



Legislative Assembly for the Australian Capital Territory

Draft Variation to the Territory Plan No.97:
Braddon section 30 block 1 (Northbourne Oval)
B5: restricted access recreation land use policies

Report no.1 of the Standing Committee on Urban Services

May 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 David Rugendyke MLA (Deputy Chair)

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 15 May 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.97: Northbourne Oval (Braddon section 30 block 1).

The draft Variation

5. The draft Variation proposes to amend the Territory Plan by adding an Area Specific Policy Overlay (5B) to the existing Restricted Access Recreation Policy for Braddon section 30 block 1 (Northbourne Oval) to permit only one licensed club premises within the whole site. It is also proposed to amend the Public Land Recreation Reserve Overlay by excluding the licensed club site.

6. The background papers relating to the draft Variation note that:

Since 1992 there has been a dispute between the Canberra District Rugby League Football Club Limited, the ACT Rugby League Incorporated and the ACT leagues Club Limited over the ownership of Northbourne Oval.

In July 1997 the dispute was resolved when the interested parties: ACT Leagues Club Limited, Canberra District Rugby League Football Club Limited, the Australian Capital Territory and the Australian Capital Territory Executive (on behalf of the Commonwealth) agreed to a Deed of Settlement. The Deed of Settlement included a proposal that the Territory arrange the instigation of a Variation to the Territory Plan in accordance with the *Land (Planning and Environment) Act 1991* and the granting of separate leases following effect of the Territory Plan Variation.

Under Clause 2.2 of the Restricted Access Recreation Land Use Policy, which currently applies to the land, a Club may only be permitted where it is ancillary to a predominant recreation use. This criterion is not strictly satisfied under the leasing arrangements proposed for the land. It is therefore necessary to vary the land use policy if the proposed leasing arrangements are to proceed.

The proposed Area Specific Policy would permit only one licensed club premises within the whole site but would not require it to be ancillary to a recreation use. In view of the proposed leasing arrangements, this is considered to be the most appropriate Land Use Policy for the site...

The portion of section 30 Block 1 to be used as a playing field would remain in Public Land as a sport and recreation reserve. However, the Public Land Overlay would no longer apply to the licensed club site.

Consideration by the committee

7. On 22 May 1998 the draft Variation came before the committee. The chair, Mr Hird MLA, declared an interest in the matter, withdrew from the meeting and took no part in the committee's deliberations on this report. The Deputy Chair, Mr Rugendyke, took over the meeting.

8. A senior government official from the Planning and Land Management Group [PALM] of the Department of Urban Services attended the meeting and responded to questions.

9. The committee met again on 25 May 1998 and finalised the nature of this report.

10. **The committee advises the Assembly that it has reached an impasse in relation to endorsing the draft Variation to the Territory Plan No.97: Northbourne Oval (Braddon section 30 block 1).**

11. One member (Mr Rugendyke MLA) considers that the draft Variation should be endorsed, on the basis that:

- a full round of public consultation was instituted by PALM and the five respondents did not raise major concerns. Mr Rugendyke is satisfied that due process has been followed;
- the Deed of Settlement cannot be implemented without the Variation in place;
- there are no significant planning impacts flowing from the proposed change in land use (which in essence will enable the Club and Oval to be held in separate ownership); and
- many other examples of the proposed land use exist, for example, most (if not all) of the Territory's enclosed ovals are on Public Land and are classified as 'Restricted Access Recreation' - just as is proposed for Northbourne Oval¹.

12. The second member of the committee (Mr Berry MLA) considers that the draft Variation should not be endorsed until the public is given further opportunity to comment on the proposal, for reasons that include:

- the significance of the site, in planning terms, over many years (being so close to Civic and with a background of some controversy including with respect to commercial and residential development);
- the concern of the Burley Griffin Local Area Planning Advisory Committee that the draft Variation 'is being used as a vehicle to resolve a conflict between private bodies';
- the concern of the same LAPAC that the draft Variation 'should not be seen as justification for similar arrangements on other 'Restricted Access Recreation' land;
- possible uncertainty about the public's right of access to Public Land that is given over to a limited company;
- the uncertainty about the full extent of consultation to date, especially given the fact that the public has not had the opportunity to input into the Assembly process; and
- the short period of time available to committee members to consult the local community.

¹ The enclosed ovals include Manuka Oval, Ainslie Oval, the Croatia Deakin Oval, Jamieson Oval, Hawker Oval.

Postscript

13. 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.

14. 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.

15. 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.

David Rugendyke MLA
Deputy Chair

25 May 1998