



Legislative Assembly for the ACT

STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT

Variation to the Territory Plan No.223

Block 8 Section 55 Greenway

(Lakeside Leisure Centre) and

Block 13 Section 46 Greenway

(Enclosed Sportsgrounds – Tuggeranong)

Public Land Overlay (Ph)

Sport and Recreation Reserve

MAY 2004

REPORT 30

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 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.

Table of contents

Committee membership	ii
Resolution of appointment	ii
Terms of reference	iii
SUMMARY OF RECOMMENDATIONS.....	2
1. INTRODUCTION.....	3
2. BACKGROUND TO DRAFT VARIATION NO. 223	5
3. BASIS FOR DRAFT VARIATION NO. 223.....	7
4. CONCLUSION	8
APPENDIX 1 – CURRENT TERRITORY PLAN POLICIES	9
APPENDIX 2 – TERRITORY PLAN MAP VARIATION	11
APPENDIX 3 – ACRONYMS	13

Summary of recommendations

Recommendation 1

4.3 The Committee recommends that in the development of proposals for future draft Variations to the Territory Plan, ACTPLA should ensure that substantive evidence to justify the change to the land use policy is provided.

Recommendation 2

4.4 The Committee endorses Draft Variation 223 as a variation to the Territory Plan.

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 principles 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.

1.6 Following the Committee’s tabling of its report in the Legislative Assembly, the Minister must take the findings of the Committee into account before deciding whether to approve the draft plan variation. If the Minister approves the draft variation, he/she will table it and associated documents in

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

² *ibid.*, section 7 (1).

³ *Ibid.*, section 26(2).

the Legislative Assembly. Unless disallowed by the Legislative Assembly within five sitting days, the plan variation commences on a date nominated by the Minister.

2. Background to Draft Variation No. 223

2.1 This report addresses the background and intent of Draft Variation No. 223 (DV 223).

2.2 On 30 March 2004, the Minister for Planning forwarded to the Standing Committee on Planning and Environment for consideration and report, a copy of DV 223 to the Territory Plan for Block 8 Section 55 Greenway (Lakeside Leisure Centre) and Block 13 Section 46 Greenway (Enclosed Sportsgrounds – Tuggeranong) Public Land Overlay (Ph) Sport and Recreation Reserve.

2.3 The ACTPLA documents indicate that this draft variation is the result of a request from the Conservator of Flora and Fauna to vary the Plan to make the Lakeside Leisure Centre (Proposed Block 8 of Section 55 Greenway) and the Enclosed Sportsground (Proposed Block 13 Section 46 Greenway) at Tuggeranong, public land reserved for the purposes of a Sport and Recreation Reserve. The proposal does not include any changes to the Territory Plan written instrument.

2.4 While the documents indicated that the Conservator of Flora and Fauna requested this draft variation, it was unclear to the Committee from these documents exactly what had prompted this request. The Draft Variation documents indicated that:

- On 11 November 2003, the Conservator of Flora and Fauna wrote to the Chief Planning Executive of the ACT Planning and Land Authority (ACTPLA) advising that ‘there are no issues of concern’ with this draft variation;⁴ and that
- ‘The public overlay (Ph) overlay is intended to provide for public and community use of these areas for sport and recreation. The inclusion of enclosed sportsgrounds or pools as Public Land triggers the requirement for the Conservator of Flora and Fauna to prepare a Plan of Management. This means that the grounds will be managed and maintained by Canberra urban Parks and Places (CUPP) to an approved standard in accordance with a statutory management plan.’⁵

2.5 The Committee understands that according to the Territory Plan that overlay provisions are part of the Plan and may only be varied in accordance

⁴ Letter of 11 November 2003 from the Conservator of Flora and fauna to the Chief Planning Executive ACT Planning and Land Authority.

⁵ Draft Variation to the Territory Plan No. 223 January 2004, Reasons for the Proposed Variation, page 6.

with the *Land (Planning and Environment) Act 1991*. The ACT has many small size land parcels that comprise public land, and because of the number of these, the urban open space public land category is defined by enclosing symbols on Territory maps, but have map codes as follows:

- Pa a wilderness area
- Pb a national park
- Pc a nature reserve
- Pd a special purpose reserve
- Pe an urban open space
- Pf a cemetery or burial ground
- Pg a lake
- Ph a sport and recreation reserve⁶

2.6 It is the 'Ph' overlay that is intended for application under this draft variation. The two parcels of land currently fall under the Restricted Access Recreation Land Use Policy. 'This land use policy relates to urban areas, which are set aside for sport and/or recreation activities. Unlike Urban Open Space, land with in Restricted Access Recreation is generally not freely accessible to members of the public. The application of the 'Ph' overlay to these two sites will effectively make the land available for public use'⁷.

⁶ Volume One, Territory Plan Part C: Overlay Provisions, page 1 of Part C.

⁷ Correspondence from the Minister for Planning, 29 April 2004, Attachment A

3. Basis for Draft Variation No. 223

3.1 Based on the evidence before it, the Committee was supportive of this Draft Variation proceeding and could see no reason to seek further submissions from the public or undertake public hearings. While seeing the benefit of opening the land for public access, the Committee wished to understand what prompted the request from the Commissioner of Flora and Fauna to initiate this Draft Variation and why this proposed change to the land use policy was seen by the Minister as being justified and in the best interests of the ACT's planning and land development.

3.2 Ministerial advice was received by the Committee in April 2004, which stated that, in May 2003, the Conservator of Flora and Fauna wrote to ACTPLA advising the Authority that Canberra Urban Parks & Places (CUPP) had been preparing a draft Plan of Management for Enclosed Sportsgrounds and Public Pools, and during its development had noted inconsistencies in the way the Territory Plan represented these public facilities.

3.3 The Conservator requested two variations to the Territory Plan. The first being Block 6 (public pool site) and 7 in Section 55 Greenway, which has a current land use policy of Restricted Access Recreation. The variation sought by the Conservator is to apply a Public Land Overlay of Sport and Recreation Reserve to these blocks.

3.4 The second relates to the Tuggeranong Enclosed Sportsground (Block 12, Section 46, Greenway), which currently has a land use policy of Entertainment, Accommodation and Leisure. The variation identified is to define the block for the Enclosed Sportsground, apply the land use policy of Restricted Access Recreation to that block, and apply a 'Ph' overlay of Sport and Recreation Reserve to that block.

3.5 The Conservator indicated that these variations would reflect the current usage of the sites and would allow the Plan of Management to apply to these facilities and for the grounds to be managed and maintained by Canberra Urban Parks and Places (CUPP) to an approved standard in accordance with a statutory management plan⁸.

3.6 The Committee noted that the draft Plan of Management prepared by CUPP is to be released on 6 June 2004.

⁸ ACTPLA Draft Variation documents for Variation to the Territory Plan No. 223 of January 2004, page 6.

4. Conclusion

4.1. The Committee is of the view that in the interest of good government it is essential that the community be apprised of the entire issues attendant to the justification for any change to land use policies as they stand in the Territory Plan during the public consultation phase. The Minister and ACTPLA could also greatly assist the Standing Committee on Planning and Environment if complete and comprehensive information about all of the issues were provided. This would help to streamline the Committee's inquiry into Variations to the Territory Plan.

4.2 On this occasion copies of the recommended final Variation and Report on Consultation with the Public and Government Agencies for this Variation did not provide adequate evidence to substantiate why the Conservator of Flora and Fauna initiated this Draft Variation.

Recommendation 1

4.3 The Committee recommends that in the development of proposals for future draft Variations to the Territory Plan, ACTPLA should ensure that substantive evidence to justify the change to the land use policy is provided.

Recommendation 2

4.4 The Committee endorses Draft Variation 223 as a variation to the Territory Plan.

Roslyn Dundas MLA

Chair

12 May 2004

Appendix 1 – Current Territory Plan Policies

1.3 Current Territory Plan Policies

The variation applies to Block 8 Section 55 and Block 13 Section 46 Greenway.

The current Land Use Policies for the areas subject to this variation are shown in Figures 1.1 and 1.2.

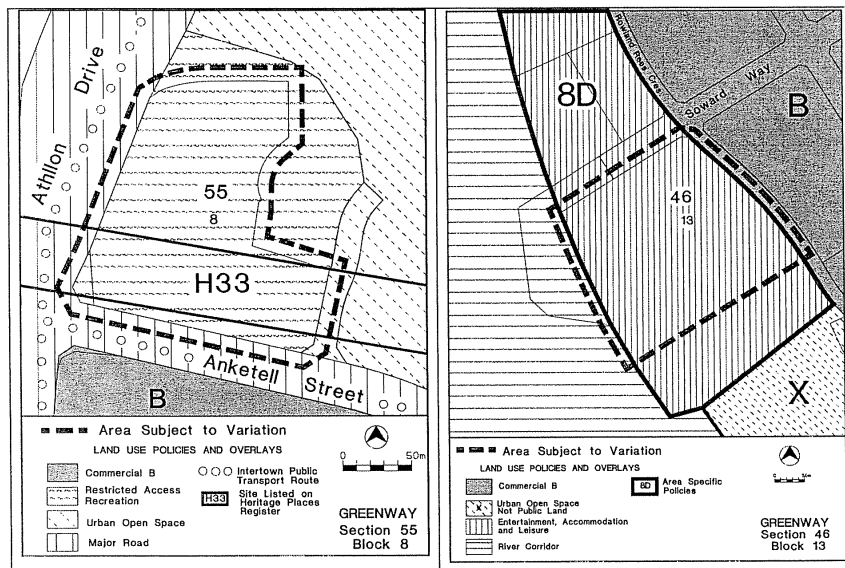


Figure 1.1 CURRENT TERRITORY PLAN MAP

Figure 1.2 CURRENT TERRITORY PLAN MAP

1.4 Changes to the Territory Plan

1.4.1 Changes to the Territory Plan Map

The changes to the Territory Plan map are shown in Figures 2.1 and 2.2 below. They are:

- adding a Sport and Recreation Reserve – Public Land (Ph) Overlay to each parcel.

The variation map indicates the land use policy boundaries as accurately as possible but may be subject to adjustments following detailed surveys.

Appendix 2 – Territory Plan Map Variation

1.5 Consultation on the Draft Variation Plan Variation

The Variation was released as a draft for public comment on 30 January 2004 with comments closing on 12 March 2004. No written submissions were received.

On 26 February 2004 the National Capital Authority advised that the draft Variation was "...considered to be not inconsistent with the provisions of the National Capital Plan."

No revisions to the draft Variation have been made as a result of the consultation process.

2. VARIATION

The Territory Plan map is varied for the area shown as subject to variation as follows:

- ♦ adding a Sport and Recreation Reserve – Public Land (Ph) Overlay

as indicated below.

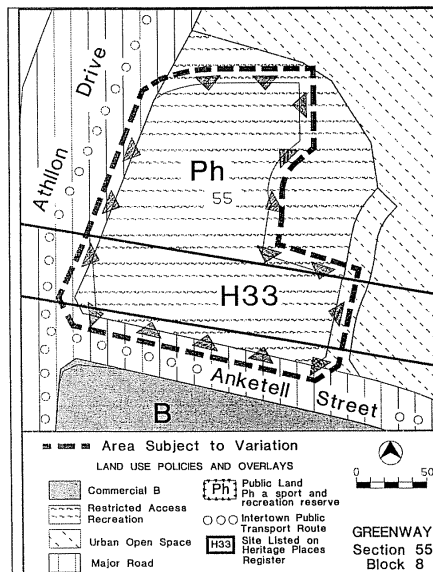


Figure 2.1 VARIATION TO THE TERRITORY PLAN MAP
Lakeside Leisure Centre (Swimming Pool)

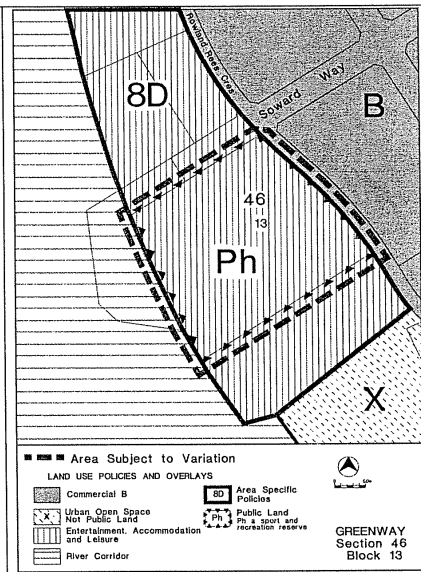


Figure 2.2 VARIATION TO THE TERRITORY PLAN MAP
Enclosed Sportsground

Apart from the inclusion of the maps shown above, no changes to the Territory Plan written instrument have been made as a result of this Variation.

Appendix 3 – Acronyms

ACTPLA	ACT Planning and Land Authority
CUPP	Canberra Urban Parks & Places
DV 223	Variation to the Territory Plan No.223 Block 8 Section 55 Greenway (Lakeside Leisure Centre) and Block 13 Section 46 Greenway (Enclosed Sportsgrounds – Tuggeranong) Public Land Overlay (Ph) Sport and Recreation Reserve
PALM	Planning and Land Management Group (predecessor of ACTPLA)
Ph	Public Land Overlay