

Draft Variation No 176 – Bruce Central Precinct

Report No 1

Standing Committee on Planning and Environment

February 2002



Committee membership

Mrs Vicki Dunne, MLA (Chair)

Ms Katy Gallagher, MLA (Deputy Chair)

Ms Roslyn Dundas

Secretary: Maureen Weeks

Administration: Judy Moutia

Resolution of appointment

- (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:
 - (f) a Standing Committee on Planning and Environment to examine matters related to planning and land management, conservation and heritage, transport services and planning, 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 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 plan 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.

Summary of recommendations

Recommendation 1

3.4. The committee recommends that the final variation, together with any associated action in the determination of the master plan, maintains the provision of the local centre.

Recommendation 2

3.10. Therefore the committee recommends that no development in the area of the Thynne Street exit to Braybrooke Street be approved without buffer zones and noise attenuation appropriate to a road with the capacity of the GDE.

Recommendation 3

3.14. Therefore the committee recommends that an R Overlay be place on section 75, blocks 1 to 4 and a contiguous area of section 85 pending commencement on the work for the Gungahlin Drive Extension. (Appendix 2 illustrates)

Recommendation 4

3.16. Accordingly, the committee recommends that the residential land immediately immediately north of the Braybrooke Street intersection with Thynne Street to the intersection of Ginninderra Drive and which the committee has recommended be subject to the R Overlay not be released for sale until work has commenced on the Gungahlin Drive Extension.

1. Introduction

The *Land (Planning and Environment) Act 1991*

1.1. The *Land (Planning and Environment) Act 1991* (the Land Act) provides for a Territory Plan to “set out the planning principles and policies”¹ to ensure that the planning and development of the Australian Capital Territory provides a “ecologically sustainable, healthy, attractive, safe and efficient environment”² for the people of the Territory. Amongst other features the Territory Plan (the Plan) details the purposes for which land may be used and the Land Act places a prohibition on any action being taken or approved that is inconsistent with the Plan.

1.2. The Land Act also establishes a regime by which the Plan can be amended. These amendments, or variations, are required to be prepared as draft plan variations and a program of consultation, both with the community and specified organisations (eg the National Capital Authority) is undertaken. Section 25 of the Land Act requires the Executive to refer the draft plan variation (Draft Variation) and associated documents to an appropriate Legislative Assembly committee together with the request that the committee “report on the draft plan to the Legislative Assembly”³. In the Fifth Assembly, the Standing Committee on Planning and Environment has been given that task by the Assembly, as one of its responsibilities.

1.3. The work of the committee in relation to inquiries into Draft Variations is not prescribed by the Land Act but rather is determined by its terms of reference and the practices and procedures that relate to all Assembly committees. The Land Act does place a requirement on the Executive to “have regard to any recommendations of a committee of the Legislative Assembly in relation to the draft plan variation, background papers and reports submitted”⁴.

1.4. The committee’s report triggers further executive action which can result in the Government’s finalisation of the variation. If government approval is given to the variation the Land Act requires that the variation and associated papers must be tabled in the Assembly within 5 sitting days of the government giving that approval. The Assembly may accept (by default) or reject (by passing a motion to disallow) the variation or any provision of the variation. The reports prepared by this committee on draft variations are to inform the Assembly in taking any action in relation to the variation.

1.5. Draft Variation No 176 to the Territory Plan relating to Bruce Central Precinct is the first Draft Variation on which this committee has prepared a report to the Assembly.

¹ Land (Planning and Environment) Act 1991, section 7 (2).

² *ibid*, section 7 (1).

³ *ibid*, section 25

⁴ *ibid*, section 26 (2)

Conduct of Inquiry

1.6. Draft Variation No 176 was provided to the Secretary of this committee's predecessor, the Standing Committee on Planning and Urban Services, on 6 September 2001 with a request that the Secretary "arrange for the draft Variation to be referred for consideration by the appropriate Committee as soon as practicable following the ACT elections"⁵ Although it is not clear, the committee presumes that this transmittal to the Secretary close to an election and the demise of the committee, took place to meet the 28 day period required by the Land Act.

1.7. The elections were held on 20 October 2001. The Assembly met and established committees on 11 December 2001.

1.8. As there was a change in Government, at its first meeting on 12 December 2001, the committee agreed to write to the Minister for Planning to establish the Government's intention in relation to Draft Variation No 176. The Minister responded to the committee on 10 January 2002, indicating that, although there may be changes in certain provisions before the draft variation is finalised, the committee should not be prevented in proceeding with its consideration of Draft Variation No 176.⁶

1.9. The committee also received a private briefing from officers of the Planning and Land Management group (PALM) of the Department of Urban Services on the operation of the Land Act and the Territory Plan at its meeting of 25 January 2002. The briefing included reference to Draft Variation No 176.

1.10. The Land Act requires that the committee be provided with not only the draft variation but also the any background papers, written reports on issues raised in the public consultation process; about the consultation process; about consultation with nominated authorities, and any written comments from those organisation. These documents were provided to and reviewed by the committee.

2. Draft Variation No 176

2.1. Draft Variation No 176 to the Territory Plan relates to the Central Bruce Precinct. It was developed by PALM to accommodate a joint development proposal for the Fern Hill lease. The development proposal provided for a mix of residential dwellings and commercial floor space and ancillary services⁷.

2.2. In addition to providing a framework for the development proposal the Draft Variation includes "amendments to formalise the proposed local centre, protect

⁵ Minister for Urban Services; Letter, dated 6 September 2001.

⁶ Minister for Planning; Letter, dated 10 January 2001(sic)

⁷ Variation to the Territory Plan No 176, Bruce Central Precinct, September 2001, Explanatory Statement, p2

existing parkland, reclassify major roads in the vicinity and apply the same policy framework to the Bruce Commercial E areas that are already developed.”⁸.

2.3. The public consultation program required under the Land Act resulted in a total of 410 submissions. Twelve submissions dealt with issues relating to the development proposals of the Draft Variation, the remainder addressed issues concerning the Gungahlin Drive Extension (GDE).

2.4. The consultation undertaken with the National Capital Authority indicated an inconsistency with the National Capital Plan relating to the size of the proposed office development. The Draft Variation was revised so that the inconsistency no longer occurs. The National Capital Authority also made comments in relation to established hierarchy of centres and the GDE.⁹

2.5. The ACT Heritage Council had no issues in relation to the sites under consideration by the Draft Variation.

2.6. Comments made by the Conservator of Flora and Fauna were incorporated by PALM in the Draft Variation released for public comment.

3. Issues

3.1. The committee is generally supportive of some features of Draft Variation No 176. In particular, the extension of the area for urban open space and the further development of residential areas is regarded by the committee to contribute to the Territory Plan in this area.

3.2. Two elements of Draft Variation No 176, however, were of concern to the committee. These elements were the proposed local centre and the reclassification of major roads.

Local Centre

3.3. The committee is of the view that the amenity of the area would be enhanced by the development of a local centre, which would include a mix of commercial activities. It notes that there is currently provision for this to occur in the Draft Variation and supports this provision. It is concerned that the Minister for Planning has indicated that the “new Government has a different position on several specific provisions proposed by the draft Variation”¹⁰ relating to the Government’s approach on the master planning process.

⁸ Ibid, p2. The Explanatory Statement provides a detail statement of the sections and blocks that are subject to the Draft Variation No 176.

⁹ Director, National Capital Authority; Letter to PALM, dated 25 June 2001.

¹⁰ Minister for Planning; Letter, dated 10 January 2001(sic)

Recommendation 1

3.4. The committee recommends that the final variation, together with any associated action in the determination of the master plan, maintains the provision of the local centre.

Gungahlin Drive Extension

3.5. The committee notes that Draft Variation No 176 proposes to significantly vary the road system in the area subject to the variation. The major access road to the precinct has been identified as Braybrooke Street and Leverrier Street is, under the Variation, to become a minor road with access to the Australian Institute of Sport. Much of the area affected by these changes currently has a “R overlay”¹¹ in the Territory Plan.

3.6. The committee notes that the draft of the Variation that went to public comment also included an R overlay that specifically identified the proposed western alignment for the GDE. PALM indicates that the exhibited draft Variation had been revised “in response to Variation 138 which addressed the issue of the alignment for the GDE. ... With the gazettal of 138, the eastern alignment will be established as the final route. Consequently the R Overlay showing the western option [on the exhibited draft variation] has been removed ...”¹²

3.7. Clearly the removal of the R Overlay is predicated on the fact that the previous Government had finalised its consideration of the alignment for the GDE and had given effect to this decision in Variation No 138 to the Territory Plan. The committee notes that the current Government does not necessarily intend to implement the eastern alignment of the GDE. The Minister for Planning has indicated that “further planning work is required on the western alignment, which may result in the need for some minor adjustments to the Territory Plan”¹³.

3.8. In this context the committee notes the comments made by the National Capital Authority (NCA) in relation to the Intertown Public Transport Route (ITP) and the possible “effect of any change of one part of the route on the remainder of that route.”¹⁴

3.9. Given this advice, the committee is particularly concerned that the alignment of Thynne Street and the exit route to Braybooke Street may be impacted on by the possible re-alignment of the GDE. The committee is of the view that any development application should be considered with the view that final alignment for the GDE may

¹¹ R Overlay is defined in the Plan as “The Territory Plan land use policy relating to these areas may be reviewed in the future.

¹² Submission for Approval of Revised Draft Variation No 176 to the territory Plan – Bruce Central Precinct, dated 31 August 2001.

¹³ *ibid*

¹⁴ *op cit*, Director, National Capital Authority.

be substantially alter the proposed road system in relation to Thynne and Braybrooke Streets.

Recommendation 2

3.10. Therefore the committee recommends that no development in the area of the Thynne Street exit to Braybrooke Street be approved without buffer zones and noise attenuation appropriate to a road with the capacity of the GDE.

3.11. The committee also notes that the majority of comments received by PALM from the public consultation program related to the modifications to the Territory Plan associated with the GDE. A resolution to the GDE was the basis of the objections of 389 submissions (represented by 2 variations of a form letter). The arguments presented were largely that development of the area may restrict future options of the placement of a western alignment of the extension.

3.12. The committee is aware of a sense of caution in the community about the development because of the question of the GDE. This caution is evidenced in such statements as those in the Belconnen Community Council's letter to PALM that "residential uses, as proposed, would be an argument against the Western (Community) option for GDE."¹⁵

3.13. Whilst not wishing to give credence to any such claims, the committee is concerned that the Government should not be further encumbered in its deliberations on a western alignment for the GDE by proceeding with Draft Variation 176 without flagging the possible impact of an alternate route for GDE.

Recommendation 3

3.14. Therefore the committee recommends that an R Overlay be place on section 75, blocks 1 to 4 and a contiguous area of section 85 pending commencement on the work for the Gungahlin Drive Extension. (Appendix 2 illustrates)

3.15. Finally, the committee is aware that the land classified for residential use in the area immediately north of the Braybrooke Street intersection with Thynne Street to the intersection of Ginninderra Drive and which the committee has recommended be subject to the R Overlay is not yet on the Government's land release program. Due to the possible impact of the GDE the committee is of the view that this land not be released until work has commenced on the GDE.

¹⁵ Belconnen Community Council; Letter to PLAM , dated 25 June 2001.

Recommendation 4

3.16. Accordingly, the committee recommends that the residential land immediately immediately north of the Braybrooke Street intersection with Thynne Street to the intersection of Ginninderra Drive and which the committee has recommended be subject to the R Overlay not be released for sale until work has commenced on the Gungahlin Drive Extension.

Vicki Dunne

Chair

18 February 2002

Appendix 1 – Correspondence between the Committee and the Minister for Planning



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING AND ENVIRONMENT

Mrs Vicki Dunne MLA (Chair), Ms Katy Gallagher MLA (Deputy Chair), Ms Roslyn Dundas MLA

Mr Simon Corbell, MLA
Minister for Planning
Legislative Assembly for the Australian Capital Territory

Dear Mr Corbell,

I write to you as Chair of the Standing Committee on Planning and Environment in relation to two matters that were considered by the Committee at its first meeting on 12 December 2001.

At that meeting the Committee was informed that its predecessor had two inquiries outstanding relating to its responsibilities under the Land (Planning and Environment) Act 1991 (the Act). These inquiries are on Draft Variations to the Territory Plan Nos 174 and 176 relating to the Hungarian-Australian Club site and community facilities and Bruce Central Precinct respectively.

The Committee resolved that I, as Chair, should write to you and establish the new Government's intention in relation to these two Draft Variations prior to the Committee finalising any consideration of these matters. Accordingly, I would appreciate it if you could inform the Committee as to whether you and the Government intend to continue with the proposed variations.

Secondly the Committee, when considering its duties under the Act, was interested in gaining an appreciation of the work done under the Act. As your Department, in particular Planning and Land Management (PALM), conducts much of this work, the Committee requests a briefing session with PALM in the new year.

I look forward to your response and to working constructively with you on planning issues.

Yours sincerely,

A handwritten signature in black ink that reads "Vicki Dunne".

Vicki Dunne, MLA

Chair

21 December 2001



Simon Corbell MLA

MINISTER FOR EDUCATION, YOUTH AND FAMILY SERVICES
MINISTER FOR PLANNING MINISTER FOR
INDUSTRIAL RELATIONS

MEMBER FOR MOLONGLO

Mrs Vicki Dunne MLA
Chair
Standing Committee on Planning and Environment
ACT Legislative Assembly
London Circuit
CANBERRA ACT 2601

Vicki
Dear Mrs ~~Dunne~~

Draft Variation No. 176 to the Territory Plan for Bruce Central Precinct was referred to the Secretary of the Planning and Urban Service Committee in September 2001 for consideration by an appropriate Committee, following the ACT elections.

The new Government has a different position on several specific provisions proposed by the draft Variation. For example, the proposed policy currently allows for requirements such as building heights and plot ratios to be determined by master plans. This is not consistent with the Government's general approach on the master planning process. It is anticipated that these provisions will be removed before the draft Variation is finalised.

In relation to the Gungahlin Drive extension, further planning work is required on the western alignment, which may result in the need for some minor adjustments to the Territory Plan. It is anticipated the changes will be incorporated in the process for finalising the alignment. However, I do not believe that these or other issues of this type should prevent the Standing Committee on Planning and Environment proceeding to consider the draft variation.

Yours sincerely

Simon Corbell MLA
Minister for Planning

10.1.01

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Appendix 2 -- The Committee's Proposal for R Overlay

(See recommendation 3)

