



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING AND URBAN SERVICES

REPORT NO.58

OCTOBER 2000

**MONITORING THE IMPLEMENTATION OF VARIATION NO.64 TO
THE TERRITORY PLAN: LATHAM SHOPS**

RECOMMENDATIONS

The committee recommends that:

- the prolonged period of uncertainty about the future of the Latham Local Centre be resolved as soon as possible, with full regard to the statutory processes
- subject to the viability assessment process as described in the *Guidelines*, a minimum amount of retail/commercial space of 100 sq m should be mandatory in any redevelopment proposal
- the option should be retained for future commercial use even if the interim uses are residential.
- the *Guidelines* should enable consideration of trading patterns at Local Centres over a period longer than 12-24 months if necessary (the committee notes that PALM did examine the longer-term trading and viability patterns)
- the developer undertake a continuing consultation process with the local community during the development phase.

STANDING COMMITTEE ON PLANNING AND URBAN SERVICES

The committee was established on 28/4/98 to inquire into and report on planning and lease management, road and transport services, housing and housing assistance, government purchasing and public utilities purchasing, electricity industry and regulation, construction industry policy, parks and forests, private sector employment inspectorate, building services, environment, heritage and municipal services and any other related matter (resolution of appointment, as amended on 25/11/99).

Committee members

Mr Harold Hird MLA (Chair)

Mr Dave Rugendyke MLA (Deputy chair)

Mr Simon Corbell MLA

Secretary – Mr Rod Power

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1. BACKGROUND

1.1. Variation No 64 to the Territory Plan commenced in July 1997. Its provisions incorporate comment by this committee's predecessor, the Standing Committee on Planning and Environment, which considered both the original draft variation and a later, amended version.¹ The Planning and Environment committee endorsed the Variation on 8 August 1997. The committee's report included the following comment:

The committee appreciates the fact that the revised draft Variation and the associated Guidelines were put out to community comment. In particular, the committee considers that the draft Variation is greatly strengthened by the inclusion of the Guidelines.

The committee is aware that the draft Variation, once implemented, has the potential to lead to significant changes in Local Centres. However, members consider the effort to guide and constrain those changes is warranted - given the serious, even critical, problems facing many of Canberra's local shopping centres. In short, members 'are sympathetic to the objectives of the draft Variation'.²

1.2. Variation No 64 widens the uses permitted in Local Centres in an effort to enhance their viability. However, convenience retailing is still required **unless its non-viability can be substantiated**.

1.3. The *Guidelines for the Assessment of Development Proposals for Local Centres* provide supplementary information to aid in interpreting Variation No 64.

1.4. **More detailed information about both Variation No 64 and the *Guidelines* is provided in Appendix 1 of this report.**

1.5. In July 1998 the Standing Committee on Planning and Urban Services decided to monitor the manner in which Variation No 64 was being implemented. This action was taken in light of some disquiet in the Aranda and Latham communities about the future of their Local Centres. In particular, concern was expressed about the consultation process instituted by the developer in relation to redeveloping both centres. This consultation process marked the first use of the *Guidelines* associated with Variation No 64.

¹ On 6 February 1997 the [then] Minister for the Environment, Land and Planning referred the original draft Variation No 64 to the Standing Committee on Planning and Environment. On 8 February 1997 that committee made a statement to the Assembly in which it expressed concern about the extent of consultation undertaken by officials in preparing the draft Variation. The committee stated that the Variation should not be endorsed until guidelines for the assessment of development proposals were finalised. The government subsequently revised the draft Variation and instituted another round of public consultation, leading to an amended Variation which was forwarded by the Minister to the Planning and Environment committee on 28 July 1997.

² Report No 30 of the Standing Committee on Planning and Environment (August 1997) p4

1.6. In December 1998 the committee resolved to undertake a formal inquiry with the following terms of reference: *to inquire into and report on the implementation of Variation No 64 to the Territory Plan, taking particular note of the experience with redevelopment proposals for Latham and Aranda shopping centres; and any other related matter.*

1.7. During 1998 and 1999 the committee received seven submissions from the public and one from the government. The committee held a public hearing in November 1998 and a further four public hearings in 2000.

1.8. **Further information about the conduct of the inquiry is provided in Appendix II.**

1.9. The subject of this report is the latest redevelopment proposal for the Latham Local Centre.

2. THE LATEST PROPOSAL

2.1. The latest proposal is called 'Version 10' by the developer (G.E.Shaw & Associates). It needs to be considered along with the *Latham Local Centre Viability Report* prepared for the developer by Smith Kostyrko Cohen Pty Ltd (dated May 2000).

'Version 10' proposal

2.2. The latest proposal:

incorporates 19 townhouses, no parking on Onslow Street, all mature trees to be retained, [the] landscape [at the] corner of Onslow and Dalley Crescent to be improved, public paved pedestrian place from the corner of Onslow Street down Dalley Crescent to the corner of Wanliss Street, [a] convenience retail outlet (mini market) including north-facing courtyard and surrounding pedestrian place as a focal point on the corner of Dalley Crescent and Wanliss Street, [and] parking for convenience retail contained within [the] site, access off Wanliss Street.³

All of our buildings...[are contained] within the lease boundary... All of the trees remain. All of the landscaping remains and is improved... One tree will be removed in the service station. The three units near the service station have been pulled back to allow the trees to be retained. [However,] the actual convenience centre goes onto the Territory land. That is the only portion that goes onto the Territory land... We are making a focal point for the community on the Wanliss Street/Dalley Crescent corner and we are doing paving along the Dalley Street frontage to allow the community to access the convenience store that we propose to build there.⁴

2.3. The proposal affects one of three main properties in the Local Centre, the others being the Braggs property and a large parcel of unleased Territory land. Rather

³ Plan and information provided by the developer prior to the public hearing on 8/9/00

⁴ Transcript 8/9/00 [Mr Docherty]

than site residential units along all of the eastern side of the proposed development, the developer has provided a gap that might be used in the future to provide a vehicular link into the Braggs site and the unleased Territory land, thus permitting one-way traffic flow through all three properties. This was done in consultation, and 'by agreement', with PALM, because 'we had to show how this whole section could be developed to benefit all the blocks in the [area]'.⁵

2.4. The proposal also shows 'how these two blocks [the Braggs site and the unleased Territory land] can be serviced..., it show how the underground services that have to be relocated benefit these two properties as well, that is sewer, water and electricity would be accessed from our block'.⁶

2.5. The developer pointed out that, when the Local Centre had been fully functional, vehicles entered the carparks from both Wanliss Street and Onslow Street. Though this involves more traffic movement than is now being proposed, he was unaware that the previous arrangement had led to problems for schoolchildren passing the Centre.⁷ The latest proposal has just one vehicular access (off Wanliss Street) with a 6m wide driveway, a flanked entry onto the street, reversing out of the driveway to be prohibited, and possibly traffic calming devices at the driveway.⁸

Latham Local Centre Viability Report by Smith Kostyrko Cohen Pty Ltd (May 2000)

2.6. The viability report was prepared by Smith Kostyrko Cohen Pty Ltd for the developer (G.E.Shaw & Associates). It states:

The fact that businesses have been closing or relocating since 1993 confirms that turnover levels have not been sufficient to sustain viability...

[Rentals have generally been below those paid at Higgins Local Centre and have been] significantly below Hawker Group Centre... Rigorous attempts have been made, throughout the life of the centre, by the owners to ensure the centre is fully let... The centre has not failed because of lack of action by the owners or due to high rents, but mainly because Latham residents have clearly preferred the competitive advantage of larger, close-by, centres such as Charnwood and Kippax...

All retail units except one are vacant...

Whilst the centre was tenanted, the building and site were maintained in good order and tidy condition. The high vacancy factor, and the consequent lack of natural surveillance by tenants and shoppers, has led to repeated vandalism and social problems...

The majority of previous tenants have gone into liquidation or relocated to other centres...

⁵ ibid

⁶ ibid

⁷ ibid

⁸ ibid

[Latham centre is 'vulnerable' to closure] in that it is close to two thriving group centres (Kippax and Charnwood), has an ageing population profile, and is exposed to relatively little passing traffic.⁹

The developer's view of viability of the Local Centre

2.7. The developer considers that the viability report shows that 'the site is not viable as a retail centre'.¹⁰ However, it does indicate to the developer that, at 'some time in the future', some further commercial development might be viable; hence, the developer wants to retain the option of expanded commercial use.¹¹ He therefore has prepared plans for residential units that can be converted to commercial use.

2.8. Further, the developer considers that the only viable retail activity is likely to be a mini-market of approximately 100 sq m with a weekly rental of \$300 per week (\$15,000 per year). The developer's retail advice is that there is 'not enough people' to support, say, a 300 sq m shop whose rental would need to be \$200 sq m (\$60,000 per year).¹²

2.9. The previous supermarket on the site was 285 sq m with a rental of \$57,000 per annum. Even when the leaseholder reduced this rental to \$25,000 per annum as 'an inducement to stay', the supermarket proved not viable.¹³ Other businesses also proved unviable, even though the rents, since 1993, 'were less than comparable rents in other centres... Some of the tenants left Latham to pay more expensive rents in other centres... Latham suffered because people were not coming through the door'.¹⁴

2.10. The leaseholder stated that he had 'not raised any rent since 1993'. He even dropped the rent on the supermarket by \$30,000 per annum in an unsuccessful effort 'to keep the supermarket going'; and he did not force the butcher to close even when he was in arrears ('to the extent that even today he owes us over \$35,000').¹⁵ The leaseholder added that the local shopkeepers chose to move out to other shopping centres because 'they obviously did not feel that Latham was the place where they could operate successfully'.¹⁶

2.11. The developer would like the mini-market site to be 'unit titled, on its own,' as compared to strata titling of the residential units.¹⁷ This would enable the mini-market site to be sold 'at a very reasonable price, rather than [have the operators] worry about paying rent'.¹⁸

2.12. In summary, the developer considers that, though he 'would have preferred [to do] a retail development, we could see that there was no market there for a retail

⁹ *Latham Local Centre Viability Report* (May 2000) pp2-5

¹⁰ Transcript 8/9/00 [Mr Docherty]

¹¹ *ibid*

¹² *ibid*

¹³ *ibid*; and Transcript 1/9/00 [Mr Docherty]

¹⁴ Transcript 1/9/00 [Mr Docherty and Mr Pelle]

¹⁵ Transcript 8/9/00 [Mr Pelle]

¹⁶ *ibid*

¹⁷ Transcript 1/9/00 [Mr Docherty]

¹⁸ *ibid*

development'.¹⁹ He noted also that two viability reports have been prepared for Latham Local Centre 'when it should have been only one'.²⁰ And further, he stated that it was his understanding that the change-of-use charge [or betterment] would not apply to redevelopment of Latham Local Centre but that, if it does—and if it is charged at the 100% level—then the developer 'could not afford... [to undertake a development] and we would walk away from it'.²¹

3. PALM'S VIEW OF THE PROPOSAL

3.1. PALM's view is that 'there is nothing... in the [viability] report that suggests a new centre of the same sort of scale, or even half the scale, of the existing centre would be viable'.²² To try 'to set up a new centre which is something like the old one, with a whole range of different specialised shop types with quite a substantial supermarket, does not seem, as far as anybody is concerned, a likely option'.²³

3.2. PALM acknowledged the 'unusual difficulty' of applying the viability test to the Latham case because the *Guidelines* refer to trading patterns over the past 12 to 18 months whereas, at Latham, trading has not taken place over a longer period of time.²⁴

3.3. PALM told the committee that 'there were two options that we put' to the developer:

He can either satisfy Variation No 64 by providing a minimum amount of commercial space in the scheme to the equivalent of 50% of what was their previously... [amounting to about] 350 sq m of commercial which would have to be provided...[or he could] try, through a viability report, to demonstrate that there was no need to provide any minimum provision of retail commercial space in the centre...

There is some scope... for something in between those two... [In PALM's view,] there should be some retail with commercial provision there.²⁵

3.4. 'After quite a bit of discussion', PALM has negotiated the inclusion of commercial options in the latest proposal.²⁶

3.5. PALM considers that the 'compromise proposal' should be supported:

We think that it is certainly in the spirit of the public comment we have received and it is, in our view, a reasonable interpretation of Variation No 64 that, notwithstanding the two obvious options of either providing half the original retail space or demonstrating that you do not have to provide any retail space, we believe there is a further compromise which would say it has

¹⁹ *ibid*

²⁰ *ibid*

²¹ Transcript 8/9/00 [Mr Docherty]

²² Transcript 15/9/00 [Mr Johnston, PALM]

²³ *ibid*

²⁴ Transcript 1/9/00 [Mr Johnston, PALM]

²⁵ Transcript 15/9/00 [Mr Johnston, PALM] emphasis added

²⁶ *ibid*

not been fully demonstrated - and it cannot be fully demonstrated - that you can take all of the commercial space away; but if you provide some basic element of retail space... we think we have got a reasonable compromise at the end of the day after a lot of negotiation.²⁷

3.6. PALM will require at least 100 sq m of commercial activity to be incorporated in the final development, *as a requirement of the lease*.²⁸

3.7. PALM also will require that the proposed residential units can be used for commercial purposes if circumstances change in the future.²⁹

3.8. In relation to traffic, PALM considers there is likely to be less traffic generated by the redevelopment than was generated in earlier years by the shopping centre when it was fully functional.³⁰ PALM notes that six on-site carparking spaces will be provided for the proposed mini-market, which is 'enough' for that activity.³¹ In addition, the visitor carspaces for the residential units provide some flexibility if units are used for commercial purposes. In short, PALM does 'not think there is a problem' with parking.³²

3.9. In relation to a possible renewed round of public consultation by the developer on the latest proposal, PALM does not consider this is necessary as the original consultation process 'clearly reveals that [local] people would like to see some continuation of commercial activity, particularly a corner shop, and the restaurant would be nice as well'.³³ In PALM's view, this satisfies the *Guidelines*— and 'the next stage is to look at a particular proposal' (or DA).³⁴ The DA must be made available for public comment over 21 days and then PALM, having evaluated the public comment, will make a decision. If objections are received, then PALM will forward the matter to the Commissioner for Land and Planning for determination.

3.10. However, PALM does consider that a new DA should be lodged.³⁵ In response to the developer's concern about the additional fees to be paid to process a second DA,³⁶ PALM stated that:

there is provision in the *PALM Fees and Charges 2000-2001* for nil fees to be paid for an application for development within a local centre... [if the Minister formally determines] that the Local Centre is no longer viable as such a centre or that it will cease to be viable within three years if the lease is not varied... and that the Local Centre is unlikely to be developed if no remissions... were allowed in respect of change of use charges for variations of leases of land within the local centre. PALM would support such an

²⁷ Transcript 1/9/00 [Mr Johnston, PALM]

²⁸ Transcript 15/9/00 [Mr Johnston, PALM]

²⁹ *ibid*

³⁰ *ibid*

³¹ *ibid*

³² *ibid*

³³ Transcript 1/9/00 [Mr Johnston, PALM]

³⁴ Transcript 15/9/00 [Mr Johnston, PALM]

³⁵ *ibid*

³⁶ Transcript 1/9/00 [Mr Docherty]

application being made with respect to a new development application including specific provision for a 'corner shop' as now proposed.³⁷

4. SOME COMMUNITY VIEWS OF THE PROPOSAL

About viability

4.1. The committee was told that some local residents are suspicious of the reasons for shops closing their doors.³⁸ In particular, some consider that the shops were allowed to run down to facilitate their redevelopment.³⁹

4.2. Latham Residents' Association considers that the non-viability claim is 'spurious',⁴⁰ and that commercial space should not be reduced below 50% of what previously existed.⁴¹ The Association calls for a minimum of 300 square metres of commercial space.⁴² The Association considers that the *Latham Local Centre Viability Report* bears out its view.⁴³

4.3. Latham Residents Association also considers that, in future, viability reports 'should be commissioned by PALM... [which should employ a corporate administrator to do [the] report'.⁴⁴ Mr Watson also considers that an independent assessor should determine viability.⁴⁵

About traffic and carparking

4.4. Concern was expressed by the Latham Residents' Association about traffic generated by the proposed development, which transfers 'traffic loads onto Wanliss Street [instead of Onslow Street]. Both the Latham school and pre-school have indicated that they are opposed to any traffic increases in this street'.⁴⁶

4.5. Latham Residents' Association also is concerned that the residential/commercial units do not have adequate carparking on site for their possible commercial use.⁴⁷

³⁷ Correspondence to the committee dated 7/9/00 by PALM

³⁸ Transcript 8/9/00 [Ms Chignell, convenor of West Belconnen LAPAC; also, Mr Rolinson, convenor of Latham Residents' Association]

³⁹ Transcript 8/9/00 [Mr Watson]; also Transcript 14/4/00 [Mr Rolinson]

⁴⁰ Transcript 14/4/00 [Mr Rolinson]

⁴¹ Transcript 8/9/00 [Mr Rolinson, convenor of Latham Residents' Association]

⁴² *ibid*

⁴³ *ibid*

⁴⁴ Transcript 8/9/00 [Mr Rolinson, convenor of Latham Residents' Association]

⁴⁵ Transcript 8/9/00 [Mr Watson]

⁴⁶ Transcript 8/9/00 [Mr Rolinson, convenor of Latham Residents' Association; and Ms Grieshaber, secretary of Latham Residents' Association]

⁴⁷ Transcript 8/9/00 [Mr Rolinson, convenor of Latham Residents' Association]

About public consultation

4.6. Latham Residents Association considers that a full public consultation process should take place on the revised proposal.

About adequacy of the *Guidelines*

4.7. West Belconnen LAPAC told the committee that it has no ‘strong objections’ to the *Guidelines* but ‘anything like that is always open to review’.⁴⁸

4.8. The Latham Residents’ Association ‘would like to see some rigorous guideline that controls the amount of residential that can be put into the local centres’.⁴⁹

4.9. The Association also considers that viability should be used assessed over a period of five years.⁵⁰

4.10. The Association contends that PALM’s negotiations with the developer ‘in fact amount to advising the developer how to avoid complying with the *Guidelines*’.⁵¹ The Association states, in relation to the requirement in the *Guidelines* ‘that tenants support the owner’s claim of non-viability, the owner has used the fire to get rid of three tenants who we believe would not have supported his claims’.⁵² Further, the Association states that unit titling ‘would be detrimental to the revitalisation of the centre... [because it attracts] the type of developer who just want to toss up a building, flog it and escape with the government-subsidised profit’.⁵³

4.11. The overall view of Latham Residents Association is that the *Guidelines* are ‘too loose’.⁵⁴

4.12. Mr Watson considers that ‘we have got to rewrite Variation 64 and its *Guidelines*, perhaps they have to be incorporated into Variation 64 itself so the *Guidelines* become enforced and so that we get something that the community wants and there is proper community consultation’.⁵⁵

About PALM’s role

4.13. Mr Watson told the committee that he considers ‘PALM is really aggregating its responsibility in the planning process’ because:

- its notification procedure is inadequate;
- it does not publish a summary of community objections to a DA and its response to those objections;

⁴⁸ Transcript 8/9/00 [Mr Henry, West Belconnen LAPAC]

⁴⁹ Transcript 8/9/00 [Mr Rolinson, convenor of Latham Residents’ Association]

⁵⁰ Transcript 14/4/00 [Mr Rolinson]

⁵¹ *ibid*

⁵² *ibid*

⁵³ *ibid*

⁵⁴ *ibid*

⁵⁵ Transcript 8/9/00 [Mr Watson]

- it has not insisted upon a master plan for the Latham shopping centre precinct;
- it is permitting the use of 'government-owned landscape land' by the developer; and
- it is not insisting upon a high standard of design, nor allowing the community to comment upon the design.⁵⁶

5. CONCLUSION

5.1. The committee appreciates that the redevelopment of Local Centres:

really touches a nerve... People who live and work in these areas really feel very strongly [about redevelopment because local shops are] a local community focus... [valued] because they provide access to people who may not be able to walk... the young mums with babies... We want to be able to see people have those community facilities available to them.⁵⁷

5.2. In the case of Latham Local Centre, the committee was told that over the last two and half to three years there have probably been 'five presentations from developers at different stages along the way... [with] none of those plans... [proceeding] to anybody's satisfaction.. [The process] has been incredibly long winded and we still have no outcome'.⁵⁸ Both residents and developers 'are losing patience... and that and that is not a very satisfactory position to be in'.⁵⁹

5.3. *The committee is disturbed by this prolonged period of uncertainty. It is time 'to negotiate and be prepared to take something... and go with what is the best option available for everybody'.*⁶⁰

5.4. The committee feels there is general agreement on three points in relation to Latham Local Centre. One, that the existing centre is no longer viable as a retail centre of its former size and mix. Two, that it is desirable to see some 'commercial element maintained'⁶¹—'a mix of commercial and a number of residential units is certainly supported'.⁶² And three, that the option should be retained for commercial use even if an interim use is residential.

5.5. *This leads the committee to conclude that it is essential for convenience retailing to be maintained at Latham Local Centre. The committee therefore supports the planned inclusion of a mini-mart of 100 sq m. The committee also supports the proposed residential/commercial use of new units on the site. In relation to the number of such units, the committee notes that the 19 units shown on 'Version 10' is a reduction in the number previously proposed and represents a compromise negotiated*

⁵⁶ ibid

⁵⁷ Transcript 8/9/00 [Ms Chignell, convenor of West Belconnen LAPAC]

⁵⁸ ibid

⁵⁹ ibid

⁶⁰ ibid

⁶¹ Transcript 8/9/00 [Ms Chignell, convenor of West Belconnen LAPAC]

⁶² Mr van der Vliet, correspondence to the committee dated 4/9/00

between PALM and the developer. The committee endorses PALM's insistence that planning take into account the possible redevelopment of the two other blocks in Latham Local Centre. This has been done in 'Version 10'.

5.6. In relation to Variation No 64 and the *Guidelines* generally, there appears to be unanimity about the difficulty of assessing the viability of a Local Centre.

5.7. *The committee acknowledges the difficulty of assessing the viability issue. In the case of Latham, the committee accepts the view of PALM that, based on the Latham Local Centre Viability Report, it is unreasonable to expect the former level of commercial activity, or even half of that activity, to be replicated; and that, in the circumstances, the retention of limited convenience retailing in the centre is appropriate.*

5.8. The committee appreciates how misunderstanding could occur about the public consultation process associated with Variation No 64. The pre-application consultation by the developer is not about a particular proposal but about the general nature of activities to be provided in their Local Centre. It is an information-gathering exercise intended to guide the more detailed design stage that then leads to the submission of a DA. Once the DA is lodged, PALM institutes its statutory public consultation on the DA. Thus, if the 'Version 10' proposal proceeds to the DA stage, the community will have the opportunity to comment upon its detail—and to lodge objections if they wish to.

5.9. Notwithstanding these formal provisions, PALM has encouraged the developer—in the case of Latham Local Centre—to put out a pamphlet to the local community about the revised proposal, simply to inform them about the changes made to earlier proposals following public comment and further liaison with PALM. *The committee urges the developer to undertake a continuing consultation process with the local community during the development phase.*

Harold Hird MLA
Chair

12 October 2000

APPENDIX I

Variation No 64 to the Territory plan

The full title of the Variation is *B2 Commercial Land Use Policies: Local Centres (Part B2D)*. It is dated July 1997.

The Variation makes several changes to the Commercial Land Use Policies for Local Centres (Commercial D) in the *Territory Plan Written Statement*. The Variation increases the range of uses permitted in Local Centres to include home businesses, community, local office, light industry and residential uses:

However, convenience retailing will still need to be provided (either within the development or elsewhere in the centre) unless it can be substantiated that convenience retailing is not commercially viable in the centre, and is reasonably accessible from other nearby centres. Convenience retailing means a *Shop* selling basic food and household items, which is reasonably accessible to the local population. This may be carried out in conjunction with another activity...

A restriction on residential use is included so that proposals which decrease the current level of commercial space by more than 50% may only be permitted where it can be substantiated that the local centre, or the proportion of commercial space to be replaced, is no longer viable. The purpose of this control is to ensure adequate retail space remains available in existing viable centres.

The... Variation enables Local Centres to be partly or wholly redeveloped without a variation to the Territory Plan, provided specific objectives, controls and land use restrictions are met. The performance of current businesses in existing local centres will be taken into account when determining the mix of uses in a proposed development. The underlying policy in the Territory Plan remains *Local Centre (Commercial D)* and this will enable commercial uses to re-establish if circumstances change at a later stage.

[The] Variation should be read in conjunction with the *Guidelines for the Assessment of Development Proposals for Local Centres*. The *Guidelines* elaborate on factors to be considered in assessing development proposals, including criteria for determining viability and accessibility.⁶³

⁶³ Variation to the Territory Plan No.64 - B2 Commercial Land Use Policies: Local Centres (Part B2D) July 1997 p2

Guidelines for the Assessment of Development Proposals for Local Centres

The Guidelines⁶⁴:

have been developed to provide supplementary information to assist in interpreting Variation No 64... as it relates to development proposals for Local Centres...

The first additional step is to assess commercial viability... Viability is likely to be an issue in local centres where active or convenience uses such as supermarkets or service stations have already closed and where a number of buildings have been vacant for an extended period...

A Local Centre (or that proportion of commercial space to be replaced) may be considered no longer viable where all, or most, of the following criteria are satisfied:

- the estimated turnover levels of more than half of the existing shops within the centre have been significantly below the average trading levels in the ACT for the last 12 months. The applicant should arrange for audited accounts detailing turnover levels to be provided to PALM
- the current rental levels for existing shops have not increase significantly over the past 24 months and are comparable to the levels for commercial premises in other local centres in similar locations and circumstances. The applicant should provide rental levels. In some cases it may be necessary for the applicant to demonstrate that some efforts have been made to actively search for tenants.
- A number of shops have been vacant for an extended period (for example approximately one-third of the shops have been vacant for six months or more), and any previous lease arrangements have been terminated for reasons not associated with the development proposal. The applicant should demonstrate that any leases to previous tenants have been terminated for reasons not associated with the proposed redevelopment.
- Initiatives, such as building extensions, improvements or refurbishing, have failed to attract tenants.
- The results of consultation with owners and the tenants support the non-viability of the centre.
- The government's *helpShop* program does not indicate any readily available mechanisms to improve viability...

Although planning controls can provide opportunities for activities to be undertaken, they cannot guarantee the viability of these activities. Other factors such as the level of demand and community support, the business expertise of operators and local demographics are more likely to influence viability...

⁶⁴ *Guidelines for the Assessment of Development Proposals for Local Centres* (subject to the provisions of Variation to the Territory Plan No 64 – B2 Commercial Land Use Policies, Local Centres (Part B2D) July 1997 [emphasis added])

The second additional step is to assess whether convenience retailing is reasonably accessible to the local population... Where convenience retailing continues to be available within the centre, accessibility criteria are generally met and no further assessment is necessary. Convenience retailing may be provided by maintaining an existing shop or establishing a new convenience shop within the redevelopment...

Where convenience retailing is not reasonably accessible either within the centre or from another nearby centre, provision should be made for it within the development. If convenience retailing is not currently viable, approval could be given to short-term leases for interim uses subject to periodic review. The prospects for viability may improve as the suburb population ages or as a suburb undergoes revitalisation....

The opportunity for the provision for convenience retailing within the Local Centre should be maintained where there is no existing convenience retailing use, easily accessible by public transport, within a 1500 m radius of the local centre...

The third additional step applies to substantial development proposals only. If a proposal is considered to be a substantial development [involving the whole, or a major part, of the local centre], it would generally require consultation with both local businesses and the community. The consultation process should be discussed with PALM and carried out by the applicant before an application is formally lodged. The issues raised during consultation should be taken into account in developing proposals. The information gained during this consultation will be used by PALM in assessing the proposal and determining design requirements.

This consultation is additional to the formal notification required under the regulations associated with the amendments to the *Land (Planning and Environment) Act 1991*.

The objectives of the consultation are:

- to inform the local community about the proposal
- to test the presence of special need groups and any potential effects on their access to basic convenience retail services
- to identify any serious impacts requiring amelioration in the design of the development, and
- to enable constructive suggestions that will enhance the quality and viability of the proposed development.

A consultation report should be prepared which includes the details of the consultation process (for example copies of public notices), the comments received, the issues raised in those comments or the proposed response to those issues. The consultation report should be submitted to PALM at the time a development application is formally lodged.

[*In relation to business consultation*] the applicant should advise lessees, owners and managers of businesses, commercial properties, community facilities and other non-residential uses within an adjacent to the centre. The advice should include details of the proposed development and invite comment (by an agreed date) on a reply-paid response/suggestion form. If necessary, all interested parties should be invited to a meeting to discuss the proposal.

[*In relation to community consultation*] the applicant [is] required to consult with the local community about the development proposal before an application is formally lodged. It is expected that this consultation would be conducted by an independent agent who is qualified and experienced in the process.

The process would include a letterbox drop to all households within walking distance... of the centre, advising them of the proposed development. Comment should be invited (by an agreed date) on a reply-paid response/suggestion form.

The applicant should also arrange for a notice in the local free press and a public display of the proposed development at the local centre and the nearest group centre/s. Comment should be invited (by an agreed date) to a reply-paid address.

If PALM considers that the issues raised require further consultation, the applicant may be required to conduct a workshop to allow the community to discuss their concerns and possible means for their amelioration. Notice of such a meeting should be made through the local free press, through notices at the local shops and to the relevant community action groups and Community Councils.

When the all the above additional steps are completed, an application can be formally lodged... For all proposals, PALM is required to undertake any formal public notification at this stage...

[*In relation to design requirements*] where the centre is proposed to be substantially redeveloped, proposals allowing for flexible design and multi-use would be encouraged to reflect the underlying *Commercial D* policy. The design and siting of buildings should enable uses such as home businesses and small-scale offices and retailing to locate in the centre...

[*In relation to performance controls* the development should be] of an appropriate scale compatible with surrounding development. Under this objective, development of a plot ratio greater than 2:1 or a building height greater than two storeys may be permitted, provided car parking guidelines are fully met. The development would be subject to public notification.

Once an application is formally lodged it will be assessed against its broader impacts as well as site-specific considerations. Where a proposal is a substantial development proposal, a wide range of issues will need to be considered... [including]:

- is the proposal consistent with the *ACT Retail Policy*...?

- what are the benefits to the community of replacing the local shops with the proposed use?...
- does the proposal contribute to improvements in public spaces in terms of lighting, paving, landscaping etc?...
- Does the proposal addressed the possibility of integrating development with other blocks in the centre?...

APPENDIX II: CONDUCT OF THE INQUIRY

10/7/98 — the committee was briefed by PALM officers about developments affecting Aranda and Latham shopping centres; the committee decided to monitor the effectiveness and appropriateness of the provisions of Variation No.

18/7/98 and 21/7/98 — the committee placed advertisements in the local media inviting public comment on the manner in which Variation 64 is being implemented.

21/8/98 — the committee agreed to the details of a statement in the Legislative Assembly

27/8/98 — statement to the Assembly, particularly noting that the committee did not intend its activities to cut across the statutory development application [DA] process; rather, the committee wanted to keep a ‘weather eye’ on the way the Variation was implemented

30/10/98 — the committee considered correspondence from the Minister for Urban Services asking for the committee’s opinion about the appropriateness of a consultation kit prepared by PALM to be used in relation to the redevelopment of local shopping centres. In its response, the committee stated that the process outlined in the consultation kit appeared to be a significant improvement on the process used to date

13/11/98 — first public hearing attended by:

- *Latham Residents’ Association* – Mr Rolinson (convenor), Ms Grieshaber (secretary) and Mr van der Vliet
- *Concerned Aranda Residents* – Ms Geue
- Professor Falconer; and
- PALM officials

10/12/98 — the committee resolved to *inquire into and report on the implementation of Variation No 64 to the Territory Plan, taking particular note of the experience with redevelopment proposals for Latham and Aranda shopping centres; and any other related matter.*

Also on this day, the committee made a further statement in the Legislative Assembly. It noted that some residents of Aranda and Latham were concerned about both the consultation process and the *Guidelines*. The committee referred suggestions about how the consultation kit might be improved, made by the Latham Residents Association, to the government for its consideration

18/6/99 — the committee noted correspondence from the Minister for Urban Services about the consultation kit applying to local centre redevelopment.

3/2/00 — the committee considered correspondence from the Latham Residents Association and Mr van der Vliet; it agreed to schedule a public hearing

14/4/00 — second public hearing attended by:

- *Latham Residents Association* - Mr Rolinson, Mr van der Vliet and Ms Grieshaber
- other Latham residents -- Mr Watson, Mr Wells and Mr Lovie; and
- *PALM* officials.

The committee noted that a leaseholder of Latham shops (Mr Pelle) had been invited to address the committee but was unavailable. On 26/4/00 the committee considered correspondence from Mr Pelle offering to address the committee.

7/7/00 — the committee considered correspondence from the Minister for Urban services attaching the *Latham Local Centre Viability Report*. In view of the committee's concern not to cut across the normal DA process—and recognising that a formal DA might soon be lodged in relation to redeveloping the Latham shops—the committee sought advice from the Clerk of the Assembly about the committee's role

13/7/00 — the A/ Deputy Clerk advised the committee on procedural aspects of the inquiry

1/9/00 — third public hearing attended by:

- Mr Pelle and Mr Docherty (*G.E.Shaw & Assoc*); and
- *PALM* officials

8/9/00 — fourth public hearing attended by:

- *West Belconnen LAPAC* – Ms Chignell (convenor) and Mr Henry
- *Latham Residents' Association* – Mr Rolinson, Mr van der Vliet and Ms Grieshaber
- Mr Watson (local resident) and
- Mr Pelle and Mr Docherty.

15/9/00 — fifth public hearing attended by *PALM* officials.

DISSENT BY SIMON CORBELL MLA