



Legislative Assembly for the ACT

Draft Variation to the Territory Plan No. 238

MACQUARIE HOTEL REDEVELOPMENT SECTION 27 BARTON

AUGUST 2005

Report 15

Committee membership

Chair Mick Gentleman MLA

Deputy Chair Zed Seselja MLA

Mary Porter AM MLA

Secretary: Hanna Jaireth

Assistant Secretary Sharon Aberdeen (work experience student)

Administration: Linzi Lamont

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.
....¹

The Assembly also agreed that if the Assembly is not sitting when the Standing Committee on Planning and Environment has completed consideration of a report on draft plan variations or draft plans of management referred to the Committee by the Minister under 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.²

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.

² 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)³ 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 Planning and Land Authority⁴ – to develop and implement the Territory Plan. The *Land (Planning and Environment) Act 1991* (ACT)⁵ (the Act) requires the Territory Plan to set out the planning principles and policies for giving effect to its object,⁶ 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.⁷

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*.⁸

Recognising that land use policies may change over time, the Act provides for variations to the Territory Plan. The 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 – currently the Standing Committee on Planning and Environment – for consideration and report.⁹

³ Accessible at <<http://scale.law.gov.au/html/pasteact/0/160/top.htm>>.

⁴ Established by the *Planning and Land Act 2002* (ACT).

⁵ Accessible at <<http://www.legislation.act.gov.au/a/1991-100/current/pdf/1991-100.pdf>>.

⁶ Land (Planning and Environment) Act 1991, sub-section 7(2)).

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

⁸ Accessible at <<http://www.cmd.act.gov.au/canberraplan/>> and <<http://www.sustainability.act.gov.au/policy.html>>.

⁹ Land (Planning and Environment) Act 1991, section 25.

The Minister is required to have regard to the Committee's recommendations before approving the proposed variation and tabling it in the Assembly (see below), or returning it to the Planning and Land Authority with written directions for further action.¹⁰

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.¹¹

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.¹² If the Minister approves it, he will table the proposed variation and associated documents in the Legislative Assembly.¹³ Unless wholly or partially disallowed by the Assembly within 5 sitting days, the variation will commence on the date nominated by the Minister.

¹⁰ Land (Planning and Environment) Act 1991, paragraphs 26(1)(a) and (b), sub-section 26(2).

¹¹ Land (Planning and Environment) Act 1991, section 9.

¹² Land (Planning and Environment) Act 1991, sub-section 26(2).

¹³ Land (Planning and Environment) Act 1991, section 29.

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SUMMARY OF RECOMMENDATIONS

RECOMMENDATION 1

- 1.57 The Committee recommends that Draft Variation No. 238 be agreed to, subject to the following recommendations.

RECOMMENDATION 2

- 1.58 The Committee recommends that the Chief Minister and Minister for Urban Services ensure that relevant parking policy officers in their respective departments support, in broad terms, the introduction of pay parking and/or other traffic reduction measures in Barton, Parkes and Forrest during consultations and negotiations with the National Capital Authority on this issue, and that the ACT Government introduces pay parking and/or other traffic reduction measures for those parts of these areas for which it has responsibility.

RECOMMENDATION 3

- 1.59 The Committee recommends that the Planning and Land Authority encourage the demonstration and promotion of sustainability features for this complex, including the application of water sensitive urban design principles.

RECOMMENDATION 4

- 1.60 With regard to the open space landscaped areas, the Committee recommends that the Planning and Land Authority encourages the proponent to consider the use of water-saving strategies, and to plant drought tolerant native species on Section 27 wherever possible, subject to heritage considerations.

RECOMMENDATION 5

- 1.61 The Committee recommends that the Planning and Land Authority requires that all buildings on Section 27 be constructed to meet the criteria set out in the following Australian Standards as amended from time to time: AS 2107 'Recommended Design Sound Levels and Reverberation Times for Building

Interiors' [AS 2107 – 2000], and AS 3671 'Acoustics - Road Traffic Noise - Building Siting and Construction' [AS 3671 – 1989].

RECOMMENDATION 6

- 1.62 The Committee recommends that noise-abatement conditions be applied in relation to Section 27. In particular, the Committee recommends that the Planning and Land Authority requires through the B16 Area Specific Policy or at the development application stage, that the proponent submit a noise management plan, covering the construction and ongoing operational aspects of the development. An accredited acoustic specialist who is a member of the Australian Acoustical Society should prepare this plan for approval by the Planning and Land Authority and the Environment Protection Authority. This noise management plan should detail the design, siting and construction methods that will be used to minimise the impact of noise on neighbours. This plan should require that no construction occur outside the hours of 7am to 6pm Monday to Saturday.

RECOMMENDATION 7

- 1.63 The Committee recommends that the Minister for Planning obtain and consider technical advice from the Planning and Land Authority concerning its proposed restrictions on roof plant and minor building elements, the number of storeys and the height of buildings fronting the internal road before tabling the final recommended variation in the Assembly.

INTRODUCTION

- 1.1 The purpose of this proposed variation is to replace the current Entertainment Accommodation and Leisure Land Use Policy applicable to Section 27 Barton, with a Residential Land Use Policy B16 Area Specific Policy. This will allow for the redevelopment of the site, which is currently vacant. The site formerly had a 23 555 m² hexagonal six building complex on it, which provided 500 hotel rooms.
- 1.2 National Circuit, Sydney Avenue, Bourke Street, Macquarie Street and New South Wales Crescent, in South Canberra, enclose the site. Adjacent land uses include the Telopea Park High School, the Wesley Uniting Church and the Brassey Hotel. The site is within a kilometre of the Kingston and Manuka Group Centres and Parliament House.¹⁴
- 1.3 The proposed Area Specific Policy B16: Barton Section 27 has the objectives of:
- constructing a vibrant mixed-use that is a central point for the Barton community;
 - encouraging land uses having an active character, and providing multiple opportunities for living and working;
 - encouraging the incorporation of development into the surrounding area, while protecting the amenity of adjacent residential areas;
 - providing a suitable change between the commercial areas of York Park and the historic residential areas of Barton;
 - strengthening and improving major symbolic features of the Griffin plan;
 - enhancing the character of Sydney Avenue and reinforcing its role as a key axis; and
 - supporting the development of a sustainable city.
- 1.4 The Australian Government sold Section 27 Barton by auction on 12 March 2003 to Section 27 Pty Ltd, a company that is part of the Doma Group (the proponent). At the time of sale, the site was designated National Land and any expansion was subject to a National Capital Authority (NCA) Development Control Plan (DCP). In August 2003, the Commonwealth revoked the National Land declaration and the application of the DCP. The Territory Plan is the now main relevant planning instrument, even though the location is still subject to the NCA's Office Employment Location Policies.

¹⁴ Variation to the Territory Plan No. 238, p.3.

Sydney Avenue is also a Main Avenue under Chapter Two of the National Capital Plan. The site must also take into account the York Park and Environs Master Plan.

- 1.5 The proposed Area Specific Policy overlay would permit the land uses already listed in Schedule 1 Part B1 of the Territory Plan for Residential Land Use Policies¹⁵, as well as a range of additional uses. These include one or more clubs (possibly subject to a mandatory preliminary assessment), commercial accommodation use, community use, drink establishment(s), indoor recreation facility or facilities,¹⁶ non-retail commercial use, shop(s), and restaurant(s).
- 1.6 The first stage of the development proposed for Section 27 would see the construction of an apartment hotel off National Circuit. The gross floor area would be about 19 000m², providing 160 rooms for visitor accommodation, 850m² as conference rooms, a café/bar, outdoor eating areas, a 500m² grocery shop or delicatessen,¹⁷ and a publicly accessible 850m² gymnasium and swimming pool.¹⁸ Car parks would also have to be provided in accordance with the ACT Vehicular Parking and Access Guidelines.
- 1.7 In July 2005 the Committee was advised that the proposed development would have (in addition to the facilities approved in the first stage master plan) 330 residential units, a childcare facility, office space, open space, a new internal road connecting Sydney Avenue and Bourke Street, and off-site works.¹⁹
- 1.8 The proposed B16 Area Specific Policy imposes some new land use restrictions, in relation to club, commercial accommodation use, drink establishment, indoor recreation facility, non-retail commercial use, shop, and restaurant. These restrictions provide that such developments –

¹⁵ i.e. boarding house, child care centre and community activity centre (subject to clauses 3.1 and 3.2); guest house (subject to clause 3.1), habitable suite (subject to clauses 3.1 and 3.2); health facility (subject to clause 3.2); home business (subject to clauses 3.1 and 3.2); home occupation; minor use; multi-unit housing (subject to clause 3.1 or in accordance with the approved Estate Development Plan); parkland; relocatable unit (subject to clauses 3.1 and 3.2); single dwelling housing; residential care accommodation (subject to clauses 3.1 and 3.2); supportive housing (subject to clause 3.1); and temporary use.

¹⁶ 'Indoor recreation facility' is defined in Part D of the Territory Plan to mean 'the use of land for sporting activities where such use is primarily indoors'. Common terminology is 'fitness centre, gymnasium, indoor sports stadium, indoor swimming pool, squash court': *Territory Plan Written Statement 2002*, Vol.1, Part D, p.10.

¹⁷ This may need to be no larger than 400 m² in accordance with the proposed areas specific policy.

¹⁸ Section Master Plan – Part 1, Section 27 Barton, p.13.

¹⁹ Submission No. 4 – Christine Purdon for Purdon Associates Pty Ltd

- shall be planned and situated to minimise impacts on residential or commercial accommodation development;
 - o all noise-generating activities have to meet relevant criteria including Environment Protection Regulations;
- would be illegal on land fronting Macquarie Street unless it is a permitted serviced apartment;
- in relation to a supermarket or shop selling food, must not go beyond a gross floor area of 400 m², and that all shops on Section 27 must have a gross floor area less than 1000m². An arts and craft and sculpture dealer and related services outlet may have a gross floor area of up to 2000m²;
- if non-retail commercial use, must not exceed a total gross floor area floor area of 7000m², and the gross floor area on any one building is limited to 3000m².

1.9 The B16 Area Specific Policy provides that the authority may from time to time arrange or cause to be prepared Section Master Plans to guide residential redevelopment on land subject to this Area Specific Policy. The Territory Plan provides for such detailed Section Master Plans in Part A3 – Section 7. Section Master Plans set out urban planning, design objectives, and values, as well as identifying off-site works linked with the proposal. Section Master Plans can specify more detailed requirements provided they are not inconsistent with the requirements in the Territory Plan. The area specific policy provides that these Section Master Plans can apply notwithstanding the Planning and Land Authority's relevant Apartment Guidelines, in the event of inconsistency. The Planning and Land Authority approved the first stage of the proposed 2-stage Master Plan for the site in April 2004.

1.10 In relation to building height, the proposed B16 Area Specific Policy provides that buildings shall not exceed a maximum height of AHD 591²⁰ except in relation to:

- recessed and screened roof top plant and minor building elements integrated into the design of the building and roof scape which may extend to a height of AHD 559;
- development fronting Sydney Avenue may extend AHD 591 providing the development is limited in height to 6 storeys plus 2 recessed storeys and does not rise in height beyond AHD 559;²¹ and

²⁰ AHD means Australian Height Datum.

²¹ The ACT Planning and Land Authority advised the Committee that the reference to 5 storeys in the Final Recommended Variation was an error and should be 6 storeys plus 2 storeys recessed, with a predominant height of AHD599.

- buildings fronting Macquarie Street are to be a maximum of 3 storeys in height provided that the third storey is set back at least 3 metres from the building line, including at the corner of Macquarie and Bourke Street.
- 1.11 The proposed B16 Area Specific Policy also provides that the development of multi-dwelling housing shall be in accordance with the Authority's relevant Apartment Guidelines.
- 1.12 If a child-care centre or health facility²² were built within the Section 27 complex, under the proposed area specific policy, these would not be subject to the land use restrictions in clauses 3.1 and 3.2 of Part B1 of the Territory Plan. Those controls currently provide that these would only be approved where it can be demonstrated that the use would not have a significant adverse impact on surrounding residential development; that the building form and scale have a domestic character and scale compatible with the locality; that the amenity of the area is protected by having only one of these uses in a section, and where the maximum plot ratio is 0.35:1 (35%).
- 1.13 In summary, the Planning and Land Authority says this altered policy framework is consistent with the Canberra Spatial Plan and would provide a livelier transition area between the residential precinct to the east, and the major office areas to the west.

CONSULTATION COMMENTS

Statutory consultations

- 1.14 The Planning and Land Authority released DV238 and the draft Section Master Plan for public comment on 9 July 2004, and a notice under section 19(1) of the *Land (Planning and Environment) Act 1991* (ACT) was published in *The Canberra Times* on the 10 July 2004 and in the ACT Legislation Register on 9 July 2004. Written remarks were invited by 20 August 2004.
- 1.15 Of the 28 written submissions on DV238 provided to the Planning and Land Authority, 16 were a form letter distributed to residents in the Barton residential area by a concerned resident. Three letters supported the planned development, but also raised concerns relating to noise and parking. The

²² Defined as provision of health care services including diagnosis,

issues raised in submissions to the Authority, and the Authority's response, are summarised in Table 1.

Table 1: Summary of issues and the Planning and Land Authority's responses²³

Stakeholder comment	Response by the Planning and Land Authority
Various concerns were raised about the height, density, scale of development and urban design of the proposed development, noting the proposed increased floor area, 240 residential units, 7000m ² office space, 5 storeys and 2 recessed storeys, 6m setbacks, 40% occupation of block and street frontage issues	The development proposal aims to create an effective transitional complex which is consistent in scale with both the Central National Area and heritage residential areas. A Preliminary Assessment may be required for any development with a gross floor area greater than 7000m ² of the buildings they have replaced, if any. Sydney Avenue and National Circuit frontages will have large buildings to reinforce their important avenue status. The zero setbacks on Bourke Street and National Circuit will reinforce this. The building height will not exceed the ridgeline of the RG Casey Building and is consistent with the National Capital Authority's York Master Plan. Buildings fronting Macquarie Street will have a maximum height of 3 storeys. Landscaped areas will occupy more than 50% of the development, visually connecting with nearby open spaces.
Traffic and parking issues were raised in various submissions, including the general shortage of parking in Barton; increased traffic in the area detracting from amenity and safety; opposition to pay parking, and the developers' obligations to provide adequate parking on site	Sustainable transport options are suitable for this area given it is adjacent to major transport routes, office areas, and within walking distance of major retail and recreational facilities. On-site parking should be as low as possible to discourage private car use but consistent with the ACT Parking and Vehicular Access Guidelines.

²³ ACT Planning and Land Authority, Report on Consultation with Public and Government Agencies, Draft Variation to the Territory Plan No. 238– Macquarie Hotel Redevelopment Section 27 Barton, Annexure 2 to Recommended Final Variation.

	Measures to better manage traffic and parking in Macquarie and Bourke Streets, and other streets identified in later traffic studies, will be introduced.
The Wesley Uniting Church and Wesley Music Foundation raised noise and traffic flow in Sydney Avenue as possible negative impacts on Music Centre activities.	Sydney Avenue is already a busy street and the development will not attract significantly more traffic than the former Macquarie Hotel. Most Sydney Avenue traffic will be to offices and the hotel. Entry to residences will likely be via Bourke Street.
Landscaping works should include maintenance of existing tree plantings and replacement of invasive weeds such as African boxthorn with low water consumption varieties.	Bourke Street may have new or supplemental tree plantings to create an avenue effect; Macquarie will have an additional row of the current Eucalypts; all landscaping will be in accordance with an agreed landscape plan.
Heritage issues raised included the need for sympathy to existing area and heritage guidelines, including maintenance of low-rise buildings	The site is not subject to heritage citation but the need for sympathetic scale and architecture in a transitional area is recognised. Residential development fronting Bourke Street is intended to be 2 storeys plus a recessed level, well set back and stepped down.

- 1.16 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.
- 1.17 On 9 August 2004 the National Capital Authority advised that the proposed variation and Section Master Plan were not inconsistent with the relevant provisions of the National Capital Plan. Subsequent discussions focused on permitted office location under the National Capital Plan. The NCA advised the Authority that Section 27 is outside the Barton and Parkes Defined Office Employment Centres (DOEC) as prescribed in Figures 5, 8 and 11 of the National Capital Plan. For 7 000m² office accommodation to be provided on Section 27, the National Capital Plan would have to be amended to expand the DOEC, or it would need to be established that such land use was in the public interest after the full transport and environmental effects of such a decision

had been considered.²⁴ According to the Planning and Land Authority, this criterion might be satisfied if it could be demonstrated that there are no reasonable alternatives within current DOECs, and particularly the Barton and Parkes DOECs, for tenants that lessees expect to attract.²⁵

- 1.18 The ACT Heritage Council advised on 20 August 2004 that it had no objections to the proposed land use policy changes. It also expressed support for the intent of the Section Master Plan that the development should be sensitive to, and complement, the heritage significance of adjoining areas.
- 1.19 The Conservator of Flora and Fauna advised on 1 June 2004 that provided that significant trees were protected during the development of the site, the Conservator had no concerns about the proposal.
- 1.20 Following the Planning and Land Authority's consultation process, various minor amendments were made to DV238. The permissible uses in the Written Statement Controls under a) were amended to include 'Community Use'. Further changes were made under 'b) Land Use Restrictions' to reduce noise impacts on residential or commercial accommodation and to refine the gross floor area restriction for 'shop'. Other amendments to the wording under 'c) Section Master Plan' provide Territory Plan consistency. The wording under 'd) Building Height' was amended to better describe the restrictions for building height on the site, and the reference to 'Urban Housing Code at Appendix III' was replaced with 'the Authority's relevant Apartment Guidelines'.²⁶

Consultations by proponent

- 1.21 The proponent undertook various consultations as part of its planning study submitted to the Planning and Land Authority. These included –
 - informal discussion with some members of the former Manuka LAPAC
 - direct discussions with residents in Barton Court (fronting Bourke Street) and Macquarie Street;
 - discussion with the chairman of the ACT Heritage Council;

²⁴ National Capital Plan Amendment 44 (Office Employment Location Policies), March 2005, paragraph 3.3(e), (h).

²⁵ ACT Planning and Land Authority, Report on Consultation with Public and Government Agencies, Draft Variation to the Territory Plan No. 238– Macquarie Hotel Redevelopment Section 27 Barton, Annexure 2 to Recommended Final Variation, section 3.

²⁶ Variation to the Territory Plan No. 238 – Macquarie Hotel Redevelopment Section 27 Barton, Recommended Final Variation, May 2005, p.5.

- a community information session to which all residents and others in Barton were invited; and
- a survey of attendees at the community information session.²⁷

1.22 According to Mrs Chris Purdon, Planning Consultant and Director of Purdon and Associates, the consultations found there was strong support for the proposed redevelopment of the former Macquarie Hotel, a complex that was seen as being inconsistent with the character of the surrounding area. Mrs Purdon summarised the issues raised during consultations and the proponent's response as follows.²⁸

Issue	Response
There is considerable traffic congestion along Macquarie Street. The development must not increase the traffic and parking volumes on this street. The development of other apartment buildings in the area had worsened the traffic situation.	Parking will be provided in accordance with ACT Vehicular and Parking Guidelines. The proposed development has complementary uses such that when demand from residential activities is high it will be lower from office development and vice versa. Vehicular access from Macquarie Street will only be provided to the units facing that street.
Accidents at the intersection of Macquarie Street and Brisbane Avenue have increased.	It is proposed as part of the development to undertake traffic management works at this intersection, subject to agreement with Roads ACT.
The proposed road through the site could provide a 'rat-run' for motorists. The development of a street through the site will take the pressure off the existing street network.	The proposed road has been designed to minimise traffic movements on Macquarie Street and the residential section of Bourke Street. Opportunities for a left-turn only out of Sydney Place will be investigated as part of the detailed design.
There is too much residential development occurring in Barton and it should be more widely distributed across the city. There has been too much unit development in Barton. More unit development will create an oversupply and reduce property values in the area.	There is a strong demand for residential apartments in Barton. The development of more housing in this area will improve opportunities for people to live near their place of work. Additional residential development in this area is consistent with Government policy.
The development should respond to the key heritage components of the area, at least along Macquarie Street, although what happens within the site is less important.	The height of residential buildings fronting Macquarie Street is sympathetic with the residential character of the area. The detailed design of the units fronting Macquarie Street will be sympathetic to the heritage nature of the area.
The trees and setbacks are the key components of the heritage character of the area and they should be protected.	The existing streetscape planting will be protected and augmented.
There should be adequate setback of buildings from NSW Crescent and the Telopea Park School.	The buildings in the vicinity of the school have a large setback from NSW Crescent and there is no direct access to the site from this road. It is proposed to locate a childcare centre adjacent to NSW Crescent as a complementary land use for the school.
Commercial activities that provide a focal point in Barton should be included in the development.	The development will be a mixed-use development that includes commercial, retail, visitor

²⁷ Chris Purdon, 'Section 27 Barton: Summary of Consultations', n.d.

²⁸ Chris Purdon, 'Section 27 Barton: Summary of Consultations', n.d.

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	accommodation and residential. The commercial and retail uses together with the open space are intended to act as a focal point for Barton.
The inclusion of cafes, shops and personal services in the area will benefit the local area, provided that noise is controlled. The proposed retail facilities will address unmet needs and lack of facilities in the area.	The retail activities, the gym and the childcare have been identified as potential uses to address the lack of services in the area.
The gym and other facilities, including the open space should be accessible to local residents.	It is intended that these facilities be open to the public.
Four-storey development in Bourke and Macquarie Streets adjacent to existing residential areas is not supported, although a 2 storey with attic would be supported.	The height of buildings on these frontages has been reduced to two storey + recessed level.
Construction of the site could be disruptive if it occurs over several years.	It is proposed to completely demolish the existing buildings prior to construction as they are a fire risk. The existing areas of asphalt will be retained and the areas where the building is currently located will be covered with either dryland grasses or mulch to minimise dust. Construction vehicles will access the site from Sydney Avenue to minimise disruption in residential areas.

Committee consultations

- 1.23 On 28 June 2005, pursuant to the *Land (Planning and Environment) Act 1991* (ACT), Mr Simon Corbell MLA, Minister for Planning, referred DV238 to the Planning and Environment Committee for inquiry and report.
- 1.24 The Committee considered DV238 at meetings on 5 and 12 July 2005, and 2 and 30 August 2005. On 12 July 2005 it decided to invite submissions by way of public advertisements and correspondence.
- 1.25 On 19 July 2005 Mrs Purdon, Director, Purdon and Associates; Mr Colin Stewart, Director, Colin Stewart Architects; and Mr Jure Domazet, Director, The Doma Group, briefed the Committee on the proposed redevelopment of the site. Various background documents, including a planning study and report on consultations, were tabled. Mrs Purdon identified various issues in DV238 that she requested the Committee consider, and advised that these would be elaborated in their submission, which would be provided at a later date.
- 1.26 On 2 August 2005 the Committee met at the former Macquarie Hotel site. Planning and Land Authority staff in attendance were Mrs Joyce Rajasekaram, a/g Manager, Territory Plan Coordination, and Mr Hamish Sinclair, Manager, Territory Plan Coordination. The proposed development was discussed, and Authority staff responded to Members' questions. The issues identified for

further discussion in the Committee report included traffic reduction measures such as paid parking; noise controls (especially in relation to construction and early morning garbage collection); and the proposed height, set backs and step backs on Macquarie Street to protect residential amenity.

1.27 The individuals and organisations who made submissions to the Committee are listed in Appendix 3. In summary, the views expressed included –

- support for a redevelopment of Section 27 that would be sympathetic to nearby land uses and its heritage character and which would create a food and beverage hub²⁹
- concerns that the proposed development would endanger the health and safety of the 450 or so primary school age children attending Telopea Park School. Additional controls on traffic flow and street parking in New South Wales Crescent particularly, were requested, so as to reduce current difficulties for teachers, parents, students and volunteers trying to access Telopea Park School³⁰
- concerns that grass verges and street trees in the area were being damaged by office workers parking in inappropriate areas, and needed to be restored³¹
- a request that 100% of the car parking needs of the forecast residential and visitor population be met, to prevent spill-over parking³²
- a warning that if a childcare facility was built on New South Wales Crescent this would increase the traffic for dropping off and picking up children and safety risks³³
- concern about the impact that construction activities would have on the operation of Telopea Park School³⁴
- concern that the restaurant and retail facilities would not interact directly with the Brassey and that the proposed housing directly opposite the Brassy should be replaced with accommodation, food and beverage, retail or commercial, rather than residential land use³⁵

²⁹ Submission No. 1 – Jonathon Claoué-Long for Telopea Park School Board; Submission No 3 – Mark Sproat for the Brassey of Canberra

³⁰ Submission No. 1 – Jonathon Claoué-Long for Telopea Park School Board; Submission No. 2 – Tim Baker-Finch for Telopea Park School Parents & Citizens Association.

³¹ Submission No. 1 – Jonathon Claoué-Long for Telopea Park School Board

³² Submission No. 1 – Jonathon Claoué-Long for Telopea Park School Board

³³ Submission No. 1 – Jonathon Claoué-Long for Telopea Park School Board

³⁴ Submission No 2 – Tim Baker-Finch for Telopea Park School Parents & Citizens Association

³⁵ Submission No 3 – Mark Sproat for the Brassey of Canberra

- a request for changes to the locations where commercial accommodation use is permitted³⁶
- a requested increase in the amount of retail space permitted³⁷
- a request for removal of the restriction on the amount of non retail commercial use permitted³⁸
- a request for removal of the restriction on the number of storeys along Sydney Avenue given that the maximum height (AHD) is stated³⁹
- a request for specific building height limits on each street frontage⁴⁰

Committee comments

New urbanism

- 1.28 The Committee considers that Section 27 is an ideal location for a mixed-use development given its location and the relative lack of facilities in this area, provided amenity, traffic and parking issues can be satisfactorily addressed. As Barton and Parkes have a significant amount of office employment during the day these areas are relatively lifeless except for peak hour arrivals and exits, and will become friendlier and livelier if an activity hub offering diverse facilities is developed nearby. This should also improve the safety of the area at night. It is difficult to assess how successfully the proponent's aims may be achieved however, as a complete current Section Master Plan is not available for the site. The proponent did, however, make available to the Committee various documents including a detailed Planning Study⁴¹ with indicative development outcomes, and a Massing Study,
- 1.29 The Committee welcomes the proponent's inclusion of significant landscaping and open areas in the development. Mrs Purdon advised the Committee that 50% of the development would be open space. This is consistent with the 'new urbanism' philosophy which seeks 'to create vibrant mixed-use communities

³⁶ Submission No 4 – Christine Purdon for Purdon Associates Pty Ltd

³⁷ Submission No 4 – Christine Purdon for Purdon Associates Pty Ltd

³⁸ Submission No 4 – Christine Purdon for Purdon Associates Pty Ltd

³⁹ Submission No 4 – Christine Purdon for Purdon Associates Pty Ltd

⁴⁰ Submission No 4 – Christine Purdon for Purdon Associates Pty Ltd

⁴¹ Purdon Associates, Barton 27 Planning Study, n.d.; Purdon Associates, Barton Section 27 Massing Study March 2005.

where housing is within easy walking distance of community and recreational facilities and includes attractive parks and open spaces'. Open area or public spaces in these communities 'are designed to be inviting, to encourage people to interact and to engage with their neighbourhood'.⁴² The Committee notes that the proposed variation specifically addresses the issue of tree plantings to restore and enhance streetscapes. This will create visual linkages with the vegetated areas in the new development.

- 1.30 With regard to the open space landscaped areas, the Committee recommends that the Planning and Land Authority apply water sensitive urban design principles to the proposed development. This would be consistent with the ACT Government's *Canberra Spatial Plan*, and *Think Water, Act Water: a Strategy for Sustainable Water Resource Management in the ACT*.⁴³ The Committee suggests that the Authority should encourage the proponent to consider the use of water-saving strategies such as the re-use of potable water, and that drought tolerant native species be used wherever possible, subject to heritage considerations.
- 1.31 Colin Stewart, Director of Colin Stewart Architects Pty Ltd, advised the Committee that the quality of the buildings proposed for the development is superior to that of others in the area because better construction materials will be used. The proposed use of pre-cast concrete, for example, will result in a more institutional, formal, better façade appearance which will fit well in the surrounds. Mr Stewart characterised the architectural style proposed for the development as 'modern conservative' with sustainability features such as north-facing orientation.
- 1.32 The Committee welcomes the proposed addition of an aesthetically pleasing and people-friendly mixed-use development within the intensification radius of the Canberra Spatial Plan. This should contribute to a more vibrant and interactive community that can readily access shops, open-air recreation and arts and other cultural activities. This residential style may appeal particularly to wealthier retirees who would have increased opportunities to live closer to the City in a pleasant residential area which would have convenient access to prepared meals and linen services. The Committee heard that town planners overseas are increasingly co-locating residential and hotel complexes to

⁴² Anne Skewes, Chief Executive Officer, Land Development Agency, 'Advertisement – What's new about 'New Urbanism'', *Times 2, The Canberra Times*, 25 August 2005, p.5.

⁴³ Launched by the ACT Chief Minister in April 2004. The Planning and Land Authority is developing guidelines for the implementation of WSUD.

maximize such synergies.⁴⁴

- 1.33 The Committee agrees with the Planning and Land Authority, and the proponent and its consultants, that the proposed development will make for a livelier, more diverse precinct.
- 1.34 In relation to the lifting of a couple of land use controls for the proposed child-care centre and health facility, the Committee notes that such controls are less appropriate in a mixed-use development where only a minority of adjoining land uses are residential, and where community consultations have included reference to the proposed facilities. The shortage of childcare facilities close to employment locations is a well-recognised problem in the ACT, so it would be desirable to have one or more on Section 27. Similarly, health facilities, which are readily accessible to significant populations of employees, are likely to be considered desirable by most stakeholders.

Sustainability issues

- 1.35 In the Committee's view the proposed development is consistent with many ACT Government sustainability policies. For example:
- the ACT Sustainable Transport Plan and the ACT Greenhouse Strategy 2000 encourages travel modes other than private motor vehicle, and shorter distances between home and work;
 - the Canberra Spatial Plan aims to minimise resource consumption including water and energy use; and
 - the Canberra Spatial Plan aims to consolidate development in existing areas and along major transport corridors, especially within a 7.5km radius of Civic, whilst providing a diverse range of housing choices and protecting the character and amenity of existing suburbs.⁴⁵
- 1.36 The Committee is concerned, however, that the proposed B16 Area Specific Policy does not require the proponent to incorporate sustainability features in the design of the complex, although the Committee understands that these have been discussed by the proponent and its consultants.
- 1.37 The Committee recommends that the Planning and Land Authority encourages that the proponent demonstrates and promote the sustainability features of this proposed development. This could be of educational benefit for

⁴⁴ Briefing by Mr Jure Domazet, Director, The Doma Group, 19 July 2005, who noted that Hyatt hotels in the United States are one of the main providers of aged care services.

⁴⁵ *The Canberra Spatial Plan*, pp.31, 36, 70, 76.

nearby office workers and could also be a patron and visitor-attracting feature. These features could include for example, 6-star energy building envelopes, re-used potable water and solar focussed design etc.

Noise

- 1.38 The Committee notes the views expressed in submissions about the risk of increased noise from the proposed development impacting adversely on nearby land uses. It also notes that the proposed B16 Area Specific Policy requires the developments to be planned and situated to minimise impacts on residential or commercial accommodation development, and to meet relevant criteria including Environment Protection Regulations. This is an important protection as, under the Human Rights ACT 2004, ACT environmental and planning legislation should be interpreted in the light of the human rights protected in the ACT, including the right to privacy⁴⁶ and the right to protection of the family and children.⁴⁷ These rights can be asserted against noise pollution in an interpretative/dialogic sense.
- 1.39 Noise impacts can occur at both construction and operational phases. Both the Planning and Land Authority and the proponent explained to the Committee that as the Doma Group will be the long-term owner of the mixed-use hotel apartment complex that will generate the most noise, and it would be in the Doma Group's interests to minimize the noise it generates so that its hotel guests would not be disturbed.
- 1.40 The Committee appreciates these comments, but is nevertheless of the view that it is important to allay community concerns about the possible negative aspects of mixed-use developments and prevent complaints arising. The Committee is aware, for example, of complaints about noise impacting on residences in Civic, Manuka and Kingston, in mixed-use areas. Various concerned residents felt it necessary to resort to the Administrative Appeals Tribunal (AAT) about such issues. In 2004, the AAT directed the Planning and Land Authority to include in the Crown lease over block 22 Section 22 Kingston a condition ensuring appropriate waste management, including limiting the hours for waste collection to those in residential areas. Another condition limited access to the rear of the premises in issue, other than by employees, after 7.00pm.⁴⁸ The

⁴⁶ HRA s 12 (based on ICCPR Art 17)

⁴⁷ HRA s 11 (based on ICCPR Arts 23(1) and 24(1))

⁴⁸ *Stryver Pty Ltd And Act Planning & Land Authority & Ors* [\[2004\] ACTAAT 42](#)

Committee recommends that similar conditions concerning waste collection be applied in relation to Section 27.

- 1.41 The Committee also recommends that the Planning and Land Authority include additional provisions in the proposed Area B16 land use policy requiring the proponent to develop a noise management plan for the Section 27 development, for approval by Environment ACT. This management should specifically prevent particularly noisy activities, such as waste collection, occurring outside reasonable hours.
- 1.42 The Committee obtained informal advice, through the Minister's office, from the Manager, Environment Protection, Mr Bob Neil, who suggested that to achieve an acceptable noise environment for people living in mixed-use areas, buildings should be constructed to meet the criteria set out in the following Australian Standards, as amended from time to time: AS 2107 'Recommended Design Sound Levels and Reverberation Times for Building Interiors' [AS 2107 – 2000], and AS 3671 'Acoustics - Road Traffic Noise - Building Siting and Construction' [AS 3671 – 1989]. In the Committee's view this should be a requirement of the B16 Area Specific Policy or imposed at the development application stage. Mr Neil also noted the contribution that a noise management plan could make to protecting the area's amenity for nearby land users.

Traffic and parking (including visitor parking)

- 1.43 The Committee agrees with the proponent that the proposed development is at an ideal location from a sustainable transport perspective. It has very good public transport services available to it, and it is close to the group centres of Manuka and Kingston, schools and other community facilities.
- 1.44 Several submissions argue that traffic and parking is already an issue for local stakeholders because of increasing traffic flow and parking pressure at peak times such as morning and afternoon school drop-off and collection (by both public and private transport), and from long-stay parking by office workers in the area.
- 1.45 The Committee notes that the proponent may be required to submit a further detailed traffic study to support future development applications for the site, and that it has responded during consultations with commitments to address various traffic issues, as noted above.

- 1.46 The Committee considers it very important to discourage long-stay visitor parking in this area and to encourage a greater use of alternative transport modes. The Committee is not of the view that the proponent should be required to increase the number of car parking sites above that required under ACT guidelines. The Committee notes that basement parking will be available for residents in the new development.
- 1.47 The National Capital Authority has convened a Steering Committee to Consult on Pay Parking in the Parliamentary Zone, in response to recommendations of the Joint Standing Committee on the National Capital and External Territories. This Steering Committee first met on 5 July 2005. Some of the options under consideration include better management of car parking availability, the introduction of pay parking (user pays and pricing control of demand), promotion of public and alternative transport modes and improving the availability of commercial and other facilities to service the workforce and visitors.⁴⁹ The Committee welcomes this initiative and recommends that the Chief Minister and Minister for Urban Services ensure that relevant parking policy officers in their respective departments support the introduction of pay parking for visitors and employees using the area, and/or other traffic reduction measures in Barton, Parkes and Forrest, during consultations and negotiations with the National Capital Authority on this issue, and that the ACT Government introduces pay parking and/or other traffic reduction measures for those public parts of these areas for which it has responsibility. Such policies should not affect private parking at residences by residents and their visitors.

Location of commercial accommodation

- 1.48 The proponent has requested, through its consultants, that the Committee recommend that the proposed land use restriction prohibiting various commercial uses on land fronting Macquarie Street, unless it is a serviced apartment, be replaced with a requirement that 'Commercial Accommodation Use shall only be located in buildings with a frontage to National Circuit.' The reasons given are that:
- the residential amenity of Macquarie Street would be better protected if no commercial accommodation were to be permitted in this area;
 - the residential accommodation will be targeted at owner-occupiers and is

⁴⁹ Australian Government, National Capital Authority, *Steering Committee to consult on Pay Parking in the Parliamentary Zone*, July 2005.

likely to attract early and active retirees. This group would not want to share buildings with a transient population staying in commercial accommodation located in their complex; and

- the master plan proposes an overall mixed-use development with clearly defined precincts. Residential and associated community uses are clustered to the east of the internal road.⁵⁰

1.49 In contrast, the Brassey expressed concern that the proposed new restaurant and retail facilities on Section 27 would not interact directly with the Brassey and that land use policy applicable to the land opposite the Brassy should be accommodation, food and beverage, retail or commercial, rather than residential.⁵¹

1.50 The Committee finds it difficult to offer suggestions in relation to this issue in the absence of a Section Master Plan for the whole of Section 27. The Committee notes that the Macquarie Street residences would be protected by setbacks and design restrictions, but that the issue of complementarity of commercial land uses and heritage implications would need to be further assessed. The Planning and Land Authority is best placed to address these issues.

Retail floorspace provision

1.51 The proponent has requested, through its consultants, that the Committee recommends an increase in the permitted total gross floor area of all shops (excluding an arts, crafts and sculpture dealer and associated services) to 1,600m², provided that the maximum gross floor area of a supermarket or shop selling food does not exceed 400m².⁵²

1.52 The Committee does not support this request as it is concerned, despite the proponent's contrary view, that an increased retail area would detract from the commercial activities of the Kingston and Manuka Group Centres. It is desirable for planning policy to take account of the needs of local residents for convenience shopping, but also not to create a retail competitor having closer access to significant numbers of office workers, which could adversely impact on other businesses in the area.

⁵⁰ Submission No 4 – Christine Purdon for Purdon Associates Pty Ltd

⁵¹ Submission No 3 – Mark Sproat for the Brassey of Canberra

⁵² Submission No 4 – Christine Purdon for Purdon Associates Pty Ltd

Non-retail commercial use

- 1.53 The proponent has also requested, through its consultants, that the Committee recommends that the proposed restrictions on the total gross floor area of Non-retail Commercial Use (i.e. office space) be lifted.⁵³ The Committee is not inclined to support this request, as there is a growing risk of oversupply of office space when various developments in Civic are completed. The Canberra Spatial Plan provides that Civic and existing Centres will be the focus of employment growth, although there is also a reference to amending the National Capital Plan to allow a greater mix of uses in the Central National Area.⁵⁴ Increased office space on Section 27 would detract from the mixed-use, and particularly residential focus of Section 27; it has not been supported by empirical data (except that which is provided in the Planning Study), and the Committee has concerns that there is already underused office capacity in the Parkes/Barton area. The Committee also notes that both the National Capital Authority and the Planning and Land Authority prefers to congregate office employment in town centres so as to maximise transport and commercial benefits.

Various building height issues

- 1.54 The Committee notes that the proponent, through its consultants, has responded to the height concerns expressed by nearby residents during consultations. The proponent agreed to reduce the height of buildings facing houses in Macquarie and Bourke Streets to two storeys, with a third recessed level, so as to not impact on the heritage character of the streetscape. The Committee also notes that the proponent may be required to prepare a Preliminary Assessment in relation to new or relocated club or drinking establishments in the development if they are within 150m of a Residential Land Use Policy Area, or if the gross floor area of a new building exceeds the former gross floor area by more than 7 000 m².⁵⁵
- 1.55 The proponent, through its consultants, also requests that the proposed restriction on various height-related issues be amended in various ways. For example, it requests that the number of storeys along Sydney Avenue be lifted, given that that the maximum height (AHD) is stated, and that specific building

⁵³ Submission No 4 – Christine Purdon for Purdon Associates Pty Ltd

⁵⁴ ACT Government, *The Canberra Spatial Plan*, March 2004, p.85.

height limits on each street frontage be prescribed. Other issues include the proposed restrictions on roof plant and minor building elements and the height of buildings fronting the internal road.⁵⁶

- 1.56 The Committee is of the view that the Planning and Land Authority would have addressed these issues having taken careful consideration of the importance of National Circuit, the views to and from Parliament House, and other geometric considerations. The Committee is prepared, however, to recommend that the Minister seek the Authority's technical advice on the proponent's submission before tabling the final recommended variation in the Assembly.

Committee recommendations

RECOMMENDATION 1

- 1.57 The Committee recommends that Draft Variation No. 238 be agreed to, subject to the following recommendations.

RECOMMENDATION 2

- 1.58 The Committee recommends that the Chief Minister and Minister for Urban Services ensure that relevant parking policy officers in their respective departments support, in broad terms, the introduction of pay parking and/or other traffic reduction measures in Barton, Parkes and Forrest during consultations and negotiations with the National Capital Authority on this issue, and that the ACT Government introduces pay parking and/or other traffic reduction measures for those parts of these areas for which it has responsibility.

RECOMMENDATION 3

- 1.59 The Committee recommends that the Planning and Land Authority encourages the demonstration and promotion of sustainability features for this complex, including the application of water sensitive urban design principles.

⁵⁵ Land (Planning and Environment) Act 1991 s 114, Appendix 11 of the Territory Plan.

⁵⁶ Submission No 4 – Christine Purdon for Purdon Associates Pty Ltd

RECOMMENDATION 4

- 1.60 With regard to the open space landscaped areas, the Committee recommends that the Planning and Land Authority encourages the proponent to consider the use of water-saving strategies, and to plant drought tolerant native species on Section 27 wherever possible, subject to heritage considerations.

RECOMMENDATION 5

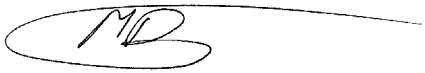
- 1.61 The Committee recommends that the Planning and Land Authority requires that all buildings on Section 27 be constructed to meet the criteria set out in the following Australian Standards as amended from time to time: AS 2107 'Recommended Design Sound Levels and Reverberation Times for Building Interiors' [AS 2107 – 2000], and AS 3671 'Acoustics - Road Traffic Noise - Building Siting and Construction' [AS 3671 – 1989].

RECOMMENDATION 6

- 1.62 The Committee recommends that noise-abatement conditions be applied in relation to Section 27. In particular, the Committee recommends that the Planning and Land Authority requires through the B16 Area Specific Policy or at the development application stage, that the proponent submit a noise management plan, covering the construction and ongoing operational aspects of the development. An accredited acoustic specialist who is a member of the Australian Acoustical Society should prepare this plan for approval by the Planning and Land Authority and the Environment Protection Authority. This noise management plan should detail the design, siting and construction methods that will be used to minimise the impact of noise on neighbours. This plan should require that no construction occur outside the hours of 7am to 6pm Monday to Saturday.

RECOMMENDATION 7

- 1.63 The Committee recommends that the Minister for Planning obtains and considers technical advice from the Planning and Land Authority concerning its proposed restrictions on roof plant and minor building elements, the number of storeys and the height of buildings fronting the internal road, before tabling the final recommended variation in the Assembly.

A handwritten signature in black ink, appearing to be 'MD', enclosed within a large, horizontal oval loop.

Mick Gentleman
Chair
5th September 2005

Appendix 1 – Current Territory Plan Policies

The existing Land Use Policy for the area subject to this variation is shown in Figure 1 and is explained in the introduction to this report.

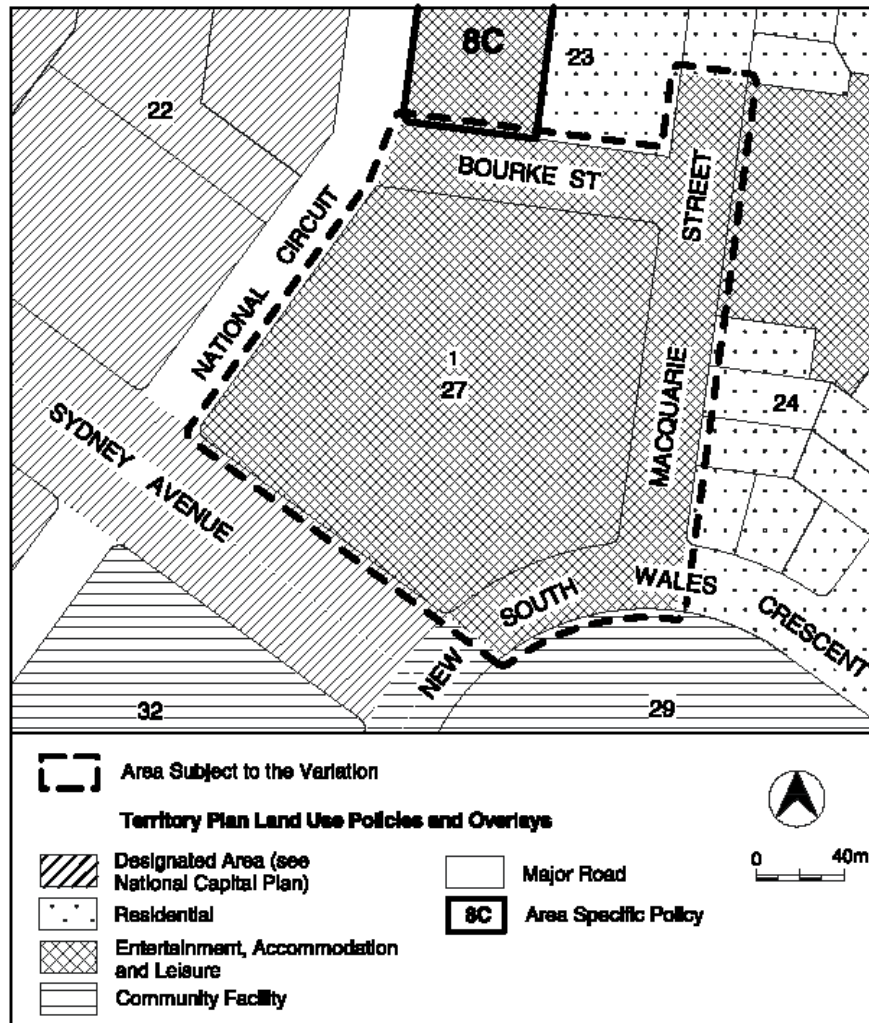


Figure 1 – Territory Plan Current Land Use Policies

Appendix 2 – Proposed Variation to the Territory Plan Map

The proposed Land Use Policy for the area subject to this variation is shown in Figure 2. It replaces the current Entertainment, Accommodation and Leisure Policy with Residential Land Use Policy with a B16 Area Specific Policy. This is shown on the map by a border around the site and a code on the map (B16) which indicates a cross reference to the Territory Plan Written Statement. The variation map may be subject to adjustments following detailed surveys.

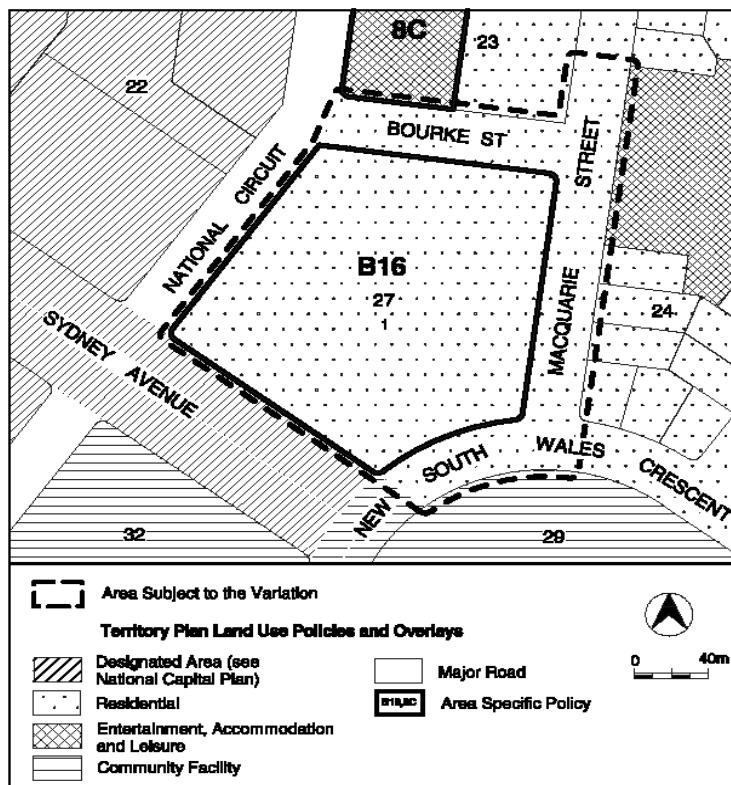


Figure 2 – Proposed Territory Plan Land Use Policies

Appendix 3 – List of submissions

No. 1 – Jonathon Claoué-Long for Telopea Park School Board

No 2 – Tim Baker-Finch for Telopea Park School Parents & Citizens Association

No 3 – Mark Sproat for the Brassey of Canberra

No 4 – Christine Purdon for Purdon Associates Pty Ltd