the mining company (Nicron) had prepared were inadequate and that a full Environmental Impact Statement should be prepared. This raised a number of issues concerning the process of environmental assessment in the Northern Territory.

Although the Warden may request a detailed environmental study under the *Mining Act* it would be prepared without the benefit of guidelines applied to other environmental assessment by the Conservation Commission of the Northern Territory. The Mining Warden would also not have the benefit of the Conservation Commission's expertise in assessing the adequacy of the EIS and the procedures for public comment set out in the Administrative Procedures under the *Environment Assessment Act* would not apply. The Mining Warden proposed to address some of these problems by providing the Environmental Centre of the Northern Territory an opportunity for comment on the study.

The action of the Warden in calling for the preparation of an EIS under the *Mining Act* also focussed attention on the fact that no EIS had been required under the *Environmental Assessment Act.* In fact it appears that the Department of Mines and Energy had failed to trigger assessment under the *Environmental Assessment Act* by notifying the Minister for Conservation of the application for mineral leases.

The action of the Warden in calling for an EIS and the involvement of the Environmental Centre prompted the Minister for Conservation to call for a report under section 7 of the *Environmental Assessment Act.* Following receipt of this report the Minister called for an EIS to be prepared under the *Environmental Assessment Act.*

The EIS was completed in June 1992 to the satisfaction of the Northern Territory Conservation Commission. The Minister for Conservation then recommended that the mining leases be granted subject to the implementation of safeguard outlined in the EIS. This procedure also satisfied the concerns of the objector and leases have been granted, however questions remain about the special treatment given to mining operations in the Northern Territory and the way this is reflected in legislative and administrative arrangements.

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DEVELOPMENTS IN THE ACT

Land (Planning and Environment) (Consequential Provisions) Act 1991

Following the introduction of the *Land (Planning and Environment) Act* 1991 in April 1992 (the ACT's first integrated piece of legislation dealing with planning, environment and land administration), associated changes to the ***Buildings (Design and Siting) Act* 1964** took effect on 16 July 1992. The *Land (Planning and Environment) (Consequential Provisions) Act* 1991 amends the *Buildings (Design and Siting) Act* 1964 in that it:

- makes external design and siting a "controlled activity" (that is, one that requires ACT Planning Authority approval) for the purposes of the *Land (Planning and Environment) Act* 1991;

- provides a maximum penalty of $20,000 for work done other than in accordance with approval;

- provides a wider definition of external design so that the external design of a building means any matter affecting its appearance and includes:

  - any alteration to the exterior of a building;

  - demolition of the building;

  - any car park next to it;

  - any sign affixed to, or created on, the exterior of the building, or erected next to it; and

  - any excavation (other than for the purposes of constructing the building) or other modification to the landscape of the land on which the building is to be constructed.

The ACT Planning Authority ("the Authority") will keep a Register of applications which will be open to inspection, although applicants have the right to ask the Authority to exclude part of an application from being made public.

Unless they qualify for an exemption under the amended *Buildings (Design and Siting) Act*, applicants must notify their intentions to the lessees of each adjoining property, advertise them in a daily newspaper and place a sign on the site.

The Authority is required to advise adjoining lessees and each person who objected to a design and siting application of their appeal rights in those instances where an approval by the Authority is open to appeal. People who objected to an application have 14 days after they are notified of the approval by the Authority to lodge an appeal with the Administrative Appeals Tribunal.

The public notification and third-party appeal provisions do not apply where:

a proposal for residential purposes complies with the relevant quantitative standards of the design and siting policies;

a proposal for either industrial or commercial purposes complies with the development conditions for the land;

public works comply with the relevant controls and standards that the Authority proposes to set out in the draft Territory Plan; and

signs meet the requirement of the draft Territory Plan.

Draft Territory Plan

The ACT Planning Authority is continuing to assess the comments made by the community on the draft Territory Plan, which was out for public comment from October 1991 to March 1992. The draft Territory Plan was the first comprehensive review of ACT planning policies since the advent of self government in the Act.

At the close of public comments the Authority had received over 950 written submissions.

As could be expected, the proposals in the draft Plan generated a substantial amount of interest within the community. Most attention was focussed on the concept of the Predominant Land Use Zone, the identification of areas for future investigation as development sites, the proposals to permit modest redevelopment in established residential areas, the complexity of the draft Plan and the perceived lack of strategic statements or time frames for development.

On the other hand there were expressions of support, in particular for the concept of urban consolidation, the simplification of some existing planning policies and the policies aimed at the promotion of public transport use.

Copies of the public submissions were made available for inspection, and a steady stream of residents have come in to the offices of the Authority for this purpose.

The next stage of the development of the territory Plan will be for the Authority to review the comments made by the public and to revise the draft to take account of those comments.

The Authority will then submit to the ACT Executive a revised Plan, supported by other documents including a report on the issues raised. These will then be referred to the ACT Legislative Assembly's Standing Committee on Planning, Development and Infrastructure for consideration.

The ACT Executive is required to consider the report from the Authority and the recommendations from the Legislative Assembly Committee before approving the Plan. Finally the Plan which has been approved by the Executive will be tabled in the Assembly and any member can move a motion seeking to reject all of any part of the Plan.

This is a detailed process, with several opportunities for public comment, but it is hoped that the final Territory Plan will be adopted before the end of this year.

Draft guidelines for energy conservation

Canberra residents have been asked to comment on draft guidelines for energy conservation. Details of the guidelines were released on "World Environment Day" by Mr Bill Wood, the ACT Minister for the Environment, Land and Planning.

The guidelines are the first in a series being prepared by the ACT Planning Authority as a basis for implementing the Territory Plan and assessing applications for design and siting approval.

The guidelines have four main elements, all aimed at increasing energy and efficiency and reducing energy consumption. These elements are:

- Requiring energy audits of residential subdivisions over 50 blocks. The energy audits would assess whether the principles of solar efficient design had been met.

Requiring energy conservation plans for non-residential buildings over 3000 square metres. Such planning must address savings to be made

through features such as solar orientation, building shape, heating systems, etc.

- Promoting energy efficiency in residential buildings. Attention will be drawn to the benefits to be achieved from, among other things, appropriate orientation, prevention of over-shadowing through building heights and setbacks, and the thermal mass potential of particular building materials.

Developing a five star energy efficiency rate scheme for houses, which will bring together the principles of solar house design in a checklist under which points will be awarded for particular features.

It is expected that the availability of the guidelines will encourage developers to incorporate environmental consideration at the planning and design stage of development proposals and thereby reduce the possibility of adverse environmental consequences later in the development process.

The energy guidelines are part of a series of guidelines being produced to identify, at the planning and design stage of development proposals, the criteria which must be met to comply with development standards and approval procedures. Over a dozen guidelines are being prepared for release, covering a range of subjects such as air quality, noise management, flora and fauna protection, erosion and sediment control and waste water management.

Draft guidelines on microclimates

Draft guidelines have also been released by the Authority concerning the microclimates created or altered by building activity. Its special focus is the impact of wind turbulence and winter shading in outdoor public areas.

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Canberra

DEVELOPMENTS IN TASMANIA

'Right to Farm' - Statutory Planning Processes and the Common Law

The new Tasmanian Liberal government, which has recently abandoned almost 3 years of public consultation processes which it was hoped was about to lead to model land degradation legislation, has by contrast now advertised for submissions for proposed "right to farm" legislation.

"Right to Farm", which has also raised its head in NSW, has two potential components:

1. Over-riding traditional rights of landowners to initiate common law actions in nuisance as a response to activities on neighbouring land; for example, in relation to noise, smells or spray drift.

2. Protecting rights of landowners to continue "traditional practices" on their land such as native vegetation removal and applications of chemical fertilisers and pesticides.

Although perhaps understandable, the proposal for "Right to Farm" legislation is nevertheless an over-simplistic reaction to concerns within the rural community about the encroachment of rural/residential subdivisions upon existing farm businesses.

The root of the problem, at least in Tasmania, lies with Tasmania's historically poor land use planning controls. The planning legislation contained in the *Local Government Act* 1962 is essentially pre-World War II British planning legislation. The necessity for reform was recognised as long ago as the mid-1970's but prevarication and lack of understanding of the need for good planning by successive Labor and Liberal governments saw no action until the previous Labor administration began a review which will, hopefully, lead to much needed reforms.