



Legislative Assembly for the Australian Capital Territory

Draft Variation No 175 to the Territory Plan

INDUSTRIAL B3 LAND USE POLICIES

INDUSTRIAL AREA POLICIES AND DEFINITIONS:

FYSHWICK

SYMONSTON

MITCHELL

HUME

Report No 14

Standing Committee on Planning and Environment

16 April 2003

COMMITTEE MEMBERSHIP

Mrs Vicki Dunne, MLA (Chair)

Mr John Hargreaves, MLA (Deputy Chair)

Ms Roslyn Dundas, MLA

Mrs Helen Cross, MLA

[Ms Katy Gallagher MLA (Deputy Chair to 30 January 2003, replaced by Mr John Hargreaves MLA)]

Secretary: Linda Atkinson

Administration: Judy Moutia

RESOLUTION OF APPOINTMENT

- (1) The following general purpose standing committee be established and each committee to inquire into and report on matters referred to it by the Assembly or matters that are considered by the committee to be of concern to the community:
 - (f) A Standing Committee on Planning and Environment to examine matters related to planning and land management, conservation and heritage, transport services and planning, environment and ecological sustainability.
- (2) If the Assembly is not sitting when the Standing Committee on Planning and Environment has completed consideration of a report on draft plan variations referred pursuant to section 25 of the *Land (Planning and Environment) Act 1991* or draft plans of management referred pursuant to section 204 of the *Land (Planning Environment) Act 1991*, the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publication and circulation.

Minutes of Proceedings, No 2, Tuesday 11 December 2001, pp 11 to 13

TERMS OF REFERENCE

Section 25 of the Land (Planning and Environment) Act 1991 states:

25 Consideration by a Legislative Assembly Committee

The Executive shall, within 28 days of receiving a draft plan variation under section 24, refer -

- (a) the draft plan variation; and
- (b) the documents referred to in subsection 24(1) that relate to the draft plan variation;

to an appropriate committee of the Legislative Assembly together with a request that the committee report on the draft plan to the Legislative Assembly.

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SUMMARY OF RECOMMENDATIONS

The Standing Committee on Planning and Environment of the ACT Legislative Assembly requests that the ACT Legislative Assembly accepts the following eleven recommendations in respect of Draft Variation 175:

Recommendation No. 1

The Committee has formed a strong view that this Draft Variation is not forward looking; lacks strategic, spatial and economic analysis with surrounding and adjacent residential areas; ignores practical and sensible business issues for small business, and contradicts its proposed new policies for Industrial Land Use¹. The Committee recommends that Draft Variation 175 be adopted as amended by the recommendations contained in this Report, but only as an interim measure while further work is undertaken.

Recommendation No. 2

The Committee recommends that the Government accept full responsibility to ensure that suitable methods of notifications are employed to guarantee relevant stakeholders are notified.

Recommendation No. 3

The Committee recommends that:

- a) the Government immediately begin to prepare a Master Plan for the area bounded by the Kingston Foreshore Development, the Monaro Highway, Canberra Avenue and Dairy Flat Road, so as not to lose access to the concept plan; and
- b) the area described is specifically considered in the Spatial Plan.

Recommendation No. 4

The Committee recommends that Blocks 11 and 12 Section 38 Fyshwick - the 'Old' Commonwealth Department of Administrative Services Fleet Operations Site be included as a 'b' classification so that bulky goods retailing is allowed immediately in lieu of any transport industry usage.

¹ Draft Variation 175 Final-Page 3 Attachment A 1) Variation to the Territory Plan Statement for Part B3 Industrial Land Use Policies

Recommendation No. 5

The Committee recommends that:

- a) the site as described in Recommendation No. 4, is better suited, in the long term, as a flexible mixed use precinct, in keeping with the need for more flexibility in industrial land uses highlighted in the 1998 Synectics Study and the Government's pursuit of sustainable development, affordable housing and future revenue generating opportunities; and
- b) the Government immediately undertakes to include mixed-use land usage policies in the development of the Spatial Plan.

Recommendation No. 6

The Committee recommends that the Block 1 Section 22 Mitchell be included as a precinct 'b' land use policy that will allow the development of a 'bulky goods super centre' and other industries with a strong service orientation and associated retailing.

Recommendation No. 7

The Committee recommends that:

- a) Section 18 Block 41 Mitchell be immediately classified as Industrial Land Use 'b' in the Territory Plan; and
- b) The Government further investigates current and actual land use in Mitchell to reflect the fact that many other businesses in Mitchell are already undertaking commercial, industrial and retailing activities, which do not easily fit into current classifications.

Recommendation No. 8

The Committee recommends that:

- a) to encourage and protect the present and future opportunities for small business in Hume, and to encourage the future sustainability of locally based small business, that Draft Variation 175 is amended:
 - (i) to cater for storage unit sizes of a minimum of 100m²;
 - (ii) to allow the minimum block size for blocks to be subdivided from small blocks to be 1,000m², with no restriction on the number of units per block for specific small business purposes; and
 - (iii) to implement a monitoring framework to ensure large blocks remain available for long-term industrial expansion.

Recommendation No. 9

The Committee recommends that:

- a) the ACT Heritage Council immediately provide Blocks 5 and 6 Section 6 Hume with approval to develop and implement alternative proposals to its current core business that would be compatible with the policies of precinct 'a' as has been highlighted in this Report;
- b) the Government seek to joint venture with the owners of Hill Station or any future owners of Hill Station to develop arrangements for more heritage control;
- c) PALM immediately rewrite the Specific Site Controls to allow for alternative uses including showroom space and professional office accommodation compatible with precinct 'a'; and
- d) the Legislative Assembly note the potential loss of Hill Station to the ACT economy due to the industrial land use policies in Hume.

Recommendation No. 10

The Committee recommends that:

- a) West Fyshwick be included as a precinct 'b' land use policy;
- b) the Government revisits the East and West Fyshwick proposals with all major lease holders and independent planning experts to discuss what economic and strategic direction will better position Fyshwick for future development to respond to long term changing retail and wholesale trends and patterns and other commercial activity; BUT
- c) the Government develops an area specific overlay for the Fyshwick Fresh Food Markets (Block 1 Section 7 Fyshwick).

Recommendation No. 11

The Committee recommends that the Government undertakes further detailed reviews into industrial land use policies across Canberra, noting that the proposed policies are too inflexible to encourage commercial, industrial growth and development in Fyshwick, Symonston, Hume and Mitchell, or residential investment in appropriate areas such as the area adjacent to the Jerrabomberra Wetlands. The land use policies must be reframed to provide for:

- more sustainable use of available land and sites across Canberra;
- an improved revenue stream for the ACT;
- improved and more diverse retailing facilities that meet current and future trends in retailing, and are complementary to other retail hierarchies;
- ample opportunities to meet small business requirements for smaller warehouse/storage space; and
- investment and reinvestment in the ACT for light manufacture and light industrial enterprises, and heavy transport industry.

Mrs Vicki Dunne MLA
Chair

Standing Committee on Planning and Environment

16 April 2003

1. THE LAND (PLANNING AND ENVIRONMENT) Act 1991

1.1 The *Land (Planning and Environment) Act 1991 (the Act)* provides for a Territory Plan (the Plan) to “set out the planning principles and policies”² for the ACT. The objective of the plan is to ensure that the planning and development of the Australian Capital Territory provides an “ecologically sustainable, healthy, attractive, safe and efficient environment”³ for the people of the Territory.

1.2 The Plan includes both a Written Statement, setting out general planning principles and more specific land use policies, and a map. *The Act* places conditions on development or land use within designated areas to meet the principles prescribed for that land on the Plan.

1.3 Land use requirements change over time and *the Act* sets in place a regime by which the stipulated land use can be altered or varied. Proposals to vary the Plan are prepared by the Territory planning authorities and are known as draft variations. Draft variations are required to be the subject of community consultation. There can be a number of versions of a draft variation depending on the consultation program.

1.4 After public consultation a draft variation, incorporating any amendments made as a result of public comment, and associated papers, is referred by the ACT Government to the appropriate committee of the Legislative Assembly for the Australian Capital Territory. The Standing Committee on Planning and Environment is the committee established by the Fifth Assembly to do this.

1.5 The *Act* does not place any requirements on the Committee's consideration of the draft variation but does require the Government to consider any recommendation that the Committee may make in relation to the “draft plan variation, background papers and reports submitted”⁴. The Committee's reports inform not only the Government but also all Members of the Assembly on the Committee's deliberations and provide a context for the Assembly to consider the Government's approved variation.

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

³ *Ibid.* section 7 (1).

⁴ *Op.cit.* the Land Act, section 26(2).

2. THE ROLE OF TWO PLANNING AUTHORITIES

2.1 The Territory Plan may not be amended in any way that will make it inconsistent with the National Capital Plan. To ensure that this does not happen, the Planning and Land Management Group (PALM) is obliged to consult with the National Capital Authority (NCA) at the beginning of each Draft Variation process.

2.2 The Committee is concerned about the advice to PALM from NCA (see Appendix 1). It seems to the Committee that PALM has not adequately considered the NCA's response, and that the NCA has not adequately taken account of all the issues contained in Draft Variation 175. The Committee is concerned about the impact on the Monaro Highway of the possibility of having freight terminals on both sides of the Highway. It is also concerned about the appropriateness of Commercial 'E' land use policy in Fyshwick West.

2.3 The Commonwealth Parliament's Joint Standing Committee on the National Capital and External Territories has a role in matters relating to the National Capital and the National Planning Authority. In relation to this role:

- it is highly unusual for anything in a Draft Variation being considered by the ACT Minister for Planning, PALM, or the ACT's Legislative Assembly Standing Committee on Planning and Environment to be referred to the Joint Standing Committee;
- the Joint Standing Committee is only concerned with national land and related designated areas;
- there is no statutory requirement on the part of the National Capital Authority to refer any matters to the Joint Standing Committee that might relate to national land or designated areas;
- the National Capital Authority might, if it thought that there were to be some possible amendments to the National Capital Plan, as a result from anything being proposed by PALM, refer the matter for possible inquiry to the Joint Standing Committee; and
- the Joint Committee's role in such matters is purely advisory.

2.4 While the ACT's future planning outcomes are subject to two planning authorities, the Committee is concerned that PALM may have given certain issues insufficient consideration in the light of any advice provided by the NCA during the consultative process. The Committee requests the Legislative Assembly to note that this creates a situation where the planning framework for the ACT's industrial areas as recommended in the Draft Variation 175 has been on the whole, poorly analysed and devised, ignoring stakeholders at all levels.

3. INDUSTRIAL LAND USE POLICY - FYSHWICK, SYMONSTON, HUME, MITCHELL

3.1 The Industrial Land Use Policies of the Territory Plan apply to industrial areas at Fyshwick, Mitchell, Hume, and Symonston and protect the viability of industrial land and prevent adverse impacts on residential amenity and safety. The policies confirm that industrial areas are not appropriate for residential uses, except caretaker's residences associated with a specific industrial use.

3.2 The Foreword of the Territory Plan- 'A Vision for Canberra' does not refer to the industrial element of Canberra, except to say 'there has been a shift from the public to the private sector in providing the impetus for growth'.⁵ The Plan does recognise that there is a current demand for a wider range of housing types and new forms of commercial activity. The actual Industrial Land Use Policies are articulated in Part B3 of the Territory Plan. The intent of these policies appear to provide for:

- Encouraging industrial development that enables growth of economic and employment opportunities, as well as provision of goods and services; and
- Locating industrial enterprises where there is minimal impact on the environment and that it co-locates with compatible land use policies.

3.3 **Fyshwick** is designated to provide for mixed commercial, motor vehicle sales, service and home improvement businesses with a metropolitan catchment; large sites for manufacturing, wholesale, storage and transport related activities requiring good access to the Airport; regional bulky good retailing with good access to major transport corridors and a cluster for regional food enterprises.

3.4 **Symonston** is designated for science and technology industries.

3.5 **Hume** is designated for regional manufacturing, sawmilling, warehouse, storage and recycling businesses on large blocks; industrial enterprises requiring rail access and service industries for the residents of the Tuggeranong District.

3.6 **Mitchell** is designated as the industrial area for northern Canberra; Commonwealth Archives storage, trades and mixed services; and limited retail.

3.7 Hume and Mitchell both contain small areas of Commercial D areas which provide for Local centres, largely to provide convenience retailing and other accessible, convenient shopping and community and business services to meet the daily needs of the local population. Hume also contains the Hill Station Restaurant (Category B8 Entertainment, Accommodation and Leisure Land Use Policies), surrounded by extensive and potentially damaging industrial enterprises.

⁵ The Territory Plan 2002 Written Statement (Consolidated version) Volume One, Page i

3.8 The Committee noted that the Territory Plan is silent on mixed-use urban/industrial policies, although the Plan recognises that certain areas of Fyshwick and along major avenues can fall into the Commercial Land Use Policies (B2) of the Territory Plan.

3.9 The four categories of Industrial Land Use Policies defined in the Territory Plan (Page 1 of Part B3 of the Territory Plan) are:

■ **General Industrial - 'a'** – areas readily accessible but separated from predominantly residential and commercial areas manufacturing, processing, warehousing, storage, public utilities and industrial sales.

■ **Commercial Industrial- 'b'**- industries with a strong service orientation along with limited associated retailing, as well as retailing at a scale appropriate to serve the nearby workforce.

■ **Services- 'c'**- industrial activities that are related to the provision of wholesaling and markets.

■ **Advanced Technology Development and Manufacturing- 'd'**-industries which are primarily involved in the research, development, manufacture, processing, assembly and marketing of advanced technology and scientific products including allied goods and services and supporting processes.

3.10 Table 1 gives an overview of the industrial categories that affect the areas that are the subject of Draft Variation 175:

Table 1-Subject of Draft Variation 175

Area	Industrial 'a'	Industrial 'b'	Industrial 'c'	Industrial 'd'	Commercial E	Commercial D
Fyshwick/ Symonston	yes	yes	yes	yes	yes	no
Hume	yes	no	no	no	no	yes
Mitchell	yes	yes	no	no	no	yes

3.11 In summary, Draft Variation 175 aims to:

- (a) establish Precinct 'c' - Major activities of food enterprises and compatible uses-such as food processing, wholesaling, warehousing, markets, small scale food retailing, distribution and marketing, cluster uses;
- (b) remove certain sites from precinct 'c' in Fyshwick West and reclassify them as Commercial E Land Use Policy B2E Corridor and Office Sites;
- (c) diversify the ACT's industrial base and employment growth;
- (d) facilitate investment in a wide range of industrial and related activities, with efficient land utilisation and provision of infrastructure;
- (e) provide access for ACT and Regional residents to industrial goods, services and employment;

- (f) provide for transport related businesses in locations accessible to major transport links;
- (g) encourage industrial clusters to satisfy the principles of industrial ecology;
- (h) achieve energy efficient, functional and flexible industrial and commercial designs;
- (i) ensure development along major approach routes is of an appropriate standard of urban design; and
- (j) accommodate industry-associated retailing, services and other commercial uses without jeopardising an adequate supply of industrial land.

3.12 Fyshwick, Hume and Mitchell are located near major regional roads, which makes general industry accessible to suitable freight services. Industrial activity is unlikely to impact on other environmental or residential areas. The Government has proposed that:

- (a) Fyshwick take advantage of all four categories of land use policies;
- (b) Symonston, Hume, and Mitchell will not be able to develop food processing, wholesaling, distribution and marketing industries;
- (c) Retail warehouse and commercial services be located in Fyshwick East (Newcastle St side) and Symonston;
- (d) Fyshwick West predominantly contain commercial, food processing, wholesaling, distribution and marketing, with small amounts for manufacturing, warehouse and transport land uses, using the large land areas accessible to main interstate road and rail connection;
- (e) Fyshwick West act as a small area for commercial and service activities with a metropolitan or regional catchment; and
- (f) Symonston be almost exclusively used for research, development, manufacture, processing, assembly and marketing of advanced technology, scientific products, including allied goods and services and supporting processes.

3.13 Draft Variation 175 will provide Fyshwick with Commercial E land along its main corridors, which will be mostly office sites. The policy is specifically aiming to:

- (a) Provide opportunities for business investment and to facilitate the decentralisation of employment from the Civic Centre;
- (b) Maintain and enhance the urban design quality of selected major avenues and approach routes; and

- (c) Make provision for out-of-centre office sites that are accessible to public transport, Civic Centre and Parliamentary Zone.⁶

⁶ The Territory Plan Corridors and Office Sites Part B2E, Page 1 of Part B2E

4. BACKGROUND TO DRAFT VARIATION 175

Brief Background

4.1 Fyshwick has catered for a range of Canberra's industrial needs since the 1950s, with Mitchell and Hume having been supplementary to Fyshwick for some thirty years. Fyshwick has catered mainly for service industries, metropolitan and regional warehousing, storage and manufacturing, while Mitchell and Hume have catered for regional public utilities, service trades, and warehouse/storage (including archives), process manufacturing, domestic hardware, sawmills, motor vehicles.

4.2 Six years ago the Planning and Land Management Group (PALM) began assessments relating to the demand and supply issues for additional industrial land in the ACT, specifically:

- types of uses, site requirements, and location;
- improved management of resources to achieve better environment outcomes; and
- the implementation of industrial ecology principles, including ecological sustainability.

4.3 ACT Planning and Land Management in their June 2001 Commercial Centres and Industrial Areas Inventory, found that of the 2.4 million square metres of commercial and industrial floorspace in Canberra, 1.29 million was located in Industrial Areas of Fyshwick (820,426m²), Hume (200,840m²) and Mitchell (273,732m²) in 1,971 premises. There has been continuing growth in the three industrial areas. Industrial clusters of enterprises such as vehicle sales, furniture, information technology and recycling have become features of these industrial areas also. In addition, floorspace being used in the industrial areas for retail purposes increased to 35.6 per cent of total Canberra Retail floorspace. Retail floor space constitutes 25 percent of Fyshwick's total floor space.

4.4 The limits on bulky goods (fabrics, household textiles, floor coverings, furniture, domestic hardware, household appliances, electric appliance repairers) retailing has been retained at 3,000m² maximum gross floor area in Mitchell. However, the Draft Variation does mention the regional metropolitan role of Fyshwick and will facilitate further redevelopment of Fyshwick sites for bulky goods retailing, by removing the existing floor space limit on bulky goods retailing, and removing the existing prohibition on amalgamation and subdivision. Nevertheless, the removal of this prohibition was also to respond to the demand by large trucking freight companies who wanted large blocks of land. The vacant space (made up of many small blocks of land) in Fyshwick, Mitchell and Hume in 2001 totalled 124,000 square metres, so PALM released land for large freight companies for warehouses etc.⁷

⁷ Hansard from Public Hearing 14 March 2003 PALM evidence

How PALM came to Draft Variation 175

4.5 The Committee sought further detail from PALM on this matter to fully comprehend the basis for developing this Draft Variation⁸. PALM provided the following information to the Committee:

Question 1

- *How does Draft Variation 175 specifically vary from the current Territory Plan, in both principle and detail?*

The main points of variation are:

- a) revision of the objectives to reflect the new Territory Plan Principles (Introduced to Part A of the Plan by Draft Variation No. 155) and reinforce the role of the industrial areas in contributing to environmentally sustainable and economic development;
- b) review of the role of each industrial area to reinforce clusters of industrial activities;
- c) response to market demand to permit large bulky goods retailing outlets in Fyshwick; and
- d) recognition of the changing metropolitan structure by extending the Canberra Avenue corridor.

4.6 A table in the draft Variation (Appendix 3 from Green copy dated May 2002, pages 8 – 18) shows all the changes that were originally proposed as well as the comparable existing policy. Additional changes and revisions were made following consideration of submissions listed on pages 1-2 of the Explanatory Statement of the Recommended Final Variation (White copy dated Oct 2002- Appendix 4). Some detailed points of Variation are:

- a) the large block on the corner of Canberra Avenue and Newcastle Street, Fyshwick to be reclassified from precinct 'a' to precinct 'b' to permit bulky goods retailing;
- b) large blocks south of Tennant Street, Fyshwick to be reclassified from precinct 'b' to precinct 'a' for use by large land take industrial users;
- c) a small extension of Hume to the south;
- d) reclassify Hill Station, Hume from Entertainment Accommodation and Leisure land use policy to Industrial precinct 'a' with site specific controls to preserve its heritage significance;
- e) a repetition of environmental requirements from other parts of the Territory Plan so that they are more easily found; and

⁸ Response from PALM to the Standing Committee on Planning and Environment on 27 February 2003 to written questions from the Committee

- f) the land use policy for the ACTEW Sewer Station in Fyshwick varied to Municipal Services, to protect the operation of this infrastructure.

4.7 Following a review of the existing policy PALM has deliberately retained:

- (a) the exclusion of Residential use from Industrial land use policy areas (except caretakers);
- (b) floorspace limits on shops in Mitchell to encourage/ support/ protect Gungahlin Town Centre retailing; and
- (c) the existing precinct 'a' and 'b' boundaries in Mitchell.

4.8 Question 2

- *What was the planning context/ imperative that prompted PALM to prepare Draft Variation 175 for release in May 2002?*

PALM has a continuing program to review the Territory Plan policies. The future of Canberra's industrial areas has been the subject of ongoing review and several planning studies. The planning contexts are:

- (i) the need to ensure there is sufficient industrial land available in the ACT;
- (ii) the opportunity to respond to trends in industrial land uses;
- (iii) increasing amounts of retailing in Fyshwick; and
- (iv) almost 130,000 square metres of vacant floorspace in industrial areas in 2001.

In 1997-1998 PALM reviewed industrial trends in the ACT Industrial Land Study, followed by analysis of industrial land supply and demand in 2001, together with a floorspace inventory of industrial areas.

Planning imperatives for releasing Draft Variation 175 in May 2002 were:

- (i) to conclude the planning review for industrial areas;
- (ii) interest from bulky goods retailers (Homebase and Megamart) in Fyshwick;
- (iii) pressure from existing Fyshwick bulky goods retailers for increasing floorspace to meet operational requirements (Domayne, Harvey Norman); and
- (iv) lack of large blocks for freight transport.

Whilst ongoing Industrial planning work is still required, sufficient studies had been completed to update the current policies and the principles in the Territory Plan.

4.9 Question 3

- *What does PALM see as the major pros and cons from the changes?*

The major advantages of the changes are:

- a) to provide clearer objectives and policies for industrial land uses;
- b) to respond to some market trends, especially in regard to bulky goods retailing in Fyshwick; and
- c) to confirm that industrial areas complement commercial centres, which remain the focus of accessible retailing for the Canberra and regional community

The major disadvantages of the changes may be that it would encourage further retailing in Fyshwick to the possible detriment of Town Centres.

This Draft Variation does not involve a major expansion of any industrial areas. PALM is still undertaking ongoing planning work to address how Fyshwick should expand, if Mitchell should expand, how to treat the open space sites in Mitchell and if the Symonston boundary should be moved away from significant grasslands. In addition, a Broadacre 10F land use policy area between Fyshwick and Queanbeyan (Harman) has evolved as an unplanned industrial area from the sale of the former abattoirs site (Jerrabomberra block 182), so further planning work needs to be undertaken to determine the appropriate land use for this area.

4.10 Question 4

- *What evidence would PALM have used to indicate that the existing arrangements were not effective?*

To demonstrate to the Committee that existing arrangements are not effective, PALM cited:

- (i) consultation with the commercial property interests pressing for more flexibility in industrial leases; and
- (ii) lack of awareness by industrial lessees of planning policies; and evidence from interstate major bulky goods retailers that they could not relocate or enter the Canberra market under the existing policy framework.

4.11 Question 5

- *Upon what basis/evidence will PALM gauge the effectiveness of the proposed new changes?*

PALM has indicated that it would use performance criteria such as:

- (i) the take up of industrial land through the land release program, especially bulky goods retailing;
- (ii) how applications for lease variations fit within the new policies; on-going monitoring of industrial area floorspace through the inventory in 2003 and subsequently every two years; and
- (iii) reduction in requests for Territory Plan variations from lessees for purposes which may not comply with industrial precinct policies

4.12 Question 6

- *How long has PALM ascertained the proposed variation will endure if implemented?*

PALM does not specify the life of Variations, but given the existing policies date from 1993, the review that led to Draft Variation 175 ascertained that there is sufficient industrial land for 20 years. Without substantial changes in circumstances it is possible that this variation could meet industrial needs for 10 years.

4.13 Question 7

- *How did PALM arrive at the categories (precincts) as they apply to the four areas that are the subject of this variation?*

There are precincts in the existing industrial area policies. The Precinct concept is also used for achieving orderly planning of Commercial areas. If there were no precincts in the Industrial areas, retailing and other commercial uses would compete for space, causing increasing rents and land values and forcing out lower cost uses. In addition, larger blocks could be occupied by many small uses, so that a shortage of large blocks would require the release of more vacant land. The main aim of identifying areas for industrial uses is to enable them to locate in affordable locations accessible to freight transport. Some industrial uses require large blocks for storage or vehicles; some require small areas with lower rents. Precinct 'a' recognises these needs in Hume and Mitchell. It is imperative to protect an area (Precinct 'a') from retailing pressure.

Availability of land for economic development is an important consideration for the ACT to attract new businesses. Symonston has been retained for high technology purposes so that Business ACT has an area to locate industries which the ACT Government sees as deserving of incentives through direct sale of land.

The future sustainability of the ACT depends partly on the regional role of Fyshwick. PALM considered removing precinct 'c' in Fyshwick, however site investigation confirmed that this area continues to manufacture, store, market and transport food products. Therefore PALM proposed to retain Precinct 'c' and to extend this role as a regional food cluster.

4.14 Question 8

- *What other elements of planning might be on the agenda to effect land use in these areas in the mid to long term?*

The Spatial Plan is considering scenarios for future urban development. Current planning encourages mixed uses in some instances (eg Residential Use is permitted in Commercial Centres). If future urban growth occurs through redevelopment, there could be pressure to permit residential use in industrial areas, thus jeopardising the economic position of existing industrial uses. If future urban growth occurs in Tralee in Queanbeyan City, forestry and other general industries in Hume will be seen as detrimentally affecting residential amenity in

adjacent NSW. However Hume is in place and therefore Queanbeyan Council needs to take the industrial activities into account and plan future residential areas accordingly.

Transport issues are integrally linked to planning outcomes. If future jobs are located along transport corridors, extension of industrial areas could occur between the Barton and Federal Highways and along Canberra Avenue and Monaro Highway. There may be opportunities to link Fyshwick with Kingston Foreshore and with the Airport. Canberra Airport is proposing to become a major transport hub; this could attract future industries, possibly away from existing industrial areas. Canberra Airport comes under the National Capital Authority planning jurisdiction.

What PALM Proposes

4.15 The above explanations from PALM and the information provided with Draft Variation 175, did not fully convince the Committee that PALM had fully considered the overlaps and interdependencies between many commercial and industrial activities as, for this Variation, PALM has proposed that:

- (a) Hume remains an area designated as suitable for manufacturing, processing, warehousing, storage, public utilities and industrial sales;
- (b) Bulky goods warehousing and retailing would receive attention to allow for development, especially in Fyshwick;
- (c) Fyshwick and Mitchell would have more flexibility for existing uses of the 3000m² gross floor area for shop use rather than changing it from an industrial to a commercial classification;
- (d) The existing 3000m² gross floor area for bulky goods retailing be removed in Fyshwick only;
- (e) The large site on the corner of Canberra Avenue and Newcastle Street in Fyshwick be classified as suitable for bulky goods retailing, with the site behind it to revert to general industrial sales;
- (f) The six blocks along Canberra Avenue be varied from Industrial to Commercial E Corridors and Offices, and that residential land use in this area not be permitted;
- (g) The area that holds the Fyshwick Fresh Food Markets be restricted to food enterprises and compatible activities only;
- (h) Flemington Road to be a major access to Gungahlin by not permitting direct access to blocks in Mitchell;
- (i) Block 41 Section 18 Mitchell leased by Posh Pots (retail business) will not be reclassified from general industrial to commercial; and
- (j) Land occupied by the Hill Station Restaurant and land immediately south of Hume be varied from Entertainment Accommodation and Leisure to Industrial (with a site specific control to preserve the Heritage Significance of the buildings and the site);

4.16 The Committee is of the view that PALM has attempted to give prominence to major transport and freight industrial development by economically marrying the notion of Fyshwick, Hume and Mitchell areas and their ease of accessibility to major regional roads, together with the major transport, industrial and commercial hub at Canberra Airport.

4.17 While PALM appears to have tried to balance the respective demands for the freight transport and the bulky goods retailing, in some cases it appears to have failed to fully consider the regional metropolitan role of Fyshwick.

4.18 There seem to be unfair and unrealistic restrictions on commercial businesses in some of the industrial areas so that places like Gungahlin and Tuggeranong Town Centres grow as viable retailing centres. In the Committee's view, PALM has inadequately analysed such issues as:

- (a) The environmental and ecological impacts of establishing freight and transport industries adjacent to the natural Jerrabomberra Wetlands (also a well known wildlife habitat) and the Molonglo River corridor;
- (b) The heritage and business damage inflicted on Hill Station Restaurant by permitting significant heavy industry nearby;
- (c) The demand for small business warehouses in Hume;
- (d) The close proximity to the Fyshwick Industrial Precinct of the Kingston Foreshore Development;
- (e) The easy access of Hume to the Monaro Highway to make it eminently more suitable for the freight and heavy transport industries than Fyshwick;
- (f) The Canberra Airport Transport node as a future industrial area to become the centre for heavy vehicles and freight transport industries;
- (g) The impact or relationship of the proposed developments on the minor industrial areas in Belconnen, Phillip, Tuggeranong, Gungahlin, or the flexibilities that might be achieved if a better level of complementarity were developed between Gungahlin and Mitchell, given the inconvenient distance for residents to travel to Fyshwick;
- (h) The negative business implications for 'Posh Pots' not being considered for precinct 'b' classification;
- (i) The development of more flexible mixed-use precincts as recommended in the Industrial Land Study 1998 (commissioned by PALM in 1997 to investigate the need for additional industrial land in the ACT);
- (j) The impact of Draft Variation 175 for future Master or Strategic Plans that might address the fact that there is less than 5 years' supply of serviced blocks in the ACT, and predicted threats to residential amenity in this context;

- (k) The impact on smaller industrial enterprises to be or remain viable as a result of the proposed minimum subdivision size which is intended to ensure the preservation of large blocks of industrial land for new developments requiring large land intake; and
- (l) The current arrangement whereby the industrial area of Hume potentially can be split by the Monaro Highway. This may not be a desirable aspect of the current Territory Plan, but was not addressed in Draft Variation 175, although the opportunity is presented to do so.

Recommendation No. 1

The Committee has formed a strong view that this Draft Variation is not forward looking; lacks strategic, spatial and economic analysis with surrounding and adjacent residential areas; ignores practical and sensible business issues for small business, and contradicts its proposed new policies for Industrial Land Use⁹. The Committee recommends that Draft Variation 175 be adopted as amended by the recommendations contained in this Report, but only as an interim measure while further work is undertaken.

4.19 The Committee is also concerned at PALM's apparent adequate response to advice it received from the ACT Heritage Council on 27 March 2002. This advice was that 'zoning Hill Station into a general industrial precinct 'a' 'has the potential to impact on the heritage values of Hill Station by encouraging major changes to take place. The Council would support the calling for Expressions of Interest as to what a future development could be which is compatible with the heritage values of the homestead'¹⁰. To this end, the Council suggested deleting existing permitted uses in the Territory Plan (see Appendix 2 Letter dated 27 March 2002 from Dr Sandy Blair, Secretary ACT Heritage Council to the Territory Planning Branch, Planning and Land Management).

4.20 The Council also expressed concerns about places of potential historic and heritage significance located in Hume, 'Tralee' Homestead, possible remains associated with Block 1543, 'Couranga' Homestead and the Travelling Stock Route, and a number of areas with the high potential for the existence of Aboriginal places within the Hume area. There is a lack of evidence to suggest that PALM or the ACT Heritage Council have actively followed up or pursued these issues before proceeding with the final version of Draft Variation 175 in October 2002. Advice ¹¹from the Heritage Unit of Environment ACT on 2 April 2003 informs the Committee that the Registration of Hill Station into the Heritage Places Register was not undertaken as a matter of urgency, when Draft Variation 175 was released, because discussions with PALM indicated that the time required for registration would unnecessarily delay the progress of Draft Variation 175. The Unit also said that following dialogue between the Unit and PALM about the protection of heritage values of the Homestead, PALM believes

⁹ Draft Variation 175 Final-Page 3 Attachment A 1) Variation to the Territory Plan Statement for Part B3 Industrial Land Use Policies

¹⁰ Letter dated 27 March 2002 from Dr Sandy Blair, Secretary ACT Heritage Council to the Territory Planning Branch, Planning and Land Management.

¹¹ E-mail of 2 April 2003 to the Committee Secretary from the Heritage Unit Environment ACT

that Draft Variation 175 affords protection to the Homestead. The Unit commented that this does not mean that Registration will not proceed, although it did not provide advice as to when the Registration might be finalised.

5. CONSULTATION

5.1 PALM released the original Draft Variation for public comment on 16 May 2002, and also placed a notice in the ACT Legislation Register. A notice was placed in the Canberra Times on 18 May 2002, for comments and submissions to reach PALM no later than 1 July 2002. In addition, PALM:

- (a) provided copies of the Draft Variation to 160 individuals, companies, community associations, and professional bodies; and
- (b) contracted the ACT Chamber of Commerce and Industry to mail out an explanatory brochure to all lessees in Fyshwick (1300), Mitchell (359) and Hume (128).

5.2 PALM notified the Committee on 8 November 2002 that the final version had been referred to the ACT Executive. Following the Committee's receipt of the documents during December 2002, the Committee decided to call for public submissions through the Canberra Times and the Chronicle on 7 January 2003, with a closing date for submissions of 7 February 2003. The issues presented in the submissions both to PALM and to the Committee were of such portent that the Committee agreed to take further evidence at Public Hearings on 14 March and 28 March 2003.

5.3 The list of submissions to the Committee is at Appendix 5. PALM received fourteen submissions that it made available for public perusal, and the Committee received eight submissions. The submissions to the Committee were all from business interests, four in Fyshwick; two in Mitchell; and two in Hume. The Committee received no submissions relating to the Symonston industrial area, so no comments on this area are included in this Report.

5.4 The submissions received, contain commonalities such as:

- a) the logic and issues of justification for the draft variation are flawed, containing inconsistencies and ambiguities;
- b) a far better solution may be available to retain the sites in the Fyshwick West Industrial Area with a reclassification as Precinct 'b' commercial/ industrial;
- c) removal of the six Blocks fronting Canberra Ave (at Fyshwick West) from the Fyshwick Industrial Area into a Corridor/Office Classification is inappropriate in Town Planning terms and grossly unfair to private Crown lessees involved;
- d) Draft Variation 175 ignores or is in conflict with 1998 Synectics Report;
- e) there are other investigations in progress;
- f) there are no obvious justifications for reclassifications to food storage/wholesaling; and
- g) Fyshwick, Hume and Mitchell are located near major regional roads, so that general industry is accessible to suitable freight services. Industrial activity will impact on other environmental or residential areas.

5.5 Since late last year this Committee has considered a number of Draft Variations, and notes that the issue of PALM documentation being flawed, full of inconsistencies, ambiguities, ignoring stakeholders or other investigations or master planning processes, and/or not well considered in an overall strategic context is a common element of submissions and evidence at Public Hearings. Key issues raised demonstrate this issue:

a. **Australian Independent Developers-Efkar Pty Ltd & Pontians Pty Ltd**

- Owner of Blocks 11 and 12, Section 38 Fyshwick-in the industrial suburb within a separate precinct to the west of Fyshwick, across the Monaro Highway.
- Main address/entrance is off Newcastle Street (Dairy Road)-previously Commonwealth Department Administrative Services Fleet Operations and adjacent to the Wetlands.
- A number of concerns with the Draft Variation as it relates to the short and medium term future.
- Since publication of Draft Variation 175, further investigations and studies, including Master Plan Proposals have taken place with respect to the subject site-offers an exceptional opportunity for new forms of mixed use development, but only if Territory Plan provides flexibility to support mixed industrial, commercial and residential land uses.
- The proposed deletion of 'Railway Use' in the Draft Variation is inconsistent with stated objective 'Provision for transport related businesses in locations accessible to major transport links'.

b. **Posh Pots-Units 1 and 2 Hoskins St Mitchell – Block 41 Section 18 Mitchell**

- Many ambiguities in the Draft Variation.
- Contrary to the overall thrust of the review undertaken, and an apparent indifference shown towards Posh Pots during the original review.
- Posh Pots feels that it has been treated as the 'whipping boy'.

c. **Hill Station-Function/Conference Centre, Restaurant, Vineyard-Hume**

- Currently within the Entertainment, Accommodation & Leisure Land Use Policy Precinct.
- Progress of industrial development in Hume has created an environmental conflict, where two planning policies are linked, but are not working compatibly together.
- Current zoning and purpose clauses are leaving no scope for change or business restructure to revitalise the property to suit its link to the industrial area.
- National Trust is aware of Hill Station's predicament in regards to historic and heritage nature of the property.

d. **Fyshwick Fresh Food Markets-Block 1 Section 7 –Fyshwick East**

- Strongly opposed to Draft Variation 175 as it permits Precinct 'b' to include 'produce market', previously confined to Precinct 'c'.
- Need to retain provisions and site-specific conditions for Precinct 'c' Block 1, Section 7 Fyshwick –'Development on Fyshwick Section 7 Block 1 shall be primarily for the purpose of produce market and shall be restricted in the range of goods offered for sale for fruit and vegetables.'

e. **McCann Property and Planning and Perin Property Group Pty Ltd**

- Significant implications for future use and development of industrial land in the ACT; Detrimental impacts on Perin Group in West Fyshwick; 1998 Synectics Report Draft refers to clustering of 'hi tech' and 'environmental' industries.
- The Draft Variation policy as proposed has many flaws.
- West Fyshwick should be reclassified as precinct 'b' with the same bulky goods retailing provision as for east Fyshwick.
- Creating regional food enterprises-concept of clusters by artificial intervention in the market has been shown not to work-refer Amtech and FernHill estates in the ACT.
- Availability of suitable sites, the central location and pattern of existing uses make the west Fyshwick precinct eminently suitable for bulky good retailing.
- Retail outlets can exist without impacting on the metropolitan hierarchy.
- A limit of 2,000m² would be more appropriate than the current 200m² limit.
- Blocks 3 and 4 of Section 7 Fyshwick would be made more viable if Precinct 'b' applied.
- Removing the control for sale of alcoholic beverages to 1200m² on Block 18 section 30 is too stifling for growth of business.
- Draft Variation 175 imposes constraints on industrial development. It is contrary to Synectics Report, because there are numerous sites available in West Fyshwick.
- Fyshwick West Block 11 Section 30-Precinct needs to be livelier and commercially active before such a change is warranted. Limitations in other parts of the Draft Variation are contra to this in terms of long-term benefit.

f. **RJ Support Services Pty Ltd and Spunlock Pty Ltd**

- Spunlock Pty Ltd is the owner of adjacent sites being Block 6 Section 7 Fyshwick (Kentucky Fried Chicken Fast Food Restaurant) and Block 7 Fyshwick (Mobil Service Station and Shop). Precinct 'c' Industrial Classification for food storage/wholesaling is inappropriate for these leases
- Spunlock Pty Ltd does not support the continued dedication of Fyshwick West for food storage/wholesaling. Major supermarket chains and other food retailers make deliveries directly to retail outlets from interstate.
- Draft Variation fails to present a vision for growth of businesses in Fyshwick for example:
 - a) the limitation on food retailing of 200 square metres should be raised to 2,000 square metres, and that's a level which would enable this sort of activity to occur, and it would not greatly affect the rest of the Canberra retail market, in fact, it would be of great benefit to the people of Canberra;
 - b) there is an opportunity for the Fyshwick Fresh Food Markets function to be reinforced and strengthened with some other retailing in the immediate vicinity. People go shopping at the Fyshwick Markets but then have to go a long way away somewhere else to get the other things they need. The Markets need to be protected with a 'c' classification. There is a need to allow larger areas of other food retailing, grocery retailing, pharmacies, and newsagents, to complement the Markets.

5.6 In addition to the Public Hearings, the Committee also took a private briefing on 24 March 2003 from Australian Independent Developers on matters that had previously been

presented to the Minister for Planning. This presentation confirmed for the Committee's that PALM's proposed policies had been poorly conceptualised.

5.7 During its deliberative stage, the Committee's Chair also took oral representations from other members of the community who were unaware of the existence of Draft Variation 175 and its possible impacts for future investment and business opportunities¹². This raised serious questions and concerns in the Committee's view, about PALM's methods of ensuring that actual stakeholders were aware of the existence and implications of a draft variation, were receiving the necessary documentation in a timely fashion. The Committee's view is that relying on a Chamber of Commerce mailing list for the letterbox drops is inappropriate in any situation relating to draft variations. The Committee did not accept PALM's defence was that it fulfils its statutory obligations to the best of its ability and within the resources it has available to it. This is not a sufficient method to satisfy effective consultation.

5.8 The Committee believes that the Government must accept full responsibility to ensure that relevant stakeholders are provided with adequate and timely advice in respect of draft variations.

Recommendation No. 2

The Committee recommends that the Government accept full responsibility to ensure that suitable methods of notifications are employed to guarantee relevant stakeholders are notified.

¹² Hansard-PALM evidence Public Hearing 28 March 2003, Page 3

6. FUTURE PLANNING

6.1 The following matters of concern support the Committee's view that it cannot accept Draft Variation 175 unless its recommendations are accepted and implemented:

A. Blocks 11 and 12 Section 38 Fyshwick - the 'Old' Commonwealth Department of Administrative Services Fleet Operations Site

A.1 This is a very large site comprising two blocks totalling 14.365 hectares. It currently contains about eight industrial warehousing type buildings, including three offices. Any use for general industrial involving the transport industry would run a very high risk of permanent pollution to the adjacent wetlands and river corridor. This area needs to be dealt with as a fairly unique location, as if it were in a precinct of its own, because it is:

- a) quite separate from Fyshwick proper (Fyshwick East);
- b) separated by other physical constraints such as the Monaro Highway and the Sydney-Canberra railway;
- c) a different land use arrangement than this part of Fyshwick which is primarily Precinct 'c', which is wholesale food distributors and the Fyshwick Food Markets;
- d) different to the general industrial development and other activities on the eastern side of Fyshwick;
- e) surrounded by tracts of open space (including the Jerrabomberra Creek waterway corridor through Narrabundah and Fyshwick), and is adjacent to the Canberra Nature Park (Jerrabomberra Wetlands) and Dairy Flat-Molonglo River floodplain and aquifer, a very sensitive environment location, and includes the Dairy Flat Farm Education Centre and related rural activities;
- f) a valuable site not suited to the kind of offensive and hazardous industries right on the doorstep of the wetlands and some of Canberra's recreational spaces; and
- g) located in a unique part of Canberra with very good access to the rest of Canberra.

A.2 Private investment has developed a concept plan for this site, all the railway land, a very large tract of undeveloped land (which is still unleased, has the drainage from the Wetlands passing through it, and which Draft Variation would seek to designate for general industrial purposes), and the all the land up to the Kingston Foreshore. The whole precinct (about 70 hectares, almost the same size as the Sydney Olympic Games Homebush Bay Village site), could become a mixed use development which would include the full range of commercial, recreational and residential opportunities, and a mixture of clean industry such as technology parks or similar. The Concept Plan provides for residential housing as a range of multi-unit housing, at the lower end of the market particularly, with a mix of higher quality upper market housing as well, in a similar way to the Homebush Bay Village.

A.3 The Committee believes that the proposal has merit because of its special relationship with Fyshwick and the Kingston Foreshore Development. High levels of investment have already produced a sound concept plan on which this Government and future governments could capitalise. It is an overarching concept for the land adjoining the Jerrabomberra Wetlands, and the Committee thinks that the land should be subject to a master planning exercise immediately.

Recommendation No. 3

The Committee recommends that:

- a) the Government immediately begin to prepare a Master Plan for the area bounded by the Kingston Foreshore Development, the Monaro Highway, Canberra Avenue and Dairy Flat Road, so as not to lose access to the concept plan; and
- b) the area described is specifically considered in the Spatial Plan.

A.4 There is a level of inconsistency between the land use policies and the actual proposals for change in the Draft Variation. The Committee argues that freight transport industrial activity of the sort proposed is likely to have an adverse effect on the environment and the amenity of adjacent residential areas. The proposal from Australian Independent Developers is consistent with ideas presented to PALM in 1998 by the Synectics Study for eco-industrial parks, more environment co-location, compatibility, and complementarity between industries¹³. For strong ecological reasons associated with the Wetlands and the Molonglo River Corridor, the Committee contends it is irresponsible to allow the general industrial use (precinct 'a') for Fyshwick Blocks 11 and 12 Section 38 - the 'Old' Commonwealth Department of Administrative Services Fleet Operations Site.

Recommendation No. 4

The Committee recommends that Blocks 11 and 12 Section 38 Fyshwick - the 'Old' Commonwealth Department of Administrative Services Fleet Operations Site - be included as a 'b' classification so that bulky goods retailing is allowed immediately in lieu of any transport industry usage.

A.5 If this is not done, the Government will be at an economic and environmental risk, because:

- a) the site cannot currently be used for the purpose for which it was built, especially in respect of the current office buildings on the site;
- b) there will be a higher risk of oil spills into the Wetlands; and
- c) the connectivity of the Monaro Highway and Fyshwick will suffer.

¹³ Hansard PALM evidence 14 March 2003, Page 66

Recommendation No. 5

The Committee recommends that:

- a) the site, as described in recommendation No. 4, is better suited, in the long term, as a flexible mixed use precinct, in keeping with the need for more flexibility in industrial land uses highlighted in the 1998 Synectics Study and the Government's pursuit of sustainable development, affordable housing and future revenue generating opportunities; and
- b) the Government immediately undertakes to include mixed-use land usage policies in the development of the Spatial Plan.

B. Block 1 Section 22 Mitchell - a Former Brickworks Site

B.1 This site, currently a precinct 'a' site, at 70,177.6m², is the largest industrial site available for redevelopment in Mitchell. It is located north of the Gungahlin Cemetery and is a very well located site in terms of access to the Gungahlin Town Centre and surrounding residential development. It is also well linked to the future suburb of Franklin, which has a projected population of 10,000 people. Gungahlin has a population of some 25,000 and is growing. Taking into account the needs of Gungahlin and new suburbs to come on stream and its distance from Fyshwick, this site is seen as a 'unique opportunity to satisfy some of the demand for bulky goods retailing and to provide support for a range of other retail opportunities at Gungahlin'¹⁴. The Belconnen and North Canberra suburbs could also benefit from bulky goods retailing outlet at Mitchell. This idea is based on an emerging trend in other cities to have the co-location of bulky goods retailers, particularly furniture and whitegoods stores.¹⁵ The same submission informed the Committee that the Mitchell site is big enough to accommodate such an opportunity, using the Sydney Moore Park 'Super Centre' as a model to follow. This model has a 'group of bulky goods retailers co-located in accordance with a comprehensive plan in which parking, service access, pedestrian areas and other infrastructure are shared. The development is supported by cafes, children's playgrounds and other amenities and is immensely popular with the public'¹⁶.

B.2 The Committee agreed with evidence put that:

- a) Since its establishment some 20 years ago, Mitchell has experienced mixed success as an industrial site¹⁷;
- b) Mitchell should be considered as a mall in the same way that Fyshwick is. It should have a lot of anchor tenants, just as Fyshwick does. Mitchell has no anchor tenants at present¹⁸; and

¹⁴ Submission to the Committee from Mr Tim Efkarpidis, Chief Executive Officer, Efkon Developments Pty Ltd dated 6 February 2003

¹⁵ Submission to the Committee from Mr Tim Efkarpidis, Chief Executive Officer, Efkon Developments Pty Ltd dated 6 February 2003

¹⁶ Submission to the Committee from Mr Tim Efkarpidis, Chief Executive Officer, Efkon Developments Pty Ltd dated 6 February 2003

¹⁷ Hansard Public Hearing 14 March 2003 page 11

¹⁸ Hansard Public Hearing 14 March 2003 page 11

- c) The site offers an exceptional opportunity for new forms of industrial and retail associated with development, but only if the Territory Plan provides the inherent flexibility to support mixed industrial and commercial land uses.¹⁹

B.3 Mitchell would be enlivened with the kind of development discussed in evidence and the public hearing, with an enhancement to commercial services provided to all the northern suburbs of Canberra as well as the Gungahlin residents. Such a development would be the first of its kind in Canberra.

Recommendation No. 6

The Committee recommends that the Block 1 Section 22 Mitchell be included as a precinct 'b' land use policy that will allow the development of a 'bulky goods super centre' and other industries with a strong service orientation and associated retailing.

C. Small Business Issues- Mitchell

C.1 Mitchell Section 18 Block 41 (Posh Pots) is located on a battle-axe block in a precinct 'a' area while access to the block is through a precinct 'b' area. It is a retailing business offering 'a full range of Garden Artistry and associated items and developing 'cutting edge' business initiatives including a world class Web Site'²⁰, and technically is conducting its business in a general industrial zoned area. This makes it in breach of the land use policy, a matter of which the Planning and Land Management Group (PALM) advised it in May 2000. By its own admission, PALM recently concluded that 'there is only a small amount of potential non-compliance with the retail restrictions'²¹, which leads the Committee to question PALM's justification for retaining Posh Pots in precinct 'a'. Precinct 'b' blocks on Hoskins Street specifically cater for businesses that have a retail component, where provision is made for 200m² of shop per lease and 3,000m² of bulky goods retailing (e.g. carpet, furniture). As the adjoining blocks along Hoskins Street are within the precinct 'b', and the access to Posh Pots is through a lane from Hoskins Street, the Committee believes it is pedantic and illogical to consider that Posh Pots is a threat to the commercial uses of the Gungahlin Town Centre, the provision of adequate industrial land and building space for future economic development, or that it would not satisfy the criteria for a precinct 'b' classification. The Committee believes that Posh Pots does not have any prejudicial impact on the planned hierarchy of retail centres, but that it enhances the intended purpose and character of the Mitchell industrial area.

C.2 The Committee notes the *Land (Planning and Environment)(Compliance) Amendment Bill 2003* (the "Compliance Bill") currently before the Legislative Assembly for consideration. This Bill provides for the amendment to the *Land (Planning and Environment) Act 1991* (the "Land Act") and subordinate laws for the purpose of improving planning and leasing compliance

¹⁹ Submission to the Committee from Mr Tim Efkarpidis, Chief Executive Officer, Efkon Developments Pty Ltd dated 6 February 2003

²⁰ Submission to the Committee from Robyn and Bruce Gibbons, Proprietors of Posh Pots, dated 7 February 2003

²¹ Attachment 1 of the final version of Draft Variation 175, October 2002

powers. It also provides for more streamlined resolution of minor building encroachment issues²². The Explanatory Statement to the amendment states that the objective of the amendments is to empower departmental officers (of the Department of Urban Services) to impose a range of immediate and simple sanctions on lessees who contravene their lease, and to improve the effectiveness of monitoring development activity. The amendments will assist in addressing the increasing number of compliance complaints received.

C.3 Evidence was presented concluded 'there is no doubt in our mind that there's obvious inequity and bias in the way in which the compliance issue has been dealt with by PALM.²³ Representatives of Posh Pots further contended that an independent review of leasehold activity in the Mitchell area would reveal that a number of leases would be operating contrary to the provisions of the territory Plan. It is reasonable to conclude from such evidence that the issue of compliance is more often than not, not enforced.

C.4 The Committee is strongly of the view that that compliance should not be used as an anti-competitive mechanism to disadvantage economic viability of commercial operators in Canberra, and recommends that this be integral to the monitoring of compliance. The Committee contends that:

- a) compliance is a resource issue, not a legislative issue, with the current proposed amendment more consistent with PALM's somewhat inflexible approach to planning; and
- b) successful planning outcomes for Canberra need somewhat more flexibility than is in evidence from this Draft Variation and the proposed amendment before the Assembly.

C.5 In terms of the argument from PALM that 'increasing the permitted shop space would require more parking on the block', the parking arrangements of Posh Pots more than satisfy the standard lease arrangements based on the parking generation rates for all industrial precincts, one space per 100 square metres of floor space. For example, one of the Posh Pots unit entities has 451 square metres, which requires 5 car spaces. Posh Pots actually provide 23 car spaces. In addition, Posh Pots is predominantly about storage and wholesaling and handling bulky goods- a type of business that can only fit in to an industrial area to be successful²⁴. Posh Pots reflects the spirit of the Territory Plan to 'encourage economic diversification and long term growth of the ACT's industrial base to expand employment opportunities'. It also has 11 employees.

C.6 The Committee has come to the conclusion that there is often an incorrect distinction between industrial and commercial land uses as is seen in Mitchell, as well as in the trades areas of Phillip and Belconnen. The Committee believes a broader review of industrial land, including land uses in trades areas, is necessary.

Recommendation No. 7

²² Explanatory Statement to the Bill as shown on the ACT Government Website for the *Land (Planning and Environment)(Compliance) Amendment Bill 2003* (the "Compliance Bill")

²³ Submission to the Committee from Robyn and Bruce Gibbons, Proprietors of Posh Pots, dated 7 February 2003

²⁴ Hansard Public Hearing 14 March 2003

The Committee recommends that:

- a) Section 18 Block 41 Mitchell be immediately classified as Industrial Land Use 'b' in the Territory Plan; and
- b) The Government further investigates current and actual land use in Mitchell to reflect the fact that many other businesses in Mitchell are already undertaking commercial, industrial and retailing activities, which do not easily fit into current classifications.

D. Small Business Issues –Hume: Canberra Based Family Owned and Operated Construction Business

D.1 This concerns the business survival of enterprises in Hume that utilise small warehouses that have been subdivided and unit titled into small units that range from 100 square metres to 300 square metres. These units are used for storage, and/or moving from home based businesses. For the past nine years, this family owned company has been building such industrial units for small businesses to meet the demand for small business to rent or buy. From time to time, this two-man company will buy a single block of land at government auction, develop it, and then build units on it. In the past nine years, the company has built and sold twenty-four such units, and leased out seven²⁵. The experience of this company is that the size of units required by such businesses is not available elsewhere for their kind of business at an affordable price.

D.2 The new Variation minimum unit size is to be 1,000m², which may retard or terminate the future viability of this business to provide what small businesses in Hume have typically demanded. It also may mean that such small business will be unable to buy the kind of small unit they need to suit their needs. The current experience is that demand for small warehouse units comes from local as well as interstate businesses. The Committee agreed that an element of Canberra's economic diversity and sustainability requires a continuing capacity for small scale operations in the industrial areas, such as the demand for small business being met by this local Canberra based company.

Recommendation No. 8

The Committee recommends that:

- a) to encourage and protect the present and future opportunities for small business in Hume, and to encourage the future sustainability of locally based small business, that Draft Variation 175 is amended:
 - (i) to cater for storage unit sizes of a minimum of 100m²;
 - (ii) to allow the minimum block size for blocks to be subdivided from small blocks to be 1,000m², with no restriction on the number of units per block for specific small business purposes; and

²⁵ Submission to the Committee from Messrs John and Chris Convine dated 13 March 2003

(iii) to implement a monitoring framework to ensure large blocks remain available for long-term industrial expansion.

E. Small Business Issue- Blocks 5 and 6 Section 6 Hume- Hill Station

E.1 Under Draft Variation 175, the property occupied by the Hill Station Restaurant that is currently covered by the Entertainment, Accommodation and Leisure land use policy, would be reclassified to a precinct 'a' land use policy with the major focus being manufacturing and transport land uses requiring large land areas accessible to main interstate road and rail connections. To offset the industrial designation, PALM proposes a specific site control for the blocks to preserve the Heritage Significance of the buildings and the site. The new policy proposes the site to be used for club, drink establishment, guest house, hotel, motel, restaurant, shop and tourist facility provided that a shop is ancillary to the use of the land, or restricted to tourist related goods such as arts and crafts and souvenirs. Sale of food (other than takeaway food and restaurant) is not permitted. The maximum gross floor area of any shop (other than for arts, crafts or souvenirs) is 250m²²⁶.

E.2 One Member of the Committee said of Hill Station during the Public Hearings '...how can we have a historic place like that and how some sort of act of planning bastardry was allowed to run free.'²⁷ The same Member of the Committee went on to comment that 'light industrial commercial areas and things like that would suit Hume, but a sawmill so close to Hill Station is just incongruous.' The planning policies of Hume are seriously threatening the ongoing business viability of Hill Station. 'The increased industrial activities and continued development of Hume industrial area are having a deleterious effect on the designated uses of the Hill Station Property as a quality cultural passive leisure tourism experience. The co-location of the two land uses in Hume has caused an environmental conflict where the two planning policies are linked but are not working together'²⁸. The Committee seriously questions how the proposed Site Specific Controls are going to change this or allow the business to continue successfully for the long term. The Site Specific Controls:

- a) dismiss the environment in which Hill Station now finds itself;
- b) fail to have taken account of what business might suit that environment to be compatible with precinct 'a'; and
- c) ignore any consideration of the heritage value and future preservation of the buildings or the site, based on the notion that the 'Hill Station property is not a Territory owned asset'²⁹; and
- d) fail to acknowledge that that Hill Station has for some time now delivered an upmarket product that has significantly contributed to ACT tourism and the ACT economy.

E.3 The owners of Hill Station are being squeezed out by the continued industrial development. The Committee has been informed that the area is noisy and dirty with industrial rubbish a perennial problem on the site these days, and is no longer a socially acceptable

²⁶ Final Version Draft Variation No 175 page 14

²⁷ Hansard from Public Hearing 14 March 2003, page 35

²⁸ Hansard from Public Hearing 14 March 2003, page 32

²⁹ Final Version Draft Variation No 175 Annex F

tranquil environment for conferences, weddings or similar events. The tourist appeal and general clientele continue to decline at an average rate of around 20 percent. This trend will result in the business becoming insolvent and it will close.

E.4 The owners of Hill Station have themselves sought alternative uses for the building and the property, including trying to sell it for the last three years without success. However at the time of the Public Hearing, the owner had found 'somebody that's willing to develop the site into some sort of industrial precinct with the spare land that's around there, incorporating the homestead with the gardens into some sort of showroom and preserving it that way, so it's a feature for that particular business³⁰. The Committee notes that this was ignored by PALM even after the ACT Heritage Council had suggested that display rooms be allowed. PALM rejected this suggestion on the basis that 'this cannot be implemented because there is no specific definition in the Territory Plan for this use. Display rooms are a component of other defined uses'³¹. In the same vein, some common sense thinking might have suggested Hill Station to have a continued use compatible with the industrial precinct by allowing it a Specific Site Control for Professional Office Accommodation. The Committee was reminded that such Professional Office Accommodation has been successfully allowed in certain protected places in Manuka. The Committee believes that allowing for showroom and professional office accommodation at Hill Station would encourage the preservation of the property and provide some equity for the maintenance of the buildings. PALM and the ACT Heritage Council appear to be silent on the issue that the current industrial policies are driving the owners out of business, while the ACT slowly loses its historic heritage buildings and site.

Recommendation No. 9

The Committee recommends that:

- a) the ACT Heritage Council immediately provide Blocks 5 and 6 Section 6 Hume with approval to develop and implement alternative proposals to its current core business that would be compatible with the policies of precinct 'a' as has been highlighted in this Report;**
- b) the Government seek to joint venture with the owners of Hill Station or any future owners of Hill Station to develop arrangements for more heritage control;**
- c) PALM immediately rewrite the Specific Site Controls to allow for alternative uses including showroom space and professional office accommodation compatible with precinct 'a'; and**
- d) the Legislative Assembly note the potential loss of Hill Station to the ACT economy due to the industrial land use policies in Hume.**

³⁰ Hansard Public hearing 14 March 2003

³¹ Final version Draft Variation Annex F

F. West Fyshwick - Blocks 9 and 16 Section 6; Blocks 3 and 4 Section 7; Block 39 Section 22 and Block 18 Section 30, close to Fyshwick Fresh Food Markets; AND Kentucky Fried Chicken (KFC) Fast Food Restaurant and Mobil Service Station/Garage with a convenience store - Block 6 Section 7; Block 7 Section 7, on Canberra Avenue.

F.1 The above-mentioned blocks in Fyshwick are referred to in this Report as Fyshwick West. The Committee feels that proposed land use policies for this area highlight the lack of vision and strategic thinking in this Draft Variation. The Committee seriously questions the proposals for food wholesale and retail enterprises, and the suitability of placing the KFC Fast Food Restaurant and the Mobil Garage to conform to the prime office corridor requirement of residential or office land use. These two blocks have leases with approved uses, specifically not permitted by the office corridor policy.

F.2 PALM provides no justification based on economic or social needs, market forces, or new styles in retailing, for limiting the West Fyshwick area to food related wholesale distribution type enterprises or for creating a precinct or zone that is focussed on wholesale and retail distribution of food enterprises and manufacturing. The Committee considers that other issues seem to have been given little or no consideration, such as:

- a) the relationship between the various areas designated in the Draft Variation, for example, as the proposal for 'Produce Market' (Fyshwick Fresh Food Markets) remains unchanged from the current situation, why was there not some consideration given to opportunities to reinforce and strengthen the specialised commercial service it provides with some other retailing in the immediate vicinity to give the community to obtain all of their household product needs at a half -case retail outlet without having to leave Fyshwick after they've done the fruit, vegetable, fish, meat and delicatessen shopping;
- b) practical analysis of the current under-utilisation of some of the buildings on these blocks and what might drive their re-enlivenment ;
- c) the changing nature of Canberra's business opportunities for bulky goods and half-case style grocery retailing;
- d) the economics that make the above mentioned style of retailing suitable for industrial areas;
- e) the extent to which the retail hierarchy of shopping centres that consist of a standard modern supermarket and a whole lot of speciality shops can complement the demand for half-case grocery retailing;
- f) on what basis the food retailing limit was established at 200m² and not 2,000 m² to respond to the demand half-case style retailing;
- g) the inequities and lack of fairness created for retailers by having the 1,200 square metres limit in Fyshwick, for say liquor retailing facilities (refer specific new policy for Shop Fyshwick Block 18 Section 30³²), when the same types of facilities in say, the Belconnen

³² Final Version of Draft Variation 175 page 15

Mall have relatively unlimited growth prospects, while Fyshwick facilities are always going to be limited by virtue of this Draft Variation to 1,200 square metres, and no growth prospects; and

- h) how the new policies will contribute to a sustainable revenue stream for the ACT and continue to attract and retain successful investors in the Canberra wholesale and retailing industry.

F.3 The proposal by PALM to cluster regional food enterprises in Fyshwick seems questionable in the light of the current even and broad spread of food wholesaling and retailing enterprises in Fyshwick (see Appendix 3³³). Modern food industry practices include 'just in time delivery' has reduced the need for warehousing of food products in Canberra, for example the large big food retailers, Woolworths and Coles in particular, have ceased warehousing in the ACT³⁴.

F.4 In addition very little food processing is undertaken in Canberra for reasons of economy of scale and proximity to raw materials and market places³⁵, so it appears unlikely that such warehouse space would be taken up in a reclassified precinct. The Committee was informed a block in Fyshwick that has been used as old style warehousing and was sold at auction to an insurance company because no food tenants vied for the blocks at auction.³⁶ The Committee also heard evidence that Block 6 Section 7 and Block 7 Section 7 (the Kentucky Fried Chicken (KFC) Fast Food Restaurant and the Mobil Service Station/Garage and convenience store) are sites that together amount to 10,000 square metres; are grossly under-utilised; and are more suitable for precinct type 'b' uses that would complement the retail markets by developing a specific function retail type node that would be a great improvement by the use of these blocks.³⁷

F.5 The policy principles of Draft Variation 175 are not plausible based on evidence presented to the Committee. More flexibility in policies would allow sections of Fyshwick to develop as lively and vibrant shopping, service and industrial complex able meets the needs for all of its metropolitan catchment population in a much improved and more amenable way. The Committee demonstrates the need for such flexibility in respect of the nearby Kingston Foreshore Development. In the near future as tenanting is complete, there will be insufficient shopping opportunities, even taking account of Manuka facilities. The Committee foresees a time when a mall arrangement will be required to be developed at the sites near the Fyshwick Fresh Food Markets to service residents of nearby suburbs.

Recommendation No. 10

³³ Evidence presented at the Public Hearing on 14 March 2003 by McCann Property and Planning and Perin Property Group Pty Ltd

³⁴ Public Hearing 14 March 2003 page 52

³⁵ Submission to the Committee from the McCann Property and Planning and Perin Property Group Pty Ltd

³⁶ Evidence presented at the Public Hearings by R J Support Services Pty Ltd and Spunlock Pty Ltd page 56

³⁷ Evidence presented at the Public Hearings by R J Support Services Pty Ltd and Spunlock Pty Ltd page 57

The Committee recommends that:

- a) West Fyshwick be included as a precinct 'b' land use policy;
- b) The Government revisits the East and West Fyshwick proposals with all major lease holders and independent planning experts to discuss what economic and strategic direction will better position Fyshwick for future development to respond to long term changing retail and wholesale trends and patterns and other commercial activity; BUT
- c) The Government develops an area specific overlay for the Fyshwick Fresh Food Markets (Block 1 Section 7 Fyshwick).

7. CONCLUSION

7.1 It was 1997-1998 when PALM decided that 'there was a need to look at industrial land to find out mainly if there was enough... and it was time to have a good look at industrial land use policies believed following approaches from various groups, stakeholders, people who would like to become stakeholders who are seeking sites in Fyshwick and other industrial areas'³⁸. PALM says that it responded in Draft Variation 175 to the demand for large truck freight companies needing large blocks of land, and the 1998 Synectics Study that there not be general retailing in Mitchell and Fyshwick. The demand for those freight companies has been largely met at Hume. PALM has yet to meet the demand for bulky goods retailers for 10,000 square metres of floor space, or for those developers needing smaller areas of warehouse/storage floor space from around 100 square metres.

7.2 However PALM countered much of the analysis provided by the business interests during the Public Hearing on 14 March 2003 in the following way:

- a) PALM has made provision for industrial development as well as reviewing what's happening with retailing across the whole range of retailing sectors;
- b) The amount of retailing expenditure that a community the size of the ACT has available to it is limited;
- c) There is only so much retail space that can be supported;
- d) PALM needs to make sure that retail space is dispersed in the most appropriate way, as PALM has specific policies in relation to the hierarchies of retail centres to make retail services as accessible as possible to the local community;
- e) PALM recognises the trend towards bulky goods retailing that requires large areas for display of stock and that Fyshwick has started to offer such services;
- f) If the policies are opened up too much, the risk is that the sites are broken down and divided into small units, leaving insufficient availability for large spaces to meet the demands of large land users;
- g) The commercial land release programs from 1997-1998 were unable to allow for small business requirements because the main demand was from the large freight transport companies;
- h) It is a balancing exercise between the amount of vacant warehouse or other space and the release of more land, while still leaving some land vacant; and
- i) Flexibility in land use for PALM in West Fyshwick was to make the Canberra Avenue Corridor the subject of commercial 'E' policy classification, consistent with its metropolitan structure relationship with the Civic Town Centre, and Group Centres and Local Centres. This also accords with the fact that it is one of the major entries into Canberra, and special

³⁸ Hansard -PALM evidence at Public Hearing 14 March 2003, pages 64 and 65

requirements under the National Capital Plan to have a high quality design treatment of that road.

7.3 While levels of planning protection are necessary, the Committee concludes that:

- a) the community has been presented with a fairly complex land use policy framework in Draft Variation 175;
- b) the Draft Variation has not adequately explored the relationship of the industrial areas with other areas around the precincts or in close vicinity to them;
- c) this framework needs to be simplified with fewer classifications to allow flexibility for development and growth;
- d) business in the Fyshwick, Symonston, Hume and Mitchell precincts, needs to easily respond to changing patterns and trends in i) new styles of retailing; ii) community demand; iii) demographics in the Canberra and Queanbeyan regions; iv) environmental, energy efficiency and sustainable development principles, and v) high quality design in commercial buildings;
- e) there seems to be more work done to re-attract light manufacturing and light industrial enterprises, and heavy transport industry back to Canberra to provide employment opportunities especially for the youth of the region, to service the building industry with local probably cheaper products;
- f) such industries require land and space appropriate to encourage investment and reinvestment back into the ACT- this then also picks up the in some way the issue of a sustainable revenue base for the future of the ACT; and
- g) as a means to simplify what has been proposed, office buildings should be relegated to a mixed-use precinct, so as not to restrict the growth and development of the industrial precincts.

Recommendation No. 11

The Committee recommends that the Government undertake further detailed reviews into industrial land use policies across Canberra, noting that the proposed policies are too inflexible to encourage commercial, industrial growth and development in Fyshwick, Symonston, Hume and Mitchell, or residential investment in appropriate areas such as the area adjacent to the Jerrabomberra Wetlands. The land use policies must be reframed to provide for:

- **more sustainable use of available land and sites across Canberra;**
- **an improved revenue stream for the ACT;**

- improved and more diverse retailing facilities that meet current and future trends in retailing, and are complementary to other retail hierarchies;
- ample opportunities to meet small business requirements for smaller warehouse/storage space; and
- investment and reinvestment in the ACT for light manufacture and light industrial enterprises, and heavy transport industry.

APPENDIX 1- NATIONAL CAPITAL AUTHORITY LETTER TO PALM DATED 2
AUGUST 2002

APPENDIX 2- LETTER DATED 27 MARCH 2002 FROM DR SANDY BLAIR,
SECRETARY ACT HERITAGE COUNCIL TO THE TERRITORY PLANNING
BRANCH, PLANNING AND LAND MANAGEMENT.

APPENDIX 3 -DRAFT VARIATION 175 GREEN COPY DATED MAY 2002,
PAGES 8 -18

**APPENDIX 4 - EXPLANATORY STATEMENT OF THE RECOMMENDED FINAL
VARIATION (WHITE COPY DATED OCT 2002)**

APPENDIX 5 LIST OF SUBMISSIONS TO STANDING COMMITTEE ON PLANNING AND ENVIRONMENT AND PUBLIC HEARING WITNESSES 14 MARCH 2003

Mr Garrick Calnan of PALM attended the Public Hearing as a witness

Mr Tim Efkarpidis and Ms Claire Middleton
Efkar Pty Ltd
PO Box 7185
CANBERRA ACT 2601

Mr John Convine
41 Melba Street
DOWNER ACT 2602

Mr Paul Smith, Mr Bruce and Mrs Robyn Gibbons
Posh Pots
PO Box 480
BELCONNEN ACT 2616

Mr Leigh and Mrs Karin Kennedy
Hill Station Restaurant
PO Box 1018
FYSHWICK ACT 2609

Ms Claire Middleton, Mr Guiseppe Giugni (Director, Stall Owner & Chairman - Fyshwick Markets Stallholders Association) and Mr Alfred Lee John Donnelly (General Manager)
Fyshwick Fresh Food Markets
PO Box 4095
KINGSTON ACT 2604

Mr Tony Adams, Mr Leo Perin
McCann Property and Planning-Perin Property Group Pty Ltd
GPO Box 1217
BRADDON ACT 2601

Mr Rodger Adcock
RJ Support Services Pty Ltd –Property Consultants-on behalf of Spunlock Pty Ltd
PO Box 224
ERINDALE CENTRE WANNIASSA ACT 2903

Mr David Dawes
Master Builders Association of the ACT
GPO Box 3022
CANBERRA ACT 2601

APPENDIX 6 LIST OF ACRONYMS

ACT	Australian Capital Territory
ACTEW	Australian Capital Territory Electricity and Water Corporation
KFC	Kentucky Fried Chicken
DV	Draft Variation
NCA	National Capital Authority
PALM	Planning and Land Management Group ACT Department of Urban Services

