

The Planning and Environment Committee
Legislative Assembly of the ACT

Dear Committee Members

Draft Variation to the Territory Plan No 263

Attached is the submission from the Kaleen High School Board in relation to the Draft Variation to the Territory Plan No 263.

The Board requests that a public hearing be held in relation to this matter and that the Board be given the opportunity to address the Committee. The Board also requests the all members of the Committee visit Kaleen High School and meet with the Board at Kaleen High School to gain an appreciation of the impact of the Draft Variation.

The contact person in relation to this matter is Christine Kallir Preece, who can be contacted on 0419 440 391 or via the school on 6205 5811.

The Board looks forward to hearing from you in relation to the public hearing about this matter.

An acknowledgement of receipt of this submission is requested.

Yours sincerely

Christine Kallir Preece
Chair
Kaleen High School Board

Kaleen High School

**Submission from Kaleen High School Board
to
Assembly Planning and Environment
Committee**

Draft Variation to the Territory Plan No 263

May 2007

Background

Kaleen High School occupies Block 1 Section 101, Kaleen, Belconnen, ACT and operational areas of the school infrastructure borders Block 23 Section 117, which is the subject of the Draft Variation Number 263 to the Territory Plan. Kaleen High School has operated on this site for the last thirty (30) years and is the designated Agriculture school in Belconnen.

The Kaleen High School Board is responsible, under the *Education Act 2005*, for:

- Educational policy and curriculum;
- Advising the ACT Department of Education and Training in relation to the needs of the school, including resources and related issues.

Enrolments at Kaleen High School are expected to grow with further growth in the area, including development of Lawson in the coming years. Kaleen High School enjoys strong support from the families of students and from the broader local community.

The land immediately adjacent to Block 23 Section 117 Kaleen is used as an operational agriculture plot for teaching students Agriculture in the Science Faculty. This subject has run throughout Kaleen High School's 30 years of operation. There is (and always has been) at least one class undertaking full time study in agriculture each semester. Use of the agriculture plot inevitably involves noise generated by students and staff. The area is also used by surrounding primary schools and colleges for ongoing study of permaculture techniques.

The agriculture plot, covering approximately 1.6 hectares or 16,000 square metres, has a range of undertakings, which include:

- Gardens
- Small animals, such as poultry: fowls, ducks, geese, pea fowl etc
- Medium sized animals, such as Saanen goats, sheep
- Large animals, such horses, alpacas, weaner calves.

Currently there is a range of small and medium animals and breeding is an integral part of this program, so both male and female animals are kept!

There is noise generated by the breeding animals eg. roosters, peacocks etc. The Pea fowl are only semi domesticated and range in an area adjacent to the proposed development. Some of the major animal housing infrastructure is near the north east boundary of the school grounds. All the poultry and goats are locked away at night for protection but can still be noisy and, under certain conditions, smelly, eg if a Billy Goat is brought on site for breeding purposes.

Kaleen High School has an ongoing program of developing the Agriculture area with a focus on sustainability. Currently the school is working on projects under an Australian Schools Innovation in Science, Technology and Mathematics Grant valued at \$90,000. This project involves development of a permaculture facility as a centre of excellence. This facility will be used by numerous local schools for curriculum work and will involve frequent visits from students of all ages.

There is no other suitable location at Kaleen High School to house the agriculture plot.

The Agriculture programs operate at all times within the requirements of ACT Legislation covering the keeping animals adjacent to residential buildings and in relation to creation of a public health nuisance. The operation of the relevant legislation depends, in part, on the distance between any animals and the nearest residential buildings.

Current residential buildings closest to the agriculture plot are at a much greater distance than is required to comply with the various legislative provisions. This is because Block 23, Section 117 is currently subject to the Restricted Access Land Use Policy.

The school buildings adjacent to the agriculture plot are at sufficient distance to comply with current legislative requirements that would apply if the school buildings were considered to be residential in nature. The school is in operation between approximately 9 am and 3 pm, five days per week.

The main times for noise and nuisance in relation to animals adjacent to residential buildings is around dawn and dusk and, to some extent, during the night (eg in relation to peacocks). The school does not operate during the periods when animals are most likely to cause noise or nuisance.

In addition, there are tennis courts on the Kaleen High School site. Students use these courts for racquet and other ball sports continuously, as PE/Health is a compulsory subject at Kaleen High School.

The Planning Study

ACTPLA agreed to a Planning Study being prepared to provide the information required to determine whether a variation to the Territory Plan could be supported. The Authority states that it undertook an evaluation of the Planning Study and in August 2005 advised the proponents that a draft variation to the Territory Plan was supported.

The ACTPLA report on consultation in relation to the draft variation states, at page 4, that the Planning Study aims to demonstrate the feasibility of the parcel of land accommodating a supportive housing development.

Page 14 of the ACTPLA report on consultation in relation to the draft variation states :

“during the preparation of the Planning Study the consultant to the proponent undertook community and agency consultation. The consultant has acknowledged that a reference in the Planning to the Kaleen High School principal having been consulted was an error.”

As is evident from the relevant maps, the border between Block 23, Section 117 and Kaleen High School (Block 1, Section 101) is the longest border with a block adjoining Block 23, Section 117.

The Planning Study is manifestly deficient due to the failure of the consultant to the proponent to consult with the occupier of such a significant adjoining block. The error now acknowledged by the consultant raises serious questions about the veracity of other statements about consultation included in the Planning Study.

ACTPLA has not responded appropriately to the revelation that the Principal of Kaleen High School was not consulted during the Planning Study. The implications of the failure to consult with the school are enormously significant. This is because all of ACTPLA's decision making in relation to the making of the draft Variation relies on the Planning Study to demonstrate the feasibility of the parcel of land accommodating a supportive housing development.

The feasibility of any parcel of land accommodating a supportive housing development depends on such a development being able to co-exist with the current neighbouring land uses. Without appropriate consultation with Kaleen High School, it was not possible for the consultant to the proponent to reasonably establish that a supportive housing development would be able to co-exist with current neighbouring land uses. The consequence is that the Planning Study is fatally flawed and therefore should not have been relied upon by ACTPLA to reach the conclusion that a variation to the Territory Plan could be supported.

Although the consultant to the proponent has now admitted to this significant flaw in the Planning Study, ACTPLA has not revisited its original decision to support the draft variation based on the study. ACTPLA has not itself obtained relevant information as to whether a supportive housing development could co-exist with the current use of the school site.

The Planning Study also incorrectly asserts that the Bocce Club facilities on Block 23, Section 117 were established prior to the development of Kaleen High School. Kaleen High School has been in operation for thirty (30) years and the lease on Block 23 was granted to the Bocce Club in 1986/7, approximately twenty years ago.

Clearly the assertion in the Planning Study is not correct. It is cause for further concern about the accuracy, or otherwise, of other statements in the Planning Study.

The Kaleen High School Board does not have the resources, capacity, knowledge or skills to verify other statements in the Planning Study (eg in relation to the demand for aged care accommodation) on which the proponent relied in its approach to ACTPLA and upon which ACTPLA relied in supporting the Draft Variation. The Board calls on the committee to seek independent verification of significant assertions in the Planning Study prior to proceeding with a recommendation in relation to the draft variation.

Maintaining the operations of Kaleen High School into the future

Any changes in land use policy in relation to Block 23, Section 117 will have significant potential impacts in Kaleen High School's current and future operations. Kaleen High School is currently able to comply with existing legislative requirements in relation to the keeping animals adjacent to residential buildings and in relation to creation of a public health nuisance because the agriculture plot is not currently adjacent to any residential dwellings. This is due to Block 23, Section 117 being currently subject to the Restricted Access Recreation Land Use Policy.

Any change in land use policy which could result in residential dwellings being constructed in such a location on Block 23, Section 117 that it would no longer be possible for the school to comply with existing legislative requirements will have a significant impact on school operations. The proposed change to Community Facility Land Use Policy would allow residential accommodation to be built on Block 23, Section 117.

The land use policy for Block 23, Section 117 should put in place controls to ensure sufficient set back of any residential building on Block 23, Section 117 such that there is adequate distance between any residential buildings and those areas of the school grounds which make up the agriculture plot to ensure that the school's continued compliance with the existing legislative requirements can continue without disturbing the current use of the school property.

Similarly controls on height should be put in place to ensure that buildings do not overshadow the agriculture area – again to ensure that programs at the school can continue without disturbing the current use of the school property.

It is in the interests of all parties that those controls be put in place at the land use policy stage so that there is certainty as to the nature and scope of any permitted future development on the site. These controls could be implemented by way of conditions on any lease granted under a proposed change in land use policy.

Undertakings given by the proponent

The Kaleen High School Board has significant reservations about statements of intent and undertakings given by the proponent in relation to Block 23, Section 117.

A major cause of our reservations is the progress of this matter to date, in relation to actions on the relevant block and in relation to consultation issues (already addressed above).

The Board is aware that late in April 2007, demolition work in respect of existing buildings on the site commenced without the necessary approvals having been obtained from ACTPLA. The Board is concerned that such action demonstrates disregard for the planning and development approval processes in place in the ACT. The Board recommends that the Committee notes these circumstances and makes recommendations that would ensure the proponent delivers on statements of intent and undertakings given in relation to Block 23, Section 117.

Requirement for a Section Master Plan to be developed

The nature of the proposed change to the land use policy for Section 23, Block 117 is such that development of Section Master Plan should be required to ensure that there is adequate opportunity for discussions to occur and agreements to be reached between the proponent and neighbours and other interested parties. This would enable any work in relation to any subsequent development to proceed on the basis of publicly known parameters.

The development of a Section Master Plan should be based on a full Environmental Impact Statement.

Prior to the approval of a Section Master Plan, the proponent should be required to demonstrate (rather than assert) that there has been appropriate consultation and negotiation with neighbours and other interested parties.

An innovative approach to ensure that the community benefits from any change to land use policy in relation to Block 23, Section 117

The proposed variation provides an opportunity to take an innovative and longer term view of the potential uses of Block 23, Section 117. Rather than

just allow a change of land use policy, the Board suggests that the committee recommend a more innovative approach with broader community benefits.

What the Board has in mind is that a compact water treatment facility be established on the site as part of the change in land use. This facility could be used to treat black water from the school as well as from the development on Block 23, Section 117 to grey water standards. The treated water could then be used for toilets in both areas as well as for irrigation for Kaleen High School oval, the adjacent Kaleen Community Ovals. Subject to availability, such water could also be provided to Kaleen Primary, Maribyrnong Primary and Giralang Primary and adjacent public playing fields. This would enable those areas to be maintained as vital community use areas and would encourage active participation by a range of community members.

The Board's thinking on this proposal has not been subject to detailed feasibility testing which is outside both the capacity and competence of the school board to undertake. However in view of the current concerns about the impact of longer term availability of potable water, the Board believes that such a proposal warrants further consideration.

This proposal provides an opportunity to improve the amenity of surrounding areas without adverse effects on any part of the community.

Traffic, safety and pedestrian issues

The Board has outlined in its submission to ACTPLA its concerns about traffic, safety and pedestrian issues. The Board's comments relate to the local traffic situation. The Board anticipates that the completion of the Gungahlin Drive Extension will significantly reduce the level of through-traffic in the area.

The Board is of the opinion that responding to these local traffic issues is a matter for government. The possibility that a change of land use policy in relation to Block 23, Section 117 might involve the developer of that block in some improvement in relation to existing local traffic issues is not a valid reason to change the land use policy on the block in question.