

2011

LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY

GOVERNMENT RESPONSE TO THE
STANDING COMMITTEE ON PLANNING, PUBLIC WORKS AND
TERRITORY AND MUNICIPAL SERVICES - REPORT NO. 11

DRAFT VARIATION 302

COMMUNITY FACILITY ZONE

Circulated by the authority of
Minister for the Environment and Sustainable Development
Mr Simon Corbell MLA

Recommendation 1

The Committee recommends that Draft Variation 302 proceed, subject to the recommendations set out below in this report

Response

Noted.

Recommendation 2

The Committee recommends that the suitability of the site for specific developments be added to the community facility zone objectives.

Response

Agreed in principle.

The inclusion of such a provision in the community facility zone objectives would duplicate Section 120(b) of the *Planning and Development Act 2007* which requires the suitability of a site to be considered in the assessment of proposals in the merit track. Specifically it requires the decision maker to consider, among other things (including the objectives of the relevant zone):

“the suitability of the land where the development is proposed to take place for the development of the kind proposed.”

Recommendation 3

The Committee recommends that the terms ‘ancillary use’ and ‘minor use’ be clarified in the Community Facilities Zones development table.

Response

Agreed.

A note similar to the following has been added to the final version of the community facility zone development, below the list of prohibited uses.

“Some uses that would otherwise be prohibited may be assessed under the merit track if they can be defined as ancillary use or minor use. For example, a *car park* alone is a prohibited use, but could be considered if it is ancillary to a *child care centre* which is an assessable development under the merit track.”

Currently under the Territory Plan (section 13):

Ancillary use means the use of land for a purpose that is ancillary to the primary use of the land.

Minor use means the use of land for a purpose that is incidental to the use and development of land in the zone and includes but is not limited to open space; public car parking; community path systems; minor service reticulation; other utility services that do not exclude other uses from the land; public roads (other than major roads); street furniture and the like.

Recommendation 4

The Committee recommends that a rule linking specified categories of ancillary/minor use to other CFZ activities be included in the Territory Plan.

Response

Agreed in principle.

The notation proposed in response to recommendation 3 will clarify the purpose and role of ancillary and minor uses. The inclusion of a new rule in addition to the clarifying note would potentially reduce the flexibility that is currently available without a commensurate improvement in the quality of the planning outcome. If an otherwise prohibited use is shown by the proponent

to be either an ancillary or a minor use, and it complies fully with the Territory Plan, the proposal should be approved.

Recommendation 5

The Committee recommends that planning information on the Environment and Sustainable Development Directorate website should include details of the definitions “ancillary use” or “minor use”.

Response

Agreed.

An explanation of the purpose and function of ancillary and minor uses, particularly as they relate to prohibited uses will be added to the explanatory notes already available at the Environment and Sustainable Development Directorate website.

Recommendation 6

The Committee recommends that the ACT Government explore the possible benefits of including statements of intent in the *Planning and Development Act 2007*.

Response

Agreed.