



Legislative Assembly for the ACT

STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT

Draft Variation to the Territory Plan No 243

Aged Care Facility Monash

DECEMBER 2004

Report 1

Committee membership

Mick Gentleman MLA	Chair
Zed Seselja MLA	Deputy Chair
Mary Porter AM MLA	
Secretary:	Hanna Jaireth
Administration:	Judy Moutia

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....
- (3) 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 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, publication and circulation.¹

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.

¹ 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)² 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)³ (the Act) requires the Territory Plan to set out the planning principles and policies for giving effect to its object,⁴ 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.⁵

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*.⁶

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 for

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

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

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

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

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

consideration and report,⁷ – currently the Standing Committee on Planning and Environment. The Minister is required to have regard to the Committee’s recommendations before approving the proposed variation, or returning it to the ACT Planning and Land Authority with written directions for further action.⁸

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.⁹

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.¹⁰ If the Minister approves it, he will table the proposed variation and associated documents in the Legislative Assembly.¹¹ Unless wholly or partially disallowed by the Assembly within five sitting days, the variation will commence on the date nominated by the Minister.

⁷ Land (Planning and Environment) Act 1991, section 25.

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

⁹ Land (Planning and Environment) Act 1991, section 9.

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

¹¹ Land (Planning and Environment) Act 1991, section 29.

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Summary of recommendations

RECOMMENDATION 1

1.21. The Committee recommends that entry and exit driveways for the complex should be very carefully sited, and a slipway should be considered for Isabella Drive. There must be adequate traffic signage erected in the vicinity of the proposed development, to ensure public safety.

RECOMMENDATION 2

1.22. The Committee recommends that Draft Variation No. 243 be agreed to.

Introduction

1. Draft Variation to the Territory Plan No. 243 (DV243) proposes changes to the Territory Plan as follows:

- replace Urban Open Space Land Use Policy on Block 1 Section 53 Monash, Block 2 Section 50 Monash and part Block 3 Section 50 Monash with Community Facility Land Use Policy; and
- replace Entertainment Accommodation and Leisure land Use Policy on part Block 3 Section 50 Monash with Community Facility Land Use Policy.

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.

The proposed site is mainly undeveloped open space, but Block 2 Section 50 is currently leased to Environment ACT. The air quality monitoring and weather forecast station will need to be relocated if DV243 is approved.

2. On 24 September 2004 the Minister for Planning, Mr Simon Corbell MLA, forwarded a copy of DV243 to the former Standing Committee on Planning and Environment of the Fifth Assembly, for consideration and report.

3. Since there was insufficient time for the Committee to consider the proposal before the Assembly dissolved for the 2004 election, on 28 September 2004 the Committee Chair advised the Minister that DV243 would be considered by the Committee in the Sixth Assembly.

4. On 7 December 2004 the Standing Committee on Planning and Environment was formed for the Sixth Assembly. Mr Mick Gentleman was elected Chair at the Committee's first meeting on 9 December 2004.

5. The Committee considered DV243 on 21 December 2004. Since the issues had been in the public domain for some time, and the Planning Study and Preliminary Assessment found no major issues of concern in the proposal, the Committee decided to proceed directly to report and not call for submissions or hold public hearings.

Background

6. Goodwin Aged Care Services provides aged care accommodation in Cockcroft Avenue, Monash. The organisation has sought additional land on the corner of Cockcroft Avenue and Isabella Drive, adjacent to their current site, so that it can build a hostel/nursing home (100 beds) and independent

aged persons units. The land sought by Goodwin is currently subject to land use policies of Urban Open Space, and Entertainment, Accommodation and Leisure, which do not permit the development of accommodation for aged persons.

7. Since the proposal involves replacing land designated as Urban Open Space with a Community Facility land use, the proponent (nominated as the ACT Land Development Agency) a mandatory Preliminary Assessment had to be undertaken.¹²

8. In April 2004 an independent Planning Study was submitted to the ACT Department of Urban Services, addressing two distinct components: a soccer club and associated playing fields and facilities, and an aged care facility. The study found that a retirement complex could be developed on the land. It considered that the site might also be suitable for a soccer club or indoor sporting venue, but that further impact assessments would be required. The study concluded that proposed retirement complex would have a net positive impact on the Tuggeranong area.¹³

9. The final Preliminary Assessment was submitted to the ACT Planning and Land Authority on 19 July 2004. It was advertised with DV243 in *The Canberra Times* on 24 July 2004 and in the *Legislation Register* on 23 July 2004. It was also available on the ACT Planning and Land Authority website during the consultation period that closed on 3 September 2004.

10. The Assessment outlined existing environmental conditions and the potential impacts of the project on the physical, human, non-human physical environment and potentially beneficial impacts. Its conclusions recognised that there is a critical need for the provision of aged care facilities in Canberra and specifically in Tuggeranong, and that the development could be economically viable and had strong co-location opportunities with the adjacent Monash Retirement Village. Overall there would be a net positive impact for the Monash and Tuggeranong community.¹⁴

11. The ACT Planning and Land Authority did a technical evaluation of the Preliminary Assessment and decided, pursuant to sub-section 121(1) of the *Land (Planning and Environment) Act 1991* that no further environmental

¹² Under *Land (Planning and Environment) Act 1991* (ACT) section 114 and Schedule II.I, Appendix II of the Territory Plan.

¹³ GHD Pty Ltd, *Block 1 Section 53 and Part block 3 Section 50 Monash Planning Study: Report to Urban Services*, April 2004.

¹⁴ Land Development Agency/ GHD Pty Ltd, *Block 1 Section 53 and Part Block 3 Section 50 Monash Preliminary Assessment Residential Care Accommodation: Final Report to the ACT Government*, July 2004, pp.41–42.

impact assessment under Part 4 of that Act was required in relation to the project. The Authority found that various outstanding issues could be resolved through the amendment and approval of the Lease and Development conditions, and in consultation with Environment ACT and Health Protection Services. The relocation of the Air Quality Monitoring Station, and the planting of replacement trees following the relocation of the monitoring station were two of the more significant issues not addressed in the Preliminary Assessment. The Authority made recommendations in relation to numerous issues including access, storm water, sewerage, electricity, telecommunication, water supply, waste management, construction activities, social issues, and water quality.

12. In August 2004, in Report 34, the former Legislative Assembly Standing Committee on Planning and Environment inquired into and reported on long term planning for the provision of land for aged care facilities in the ACT. The Committee found that there are insufficient residential aged care places available to meet increasing demand. It noted that at the time of its inquiry, almost 500 people in the ACT were on a waiting list for a high care residential place.¹⁵ It recommended that the Government prioritise the allocation of land for the development of residential aged care places and increase land allocated for such purposes.¹⁶

13. The ACT Planning and Land Authority, in its explanatory statement for the proposal, noted the shortage of aged care accommodation in the ACT and assessed the impact of the loss of urban open space. It noted that Monash had relatively more urban open space than nearby suburbs. It considered that the removal of the Entertainment, Accommodation and Leisure Land Use Policy is justified because Block 3 Section 50 is in a residential area that would preclude various activities under that land use policy. In addition, the Authority said that such uses were well provided for in Tuggeranong and there were no known shortages of land for entertainment accommodation and leisure. The Authority noted that an alternative site was available for the Air Quality Monitoring Station and co-located weather station. It also noted that the right turn entry into Isabella Drive from Cockcroft Avenue was difficult during peak times and that traffic noise attenuation measures would be considered during the detailed design stage of the development.¹⁷

¹⁵ Standing Committee on Planning and Environment, *Long-Term Planning for the Provision of Land for Aged Care Facilities in the ACT: Report 34*, August 2004, p.33.

¹⁶ Recommendation 2, paragraph 5.12.

¹⁷ ACT Planning and Land Authority, *Annexure 1, Recommended Final Variation: Variation to the Territory Plan No.243, Aged Care Facility Monash*, September 2004, pp.2–4.

Consultation comments

14. The ACT Planning and Land Authority released DV243 on 24 July 2004 for public comment until 3 September 2004. Three written submissions were received in response. One submission was very supportive of the proposal and highlighted the advantages of the site. According to the Authority, community support for the proposal was also expressed at two public meetings following a letterbox drop near the site. Two written submissions and some attendees at the public meetings expressed concerns about the scope and scale of the proposed development, increased traffic congestion, noise and loss of urban space. Concern was expressed that this site was large and should be retained for future open space options that are not available on smaller sites. One written submission raised various issues. These, and the response by the ACT Land and Planning Authority, are summarised in Table 1.

Table 1: Summary of issues and ACT Planning and Land Authority responses:

Public comment	Response by the ACT Planning and Land Authority
The proposed complex, including 3-storey residential accommodation, is too large for a residential area.	The design and location of the proposed 3 storey apartments are indicative only but not inappropriate in concept. Concerns can be addressed through siting and landscaping. Within 30m of residences, community facilities can only have a maximum height of 2 storeys.
Development will threaten property values of nearby residences.	No evidence was presented that the land value of nearby residences would fall. Further opportunities would be available for public comment on siting and design.
The documents released for public comment represented the area as having low value and quality open space.	The site does have low landscape and amenity value and is degraded.
Isabella Drive/Cockcroft Avenue intersection traffic will increase.	The traffic study undertaken as part of the Preliminary Assessment did not recommend upgrading the intersection.
Poor quality pathways need to be improved.	Paths will be developed around the aged care facility linking into the existing network. The community walking trail will be retained.
Loss of urban open space is a concern.	Monash has a greater proportion of open space than surrounding suburbs. Available aged care accommodation in Tuggeranong is less than half of projected demand in 2010.

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 National Capital Authority, the ACT Heritage Council and the Conservator of Flora and Fauna. The National Capital Authority advised that the draft Variation was not inconsistent with the National Capital Plan. The ACT Heritage Council advised that they had 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.

16. Other ACT Government agencies were consulted about the relocation of the air quality monitoring facility and weather station. The relocation was to be addressed in the Lease and Development Conditions prepared by the Land Development Agency prior to release for sale of the land. The relocation would require a stand of pine trees to be removed.

Committee comments

17. The committee is of the view that DV243 will enhance the prospects for ageing with dignity for many residents in Tuggeranong. There is a pressing need for more quality aged care accommodation in Canberra, and in Tuggeranong in particular. As one submission noted, the new facility would enable older Tuggeranong residents to remain in their local neighbourhood, near friends and possibly family.

18. Members have considered the scale of the proposed development and note that its location and layout will reduce its possible impact, since the block is very large, and the proposed 3-storey part of the complex must be located away from nearby residences.

19. The Committee acknowledges the concerns expressed by a resident who lives opposite the proposed development in DV243, but agrees with the ACT Planning and Land Authority that the former Entertainment Accommodation and Leisure land Use Policy over the site could have permitted land uses that may have been less desirable from the point of view of amenity and residential land values.

20. The Committee emphasises the need to prevent congestion and possible accidents caused by traffic arrangements around the proposed development, particularly along Isabella Drive and Cockcroft Avenue. Entry and exit driveways should be very carefully sited, and a slipway should be considered for Isabella Drive. Adequate signage is also an essential additional public safety requirement.

21. The Committee notes that the proposal for a soccer club and associated playing fields and facilities that had been addressed in the Planning Study has not been progressed, and that under the final recommended variation the rest of Block 3 Section 50 will remain as Urban Open Space (see also Appendix 2).¹⁸

Recommendation 1

22. The Committee recommends that entry and exit driveways for the complex should be very carefully sited, and a slipway should be considered for Isabella Drive. There must be adequate traffic signage erected in the vicinity of the proposed development, to ensure public safety.

Recommendation 2

23. The Committee recommends that Draft Variation No. 243 be agreed to.

Mick Gentleman MLA

Chair

December 2004

¹⁸ ACT Planning and Land Authority, *Annexure 1, Recommended Final Variation: Variation to the Territory Plan No.243, Aged Care Facility Monash*, September 2004, p.3.

Appendix 1 – Current Territory Plan Policies

The existing Land Use Policy for the area subject to this variation is shown in **Figure 1.1**.

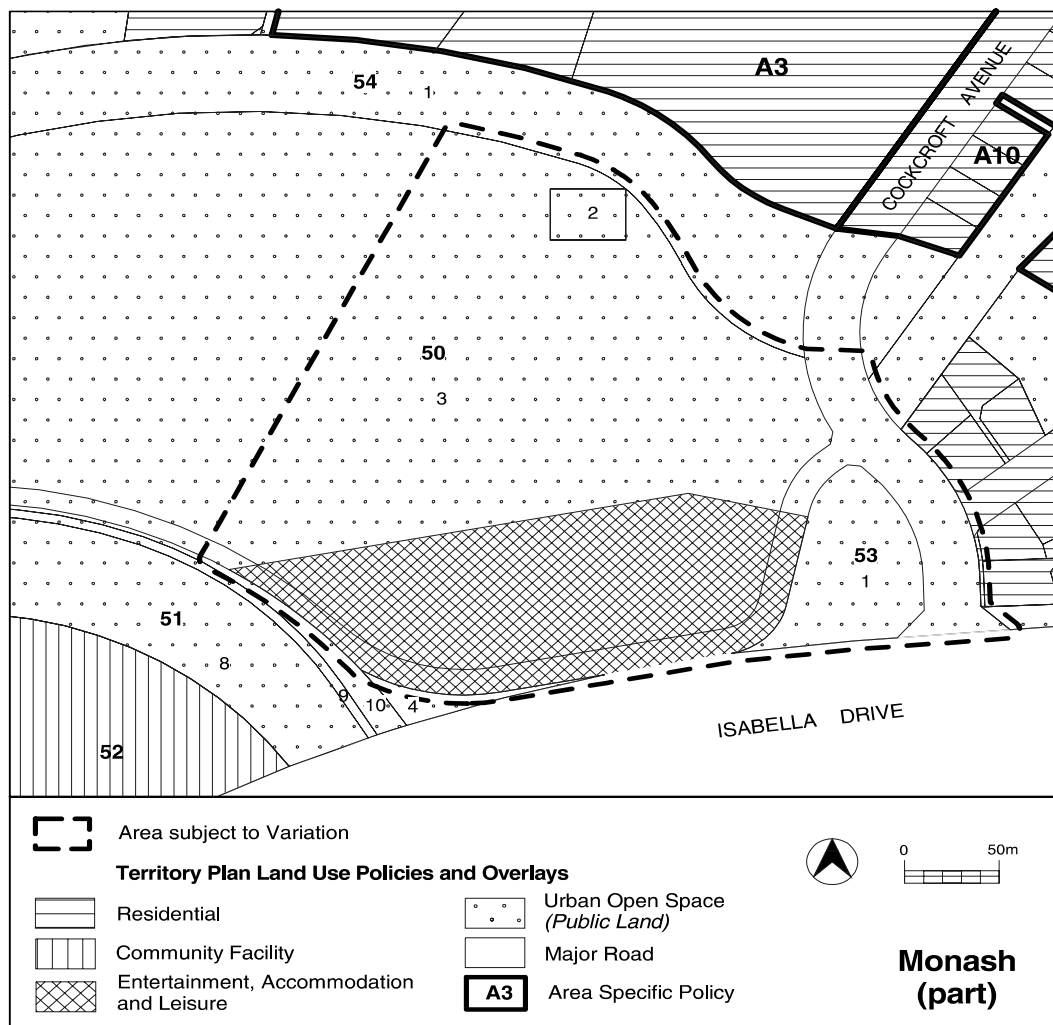


Figure 1.1 – Territory Plan Current Land Use Policies

Appendix 2 – Proposed Variation to the Territory Plan Map

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

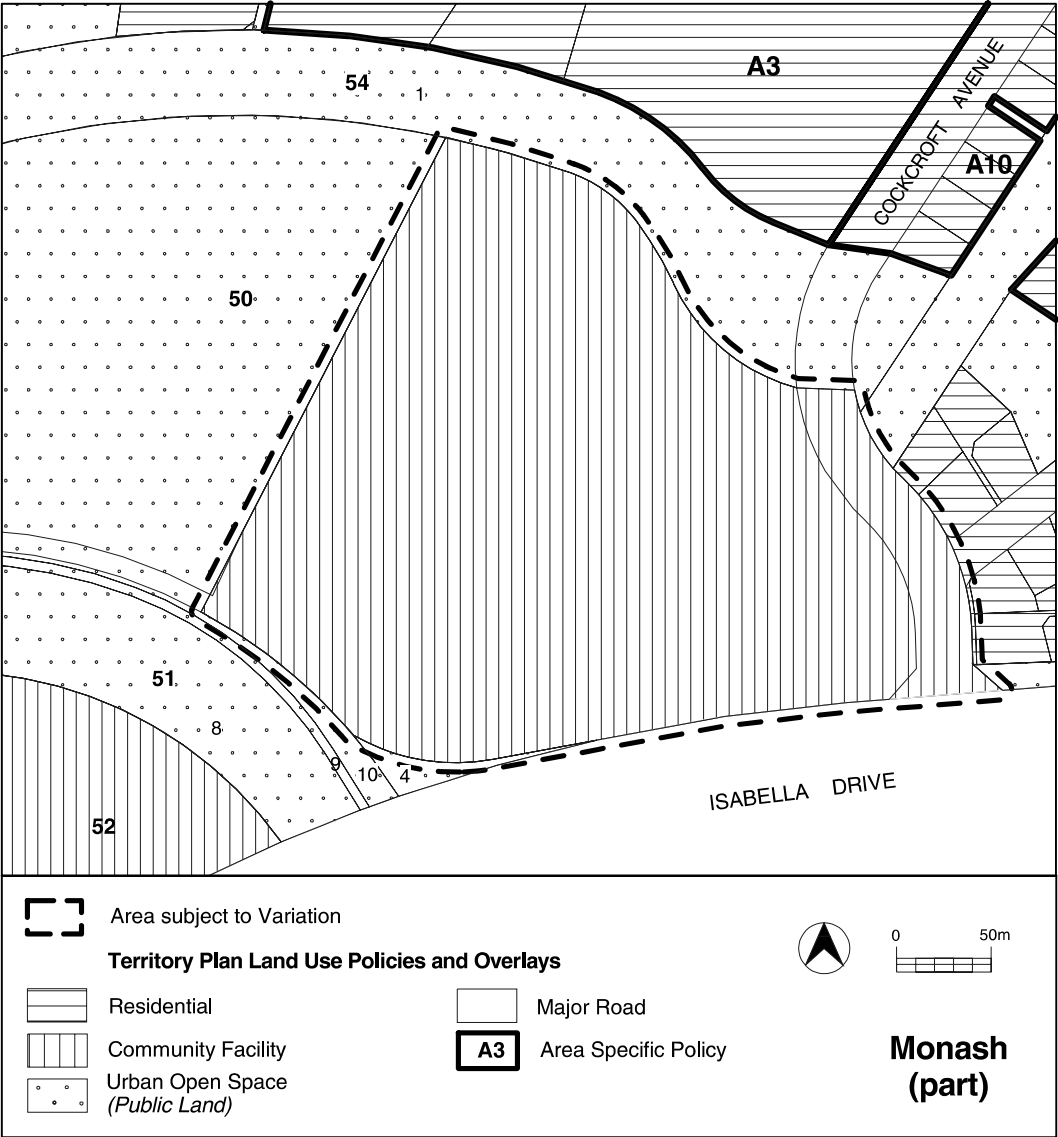


Figure 2.1 Territory Plan Proposed Land Use Policies