



Legislative Assembly for the ACT

STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT

Draft Variation to the Territory Plan No.226

Phillip Pool

April 2004

Report 28

Committee membership

Ms Roslyn Dundas	Chair (April 2003 - current)
Mr John Hargreaves MLA	Deputy Chair
Mrs Vicki Dunne MLA	Member (Chair 2001 – April 2003)
Mrs Helen Cross MLA	Member

Secretary:	Ms Linda Atkinson
Inquiry Secretary:	Ms Kerry McGlinn
Administration:	Mrs Judy Moutia

Resolution of appointment

- (1) The following general purpose standing committees be established and each committee to inquire into and report on matters 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 relating to planning and land management, conservation and heritage, transport services and planning, environment and ecological sustainability.
- (2) 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.

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

Preface

The Land (Planning and Environment) Act 1991

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.

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.

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.

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.

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

² *ibid.*, section 7 (1).

³ *Ibid.* section 26(2).

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Summary of recommendations

RECOMMENDATION 1

2.1. The Committee recommends that the Government proceed with the implementation of Draft Variation No.226 and that the Minister investigate its extension so that the lease on ice skating rink also be afforded the same long term protection as the pool. The Committee acknowledges that the actual structure of the ice skating rink is privately owned and therefore not an ACT Government asset.

RECOMMENDATION 2

2.4. The Committee recommends that any future development application or lease variation for the pool and ice skating rink site is considered in conjunction with the Woden Town Centre Master Plan to ensure that recreation and sporting facilities in the area are protected.

1. Draft Variation No. 226

Introduction

1.1. On 14 March 2004, the Minister for Planning forwarded to the Standing Committee on Planning and Environment for consideration and report, Draft Variation to the Territory Plan No. 226 – Phillip Pool (DV 226). Appendices 1 and 2 show the land policy changes proposed by DV 226 respectively.

1.2. The Committee's report to the Legislative Assembly addresses the background and intent of (DV 226), Phillip, Section 22, Block 2, Phillip Pool (site of swimming pool and ice skating rink).

1.3. The pool is a government-owned asset, which was built in the late 1960's, and is managed by the Department of Urban Services. For the past ten years it has been tenanted by a private company, this agreement having lapsed. The pool lease is now operated on a year-by-year basis.

1.4. ACTPLA has advised that the infrastructure is aging and in need of renovation, but the existing short-term arrangements between the tenant and the Territory 'are not conducive for attracting the investment needed to undertake upgrading works. The Government is aware that the future provision of a public pool in Phillip may depend on some form of redevelopment being pursued in order to cross subsidise the operational costs of retaining the pool'⁴.

Changes to the Territory Plan & Written Statement

1.5. DV 226 proposes to vary the Territory Plan by adding an Area Specific Overlay to the existing Entertainment Accommodation and Leisure land use policy for this site. ACTPLA advises the purpose for doing this is to ensure that a 50-metre pool facility for public use is retained on this site if a long-term lease offer for the pool site is progressed now or in the future. It also proposes to include a specific clause in the Territory Plan Written Statement that 'No variation to the lease, that would have the effect of removing the requirement for a 50 metre swimming pool to be maintained and operated on the site and made available for public access for a minimum of five (5) months each year, shall be approved.'⁵

⁴ Annexure 1 Variation to the Territory Plan No.226. page. 3

⁵ *ibid*, page.3

1.6. The variation also makes provision for the private sector to come forward with a development proposal that supports the operational costs of providing a public facility. ACTPLA confirmed that to date no development proposals have been received.

1.7. The Committee also notes that any development concept which does not include a 50 metre pool will only be considered by initiating a further Variation to the Territory Plan, which will require a process of public consultation and deliberation.

The Ice Skating Rink

1.8. The Committee is concerned that it is not clear from the information provided by ACTPLA if the ice rink, which is co-located on the same site as the pool, is to be afforded the same long-term protection as the pool (i.e. the pool and ice-rink are located on Section 22 Block 2). The Committee notes that this is the only ice rink operating in the Canberra region and sees it as essential that this facility is also maintained and operated and made available for public access.

1.9. The Committee was advised by the Minister's office 'that there is no intention to conserve a skating rink. It was provided by the lessee i.e. private and not in government ownership' as it is a lessee funded asset. The Government does not provide skating rinks it has traditionally provided municipal swimming pools of which Phillip is one hence the need to preserve if the pool is leased'⁶. The Committee is of the view that such an approach is unacceptable for the ice skating rink, and that Draft Variation 226 must incorporate long term and consistent treatment for the rink as for the pool.

The Draft Woden Town Centre Master Plan

1.10. The Committee referred to the draft Woden Town Centre Master Plan to ascertain the consistency of proposed policy directions of the draft Plan with Draft Variation 226. The Committee notes that following a consultation process for the draft Plan which commenced in 2001, the Draft Master Plan concludes that 'In addition, the swimming centre, ice skating rink and squash courts are showing their age and from time to time suffer from changes in people's sporting preferences. A greater mix of uses in the area that retains entertainment and leisure activities at ground level but permits other

⁶ Advisor, Office of the Minister for Planning, 5 April 2004

activities at first floor levels and above will help attract reinvestment in the northern entertainment precinct’⁷.

1.11. The Committee further notes that the Draft Plan identifies a framework that helps preserve and enhance the leisure facilities in Woden by ‘facilitating lease changes that will allow private investment to enclose and upgrade the swimming pool, increase the size of the skating area and increase spectator capacity. Incorporate first floor office space to improve viability of the facility.’⁸

ACTPLA Public Consultation Process

1.12. DV 226 was initially released for public comment on 12 December 2003, with a closing date for comments on 18 February 2004. A notice for the Legislation Register was published on 12 December 2003 and in the Canberra Times on 13 December 2004. ACTPLA received a total of five submissions each of which expressed support for the proposal.

- Submission 1 & 3 – Woden & Tuggeranong Community Councils strongly endorsed the proposal but sought advice from ACTPLA regarding the planning control that requires the pool to be operational for a minimum of 5 months of the year;
- Submission 2 - Mr Mike Reddy a local resident and regular user of the outdoor pool supported the variation;
- Submission 4 - ACT Swimming Inc supports the variation and advised they ‘are not adverse to the pool being managed by a contract arrangement, however they firmly believe that the pool should remain in community ownership’⁹.
- Submission 5 – Weston Creek Community Council is in general agreement with the proposal to ensure that a 50-metre swimming pool is retained on the site. The Council also advised that 7-8 years ago when the future of the pool was discussed the Council opposed any move to upgrade the pool from its present outdoor status and believes this view has not changed.

1.13. The Committee fully supports the comments provided by ACT Swimming Inc in its submission to ACTPLA that the swimming facilities

⁷ Draft Woden Town Centre Master Plan, March 2003, page.40

⁸ Draft Woden Town Centre Master Plan, March 2003, page.104

⁹ Appendix 4 Draft Variation to the Territory Plan No.226, Submission 4

located in the southern region of Canberra have changed considerably since the release of a government report in 1997 which suggested that the southern region of Canberra was relatively well catered for in terms of swimming facilities (e.g. closure of Deakin Health Spa pool).

Conduct of Inquiry

1.14. The Committee reviewed the proposed policy changes and noted the public consultation process undertaken by ACTPLA between 12 December 2003 and 18 February 2004, which resulted in it receiving five (5) submissions, all of which expressed general support for the Draft Variation. The Committee therefore resolved not to seek public submissions for Draft Variation No.226.

1.15. The Committee in its deliberations noted that ACTPLA had also consulted with the following organisations:

- Conservator of Flora and Fauna – supported the variation provided that the extent of public access is clarified by amending wording for the Control for Leave Variations to ‘... made available for public access for a minimum of five (5) months each year shall be approved¹⁰.’ The committee noted that ACTPLA prepared the Variation in accordance with the comments received.
- The National Capital Authority – considered the draft Variation ‘to be not inconsistent with the provisions of the National Capital Plan’¹¹
- The ACT Heritage Council - expressed no concerns with the proposal.

¹⁰ Appendix 1 Draft Variation to the Territory Plan No.226. page. 8

¹¹ Appendix 2 Draft Variation to the Territory Plan No.226

2. Conclusion

Recommendation 1

2.1. The Committee recommends that the Government proceed with the implementation of Draft Variation No.226 and that the Minister investigate its extension so that the lease on ice skating rink also be afforded the same long term protection as the pool. The Committee acknowledges that the actual structure of the ice skating rink is privately owned and therefore not an ACT Government asset.

2.2. The Committee fully supports the requirement that the Territory Plan Variation include a specific clause in the Territory Written Statement that prevents a lease variation being approved (for additional development) unless a 50-metre swimming pool and an ice skating rink is maintained and operated on Section 22, Block 2, (site of swimming pool and ice skating rink), and made available for public access.

2.3. The Committee also endorses the requirement that ensures that the pool is accessible to the public for a minimum of five months and possibly extended if the season permits.

Recommendation 2

2.4. The Committee recommends that any future development application or lease variation for the pool and ice skating rink site is considered in conjunction with the Woden Town Centre Master Plan to ensure that recreation and sporting facilities in the area are protected.

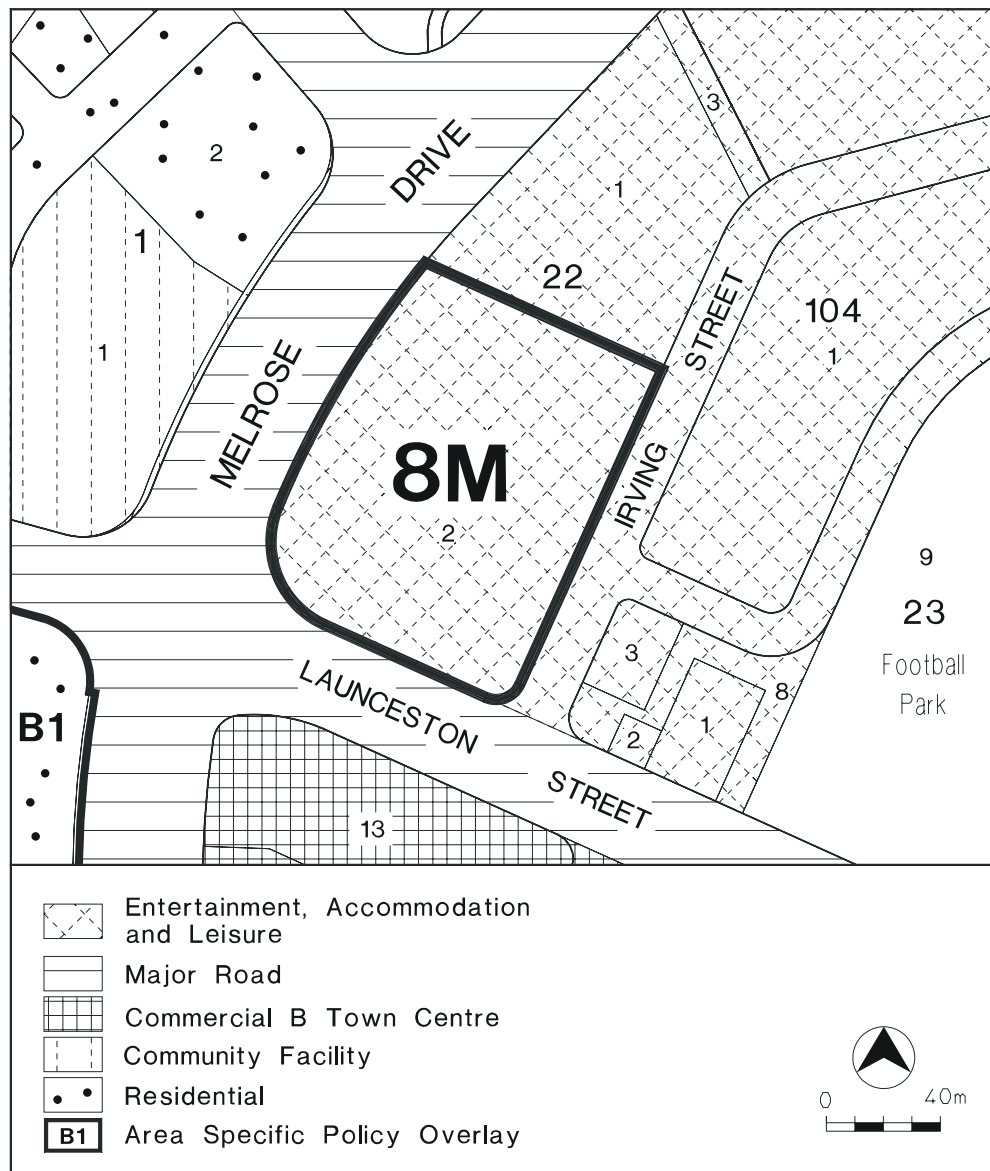
Roslyn Dundas MLA

Chair

16 April 2004

Appendix 1 – Variation to the Territory Plan Map

The Territory Plan Map is varied by adding the 8M Area Specific Overlay to Section 22 Block 2 Phillip as indicated in the figure below.

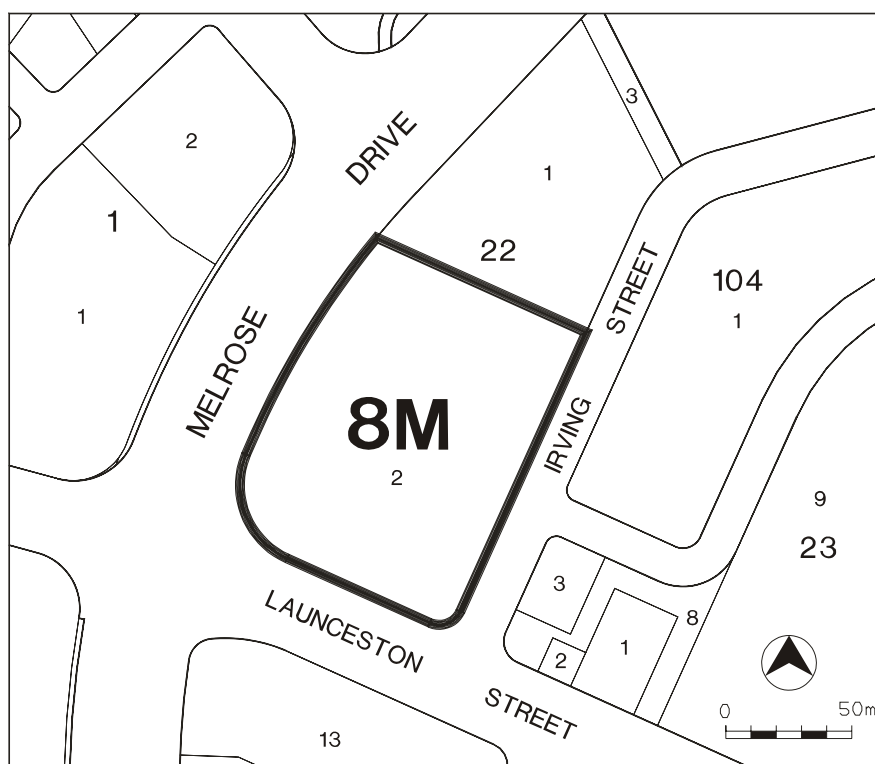


Appendix 2 – Variation to the Territory Plan Written Statement

Part B8: ENTERTAINMENT ACCOMMODATION AND LEISURE LAND USE POLICIES is varied by adding:

“Area 8M Phillip Public Pool”

Section 22 Block 2 Phillip



Objective

Add to Clause 1:

to ensure provision is retained for a public 50 metre swimming pool.

Control

a) Lease Variations

No variation to the lease [shall be approved](#) that would have the effect of removing the requirement for a 50 metre swimming pool to be maintained and operated on the site and made available for public access [for a minimum of five \(5\) months each year.](#)”

Appendix 3 - Acronyms

ACTPLA ACT Planning and Land Authority

DV 226 Draft Variation to the Territory Plan No. 226 – Phillip Pool

Draft Plan The Draft Woden Town Centre Master Plan