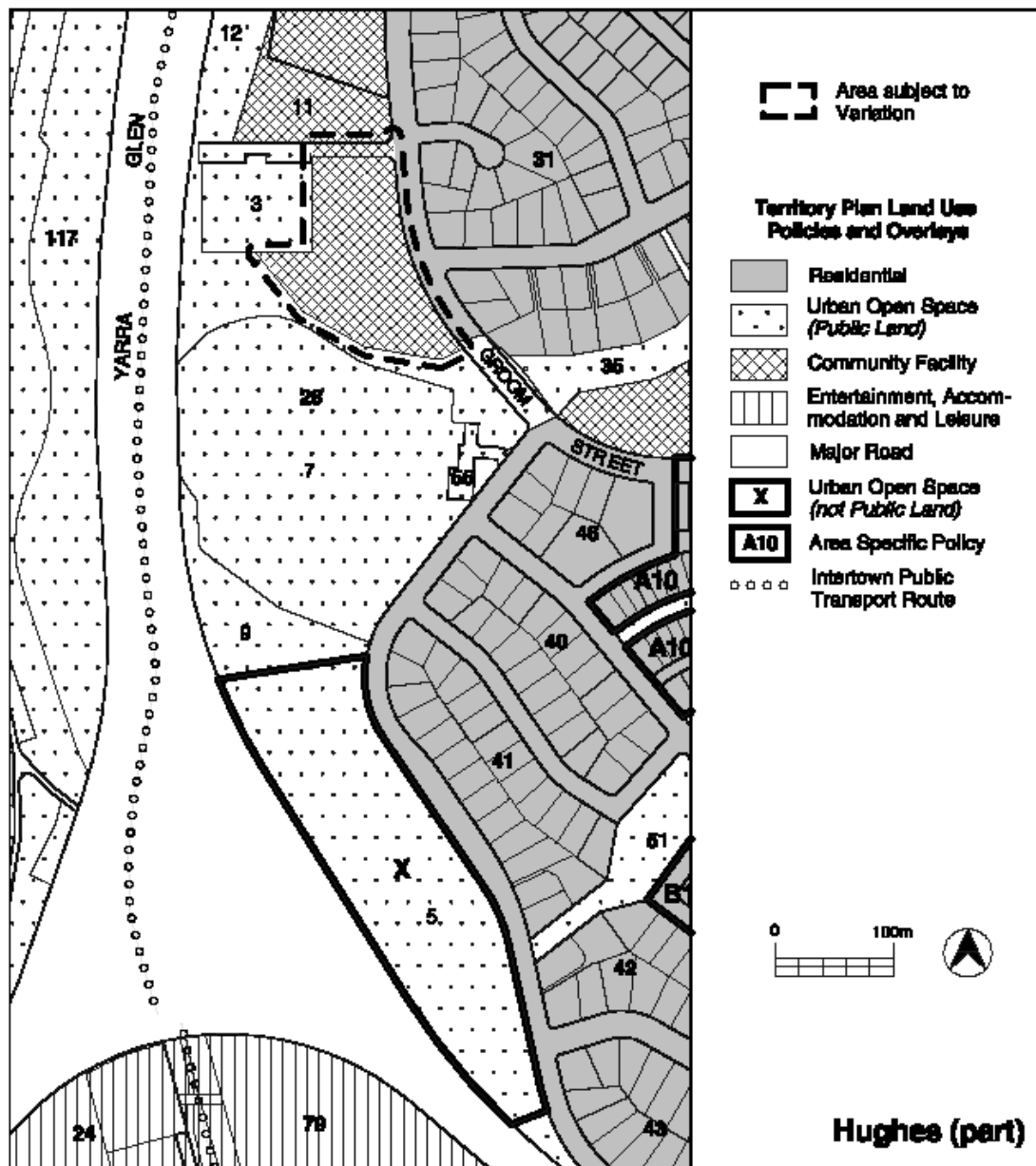
The existing Land Use Policy for the area subject to this variation is shown in Figure 1.



**Figure 1: Territory Plan Current Land Use Policies**

## Appendix 2 – Proposed Variation to the Territory Plan Map

The Territory Plan map will be varied for the area shown as follows:



**Figure 2: Territory Plan Proposed Land Use Policies**