



Legislative Assembly for the ACT

STANDING COMMITTEE ON PLANNING AND
ENVIRONMENT

Draft Variation to the Territory Plan No. 236

**City West Commercial A Civic Centre Land Use Policies, Exemption
of Preliminary Assessments and Part D – Definitions**

JUNE 2005

Report 10

Resolution of appointment

On 7 December 2004 the ACT Legislative Assembly agreed to establish general purpose standing committees as follows:

- (1) The following general purpose standing committees be established and each committee to inquire into and report on matters referred to it by the Assembly or matters that are considered by the committee to be of concern to the community: ...
 - (e) a Standing Committee on Planning and Environment to examine matters related to planning, public works and land management, conservation and heritage, transport services, and environment and ecological sustainability.
....¹

The Assembly also agreed that if the Assembly is not sitting when the Standing Committee on Planning and Environment has completed consideration of a report on draft plan variations or draft plans of management referred to the Committee by the Minister under the *Land (Planning and Environment) Act 1991*, the Committee may send its report to the Speaker, or, in the absence of the Speaker to the Deputy Speaker, who is authorised to give directions for its printing, publication and circulation.²

Terms of reference

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

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

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

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

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¹ Legislative Assembly of the ACT, *Minutes of Proceedings*, No. 2–7 December 2004, pp.12–16.

² Legislative Assembly of the ACT, *Minutes of Proceedings*, No. 2–7 December 2004, pp.12–16.

Assembly.

Preface

Both Federal and ACT law and policy governs planning in the ACT. The *Australian Capital Territory (Planning and Land Management) Act 1988* (Cwlth)³ establishes the National Capital Authority, which prepares and administers the National Capital Plan. The Act also enables the Legislative Assembly to establish a statutory planning authority – now the ACT Planning and Land Authority – to develop and implement the Territory Plan. The *Land (Planning and Environment) Act 1991* (ACT)⁴ (the Act) requires the Territory Plan to set out the planning principles and policies for giving effect to its object,⁵ which is:

to ensure, in a manner not inconsistent with the national capital plan, that the planning and development of the ACT provides the people of the ACT with an ecologically sustainable, healthy, attractive, safe and efficient environment in which to live, work and have their recreation.⁶

The Plan includes both a written statement and a map. The written statement contains general planning principles (Part A), specific land use policies (Part B), overlay provisions (Part C) and definitions of terms (Part D). The Territory Plan map shows which land use policies and overlays in the written statement apply to particular sections of land in the Territory. The Territory Plan is developed and implemented taking account of other strategic ACT Government policy documents such as *The Canberra Plan* and *People Place Prosperity: A Policy for Sustainability in the ACT*.⁷

Recognising that land use policies may change over time, the Act provides for variations to the Territory Plan. The ACT Planning and Land Authority prepares these for stakeholder comment. There can be a number of versions of a draft variation depending on the consultation program.

The Minister is required by the Act to refer each draft variation, within 28 days of receiving it, to an appropriate committee of the Assembly – currently the

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

⁴ Accessible at <<http://www.legislation.act.gov.au/a/1991-100/current/pdf/1991-100.pdf>>.

⁵ Land (Planning and Environment) Act 1991, sub-section 7(2)).

⁶ Land (Planning and Environment) Act 1991, sub-section 7(1).

⁷ Accessible at <<http://www.cmd.act.gov.au/canberraplan/>> and <<http://www.sustainability.act.gov.au/policy.html>>.

Standing Committee on Planning and Environment – for consideration and report.⁸

The Minister is required to have regard to the Committee’s recommendations before approving the proposed variation and tabling it in the Assembly (see below), or returning it to the ACT Planning and Land Authority with written directions for further action.⁹

The Territory, the Executive, a Minister or a Territory authority must not do or approve anything that is inconsistent with the Territory Plan, or the proposed draft variation, in relation to land that is subject to a draft variation, once the draft variation has been notified for public consultation under the Legislation Act and until it commences operation, is disallowed by the Legislative Assembly, or is withdrawn.¹⁰

Following the Committee’s tabling of its report in the Legislative Assembly, the Minister must take the findings of the committee into account before making his decision in relation to the draft plan variation.¹¹ If the Minister approves it, he will table the proposed variation and associated documents in the Legislative Assembly.¹² Unless wholly or partially disallowed by the Assembly within five sitting days, the variation will commence on the date nominated by the Minister.

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⁸ Land (Planning and Environment) Act 1991, section 25.

⁹ Land (Planning and Environment) Act 1991, paragraphs 26(1)(a) and (b), sub-section 26(2).

¹⁰ Land (Planning and Environment) Act 1991, section 9.

¹¹ Land (Planning and Environment) Act 1991, sub-section 26(2).

¹² Land (Planning and Environment) Act 1991, section 29.

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Summary of recommendations

RECOMMENDATION 1

- 1.62 The Committee recommends that the membership of the City West Precinct Committee be broadened to include a representative of community organisations and other existing occupants. In broadening this membership the ACT Government's target of 50% for female appointees to committees and boards should be applied.
- 1.63 The Committee recommends that the wording of DV236 be amended to clarify that the exemption it proposes to extend to buildings in Civic are those buildings which exceed by more than 7 000m² the gross floor area of the buildings they have replaced, if any.

RECOMMENDATION 2

- 1.64 The Committee recommends that the ACT Planning and Land Authority better clarify the scope of draft and recommended final variations when they have multiple objectives. In this instance some stakeholders were unclear as to whether the proposed variation applied only to City West or throughout Civic.
- 1.65 The Committee recommends that the recommended final variation be amended to clarify that the proposed new building colour and construction land use control applies to the Civic Centre City Division as represented in Territory Plan Part B2A Figure 2.
- 1.66 The Territory Plan Figure 2 on p.18 of the proposed variation and the Territory Plan Map should also be updated to accurately reflect current block and section numbers.

RECOMMENDATION 3

- 1.67 The Committee recommends that the inter-town transport route be removed from Figure 3.2 on p.15 in DV236.

RECOMMENDATION 4

- 1.68 The Committee recommends that the ACT Government report annually to the Committee on progress in meeting the 5% affordable housing target for City West, and the policies applied for meeting the target.
- 1.69 The Committee further recommends that student accommodation not be counted when monitoring progress towards achieving this target.

RECOMMENDATION 5

- 1.70 The Committee recommends that a definition for RL617 be inserted into the Territory Plan 'Part D: Definitions of Terms' through DV236.

RECOMMENDATION 6

- 1.71 The Committee recommends that the ACT Heritage Council report on the operation of the *Heritage Act 2004* (ACT) in relation to the implementation of the City West Master Plan in its 2005–6 Annual Report, and/or subsequent reports as appropriate in the circumstances.

RECOMMENDATION 7

- 1.72 The Committee recommends that Figure 6 on p.20 be removed from DV236 or amended to better reflect the ANU's understanding of pedestrian routes.

RECOMMENDATION 8

- 1.73 The Committee recommends that DV236 be amended to remove the proposed change to the Territory Plan Map that would delete the Urban Open Space Land Use Policy from part of Block 4 Section 2 City and part of Marcus Clarke Street road reserve and that the proposed Commercial A land use policy not be applied to this area.

Introduction

1.1 This proposed variation to the Territory Plan has various objectives. Its overarching objective is to contribute to the revitalisation of Civic . Its other objectives include:

- to enable the implementation of the City West Master Plan, which aims to better integrate the Australian National University (ANU) with the social and cultural life of the Territory and its economy, and to stimulate the benefits that flow from that integration
- to remove the need for mandatory Preliminary Assessments to be prepared for proposed buildings subject to Commercial A Land Use Policy in Civic Centre, where those buildings exceed by more than 7 000m² the gross floor area of the buildings they have replaced, if any, and/or have a height of 28m or more
- to vary the Commercial A land use policies applicable within the amended boundaries of the Civic Centre precinct.

1.2 This DV gives effect to aspects of the Statement of Planning Intent tabled by the Minister for Planning, Mr Simon Corbell MLA, in the Legislative Assembly on 8 December 2004, including:

- to minimise planning system impediments in Civic, town centres and along transport corridors, including the pre-application phase incorporating High Quality Sustainable Design and Preliminary Assessments
- attracting investment in Civic ([to] reaffirm Civic as Canberra's pre-eminent business centre). ...[including] one of the directions in the City West Master Plan to connect the City centre and the lake.¹³

1.3 The main policy statements, consultancy reports and consultation process which have contributed to the evolution of this DV include the recommendations of the Urban Renaissance report *Canberra: A Sustainable Future* (OECD 2002), *The Canberra Plan* (2004) (which includes *The Economic White Paper*, *The Canberra Social Plan* and *The Canberra Spatial Plan*), and *People*

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¹³ Accessible at <<http://www.actpla.act.gov.au/aboutus/statements/intent.htm>>.

Place Prosperity: A Policy for Sustainability in the ACT.¹⁴ Other policy influences include the *City West Master Plan* (2004), *ArtsACT's Arts Facilities Strategy* (2003)¹⁵ and the *Community and Recreation Facilities Location Guidelines* (1998).¹⁶ Earlier policy developments are likely to have contributed also.¹⁷ A Precinct Master Plan and a Precinct Implementation Plan, that the ANU is required to develop and have approved by the ACT Planning and Land Authority, will contribute to the implementation of the City West Master Plan.¹⁸

Consultation comments – ACT Planning and Land Authority

1.4 In accordance with the *Land (Planning and Environment) Act 1991*, the ACT Planning and Land Authority sought and considered the views of the National Capital Authority and the ACT Heritage Council regarding the draft variation. It also consulted the Commissioner for the Environment.

- On 9 September 2004 the National Capital Authority advised that the proposed variation was not inconsistent with draft amendment 49 to the National Capital Plan. The Authority requested that University Avenue be removed from DV236 as it is a designated area under the National Capital Plan. The Authority queried proposed amendments for Area B5. It also noted that heritage considerations should limit the height of permitted developments in Section 20 (the Shine Dome precinct).
- The ACT Heritage Council advised on 24 November 2004 that it had no direct concerns regarding the proposed Commercial A land use policies, but noted that six or nine storey developments opposite heritage-listed buildings would be inappropriate. It suggested that further heritage assessments should be conducted, including for the QEII Coronation Home for Post Natal Care and the ROCKS (Residents of Childers and Kingsley Streets). The Council also noted that any new developments in Section 20 and Section 63 (near the Drill Hall Gallery) would have to be

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¹⁴ Accessible at <<http://www.cmd.act.gov.au/canberraplan/>> and <<http://www.sustainability.act.gov.au/policy.html>>.

¹⁵ Accessible at <<http://www.arts.act.gov.au/pages/images/arts%20facilities%20strategy2.pdf>>. This evolved from the 1999 *Arts Capital strategy*.

¹⁶ *Territory Plan (Location Guidelines for Community and Recreation Facilities) February 1998*, accessible at <<http://www.legislation.act.gov.au/ni/2002-237/default.asp>>.

¹⁷ Such as the former Carnell Government's Civic Revitalisation policy: G. Cooke, 'Property owners lobby for Civic concessions', *The Canberra Times*, 17 August 2004, p.16.

¹⁸ Precinct Deed between the ACT and the ANU, ANU City West Integration Precinct, 21 December 2004, sub-cl. 5.1, 7.1.

carefully controlled so as not to impact on the heritage values of existing buildings.¹⁹

- The Commissioner for the Environment raised concerns about community consultation and the removal of the mandatory requirement for Preliminary Assessments for prescribed buildings in Civic.

1.5 The ACT Planning and Land Authority released DV236 for public comment on 6 August 2004 until 3 September 2004. Three written submissions were made in response, and are summarised in Table 1.

TABLE 1: SUMMARY OF ISSUES AND ACT PLANNING AND LAND AUTHORITY RESPONSES²⁰

Stakeholder comment	Response by the ACT Planning and Land Authority
The Conservation Council of the South East Region and Canberra emphasised the long history of community activity and environmental advocacy at the ROCKS and the need for security of tenure for community organisations in mixed-use facilities.	DV236 will provide for community use activities. These will be developed in consultation with the ROCKS group.
Building heights in the DV are inexact and out of scale with established Civic streetscapes. A maximum of 6–7 storeys would be more appropriate.	The Childers Street precinct west of Marcus Clarke Street and north of University Avenue may have buildings up to 6 storeys on corners and 4 storeys for façade buildings. Buildings in University Avenue can be up to 7 storeys. In the commercial areas between Marcus Clarke Street and London Circuit buildings can be over 9 storeys as some are already. Buildings up to RL617 in height may be permitted provided light, view corridors and heritage values are not unacceptably impacted.
All street frontages should have a colonnaded walkway rather than awnings.	The City West Development Control recommends colonnaded walkways and

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¹⁹ ACT Planning and Land Authority, Report on Consultation with Public and Government Agencies, Draft Variation to the Territory Plan No. 236 – City West, Commercial A Civic Centre Land Use Policies, Exemption of Preliminary Assessments and Part D – Definitions, December 2004, pp.9–10.

²⁰ ACT Planning and Land Authority, Report on Consultation with Public and Government Agencies,

colonnaded walkway rather than awnings.	awnings. In the Childers Street precinct west of Marcus Clarke Street awnings are acceptable as they are colourful and less formal than colonnades. Colonnaded walkways are recommended between Marcus Clarke Street east and west of London Circuit.
The ANU sought assurance that education and research activities were permissible in the City West precinct, and particularly for Section 20.	The definition of 'educational activities' will be reviewed to ensure research is permitted, including for Section 20. Light industry will be permitted at ground and first floor levels in the area west of Marcus Clarke Street provided it does not impact adversely on adjacent land.

1.6 Following consultations, the ACT Planning and Land Authority amended the draft variation in the following ways:

- the land use policy for Section 20 was changed from Commercial A to Commercial B2A with a 'b1' control, which permits land use by an 'educational establishment' (refer Figure 1, p.16)
- the definition of 'educational establishment' was amended to include research activities²¹
- a diagram was inserted that identifies the main pedestrian routes in City west (refer Figure 6, p.20)
- colour controls were amended to be consistent with the controls in Amendment No 49 of the National Capital Plan.²²

Committee consultations

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²¹ The term 'education establishment' is defined as the use of land for the purpose of tuition, training or research directed towards the discovery or application of knowledge, whether or not for the purposes of gain, and may include associated residential accommodation, ACT Planning and Land Authority, *Recommended Final Variation to the Territory Plan No. 236: City West, Commercial A Civic Centre Land Use Policies, Exemption of Preliminary Assessments and Part D – Definitions*, December 2004, p.21.

²² i.e. 'The massing, height, colours and materials used for buildings in Civic should result in a harmonious and high quality urban design outcome with a recognisable city edge': Australian Government, National Capital Authority, *The Australian Capital Territory, (Planning and Land Management) Act 1988, National Capital Plan, Amendment 49, Civic, Principles and Policies*, February 2005, section 4.5.4.2., para. IV.

- 1.7 On 10 March 2005, pursuant to the *Land (Planning and Environment) Act 1991* (ACT), Mr Simon Corbell MLA, Minister for Planning, referred DV236 to this committee for inquiry and report.
- 1.8 On 31 March 2005 the committee decided to invite public submissions in relation to DV236. Members discussed the proposed variation further on 10 and 17 May 2005, and 7 and 14 June 2005.
- 1.9 The Committee invited submissions by way of advertisements in *The Canberra Times* and *The Chronicle*, and in letters to stakeholders. Appendix 4 lists the 10 submissions received in response. The key issues raised in stakeholder submissions are summarised below.

Community facilities

- 1.10 The Conservation Council for the South East Region and Canberra argued that community organisations that have been based in the Childers Street ROCKS area for up to 30 years require security of tenure and alternative accommodation under Community Facility Land Use Policy, and a strategic forward plan for community facilities for City West. In its view, the proposed Commercial B2A Commercial Land Use Policy for Childers Street does not provide this security. The Conservation Council requests that organisations concerned with social, economic and environmental sustainability issues be co-located in a new community facility – a Centre for Conservation and Sustainability in Canberra.²³
- 1.11 The Peaks Forum, a network of community sector peak organisations, also expressed concern that the ACT Planning and Land Authority does not have an overall strategic approach to the provision of community sector accommodation, including agreed targets and outcomes and security of tenure.²⁴
- 1.12 The Northside Community Service expressed concern that the needs of the Civic Early Childhood Centre on Block 5 Section 68 were not adequately addressed in DV236, particularly regarding vehicle access and egress. The

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²³ Submission No. 1

Service said there is ‘no visible commitment’ to a replacement of the Centre over the longer term. It queried whether childcare was a permitted use in Commercial A land use policies in Civic Centre. It also requested that the continued operation of the Centre’s playground on Block 2 Section 67 be permitted and that the area be marked on Figure 3.2 in DV236.

- 1.13 Ausdance ACT, the peak body for dance in the ACT, queried how the ACT Government’s vision of a performing arts precinct would be realised in City West, as anticipated in various reports and the new 2005–06 budget funding for a *City West Performing Arts and National Choreographic Centre Forward Design Project*. In its view DV236 is out of step with, or pre-empted current discussions about the development of a performing arts precinct as community facilities could be supplanted by commercial buildings.²⁵

Student and affordable accommodation

- 1.14 The Peaks Forum requested that the relationship between the ACT Planning and Land Authority and the ANU in relation to City West be more open and transparent, particularly in relation to the provision of student and affordable accommodation. The Peaks Forum distinguishes affordable housing from student housing, and is concerned that City West may be dominated by commercial uses and high cost housing.²⁶

Streamlining planning and development assessments and carparking

- 1.15 The Property Council of Australia (ACT) welcomed the ACT Government’s proposed rationalisation of planning requirements and approval processes, and particularly the removal of Preliminary Assessments for Civic, but expressed concern that the reform was not happening quickly enough. The Council sought clarification about whether planning restrictions on height, gross floor plan and colour of new buildings applied throughout Civic or just in City West. The Council also expressed concern that car-parking sites are operating above

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²⁴ Submission No. 7

²⁵ Submission No. 10

²⁶ Submission No. 7

90% occupancy for most of the week, and about the loss of surface car parking.²⁷

The Australian Federal Police also noted the need for appropriate car parking facilities to be preserved.²⁸

- 1.16 Mr Gordon Soames commented that DV236 was poorly written and poorly justified, and that its links with other ACT planning documents were not clear. In his view there is no shortage of office space in central Canberra. Mr Soames also said that Preliminary Assessments should be retained so that the impact of higher buildings on shading in the street, ground level wind speeds and pollution concentrations could be assessed.²⁹

Heritage protection

- 1.17 Eric Martin and Associates, Architects, expressed support for DV236 provided heritage-listed buildings in the area are protected and that planning controls are applied to buildings adjacent to heritage buildings. Mr Martin noted that it would be inappropriate to have 9–storey buildings adjacent to the Sydney and Melbourne buildings. He also sought confirmation that all the details in the Civic Access Guidelines will be integrated in the City West development.³⁰
- 1.18 The Australian Federal Police, in an informal submission, suggested that any consideration of development applications in the City West area should have regard to the need for maintaining good access and egress for police vehicles using the City Police Station. The potential security threat posed by multi-storey buildings close to the police station was also noted.³¹

Proposed land uses and figures

- 1.19 The Australian National University (ANU) welcomed DV236, and the broadening of the definition of ‘educational establishment’ to include research, and the amendment of the land use policy applicable to Section 20 to Commercial B2A (Civic Centre) with a ‘b1’ land use control, permitting

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²⁷ Submission No. 2

²⁸ Submission No. 5

²⁹ Submission No. 4

³⁰ Submission No. 6

³¹ Submission No. 5

educational activities.

1.20 The ANU expressed concern that potential development along the western side of Marcus Clarke Street would be unduly restricted by the proposed height control of 6 storeys. They asked that higher developments be permitted on Block 1, Section 21; Block 6, Section 63; Block 1, Section 68; and Blocks 2 and 7, Section 4 (the current ACTION depot).

1.21 The ANU also requested that:

- all reference to the inter-town public transport route be removed from DV236 as the route had not been agreed
- Figure 6: City West–Childers St Precinct (Main Pedestrian Areas) either be removed or amended
- the pocket park between Canberra House and Hobart Place be retained as a pedestrian thoroughfare and that the proposed Commercial A land use policy not be applied because a building on the block would shade the remaining park, particularly on winter afternoons.³²

1.22 Eric Martin and Associates, in a supplementary submission, requested confirmation that the Civic Access guidelines would be integrated into the proposed development of City West.³³

Urban parks

1.23 Canberra Urban Parks and Places (CUPP) had no concerns with the proposed variation but noted that there will be an increase in the area that CUPP manages. In order to develop and maintain this as very high quality open space, CUPP would need a commensurate increase in ongoing funding.³⁴

Committee comments

Community facilities

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³² Submission No. 8

³³ Submission No. 6A

³⁴ Submission No. 3

1.24 The ACT Government has already begun implementing the City West Master Plan. In the 2005–06 budget the ACT Government allocated approximately \$6 million for the redevelopment of Childers Street, for new street furniture, streetscape redesign, opportunities for eat and meet and drink establishments, and cultural activities.³⁵ \$150 000 has been allocated for 2005–06 for the development of a feasibility study of the proposed City West Performing Arts and Choreographic Centre in Childers Street.³⁶ This funding is also to be used for the development of a cost-benefit analysis of a national choreographic centre.³⁷ This study is likely to address the recommendations of the 2004 City West Performing Arts Study.³⁸

1.25 The Government is working with the arts sector to develop an arts facility on the southern end of Section 30 next to the Street Theatre. This will complement the cultural institutions that are already in the area – including the ANU Schools of Art and Music, the ANU Arts Centre, and Theatre 3. According to ArtsACT this ‘centre for performing arts dialogue’ will provide a venue for activities including:

- professional, community and emerging/experimental theatre forms
- circus arts
- performing arts for youth and young people
- dance
- multimedia dimensions of performance
- performing arts in dialogue: a curator for the performance centre as a facilitator for the performing arts in dialogue with, other performing and alternate art forms, the community, ANU researchers, public policy development process etc.

1.26 This centre is to include a minimum of 3 quality performance spaces, café/restaurant cabaret venues, facilities for the multimedia dimensions of

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³⁵ ACT Legislative Assembly, *Select Committee on Estimates, Proof Transcript of Evidence*, Tuesday 24 May 2005, p.606.

³⁶ Australian Capital Territory, *Budget 2005-2006, Paper No 4 Budget Estimates*, Canberra 2005, pp.42-43.

³⁷ ACT Government, ArtsACT, *City West Performing Arts Facilities Study*, Update on status – 1 June 2005.

³⁸ ACT Government and SGS Economics and Planning, *City West Performing Arts Study*, Vol. 1: Final Report and Vol II: Issues Paper, Canberra 2004.

performance, more than 5 or 6 rehearsal spaces, set workshop and storage facilities and office space for resident organisations and 2 or 3 casual hire/incubator organisations.³⁹

- 1.27 The Committee welcomes this exciting initiative, which should provide a significant stimulus for the performing arts in the ACT, and increase both audience attendance and participation rates in the sector. Although City West is already a cluster site for cultural activities, it will become a livelier, safer, more inviting destination offering a wider range of performance for arts lovers.
- 1.28 The Committee also commends the ACT Government and the ANU for agreeing to provide equivalent accommodation for existing City West occupants, which will help to realise the cosmopolitan mix that is planned for City West, and Childers Street in particular. Not-for-profit organisations can rarely sustain market rents and concessional community rental rates must be provided by governments or property owners for a vibrant non-government sector to flourish in the ACT.
- 1.29 DV236 proposes to add in the ‘objectives’ listed in Part B2A Civic Centre Land Use Policies Commercial ‘A’ of the Territory Plan Written Statement⁴⁰:
- f) to create lively, vibrant character around main pedestrian routes and public spaces,
 - g) to make provision for community facilities in the Childers Street precinct west of Marcus Clarke Street and north of University Avenue,
 - h) to provide opportunities for mixed use development and
 - i) to provide a focus for arts and community groups west of Marcus Clarke Street and north of University Avenue for the benefit of all ACT residents.⁴¹
- 1.30 This is a strong protection for community facilities and mixed use development because section 8 of the *Land (Planning and Environment) ACT 1991 (ACT)* provides that the Territory, the Executive, a Minister or a territory authority must not do any act, or approve the doing of any act, that is inconsistent with the Territory Plan.

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³⁹ ACT Government, ArtsACT, City West Performing Arts Facilities Study, Update on status – 1 June 2005.

⁴⁰ Territory Plan, Part B2A, p.13.

⁴¹ DV236, pp.18–19.

- 1.31 The ACT Government and the ANU have also agreed, in their ‘Precinct Deed’, to protect the rights of ‘existing occupants’⁴² until the sites are leased for other developments, and then the ANU is required to grant new licences to the Territory on identical terms as the existing occupancy arrangements, or as far as possible on terms having the same effect.⁴³ If the ANU terminates a licence once it has been granted a lease by the ACT Government, then arrangements must be made to provide suitable accommodation for any existing occupant affected. The ANU and the Territory must consider the recommendations of the City West Precinct Committee when deciding what accommodation is suitable.⁴⁴
- 1.32 The Committee notes that the appointments process for the Precinct Committee is complete and is concerned about the lack of broad representation of interested parties on this Committee, particularly of community organisations and other existing occupants of City West. The Committee is aware of the high level of community interest in the implementation of the City West Master Plan and that community organisations wish to be co-located. It notes that the Precinct Deed enables the parties to agree to the appointment of ‘representatives of other persons or bodies’,⁴⁵ and may allow observers to attend Precinct Committee meetings.⁴⁶
- 1.33 The Committee recommends that the membership of the Precinct Committee be broadened to include a representative of community organisations and other existing occupants.
- 1.34 Under the land use controls for Commercial A use in Civic Centre, community activities are permitted in City West. The *Territory Plan*, in Part B2A: Civic

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⁴² Defined as ‘those persons presently occupying premises or land in the Precinct’ as defined in Schedule 5 of the Precinct Deed between the ACT and the ANU, ANU City West Integration Precinct, 21 December 2004. The ‘precinct’ for this purpose is Acton Block 6, Section 63, and in the City: Blocks 1&2 Section 21, Blocks 2, 4 and 5, Section 68, Blocks 2&7 Section 4; Block 3 Section 30; Blocks 5, 10 and 15 Section 28 and Blocks 2 and 3 Section 20: *Land (Planning and Environment) Criteria for Direct Grant of a Lease (City West Precinct) Determination 2005 (No 1), Disallowable Instrument DI2005-44*.

⁴³ Precinct Deed, sub-cl. 5.4, 16.1–4

⁴⁴ Precinct Deed, sub-cl. 16.4. The members of the Precinct Committee are: Mr Derek Volker (Chair), Professor Ian Chubb, ANU Vice-Chancellor, Mr Mike Harris Chief Executive Chief Minister’s Department, Dr Brok Glenn, Office of the ANU Vice-Chancellor, Mr Shane Gilbert Chief Executive, Department of Economic Development: see http://www.anu.edu.au/facilities/capital_works/City_West/Precinct_Committee.html.

⁴⁵ sub-cl.6.1(4)

⁴⁶ Sub-cl.6.2

Centre Land Use Policies – ‘Commercial A’ provides for various precincts: retail core (a1 and a2), business area (b1–b4), mixed services (c) and car parking (d). The ‘b1’ land use control permits a wide range of activities, including childcare centres, clubs, community activity centres, craft workshops and cultural facilities.⁴⁷ This ‘b1’ control is applicable to the blocks identified in Figure 1 in Appendix 1.

- 1.35 The Committee notes, in response to part of the Northside Community Service’s submission, that a childcare centre is a permissible use in Schedule 1 Civic Centre Commercial B2A land use controls. This issue as to whether the childcare centre will be replaced is not a matter for the draft variation process as the Territory Plan concerns permitted use, not the upgrading or renewal of approved facilities.
- 1.36 DV236 proposes to replace the Community Facility Land Use applicable to several blocks⁴⁸ with Urban Open Space Land Use Policy. This would ordinarily trigger a mandatory Preliminary Assessment under Appendix II of the Territory Plan because a ‘defined decision’ in relation to section 114 of the *Land (Planning and Environment) Act 1991* (ACT) includes any variation to the Territory Plan that would change land use from ‘community facility’. According to the ACT Planning and Land Authority, the City West Master Plan meets the requirements of the Act in Schedule 3, in relation to the content of Preliminary Assessments.

Student and affordable accommodation

- 1.37 In relation to the submission from the Peaks Forum concerning the provision of student and affordable accommodation, the Committee notes that the City West Master Plan provides that the Government ‘will aim to ensure that a minimum of 5% of residential accommodation established through the Master Plan will be offered for low and medium income earners, and where possible will be

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⁴⁷ Territory Plan, Part B2A, pp.3–4

⁴⁸ part Block 2 and Block 4 Section 68 City, Blocks 1 and 2 Section 21 City and part block 3 Section 30 City, adjacent Hutton Street, Kingsley Street, Childers Street and Rudd Street road reserves.

managed by affordable housing providers'.⁴⁹ In the Territory Plan Part B2A, *all* Civic Centre (Commercial A) precincts permit residential use.

- 1.38 The Committee is aware of a reported agreement between the ACT, the ANU and the engineering, construction and property group Boulderstone Hornibrook, which involves the development of student accommodation for at least 450 students.⁵⁰ According to ArtsACT, the ANU lodged a development application in March 2005. As at 1 June 2005 this had not yet been approved as a number of design issues were to be resolved.⁵¹
- 1.39 The Committee is also aware of predictions of considerable 'churn' in the Civic property market when a number of new developments underway or proposed are complete. Older buildings will be vacated and property owners will decide whether to upgrade the office accommodation or refurbish for residential use. Decisions are likely to be influenced by the availability of properties in particular market segments. So whether affordable housing becomes available in City West over and above the Government's target of 5% will be heavily dependent on market conditions.
- 1.40 The 5% affordable housing target for City West exceeds the recommendations of the ACT Government's Affordable Housing Taskforce, established in 2002. The taskforce includes representatives from the community, the business and financial sectors and government. For the purposes of its work, the Taskforce has defined people as needing affordable housing if they are:
- in the lowest 40% of income earners in Australia (i.e. having an annual income of less than \$35 000); and
 - pay more than 30% of their before tax income to meet their housing costs.⁵²
- 1.41 One of the taskforce recommendations was that the ACT Government introduces inclusionary zoning based on 3–4 per cent of the floorspace, or its

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⁴⁹ ACT Planning and Land Authority, *City West Master Plan*, May 2004, p.64.

⁵⁰ J. Thistleton, '7000 jobs in ANU project: Three-way deal seals 'town meets gown' plan', *The Canberra Times*, 14 May 2005, p.1.

⁵¹ 'Affordable Housing Taskforce'
<<http://www.dhcs.act.gov.au/hcs/AffordableHousing/Affordable.htm>>

⁵² Recommendation 33, ACT Government, Progress Report, 'Strategies for Action: Final Report of the ACT Affordable Housing Taskforce, August 2004, accessible at
<<http://www.dhcs.act.gov.au/hcs/AffordableHousing/Affordable.htm>>, p.31.

cash equivalent, for all multi-unit/block residential development. It also recommended that both the housing stock and funding created be provided to, and managed by, affordable housing providers, the latter to be used to acquire additional affordable housing. The ACT Government agreed with this recommendation 'in certain circumstances'. The Government responded:

The Government supports the consideration of mechanisms to increase affordable housing in the ACT. It should be noted that flexibility for achieving affordable housing in group and town centres already exists through the current master planning processes.

The City West Master Plan has incorporated a provision that the Government will aim to ensure that a minimum of 5% of residential accommodation established through the Master Plan will be offered for low and medium income earners, and where possible will be managed by affordable housing providers.

The recommended 3–4% handback option in new multi-unit development sites will be examined, especially in relation to ensuring a transparent and effective implementation approach.

The Government will also consider the options for cash equivalent payments by developers to be made in lieu of physical provision of affordable housing in multi-unit/block residential developments, as suggested by the Taskforce. In consideration of any cash equivalent payments, it will be important to ensure that the arrangements provide new, or additional revenue to the Territory, rather than a substitution of the government's existing revenue base. In addition, issues of accountability to the community and the Government will also need to be considered.⁵³

- 1.42 The Committee commends the 5% target for affordable housing for City West and recommends that the ACT Government report annually to the Committee on progress in meeting the 5% affordable housing target for City West, and the policies applied. The Committee further recommends that student accommodation not be counted when monitoring progress towards achieving this target.

Streamlining planning policy and development assessments

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⁵³ Rec. 33, 'Strategies for Action', Final Report of the ACT Affordable Housing Taskforce, accessible via <http://www.dhcs.act.gov.au/hcs/AffordableHousing/Affordable.htm>, updated 26 August 2004, pp.31–32.

- 1.43 The ACT Government has stimulated community debate about and engagement with the revitalization of the city centre. The new Canberra Central Taskforce announced on 25 May 2005 has been asked, in addition to its deliberations over Canberra Central and City Hill, to
- prepare a One Planning Document for the City, rationalising planning administration
 - model traffic flows for improving traffic management
 - prepare a car parking strategy for the City, and
 - implement the City West Master Plan.⁵⁴
- 1.44 The Committee is confident that the outputs and outcomes that the Task Force will produce will respond directly to the concerns about car parking, rationalising and linking of planning documents, that were raised in Submissions No 2, 4 and 5.
- 1.45 The Committee has also previously been advised by the ACT Planning and Land Authority that the Australian Road Research Board Group Ltd has been commissioned to provide an analysis of available parking in Civic and trends, which will lead to the development of a longer-term strategy and framework, following a review of the parking guidelines. The ACT Planning and Land Authority advises that the ACT Government has no intention of dramatically reducing available parking, but its car parking strategy will be linked to the improved public transport system.
- 1.46 In relation to the submission from the Property Council of Australia (ACT), the Committee notes that mandatory Preliminary Assessments have been removed for proposed developments subject to Commercial A Land Use Policy in Civic Centre precincts.⁵⁵ Preliminary Assessments are not required where buildings exceed by more than 7 000m² the gross floor area of the buildings they have replaced, if any, and/or which have a height of 28m or more.
- 1.47 Section 114 of the *Land (Planning and Environment) Act 1991 (ACT)* requires the Minister to issue a notice requiring a Preliminary Assessment to be prepared if

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⁵⁴ Minister for Planning, Simon Corbell MLA, 'High powered members appointed to Canberra Central taskforce', Media Release 25 May 2005.

⁵⁵ Refer Figure 1: Civic Centre – Precincts

‘a defined decision is of a class prescribed by the plan’. Schedule II.I to Appendix II to the Territory Plan lists prescribed classes of defined decisions for the purposes of section 114 of the Act. In relation to ‘buildings’, Preliminary Assessments are mandatory for:

All proposals involving a building:

- o 28 metres or higher, or
- o Within a Mountains and Bushlands; river corridors; or Plantation Forestry land use policy area; or
- o Within any other land use policy, where the proposed building has a gross floor area which exceeds by more than 7 000 square metres, the GFA of the building it replaces if any.⁵⁶

1.48 DV236 proposes to amend Schedule II.1 of the Appendix II by exempting buildings in Commercial A Civic Centre Land Use areas (refer Figure 1: Civic Centre – Precincts) from the mandatory Preliminary Assessment requirement. It should be noted, however, that this proposed amendment would not affect the discretionary power that is conferred on the Minister under section 113 of the Act to require that a Preliminary Assessment be prepared of the environmental impact of a development proposal.

1.49 The new building colour, construction and building materials controls⁵⁷ apply throughout ‘Civic’, which means the Civic Centre City Division as represented in Figure 2 in the proposed variation. These have to be consistent with Amendment No 49 of the National Capital Plan insofar as that applies to Civic.⁵⁸ The Committee notes however, that Figure 2 does not use current block and section numbers⁵⁹ and needs to be updated, as does the Territory Plan Map.

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⁵⁶ ACT Department of Urban Services, *The Territory Plan, 2002, Written Statement*, Vol. 2, Appendix II: Mandatory Preliminary Assessment, p.2.

⁵⁷ Refer DV236, p.17, section 3.2 paras (b) and (c) which will be new paras e) and f) in the Territory Plan.

⁵⁸ As noted above, the massing, height, colours and materials used for buildings in Civic should result in a harmonious and high quality urban design outcome with a recognisable city edge: Australian Government, National Capital Authority, *The Australian Capital Territory, (Planning and Land Management) Act 1988, National Capital Plan, Amendment 49, Civic, Principles and Policies*, February 2005, section 4.5.4.2., para. iv. The NCA’s ‘Civic’ (see revised Figure 21 in Amendment 49) differs slightly from the ACT Planning and Land Authority’s definition for Civic.

⁵⁹ Refer Territory Plan Part B2A, p.6 for more contemporary block and section numbers.

- 1.50 The Committee notes that the proposed new building height controls apply to the identified blocks (i.e. blocks west of Marcus Clarke Street and north of University Avenue, east of Marcus Clarke Street and west of London Circuit and Northbourne Avenue and east of Northbourne Ave etc) in the Commercial 'A' area in Civic.⁶⁰
- 1.51 The Committee notes the reference to RL617 in the Territory Plan Written Statement⁶¹ and the Authority's consultation report on DV237 but is concerned that these documents do not provide an explanation for this term. ACT Planning and Land Authority officials advised that RL means Reduced Level, i.e. the height above a datum, usually the AHD. RL 617 means not more than 617 meters above the AHD. AHD stands for Australian Height Datum and is the mean sea level, which in 1966-1968 was assigned the value of zero on the Australian Height Datum at thirty tide gauges around the Australian coast.
- 1.52 The Committee is of the view that technical terms such as RL617 should be defined in the Territory Plan and in documents that include the term that concern proposed Territory Plan variations.

Heritage protection

- 1.53 The Committee is aware of the implementation of the *Heritage Act 2004* (ACT) and is confident that the implementation of the City West Master Plan will not result in a diminution of heritage values in Civic. The Committee would like to see an assessment of the operation of the new legislation in this context in the ACT Heritage Council's 2005–6 Annual Report, and/or subsequent reports as appropriate in the circumstances.

Proposed land uses and figures

- 1.54 In relation to the comments from the ANU, the Committee agrees that the inter-town public transport route should be removed from Figure 3.2 in the Recommended Final Variation, as had been intended according to DV236.
- 1.55 In relation to the ANU's request that higher developments be permitted on

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⁶⁰ Refer p.19 of DV231.

⁶¹ Part B2A, p.5.

certain blocks, the Committee has some reservations. Higher buildings on Block 1, Section 21 and Block 6 and Section 63 (Acton) could cause overshadowing for Toad Hall and possibly diminish the protected heritage values of the Drill Hall Gallery. In relation to Block 1, Section 68, and Blocks 2 and 7, Section 4 (the current ACTION depot), the Committee would be similarly concerned that overshadowing of the park on Block 16 section 28 could occur. These issues are best assessed by the ACT Planning and Land Authority.

- 1.56 The Committee notes the ANU request that Figure 6: City West–Childers St Precinct (Main Pedestrian Areas) be removed or amended. In the Committee's view pedestrian routes will be fluid during the implementation of the City West Master Plan and should proliferate with the implementation of the ACT Sustainable Transport Plan (which encourages increased walking as a travel mode). Since the utility and implications of Figure 6 are not explained well in DV236 the Committee recommends that this figure be removed or amended to better reflect the ANU's understanding of pedestrian routes.
- 1.57 The Committee agrees with the ANU that the pocket park between Canberra House and Hobart Place be retained as a pedestrian thoroughfare and that the proposed Commercial A land use policy not be applied because a building on the block would overshadow the remaining park, which is used both as an informal market venue for arts and crafts and as an informal area for work breaks by employees in Civic.
- 1.58 The Committee notes Mr Soames' concerns about the potential for some developments to generate air quality impacts. Ms Judith Cox, an air quality engineer with Holmes Air Sciences, Environmental and Pollution Consultants, advised the Committee through the secretary, that if proposed developments are likely to generate large numbers of additional vehicles in an area (say 2–3 000 vehicles per hour) then it is usually desirable that dispersion modelling be done, and for fine airborne particles less than 10 and less than 2.5 microns in diameter, carbon monoxide, nitrogen dioxide and possibly air toxics be monitored. There is increasing demand for such modelling and assessment where childcare centres are located near arterial roads. The Committee notes that the Minister has a discretion to require Preliminary Assessments to be prepared in relation to proposed developments in Civic as he thinks necessary.
- 1.59 Mr David Power, Assistant Manager, Air and Hazardous Materials and Contaminated Sites, advised the Committee that there is an air quality

monitoring station near the Olympic Pool in Civic, and that only the monitoring station in Tuggeranong monitors 2.5 micron particles because that area is most heavily impacted by wood smoke. The Tuggeranong equipment is not portable.

- 1.60 In relation to the request from Eric Martin and Associates for confirmation that the Civic Access guidelines would be integrated into the proposed development of City West, the Committee notes that:

The ACT Planning Guidelines for Access and Mobility set out the requirements of the ACT Planning and Land Authority for the provision of access to buildings and public places

... These planning guidelines have been placed on the ACT Planning and Land Authority's Register of Planning Guidelines. Under the provisions of clause 8.1 of Part A.3 of the Territory Plan, all guidelines on the Register are to be taken into account in the consideration of proposals for development and use of land. The Access and Mobility Guidelines aim to assist both planners and the development industry to meet their obligations under the *Commonwealth Disability Discrimination Act 1992 (DDA)* and the *ACT Discrimination Act 1991*...⁶²

Urban Parks

- 1.61 The Committee appreciates that Canberra Urban Parks and Places may need additional resources to manage any enlarged areas within its portfolio. This issue should be addressed as part of the budget cycle.

Committee recommendations

RECOMMENDATION 1

- 1.62 The Committee recommends that the membership of the City West Precinct Committee be broadened to include a representative of community organisations and other existing occupants. In broadening this membership the

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⁶² ACT Planning and Land Authority, Planning and Development, Register of Planning Guidelines, accessible at <http://www.actpla.act.gov.au/plandev/planning_register/index.htm>.

ACT Government's target of 50% for female appointees to committees and boards should be applied.

RECOMMENDATION 2

- 1.63 The Committee recommends that the wording of DV236 be amended to clarify that the exemption it proposes to extend to buildings in Civic are those buildings which exceed by more than 7 000m² the gross floor area of the buildings they have replaced, if any.

RECOMMENDATION 3

- 1.64 The Committee recommends that the ACT Planning and Land Authority better clarify the scope of draft and recommended final variations when they have multiple objectives. In this instance some stakeholders were unclear as to whether the proposed variation applied only to City West or throughout Civic.
- 1.65 For example, the Committee recommends that the draft variation be amended to clarify that the proposed new building colour and construction land use control applies to the Civic Centre City Division as represented in Territory Plan Part B2A Figure 2.
- 1.66 Territory Plan Figure 2 and the Territory Plan Map should also be updated to accurately reflect current block and section numbers.

RECOMMENDATION 4

- 1.67 The Committee recommends that the inter-town transport route be removed from Figure 3.2 in DV236.

RECOMMENDATION 5

- 1.68 The Committee recommends that the ACT Government report annually to the Committee on progress in meeting the 5% affordable housing target for City West, and the policies applied for meeting the target.
- 1.69 The Committee further recommends that student accommodation not be counted when monitoring progress towards achieving this target.

RECOMMENDATION 6

- 1.70 The Committee recommends that a definition for RL617 be inserted into the Territory Plan 'Part D: Definitions of Terms' through DV236.

RECOMMENDATION 7

- 1.71 The Committee recommends that the ACT Heritage Council report on the operation of the *Heritage Act 2004* (ACT) in relation to the implementation of the City West Master Plan in its 2005–6 Annual Report, and/or subsequent reports as appropriate in the circumstances.

RECOMMENDATION 8

- 1.72 The Committee recommends that Figure 6 be removed from DV236 or amended to better reflect the ANU's understanding of pedestrian routes.

RECOMMENDATION 9

- 1.73 The Committee recommends that DV236 be amended to remove the proposed change to the Territory Plan Map that would delete the Urban Open Space Land Use Policy from part of Block 4 Section 2 City and part of Marcus Clarke Street road reserve and that the proposed Commercial A land use policy not be applied to this area.

Mick Gentleman
Chair
June 2005

Appendix 1 –Civic Centre Precincts

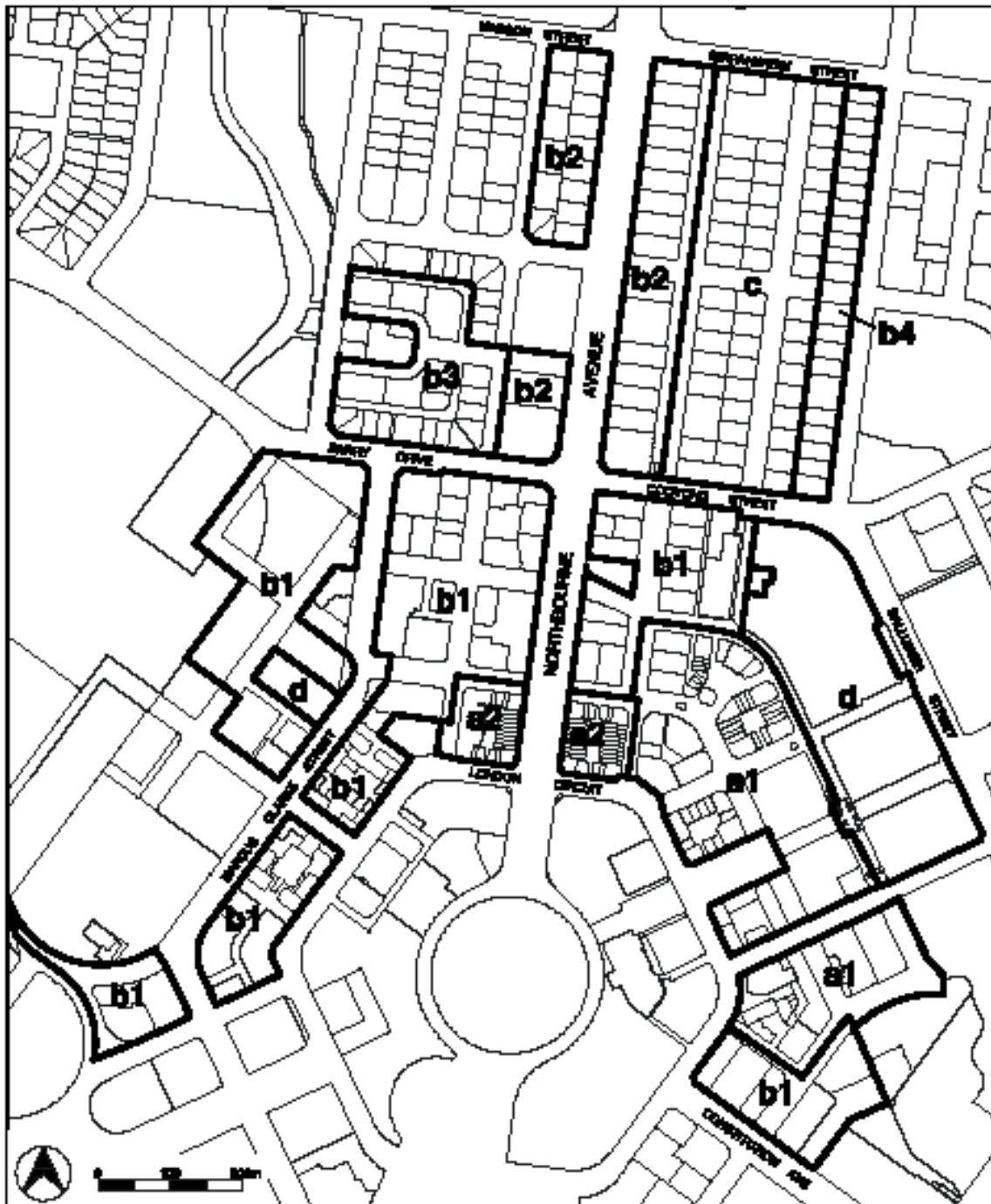


FIGURE 1: CIVIC CENTRE PRECINCTS

Appendix 2 – Current Land Use Policy

The Territory Plan Written Statement and the Territory Plan Map prescribe the land use policies applicable to City West, represented in Figure –

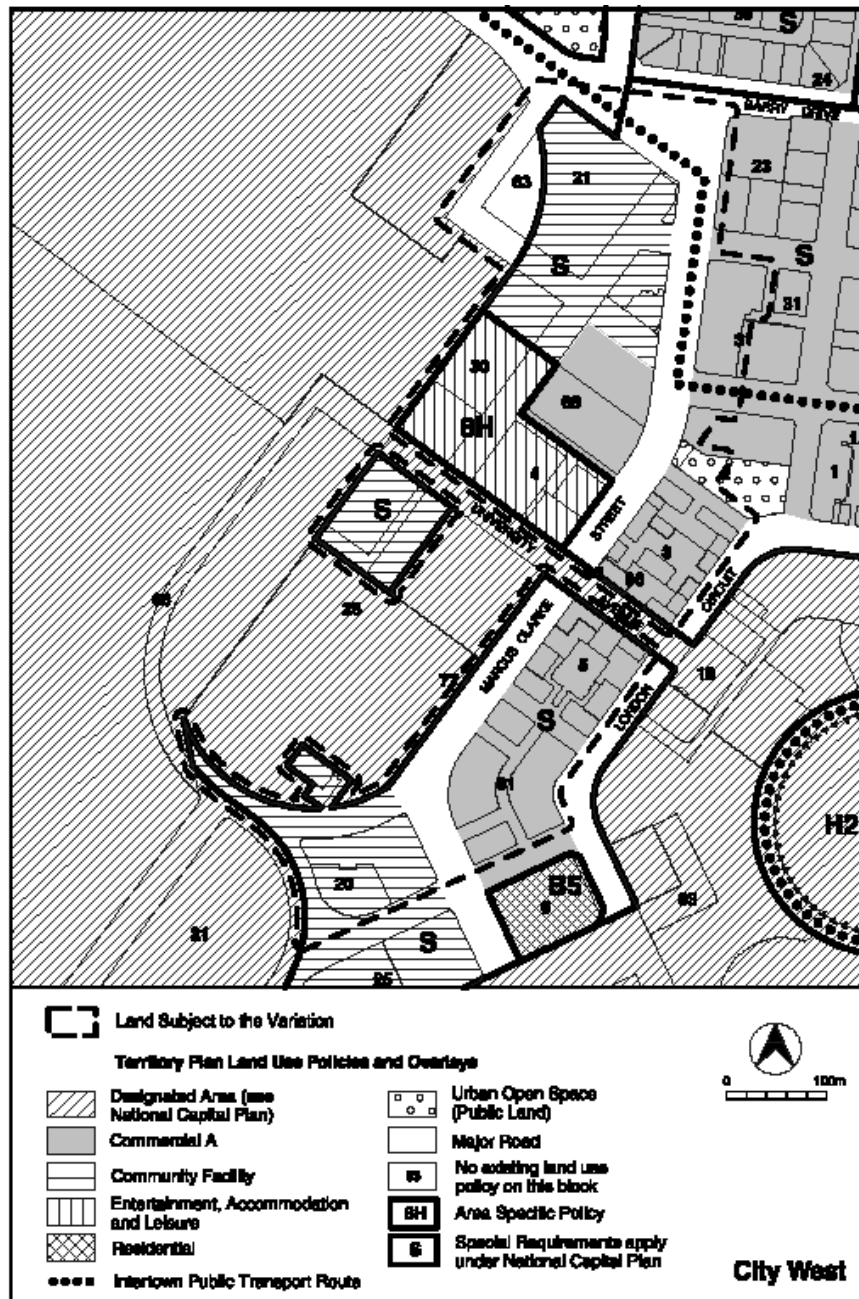


FIGURE 2– CURRENT LAND USE POLICIES

Appendix 3 – Proposed Variation to the Territory Plan Map

The Territory Plan Map is varied for the area identified as the ‘Area subject to the Variation’ in Figure 3 by:

- Deleting the Major Roads Land Use Policy from the south-west corner of the intersection of Barry Drive and Marcus Clarke Street and substituting with a Commercial A Land Use Policy.
- Deleting the Major Roads Land Use Policy from the south east corner of the intersection of Alinga Street and Marcus Clarke Street and substituting with a Commercial A Land Use Policy.
- Deleting the existing Community Facility Land Use Policy from part Block 2 and Block 4 Section 68 City and substituting it with an Urban Open Space Land Use Policy.
- Deleting the existing Community Facility Land Use Policy from Blocks 1 and 2 Section 21 City, part block 3 Section 30 City, adjacent Hutton Street, Kingsley Street, Childers Street and Rudd Street road reserves, and substituting with a Commercial A Land Use Policy.
- Deleting the existing Entertainment Accommodation and Leisure Facility Land Use Policy and Area Specific Policy 8H from part of Block 3 Section 30 City, Section 4 City, adjacent Allsop Street and Childers Street road reserves and substituting with a Commercial A Land Use Policy.
- Deleting the Urban Open Space Land Use Policy from part of Block 4 Section 2 City and part of Marcus Clarke Street road reserve and substituting with a Commercial A Land Use Policy.
- Deleting the Major Road Land Use Policy adjoining Block 2 Section 68 City and substituting it with a Commercial A Land Use Policy.
- Deleting the existing Community Facility Land Use Policy from Blocks 2 and 3 Section 20 City and adjoining Ellery Crescent road reserve and substituting it with a Commercial A Land Use Policy.
- Adding a Commercial A Land Use Policy to Block 6 Section 63 Acton and the adjacent Hutton and Kingsley Street road reserves.
- Deleting the Commercial A Land Use Policy from part Block 3 Section 2 (corner of Marcus Clarke and Alinga streets) and substituting with a Major Road Land Use Policy.

CITY WEST COMMERCIAL A CIVIC CENTRE LAND USE POLICIES,
EXEMPTION OF PRELIMINARY ASSESSMENTS AND PART D –
DEFINITIONS 34

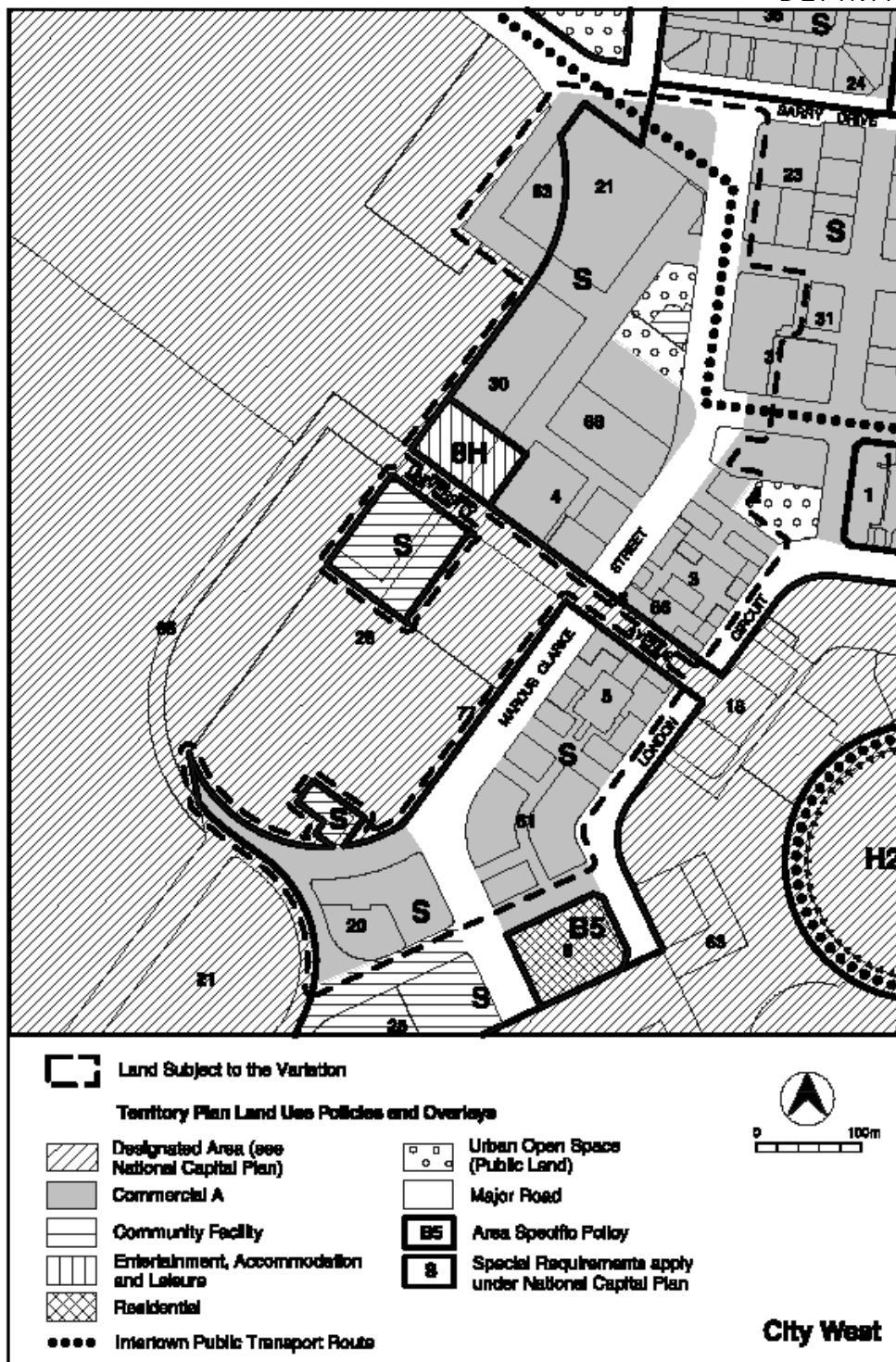


FIGURE 3 – TERRITORY PLAN PROPOSED LAND USE POLICIES

Appendix 4 – List of submissions

- No. 1 – Ms Trish Harrup for Conservation Council of the South East Region and Canberra (Inc)
- No. 2 – Ms Catherine Carter for Property Council of Australia
- No. 3 – Mr Russell Watkinson for Canberra Urban Parks and Places
- No. 4 – Mr Gordon Soames
- No. 5 – Mr John Davies for ACT Policing
- No. 6 – Mr Eric Martin for Eric Martin & Associates
- No. 6A – Mr Eric Martin for Eric Martin & Associates, supplementary submission
- No. 7 – Ms Ara Cresswell (ACTCOSS), Ms Kerry Tucker (ACT Shelter) & Ms Tricia Harrup (Conservation Council SE Region & Canberra) for Peaks Forum
- No. 7A – Ms Kerry Tucker (ACT Shelter) & Ms Tricia Harrup (Conservation Council SE Region & Canberra) and Ms Ara Cresswell (ACTCOSS) for Peaks Forum, Supplementary submission
- No. 8 – Mr Warwick Williams for The Australian National University
- No. 9 – Mr Stephen Larcombe for Northside Community Service
- No. 10 – Ms Roslyn Dundas for Ausdance ACT