

**LEGISLATIVE ASSEMBLY FOR THE  
AUSTRALIAN CAPITAL TERRITORY**

**STANDING COMMITTEE ON PLANNING AND ENVIRONMENT**

**(Reference: draft variations Nos 164 and 187 to the Territory Plan)**

**Members:**

**MRS V DUNNE (The Chair)  
MS K GALLAGHER  
MS R DUNDAS**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**FRIDAY, 14 JUNE 2002**

**Secretary to the committee:  
Ms M Weeks (Ph: 62050199)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

**The committee met at 9.36 am.**

**GARRICK CALNAN,**

**KERRY BROWNING** and

**SHIRLEY GRAHAM**

were called.

**THE CHAIR:** Welcome.

**Mr Calnan:** I would like to introduce Kerry Browning, from our social planning area, and Shirley Graham, who is a senior planner, who works with me in the Territory Plan Coordination Section.

**THE CHAIR:** What does social planning do?

**Ms Browning:** Well, it is really quite interesting.

**THE CHAIR:** What do you do in social planning?

**Ms Browning:** We look at how planning decisions and development might impact socially on communities. We do social impact assessments, look at the provision of community facilities—and issues such as community safety. We keep a database on community facilities. We do quite a bit on accessibility and access to public and commercial buildings. We have recently developed some guidelines that will assist people when they are putting in development applications, to ensure that they are accessible. We are also running a competition at the moment for school students, to make them aware of issues around planning, so that they can envision Canberra for the next 100 years.

**THE CHAIR:** That is Imagining Canberra, is it?

**Ms Graham:** Imagining Canberra—that is right. It should be interesting to see what we get!

**THE CHAIR:** Welcome to the Planning and Environment Committee. You should understand that these hearings are legal proceedings of the Legislative Assembly, protected by parliamentary privilege. That gives you certain protections but also certain responsibilities. It means that you are protected from certain legal action, such as being sued for defamation for what you say in this public hearing, but it also means that you have the responsibility to tell the committee the truth. Giving false or misleading evidence will be treated by the Assembly as a serious matter.

Welcome. We have Garrick Calnan, whom you know, Katy. We also have Shirley Graham and Kerry Browning. We will start with 164, community facilities, if we may. You are basically going to do the whole lot, but we want to keep them compartmentalised as much as possible.

**Mr Calnan:** I am Garrick Calnan, Manager of Territory Plan Coordination, ACT Planning and Land Management. I will give an overview of draft variation No 164, which relates to the community facilities land use policy. I guess we will then answer any questions you might have, and try to clarify any issues on the documentation with which you have been provided.

Draft variation 164 relates to a review of the community facilities land use policy, the land shown on the Territory Plan map as community facilities—the bright yellow areas on the map behind you. It has been used typically to protect sites for important facilities like schools, health centres, hospitals and those sorts of things. In 2000, there was a review undertaken by PALM of the land which had been allocated to community facilities in the Territory Plan. That review identified that, in some areas, there was quite a significant area of under-utilised land within the community facilities designation and that it was appropriate to review the policies applying to land so designated—with a view to ensuring that it be used in the most effective manner.

In doing the review, a number of issues became apparent. Probably the key one was the use of community facilities land for accommodation for people with special needs, particularly our ageing population and people with disabilities. There were existing provisions in the Territory Plan and in the community facilities land use policy which allowed certain types of activities, such as retirement complexes.

However, because of the way the policies were structured and the restrictions around them, we were finding we were not able to utilise the land to the greatest possible extent, to meet what is fairly widely accepted as a growing need. When you look at the demographic characteristics of Canberra, one of the first things that becomes apparent is the ageing of the population.

We looked at several questions—firstly, how do we utilise the stock of land we have, to better address the needs of an ageing community? A number of other issues emerged, such as the use of under-utilised community facilities buildings, or buildings which had previously been dedicated to community facilities use, but were no longer required, and had fallen vacant. How could we better utilise those assets?

There have been some proposals built into the document to address that issue. I emphasise that this is a policy review—it does not relate to any specific development proposal. There are no development proposals driving this variation, although I think that, now that the policies have become public, there are people who are looking at what might be possible if this variation goes through.

The draft variation was released for public comment on 26 July last year—comments closed on 10 September. As well as the normal advertising and distribution, we sent the documents out to a wide range of community organisations, given that it was relating specifically to community facilities. There then followed consideration of the comments. We had 11 submissions, from memory. There were no submissions from individuals. They were all from either community groups or resident organisations. Following our consideration of the submissions, we submitted the draft variation to the executive on 17 March, and it was then referred to this committee.

Regarding the proposed policy changes, I will go through the key changes proposed as part of this variation. In response to the issue about making provision for housing for people with special needs, we have proposed the introduction of two new land use categories, or definitions. The first is 'residential care accommodation', which focuses on providing high end care. That is where services are provided on site to residents. It covers nursing homes, convalescent homes and those types of facilities.

More significant, though, was the introduction of another category called 'supportive housing'. This is more related to addressing what was seen as a gap in the continuum of housing provision. This is where people are potentially in need of support, and where an agency or central management body exists to provide support to those people. However, the units themselves may be in the form of self-contained dwellings. In many respects, they might be self-care units. However, there is a capacity, in the way the development is set up, to provide services to those residents when and if they need them.

**THE CHAIR:** HAC-type services could come in?

**Mr Calnan:** That is right. That is a fairly significant change. As I said, in the previous policies, there was provision for a use called 'retirement complex'. However, the definition of 'retirement complex' required the provision of either a nursing home or hostel component within the retirement complex, in order to qualify, or to be permissible within the community facilities land use policy areas. Because of the changes to the funding of those arrangements, that has become a major impediment, because there are a very limited number of nursing home beds now funded by the Commonwealth for that type of activity. This means it has been virtually impossible to allocate land for retirement complexes, because there just has not been the nursing home component. Hence the shift in the way we define those categories.

**THE CHAIR:** Are there instances which have highlighted this deficiency? Until I read this, I had always assumed, obviously erroneously, that you could build aged persons units on community land, but you could not?

**Mr Calnan:** No, you cannot.

**Ms Graham:** Not without the nursing home component.

**THE CHAIR:** Not without the nursing home component—but this would effectively make it possible to do so?

**Ms Graham:** Yes.

**Mr Calnan:** So that is a fairly significant change. It was probably the change which attracted the most comment. However, a lot of the comments we received really related to misunderstanding—or difficulty in understanding the difference between supportive housing and what, in the original variation, we had called 'supported accommodation'.

**Ms Graham:** The two terms got very confused.

**Mr Calnan:** The two terms got confused. Our response to that was to make some adjustments to the definitions, to clarify the difference and change the name from 'supported accommodation' to 'residential care accommodation'. As I said, most of the issues were over misunderstandings about the intended difference between the two.

Other changes related to the use of surplus community facilities buildings. There is current provision in the Territory Plan to use surplus school buildings for offices, non-profit organisations and community groups. However, there is no provision to use other types of community facilities buildings for that type of activity.

**MS DUNDAS:** Sorry, can you explain that a bit more?

**Ms Graham:** It relates only to schools.

**Mr Calnan:** The existing policy relates only to school buildings.

**MS DUNDAS:** What would be other surplus buildings?

**Ms Graham:** Baby health clinics and health centres. There is a host of other territory-owned community buildings that the policy did not cover.

**MS DUNDAS:** Because they were designed for a specific purpose?

**Ms Graham:** No, because the existing policy wording is 'school'. It allows the use of school buildings.

**MS DUNDAS:** What has been happening to the others?

**THE CHAIR:** I am sorry to interrupt, Roslyn. Shirley, could you state your name and position for Hansard, please?

**Ms Graham:** Shirley Graham. I am a senior planner in the Territory Plan coordination section.

**MS DUNDAS:** What was happening to the baby clinics, or whatever, which were surplus to requirements? Were they just vacant and the only thing which could replace them would be another baby care facility?

**Mr Calnan:** Or another community facility. There is provision to change from one community use to another under the community facilities land use policy. However, if there is no community group interested in occupying these assets, then they sit vacant. One of the related issues came up in another variation of the Territory Plan, which was processed last year or the year before. That was variation No 152, which related to St Christopher's precinct in Manuka. We had the Catholic Education Office running the Catholic education system from an old convent building. There was a recognition that it was an appropriate thing for those sorts of organisations to do, but there needed to be some provision in the Territory Plan.

**Ms Graham:** Because it was office use.

**THE CHAIR:** I am entirely confused!

**Ms Graham:** It was because it was office use. They were running an office—

**THE CHAIR:** It was a community organisation?

**Ms Graham:** —even though it was a community organisation. That is where the plan was not flexible enough.

**Mr Calnan:** Had they been undertaking administrative functions associated with the provision of community facilities or community services, the existing plan would not have provided for that.

**THE CHAIR:** It limits what you can do. I drive past the old baby health centre in South Evatt every day, which is now occupied by the Tibetan Buddhists. That was allowed, but if somebody wanted to come in and run an office—

**Mr Calnan:** If they wanted to run the baby health services—

**THE CHAIR:** —they could not do that, because it is an office function?

**Mr Calnan:** That is right.

**MS GALLAGHER:** There has to be service provision?

**Mr Calnan:** It needs to meet the definition of the specific uses defined in the land use policy.

**MS DUNDAS:** You want the amendments to free that up so that there is easier transferrability?

**Mr Calnan:** That is right. You can run a child care centre from community land, but you could not run an organisation which runs a whole range of child care centres, if you know what I mean.

**Ms Graham:** This is why we are changing it.

**MS DUNDAS:** Under the variation, there are still checks, if a community organisation wants to access a building?

**Mr Calnan:** That is right.

**MS DUNDAS:** It must be a not-for-profit organisation, doing community good.

**Mr Calnan:** That is right. The existing policy says:

Existing school buildings may also be used for offices of sporting, cultural, social, community-based organisations or other non-profit organisations providing services to the ACT community or for small scale professional uses.

That is for existing school buildings.

**THE CHAIR:** That is why you can run “Shout” out of the Pearce Primary School?

**Ms Graham:** Yes. What we want to be able to do is apply the same principle that applies to schools, to any territory-owned community facilities.

**THE CHAIR:** Do you mean to say you did not do this before?

**Ms Graham:** We did not—no.

**MS GALLAGHER:** It has been only nine years!

**Ms Browning:** Kerry Browning, Senior Community Planner. When you look at the needs of community organisations to identify places to set up their offices, obviously something like this is very warranted—to have a more flexible approach.

**Mr Calnan:** The new policy says:

Business agency, Office, Public agency ...

Those are the three office-type uses now permitted under the new land use policy. It goes on to say:

May only be permitted where:

- a. the use is restricted to small scale, not for profit organisations providing community facilities or services which meet the social, cultural, leisure, health, community wellbeing and educational needs of the Canberra community and its visitors ...

Then there is another provision which really provides for circumstances where we do not have any of those organisations which can occupy the space, saying:

the use occupies surplus community facility buildings and the term of the lease is restricted to a maximum of 5 years.

The reason we are restricting the term of the lease is because we want them to only utilise the existing asset. We do not want to give them a significant stake in the land so it warrants putting significant investment into the property. Because of the short time frame, if a need for a community use emerges, then we can plan to pull the land back and reallocate it to a community use within a reasonable time frame.

**Ms Graham:** The territory can pull it back. The five years was just an arbitrary figure. We were trying to come up with something that gave a group going in there enough security to be able to go in there and know where they were at but, at the same time, if the community needed the building back for another community facility, it was possible to get it back in a reasonable time frame—to be used again.

**Mr Calnan:** Going through the new land use policy bit by bit, we have introduced new objectives, or revised the objectives applying to the community facilities land use policy overall.

**THE CHAIR:** What are the new bits in the objectives?

**Mr Calnan:** The new bits are contained on page 4 of the variation. The objectives now say:

“...to ensure that adequate sites are available to meet community needs for community services and facilities in appropriate and accessible locations.

**THE CHAIR:** Have they changed substantially? What are the substantive changes?

**Ms Graham:** The main changes are in c. and d.

**Mr Calnan:** Yes, it is picking up this thing about supportive housing.

**Ms Graham:** We have not yet talked about the emergency services facilities.

**Mr Calnan:** As I said, we have made adjustments to the objectives, to pick up some of the issues we have talked about. Some changes have been made to the land use policy itself—the range of permissible uses. As mentioned, we have added the two new terms of ‘residential care accommodation’ and ‘supportive housing’. We have made a change to the land use restriction in relation to ‘emergency services facility’.

**THE CHAIR:** Sorry, Garrick, was it always permissible to have emergency services facilities on community facilities land?

**Mr Calnan:** It was, yes.

**THE CHAIR:** Is that normally where they are? So fire stations and ambulance stations are normally on community facilities land?

**Mr Calnan:** No, not all of them.

**Ms Graham:** I will answer that. Currently, emergency services facilities can only go on community policy land if there are no other sites available for that emergency services facility in any of the other land use policies. That does not mean that the best site is used for the emergency services facility. Their main criteria are response times and accessibility. There may be a community facilities site there which is in the best spot for that, but there are some other sites around that might be in a commercial policy or something.

**THE CHAIR:** Where would you normally put emergency services?

**Ms Graham:** At the moment, the way the policy reads, it says it can only go in the community facilities policy if—

**Mr Calnan:** No. It says it can go in only if there are no sites available in other areas.



**Ms Graham:** Yes.

**Mr Calnan:** Most of the existing facilities are located either on municipal services land use policy or commercial land use policy.

**THE CHAIR:** What you are saying is that, if you need to site an ambulance station and the best location, when it comes to response times, is on community land, then you can put it on community land?

**Ms Graham:** We want to be able to put it there, yes.

**THE CHAIR:** That is without any change in the Territory Plan?

**Ms Graham:** Yes.

**Mr Calnan:** Without having to go through a Territory Plan change. Currently, there is provision for corrections facilities on community facilities land, but we are proposing to delete that. We do not have any correction facilities on community facilities land.

**THE CHAIR:** What is the BRC classified as? Do you know?

**Mr Calnan:** That is on 'commercial' in the services precinct of the Belconnen Town Centre.

**MS GALLAGHER:** What about Quamby?

**Mr Calnan:** It is in a broadacre area, so there is provision in the broadacre. The broadacre planning area is outside of the metropolitan area.

**Ms Graham:** When we looked at all the sites we have for community facilities, we could not see anywhere where a corrections facility would be acceptable, to be quite honest.

**Mr Calnan:** We have proposed to add indoor and outdoor recreation facilities as permissible uses, subject to carrying out a community needs assessment.

**THE CHAIR:** It would have to be run by a community organisation, or by a for-profit organisation?

**Mr Calnan:** Not necessarily. It could be a tennis court, a gymnasium, or something of that nature.

**MS GALLAGHER:** A business could operate there?

**Mr Calnan:** A business which operated a recreation facility, yes.

**MS GALLAGHER:** On community land?

**Mr Calnan:** On community land.

**MS DUNDAS:** Was there any public comment about that?

**Ms Graham:** Yes, I recall that there was. I cannot think whose submission it was in—I would have to look through. There was probably only one comment about it. We do not distinguish between non-profit and profitable uses when we are looking at the impacts on the land. That comes about from things like traffic and noise, and the use of the land. It is not about whether somebody is making a profit or not.

**MS DUNDAS:** There is a difference between land which costs \$10 for people to use and land which costs them nothing. I think that would have an impact on the use of the land.

**Ms Graham:** We would not be proposing that they get the land for nothing.

**MS DUNDAS:** You have a different market for people who use not-for-profit, free recreational indoor and outdoor facilities, versus the people using a recreational facility for which they have to pay. That is what I am saying.

**Ms Browning:** It allows for both indoor and outdoor recreation, but it does not limit it. So we have an option of providing greater numbers of recreational facilities. Certainly that is something that needs assessment while we are doing the community facilities. People are raising issues such as a range of recreational facilities and having those located within walking distance, or in areas that are accessible. It is recognised as being a community facility because it provides something back to the community. It gives people options—to go and enjoy leisure activities.

**MS GALLAGHER:** It would be new, though, would it not, to be giving community land, or letting people use community land, to operate a business from? That is a new thing?

**Mr Calnan:** Well, no—it is not new. There are certain uses which are currently permissible that operate on a for-profit basis. In many cases, child care centres are operated on a for-profit basis. Some health facilities, diagnostics centres and educational facilities are operated on a for-profit basis. So the notion of community facilities land is not saying it is only for not-for-profit type organisations.

**THE CHAIR:** It is certainly the perception people have. Perhaps it is something that needs to be dispelled. Under what circumstances do people obtain leases over community facilities land? Do they often—or do they ever—now acquire them on a concessional basis?

**Mr Calnan:** They do at times, yes, but not necessarily.

**THE CHAIR:** It is not axiomatic that, if you have community land, you are getting it on a concessional basis?

**Mr Calnan:** No.

**THE CHAIR:** If I am ABC diagnostic services and I want that piece of land, then the valuation takes into account what I am using it for?

**Mr Calnan:** Exactly.

**Ms Graham:** Full market value.

**THE CHAIR:** It would be full market value. That is probably the issue, isn't it? Not so much the classification, but the terms and conditions on which someone gains the lease.

**Mr Calnan:** That is right. It is done through the leasing arrangements. The question for us is whether it is an acceptable activity to have on land which has been set aside for community purposes or community facilities purposes.

**THE CHAIR:** It raises a question about the essential meaning of 'community facilities'. You and I, Garrick, have had a discussion about funeral parlours, which I would see as an entirely money-making venture.

**Mr Calnan:** That is right.

**THE CHAIR:** Important and essential, but a money-making venture.

**Mr Calnan:** I guess it comes down to the basic philosophy of what community facilities land is all about. Our position is that funeral parlours are providing a service to people at a fairly sensitive period in their lives. Our current policy is to limit those activities to areas like commercial precincts within industrial areas—the services areas within our town centres. And yet, the sorts of activities going on there are very similar to what happens in churches. They run services.

That is a community kind of activity—when people are coming together to celebrate someone's life. We think it is appropriate for that to be done in an acceptable community environment. We think the location of some of our funeral parlours is not the most suitable location for that sort of community activity.

**THE CHAIR:** Like the ones in Belconnen?

**Ms Graham:** Yes.

**THE CHAIR:** You do not have to worry about the ones in Queanbeyan!

**Mr Calnan:** We think there would be opportunities to provide more appropriate settings for that type of activity. We are more concerned about impacts of uses. As I said, the impact of a funeral parlour is probably very similar to the impact of a church. Certainly that is where those sorts of functions have been carried out in the past.

**MS GALLAGHER:** There is one in Kingston, near the Kingston Hotel, and there is one up near the services club in Manuka. Is that part of what you were saying about a group centre? What sort of land are they on? And there is Tobin Brothers. They are both on Canberra Avenue.

**THE CHAIR:** Canberra Avenue is designated land.

**Ms Graham:** That is on different land. It is not commercial. It is ‘corridors and office’, which is one of our commercial policies.

**THE CHAIR:** By ‘funeral’ you mean a chapel-type function. If you were just an undertaker who did not provide a chapel, you would not consider putting someone there who ran simple mortuary-type services?

**Ms Graham:** No.

**THE CHAIR:** There would have to be a chapel attached?

**Mr Calnan:** Certainly. The definition includes things like chapels, yes.

**Ms Browning:** Grief counselling—those sorts of services. The other thing to remember is that emergency services, funeral parlour and indoor and outdoor recreation will be permitted only when there is a community needs assessment, to assess whether there is enough land for community uses. We would be looking at ensuring that that land goes for those purposes, as long as it was not required for other community needs in the area. There are stop-gap measures to ensure that we—

**MS DUNDAS:** Sorry, Kerry. That is my question about when we look at the areas currently in the Territory Plan designated for community use. From looking at the map, most of them are taken up by schools, at this point. Where would be a more appropriate place, which is currently community land, for a funeral parlour to go? Where would you envisage them going? Next to schools? I am just asking: what long-term benefit is there from changing the definition in a realistic way?

**Ms Graham:** It is to give a better opportunity than what is there now. At present, there are mixed-service areas in the Belconnen Town Centre, for example.

**MS DUNDAS:** Yes, I appreciate the problems with where they are now, but is moving them to community land going to fix the problems? Putting a funeral parlour next to a school, in my mind, is just as inappropriate as having it next to a garage. How does this fix the broader problem?

**Ms Graham:** There would be other assessments that would go along with it, like the locational guidelines for types of use. Not everything is compatible, so you would have to assess the use, such as a funeral parlour, for the particular site available as well—and ascertain the surrounding uses.

**MS DUNDAS:** Does that happen in commercial precincts?

**Ms Browning:** Yes.

**MS DUNDAS:** Is that assessment done already, to compare the suitability for fitting in with the other businesses in the area, for commercial precincts?

**Ms Browning:** Are you talking about for a funeral parlour, or for any development?

**MS DUNDAS:** Taking funeral parlours at the moment, is that assessment done? Say I rocked up and said I wanted to open a new funeral parlour in the industrial area of Belconnen—would there be this kind of needs assessment? Would a comparative analysis be undertaken of whether or not a funeral parlour would be suitable to have next to the Belconnen Indoor Basketball Centre? Would that be undertaken now?

**Ms Browning:** We would certainly assess the suitability of it. It would not be a complete community needs assessment, looking at the demography and all those sorts of issues. However, we would certainly look at the site-specific issues and the context within which it was going to be operated.

**MS DUNDAS:** Like traffic flows and peak use times?

**Ms Browning:** All those things, yes. That is a requirement.

**Mr Calnan:** In the community facilities land use policy under this proposal, it is proposed that funeral parlours and indoor and outdoor recreation facilities only be permitted, subject to the undertaking of a community needs assessment.

**Ms Graham:** If you look at page seven, you will see what that covers.

**Mr Calnan:** That is not a requirement in the commercial land use policies. As Kerry says, there would still be an assessment undertaken, as to whether the site was appropriate, before it was allocated for that use.

**MS DUNDAS:** It would not be as detailed?

**Mr Calnan:** It would not be as detailed as what is required. This is really saying they need to demonstrate that the land is not required for other community uses. This is land already designated for community facilities land. In Belconnen, for instance, there are 30-odd hectares of vacant community land. In Tuggeranong, there are 24 hectares.

**THE CHAIR:** Most of it is around the lake. You could not build a funeral parlour there, could you?

**Mr Calnan:** Some of it is around the lake. Anyway, that is the argument. That is what we have recommended. There are obviously differences of view. We think it is appropriate. Certainly, in other cities, funeral parlours and funeral homes are in a much more residential context, out there in the community. They are often quite close to residential areas—in more of a community setting.

**Ms Browning:** A bit more sensitive.

**Mr Calnan:** When they are required, and hopefully that is not often, the—

**THE CHAIR:** Everyone needs them just once.

**Mr Calnan:** That is right.

**THE CHAIR:** Thank you. I have a question about supportive housing. On page 6 it says, “Supportive housing is ancillary to a community use.” That means you would already have to have a community use on the site.

**Ms Browning:** There might be a church, for example.

**THE CHAIR:** Yes. From people who have approached me, I can understand where that is coming from. If you had, for instance, just a small block of land that was crying out for something, why couldn’t you build APUs on it?

**Mr Calnan:** You will see that the provision on page 6 is the land use restriction applying to supportive housing. The first three requirements—a), b) and c)—are saying that, in order to be able to use the land for supportive housing, the lease has to restrict the occupation of the dwellings to people with special needs—for reasons of infirmity due to age or disability. They have demonstrated, through a community needs assessment, that there is sufficient land for community use in the locality and that all dwellings are designed to meet the relevant Australian Standards for accessibility. If you meet all of those requirements, a block could be used for—

**THE CHAIR:** It has to be ancillary to some other—

**Mr Calnan:** No, it does not. It is for all supportive housing.

**Ms Graham:** At the end of c), it says “all”.

**MS DUNDAS:** On page 6, it refers to the complex being restricted by lease to persons with special housing needs, for reason of infirmity or disability. Yet, in the definition on page 13, where it talks about supportive housing, it also mentions a university college. I am concerned about the term ‘disability’. Does that mean it cannot be used for a shelter for women who are escaping domestic violence, or as a drug rehabilitation unit? Are you looking at it specifically for aged care?

**Mr Calnan:** That could come under the ‘residential care accommodation’ definition.

**MS DUNDAS:** I am also interested in the ‘university college’ thing.

**Mr Calnan:** University college is an example of where the supportive housing is ancillary to community use—it is ancillary to the university.

**MS DUNDAS:** You can have supportive housing which is for old people or disabled people, or you can have supportive housing that is ancillary to a community use—

**Mr Calnan:** Yes.

**MS DUNDAS:** —for anybody?

**Mr Calnan:** For anybody.

**MS DUNDAS:** Okay—the “or” again.

**THE CHAIR:** That presumes that a university college is supportive housing. That was not my experience! I had overlooked the “or”. I think it makes a big difference.

Did you have any more questions, before we move on to the specific areas?

**MS GALLAGHER:** Garrick, you said this is a policy change and that development proposals are not driving it, but there are development proposals which are dependent upon this. Is that right? Or have I been meeting with a whole range of people who—

**THE CHAIR:** There is clearly a whole range of people who are sweating on it.

**Mr Calnan:** As I said, now that this is public, it provides for opportunities, so they are coming to see people like yourselves. But it was not those people who drove this variation.

**THE CHAIR:** They just got on the bandwagon?

**Mr Calnan:** Yes.

**THE CHAIR:** I do not understand, on page 9, land use control, where it says ‘supportive housing’. All the area round Lake Ginninderra is supposed to be set aside for some sort of aged facility, whether or not that is appropriate. I do not understand why land use restrictions do not apply to 3.1. What does it mean? You can do anything there, so long as it is—it is unclear what that means.

**Ms Graham:** I guess it is, firstly, an understanding of what area-specific policies actually are. They are like a sub-area within the broader policy. So there are special controls which apply to that specific site for some reason. That is what area-specific policies are.

With this one in Belconnen, we have not changed the existing situation. Under the existing Territory Plan—in fact, it goes back to NCDC days—there has been housing proposed on that site—residential. That carried through to the Territory Plan. All we have done here is reworded and reformatted it. We have not added any new use that is not already permitted. All right? ‘Residential’ was not in the title before. We have put it in the title so it is quite clear. There seemed to be a misunderstanding. ‘Residential’ has been able to be put on that site for many years. We have not actually changed anything.

**THE CHAIR:** In that case, the proposal is that this is a genuinely mixed area of residential and community use, is it?

**Ms Graham:** Yes.

**THE CHAIR:** There seems to be a perception in the community that there is an emphasis on aged persons accommodation in that area.

**Ms Graham:** Yes.

**THE CHAIR:** There has been a lot of debate in the community as to whether that is an appropriate place, because of its relative isolation.

**Ms Graham:** As I understand it, Land and Property intend leasing that site for a mix of residential and aged persons care.

**MS DUNDAS:** Why does clause 3.1 not apply?

**Ms Graham:** Because residential is already a permitted use, and we have not changed that, the conditions in 3.1 do not apply at the moment.

**Mr Calnan:** The reason those provisions are included in 3.1, applying to supportive housing, is to ensure that community facilities land does not become quasi-residential land. In this area in Belconnen, residential use is already a permissible use under the existing policy. So, because residential use is already permissible, there is no need to apply the restrictions that would normally apply on other community facilities land.

**MS DUNDAS:** Considering the public comments you received about this specific area, why did you not put the 3.1 restriction on it? I think that would be what the community was looking for. Why did the department choose not to respond to those concerns? Just because it is the way it is now, when there are other things that we change through the consultation process, why was this one not changed?

**Mr Calnan:** I guess, to come back to the point that residential use is a permissible use and we think it is—

**MS DUNDAS:** I am asking, considering the public concern about blanket residential use of this area, why were those comments not taken on board through the consultation process, to apply 3.1 to the area? Why did you choose not to vary the Territory Plan or suggest a variation to the Territory Plan in this case?

**Ms Graham:** I guess the bottom line is that we still feel that a mix of residential with aged persons accommodation is appropriate for the site. It is an enormous site. There are about 13 hectares of land.

**Ms Browning:** There are opportunities for a range of activities there that would be compatible. So it would not necessarily all be fixed residential.

**MS DUNDAS:** Under the current situation, is that decision left to Property and Land to make, as they sell the land?

**Mr Calnan:** Not entirely. They will undertake studies to identify appropriate lease conditions under which to release the land. However, they will do that in conjunction with PALM, and PALM will have to sign-off those lease conditions before the land is sold.

**THE CHAIR:** There seems to be some inconsistency about how we do this. With the Territory Plan, there is inconsistency everywhere, but here you have community land on which you can build residential units. Take, for instance, the top of Goyder Street in Narrabundah—that is residential with a community overlay. There does not seem to be any consistency in how you deal with this. Is this side of Narrabundah going to be more



community oriented? Are there going to be more community facilities than residential, or what? There does not seem to be a clear path for anyone looking at the Territory Plan.

Anyone looking at that will say, “It is yellow—it means you can build a school.” The thing is that, looking at it, yes, it has an overlay, but you do not necessarily click and say, “Yes, that is residential”, in the same way that you look at the land at the top of Goyder Street and say, “That is residential—so how come they built a church on it?” That is a permissible land use on residential land. There just does not seem to be any consistent application of the rules. I am sorry, I am confused. If I am confused, all those people out there are confused as well.

**Mr Calnan:** It is complex. Every site is different. A land use policy will apply to all land to which that land use policy is allocated, but in these cases there are area-specific policies. In most cases, they reflect some sort of history, and this one does. As Shirley mentioned, the history goes back to NCDC times—the Belconnen Town Centre policy plan—when this site was identified as a suitable site for a range of community and residential uses.

**MS DUNDAS:** Are you talking about the Belconnen Town Centre master plan process?

**Mr Calnan:** No, the one before that. The NCDC undertook a Belconnen policy plan in the 1980s, which was a review of planning for Belconnen. This site was identified at that time. There has always been great debate about the use of land around Lake Ginninderra.

As I am sure you are aware, Lake Ginninderra is a man-made lake. It was planned that there would be a close interrelationship between the town centre and uses around the lake but, for various reasons, there have been differences of views within the community about that. There has been some adjustment and give and take around that. As Shirley mentioned, this is a very large site and, I would venture to say, a very valuable site. It is a significant asset for the territory and it is important that we use it in the most appropriate way.

**THE CHAIR:** I suppose it really depends on how you look at Lake Ginninderra—as a large settlement pond, or something else.

**Mr Calnan:** It plays a range of functions and serves a range of purposes, some of which are recreational—and environmental for protection of the Ginninderra Creek and the Murrumbidgee River. It is also a significant asset to the surrounding development.

**THE CHAIR:** It certainly gives the place ambience. I am fascinated by all the specific area policy bits in here. Now, 4B in Campbell—is that the St Anne site?

**Mr Calnan:** No, that is the CSIRO site.

**THE CHAIR:** There is not enough map here. I was trying to work out where it was.

**Mr Calnan:** It is on Limestone Avenue.

**THE CHAIR:** That is the CSIRO site, next to Campbell High School.

**Mr Calnan:** Yes.

**Ms Graham:** That is another historical one.

**THE CHAIR:** Yes, that is fine. That answers some questions there. With 4C, this is just re-establishing the status quo?

**Mr Calnan:** Yes.

**THE CHAIR:** Yesterday, I got draft variation 198 about Tuggeranong Homestead.

**Mr Calnan:** Yes. This is a situation where it is very difficult to coordinate—things change over time. There will need to be some adjustments to figure 3 on page 11, to reflect the latest circumstances. We cannot pre-empt the outcome of that. What we have done is essentially reflect the existing policy arrangements, but we need to advise the committee that there is a draft variation—No 185.

**THE CHAIR:** It is 185, is it?

**Mr Calnan:** There are two variations relating to Tuggeranong Homestead. One is No 185, which relates to the land use policy changes and the other one—196, I think it is—which was released last week, relates to the entry of the Tuggeranong Homestead on the Heritage Places Register.

**THE CHAIR:** I see.

**MS GALLAGHER:** Yes, that is the one we received.

**Mr Calnan:** The situation with 185 is that it was released last year for public comment. We are holding that, pending the outcome of 196. The intention is to bring them up to you, together.

**THE CHAIR:** That is innovative. Thank you—I am impressed!

**Mr Calnan:** It is complicated—we acknowledge that—but we will do our best to present it in a simplified way. Eventually, this will need to be adjusted. As I said, we did not feel it was appropriate to pre-empt the outcome of that separate process.

**THE CHAIR:** That makes sense. The last one, figure 4, is the Catholic Education Office site, the old St Christopher's Primary School and the Good Samaritans convent.

**Mr Calnan:** That is the one I mentioned earlier. That specific provision was introduced as part of variation 152, which related specifically to those sites.

**THE CHAIR:** This is 154, is not it? No, 164—I am not good with numbers. Red Hill. Do you want to give us a quick overview, Garrick, on Red Hill? Thank you, Kerry and thank you, Shirley.

**Mr Calnan:** Variation 187 relates to the old Red Hill precinct, which was entered on the Heritage Places Register in August of 2000. That was done through a variation to the Territory Plan—No 114. Soon after that, a resolution was passed by the Legislative Assembly, recommending that the executive give a direction to the planning authority to review the policy, with a view to implementing policies that limited the development intensity on any one block to one dwelling. This variation is really giving effect to the subsequent direction that was given to the planning authority.

**THE CHAIR:** So we had a variation that put the Red Hill housing precinct on the Heritage Register.

**Mr Calnan:** Yes.

**THE CHAIR:** There was some provision for more than one dwelling per block.

**Mr Calnan:** Until draft variation 114, there was no limitation on the number of dwellings permissible. There were a number of celebrated appeal cases for development proposals that were seeking to put multi-unit developments on some of the blocks, which are very large.

**THE CHAIR:** Some of them are huge!

**Mr Calnan:** It is an area of very large blocks—up to 10,000 square metres.

**THE CHAIR:** How much is that?

**Mr Calnan:** That is a hectare.

**THE CHAIR:** That is more than 2½ acres.

**Mr Calnan:** Most of the blocks are in excess of 2,000 square metres. Are you familiar with where the old Red Hill precinct is?

**THE CHAIR:** I am, yes.

**Mr Calnan:** This is variation 114, and that is a map of the precinct.

**THE CHAIR:** It is in the green map.

**Mr Calnan:** Variation 114 had been on the interim register for quite some time but, because of these appeals, was not able to be finalised.

**MS DUNDAS:** Regarding the interim register, I read on page 4 of the consultation report that, at the time the draft variation was released, there were two outstanding applications, and although draft variation to the Heritage Places Register did not have interim effect, the exemption for existing applications was included, in the interests of clarity.

My copy of the Land Planning Act says that subsection (1)—which says that a draft variation has no effect—does not apply in relation to an Interim Heritage Places Register. You just used the phrase ‘Interim Heritage Places Register’. I was a bit

confused. We had this discussion earlier on, in the place, about the effect of an interim listing versus an application.

**Mr Calnan:** The existing situation is that an Interim Heritage Places Register has statutory effect.

**MS DUNDAS:** From my understanding, that means it overrides the applications anyway.

**Mr Calnan:** That is right. The interim register in relation to old Red Hill did not prohibit multi-unit development.

**MS DUNDAS:** The Red Hill variation specifically kind of left this bit out, or allowed development to go ahead?

**Mr Calnan:** The interim register, which was put in place by the heritage council in the early 1990s, made provision for multi-unit housing. It said multi-unit housing may be permitted where it is consistent with the heritage values of the precinct, or words to that effect.

This meant that, provided a proponent could demonstrate that their application was not contrary to the heritage values of the precinct, multi-unit development was possible. That led to great debates about the heritage values of the precinct. That led to a sharpening of the views of the heritage council about why this area needed to be included in the ultimate Heritage Places Register.

**MS DUNDAS:** I am trying to clarify this. This paragraph would have read better if, as opposed to referring to the land act, it referred to the interim listing that was done in the early 1990s.

**Mr Calnan:** Sorry, which paragraph?

**THE CHAIR:** The second-last paragraph on page 4.

**MS DUNDAS:** The second-last paragraph on page 4 of annexe C—consultation report. I am being a bit picky, I know, but I want to get this clear.

**THE CHAIR:** It starts, “At the time the draft variation was released, there were two outstanding applications.”

**Mr Calnan:** Okay.

**MS DUNDAS:** We are not talking, necessarily, about the land act. We are always talking about the land act, but we are referring to the specific interim listing that was done for the Red Hill precinct.

**Mr Calnan:** No. There are two different things. There is the interim listing that occurred back in 1993, I think it was, but do not hold me to that.

**MS DUNDAS:** That allowed developments if they were in line with the heritage—

**Mr Calnan:** Then in August 2000, draft variation 114 was gazetted. That replaced the interim listing. That was the permanent register.

**MS DUNDAS:** So the draft variation referred to in this paragraph is draft variation 114?

**Mr Calnan:** That is right. What draft variation 114 did was include an entry on the Heritage Places Register for old Red Hill, and set out the specific requirements for the protection of that place.

**THE CHAIR:** You could have more than one dwelling under 114?

**Mr Calnan:** No, 114 is limited to a maximum of two dwellings per block, whereas the original interim register from the early 1990s allowed multi-unit development.

**THE CHAIR:** So long as it was in keeping. I can see why people have a problem with that. By saying that you could have a maximum of two dwellings per block, it is less discriminating than saying you have to meet particular criteria before you can have an additional dwelling, or an additional number of dwellings.

**Mr Calnan:** That was just one of the specific requirements set out in the Heritage Places Register. There is a whole range of other provisions in there that were targeted at protecting the heritage significance of the place. For instance, there were significant restrictions on the overall amount of development. I think there was general agreement that the heritage significance of the old Red Hill precinct was essentially its large blocks and the garden-like setting in which the development was set.

The question was: how do you protect that? Rather than just say you can only have development that is consistent with the heritage values, we have tried to put in place some controls that were clearer about just what those values were. We restricted the overall amount of development by putting a limit on the maximum gross floor area of development on any block.

**THE CHAIR:** Does that depend on the size of the block?

**Mr Calnan:** It does, yes. The bigger the block, the larger the proportion of open space that has to be retained.

**THE CHAIR:** I see. That means you cannot end up with a great big pile, just because you have a big block? You could still have a big pile.

**Mr Calnan:** You can still end up with a fairly substantial house, but it will prevent over-development, which would potentially jeopardise the heritage values.

**THE CHAIR:** Perhaps we need to have a look at what the heritage listing says—draft variation 114.

**Ms Graham:** That it is a variation.

**MS DUNDAS:** This is not about Red Hill, but next time we have a variation which refers to two variations, and there is this ongoing thing, can we make it quite clear in the report? It keeps referring to the draft variation, and sometimes it means 114 and sometimes it means 187. It is quite confusing, in this consultation report, to understand what people are responding to.

**THE CHAIR:** Yes. It is no longer a draft variation—it is a variation, yes.

**Mr Calnan:** Wait a minute. I do not think it is doing that.

**MS DUNDAS:** I do not want to get bogged down in this bit on page 4, but—

**THE CHAIR:** It is not very clear.

**MS DUNDAS:** No. If the second paragraph is referring to variation 114, the first paragraph is referring to, I would assume, 187 because it refers to the motion of 14 February, 2001. Variation 114 was out during 2000, so—

**Mr Calnan:** That paragraph is referring to 187.

**MS DUNDAS:** The second paragraph is referring to 187 as well?

**THE CHAIR:** It needs to be more explicit. You may have to put in square brackets and say 114, 187 or whatever, to make it a bit more explicit. You spend your time going, “Let me read that again.” You almost need a line diagram to check against some places.

**MS DUNDAS:** Members of this committee were not present in the Assembly when the votes were taking place in February 2001, and earlier than that. Trying to get clear the history of this area and the different things that have happened—it is complex.

**Mr Calnan:** Well, the history is set out in the explanatory statement.

**THE CHAIR:** Yes, I am sorry, Garrick—it is opaque. You have told me a lot more today than I got from reading that two or three times.

**MS DUNDAS:** When we have the Tuggeranong Homestead one, which will have three different variations that you are bringing to us together, it would be good to, in square brackets, put after it which variation you are referring to.

**MS GALLAGHER:** I did not get that at all, when I read it. Every time I look for ‘variation 114’, it says ‘variation 114’. It says it on page 2, 3 and 4. When it refers to 114, it refers to variation 114. When it refers to ‘draft variation’, I presumed that meant draft variation 187, which we were reading.

**MS DUNDAS:** I still have a concern about the second paragraph on page 4, which refers to the two outstanding applications.

**Mr Calnan:** They were two outstanding development applications. It then goes on to say that draft variation 187 is a draft variation to the Heritage Places Register. As a result of section 11 of the land act, they do not have interim effect.

**MS DUNDAS:** Section 11 of the land act says that subsection (1) does not apply in relation to an Interim Heritage Places Register. From my understanding, that means they do have effect.

**Mr Calnan:** No, the interim register has effect, not the draft variation.

**MS DUNDAS:** The draft variation to the interim Heritage Register does not have effect?

**Mr Calnan:** That is right.

**MS DUNDAS:** Can you see why I am confused?

**MS GALLAGHER:** You are saying that the interim register takes effect, but the draft variation to the Heritage Register does not take effect?

**Mr Calnan:** It is the same.

**MS GALLAGHER:** The interim one is there, while the other one is not there?

**THE CHAIR:** This is unknown unknowns, isn't it?

**MS GALLAGHER:** Garrick, I note that it says there were two outstanding applications at the time. That is the one where, in all the consultations, people have said they support the draft variation, but are not happy about the fact that it does not apply to applications made prior to 12 July. I tend to agree with that but I understand that, in natural justice, if you make an application under one kind of arrangement, then you should be able to see it through. It says there are 72 blocks in the area and 72 dwellings. Just out of interest, did those two applications proceed, and are there now 74 houses instead of 72?

**Mr Calnan:** No. I believe they were both refused.

**MS GALLAGHER:** So it has maintained the flavour of the area?

**Mr Calnan:** Yes.

**THE CHAIR:** I am interested in the point made by Sir Lenox Hewitt, who wrote from Sydney. I thought it was interesting.

**MS GALLAGHER:** Can you give me the reference?

**THE CHAIR:** I will have to find it. It is at the end of the consultation report, beginning at page 4 of the letters and stuff. He says in a couple of places that, to change the land use policy to allow only single dwellings is a confiscation of property rights.

There is a lot of current law. There was the Spence case before the AAT where, with pre-1972 leases, people appeared to have the right to have more than one dwelling on a block. Is this the case with the current leases on this land?

**Mr Calnan:** That is a legal question. I can give you my opinion, but I would not purport it to be an authoritative legal position. Those pre-1970 leases allow residential uses only. They are silent on the number of dwellings.

**THE CHAIR:** Well, they have now been interpreted by the AAT to mean that you have the right to a dual occupancy.

**Mr Calnan:** No, that is not quite right. The AAT has said it is not necessary to vary the lease in order to have a dual occupancy. It does not give you a right to a dual occupancy.

If you are able to get an approval for a dual occupancy, the AAT has said that, under those leases, you do not have to vary the lease. The lease says “for residential purposes” and the lease is still being used for residential purposes. There is a similar issue here. The leases in these areas are, in the main, pre-1970 leases. They will say “for residential purposes only”. If the Territory Plan enabled the approval of a second dwelling, then it would not be necessary to vary the lease in order to carry out that development.

**THE CHAIR:** That is what the Spence case does in the AAT. It says that you do not need to vary the lease.

**Mr Calnan:** Essentially, that is what it is saying.

**THE CHAIR:** It means you do not have to pay a change of use charge?

**MS DUNDAS:** You cannot then subdivide the land.

**Mr Calnan:** You can unit title it.

**MS DUNDAS:** Okay.

**Mr Calnan:** Because of that, it means you do not have to pay a change of use charge, which is fairly substantial.

**THE CHAIR:** The point Sir Lenox Hewitt makes is that, because of the existing land use policy as demonstrated in the interim listing and in variation 114, you potentially had the right to more than one dwelling.

**Mr Calnan:** You did not have a right, but you could apply. If you got an approval, then your application would be assessed under the policies in the Territory Plan. If it was approved, you could carry out that development without the need to vary the lease. But it is not a right.

**THE CHAIR:** Okay. Anything else?

**MS DUNDAS:** All the other questions I had are answered within the document. I was just confused about that little bit.

**Mr Calnan:** Variations to the Heritage Places Register do not have effect, either.



**MS DUNDAS:** Yes. It was just the use of the word “interim” that threw me because I was thinking of the Interim Heritage Places Register, as opposed to the Heritage Places Register.

**Mr Calnan:** The interim effect of the draft variation?

**MS DUNDAS:** Yes. That is why I got confused.

**THE CHAIR:** Thank you, Garrick.

**The committee adjourned at 10.57 am.**