



Legislative Assembly for the Australian Capital Territory

Draft Variation to the Territory Plan No.63
Polices for Home Businesses and Home Occupations

Report No.13 of the Standing Committee on Urban Services

October 1998

On 28 April 1998 the Legislative Assembly for the Australian Capital Territory resolved to establish a general purpose standing committee, called the Standing Committee on Urban Services, to inquire into and report on:

planning and lease management, road and transport services, housing and housing assistance, government purchasing and public utilities purchasing, electricity industry and regulation, construction industry policy, parks and forests, private sector employment inspectorate, building services, environment, heritage and municipal services and any other matter under the responsibility of the portfolio minister.

Also on the same day, the Legislative Assembly resolved:

If the Assembly is not sitting when the Standing Committee on Urban Services 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 203 of 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, circulation and publication.

Minutes of Proceedings (Fourth Assembly) No.2, 28 April 1998

Committee Membership

Mr Harold Hird MLA (Chair)
Mr Dave Rugendyke MLA (Deputy)
Mr Simon Corbell MLA (appointed on 25 June 1998, replacing
Mr Wayne Berry MLA)

Secretary: Mr Rod Power

Background

1. Section 25 of the *Land (Planning and Environment) Act 1991* requires the government to refer each 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.
2. Section 26 of the Land Act states that 'the Executive shall have regard to any recommendations' of the appropriate Assembly committee.
3. The Standing Committee on Urban Services is the 'appropriate' committee in the Fourth Assembly.
4. On 12 October 1998 the Minister for Urban Services, Mr Brendan Smyth MLA, referred to this committee the draft Variation and background papers relating to draft Variation No.63: *Policies for Home Businesses and Home Occupations*.

The draft Variation

5. The draft Variation proposes to amend some of the current provisions relating to the control and definition of *Home occupation* and *Home business* use under the Territory Plan.
6. The amendments recognise the growth in home-based employment and principally aim to better define the scope of uses by focussing on impacts and strengthening some of the controls. In addition, some existing inconsistencies between Home occupation and Home business uses have been corrected.
7. In summary, the amendments:
 - focus on the amenity impacts of the *Home occupation/Home business* activity rather than specific uses;
 - ensure that impacts of the use are kept aligned with normal residential use and activity levels - and do not disrupt surrounding residents or adversely impact on the environment;
 - recognise the technological, social and economic changes occurring in the employment sector and make provision for small business enterprises to develop;
 - do not preclude people choosing to work from home from operating low-level retail activities;
 - correct unintended anomalies between *Home occupation* and *Home business* activities; and

- make general reference (instead of specific reference) to relevant Territory legislation.

Consideration by the committee

8. On 30 October 1998 the committee was briefed on the draft Variation by government officials from PALM. The committee expresses its appreciation to these officials, and in particular to Ms Graham, for the high standard of this briefing.

Recommendation

9. The committee endorses draft Variation to the Territory Plan No.63: *Policies for Home Businesses and Home Occupations*

10. Further, the committee recommends that, where the Policies refer to the need to comply with 'any relevant Territory legislation', mention is also made of the need to comply with 'any relevant Code of Practice'. This will ensure that the Policies cover the situation where a code of practice applies (such as that applying to the home parking of heavy vehicles) even if that code does not have explicit legislative backing.

Postscript

11. The *Land (Planning and Environment) Act 1991* requires the ACT Executive to have regard to any recommendation contained in a report of an appropriate committee of the Legislative Assembly before approving a draft Variation to the Territory Plan. If it does approve a draft Variation following the committee's report, the Executive must table its decision within five sitting days of approval.

12. A further five sitting days is then provided for any member of the Assembly to move that the Variation be rejected in whole or in part. Any such motion must be dealt with by the Assembly within five sitting days.

13. If a Variation is not rejected by the Assembly, the ACT Planning Authority (now the Planning & Land Management Group of the Department of Urban Services) will publish a notice in the *Gazette* specifying the date of commencement of the Variation.

Harold Hird MLA
Chair (30 October 1998)