ACT LEGISLATIVE ASSEMBLY

For copies of appendix 1 Map and Appendix 2 Map please contact the committee office

DRAFT VARIATION NO. 206 TO THE TERRITORY PLAN-COMMERCIAL B2C (GROUP CENTRES) LAND USE POLICIES-CALWELL BLOCKS 2, 5 AND 6 SECTION 72 AND CHISHOLM BLOCK 7 SECTION 598

Report Number No. 16

Standing Committee on Planning and Environment

9 May 2003

Mr John Hargreaves MLA

Deputy Chair

Legislative Assembly for the Australian Capital Territory

Committee membership

Chair	Mrs Vicki Dunne MLA
Deputy Chair	Mr John Hargreaves ML A
Members	Ms Roslyn Dundas MLA
	Mrs Helen Cross MLA

Secretary:	Linda Atkinson
Administration:	Judy Moutia

Resolution of appointment

(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:

(f) A Standing Committee on Planning and Environment to examine matters related to planning and land management, conservation and heritage, transport services and planning, environment and ecological sustainability.

(2) If the Assembly is not sitting when the Standing Committee on Planning and Environment has completed consideration of a report on draft plan variations referred pursuant to section 25 of the *Land (Planning and Environment) Act 1991* or draft plans of management referred pursuant to section 204 of the *Land (Planning Environment) Act 1991*, the Committee may send its report to the Speaker, or, in the absence of the Speaker, to the Deputy Speaker, who is authorised to give directions for its printing, publication and circulation.

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

Terms of reference

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

25 Consideration by a Legislative Assembly Committee

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

(a) the draft plan variation; and

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

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

Preface

The *Land (Planning and Environment) Act 1991*

1. Sections 25 and 26 of the Land (Planning and Environment) Act 1991 require the Executive to refer draft Variations to the Territory Plan to an appropriate Committee of the Assembly for report, and to then have regard to that Committee's recommendations before approving any Variation. The *Land (Planning and Environment) Act 1991* (*the Act*) provides for a Territory Plan (the Plan) to "set out the planning principles and policies"[1] for the ACT. The objective of the plan is to ensure that the planning and development of the Australian Capital Territory provides an "ecologically sustainable, healthy, attractive, safe and efficient environment"[2] for the people of the Territory.

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

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

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

5. The *Act* does not place any requirements on the committee's consideration of the draft variation but does require the Government to consider any recommendation that the committee may make in relation to the "draft plan variation, background papers and reports submitted"[3]. The committee's reports inform not only the Government but also all Members of the Assembly on the committee's deliberations and provide a context for the Assembly to consider the Government's approved variation.

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[1] *Land (Planning and Environment) Act 1991*(the Land Act), section 7 (2).
[2] ibid., section 7 (1).
[3] op.cit., the Land Act, section 26(2).

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Summary of recommendations

Recommendation No. 1

The Committee recommends that the Government proceed with its proposal to vary the Territory Plan to amend the Written Statement to allow Residential Uses as ground floor level in Precinct 'c' of the Commercial Group Centres Land Use Policies for Calwell Blocks 2, 5, 6 Section 72.

Recommendation No. 2

The Committee recommends that the Government proceed with its proposal to vary the Territory Plan to amend the Written Statement to allow Residential Uses as ground floor level in Precinct 'c' of the Commercial Group Centres Land Use Policies for Chisholm Blocks 7 Section 598.

Mr John Hargreaves MLA
Deputy Chair
9 May 2003

1. Introduction

1.1 On 19 February 2003, the Minister for Planning, Mr Simon Corbell MLA forwarded for consideration by the Standing Committee on Planning and Environment, and subsequent report to the Assembly, copy of Draft Variation No. 206 to the Territory Plan for Commercial B2C (Group Centres) Land Use Policies-Calwell and Chisholm. The underlying motivation for Draft Variation No. 206 stems from the Planning and Land Management Group's (PALM) view that Calwell Blocks 2, 5, 6 Section 72 and Chisholm Block 7 Section 598, should be made available for adaptable housing in response to an apparent shortage in South Tuggeranong. This housing would be designed in a manner which can be easily modified at some future time to meet changing needs and capabilities of people with disabilities or older persons.

1.2 The Draft Variation was advertised for public comment by the Planning and Land Management Group of the Department of Urban Services (PALM) on 31 October 2002, and was not revised as a result of the comments received. PALM undertook a letter-box drop in both suburbs on 4 November 2002; provided copies of the Draft Variation to seventy-four individuals representing a broad cross section of the Canberra community; and made copies of the Draft Variation available at ACT Government Libraries, the PALM Customer Service Centre in Dickson and on its website.

1.3 Following its consultation process, there was little public interest shown in the proposals contained in Draft Variation 206. No submissions were received in respect of the Calwell proposed changes, with the only two submissions received raising similar issues in respect of Chisholm. PALM informs that these submissions were identical letters, objecting to the development of public housing because of the potential to create slum area, a resultant increase in crime, a reduction in safe access to local shops, and a loss of the open feeling of space and property value[4].

1.4 The National Capital Authority noted that that Draft Variation No. 206 was not inconsistent with the relevant provisions of the National Capital Plan, but cautioned PALM that 'any future development of these centres should ensure that the principle of the hierarchy of the centres is maintained. …the group centres should continue to serve the commercial and community needs of the localities[5]. It should be noted that these centres under the current land use policy (Commercial B2C precinct 'c' Mixed Services Precinct) are intended to provide accessible but lower cost sites for commercial activities which complement the role of the centre, and meet the needs of the surrounding communities.

1.5 PALM has expressed the following views:

- The proposed Variation will serve local and community needs;

[4] Annex C Report to the ACT Executive on Public Consultation Concerning the Draft Variation, February 2003, by PALM and submissions to PALM from Ms Fleur Scheele and Mr Mark Kovacs.
[5] Annex D Report to the ACT Executive on Public Consultation Concerning the Draft Variation, February 2003, by PALM

- There is unlikely to be significant population growth in the Calwell or Chisholm Group centre catchment areas;
- Current analysis suggests that it is unlikely that there will be a demand for new retail space in either Calwell or Chisholm Group Centres;
- There is a demand for adaptable housing in South Tuggeranong;
- Calwell and Chisholm Group Centres both meet the criteria for adaptable housing developments to be within or close to commercial areas, public transport and medical facilities;
- The sites do not appear to be required for commercial activities;
- The market should determine and provide for the use, or mix of uses;
- Any housing at ground floor level be designed to allow easy conversion or commercial uses, and will meet Australian Standards for Adaptable Housing; and
- Ease of conversion in design will enable extra commercial activity if this were a requirement in the future.

1.6 At the time of the release of this Draft Variation, the total floor space vacant in both Centres was 1,046m², comprising 900m² in Calwell, and 146m² in Chisholm. Both Centres are about the same size in area, with Calwell having a total floor space of 6,214m², and Chisholm with 6,777m². Both Centres contain only Precinct 'a', 'c', and 'd' designated areas. Neither have Precinct 'b' business designated areas that would provide land use policies for offices, business services, community and entertainment facilities. The Committee notes that in accordance with the Territory Plan, precinct 'b' allows for residential uses at ground floor level, provided development is specifically designed to meet adaptable housing standards and does not unreasonably diminish the potential for commercial activity. The proposal in Draft Variation No. 206 is to retain precinct 'c' designations in both Centres in the Blocks and sections subject to this Variation, while allowing flexibility for ground floor residential development.

2. BLOCKS 2, 5, 6 SECTION 72 CALWELL

2.1 Blocks 2, 5 and 6 of Section 72 in precinct 'c' of the Calwell Group Centre were debated in the ACT Legislative Assembly[6] as part of Draft Variation No. 158 in 2002. Referred to the Standing Committee on Planning and Urban Services on 16 October 2000, Draft Variation No. 158 concerned Commercial B2C Land Use Policies for Group Centres to enable them to take their proper place in Canberra's retail hierarchy by providing a coherent policy framework for assessing future development proposals[7]. Before that draft variation was made, Section 72 was commercial precinct 'b'; the draft variation converted it to commercial precinct 'c', which meant that adaptable housing could only be built on the first floor above. Following the tabling of the final Variation in the Assembly on 9 April 2002, it was followed by a debate about the lack of flexibility introduced by the change to precinct 'c', and the restrictions on ground floor level residential development in the retail core and mixed services precincts. Draft Variation No. 158 included provision for residential use within Group Centres, but also provided planning controls that would prevent unrestricted residential development at ground-floor level in the Group Centres, because the Government considered these were generally not suitable for residential use.

2.2 However, Draft Variation No. 206 allows the Calwell Group Centre to adapt to its circumstances. During the public consultation phase, PALM received no submissions relating to the Calwell site, although members of the community have previously contacted PALM, expressing 'concern about the derelict buildings on Block 2 Section 72 Calwell'[8]. These buildings have over time contained unsuccessful business enterprises including fast food, plant nursery and hardware store. The existing Commercial B2C Group Centres Land Use Policy permits a wide range of uses in Group centres, including commercial, community, entertainment and residential uses. In Annex C, PALM states that the buildings (constructed in 1993) have been vacant since September 1999, and that 'the lessee [of Block 2 Section 72] has made repeated marketing efforts over recent years to tenant these buildings'. These efforts appear to have been fruitless, to the extent now that with there being no apparent demand for commercial uses on this site, the lessee is seeking to develop the site for 18-20 two storey residential dwellings. Adjacent Blocks 5 and 6 Section 72 Calwell which also appear to be unviable for future commercial development, are vacant and owned by the Australian Capital Territory. The adjacent Block 7 is shown as a Community Centre.

2.3 Appendix 1 shows the Map Information current at December 2002 for Calwell, with Blocks 2, 5, 6 Section 72 marked together with the whole Calwell Group Centre. The area that is the subject of this Variation faces Were Street on one side and Webber Crescent on the other. The whole Commercial Precinct of the Calwell Group Centre faces Johnson Drive, Were Street and

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[6] Hansard 2002 Week 4, 9 April 2002; Week 7, 4 June 2002
[7] Hansard 2002 Week 7, 4 June 2002 Mr Corbell Minister for Planning, Page 1889
[8] Annex C Report to the ACT Executive on Public Consultation Concerning the Draft Variation, February 2003, by PALM

Webber Crescent. The current Calwell Group Centre contains specific precincts with different designated primary land use purposes as follows:

- Precinct 'a'-Retail Core: includes the main retail anchor for the centre along with other shops and related services;
- Precinct 'c'-Mixed Services: principally non-food retailing and services including car repairs and maintenance, light industry, lower rent commercial space; and
- Precinct 'd'-Car Parking.

2.4 Draft Variation No. 206 proposes that Block 2, 5, and 6 Section 72 become available for Residential Uses at ground floor level in Precinct 'c' of the Commercial Group Centres Land Use Policies. This means that:

- the overriding policy for Blocks 2, 5, and 6 of section 72 will remain commercial, but that they may be used for dwellings under the proposed changes; and
- the Territory Plan Written Statement will be varied to add residential at Ground Floor Level.

2.5 The Committee notes that residential uses at ground floor level would normally be reserved for Precinct 'b' designated areas to meet the needs for adaptable housing and commercial activity. Almost two years has passed since the initial proposals in Draft Variation No. 158 about residential development in Group Centres, and for the Government to reconsider its position in respect of the further development in the Calwell Group Centre. The Committee believes that the approach recommended by PALM for Calwell Blocks 2, 5, 6 Section 72, has merit, given there are already a range of services provided in the Calwell Group Centre. In the event that proposals come forward that have the potential to significantly change the character of the Centre, the Committee believes that Draft Variation No. 206 will still offer sufficient protection, as these would only be supported after having been subject to detailed scrutiny and transparent processes as applied by the Planning and Land Management Group, or through a separate variation to the Territory Plan.

2.6 In considering the facts surrounding this proposal, the Committee felt that nothing further would be gained from its seeking submissions of its own, and agreed that the Government should proceed with its proposal to vary the Territory Plan to amend the Written Statement to allow Residential Uses as ground floor level in Precinct 'c' of the Commercial Group Centres Land Use Policies for Calwell Blocks 2, 5, 6 Section 72.

Recommendation No. 1

The Committee recommends that the Government proceed with its proposal to vary the Territory Plan to amend the Written Statement to allow Residential Uses as ground floor level in Precinct 'c' of the Commercial Group Centres Land Use Policies for Calwell Blocks 2, 5, 6 Section 72.

3. BLOCK 7 SECTION 598 CHISHOLM

3.1 PALM used a similar rationale for the Chisholm variation to that in Calwell, in as much as it sees these variations responding to the shortage of adaptable housing developments in South Tuggeranong. Appendix 2 shows the Map Information current at December 2002 for Chisholm, with Block 7 Section 598 marked together with the whole Chisholm Group Centre. The area that is the subject of this Variation faces Proctor Street on one side and Benham Street on the other. The whole Commercial Precinct of the Chisholm Group Centre is located around Proctor, Mead, Benham and Halley Streets and Isabella Drive. The current Chisholm Group Centre contains specific precincts with different designated primary land use purposes as follows:

- Precinct 'a'-Retail Core: includes the main retail anchor for the centre along with other shops and related services;
- Precinct 'c'-Mixed Services: principally non-food retailing and services including car repairs and maintenance, light industry, lower rent commercial space; and
- Precinct 'd'-Car Parking.

3.2 Block 7 Section 598, an unleased parcel of Territory land, remains the only vacant site for commercial uses in the Centre, so it makes sense for the market to be given the opportunity to decide what future use will suit the site. However, allowing ground floor level development for adaptable housing will enhance its marketability, because there is more flexibility available to any developer choosing to take up the site. The Committee commends PALM for taking this approach in terms of flexibility, so that development can be maximised to provide better planning outcomes for the community. The Committee believes that such flexible approach should be always under consideration when Draft Variations are being prepared.

3.3 Both submissions to PALM expressed strong concerns that high-density public housing would be developed in Chisholm if this Draft Variation were to proceed, and on this basis, slums and increased crime would be the result. The Committee found that these concerns were insufficient for this proposal to be dismissed, as it is currently possible to construct two storey residences on this site with a plot ratio of 1:1. The proposal will not amend the existing height or density controls, so it is likely that a much lower density of development would occur if Draft Variation No. 206 were approved. The Committee however can see that residential development around Group Centres might enhance community safety for the general precinct and enhance the business viability potential of those Group Centres.

3.4 The Committee felt that there would be no further merit in calling for its own submissions, given the low level of public interest following PALM's consultation process. It unanimously agreed that Chisholm Block 7 Section 598 be permitted a land use policy that allows for Residential uses at ground floor level.

Recommendation No. 2

The Committee recommends that the Government proceed with its proposal to vary the Territory Plan to amend the Written Statement to allow Residential Uses as ground floor level in Precinct 'c' of the Commercial Group Centres Land Use Policies for Chisholm Blocks 7 Section 598.

Appendix 1 - MAP INFORMATION CURRENT AT DECEMBER 2002 FOR CALWELL, WITH BLOCKS 2, 5, 6 SECTION 72 MARKED TOGETHER WITH THE WHOLE CALWELL GROUP CENTRE.

Appendix 2 - MAP INFORMATION CURRENT AT DECEMBER 2002 FOR CHISHOLM, WITH BLOCK 7 SECTION 598 MARKED TOGETHER WITH THE WHOLE CHISHOLM GROUP CENTRE.